

Criminalisation of Homosexuality

Updated 25 October 2015

 Ghana		
<p>National Law:</p> <p><i>Ghana Criminal Code 1960 Chpt 6¹</i></p> <ul style="list-style-type: none"> - S104: Unnatural Carnal Knowledge² 	<p>Maximum Penalties:</p> <ul style="list-style-type: none"> - 3 years.³ 	<p><u>Treaty Ratification</u></p> <p>AFRICAN CHARTER</p> <p>CAT</p> <p>CAT Art 22</p> <p>CEDAW</p> <p>CEDAW OP</p> <p>CRC</p> <p>ICCPR</p> <p>ICCPR OP</p> <p>ICESCR</p>
The Law is applicable to men only.		
<p>Enforcement</p>	<ul style="list-style-type: none"> - There are no reports suggesting that Ghana’s anti-gay legal provisions are currently enforced. In 2007, a 63 year old British man was deported having pleaded guilty to ‘unnatural carnal knowledge’, after taking pictures of him having sex with another man. Two men were reportedly fined 6 million cedis each by the court under the same charge.⁴ - Ministerial statements on the validity of the criminal law provisions relating to “unnatural carnal knowledge” have been diverse. In August 2011, the Ghanaian Attorney General, Minister Martin A.B.K Amidu stated that private same sex conduct between two consenting adults is legal in Ghana: <p><i>The law does not follow you to see what you do, your house is your castle; your room is your castle, what you do there is no body’s business. It is only when you rape an adult by way of unnatural carnal knowledge that you become a subject of prosecution.⁵</i></p> <p>This stands in contrast to more recent views expressed by the current AG, Marietta Appiah Oppong, who in February 2013 declared that ‘...the Criminal Offences Act of Ghana says that unnatural carnal knowledge is a criminal offence and so the position of the law is clear and that will be my advice to government.⁶</p> <ul style="list-style-type: none"> - 2014: The US Human Rights Country Report highlighted that there was considerable public debate over whether this legislation could be used to prosecute 	

	<p>consenting adults for same-sex sexual activity, but there were no reports it had been used.⁷</p> <ul style="list-style-type: none"> - August 2014: Police in Walewale, a small farming town and capital of the West Mamprusi District, Northern Region, arrested a 21-year-old man on suspicion of being homosexual and ‘recruiting’ other youth to be homosexual. Police stated the arrest was for the suspect’s own safety, since residents of the town had vowed to kill the man and his entire family if he was not removed from the community.⁸
<p>Statements by Public Figures</p>	<ul style="list-style-type: none"> - July 2015: The Humanist Association of Ghana (HAG) condemned the treatment of LGBT persons. In a statement, HAG said <p><i>We, at the Humanist Association of Ghana (HAG) in clearest terms: 1. Condemn the dehumanizing treatment of gay people in our society. It is, to say the least, embarrassing that in 2015 we treat productive members of our society whose sexual orientation isn't mainstream with the courtesy afforded the carcass of rabid dogs. That a postcolonial African society will suffer any section of its members to humiliation, dehumanisation, violence and even death based on their sexual orientation is bizarre. Even more so, if you consider that pre-colonial African societies were often very tolerant of gay people and in some societies, they were elevated to divine status. We, at HAG, stand in solidarity with members of Ghana's LGBTQ community. We acknowledge their humanity and their rights to live free of intimidation. We know that the idea that homosexuality is a Western import is a myth, and more importantly that homosexuality is human and what is inhuman is the lack of compassion shown towards the LGBTQ community. Tons of research data and anthropological work inform that same-sex behaviour existed in pre-colonial and pre-Islamic sub-Saharan Africa. That the wave of homophobia currently sweeping our country and large parts of the African continent is the result of the works of bigoted homophobic Judaeo-Christian missionaries in Africa...</i>⁹</p> - Whilst some politicians have spoken in favour of LGBT rights, an overwhelming majority of statements made by public figures condemn homosexuality. When ministers have spoken positively, they have been criticised. Nana Oye Lithur, after her appointment as Minister for Gender, Children and Social Protection, was forced to defend statements she had made years earlier on gay rights: <p><i>I have never said that homosexuality should be promoted or that I will promote homosexuality. I have never said that homosexuality should be legalised... I stand for justice for everybody. And what I said was the rights of everybody, including homosexuals should be protected.</i>¹⁰</p> - 3 April 2014: Cardinal Peter Turkson, leader of the Pontifical Council for Justice and Peace in Ghana, criticised Uganda’s anti-gay laws, saying: ‘<i>homosexuals are not criminals.</i>’¹¹ - 21 March 2014: A Former Ghanaian politician and ex-High Commissioner to India

