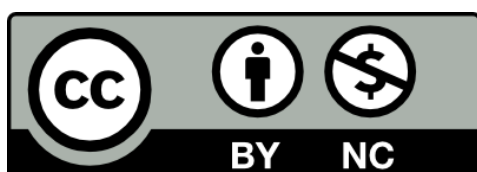




Ghana: State treatment of LGBTQI+ persons

March 2021



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Explanatory Note

This report presents Country of Origin Information (COI) on the situation and treatment faced by Ghanaian Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) persons by state authorities.

The COI desk-based research for this report focused on a wide range of sources published between 1st January 2017 and 24th February 2021. The report also includes information generated by interviewing a range of stakeholders in November and December 2020.

Legal representatives in the UK representing Ghanaian LGBTQI+ persons identified this topic as a gap in COI, in particular their treatment by state authorities. Tribunal guidance in the form of UK Country Guidance determinations on this issue is non-existent. When research for this report started, the guidance that existed for UK decision-makers for persons of this profile was the May 2020 *Country Policy and Information Note, Ghana: Sexual orientation and gender identity or expression*, which also highlighted the lack of COI in relation to state-treatment:

There is an absence of data in the sources consulted regarding the number and frequency of arrests of LGBTI persons and there are no recent recorded cases of state violence, prosecutions or convictions under the same-sex laws. [...]

There is limited specific information about the state treatment of trans and intersex persons who are open about their sexual orientation or gender identity. [...].¹

We therefore decided to specifically focus our research on the treatment experienced by LGBTQI+ persons at the hands of the state, and particularly also to research the situation of Trans and Intersex persons. Through our desk-based research it became evident that most sources documented the treatment of LGBTQI+ persons by their family members, the wider community and society at large. Sources we identified also highlighted the lack of protection that LGBTQI+ persons were afforded. We therefore have not included such information in this report, because our aim is to fill existing gaps in available COI. However, interlocutors interviewed for this report highlighted the impact societal norms and especially societal anti-LGBTQI+ sentiment has on state institutions and therefore state officials. This has been added in section 3.1 *Impact of societal norms on state attitudes* of the report; an issue we feel that should be given due consideration when assessing the treatment by the state.

Statistics on asylum claims made on the basis of sexual orientation covering “claims with a lesbian, gay, or bisexual (LGB) element” (Note: Not gender identity or expression) are released by the UK Home Office as ‘experimental statistics’, meaning that “they are going through development and evaluation”.² Currently statistics are only available covering 2015-2019.³ These suggest that 41 Ghanaian asylum applications were made on the basis of sexual orientation in 2015, 66 in 2016, 56 in 2017, 43 in 2018 and 41 in 2019.⁴

The figures further suggest that 38 initial decisions were made in 2015, 57 in 2016, 59 in 2017, 46 in 2018 and 38 in 2019. Of those 6 were granted some form of leave to remain compared to 32 refusals

¹ UK Home Office, [Country Policy and Information Note, Ghana: Sexual orientation and gender identity or expression](#), May 2020, paras. 2.4.14 and 2.4.15

² UK Home Office, [National Statistics, Experimental Statistics, Asylum claims on the basis of sexual orientation](#), Updated 24 September 2020

³ See *Asylum claims on the basis of sexual orientation tables* on the website of the UK Home Office, [National Statistics, Experimental Statistics, Asylum claims on the basis of sexual orientation](#), Updated 24 September 2020

⁴ See UK Home Office, *Immigration Statistics, Experimental Statistics: Asylum claims on the basis of sexual orientation*, 20 August 2020 found on the website of the UK Home Office, [National Statistics, Experimental Statistics, Asylum claims on the basis of sexual orientation](#), Updated 24 September 2020

in 2015, 6 grants compared to 51 refusals in 2016, 7 grants compared to 52 refusals in 2017, 5 grants compared to 41 refusals in 2018 and 11 grants compared to 27 refusals in 2019.⁵

With regards to asylum appeals determined where sexual orientation formed part of the basis for the claim, of the 16 determined in 2015 less than 5 were allowed, in 2016 out of 33 appeals determined 8 were allowed, in 2017 out of 54 appeals determined 6 were allowed, in 2018 and 2019 out of 30 and 20 appeals determined respectively less than 5 were allowed per year.⁶

Bearing in mind that these statistics are ‘experimental’ and may therefore not represent the full extent of Ghanaian asylum claims based on sexual orientation and gender identity or expression, the existing figures indicate a very low acceptance rate at first instance and of allowed appeals. The reason behind such figures may be the gap in relevant COI for certain aspects of these claims.

Asylos and ARC Foundation share a strong belief in the importance of the role of COI in refugee decision making and both have the desire to contribute to the fair and sound administration of asylum law. We hope to fill the gap in the COI literature about the treatment of LGBTQI+ persons fearing the state and thus contribute to a more informed and balanced debate about the situation. The report is also intended as a tool to assist legal practitioners and to help ensure that decision-makers consider all relevant material.

Please note that **we are not legally accredited nor ‘experts’ in the matters we research and cannot be classified as expert witnesses**. We compile primary and secondary information to address certain country-specific questions, but we do not provide an assessment or analysis of the data. Similarly, we do not provide legal advice.

The report was researched, written and edited by Asylos’ and ARC Foundation’s project consultants who were supported by Asylos staff and its network of volunteer researchers. It combines publicly available sources and written or oral contributions by a range of interlocutors with specific expertise on LGBTQI+ rights in Ghana.

The COI presented is illustrative, but not exhaustive of the information available in the public domain, nor is it determinative of any individual human rights or asylum claim.

All sources are publicly available and a direct hyperlink has been provided. A list of sources and databases consulted is also provided in this report, to enable users to conduct further research and to conduct source assessments. Note that the COI included is mainly presented in reverse chronological order, but where deemed necessary was moved to provide a more consistent flow. Whilst we strive to be as comprehensive as possible, no amount of research can ever provide an exhaustive picture of the situation. **It is therefore important to note that the absence of information should not be taken as evidence that an issue does not exist.** For more information about our research methodology, please consult [Appendix A. Methodology](#) of this report.

This document is intended to be used as a tool to help to identify relevant COI and the COI referred to in this report can be considered by decision makers in assessing asylum applications and appeals. **This report is not a substitute for individualised case-specific research and therefore this document should not be submitted in isolation as evidence to refugee decision-making authorities.** Whilst every attempt has been made to ensure accuracy, the authors accept no responsibility for any errors included in this report.

⁵ See UK Home Office, *Immigration Statistics, Experimental Statistics: Asylum claims on the basis of sexual orientation*, 20 August 2020 found on the website of the UK Home Office, [National Statistics, Experimental Statistics, Asylum claims on the basis of sexual orientation](#), Updated 24 September 2020

⁶ See UK Home Office, *Immigration Statistics, Experimental Statistics: Asylum claims on the basis of sexual orientation*, 20 August 2020 found on the website of the UK Home Office, [National Statistics, Experimental Statistics, Asylum claims on the basis of sexual orientation](#), Updated 24 September 2020

Background on the research project

This report is the result of a joint three-year project by Asylos and ARC Foundation to publish a series of reports that present new and innovative forms of COI, generated by conducting interviews alongside existing sources. All planned reports cover topics related to young asylum seekers, defined as under 30, in the UK for whom an absence of country information forms a barrier to protection. Previous reports include:

- Asylos/ARC Foundation, [Vietnam: Returned victims of trafficking](#), May 2020
- Asylos/ARC Foundation, [Albania: Trafficked Boys and Young Men](#), May 2019
- Asylos/ARC Foundation, [‘Westernised’ young males from Afghanistan](#), August 2017 (Pilot report)

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We would like to thank the following external partner for their advice on this report:

- Marios Kontos, Legal Officer, UK Lesbian & Gay Immigration Group

Their advice does not necessarily imply their formal endorsement of the final report, which is the full responsibility of Asylos and ARC Foundation.

We are immensely grateful for Paul Hamlyn Foundation’s generous financial support of this project.

Feedback and Comments

Please help us track the impact of our work. It is our best reward and helps us align our work to your needs. If you have read this report, used any part of it to inform your case or decision and/or submitted it to court, whatever its outcome, please complete the feedback form found [here](#).

For general comments or inquiries about the project, or suggestions for future report topics, please email info@asylos.eu and info@asylumresearchcentre.org directly.

Who we are

Asylos is a global network of volunteers providing free-of-charge Country of Origin Information (COI) research for lawyers helping asylum seekers with their claim. Asylos works to ensure that asylum seekers and their legal counsel have access to crucial sources and data to substantiate their claim. Asylos volunteers use their research and language skills to access detailed information. More information can be found [here](#).

ARC Foundation is the charitable branch of Asylum Research Centre (ARC). ARC was set up in 2010 in order to raise standards in the refugee status determination (RSD) process, improve the realisation of asylum seekers’ and refugees’ rights and entitlements and to ensure that those in need of protection are recognised as such. It is staffed by human rights researchers and COI specialists and undertakes research, case-specific COI research, advocacy and training. More information can be found [here](#).

List of Acronyms

ACILA	Africa Centre for International Law and Accountability
BTI	Bertelsmann Stiftung's Transformation Index
CC	Criminal Code
CCM	Country Coordinating Mechanism
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEPEHRG	Centre for Popular Education and Human Rights Ghana
CGRS	Belgian Commissioner General for Refugees and Stateless Persons
CHRAJ	Commission on Human Rights and Administrative Justice
COI	Country of Origin Information
DOVVSU	Domestic Violence and Victim Support Unit
ILGA	International Lesbian Gay Bisexual Trans and Intersex Association
ICCPR	International Covenant on Civil and Political Rights
LGBTQI+ persons	Lesbian, Gay, Bisexual, Trans, Queer and Intersex persons
NDC	National Democratic Congress
NPP	New Patriotic Party
PRO	Public Relations Officer
PORSH	Priorities on Rights and Sexual Health
SOGIE	Sexual Orientation and Gender Identity and Expression
STI	Sexually Transmitted Infection
TTU	Takoradi Technical University
UNHRC	UN Human Rights Council
UPR	Universal Periodic Review

Research Timeframe

We chose to focus on the timeframe 1st January 2017 to 24th February 2021 as it was the period where President Akufo Addo took power and was re-elected in December 2020.

In December 2016 Ghana held its presidential election, where Nana Addo Dankwa Akufo Addo from the New Patriotic Party (NPP) won over former President John Dramani Mahama and his National Democratic Congress (NDC) party.⁷ In December 2020 presidential elections were held again, where the incumbent President, Akufo Addo, of the ruling NPP won with 51,3 per cent of the vote.⁸

Sources consulted

All web sources were consulted between October 2020 and February 2021.

Not all of the sources listed here have been consulted for each issue addressed in the report. Additional sources to those individually listed were consulted via database searches. This non exhaustive list is intended to assist in further case-specific research.

To find out more about an organisation, view the 'About Us' tab of a source's website.

COI Databases

[ECOI](#)

[Refworld](#)

[Reliefweb](#)

[EASO's COI portal](#)

International Organisations

[UN Human Rights Committee](#)

[UN Office in Ghana](#)

[UNAIDS](#)

[United National Special Rapporteur extreme poverty and human rights](#)

[United Nations Children's Fund \(UNICEF\)](#)

[United Nations Committee Against Torture](#)

[United Nations Committee on Economic, Social and Cultural Rights](#)

[United Nations Committee on the Elimination of Discrimination Against Women](#)

[United Nations Committee on the Rights of the Child](#)

[United Nations General Assembly: Protection against violence and discrimination based on sexual orientation and gender identity](#)

[United Nations High Commissioner for Refugees \(UNHCR\)](#)

[United Nations Human Rights Council](#)

[United Nations Human Settlements Programme \(UNHABITAT\)](#)

[United Nations Independent Expert on sexual orientation and gender identity](#)

[United Nations Office of the High Commissioner for Human Rights \(OHCHR\)](#)

[United Nations Secretary General](#)

[United Nations Special Rapporteur on the Independence of Judges and Lawyers](#)

[United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)

⁷ See Peace FM Online, [2016 Election Results](#), Undated [Last viewed: 18 February 2021]

⁸ See UN Security Council, [Report of the Secretary-General on the activities of the United Nations Office for West Africa and the Sahel](#), 24 December 2020, para. 9

[United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#)

[United Nations Special Rapporteur on trafficking in persons, especially in women and children](#)

[United Nations Special Rapporteur on violence against women, its causes and consequences](#)

[United Nations Women](#)

Government sources

[Acts of Parliament of Ghana](#)

[Australian Country Information Reports](#)

[Belgian Office of the Commissioner General for Refugees and Statelessness Persons - Centre de documentation et de recherche \(CEDOCA\)](#)

[Constitution of the Republic of Ghana](#)

[Immigration and Refugee Board of Canada's Responses to information requests](#)

[Presidency of Republic of Ghana](#)

[UK Foreign and Commonwealth Office](#)

[UK Home Office](#)

- [Ghana: Country Policy Information Notes](#)

[United States Department of State](#)

- [2019 Country reports on Human Rights Practices: Ghana](#)
- [2018 Country Reports on Human Rights Practices: Ghana](#)
- [2017 Country Reports on Human Rights Practices: Ghana](#)

NGOS and think tanks

[Accra Pride](#)

[Africa Centre for International Law and Accountability \(ACILA\)](#)

[African Human Rights Coalition](#)

[Amnesty International](#)

[Anglophone West African LBQT Research Collective](#)

[ARC International](#)

[Asia Pacific Transgender Network](#)

[Brookings Institution](#)

[Centre for Popular Education and Human Rights \(CEPEHRG\)](#)

[Commonwealth Equality Network](#)

[Equal Rights Trust](#)

[Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit, joined by International Lesbian and Gay Association](#)

[Freedom House](#)

[GATE](#)

[Gender Dynamix](#)

[Heartland Alliance](#)

[Human Dignity Trust](#)

[Human Rights Advocacy Centre \(HRAC\)](#)

[Human Rights Watch](#)

[Interfaith Diversity Network of West Africa Priorities on Rights and Sexual Health](#)

[International Lesbian, Gay, Bisexual, Trans and Intersex Association \(ILGA\)](#)

[Kaleidoscope Trust](#)

[Kaos GL](#)

[Lesben- und Schwulenverband in Deutschland \(LSVD\)](#)

[LGBT+ Rights Ghana](#)

[Open Democracy](#)
[Open Society Foundation - LGBTI](#)
[Organisation for Refuge, Asylum and Migration \(ORAM\)](#)
[Outright Action International](#)
[Pan Africa ILGA](#)
[Pew Research Centre](#)
[Robert Akoto Amofo](#)
[Solace Initiative](#)
[Stand up for Your Right Group](#)
[The Initiative for Equal Rights](#)
[Trans Gender Law Centre](#)
[Transactivists](#)
[Working Group of CSOs](#)

Media

[Africa News](#)
[African Arguments](#)
[Agence France Press \(AFP\)](#)
[Al Jazeera](#)
[All Africa](#)
[BBC](#)
[Daily Graphic](#)
[Daily Guide](#)
[Deutsche Welle](#)
[Edge Media Network](#)
[Equal Eyes](#)
[Erasing 76 crimes](#)
[Gay Star News](#)
[GH Base](#)
[Ghana Broadcasting Corporation](#)
[Ghana News Agency](#)
[Ghana Web](#)
[Global Gayz](#)
[How Africa](#)
[Inter Press Service](#)
[Jeune Afrique](#)
[Kasapa FM](#)
[LGBT Asylum News](#)
[Mamba Online](#)
[Modern Ghana](#)
[My Joy Online](#)
[Pink News](#)
[Pulse Ghana](#)
[The Ghana Report](#)
[The Ghanaian Chronicle](#)
[The Ghanaian Times](#)
[The Guardian](#)
[The Herald \[Ghana\]](#)
[The Mirror \[Ghana\]](#)
[The New Humanitarian](#)

[The New York Times](#)
[Thomson Reuters Foundation](#)
[Yen](#)

1. Legal Context

1.1 Constitution

Homosexuality is not specifically outlawed in the Constitution of the Republic of Ghana. Ghana's Constitution is available [here](#).

Chapter 5 of the Constitution guarantees fundamental human rights, though it does not explicitly mention sexual orientation and gender identity or expression, which some sources argue may lead to discrimination towards LGBTQI+ persons:

In spite of the overwhelming evidence of discriminatory laws and practices against the LGBT community in Ghana, there are principles of law contained in the Constitution and in statute that, when properly construed, should endeavor to protect persons of LGBT status.

The Constitution also contains an impressive Bill of Rights in its Chapter 5, including Article 33(5), which provides that the list of rights in the chapter is not exhaustive, and incorporates other rights "which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man".

(Source: Raymond Atuguba, [Homosexuality in Ghana: Morality, Law, Human Rights. Journal of Politics and Law](#); Vol. 12, No. 4; 2019, p. 118-119)

[...] PART C

FINDINGS: GHANA

Introduction [...]

the Constitution of the Republic of Ghana whose chapter 5 guarantees fundamental human rights of all persons, though it did not explicitly mention sexual orientation and gender identity. Furthermore, Article 17 of the Constitution¹ does not include "sex" as a protected ground of non-discrimination. [...]"

¹ Constitution of the Republic of Ghana: <https://www.wipo.int/edocs/lexdocs/laws/en/gh/gh014en.pdf> [...]

(Source: Nwosu-Juba, N and the Anglophone West African LBQT Research Collective, [Our Voices, Mapping the Needs of LBQ Women and Trans People in Ghana: Research report based on a community-led study in four countries](#), 2019, p. 23)

[...] ii The Legal Status of the LGBT Community in Ghana [...]

Another aspect of the legal status of LGBT Ghanaians that leaves them vulnerable to discrimination, violence, and abuses of their rights is in the country's 1992 Constitution, which does guarantee protections for individuals on the basis of "race, place of origin, political opinion, colour, religion, creed or gender" but not on the basis of sexual orientation. The lack of provision for individual protections on the basis of sexual orientation or gender identity not only allows for discriminatory laws, such as Section 104(1)(b) of the Criminal Offences Act, but it also denies LGBT individuals from having constitutional recourse for defending themselves from other legal abuses. [...]

(Source: Robert Akoto Amofo, [Ghana's legal and policy frameworks and the protection of the human rights of LGBT people in Ghana](#), 25 May 2019, p. 5)

There are general antidiscrimination prohibitions in the Constitution which have been interpreted to mean that lawful discrimination was permissible as long as it did not contravene the protected categories [Note: Sexual orientation and gender identity or expression is not among these categories]:

To begin with, the 1992 Constitution of Ghana contains a broad antidiscrimination clause in its

Article 17, under which many minority interests have sheltered since the Constitution came into force. Article 17 provides generally for equality for all persons, and prohibits discrimination. The interpretation of the scope of that clause by the Supreme Court in light of the rights of LGBTs, or by state officials who enforce anti-discrimination laws, holds the key to the contraction or expansion of that clause and its implications for marginalised groups such as LGBTs. The Supreme Court of Ghana has made a definite pronouncement on Article 17(2) of the Constitution in *T.T. Nartey v Godwin Gati*, declaring that lawful discrimination was permissible so long as it did not contravene grounds included in Article 17(2), that is, gender, race, colour, ethnic origin, religion, creed or social or economic status, and provided that it was reasonable and achieved a legitimate basis.

(Source: Raymond Atuguba. [*Homosexuality in Ghana: Morality, Law, Human Rights. Journal of Politics and Law*](#); Vol. 12, No. 4; 2019, p. 118)

A 2018 Human Rights Watch report described in greater detail some of the constitutional provisions:

[...] V. Ghana's Legal Obligations [...]

Chapter five of Ghana's 1992 Constitution guarantees a range of fundamental human rights and freedoms to all its citizens.¹²⁵ Section 12(1) of the constitution provides:

The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislative and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable by the Courts as provided for in this Constitution.¹²⁶

Section 12 then provides that such fundamental human rights and freedoms are "subject to respect for the rights and freedoms of others and for the public interest."¹²⁷ The constitution does not provide a definition of "public interest". Article 17(1) and (2) of the constitution guarantees equality before the law and prohibits discrimination on grounds of "gender, race, colour, ethnic origin, religion, creed or social or economic status."¹²⁸

Sexual orientation and gender identity are not enumerated as prohibited grounds of discrimination. Furthermore, Article 17 of the Constitution does not include "sex" as a ground for non-discrimination. The Constitution ensures respect for human dignity, protection of personal liberty, and the right to privacy for all – this should be understood to extend to LGBT people.

Chapter six of the Constitution sets out the Directive Principles of State Policy, including ones particularly pertinent to the protection of the human rights of LGBT people in Ghana, which must guide legislative and policy measures regarding sexual orientation and gender identity issues:

- Section 35(4) (4): The State shall cultivate among all Ghanaians respect for fundamental human rights and freedoms and the dignity of the human person.

- Section 37(1): (1) The State shall endeavour to secure and protect a social order founded on the ideals and principles of freedom, equality, justice, probity and accountability as enshrined in Chapter 5 of this Constitution; and in particular, the State shall direct its policy towards ensuring that every citizen has equality of rights, obligations and opportunities before the law.

- Section 37(2)(b): (2) The State shall enact appropriate laws to ensure the protection and promotion of all other basic human rights and freedoms, including the rights of the disabled, the aged, children and other vulnerable groups in development processes.

Section 37(3): The State shall be guided by international human rights instruments which recognize and apply particular categories of basic human rights to development processes.

- Section 41(d): The exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations, and accordingly, it shall be the duty of every citizen - (d) to respect the rights, freedoms and legitimate interests of others, and generally to refrain from doing acts detrimental to the welfare of other persons.¹²⁹ [...]

¹²⁵"Constitution of the Republic of Ghana," Government of Ghana.

¹²⁶ Ibid section 12(1)

127 Ibid Section 12(2)

128 Ibid Article 17(1) All persons shall be equal before the law. (2) A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion. Creed or social or economic status.

129 Ibid Chapter 6 The Directive Principles of State Policy, Article 34(1): The Directive Principles of State Policy contained in this Chapter shall guide all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, political parties and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing any policy decisions, for the establishment of a just and free society [...]

(Source: Human Rights Watch, [*No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana*](#), 8 January 2018, p. 53 and 54)

The same source reported that a Constitution Review Commission was established in 2010 (and dissolved in 2012) to propose amendments especially in relation to equality and non-discrimination:

[...] The Constitution Review Commission [...]

Ghana's 1992 Constitution guarantees fundamental human rights to all its citizens.⁵⁵ Article 17 guarantees equality before the law and prohibits discrimination on grounds of "gender, race, colour, ethnic origin, religion, creed or social or economic status."⁵⁶ Sexual orientation and gender identity are not enumerated as prohibited grounds of discrimination. Furthermore, Article 17 of the Constitution does not include "sex" as a protected ground of non-discrimination. However, the Constitution ensures respect for human dignity, protection of personal liberty, and the right to privacy for all – including for LGBT people.⁵⁷

In 2010, the government established a Constitution Review Commission (Commission), a Presidential Commission of Inquiry, to engage in a public consultation process on the 1992 Constitution and to propose amendments.⁵⁸ [...] The Commission was dissolved in August 2012.⁶⁰ Under the sub-theme "equality and non-discrimination," the Commission addressed two issues: whether or not sexual orientation should be enumerated as one of the grounds for non-discrimination, and the extent to which the Constitution should recognize the rights of lesbians and gay men in Ghana.⁶¹ The Commission received an overwhelming number of submissions advocating for the continued exclusion from the Constitution of sex and sexual orientation as protected grounds against discrimination and to "ensure that it is not interpreted to recognise homosexuality in Ghana."⁶² Noting that the inclusion of both "sex" and "gender" in the anti-discrimination clause of the Constitution "would add to the legal arsenal of those who argue that the Constitution abhors discrimination on the grounds of sexual orientation" the Commission found that "gender" served a specific purpose: "to ensure the recognition of the natural/biological state of a woman and a man."⁶³ [...]

In its final report the Commission recommended that it be left to the Supreme Court to decide the legality of same-sex sexual relations if the matter came before it, because the court could consider all arguments in favour of and against decriminalization and interpret the provisions of the Constitution. [...]

55 "Constitution of the Republic of Ghana," Government of Ghana, Undated, http://www.ghana.gov.gh/images/documents/constitution_ghana.pdf, Section 12, Chapter 5

56 Ibid section 17: Equality and Freedom from Discrimination. Section 17(3): For the purposes of this article, "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are subjected to disabilities or restrictions to which persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description.

57 Ibid section 15(1) The dignity of all persons shall be inviolable, section 14(1) - Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except [in accordance with procedure permitted by law, section 18(2) - (2) No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.

58 Republic of Ghana, Report of the Constitution Review Commission: From a Political to a Developmental Constitution [...].

61 Ibid para 110 & 117

62 Ibid para 112 – Equality and non-discrimination
63 Ibid para 113 [...]

(Source: Human Rights Watch, [*No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana*](#), 8 January 2018, p. 26 and 27)

1.2 Criminal Code

Ghana's Criminal Code is available [here](#).

The Human Dignity Trust reported that Ghana's criminal code criminalises consensual same-sex sexual activity at section 104:

[...] GHANA [...]

In relation to the specific provisions assessed in this report, very few elements of the sexual offences provisions in the CC [Criminal Code 1960] meet good practice and human rights standards. For the most part, the CC does not conform to those standards. For example, the CC criminalises consensual same-sex sexual activity as 'unnatural carnal knowledge' and does so in the same provision as the offence of bestiality. Criminalising consensual same-sex sexual activity has been held in court decisions in other Commonwealth jurisdictions, such as Belize, Botswana, India and Trinidad and Tobago, to be unconstitutional. Laws that criminalise consensual same-sex sexual activity should be repealed [...]

Section 104, Unnatural Carnal Knowledge

"(1) Whoever has unnatural carnal knowledge—

(b) of any person of sixteen years or over with his consent is guilty of a misdemeanour; or

(2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal". [...]

(Source: Human Dignity Trust, [*Next steps toward reform: Assessing sexual offences legislation in the Commonwealth in Africa*](#), March 2020, p. 61)

The Human Dignity Trust also noted the existence of section 278 of the Ghanaian Criminal Code which refers to 'Gross Indecency':

[...] Ghana

Ghana Criminal Code 1960 (Act 29 as amended up to 2003)³⁸⁰

Section 278, Gross Indecency

"Whoever publicly and wilfully commits any grossly indecent act commits a misdemeanour".

Ghana Criminal Code 1960 (Act 29 as amended up to 2003) [...]

380 Ghana Criminal Code 1960 (Act 29 as amended up to 2003). Available at: <https://wipo.lex.wipo.int/en/text/339612> [...]

(Source: Human Dignity Trust, [*Injustice Exposed: The Criminalisation of Transgender People and its impacts*](#), 17 May 2019, p. 100)

Section 278 of the Ghanaian Criminal Code is also reported on by The International Lesbian, Gay, Bisexual Trans and Intersex Association (ILGA)'s 2020 report:

[...] Section 104(1)(a) of the Penal Code (1960), as amended in 2003, prohibits "unnatural carnal knowledge" (defined as "sexual intercourse with a person in an unnatural manner") of another

person of sixteen years or over with his consent. It is considered a misdemeanour and carries a maximum penalty of 3 years' imprisonment. Additionally, Section 278 criminalises acts of "gross Indecency" in public.

(Source: International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), [State-Sponsored Homophobia 2020: Global Legislation Overview update](#), 15 December 2020, p.117)

ILGA's 2019 report regarding homophobia also mentioned section 99 of the Ghanaian Criminal Code, which outlines that 'unnatural carnal knowledge' has to be proved:

[...] GHANA

Provisions in force

Criminal Code (Act No.29 of 1960, as amended up to 2003) [...]

Evidence of carnal knowledge

Section 99. Evidence of Carnal Knowledge.

Whenever, upon the trial of any person for an offence punishable under this Code, it is necessary to prove carnal knowledge or unnatural carnal knowledge, the carnal knowledge or unnatural carnal knowledge shall be deemed complete upon proof of the least degree of penetration [...]

(Source: International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia 2019](#), March 2019, p. 328)

The following sources noted that the Ghanaian Criminal Code mainly refers to same-sex sexual relations between men but that its interpretation could have wider implications for LBQT+ persons:

[...] AN OVERVIEW [...]

The Ghana Criminal Code of 1960 Act 29 criminalizes "sexual intercourse with a person in an unnatural manner," and this is widely interpreted as the criminalisation of homosexuality, mostly for men. The case for lesbians is less clear. Irrespective of this lack of clarity, LBQT persons are not spared in the abuse faced by LGBT persons in the country [...]

PART C

FINDINGS: GHANA

Introduction [...]

The Ghanaian law criminalizes homosexuality mostly for men but the effect of the law on societal perceptions of homosexuality does have implications on how LBQT persons are perceived. Criminalizing adult consensual same-sex conduct contributes significantly to a climate in which violence and discrimination against LBQT persons are common [...]

(Source: Nwosu-Juba, N and the Anglophone West African LBQT Research Collective (2019), [Our Voices, Mapping the Needs of LBQ Women and Trans People in Ghana: Research report based on a community-led study in four countries](#), 2019, p. 12 and 23)

[...] III. Laws Criminalising Same-Sex Sexual Conduct, Leading to Arbitrary Arrests and Detention: Chapter 6 Section 104 of Ghana's Criminal Code (1960) is used to threaten, arrest and punish individuals for engaging in same-sex sexual conduct. It states the following:

"(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."9

Subsection (1)(b) of Section 104 of Ghana's Criminal Code criminalizes consensual "unnatural carnal knowledge" but does not define what is and what is not natural. Ghanaian legal institutions and law enforcement often interpret "unnatural carnal knowledge" to mean same-sex sexual conduct. This target and discriminates against individuals based on their perceived or self-identified SOGI while providing no avenue for legal recourse and protection. [...]

9 CRIMINAL CODE Act 29, Ch. (6), § 104 (Ghana) [...]

(Source: Working Group of CSOs, [*Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender Intersex and Queer \(LGBTIQ\) People in Ghana: Joint Stakeholder Report by the Working Group of CSOs... Submitted for consideration at the United Nations Third Universal Periodic Review*](#), 28 March 2017, p. 4 and 5)

Ghana [...]

Criminal Code 1960, Section 104 Unnatural Carnal Knowledge

Section 104 uniquely distinguishes between non-consensual and consensual sexual intercourse in "an unnatural manner" – the former being a 'first degree felony' and the latter a 'misdemeanour'.¹ Under the Criminal Procedure Code, misdemeanour offences carry a penalty of up to three years imprisonment.² The law is only applicable to sexual intercourse between men [...]

1 Criminal Code 1960, Section 104 Unnatural Carnal Knowledge

2 Criminal Procedure Code 1960, Section 296 General Rules for Punishment [...]

(Source: Human Dignity Trust, [*Criminal Code 1960, Section 104 Unnatural Carnal Knowledge*](#), date unknown)

[...] ii The Legal Status of the LGBT Community in Ghana

Ghana has a mixed record on its treatment of lesbian, gay, bisexual and transgender people. It criminalizes "unnatural carnal knowledge" in section 104(1)(b) of its Criminal Offences Act, which the authorities interpret as "penile penetration of anything other than a vagina"³ [...] Ghana has not taken steps in recent years [...] to expressly criminalize sexual relations between women [...]

3 Ghana Legal, Ghana Criminal Code Act 29, 1960, "Section 104, Unnatural Carnal Knowledge," http://laws.ghanalegal.com/acts/id/19/section/104/Unnatural_Carnal_Knowledge [...]

(Source: Robert Akoto Amofo, [*Ghana's legal and policy frameworks and the protection of the human rights of LGBT people in Ghana*](#), 25 May 2019, p. 4)

A 2018 Human Rights Watch report noted that the terms used in section 104 of the Ghanaian Criminal Code could apply to anal and oral sex between a man and a woman, not just intercourse between men:

[...] II. The Criminal Code, and Calls to Amend It [...]

Ghana is one of several dozen former British colonies that inherited Victorian laws prohibiting so-called "unnatural offenses."³⁷ Under section 104(1)(b) of the Criminal Offences Act, 1960 (Act 29), "whoever has unnatural carnal knowledge...of a person sixteen years or older, with his consent, is guilty of a misdemeanor."³⁸ Unnatural carnal knowledge is defined in section 104(1)(2) as "sexual intercourse with a person in an unnatural manner or with an animal."³⁹

In principle, this offense could apply to oral or anal sex between a man and a woman, as well as to sex between men. Ghana's Constitution Review Commission has recognized as much, stating that "Unnatural carnal knowledge is defined at common law to involve penile penetration of anything other than a vagina," adding: "...the law only anticipates the situation where a man has unnatural carnal knowledge of a woman or another man, but does not envisage the situation where a woman engages in unnatural carnal knowledge of another woman."⁴⁰

Jones Blantari, Assistant Commissioner of Police, told Human Rights Watch that “the term unnatural carnal knowledge is vague, does not have any clear meaning in law, creates difficulties in consistent interpretation and its application is used to target LGBT people.”⁴¹ In certain instances, the law has been used to arrest individuals suspected of being lesbian or gay [...]

37 Human Rights Watch, *This Alien Legacy: The Origins of “Sodomy” in British Colonialism* December 17, 2008, <https://www.hrw.org/report/2008/12/17/alien-legacy/origins-sodomy-laws-british-colonialism>

38 Section 104(1)(a) of the same Act provides: “Whoever has unnatural carnal knowledge 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.” The essential difference between the two sub- provisions of section 104 relates to lack of consent. For the purposes of this report, the only provisions of concern are section 104(1)(b) and 104(2). Human Rights Watch supports the effective implementation of laws that criminalize all forms of sexual violence or assault.

39 “Criminal Code, 1960 (ACT 29),” undated, <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh010en.pdf>

40 Republic of Ghana, Report of the Constitution Review Commission: From a Political to a Developmental Constitution, December 2011, p. 654 http://www.constitutionnet.org/sites/default/files/crc_research_report.pdf (accessed August 3, 2017)

41 Human Rights Watch interview with Jones Blantari, Assistant Commissioner of Police, Accra, January 2017 [...]

(Source: Human Rights Watch, [*No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana*](#), 8 January 2018, p. 22 and 23)

Prof. Raymond Atuguba, Professor in Law at the University of Ghana, noted in his article published in 2019, that the language used in the Criminal Code is clouded in ambiguity as to the “boundaries of its proscription”:

[...] Having discovered the law respecting homosexual conduct in Ghana, it is argued that Ghana’s criminal statute does not outlaw “homosexuality” or “homosexual expression” in general.... In sum, the criminal law of Ghana, in its bid to forbid same-sex sexual conduct, ended up prohibiting a minute aspect of homosexual relations—sodomy.”

Homosexual conduct is criminalized by Ghana’s criminal laws; or at least, it seems to be. The language of section 104(1)(b) of the Criminal Offences Act, 1960 (Act 29) which bears sole responsibility for purportedly abhorring consensual same-sex intercourse is, with very little argument, shrouded in uncertainty and patent ambiguation as regards the boundaries of its proscription, vaguely termed, “unnatural carnal knowledge”. This is because the provision does not clarify the laid down parameters for sexual relations in an “unnatural manner”. [...]

(Source: Prof. Raymond Atuguba, [*Homosexuality in Ghana: Morality, Law, Human Rights. Journal of Politics and Law*](#); Vol. 12, No. 4; 2019, p. 113-115)

The UN Country Team for Ghana remarked on the criminalisation endured by LGBTQI+ persons in Ghana as part of the 28th session of the Universal Periodic Review (UPR) in August 2017:

[...] 29. The United Nations country team indicated that homosexual sex between consenting adults had not been decriminalized in Ghana.⁵⁴ The Human Rights Committee recommended that Ghana ensure that sexual relations between consenting adults of the same sex were not punishable by law.⁵⁵ [...]

54 Country team submission

55 See CCPR/C/GHA/CO/1, paras. 43-44 [...]

(Source: United Nations Human Rights Council, [*Compilation on Ghana: Report of the Office of the United Nations High Commissioner for Human Rights A/HRC/WG.6/28/GHA/2*](#), 28 August 2017, p. 4)

In its submission to the same UPR session in 2017, Human Rights Watch stated that the criminalisation of consensual same-sex conduct was a contributing factor for violence and discrimination against LGBTQI+ persons, especially as the law did not prevent discrimination against LGBTQI+ persons:

[...] 9. HRW stated that the criminalization of adult consensual same-sex conduct, in terms of section 104(1) (b) of the Criminal Code, which prohibits ‘unnatural carnal knowledge’ (widely interpreted to mean same-sex conduct) contributed to a climate in which violence and discrimination against LGBT people were widespread. It further noted that the law does not prevent discrimination against LGBT people including in access to health services, employment, housing, education, and facilitated blackmail and extortion. [...]

(Source: United Nations Human Rights Council, [Summary of Stakeholders’ submissions on Ghana: Report of the Office of the United Nations High Commissioner for Human Rights \[A/HRC/WG.6/28/GHA/3\]](#), 08 August 2017, pp. 2-3)

1.3 Other relevant legislation affecting LGBTQI+ persons

The following sources outlined Ghana’s ratification of international and regional human rights treaties, which may affect LGBTQI+ persons:

[...] PART C

FINDINGS: GHANA

Introduction [...]

Ghana has signed and ratified several regional and international human rights treaties that oblige it to respect and protect the rights of LGBTQI people, albeit not explicit, including the right to equality before the law, non-discrimination, human dignity, privacy and the right to be free from violence. These include the African Charter on Human and Peoples’ Rights (African Charter), the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR) [...]

(Source: Nwosu-Juba, N and the Anglophone West African LBQT Research Collective, [Our Voices, Mapping the Needs of LBQ Women and Trans People in Ghana: Research report based on a community-led study in four countries](#), 2019, p. 23)

[...] V. Ghana’s Legal Obligations [...]

Obligations under International Law

Ghana has ratified several regional and international human rights treaties that obligate it to respect and protect the rights of LGBT people, including the right to equality before the law, non-discrimination, human dignity, privacy and the right to be free from violence. These include the African Charter on Human and Peoples’ Rights (African Charter),¹³¹ the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol),¹³² the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),¹³³ and the International Covenant on Civil and Political Rights (ICCPR).¹³⁴ By becoming a party to these treaties Ghana has accepted legal obligations to exercise due diligence in protecting people from all forms of violence regardless of their sexual orientation or gender identity, whether perpetrated by state or non-state actors.

Under Article 4(2) of the Maputo Protocol states are required to take necessary measures to enact and enforce laws to prohibit and punish all forms of violence against women.¹³⁵ In October 2012, the African Commission adopted its General Comment to article 14(1)(d) and (e) of the Maputo Protocol, in which it expressly included sexual orientation as a recognized ground of discrimination.¹³⁶

According to the African Commission there are multiple forms of discrimination based on various grounds such as: race, sex, sexuality, sexual orientation, age, pregnancy, marital status, HIV status, social and economic status, disability, harmful customary practices and/or religion. In addition, the African Commission recognises that these forms of discrimination, individually or collectively, prevent women from realising their right to self-protection and to be protected.¹³⁷

Article 24(a) of the Maputo Protocol also obligates parties to “ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their physical, economic and social needs.”¹³⁸

In May 2014, the African Commission on Human and Peoples’ Rights (the African Commission) adopted Resolution 275 on “Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation and Gender Identity” (Resolution 275), re-affirming, inter alia, the rights to freedom from discrimination, equality before the law and equal protection of the law.¹³⁹ Through this resolution, the African Commission expressly condemned “violence and other human rights abuses including rape, assault, arbitrary imprisonment and other forms of persecution and the situation of systematic attacks by State and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity”, and urged all states party to the African Charter to:

...end all acts of violence and abuse, whether committed by State or non- state actors, including by enacting and effectively applying appropriate laws prohibiting and punishing all forms of violence including those targeting persons on the basis of their imputed or real sexual orientation or gender identities, ensuring proper investigation and diligent prosecution or perpetrators, and establishing judicial procedures responsive to the needs of victims.¹⁴⁰

Resolution 275 underscores the obligation on African states to act with due diligence to protect LGBT individuals from all forms of violence. Ghana referenced Resolution 275 at the UN Human Rights Council in June 2016 when abstaining from a vote on the appointment of a United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. The Ghanaian delegate explained why Ghana had taken a relatively “progressive” position in abstaining from the vote, rather than following the lead of other African states that voted against the resolution:

This resolution was adopted against the backdrop of what the Commission found to be alarming incidents of acts of violence, discrimination and other human rights violations that continue to be committed against individuals in many parts of Africa because of their actual or imputed sexual orientation and gender identity....in 2011 Ghana voted against the resolution that has been referred to in the preambular paragraph. But there has been evolution in thinking—partly because of... the resolution of the African Commission on Human and Peoples’ Rights, which I just cited.¹⁴¹ The Committee on the Elimination of Discrimination against Women, the UN treaty body responsible for monitoring state compliance with CEDAW, has also emphasized a state’s due diligence obligations. In its 1992 general recommendation No. 19 the committee confirmed that in addition to preventing violence by public authorities “...under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence and for providing compensation.”¹⁴² The committee reiterated in 2010 (in general recommendation 28) that states have a legal obligation to prevent, investigate, prosecute and punish all acts of gender-based violence.¹⁴³

Article 4 (c) of the 1993 Declaration on the Elimination of Violation against Women provides: States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.¹⁴⁴

In July 2017, the CEDAW Committee adopted general recommendation No. 35 on gender- based violence against women, calling on all States parties to CEDAW to “ repeal all legal provisions that

discriminate against women, and thereby enshrine, encourage, facilitate, justify or tolerate any form of gender-based violence against them – and in particular, to repeal provisions that allow, tolerate or condone forms of gender-based violence against women, including legislation that criminalizes being lesbian, bisexual, or transgender.”¹⁴⁵

The CEDAW Committee, in general recommendation No. 33 on women’s access to justice notes that women who identify as lesbian, bisexual or transgender are disproportionately criminalized, and this impedes their access to justice as victims of crime.¹⁴⁶ While section 104(1)(b) of the Criminal Offences Act in Ghana does not expressly criminalize same-sex conduct between females, Human Rights Watch found that this law impedes lesbian and bisexual women’s ability to seek justice and legal redress.

In addition to being a barrier to access to justice, retention of the provision criminalizing “unnatural carnal knowledge”, even if it is not enforced, is a breach of Ghana’s obligations under international human rights treaties that the State has ratified. [...]

131 “African Charter on Human and Peoples’ Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986),” http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf Ratified by Ghana on January 24, 1989.

132 “Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,” <http://www.achpr.org/instruments/women-protocol/>

133 The Convention was adopted by General Assembly resolution 34/180 of December 18, 1979. Entry into force September 3, 1981, Ratified by Ghana January 2, 1986

134 The Covenant was adopted by the United Nations General Assembly Resolution 2200A (XXI) of December 16, 1966. It entered into force on March 23, 1976, Ratified by Ghana on September 7, 2000.

135 “Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,” Article 2: States Parties shall take appropriate and effective measures to: a) enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public; b) adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women; c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;.....e) punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;

136 General Comments on Article 14 (1) (d) and (e) of the Protocol to the “African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.”

137 Ibid para 4

138 “Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,” Article 24 Special

Protection of Women in Distress

139 “275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity,” African Commission on Human and Peoples’ Rights, Undated, <http://www.achpr.org/sessions/55th/resolutions/275/>

140 Ibid.

141 “Appointing an Independent Expert on Sexual Orientation and Gender identity: An Analysis of Process, Results and Implications: 32nd Session of the Human Rights Council June 13 – 1st July, 2016,” ARC International, p.50, <http://arc-international.net/wp-content/uploads/2016/08/HRC32-final-report-EN.pdf>

142 CEDAW General Recommendation 19 para 9

143 CEDAW/C/GC/28 para 19

144 A/RES/48/104 Declaration on the Elimination of Violence against Women available at: <http://www.un.org/documents/ga/res/48/a48r104.htm>

145 CEDAW General Recommendation. No. 35 on gender-based violence against women, updating general recommendation No. 19 CEDAW/C/GC/35 available at: http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf

146 CEDAW General Recommendation No. 33 women’s access to justice CEDAW/C/GC/33 para 49 [...]

(Source: Human Rights Watch, [*No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana*](#), 8 January 2018, p. 55, 56, 57, 58 and 59)

[...] III. Laws Criminalising Same-Sex Sexual Conduct, Leading to Arbitrary Arrests and Detention:

[...]

Obligations [...]

Ghana has a legal obligation to respect and ensure non-discrimination and equality under the law as per Article 2(1) and 26 of the ICCPR. As per the ICCPR which Ghana has both signed and ratified, any discrimination based upon attributes such as race, color, sex and “other status” is prohibited. Article 17 Section 1 of the ICCPR states that “[n]o 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.”¹⁰ Section 2 specifies that: “[e]veryone has the right to the protection of the law against such interference or attacks.”¹¹ Finally, Article 9(1) of the ICCPR affirms that everyone has the right to liberty and that “[n]o one shall be subjected to arbitrary arrest or detention.”¹² [...]

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

The severe lack of protection from physical attacks against LGBTIQ individuals in Ghana violate rights protected by Articles 7 and 9 of the ICCPR. Article 7 protects against “torture and cruel, inhuman or degrading treatment” whereas Article 9 ensures “security of person.” Ghana’s obligation to the ICCPR is to ensure the protection of these rights by promoting compliance while preventing, investigating, prosecuting, punishing, and remedying any violation. Ghana has not complied with these obligations [...]

Obligations: [...]

The highlighted stories of violence based on perceived or lived SOGI demonstrates Ghana’s negligence to protect its LGBTIQ citizens from a number of human rights violation. The asymmetrical distribution of adequate redress and justice due to prejudiced attitudes directed at LGBTIQ, held by law enforcement persons is in violation of ICCPR 2(1). The illegal arrest of survivors of violence themselves rather than the victimizers is in violation of article 26 of the ICCPR guaranteeing “equal protection of the law.” This is also in violation of 17(1) and 17(2) of the ICCPR, which prohibits and provides equal protection against arbitrary arrests [...]

¹⁰ Covenant, supra note 3, art. 17(1)

¹¹ Ibid., at art. 17(2)

¹² Ibid., at art. 9(1) [...]

(Source: Working Group of CSOs, [Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender Intersex and Queer \(LGBTIQ\) People in Ghana: Joint Stakeholder Report by the Working Group of CSOs... Submitted for consideration at the United Nations Third Universal Periodic Review](#), 28 March 2017, p.5, 8 and 11)

The Africa Centre for International Law and Accountability (ACILA) explained that during the UN’s Universal Periodic Review Working Group’s 28th Session, Ghana rejected recommendations to legalise same-sex consensual conduct but accepted those to provide equal protection of the law:

[...] Context of research

On November 7, 2017, Ghana appeared before the UN Human Rights Council (UNHRC) for a review of its human rights record under the Universal Periodic Review mechanism. During the review and follow up a discussion by the Working Group, Ghana rejected (noted) recommendations to legalise same-sex marriage or decriminalize consensual sexual relations but accepted recommendations to provide Equal Protection of the Law from violence and discrimination against LGBTI people in accordance with Ghana’s domestic law and international human rights law obligations. [...]

(Source: Africa Centre for International Law and Accountability, [Findings from the Africa Centre for International Law and Accountability \(ACILA\) survey on: Popular attitudes towards lesbian, gay, bisexual, transgender and intersexual people \(LGBTI\) in Ghana](#), July 2018, p. 2)

2. Law in Practice

Prof. Raymond Atuguba, Professor of Law at the University of Ghana explained in written correspondence for this report, that the law prohibiting ‘unnatural carnal knowledge’ does not expressly prohibit lesbian sexual activity. However, lesbian women have been arrested on suspicion of engaging in lesbian activity:

[...] The law prohibits ‘unnatural carnal knowledge’, which has been interpreted as sexual intercourse in an unnatural manner. This includes oral and anal sex between opposite sex couples. In practice however, this provision has been used to target homosexuals. A man who comes out openly as a homosexual cannot be prosecuted solely on that basis without satisfying the requirement of an unnatural sexual penetration. It is only an offence if there is the least degree of penetration, in the absence of which there is no breach of the law. Going by the definition of unnatural carnal knowledge, lesbians cannot be convicted for this offence even though a number of them have been arrested on suspicion of engaging in lesbian activity. Lesbian sexual activities do not constitute unnatural carnal knowledge because females do not possess a ‘natural penis’. With the other categories, there are no laws in Ghana that expressly prohibit them, hence, there is no cause to believe they might be prosecuted for openly declaring their sexual or gender preference. [...]

