

CALL FOR COMMENTS ON THE HUMAN SEXUAL RIGHTS AND FAMILY VALUES BILL, 2025

PUBLIC COMMENT DECLARATION

The Committee on Constitutional and Legal Affairs invites public comments on the Human Sexual Rights and Family Values Bill, 2025.

Deadline: [[MONDAY, 23RD MARCH, 2026](#)]

Submit to: [legalcluster@parliament.gh]

DETAILS

Name/Organisation: [Access Now](#)

Mailing Address: [Access Now, 180 E Prospect Ave #189, Mamaroneck, NY 10543](#)

Digital Address: <https://www.accessnow.org/>

Email Address: info@accessnow.org

Name/Organisation: [Rightify Ghana](#)

Digital Address: <https://rightifyghana.org/>

Email Address: info@rightifyghana.org

DECLARATION

By submitting this comment, I/we declare that:

1. This submission is made voluntarily and in good faith.
 2. I/We authorize the **Committee on Constitutional and Legal Affairs** to use, analyze, publish, and share these comments with relevant agencies and stakeholders for purposes of reviewing and finalizing the Bill.
 3. I/We understand that comments may form part of the public record and may be disclosed under applicable laws.
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I/We request this submission be treated as confidential (state reason):

Name/Signature: [Jaimee Kokonya - Access Now](#)

Name/Signature: [Ebenezer Peegah - Rightify Ghana](#)

Section Number	Section Title	Comment	Suggestion / Proposed amendment of provision
Clause 3	Prohibition of LGBTTQAP+ and related activities	<p>Right to privacy and freedom of expression and opinion: <i>In Coeriel and Aurik v. The Netherlands</i>, the UN Human Rights Committee determined that a person’s ability to express their identity is contingent on their right to privacy. Therefore, Subclause 3 (1) is inconsistent with human rights standards because it inherently violates both the right to freedom of expression and to privacy. When these acts are committed on the internet, they will be brought within the scope of Ghana’s Cybersecurity Act and subject suspected offenders to criminal investigations procedures such as the seizure and search of their electronic devices¹, interception², and production orders³. These actions will violate Article 18 (2) of Ghana’s Constitution and Article 17 of the International Covenant on Civil and Political Rights (ICCPR). Additionally, it further violates the rights to protection from discrimination as well as, freedom of thought and/or opinion by prohibiting people from identifying as LGBTQ+ or allies. The prohibition and the criminal penalties of imprisonment of between two months to three years are therefore disproportionate as stigmatising, harassing, arresting, or imprisoning a person on the basis of opinions they hold violates Article 19 of the ICCPR.</p>	Delete Clause 3
Clause 7	Prohibition of gross indecency	<p>Clarity and precision: Subclause 7 (3) (a) and (b) contains broad terms such as “public show of romantic relations” which have not been defined. Subclause 7 (3) (c) defines cross-dressing as the portrayal that a person is of a gender that is different from the gender determined at birth. Due to the application of Clauses 9 and 10, the expression of these prohibited acts will apply to content on the internet and electronic devices. The provisions fail to provide a specific scope of application and this lack of sufficient precision will provide law enforcement authorities</p>	Delete Clause 7

¹ Constitution of Ghana, Article 18 (2) <<https://judicial.gov.gh/index.php/fundamental-human-rights-and-freedom>>, accessed on 19th March 2026.

² Cybersecurity Act 2020, Section 71, <<https://www.csdsafrika.org/wp-content/uploads/2021/08/Cybersecurity-Act-2020-Act-1038.pdf>>, accessed on 19th March 2026.

³ Cybersecurity Act 2020, Section 69

		<p>with unfettered discretion to impede people’s freedom of expression, as well as the public’s ability to understand the law and regulate their conduct accordingly.</p> <p>Freedom of expression: The right to freedom of expression applies to outward expression such as public displays of affection on the internet. The provisions thus violate this right as well as protection from discrimination, as provided for in Articles 12 (2) and 21 (1) (a) of Ghana’s Constitution, Articles 2 and 9 of the African Charter on Human and People’s rights, as well as Articles and 19 of the ICCPR. Freedom of expression may not be absolute, but restrictions to this right must satisfy the three pronged test of legality, necessity, and proportionality.⁴ The provisions fail the test of necessity because restricting freedom of expression on the basis of a person’s sexual orientation, gender identity, and gender expression does not satisfy the legitimate aim of protecting public morality. The criminalization of expression, including the penalties of imprisonment of 6 months to 1 year are thus disproportionate.</p> <p>Additionally, due to their broad nature, these provisions will only lead to heightened surveillance by state and non-state actors, of expressions that will be arbitrarily determined to misalign with dominant expressions of gender and sexuality. This will not only punish people for their expressions, it will also encourage people to self-censor in order to avoid profiling or persecution.</p>	
Clause 9	Prohibition of propaganda of, promotion of and advocacy for activities prohibited under this Act	Prohibiting people from creating, sharing, or accessing LGBTQ+ content on the internet or on their electronic devices is a violation of international human rights law that prevents and disrupts people’s ability to seek, receive, and impart information online. ⁵ They violate the rights to freedom of expression, freedom of opinion and access to information, in violation of Articles 18 and 19 of the ICCPR, Articles	Delete Clause 9

⁴ UN Human Rights Council, General Comment No. 34 (C/GC/34), para. 22 <<https://docs.un.org/en/CCPR/C/GC/34>> accessed on 19th March, 2026.

