



JUSTICE BRIDGE FOUNDATION

LITIGATING FREEDOM

A Comprehensive SOGIE Decriminalisation
Litigation Toolkit for Africa

PURPOSE

A field manual for lawyers, community organisations, expert witnesses and movement partners who use litigation to dismantle criminalisation and its wider system of surveillance, exclusion, violence and stigma.

SECOND EDITION • JULY 2026

How to use this toolkit

This toolkit is designed for use before a dispute becomes a case. It helps a litigation team decide whether proceedings should be brought, by whom, in which forum, on what facts, with what evidence, and under what protection plan. It also supports counsel already responding to arrest, prosecution, organisational restrictions, forced examinations, censorship, or other consequences of criminalisation.

CORE PROPOSITION

Decriminalisation litigation is not limited to striking down a penal provision. Its proper object is to disable the legal, administrative and social machinery through which criminalisation authorises surveillance, extortion, arbitrary arrest, exclusion from health care, censorship, violence and civic erasure.

Scope and limits

- The primary setting is Africa, with particular attention to common-law and mixed legal systems in West and Central Africa. Comparative authorities must be adapted to the local constitution, procedure and political setting.
- SOGIE means sexual orientation, gender identity and expression. Sex characteristics are included where criminalisation, policing or medical practices affect intersex people.
- The toolkit addresses consensual adult conduct, status and expression. It does not weaken laws protecting children, prohibiting sexual violence, or regulating non-consensual conduct.
- The law and political setting can change quickly. Local counsel must verify every statute, procedural rule, treaty status, reservation, time limit and authority before filing.
- Nothing here replaces confidential legal advice, informed community direction, safeguarding duties, or a jurisdiction-specific security assessment.

The seven-stage pathway

Stage	Question	Main output
1. Mandate	What does the affected community want, and what should litigation serve?	Community mandate and decision rules
2. Diagnosis	How does criminalisation operate in law and in daily life?	Legal and harm map
3. Design	Which claimant, facts, forum and claims create the best pathway?	Case theory and forum strategy
4. Protection	Can people, data, partners and counsel be kept acceptably safe?	Integrated risk and security plan
5. Proof	What facts must be proved, by whom, and in admissible form?	Evidence matrix and record
6. Proceedings	How will the team plead, respond, communicate and preserve review?	Litigation and communications plan

Stage	Question	Main output
7. Implementation	What must change after judgment, and who will make it happen?	Remedies and implementation plan

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PART I | STRATEGY AND MOVEMENT MANDATE

1. Decriminalisation as a movement-lawyering project

A court case is one instrument within a longer struggle over power, safety, public institutions and belonging. Counsel should therefore begin with the movement's account of the problem. The legal team contributes legal judgment, candour and professional independence. It should not displace people who live with the consequences of the case.

1.1 Principles for the mandate

Principle	Operational rule
Community direction	Establish a representative reference group. Record what it may decide, what counsel must decide, and how urgent decisions will be made.
Informed consent	Explain exposure, publicity, adverse costs, delay, appeal, digital risk, family effects, immigration effects and the possibility of losing.
Nothing about one group alone	Include people affected differently by class, disability, geography, HIV status, age, religion, gender, displacement and sex work.
Material support	Budget for safe travel, communication, psychosocial care, temporary relocation, accessibility and income lost through participation.
Exit and repair	Agree what happens if a claimant withdraws, is outed, threatened, arrested, displaced, or becomes unable to continue.
Accountability	Give the community regular, intelligible reports without breaching privilege or exposing sensitive strategy.

COUNSEL'S WARNING

A claimant is not a symbol or litigation asset. Consent is continuing. It can be withdrawn. A team must never preserve a test case at the cost of a person's safety or dignity.

1.2 Define success before filing

A declaration of invalidity is only one measure of success. Record the minimum, intermediate and transformative outcomes. This prevents the case from becoming detached from its purpose and helps the team assess settlement, narrowing, appeal and remedies.

Level	Examples
Immediate	Stop a prosecution; exclude unlawfully obtained evidence; secure bail; end a forced examination; protect identity.