reportedly told a group of anti-gay activists:

*One thing I'll want to emphasise is that homosexuality today has become a cult. It has become a club. It has become a foundation. It has become something that some people are promoting and putting billions of dollars into so that this unusual and abnormal behaviour should be accepted by force by the world. This is the strength of the danger and for which matter we must stand up strongly against it.*¹²

- **28 February 2014:** Alex Afenyo-Markin, a Ghanaian MP, called for the government to set out its position on gay rights. The minister did not say whether he was pro or anti-homosexuality but stressed the importance of picking a side in order to direct future policy: *'If we are for gay practices and we say it's a human rights issue, we are accepting it, we have to live with it, then we should provide facilities at the health centers to take care of them because people are dying.'*¹³
- **19 Dec 2013:** Ghana's Deputy Minister of Tourism, Culture and the Creative Arts, Dzifa Abla Gomashie, argued against discrimination on the grounds of sexuality, regardless of personal attitudes towards homosexuality. At the same time, Dr. Kojo Obeng, representing the Chief Psychiatrist of Ghana made similar comments: *'Not accepting homosexuality does not mean we should discriminate and persecute them.'*¹⁴ The Chief Psychiatrist, Dr. Akwasi Osei, had previously stated in March 2013 that *'homosexuality is not natural and should not qualify for human rights, which are natural rights. In its true nature, it is a disorder.'*¹⁵
- **1 October 2013:** The President of Ghana John Mahama set out his position: *'I believe that laws must prevail. For instance, people must not be beaten or killed because of their sexual orientation, but in my country there is a strong cultural hostility towards it.'*¹⁶
- **1 August 2013:** The son of the first president of Ghana spoke out in support of gay rights, arguing that gay people should not be prosecuted.¹⁷
- **1 July 2013:** The head of the Ghanaian Presbyterian Church, Emmanuelle Martey claimed that 'gays' wanted to destroy the country and formed part of *'Satan's deadly agenda.'*¹⁸
- The Government of Ghana released a statement that President John Mahama *'does not subscribe to homosexualism and will not take any step to promote homosexualism in Ghana'* following news reports of the President's friendship with openly gay US writer Andrew Solomon.¹⁹
- **July 2011:** The General Secretary of the Christian Council of Ghana was quoted saying that *'we Ghanaians and for the matter Africans cherish our rich and strong values on issues such as homosexuality and we must not allow anyone or group of people to impose what is acceptable in their culture on us in the name of human*