(Source: Prof. Raymond Atuguba, Written answers, 12 December 2020)

Robert Akoto Amofo, Director of Amnesty International Ghana, stated during an interview for this report that although the law on ‘unnatural carnal knowledge’ is rarely enforced in the court of law through prosecutions and convictions, it is used as a “tool for persecution” by the police and individuals across Ghanaian society:

[...] I mean, to talk about whether the law is enforced or not, it is not enforced in the court of law. I mean, there has not been a judgment that I am aware of personally that somebody has been tried for unnatural carnal knowledge, as far as I'm concerned. Rather, it is used as a tool for persecution of the LGBTIQ community by police and individuals across the country to abuse people and take advantage of them. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

In a report authored in 2019, Robert Akoto Amofo described the criminalisation of same- sex sexual activity as follows:

[...] ii The Legal Status of the LGBT Community in Ghana [...]

The law is a colonial legacy that is rarely, if ever, enforced, and, unlike several of its neighbours, Ghana has not taken steps in recent years to stiffen penalties against consensual same-sex conduct or to expressly criminalize sexual relations between women. Nevertheless, the law is not without effects [...].

On the other hand however, although prosecutions under this provision are exceedingly rare, it is clear that the criminalization of adult consensual same-sex conduct contributes to a climate in which violence and discrimination against LGBT people is common. The retention of section 104(1)(b), commonly referred to as the anti-gay law, is often seen as tacit state approval of discrimination, and even violence, on the basis of real or imputed sexual orientation and gender

identity [...]

(Source: Robert Akoto Amofo, [Ghana's legal and policy frameworks and the protection of the human rights of LGBT people in Ghana](#), 25th May 2019, p. 4)

In his report to the Human Rights Council about his country visit to Ghana in April 2018, the UN Special Rapporteur on extreme poverty and human rights stated that although the law was rarely enforced, it sets the overall framework and strongly influences attitudes:

[...] 39. The issue of sexual orientation and gender identity is extremely controversial in Ghana. Many officials informed the Special Rapporteur that there was no prohibition on same sex couples, but added that any sexual contact between them would violate the law.

[...] 42. While the Government might argue that it is not responsible for acts of discrimination by private persons, the reality is that the law sets the overall framework and strongly influences attitudes. Decriminalizing adult consensual same-sex conduct would be a first step towards recognizing the human rights of lesbian, gay, bisexual, transgender and intersex people and fighting discrimination based on sexual orientation and gender identity [...].

(Source: United Nations Human Rights Council, [Report of the Special Rapporteur on extreme poverty and human rights on his mission to Ghana \[A/HRC/38/33/Add.2\]](#), 10 October 2018, pp. 9-10)

Wendy Issack, Human Rights Watch researcher and author of the 2018 Human Rights Watch report on 'Violence and Discrimination Against LGBT people in Ghana', wrote in an article that:

[...] While interviewing LGBT people in Ghana In December 2016 and February 2017, I found that while people are rarely prosecuted, the law criminalizing same sex conduct contributes to violence against LGBT people and gives tacit state approval for anti-LGBT discrimination when it comes to employment, education and health services. The combination of criminalization and stigma produces severe economic consequences for LGBT Ghanaians [...].

(Source: Human Rights Watch, [UN Expert Spotlights LGBT Poverty in Ghana: LGBT People Routinely Discriminated Against in Job Market](#), 26 June 2018)

Jones Blantari, Assistant Commissioner of Police, told Human Rights Watch in January 2017:

[...] Jones Blantari, Assistant Commissioner of Police, told Human Rights Watch that "the term unnatural carnal knowledge is vague, does not have any clear meaning in law, creates difficulties in consistent interpretation and its application is used to target LGBT people."⁴¹ In certain instances, the law has been used to arrest individuals suspected of being lesbian or gay [...]

41 Human Rights Watch interview with Jones Blantari, Assistant Commissioner of Police, Accra, January 2017 [...]

(Source: Human Rights Watch, [No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana](#), 8 January 2018, p. 22)

On the practical implementation of the legal provisions criminalising LGBTIQ+ persons and their activities, civil society members referred to as JS3 [Joint Submission]⁹ and JS14¹⁰ reported the

⁹ Joint Submission 3 submitted by: Solace Brothers Foundation (SBF); Perfector of Sentiment (POS) Foundation, Priorities On Rights and Sexual Health (PORSH); Amnesty International (Ghana); Human Rights Advocacy Centre (HRAC); Centre for Popular Education and Human Rights Ghana (CEPEHRG); Society and Youth Development; Africa Centre for International Law and Accountability (ACILA) Ghana

¹⁰ Joint Submission 14 submitted by: Sisters of the Heart; Centre for Popular Education Human Rights in Ghana;

following before the UN Human Rights Council in 2017:

[...] 10. JS3 noted with concern that Chapter 6 Section 104 of Ghana's Criminal Code (1960) is used to threaten, arrest and punish individuals who do have, or have been perceived to have, engaged in same-sex sexual activity.²³ JS14 noted with concern that 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.²⁴ [...]

23 JS3, para. 3.

24 JS14, para. 19 [...]

(Source: United Nations Human Rights Council, [*Summary of Stakeholders' submissions on Ghana: Report of the Office of the United Nations High Commissioner for Human Rights \[A/HRC/WG.6/28/GHA/3\]*](#), 08 August 2017, p. 3)

2.1 Arrests of LGBTQI+ persons

The following four interlocutors explained, in separate interviews for this report, that LGBTQI+ persons are not typically arrested for identifying as LGBTQI+, rather they would be arrested for engaging in a same-sex act:

[...] If you are open about your sexual orientation and you openly say you're gay, the state, the police will not necessarily actively come and arrest you because it's not against the law to identify. So, it's rather what is against the law is the act itself. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Arrests on grounds of a person's sexual orientation are mostly sporadic. This is due to the nature of the offence and what needs to be proven before the offence is made up. The police are hardly in the position to know what happens in private spaces, which is where sexual intercourses mostly occur. Most arrests made by the police are based on information given by supposed witnesses. Quite often, the arrest is also based on related grounds such as the recruitment of people into homosexuality, possession of photographs which evidence unnatural carnal knowledge etc. [...] Because there is a criminal law that squarely captures such sexual conducts, most arrests made have been on the basis of Section 104 of Act 29 and similar sexual offences. [...] The typical charge on which LGBTQI+ people are arrested is the offence of unnatural carnal knowledge, as found in the Criminal Offences Act (Act 29), as well as related offences such as the possession of obscene images, engaging in gay practice with boys amongst others. [...]

(Source: Prof. Raymond Atuguba, written answers, 12 December 2020)

[...] Usually, people aren't unlawfully arrested based on their sexual orientation. That's not something that we hear a lot in the community. [...] but there have not been many cases as far as I know, I've also talked to my colleague here who is also a gay man, and he said that he's been in the field for a long time have not come across such a case. He is currently the executive director of the NGO I work with which works predominantly with the LGBT community. And he says that there haven't been charges or arrests targeted to LGBTQ. [...] Because I really do think that the community does work very discreetly and interacts with each other very discreetly. In Ghana, there's still not that much common knowledge of the LGBT community here and how it operates. It's very, very much secretive. But there could maybe have been these arrests, but it's just not

common knowledge, and we don't even initially hear about this. But usually, the LGBT community here is able to avoid these arrests because of how secretive and hidden the culture is. [...]

(Source: Andrew Teye, interview record, 17 November 2020)

[...] For expression itself, being open about your sexuality hasn't seen a lot of police cases. But it also opens the floodgates for police to throw all manner of cases at you. The law is more aligned to the sexual act. [...]

(Source: Executive Director of PORSH, interview record, 17 November 2020)

The sources below described how an LGBTQI+ person can end up being arrested if they are at the police station, even if they are reporting that they have been a victim of a crime:

[...] But the police or the law enforcement agency will not just go and arrest somebody based on his/her sexual orientation or gender identity unless there is a case or issue of blackmail abuse or violence or attack on an LGBTQ individual by a member of the public. That's where the law enforcement agency reveals their own ignorance and prejudice in addressing the case. And that's when LGBTQ person might end up being arrested even if they were the victim of violence or attack. But they cannot walk into somebody's house to arrest them based on their sexual orientation or gender identity. [...]

(Source: representative from Solace Initiative NGO, interview record, 25 November 2020)

[...] Most times, within the recent years, we've not really had a situation where LGBT persons are having a party or ceremony and the police arresting anyone or the police invading their privacy and arresting anyone. The cases we've heard recently have been cases where persons tries to blackmail an LGBT person, and so end up in the police station. These sometimes are considered cases between two members of the LGBT community but in actual fact a case where someone tries to lure a member of the LGBT community to rob, extort and blackmail etc. I have seen recent cases where police officers were used in such blackmail and extortion. [...]

(Source: Mac - Darling Cobbinah, interview record, 15 December 2020)

[...] So there are incidence of arrests but interestingly, it is not about-- the police walking to someone and saying, "I'm arresting you for be LGBTQI", is very rare. What really happens is, when LGBT people are coaxed, or catfished-- I mean, somebody lies to them that I'm also LGBT, they come to them and then and they try to blackmail them, or rob them, or do something to them and ends up with the police, then the police use the law as a tool to arrest the pair, the victim, which is the LGBT person also, and put them behind bars or keep them at the police station. [...] If the LGBT person has any sort of contacts who try to lure the LGBT person into trouble, then the police gets involved. But when the State just gets to know that a person is LGBT, and it's very, very low likelihood that the State itself will come after the person. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] So, I would say that so the level of arrest isn't that high. That is also because a lot of times it doesn't get to the level of the police. But the few that has gone to the level of the police, because there's a high level of discrimination from within the police service, there is also the likelihood of one being arrested if he reports to the police.

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

[...] Arrest [...]

Nevertheless, police sometimes use the law to conduct arbitrary arrests of individuals suspected to be homosexual, and as a way to extort money from them. Such abuses in turn lead to a chain of adverse consequences in victims' lives [...]

In some cases, when LGBT people report crimes, they are either threatened with arrest or are in fact arrested, even though they are the victim of assault or theft [...]

(Source: Human Rights Watch, [No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana](#), 8 January 2018, p. 30, 31 and 32)

[...] Obligations: [...]

The highlighted stories of violence based on perceived or lived SOGI demonstrates Ghana's negligence to protect its LGBTIQ citizens from a number of human rights violations. The asymmetrical distribution of adequate redress and justice due to prejudiced attitudes directed at LGBTIQ, held by law enforcement persons is in violation of ICCPR 2(1). The illegal arrest of survivors of violence themselves rather than the victimizers is in violation of article 26 of the ICCPR guaranteeing "equal protection of the law." This is also in violation of 17(1) and 17(2) of the ICCPR, which prohibits and provides equal protection against arbitrary arrests [...]

(Source: Working Group of CSOs, [Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender Intersex and Queer \(LGBTIQ\) People in Ghana: Joint Stakeholder Report by the Working Group of CSOs... Submitted for consideration at the United Nations Third Universal Periodic Review](#), 28 March 2017, p. 8 and 11)

Academic Dr. Godfried Asante, in an interview for this report, described how LGBTQI+ persons from lower income communities are more likely to be arrested by the police following a 'citizen arrest':

[...] One is that this is a very class-based issue because you have people who have access to, for instance, their own house. If you are a middle-class Ghanaian with middle-class income, you have your own house, you have access to specific resources, you are less likely to experience police, for instance, coming to you and arresting you. However, if you live in specific communities, which typically are the poor communities, you are very likely to experience, for instance, the police coming to you. Not necessarily actively pursuing you, per se, but a citizen arrest which then necessitates the police to detain you. And I think that's typically what happens where you have a group of men typically who set up a scene and then claim that they've caught a homosexual. And then they parade this person across the street, humiliate them and take them to the police station and expect the police officers to arrest them and put them in jail. And, typically, for their safety, the police officers will arrest them because they don't want them to be killed or lynched by the mob. So on the one hand, the police does not actively pursue people based on cases where they claim that you have, for instance, engaged in same-sex sexual relations per se, but most of what they do is through citizen arrest where a neighbour, a friend, a family member takes you to the police station. And then there, the police would detain you and they will humiliate you and they would tell you, "We're going to put you in prison for a long time," so they intimidate people. And now, it doesn't end there, right, because what happens is that then there is this communal effect. So, you can't go back to your community, your family might reject you, so then you become homeless. I mean, it creates a sort of a ripple effect across the board. So even though the police does not typically pursue you, even though the law is not necessarily applied a lot of the times, it's what causes the police to sort of step in-- is the citizen arrest which is even still very violent in itself [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

2.1.1 Arrests of gay men

Robert Akoto Amofo, Director of Amnesty International Ghana, described two cases of gay men being arrested, both of which happened within the same week:

[...] in a particular week, I had two cases. One person was lured by a homophobic person on Grindr. And when the LGBT person went to meet whoever this person was, they beat the LGBT person, took his phone, and asked that he should go and bring money before they get back their phone. And these are two incidents that are similar. So, the person reported to us; I am a key LGBT advocate, so most of these cases will come to me. I referred them to another LGBT organization to follow up and brief me. As far as I'm concerned, they reported to the police. Later on, when the police heard, for one of the cases, the police lured out the LGBT person and went through their phone and found some explicit things that implicated them to be gay. And so, they used it against the person, put the person behind bars until the family of that person came to pay money before they were let go. Another case of an LGBT person who was arrested by the police because somebody shouted that he was gay. And he was arrested, sent to the police, and the police gave him a price to pay before he was let go. So, he had to negotiate the amount, and he paid an amount before he was let go. So yeah, there a number of cases that consistently happen. And this is mostly when these people are lured into things that they didn't know were wrong for them.

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

Alex Kofi Donkor, Director of Ghanaian NGO LGBT+ Rights Ghana, described the same event as follows:

[...] For instance, quite recently, a community member reported to me that he met somebody on Grindr. And after meeting the person on Grindr and then chatting for a while, they decided to meet in-person. So, upon meeting the person and then going to the person's house to have whatever fun that they want to have, a few people barged into the room and then started beating them and they recorded them. And then they took the mobile phone of the abused person, and then they also took his money. They blackmailed him, telling him that he has to bring more money and that, if he doesn't bring the money, then they are going to go ahead and release the video that has been recorded of him and the other guy being in the room. And so, when this incident was reported to me, I asked him to go to the nearest police station to report the incident to the police. So, he went ahead to the police station to report the incident to the police. When he got there and then began reporting the incident to the police, the police accused him of him being gay, "Yes, you went there because you're gay." And this is a person who is reporting an incident of abuse. He has been abused, his stuff has been taken from him, and he has come to the police station to report the incident. And yet, the police was more interested in the fact that he is gay and that is why he went to meet the person who he met on Grindr. Another police officer decided to pick up the case and file a case on it. After filing the case the police went ahead and arrested the person who took the stuff and then also abused this gay man. Upon coming back to the police station, the police commander took the phone that the perpetrator seized from the victim when he was beaten up, and then asked him to unlock the phone. Upon reading the messages that has transpired between victim and the perpetrator, he came to the conclusion that the victim is gay. So, if the boy is gay, then the boy should also be arrested. So, they went ahead and arrested this gay man and then also put him behind bars. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

Executive Director of PORSH, director of Ghanaian NGO Priorities on Rights and Sexual Health (PORSH) in an interview for this report, also described a recent arrest:

[...] I wouldn't say that the law is rarely enforced. The laws are enforced wrongfully. Just last week,

I was in a village in Nkoranza, in the Bono East Region of Ghana. A guy was put behind bars because of his intention to commit sodomy. That's what the police officer told me, that the mere fact that he had the intention to commit, he can keep you behind bars for investigation. So, people saying laws are rarely enforced, I don't buy that. People do end up behind bars because of the misinterpretation of the laws.

[...] the police officer read the conversation between the two men on the phone of one of the Guys, which clearly indicated that they were going to commit sodomy, so that's the law he was pointing at. I was there to challenge it but he had already been detained. [...] They took the phone from one of the men and made him unlock the password and the policeman went on his Grindr account to see his chats. Which is not right, but once it is sodomy, the police see it as the worst form of crime. [...] This was supposedly a set up a case whereby the young gay man registered on Grindr, and put a photo there as part of his profile. Then someone approached him on the app to meet him, but when they met up, he was beaten up and they attempted to take his phone from him. When he braved the odds to go report the case to the police, he himself was kept behind bars because the police said "You went to meet with him with the intention to commit sodomy". So, when they say people are not arrested, or the laws are not enforced - they really are - once it's a case in relation to LGBT, the Ghana police are the worst behaving people in society you can ever find. They will drop any case, just to follow a sodomy case. Somebody can kill you because you are LGBT, and 90% of Ghana police will walk away and think that you deserve to die. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

The US Department of State's annual report on human rights practices covering 2019 noted the arrest of a gay man:

[...] Arbitrary Arrest: There were reports of arbitrary arrests by police. [...] In August [2019] LGBTI activists reported police abuse involving a young gay man robbed en route to meet a person he met on a dating site. When the man reported the incident to police, they took him briefly into custody because he mentioned to them that he was gay. [...]

(Source: US Department of State, [2019 Country reports on Human Rights Practices: Ghana](#), 11 March 2020, section 6)

The following news source described the arrest of two gay men for allegedly engaging in anal sex in 2018:

[...] Two male students have been arrested for allegedly engaging in anal sex at a hostel at the Takoradi Technical University (TTU). The two are said to have been caught in the act by some students of the TTU [...]

(Source: Graphic Online, [2 Arrested for sodomy](#), 2 February 2018)

In March 2017 two men were arrested after being caught having sex:

[...] Two men were arrested and forced to pose naked after they were caught having sex in a Ghana hotel. According to reports in local media, two men aged 18 and 28 were arrested over the incident in an Accra hotel. The pair were discovered by a receptionist who reportedly barged into their private hotel room after growing "suspicious" of the two men. The police were subsequently called over the incident, according to GhanaWeb, and the pair were arrested. It appears that the men were forced to pose naked together in a bid to publicly humiliate them, with photos of the incident spreading across social media in the country. [...]

(Source: Pink News, [Two men were arrested, forced to pose naked and publicly humiliated because they](#)

[had gay sex](#), 21 March 2017)

[...] When contacted, the Western Regional Police Public Relations Officer (PRO), ASP Olivia Adiku, who confirmed the incident, Two suspected homosexuals, who were allegedly caught having sex in a hotel room at Mataheko in Accra, have told the Kaneshie Police that they were forced to go naked and pose for the cameras by some hotel attendants. [...]

The pictures of the two have been widely condemned by members of the general public, who have called on the police to investigate the matter and deal with culprits for taking the pictures and circulating them on social media.

The two suspected homosexuals are also in custody assisting in investigations.

ACP Ernest Owusu, who confirmed the issue, said the two suspected homosexuals were handed over to the Domestic Violence and Victim Support Unit (DOVVSU) on Sunday evening by hotel officials for engaging in anal sex in the hotel room at Mataheko.

[...]

The police commander said upon interrogations, it was discovered that the statements given by the hotel attendants were inaccurate.

[...]

In view of that, the police commander said the suspects identified two attendants who are currently in custody assisting in investigations.

“Even though some of us may be against homosexuality in the country as our religious beliefs infringe on that, the police do not want people to take the law into their own hands and humiliate, molest innocent persons on suspicion that they are homosexuals without proper evidence.”

(Source: Ghana Web, [The sex was acted - Alleged homosexuals claim](#), 24 March 2017)

2.1.2 Arrests of lesbian women

Modern Ghana reported on a recent arrest of eleven lesbians in the Volta Region in September 2020:

[...] Some lesbians numbering about eleven are in the custody of the Aflao divisional Police command in the Ketu South Municipality of the Volta Region after a video of two of them emerged.

The lesbians are in police custody since Wednesday, September 23.

According to a source close to, the lesbians were apprehended after a video of two of them engaging in the act popped up. [...]

The lady, who bowed her head in shame during questioning at the Chief's palace was asked to name everybody who also engaged in same illegal act in the town.

The lady, whose name and age is yet to be known then mentioned the names of her colleague lesbians in the town. They were also invited to the chief's palace and later, all of them were handed over to the police.

Some of the ladies are reported to be on the run, having heard their names were mentioned.

[...]

(Source: Modern Ghana, [Aflao: Paramount Chief Hunt Lesbians, Hands Over 11 To Police, Others Bolt](#), 26 September 2020. See also Ghana Vanguard, [Eleven lesbians arrested at Aflao in the Volta Region](#), 26 September 2020)

A Ghanaian lesbian couple who married in September 2020 were detained and facing judicial proceedings

[...] A Ghanaian military lesbian couple who got married over the weekend, have reportedly been detained and facing court-martial. In the videos shared online before their arrest, the ladies looked happy as they danced together while their guests cheered them on. [...]

(Source: Ghana Web, [Ghanaian military lesbian couple who got married are detained and facing court martial](#), 27 September 2020)

In an interview for this project, Alex Kofi Donkor, Director of LGBT+ Rights Ghana, spoke of the same incident:

[...] So quite recently, two lesbians got married, and then they did a video of themselves getting married, and the video happened to go out. So, the video was shared so the general population got to see the video and because one of the lesbian couples is a military officer, and she was arrested, by the military and up until now she is still under military custody. But the excuse that the military was giving at the time is the fact that she wore a military uniform and then also gave a military uniform to the partner to wear, and then they took photos of it so that is the reason behind she being arrested, and she being put behind bars. She's still at the military cells for lack of better word and their partner was invited by the military to also appear there. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

Executive Director of PORSH described an incident of a lesbian woman being arrested in 2017:

[...] There has been an arrest of a woman in the Ablekuma suburb of Accra three years ago [2017], she was implicated for drugging a woman to get sexual advantage of her. The police arrested her based on reports from the neighbours and family members of the alleged victim. That case was a very sad one, as there wasn't evidence of drugging her. I knew there was no evidence from other lesbians who reported the case to me, in fact there was no lab report to corroborate that accusation [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

2.1.3 Arrests of cross-dressers

The following two sources, interviewed for this report, reported that people have been arrested for cross- dressing:

[...] Well, there have been a couple of arrests with people who cross dress when they feel they want to dress like women, when they want to dress like men and then there have been a couple of arrests. And then the police, for lack of ignorance, did not handle the situation properly they will rather humiliate the victim and take videos and share amongst themselves and on social media. [...]

(Source: representative from Solace initiative NGO, interview record, 25 November 2020)

[...] Other crimes, like indecent dressing and causing public nuisance, yes, they give those reasons for arrest for LGBT persons. Especially cross dressers who are charged with indecent dressing [...]

(Source: Executive Director of PORSH, interview record, 17 November 2020)

2.2 Prosecutions under laws that are deployed against LGBTQI+ community because of their perceived difference

The 2018 Human Rights Watch report stated that the criminalisation of adult consensual same-sex conduct did not lead to any prosecutions:

[...] Arrests [...]

Human Rights Watch is not aware of any prosecutions under section 104(1)(b) of the Criminal Code [...]

(Source: Human Rights Watch, [*No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana*](#), January 2018, p. 30)

The following two interlocutors, interviewed for this report, confirmed that there had not been any prosecutions of same- sex sexual relations in the past decade:

[...] Even though it is stated in the law that same-sex sexual relations is a misdemeanor, the government does not apply that actively in most cases. I have not seen a prosecution for a really long time. The last time that happened I would say was probably 1998. But the more recent ones has been with regards to, for instance, people who engage in acts of paedophilia. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

[...] For quite a while now, Section 104 of the Criminal Offences Act 1960 (Act 29), which criminalises consensual same-sex sexual activities between males, has hardly led to a prosecution. One of the last reported cases of prosecutions of homosexuals in Ghana was in 2007, when a British man was charged under Section 104 for engaging in homosexual conduct. After that, there has been no known prosecutions and convictions on the basis of this provision, which has caught media attention. [...]

(Source: Prof. Raymond Atuguba, written answers, 12 December 2020)

The following two interviewees spoke of the higher occurrence of prosecutions of gay men for homosexual relations with a minor, rather than being prosecuted for consensual same-sex sexual activity:

[...] amongst our community, we don't know many people who have actually been caught in the act and prosecuted as such. Usually, if that happens, it's more so that the perpetrator was a gay man who had sexual relations with a minor, and therefore often gay men, in that sense, are imprisoned for sodomy with a minor. And since they are gay, they carry, I guess, that issue with them too. And besides that, with consenting adults, we don't usually hear of reports of people being imprisoned because of same-sex relations. [...]

(Source: Andrew Teye, interview record, 17 November 2020)

[...] The most popular one [story] that appeared in the Daily Graphic was the case of the doctor who was prosecuted and he is still in jail now who was having relations with a minor. His charge was sodomizing a minor. There are a few that have been documented which we followed up with

but they were involving minors. [...]

(Source: Executive Director of PORSH, interview record 17, November 2020)

Robert Akoto Amofo, Director of Amnesty International Ghana, in an interview for this report said that most prosecutions happen on the grounds of sodomy of a minor. However, there are cases whereby the parents of one of the couple allege that they are a minor in order for the other person to be punished more severely on the grounds of sodomy:

[...] All I know is, most people are prosecuted on grounds of sodomy. And most of the times the sodomy cases deals with whether the person had sex with a younger person. There are cases where the age of the younger person comes into question and when the parents of the younger person wants to get the older person punished they either reduce the age of the younger person to get him to fall in the age of a minor which is 15 years or younger. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

In the same interview, Robert Akoto Amofo highlighted that most cases of LGBTQI+ persons who got arrested did not end up being prosecuted, often through bribing the police:

[...] There are also instances where the case does not get to court. Most of the cases of LGBT people who are arrested because of their sexual orientation or gender identity do not get to the court. They are always addressed at least at the police station. Addressed in a sense that either they pay some bribe or their family pays some money or they are left to go because the investigator doesn't have any enough evidence and the person is also not willing to pay. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

Similarly, Alex Kofi Donkor, Director of LGBT+ Rights Ghana, in his interview described a case of an LGBTQI+ person being arrested but released before prosecution as the police were bribed not to pursue the case:

[...] In this case, the whole thing has been turned around, and then now he is in the cells, and he's been abused, so he had to call his family. So, his family was called in, and this is a guy whose family is also homophobic. So, you can imagine the situation that the guy had to go through. When they took the issue to the court, the court remanded the guy for another week for the police to further investigate. The family of the boy didn't want the issue to get out of their hands because there was a possibility the media could have picked up the story. And if the media had picked it up, they would have possibly blown up the story. And then the family also in the way didn't want to be disgraced to say out in public that their son is gay. So, the family in the end paid some money to the police officers to let go of the issue so that they can go and settle it at home. So that is what the family of the boy did - they went ahead and then paid some money to the police officers. And then they let go of the boy. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

CEDOCA¹¹ quoted academic Dr. Ellie Gore, who stated in an email on 16 May 2019 that there had been

¹¹ Cedoca is the research desk of the CGRS [Belgian Commissioner General for Refugees and Stateless Persons] and encompasses a team of researchers and a library. Cedoca gathers and analyses information about the

few prosecutions under the law prohibiting same-sex sexual conduct due to the high evidentiary standards necessary to do so, but that the criminal code was used in a punitive and oppressive way by the police and other authorities:

[...] My understanding is that there have been very few prosecutions on the basis of the Unnatural Carnal Knowledge clause in the last ten years, largely due to the high evidentiary standards required. However, participants in my research reported that the code is being used in a punitive and oppressive way by the police and other authorities, as a means to intimidate, harass, extort, and (temporarily) incarcerate LGBTI individuals. To this end, section 104 creates an extremely hostile legislative environment and serves as a barrier to LGBTI individuals seeking legal redress for rights violations and other abuses [...]

(Source: CEDOCA, [COI Focus, Ghana, Homoseksualiteit](#), 1 July 2019, p. 10)

CEDOCA quoted an email from Mac-Darling Cobbinah, Director of the Centre for Popular Education and Human Rights - Ghana (CEPEHRG), who reported in his email of 9th May 2019 that there have been convictions, but there were no official records:

[...] Unfortunately, there are no data records on the number of prosecuted and convicted cases. But it happens. The fear of which makes some individuals pay huge sum of monies to the blackmailers. [...]

(Source: CEDOCA, [COI Focus, Ghana, Homoseksualiteit](#), 1 July 2019, p. 10)

Whilst covering the year 2017 the U.S. Department of State reported that prosecutions had taken place (though without convictions), the 2018 and 2019 annual reports noted that no prosecutions or convictions took place for same-sex sexual conduct:

[...] Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law does not prohibit discrimination based on sexual orientation and gender identity. The law criminalizes the act of “unnatural carnal knowledge,” which is defined as “sexual intercourse with a person in an unnatural manner or with an animal.” The offense applies to persons engaged in same-sex male relationships and those in heterosexual relationships; there were reports of the law also being applied to individuals in same-sex female relationships. While there were reports of adults being prosecuted for consensual same-sex sexual conduct, no convictions were reported. [...]

(Source: U.S. Department of State, [2017 Country Reports on Human Rights Practices: Ghana](#), 20 April 2018, section 6)

[...] Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity [...]

There were no reports of adults prosecuted or convicted for consensual same-sex sexual conduct [...]

(Source: U.S. Department of State, [2018 Country Reports on Human Rights Practices: Ghana](#), 13 March 2019, section 6)

countries of origin of applicants. This information or Country of Origin Information (COI) is provided by the researchers via reports to the caseworkers who investigate the applications [source description from CEDOCA [website](#)]

[...] Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity [...]
There were no reports of adults prosecuted or convicted for consensual same-sex sexual conduct [...]

(Source: U.S. Department of State, [2019 Country Reports on Human Rights Practices: Ghana](#), 11 March 2020, *section 6*)

2.3 Convictions under laws that are deployed against LGBTQI+ community because of their perceived difference

Four interlocutors interviewed for this report concurred that there had not been any convictions of LGBTQI+ persons for their sexual orientation or gender identity or expression, nor under Section 104 of the Criminal Offences Act 1960 (Act 29) which criminalises consensual same-sex sexual activity in the past five years:

[...] There hasn't been anybody convicted based on their sexual orientation or gender identity. [...]

(Source: Representative of Solace Initiative NGO, interview record, 25 November 2020)

[...] For quite a while now, Section 104 of the Criminal Offences Act 1960 (Act 29), which criminalises consensual same-sex sexual activities between males, has hardly led to a prosecution. One of the last reported cases of prosecutions of homosexuals in Ghana was in 2007, when a British man was charged under Section 104 for engaging in homosexual conduct. After that, there has been no known prosecutions and convictions on the basis of this provision, which has caught media attention. [...] The wording of the offence is not explicit. Additionally, the requirements to be satisfied for the offence to be made out is high. It amongst other things entails a breach of the right to privacy in order to know whether there has been sexual penetration in an 'unnatural manner'. The only means by which the police can be aware of this fact is through reports by private persons, and there have not been so many reports about homosexual conduct. From facts available, most citizens take the law into their own hands, rather than report alleged incidents to the police, and in so doing, they violate the rights of members of the LGBTQI+ community. [...]

(Source: Prof. Raymond Atuguba, written answers, 12 December 2020)

[...] There haven't been any recent convictions of a person for being an LGBT person [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

[...] I don't know of any case where someone has been convicted. The ones that I know is more than five years ago. [...]

(Source: Mac- Darling Cobbinah, interview record, 15 December 2020)

CEDOCA quoted an email from Mac-Darling Cobbinah, director of the Center for Popular Education and Human Rights, also interviewed for this report, who, however, reported on 9th May 2019 that there had been convictions, but that there were no official records:

[...] Unfortunately, there are no data records on the number of prosecuted and convicted cases. But it happens. The fear of which makes some individuals pay huge somes [sic] of monies [sic] to

blackmailers. [...]

(Source: Centre de documentation et de recherche, [COI Focus, Ghana, Homoseksualiteit](#), 1 July 2019, p. 10)

The annual human rights reports by the U.S. Department of State covering the years 2019, 2018 and 2017 all noted that no convictions had taken place for same-sex sexual conduct:

[...] Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity [...]

There were no reports of adults prosecuted or convicted for consensual same-sex sexual conduct [...]

(Source: U.S. Department of State, [2019 Country Reports on Human Rights Practices: Ghana](#), 11 March 2020, section 6)

[...] Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity [...]

There were no reports of adults prosecuted or convicted for consensual same-sex sexual conduct [...]

(Source: U.S. Department of State, [2018 Country Reports on Human Rights Practices: Ghana](#), 13 March 2019, section 6)

[...] Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity [...]

While there were reports of adults being prosecuted for consensual same-sex sexual conduct, no convictions were reported. [...]

(Source: U.S. Department of State, [2017 Country Reports on Human Rights Practices: Ghana](#), 20 April 2018, section 6)

3. State attitudes and treatment

3.1 Impact of societal norms on state attitudes

The following sources, interviewed for this report, explained the influence that anti-LGBT sentiment amongst the general public has had on state institutions and state actors. A representative of Solace Initiative NGO, Andrew Teye (Programme Officer at Hope Alliance Foundation), and Alex Kofi Donkor (Director of LGBT+ rights Ghana) spoke about homophobic sentiments amongst the police, reflective of attitudes shown by the general public:

[...] There's no way the police is going to treat an LGBTQ person right [on arrest]; especially if you meet a police officer who brings his/her values and beliefs first, it means that you are not going to receive good treatment from him/her. [...]

(Source: representative from Solace Initiative NGO, interview record, 25 November 2020)

[...] those [police] in rural areas or those who are operating in smaller police stations, don't necessarily all have that knowledge and education. It's more so those in the city of Accra where

the inspector general is. They're the ones who are more informed and aware that LGBT people have to handle situations that they encounter. But in the rural areas, they do not have education, so it could be possible that [LGBT] people in those areas have a harder time with the police.

[...] I believe there is a distrust that LGBT people have with the police, just because they do reflect a lot of the general public. Even the police people aren't necessarily the most educated or financially empowered, usually. So, they do represent that public that is homophobic culturally, and just through what they have heard from other people. So, there is that distrust with the police because they aren't often well educated or very informed about LGBT matters [...]

(Source: Andrew Teye, interview record, 17 November 2020)

[...] There are instances where the person is sent to the police station or the police are called in. And when the police come in, their treatment towards this LGBT person is in a way no different from how the society is already treating the person. But then the police is also a national security agency that have been given the mandate to protect, right? So, if they in their capacity are also in a way feeding into the abuse of LGBT persons, then we consider the laws as being applied because the police are also part of the national security system and they, in a way, also discriminate against the LGBT person.

[...] this is just a few of some of the challenges that LGBT persons go through in the hands of police officers. Because right here in this country, the police are the ones who have been given the mandate to protect every citizen. And it doesn't show that they are protecting all citizens, including LGBT persons, to the extent to which their mandate has been given to them. So, they have this very selective way of protecting citizens, which means that if you are an LGBT person, your level of protection is quite lower. And it's lower because what they do is affected by their way of thinking about LGBT people.

[...] So quite recently an incident was reported to me and I assisted the [LGBT] person to go to the police station to report the incident. Upon getting to the police station, he met a police officer who was a woman who asked him, "Yes, what do you want here?" And he started narrating the story to the policewoman. And then she was like, "You are gay. Are you not gay?" So, the whole focus of the police was not the fact that this person had been abused but the fact that he's gay. So that is the only thing that the police officer was concerned about- justifying: "You are gay. That is why they took your stuff from you, that is why they beat you." So, they justify the fact that you had been abused because you are gay. And so around the same time, he called me back and said, "Listen, the policewoman is harassing me and just disgracing me. And I told him that listen, you should tell the policewoman that he has come here to report an incident of abuse, so can she give him the processes in doing that. So, I think it was at that point where he insisted, was when another police officer had to come in and then take the issue up and then allow the boy to report it. So, the level of discrimination is high within the police officers, and that alone discriminates a lot of LGBT persons from reporting the incidents of abuses to them. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

Academic Dr. Godfried Asante, also in an interview for this report, spoke of the general public pressuring the government to arrest LGBTQI+ persons:

[...] The large issue is that of the citizen arrest. And largely, I think part of the issue is that because there are no protections, and the state does not intervene, so you have the citizens rather pressuring the government to make an arrest, pressuring the government to pursue LGBT people. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Mac-Darling Cobbinah, Director of the NGO CEPEHRG, in an interview for this report, described how politicians are influenced by religious anti-LGBT sentiment:

[...] You cannot be open about your sexual orientation and be protected by the state. The reason is because our leadership is very religious. The people behave due to their religious ideologies instead of common sense or science. So, politicians always try to follow the trend so as not lose their support base. So sometimes, you'll see someone speaking in support of the LGBT community in private, but immediately, the issue becomes public. The politician will have to defend themselves and retract the statement due to public backlash.

[...] the whole general system of the Ghanaian community, it's homophobic. You feel it when you engage people. But when you engage with officials, for example, at the police or the courts or anything, they will try to look nice and say, "Oh, we are nice people. We are human rights friendly. We tolerate people. We are a diverse society and everything." But in reality, that is not what exists. You don't feel when you are a LGBT community member and you want to see all these things in practice. So, I'm just saying this because when you're engaging with a Ghanaian ambassador or high commissioners on issues of LGBT Rights and freedoms in Ghana, -- they will tell you, "Oh, the system is fine. There is no challenges." But in reality, people have a lot of phobia about LGBT persons. But they don't show these phobia. [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

Alex Kofi Donkor, Director of LGBT+ Rights Ghana, also in an interview for this report, spoke about the influence that anti- LGBT groups such as the World Congress of Families and Coalition for Proper Human Sexual Rights and Family Values have on the government:

[...] Last year there was this American far-right religious group called World Congress of Families. So, they had their original congress, here in Ghana, last year. So, when they had the original congress here in Ghana-- before that they actually did a national dialogue. And at the national dialogue, there was the deputy attorney general in Ghana. The current deputy attorney general was at that meeting. And I'm saying this because I was also there at the meeting because I had to go there. I wanted to find out more about what was going on. So, I was there at the meeting, myself. And at the meeting, he pledged his support for this group, okay, and said that he is ready to support them any time they need him.

Apart from that, there is also the current National Commission for Civic education. Their director was also there at the meeting. And then she also pledged her support for the group. Apart from that, there were also some religious leaders who were there and some opinion leaders and some traditional leaders who were at the meeting, who pledged their support against LGBT on the platform. Apart from that, this same group, the World Congress of Family, had access to the parliament of Ghana. So, they had a breakfast meeting with the speaker of parliament, and also some parliamentarians. Their main agenda was to find a way of setting up laws that found that criminalize LGBT persons. The reason why we know this is because they have made their position clear on LGBT. And they were working in collaboration with the Coalition for Proper Human Sexual Rights and Family Values, which is an organization that are working against LGBT persons. And these groups have called for LGBT persons to go through conversion therapy and if the person refuses to go through the conversion therapy, then there should be laws that criminalize the person who refuses to want to go through the conversion therapy. So, they actually did a presentation on all of that at the national dialogue. And then they went further to also meet the speaker of the parliament of Ghana, and also went ahead to meet the former president of Ghana, who is actually also standing for presidency this year, John Mahama. They met him and had

discussion with him too to lobby the government. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

Alex Kofi Donkor also spoke of a document on comprehensive sexuality education that was developed in order to promote human rights, diversity and inclusion within the Ghanaian education system. It was rejected by the government due to an outcry from the general public:

[...] So quite recently, there was this document on comprehensive sexuality education that was developed to look at the sexual education and human rights and diversity and inclusion and acceptance within the Ghanaian education system. When the document was launched, it was discredited by a homophobic group which was actually spearheaded by the Coalition for Proper Human Sexual Rights and Family Values.

So, with the comprehensive sexuality education, it was tagged as a LGBTQ document. So, without Ghanaians even reading through the document, the government outright rejected the document. It really became a heated conversation because the narrative that was put out there was that this is a gay or an LGBT document and that they are trying to convert our children into accepting LGBTs and actually some of them becoming LGBTs. So, a lot of Ghanaians - some of them are influential and opinion leaders - even without reading the document, started making comments about them all over social media. And so, outrightly, that document was rejected. So, the government did not go ahead to accept the comprehensive sexuality education document just because it was tagged as an LGBT document. But when you look at the document clearly, there was nowhere in the document that mentioned the LGBT. It only talked about diversity and acceptance and inclusion, and that alone was a reason for people to say that it is an LGBT document and that the LGBTs are trying to teach our children the LGBT agenda. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

The following news source reported on the government's rejection of a plan for the Pan Africa International Lesbian, Gay, Bisexual, Trans and Intersex Association to host their conference in Ghana in 2020 due to opposition from the general public:

The Government of Ghana has said homosexual and their activist will not be allowed to have their conference in Ghana. The Minister of Gender, Children and Social Protection, Cynthia Mamele Morrison, revealed this in an interview with CTV on Tuesday, 10 March 2020 that President Nana Addo Dankwa Akufo-Addo has rejected plans by the LGBT community to have their conference in Ghana. The Pan Africa International Lesbian, Gay, Bisexual, Trans and Intersex Association has served notice on its website that, "our 5th Regional Conference, 27 – 31 July 2020 in Accra, Ghana." This will be the first PAI conference in West Africa," the association added. The announcement has generated controversies in Ghana with a large section of the public registering their displeasure towards the plan. Reacting to the development, Mrs Morrison said: "It is a no, government won't allow it to happen in Ghana."

(Source: GBC Ghana Online, [President Akuffo Addo rejects gay conference in Ghana](#), 11 March 2020)

3.2 Treatment during arrest of LGBTQI+ persons

This section should be read in conjunction with section [3.4 Police harassment and violence](#) and [3.6.2 Homophobia and transphobia within the police](#).

Prof. Raymond Atuguba, in written communication for this report described the physical and verbal abuse from police that an LGBTQI+ person is likely to encounter on arrest:

[...] The LGBTQI+ community is likely to face physical and verbal abuse when encountering the police. They are likely to face the same treatment upon arrest. [...]

(Source: Prof. Raymond Atuguba, written answers, 12 December 2020)

Executive Director of PORSH and a representative from Solace Initiative NGO, in response to a question on the treatment that LGBTQI+ persons receive on arrest, both answered:

[...] They face extortion, harassment, physical assault. The person I mentioned before, he wasn't tortured or beaten but verbal abuse, degrading statements all of that. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

[...] There's no way the police is going to treat an LGBTQ person right [on arrest]; especially if you meet a police officer who brings his/her values and beliefs first, it means that you are not going to receive good treatment from him/her. [...]

(Source: representative from Solace Initiative NGO, interview record, 25 November 2020)

Academic Dr. Godfried Asante, in an interview for this report, described the humiliation that LGBTQI+ persons face on arrest from the police:

[...] So on the one hand, the police does not actively pursue people based on cases where they claim that you have, for instance, engaged in same-sex sexual relations per se, but most of what they do is through citizen arrest where a neighbor, a friend, a family member takes you to the police station. And then there, the police would detain you and they will humiliate you and they would tell you, "We're going to put you in prison for a long time," so they intimidate people. And now, it doesn't end there, right, because what happens is that then there is this communal effect. So, you can't go back to your community, your family might reject you, so then you become homeless. I mean, it creates a sort of a ripple effect across the board. So even though the police does not typically pursue you, even though the law is not necessarily applied a lot of the times, it's what causes the police to sort of step in-- is the citizen arrest which is even still very violent in itself. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Director of Amnesty International Ghana, Robert Akoto Amofo, in an interview for this report, described the harassment and risk of arrest for an LGBTQI+ person at the hands of the police, even when they have been a victim of a crime:

[...] So of course, humiliation and violence and extortion and bribery and taking money from people, denial of bail, and forced arrests. Yes, forced arrests because-- and especially there's a phenomena where if somebody who is a black mailer or an individual who is homophobic tries to get in social media platform and lures an LGBT person to where they are. And then they try to rob the LGBT person and maybe physically abuse them. If the LGBT person goes to report to the police and the perpetrator of the offense mentions in the process that this person is LGBT, then the police will harass the LGBT person. The police will arrest the person, humiliate the person, and extort money from the person or even put the person in front of the media, all sorts of violence that

could happen to an LGBT person from the police. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

The following sources described how the police extorted money from an LGBTQI+ person upon arrest in order for them to be released:

[...] Another case of an LGBT person who was arrested by the police because somebody shouted that he was gay. And he was arrested, sent to the police, and the police gave him a price to pay before he was let go. So, he had to negotiate the amount, and he paid an amount before he was let go. There are a number of these cases that consistently happen. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] So, for instance, there are instances where the police will arrest an individual because of someone is perceived to be gay or a lesbian, but at that level, a lot of times some money is exchanged, and then they let go of the case. So, if the police officers who carry their own prejudice and their own bigotry, they decide they just want to just harass the person for the mere fact that they are LGBT and try to extort money from the individual. So, once a certain level of money is exchanged, then they let go of the case. So, it's at the level of the police. It doesn't go to the extent of the court. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

[...] There are so many cases of police humiliation, harassment, and then extorting money from the victim because they feel that what you have done is wrong and so you need to settle them so that they can free you so that you can go your way. There're a lot of community members who face such harassment from the police most of whom are ignorant towards LGBT issues when cases have been brought to them. [...]

(Source: representative Solace Initiative NGO, 25 November 2020)

Dr. Ellie Gore, in an interview for this report, relayed the findings from their research¹² in which people mentioned extortion in order to secure their release from police custody:

[...] A couple of people mentioned issues around being extorted by police with the threat of the Criminal Code in the background. I did speak to a couple of people who had been kept in custody for days on end and been refused to see any kind of legal representation, again, on the basis of those rules [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

3.3 Treatment in detention of LGBTQI+ persons

This section should be read in conjunction with section [3.6.3 Homophobia and transphobia in the prison service](#).

Academic Dr. Godfried Asante in an interview for this report, recounted his gay friend's experience in

¹² The interlocutor, during their interview, specified that their research focused on LGBT activism and was conducted between 2013 and 2015, focusing on the experiences of gay men living in Accra and Takoradi

prison which led to his death after he contracted HIV and was not given anti-retroviral drugs:

[...] I was able to hear first-hand what it means to be gay in Ghanaian prisons. Long story short, he died. He died within a year because he actually contracted HIV in prison. He was not given access to ARTs, anti-retroviral drugs. He was denied a lot of visits, family visits and he was exposed to a lot of violence. So, rape, for instance, is one. And this was in the prison system. So, he was raped multiple times. And that's how he contracted HIV. And of course, even after then, he was not allowed to get access to medications. So, I would, even beyond the anecdotal examples, it would be very-- it is very scary to be gay. Now, I don't know about being a lesbian or being bisexual, or being transgender. But what I know about being a gay man in prisons in Ghana is not-- it's a very dangerous place, especially if you're identified as one. In another example, which, in that particular case, this person did identify as bisexual. He also explained a lot of experiences of rape in prison. And there was another report that just came out actually about a year ago about the state of Ghanaian prisons and rape was a huge part of the issue there. So, yes, in the state if you're a gay man, you go to prison in Ghana, it's very likely you might be exposed to HIV. It's very likely you might also be exposed to serious violence and it's likely you might die. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Six interlocutors, interviewed for this report, spoke about LGBTQI+ persons being beaten, sexually abused, harassed and facing extortion in detention by other inmates as well as by the police and prison guards:

[...] The treatment and experience of an LGBTQ person when they are detained or held in prisons is that they are beaten, sexually abused, and they are harassed emotionally and psychologically. This happens in my experience in particular to gay men or transgender women when they are outed in prison or in a police cell. Both the police and the prison cell inmates are the most likely offenders, but the police and the prisons guards also contribute. [...]

When people are detained, they can be extorted by the police for 5,000 Ghana cedis [\$850] and 3,000 [\$510] Ghana cedis and 1,000 [\$170] Ghana cedis, ranging within that amount, the ones that I have come across. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] LGBTQ persons experience torture when they are in prisons, in detention or on remand and when they find LGBTI person cross dress to a trans person mostly trans woman. Sometimes from the police officers, sometimes inmate in the cells also do torture LGBT+ person if they know it is the reason you are in there. [...]

(Source: representative from Solace Initiative NGO, interview record, 25 November 2020)

[...] It has been reported by the Ghana Prisons Service that homosexuals stand the risk of being sexually assaulted, raped and physically abused by fellow inmates. [...]

(Source: Prof. Raymond Atuguba, Written answer, 12 December 2020)

[...] We've not had anyone really share their experiences within the prison, but we know-- because of my work with the Global Fund Country Coordinating Mechanism (CCM) Oversight committees visits to grantees and their beneficiaries, we visited few prisons where we engaged the Prisoners on several topics in health. In one of such visits I enquired from the Prisoners if same-sex sexual activities takes place among them. And the prisoners told us when one is seen indulging in such

act you will be picked on and humiliated and sometimes abused by the inmates or the officers in charge. They told us if an inmate's crime for coming to prison is LGBT related then you will face some sexual abuse from older inmates. They insisted some persons even face verbal and sexual assault. [...]