Level	Examples
Doctrinal	Recognition that sexual orientation, gender identity or expression falls within equality, dignity, privacy, liberty or analogous-status protection.
Institutional	Police circulars; prosecutorial guidance; revised medical protocols; complaints and disciplinary mechanisms; legal recognition procedures.
Material	Fewer arrests and raids; safer access to health care; reduced extortion; restored documents, employment, housing or organisational registration.
Movement	Stronger legal network; public record of harms; community legal literacy; greater organisational resilience and political room.

2. The decision to litigate

The question is not whether the law is unjust. The question is whether this case, at this time, in this forum, with these people and resources, has an acceptable relationship between likely benefit and likely harm.

2.1 Litigation readiness test

Factor	Green indicators	Red indicators
Mandate	Broad, informed community support; clear governance	External agenda; consultation after strategy fixed
Claimant	Voluntary, informed, stable support network	Coercion, acute crisis, facts not understood
Facts	Clean record; credible corroboration; justiciable harm	Material contradictions; illegal evidence gathering
Forum	Jurisdiction, standing and remedy are plausible	Fatal admissibility bar or no effective remedy
Bench and doctrine	Usable constitutional text and precedent	Case likely to entrench a harmful rule
Security	Risks can be reduced and resourced	Unmanageable risk of violence, detention or exposure
Resources	Funding through appeal and implementation	Funding ends at first-instance filing
Political pathway	Allies and implementation targets identified	Judgment likely to be isolated without follow-through

2.2 Alternatives and complements

- Criminal defence and exclusion of evidence

- Administrative review of police, health, prison or registration decisions
- Professional discipline against abusive officials
- National human rights institution complaints
- Legislative drafting and parliamentary engagement
- Prosecutorial or police non-enforcement guidance
- Regional or UN urgent action and reporting
- Documentation for a later, stronger case
- Negotiated institutional reform
- Public-interest intervention or amicus participation in an existing case

DECISION GATE

Do not file until the team can state, in one paragraph, the legal wrong, the concrete harm, the requested institutional change, why this claimant has standing, why this forum can grant the remedy, and why the protection plan is adequate.

3. Governance of a litigation coalition

Complex cases require a written protocol among lead counsel, local counsel, community organisations, researchers, experts, funders and communications partners. The protocol should protect privilege and prevent confusion about authority.

Matter	Agreed rule
Instructions	Name the client and identify who alone may give legal instructions.
Strategy	Specify decisions reserved to the client, counsel and community reference group.
Information	Classify public, coalition-confidential, privileged and highly restricted material.
Public comment	Name spokespersons and the approval route for statements.
Money	Record budget authority, claimant support and conflict safeguards.
Disputes	Use a rapid internal process that does not prejudice filing deadlines.
Succession	Name deputies and arrange secure access if a team member becomes unavailable.
Closure	Provide for file custody, data deletion, post-case care and lessons review.

PART II | MAPPING CRIMINALISATION AND BUILDING THE CASE

4. Map the criminalisation system

Begin with the entire legal ecosystem. Penal provisions are often reinforced by public-order offences, cybercrime rules, association restrictions, health regulations, morality clauses, media laws, identity-document rules, immigration controls and informal police practices.

Layer	Questions to investigate
Text	What conduct, status, expression, association or assistance is prohibited? Are terms vague, colonial, gendered or overbroad?
Enforcement	Who arrests, raids, searches, charges, cautions, extorts or refers? Which offences are used as substitutes?
Institutions	How do prosecutors, courts, prisons, health facilities, registries, schools, immigration and local government apply the rules?
Private power	How do landlords, employers, families, media, platforms, religious bodies and vigilante groups rely on criminalisation?
Data	What records show arrests, charges, outcomes, complaints, health effects and geographic patterns? What is not recorded?
Narrative	Which public-safety, religion, culture, childhood, family or sovereignty claims sustain the system? Who can answer them credibly?
Reform path	Which actors can repeal, reinterpret, suspend, stop enforcing or remedy the rule?