	<p><i>rights.</i>²⁰</p> <ul style="list-style-type: none"> - 21 July 2011: Paul Evans Aidoo, a Ghanaian minister, called for the investigation and arrest of gay people living in Ghana. In making his comments, he also implored landlords to report suspected homosexuals to the authorities. Also in 2011, the then (now deceased) Prime Minister of Ghana John Atta Mills was reported to have said: <i>'I as President of this nation would never initiate or support any attempt to legalize homosexuality in Ghana.'</i>²¹
<p>Persecution and Discrimination</p>	<ul style="list-style-type: none"> - Whilst the law may not be actively enforced, reports suggest that instances of persecution are widespread and common. The 2012 UK Country of Origin Report on Ghana suggests that persecution often occurs <i>'at the hands of, or with the collusion of, the police or other agents of the state'</i>. It adds that sexual minorities faced <i>'widespread discrimination, as well as police harassment and extortion attempts'</i>, and are often subjected to physical and sexual assaults.²² - 30 August 2015: A soldier reportedly rescued a gay man being severely beaten by a mob at Kawukudi Park in Accra. The victim was invited by a friend to watch a football game with an intention to beat him up.²³ - 17 August 2015: A violent homophobe's Facebook page was reportedly blocked and police investigation started after complaints from UK based activist Pastor Jide Macaulay alleging that he was using social media to entrap and assault LGBTI people.²⁴ - 14 August 2015: The reportedly police launched a search for a group of about 20 attackers that brutally assaulted a man suspected to be a homosexual in a suburb of Accra. Police later revealed that the victim was assaulted after he had contacted one of the local men to be his friend. The incident was recorded on a video that went public.²⁵ - March 2015: A group of women perceived to be lesbians were confronted by a mob during a private birthday party in the town of Teshie near Accra, and <i>'pelted with human faeces'</i> according to reports. Local residents later printed and circulated posters in an attempt to 'out' the women.²⁶ - February 2015: A well-known event promoter was beaten by a mob in Accra due to his perceived sexuality. A video recording of the attack was circulated widely through social media. Popular Ghanaian singer Efyia later condemned the attack on Twitter.²⁷ - 2014: The US Human Rights Country Report highlighted that LGBT persons face widespread discrimination in employment and education, as well as police harassment and extortion attempts. There were also reports police were reluctant

	<p>to investigate claims of assault or violence against LGBT persons. According to the HRAC, gay men in prison were often subjected to sexual and other physical abuse. The government took no known action to investigate or punish those complicit in the abuses.²⁸ While there were no reported cases of police or government violence against LGBT persons during the year, stigma, intimidation, and the attitude of the police toward LGBT persons were likely factors in preventing victims from reporting incidents of abuse.</p> <ul style="list-style-type: none"> - 27 May 2014: A gang of Muslim youths were wanted by police following the lynching of a gay man because of his sexuality. According to reports, local villagers refused to help the police in their investigation and were still looking for the man's lover.²⁹ - 2013: The Centre for Popular Education and Human Rights Ghana (CEPEHRG) recorded five cases in 2013 of LGBT people in Ghana being robbed or beaten after responding to profiles on dating websites.³⁰ - 19 April 2013: 53 students were expelled from a school after being suspected of being gay.³¹ - August 2012: Nine LGBT people fled the Accra neighbourhood of Jamestown after a group of youths were assaulted people in the area perceived to be homosexual.³²
Legislative News	<ul style="list-style-type: none"> - 2012: (UPR) Ghana rejected recommendations to decriminalise same-sex sexual activity between consenting adults and to adopt measures that would raise awareness in the fight against homophobia. Ghana considered that it had already taken steps to prevent acts of violence against the gay community.³³ - 14 March 2013: The Deputy Attorney-General and Deputy Minister of Justice gave guidance on the issue: <i>... Unless and until an issue, be it social, religious, economic or political is sufficiently advanced in the moral consciousness of the citizenry and an unequivocal demand is made on Parliament to address the issue through effective legislation, any attempt to bypass the true wishes of the people will be counter-productive.</i>³⁴ - 2008: (UPR) multiple recommendations were made for Ghana to repeal those provisions which criminalise homosexuality. No response was made in relation to those recommendations.³⁵

¹ The law is :

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/88530/101255/F575989920/GHA88530.pdf>

² Criminal Code 1960, Chapter 6, s.104:

(1) *Whoever has unnatural carnal knowledge... (b) of any person of sixteen years or over with his consent is guilty*

of a misdemeanour... (2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal.