In the prisons what we've got from them is that it happens. But if you are caught-- if you are caught by a colleague or a friend, you are subjected to beatings. But what they've said is that those who have their privacy like they've been in the prison for longer and they have their own rooms, then they invite persons who recently come to the prison that are new prisoners. They give you money. They give you food. They give you a place to sleep. And then you also in return they can abuse you sexually or do anything to you because they are providing for you. And by that they were clear that even though it is rampant within the prisoners, if you are caught, you are subjected to beatings and humiliation. [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

[...] I have gone to the prisons to visit a few people and they are really treated as the wives. They get settled and act like the wives of a lot of them. In prison they aren't necessarily beaten up by the guards but sexual abuse may happen from the other inmates. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

[...] There hasn't been any recent imprisonment of a person for being LGBT person, but the few that do report at the level of the police might end up in a police cell. What happens when they put some into the cells, then they let those who are already in the cells know that you are a gay or if you are an LGBT person, then that person is going to face abuses from the cellmates. That is what happened in one of the recent incident that happened. So, the treatment from police officers is not that they will necessarily hit you but of course, if those in the cells get to know about your sexual orientation, then they are as well going to abuse you in the cells [...]

(Source: Alex Kofi Donkor, interview record, 25 December 2020)

In November 2020 Ghana Web interviewed a former inmate from Sunyani Central Prison who recounted the treatment men received in prison if they were caught in same-sex sexual acts:

[...] Per the experience of a former prisoner at the Sunyani Central Prison, inmates who are caught engaging in homosexuality were severely punished to serve as a deterrent.

According to Alexander Wiredu, who was jailed for three years and six months for defrauding by false pretences, the punishment for such prisoners mostly included canning or chaining.

Speaking specifically to his experience at the Sunyani Central Prison, he recounted that some inmates who were caught in a particular instance were given about 15 lashes, chained and left at the mercy of the weather. [...]

Adding, that they are either separated thereafter or allowed back into the yard. [...]

(Source: Ghana Web, [Homosexuals in prison get lashed, chained when caught – Ex-convict recounts](#), 26 November 2020)

The UN Country Team for Ghana in its submission to the UN Human Rights Council similarly reported:

[...] 29 [...] Abuse of lesbian, gay, bisexual, transgender and intersex prisoners was a concern, exacerbated by prison overcrowding and reluctance to report abuse for fear of reprisals and further stigmatization.⁵⁶ [...]

(Source: United Nations Human Rights Council, [Compilation on Ghana: Report of the Office of the United Nations High Commissioner for Human Rights A/HRC/WG.6/28/GHA/2](#), 28 August 2017, p. 4)

3.4 Police harassment and violence

This section should be read in conjunction with section [3.2 Treatment during arrest of LGBTIQ+ persons](#) and [3.6.2 Homophobia and Transphobia within the police](#).

The Australian Government Department of Foreign Affairs and Trade reported in its December 2020 report, based on “on-the-ground knowledge and discussions with a range of sources in [...] Ghana” that attacks by the police against perceived LGBTI persons continued recently:

[...] LGBTI activists have reported recent cases of attacks by civilians and police on individuals perceived to be LGBTI in [...] Ghana. [...]

(Source: Australian Government Department of Foreign Affairs and Trade (DFAT), [DFAT Thematic Report - Economic Community of West African States \(ECOWAS\)](#), 3 December 2020, para. 2.17)

The following interviewees, in response to a question about the kind of treatment that LGBTIQ+ persons face when encountering the police, described physical and verbal abuse, homophobia, discrimination, and risk of arrest, even if the person was reporting a crime or violent incident against themselves:

[...] Very bad, because a lot of the police are not well informed about basic human rights of people. Once the issue is about sodomy most Ghana police will be homophobic. As an LGBT person you would never have it easy with the Ghana police, even if you are going to report a crime against yourself. [...] The police are a bit careful when they want to make public statements. Unless you find yourself at the police station, you wouldn't find a police officer making a homophobic statement in public, but you'll experience homophobia when you're at the police station. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

[...] The LGBTIQ+ community is likely to face physical and verbal abuse when encountering the police. [...]

(Source: Prof. Raymond Atuguba, Written answers, 12 December 2020)

[...] It is high in the sense that when you ask a lot of LGBT persons, why they will not report an incident of an abuse to the police is because there is that high likelihood of being discriminated and disgraced at the police station, or even being arrested at the level of the police station. So, it actually discourages a lot of LGBT persons from reporting incident of abuses to the police. In other cases where the LGBT person gathers a lot of courage to go to the police station to report it, there is also that high level of being discriminated against, which then results in discouraging other community members to report to the police. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

[...] I remember one time, there was a case. This was probably about two years ago where a friend

of mine had his phone stolen because he met this guy online. And so we went to the police. And the police officer told us that if we don't leave, he will arrest us for being homosexuals. Yes, because we came to make a report that the phone had been stolen by this person that we met online. And the police officer said, "Well, you went and had some sexual relations. So why are you coming back to us? That's already a crime. So, I'm not going to pursue the case." And you have this a lot across the country. So, in a way, you wanted to go to the police but at the same time, you know that if you go there, they will not help you. And sometimes, they might just intimidate you and say, "If you report this department, I'm going to arrest you and put you into jail." And they can. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

The following two sources, in separate interviews for this report, described incidents of how some police were involved in entrapping LGBTQI persons for engaging in a same-sex act to then extort them:

[...] Typically, they would take you to the police in that particular way, claiming to make a citizen arrest. Some of these blackmailers videotape the beating and so it's all online, shared on WhatsApp groups. Some people are told to have sex right there, and they record it, and then they share it. So, in those moments, the police can use that to actually make an arrest because in the Ghana situation, with the law, you have to be caught in the act itself. So, if you're not caught in the act, that particular law does not hold. The ones that arrest you would tell you, "If you do not do the act I need to report, I'm going to call your family. I'm going to humiliate you if you don't pay me this amount of money." So, they pay them this amount of money. And sometimes the police are involved, honestly. The police sometimes are involved in conniving with these folks who commit these atrocities against LGBT folks in Ghana. So, reporting to the police, it really doesn't help. Some of these police sometimes work in our favor. And, most of the time, they do not work in our favor. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

[...] Most times, within the recent years, we've not really had a situation where LGBT persons are having a party or ceremony and the police arresting anyone or the police invading their privacy and arresting anyone. The cases we've heard recently have been cases where persons tries to blackmail an LGBT person, and so end up in the police station. These sometimes are considered cases between two members of the LGBT community but in actual fact a case where someone tries to lure a member of the LGBT community to rob, extort and blackmail etc. I have seen recent cases where police officers were used in such blackmail and extortion. [...]

So, our police are, most times, intimidating and threatening. So sometimes, in some instances, they even force victims to confess to a crime through their arbitrary powers. The public now calls the police "Aban" which means the state. This is because the police can arrest you no matter your innocence. [...] the police take advantage of the non-availability of lawyers and extort money from the victim and sometimes threaten the victim. And sometimes, they demand, actually, ransom money because they want to close the case for you, the victim. If you need to be helped by the police who handle the case, they would demand an amount. Now, your family or your friends will have to put together the said amount and then pay the police. [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

According to Robert Akoto Amofo, Director of Amnesty International Ghana, the cases where LGBTQI+ persons were lured, entrapped and taken to the police station happen often, and result in harassment by the police at the police station. He said he received two reports a week of such incidents. He also highlighted police harassment and extortion in a report he authored in 2019:

[...] This kind of harassment from the police happens very often. As often as a person gets lured into whatever acts that they get into. Very often as far as I'm concerned because the idea is that many people also don't report because of the humiliation and the family disgrace and all of that. So even though we don't have figures on that, but what I'm aware of is at least I get at least two reports in a week of such cases. So, it's very rampant, and it's only that people just don't report these cases because-- I mean, in instances where some of us have followed up with such cases, it has ended up that the police has extorted money before they allowed the LGBT person to go. Or by the time you finish all the issues and we don't settle them, they humiliate the person and out the person to the public. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] i Discrimination, Abuse, and Violence against the Ghanaian LGBT Community [...]

In domestic settings, LGBT individuals said they oftentimes faced abuse from family members due to their sexuality or gender identity. To further compound matters, they did not believe they could turn to law enforcement to report such abuse due to concerns that the police would either not believe the claims or would arrest them and subject them to additional abuse. [...]

Non-violent forms of abuse against LGBT Ghanaians, such as police harassment and reluctance to investigate claims, as well as extortion attempts, are also typical [...]

(Source: Robert Akoto Amofo, [*Ghana's legal and policy frameworks and the protection of the human rights of LGBT people in Ghana*](#), commissioned by Solace Initiative and Centre Popular Education and Human Rights Ghana, 25 May 2019, p. 3 and 4)

Academic Dr. Godfried Asante, in an interview for this report, described an incident of harassment of LGBTQI+ persons by the military:

[...] So for instance, there was a bar in a part of Accra called Adabraka. We went there one time to hang out, so it's sort of become a gay space where you have lesbians and gays coming over and having a drink. At some time, a group of soldiers came over and said, "This is a gay club. We're here to arrest everybody." But then it took a few people in there to say, "You have no right to arrest us because we're not violating the law. To gather is not a violation of the carnal knowledge clause." So, in that sense, they backed out because a few people spoke up. But you can imagine the number of people that they've done that to, and they just willingly either paid the money. And typically, they're asking for bribes, so they'll give them money and then they leave them [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Academic Dr. Ellie Gore, in an interview for this project, relayed that they found in their research¹³ that gay men were targeted by police sweeps at queer parties:

[...] So it was very commonly reported amongst the men I interviewed, that they were kind of targeted by police. This would be through police sweeps who would come to queer parties and either harass, abuse, detain men, broadly using the law as a reason, but seemingly without any kind of concrete grounds for that. It would also be used to target people who were suspected of being queer. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

¹³ The interlocutor, during their interview, specified that their research focused on LGBT activism and was conducted between 2013 and 2015, focusing on the experiences of gay men living in Accra and Takoradi

Two interviewees, Dr. Godfried Asante and Dr. Ellie Gore highlighted that effeminate men were particularly targeted by police with threats of arrest, extortion and harassment:

[...] In several different examples, when you are effeminate, or when you're wearing earrings or when when you present stereotypically gay, I'll say, that's when some of the issues emerge where the police will still take your statement, but it will not be processed. Some of them that I've heard, they would say, "Well, we are not going to take up this case." So, in my dissertation, I did interview about 50 LGBT people in Ghana. And part of what I heard, the kinds of Stories at the police station were very similar across the board. One, they will not process your case. Two, they will scare you that they will arrest you if you don't leave the police station because you're gay. And in some cases, they actually did pursue the robber. In some cases, they will tell you, "Bribe me before I do it." So, you have to pay before they actually pursue your case. But most of the cases are actually around the police harassing LGBT people. Most of them said, "We were harassed. We were not allowed to file cases. We were told to leave the police station or else we will be arrested. So, we just don't go." [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

[...] One thing that did come out from the research¹⁴ was that particularly feminine-presenting men or kind of genderqueer in some way, men were particularly targeted by police, I guess for their visibility, and also targeted for the way they dressed. So that would be sometimes used as a reason to at least stop them and harass them and question them was the way that they were presenting. [...]

I would say I think it depends a bit on your class position. So, most of the people who I interviewed were kind of working-class queer men, and, I mean, I think the ability to be "discreet" about these things is quite constrained if you're living in quite potentially quite cramped housing in a very kind of densely populated areas. I'm not sure if it's not necessarily possible for those people to do that. So, for them, it was so pervasive these experiences of having some kind of negative contact with the police. I would say that they identified the police as a key perpetrator of violence along with other community-based actors. [...]

For example, another person I spoke to around 2014, 2015 had been beaten up in the street. They felt it was homophobically motivated. But they went to the police to report it, not necessarily mentioning what they felt were the motivations of it, but to report an assault. And again, they were kind of dismissed, abused, because they were kind of a feminine presenting person. So, there's a real issue around access to justice for the kinds of crimes perpetrated against gay men, particularly working-class gay men. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

Dr. Ellie Gore described the kind of violence that a person on the basis of their transgressive gendered presentation experienced from the police:

[...] So I didn't meet that many people who identified as trans, although there were certainly people who were living very kind of transgressive lives who were embodied in transgressive gendered ways, if you like. And they were often really at the sharp end of the wedge in terms of having to deal with harassment and violence at the hands of the police and the inability to access any justice on the basis of the other forms of violations and abuse they receive. And there's one person I interviewed, in particular, who-- it was just kind of extensive experiences of physical, sexual, violence, and abuse on the basis of their transgressive gendered presentation. And that was not just from kind of family, friends, community, but also from people like the police. So, I

¹⁴ The interlocutor, during their interview, specified that their research focused on LGBT activism and was conducted between 2013 and 2015, focusing on the experiences of gay men living in Accra and Takoradi

think given the rigidity of gender norms in Ghana, and that's not to say-- it's not to sort of exceptionalise Ghana because, obviously, everywhere, there are very rigid gender norms. But they are all particularly rigid gender norms, I would say. And that does make it incredibly difficult for anyone who lives outside of those norms. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

According to two interlocutors, interviewed for this report, police have arrested, harassed and humiliated transgender persons or individuals cross-dressing, whilst taking videos and circulating these on social media:

[...] Well, there have been a couple of arrests with people who cross dress when they feel they want to dress like women, when they want to dress like men and then there have been a couple of arrests. And then the police, for lack of ignorance, did not handle the situation properly they will rather humiliate the victim and take videos and share amongst themselves and on social media. [...]

(Source: representative from Solace initiative NGO, interview record, 25 November 2020)

[...] Sometimes you see police officers who'll be asking the person to remove their clothes and get them naked, and slapping and beating people. So that is some of the problems that transgender persons go through in Ghana. There's a lot of bigotry towards transgender people, and there have recently been videos circulating of a transgender person being beaten up and some naked by police officers in Ghana [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

Freedom House's 'Freedom of the World' report covering 2019 reported police harassment of LGBTQI+ people:

[...] F. Rule of Law [...]

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?

¾ [...]

Same-sex sexual activity remains criminalized, encouraging police harassment and impunity for violence against LGBT+ people. [...]

(Source: Freedom House, Freedom in the world 2020: Ghana, 4 March 2020)

CEDOCA quoted Dr. Ellie Gore, who described in an email of 16 May 2019, acts of intimidation, harassment and extortion by the police:

[...] My understanding is that there have been very few prosecutions on the basis of the Unnatural Carnal Knowledge clause in the last ten years, largely due to the high evidentiary standards required. However, participants in my research reported that the code is being used in a punitive and oppressive way by the police and other authorities, as a means to intimidate, harass, extort, and (temporarily) incarcerate LGBTI individuals. To this end, section 104 creates an extremely hostile legislative environment and serves as a barrier to LGBTI individuals seeking legal redress for rights violations and other abuses. [...]

Some activists had reported cases of homophobic violence and harassment to the police, but said these rarely resulted in justice for the victims and rather left them open to further targeting and abuse on the part of police officers. [...]

(Source: CEDOCA, [COI Focus, Ghana, Homoseksualiteit](#), 1 July 2019, p. 11)

A 2018 Human Rights Watch report reporting on the violence and discrimination faced by LGBT persons in Ghana however also noted that some interviewees did not experience police harassment:

[...] IV. Signs of Positive State Action [...]

Ghana Police Practice [...]

Several interviewees in Tamale told Human Rights Watch that they had not experienced police harassment or arbitrary arrests, and that the police service was responsive to their reports of harassment by members of the public [...]

(Source: Human Rights Watch, [No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana](#), 8 January 2018, p. 49)

3.5 Public statements by government officials

In an interview for this report, a representative from Solace Initiative NGO explained how political leaders distorted the Constitution for homophobic hate speech:

[...] Our political leaders, opinion leaders, religious leaders, use the same Constitutional written law to instigate hate speech, homophobic speech against the community where people think that it is a crime to be who you want to be. [...]

(Source: representative from Solace Initiative NGO, 25 November 2020)

The following interlocutors, interviewed for this report, highlighted how government officials such as the Speaker of Parliament, Mike Oquaye, is also a religious leader and espouses homophobic and transphobic comments in his position as a government official. The interlocutors also mentioned homophobic and transphobic statements by Minister for Gender and Social Protection, Cynthia Mmale Morrison, and Regional Minister of the Western region of Ghana, Joseph Aidoo:

[...] The sad part of all this is that some of the government officials double as pastors who tend to make very, I would say, extremely homophobic/transphobic comments. The speaker of Parliament, he is a religious leader, he has his church, and he's also the Speaker of Parliament. So, when he makes these comments, he doesn't make them as if he's a pastor, and, "This is my views as a pastor." No. He makes it as if he owns the country and this is his view about his position as the speaker of parliament. So, when the state media reports these kinds of comments, what happens is it legitimates the citizens' arrest process. So, the state media definitely produces these kinds of statements as reports. [...] So in this case, the media is a huge part of disseminating homophobic/transphobic discourses that definitely positions LGBT folks in very dangerous context. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

[...] Yes, I think the Speaker of Parliament has been the most homophobic individual in Ghana here. Some leading ministers of state, some senators. We have 16 Regions in Ghana and one of the Regional Minister of the Western region of Ghana, Joseph Aidoo said landlords and landladies in his Region should evict people who they know are gay, bisexual and lesbians. So yes, most high-ranking political officers make those homophobic states. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

[...] So, for instance, our speaker of parliament is a very notorious person known to be making homophobic rants and threats, towards the LGBT community. And there are other the ministers and state officials who have made very homophobic statements like the Minister of Gender and social protection at the moment, and had made certain statements [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] Also, there are certain politicians and leaders such as the Speaker of Parliament, currently. He is very vocal and uses very a homophobic language. So, I guess when it comes to the State, there are political figures who propose homophobic policies to enact such as criminalizing homosexuality, in general, versus just same-sex sexual relations. So, the media just amplify their opinion on the issue, especially as it relates to a recent story on LGBT activity that has happened recently. [...]

(Source: Andrew Teye, interview record, 17 November 2020)

[...] So the current speaker of parliament, so he's in the name of Professor Mike Oquaye, he is a homophobic person. He has always made his stance known on LGBT. He uses his office as the speaker of parliament to incite and promote homophobia. Calling LGBT persons deviant and evil, and accusing international organizations of promoting LGBT in Ghana. And almost all of the platforms that he gets, even if the topic is not LGBT, he still finds a way of bringing LGBT issues in there and uses that platform to promote homophobia.

So apart from the speaker of parliament, there are also some government officials, that have also used their offices to also incite homophobia. One of them is the current gender and social protection minister, she's called Cynthia Morrison has promoted homophobia. So, we have a few of some of the videos that she has said and some of the comments that she has made about LGBT persons as a gender and social protection minister. So, the two main political parties are the NPP, the New Patriotic Party. And then the NDC, the National Democratic Congress. These two political parties have weaponized LGBT, in the sense that they use LGBT as the basis to attack each other. So, they accuse each other of being an LGBT person. And based on that because you are LGBT person people shouldn't vote for you. They weaponize LGBT persons and then use it as a basis to attack each other. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

According to Dr. Ellie Gore, the media and the general public have in the past presented a backlash to any more progressive statements President Akufo Addo had made in regards to LGBT rights, which had caused him to back track and reaffirm state-endorsed homophobia:

[...] It's interesting because you can see a similar pattern in terms of rhetoric coming out of some of the presidents. So, they'll say something that's potentially perceived as being in support of LGBT rights. And so we saw that recently we have Akufo Addo [NB: the current president of the Republic of Ghana] saying that homosexuality is probably going to be legalized in Ghana. And then there was this big media backlash and people saying that what he's saying is not going to happen now and then the issue is then clarifications which reaffirm this position of state-endorsed homophobia. He said actually that will never happen and it's incompatible with Ghanaian values and that kind of thing. So, I mean, I think it's the way in which they are treading this line in terms of balancing domestic audience expectations and also kind of perhaps expectations in the international domain around human rights.

I won't want to characterize all kind of Ghanaian MPs or politicians or government officials to be adopting a particularly homophobic or viciously homophobic standpoint and it has been one of

the more interesting things about Ghana as compared to some of its West African counterparts, for example, Nigeria, where there has been a slight more plurality in the debate. But as I said, if you look at the kind of position adopted by the President, there's not that much kind of progress, and where there is, it's often followed by a lot of backtracking. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

Reporting within the timeframe 1st February 2017 to 31 January 2019, the Bertelsmann Stiftung's Transformation Index (BTI) of 2020 reported:

[...] The deeply conservative and discriminatory attitude of the majority of opinion leaders in both the political arena and in civil society has become quite apparent in this case, spurred by very discriminatory beliefs of important religious bodies and their representatives. Tolerance with regard to homosexuality is negligible. [...]

(Source: Bertelsmann Stiftung, [BTI 2020 Country Report — Ghana](#). Gütersloh: Bertelsmann Stiftung, 2020, p. 22)

3.5.1 Public Statements by Government officials in 2021

In February 2021 Ghanaian online news website reported on a statement made by the newly appointed Minister of Gender, Children and Social Protection:

[...] Minister-designate for Gender, Children and Social Protection, Sarah Adwoa Sarfo has expressed disapproval over the legalisation of homosexuality in the country.

According to her, not only does the Ghanaian culture frown upon it, the laws governing the State make it criminal.

“The issue of LGBTQI is an issue that when mentioned creates some controversy but what I want to say is that our laws are clear on such practices. It makes it criminal.

“On the issue of its criminality, it is non-negotiable on the issue of cultural acceptance and norms too. These practices are also frowned upon,” she stated emphatically.

The Gender minister-designate made this known when she took her turn before the Parliament Appointments Committee during Wednesday's Vetting. [...]

Explaining further, Adowa Safo indicated that Section 104 of Ghana's Criminal Code prohibits one from having unnatural carnal knowledge with another person hence, would not entertain the legalization of LGBTQI.

She noted that the practice is an affront to the laws, traditions and customs of the country, “and so for me, these are two distinct clarity on the matter and that is what I stand for.”

(Source: Joy Online, [LGBTQI is criminal, non-negotiable per our laws – Adwoa Safo](#), 17 February 2021)

In February 2021 the Ghanaian newspaper The Herald reported on a statement made by the Minister for Foreign Affairs and Regional Integration, Shirley Ayorkor Botchwey:

[...] The Minister-designate for Foreign Affairs and Regional Integration has reacted to United States (US) President, Joseph Biden's decision to sanction countries yet to make laws that accommodate homosexuals.

Shirley Ayorkor Botchwey, when answering a question during her vetting on Thursday, said

Ghana's laws clearly criminalise the practice.

Her statement comes after President Biden on Thursday, February 4, issued a memorandum aimed at expanding protection of the rights of lesbian, gay, bisexual, transgender and queer and intersex (LGBTQI) people worldwide, including potentially through the use of financial sanctions.[...]

But Miss Botchwey said Ghana is a sovereign country and has its own laws that its citizenry must abide by regardless of the relationship the country has established with other countries.

"Ghana is a sovereign country but as part of our foreign policy we engage countries all over the world; America is one of our strongest friends. But in this country, we have laws. And our laws work and must work.

"So, in spite of what somebody will say and in this case President Biden, the laws of Ghana criminalise unlawful carnal knowledge and therefore the laws of Ghana definitely are supreme and that is what we all adhere to," she noted. [...]

(Source: The Herald [Ghana], [LGBT legalization: Ayorkor Botchwey sends message to Joe Biden](#), 12 February 2021)

3.5.2 Public Statements by Government officials in 2020

In December 2020 Presidential candidate, Akua Donkor, from the Ghana Freedom Party stated:

[...] According to her, God created Adam and Eve and not Adam and Steve so when she becomes President the first things she will do is to arrest all homosexuals in Ghana and lock them up.

The leader of Ghana Freedom Party said homosexuality is a sin and against the will of God so people involved in it should be locked up in holes where they can engage in such despicable acts. She said when these people are arrested, they will not be kept in the crowded prisons where they will get access to other people to be sleeping with but rather they will be kept in isolation.

"My first port of call when I'm voted for is to deal with homosexuality in Ghana. I'm going to make sure it does not enter the shores of Ghana. I will do this by arresting all persons involved in the act. They will not be kept in the same cells but rather will keep them in separate cells to starve them of the despicable act." [...]

(Source: Ghana Web, [Akua Donkor vows to lock up homosexuals in holes as President of Ghana](#), 3 December 2020)

In November 2020 the Ghana News Agency reported on statements made by Francis-Xavier Sosu, the National Democratic Congress (NDC) Parliamentary Candidate for Madina:

[...] Sosu, the National Democratic Congress (NDC) Parliamentary Candidate for Madina, grew up as a destitute in the streets into a renowned Human Rights and Public Interest Lawyer and Social Protection and Child Rights Activist in Ghana.

The 41-year old lawyer and pastor, has Bachelor of Arts and Bachelor of Law from the University of Ghana and Barrister-at-Law from the Ghana Law School.

Sosu, also a philanthropist, is riding on his popularity among young people in the Constituency to snatch the seat from the incumbent.

He is the Managing Partner of F-X Law & Associates-a progressive Human Rights and Public Interest Law firm in Accra, established in 2012.

Sosu is also the founder of the Treasure of Life Foundation-Ghana, Kenya and USA, which carries out community empowerment projects for the very poor and homeless.

He founded Justice Ghana, dedicated to Human Rights and social protection issues with focus on educational outreaches and the enrichment of the lives of children from deprived backgrounds.

[...]

Sosu is also a special Human Rights Ambassador to the international youth for Human Rights and participated in the summit for youth for Human Rights at the United Nations. [...] He supports “cautious liberalism” and social democracy – promoting freedoms and liberties of people, taking into consideration the most vulnerable. “I hate homosexuality and bi-sexuality because they are against Christianity and Islam,” and I want Parliament to pass a clear law for victims support in Ghana. [...]

(Source: Ghana News Agency, [ELECTION 2020: Madina – Boniface Vrs Sosu](#), 11 November 2020)

In March 2020 the Ghanaian president, Nana Addo Dankwa Akufo-Addo, refused to host a Pan Africa International Lesbian, Gay, Bisexual, Trans and Intersex Association conference in Ghana:

[...] The Government of Ghana has said homosexual and their activist will not be allowed to have their conference in Ghana. The Minister of Gender, Children and Social Protection, Cynthia Mamele Morrison, revealed this in an interview with CTV on Tuesday, 10 March 2020 that President Nana Addo Dankwa Akufo-Addo has rejected plans by the LGBT community to have their conference in Ghana. The Pan Africa International Lesbian, Gay, Bisexual, Trans and Intersex Association has served notice on its website that, “our 5th Regional Conference, 27 – 31 July 2020 in Accra, Ghana.” This will be the first PAI conference in West Africa,” the association added. The announcement has generated controversies in Ghana with a large section of the public registering their displeasure towards the plan. Reacting to the development, Mrs Morrison said: “It is a no, government won’t allow it to happen in Ghana.” [...]

(Source: GBC Ghana Online, [President Akuffo Addo rejects gay conference in Ghana](#), 11 March 2020)

[...] Statements by Public Figures
2020

In March, National Women’s Organiser of the National Democratic Congress (the main opposition party), Dr. Hanna Luisa Bissiw, indicated – in response to news of the planned Pan Africa ILGA 5th regional conference – that homosexuals should be killed: “Homosexuality is a disease. In veterinary you don’t have to condone homosexuality; you have to kill all animals that attempt same-sex mating. Why should we humans do that?” [...]

(Source: Human Dignity Trust, [Statement by Public Figures](#), date unknown. Last accessed: 5 November 2020)

3.5.3 Public Statements by Government officials in 2019

The US Department of State’s 2019 country report, stated that:

[...] Speaker of Parliament Mike Oquaye said in October [2019] LGBTI persons should not be killed or abused, but rather should be handled medically or psychologically. [...]

(Source: US Department of State, [2019 Country reports on Human Rights Practices: Ghana](#), 11 March 2020)

Rita Nketiah, a feminist researcher, writer and activist living in Accra, and Amnesty International reported on homophobic statements by government representatives and opposition party members at the World Congress of Families conference that took place in 2019:

[...] A representative of Ghana’s Prisons Service, for example, condemned LGBTIQ people as a “modus to depopulate the world”, and our sexual orientations as “a major part of why we imprison

people in Ghana". "If we strengthen the family, there will be less people in prisons, but prison will also serve as a corrective measure for sexual deviants", she argued. Another Ghanaian speaker, Samuel Okudzeto Ablakwa, an MP from the opposition National Democratic Party used his time on stage to call on his fellow politicians to declare the country "a no-go area for the LGBT agenda". [...]

(Source: Rita Nketiah (Open Democracy), [God Has A New Africa': Undercover in a US-led anti-LGBT 'hate movement'](#), 11 December 2019)

GHANA 2019 [...]

Rights of lesbian, gay, bisexual, transgender and intersex people (LGBTI)

[...] In October [2019], the US-based World Congress of Families sponsored a regional conference in Accra advocating for increased criminalization of LGBTI people. Several Ghanaian politicians spoke at the conference, which framed LGBTI inclusion as "anti-African", and called for "tougher laws" against the already vulnerable group.

(Source: Amnesty International, [GHANA 2019](#), 8 April 2020)

Ghanaian president Akufo Addo was reported as stating in October 2019 with regards to discussions surrounding the inclusion of Comprehensive Sexuality Education in schools:

[...] President Nana Akufo-Addo has stated emphatically, there will be no introduction of any subject that will negatively affect the moral upbringing of children. Addressing members of the St. Cyprins Anglican Church in Kumasi, the President said it is untrue that his government intends to introduce the much-maligned Comprehensive Sexuality Education in public schools. [...]

(Source: Modern Ghana, [CSE: Calm down, no LGBT agenda in curriculum](#), 7 October 2019)

[...] President Nana Addo Dankwa Akufo-Addo has debunked suggestions by a section of the public that his government is bent on introducing 'alien' practices into the Ghanaian society through the controversial Comprehensive Sexuality Education, ABC News can report. The President was emphatic that no student in Ghana will be taught contents that are inappropriate in our Ghanaian context while he is Head of State. [...]

(Source: The Ghana Report, [No LGBT agenda in Ghanaian schools under my watch- Afuko Addo](#), 6 October 2019)

Speaker of Parliament, Mike Ocquaye, was reported to say in 2019 that "homosexuals have a deviant conduct":

[...] Ghana's Speaker of Parliament, Right Honourable Prof Aaron Mike Ocquaye has said homosexuals don't only need medical attention but 'strong' spiritual cleansing so they can come back to normalcy. He disclosed when he was speaking at the maiden Speaker's Breakfast meeting in Parliament, in Accra on Wednesday. The New Patriotic Party stalwart said homosexuality is deviant conduct which has to be tackled with much aggression. He said: "When it comes to a spiritual connotation and you need deliverance we shall handle it. Homosexuals have a deviant conduct; it's a deviant conduct like any other deviant conduct. [...]"

(Source: GH Base, ['Homosexuals Need Medical And Spiritual Deliverance' – Mike Ocquaye](#), 30 October 2019)

3.5.4 Public Statements by Government officials in 2018

In 2018 the President's Office released a press statement firmly countering suggestions that he would legalise same-sex marriage.

[...] The attention of the Office of the President has been drawn to comments made by the General Secretary of the National Democratic Congress, Johnson Asiedu Nketia, as reported by the online news outlet, The Pulse, to the effect that same-sex marriage has been approved by President Akufo-Addo.

Speaking at the NDC's health/unity walk, on Saturday, 28th April, 2018, in Kumasi, the NDC General Secretary is reported to have stated that "Nana Addo says men will marry men, and women will marry women." This is nothing but a baseless and vile fabrication, by no less a person than the General Secretary of the leading opposition party in Ghana. For the avoidance of doubt, President Akufo-Addo has NEVER stated anywhere that, under his presidency, "men will marry men, and women will marry women".

Indeed, the President remains focussed on delivering on his mandate, and improving on the quality of lives of the Ghanaian people. It will NOT be under his Presidency that same-sex marriage will be legalised in Ghana. [...]

(Source: The Presidency of the Republic of Ghana, [Press Release Re: President Akufo-Addo Has Approved Gay Marriage](#), 28 April 2018)

The following sources reported on statements made in 2018 by the President of Ghana affirming that he had no plans to change the law and decriminalise homosexuality:

[...] The President of Ghana has said he has "no plans" to change the country's laws on homosexuality.

It is currently illegal to be gay in Ghana, and gay men can face up to three years in prison. Human rights groups say that physical and violent homophobic attacks against LGBT people are still common, often encouraged by the media and religious leaders.

President Nana Akufo-Addo, who became the country's President in January, had claimed earlier this year that the country is bound to eventually decriminalise homosexuality.

He claimed "it is something that is bound to happen," and that "like elsewhere in the world, the activities of individuals and groups [will lead to change]."

However, in a speech to the 2018 Synod of the Global Evangelical Church on Thursday, the leader insisted he would not support change. [...]

(Source: Pink News, [President of Ghana 'reassures' church leaders that he won't decriminalise homosexuality](#), 10 August 2018)

[...] Second Deputy Speaker of Parliament Alban Bagbin said in a radio interview in April 2018 that "Homosexuality is worse than [an] atomic bomb" and "there is no way we will accept it in (this) country." President Akufo-Addo delivered remarks in April 2018 at an evangelical gathering where he assured the audience, "This government has no plans to change the law on same-sex marriage." [...]

(Source: US Department of State, [2019 Country reports on Human Rights Practices: Ghana](#), 11 March 2020)

The state-owned Daily Graphic newspaper reported in May 2018 that MPs had strongly indicated they would reject any bill seeking to legalise homosexuality:

[...] Members of Parliament (MPs) [...] gave the strongest indication yet that they would reject any

bill that would seek to legalise homosexuality in the country.

They said the country's laws, culture and religious beliefs were against gayism and lesbianism and so they, being the representatives of the people, would not succumb to any Western pressure to legalise the heinous practices.

Commenting on the subject in Parliament, the legislators said homosexuality was not a human rights issue as was being propounded in some quarters but rather a health challenge due to its serious health implications.

They noted that homosexuals should seek psychiatric treatment or counselling from imams and pastors since the practice was abnormal. [...]

(Source: Graphic Online, [MPs to reject bill seeking to legalise homosexuality](#), 25 May 2018)

The following news source reported on a Ghanaian MP's homophobic discourse in Parliament on 22 May 2018:

[...] Pusiga MP, Hajia Laadi Ayamba, has warned gay campaigners not to lobby her or any legislator to push gay bills through Ghana's parliament.

Ayamba said on the floor of parliament on Tuesday, 22 May 2018 that homosexuality "is horrible, not acceptable and I think that we in this House should be the first people to come out to put it right to anybody that is coming out with whatever they want to call it that we will not take it, we represent the people of Ghana, we represent our constituents [and] we would not have been here if men were marrying men or women marrying women". [...]

(Source: GhanaWeb, [Stay away from us- MPs tell Gay lobbyist](#), 23 May 2018)

The following Ghanaian news sources reported on homophobic statements made by the Speaker of Parliament in 2018:

[...] The Speaker of Parliament, Professor Aaron Mike Oquaye, has served notice that he will resign over any amendments aimed at decriminalizing gayism or lesbianism. In an interview with the host of Metro Television's "Good Evening Ghana," Mr Paul Adom Okyere, he stated categorically that because he had some principles he meant to live by, he would leave the chamber of Parliament if any amendment to Ghana's Criminal Offences Act was presented to the august House for reading. [...]

(Source: Graphic Online, [I will resign over amendments to accept gayism — Speaker of Parliament](#), 10 May 2018)

[...] Speaker of Parliament, Professor Aaron Mike Oquaye has described as "mentally deformed" persons entangled in acts of homosexuality. According to him, the sexual orientation of such individuals bares a lot of questions withstanding the incessant calls for the legalization of same-sex marriage in the country which is widely opposed by some section of the Ghanaian populace. "Deformity takes many forms, it can mental deficiency, physical deficiency, psychological deficiency. We are lucky very often if we don't deficiencies in a glaring form or the other and that is why I say, if a person is found to be deficient it cannot be turned in to a human right." Psychotic inclinations are a deficiency, pedophile inclinations are a deficiency and in fact there are people who are like that", he stressed during an interaction with Paul Adom-Otchere on Good Evening Ghana Thursday, 10 May 2018. Professor Oquaye noted that homosexuality cannot be categorized as normal and be given a thumbs up for its legalization if the number of persons involved in the act continue to soar every day. [...]

(Source: Ghana Web, [You are deformed if you are gay – Oquaye to homosexuals](#), 11 May 2018)

3.5.5 Public Statements by Government officials in 2017

Reporting on the situation in 2017, Amnesty International stated that:

[...] In February [2017] the Speaker of Parliament stated in the media that the Constitution should be amended to make homosexuality completely illegal and punishable by law. In July [2017] he also stated in the media that Ghana would not decriminalize homosexuality as this could lead to Bestiality and incest becoming legalized [...]

(Source: Amnesty International, [Amnesty International report 2017/18: the state of the world's human rights](#), 22 February 2018, p. 177)

The following Ghanaian news sources reported on homophobic statements that the Speaker of Parliament made in 2017:

[...] Speaker of Parliament, Professor Aaron Mike Oquaye has stated emphatically that homosexuality has no place in the Ghanaian society. Giving his 'intellectual position' on the issue of homosexuality, Prof. Mike Oquaye said the practice is against the Ghanaian culture, adding that "Ghana is a very religious country" and "Ghanaians do not like that kind of thing. [...]"

(Source: Ghana Web, [We won't accept homosexuality](#), 27 November 2017)

[...] Speaker of Parliament, Rt. Hon. Prof. Aaron Michael Oquaye has said there is no way Ghana will succumb to the liberalization of the world by accepting homosexuality as part of its culture. Same sex marriage, he noted, is abomination since the culture, religion and traditions of the Ghanaian set up frowns on it. "It is unfortunate that people have become so liberal that they want to liberalise Christianity. I believe these are some of the challenges of this modern world which are manifest of abomination", he noted. According to him "Parliament will do its best to strengthen its laws against homosexuality." [...]

(Source: Ksapa Fm Online, [Same sex marriage is an abomination in Ghana- Speaker](#), 20 February 2017)

Human Rights Watch reported that since 2010, but especially since February 2017, government officials made remarks that contributed to a "climate of homophobia":

[...] On numerous occasions since 2010 and notably from February 2017, key opinion leaders including government officials, notably parliamentarians, local officials [...], have made remarks that contribute to a climate of homophobia and in some cases, incite violence towards LGBT people. Religion is very often used to justify these statements.

Ghanaian officials have argued that the Ghanaian public is not ready, because of strong religious beliefs, to accept the decriminalization of same-sex conduct or to guarantee equality and non-discrimination on the basis of sexual orientation and gender identity in the constitution. However, statements being made by some of these same officials feed into public sentiments against homosexuality and protection of the fundamental human rights of lesbian and gay people. [...]

(Source: Human Rights Watch, [No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana](#), 8 January 2018, p. 25 and 26).

The following source quoted an interview that Ghanaian President Nana Akufo-Addo held with Al Jazeera in 2017 where he alluded to a change in the Ghanaian law that criminalises the LGBTQI+ community:

[...] iii. Domestic and International Support for Protecting the LGBT Community in Ghana [...] LGBT issues have also caught the attention of Ghanaian government officials at the cabinet and agency level. During a 2017 interview with Al Jazeera's Jane Dutton, President Nana Akufo-Addo of Ghana remarked that a change in perceptions regarding Ghana's LGBT community "is something that is bound to happen". Reflecting upon the experience of the United Kingdom, where he was educated, Akufo-Addo recalled that where there had been either silence or opposition to LGBT rights, "suddenly the activities of individuals and groups, a certain awareness, a certain development grew and grew stronger and it forced a change in law. I believe that those are the same processes that will bring about changes in our situation." Although Akufo-Addo added that LGBT issues were not on his agenda, his comments might demonstrate the possibility of cooperation if public and international pressure reaches a sufficient level [...]

(Source: Robert Akoto Amofo, [Ghana's legal and policy frameworks and the protection of the human rights of LGBT people in Ghana](#), commissioned by Solace Initiative and Centre Popular Education and Human Rights Ghana, 25 May 2019, p. 6)

In its 2017 report, a Working Group of civil society organisations'¹⁵ submission for consideration at the UN third Universal Periodic Review on Ghana, explained the impact of statements by government officials for the LGBTQI+ community:

[...] IV. Climate of Homophobia [...]

Obligations [...]

Section 208(1) of Ghana's Criminal Code prohibits any person from publishing or reproducing "any statement, ...which is likely to cause fear and alarm to the public or to disturb the public peace, [while] knowing or having reason to believe that the statement, rumour or report is false." 33 When influential [...] political figures call the right to equal access to state recognized unions "manifest abominations," it wrongfully diabolifies members of the LGBTIQ community. In addition, the voices of LGBTIQ people are absent in the majority of public discourses that concern them because the hostile homophobic environment in which these discourses occur make it almost impossible to deliver counter narratives. Furthermore, it is distressing when even the Head of State falsely calls homosexuality (and thus sexual minorities themselves) criminal, and punishable by law because it transforms LGBTIQ citizens into enemies of the state. This therefore sends dangerous messages that make sexual and gender minorities susceptible to vigilante justice while placing them outside of the protection of the actual justice system. [...]

(Source: Working Group of CSOs, [Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender Intersex and Queer \(LGBTIQ\) People in Ghana: Joint Stakeholder Report by the Working Group of CSOs... Submitted for consideration at the United Nations Third Universal Periodic Review](#), 28 March 2017, p. 8)

3.6 Homophobia and transphobia in government institutions

On the practice of so-called "conversion therapies", the UN Independent Expert on protection against

¹⁵ Solace Brothers Foundation (SBF), Perfector of Sentiment (POS) Foundation, Priority On Right and Sexual Health (PORSH), Amnesty International (Ghana), Human Rights Advocacy Centre (HRAC), Centre for Popular Education and Human Rights Ghana (CEPEHRG), Society and Youth Development, Africa Centre for International Law and Accountability (ACILA) Ghana

violence and discrimination based on sexual orientation and gender identity listed the following main perpetrators in Ghana as part of his report to the UN Human Rights Council in May 2020:

[...] 28. In a recent global survey, a total of 1,641 survivors of practices of “conversion therapy” identified main perpetrators. Medical and mental health providers were identified as the main perpetrators in 45.8 per cent of cases, religious authorities, traditional healers and groups in 18.9 per cent, conversion camps and rehabilitation centres in 8.5 per cent and parents in 6.9 per cent. State authorities – such as police, military and other entities – accounted for 4.4 per cent of cases, and school authorities in 4.4 per cent.³³ [...]

33 Submission by LGBT Foundation [...]

(Source: United Nations Human Rights Council, [*Practices of so-called “conversion therapy”: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity \[A/HRC/44/53\]*](#), 01 May 2020, p.7)

3.6.1 Homophobia and transphobia in state owned media

Dr. Godfried Asante and Prof. Raymond Atuguba, in separate interviews for this report, explained:

[...] The state-owned media tends to report the government's stance on homosexuality. So, they will typically claim the president is saying that the Ghana culture does not accept homosexuality so we cannot condone it. So, the state media typically will disseminate verbatim what government officials said. The sad part of all this is that some of the government officials double as pastors who-- so they tend to make very, I would say, extremely homophobic/transphobic comments. [...] the media is a huge part of disseminating homophobic/transphobic discourses that definitely positions LGBT folks in very dangerous context. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

[...] The media generally portrays negative perceptions about the LGBTQI+ community. However, most of their reportage on the situation are statements made by government officials and religious leaders[...]

(Source: Prof. Raymond Atuguba, Written record, 12 December 2020)

The following interlocutors, interviewed for this report, spoke about the State media, namely the Daily Graphic advancing a homophobic discourse on homosexuality:

[...] I think the media have played quite a key role in terms of this kind of politicization of homosexuality, primarily advancing this quite homophobic discourse on homosexuality. The Daily Graphic is one of the main newspapers, which I understand is state-owned, But I mean, there have been so many stories over the past 10 years with this kind of propagating a particular set of ideas around homosexuality. Notably, kind of conflating it with pedophilia is one kind of common trope. But this sort of scare stories around the LGBT conference¹⁶. I don't know if you've come across that, but that happened in 2011 and then again with an eerie sense of kind of history repeating itself. It happened again this year. But those kind of newspaper stories prompted a real kind of backlash against LGBTQ individuals. [...]

¹⁶ See for example Graphic Online, [*Coalition Kicks Against Gay Conference*](#), 4 March 2020

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

[...] We have the Daily Graphic here, give spaces for columns in their newspaper for people to write very damaging and disparaging comments about homosexuality and activities of LGBT. They talk about the agenda that the Western culture is trying to push on Ghana and trying to interfere. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

[...] Yes there are examples of state-owned media that promote homophobia on their platforms. [The Daily] Graphic is the national newspaper and on [The Daily] Graphic there was a time where they gave platforms to some of these religious leaders who clearly put it out there that homosexuality is filthy. I think that was said by the Presbyterian moderator at the time. And it was clearly on the front page of [The Daily] Graphic. And [The Daily] Graphic is a newspaper that once they put an information out there it also means that it is going to make headlines in all the radio stations and the TV stations. And so it gives the radio and TV stations the opportunity to increase their negative rhetoric on LGBT persons on all of these platforms. And radio is one of the powerful platforms which a lot of Ghanaians get their information from. Apart from that there was somewhere last year for instance, there was The Mirror. The Mirror is also a national newspaper and it's also being run by the Graphic Communications Group. In The Mirror, one of their reporter's made an article on the fact that a community here in Accra called Chorkor is packed with homosexuals, and made a very derogatory article about LGBT persons. The article was on a level abusive as it gave a description of who a gay person or a lesbian is, and how one is supposed to recognize someone when the person is gay or lesbian by even the way they walk or the way they dressed, and all of that. I even wrote a rejoinder to [The Daily] Graphic, and asked them to retract what they said. Up to now, they did not respond to our rejoinder. So, it also means that whatever they said stands up until now. And so the article is on the internet, and apart from that, on their Graphic platform too it is also there. [...]

(Source: Alex Kofi Donkor, 25 November 2020)

Director of Amnesty International Ghana, Robert Akoto Amofo, said that the state-owned media such as the Ghana Broadcasting Corporation gave a platform to homophobic guests:

[...] It's not the media houses themselves, people, speaking, but they give a platform to other guests that come to their radio station to make homophobic rants or write homophobic things in their papers. So yes, there state-specific examples like GBC, Ghana Broadcasting Corporation, will have certain guests on their shows that would be saying homophobic things and calling LGBT people names [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

In response to a question on homophobia and transphobia in the state media, a representative from Solace Initiative NGO and Andrew Teye, Programme officer at Hope Alliance Foundation answered:

[...] usually the target is on gay men. And then just a little on lesbians. [...]

(Source: representative from Solace Initiative NGO, interview record, 25 November 2020)

The media does often report cases where LGBT people-- and it's very much common recently where lesbian folk have had secret weddings and marriages, and that has been a very popular topic in media. There's been two marriages recently that were on video and therefore became

very huge news stories. And essentially, the media outlets have just discussed the issue, and then, of course, their language is more homophobic so they do frown upon those issues. They do regard lesbian marriage as problematic. So usually, they pick up stories about LGBT activity and then they discuss it.

[...] So in the case of the marriages, there was footage of these marriages that became viral on social media. So essentially, these news articles are just reacting to the viral videos and saying this has happened. So, in one recent instance, there was a lesbian military officer who had a secret wedding, and that was captured on video and then circulated all over social media. So, then the News Agency reported on that happening, they also provided that idea of this is not allowed in Ghana and that we must work hard in order to stop these instances from continuing.

(Source: Andrew Teye, interview record, 17 November 2020)

3.6.2 Homophobia and transphobia within the police

This section should be read in conjunction with sections [3.2. Treatment during arrest of LGBTQI+ persons](#) and [3.4 Police harassment and violence](#).

Based on their research¹⁷, Dr. Ellie Gore believes homophobia and transphobia is a major barrier in the realisation of existing rights for LGBTQI persons in Ghana:

[...] On the basis of my research, homophobia and transphobia within the police is one of the major barriers to even the realization of existing rights for LGBT people in Ghana. And in a way, it kind of plays out in these very everyday ways for individuals. So, I think that's pretty well-documented and quite pervasive. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

The following four interlocutors, interviewed for this project, spoke of regular incidents of homophobia faced by LGBTQ+ persons in particular when reporting to a police station as a victim of a crime:

[...] For the police, they are the first point of homophobia and transphobia. That's where LGBT people mainly face discrimination. Unless probably an LGBT person goes to a police station where the commander is more open-minded where the issue will be treated with some bit of decorum. That is where the story will be treated with some form of seriousness by the commander in charge. Homophobia mostly starts from the police station. [...]

(Source: representative from Solace Initiative NGO, interview record, 25 November 2020)

[...] Incidents of homophobia are very high within the police and these normally happen at the police stations where cases are reported. A lot of homophobic rants. In my past job I was always having to attend cases of LGBT people, sex workers, when they went to the police station. For example, there was a case that we brought to the police about a person that was doing homophobic things against the LGBT person. Now the police replied, "Why do you have to be a homosexual? Why don't you have a woman? Why don't you go and have sex with a woman instead of having sex with another man? Why won't he do this to you because you are doing demonic things?" Those kind of things I have experienced. [...]