4.1 Distinguish forms of criminalisation

- Direct conduct offences: consensual same-sex intimacy, “unnatural offences,” gross indecency, sodomy, lesbianism or similar offences.
- Status or identity offences: provisions whose text or enforcement criminalises being perceived as lesbian, gay, bisexual, transgender, queer or gender non-conforming.
- Expression and association offences: promotion, advocacy, meetings, organisations, symbols, publications, funding, premises or digital speech.
- Proxy offences: loitering, nuisance, impersonation, public indecency, vagrancy, cybercrime, pornography, sex-work, public-order or anti-terror rules.
- Medical and evidential practices: forced anal examinations, coerced HIV testing, conversion practices, pathologising assessments, disclosure of medical records.
- Administrative penalties: refusal of registration, licences, documents, health care, prison placement, education, housing, travel or employment.
- Private violence enabled by the state: outing, blackmail, eviction, dismissal, family confinement and mob attack followed by police indifference or victim arrest.

4.2 Baseline legal audit

Instrument	Record
Constitution	Rights, limitations, claw-back clauses, standing, remedies, direct application, horizontal effect, derogation and amendment history.
Penal law	Elements, penalty, attempt, conspiracy, aiding, limitation, arrest power, bail classification and evidential rules.
Procedure	Originating process, service, notice to attorney-general, constitutional referral, evidence by affidavit, protective orders, appeals and stays.
Treaties	Ratification, domestication, reservations, individual complaint access and domestic interpretive status.
Administrative law	Review grounds, exhaustion, reasons, legitimate expectation, procedural fairness and statutory appeal.
Evidence and data	Admissibility, privilege, hearsay, expert evidence, anonymisation, data protection and public records access.
Costs	Security for costs, public-interest exceptions, protective costs orders, legal aid and third-party funding rules.

5. Construct the case theory

A case theory joins law, facts, proof and remedy. It should be short enough to guide every litigation choice and exact enough to expose gaps.

CASE THEORY FORMULA

Because the challenged rule or practice [operates in a specified way], it causes [proved harm] to [identified rights-holders], violates [specified rights under the applicable test], cannot be justified by [state objective and evidence], and requires [precise judicial and institutional remedy].

5.1 Build a theory of harm

Harm	Possible proof
Arrest and detention	Dockets, custody records, bail decisions, station diaries, testimony, legal-aid files.
Violence and extortion	Incident records, medical evidence, messages, payment trails, complaints, witness accounts.
Health avoidance	Service data, clinician testimony, epidemiology, confidential surveys, programme

Harm	Possible proof
	records.
Chilling effect	Cancelled events, internal decisions, anonymous testimony, funding and membership records.
Family and livelihood	Eviction notices, dismissal records, school actions, remittances, relocation and income evidence.
Dignitary and psychological	Claimant evidence, clinical expert evidence, patterns of humiliation and forced concealment.
Institutional exclusion	Registry decisions, circulars, forms, guidance, reasons, comparative treatment.

5.2 Facial, as-applied and systemic challenges

Route	Strength	Risk
Facial challenge	Can remove the legal source of harm without waiting for prosecution.	Standing, ripeness or abstract-review objections.
As-applied challenge	Concrete facts expose the law's operation and support tailored relief.	Court may confine relief to claimant or avoid validity.
Criminal appeal/referral	Immediate liberty interest; strong procedural footing.	Claimant bears prosecution burden and public exposure.
Systemic practice case	Addresses proxy enforcement even where direct prosecutions are rare.	Proof-intensive; remedies and causation can become diffuse.
Administrative review	May secure narrower institutional change quickly.	May leave the underlying criminal law intact.

6. Claimants, standing and justiciability

Claimant selection is a legal and ethical decision. A “perfect plaintiff” model can exclude those most harmed. The better question is whether the claimant has an authentic relationship to the harm, legally sufficient standing, informed consent, evidential reliability and durable support.

