

Ghana: Supreme Court Upholds Colonial-Era Anti-LGBT Law

Upholds Harmful Criminal Provisions as Government Considers Even Worse Bill



[Click to expand Image](#)

Angele Maxine, opposing the Anti LGBT bill in Accra in November 2023. © 2023 Angele Maxine

(Nairobi) – The supreme court of [Ghana](#) on July 24, 2024, [upheld](#) a [colonial-era law](#) that criminalizes adult consensual same-sex conduct, contrary to Ghana’s human rights obligations, Human Rights Watch said today. The judgment comes at a time when the country is engulfed in a debate over a [dangerous anti-LGBT](#) law which would take persecution of sexual and gender minorities and their allies even further.

“Ghana’s supreme court unfortunately upheld the British colonial legacy of criminalizing so-called ‘unnatural sex,’” said [Rasha Younes](#), interim lesbian, gay, bisexual, and transgender (LGBT) rights director at Human Rights Watch. “The law had been challenged on the grounds that it violated the constitutionally protected rights to privacy and personal liberties, rights that everyone has under international law as well, and regardless of their sexual orientation.”

Ghana’s constitution ensures respect for human dignity, protection of personal liberty, and the right to privacy for all. Yet, [violence against LGBT people is prevalent](#), and [persecution has escalated](#) in recent years with debates about the bill.

Prince Obiri-Korang, a law lecturer at the University of Ghana, initiated the suit to overturn the law. Under section 104(1)(b) of [Ghana’s Criminal Offences Act](#) 1960 (Act 29), inherited from the British colonial law, “whoever has unnatural carnal knowledge[...]of a person sixteen years or older, with his consent, is guilty of a misdemeanor.” Unnatural carnal knowledge is defined in section 104(1)(2) as “sexual intercourse with a person in an unnatural manner or with an animal.” According to the supreme court judges, “unnatural manner” also includes the use of sex toys.

With this ruling, the court has expanded the interpretation of Section 104(1)(b), apparently adopting language from the anti-LGBT [Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021](#), which specifically prohibits a person, in clause four, from engaging in any acts that undermine the proper human sexual rights and Ghanaian family values.

In 2017, while Human Rights Watch was researching the impact of this law, Jones Blantari, chief superintendent of Ghana’s police force, [told Human Rights Watch](#), “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.”

The bill carries heavier criminal penalties for same-sex activities, increasing the maximum penalty from three years to five years in prison, and expands the possibility of extending criminal charges against anyone who identifies as LGBT, queer, pansexual, and any other non-conventional gender identity as well as allies to these communities. It would also punish anyone providing support, funding, or public advocacy for sexual and gender minorities rights.

Members of parliament introduced the bill in 2021. In addition to expanding the possibility of criminal charges against those advocating for LGBT rights, the bill allows for criminal charges against anyone who uses social media platforms to produce, publish, or disseminate content promoting activities prohibited by the bill.

Significant figures in Ghana publicly opposed the bill, including the Roman Catholic Cardinal of Ghana [Peter Turkson](#), and a former member of parliament and major political party chair [Samia Nkrumah](#). Nkrumah [urged the president](#) to veto the anti-LGBT bill, [calling it](#) “brutal, harsh, and unjust.” Nkrumah’s father, the late Kwame Nkrumah, is a key figure in African and Ghanaian history. In the 1950s and 1960s, he led the independence movement and served as the country’s first president and prime minister.

Ghana’s parliament passed the [draconian bill](#) in February 2024, and it remains with President Nana Akufo Addo, awaiting his signature.

“Ghana’s supreme court missed its opportunity to rid the country of its [alien legacy](#) of egregious colonial-era laws,” Younes said. “The court’s failure to uphold basic rights for LGBT people only further emphasizes why the president should veto the new bill.”