¹⁷ The interlocutor, during their interview, specified that their research focused on LGBT activism and was conducted between 2013 and 2015, focusing on the experiences of gay men living in Accra and Takoradi

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] There have been several accounts of police officers violating the rights of members of the LGBTQI+ community, when they go to them to report infringements of their rights, or when they go to them to be protected from further abuse [...]

(Source: Prof. Raymond Atuguba, written answers, 12 December 2020)

[...] Even the police people aren't necessarily the most educated or financially empowered, usually. So, they do represent that public that is homophobic culturally, and just through what they have heard from other people. So, there is that distrust with the police because they aren't often well educated or very informed about LGBT matters. However, their superiors, their higher-ups are more informed due to the activism and the dialogues we've had with them in terms of the human rights and protection of human rights of LGBT people. The higher-ups are, but the police in smaller stations or in the rural areas usually do not have that education or insights. So, there are instances of homophobia and transphobia by police when they handle cases of violence against LGBT people that has happened quite often and that also causes a lot of LGBT people not to report instances to the police knowing that they wouldn't be accommodated. [...]

(Source: Andrew Teye, interview record, 17 November 2020)

Alex Kofi Donkor, Director of LGBT+ Rights Ghana, in an interview with Reuters in June 2020 commented on homophobia in the police force:

[...] As Benson walked across the street towards his date in Ghana's capital, Accra, he saw something was wrong - it was not the man he had been messaging on the popular gay dating app Grindr. Sensing danger, Benson tried to get away but two other men grabbed him from behind, started beating him and ordered him to hand over his bag and mobile phone. When they threatened him with a knife, he also gave them the passcode to his phone. [...] Donkor encourages gay men who have been robbed and blackmailed to report the incidents to the police, telling them "meeting a new friend is not a crime". But only about 30% are willing to take that first step, he said. " [...] "Benson and Nana Kwame said they reported their cases to the police but no arrests were made." There is a level of impunity when it comes to the abuse of LGBT+ persons," said Donkor. "You sense that kind of laid-back attitude from the police ... there is a certain level of homophobia." [...]

(Source: Reuters, [With blackmail list, gay men in Ghana fight conmen posing as lovers](#), 9 June 2020)

Human Rights Watch reported that attitudes of certain members of the police force deterred LGBTQI+ persons from reporting abuse to the police:

[...] Physical Violence [...]

The vast majority of victims did not report the abuse to the police, explaining that stigma, fear of exposure and arrest, and the attitudes of certain members of the police force, deterred them from doing so [...]

(Source: Human Rights Watch, [No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana](#), 8 January 2018, p. 33)

The following source provided data about the experience of LGBTQI+ persons when reporting stigma or discrimination to the Ghanaian police:

[...] PART C

FINDINGS: GHANA [...]

Experience of stigma/discrimination and hate speech

Ghana has an independent National Human Rights Institution and a relatively responsive police force. This could give respondents some level of courage to report stigma and discrimination. On disclosure of their sexual orientation and/or gender identity, only 89 or 32% said they had disclosed being LBQT to law enforcement agents or human rights groups when they experienced stigma or discrimination. Seventy-three (73) or 26% said police have been reluctant to take up their cases of violence. Ghana's Criminal Code of 1960 Act 29 which criminalizes "sexual intercourse with a person in an unnatural manner," on the other hand could stop respondents from reporting offence as 122 or 44% respondents stated that they had failed to report stigma or discrimination for fear of judgement by a law enforcement agent. In most Anglophone West Africa, societal prejudice has exacerbated the risk of mob attacks and killing of LGBTQI persons³. It is therefore not surprising that 130 or 46% of the surveyed population said that they have postponed reporting cases of hate speech by media, family member and the general public to law enforcement due to fear of judgement by the law enforcement agents [...]

[...] 3 Human Rights Watch Report (2018) P.36: No choice but to deny who I am [...]

(Source: Nwosu-Juba, N and the Anglophone West African LBQT Research Collective, [*Our Voices, Mapping the Needs of LBQ Women and Trans People in Ghana: Research report based on a community-led study in four countries*](#), 2019, p. 48 and 49)

3.6.3 Homophobia and transphobia in the prison service

This section should be read in conjunction with section [3.3. Treatment in detention of LGBTQI+ persons](#).

According to academic, Prof. Prof. Raymond Atuguba, interviewed for this report, some prison facilities have rolled out programs aimed at preventing homosexuality:

[...] The most common report is that LGBTQI+ individuals who are physically or sexually attacked within prison facilities, go to prison officials for protection. Unlike, the police who have been reported to treat members of LGBTQI community badly, prison officers protect them when their fellow inmates attack them. This is not to say that prison officers are in support of members of the LGBTQI+ community. Some prison facilities have rolled out programs, that are aimed at preventing homosexuality. [...]

(Source: Prof. Raymond Atuguba, written answers, 12 December 2020)

Researcher Rita Nketiah, in an article published on Open Democracy in 2019, described homophobia and transphobia in the Ghanaian prison service as follows:

[...] A representative of Ghana's Prisons Service, for example, condemned LGBTQI people as a "modus to depopulate the world", and our sexual orientations as "a major part of why we imprison people in Ghana".
"If we strengthen the family, there will be less people in prisons, but prison will also serve as a corrective measure for sexual deviants", she argued [...]

(Source: Rita Nketiah (Open Democracy), [*God Has A New Africa': Undercover in a US-led anti-LGBT*](#)

3.6.4 Homophobia and transphobia in state funded health service

This section should be read in conjunction with section [3.8.4 Access to public health services](#).

Robert Akoto Amofo, Director of Amnesty Ghana, and Mac-Darling Cobbinah, Director of CEPEHRG, in interviews for this report described scenarios in which LGBTQI+ persons face homophobia and transphobia in the Ghanaian health service:

[...] Homophobia and transphobia in the health service is very high. You experience this when you are an effeminate man, transgender woman, or you are a gay man who has had some sex and has given you some disease or sickness that can identify you to be known to be gay. Then you will experience homophobia. You will experience psycho-social abuse and all of that. Outing without your permission and all of that happens. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] Homophobia and transphobia is a cultural issue in our health system. We've had issues where someone had a health challenge. For instance, where someone with an anal wart, and what the doctor was telling the person, "Don't ever do that dirty thing again." So, we've had a lot of these incidents. For example, an LGBT person can go to seek out a health service, and in response the healthcare worker will bring out the Bible. And they will start preaching to you and said, "Why do you do all these things? Don't you know it is against the will of God and everything?" So, we've had all those incidents over the years, and it still happens. [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

3.6.5 Homophobia and transphobia in the judiciary

This section should be read in conjunction with section [3.7.3 Treatment in the courtroom](#).

Mac-Darling Cobbinah, Director of CEPEHRG, in an interview for this report, described discrimination towards LGBTQI+ persons from judges and lawyers who are influenced by their own religious views:

[...] the judiciary we have are religious and make decisions based on their religious inclination and not based on science or fact. Most of the judiciary will tell you I'm a Christian and therefore cannot handle your case. Religion plays a very critical role in the adjudication process in Ghana. They give judgements based on their religious ideologies or their religious beliefs and not because of the law or the facts. In most cases when we have approached a lawyer to handle a case and the lawyer will put it to you, "Look, I'm a Christian. I can't handle this case." And some of them even uses that as a base to extort money from you. Like they will tell you if you want me to handle your case, this is a LGBT case, it is a high-level case, so you have to pay-- if their charge is 2,000, you have to pay 7,000, 10,000 before I will handle it. They also told us "I will lose my friends and most friends and admirers will ask me why am I defending your kind of person"? And so to avoid all these, it means that I have to be given more incentives to be able to handle your case. [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

3.7 Access to Justice

3.7.1 Government bodies

The 2018 Human Rights Watch Report described the function of the government body Commission on Human Rights and Administrative Justice (CHRAJ) which is mandated to protect and promote human rights. Since 2013 CHRAJ has implemented an online complaint system for allegations of discrimination including on the basis of sexual orientation and gender identity:

[...] IV. Signs of Positive State Action [...]

Commission on Human Rights and Administrative Justice [...]

The legal basis for the creation of the Commission on Human Rights and Administrative Justice (CHRAJ) is article 216 of 1992 Constitution.¹⁰⁷ The mandate of CHRAJ, to protect and promote human rights, is set out in the Constitution and the enabling legislation, the Commission of Human Rights and Administrative Justice Act (Act 456), 1993. Article 218 of the Constitution, mandates the CHRAJ to inter alia:

Investigate complaints of violations of fundamental human rights and freedoms, injustice....and unfair treatment of any person by a public officer in the exercise of his official duties.¹⁰⁸

To investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution.¹⁰⁹

To educate the public as to human rights and freedoms by such means as the Commissioner may decide, including publications, lectures and symposia.¹¹⁰

These functions are restated under section 7 of the CHRAJ Act, and since August 2013, the CHRAJ has implemented an online complaint system for allegations of discrimination including on the basis of sexual orientation and gender identity.¹¹¹ The CHRAJ receives and processes complaints, including those filed anonymously, and collects and publishes the data online.

According to CHRAJ figures 36 of the 75 discrimination cases filed with CHRAJ since 2013, were from LGBT people.¹¹² Cephas Essiful Ansah, officer in charge of the online discrimination reporting system at CHRAJ, told Human Rights Watch that he attends meetings with and conducts human rights training workshops for LGBT organizations because of the regular complaints of blackmail and discrimination.¹¹³ While noting that the government is unlikely to change its official position on criminalization of unnatural carnal knowledge, Cephas explained the CHRAJ mandate and approach:

We are not promoting their activities, but we are protecting their human rights. This is the policy position of the Human Rights Commission and it is based on our Constitution. Our on-line reporting system is for LGBT people and key populations. It was established because people were only reporting to NGOs, so we had to develop an online system. At the Commission, we are protecting their human rights –we deal with this topic from a human rights perspective, because protection is paramount.¹¹⁴

Several interviewees told Human Rights Watch that they are aware of the mandate of CHRAJ and that they feel comfortable to approach the institution for legal support.

For instance, Simon, a 30-year-old gay man from Kumasi told Human Rights Watch that after his ex-partner of three years reported him to the police for being gay, they were both arrested and detained from January 16-18, 2016 at Kumasi Central Police Station. Simon said that they were released after the CHRAJ Kumasi regional office intervened by “explaining the situation to the police—told them that being gay is not a crime—that only unnatural carnal knowledge is a crime”. They each paid 200 CEDIS (approximately US\$46) at the police station and went home.¹¹⁵ [...]

107 Commission on Human Rights and Administrative Justice (CHRAJ) Ghana, Undated, http://www.chrajghana.com/?page_id=43; Article 216 of the Constitution: there shall be established by Act of Parliament within six months after Parliament first meets after the coming into force of this Constitution, a

Commission on Human Rights and Administrative Justice which shall consist of - (a) a Commissioner for Human Rights and Administrative Justice; and (b) two Deputy Commissioners for Human Rights and Administrative Justice
 108 Ibid Article 218(a)
 109 Ibid Article 218(c)
 110 Ibid Article 218 (f)
 111 Commission on Human Rights and Administrative Justice, Ghana; Statistics provided by CHRAJ Complaints Officer on file with Human Rights Watch
 112 Data available on file with Human Rights Watch.
 113 Human Rights Watch interview with Cephas Essiful Ansah, Accra, January 2017
 114 Ibid
 115 Human Rights Watch interview Simon, Kumasi, January 2017 [...]

(Source: Human Rights Watch, [*No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana*](#), January 2018, p. 47, 48 and 49)

Mac-Darling Cobbinah, director of CEPEHRG, in an interview for this report, described the shortcomings of the Commission on Human Rights and Administrative Justice (CHRAJ) in supporting LGBTQI+ persons who face human rights abuses:

[...] Although the Commission on Human Rights and Administrative Justice, which is the state's body, provides support for LGBTI persons, even these supports are minimal. They try to support the community members who face Human Rights abuses but the resources are not there for them to support the victim adequately throughout the processes. This is because the state does not directly fund protection of LGBTs'. Therefore, most of the victims who report cases to CHRAJ end up demoralized and then give up. [...]

(Source: Mac- Darling Cobbinah, interview record, 15 December 2020)

The following statement delivered to the 27th Session of the Human Rights Council in 2018, noted a lack of funding for the Commission on Human Rights and Administrative Justice (CHRAJ) which resulted in underreporting of discrimination of LGBTQI+ persons:

[...] This statement is made on behalf of Centre for Popular Education and Human Rights Ghana and the LGBT Community in Ghana [...]
 We commend the government for the establishment in 2013 of a "Discrimination Reporting System" by Ghana's Commission on Human Rights & Administrative Justice. This commission does, as the government rightfully states, include cases of discrimination of LGBT people. In practice however, we witness a clear lack of funding of the commission, resulting in underreporting of discrimination of LGBT people. The community does not receive the necessary attention for cases reported as early as required, leading to most community members losing faith in the reporting system. Reporting discrimination is an important step to get a better understanding of daily reality, but much more has to be done to combat violence and discrimination. LGBT Ghanaians face frequent discrimination and violence, and there is no equal access to housing, health care, education and labour [...]

(Source: Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit, joined by International Lesbian and Gay Association, [*37th session of the Human Rights Council – Item 6 UPR Outcomes Ghana*](#), 14 March 2018)

In 2017, in their submission to the United Nations Third Universal Periodic Review, a Working Group of civil society organisations¹⁸, noted the establishment of the Commission on Human Rights and

¹⁸ Solace Brothers Foundation (SBF), Perfector of Sentiment (POS) Foundation, Priority On Right and Sexual Health (PORSH), Amnesty International (Ghana), Human Rights Advocacy Centre (HRAC), Centre for Popular

Administrative Justice (CHRAJ):

[...] II. Ghana, SOGI and the Universal Periodic Review [...]

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 [...]

(Source: Working Group of CSOs, [*Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender Intersex and Queer \(LGBTIQ\) People in Ghana: Joint Stakeholder Report by the Working Group of CSOs... Submitted for consideration at the United Nations Third Universal Periodic Review*](#), 28 March 2017, p. 4)

3.7.2 Access to Legal representation

Dr. Ellie Gore, in an interview for this report, relayed the following findings from their research¹⁹:

[...] I did speak to a couple of people who had been kept in custody for days on end and been refused to see any kind of legal representation [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

According to Robert Akoto Amofo (Director of Amnesty International Ghana) those of lower socioeconomic backgrounds are more likely to receive legal assistance through the help of NGOs, whereas those from middle-class backgrounds tend not to seek legal redress for a situation where they were the victim of a homophobic attack due to the societal stigma associated with identifying as LGBTIQ+:

[...] There are socioeconomic dynamics but it does not affect whether or not people would report because the idea is, more of the people who get their cases to us as NGOs are people of a lower economic strata. Because most of the LGBT programs and activities reach them more, so they know that LGBT organizations provide sort of paralegal support when they get into these cases. People at more middle-class economic strata do not report because they have a high issue of protecting their reputation, possibility of losing their job, or something, so they would not report at all. So more of the people who would receive legal assistance, paralegal assistance or just assistance to go through the legal processes, would be people of a lower economic strata, and who would not have access to these legal services. But legal services in Ghana is very expensive, and I'm sure it's all over the world. And so people would not hire a lawyer unless the lawyer is willing to do pro bono on such cases. [...]

Education and Human Rights Ghana (CEPEHRG), Society and Youth Development, Africa Centre for International Law and Accountability (ACILA) Ghana

¹⁹ The interlocutor, during their interview, specified that their research focused on LGBT activism and was conducted between 2013 and 2015, focusing on the experiences of gay men living in Accra and Takoradi

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

The following two interlocutors, interviewed for this report, described the difficulties for an LGBTQI+ person to find a lawyer to represent them:

[...] The legal aid scheme in Ghana is available to all persons who earn below or up to the minimum wage and need legal representation in a criminal matter. The problem with this however, is getting a lawyer, who is willing to take on the case, in a homophobic society. Legally representing an LGBTQI + may have adverse effects on the lawyer's career, through dissociation by anti-LGBT people. NGOs, such as the Human Rights Advocacy Centre (HRAC), have over the years, assisted some members of the LGBTQI+ community, who have been victims of assault, and file complaints with the Domestic Violence and Victim Support Unit of the Ghana Police Service. They have also, on a number of occasions, offered them free legal aid. [...]

(Source: Prof. Raymond Atuguba, Written answers, 12 December 2020)

[...] in some instances, lawyers within the country, in Ghana, sometimes even avoid dealing, handling LGBTI issues. They'll tell you, "I'm a Christian," or, "I'm a Muslim so I don't want to handle the LGBTI issues." And so it becomes difficult for you to even get an adequate representation of a lawyer within a police station. [...]

(Source: Mac- Darling Cobbinah, interview record, 15 December 2020)

3.7.3 Treatment in the courtroom

This section should be read in conjunction with section [3.6.5 Homophobia and transphobia in the judiciary](#).

In an interview for the project, Robert Akoto Amofo, Director of Amnesty International in Ghana, described an LGBTQI+ person being humiliated in the courtroom. It should be noted that this situation was in regards to an LGBTQI+ person seeking redress as a victim of a crime and not being prosecuted as a defendant:

[...] There's a case where I was in court with an LGBT person where the LGBT person was humiliated by the judge and the lawyer who was on the other side.[...] That case was my real encounter with the judiciary, having to hear a judge make that statement, which discouraged the LGBT person from moving ahead with an assault case that was brought to the court.[...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

Executive Director of PORSH, in an interview for this report, described an LGBTQI+ person who he believed was given a longer sentence because he was LGBT:

[...] There was one case where the LGBT person was alleged to have assaulted somebody and he was jailed for almost two years. But the bottom line was because he was LGBT, the other contending family thought let's give him a lesson and let's give him an assault case. An assault case between two young people wouldn't warrant such a long sentence in prison. But he went through that. I think most times the least offence you do your sexuality will influence or muddy the water more [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

3.7.4 Detention on remand

Very little information was found on the treatment in detention on remand.

In an incident of arrest of an LGBTQI+ person for being implicated in a same-sex act, the defendant was held in detention on remand. They were later released before prosecution:

[...] When they took the issue to the court, the court remanded the guy for another week for the police to further investigate.[...] So the family in the end paid some money to the police officers to let go of the issue so that they can go and settle it at home. So that is what the family of the boy did - they went ahead and then paid some money to the police officers. And then they let go of the boy. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

3.8 State Discriminatory treatment

The US Department of State noted in its annual report covering 2019 that LGBTQI+ persons faced discrimination in accessing education and employment:

[...] ACTS OF VIOLENCE, DISCRIMINATION, AND OTHER ABUSES BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY [...]
LGBTI persons faced widespread discrimination in education and employment.[...]

(Source: US Department of State, [2019 Country reports on Human Rights Practices: Ghana](#), 11 March 2020, SECTION 6).

The UN Special Rapporteur on extreme poverty and human rights remarked during his country visit to Ghana in April 2018 on the intersectionality of the discrimination, violence and poverty suffered by the LGBTQI+ community:

[...] 40. This is not the place to repeat all the arguments about equal treatment and respect for minorities, but it is the place to emphasize that there is a very important poverty dimension to the issue. The reality is that lesbian, gay, bisexual, transgender and intersex persons face a range of human rights violations merely because they are perceived to be different. They suffer harassment in public, in the workplace and in the family. They endure intimidation, arbitrary arrest, violence, threats and blackmail and they lack access to remedies for such violations. The absence of statistics on the lesbian, gay, bisexual, transgender and intersex population and recurrent homophobic statements by political leaders, members of the parliament and religious leaders are symptoms of the prevailing discriminatory attitudes.

41. Stigmatization and discrimination make it impossible for such individuals to become productive members of the community, when disclosure of their sexual orientation is likely to lead to them being thrown out of their jobs, schools, homes and even their communities. Some choose to hide their sexual orientation and gender identity and are pushed to marry against their will; others have to leave their homes and communities and try to start new lives. Discrimination

against lesbian, gay, bisexual, transgender and intersex people makes them vulnerable to extreme poverty and living in poverty they experience intersecting forms of discrimination that prevent the full enjoyment of their human rights [...].

(Source: United Nations Human Rights Council, [*Report of the Special Rapporteur on extreme poverty and human rights on his mission to Ghana \[A/HRC/38/33/Add.2\]*](#), 10 October 2018, p. 10)

According to a representative of Solace Initiative NGO, an LGBTQI+ person would not have difficulty accessing state services if they were discreet about their sexuality, but would face difficulties if they were open:

[...] People don't openly say or mention their sexual orientation before they seek for all these resources. But they will go in as any another individual who wants to access services. If you are going, you think you need this access to education, you should freely go and do that until somebody goes and say that "Okay, this person is a very known LGBT person." And so, attention will be drawn on that person. But apart from that, you can freely go into an institution be it education, health, to seek for health, to seek for rent, and all of that. Until somebody outs you as a member of the LGBT community. [...]

(Source: Representative from Solace Initiative NGO, 25 November 2020)

3.8.1 Access to public education

According to Robert Akoto Amofo, Director of Amnesty International Ghana, interviewed for this report, an LGBTQI+ person would be able to access public education but if they were an effeminate man or trans woman they would have more difficulty:

[...] Most of the time people can access. The only challenge is if the person is effeminate or if the person is a trans woman or the person has ever had her history of being outed, then the likelihood that they will not access is high. But if the person does not fall within any of these categories, they can access state-funded education. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

Prof. Raymond Atuguba, also interviewed for this report, stated that there was no evidence of homophobia or transphobia in accessing state-funded education, but that there have been incidents where students were suspended on suspicion of engaging in lesbian or homosexual activities:

[...] There is no evidence of homophobia or transphobia in accessing state-funded education. [...] [However] In government owned secondary schools (year 10-12), students suspected of engaging in lesbian or homosexual activities in boarding facilities, are often punished or suspended for a period of time. There is no uniform agreed upon period by which all schools adhere to; it is done based on the school's own internal rules and policies. [...]

(Source: Prof. Raymond Atuguba, Written answers, 12 December 2020)

Academic Dr. Godfried Asante, in an interview for this report, recounted an incident in 2018 in which two gay students were dismissed from their educational institution:

[...] So two years ago, there was a case where two male students were caught in a relationship. Then other students got angry and marched these students to the principal's office saying that they should be taken out of school. And eventually, the principal did remove those students from the school because of pressure from the students' parents saying we don't want any homosexuals in school. [...] First, if you're not caught in the act, you could go under the radar. But once someone identifies you as gay in a government institution or in the educational sector, they will try to take you out. And this came up-- this came about when I was doing my dissertation and also my recent research, where so many-- I was wondering what was causing some of my participants not to get particular jobs. And part of the situation was, they couldn't go back to school because they were being harassed in school. They were bullied in school, so they couldn't complete school, and then they couldn't get a job afterwards. Then there's a ripple effect there as well.[...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Likely to report on the same incident, The Pulse Ghana, an online news platform in Ghana, also reported on the dismissal from school of two students for an alleged 'homosexual act' in 2018:

[...] Some students said the school management announced the dismissal of the two male students during parade time.

Authorities of the Nkawie Senior High Technical have sacked two male students [...]

The disciplinary committee of the school arrived at the decision after investigating claims that the two students were practicing homosexuals and were bent on initiating other students into the act. [...]

(Source: Pulse Ghana, [Two SHS students sacked for homosexual act](#), 31 May 2018)

3.8.2 Access to state-owned housing

In an interview for this report, Director of LGBT+ rights Ghana, Alex Kofi Donkor, described how there is no state-provided housing in Ghana. However, he described the discrimination that LGBTQI+ persons face when renting from private landlords:

[...] So in Ghana, there is no state provided housing. It's mostly on a private basis. So, individuals who have homes that are shared. And apart from that, there's also families who already have their homes so that they share it with. But in terms of this rent and spacing in Ghana, if a landlord gets to know that you are the LGBT person, before hiring the space then you are going to get the space. And if after hiring the space, he get to find out you're an LGBT person, you are getting out of the space.

[...] So in terms of housing, it is either you don't make your sexuality known at the time you are going to rent a space, or you rent the space and make sure whatever activities you do in the privacy your group is kept quiet and nobody gets to know about it. Because once somebody gets to know about it, once your landlord gets to know about it, you're going to be kicked out. And a lot of people have been kicked out as a result of their known or perceived sexual orientation. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

3.8.3 Access to state employment (e.g. civil service)

According to academic Dr. Godfried Asante, an LGBTQ person would have to be discrete about their sexuality otherwise they would risk losing their employment:

[...] So with government institutions, I would say you would have to be discrete about who you are, and once you are identified as homosexual, as LGBT, you will not have access to any government position. You will lose your job. [...] First, if you're not caught in the act [of having gay sex], you could go under the radar. But once someone identifies you as gay in a government institution or in the educational sector, they will try to take you out. And this came up-- this came about when I was doing my dissertation and also my recent research, where so many-- I was wondering what was causing some of my participants not to get particular jobs. And part of the situation was, they couldn't go back to school because they were being harassed in school. They were bullied in school, so they couldn't complete school, and then they couldn't get a job afterwards. Then there's a ripple effect there as well. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Academic Dr. Ellie Gore, in an interview for this report, relayed their own research findings²⁰ whereby gay men spoke about discrimination in accessing jobs in the civil service, in particular for feminine presenting men. Robert Akoto Amofo (Director of Amnesty International Ghana) and Mac-Darling Cobbinah (Director of CEPEHRG) also highlighted discrimination in the workplace especially for effeminate men:

[...] That did actually come up a few times [in interviews]. I mean, mainly people are just saying, "We wouldn't even bother applying, to be honest, because they would never give us jobs within the government or civil service." Particularly, if you're sort of a feminine presenting gay man, there's just no way for you to get hired there with that kind of presentation. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

[...] Once a person is identified queer or gay or lesbian or bisexual, they face a high level of discrimination and harassment in their workplaces. In Ghana, when a man is effeminate and the person comes to a job interview or comes to a workplace to seek for a job, the person will face that sort of harassment and probably denial of the job because somebody will think that they don't fit into the caliber of men that they want let me see. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] When it comes to employment, I think because they will not ask someone of their sexuality or orientation before hiring, but then I would say that if you are more effeminate, you are bullied, you are insulted, you are teased is the right word, you are pushed, you are made unwelcome, you are intimidated. [...]

(Source: Mac- Darling Cobbinah, interview record, 15 December 2020)

Director of LGBT+ Rights Ghana, Alex Kofi Donkor, in an interview for this report, described a lesbian wedding that took place in Ghana which went viral following which one of the attendees, who was employed in the fire service, was demoted:

²⁰ The interlocutor, during their interview, specified that their research focused on LGBT activism and was conducted between 2013 and 2015, focusing on the experiences of gay men living in Accra and Takoradi

[...] Apart from the person being invited by the military, in the video was also another individual who also is a female and also works at the fire service department in Ghana. She wasn't wearing her uniform but the fact that she appeared in the video-- she was also demoted from her job. So, they reduced her rank in her job and they just hush-hush the whole situation. So, there is a high level of LGBT persons facing that level of discrimination and abuse, from the State level. If they haven't heard about it, then everything is ok but once they hear about it, then their homophobia is going to flare up. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

3.8.4 Access to public health services

This section should be read in conjunction with section [3.6.4 Homophobia and transphobia in state funded health service](#).

In response to a question about the existence of discriminatory treatment towards LGBTQI+ persons in accessing public health services, Dr. Godfried Asante answered:

[...] That is the biggest and the most common type of discrimination that I have encountered. Besides discrimination at police stations, access to adequate health is perhaps one of the main areas that [discrimination occurs]. In some of the Ghanaian public hospitals, there is no privacy when patients are checking in. So, during check in, everyone else can hear what's going on. It's not an enclosed space. So sometimes, what happens is that nurses are heard asking patients, "Are you a homosexual?" I mean, everybody's listening and watching you. "We've told you to stop being homosexual." And sometimes, they might know this person because they come in for HIV drugs or they come in regularly to do some blood work. And then, they start making these broad statements, "God will punish you if you don't stop-- God has punished you and that's why you have HIV." And everybody's there. So, I mean, you're mortified to go to the hospital. In some cases, doctors have tried to persuade LGBT people to change their sexual orientation. So, if you go to the doctor's office, they will tell you, "Are you sure you're gay?" "Yeah." "Are you sure? You should change." These uncomfortable conversations create an unwelcoming space for LGBT people and I think that's a large barrier. [...] For instance, in my own dissertation research which I did about three years ago, one of the participants said, "This is why I don't go to the hospital when I'm sick." And also, there are other people who said, "I might go to this hospital," or, "I might not go to that hospital." But they might have to travel maybe 10 miles to get to another hospital. But most of them said LGBT people are dying because they don't want to go to the hospital because of how they might be mistreated. [...]

(Source, Dr. Godfried Asante, interview record, 17 November 2020)

Dr. Ellie Gore described a major finding of their research was the barriers to accessing healthcare treatment for gay men due to stigma and discrimination:

[...] another major issue that came out of my research, [was] particularly the barriers to healthcare and access to treatment. So not just going to the healthcare service in the first place, but particularly for people who needed ongoing forms of treatments, stuff around stigma and discrimination. So, some concrete examples were: one, a lot of people were avoiding going to healthcare services because of fears about being exposed as being queer. Obviously if it was something to do with kind of sexual health. Also, stories of people getting reprimanded by nurses or other healthcare professionals for their supposed deviant lifestyles. One person did say

someone had threatened to 'out' them to their family, and just other forms of stigma and discrimination, so that was a big barrier, for example, to people getting tested for HIV. It was a big barrier in terms of people accessing treatments for other STIs too. I think there have been efforts through Ghana's HIV policy and they've done a lot of values clarification work, training of nurses, and the patient charter: various things that have tried to prevent stigma and discrimination towards key populations, of which, men who have sex with men are obviously one of them. The extent to which that's borne out in LGBT peoples' experience of accessing health care, I think, is questionable. But I know that some work has obviously been put into them. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

The following interlocutors, interviewed for this report, described discriminatory treatment such as judgement and humiliation that especially gay men faced when accessing healthcare for sexual health issues:

[...] So in healthcare, often the discrimination happens when LGBT, especially gay men, go to health facilities to talk about genital health issues such as having anal warts and the clinical professionals have to ask them about their sexual history. So that often becomes a very uncomfortable situation for patients because there have been experiences where patients were investigated, partially for how come they have this sexual health issue. When it comes to HIV, there's less discrimination for that because there has been better training and better support systems in order to address patients who have HIV. Because that is considered a national epidemic, the programs for it are strong. It's currently free to test and get HIV treatment as well as PrEP, and we have LGBT-friendly clinics. But when it comes to doing these consultations, we have heard a lot of people being made uncomfortable by the nurse or medical practitioner that is interviewing them and questioning them about why they have anal warts or these situations. Because, especially when it comes to anal warts, they are wondering how did that happen. You would have had to have engaged in that kind of sexual activity in order to get it, but nonetheless, we haven't heard of reports of people not getting treatment for these situations. It's just more so that the process of getting treatment is very uncomfortable and it's targeting. [...]

(Source: Andrew Teye, interview record, 17 November 2020)

[...] Homophobia and transphobia in the health service is very high. You experience this when you are an effeminate man, transgender woman, or you are a gay man who has had some sex and has given you some disease or sickness that can identify you to be known to be gay. Then you will experience homophobia. You will experience psycho-social abuse and all of that. Outing without your permission and all of that happens.

A number of gay men, again, do not access the same health services because they are scared of being outed or being abused or being humiliated. So, if they have something like genital warts and anal warts, and you'll not go to the hospital because of the implication that you've had anal sex. That some have HIV and they'll not access services because-- and it's not like it's not available, but because of the fear of being outed or being humiliated or being harassed is what would prevent people from not accessing [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] So when it comes to the health system, I would say that there has been a bit of progress that has been made in that aspect. And I will say that because when the conversation on LGBT issues came up, it actually was mostly targeted from the health angle. There are individuals from within some of the state's hospitals that have been educated on LGBT issues, and especially on gay and bisexual men's health. Such that they are a point of contact when it comes to issues of health in relating to most of the gay and bisexual men.

But even with that, there are still quite a number of challenges. Because when an individual goes

to a general hospital and decides to want to seek for health and doesn't go to this gay-friendly specific health professionals and goes generally, there is a high likelihood of being discriminated against on that level, just by sometimes appearance alone. There is a high stigma on this basis and a likelihood of being discriminated against. And so a lot of times there are individuals who keep their health challenges to themselves unless some way, somehow they are able to get in contact with some of us or somebody's able to recommend an LGBT-friendly specific health personnel to the person, for the person to seek help. But if it is on a general level, then there is a high likelihood of being stigmatized or discriminated against if you identify as an LGBTQ person. [...]

And in the rural communities, for that I can't really say too much about that, because mostly, a lot of the people that we engage with are mostly from the urban part of the country.[...] But for a lot of the conversation I'm having are those from the urban areas in Ghana. For the urban areas, just the mere fact that you identify as an LGBT person alone, even me going to a health facility, if they get to find out that I am a gay person, they will discriminate against me. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

Dr. Godfried Asante, described the experience of a transgender person who he interviewed when accessing health services:

[...] I just finished a research on one of the very popular transgender person in Ghana right now. So, we had an interview and she described the amount of threats, she sent some of those to me. So definitely, she is experiencing lots of violence and threats. She still experiences for instance when she goes to the hospital, she was like, "Well, I have to appear as a man when I go to the hospital. I have to appear as a man when I go to specific places." [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Executive Director of PORSH also highlighted the discrimination and verbal abuse that trans persons encounter when accessing health services:

[...] In the health system, especially when trans persons are going for health services. They face a lot discrimination and stigma, verbal abuse and all that. We've implemented a lot of projects to try to reduce the stigma at those levels and now we are even trying to include not just the nurses at the facilities, but also the security men. Because the person arrives at the gates, through the outpatient department, through the consulting room, so there are various layers where they can encounter stigma just for a simple diagnosis. So, we do a holistic education and implementation to reduce stigma at all those levels.

[...]I have so many ridiculous and absurd stories. For example, such a scenario where an effeminate man walks to a clinic with a boil in the anal area. He asks for treatment, and then the nurse makes a judgement by how he behaves and the medical issue he presents with and the nurses instead of treating the person brought their bible and preached to the person. Instead of delivering the services they are supposed to.

[...] Yes most people would leave and not return there to avoid the embarrassment. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

A 2019 research report provided data about barriers to public health services for LGBTQI+ persons:

[...] PART C

FINDINGS: GHANA [...]

Health Service Barriers

It is expected that LBQT persons will face health service barriers if their orientation was known to health care providers. In most of Anglophone West Africa, access to service in a non-judgemental

environment is one of the major challenges faced by LBQT persons. One hundred ninety-three (193) participants or 67% representing 2 in every 3 participants revealed that they had never disclosed being LBQT to any health worker but 59% stated that health care workers made assumptions about their sexual orientation. These assumptions can push LBQT persons underground and negatively impact their access to health care services [...]

Perception about Health Service Received

One hundred and eighty-eight (188) participants or 65% disclosed that they were never treated disrespectfully by health care staff for being LBQT. Seventy-eight participants or 27% said they sometimes or often received poorer health care services than other people who are not LBQT due to their sexual orientation or gender non-conforming identity, while 186 or 64% report to have never received poorer service. Two hundred and seven (207) participants or 71% revealed that they were never called names or insulted by health care workers while 20 persons or 6.8% said they were sometimes called names or insulted. Two hundred and twenty-five (225) or 77% representing almost eight out of ten participants disclosed that they were never denied services because of being LBQT. Thirty-four (34) or 12% revealed that health care workers sometimes or often threatened to call police on them [...]

Impact of Previous Experiences on Health Seeking Behaviour

[...] it is observed that 195 or 67% or two out of every three revealed that they had postponed needed health care when they were sick or injured due to lack of funds although over 50% said they had access to medical aid or health insurance [...]

(Source: Nwosu-Juba, N and the Anglophone West African LBQT Research Collective, [*Our Voices, Mapping the Needs of LBQ Women and Trans People in Ghana: Research report based on a community-led study in four countries*](#), 2019, p. 36 and 37)

A 2017 article in BMC International Health and Human Rights described the impact of restrictive laws on homosexuality and stigma on access to care for HIV/AIDS:

[...] Despite restrictive laws, key populations continue to receive HIV testing without serious hindrances. Barriers to accessing AIDS care include: (1) transport costs (distance) to the limited number of ART sites; (2) preponderance of standalone ART clinics that facilitates and sustains stigma because anyone stepping into these clinics is assumed to be HIV+; (3) discriminatory attitudes of some health workers and law enforcement agencies toward key populations. [...]

For instance, personal anecdotes hold that Ghana's restrictive laws serve as barriers to providing HIV care, and receipt of same by key populations. [...] To address these and other barriers, Ghana's response to HIV seeks to utilize trained health facility nurses as case managers for HIV-positive key populations. Planning for assessments of human rights issues and the quality of service for key populations is underway. [...]

(Source: Laar and DeBruin, [*Key populations and human rights in the context of HIV services rendition in Ghana*](#), BMC International Health and Human Rights (2017) 17:20, p. 2)

4. LGBTQI+ civil society organisations

4.1 Government recognition of LGBTQI+ NGOs

On 24th February 2021, Al Jazeera reported on the organisation LGBT+ Rights Ghana's tweet informing that their offices had been raided and shut by National Security forces. The centre had opened on 31 January 2021:

The LGBT+ Rights Ghana group says its Accra office was raided and closed by security forces. Ghana security forces raided and shut down the office of an LGBTQ rights group in the capital, Accra, the organisation has said, after politicians and religious leaders called for its closure. [...] "This morning, our office was raided by National Security," the LGBT+ Rights Ghana group said on Twitter on Wednesday. "At this moment, we no longer have access to our safe space and our safety is being threatened," it said, adding that "a few days ago, traditional leaders threatened to burn down our office but the police did not help". Foreign diplomats in the country came under fire after some attended the opening of the centre on January 31. The European Union's delegation in Ghana tweeted at the time that representatives had "participated in the opening of the new community space".

The LGBTQ group's director, Alex Donkor, told the AFP news agency that closing the centre was against human rights. "Ghana is a free country and we expect the president and the security agencies to rather protect us instead of threatening us," Donkor said. There was no immediate statement by the police. But the owner of the property, Asenso Gyambi, said he had reported the group to security agencies. Gyambi told AFP he was not aware his house was being rented by LGBT+ Rights Ghana. "I wasn't happy about it ... I had to report it to the security agencies to take action. I won't tolerate such activities in my property."

(Source: Al Jazeera, [Ghana security forces shut down LGBTQ office: Rights group](#), 24 February 2021)

In response to a question on the ability of civil society groups that support LGBTQI+ persons or their cause to operate freely, academic Dr. Godfried Asante gave the following answer:

[...] There is a lot of discretion. I'm part of an NGO and last year, we wanted to receive funding so we had to register the organisation, locally. And part of doing that I really wanted to find out what the process was because, I mean, were they going to deny us mainly because we say we're LGBT? But we didn't include LGBT folks as a primary recipient of the NGO services. We said this was an HIV/AIDS NGO, and we serve everybody including LGBT people. Surprisingly, I mean, it went through the process. We were registered. [...] So I would say, on the one hand, they're allowed to do things, but you have to exercise a lot of discretion. That is another issue with trying to find out how-- even accessing LGBT people because if you don't broadcast what you're doing, how do they find you? And we can't broadcast it. [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

The two sources below are responses by Dr. Ellie Gore: the first, in an interview for this project and the second in email correspondence with CEDOCA in May 2019 in which they outlined the difficulty for NGOs to register as an organisation specifically if supporting LGBT rights. They cited as an example the Centre for Popular Education and Human Rights Ghana (CEPEHRG) who had difficulties registering:

[...] the Centre for Popular Education and Human Rights, Ghana, which is probably one of the only or relatively small number of LGBT rights / HIV NGOs in Ghana. When they set themselves up they were refused to be registered at the registrar general office because they wanted to have a name

that had a reference to kind of LGBT rights, which is why they chose the name CEPEHRG at the end. And that's also why they tended to emphasize, and this is something that's paralleled in a number of organizations who work with LGBTQ individuals, typically through these kind of health frameworks. It's that they tend to emphasize the aspects of it because that's more politically palatable. And so they talk about key populations, KPs, rather than LGBTQ. And that's been kind of a way in which Ghana and NGOs and CSOs are able to fly beneath the radar a bit on these issues. On the other hand, it's sort of an open secret. And I think that's why it's a bit of a complex situation there. Some parts of the Ghana's State is supported by international development funding, and some of these international NGOs have supported the development of these organizations in order to reach out to these key populations. So that kind of stands in contradiction to that. Obviously, there is a politicized stance on homosexuality in other contexts and in other parts of the state. Having said that though, I mean, it's still a very kind of difficult and hostile environment I think for LGBT groups to work, and a lot of the activists I spoke to had quite kind of scary encounters with-- some quite violent encounters with people on the basis of being outed as activists on this issue, so it's certainly a very difficult environment, and it's a double-edged sword of being visible on this issue to push a political agenda, but equally that being quite a dangerous thing to do, so this line that these organizations and activists have been forced to tread between visible and being less visible. [...]

(Source: Dr. Ellie Gore, interview record, 23 November 2020)

[...] My research found that some groups have been refused official recognition as NGOs when the authorities realised they were advocating LGBTI rights. CEPEHRG also experienced a violent backlash to some of their more visible attempts to promote LGBTI rights in Ghana, which included death threats, graffiti on their offices, and arson attempts. [...]

In addition to CEPEHRG, there are a handful of other CBOs [Community Based Organisation] and community groups that advocate for LGBT rights, such as Solace Brothers Foundation and PORSH (Priorities on Rights and Sexual Health). These organisations tend not to be explicit in their advocacy work, however, and rather seek to locate their activities under the banner of HIV and/or broader sexual rights work, as a means to fly under the radar of the authorities and avoid homophobic backlash. [...]

(Source: CEDOCA, [COI Focus, Ghana, Homoseksualiteit](#), 1 July 2019, p. 22-23)

The following sources described the difficulties of LGBTQI+ civil society organisations to register as such and instead tended to register as a human rights or health related organisation:

[...] So LGBT-led and LGBT civil society organizations, there are about 12 of them, none have really registered as an LGBT organization. So, registration is an issue. Most go with human rights or youth or something else. A number of organizations like Solace Initiative and ADI which is Alliance for Diversity Initiative register as human rights or youth or community organization. To operate, yes, there are events are held and all of that but with a very high sense of security and discreteness. And then also, people make sure that they do not give away information about their operations. Reports are not done with their indications of LGBT when we know that they could be public. So, we can operate, but we need to be very, very circumspect and very discreet in our way with talking about our work with LGBT people. So yes. Advocacy, most of these organization depend on bigger human rights, well-known organizations like I am now with Amnesty International. And so they can depend on me to say such things in the public, and it won't get-- I mean, I would get abused in the media, insulted, and thrown about and all of that. But at the end of the day, people still respect the fact that I come from an organization that is well-known. But these individual organizations cannot, and they'll find it difficult to stand out and say these things. Some organizations have tried it before for example LGBT+ Ghana is a very vocal LGBT organizations and have been out there and campaigning and all of that. But yes, on social media and online

platforms, yes it's okay. But has an LGBT organisation organized a campaign where they are walking in the streets? No, it has not happened. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] Due to the overwhelming number of people who abhor members of the LGBTQI+ community in Ghana, LGBTQI+ activists encounter a lot of challenges. The Centre for Popular Education and Human Rights, Ghana (CEPEHRG), was denied registration several times, because they identified as an LGBT organisation.

A lot of challenges are also faced when organising events for the LGBTQI+ community. On two occasions (2006 and 2011), ILGA conferences that were slated to be held in Ghana were cancelled. [...]

(Source: Prof. Raymond Atuguba, Written answers, 12 December 2020)

Two of the interlocutors interviewed for this report: Mac-Darling Cobbinah (Director of Centre of Popular Education and Human Rights Ghana) and Alex Kofi Donkor (Director of LGBT+ Rights Ghana) spoke of their own organisations' struggle to register their NGOs:

[...] currently, we are working with some other LGBT organizations, and none of them have been able to register specifically as an LGBT organization. What we do for them is assist them to get registration as a human rights organization and other relevant documentations. In the past when we tried registering as the Gay and Lesbian Association and that didn't go through. We were denied registration by the registrar generals' office. [...]

(Source: Mac-Darling Cobbinah, interview record, 15 December 2020)

[...] So a lot of the organizations that have registered here in Ghana are working towards LGBT rights or initiatives but they don't clearly present themselves as LGBT because when you present as an LGBT organisation, they're going to refuse registration. And so a lot of them have registered in either human rights organization or as supporting vulnerable groups, then you are able to register. But if you go clearly as LGBT person, that has not been done.[...]

We are not registered as a legal entity yet, right. That is also part of our strategy. And we're actually in the process of doing this registration. We anticipate that the registrar general might refuse to register us, and by so during we will seek litigation or develop a litigation and also seek counsel for this. And that is a process that we began all the way from last year up until now. We haven't been able to submit. We have partially put together all the documents including a lot of the information that is needed. The truth is that a lot of the people that we have approached with the name LGBT Rights Ghana have refused to associate with us. And a lot of the auditors that we've also approached have also refused to associate with us. That is why up until now we haven't been able to submit the document because anyone we find they are afraid to attach LGBT to their name.[...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

The US Department of State's annual report on human rights covering events in 2019 stated that a coalition of LGBTI-led organisations was able to register in 2018. However, neither the name nor whether the organisation had to obscure its LGBTI-focus in order to do so was not reported on:

[...] A coalition of LGBTI-led organizations from throughout the country, officially registered in November 2018, held its first general assembly in September [2019]. Its objectives included building members' capacity, assisting with their access to resources and technical support, and fostering networking [...]

(Source: US Department of State, [2019 Country reports on Human Rights Practices: Ghana](#), 11 March 2020, section 6)

Outright Action International, in their report in 2018, reported that LGBTQI+ civil society organisations cannot legally register in Ghana:

[...] Appendix

This map demonstrates where there are legally registered CSOs [civil society organisations] which serve LGBTQI people. The map shows the data OutRight has collected and analysed from 194 countries, including all 193 United Nations Member States and Taiwan finding that:

- LGBTQI CSOs can legally register in 109 countries.
- LGBTQI CSOs cannot legally register in 55 countries.
- LGBTQI organizations could not be identified in 30 countries.



(Source: Outright Action International, [The Global State of LGBTQI Organizing: The Right to Register](#), 7 August 2018, p. 56)

4.2 State treatment of LGBTQI+ activists or those supporting their cause or those perceived as such

Dr. Ellie Gore in an interview for this report, explained that some LGBTQI+ activists continue to be met with hostility from governmental bodies:

[...] Some activists I spoke to did note that this kind of policy space has opened up to talk around at least gay men's experience in relation to HIV, but even within those policy spaces and meetings where you've got stakeholders from people like the Ghana AIDS commission, the Commission for Human Rights and Justice, which is a quasi- governmental body, there's a real hostility still towards these activists and towards the issues that they're bringing up. So even in those spaces, I heard a lot of stories about how those kind of dynamics play out. [...]

(Source: Dr Ellie Gore, interview record, 23 November 2020)

Robert Akoto Amofo, Director of Amnesty International Ghana, spoke of his own experience of insults and humiliation as an LGBTQI+ activist from state officials:

[...] Most of the times activists are ranted at with insults and threats. I am an example of having had insults and threats and then humiliation from State officials or State institutions for speaking out or saying something. I mean, for instance, if you look online, and you see something on the Pan African ILGA Conference that was supposed to be held in Ghana, and I made a statement. And the media reported in a particular way and I got all sorts of insults and things. And there have been instances where there has been abuse and I have mentioned it and state officials did not take it well. So yeah, there have been experiences and anytime an LGBT person or an activist speaks out, they get all sorts of insults and rants. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

Similarly, Executive Director of PORSH, in an interview for this report, described insults faced as an LGBTQI+ activist:

[...] Most of the higher officials don't see the need for you to advocate for an LGBT person, they see you as promoting a vice or you supporting an illegality or something like that. It's not fair, there's no fair treatment for people who are advocating for LGBT rights, you are called a whole manner of names - Anti Christ, anti-Christian, anti-religious. In my opinion the government doesn't treat you fairly. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

Alex Kofi Donkor, Director of LGBT+ Rights Ghana, described the growing number of LGBTQI+ activists in Ghana who have not faced any significant abusive behaviour towards them from state officials:

[...] There is now the growing number of [LGBTQI+] activists in Ghana. Before we really hadn't had any visible activists in Ghana. The few of us have had the opportunity to speak on radio and on TV and all that. But we haven't really faced any significant discrimination or attack or abuse from the State yet. And so, from that angle, I will say we haven't really experienced any of that sort yet. [...]