6.1 Possible claimant configurations

- A person charged or threatened with prosecution
- A person subjected to arrest, search, forced examination, outing, extortion or denial of service
- A couple whose private life or family is legally burdened
- A transgender or gender-diverse person denied recognition, safety or equal treatment
- A service provider or health professional whose work is chilled

- A registered or unregistered community organisation
- A public-interest actor where constitutional standing permits
- Several claimants showing different effects and reducing mootness risk

6.2 Screening questions

1. What exact act or omission creates standing?
2. Is the injury actual, imminent, continuing, representative or public-interest based?
3. Could the state end the case by withdrawing a charge or granting an individual exception?
4. What personal history will become relevant or be attacked?
5. Can identity protection be obtained without undermining standing or open justice?
6. What immigration, employment, family, housing, health or digital consequences may follow?
7. What support remains available through appeal and implementation?
8. What happens if one claimant withdraws or becomes unavailable?

AVOID MANUFACTURED FACTS

Never create conduct, correspondence, applications, arrests or refusals merely to manufacture standing. Test litigation must remain truthful, lawful and ethically supervised.

PART III | RIGHTS-BASED CLAIM ARCHITECTURE

7. Equality and non-discrimination

Equality claims should expose both classification and subordination. Even when sexual orientation or gender identity is not expressly listed, counsel can argue “other status,” analogous grounds, sex discrimination, imputed status, association, or the broader constitutional prohibition against arbitrary differentiation.

7.1 Structured equality analysis

9. Identify the rule, practice or omission and its comparator, if a comparator is required.
10. Show direct, indirect, intersectional, associative or perceived-status discrimination.
11. Establish that the ground is listed, analogous, suspect, or connected to dignity and historic disadvantage.
12. Prove the material disadvantage, stigma, stereotyping, exclusion or denial of equal concern.
13. Identify the intensity of review and the state’s burden.
14. Test whether the distinction pursues a legitimate purpose and is rationally connected, necessary and proportionate.
15. Seek a remedy that removes both the classification and its institutional effects.

State argument	Litigation response
The law applies equally to everyone	A formally neutral rule can target conduct inseparable from identity and impose unequal material burdens.
Sexual orientation is not listed	Use “other status,” sex, dignity, analogous-ground reasoning, treaty interpretation and regional standards.
No recent prosecutions	The law remains an official threat, licenses enforcement and private abuse, and chills protected life.
Majority morality justifies distinction	Disapproval alone is not a rights-compatible objective. Require evidence of concrete harm to others.
Tradition or culture	Demand precision and evidence. Constitutions also protect pluralism, dignity and minorities from majoritarian exclusion.
Foreign values	Ground the claim in domestic text, African dignity and equality traditions, local evidence, and binding regional commitments.

8. Privacy, liberty and autonomy

Privacy protects more than a physical bedroom. It includes decisional autonomy, intimate relationships, identity, personal information, home, communications and the ability to form one’s personality without unjustified state intrusion. Counsel should connect private life to liberty, dignity and equality so the court does not reduce the claim to secrecy.

8.1 Questions under privacy

- Does the offence intrude even without prosecution?
- Does it authorise search, surveillance, evidential intrusion or disclosure?

- Does it regulate consensual adults in private, or define private identity as presumptively criminal?
- Is the wording sufficiently clear and foreseeable?
- What concrete harm to others is prevented?
- Could ordinary laws on consent, age, violence, public conduct and exploitation address that harm?
- Does the intrusion meet legality, legitimate aim, necessity and proportionality?

9. Dignity, bodily integrity and freedom from ill-treatment

Dignity captures the state’s treatment of a class of persons as unworthy, shameful or available for punishment. Bodily integrity and freedom from torture or cruel, inhuman or degrading treatment are central where policing includes forced anal examinations, invasive searches, coerced testing, conversion practices or custodial abuse.

FORCED ANAL EXAMINATIONS

Seek an immediate order preventing the examination, preserving medical and custody records, and ensuring independent care. Challenge consent obtained under arrest as inherently suspect. Argue lack of scientific validity, evidential irrelevance, bodily invasion, humiliation, discrimination, and the absolute prohibition of torture or ill-treatment. Consider criminal, civil, disciplinary and regional remedies.

10. Expression, association, assembly and civic space

Decriminalisation must include the right to organise, speak, fundraise, provide services, meet and advocate for legal reform. A state cannot preserve a criminal rule from constitutional challenge by criminalising the people who oppose it.