³ According to Article 296 (4) of the Criminal Procedural Code, a misdemeanour shall be liable to imprisonment for a term not exceeding three years: <http://www.wipo.int/edocs/lexdocs/laws/en/gh/gh011en.pdf>

⁴ 'British Sodomite to be Deported', *Ghana Web*, 15 November 2007, <<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=134211>> accessed on 19 July 2014

⁵ 'Homosexuality Is Not Illegal – Attorney-General', *Ghana News Now*, 30 August 2011, <<http://www.ghananewsnow.com/2011/08/30/homosexuality-is-not-illegal-attorney-general/>> accessed on 19 July 2014

⁶ Addo-Tetteh, R., 'I Disapprove Of Gays - Attorney-General', *Peace FM Online*, February 2013, <<http://www.okayfmonline.com/pages/politics/politics/201302/155721.php>> accessed on 19 July 2014

⁷ US Department of State, [Bureau of Democracy, Human Rights and Labor](#), *Country Reports on Human Rights Practices for 2014: Ghana*, 2014, <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dli=236364>> accessed on 5 September 2015

⁸ US State Department, [Bureau of Democracy, Human Rights and Labor](#), *Country Reports on Human Rights Practices for 2014: Ghana*, 2014, <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dli=236364>> accessed on 5 September 2015

⁹ 'Humanist Association of Ghana Decries Homophobia', *Ghana Web*, 7 July 2015, <http://www.ghanaweb.com/GhanaHomePage/features/Humanist-Association-of-Ghana-Decries-Homophobia-366944> > accessed on 5 September 2015

¹⁰ 'I have never said that homosexuality should be promoted- Nana Oye Lithur', *Ghana Web*, 30 January 2013, <<http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=263636>> accessed on 19 July 2014

¹¹ 'Cardinal Peter Turkson Of Ghana Denounces Uganda's Anti-Gay Law', *Huffington Post*, 3 April 2014, <http://www.huffingtonpost.com/2014/03/04/cardinal-turkson-uganda-gay-law_n_4897391.html> accessed on 19 July 2014

¹² Roberts, S., 'Ghanaian ex-deputy speaker: 'Homosexuality is the new sodomy slave trade'', *Pink News*, 21 March 2014, <<http://www.pinknews.co.uk/2014/03/21/ghanaian-ex-deputy-speaker-homosexuality-new-sodomy-slave-trade/>> accessed on 19 July 2014

¹³ 'Ghana needs a clear policy on homosexuality - MP', *Citi FM Online*, 28 February 2014, <<http://www.citifmonline.com/2014/02/28/ghana-needs-a-clear-policy-on-homosexuality-mp/>> accessed on 19 July 2014

¹⁴ Daily Guide, 'Minister Okays Gay Rights', *Peace FM Online*, 19 December 2013, <<http://news.peacefmonline.com/pages/social/201312/183433.php>> accessed on 19 July 2014

¹⁵ Appiah, E., 'Chief Psychiatrist ready to "heal" gays', *My Joy Online*, 14 March 2013, <<http://edition.myjoyonline.com/pages/news/201303/102801.php>>

¹⁶ Gillooly, J., 'President of Ghana visits KSU', *MDJ Online*, 1 October 2013, <<http://mdjonline.com/bookmark/23721997-President-of-Ghana-visits-KSU>> accessed on 19 July 2014

¹⁷ Potts, A., 'Son of Ghana independence leader says gays must be tolerated', *Gay Star News*, 1 August 2013, <<http://www.gaystarnews.com/article/son-ghana-independence-leader-says-gays-must-be-tolerated010813#sthash.4PWaQmTc.dpuf>> accessed on 19 July 2014

¹⁸ Littauer, D., 'Leading Ghana cleric: gay people are 'Satan's deadly agenda'', *Gay Star News*, 1 July 2013, <<http://www.gaystarnews.com/article/leading-ghana-cleric-gay-people-are-%E2%80%98satan%E2%80%99s-deadly-agenda%E2%80%99010713#sthash.ixcVuUgS.dpuf>> accessed on 19 July 2014