(Source: Alex Kofi Donkor, interview record, 25 November 2020)

The following sources reported on how the government of Ghana banned the Pan Africa ILGA conference²¹ to be hosted in Ghana.

²¹ Pan Africa ILGA (PAI) is the African region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA). It gathers over 150 organizations throughout the Region working for human rights and equality for LGBTQI+ persons.

[...] there's so many times where we've tried to have LGBT conferences hosted by the Pan Africa ILGA. ILGA is like multinational lesbian and gay association in Africa. So many times, they've tried to have conferences here, and they've made it public that they're trying to come here, but they've been shut down. They have received so much backlash. In the recent case, there was supposed to be a conference this past July, but due to Corona, it didn't happen. But the backlash from the general public and society was so large, that it made discussions for the implementation of the conference very, very hard. And political leaders had threatened to not allow Visas for people to participate in the conference. And religious leaders also threatened to show up with weapons in order to kill the attendees of the conference. So, we have seen that when organizations try to operate publicly, it is really not well received by the public. [...] So the speaker of parliament, he is the one who was very vocal against it and said it could not happen. Also, the Minister of Gender and Children, she also condemned it. They said this is against our values as a country. So, they have been very vocal about it. [...]

(Source: Andrew Teye, interview record, 17 November 2020)

[...] Ghana - one of 32 countries on that continent that criminalizes LGBTQ people - has banned a major conference of LGBTQ equality advocates after allowing a conference by a major American anti-gay group.... The conference, which was organized by the Pan Africa International Lesbian, Gay, Bisexual, Trans and Intersex Association, had been slated to take place in July. [...]

(Source: Edge Media Network, [Ghana Bans LGBTQ Conference](#), 16 March 2020)

The Government of Ghana has said homosexual and their activist will not be allowed to have their conference in Ghana. The Minister of Gender, Children and Social Protection, Cynthia Mamle Morrison, revealed this in an interview with CTV on Tuesday, 10 March 2020 that President Nana Addo Dankwa Akufo-Addo has rejected plans by the LGBT community to have their conference in Ghana. The Pan Africa International Lesbian, Gay, Bisexual, Trans and Intersex Association has served notice on its website that, "our 5th Regional Conference, 27 – 31 July 2020 in Accra, Ghana. "This will be the first PAI conference in West Africa," the association added. The announcement has generated controversies in Ghana with a large section of the public registering their displeasure towards the plan. Reacting to the development, Mrs Morrison said: "It is a no, government won't allow it to happen in Ghana.

(Source: GBC Ghana Online, [President Akuffo Addo rejects gay conference in Ghana](#), 11 March 2020)

Amnesty International in 2017 made recommendations to the 28th Session of the UN Universal Periodic Review on Ghana that:

[...] Recommendations to the government of Ghana [...]

HUMAN RIGHTS DEFENDERS

- Publicly recognize human rights defenders, including women human rights defenders and human rights defenders who face particular risks and threat, such as those working on LGBTI rights, and ensure support for them to carry out their human rights work;
- Adopt and implement legislation to recognize and effectively protect all human rights defenders.[...]

(Source: Amnesty International, [Suggested recommendations to States considered during the 28th session of the Universal Periodic Review, 6-17 November 2017](#), 1 September 2017, p. 6)

5. Situation of Transgender persons

The following interlocutors, interviewed for this project, spoke about the situation of transgender persons in Ghana. They cited the lack of understanding from others about identifying as transgender due to rigid gender norms in Ghana. They also highlighted experiences of harassment and violence from the police and discrimination when accessing health care services:

[...] So most recently there's been a rise of issues against trans women and the reason why you would not find a lot of information on it is-- and I understand because in Ghana no media person would even understand and write about trans experiences, and whoever is found once you have male sex organ and male look, even when you say you are trans people don't understand they tag you as gay. So that is also another challenge that will make it difficult for people to identify issues with trans people. [...] So for trans people, that's the limitation. And they do experience similar things like gay men and lesbian women. The only challenge is that most of time, they're either branded gay or lesbian. They're not branded trans. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

[...] So I didn't meet that many people who identified as trans, although there were certainly people who were living very kind of transgressive lives who were embodied in transgressive gendered ways, if you like. And they were often really at the sharp end of the wedge in terms of having to deal with harassment and violence at the hands of the police and the inability to access any justice on the basis of the other forms of violations and abuse they receive. And there's one person I interviewed, in particular, who-- it was just kind of extensive experiences of physical, sexual, violence, and abuse on the basis of their transgressive gendered presentation. And that was not just from kind of family, friends, community, but also from people like the police. So, I think given the rigidity of gender norms in Ghana, and that's not to say-- it's not to sort of exceptionalise Ghana because, obviously, everywhere, there are very rigid gender norms. But they are all particularly rigid gender norms, I would say. And that does make it incredibly difficult for anyone who lives outside of those norms. I did kind of encounter it. But it's difficult to quantify because people don't necessarily use that language to describe themselves. And also, there's a limited way in terms of thinking about kind of-- if you want to quote, "medically transition," there's just a very, very limited access to that, in that context. So that's also part of that landscape. [...]

(Dr. Ellie Gore, interview record, 23 November 2020)

According to two interlocutors, interviewed for this report, police have arrested, harassed and humiliated transgender persons or individuals cross-dressing, whilst taking videos and circulating these on social media:

[...] here have been a couple of arrests with people who cross dress when they feel they want to dress like women, when they want to dress like men and then there have been a couple of arrests. And then the police, for lack of ignorance, did not handle the situation properly they will rather humiliate the victim and take videos and share amongst themselves and on social media. [...]

(Source: representative from Solace initiative NGO, interview record, 25 November 2020)

[...] Sometimes you see police officers who'll be asking the person to remove their clothes and get them naked, and slapping and beating people in public. These actions are to humiliate and dehumanise the victims. So that is some of the problems that transgender persons go through in Ghana. There's a lot of bigotry towards transgender and intersex persons in the country. There have recently been videos circulating of a transgender and intersex persons being beaten up and some naked by police officers in Ghana [...]

(Source: Mac- Darling Cobbinah, interview record, 15 December 2020)

Academic, Dr. Godfried Asante, described the experience of a transgender person who he interviewed when accessing health services:

[...] I just finished a research on one of the very popular transgender person in Ghana right now. She described the amount of threats she receives regularly, she sent some of those to me. So definitely, she is experiencing lots of violence and threats. She still experiences for instance when she goes to the hospital, she was like, "Well, I have to appear as a man when I go to the hospital. I have to appear as a man when I go to specific places." [...]

(Source: Dr. Godfried Asante, interview record, 17 November 2020)

Executive Director of PORSH also highlighted the discrimination and verbal abuse that trans persons encounter when accessing health services:

[...] In the health system, especially when trans persons are going for health services. They face a lot discrimination and stigma, verbal abuse and all that. We've implemented a lot of projects to try to reduce the stigma at those levels and now we are even trying to include not just the nurses at the facilities, but also the security men. Because the person arrives at the gates, through the outpatient department, through the consulting room, so there are various layers where they can encounter stigma just for a simple diagnosis. So, we do a holistic education and implementation to reduce stigma at all those levels. [...]

I have so many ridiculous and absurd stories. For example, such a scenario where an effeminate man walks to a clinic with a boil in the anal area. He asks for treatment, and then the nurse makes a judgement by how he behaves and the medical issue he presents with and the nurses instead of treating the person brought their bible and preached to the person. Instead of delivering the services they are supposed to. [...]

Yes, most people would leave and not return there to avoid the embarrassment. [...]

(Source: Executive Director of PORSH, interview record, 23 November 2020)

6. Situation of intersex persons

Very limited information was found on the situation of intersex persons through our desk-based research and through the interviewees.

Robert Akoto Amofo, Director of Amnesty International Ghana, explained that once someone is known to be intersex, they may face discrimination and 'demonisation':

[...] Intersex people, and because of the way we treat intersex people in Ghana, it is either a reaction of empathy or rejection against the intersex community. So, in many cases, once it is made known then it turns to discrimination and idolizing. And when I say idolizing it means like, demonizing also like people start calling all sorts of religious rants against such people. [...] And then intersex people also do not have all sorts of things against them, because well, people do not deem them engaging in "acts" that are same-sex but the challenge is that once we'll get to know that they're intersex and that's the difficulty for them. [...]

(Source: Robert Akoto Amofo, interview record, 1 December 2020)

Mac-Darling Cobbinah, Director (Director of Centre of Popular Education and Human Rights Ghana) in an interview for this report, reported the following:

[...]There's a lot of bigotry towards transgender and intersex persons in the country. There have recently been videos circulating of transgender and intersex persons being beaten up and some naked by police officers in Ghana [...]

(Source: Mac- Darling Cobbinah, interview record, 15 December 2020)

Appendices

A. Methodology

Step 1: Scoping for research topics

The scoping phase will identify what the most pressing COI gaps are for UK asylum applicants and therefore which topics of Strategic COI reports have the potential to benefit both a large number of applicants and those most vulnerable to poor decision making.

To identify the most pressing topics for our research reports, ARC Foundation and Asylos will both:

- regularly consult their networks of legal representatives and refugee community organisations that support asylum seekers in the RSD procedure (asking partners to specify why exactly the topic is so important, asking them to point to Home Office country specific asylum policy known as Country Policy and Information Notes (CPINs) and Reasons for Refusal Letters (RFRs) where appropriate)
- launch an open call for topic suggestions and disseminate it to its respective lists of subscribers.

In addition, Asylos will:

- monitor such forums as the Refugee Legal Group and the Refugee and Migrant Children's Consortium on an ongoing basis
- monitor the requests it receives for research assistance on individual cases
- record the statistics for common themes in the reports it produces for individual cases
- invite suggestions from partners who have requested our services as part of the ongoing feedback collection.

ARC Foundation and Asylos will assess which topics to select on the basis of greatest potential impact, with reference to analysis of:

- the number of asylum seekers generated by nationality (UK asylum statistics are not published on convention ground/profile)
- Appeal success rates by nationality
- any existing upcoming Country Guidance (CG) cases that the Tribunal is to hear [to avoid duplication]
- A need for an evidence base to challenge existing CPINs [e.g. where it relies on outdated or uncorroborated COI].

Throughout the scoping exercise, we will approach actors that represent groups, particularly vulnerable, to information gaps and thus poor-quality decision-making, such as women, children and young people.

In addition, ARC Foundation and Asylos will set up a project review committee who will assist in the selection and prioritisation of strategic research report topics, as well as manage any risks arising from the project. Members of the committee will be approached at least once during the early project phase

in order to review and comment on the planned methods and execution. The review committee consists of the following members: Colin Yeo, immigration barrister (and Asylos Trustee) and Christel Querton, Lecturer in Law at the University of the West of England and Barrister at Lamb Building (door tenant) (and former ARC Foundation trustee).

Step 2: Identifying preliminary Terms of Reference (ToR)

Once a research topic has been chosen, the following steps will be taken in order to identify the preliminary research headings (i.e. draft ToR):

- Read relevant Country Guidance (CG) cases from tribunal (identifying which evidence is outdated)
- Read relevant Home Office Country Policy and Information Notes (CPINs)
- Reference other COI guidance/policy publications from international organisations such as EASO, UNHCR as well as sources from media, human rights organisations and academic research
- Include input from other stakeholders (project partners).

The draft ToR will be drawn up jointly by ARC Foundation and Asylos, each providing input from their topic scoping activities.

Step 3: Training session for Asylos volunteers

Asylos will source from its volunteer network a group of volunteer researchers for each report to conduct the COI desk research and to assist with interviewing stakeholders.

Volunteer researchers will be fully briefed on the project purpose, design and research methodology. They will then be required to attend a skype training session facilitated by ARC Foundation which will cover the following:

- Advanced COI research techniques
- Conducting stakeholder interviews
- The nature and scope of the research gap that the report aims to address
- Any Home Office guidance and policy related to the topic
- How experts are instructed in the UK, including how to ensure experts are aware of guidelines for expert testimony in a UK court

Step 4: COI Desk Research

For each report, we will undertake a review of the publicly available COI. This desk research will be coordinated by Asylos's UK Project Coordinator(s), working with a team of volunteers.

Before the research begins, Asylos and ARC Foundation will devise and commit to consulting an agreed list of sources from an agreed period of time. This list will be divided among the volunteers to consult

and to submit any relevant findings which will be included in the final report. When any additional sources are identified in the desk research volunteers will record them alongside the initial list, and submit any relevant information.

Once this list has been exhausted, each volunteer will also be designated several of the ToR and asked to do some final research on those topics to ensure that any further sources are identified and included.

Research will be conducted in line with Asylos's internal COI research training and handbook and adhering to accepted COI research standards, including elements of the [EASO country of origin information report methodology \(EASO, 2019\)](#), the [ACCORD COI training manual \(ACCORD, 2013\)](#) and the [Common EU Guidelines for Processing COI \(European Union, 2008\)](#). Researchers should consult these documents throughout the research process and training sessions with volunteers will reflect these standards.

To support the collection of research data, researchers will submit their sources using Ultradox (an online template engine).

Step 5: Finalising ToR and drafting interview questions

Once the researchers have submitted all of their sources, Asylos's UK Project Coordinator(s) will generate a report using ultradox. Whilst editing the report, the coordinator will finalise the ToR and arrange the findings according to the headings that were identified. Whilst doing so, the coordinator should assess which topics do not seem to be adequately covered in existing COI and consider where expert evidence would be particularly helpful in order to fill these gaps, for example where there is a total absence of COI, a lack of corroborative COI or where there is contradictory COI.

Once the gaps have been identified, Asylos's UK Project Coordinator(s) will draft a list of interview questions for stakeholders to send to ARC Foundation alongside the ToR for review. The interview questions will address the gaps identified and will be carefully phrased to generate the most accurate and useful answers. These will be approved by the project review committee.

Step 6: Identifying interviewees / stakeholders

The aim is to identify stakeholders that have extensive professional experience or recently published credible research on the topic and those that have recently been in the country of research.

The [EU Common Guidelines on \(Joint\) Fact Finding missions](#) suggest that:

- Possible sources may include academics, research institutes and think tanks, NGOs, INGOs, UN agencies, experienced news reporters and journalists, community leaders or other representatives, religious authorities, or political parties, government representatives

- It is important that a variety of sources are identified and interviewed so that information can be cross checked
- The guidelines state “try to avoid sources with too similar agendas, standpoints, backgrounds and interests, which can be a challenge – especially when using the ‘Snowballing’. It is generally useful to consult at least three different sources that are independent of each other on each main topic of the ToR”
- It also suggests that interviewing mid-level staff, rather than those in more senior roles, may be more helpful as they are likely to have more experience working on the ground / in the field.

Asylos and ARC Foundation will source relevant stakeholders by reference to those cited in UK case law, those having published academic material on the issue in question (e.g. JSTOR search), those recommended on the Refugee Legal Group, Electronic Immigration Network (EIN), and the Refugee Rights in Exile Programme.

Relevant organisations will be sourced and relevant representatives from these identified by reference to human rights material or media sources, for example published on COI databases such as the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD) ecoi.net, UNHCR’s Refworld or Reliefweb.

Asylos and ARC Foundation will also seek recommendations from their respective boards of trustees and networks of legal representatives.

To broaden the radar as much as possible, Asylos’ project coordinators will in addition seek the input of the Dutch Council of Refugees (DCR) and ACCORD, who have agreed to participate in the project pro bono to help identify stakeholders. Other project partners with relevant specialist knowledge may also be consulted.

All individuals and organisations contacted will be asked to recommend other potential stakeholders for interview.

All researchers will be required to keep a record of any websites, organisations or other sources consulted when identifying stakeholders, which can be shared upon request.

In order to assess the validity of individuals and organisations as a potential source, the following questions will be considered:

- Who is the source and do they have specific knowledge / experience which makes them have expertise on the topic?
- What context do they work in and to what extent might this context influence them or create any bias?
- How does the source formulate any information they present? Is it presented in an objective, neutral and transparent way?

It is anticipated that all stakeholders with the relevant knowledge/experience in question may be contacted for interview unless there are compelling reasons not to do so. It is our aim to conduct at

least 5 interviews per report, from a range of different disciplines. Given that not all stakeholders will respond, a maximum of 15 will be initially contacted by email requesting interview. ARC Foundation and Asylos will aim at ensuring that represented in this 15 is a balance between those who are academics, professionals on the ground and government representatives.

Step 7: Instructing interviewees

Once a list of potential interviewees to contact has been agreed, Asylos's UK Project Coordinator(s) will send an initial email introducing the project and asking if they would consider contributing their expertise. They may ask project partners for support in making first contact with potential interviewees where their connections may increase the chance of a positive response. Where the coordinator does not receive a response from potential interviewees, she will follow up with them by email and/or phone.

If a stakeholder provisionally agrees to take part, the coordinator sends a follow-up email attaching the following documents:

- an edited version of the ['Asylos and ARC Foundation information sheet for interviewees'](#) [which explains how responses will be used and how the preferred level of anonymity and confidentiality will be guaranteed]
- a copy of the ToR and the interview questions.

The coordinator will also ensure that they are aware that the following can be made available to them on request:

- the COI desk research report
- The Strategic COI Report Methodology.

Once a stakeholder has had sight of this further information and confirms their willingness to take part, arrangements will be made for how they will submit their answers. The information sheet asks the stakeholder to indicate if they would prefer to submit their contribution in written form or through an oral interview. If possible, the coordinator will encourage each participant to agree to an interview (unless interviewees are very experienced in providing written expert testimony for RSD procedures) as we have found that interviews are more likely to yield useable information. Once these arrangements have been made, each participant is asked to provide a short bio, or link to their CV, which will be published alongside the final report.

Step 8: Interviewing stakeholders

Interviews will primarily be conducted by Asylos's UK Project Coordinator(s) with assistance from ARC Foundation and Asylos volunteers where appropriate. Each interview should be recorded, unless interviewees have indicated that they do not wish for this to happen. In this case interviewers should take notes while conducting the interview. Volunteers conducting the interviews are asked to stick to the following guidelines:

At the beginning of each interview, the interviewer should start by introducing themselves, thanking the interviewee for taking part, and asking for permission to record the interview. Once this has been agreed they should check that the interviewees have received, and have reference to, the report containing our findings from the desk research and have read and understood [‘Asylos and ARC Foundation information sheet for interviewees’](#) which sets out our recommendations for supplying their evidence. All interviewees have received these guidelines but should be reminded of following key points during the introduction:

- Interviewees should not attempt to answer any questions which fall outside of their expertise or about which they have insufficient information
- Interviewees should make clear if the information they are providing is based on direct experience or other evidence throughout the interview
- If interviewees have obtained the information from other sources they should make sure they confirm where they obtained that information
- Interviewees should not withhold any information on the basis it may detract from their view, rather if interviewees are aware of information conflicting with their views, they should be asked to acknowledge it and explain why their opinion departs from this information.

Before launching into the questions, the interviewer should double check how the source wants to be referenced in the final report and whether or not they would prefer to be anonymous. The interviewee will have already indicated this in their Confidentiality and Anonymity agreement, so this serves to ensure that interviewees are still in agreement with what they initially indicated.

Once the introduction is over the interviewer may commence asking questions, working through the questions in a structured and methodical way. Whilst doing so, volunteers are asked to pay attention to the following points on interview techniques:

- Ensure that your manner remains impartial at all times. Do not use ‘leading questions’
- Be mindful that certain topics might be sensitive to ask
- Do not be afraid to interrupt! This may mean asking for clarification or politely suggesting to move on to the next question if the interviewee goes off topic or it becomes apparent they do not have the appropriate expertise or sufficient information to speak authoritatively on the topic
- If it is unclear what information the interviewee is basing their statements on, seek clarification

The EU common guidelines states -

“Additionally, it may also be useful to ask a respondent to clarify or give more factual background to support a statement. This will often be the case where a declaratory statement or Policy position has been given on a particular topic. Requesting additional factual information to back up a statement or position will help give a clearer perspective or a rationale to what has been said, and may also remind the respondent why they have a particular viewpoint. In some instances, it may challenge their own assumptions or bring out any potential bias or advocacy on the part of the respondent in a neutral, non-confrontational way.” (Pg 20-21)

In the interest of source validation, ask the interviewees to identify where any information they rely on can be found by our researchers after the interview.

Step 9: Citing the interviews and writing up the full report

After each interview, the interviewer will transcribe the recording in full and verbatim, with only very minor adaptations being made to enhance comprehensibility. Interview transcripts will be saved under a unique reference number, rather than using interviewees' names if requested. The document which links interviewees' names to each unique reference number will be password protected and only accessible to project staff. This transcript will then be returned to the interlocutor, giving them 14 days to sign it off. This transcript should then be sent to the project coordinator which will be appended in full in the report. If the interviewee wishes certain excerpts to be made anonymous, they will be cited as such in the body of the report and not included in the appended full transcripts.

The report drafters will select relevant excerpts from the interviews and present these under the corresponding research headings in the report alongside the findings from the desk review. The coordinator should use this opportunity to add any additional COI that was mentioned in interviews and then make any further edits to the report, ensuring that the following points have been addressed:

- General formatting should be in line with Asylos's 'research handbook'
- Each source should be introduced separately with a concise summary identifying any patterns in convergence or disagreement in the sources consulted, rather than summarising the content of the sources
- Ensure the list of sources consulted is complete, with access links and information about when the sources were accessed (this is crucial for the user of the report to trace back the original source)
- To further aid transparency it is crucial to provide page numbers for each excerpt to facilitate access to the original source
- The final report should include a note on who instructed the interviewees and when (month and year), and a list of the documents the interviewees were provided with
- A full transcript of each interview should be included as an appendix at the end of the report, excluding any excerpts that the interviewee wished to keep anonymous
- Fully anonymous interviews are included as an appendix without any further identifying information

Following final edits, the report will be sent to ARC Foundation for review. ARC Foundation will use this opportunity to revise and update the findings from the desk-based research. Once ARC Foundation have made their edits, the full report will be sent to each stakeholder detailing how they have been cited, with a copy of their interview transcript / written submissions, to sign off. Stakeholders should be given a 14 day deadline for this, after which we will assume that they are satisfied.

Once the report is published, interviewees can no longer withdraw but we will be able to make additions by issuing addendums, should they wish to provide more up to date sources or information which was not previously available to them.

Step 10: Dissemination

Once the report has been signed off, the UK Project Coordinator will be responsible for publishing it on Asylos's and ARC Foundation's website, ecoi.net, Refworld and EIN (Electronic Immigration Network). Efforts should also be made to promote the report through sharing the report via the RLG mailing list and other platforms such as the RMCC (Refugee and Migrant Children's Consortium). The coordinator may also consider promoting it through written blogs on websites such as Free Movement and EIN.

Step 11: Evaluation of impact

This information will be made publicly available to all, so that it can be reviewed and used by asylum seekers, Home Office case workers, legal representatives and appeal court immigration judges alike. The reports will be accessible internationally, meaning they will also be used by and influence institutions like the UNHCR and European Asylum Support Office, as well as decision makers in other countries' asylum determination systems.

Asylos will track progress and impact throughout the project cycle by:

- Recording the number of downloads from its website and asking ACCORD for data from ecoi.net
- Collecting feedback from Asylos' networks of legal representatives to review how well the report met the information need we identified, as well as how the report has been used.

ARC Foundation will be responsible for measuring impact by:

- Recording the number of downloads from its own website
- Consulting members of the international [COI Forum](#) which it moderates and its [COI Update](#) subscribers to review how well the report met the information need we identified, as well as how the report has been used
- Tracking how the reports have been used by decision makers (e.g. in Home Office policy documents, UK case law, EASO reports).

Learning will be fed back into the project on an ongoing basis and an evaluation of its overall impact will be shared with interested stakeholders on its completion.

Further reading:

- [Tribunal's Practice Directions on instructing experts from the outset](#) (Section 10)
- [Best Practice Guide on expert country evidence in asylum procedures](#)
- [EU Common Guidelines on Joint Fact Finding Missions](#)
- [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#)

- [European Asylum Support Office's research guidelines, Country of Origin Information report methodology](#)
- [ACCORD COI Training Manual](#)

B. Bibliography

All sources were consulted between October 2020 and February 2021.

1. International Organisations

United Nations Human Rights Council, [*Practices of so-called “conversion therapy”: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity \[A/HRC/44/53\]*](#), 01 May 2020

United Nations Human Rights Council, [*Report of the Special Rapporteur on extreme poverty and human rights on his mission to Ghana \[A/HRC/38/33/Add.2\]*](#), 10 October 2018

United Nations Human Rights Council, [*Summary of Stakeholders’ submissions on Ghana: Report of the Office of the United Nations High Commissioner for Human Rights \[A/HRC/WG.6/28/GHA/3\]*](#), 08 August 2017

United Nations Human Rights Council, [*Compilation on Ghana: Report of the Office of the United Nations High Commissioner for Human Rights A/HRC/WG.6/28/GHA/2\]*](#), 28 August 2017

2. Governmental sources

Australian Government Department of Foreign Affairs and Trade (DFAT), [*DFAT Thematic Report - Economic Community of West African States \(ECOWAS\)*](#), 3 December 2020

Belgium CEDOCA, [*COI Focus, Ghana, Homoseksualiteit*](#), 1 July 2019

The Presidency of the Republic of Ghana, [*Press Release Re: President Akufo-Addo Has Approved Gay Marriage*](#), 28 April 2018

US Department of State, [*2019 Country reports on Human Rights Practices: Ghana*](#), 11 March 2020

U.S. Department of State, [*2018 Country Reports on Human Rights Practices: Ghana*](#), 13 March 2019

U.S. Department of State, [*2017 Country Reports on Human Rights Practices: Ghana*](#), 20 April 2018

3. NGOs and thinktanks

Amnesty International, [*GHANA 2019*](#), 8 April 2020

Amnesty International, [*Amnesty International report 2017/18: the state of the world's human rights*](#), 22 February 2018

Amnesty International, [*Suggested recommendations to States considered during the 28th session of the Universal Periodic Review, 6-17 November 2017*](#), 1 September 2017

Africa Centre for International Law and Accountability, [*Findings from the Africa Centre for*](#)

[International Law and Accountability \(ACILA\) survey on: Popular attitudes towards lesbian, gay, bisexual, transgender and intersexual people \(LGBTI\) in Ghana](#), July 2018

Bertelsmann Stiftung, [BTI 2020 Country Report — Ghana](#). Gütersloh: Bertelsmann Stiftung, 2020

Federatie van Nederlandse Verenigingen tot Integratie van Homoseksualiteit, joined by International Lesbian and Gay Association, [37th session of the Human Rights Council – Item 6 UPR Outcomes Ghana](#), 14 March 2018

Freedom House, [Freedom in the world 2020: Ghana](#), 4 March 2020

Human Dignity Trust, [Next steps toward reform: Assessing sexual offences legislation in the Commonwealth in Africa](#), March 2020

Human Dignity Trust, [Injustice Exposed: The Criminalisation of Transgender People and its impacts](#), 17 May 2019

Human Dignity Trust, [Criminal Code 1960, Section 104 Unnatural Carnal Knowledge](#), date unknown

Human Dignity Trust, [Statement by Public Figures](#), date unknown. Last accessed: 5 November 2020

Human Rights Watch, [No Choice but to Deny Who I am: Violence and Discrimination Against LGBT People in Ghana](#), 8 January 2018

Human Rights Watch, [UN Expert Spotlights LGBT Poverty in Ghana: LGBT People Routinely Discriminated Against in Job Market](#), 26 June 2018

International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State- Sponsored Homophobia 2020: Global Legislation Overview update](#), 15 December 2020

International Lesbian, Gay, Bisexual, Trans and Intersex Association, [State-Sponsored Homophobia 2019](#), March 2019

Nwosu-Juba, N and the Anglophone West African LBQT Research Collective, [Our Voices, Mapping the Needs of LBQ Women and Trans People in Ghana: Research report based on a community-led study in four countries](#), 2019

Rita Nketiah (Open Democracy), [God Has A New Africa’: Undercover in a US-led anti-LGBT ‘hate movement’](#), 11 December 2019

Outright Action International, [The Global State of LGBTIQ Organizing: The Right to Register](#), 7 August 2018

Working Group of CSOs, [Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender Intersex and Queer \(LGBTIQ\) People in Ghana: Joint Stakeholder Report by the](#)

[Working Group of CSOs... Submitted for consideration at the United Nations Third Universal Periodic Review](#), 28 March 2017

4. Media

Al Jazeera, [Ghana security forces shut down LGBTQ office: Rights group](#), 24 February 2021

Edge Media Network, [Ghana Bans LGBTQ Conference](#), 16 March 2020

GBC Ghana Online, [President Akuffo Addo rejects gay conference in Ghana](#), 11 March 2020

Ghana Web, [Homosexuals in prison get lashed, chained when caught – Ex-convict recounts](#), 26 November 2020

Ghana Web, [Ghanaian militaria lesbian couple who got married are detained and facing court martial](#), 27 September 2020

Ghana Web, [The sex was acted - Alleged homosexuals claim](#), 24 March 2017

Ghana Web, [We won't accept homosexuality](#), 27 November 2017

Ghana News Agency, [ELECTION 2020: Madina – Boniface Vrs Sosu](#), 11 November 2020

Graphic Online, [2 Arrested for sodomy](#), 2 February 2018

Graphic Online, [I will resign over amendments to accept gayism – Speaker of Parliament](#), 10 May 2018

Graphic Online, [MPs to reject bill seeking to legalise homosexuality](#), 25 May 2018

The Ghana Report, [No LGBT agenda in Ghanaian schools under my watch- Afuko Addo](#), 6 October 2019

Ghana Vanguard, [Eleven lesbians arrested at Aflao in the Volta Region](#), 26 September 2020

Ghana Web, [Akua Donkor vows to lock up homosexuals in holes as President of Ghana](#), 3 December 2020

GhanaWeb, [Stay away from us- MPs tell Gay lobbyist](#), 23 May 2018

Ghana Web, [You are deformed if you are gay – Oquaye to homosexuals](#), 11 May 2018

The Herald [Ghana], [LGBT legalization: Ayorkor Botchwey sends message to Joe Biden](#), 12 February 2021

Joy Online, [LGBTQI is criminal, non-negotiable per our laws – Adwoa Safo](#), 17 February 2021

Ksapa Fm Online, [Same sex marriage is an abomination in Ghana- Speaker](#), 20 February 2017

Modern Ghana, [Aflao: Paramount Chief Hunt Lesbians, Hands Over 11 To Police, Others Bolt](#), 26 September 2020.

Modern Ghana, [CSE: Calm down, no LGBT agenda in curriculum](#), 07 October 2019

Pink News, [President of Ghana ‘reassures’ church leaders that he won’t decriminalise homosexuality](#), 10 August 2018

Pink News, [Two men were arrested, forced to pose naked and publicly humiliated because they had gay sex](#), 21 March 2017

Pulse Ghana, [Two SHS students sacked for homosexual act](#), 31 May 2018

Reuters, [With blackmail list, gay men in Ghana fight conmen posing as lovers](#), 9 June 2020

5. Interviews

Andrew Teye, Programme Officer at Hope Alliance Foundation, 17 November 2020

Dr. Godfried Asante, academic, 17 November 2020

Dr. Ellie Gore, academic, 23 November 2020

Executive Director of Priorities on Rights and Sexual Health (PORSH), 23 November 2020

Representative from Solace Initiative NGO, 25 November 2020

Alex Kofi Donkor, Director of LGBT+ Rights Ghana, 25 November 2020

Robert Akoto Amofo, Director of Amnesty International Ghana, 1 December 2020

Prof. Prof. Raymond Atuguba, academic, 12 December 2020

Mac-Darling Cobbinah, Director of the Centre for Popular Education and Human Rights Ghana (CEPEHRG), 15 December 2020

6. Other

Laar and DeBruin, [Key populations and human rights in the context of HIV services rendition in Ghana](#), *BMC International Health and Human Rights* (2017)

Prof. Raymond Atuguba, [Homosexuality in Ghana: Morality, Law, Human Rights. Journal of Politics and Law](#); Vol. 12, No. 4; 2019

Robert Akoto Amofo, [*Ghana's legal and policy frameworks and the protection of the human rights of LGBT people in Ghana*](#), 25 May 2019

C. Interviewee Biographies and transcripts

Disclaimer: Please note that all interviewees have provided their own biography details. These have not been authored by Asylor / ARC Foundation and, as a result, they do not follow a standard format.

Andrew Teye

Andrew Teye is a recent graduate of Furman University in South Carolina, USA with degrees in Communications and Theatre Arts and is now working as the Program Officer at Hope Alliance Foundation in Ghana. At Hope Alliance Foundation, Andrew organizes programs to upscale provision of HIV/AIDS services, provide psychosocial care and support, and promote and protect the human rights of sexual minorities groups in Accra, Ghana. He works hard to implement activities, programs and projects that seek to empower and build capacity of marginalized communities. Andrew is also an accredited social-scientific researcher with published research studies on the effects of political framing in internet user-generated commentary and the state of LGBTQIA+ movement in Ghana. He wishes to study international development at the graduate level and explore methods of using media and the arts to protect and empower marginalized communities.

Dr. Godfried Asante

Godfried Asante is an Assistant Professor of Communication, Difference, and Disparities at San Diego State University, USA. He has a Ph.D. in Intercultural Communication from the University of New Mexico. Godfried's primary area of research includes the politics of LGBT rights in West Africa, transnational sexual politics, and Black identity politics. He has published essays in journals including Howard Journal of Communications, Communication Theory, Journal of International and Intercultural Communication, and Women Studies in Communication.

Prof. Raymond Atuguba

Prof. Raymond A. Atuguba is currently the Dean of the University of Ghana School of Law, where he has taught since 2002. He has been a Visiting Professor of Law and the Henry J. Steiner Visiting Professor of Human Rights at the Harvard Law School (2018–2019), and has taught at several universities in Africa, Europe, the United States of America, and Australia. His research interests are in constitutional and administrative law in the global south, law and development in Africa, and human rights and community lawyering. He is the author of the 2019 academic article : 'Homosexuality in Ghana: Morality, Law, human rights'

A graduate of the University of Ghana and of Harvard Law School where he obtained a master of laws degree and did doctoral studies, Professor Atuguba has also worked in the public sector (he was one time the Executive Secretary to the President of Ghana); the private sector (he is the Team Leader of Law and Development Associates (LADA) and Atuguba and Associates); and the non-profit sector (he is co-founder and former Executive Director and former Board Chair of the Legal Resources Centre).

Dr. Ellie Gore

Dr Ellie Gore is a Research Fellow in the Sheffield Political Economy Research Institute (SPERI) at the University of Sheffield. Ellie's research sits at the interface between international development, political economy, and gender and sexuality studies. Ellie has been conducting research in Ghana for

nearly a decade, including studies of LGBT rights activism, HIV, sex work, and forced labour. Ellie has published articles on gender, social reproduction and forced labour in *The Journal of Development Studies* and *Capital and Class*, and on feminist methodologies and sexualities research in *Feminist Review*. They have a chapter on “Queer activism in Africa” in the 2019 *Encyclopaedia of African Politics* published by Oxford University Press and a monograph entitled *Why Sexual Health Rights are Not Enough: The Struggle for Queer Liberation in Ghana*, which is under contract with the University of Michigan Press.

Executive Director of Priorities on Rights and Sexual Health (PORSH)

Our mission is to reduce the impact of the HIV epidemic on key populations, families, and communities through tailor-made interventions and our passion for humanity and their full human rights and empowerment.

Representative from Solace Initiative NGO

SOLACE INITIATIVE (SI), was established in 2012 and registered in April 2013 is a non-for-profit, non-governmental organization committed to working for the promotion and protection of the human rights of all persons specifically Lesbians, Gay, Bi-Sexual, Transgender and Queer (LGBTQ+) people in Ghana.

SOLACE is an LGBTQ lead group aimed at initiating and implementing programs and projects that are aimed at supporting the realisation of LGBTQ+ human rights by working with grass root LGBTQ+ people who face social injustices, discrimination and continuous human rights abuses because of their sexual orientation or gender identity

Alex Kofi Donkor

Alex Kofi Donkor is the founder and current director of LGBT+ Rights Ghana, a movement of mostly young LGBTQA persons who are championing a safe, inclusive and free society for LGBTQ persons in Ghana. I stand for human empowerment. I desire to see human lives improve. I have keen interest in learning about people in hopes of understanding how to help. As a gay man, I have first-hand knowledge on feeling conflicted internally and being misunderstood externally. I grew up into my actual self the hard way and today, in my adult life, I have a rather enhanced appreciation for humanity. I'm convinced that any society which refuses to acknowledge truth in its complete 360 essence, can never truly develop. On the backdrop of sexual orientation gender identity and expression, I speak through and against all forms of social, political and religious discrimination simply because it is the right thing for humanity. This firm believe in the value for human life is the foundation on which my advocacy stands. I studied Development Education at the University for Development Studies (UDS), Tamale. I also serve as Project Manager for Priorities on Rights and Sexual Health (PORSH), an LGBT led organization which focuses on MSM Health and research. I have worked on several researches in the field of HIV/AIDS among men who have sex with men (MSM), Such as the Ghana Men Study II, Stigma Study, C5 Study and JSI-USAID Care Continuum Project. I am an out-spoken LGBTI Activist here in Ghana and a Human Rights Advocate. A member of Human Rights Defenders Ghana and a host of other allied duties. director@lgbtrightsghana.org +233241610164

Robert Akoto Amofo

Mr. Robert Akoto Amofo is a human rights advocate with 10 years working experience in the field of human rights and human development. He is a communication, organisational and personal development expert with a specific focus on non-governmental organisations

As an advocate Robert has technical and research experience in gender and sexuality, LGBT rights, human trafficking, health rights, international human rights law, mental health and disability, navigation of the justice system and policy advocacy. He is keen on advancing economic, social and cultural rights and promoting the empowerment of Ghanaians to assert their rights.

He is the Board Chair of Solace Initiative, OHF Initiative, Hope Alliance Foundation and the President of Alliance for Equality and Diversity (AfED), a coalition of organisations and individual that promotes the rights of minority groups especially LGBT people in Ghana.

He is also the Director of Amnesty International Ghana.

Mac-Darling Cobbinah

MAC-DARLING COBBINAH: is the Executive Director of Centre for Popular Education and Human Rights, Ghana (CEPEHRG) and the acting Director for Frontline Human Rights and Protection Centre (Frontline Defenders). He has since the inception of the organisation been involved in Human Rights advocacy for the vulnerable and sexual minorities or Lesbian, Gay, Bisexual, Trans, Intersex and Queer (LGBTIQ) persons. He has for a decade been involved in Sexual and Reproductive Health and Rights Services sexual minorities. First to lead the Gay and Lesbian Association of Ghana (GALAG) and piloted the first ever health intervention for the LGBTIQ+ Persons health in Ghana. This has earned the organisation a Red Ribbon Award in Mexico during the International AIDS conference in August 2008. Mac-Darling is also a Security for NGO's by Frontline Human Rights Defenders, Ireland and a facilitator with specialization in Human Rights education and advocacy. He is a founding member of the African Men for Sexual health and Rights (AMSHer), which seeks to advocate for MSM HIV and AIDS programs all across Africa. Mac-Darling has a number of international certificates to his credits and holds a Bachelor of Arts in Communication studies from the African University College of Communication and a Masters in Business Administration (MBA) in Project Management from the Pentecost University College an affiliate of University of Ghana, Legon.

C.2 Interview transcripts

Interview with Andrew Teye, Programme Officer at Hope Alliance Foundation, 17 November 2020

We found that despite the criminalization of same-sex sexual activity in Ghana, some of the sources say that the law is rarely enforced. So, based on your knowledge and experience, what is your view on this?

So that is true. It is rarely enforced, and I think it's mostly due to the fact that the LGBT people really do operate behind closed doors, and it's a pretty hidden kind of subculture. There's a hidden culture, in general. So, we people aren't usually outed. There aren't that many instances of people "found in the act". There's essentially the law just about engaging in same-sex sexual relations, carnal knowledge. And that often is not something that people discover. But, I'm not saying cases like that don't happen, they probably do, but it's just we don't hear that commonly in the media. And amongst our community, we don't know many people who have actually been caught in the act and persecuted as such. Usually, if that happens, it's more so that the perpetrator was a gay man who had sexual relations with a minor, and therefore often gay men, in that sense, are imprisoned for sodomy with a minor. And since they are gay, they carry, I guess, that issue with them too. And besides that, with consenting adults, we don't usually hear of reports of people being imprisoned because of same-sex relations.

How about arrests of LGBTQ persons? And are those arrests, again, on the grounds of same-sex sexual activity, or are they for other reasons, for example, to potentially disguise the arrest as something else, but it's due to the person is identifying as LGBTQ?

That too also does not happen commonly. Usually, people aren't unlawfully arrested based on their sexual orientation. That's not something that we hear a lot in the community. And, yeah, it's more so that these imprisonment laws demonstrate more general kind of cultural attitudes versus something that is enforced by the police.

So, my following question is based on the previous question about typical types of accusations or charges being brought against LGBTQ individuals. Could you comment on that? Have you heard of any specific examples?

No. I haven't heard of such arrests before. Issues with the police are more so when it comes to the reporting of violence against LGBTQ people. The police mishandles it, a lot of times, justice is not served. It's usually that those cases are disregarded, but there have not been many cases as far as I know, I've also talked to my colleague here who is also a gay man, and he said that he's been in the field for a long time have not come across such a case. He is currently the executive director of the NGO I work with which works predominantly with the LGBT community. And he says that there haven't been charges or arrests targeted to LGBTQ.

Why do you think it's the case that there have been no prosecution or convictions of LGBTQ people on the basis of the law outlawing same sex sexual acts?

Because I really do think that the community does work very discreetly and interacts with each other very discreetly. In Ghana, there's still not that much common knowledge of the LGBT community here and how it operates. It's very, very much secretive. But there could maybe have been these arrests, but it's just not common knowledge, and we don't even initially hear about this. But usually, the LGBT community here is able to avoid these arrests because of how secretive and hidden the culture is.

What do you think is the likelihood of LGBTQ person being arrested or prosecuted or facing some sort of harassment or discrimination from the state if they were completely open about their sexual orientation?

So, the inspector general, the police inspector general has actually been well-trained on LGBT affairs. So, a lot of our organizations have worked with higher people in the police departments such as the inspector general's office to talk about our human rights and protections and to educate them. So, they have actually done well. They basically have been helpful when it comes to cases where LGBT people encounter violence from the community. So, they've been the ones who have provided support, provided the prosecution of the perpetrators. So, because the inspector general has acknowledged our community and is aware of the issues we go through with people in the general public, they aren't likely to just arrest someone for their sexuality. But those in rural areas or those who are operating in smaller police stations, don't necessarily all have that knowledge and education. It's more so those in the city of Accra where the inspector general is. They're the ones who are more informed and aware that LGBT people have to handle situations that they encounter. But in the rural areas, they do not have education, so it could be possible that people in those areas have a harder time with the police. However, we as a community do not hear of cases with people being arrested unlawfully by the police based on their sexuality.

Now we can focus a bit more on state discriminatory treatment. And I'd like to find a bit more about homophobia and transphobia in government institutions, and I wonder whether you have any specific examples in various sectors of the state, but the first one in state-owned media.

The media does often report cases where LGBT people-- and it's very much common recently where lesbian folk have had secret weddings and marriages, and that has been a very popular topic in media. There's been two marriages recently that were on video and therefore became very huge news stories. And essentially, the media outlets have just discussed the issue, and then, of course, their language is more homophobic so they do frown upon those issues. They do regard lesbian marriage as problematic. So usually, they pick up stories about LGBT activity and then they discuss it. Also, there are certain politicians and leaders such as the speaker of Parliament, currently. He is very vocal and uses very a homophobic language. So, I guess when it comes to the State, there are political figures who propose homophobic policies to enact such as criminalizing homosexuality, in general, versus just same-sex sexual relations. So, the media just amplify their opinion on the issue, especially as it relates to a recent story on LGBT activity that has happened recently.

And with the case of the reporting of the marriage, was it that they were actually there? Or is it kind of reporting of yes, that marriages are happening?

So, in the case of the marriages, there was footage of these marriages that became viral on social media. So essentially, these news articles are just reacting to the viral videos and saying this has happened. So, in one recent instance, there was a lesbian military officer who had a secret wedding, and that was captured on video and then circulated all over social media. So, then the News Agency reported on that happening, they also provided that idea of this is not allowed in Ghana and that we must work hard in order to stop these instances from continuing

So, the same question applies to if there's like a culture of homophobia and transphobia within the police.

Yes, I say there is because we have had issues where people have been blackmailed, or have encountered violence by homophobic people, and when they report it to the police, often, these

cases are not followed through. There have been cases that have gone to court before. My colleague just told me about one person who went to court against people who had attacked him. But then he withdrew the charges for "unknown reasons". And I believe there is a distrust that LGBT people have with the police, just because they do reflect a lot of the general public. Even the police people aren't necessarily the most educated or financially empowered, usually. So, they do represent that public that is homophobic culturally, and just through what they have heard from other people. So, there is that distrust with the police because they aren't often well educated or very informed about LGBT matters. However, their superiors, their higher-ups are more informed due to the activism and the dialogues we've had with them in terms of the human rights and protection of human rights of LGBT people. The higher-ups are, but the police in smaller stations or in the rural areas usually do not have that education or insights. So, there are instances of homophobia and transphobia by police when they handle cases of violence against LGBT people that has happened quite often and that also causes a lot of LGBT people not to report instances to the police knowing that they wouldn't be accommodated.

So, the incident that you talked about the person withdrawing from-- did that happen recently?

My colleague didn't explain when that happened. He just said that across his time here he's only heard of one case where someone had to withdraw their charges. They didn't state when that happened.

Do you know about the situation in state-funded education? Whether there are incidences of homophobia and transphobia?

No, I do not have information about that.

In terms of the health system and accessing healthcare, which I kind of understand that's your area of expertise?

So, in healthcare, often the discrimination happens when LGBT, especially gay men, go to health facilities to talk about genital health issues such as having anal warts and the clinical professionals have to ask them about their sexual history. So that often becomes a very uncomfortable situation for patients because there have been experiences where patients were investigated, partially for how come they have this sexual health issue. When it comes to HIV, there's less discrimination for that because there has been better training and better support systems in order to address patients who have HIV. Because that is considered a national epidemic, the programs for it are strong. It's currently free to test and get HIV treatment as well as PrEP, and we have LGBT-friendly clinics. But when it comes to doing these consultations, we have heard a lot of people being made uncomfortable by the nurse or medical practitioner that is interviewing them and questioning them about why they have anal warts or these situations. Because, especially when it comes to anal warts, they are wondering how did that happen. You would have had to have engaged in that kind of sexual activity in order to get it, but nonetheless, we haven't heard of reports of people not getting treatment for these situations. It's just more so that the process of getting treatment is very uncomfortable and it's targeting.

I also wanted to ask about specific examples that you may know of any discriminatory treatment in accessing state-provided housing or any state employment or state-funded education.

No, I'm not aware of that .

So, the next section is about civil society groups. To what extent are NGOs that support LGBTQIA rights are able to operate freely. And, for example, register and host events, campaign, and advocate for LGBT rights in Ghana.

Yes, so there are actually quite a lot of LGBT-oriented organizations that work with LGBT communities. And they have all been registered as non-profits. So, they've been acknowledged by the state and registered properly. So, there has not been issues in that regard. But to operate freely within the communities where they're in, is a bit of an issue. And I think that is just more so the theme and the issue with Ghana when it comes to LGBT acceptance and acknowledgment. The State is not necessarily the perpetrators of violence and discrimination, it's more so the general culture and public. So, organizations often do not include LGBT terminology in their names. There's only one organization that has, and they have been regarded as very brave and very courageous. But most do not due to fear. There was a case of an organization for lesbian Muslim woman rights. So instead of saying lesbians, they changed it to sisters and it's because they got backlash on social media for that name, especially from Muslim people saying that this is haram and against their values. And also organizations do keep to themselves. They are hosted mostly in more discrete kind of buildings and housing. So, in the case of my organization, we are in a house. So, we're not in an official building or an official kind of work business place. It's in a house. And that's common for most organizations, they operate in residential houses, in residential areas. So that is that level of security and safety that we have because the general public culture is not accommodating to us.

I don't know if you know this, but there's so many times where we've tried to have LGBT conferences hosted by the Pan ILGA. ILGA is like multinational lesbian and gay association in Africa. So many times, they've tried to have conferences here, and they've made it public that they're trying to come here, but they've been shut down. They have received so much backlash. In the recent case, there was supposed to be a conference this past July, but due to Corona, it didn't happen. But the backlash from the general public and society was so large, that it made discussions for the implementation of the conference very, very hard. And political leaders had threatened to not allow Visas for people to participate in the conference. And religious leaders also threatened to show up with weapons in order to kill the attendees of the conference. So, we have seen that when organizations try to operate publicly, it is really not well received by the public.