Right	Typical interference	Key response
Expression	Promotion offences, censorship, platform takedowns, publication bans	Vagueness, viewpoint discrimination, political speech, necessity, less restrictive means.
Association	Registration refusal, dissolution, funding restriction, criminal liability for membership	Lawful purposes, autonomy, equal access to legal personality, chilling effect.
Assembly	Event bans, venue raids, preventive arrest	Notice versus permission, concrete risk evidence, positive duty to protect.
Religion	Compelled conformity or discriminatory public service	Protect belief and worship while distinguishing them from state-imposed religious doctrine.
Defenders	Surveillance, threats, prosecution and professional retaliation	Protection duties, privilege, access to counsel and regional urgent measures.

11. Health, life and socio-economic consequences

Criminalisation can obstruct HIV prevention, treatment, mental health care, sexual and reproductive health, violence response and public-health data. Health claims must avoid portraying LGBTQ+ people as vectors of

disease. The argument is that criminalisation impairs equal, confidential and evidence-based services and thereby harms individuals and public health.

12. Legality, vagueness and overbreadth

Penal laws must be accessible, clear, foreseeable and constrained against arbitrary enforcement. Terms such as “carnal knowledge against the order of nature,” “gross indecency,” “promotion,” “public morality,” “impersonation” or “indecent practice” may fail these standards or invite discriminatory enforcement.

12.1 Legality checklist

- Can an ordinary person know what conduct is prohibited?
- Do police and prosecutors receive uncontrolled discretion?
- Does the provision collapse identity, advocacy and conduct?
- Are private and public conduct distinguished?
- Does it criminalise assistance, funding, health services or legal advice?
- Are attempt, conspiracy, aiding or association provisions wider than the principal offence?
- Does enforcement history show selective or proxy use?
- Can severance cure the defect, or is invalidation required?

13. Proportionality and limitation analysis

Many cases turn on justification. Do not treat proportionality as an afterthought. Require the state to identify the objective precisely, prove the factual premises, connect the measure to the objective, confront less restrictive alternatives, and account for the law’s full human cost.

Step	Counsel’s task
Prescribed by law	Attack ambiguity, retroactivity, accessibility and uncontrolled discretion.
Legitimate aim	Separate protection of rights and safety from moral disapproval, stigma or political convenience.
Suitability	Demand credible evidence that criminalisation advances the stated aim.
Necessity	Show ordinary laws on consent, violence, age and public conduct as less restrictive means.
Balancing	Place arrest, violence, health, stigma, civic space and family harms on the scale.
Safeguards	Show absence of review, narrow criteria, independent oversight, data protection and effective remedy.

14. Answering recurring opposition arguments

Argument	Disciplined answer
Decriminalisation legalises abuse	The claim concerns consenting adults. Existing offences against rape, coercion, exploitation and abuse remain fully applicable.

Argument	Disciplined answer
It creates a right to same-sex marriage	The court can decide the precise criminal-law question before it. Other legal questions arise under their own text, facts and remedies.
The law is never enforced	A criminal prohibition operates through threat, stigma, police discretion and collateral rules. Non-enforcement also undermines necessity.
Public opinion opposes reform	Constitutional rights protect everyone. Their content cannot depend entirely on majority approval.
The court would usurp Parliament	Constitutional review is a judicial duty. The court may use tailored remedies while leaving legislative choices within constitutional bounds.
African culture rejects homosexuality	Africa is plural and changing. The legal question concerns constitutional and treaty duties, concrete harm and equal citizenship.
Religion requires criminalisation	Freedom of religion protects belief and practice. It does not by itself establish a sufficient state basis for imprisoning consenting adults.
Foreign cases are irrelevant	Comparative cases are persuasive tools. The controlling argument remains domestic law, local evidence and applicable African and international standards.

