

Immigration and Refugee Board of Canada

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Responses to Information Requests

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16 August 2012

GHA104153.E

Ghana: Treatment of sexual minorities by society and governmental authorities, including legislation, state protection, and support services
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

In a telephone interview with the Research Directorate, a representative of the Centre for Popular Education and Human Rights, Ghana (CEPEHRG), an organization working in the fields of HIV services, sexual minority rights, and human rights (CEPEHRG n.d.), indicated that homosexuality is illegal in Ghana (ibid. 17 July 2012). Other sources indicate that male-to-male sexual relations are illegal (Freedom House 8 Aug. 2011; *Daily Guide Newspaper* 31 Mar. 2012; ILGA May 2012, 29). According to the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), female-to-female sexual relations are legal, but male-to-male sexual relations are illegal under Criminal Code Act 29 of 1960, amended in 2003, section 104, which states that:

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 misdemeanour; or
 - c. of any animal is guilty of a misdemeanour.
2. Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal. (quoted in ILGA May 2012, 29)

According to Behind the Mask, an LGBT media non-profit organization (Behind the Mask n.d.), although the definition of unnatural carnal knowledge is not clear, it is assumed to include male-to-male sexual acts, such as sodomy (31 Aug. 2011).

Although some sources state that "unnatural carnal knowledge" results in a maximum prison sentence of six months (UN 1 Aug. 2011; Freedom House 8 Aug. 2011), ILGA reports that, according to LGBTI groups who act as liaisons with ILGA, "unnatural carnal knowledge" could lead to ten or more years in jail (ILGA n.d.a). The Accra-based *Daily Guide Newspaper* reports that the former Attorney General and Minister of Justice stated that the "laws of Ghana only frowned on homosexuality" when it is not consensual or when it involves a minor (*Daily Guide Newspaper* 31 Mar. 2012). The newspaper also states that if sexual acts are conducted in public or with a minor, gay men can also be punished under assault and rape provisions (ibid.).

Although the US Department of State's *Country Reports on Human Rights Practices for 2011* states that there have been no reports of prosecution under the "unnatural carnal knowledge" provision (24 May 2012, 22), various sources report on arrests of sexual minorities, including:

- in November 2011, in Tema [Greater Accra region], police reportedly arrested 3 men for engaging in sodomy (Xinhua News Agency 4 Nov. 2011);
- in May 2010, four men who work with the gay community were reportedly arrested in connection with a sexual assault, and charged with sodomy. The case had not yet been heard by the court by the end of 2011 (US 24 May 2012, 22);
- a man was reportedly "picked up" by police for having a condom and being in the company of a man (CEPEHRG 17 July 2012).

2. Societal Attitudes

Sources indicate that religious leaders have condemned homosexuality (CEPEHRG 17 July 2012; CAHG n.d.; *Daily Guide Newspaper* 31 Mar. 2012). Freedom House states that this includes Muslim and Christian leaders who have mobilized their congregations against gay-friendly politicians (8 Aug. 2011). On 22 July 2011, Reuters indicated that churches have led anti-gay protests (22 July 2011). Sources report on the first anti-gay rally in Ghana, which took place in June 2010 in Takoradi [Western region] (US 24 May 2012, 22; AfricaNews 7 June 2010). AfricaNews states that this rally against homosexuality was attended by more than one thousand people, and organized by the Muslim community with the support of other religious groups and citizens (ibid.).

Two LGBT organizations state that media in Ghana have condemned homosexuality (CAHG n.d.; Behind the Mask 31 Aug. 2011). An organization called the International Movement Against Same-Sex (IMASS), a Ghanaian organization (Behind the Mask 17 Aug. 2011), has released a statement in favour of the criminalization of homosexuality (IMASS 3 July 2011). In the organization's press release, they state that their organization "will soon start crusades in schools, churches and mosques as well as public places and in the media to expose the dangers of homosexual activities across the country" (ibid.). Further information about the International Movement Against Same-Sex and their activities since 2011 could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.1 Incidents of Violence and Harassment

The representative of the CEPEHRG indicated that if sexual minorities do not disclose their sexual orientation, it is easier for them to live in urban areas rather than in rural areas where life for sexual minorities is "very difficult" (17 July 2012). The CEPEHRG representative stressed that if sexual minorities disclose their sexual orientation, they may face eviction, extortion and forced marriage, among other problems (17 July 2012). Sources report that sexual minorities are often threatened (Freedom House 8 Aug. 2011; Behind the Mask 31 Aug. 2011), including death threats (ibid.). Sources report on violence against sexual minorities, including hate crimes (ibid.), rape, murder (Freedom House 8 Aug. 2011), and assault (ibid.; CEPEHRG 17 July 2012). The representative of CEPEHRG added that assault is "common" (ibid.). Behind the Mask states that attacks especially target homosexual men (31 Aug. 2011). According to US *Country Reports 2011*, gay men are often sexually and physically abused in prison (24 May 2012, 22).