And in regards to the cancelling of the recent meeting: Was there anything spoken from members of government who gave their opinion on the situation?

So, the speaker of parliament, he is the one who was very vocal against it and said it could not happen. Also, the Minister of Gender and Children, she also condemned it. They said this is against our values as a country. So, they have been very vocal about it. But I don't know if they have acted upon the termination of the conference. Because in this case, the conference was just cancelled because of corona. So, I think it could have still happened legally. But there was a lot of public backlash, a lot of public backlash. And we also had these two members of government being very vocal about their condemnation.

I wonder if you could tell me a bit about how the State has treated activists or they're supporting the cause or those perceived to support the cause?

So, we have been able to have dialogues with political leaders. We're able to talk to them about our community, the issues we go through, and how they can better protect us and our human lives. So, I actually had just done a research project about the LGBTQ movement here.

So, the organization is called CEPERGH. They have attempted many times to engage with judges to sensitize them on the state of LGBT human rights causes. So those dialogues with CEPERGH and judges have happened. But it is really hard to do the political lobbying. Like we are in the process of even there's a conference this weekend that I'm attending. All the LGBTQ organizations are convening this weekend to create an action plan to promote human rights and try to see what we can do now in the 2020 decade in order to help the cause of the LGBTQ cause and acceptance and acknowledgment here in Ghana. So, there's still more work to be done in that regard, but we have made steps by consulting the police and judges in order for them to better acknowledge our human rights.

I've got one final question about the transgender community because from the desk-based research there was very little available information. Could you provide any information in regards to the questions that we already spoke about but specifically in relation to the experience of a transgender person?

So, they operate very discretely and often the transgender women do not present as female during the day. It's usually when they're in more safe spaces that they do so. But nonetheless, not all of them necessarily present as female, but still, they're very much more closed off and more hidden about that identity just because that could be an issue, especially if they're visually presenting.

I do not have that information about their treatment. I just know how they operate socially and of the violence they often encounter from the public, but I don't know reports or cases of how they have been with police and state forces.

The same question applies to there's no information that we've come across in relation to intersex people and whether you have any information in relation to that.

So, yes. For them, there is an organization that does do a lot of work with intersex persons and they're located more in the east of Ghana, but I don't know if any reports of discrimination by state officials against them, but I know that they do have strong support within the community.

Interview with Dr. Godfried Asante, academic, 17 November 2020

From our desk based research, we understand that despite the criminalization of same-sex sexual activity in Ghana, some sources say that the law is rarely enforced. And so, based on your knowledge and experience, what is your view on this?

So, I would say that is accurate. The law has not been enforced. And it's in two ways. So, for instance, in places like Nigeria, Uganda, where you have government officials actively pursuing LGBT individuals and going barging into parties going into gatherings and arresting people, you will not have that in Ghana. So that does not occur in Ghana. So even though the law is in place, its application is predominantly for, for instance, cases of paedophilia. And that's where you find that

particular law being used in cases of rape. That's where you find the law being applied more broadly. However, even though it is stated in the law that same-sex sexual relations is a misdemeanour, the government does not apply that actively in most cases. I have not seen a prosecution for a really long time. The last time that happened I would say was probably 1998. But the more recent ones have been with regards to, for instance, people who engage in acts of paedophilia.

And this law is used to prosecute?

Yes.

And then what about arrests of LGBTQ persons? And are the arrests made on the grounds of same sexual activity or for other reasons, for example, if they're just to disguise that the arrest was due to the person identifying as LGBTQ?

We have realized over the years, is that there are a lot of citizen arrests. And not much of the police arresting somebody, for instance, because they identify as LGBT. Now, there are two issues here. One is that this is a very class-based issue because you have people who have access to, for instance, their own house. If you are a middle class Ghanaian with middle-class income, you have your own house, you have access to specific resources, you are less likely to experience police, for instance, coming to you and arresting you. However, if you live in specific communities, which typically are the poor communities, you are very likely to experience, for instance, the police coming to you. Not necessarily actively pursuing you, per se, but a citizen arrest which then necessitates the police to detain you. And I think that's typically what happens where you have a group of men typically who set up a scene and then claim that they've caught a homosexual. And then they parade this person across the street, humiliate them and take them to the police station and expect the police officers to arrest them and put them in jail. And, typically, for their safety, the police officers will arrest them because they don't want them to be killed or lynched by the mob. So, on the one hand, the police does not actively pursue people based on cases where they claim that you have, for instance, engaged in same-sex sexual relations per se, but most of what they do is through citizen arrest where a neighbour, a friend, a family member takes you to the police station. And then there, the police would detain you and they will humiliate you and they would tell you, "We're going to put you in prison for a long time," so they intimidate people. And now, it doesn't end there, right, because what happens is that then there is this communal effect. You can't go back to your community, your family might reject you, so then you become homeless. I mean, it creates a sort of a ripple effect across the board. So even though the police does not typically pursue you, even though the law is not necessarily applied a lot of the times, it's what causes the police to sort of step in-- is the citizen arrest which is even still very violent in itself.

So, you were saying that it's citizens that do the arrest themselves, or are there other examples of other typical types of accusations or charges brought against LGBTQI individuals? Is it the case that they are accused of something and then the police would go pursue, or is it they only get involved when this kind of citizen arrests happen?

So, it happens in both ways, honestly. On one hand, what is happening right now in Ghana is you have-- and, I guess, in other parts of western Africa, is you realize that there are a lot of people who just blackmail. So, there's a lot of blackmail, and there are all these what we now call fake gays who lurk in spaces like Grindr or Tinder. And what happens is that they will tell you, "We want to meet with you," which they claim mostly that it is a set-up. So, once you go meet them, they arrest you, they take you, they beat you up, they rob you, and then they claim, "We will take you to the police."

Most of the time, they do not take you to the police because they themselves committed a crime. But from a good lawyer's perspective, they can get you off the hook there. So, typically, they would take you to the police in that particular way, claiming to make a citizen arrest. Some of these blackmailers videotape the beating. And it's all online, so it's been shared on WhatsApp groups. Some people are told to have sex right there, and they record it, and then they share it. So, in those moments, the police can use that to actually make an arrest because in the Ghana situation, with the law, you have to be caught in the act itself. So, if you're not caught in the act, that particular law does not hold. So, once they have-- sometimes, the ones that arrest you would tell you, "If you do not do the act I need to report, I'm going to call your family. I'm going to humiliate you if you don't pay me this amount of money." So, they pay them this amount of money. And sometimes the police are involved, honestly. The police sometimes are involved in conniving with these folks who commit these atrocities against LGBT folks in Ghana. So, reporting to the police, it really doesn't help. Some of these police sometimes work in our favour. And, most of the time, they do not work in our favour. So, on one hand, yes, LGBT folks, unless you're caught in the act, you could live comfortably. But once somebody identifies you as LGBT, there is a problem there. So, most people would just decide not to-- just blend in. But once somebody says, "You are LG. You are lesbian. You're gay. You're bisexual--" bisexual doesn't really matter as much there. But once they identify you as gay or lesbian and, also, depending on where you are, it could really go south quickly. And once they take you to the police, they don't want to follow up with the case because they don't want to be seen as taking an LGBT case. So, they will not even take up the case at all. They will just write a report and put it somewhere. And that's it.

So, are you saying that the police don't want to take it up to prosecute the same-sex act? Or they just don't want to take it up at all because it's also in relation to the harassment and violence towards the LGBT person?

Yes. And what I've seen, typically, around some of these cases, is-- for instance, when I was in college, I had two friends of mine who are from middle-class backgrounds. While they were out, they were robbed at gunpoint because this person said they're gay. So, he just went over. "You're gay," he just had to say, "This person is gay or homosexual," and then robbed them at gunpoint. And nobody really did anything. So, we reported this to the police. But the police just wrote something down, scribbled something down, and didn't just follow up at all. So, eventually, we had to follow up a lot. And, of course, because we are coming from a particular middle-class background, we had friends who are in police or military. And they had to sort of scare these police officers in some way. But it is almost-- because of the stigma, the police officers do not also want to pursue the cases. So even though you're experiencing violence, you go to the police, they will take your case but they don't want to take up the-- they don't want to investigate. They will not want to investigate because of stigma. They don't want someone to say, "Oh, you're doing the gay issue? Oh, this person is gay. So why bother? So then, at the end of the day, it's perpetual, this cycle of violence that LGBT people experience.

So, in a sense, there's the lack of protection. There's also then, at the same time, not the prosecution in terms of enforcing and arresting for some sort of act of same-sex relations because the police just don't want to deal with the issue at all.

Exactly. I remember one time, there was a case. This was probably about two years ago where a friend of mine had his phone stolen because he met this guy online. And so we went to the police. And the police officer told us that if we don't leave, he will arrest us for being homosexuals. Yes,

because we came to make a report that the phone had been stolen by this person that we met online. And the police officer said, "Well, you went and had some sexual relations. So why are you coming back to us? That's already a crime. So, I'm not going to pursue the case." And you have this a lot across the country. So, in a way, you wanted to go to the police but at the same time, you know that if you go there, they will not help you. And sometimes, they might just intimidate you and say, "If you report this department, I'm going to arrest you and put you into jail." And they can.

Can you explain to me the situation in terms of if someone was to act discreetly in terms of their sexual orientation and what would be the situation if someone was completely open about their sexual orientation. What's the likelihood of them being arrested or prosecuted or face kind of harassment and discrimination from the state?

So, what happens is that depending-- even if, for instance, I, as a professor, when I go to Ghana, and I'm not open as much in Ghana as I am here, but when I'm in Ghana, for instance, I can be open. But at the same time, I will not be the target of violence as much as others who are from my lower economic class. But what happens is that you have this-- but if you identify openly as LGBT, the police will not necessarily pursue you. Again, they will not actively come and pursue you.

If you are open about your sexual orientation and you openly say you're gay, the state, the police will not necessarily actively come and arrest you because it's not against the law to identify. So, it's rather what is against the law is the act itself. So about maybe five years ago, the Minister of Justice actually made a comment about this same issue, that, "I'm not going to come to your bedroom to confirm that you're gay." So that statement sort of shows that access to privacy basically is the linked chain for you to be gay in Ghana. But not everyone has access to that, have access to privacy. So, the state does not necessarily pursue in the same way as the police officers. The military, they do not actively pursue LGBT people to say, "I'm coming here to arrest you because we believe that you are gay." Now, on the other hand, there has been instances where the military, specific people in the military have gone to places where the police have entered places claiming that there was a gay wedding, claiming that there was a lesbian gathering. So, a very recent one, actually, which is being discussed right now is there were circulating pictures of a lesbian couple getting married.

Which the military is now saying they're investigating to find out how it happened. So even given that particular situation, it tells you, yes, of course, the state does not pursue. The large issue is that of the citizen arrest. And largely, I think part of the issue is that because there are no protections, and the state does not intervene, so you have the citizens rather pressuring the government to make an arrest, pressuring the government to pursue LGBT people. So, for instance, there was a bar in a part of Accra called Adabraka. We went there one time to hang out, so it's sort of become a gay space where you have lesbians and gays coming over and having a drink. At some time, a group of soldiers came over and said, "This is a gay club. We're here to arrest everybody." But then it took a few people in there to say, "You have no right to arrest us because we're not violating the law. To gather is not a violation of the carnal knowledge clause." So, in that sense, they backed out because a few people spoke up. But you can imagine the number of people that they've done that to, and they just willingly either paid the money. And typically, they're asking for bribes, so they'll give them money and then they leave them.

And is that why the military gets involved because what I read about in regards to the wedding that there was, indeed, a court marshal. Could you explain a bit to me more why then the military is getting involved?

So, from what I've read online, one of the lesbians is in the military. So, because she wore a military attire-- and that's the only way that they found out that she is in the military. So that is the reason why apparently, she would be-- and there were all these speculations about she could face the death penalty which, of course, they're all just speculations because I don't think that is part of Ghana's law. If it's a military law, I don't think so.

What other examples are there of harassment or humiliation or treatment by the police?

So, I would say-- what I could add to that actually is the amount of humiliation that happens in the police stations. And the fact that-- well, first of all, once you're there, they'll be asking-- once you're there to make a case, you have to write a report. And you have to tell them where you met this person. And those becomes sort of blocks or barriers, I would say, because I don't want to say, "I met this person on Grindr," or-- and now, people have been meeting others on Facebook. In 2015, there was a case where this person met-- and this also became a very popular case online. The story is still online. He met a friend on Facebook, and he was just hanging out with this person outside of their house. And the group just came and said they were homosexuals and marched them to the police. So, in that case, I mean, they beat him up, robbed him, and took him to the police station. In that case, he was able to file a report that said that he was robbed instead of, for instance, maybe he was gay. But he couldn't file the report that he was gay. That's one example. In several different examples, when you are effeminate, or when you're wearing earrings or when when you present stereotypically gay, I'll say, that's when some of the issues emerge where the police will still take your statement, but it will not be processed. Some of them that I've heard, they would say, "Well, we are not going to take up this case." So, in my dissertation, I did interview about 50 LGBT people in Ghana. And part of what I heard, the kinds of Stories at the police station was very similar across the board. One, they will not process your case. Two, they will scare you that they will arrest you if you don't leave the police station because you're gay. And in some cases, they actually did pursue the robber. In some cases, they will tell you, "Bribe me before I do it." So, you have to pay before they actually pursue your case. But most of the cases are actually around the police harassing LGBT people. Most of them said, "We were harassed. We were not allowed to file cases. We were told to leave the police station or else we will be arrested. So, we just don't go."

Do you have examples from your interviews about the treatment of LGBTQ persons if they were detained?

So, there are two situations. One situation happened when I was in college, and a friend of mine was arrested [in 2008]. And he was arrested because he was dating a younger-- I think he was 16, and he was 25 at a time. So, in that case, they used the law to arrest him. Because it was a case of paedophilia. So, in that particular case, he went to prison. I was able to hear first-hand what it means to be gay in Ghanaian prisons. Long story short, he died. He died within a year because he actually contracted HIV in prison. He was not given access to ARTs, anti-retroviral drugs. He was denied a lot of visits, family visits and he was exposed to a lot of violence. So, rape, for instance, is one. And this was in the prison system. So, he was raped multiple times. And that's how he contracted HIV. And of course, even after then, he was not allowed to get access to medications. So, I would, even beyond the anecdotal examples, it would be very-- it is very scary to be gay. Now, I don't know about being a lesbian or being bisexual, or being transgender. But what I know about being a gay man in prisons in Ghana is not-- it's a very dangerous place, especially if you're identified as one. In another example, which, in that particular case, this person did identify as bisexual. He also explained a lot of experiences of rape in prison. And there was another report that just came out actually about a

year ago about the state of Ghanaian prisons and rape was a huge part of the issue there. So, yes, in the state if you're a gay man, you go to prison in Ghana, it's very likely you might be exposed to HIV. It's very likely you might also be exposed to serious violence and it's likely you might die.

My next question is about access to justice in the judiciary system for LGBTQ persons facing arrest and persecution. Can you tell me a bit more about that if you know about how long someone who's like wait for a trial and if they're detained or remand whilst waiting? Is there access to legal representation? And would they tend to be sentenced for more severe penalties? So longer sentences or imprisonment because of their sexuality.

So, the parts of these questions that I don't know much, so I would only the ones that I do know a little bit more about. So the judicial system for LGBT, once again, you can go through it and not identify as LGBT and you will still be treated like crap but it would not be as terrible when, for instance, there is a claim or it's alleged that this person is a homosexual and they've been arrested based on their involvement with another person, with another same-sex individual. So, in most cases, the one that I remember which happened a long time ago, that two men were handed 14 years sentences, this happened a long time-- this is probably when I was maybe 10 or 12. That was one of the cases where there was a harsh sentence. They were eventually released from prison. But in the explanations of their experience with the judicial system at the time was I would say nothing stood out as unique for me at the time. However, at this point, I don't know much about what they go through because I have not done much research about what happens when they're maybe arrested, because we've not had that many of them typically in that format. It's either maybe they've been arrested because they stole something or they did some robbery or so, but it's not because they're gay. So, in those ones, I have a little bit experience about that, but I don't know much about that part of it I would say.

The next set of questions is about state discriminatory treatment and we would like to find out more about homophobia and transphobia in government institutions. Do you have any information or specific examples within the state-owned media, for example?

So, the state-owned media. I've been studying the state-owned media for-- I mean, both of them: the state-owned and the private-owned media for quite some time now. The state-owned media tends to report the government's stance on homosexuality. So, they will typically claim the president is saying that the Ghana culture does not accept homosexuality so we cannot condone it. So, the state media typically will disseminate verbatim what government officials said. The sad part of all this is that some of the government officials double as pastors who tend to make very, I would say, extremely homophobic/transphobic comments.

The speaker of Parliament, he is a religious leader, he has his church, and he's also the speaker parliament. So, when he makes these comments, he doesn't make them as if he's a pastor, and, "This is my views as a pastor." No. He makes it as if he owns the country and this is his view about his position as the speaker of parliament. So, when the state media reports these kinds of comments, what happens is it legitimates the citizens' arrest process. So, the state media definitely produces these kinds of statements as reports. And there isn't much of a-- and I get them because, yes, you're state media, so you are for the government so you don't go against the government. But with the private media, which you would think that there might be some interrogation of what has been talked about, also doesn't do any of those. They just report verbatim what is happening. What the preacher said. So yesterday, for instance, I was going through reports again to see the media reports about homosexuality one more time. And it's all about the preacher of this church said homosexuals

are going to go to hell. The pastor of this church said, so. And it's a style of journalism in Ghana where they just report. So, in this case, the media is a huge part of disseminating homophobic/transphobic discourses that definitely positions LGBT folks in very dangerous context.

Do you have other examples of people who are not just the speaker but other government officials who are also religious leaders?

So, there the speaker of Parliament. So, for instance, the director-- well, he's not a government official, but he is a director of the Ghana School of Journalism. Made comments about how he's going to use journalism to pursue claims against homosexuals, for instance. He's made that one too. You have the main one who he is a lecturer at the Ghana School of Law. And he is the one who has taken upon himself to be-- and actually, yesterday, one of the reports that claim that call him Anti-LGBT lecturer. So, I was like, "Whoa, finally, somebody named him." But he has a group. He also has very close ties to the government. So, besides the speaker of Parliament, you have several others. I cannot remember some of them at the top of my head right now. But I would say a majority of them have made similar comments around the same issue. And then on the other hand, you have the groups such as the Law lecturer who has amassed a group of people.

So, Moses Foh- Amoaning, he has this group which basically is an anti-LGBT organization heavily funded by US conservatives, the right-wing conservatives in the US is heavily funds these organizations. And, of course, there are also sources that prove that, even with the Uganda case. It did prove that there are connections to US evangelical churches. They fund him, and he has a plan that is supposedly creating a bill for the government, where they're going to criminalize, just like Nigeria and Senegal has done. We don't know how far this has gone. But what I know is he definitely has ties to the government. Now, last year, the anti-LGBT family-- every time I need a name, it doesn't come. It's called family something international. And they had a meeting in Ghana last year where-- so the same group that pushed for the criminalization of homosexuals in Uganda had a national meeting in Ghana last year. And then so he is the one that sponsored the whole-- brought them in, had a chat.

So, with government institutions, I would say you would have to be discrete about who you are, and once you are identified as homosexual, as LGBT, you will not have access to any government position. You will lose your job.

And what about any kind of discriminatory treatment within state-funded education?

So, two years ago, there was a case where two male students were caught in a relationship. Then other students got angry and marched these students to the principal's office saying that they should be taken out of school. And eventually, the principal did remove those students from the school because of pressure from the students' parents saying we don't want any homosexuals in school. This is not the first time this happened. When I was in high school, a very similar situation. So luckily, when I was in high school, in the situation that my friend was in, he had people in the school who supported him. They didn't ask them to leave, even though they left the dormitories-- they left the dormitories itself. In the education system, for instance, students are targeted by the teachers and also by the principals. There were other also vary-- in different cases, where you have the principal saying, "We're going to actively pursue homosexuals, and then we'll take them out." So yes, in educational settings, if you are gay-- again, if you're identified as gay supporters, you just sort of don't identify. First, if you're not caught in the act, you could go under the radar. But once someone identifies you as gay in a government institution or in the educational sector, they will try to take

you out. And this came up-- this came about when I was doing my dissertation and also my recent research, where so many-- I was wondering what was causing some of my participants not to get particular jobs. And part of the situation was, they couldn't go back to school because they were being harassed in school. They were bullied in school, so they couldn't complete school, and then they couldn't get a job afterwards. Then there's a ripple effect there as well. They can't really live up to what they can do best. That's one. On the other hand, you can't also have access to sexual health. Especially if you're LGBT, that you would never have access to any sort of sexual health about same-sex relationships, sexual behaviors. You will not get access to that kind of knowledge. I would say, absolutely, yes, there is a form of discrimination there.

Can you explain a bit more around homophobia and transphobia in terms of accessing health care and in the health system, for example, towards HIV services?

That is the biggest and the most common type of discrimination that I have encountered. Besides discrimination at police stations, access to adequate health is perhaps one of the main areas that [discrimination occurs]. In some of the Ghanaian public hospitals, there is no privacy when patients are checking in. So, during check in, everyone else can hear what's going on. It's not an enclosed space. So sometimes, what happens is that nurses are heard asking patients, "Are you a homosexual?" I mean, everybody's listening and watching you. "We've told you to stop being homosexual." And sometimes, they might know this person because they come in with HIV drugs or they come in regularly to do some blood work. And then, they start making these broad statements, "God will punish you if you don't stop-- God has punished you and that's why you have HIV." And everybody's there. So, I mean, you're mortified to go to the hospital. In some cases, doctors have tried to persuade LGBT people to change their sexual orientation. So, if you go to the doctor's office, they will tell you, "Are you sure you're gay?" "Yeah." "Are you sure? You should change." These uncomfortable conversations create an unwelcoming space for LGBT people and I think that's a large barrier.

Does that have an effect on access?

Absolutely. There is an article that came up two years ago that looks at that. And for instance, in my own dissertation research which I did about three years ago, one of the participants said, "This is why I don't go to the hospital when I'm sick." And also, there are other people who said, "I might go to this hospital," or, "I might not go to that hospital." But they might have to travel maybe 10 miles to get to another hospital. But most of them said LGBT people are dying because they don't want to go to the hospital because of how they might be mistreated.

Thank you so we talked about access and any kind of discriminatory treatment that can prevent access, is that a similar situation in terms of housing?

When it comes to housing-- I'm trying to figure out how to explain this. From my research, what I heard from my participants was, "Yes, we were able to get access to housing. Yes, we were able to find a place to live." Again, the issue then becomes the neighbour who's nosy, "Why are there six women living together? Why there are four guys living together in the same room? Why do men come in and out?" and then begin to murmur things. And that is a very-- they're not so individualistic as the West. It's still very socially cohesive, face-saving country. So, we would love to save face in

front of everybody. So, to be called gay, really, is very damaging culturally. And so I think, sometimes, even though we tend to emphasize the law a lot - and it's great - I think the cultural impetus to have cohesion has more effect because, in a way, the laws say one thing, but I think because we want to save face, being called gay in a housing unit where you have to share a bathroom, you have the share the toilet with other people, can be very damaging to you. So, in some sense, it creates this unwelcoming space for you. And sometimes, I mean, there was one example in my dissertation where somebody said that this woman was banging the utensils at him, calling him gay around the house, creating a very unwelcoming environment for him to be in. And the other hand, for lesbians, being in that sort of family unit has also-- it's not a family unit. It's called compound houses. So, I don't know if you're aware of what we call the compound houses where it's four units and it's round, and you all share a bathroom. You share a toilet. And this is where a lot of the violence against lesbians has been reported because you have to share a bathroom. And this man could just barge in sometimes. So, violence happens, especially the sexual violence tends to emerge in those settings as well. But access to housing, I didn't necessarily hear a lot of resistance or people saying, "I won't rent to you because we think you're gay." What rather was the case was the people in the house creating unliveable conditions for those who are there.

So, the final section is about to what extent NGOs that support LGBTQ rights are able to operate freely. Are they able to register, host events, campaign, and advocate for LGBTQ rights?

There is a lot of discretion. I'm part of an NGO and last year, we wanted to receive funding so we had to register the organisation, locally. And part of doing that I really wanted to find out what the process was because, I mean, were they going to deny us mainly because we say we're LGBT? But we didn't include LGBT folks as a primary recipient of the NGO services. We said this was an HIV/AIDS NGO, and we serve everybody including LGBT people. Surprisingly, I mean, it went through the process. We were registered. So, there's been a really old NGO in Ghana, CEPEHRG that's been there since 2004. So they were able to register at that time. They had some issues there, but they were able to register. Now, in terms of the events, that gets a little tricky because depending on the neighbourhood, depending on where you're going to have that event, you might have some issues. Also, if the media hears about it, then, the event is going to be actually brought down. I would say, on the one hand, they're allowed to do things, but you have to exercise a lot of discretion. That is another issue with trying to find out how-- even accessing LGBT people because if you don't broadcast what you're doing, how do they find you? And we can't broadcast it. We just have to rely on word of mouth and say, "Hey, can you tell your friend? You tell your other friend and your other friend." So, on the one hand, you're allowed to work. On the other hand, the cultural norms does not allow us to host specific events openly.

But we do. We still hold specific events. We still engage in conversations here and there. But it's not open. It's not open to everybody.

And what's the situation for activists, those who are supporting the LGBTQ cause and people who are outspoken about doing so? How are they treated by the state?

So recently, I would say more recently, there's been a lot of musicians. So, for instance, the main one is he's called Wanlov Kubolor. And Wanlov, he is an open supporter of the LGBTQ community. Of course, he's received reigns of insults from people. But he's not going to be pursued by the state. So, there are activists on the ground who are not LGBT but support LGBT community. And I have not

heard that somebody, like somebody from the state is actively trying to imprison them or jail them or anything like that. So, I have not heard anything like that.

And then recently, there is a new activist group. They are LGBT Rights Ghana. And I see them posting things online, hosting events. I mean, they've been very open about it. And I'm seeing less of the anti-gay rhetoric and actually more of what they're doing, which is great. The other hand of all of this, which I don't know if we would get to is trans people have received very interesting response.

In all the so desk-based research, I didn't come across anything about the situation with trans and intersex people as well. If you could provide any kind of information, in regards to the topics that we've already covered but specifically for trans that would be great.

I would say the past five years, there's been several different cases or instances where somebody might identify as trans here and there. But they've not really had much of a public attention as much. And I think part of the reason is that because lesbian and gay are such a-- it came with the baggage. It came with the baggage already. So, the media launched on the baggage to talk about, "Gay men are doing this to themselves. Lesbians are doing this to themselves." Trans, on the other hand, it didn't come with that baggage. It's a new emerging concept. And the idea that somebody can just switch their gender is not new to Ghana. So, there's a lot of-- there's already existing cultural history around men who became women. So, I think that is sort of where maybe has allowed trans people to navigate this homophobic space without much violence that we know of but it doesn't mean that they don't experience threats. There's been a lot of threats, a lot. So, I just finished a research on one of the very popular transgender person in Ghana right now. She described the amount of threats she receives regularly, she sent some of those to me. So definitely, she is experiencing lots of violence and threats. She still experiences for instance when she goes to the hospital, she was like, "Well, I have to appear as a man when I go to the hospital. I have to appear as a man when I go to specific places." But at the same time, the media perception of her has blown our minds because she has received a lot of attention and no hatred from some of the media, I should say. So, some of the people in the media are giving her a lot of publicity and not really talked about the fact that she's trans. It's been a very interesting dynamic. But it's in the media. When it comes to real life, she still experiences the kinds of threats and violence from hospitals and all those.

I haven't met any intersex person. So, I don't know anything with regards to the intersex people.

Is there anything else that you wanted to add to the conversation that we've had?

I know going through the UK asylum-- I've been looking at some of the asylum cases, and it's very tough in proving that there is victimization and the threat of violence. In the Ghana context, I would say, we don't have the open violence that's happening in Nigeria, or Uganda, but the effects are the same. It's just Ghana takes a different-- just like Kenya. So, Ghana and Kenya have very similar political leaning when it comes to the issue of LGBT. But on one hand, Nigeria, Uganda, and other places, are very open about what they're doing. Whereas in Ghana, the street is not open because they're scared of international retribution. But the effects that it has in LGBT people is similar to what happens in Uganda, what happens in Nigeria, what happens in Senegal.

From our desk based research, we understand that despite the criminalization of same-sex sexual activity in Ghana, some sources say that the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

First off, just to contextualize what I'm kind of basing my views on might be useful. So, a lot of my research in Ghana on sort of LGBT activism was done in 2013, between 2013 and 2015. And I focused mainly on the experiences of gay men living in Accra, and also Takoradi which is another large city in the south of Ghana. I did look at-- to an extent the kind of overlapping issues like around kind of lesbians' experiences, kind of more kind of genderqueer individuals. But that was the kind of main focus of my research. So, in terms of the law, I mean, I guess it depends what you think of being enforced. I mean, it certainly came through-- so I did interviews with kind of 30 kind of gay men who were involved in some form of activism. And I also interviewed people who kind of worked in NGOs and various other kind of civil society organizations. A common finding was that people are rarely prosecuted, mainly to do-- as I understand it, with the quite high evidentiary standards that are required.

But that's not to say that the law isn't sort of enforced in other ways. So, it was very commonly reported amongst the men I interviewed, that they were kind of targeted by police. This would be through police sweeps who would come to queer parties and either harass, abuse, detain men, broadly using the law as a reason, but seemingly without any kind of concrete grounds for that. It would also be used to target people who were suspected of being queer. A couple of people mentioned issues around kind of being extorted by police with the threat of the Criminal Code in the background. I did speak to a couple of people who had been kept in kind of custody for sort of days on end and been refused to see any kind of legal representation, again, on the basis of those rules. So, I mean, it is enforced, I guess it's this kind of question of whether it leads to prosecutions is a different one.

With regards to arrests, are they on the grounds of same-sex sexual activity or are they for other reasons, for example, disguise that the arrest is due to the person identifying as LGBTQ?

I'm not sure that actually came up as sort of specific reasons that people were given. The focus of my research was on something a bit different, so I'm not sure I can kind of comment on what specific grounds were given. I mean, I did speak to at one point to somebody who worked for the Ghana police force, who's one of the kind of more progressive figures in the Ghana police force and who'd been involved in some of these kind of values clarification work around the law, particularly to do with kind of key populations, so men who have sex with men as they call them, but anyway. But he was sort of saying that there's an issue in the police force of people not even understanding the law. So that raises questions about how people are using it to arrest or otherwise. But yeah, as I say, I wouldn't like to comment too much on that, because I didn't have any evidence of that from my research.

I was going to ask as well about the kind of prosecutions that have taken place under the laws that are deployed against LGBTQ persons because of their perceived difference, and if there haven't been prosecutions under the criminal law of the same-sex act about, have there been in regards to other kinds of prosecutions?

Yeah, again, I'm not sure, to be honest, about that one, as that wasn't really a primary focus of my research. Although it did just occur to me, if I could just answer a previous question, but one thing that did come out from the research was that particularly kind of feminine-presenting men or kind of genderqueer in some way, men were particularly targeted by police, I guess for the kind of visibility, and also targeted for the way they dressed. So that would be sometimes used as a reason to kind of at least stop them and harass them and question them was the way that they were presenting.

What is the likelihood of someone being arrested or prosecuted or facing some harassment from the police if they were openly gay or open about their sexual orientation? Because what I've understood from a few people who are saying that if you were discreet about your sexual orientation, then that's a different matter compared to someone who was open about their sexual orientation.

I mean, I think there's certainly a kernel of truth in that on the basis of my research. I would say I think it depends a bit on your class position. So, most of the people who I interviewed were kind of working class queer men, and, I mean, I think the ability to be "discreet" about these things is quite constrained if you're living in quite potentially quite cramped housing in a very kind of densely populated areas. I'm not sure if it's not necessarily possible for those people to do that. So, for them, it was so pervasive these experiences of having some kind of negative contact with the police. I would say that they identified the police as a key perpetrator of violence along with other community-based actors.

So, to touch more on the kind of police treatment, did you kind of understand from your interviews, the kind of treatment if there was harassment, any violence when someone was encountering the police?

Yeah, so let me think of some specific examples. So, one incident that you might have come across in your research, which was certainly commonly referenced by people who participated in my research was the attack on the park in Jamestown. I think that was 2011 or 2013. I can't remember off the top of my head. But basically, what there was a kind of-- Jamestown has been kind of seen as one of the areas that has been historically more tolerant towards sexual minorities. And some people had gathered there to have a party or kind of predominantly gay men. But this is against the backdrop of this kind of an increasing politicization of homosexuality in Ghana over the last two decades. And basically, they were attacked at the party by kind of vigilante mob who beat them up, used machetes and things. So obviously that being a traumatic experience. One of the things that came out of the talking to people about this is when they tried to report the incident to the police., not only did the police not do anything about it, even though they've been able to identify some of the perpetrators. But in fact, the only people who were arrested as a result was sort of the gay members who attended the party. And so that parallels experiences elsewhere. For example, and another person I spoke to, this was some years later. So, this would have been in 2014, 2015 had been beaten up in the street. They felt it was homophobically motivated. But they went to the police to report it, not necessarily mentioning what they felt were the motivations of it, but to report an assault. And again, they were kind of dismissed, abused, because they were kind of a feminine presenting person. So, there's a real issue around access to justice for the kinds of crimes perpetrated against gay men, particularly working-class gay men.

Do you have any more recent examples sort of in the past year or two that you know of?

I mean, a bit tricky to think because so my research was conducted in 2013 and 2015. I've been doing some more recent desk-based research looking into this, but I'm not sure any examples spring to mind from that, and not necessarily that I would want to-- that would be sort of robust enough to share with you anyway.

Do you have examples as well of like the treatment of LGBTQ persons and their kind of experience upon arrest? For example, we've kind of heard reports about them facing extortion for money. Did you come across that in your research?

Extortion was definitely mentioned by the participants, quite commonly. Also being denied access to your kind of lawyer or any legal representation, and being sort of held indefinitely was another thing that was mentioned in terms of their treatment following arrest.

I would like to find out as well about the experience when LGBTQ persons are detained and they're held in prisons or held on remand stories you know about. Can you comment on that?

Yeah, but that didn't really come up in my research, I'm afraid, so I'm not sure I could comment on that.

You mentioned access to justice: Can you give an indication about waiting times? And is someone likely to be detained on remand? And are they offered free legal representation? And another question is do people tend to be sentenced for more severe penalties because they are LGBTQ? And, for example, a non-payment of a fine, could that end up being sentenced by imprisonment?

They're all really good questions. And I'm afraid I'm not sure I could really comment on them from my research. I guess one thing in terms of access to justice, I mean, because my focus was on Accra, there was this kind of pro bono lawyers network set up by the Human Rights Advocacy Center, a sort of medium-sized human rights NGO. And they did do some work with queer individuals who were even trying to pursue legal cases or who had been targeted on the basis of their sexual orientation or gender identity. I mean, that's fairly limited in scope, from what I understand, and obviously that also had quite limited kind of geographic focus.

As you mentioned the intersectionality between class and sexual orientation I wondered whether geography plays into that at all for example someone compared in Accra compared to the rural areas?

I think that's definitely another important thing to bear in mind. I mean, some of the kind of activists that I spoke to at the time were kind of using Tamale, which is a city in the Northern Region of Ghana, as an example with a sort of series again of, vigilante attacks against people who were perceived to be LGBTQ. And the kind of even the contrast in the relative kind of lack of any kind of support networks. And that's in a metropolitan environment in the north. So, if you think about other potential kind of rural settings, I think that would be even more pronounced.

The next section is about state discriminatory treatment and we wanted to find out more about homophobia and transphobia in government institutions. So, do you have any information or specific examples in state-owned media?

Yeah, so I think the media have played quite a key role in terms of this kind of politicization of homosexuality, primarily advancing this quite homophobic sort of discourse on homosexuality. The Daily Graphic is one of the main newspapers, which I understand is state-owned, But I mean, there have been so many stories over the past 10 years with this kind of propagating a particular set of ideas around homosexuality. Notably, conflating it with paedophilia is one kind of common trope. But this sort of scare stories around the LGBT conference. I don't know if you've come across that, but that happened in 2011 and then sort of with an eerie sense of kind of history repeating itself, it happened again, this year. But those kind of newspaper stories prompted a real kind of backlash against LGBTQ individuals.

And of course, there's lots of other media outlets who've run similar things, but I mean, the Daily Graphic has certainly not been kind of left out of that. I mean, sometimes they do also do things which are more like a debate on homosexuality, where people kind of debate, whether homosexuality is a sin and this sort of stuff. So, I mean, that's another kind of key trope, which is the sort of stuff around whether homosexuality is incompatible with religious values, and Ghanaian cultural values around gender, and family and those kind of things. So yeah, I mean, again, a lot of the men I spoke to sort of talked about the media a lot as a kind of source of concern about where kind of homophobic ideas were coming from.

And what about government officials?

There are still countless examples of-- well, there's been a number of MPs that have spoken out over the years. I'm just trying to think what's the most recent one, which would probably be more useful for you. But I mean, again, these date back, particularly since the sort of early 2000s. President Mills was very outspoken in his kind of opposition to homosexuality. There's also the western region MP, Paul Aidoo is it? Who sort of said that gays should be rounded up, they're a cancer that needed to be rounded up and expelled from the area and so it actually seems like quite a violent kind of language that's been used. I mean, I think President Mahama who followed, Mills sort of tread a slightly more cautious line on the issue. But it's interesting because you can see a similar pattern in terms of rhetoric coming out of some of the presidents. So, they'll say something that's potentially perceived as being in support of LGBT rights. And so we saw that recently and we have Akufo Addo saying that homosexuality is probably going to be legalized in Ghana. And then there was this kind of big media backlash and people saying that what he's saying is not going to happen now and then the issue is then kind of clarifications which kind of reaffirm this position of sort of states-endorsed homophobia if you like and he said actually that will never happen and it's incompatible with Ghanaian values and that kind of thing. So, I mean, I think it's the way in which they are treading this line in terms of balancing domestic audience expectations and also kind of perhaps expectations in the international domain around human rights and that kind of thing.

I won't want to characterize all kind of Ghanaian MPs or politicians or government officials to be adopting a particularly homophobic or viciously homophobic standpoint and it has been one of the more interesting things about Ghana as compared to some of its West African counterparts, for example, Nigeria, where there has been a slightly more plurality in the debate. But as I said, if you look at the kind of position adopted by the president, there's not that much kind of progress, and where there is, it's often followed by a lot of backtracking. I mean, you might have come across the

whole thing as well with President Mahama, who appointed Nana Oye Lithur as the Gender minister.

She's a former lawyer who's quite outspoken and were there any really very public lawyers to say we should be thinking about reforming our laws around this. But she was appointed to the gender minister and there was a big kind of backlash against it. I mean, her appointment did go ahead but she was sort of forced to water down her views on homosexuality. And so again, there's just this real kind of politicized atmosphere that surrounds anything to do with that topic and kind of gay marriage has become a sort of flashpoint even though if you talk to activists that's far from their immediate agenda in terms of rights and protections.

Can you comment on homophobia and transphobia within the police?

As I said earlier, on the basis of my research, homophobia and transphobia within the police is one of the major barriers to even the realization of existing rights for LGBT people in Ghana. And in a way, it kind of plays out in these very everyday ways for individuals. So, I think that's pretty well-documented and quite pervasive.

And the same question applies to whether you know about it in the prison service or in the judiciary?

Prison service, no. I mean, some anecdotal things about the judiciary, but not any sort of robust examples.

And what about in state-funded education?

Yeah, I mean, that's an interesting one. I mean, I did talk to people about their experiences at school. I mean, I guess the main things they just sort of shared were-- I mean, sort of mainly encountered with homophobia from peers, and then quite, conservative perspectives on sexuality being kind of propagated by teachers. But nothing more than that, as far as I know anyway.

Do you have any information about homophobia and transphobia in the state-funded health system? For example, accessing healthcare or within HIV services.

So that was another major issue that came out of my research, particularly the barriers to healthcare and access to treatment. So not just going to the healthcare service in the first place, but particularly for people who needed ongoing forms of treatments, stuff around stigma and discrimination. So, some sort of concrete examples were going to-- one, a lot of people were avoiding going to healthcare services because of fears about being exposed as being queer. Obviously if it was something to do with kind of sexual health. Also, kind of stories of people getting kind of reprimanded by nurses or other healthcare professionals for their sort of deviant lifestyles. One person did say someone had sort of threatened to out them to their family, and sort of just other kind of forms of stigma and discrimination, so that was a big barrier, for example, to people getting tested for HIV. It was a big barrier in terms of people accessing treatments. And also, other sort of STIs and stuff. I think there have efforts through kind of Ghana's HIV policy and they've done a lot of work to values clarification, work again, training of nurses, and the patient charter various

things that been bought which have tried to prevent stigma and discrimination towards key populations, of which, men who have sex with men are obviously one of them. The extent to which that's borne out in LGBT peoples' experience of accessing health care, I think, is questionable. But I know that some work has obviously been put into them.

Another question is about access and any kind of discriminatory treatment in access to state provided housing?

Yeah, not sure about that one actually.

What about any discriminatory treatment in terms of accessing state employment, for example, in the civil service, or?

That did actually come up a few times. I mean, mainly people are just saying, "We wouldn't even bother applying, to be honest, because they would never give us jobs within the government or civil service." Particularly, if you're sort of a feminine presenting gay man, there's just no way for you to get hired there with that kind of presentation.

Do you have any information or examples on discriminatory treatment or the situation in state/public education?

I'm not sure anything springs to mind in terms of accessing education.

The final section is about civil society groups: To what extent are NGOs that support LGBTQ rights able to operate freely, for example, register, host events, campaign, and advocate for LGBTQ rights in Ghana?

So, I think that one's an interesting one, and a bit of a complex answer. So, you'll probably know the Centre for Popular Education and Human Rights, Ghana, which is probably one of the only or relatively small number of LGBT rights, kind of HIV NGOs in Ghana. When they set themselves up they were refused to be registered at the registrar general office because they wanted to have a name that had a reference to kind of LGBT rights, which is why they chose the name CEPEHRG in the end. And that's also why they tended to emphasize, and this is something that's paralleled in a number of organizations who work with LGBTQ individuals, typically through these kind of health frameworks. It's that they tend to emphasize the aspects of it because that's more politically palatable. And so they talk about key populations, KPs, rather than LGBTQ. And that's been kind of a way in which Ghana and NGOs and CSOs are able to fly beneath the radar a bit on these issues. On the other hand, it's sort of an open secret. And I think that's why it's a bit of a complex situation there. Some parts of the Ghana's State is supported by international development funding, and some of these international NGOs have supported the development of these organizations in order to reach out to these key populations. So that kind of stands in contradiction to that. Obviously, there is a politicized stance on homosexuality in other contexts and in other parts of the state. Having said that though, I mean, it's still a very kind of difficult and hostile environment I think for LGBT groups to work, and a lot of the activists I spoke to had quite kind of scary encounters with-- some quite violent encounters with people on the basis of being outed as activists on this issue, so it's certainly a very difficult environment, and it's a double-edged sword of being visible on this

issue to push a political agenda, but equally that being quite a dangerous thing to do, so this line that these organizations and activists have been forced to tread between visible and being less visible.

Do you have any information about the kind of state treatment LGBTQ activists or those supporting the cause experience?

I mean, again, I think it depends on which part of the State we focus on. Some activists I spoke to did note that this kind of policy space has opened up to talk around at least gay men's experience in relation to HIV, but even within those policy spaces and meetings where you've got stakeholders from people like the Ghana AIDS commission, the Commission for Human Rights and Justice, which is a quasi- governmental body, there's a real hostility still towards these activists and towards the issues that they're bringing up. So even in those spaces, I heard a lot of stories about how those kind of dynamics play out. So, I mean, that would be an example of a more kind of micro aggressive encounter with homophobia through these kind of state actors. But, I mean, if you think about that taking place within even those spaces, then we can think about what the other parts of the state might be like.

The final kind of question is more about the trans experience, and I'm not sure whether you're able to comment on this, because basically we found almost no existing information on the situation for trans and intersex persons, and we were hoping to fill this gap, and are you able to provide any information in regards to the questions already asked, but for the trans experience?

It's still a really kind of under researched area in the West African context and in Ghana in particular. It did come up during my research. I think one of the challenges is that this kind of identity model that we have to describe this is quite Euro-Westocentric, so people don't tend to identify anyway as LGBT in those specific ways, although within some NGO, civil society spaces, that has become more kind of commonplace. So, I didn't meet that many people who identified as trans, although there were certainly people who were living very kind of transgressive lives who were embodied in transgressive gendered ways, if you like. And they were often really at the sharp end of the wedge in terms of having to deal with harassment and violence at the hands of the police and the inability to access any justice on the basis of the other forms of violations and abuse they receive. And there's one person I interviewed, in particular, who-- it was just kind of extensive experiences of physical, sexual, violence, and abuse on the basis of their transgressive gendered presentation. And that was not just from kind of family, friends, community, but also from people like the police. So, I think given the rigidity of gender norms in Ghana, and that's not to say-- it's not to sort of exceptionalise Ghana because, obviously, everywhere, there are very rigid gender norms. But they are all particularly rigid gender norms, I would say. And that does make it incredibly difficult for anyone who lives outside of those norms. I did kind of encounter it. But it's difficult to quantify because people don't necessarily use that language to describe themselves. And also, there's a limited way in terms of thinking about kind of-- if you want to kind of quote, "medically transition," there's just a very, very limited access to that, in that context. So that's also part of that landscape.

Have you been back to Ghana or been working there since you conducted your research in 2013 to 2015 and do you have any more recent specific examples in relation to the questions that we've already asked?

I mean, I have been back, I would say, 18 months ago. I was overseeing a different kind of project then. There was certainly a sense in which-- based on some of the kind of activists I spoke to, so this would have been in 2018 now. There's certainly no kind of linear sort of trajectory of progress going on, and that these kind of flashpoints around homosexuality in the public sphere driven by the kind of media, in particular, and also by kind of politicians, and other like religious leaders, on the other hand, just kind of continues apace. So when I was there, people were quite worried about Moses Foh- Amoaning.

He's kind of a prominent kind of lawyer, but also a prominent antihomosexuality activist. He's got this kind of coalition for family values or something. I can't know what the name is. But he was on about trying to sort of pressure the government to use sort of introduced expanded criminalization for homosexuality. So that was a big kind of source of concern for people when I was last there. The extent to which that sort of found traction amongst politicians and kind of policymakers. I mean, I think there are some people who are receptive to that. But I don't think, as far as I understand that, that's something that's on the cards right now.

Interview with Executive Director of Priorities on Rights and Sexual Health (PORSH), 23 November 2020

From our desk-based research we understand that despite the criminalisation of same- sex sexual activity in Ghana, some sources say that the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

I wouldn't say that the law is rarely enforced. The laws are enforced wrongfully. Just last week, I was in a village in Nkoranza, in the Bono East Region of Ghana. A guy was put behind bars because of his intention to commit sodomy. That's what the police officer told me, that the mere fact that he had the intention to commit, he can keep you behind bars for investigation. So people saying laws are rarely enforced, I don't buy that. People do end up behind bars because of the misinterpretation of the laws.

How prevalent arrest of LGBTQ persons, and are the arrests on the grounds of same sex sexual activity, or are they sometimes for other reasons, for example to disguise the fact the arrest was due to the person identifying as LGBTQ. In the case that you mentioned before they were arrested because they were LGBT?

Because the police officer read the conversation between the two men on the phone of one of the Guys, which clearly indicated that they were going to commit sodomy, so that's the law he was pointing at. I was there to challenge it but he had already been detained.

How did the police obtain the messages?

They took the phone from one of the men and made him unlock the password and the policeman went on his Grindr account to see his chats. Which is not right, but once it is sodomy, the police see it as the worst form of crime.

How was this brought to the police's attention? Was this due to profiling because they arrested someone who they perceived to be gay ? How was it brought to the police's attention that the person ended up being detained?

This was supposedly a set up a case whereby the young gay man registered on Grindr, and put a photo there as part of his profile. Then someone approached him on the app to meet him, but when they met up he was beaten up and they attempted to take his phone from him. When he braved the odds to go report the case to the police, he himself was kept behind bars because the police said "You went to meet with him with the intention to commit sodomy". So when they say people are not arrested, or the laws are not enforced - they really are - once it's a case in relation to LGBT, the Ghana police are the worst behaving people in society you can ever find. They will drop any case, just to follow a sodomy case. Somebody can kill you because you are LGBT, and 90% of Ghana police will walk away and think that you deserve to die.