PART IV | FORUMS, PROCEDURE AND EVIDENCE

15. Forum strategy

Forum	Best use	Main constraints
Domestic trial or constitutional court	Direct validity, immediate relief, factual record and enforceable orders	Standing, delay, costs, judicial climate, exposure.
Appellate criminal court	Challenge conviction, evidence and constitutionality	Individual jeopardy; narrow record; mootness.
National human rights institution	Investigation, documentation, recommendations and interim engagement	Variable independence and enforceability.
African Commission	Charter interpretation, provisional measures, continental standard and state recommendations	Exhaustion, delay, implementation and access requirements.
African Court	Binding judgment and reparations where jurisdiction exists	Ratification, Article 34(6) access, standing and admissibility.
ECOWAS Court	Human-rights claims without ordinary domestic exhaustion requirement under its jurisprudence	Jurisdictional framing, enforcement and political pressure.
UN treaty body	Authoritative views, interim measures and global standards	Optional procedure, exhaustion, delay and non-judicial implementation.
Subregional national route	Parallel or sequenced litigation across related systems	Coordination, lis pendens and inconsistent results.

15.1 Sequencing

Map all possible routes before the first filing. A pleading, concession, evidential omission or remedy requested domestically may determine later admissibility. Raise the substance of treaty complaints in domestic proceedings where possible. Preserve certified records, proof of filing, reasons, dates and translations.

16. Admissibility and preliminary objections

Issue	File-ready answer
Jurisdiction	Identify personal, territorial, temporal and subject-matter jurisdiction.
Standing	Link each claimant to injury and each organisation to its mandate and legal personality.
Ripeness	Show existing threat, chilling effect, enforcement pattern or imminent decision.

Issue	File-ready answer
Mootness	Seek public-interest exception; show continuing collateral harm and recurrence.
Exhaustion	List each effective, available and sufficient remedy, its use, result and timing; explain exceptions.
Delay	Maintain a dated procedural chronology and explain any gap.
Duplication	Record all international filings and assess substantial identity of parties, facts and claims.
Victim status	Show personal and direct effect, or the applicable representative standing rule.
Notice and service	Prove compliance with attorney-general notice, constitutional questions and service rules.
Costs/security	Seek public-interest protection early and evidence the chilling effect of adverse costs.

17. Interim and protective relief

Interim relief may decide whether a case remains viable. Prepare the application at the same time as the originating claim.

- Stay arrest, prosecution, examination, deregistration, deportation, disclosure or destruction of evidence.
- Protect identity through initials, sealing, redaction, restricted access or closed portions of a hearing.
- Prevent publication of addresses, health information, identity documents and identifying family details.
- Preserve custody, medical, digital, CCTV, registry and communications records.
- Secure access to counsel, medication, independent medical care and safe detention arrangements.
- Prevent retaliation against claimants, witnesses, organisations and counsel.
- Frame urgency, prima facie right, irreparable harm, balance of convenience and public interest with evidence.

18. Evidence architecture

Build the record backwards from the legal tests. Every fact should have a purpose, a source, an admissibility route, an owner, a deadline, a security classification and an answer to likely attack.

Proposition	Evidence	Witness/source	Admissibility	Risk	Gap/action
Provision targets consensual adults	Statutory text; charge practice	Legislation; prosecutor	Official text	Low	Obtain certified version
Law causes policing harm	Incident files; dockets; testimony	Claimants; defence lawyers	Records and affidavits	High	Redact and corroborate
Law harms health access	Service data; expert report	Clinician; epidemiologist	Expert foundation	Medium	Disaggregate safely

Proposition	Evidence	Witness/source	Admissibility	Risk	Gap/action
No evidence of protective benefit	Research review; state disclosure	Public-health expert	Expert and official records	Low	Seek discovery/FOI
Less restrictive laws exist	Penal provisions on consent and violence	Local criminal-law expert	Law and expert opinion	Low	Create comparison table

18.1 Claimant evidence

- Use trauma-informed interviews and allow breaks, support persons and control over pacing.
- Separate what the witness saw, heard, inferred and later learned.
- Resolve inconsistencies honestly. Do not coach a witness into false certainty.
- Limit intimate detail to what is legally necessary.
- Explain disclosure, cross-examination, open justice and media risk before signing.
- Use an interpreter bound by confidentiality where required.
- Create a sealed identifying schedule if rules allow.
- Reconfirm consent before filing and before public hearings.