Several media sources report that LGBT people were assaulted in March 2012 in Accra (*Daily Guide Newspaper* 31 Mar. 2012; *Ghanaian Times* 14 Mar. 2012; *Africa Review* 14 Mar. 2012), with some sources indicating that this took place in James Town, Accra (ibid.; *Ghanaian Times* 14 Mar. 2012). Sources state that a group of people raided a party, assaulted the lesbians in attendance (*Africa Review* 14 Mar. 2012; Myjoyonline.com 21 July 2012;

Daily Guide Newspaper 31 Mar. 2012), stripped them naked, and chased them out (ibid.). The *Daily Guide Newspaper* reports that the assailants belonged to a group called Ga-Mashie Youth for Change and that some victims sought refuge with the Domestic Violence and Victim Support Unit of the Police Service (ibid.). The *Ghanaian Times* states that the perpetrators of the assault took two young women who were allegedly marrying each other to the James Town Police Station where they were detained (14 Mar. 2012). Further information about the current situation of the two women could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that after the raid at the party, attacks against sexual minorities in Accra continued (*Daily Guide Newspaper* 31 Mar. 2012; Myjoyonline.com 21 July 2012). According to the CEPEHRG representative, perpetrators went "house to house" in James Town neighborhood looking for sexual minorities, chaining them up, and beating them (17 July 2012). He added that during these house raids, lesbians were sexually and physically assaulted (CEPEHRG 17 July 2012). The *Daily Guide Newspaper* indicated that this group ordered sexual minorities to leave the community or "face the consequences" (31 Mar. 2012). Myjoyonline.com, a Ghanaian online news portal (Myjoyonline.com n.d.), reports that victims' houses and families were also under attack (21 July 2012). The CEPEHRG representative stated that the perpetrators conducted the violence in public, and spoke about it on television and on the radio, but that their actions were not stopped by police (CEPEHRG 17 July 2012). Sources state that, according to the perpetrators, the police gave them consent to conduct these attacks (ibid.; Myjoyonline.com 21 July 2012). Myjoyonline.com added that the victims claimed they did not receive police protection, and that nine LGBT people sought refuge at an NGO in Accra (21 July 2012). However, according to the Human Rights Advocacy Centre (HRAC), the police have started to find the perpetrators of the assaults (HRAC Feb. 2012).

When asked about further examples of violence against LGBT people, the CEPEHRG representative indicated that a CEPEHRG HIV/AIDS peer educator in the Bolta region was beaten up by assailants and taken to police (17 July 2012).

Sources report that sexual minorities face extortion (CEPEHRG 17 July 2012; Behind the Mask 31 Aug. 2011; Freedom House 8 Aug. 2011). Freedom House states that blackmailers threaten to disclose LGBT persons' sexual orientation (ibid.). According to the CEPEHRG representative, sometimes partners of LGBT individuals report that sex was forced on them by the LGBT individual (CEPEHRG 17 July 2012). He said that the police blame the LGBT person instead of investigating, and that LGBT people are charged and punished (ibid.). Corroborating information about the blaming, charging and punishing of LGBT people could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.2 Health Care and Education

UN Integrated Regional Information Networks (IRIN) reports that the Western Region government has called for the arrest of homosexual people and told a health services NGO to provide them with the names of all men who have sex with men (MSM) who use their services, or face the consequence of closing their HIV services (UN 1 Aug. 2011). Sources report on a climate of fear of accessing outreach programs (Behind the Mask 31 Aug. 2011) and health services (UN 1 Aug. 2011). The CEPEHRG representative told IRIN that there are "far fewer" MSM accessing sexual education and support programs offered by the organization since the call (ibid.). The CEPEHRG representative added that his organization had to close down their health services because neighbors were not comfortable with the people accessing the services (17 July 2012).