Are there cases there's a typical accusation or charge that is brought against an LGBTQ person, including for other crimes by the police?

Other crimes, like indecent dressing and causing public nuisance, yes they give those reasons for arrest for LGBT persons. Especially cross dressers who are charged with indecent dressing.

Can you provide any information on prosecutions that have taken place against LGBTQ persons?

The most popular one that appeared in the Daily Graphic was the case of the doctor who was prosecuted and he is still in jail now who was having relations with a minor. His charge was sodomizing a minor. There are a few that have been documented which we followed up with but they were involving minors.

What is the likelihood of LGBTQI+ persons being arrested, prosecuted or otherwise face harassment, discrimination or violence by the state if the former were completely open about their sexual orientation?

For expression itself, being open about your sexuality hasn't seen a lot of police cases. But it also opens the floodgates for police to throw all manner of cases at you. The law is more aligned to the sexual act.

What I understood from the other interviews, is that you could be at risk of harassment if you were open about your sexuality and most people had to be discreet.

Yes you would face harassment from other members of the public, but you would not be arrested for being LGBT. Most people who are LGBT would not openly talk about having sex with men or sodomy.

You mentioned this was mainly the cases for gay men, or what about the situation for lesbian women or bisexual persons?

Technically speaking, in Ghana, the law doesn't have any provisions penalising sex between a woman and a woman as there is no evidence of "unnatural carnal knowledge". Lesbians mainly face public backlash and blackmail and videos of lesbians coming out, causing embarrassment and all that. There has been an arrest of a woman in the Ablekuma suburb of Accra three years ago, she was implicated for drugging a woman to get sexual advantage of her. The police arrested her based on reports from the neighbours and family members of the alleged victim. That case was a very sad one, as there wasn't evidence of drugging her. I knew there was no evidence from other lesbians who reported the case to me, in fact there was no lab report to corroborate that accusation.

Based on your knowledge and experience, what is the treatment that LGBTQ persons may face when encountering the police, for example in any kind of context.

Very bad, because a lot of the police are not well informed about basic human rights of people. Once the issue is about sodomy most Ghana police will be homophobic. As an LGBT person you would never have it easy with the Ghana police, even if you are going to report a crime against yourself.

You mentioned about the case before on the person who was arrested. Based on your knowledge, what is the treatment of the LGBT persons who face arrest.

They face extortion, harassment, physical assault. The person I mentioned before, he wasn't tortured or beaten but verbal abuse, degrading statements all of that.

Do you know about the experience of LGBTQ persons who are detained or held in prisons.

I have gone to the prisons to visit a few people and they are really treated as the wives. They get settled and act like the wives of a lot of them. In prison they aren't necessarily beaten up by the guards but sexual abuse may happen from the other inmates.

We wanted to find out more about access to justice for LGBTQ persons who are facing arrest and prosecution. How long would an LGBTQI+ person be likely to wait for trial? Are they likely to be detained on remand whilst waiting for trial? Do they have access to (free) legal representation?

They would not necessarily be detained whilst waiting for trial or trying to seek justice. The fear is that there might be other emerging issues that may incriminate them in the process. They might go into your phone and see gay porn or go onto your Facebook, they may find issues they can use to incriminate you. In terms of access to justice, on a scale of 1-10 I'd say 2; it's not easy to get access to justice. Most of the cases we follow, it goes half way and then it gets dropped - the police officers often lose interest and the victims themselves would not even want to go ahead. Most of the times they are vulnerable, and even going to report they feel even more vulnerable so they would prefer not to report and have to leave and relocate somewhere else. It's not their fault, they just don't want to be more victimised.

So you are saying when trying to access justice for crimes that have been inflicted towards LGBTQ persons, there's a possibility that they would not try to seek justice for fear that they will be prosecuted themselves?

Yes.

I see, I understand. Let's say for other crimes, do LGBTQ persons tend to be sentenced for more severe penalties? For example a non-payment of a fine can that end up being punished by a sentence of imprisonment for an LGBTQ person. Is there differential treatment of a person because they are LGBTQ?

There was one case where the LGBT person was alleged to have assaulted somebody and he was jailed for almost two years. But the bottom line was because he was LGBT, the other contending family thought let's give him a lesson and let's give him an assault case. An assault case between two young people wouldn't warrant such a long sentence in prison. But he went through that. I think most times the least offence you do your sexuality will influence or muddy the water more.

The next section is about state discriminatory treatment. We'd like to find out about homophobia and transphobia in state owned institutions. Do you have any information and specific examples on that within the state owned media?

Yes if you google the Ghana journalist association president statement on homophobia, you will see that the president also once made a call to state media houses and journalists to use their platforms to promote homophobia and to talk about the dark sides of LGBT activities. Though he received backlash from a few people, most people hailed him for making a bold statement against LGBT and their activities. We have the Daily Graphic here, give spaces for columns in their newspaper for people to write very damaging and disparaging comments about homosexuality and activities of LGBT. They talk about the agenda that the Western culture is trying to push on Ghana and trying to interfere.

Could you give examples of homophobia or transphobia amongst government officials?

Yes, I think the Speaker of Parliament has been the most homophobic individual in Ghana here. Some leading minsters of state, some senators. We have 16 Regions in Ghana and one of the Regional Minister of the Western region of Ghana, Joseph Aidoo said landlords and landladies in his Region should evict people who they know are gay , bisexual and lesbians. So yes most high ranking political officers make those homophobic states.

The same question applies to any homophobia or transphobia within the police.

The police are a bit careful when they want to make public statements. Unless you find yourself at the police station, you wouldn't find a police officer making a homophobic statement in public, but you'll experience homophobia when you're at the police station.

Do you know about homophobia or transphobia in state funded education?

The major issues is got to do with bullying. Yes there was a case where the boys were expelled from the school. It was at Opoku Ware secondary school, if you search on google about the gay boys there you will find that story.

We want to find out more information about homophobia or transphobia in state funded health system.

In the health system, especially when trans persons are going for health services. They face a lot discrimination and stigma, verbal abuse and all that. We've implemented a lot of projects to try to reduce the stigma at those levels and now we are even trying to include not just the nurses at the facilities, but also the security men. Because the person arrives at the gates, through the outpatient department, through the consulting room, so there are various layers where they can encounter stigma just for a simple diagnosis. So we do a holistic education and implementation to reduce stigma at all those levels.

Can you provide any specific examples of any discriminatory treatment that LGBTQ persons face in accessing state health services.

Yes I have so many ridiculous and absurd stories. For example such a scenario where an effeminate man walks to a clinic with a boil in the anal area. He asks for treatment, and then the nurse makes a judgement by how he behaves and the medical issue he presents with and the nurses instead of treating the person brought their bible and preached to the person. Instead of delivering the services they are supposed to.

So in some cases that leads to the person not being treated?

Yes most people would leave and not return there to avoid the embarrassment.

Are there examples of discriminatory treatment for LGBTQ persons in accessing state provided housing?

Yes there are cases where landlords discriminate against people because of their sexual orientation, for example charging higher rent. Sometimes the landlord or landlady will get suspicious of their tenant if the man is not inviting females over, and only have men over, then you will find yourself in trouble with the landlord/Lady.

Thank you so the next section is about LGBTQ and civil society. To what extent are NGOs that support LGBTQ rights able to operate freely, for example to register, host events and advocate for LGBTQ rights.

I wouldn't say to a large extent, I would say to a minimum extent. They try to advocate where necessary but sometimes the law doesn't permit to do open advocacy. But most times we do network advocacy and social media advocacy, but not to a greater extent as we would wish.

What is preventing you from doing the advocacy to the extent that you would wish?

First of all the victims themselves wouldn't want too much publicity or visibility so you are a bit handicapped when advocating for LGBT rights. When there are issues of abuses and peoples

rights being trampled upon, we want to do some sort of advocacy but sometimes people don't want to be advocated for. Unless it's in the health centres, where we are really able to advocate where there are problems.

Is that what your organisation does, advocate at the point of health care?

Yes we have undertaken a few of those cases, but not primarily.

How has the Ghanaian state treated LGBT activists, or those perceived to support the cause.

Most of the higher officials don't see the need for you to advocate for an LGBT person, they see you as promoting a vice or you supporting an illegality or something like that. It's not fair, there's no fair treatment for people who are advocating for LGBT rights, you are called a whole manner of names - Anti Christ, anti-Christian, anti-religious. In my opinion the government doesn't treat you fairly.

Thank you, the final question is about how there is almost no existing information on the situation of transgender or intersex persons that was found in the desk based research. Can you provide any information in regards to the questions already asked but relates specifically to a transgender person and intersex person?

There is some information available now on transgender and intersex people. There are some intersex and trans specific organisations in Ghana who are educating people on trans visibility or trans acceptance and empowerment.

Interview with representative from Solace Initiative NGO, 25 November 2020

From our desk base research, we understand that despite the criminalization of same-sex sexual activity in Ghana, some sources say the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

It's clear in the Constitution but is the interpretation of the law that is the Section 104(1)(a) of the act: "Whoever has unnatural carnal knowledge - of any person of the age sixteen or over without the consent shall be guilty of first degree felony and shall be liable to a conviction not less than five years and not more than twenty-five years. Section 104 (2) goes on to explain that "Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal". Which is interpreted as the penetration of the male sexual organ into any other part of the human body except the female sexual organ. Apart from peno-anal intercourse, no other sexual activity is criminalized under this law. which is not very clear to anybody, and anybody cannot interpret that until there is proper interpretation or amendment to the Constitution. Then the interpretation becomes clear to our understanding.

The laws have been enforced what is written down in the Constitution. And people basically use those laws to criminalize LGBT people whenever there are issues of violence or attacks. Our political leaders, opinion leaders, religious leaders, use the same Constitutional written law to instigate hate speech, homophobic speech against the community where people think that it is a crime to be who you want to be. It's a crime to be effeminate. It is a crime to be lesbian. It is a crime to be whoever you are. But I mean, there hasn't been any enforcement of the law as I mentioned, it is not clear. Nothing has been done to it so far. We as advocates use the law that is enshrined in the constitution that is the fundamental human rights to live freely and create awareness as every human being in the country. Because every human being has a right to live, and not based on their sexual identity, or gender identity, or sexual orientation.

How prevalent are arrests of LGBTQ persons? And are the arrests on the grounds of same-sex sexual activity? Or can it be for other reasons, for example, to disguise that the arrest was due to the person identifying as LGBT?

Well, there have been a couple of arrests with people who cross dress when they feel they want to dress like women, when they want to dress like men and then there have been a couple of arrests. And then the police, for lack of ignorance, did not handle the situation properly they will rather humiliate the victim and take videos and share amongst themselves and on social media. Secondly, The police when a case is reported and later release they will rather arrest the victim(LGBT person) who reported the case. For instance, people/perpetrators use the opportunity to blackmail the LGBT community and set them up. whatever the people come to tell them. And so, they arrest the victim instead of the perpetrator.

How many known cases have you had of this happen recently?

Well, there have been several cases. Honestly, one of the challenges is also how we can document these cases for policy and decision making at a certain point because we don't usually properly document these cases. And so, we don't have the assistance that we are not able to address these issues and seek justice. But we are considering next year to put things in place to be able to properly document these cases for our research .

Are there typical types of accusations or charges being brought against LGBTQ persons including the punishment for these kind of other crimes? For example-- if they're not being kind of accused for the fact that they're being LGBT or for same-sex acts. Are they sometimes accused for another reason perhaps?

As I said, there hasn't been any case that has been to court to seek for justice and all of that. We have not tested any case in relation to these issues yet. But the police or the law enforcement agency will not just go and arrest somebody based on his/her sexual orientation or gender identity unless there is a case or issue of blackmail abuse or violence or attack on an LGBTQ individual by a member of the public. That's where the law enforcement agency reveals their own ignorance and prejudice in addressing the case. And that's when LGBTQ person might end up being arrested even if they were the victim of violence or attack. But they cannot walk into somebody's house to arrest them based on their sexual orientation or gender identity.

As you mentioned, and as we understand from our desk based research as well that there haven't been any convictions for persons for same-sex sexual conduct in recent years. In your experience is that the case?

Yes. There hasn't been anybody convicted based on their sexual orientation or gender identity. But I mean, what we do not encourage is that LGBTI+ people should not engage with minors. And even if somebody engaged with a minor, there is no way we're going to appear to defend that individual because that is not what we are fighting for. It is always between two consensual people, therefore, we don't associate ourselves with anybody who engages in minors.

Can you tell me what is the likelihood of an LGBTQ person being arrested or prosecuted or facing harassment or discrimination by the state if they were completely open about their sexual orientation?

Well, there's a lot, I would like to say that the law does not stop anybody from coming out and openly declaring his/her sexual orientation, saying his gay, lesbian, bisexual, trans. The law does not say anything about that. You have the freedom to say whatever because there's a freedom of association and freedom of rights-- and so there hasn't been any form of arrest based on somebody coming out to say, "This is who I am."

What's the likelihood of someone who is completely open about their sexual orientation being arrested or harassed?

They're not arrested. But there's a lot of stigma and discrimination on that person because, I mean, you will be-- if you are very known, you've been denied a lot of access to so many places in terms of-- and then wherever you go, there is going to be a huge stigma and discrimination. You don't get job to do. Unless you have your own job to do (Self-employed), or you will not be employed anywhere to work. And then you will not be allowed to sit with many people. When you're probably known, there is no way people will sit with you and all of that. And then also people will not really associate themselves with you. But there are few people who are open-minded who would like to associate with you in certain forms, I mean, the social settings, and all of that. People get family rejection and all of that. And so there's a lot of stigma and discrimination with that.

And what about treatment when LGBTQ persons might face when encountering the police? You already mentioned that they might be at risk of being arrested themselves when they're reporting harassment but are there-- have you had an incidence of the police violence, harassment, or humiliation against LGBTQ persons?

There are so many cases of police humiliation, harassment, and then extorting money from the victim because they feel that what you have done is wrong and so you need to settle them so that they can free you so that you can go your way. There're a lot of community members who face such harassment from the police most of whom are ignorant towards LGBT issues when cases have been brought to them.

And based on your knowledge, what is the treatment of LGBTQ persons on arrest?

There's no way the police is going to treat an LGBTQ person right [on arrest]; especially if you meet a police officer who brings his/her values and beliefs first, it means that you are not going to receive good treatment from him/her. They will say we will process your case to court without thinking of the evidences that will come up in trial of the cases in court, but they quickly would want to rush you to court and thinking that-- I mean, you will be prosecuted and or jailed. And so those are some of the treatments that we get from the police.

Do you know whether there's a difference between somewhere in the urban areas compared to rural areas?

I mean, it's the same, across the country. The police, because of ignorance, do not understand the issue and so it's the same treatment across board.

What is the treatment and experience of LGBTQ persons who are detained or detained on remand or held in prisons?

Sometimes they go through torture and rejected by families and friends because anybody who associate with him/her will be tagged as an LGBT person. LGBTQ persons experience torture when they are in prisons, in detention or on remand and when they find LGBTI person cross dress to a trans person mostly trans woman (in all situations). Sometimes from the police officers, sometimes inmate in the cells also do torture LGBT+ person if they know it is the reason you are in there. Most times it is the LGBT led organizations that collaborate with other human rights institutions to get the case resolved.

Do you have any recent knowledge about access to justice in terms of time waiting for a trial or being detained on remand or having access to free legal representation?

I mean, for us, the court system here is very slow and so even if you have a case, like a normal case that you take to court, it will take like five years to get resolution -- as I said, we've not tried any cases. The one we tried in court was in 2015 thereabout that we tried to process an LGBT case to court. They keep adjourning, adjourning. Also, because we didn't have a proper lawyer for the victim, and so the prosecutor took advantage, any the case is due to court-- he doesn't show up in court until the case was dismissed out of court. Because this is the first time someone is willing to follow up with a case.

But I mean, for lack of financial resources and then lack of getting a lawyer who is willing to speak for him in court, the case was thrown out of court, and nothing has been done about it till now. And so I mean, it all boils down to finances and then lawyers who are willing to take up cases, human rights cases to be precise. Most LGBT people don't want to seek for justice in court, that has been the challenge. LGBT people do not find it interesting to take their cases to court or follow up even when they report it because of the stigma.

If these people are working, it is going to affect their job, and then they're going to lose their job, and they're going to remain unemployed, and so it will affect their way of living, and affect them with their family and friends. And so they will rather not go to the court. Because the court system will delay them in seeking justice especially when the media picks these cases or stories, they spread it

very wide, and then the individual becomes a target, and then your security becomes also a problem, so, yeah.

I'd like to find out more about homophobia and transphobia in government institutions. Do you have any information and specific examples about that within various sections of the state, so first of all, within state-owned media?

Up until now, we have just a few media houses that we are training and taking them through our orientation of advocacy of understanding the issues of the LGBT community. And then few of them are, writing and publishing good stories of the community. LGBT news for us in Ghana sells, and so the media capitalized on it to make headlines. It is what will make people run to your page, run to buy the newsstand and get to read the story. And so when there are issues of violence or issues of LGBT, the caption alone is something that traumatize even the community because people are buying it, and people are talking. And when is being discussed on our local and Television that's where you get the leaders who are on panel make hateful statements and hate speeches toward the LGBT people, and it brings a lot of tension and panic among the community. Most of these statements are from political leaders, religious leaders. From almost every leader that speaks about the issue would want to be mean towards the community but there are a few ones who are very open-minded and would like to talk and address the issue very well. We lobby with these people as well use social media as a tool for advocacy to reach out to people.

And specifically, how about homophobia and transphobia in the Daily Graphic and the Mirror who are both state funded newspapers?

I mean, usually the target is on gay men. Yes. And then just a little on lesbians. On transphobia, we've not-- I must say that on transphobia, people are more accommodating when it is the issue of transphobia. I know you've made research and you've released that trans person on one of the newspapers or on the internet. We don't usually get to hear them speak hatefully towards the trans community. The target has always been gay men and then a little on lesbian.

The same question applies in terms of homophobia and transphobia from government officials.

I mean, that's always been the same language across the board that is influenced by views in society, it is not separate. Even if there is an issue of LGBT, you see the religious leaders, opinion leaders, the Christian community marching towards the president to make sure that he makes a statement or take a position of the issues of LGBTI rights, and it has always been the same language to be diplomatic about it and clearly state that they want let that happen in our country. Making sure that the people who are at the frontline of leadership or in government also take a stand by going on the various platforms to make hateful statements that will deter LGBT people from standing up for their rights.

Do you want to comment specifically about homophobia or transphobia in the police?

For the police, they are the first point of homophobia and transphobia. That's where LGBT people mainly face discrimination. Unless probably an LGBT person goes to a police station where the commander is more open-minded where the issue will be treated with some bit of decorum. That is

where the story will be treated with some form of seriousness by the commander in charge. Homophobia mostly starts from the police station.

Do you want to comment specifically about homophobia or transphobia in prisons.

In the prisons, LGBTI+ persons are the most target that is if they hear your story or know what brought you to the prison.

I understand. So now I want to understand about homophobia or transphobia within education as well.

Yes. As I mentioned, it [homophobia] cuts across society. When you meet somebody, who is a bit open minded that will help. who will welcome you and address your issue. Until you see, when the international community starts speaking for the rights of LGBT, that is why you see them making all these bigoted hateful statements and not agreeing with that and also mentioning that it is a thing of the west and all of that. And the west is influencing Africans. However, that is not how it is supposed to be. It cuts across, education, health, in every way.

Does that affect access in terms of discriminatory treatment of the LBGTQ person in terms of accessing state health services or state employee manuals, state-funded education?

You have to out yourself to do that. People don't openly say or mention their sexual orientation before they seek for all these resources. But they will go in as any another individual who wants to access services. If you are going, you think you need this access to education, you should freely go and do that until somebody goes and say that "Okay, this person is a very known LGBT person." And so, attention will be drawn on that person. But apart from that, you can freely go into an institution be it education, health, to seek for health, to seek for rent, and all of that. Until somebody outs you're as a member of the LGBT community.

So, you're saying if someone was not open and if they were discreet about their sexuality, they would be able to access.

Yes. If they are open and then they know that this person is [LGBTIQ+], they wouldn't allow them into their house. They won't. Or even if they don't know and then they find out, they will evict you or eject you out of the house.

The final section is about civil society groups. To what extent are NGOs that support LGBTQ rights able to operate freely? For example, host events, campaigns, advocate for LGBTQ rights in Ghana?

There are a few human rights institutions that support, and they're now working on human rights issues that support the LGBT movement and issues. And one that is a human right advocacy center that works on human rights issues, there's the Commission on Human Rights and Administrative Justice, which is CHRAJ, they also give their support in our work even though most of them are ignorant, but we still need them in our advocacy. Because that is the first point of contact when there

are issues of violence in the community. I mean, there are just a few ones that support you, they're helpful. So we make sure that we have those persons to contact when it's issues of health, to help address health needs of the community. And that is what we are still and currently doing, to ensure that we advocate for these people to become better allies for us to work with and address the needs of the community.

How has the Ghanaian state treated LGBTQ activists or those supporting the cause or perceived as such?

I mean, we have always worked in disguise. And so we are very much risking our lives. Most of the time, people working for the community does not really come out in the open to speak due to security reasons. We always use the opportunity on a given platform to speak about general human rights issues including LGBTI rights that way you are not so much of a target to the general public. ,we don't segregate because in Ghana, I think, for any special right for LGBT people, but the equal rights or the human rights that is enshrined in the constitution that everybody must enjoy. That is what the community also wants to enjoy.

There's very little information on the situation for transgender and intersex persons. Can you provide any information, in regards to the questions that I'd already asked, that relate specifically to the experience of a transgender person? And the same question applies to an intersex person.

The community has always been vulnerable. And so that is how it has been. We are not in a position where we are fighting for each acronym of the community. The trans community is now evolving, and so we are currently doing some needs assessments. First of all, we need to be oriented with that - empower ourselves. That is to empower us, to empower the community more on issues surrounding the community before we are able to empower our allies or the general public on this issue.

Was there anything else that you wanted to add to what you've already mentioned?

We are hoping that things will change. We are making some progress. We are making some strides in terms of our advocacy in policy-making and ensuring that things are done the right way. But it all boils down to resources that we can get like human resources and financial resources. We need opportunities that will also build the capacity of human right defenders to be able to champion the rights of LGBT people in the country. Available resources to organize more activity to empower the community to know their rights and to develop their skills, so that we will all work together to ensure the freedom and liberation that we want for the human rights of LGBTI+ persons in Ghana.

Interview Alex Kofi Donkor, Director of LGBT+ Rights Ghana, 25 November 2020

From our desk-based research, we understand that, despite the criminalization of same-sex sexual activity in Ghana, some sources say that the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

Well, I wouldn't say that the law is rarely enforced because there are so many levels to which cases go before it finally reaches the point where you would say that the law has been enforced in the courts. So an example would be that if, for instance, an LGBT person is abused, or maybe if somebody is being accused of being an LGBT person, there is a high likelihood of the person being

attacked in that particular neighbourhood or community in which the person has been accused. There are instances where the person is sent to the police station or the police are called in. And when the police come in, their treatment towards this LGBT person is in a way no different from how the society is already treating the person. But then the police is also a national security agency that have been given the mandate to protect, right? So if they in their capacity are also in a way feeding into the abuse of LGBT persons, then we consider the laws as being applied because the police are also part of the national security system and they, in a way, also discriminate against the LGBT person.

So let me give a typical example. For instance, quite recently, a community member reported to me that he met somebody on Grindr. And after meeting the person on Grindr and then chatting for a while, they decided to meet in-person. So upon meeting the person and then going to the person's house to have whatever fun that they want to have, a few people barged into the room and then started beating them and they recorded them. And then they took the mobile phone of the abused person, and then they also took his money. They blackmailed him, telling him that he has to bring more money and that, if he doesn't bring the money, then they are going to go ahead and release the video that has been recorded of him and the other guy being in the room. And so when this incident was reported to me I asked him to go to the nearest police station to report the incident to the police. So he went ahead to the police station to report the incident to the police. When he got there and then began reporting the incident to the police, the police accused him of him being gay, "Yes, you went there because you're gay." And this is a person who is reporting an incident of abuse. He has been abused, his stuff has been taken from him, and he has come to the police station to report the incident. And yet, the police was more interested in the fact that he is gay and that is why he went to meet the person who he met on Grindr. Another police officer decided to pick up the case and file a case on it. After filing the case the police went ahead and arrested the person who took the stuff and then also abused this gay man. Upon coming back to the police station, the police commander took the phone that the perpetrator seized from the victim when he was beaten up, and then asked him to unlock the phone. Upon reading the messages that has transpired between victim and the perpetrator, he came to the conclusion that the victim is gay. So if the boy is gay, then the boy should also be arrested. So they went ahead and arrested this gay man and then also put him behind bars. Now, they put him behind bars, in addition, to already the guy who took the stuff from him. So the two of them were in the cells. And then the guy who took the stuff from him also told other cellmates in the cells that this boy is gay. So those who were already in the cells started abusing the boy. So they were beating him while he was in there. We have a few police allies that we know and we started calling them to tell them about the situation at hand and that this police commander has gone ahead to arrest the guy and put him behind bars. The other police commander ally was talking to this other police commander to release the boy. But he refused to release the boy and process the guy before court. And this is a recent incident. If you process the guy before court-- and in this case, the family of the guy also got to know about the incident, okay, because all this while, he was also trying to prevent his family from knowing about this incident.

This young man felt he had to rally support because he tried to go to report an incident that he felt he had been abused. In this case, the whole thing has been turned around, and then now he is in the cells, and he's been abused, so he had to call his family. So his family was called in, and this is a guy whose family is also homophobic. So you can imagine the situation that the guy had to go through. When they took the issue to the court, the court remanded the guy for another week for the police to further investigate. The family of the boy didn't want the issue to get out of their hands because there was a possibility the media could have picked up the story. And if the media had picked it up, they would have possibly blown up the story. And then the family also in the way didn't want to be disgraced to say out in public that their son is gay. So the family in the end paid some money to the police officers to let go of the issue so that they can go and settle it at home. So that is what the family of the boy did - they went ahead and then paid some money to the police officers. And then they let go of the boy. So upon going home, the family of the boy had to now lock him up in the room

and they decided they were going to take him to prayers and a whole lot of inhumane treatment. So this is a person who was almost at the verge of actually committing suicide at home. We had to talk to him, keep talking to him, and all of that.

So this is a clear example and this is something that really happened just quite recently - last month. And this is just a few of some of the challenges that LGBT persons go through in the hands of police officers. Because right here in this country, the police are the ones who have been given the mandate to protect every citizen. And it doesn't show that they are protecting all citizens, including LGBT persons, to the extent to which their mandate has been given to them. So they have this very selective way of protecting citizens, which means that if you are an LGBT person, your level of protection is quite lower. And it's lower because what they do is affected by their way of thinking about LGBT people.

I would like to know how prevalent are arrests of LGBTQ persons? And are there arrests on the grounds of same-sex sexual activity or are they for other reasons? For example, to disguise the fact that arrest was due to the person identifying as LGBT?

I would say that in terms of the harassment of LGBT persons in the country, I would say it's very high [from a community level]. It is high to the extent that, if I'm not mistaken, I receive reports of people being abused at least four times in a week. I receive reports of people who have been abused one way or the other. And let me also explain how some of these reports do come to me. So we have a reporting system on our website so the organization that I work with, LGBT Rights Ghana as a director. On our website, we have a page where issues of abuse are reported on. So any LGBT person who know of our platform can easily go there and then reports issues of abuse on the platform, and then it comes directly into our email. And then we can do follow-up on this abuse. Apart from that, we also have our various social media platforms. So we are very visible on our social media platform. So on Facebook, on Instagram, or Twitter, on YouTube, these are platforms that we are very, very active on. We have quite a number of following on that platform too, so. And then, because of our name is easily recognizable and so some LGBT persons do also report some of the challenges that they face to us on these platform as well.

And apart from that, too, we have a platform called Gay Blackmail List Ghana. So the Gay Blackmail List Ghana actually came as a result of a discussion that we had on our WhatsApp platform. So we were like, "The level of protection to which the police protect us, it isn't that high. And so how can we as a community, also in some way somehow protect ourselves from this high level of abuses and blackmail that we go through as a community?" So one of the things that we decided to do was to name and shame and also use that as a means to also warn other people from victims to some of these blackmailers and abusers of LGBTs. So we created this social media platform called Ghana Gay Blackmail List. So on that platform, we post photos of individuals who have abused mostly gay and bisexual men, especially using the social media platform. And so we put the images out there, and when you go on those platforms on Facebook and on Instagram. And then we also have it on Twitter. So these are the three platforms where we have created this. And then we put it out there and then we also warn people from falling victim to some of these abuses.

And apart from that team, we also have a WhatsApp platform. And on our WhatsApp platform, it is a safe space for ourselves. So that is also a space where because we are there in our numbers and we have two WhatsApp platforms, and one of it is like almost 230, and another one is like around 100 and something. So on these platforms are all of us from so many walks of life. So we easily share information on the platforms. So it also means that people can quickly report or share videos or

issues of abuse quickly on those platforms and then it gives us access to quickly also follow up because in as much as we are LGBT persons, we are also spread around Ghana and some are all the way in the northern regions, some are down south, and maybe the east and west but the WhatsApp platform allows us to be together on one platform, and then be able to quickly share information and also learn from each other and all of that. So on that platform too, we also receive videos and photos on reports of abuses on those platform too. And so yes, I would say that-- and apart from that, personally, I am out. I'm an out gay person and if you google my name, you'll find a few other stories of me out there in public but on my social media platform and everything, I'm out there and so in a way too, I am also quite popular when it comes to the community.

So it also means that my phone numbers, my WhatsApp, and all of these things is also out and so people also-- even though sometimes I don't even know the people who send messages, people completely have access to my personal contacts and then be able to also contact me and then also share issues of abuses to me. So all of these platforms are how we are able to collect some of the abuse cases that happens on daily basis here. And so I would say that it is high. It is high but it is high from the community level. So from the society in which LGBT person live is where a lot of the abuses goes on, okay? And apart from the community in which they face this level of abuse, let me also mention that social media is also one of the platform in which some people are lured into spaces where they are abused as LGBT persons. Another reason why I'm saying this is also because the LGBT community for some time has been in hiding, right? So it is not as visible as it is supposed to be or like the way it is in London or other European countries in the west, right? So there are a lot of people even though they identify as LGBT persons, they can't really show their faces so a lot of times the engagement happens on social media.

So back to the other question rather than societal persecution, I wanted to ask specifically about how prevalent arrests of LGBTQ persons are. And are the arrests by the police on the grounds of same-sex sexual activity or are they for other reasons? For example, I don't know whether it happens where an LGBTQ person is arrested because they identify as LGBTQ but they're arrested for another reason.

So I would say that so the level of arrest isn't that high. That is also because a lot of times it doesn't get to the level of the police. But the few that has gone to the level of the police, because there's a high level of discrimination from within the police service, there is also the likelihood of one being arrested if he reports to the police.

What is the typical accusation or charge when an LGBTQ person comes to the police?

So the mere fact that a person identify as gay alone is reason enough for the police to arrest the person. Like I said, from the example I give earlier that this boy-- even though did not mention that he's gay from their conversation or from the report that he gave them from the phone that the police commander read decided on his own that this guy is gay and needs to be arrested.

And can you provide any information about any prosecutions that have taken place under the laws deployed against LGBTQ persons?

Like I said earlier, a lot of the reports end up at the level of the police. So for instance, there are instances where the police will arrest an individual because of someone is perceived to be gay or a lesbian, but at that level, a lot of times some money is exchanged, and then they let go of the case. So if the police officers who carry their own prejudice and their own bigotry they decide they just

want to just harass the person for the mere fact that they are LGBT and try to extort money from the individual. So once a certain level of money is exchanged, then they let go of the case. So it's at the level of the police. It doesn't go to the extent of the court.

The information I also heard about the police commander who was involved in this case was that he was committed to wanting to prosecute gay people. People alleged that he said before he became police commander he heard that a lot of LGBT cases are reported here at Kasoa so he was going to deal brutally with any case relating to LGBT. So if, okay, what we heard is true, then it also means that he was acting on the fact that he said he was going to do that when he comes, and so he did that.

So is that the police chief commander of the whole of the police in Ghana?

No, not the commander of the police in Ghana but the commander at that particular unit so it's the Kasoa divisional police command. So there is an area called Kasoa so that divisional command, the commander there is the one that did that, yeah.

We found from our research as well that there haven't been any convictions of the LGBTQ persons for same sexual contacts in recent years and can you confirm this?

Yes. I would say yes. There haven't been any recent convictions of a person for being an LGBT person

What is the likelihood of LGBTQ person being arrested or prosecuted or otherwise facing harassment or discrimination from the state if they were completely open about their sexual orientation?

Yeah, so I would say that it is high. So it is high to the extent that-- so let me give another example that happened and then the reason why I would say that is high. So quite recently, two lesbians got married, right, and then they did a video of themselves getting married, and the video happened to go out. So the video was shared so the general population got to see the video and because one of the lesbian couple is a military officer, and she was arrested, by the military and up until now she is still under military custody. But the excuse that the military was giving at the time is the fact that she wore a military uniform and then also gave a military uniform to the partner to wear, and then they took photos of it so that is the reason behind she being arrested, and she being put behind bars. She's still at the military cells for lack of better word and their partner was invited by the military to also appear there. Apart from the person being invited by the military, in the video was also another individual who also is a female and also works at the fire service department in Ghana. She wasn't wearing her uniform but the fact that she appeared in the video-- she was also demoted from her job. So they reduced her rank in her job and they just hush-hush the whole situation. So there is a high level of LGBT persons facing that level of discrimination and abuse, from the State level. If they haven't heard about it, then everything is ok but once they hear about it, then their homophobia is going to flare up. And then a lot of the time, some of these incidents, does not get to the level of it being officially recorded. And so from the national level you won't see incidents of homophobia being recorded but on the ground it happens a lot.

I will now ask a few more questions about state attitudes and state treatment. So based on your knowledge and experience, what is the treatment that an LGBTQ person may face, for example, harassment, humiliation, violence, when encountering the police?

I would say that it is high. It is high in the sense that when you ask a lot of LGBT persons, why they will not report an incident of an abuse to the police is because there is that high likelihood of being discriminated and disgraced at the police station, or even being arrested at the level of the police station. So it actually discourages a lot of LGBT persons from reporting incident of abuses to the police. In other cases where the LGBT person gathers a lot of courage to go to the police station to report it, there is also that high level of being discriminated against, which then results in discouraging other community members to report to the police.

Let me also cite another example. So quite recently an incident was reported to me and I assisted the person to go to the police station to report the incident. Upon getting to the police station, he met a police officer who was a woman who asked him, "Yes, what do you want here?" And he started narrating the story to the policewoman. And then she was like, "You are gay. Are you not gay?" So the whole focus of the police was not the fact that this person had been abused but the fact that he's gay. So that is the only thing that the police officer was concerned about- justifying: "You are gay. That is why they took your stuff from you, that is why they beat you." So they justify the fact that you had been abused because you are gay. And so around the same time, he called me back and said, "Listen, the policewoman is harassing me and just disgracing me. And I told him that listen, you should tell the policewoman that he has come here to report an incident of abuse, so can she give him the processes in doing that. So I think it was at that point where he insisted, was when another police officer had to come in and then take the issue up and then allow the boy to report it. So the level of discrimination is high within the police officers, and that alone discriminates a lot of LGBT persons from reporting the incidents of abuses to them.

What is the treatment experience of LGBTQ persons who are detained or either detained or remand or held in prisons, if you know?

There hasn't been any recent imprisonment of a person for being LGBT person, but the few that do report at the level of the police might end up in a police cell. What happens when they put some into the cells, then they let those who are already in the cells know that you are a gay or if you are an LGBT person, then that person is going to face abuses from the cellmates. That is what happened in one of the recent incident that happened. So the treatment from police officers is not that they will necessarily hit you but of course, if those in the cells get to know about your sexual orientation, then they are as well going to abuse you in the cells.

And we would like to find a bit more about access to justice for an LGBTQ person if they're facing arrest or prosecution. Do you know about how long someone would likely wait for trial? And are they likely to be detained or remand while they're waiting for trial? Do they have access to free legal representation? And do they tend to be sentenced for more severe penalties just because they are LGBTQ?

In a case where an LGBT person is rather arrested-- so like I said earlier, so it's at the police level, so it's all a hush-hush situation. They prefer to let the issue slide and let it go away. So it doesn't necessarily get to the level of the court. But let me also talk for the other angle as well. So in earlier 2019, too, there was a high level of abuse that gay men were facing in a vicinity in Kasoa in 2019. So these persons let LGBT, especially gay bisexual men into their space, and then they abused them, video them, take their stuff from them, and then later share the videos on social media platforms.

So on our platform in earlier 2019, we received about five videos of different persons who and we could figure out they were all being abused in the same room. So a few of the victims were identified from the videos because some community members did know them. So the few that knew them, myself and a few other colleagues of mine, took it upon ourselves to find these people and then also report the incident to the police. And so this incidence was reported to-- so we actually use a police ally here to get to the commander in Kasoa. At the time, it was a different commander in Kasoa. So he was the one that actually mobilized the police officers to go and make an arrest.

So we actually went ahead and arrested two of the individuals that were abusing. So we actually took the issue all the way through to the court. But then there was a whole delay in the court. There was a delay from the prosecution team, and it also discouraged the victims from further pursuing justice for the case. Because apart from the fact that it was being delayed, financially, it was draining. Because we had to afford the bills of the perpetrators and the police.

Now these next set of questions I want to ask about state discriminatory treatment. We'd like to find out more about homophobia or transphobia in government institutions. We can discuss different government institutions. Do you have any information and specific examples of that within state-owned media?

Yes there are examples of state-owned media that promote homophobia on their platforms. Graphic is the national newspaper and on Graphic there was a time where they gave platforms to some of these religious leaders who clearly put it out there that homosexuality is filthy. I think that was said by the Presbyterian moderator at the time. And it was clearly on the front page of Graphic. And Graphic is a newspaper that once they put an information out there it also means that it is going to make headlines in all the radio stations and the TV stations. And so it gives the radio and TV stations the opportunity to increase their negative rhetoric on LGBT persons on all of these platforms. And radio is one of the powerful platforms which a lot of Ghanaians get their information from. Apart from that there was somewhere last year for instance, there was The Mirror. The Mirror is also a national newspaper and it's also being run by the Graphic Communications Group. In The Mirror, one of their reporter's made an article on the fact that a community here in Accra called Chorkor is packed with homosexuals, and made a very derogatory article about LGBT persons. The article was on a level abusive as it gave a description of who a gay person or a lesbian is, and how one is supposed to recognize someone when the person is gay or lesbian by even the way they walk or the way they dressed, and all of that. I even wrote a rejoinder to Graphic, and asked them to retract what they said. Up to now, they did not respond to our rejoinder. So it also means that whatever they said stands up until now. And so the article is on the internet, and apart from that, on their Graphic platform too it is also there.

Apart from these particular state-owned media houses that use their platforms to insight homophobia, when you also come to the media space in general, here in Ghana, because we also have that high level of English illiteracy, there're a lot of people who do not understand a lot of the English language. Most of, especially, the radio platforms, are in the local languages, okay, and a lot of Ghanaians do listen to these radio stations. A lot of them do listen to the radio station. And the narrative in the radio stations has always been in the negative. And let me also mention that, because LGBT issues are very sensitive, the media here have also seen the sensitivity of these issues, and how their listeners are always eager to hear more of the things that are being said about the LGBT community.

So they always give their platform to homophobia or homophobes to use it to further validate their entrenched positions on LGBT issues and matters here. So a lot of times they will give their platform to pro-LGBT persons, or people who can speak to the issues to speak about it. They either, a lot of time, give it to religious people who already have their entrenched position on LGBT issues, or they

give it to known homophobes or homophobic organizations. And one of them is the Coalition for Proper Human Sexual Right and Family Values. It's an organization here that clearly oppose LGBT rights in Ghana. And a lot of time when issues of LGBT come up, they are the organization that are given a platform to explain LGBT matters. So most of the media landscape here, very hostile. It's very negative towards the community.

We have come across some of such reports ourselves. And the same question goes for kind of any homophobia and transphobia espoused by government officials.

On the government level there is also homophobia that is exhibited on that level. So the current speaker of parliament, so he's in the name of Professor Mike Oquaye, he is a homophobic person. He has always made his stance known on LGBT. He uses his office as the speaker of parliament to incite and promote homophobia. Calling LGBT persons deviant and evil, and accusing international organizations of promoting LGBT in Ghana. And almost all of the platforms that he gets, even if the topic is not LGBT, he still finds a way of bringing LGBT issues in there and uses that platform to promote homophobia.

So apart from the speaker of parliament, there are also some government officials, that have also used their offices to also incite homophobia. One of them is the current gender and social protection minister, She's called Cynthia Morrison has promoted homophobia. So we have a few of some of the videos that she has said and some of the comments that she has made about LGBT persons as a gender and social protection minister. So the two main political parties are the NPP, the New Patriotic Party. And then the NDC, the National Democratic Congress. These two political parties have weaponized LGBT, in the sense that they use LGBT as the basis to attack each other. So they accuse each other of being an LGBT person. And based on that because you are LGBT person people shouldn't vote for you. They weaponize LGBT persons and then use it as a basis to attack each other.

And so it has created that hostility and the bad image and making LGBT look evil. And so they make it such that when you, as a political party, is associated with, or somebody from your political party is known or perceived to be an LGBT person, then that political party is evil. And that people should look at that, and based on that they shouldn't vote for you. And this is something that is done by these two political parties. So it's not just one doing it. Both of them do it and both of them attack each other and both of them weaponize LGBT too.

Okay. So apart from that, we also have some members in opposition that have also made some comments. So last year there was this American far-right religious group called World Congress of Families. So they had their original congress, here in Ghana, last year. So when they had the original congress here in Ghana-- before that they actually did a national dialogue. And at the national dialogue, there was the deputy attorney general in Ghana. The current deputy attorney general was at that meeting. And I'm saying this because I was also there at the meeting because I had to go there. I wanted to find out more about what was going on. So I was there at the meeting, myself. And at the meeting, he pledged his support for this group, okay, and said that he is ready to support them any time they need him.

Apart from that, there is also the current National commission for Civic education. Their director was also there at the meeting. And then she also pledged her support for the group. Apart from that, there were also some religious leaders who were there and some opinion leaders and some traditional leaders who were at the meeting, who pledged their support against LGBT on the platform. Apart from that, this same group, the World Congress of Family, had access to the parliament of Ghana. So they had a breakfast meeting with the speaker of parliament, and also some parliamentarians. Their main agenda was to find a way of setting up laws that found that criminalize LGBT persons. The reason why we know this is because they have made their position

clear on LGBT. And they were working in collaboration with the Coalition for Proper Human Sexual Rights and Family Values, which is an organization that are working against LGBT persons. And these groups have called for LGBT persons to go through conversion therapy and if the person refuses to go through the conversion therapy, then there should be laws that criminalize the person who refuses to want to go through the conversion therapy.

So they actually did a presentation on all of that at the national dialogue. And then they went further to also meet the speaker of the parliament of Ghana, and also went ahead to meet the former president of Ghana, who is actually also standing for presidency this year, John Mahama. They met him and had discussion with him too to lobby the government.

I also want to ask about homophobia or transphobia in state-funded education.

So quite recently, there was this document on comprehensive sexuality education that was developed to look at the sexual education and human rights and diversity and inclusion and acceptance within the Ghanaian education system. When the document was launched, it was discredited by a homophobic group which was actually spearheaded by the Coalition for Proper Human Sexual Rights and Family Values.

So with the comprehensive sexuality education, it was tagged as a LGBTQ document. So without Ghanaians even reading through the document, the government outright rejected the document. It really became a heated conversation because the narrative that was put out there was that this is a gay or an LGBT document and that they are trying to convert our children into accepting LGBTs and actually some of them becoming LGBTs. So a lot of Ghanaians - some of them are influential and opinion leaders - even without reading the document, started making comments about them all over social media. And so, outrightly, that document was rejected. So the government did not go ahead to accept the comprehensive sexuality education document just because it was tagged as an LGBT document. But when you look at the document clearly, there was nowhere in the document that mentioned the LGBT. It only talked about diversity and acceptance and inclusion, and that alone was a reason for people to say that it is an LGBT document and that the LGBTs are trying to teach our children the LGBT agenda.

The last question on this topic is about encountering homophobia and transphobia in state-funded health system.

So when it comes to the health system, I would say that there has been a bit of progress that has been made in that aspect. And I will say that because when the conversation on LGBT issues came up, it actually was mostly targeted from the health angle. There are individuals from within some of the state's hospitals that have been educated on LGBT issues, and especially on gay and bisexual men's health. Such that they are a point of contact when it comes to issues of health in relating to most of the gay and bisexual men.

But even with that, there are still quite a number of challenges. Because when an individual goes to a general hospital and decides to want to seek for health and doesn't go to this gay-friendly specific health professionals and goes generally, there is a high likelihood of being discriminated against on that level, just by sometimes appearance alone. There is a high stigma on this basis and a likelihood of being discriminated against. And so a lot of times there are individuals who keep their health challenges to themselves unless some way, somehow they are able to get in contact with some of us or somebody's able to recommend an LGBT-friendly specific health personnel to the person, for the person to seek help. But if it is on a general level, then there is a high likelihood of being stigmatized or discriminated against if you identify as an LGBTQ person.

So my next questions are about access and any discriminatory treatment or specific examples of that in access to state health services. I would also like to understand if there is a difference in urban compared to rural areas?

Yes. So there are dynamics within the spaces. And in the rural communities, for that I can't really say too much about that, because mostly, a lot of the people that we engage with are mostly from the urban part of the country. So from the rural angle, no, I can't really say much. But for a lot of the conversation I'm having are those from the urban areas in Ghana. For the urban areas, just the mere fact that you identify as an LGBT person alone, even me going to a health facility, if they get to find out that I am a gay person, they will discriminate against me. As simple as that.

And will the discriminatory treatment lead to barriers to access?

So at the point of going to a hospital is because you're not feeling well, right? So at that moment, you are at your most vulnerable. And so the least discomfort from that space, you wouldn't want to further engage in the space again because my reason for coming here is because I'm not feeling well. And if I am being discriminated against at the point where I'm not feeling well then it means that I will go and not come back again. And it also means that then whatever sickness that I'm experiencing, I'm not able to seek health solution to it. So then it's not subject me to want to go and find remedies on my own, right? Because then I have to self-diagnose myself and self-medicate myself just to get too well. Once the general clinic finds out about my sexuality, then likelihood of being discriminated is high. And it also means that then I have to find a way of getting healed on my own. It means I have to self-medicate or self-diagnose myself.

And what about any examples of discriminatory treatment the LGBTQ persons facing accessing state provided housing?

Okay. So in Ghana, there is no state provided housing. It's mostly on a private basis. So individuals who have homes that are shared. And apart from that, there's also families who already have their homes so that they share it with. But in terms of this rent and spacing in Ghana, if a landlord gets to know that you are the LGBT person, before hiring the space then you are going to get the space. And if after hiring the space, he get to find out you're an LGBT person, you are getting out of the space. And with this, I would also even share a personal example from our organization perspective, right. So quite recently, we have started working with RFSU, a Swedish organization, right. And as part of the project, we actually wanted a space as a facility to operate as an organization and then also get to-- also do some some of the work that-- some of the activities that we were to do as a group and as an LGBT community. And in searching for the place, once we made our organization known that it is an LGBT organization, were refused. People didn't even want to have anything to do with us. Just from knowing that our name had LGBT in the title.

So in terms of housing, it is either you don't make your sexuality known at the time you are going to rent a space, or you rent the space and make sure whatever activities you do in the privacy your group is kept quiet and nobody gets to know about it. Because once somebody gets to know about it, once your landlord gets to know about it, you're going to be kicked out. And a lot of people have been kicked out as a result of their known or perceived sexual orientation.

And you touched on your own difficulties in registering and finding a location for your organization. To what extent are NGOs that support LGBTQ rights able to operate freely? For example, register, host events, campaign and advocate for LGBT rights in Ghana?

So a lot of the organizations that have registered here in Ghana are working towards LGBT rights or initiatives but they don't clearly present themselves as LGBT because when you present as an LGBT organisation, they're going to refuse registration. And so a lot of them have registered in either human rights organization or as supporting vulnerable groups, then you are able to register. But if you go clearly as LGBT person, that has not been done.

What was the experience with your own organization because your organization has the title of LGBT.