⁵ UN Human Rights Council, Resolution A/ HRC/47/16, para 11 <<https://digitallibrary.un.org/record/3937534>> accessed on 19th March, 2026

		<p>8 and 9 of the African Charter on Human and People’s Rights as well as Articles 21 (1) (a) and 21 (1) (b) of the Constitution. Principle 38 of the African Commission of Human and People’s Rights’ Declaration of Principles of Freedom of Expression and Access to Information in Africa prohibits states from interfering with people’s right to seek, receive and impart information by removing or blocking content, unless such measures meet the criteria of proportionality and necessity prescribed by international human rights law.</p> <p>Freedom of opinion: The right to freedom of opinion is absolute and cannot be limited. Subclause 9 (2) explicitly prohibits the flow of information to prevent changes in public opinion. These restrictions amount to coercion that seeks to interfere with the public’s ability to develop well informed thoughts and opinions, in violation of Articles 19 of the ICCPR.⁶</p> <p>Freedom of expression: The proponents of the bill have invoked public morality as a ground for restriction of freedom of expression. They have however failed to demonstrate how LGBTQ+ content online presents a direct and immediate threat to public morality and how criminal penalties are necessary to mitigate these threats. The Clause fails the test of necessity because it does not seek to achieve any clear legitimate aim, but to restrict advocacy and human rights.⁷ Restricting freedom of expression on the grounds of sexual orientation and gender identity is illegitimate as they violate the non-discrimination objectives of the ICCPR.⁸ Protection of public morality must abide by the principle of non-discrimination and be understood in accordance with the universality of human rights.⁹ They have further relied on scientifically discredited¹⁰ pseudoscientific concepts that liken</p>	
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⁶ C/GC/34, Para 9
⁷ C/GC/34, Para 23
⁸ C/GC/34 ,Para, 26
⁹C/GC/34, Para 32

10 American Psychological Association, ‘Understanding sexual orientation and homosexuality’,
<https://www.apa.org/topics/lgbtq/orientation> , accessed on 19th March 2026.

		<p>LGBTQ+ identity to mental illness or pedophilia. Given these conclusions, the prohibition and the penalty of imprisonment of between 5 to 10 years, is a severely disproportionate measure of restricting freedom of expression on illegitimate grounds.</p> <p>Clarity and precision: The terms “support” and “promote” in Subclauses 9 (1) and 9 (2) are broad and also undefined. The prohibited acts in the bill range from identifying as LGBTQ+ to associating in an LGBTQ+ organization. This will give authorities too much discretion to restrict freedom of expression. The provisions fail to meet the international law requirements on the formulation of legal instruments because the scope, meaning and effect of the law are not sufficiently clear or precise.¹¹ It will therefore be impossible for people to regulate their conduct accordingly.</p> <p>Intermediary liability: Subclause 9 (4) violates Principle 31 of the Declaration of Principles of Freedom of Expression and Access to Information in Africa, 2019 and Principle 1 of the Manila Principles. They require intermediaries to be shielded from liability for third-party content. Access Now has previously warned that attributing liability in this way leads to legitimate content being censored and sets a concerning precedent of government overreach and manipulation of content moderation systems to control public discourse and suppress social movements.¹² Subclause 9 (4) states that there will be no criminal liability if the platforms can prove that they exercised a degree of diligence to prevent the commission of the offenses. This can encourage platforms to take an overzealous approach to assess and restrict content solely based on their terms of services in order to avoid liability. Former Special Rapporteur on Freedom of Expression, David Kaye discouraged governments from demanding proactive content monitoring and filtering, since such</p>	
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¹¹ C/GC/34), para. 25

¹² Access Now, ‘Guide: how to protect human rights in content governance’ para,

<<https://www.accessnow.org/guide/guide-how-to-protect-human-rights-in-content-governance/>> accessed on 19th March,

		measures amount to <i>ex ante</i> censorship and violate people's right to privacy. ¹³	
Clause 16	Duty to report and prohibition of extrajudicial treatment	<p>Personal liberty: Depriving people of their personal liberty on the basis of their real or perceived sexual orientation or gender identity will violate Article 14 of Ghana's Constitution. It will also interfere with people's right to privacy as it will subject their sexual life, private communications and homes to criminal investigations on the basis of their sexual orientation and gender identity, or their opinions on such issues. This fails to meet the requirements necessary for limitations on the right to privacy and will thus amount to arbitrary interference.¹⁴</p> <p>Precision and clarity: Definitions of "relevant authority" include traditional rulers, which are not defined in the bill and religious leaders. This will enable the unlawful detention of people by private individuals with no state-sanctioned authority that are not accountable to the public in the same way as law enforcement or judicial officials. Authorized inferences on the right to privacy must only be made by an authority designated by law.¹⁵ Further, states must ensure that information concerning a person's private life does not reach the hands of people who are not authorized by law to receive, process, and use it.</p> <p>Data protection and privacy: This reporting will require the sexual life and private affairs of individuals to be exposed without their consent in violation of their rights to privacy. Section 37 of Ghana's Data Protection Act prohibits the processing of special personal data which includes a person's sexual life¹⁶ without consent or where the processing is unnecessary. Requiring the police or publicly unaccountable "relevant authorities" to collect information about people's sexual orientation and their sexual life for the purposes of criminal prosecution are not legitimate limitations to the right to</p>	Delete Clause 16