¹⁹ Solomon, A., 'In bed with the President of Ghana?', *New York Times*, 9 February 2013, <<http://www.nytimes.com/2013/02/10/opinion/sunday/in-bed-with-the-president-of-ghana.html>>

²⁰ 'Christian Council joins calls to condemn homosexuality in Ghana', *Ghana News Agency*, 19 July 2011, <<http://www.ghananewsagency.org/social/christian-council-joins-calls-to-condemn-homosexuality-in-ghana-31187>>

-
- ²¹ Green, J., 'Ghana minister orders arrest of all gays in Western Region', *Pink News*, 21 July 2011, <<http://www.pinknews.co.uk/2011/07/21/ghana-minister-orders-arrest-of-all-gays-in-western-region/>> accessed on 19 July 2014
- ²² UK Border Agency, *GHANA: COUNTRY OF ORIGIN INFORMATION (COI) REPORT*, Gov UK 11, May 2012, <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311919/Ghana_COI_report_2012.pdf> accessed on 19 July 2014
- ²³ Pulse Staff, 'Soldier rescues gay from severe beatings at Kawukudi', *Pulse.com.gh*, 2 September 2015, <<http://pulse.com.gh/news/assault-soldier-rescues-gay-from-severe-beatings-at-kawukudi-id4129572.html>> accessed on 19 September 2015
- ²⁴ Colin Stewart, *2 victories over Ghana's violent homophobe* (Erasing 76 Crimes 17 August 2015) <<http://76crimes.com/2015/08/17/2-victories-over-ghanas-violent-homophobe/>> accessed on 18 September 2015
- ²⁵ Linda Tenyah Ayyettey, *Police Chase Gay Man Attackers* (Daily Guide 19 August 2015) <<http://www.dailyguideghana.com/police-chase-gay-man-attackers/>> accessed on 19 September 2015
- ²⁶ Starr FM Online, *Ghana: Homophobic residents flood town with posters of alleged lesbians*, (7 March 2015) <<http://m.starrfmonline.com/1.2020285>>
- ²⁷ Wee, D., 'Gay man brutally beaten by mob in Ghana', *Gay Star News*, 11 February 2014,
- ²⁸ US Department of State, *Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2014: Ghana*, 2014 <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236364>> accessed on 5 September 2015
- ²⁹ Potts, A., 'Muslim youths lynch gay man in Ghana and are still hunting his lover', *Gay Star News*, 27 May 2014 <<http://www.gaystarnews.com/article/muslim-youths-lynch-gay-man-ghana-and-are-still-hunting-his-lover270514#sthash.eeoiv881.dpuf>> accessed on 19 July 2014
- ³⁰ Kweku, P., 'Report: Socio-Political Situation of LGBT people in Ghana, 2013', *AMSHer*, 14 March 2014 <<http://www.amsher.org/socio-political-situation-of-lgbt-people-in-ghana-2013/>>
- ³¹ Littauer, D., 'Two Ghana schools expel 53 students for being gay', *Gay Star News*, 19 April 2013 <<http://www.gaystarnews.com/article/two-ghana-schools-expel-53-students-being-gay190413>> accessed on 19 July 2014
- ³² Mensah, D.E., 'James Town youth vow to eliminate gays from their midst', *My Joy Online*, 16 August 2012 <<http://edition.myjoyonline.com/pages/news/201203/83226.php>>
- ³³ UNHRC, *Report of the Working Group on the Universal Periodic Review*, 13 December 2012, UN Doc A/HRC/22/6
- ³⁴ *Statement at the Consideration of the Report of the Working Group on the Universal Periodic Review of Ghana*, UPR Info, 14 March 2013 <http://www.upr-info.org/sites/default/files/document/ghana/session_14_-_october_2012/ghanaplenarystatement2013.pdf> accessed on 19 July 2014
- ³⁵ UNHRC, *Report of the Working Group on the Universal Periodic Review*, 29 May 2008, UN Doc A/HRC/8/36