We are not registered as a legal entity yet, right. That is also part of our strategy. And we're actually in the process of doing this registration. We anticipate that the registrar general might refuse to register us, and by so during we will seek litigation or develop a litigation and also seek counsel for this. And that is a process that we began all the way from last year up until now. We haven't been able to submit. We have partially put together all the documents including a lot of the information that is needed. The truth is that a lot of the people that we have approached with the name LGBT Rights Ghana have refused to associate with us. And a lot of the auditors that we've also approached have also refused to associate with us. That is why up until now we haven't been able to submit the document because anyone we find they are afraid to attach LGBT to their name.

I was wondering as well, how has the Ghanaian state treated LGBTQ activists or those supporting the cause or perceived as such? Can you talk about a little bit about your own personal experience?

There is now the growing number of activists in Ghana. Before we really hadn't had any visible activists in Ghana. The few of us have had the opportunity to speak on radio and on TV and all that. But we haven't really faced any significant discrimination or attack or abuse from the state yet. And so from that angle, I will say we haven't really experienced any of that sort yet.

When we did our research, there's very little existing information on the situation of trans and intersex persons already available. Can you provide any information in regards to all the questions that have already asked that relates specifically to the experience of a transgender and intersex person?

In terms of transgender and intersex persons, so there are a few known transgender persons in Ghana. And currently in terms of their health wise, there is no health policy that looks at their interest. And there is also an organization called Alliance for Dynamic Initiative. They are trans-specific organization here in Ghana. And so as per my knowledge, when it comes to transgender persons specifically, there are a few transgender persons who have openly come out and said they're transgender and all of that. But that has been on private, individual level. We haven't really heard or heard much on transgender issues in Ghana. The same applies to people who identify as intersex persons, right. So a lot of times, it's mostly family members who are always deciding for intersex persons here in Ghana. And it has been the family's decision on all of these things. But a lot of times, if it's family members or people-- a lot of people are even deeming it as strange, gives it all the

strange look and the strange responses to it and all of that. But these are all on the societal perspective. But from the national level, there hasn't been any specific policies on all of these things.

Interview with Robert Akoto Amofo, Director of Amnesty International Ghana, 1 December 2020

From our desk based research, we understand that despite the criminalization of same-sex sexual activity in Ghana, some sources say that the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

I mean, to talk about whether the law is enforced or not, it is not enforced in the court of law. I mean, there has not been a judgment that I am aware of personally that somebody has been tried for unnatural carnal knowledge, as far as I'm concerned. Rather, it is used as a tool for persecution of the LGBTIQ community by police and individuals across the country to abuse people and take advantage of them.

And how prevalent are arrests of LGBTQ persons? And are the arrests on the grounds of same-sex activity? Or are they for other reasons, for example, to disguise that the arrest was due to the person identifying as LGBTQ?

So there are incidence of arrests but interestingly, it is not about-- the police walking to someone and saying, "I'm arresting you for be LGBTQI", is very rare. What really happens is, when LGBT people are coaxed, or catfished-- I mean, somebody lies to them that I'm also LGBT, they come to them and then and they try to blackmail them, or rob them, or do something to them and ends up with the police, then the police use the law as a tool to arrest the pair, the victim, which is the LGBT person also, and put them behind bars or keep them at the police station.

You said before that you're not aware of any kind of prosecutions that have happened in the past couple of years, do you know when the last one was? Or have there ever been any?

No, I don't know of any. All I know is, most people are prosecuted on grounds of sodomy. And most of the times the sodomy cases deals with whether the person had sex with a younger person. There are cases where the age of the younger person comes into question and when the parents of the younger person wants to get the older person punished they either reduce the age of the younger person to get him to fall in the age of a minor which is 15 years or younger.

If an LGBT person was completely open about their sexual orientation and they didn't have to kind of hide or conceal it, what's the likelihood of them being harassed, discriminated against, arrested, prosecuted and treated in such a way by the state.

By the state is not likely. By the state, it will be-- unless for instance, clearly, the person's involved with in something else, maybe like, as I said, the person gets involved maybe sexually with another person. If the LGBT person has any sort of contacts who try to lure the LGBT person into

trouble, then the police gets involved. But when the State just gets to know that a person is LGBT, and it's very, very low likelihood that the State itself will come after the person.

Based on your knowledge and experience, what is the treatment that an LGBTQ person may face when encountering the police? For example, any humiliation, harassment, violence?

So of course, humiliation and violence and extortion and bribery and taking money from people, denial of bail, and forced arrests. Yes, forced arrests because-- and especially there's a phenomena which I was trying to explain earlier where if somebody who is a black mailer or an individual who is homophobic tries to get in social media platform and lures an LGBT person to where they are. And then they try to rob the LGBT person and maybe physically abuse them. If the LGBT person goes to report to the police and the perpetrator of the offense mentions in the process that this person is LGBT, then the police will harass the LGBT person. The police will arrest the person, humiliate the person, and extort money from the person or even put the person in front of the media, all sorts of violence that could happen to an LGBT person from the police.

This kind of harassment from the police happens very often. As often as a person gets lured into whatever acts that they get into. Very often as far as I'm concerned because the idea is that many people also don't report because of the humiliation and the family disgrace and all of that. So even though we don't have figures on that, but what I'm aware of is at least I get at least two reports in a week of such cases. So it's very rampant, and it's only that people just don't report these cases because-- I mean, in instances where some of us have followed up with such cases, it has ended up that the police has extorted money before they allowed the LGBT person to go. Or by the time you finish all the issues and we don't settle them, they humiliate the person and out the person to the public.

What's the treatment and experience of the LGBTQ persons when they are detained or detained on remand or held in prisons?

The treatment and experience of an LGBTQ person when they are detained or held in prisons is that they are beaten, sexually abused, and they are harassed emotionally and psychologically. This happens in my experience in particular to gay men or transgender women when they are outed in prison or in a police cell.

Just to clarify - are they at risk of that kind of treatment from the other cellmates or from the police or the people who run the prisons?

Both the police and the prison cell inmates are the most likely offenders, but the police and the prisons guards also contribute.

We also wanted to find out a bit more about access to justice for LGBTQ persons who are facing arrest and prosecution. How long would an LGBTQ person likely wait for trial? Are they likely to be detained and remand? And do they have access to free legal representation?

But as far as my knowledge and experience is concerned, the general public even, barely get access to that service. So the cases I have dealt with, many of them do not get legal representation at all. There are also instances where the case does not get to court. Most of the cases of LGBT people who are arrested because of their sexual orientation or gender identity do not get to the court. They are always addressed at least at the police station. Addressed in a sense that either they pay some bribe or their family pays some money or they are left to go because the investigator doesn't have any enough evidence and the person is also not willing to pay. And then also there's a case where I was in court with an LGBT person where the LGBT person was humiliated by the judge and the lawyer who was on the other side. So then he discontinued the case. So these are the incidents that I have experienced.

Has it ever happened multiple times to a person where they've had these kinds of encounters with the police such that they've been lured by someone else, brought to the police station and then arrested?

Like I mentioned in particular week, I had two cases. One person was lured by a homophobic person who on Grindr. And when the LGBT person went to meet whoever this person was, they beat the LGBT person, took his phone, and asked that he should go and bring money before they get back their phone. And these are two incidents that are similar. So the person reported to us; I am a key LGBT advocate, so most of these cases will come to me. I referred them to another LGBT organization to follow up and brief me. As far as I'm concerned, they reported to the police. Later on, when the police heard, for one of the cases, the police lured out the LGBT person and went through their phone and found some explicit things and things that implicated them to be gay. And so they used it against the person, put the person behind bars until the family of that person came to pay money before they were let go. Another case of an LGBT person who was arrested by the police because somebody shouted that he was gay. . And he was arrested, sent to the police, and the police gave him a price to pay before he was let go. So he had to negotiate the amount, and he paid an amount before he was let go. There a number of cases that consistently happen. And this is mostly when these people are lured into things that they didn't know were wrong for them.

And in terms of the amount, is it something that you've ever found that people who find themselves in this situation are not able to pay?

Yes. And so, like I said, many people do not report. There are socioeconomic dynamics but it does not affect whether or not people would report because the idea is, the more people who get their cases to us as NGOs are people of a lower economic strata. Because most of the LGBT programs and activities reach them more, so they know that LGBT organizations provide sort of paralegal support when they get into these cases. People at more middle-class economic strata do not report because they have a high issue of protecting their reputation, possibility of losing their job, or something, so they would not report at all. So more of the people who would receive legal assistance, paralegal assistance or just assistance to go through the legal processes, would be people of a lower economic strata, and who would not have access to these legal services. But legal services in Ghana is very expensive, and I'm sure it's all over the world. And so people would not hire a lawyer unless the lawyer is willing to do pro bono on such cases.

And do you know how much people are extorted for when they're in the police stations or detained?

When people are detained they can be extorted by the police for 5,000 Ghana cedis [\$850] and 3,000 [\$510] Ghana cedis and 1,000 [\$170] Ghana cedis, ranging within that amount, the ones that I have come across.

We'd like to find out more about homophobia and transphobia in government institutions. Do you have any information and specific examples on that within state-owned media?

Yes. And so, for example, we have the Daily Graphic and they have published homophobic things, like if a public state person says that, "Oh, LGBT people are dogs," or "The LGBT people are supposed to be wearing Pampers," or those kind of things. It's not the media houses themselves, people, speaking, but they give a platform to other guests that come to their radio station to make homophobic rants or write homophobic things in their papers. So yes, there state-specific examples like GBC, Ghana Broadcasting Corporation, will have certain guests on their shows that would be saying homophobic things and calling LGBT people names, yeah.

And how about some examples of homophobia and transphobia within government officials?

So, for instance, our speaker of parliament is a very notorious person known to be making homophobic rants and threats, towards the LGBT community. And there are other the ministers and state officials who have made very homophobic statements like the Minister of Gender and social protection at the moment, and had made certain statements that-- I mean, he has even supported a church who launched a book against the LGBT community. I mean, and those are things that we are aware of that happened.

What about homophobia and transphobia within the institution of the police?

Incidents of homophobia are very high within the police and these normally happen at the police stations where cases are reported. A lot of homophobic rants. In my past job I was always having to attend cases of LGBT people, sex workers, when they went to the police station. For example there was a case that we brought to the police about a person that was doing homophobic things against the LGBT person. Now the police replied, "Why do you have to be a homosexual? Why don't you have a woman? Why don't you go and have sex with a woman instead of having sex with another man? Why won't he do this to you because you are doing demonic things?" Those kind of things I have experienced.

Could you expand a bit more about homophobia or transphobia that you've encountered in the judiciary?

That case was my real encounter with the judiciary, having to hear a judge make that statement, which discouraged the LGBT person from moving ahead with an assault case that was brought to the court.

Could you expand a bit more about homophobia or transphobia in state-funded education.

Very high, because a lot of people are thrown out of school immediately who are known or found to be same-sex loving to transgender or any sexual orientation that's different from heterosexuality. Some schools expel 19 students or 20 students, and sometimes it's not that they have found them having sex, but they found maybe one person, and then they ask the person: "Now tell us who knows who." And then they collect a number of students and expel all of them. So that is also something that happens within the schools. And there are stories that are followed up. A secondary schools where they found two boys, and they asked the two boys to identify other people, and these two boys also were scared because they are boys and they are children. They had to identify their friends who they believed, I mean suspect to be gay men, and then they arrested them. And then lesbians schools, in single-sex schools where females have also had a similar experience community, yeah.

Does homophobia and transphobia exist within the state-funded health system?

Homophobia and transphobia in the health service is very high. You experience this when you are an effeminate man, transgender woman, or you are a gay man who has had some sex and has given you some disease or sickness that can identify you to be known to be gay. Then you will experience homophobia. You will experience psycho-social abuse and all of that. Outing without your permission and all of that happens.

Does any discriminatory treatment affect access to state health services?

A number of gay men, again, do not access the same health services because they are scared of being outed or being abused or being humiliated. So if they have something like genital warts and anal warts, and you'll not go to the hospital because of the implication that you've had anal sex.. That some have HIV and they'll not access services because-- and it's not like it's not available, but because of the fear of being outed or being humiliated or being harassed is what would prevent people from not accessing

Any discriminatory treatment that may affect access to state employment, for example, in a civil service?

Once a person is identified queer or gay or lesbian or bisexual, they face a high level of discrimination and harassment in their workplaces. In Ghana, when a man is effeminate and the person comes to a job interview or comes to a workplace to seek for a job, the person will face that sort of harassment and probably denial of the job because somebody will think that they don't fit into the calibre of men that they want let me see.

Is there any kind of discriminatory treatment that affects accessing state-funded education?

Most of the time people can access. The only challenge is if the person is effeminate or if the person is a trans woman or the person has ever had her history of being outed, then the likelihood that they will not access is high. But if the person does not fall within any of these categories, they can access state-funded education.

To what extent are NGOs that support LGBTQ rights able to operate freely in Ghana? For example, register and host events and campaign and advocate for LGBTQ rights.

So LGBT-led and LGBT civil society organizations, there are about 12 of them, none have really registered as an LGBT organization. So registration is an issue. Most go with human rights or youth or something else. A number of organizations like Solace Initiative and ADI which is Alliance for Diversity Initiative register as human rights or youth or community organization. To operate, yes, there are events are held and all of that but with a very high sense of security and discreteness. And then also, people make sure that they do not give away information about their operations..

Reports are not done with their indications of LGBT when we know that they could be public. So we can operate, but we need to be very, very circumspect and very discreet in our way with talking about our work with LGBT people. So yes. Advocacy, most of these organization depend on bigger human rights, well-known organizations like I am now with Amnesty International. And so they can depend on me to say such things in the public, and it won't get-- I mean, I would get abused in the media, insulted, and thrown about and all of that. But at the end of the day, people still respect the fact that I come from an organization that is well-known. But these individual organizations cannot, and they'll find it difficult to stand out and say these things. Some organizations have tried it before for example LGBT+ Ghana is a very vocal LGBT organizations and have been out there and campaigning and all of that. But yes, on social media and online platforms, yes it's okay. But has an LGBT organisation organized a campaign where they are walking in the streets? no it has not happened.

How has the Ghanaian state treated LGBTQ activists or those supporting the cause or perceived to be such?

Most of the times activists are ranted at with insults and threats. I am an example of having had insults and threats and then humiliation from State officials or states institutions for speaking out or saying something. I mean, for instance, if you look online, and you see something on the Pan African ILGA Conference that was supposed to be held in Ghana, and I made a statement. And the media reported in a particular way and I got all sorts of insults and things. And they have been instances where there has been abuse and I have mentioned it and state officials did not take it well. So yeah, there have been experiences and anytime an LGBT person or an activist speaks out, they get all sorts of insults and rants.

And they come from some government officials themselves?

Yeah.

When I was doing my research, there's very little existing information on the situation for transgender and intersex persons. Can you provide any information in regards to kind of the questions that we've already asked, but relates specifically to the experience of a transgender person or an intersex person?

So most recently there's been a rise of issues against trans women and the reason why you would not find a lot of information on it is-- and I understand because in Ghana no media person would even understand and write about trans experiences, and whoever is found once you have male sex organ and male look, even when you say you are trans people don't understand they tag you as gay. So that is also another challenge that will make it difficult for people to identify issues with trans people. Intersex people, and because of the way we treat intersex people in Ghana, it is either a reaction of empathy or rejection against the intersex community. So in many cases, once it is made known then it turns to discrimination and idolizing. And when I say

idolizing it means like, demonizing also like people start calling all sorts of religious rants against such people. So for trans people, that's the limitation. And they do experience similar things like gay men and lesbian women. The only challenge is that most of time, they're either branded gay or lesbian. They're not branded trans. And then intersex people also do not have all sorts of things against them, because well, people do not deem them engaging in "acts" that are same-sex but the challenge is that once we'll get to know that they're intersex and that's the difficulty for them.

Is there anything else that you wanted to add in addition to what you've already responded to today?

I think one thing that we may need to pay attention to is also that other people who are not gay or lesbian or trans or queer or whatever just taking advantage of this processes and currently there is no line between, for instance, the UK immigration system and maybe LGBT organizations down here to verify some of the facts that people provide for them. And so, that is one thing that I will want to add there is a need to link so that and quality information can be provided as and when they are needed and for that matter may be linked with credible and identifiable also organizations that even maybe the local missions can verify the existence and their work so that cases will end up making a decision on someone they can get the support and information that they need to make a decision.

Interview with Mac- Darling Cobbinah, Director of Centre for Popular Education and Human Rights Ghana (CEPEHRG), 15 December 2020

From our desk-based research, we understand that despite the criminalization of same-sex sexual activity in Ghana, some sources say that the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

The law for us in Ghana is a bit dormant, but then because the law is there, LGBT people are harassed, are beaten, are threatened. The law is used at some point to threaten people, to arrest people, and to sometimes put people behind bars. But officially the law itself has not been used in terms of to sentence people within the last three years. What has happened is that it's been used the aspect which older persons engages in a sexual act with a minor. Therefore, homophobic individuals will make changes to their official age to enable them to get someone imprisoned. Also the aspect which deals with indecent exposure has been used. The issue of Sodomy between two consenting adult men has not been used, but they use the aspect of sex with a minor which is considered by law as defilement. Therefore in most cases, the victim will create the impression that he is a minor thereby making the case more appealing and emotional and gain public sympathy.

Because the State tried to avoid using the sodomy law, instead of using that, they will consider the age of the person, and then they will either charge the victims' age to better suit the prosecution of such case. Most of the cases handled by the police has been cases whereby the victim tries to blackmail the friend, or a "client". So sexual relationship between two consenting adults is not a problem, but if done in public then that one becomes an offense known in our laws as indecent exposure. Also, there has been cases whereby "victims" try to extort monies or blackmail the supposed perpetrator. Blackmail and extortion is prevalent in most of the documented cases in Ghana.

So you'll be charged around this issue, either indecent exposure or defilement, which is sex between an older person and a minor or sexual activities in public.

We've had situations where a judge will not verify the ages of supposed victims and so the family of the supposed victim will try and change the age of the "victim" just to look as if it's a minor so that they can go through with their case.

And now, when it appears in front of a judge who is anti-LGBT, sometimes they don't even ask the relevant questions. Because you are accused of being LGBT, you will just end up behind bars because there are some judges that are known to be anti-LGBT. So for them, if you are accused of being LGBT, they don't even ask the relevant questions. Even though the law states that cases of crime should be proven beyond reasonable doubt.

Most lawyers when contacted to handle LGBT related cases also refuse to represent these LGBT's due to social stigma or still agree and charge more for the representation.

How prevalent are arrests of LGBTQ persons? And are these arrests, as you said on the grounds of same-sex activity, or are they for other reasons?

Most times, within the recent years, we've not really had a situation where LGBT persons are having a party or ceremony and the police arresting anyone or the police invading their privacy and arresting anyone. The cases we've heard recently have been cases where persons tries to blackmail an LGBT person, and so end up in the police station. These sometimes are considered cases between two members of the LGBT community but in actual fact a case where someone tries to lure a member of the LGBT community to rob, extort and blackmail etc. I have seen recent cases where police officers were used in such blackmail and extortion.

So blackmail and extortion have been on ascendancy because of the law, because people use the law to blackmail persons. This happens when a general member of the public lures an LGBT person on social media and then blackmails them and threatens to take them to the police on the basis of the law on unnatural carnal knowledge.

Can you provide any information about the prosecutions taking place under the law? Have there been any convictions?

I don't know of any case where someone has been convicted. The ones that I know is more than five years ago.

What is the likelihood of a LGBTQ person being arrested or prosecuted or otherwise face harassment and discrimination by the state if they were to be completely open about their sexual orientation?

You cannot be open about your sexual orientation and be protected by the state. The reason is because our leadership is very religious. The people behave due to their religious ideologies instead of common sense or science. So politicians always try to follow the trend so as not lose their support base. So sometimes, you'll see someone speaking in support of the LGBT community in private, but immediately, the issue becomes public. The politician will have to defend themselves and retract the statement due to public backlash.

So the state will not support anyone. Although the Commission on Human Rights and Administrative Justice, which is the state's body, provides support for LGBTI persons, but even

these supports are minimal. They try to support the community members who face Human Rights abuses but the resources are not there for them to support the victim adequately throughout the processes. This is because the state does not directly fund protection of LGBTs'. Therefore most of the victims who report cases to CHRAJ end up demoralized and then give up.

In a recent meeting, their comments is that, "Oh. LGBTI persons will report a case," but they cannot follow up the case to the end. But the real issue is not about reporting and not following the case. The real issue is that when LGBTI persons report a case, they are supposed to be empowered to know how long the case is going to take, so they should prepare their minds adequately for the case.

What is the treatment that LGBTQ persons face when encountering the police? For example, any harassment, humiliation, violence.

For example, if victims of blackmail and extortion goes to the police to make a report, they sometimes gets arrest and put behind bars. Some are fined an amount of money. Most persons will prefer to make such payment to avoid public ridicule or continuous detention.

So our police is, most times, intimidating and threatening. So sometimes, in some instances, they even force victims to confess to a crime through their arbitrary powers. The public now calls the police "Aban" which means the state. This is because the police can arrest you no matter your innocence.

And so in some instances, lawyers within the country, in Ghana, sometimes even avoid dealing, handling LGBTI issues. They'll tell you, "I'm a Christian," or, "I'm a Muslim so I don't want to handle the LGBTI issues." And so it becomes difficult for you to even get an adequate representation of a lawyer within a police station. And so the police take advantage of the non-availability of lawyers and extort money from the victim and sometimes, threaten the victim. And sometimes, they demand, actually, ransom money because they want to close the case for you, the victim. If you need to be helped by the police who handle the case, they would demand an amount. Now, your family or your friends will have to put together the said amount and then pay to the police. These payments do not come with a receipt.

How often does this happen?

How often? We can say every time-- because of the law, every time we have such cases happening because blackmail is on the rise. There are persons who are not LGBT, but then they hang out on the platforms used by the LGBT persons and lure people to their areas, to their communities or comfort zone. And then they try to abuse them and exploit them of moneys and rob them of sometimes their possessions, depending on where the person is coming from and what the person is holding at the moment, at the time of being invited over. And so we've got such cases, It actually happens weekly. Because there is no month without an incident reported.

What is the treatment and experience of LGBTQ persons who are detained or detained on remand or held in prisons?

We've not had anyone really share their experiences within the prison, but we know—because of my work with the Global Fund Country Coordinating Mechanism (CCM) Oversight committees visits to grantees and their beneficiaries, we visited few prisons where we engaged the Prisoners on several topics in health. In one of such visits I enquired from the Prisoners if same-sex sexual activities takes place among them. And the prisoners told us when one is seen indulging in such act you will be picked on and humiliated and sometimes abuses by the inmates or the officers in charge. They told us if an inmate's crime for coming to Prisons is LGBT related then you will face some sexual abuse from older inmates. They insisted some persons even face verbal and sexual assault.

For an LGBTQ person facing arrest and prosecution, how long would they likely wait for trial? Are they detained and remanded whilst waiting for trial? Do they have access to legal representation? And is this free? And do they ever tend to be sentenced for more severe penalties? And is the non-payment of fines punishable by a sentence of imprisonment?

Most of our laws have fines or a sentence, or sometimes you have both. So sometimes they will say imprisonment or both or fine and then imprisonment. So you can go for two years and a fine of maybe 5000 to support the victim or to give to the family of the victim, or if you cannot pay the fine, then you'll go for maybe 10 years imprisonment. So we have that within the laws.

And for an LGBTQ person, how long would they likely wait for trial? And are they likely to be detained on remand whilst waiting for trial?

I think the LGBT persons are dealt with the same way every case is dealt with. The only thing is that sometimes the police have the power. For instance, the police prosecutor can delay your trial even because he can say or she can say, "I'm busy. I can't represent. I can't be available for this week. I can only be available for next week." So if you're in remand, then it means that you have to wait for the prosecutor to present you to the court. And that is a challenge that most times it's faced with the police. It's not just LGBT, but it's a general challenge that you face when you're working on the human rights issues within the police system.

We'd like to find out more about homophobia and transphobia in government institutions. And I'll go through a list of different government institutions, and, if you could, comment about homophobia or transphobia within that institution. So the first one is homophobia and transphobia within state-owned media.

It's higher because the state media, most of the spokespersons on the radio-- even when you have an LGBT person on the radio, you don't see them actively supporting the issues. You see them go, "Who are LGBT community members who you deal with, who you work with, who you eat with." But then when they have access to the media, they don't speak out. They don't support the issues. And even when they are having a discussion on the radio, what happens is that the other person goes, "Why? The way you are supporting, are you one of them?" And then he will say, "No, no, no." She will say, "No, how can I do that?" So we've had several of those experiences. We have media persons who always disguise themselves when they are on the station because they don't even want to be known as a member of the LGBT community.

How about homophobia and transphobia amongst government officials?

The current government officials is highly homophobic, but they are highly homophobic because of the outside world. It's not because they don't know anyone who is LGBT or anything. It's because they don't want to be seen to be supportive of the issues of LGBT. But it is not because they don't know anyone or they don't have one in their home or they've not met an LGBT person because we know a few persons who are even LGBT within the state house. But they are silenced because they have all the powers today. If you mention them, they can do anything to you within the system. So you see the most that people mention-- they will say, "Oh, I know someone even in high places who is--" But they cannot mention the name, or they cannot try to describe further because they are scared of being victimized. Immediately, you tread those roads.

What about homophobia and transphobia within the police?

Within the police, it's hard because for them it's a means of extorting money from you. So even when a police person is LGBT, it's very difficult. The recent case I dealt with was a police person who was being blackmailed by somebody. And then he came to the office so that we help him deal with the issue, and then I told him that we work with one of their officers. We will talk to him so that he helps him to get justice. And then he said no. We even connected them. But they called back to tell us that we should end the case because he's not ready to-- he's not feeling comfortable handling the case with his boss because he doesn't want to go further with the case. So it tells you the state of fear and homophobia within the service.

What about homophobia and transphobia in the prison service?

In the prisons what we've got from them is that it happens. But if you are caught-- if you are caught by a colleague or a friend, you are subjected to beatings. But what they've said is that those who have their privacy like they've been in the prison for longer and they have their own rooms, then they invite persons who recently come to the prison that are new prisoners. They give you money. They give you food. They give you a place to sleep. And then you also in return they can abuse you sexually or do anything to you because they are providing for you. And by that they were clear that even though it is rampant within the prisoners if you are caught, you are subjected to beatings and humiliation.

The same question again applies to homophobia and transphobia within the judiciary. Are you able to comment on that?

Yeah, sure. I will share a little. Yeah, the judiciary we have are religious and make decisions based on their religious inclination and not base on science or fact. Most of the judiciary will tell you I'm a Christian and therefore cannot handle your case. Religion plays a very critical role in the adjudication process in Ghana. They give judgements based on their religious ideologies or their religion beliefs and not from because of the law or the facts. In most cases when we have approached a lawyer to handle a case and the lawyer will put it to you, "Look, I'm a Christian. I can't handle this case." And some of them even uses that as a base to extort money from you. Like they will tell you if you want me to handle your case, this is a LGBT case, it a high-level case, so you have to pay-- if their charge is 2,000, you have to pay 7,000, 10,000 before I will handle it--

-- they also told us "I will lose my friends and most friends and admirers will ask me why am I defending your kind of person"? And so to avoid all these, it means that I have to be given more incentives to be able to handle your case.

What about homophobia and transphobia within state-funded education?

The challenge we've had within education if you're caught to be having any affair within the educational system, you are dismissed.

Have there been recent examples of that?

There have been. Just few days ago, I was talking to the people from CHRAJ, the Commission on Human Rights, on those incidents. And then the view that she gave me was that even when it happened between straight people, they still dismiss them. So if it happens between LGBTI persons, it's not a big deal when they are dismissed.

What she said was that it's not a bad thing because she thinks that when heterosexuals are caught within the educational system and they are heterosexual, they are dismissed anyway. So if they are caught and they are LGBT, why shouldn't they be dismissed? But my issue is that the whole system is wrong. It's wrong for dismissing a straight student caught in any act and the same thing is wrong to dismiss LGBTI person, dismissed for having sexual acts. I think that there should be some remedies but that is not her thought.

And finally, in state-funded health system, do you have any information and specific examples of homophobia and transphobia?

Homophobia and transphobia is a cultural issue in our health system. We've had issues where someone had a health challenge. For instance, where someone with an anal wart, and what the doctor was telling the person, "Don't ever do that dirty thing again." So we've had a lot of these incidents. For example an LGBT person can go to seek out a health service, and in response the healthcare worker will bring out the Bible. And they will start preaching to you and said, "Why do you do all these things? Don't you know it is against the will of God and everything?" So we've had all those incidents over the years, and it still happens.

And does this affect access to state health services? Are there any specific examples of discriminatory treatment the LGBT persons face in accessing state health services?

I'll say that, for instance, LGBTI persons are supposed to have access to lubricants And condoms. And the challenge we've had over the years is that the condoms and the lubricants available for us, or provided for us, is not-- it's not the best for LGBTI person, it's-- people don't like it. And so people don't even use them. And so even though there's been-- there is an investment in the health service, for instance, you are buying the condoms. But people are still not using the condoms. So HIV infection is still going higher. But when you discuss with the state they will tell you, "We are buying these kind of condoms for sex workers. We cannot buy anything special for

your people." So it means that the program is providing a generic products for all the persons. It's not a tailored product for the different groups. But the one that is given for sex workers is the same thing that LGBTI person should use and everything. Meanwhile, the sexual risk are different, and the-- in terms of the act, is different between the different groups. So that is an area you can also say that the health system is being discriminatory.

Is there any kind of discriminatory treatment in accessing ARVs?

Specific when it comes to LGBT and ARVs I'd say the challenge in accessing it has been when you go for treatment. These have reduce drastically, one, because we work with some specific facilities now. Now we refer persons to-- but we've had challenges when a member of our community defaults in terms of for taking their Pills. when they get to the health facilities the nurse will say, "Look, why did you default? Go and sit at the back." And they will not even attend to you, instead of encouraging you, and counselling you, and supporting you to adhere to the treatment. They will say, "Go to the back." So we have had those situations as well in terms of access to quality health care.

Are there any specific examples of discrimination in treatment that LGBT persons face in accessing a state employment?

When it comes to employment, I think because they will not ask someone of their sexuality or orientation before hiring, but then I would say that if you are more effeminate, you are bullied, you are insulted, you are teased is the right word, you are pushed, you are made unwelcome, you are intimidated. It's like I remember when I was going to the school. I started the university. If it's not because I'm strong, not really, I wouldn't be able to complete because people discuss you, they discuss me and then they'll come and sit in the class, and then they will be mentioning names and saying things that will intimidate me, that will scare me, that will make me feel bad, that will make me lose my self-esteem or whatever. But I encouraged myself that this time round I want to complete the school. And therefore built strong structures around me in terms of friends and networks. I met some of the students who were supportive, and that encouraged me to complete. So they were there to always fight for me, they support me and fight for me in my defence. So it means that if you are not supported or you are not strong enough, then it means you end up in the house, or you'll not be able to complete the school. And these are things that when you report to [inaudible] they should be able to handle, but if they don't provide the needed support, then in terms of internalize homophobia, you feel, "Okay, I even deserve it. If I dress well, or if I've being quiet in the class. People will not be intimidating me. So then you said, "Okay, let me forget this whole thing. I will not even want to pursue the case again against anybody."

To what extent are NGOs that support LGBT rights able to operate freely, register, host events, campaign, advocate the LGBT rights in Ghana? I understand that your own organization had some difficulties registering at the beginning. Is that right?

Yes. And currently, we are working with some other LGBT organizations, and none of them have been able to register specifically as an LGBT organization. What we do for them is assist them to get registration as a human rights organization and other relevant documentations. In the past when we tried registering as the Gay and Lesbian Association and that didn't go through. We were denied registration by the registrar generals' office.

There are groups here, for instance, LGBT Rights, Ghana, which is not registered but operates within the country. But most of the 10-- the 10 groups that we work with, all of them are registered but not specifically as an LGBTI organization even though the directors on those groups are LGBT persons.

And they seek to promote LGBT rights but they can't register because the system also does not allow for such—In future for instance, we can have a test case, for instance, where someone will say, "Okay, we want to support you. Let's push this. Go and start registering our organization with this name and let's see what will come up." If it come up, if we have to deal with legal case, we can use that as a test case and push. But when you're registering an organization to start a program and you are passionate about something you want to deliver, then it means that you will not have the time to go through all this whole process of going to court before you deliver whatever you want to deliver. So it's better for you to go on with your program and forget about the culture.

And what about being able to campaign and advocate about LGBT rights? Is your organization and other organizations able to do that freely?

I don't know. When you say campaign, I don't know how to say it but if you, for instance, go to a community and say, "Yes, LGBT people have rights," you can have a lot of backlash because, for instance, they'll ask, "What kind of rights? We are all enjoying the same rights. So what kind of rights are you talking about?"

Because for most people LGBTI rights, is just to get to same-sex marriages. And so it means that when people are talking about rights among the LGBTI community, it's just to allow two people to marry, and not anything else

People would tell you, "Yes, we all have rights. The constitution protects everybody. So what do you mean when you say, 'All I want is LGBTI rights'?" But you can specifically deal with-- come out and say, "Let's look at abuse or extortion of money from LGBTI persons. Or stigma and discrimination against LGBTI persons." That is specific, so you are targeting a specific issue which is against the rights of the persons you are dealing with.

And have you ever brought those issues to the government, or worked with the police, and what has been your experience?

I think in the past years, we've raised them with the police. I know some of these things because there was a human rights documentation, known as the "Key population documentation system." That was set up by CHRAJ, which was an online system, that LGBT persons and organizations were reporting cases to. So there were a lot of cases that were reported within the system. So they should be aware of the human rights situation of the LGBT community. But

the question is, "What was their response? And what was their reaction? And what was the feedback after those cases were reported? Did anyone get justice after reporting such cases?"

And would they take on the cases if they were reported? Was it just to document, or was it to then represent those people?

They have the mandate to represent. You first need to document the abuse and they then they will call you for follow-up. For instance, they want to understand better, "What happened? What do you want to be done?" For example, if it's abuse within the house, and they bring your landlord and then engage your landlord on the way forward for justice to prevail. But in 90% of the cases the victims will not follow up the cases due to their inability to afford the cost of their transport and time spent on the cases; since these are not well explained to them in the beginning of the process.

So they document it, but they cannot prosecute or give the person justice or anything, because the people would be withdrawn from the beginning. Those who stand strong wins in most of their cases.

How has the Ghanaian state treated LGBT activists, or those supporting the cause? How have you been treated by the Ghanaian state, as an LGBT activist?

I think, if you are in the closet, it's okay. The Ghanaians think you can be LGBT, but be in your house or space. Don't flaunt it on my face. Don't tell me you gay, but you can do it anyway. So if you are walking in town and you are confident effeminate gay, then someone will want to provoke you so that they can abuse you. But if you are LGBT and you are not the effeminate type, you don't show anything, then it's okay, you are not a problem to anybody because nobody will know you are LGBT unless those who are closer to you.

Yes, but if you want to be yourself, like in terms of-- you want to be yourself and go gay on the street, that is where you have a lot of challenges. The challenges ranges from verbal to physical abuse from the ordinary person on the street.

There's very little existing information about the situations for transgender persons and intersex persons. Can you provide any information in regards to the questions already asked that relates specifically to the experience for a transgender person?

The transgender person is a new phenomenon which is coming up, but we've had issues with transgender persons who are trending on social media and other spaces. In recent times, most persons identified to be trans or intersex by the public or police are treated like criminals and their bodies exposed to the public on videos. We mostly witness such videos on Facebook, and YouTube etc. The police sometimes removes genitals on the streets or their stations and then with cameras on, and share it on social media for people to be laughing and they make jokes. These go a long way to reinforce violence against LGBT persons on the streets of Ghana daily.

Sometimes you see police officers who'll be asking the person to remove their clothes and get them naked, and slapping and beating people in public These actions are to humiliate and dehumanize the victims.. So that is some of the problems that transgender persons go through

in Ghana. There's a lot of bigotry towards transgender and intersex persons in the country. There have recently been videos circulating of transgender and intersex persons being beaten up and some naked by police officers in Ghana.

Do you have any information about treatment from the state of an intersex person?

In Ghana, the issues around sex is difficult to discuss. Is recent that we are able to discuss condoms and lubricants and other things in the open. So persons who have intersex children are even forced to hide those identities for their children. And so it's recent that it's coming up. So intersex people also face a lot of abuse and humiliation because, like the trans issues I mentioned, that they were abused and made to strip, and other things, intersex persons go through similar experiences. And sometimes they're even called "witches" and "wizards". They're called witches and wizards because, for most of these people on the street, they are not familiar with their issues. And so, for us, we think it will be important that there will be more education in terms of what it means to be intersex so that people understand what it means to be intersex and everything, and so tolerate or accept such persons.

Is there anything that you want to add that I haven't covered so far?

No. I think that just maybe a conclusion which says that the whole general system of the Ghanaian community, it's homophobic. You feel it when you engage people. But when you engage with officials, for example, at the police or the courts or anything, they will try to look nice and say, "Oh, we are nice people. We are human rights friendly. We tolerate people. We are a diverse society and everything." But in reality, that is not what exists. You don't feel when you are a LGBT community member and you want to see all these things in practice. So I'm just saying this because when you're engaging with a Ghanaian ambassador or high commissioners on issues of LGBT Rights and freedoms in Ghana,-- they will tell you, "Oh, the system is fine. There is no challenges." But in reality, people have a lot of phobia about LGBT persons. But they don't show these phobia. In recent past, we've documented cases of four persons killed within the last four years, and they were murdered in an awkward horrifying ways. There's not been any investigation to find even one of such perpetrator of violence because they were LGBTI persons. And because their families will not also want an investigation to be carried on the LGBT family member. And then the police will also will find it weird to also investigate an LGBTI death. So then they leave it hanging.

And in these cases, do you know whether the person was killed because of their sexuality?

Oh, the recent one is about a year ago. They met on social media. The person came to his office, a shop where he was selling. And then he completed the sales, and then they came home. And then the murder took place at dawn -- the killing was done early morning when the person was asleep.

We also have to let you know that there are groups that have been formed here that are anti-LGBT, and then when they touch you, they will give you a Muslim canning, public embarrassment and sometimes stones to death. Even though they do videos and share them on social media, none of these persons have been prosecuted for violence or assault till date. They are here in the country across the regions and are promoted and supported by our current

speaker of parliament who is a Baptist pastor and doubles as a politician. Due to the influence of these high powered politicians and they've been bold and allowed to flourish, do their activities without any challenge across the country.

You mentioned the anti-LGBT groups that threaten LGBTQ persons. And what has been the state's response to them?

We're saying that even the state supports these groups behind the scene, because the speaker of Parliament, for instance, is one of the powerful wing of governance champions these groups.

Written answers by Prof. Prof. Raymond Atuguba, academic, 12 December 2020

Laws in practice

1. From our desk-based research we understand that despite the criminalisation of same- sex sexual activity in Ghana, some sources say that the law is rarely enforced. Based on your knowledge and experience, what is your view on this?

This is true. For quite a while now, Section 104 of the Criminal Offences Act 1960 (Act 29), which criminalises consensual same-sex sexual activities between males, has hardly led to a prosecution. One of the last reported cases of prosecutions of homosexuals in Ghana was in 2007, when a British man was charged under Section 104 for engaging in homosexual conduct. After that, there has been no known prosecutions and convictions on the basis of this provision, which has caught media attention.

2. How prevalent are arrests of LGBTQI+ persons and are the arrests on the grounds of same-sex sexual activity or for other reasons (e.g. to disguise that the arrest was due to the person identifying as LGBTQI+)?

Arrests on grounds of a person's sexual orientation are mostly sporadic. This is due to the nature of the offence and what needs to be proven before the offence is made up. The police are hardly in the position to know what happens in private spaces, which is where sexual intercourses mostly occur. Most arrests made by the police are based on information given by supposed witnesses. Quite often, the arrest is also based on related grounds such as the recruitment of people into homosexuality, possession of photographs which evidence unnatural carnal knowledge etc. Because there is a criminal law that squarely captures such sexual conducts, most arrests made have been on the basis of Section 104 of Act 29 and similar sexual offences.

3. Is there a 'typical' type of accusations/charges being brought against LGBTQI+ individuals, including the punishment for these other 'crimes'?

The typical charge on which LGBTQI+ people are arrested is the offence of unnatural carnal knowledge, as found in the Criminal Offences Act (Act 29), as well as related offences such as the possession of obscene images, engaging in gay practice with boys amongst others.

4. Can you provide any information about prosecutions that have taken place under laws that are deployed against LGBTQI+ persons because of their perceived difference.

The last reported court case was the case involving the British man who was accused of engaging in unnatural carnal knowledge with a 19-year-old in 2007. He was kept in custody until his deportation.

5. We understand that from our desk-based research that there have been no convictions for LGBTQI+ persons for same-sex sexual conduct in recent years. Can you confirm this? Why do you think this is either true/ false?

This is true. The wording of the offence is not explicit. Additionally, the requirements to be satisfied for the offence to be made out is high. It amongst other things entails a breach of the right to privacy in order to know whether there has been sexual penetration in an 'unnatural manner'. The only means by which the police can be aware of this fact is through reports by private persons, and there have not been so many reports about homosexual conduct. From facts available, most citizens take the law into their own hands, rather than report alleged incidents to the police, and in so doing, they violate the rights of members of the LGBTQI+ community.

6. What is the likelihood of LGBTQI+ persons being arrested, prosecuted or otherwise face harassment, discrimination or violence by the state if the former were completely open about their sexual orientation? [being completely open means that the LGBTQI+ person would not hide or conceal their sexual orientation from anyone in Ghana].

The law prohibits 'unnatural carnal knowledge', which has been interpreted as sexual intercourse in an unnatural manner. This includes oral and anal sex between opposite sex couples. In practice however, this provision has been used to target homosexuals. A man who comes out openly as a homosexual cannot be prosecuted solely on that basis without satisfying the requirement of an unnatural sexual penetration. It is only an offence if there is the least degree of penetration, in the absence of which there is no breach of the law. Going by the definition of unnatural carnal knowledge, lesbians cannot be convicted for this offence even though a number of them have been arrested on suspicion of engaging in lesbian activity. Lesbian sexual activities do not constitute unnatural carnal knowledge because females do not possess a 'natural penis'. With the other categories, there are no laws in Ghana that expressly prohibit them, hence, there is no cause to believe they might be prosecuted for openly declaring their sexual or gender preference.

On the contrary, they will be exposed to all manner of attacks by private individuals and groups. This is because, even when they are not open about their different their sexual and gender preferences, they face attacks on a daily basis on suspicion of being different.

State attitudes and treatment

1. Based on your knowledge and experience what is the treatment (e.g. violence, harassment, humiliation) that LGBTQI+ persons may face when encountering the police

The LGBTQI+ community is likely to face physical and verbal abuse when encountering the police.

2. Based on your knowledge what is the treatment that LGBTQI+ persons experience from the police upon arrest?

They are likely to face the same treatment upon arrest.

3. What is the treatment and experience of LGBTQI+ persons who are detained?
i) detained on remand

They are likely to face further abuse of their human rights. This is not always the case, but that possibility still exists.

ii) held in prisons?

It has been reported by the Ghana Prisons Service that homosexuals stand the risk of being sexually assaulted, raped and physically abused by fellow inmates.

4. We would like to find out more about access to justice for LGBTQI+ persons facing arrest and prosecution:

a. How long would an LGBTQI+ person be likely to wait for trial?

There is no fixed time per se. According to the constitution, every accused person is entitled to a fair trial within a reasonable time. However, what is considered reasonable time is determined on a case-by-case basis.

b. Are they likely to be detained on remand whilst waiting for trial?

According to case law, all offences are bailable in Ghana. It is only when the requirements for granting bail are not met that an accused person will be sent on remand. This equally applies to members of the LGBTQI+ community, even though homosexuality is prohibited.

Under the laws of Ghana,

c. Do they have access to (free) legal representation?

The legal aid scheme in Ghana is available to all persons who earn below or up to the minimum wage and need legal representation in a criminal matter. The problem with this however, is getting a lawyer, who is willing to take on the case, in a homophobic society. Legally representing an LGBTQI+ may have adverse effects on the lawyer's career, through dissociation by anti-LGBT people. NGOs such as the Human Rights Advocacy Centre (HRAC), has over the years, assisted some members of the LGBTQI+ community, who have been victims of assault, file complaints with the Domestic Violence and Victim Support Unit of the Ghana Police Service. They have also, on a number of occasions, offered them free legal aid.

d. Do they tend to be sentenced to more severe penalties? (i.e.: longer terms of imprisonment, higher fines etc)

A person who engages in consensual sex with a person above 16 years of age, in an unnatural manner, is liable to spend a maximum of three years in prison. However, if it is without the other party's consent, or with the consent of a male below the age of 16, then that person is liable to a term of imprisonment of between 5 to 25 years. There are no reports of any judgment which sentenced a person to more than the stipulated period.

e. Is the non-payment of fines punishable by a sentence of imprisonment? Does this occur regularly?

Yes, in the event that a guilty party is unable to pay a fine, that person does prison time commensurate to the fine. That is always the case in Ghana, it occurs in all instances where there is non-payment of a fine by the guilty party. It does not only apply to members of the LGBTQI+ community.

State discriminatory treatment

1. We would like to find out more about homophobia and transphobia in government

institutions - do you have any information and specific examples on that within:

a. State owned media?

The media generally portrays negative perceptions about the LGBTQI+ community. However, most of their reportage on the situation are statements made by government officials and religious leaders.

b. Police?

There have been several accounts of police officers violating the rights of members of the LGBTQI+ community, when they go to them to report infringements of their rights, or when they go to them to be protected from further abuse.

c. Prison service?

The most common report is that LGBTQI+ individuals who are physically or sexually attacked within prison facilities, go to prison officials for protection. Unlike, the police who have been reported to treat members of LGBTQI community badly, prison officers protect them when their fellow inmates attack them. This is not to say that prison officers are in support of members of the LGBTQI+ community. Some prison facilities have rolled out programs, that are aimed at preventing homosexuality.

d. Judiciary?

The judiciary maintains the stance that these issues fall within the domain of human privacy, and so long as it remains private, the judiciary will not intervene. However, when it becomes public, they have to.

e. State-funded education?

In government owned secondary schools (year 10-12), students suspected of engaging in lesbian or homosexual activities in boarding facilities, are often punished or suspended for a period of time. There is no uniform agreed upon period by which all schools adhere to; it is done based on the school's own internal rules and policies.

f. State-funded health system (e.g. Accessing health care, HIV services etc.)?

It is not known how frequently this [homophobia when accessing state-funded health care] occurs. However, some individuals have mentioned that they are unable to visit health facilities for treatments that raise suspicion of engaging in homosexual practices. This is because, when they do, they are requested to come along with their partners before they are given medical attention.

2. Can you provide information and specific examples on any discriminatory treatment that LGBTQI+ persons face in

a. Accessing state health services?

Some healthcare officials are not accepting of LGBTQI+ people, hence they tend to treat them unfairly in the discharge of their duties.

b. Accessing state provided housing?

There is no discrimination based on sexual orientation or gender identity when it comes to state housing. However, discrimination exists when accessing private housing. Landlord's refuse to rent out their properties to non-heteronormative individuals. When they suspect them of being LGBTQI after they have rented out their properties to them, they evict them.

c. Accessing state employment, e.g. the civil service?

Because the constitution of Ghana guarantees equality before the law and freedom from discrimination, there is no direct discrimination towards members of the LGBTQI+ community when accessing employment.

d. Accessing state-funded education?

There is no evidence of homophobia or transphobia in accessing state-funded education.

LGBTQI+ Civil society groups

1. To what extent are NGOs that support LGBTQI+ rights able to operate freely (e.g. register, host events, campaign and advocate for LGBTQI+ rights) in Ghana?

Due to the overwhelming number of people who abhor members of the LGBTQI+ community in Ghana, LGBTQI+ activists encounter a lot of challenges. The Centre for Popular Education and Human Rights, Ghana (CEPEHRG), was denied registration several times, because they identified as an LGBT organisation.

A lot of challenges are also faced when organising events for the LGBTQI+ community. On two occasions (2006 and 2011), ILGA conferences that were slated to be held in Ghana were cancelled. It is no less different when it comes to campaigning and advocacy. LGBTQI+ activists have on a number of occasions been physically and verbally abused.

2. How has the Ghanaian state treated LGBTQI+ activists or those supporting the cause or perceived as such?

The state has not officially supported LGBTQI+ activists, neither has it made any comments on the work of activists.

Specific groups within the LGBTQI+ community

1. There is almost no existing information on the situation for trans and intersex persons. Can you provide any information in regards to the questions already asked that relate specifically to the experience of a trans person?

The dearth of information is attributable to the fact that until quite recently, it was suspected that there were no transgenders in Ghana.

b) the same question applies to an intersex person

There is still no knowledge of an intersex community in Ghana.