¹³ UN Human Rights Council, A/HRC/38/35: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, <<https://www.ohchr.org/en/documents/thematic-reports/ahrc3835-report-special-rapporteur-promotion-and-protection-right-freedom>>, accessed on 19th March 2026.

¹⁴ A/HRC/38/35No. 16, para 14

¹⁵ A/HRC/38/35, No. 16, para 10

¹⁶ Data Protection Act, 2012 <<https://nita.gov.gh/wp-content/uploads/2017/12/Data-Protection-Act-2012-Act-843.pdf>> accessed on 19th March, 2026.

		<p>privacy or data protection. In countries such as Uganda, law enforcement authorities have collaborated with criminal non-state actors to entrap suspected LGBTQ+ people on social media platforms and dating apps.¹⁷ Through this entrapment, police officers are able to extract “incriminating” intimate information through the seizure and search of detained victim’s electronic devices. This is a particular risk for people in Ghana because it has been reported that the police have access¹⁸ to Cellebrite’s Universal Forensic Extraction Device (UFED) tools, which can be used to hack into people’s phones and access their data. Access Now has documented the ways in which these tools have been used to commit violations and target human rights defenders across the globe.¹⁹ In addition to invasive investigative procedures, these actions will also encourage breaches of privacy such as doxxing, and the consequences of this can be severe. In 2023, a man in the Bono Region of Ghana committed suicide after his sexuality was exposed without his consent.²⁰</p> <p>Incitement and hate crimes: Human rights defenders in Ghana have already reported that bad-faith actors are targeting LGBTQ+ people online and subjecting them to violations such as kidnapping, assault, and blackmail, this bill will only exacerbate these harms.²¹ In 2024, Access Now documented hundreds of cases of online hate and violence and other illegal conduct on social media platforms in Ghana ranging from incitement to violence to, doxxing, entrapment, and non-consensual</p>	
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¹⁷ Access Now, ‘How Uganda’s anti-LGBTQ+ laws entrap people online’, <<https://www.accessnow.org/uganda-anti-lgbtq-entrapment-laws/>>, accessed on 19th March 2026.

¹⁸ Committee to Protect Journalists, ‘US, UK, Interpol give Ghana phone hacking tools, raising journalist concerns on safety and confidentiality’, <<https://cpj.org/2020/07/us-uk-interpol-give-ghana-phone-hacking-tools-raising-journalist-concerns-on-safety-and-confidentiality/>> accessed on 19th March 2026.

¹⁹ Access Now, ‘What spy firm Cellebrite can’t hide from investors’, <<https://www.accessnow.org/what-spy-firm-cellebrite-cant-hide-from-investors/>> accessed on 19th March 2026.

²⁰ The Ghana Report, ‘Teacher commits suicide after being mocked for being bisexual’, <<https://theghanareport.com/teacher-commits-suicide-after-being-mocked-for-being-a-bisexual/>> accessed on 19th March 2026.

²¹ CNN, ‘A proposed law in this country would require citizens to report LGBTQ people to authorities’, <<https://edition.cnn.com/2023/09/13/africa/ghana-lgbtq-community-fears-cec>> accessed on 19th March 2026.

		<p>distribution of intimate images.²² The inclusion of Subclauses 16 (3) (4) and (5) are insufficient to protect LGBTQ+ people against persecution, because the very objective of the bill is to incite discrimination and hostility, in violation of Article 20 (2) of the ICCPR.</p> <p>Additionally, due to the fact that the Bill criminalizes their identity, expressions, and sexual life, LGBTQ+ people who are targeted with serious crimes/violations such as extrajudicial violence,, harassment or and assault will be reluctant to report them to the police in fear that they themselves will be arrested for violating the law. The police already have a track record of discouraging LGBTQ+ from reporting hate crimes by threatening to arrest them.²³</p>	
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²² Access Now, 'Rainbow-burning: how social media companies increase risks for LGBTQ+ people in Africa', <<https://www.accessnow.org/publication/social-media-companies-increase-risks-lgbtq-africa/>> accessed on 19th March 2026.

²³ Tech Policy Press, 'Ghana's Anti-LGBTQ+ Agenda Will Be A Disaster For Human Rights — Online And Off', <<https://www.techpolicy.press/ghanas-antilgbtq-agenda-will-be-a-disaster-for-human-rights-online-and-off/>>, accessed on 19th March 2026.