According to the CEPEHRG representative, many LGBT people have been evicted, live on the street, and are not in school (CEPEHRG 17 July 2012). He added that it is "very difficult" for an LGBT person to receive education, and said that even if students do not disclose their sexual orientation, they still may be teased and beaten in school (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. State Actions

Sources indicate that former President John Evans Atta Mills publicly condemned homosexuality (CEPEHRG 17 July 2012; CAHG n.d.), including a vow to combat homosexuality (ibid.). Ministers of States have also condemned homosexuality (CEPEHRG 17 July 2012), and a Member of Parliament reportedly called for the "public lynching of homosexuals" (Freedom House 8 Aug. 2011). Sources report the head of the Ghana's Commission on Human Rights and Administrative Justice as saying that her organization would not fight for gay rights because homosexuality is illegal (Behind the Mask 17 Aug. 2011; XFM 95.1 9 Aug. 2011).

Sources report that a Minister told landlords and tenants to report anyone that they suspect to be a homosexual to police (Al Jazeera 10 Dec. 2011; AI 27 July 2011). Amnesty International (AI) reports that this announcement was made on 20 July 2011 by the Western Region Minister, and that landlords and tenants were also instructed to report suspected lesbians (ibid.). As of August 2011, IRIN indicates that there have been no reports of arrests (UN 1 Aug. 2011).

Sources report on police extortion (CEPEHRG 17 July 2012; US 24 May 2012, 22) and harassment of LGBT people (ibid.). According to the Australian Refugee Review Tribunal, "[p]olice in Ghana are unlikely to assist a homosexual victim of assault" as they are "generally unresponsive" to claims of assault on homosexuals (6 Oct. 2010). The CEPEHRG representative said that he was personally assaulted because of his sexual orientation in the market in Accra, and explained that the perpetrators took all of his belongings and took him to the police (CEPEHRG 17 July 2012). He added that the police did not investigate, and told his assaulters to leave, even though they still had his belongings (ibid.).

Sources indicate that the Supreme Court is hearing a case filed by a retired Supreme Court judge to establish that gay rights are not considered to be human rights (ibid.; *Daily Graphic* 29 Mar. 2012). The Ghanaian newspaper *Daily Graphic* adds that the retired judge has asked the court to state that homosexuality is an "abomination" under customary law, and asked the court to investigate a gay marriage in Sekondi-Takoradi (ibid.). The newspaper indicates that a date has not yet been set for the hearing (ibid.).

4. Support and Advocacy Organizations

In August 2011, Freedom House reported that there were no registered LGBT organizations in Ghana (8 Aug. 2011). However, Pink News states that the Coalition Against Homophobia in Ghana (CAHG) was formed on 4 August 2011 (8 Aug. 2011). CAHG is made up of a group of organizations and individuals, and the group's objectives include raising awareness on LGBT human rights and countering "ongoing attacks against homosexuals in Ghana" (CAHG n.d.).

The Human Rights Advocacy Centre (HRAC), an independent human rights-based research and advocacy organization created in 2008, is located in the Greater Accra region and works on research and advocacy, and offers free legal aid (HRAC n.d.). HRAC indicates that they have been "actively involved" in protecting LGBT individuals (HRAC Feb. 2012). After the March 2012 assaults on suspected LGBT people in Accra, the organization assisted victims to file a complaint with the Domestic Violence and Victim Support Unit of the Police Service (HRAC Feb. 2012; *Daily Guide Newspaper* 31 Mar. 2012).

According to their representative, the CEPEHRG attempts to provide LGBT victims with protection, but does not have the means or the space to provide adequate protection (CEPEHRG 17 July 2012). He indicated that CEPEHRG provides security training to teach people how to avoid problems, and stated that the organization worked with other organizations after the March 2012 assaults on LGBT people in James Town to assist a few victims to move out of their homes (ibid.). He also said that the organization has been threatened with closure by both the government and citizens (ibid.).

According to the CEPEHRG representative, although LGBT victims can report violence to some human rights organizations, there is little recourse because homosexuality is illegal (ibid.). Sources state that people fear being labelled as homosexuals if they speak out (ibid.; CAHG n.d.). According to the *Toronto Star*, Ghana's Director of Amnesty International has reportedly not taken a position on the "unnatural carnal knowledge" law (23 July 2011), while *Daily Guide Newspaper* states that Amnesty International "seems neutral" (30 July 2011).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Additional Sources Consulted

Oral sources: Attempts to contact the following organizations were unsuccessful within the time constraints of this Response: Coalition Against Homophobia in Ghana; International Gay and Lesbian Human Rights Commission (IGLHRC); International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA).

Internet sites, including: BBC; Ecol.net; Erasing 76 Crimes; Gay and Lesbian Association of Ghana; Ghana – Ministry of Health, Ministry of Interior, Police Service; Human Rights Watch; International Gay and Lesbian Human Rights Commission (IGLHRC); Legislationline; UK Border Agency; UN Refworld.

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