18.2 Expert evidence

Expert field	Possible question
Public health	Effects of criminalisation on service access, HIV response, mental health and violence reporting.
History	Origins, legislative purpose, colonial transmission and enforcement of the challenged provision.
Psychology/psychiatry	Consensus on SOGIE, stigma effects and harms of forced or conversion practices.
Forensic medicine	Scientific invalidity and physical and psychological harm of forced anal examination.
Policing/criminology	Discretion, proxy offences, extortion patterns and absence of public-safety benefit.
Constitutional/comparative law	Only where foreign-law opinion is admissible and assists rather than usurps the court.
Religion/culture	Plural traditions and the distinction between theological belief and penal necessity.
Digital security	Surveillance, device searches, outing risk, data provenance and preservation.

EXPERT INDEPENDENCE

An expert's duty is to the court. Give the expert the adverse material, distinguish fact from assumption, disclose methodology and limits, and never ask for a predetermined conclusion.

18.3 Research involving affected communities

Litigation research is not automatically ethical because it serves a good cause. Use informed consent, data minimisation, secure storage, fair compensation, referral pathways and an ethics review where appropriate. Avoid collecting names or intimate facts that the legal test does not require.

19. Pleadings and oral advocacy

19.1 Pleading discipline

16. Open with the concrete state act and relief, not a long account of global doctrine.
17. Plead jurisdiction, standing, timeliness and procedural compliance expressly.
18. Define the challenged provisions and attach official copies.
19. Separate material facts from evidence and submissions.
20. Plead each right, interference, legal test, application and remedy.
21. Anticipate limitation and justification. State who bears each burden.
22. Plead alternative and narrower routes without weakening the principal case.
23. Request precise interim, final, supervisory and costs orders.
24. Preserve treaty and constitutional points needed for appeal or international review.

19.2 Oral advocacy sequence

- The case in one sentence
- The order sought
- Jurisdiction and standing
- The operation and harm of the challenged law
- The controlling constitutional text and test
- Why the state's justification fails
- Why the remedy is lawful, workable and appropriately tailored
- Answers to the court's hardest institutional concern

PART V | PROTECTION, COMMUNICATIONS AND IMPLEMENTATION

20. Integrated risk management

Legal, physical, digital, psychosocial, reputational, financial and organisational risks must be managed together. Risk is dynamic. Review it at filing, service, public announcement, hearings, judgment, appeal and implementation.

Threat	Vulnerability	Likelihood	Impact	Mitigation	Trigger/owner
Outing/doxxing	Public affidavit contains identifiers	Medium	Severe	Pseudonym order; sealed schedule; redaction review	Any filing; data lead
Arrest or raid	Known premises and travel pattern	Medium	Severe	Emergency counsel; custody protocol; safe location	Police contact; legal lead
Online harassment	Single public spokesperson	High	Moderate	Monitoring; evidence capture; rotation; platform escalation	Threat threshold; comms lead
Claimant distress	Repeated retelling and family pressure	Medium	Severe	Counsellor; interview limits; withdrawal plan	Clinical warning; safeguarding lead
Data breach	Sensitive files across personal devices	Medium	Severe	Encryption; access control; minimal collection; deletion schedule	Device loss; security lead

20.1 Minimum protection protocol

- Use a dedicated matter identifier and avoid SOGIE labels in exposed filenames.
- Restrict access by role. Keep an access register.
- Use strong device security, multi-factor authentication and encrypted channels approved by the security lead.
- Do not send identity documents, addresses or medical records through ordinary group chats.
- Remove document metadata and review redactions irreversibly before disclosure.
- Prepare emergency legal, medical, psychosocial and relocation contacts.
- Agree check-in times for court days and field travel.
- Record and preserve threats without engaging impulsively.
- Conduct a post-hearing safety review before anyone travels home.
- Delete or archive data under an agreed retention schedule after the matter.

21. Communications and narrative

Communications should protect the litigation, explain the narrow legal issue, centre affected people, and prepare institutions to implement relief. Publicity is never automatic. Silence, targeted briefings or delayed publication may be safer and more effective.

Moment	Communications task
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Moment	Communications task
Before filing	Map audiences, opposition narratives, spokespeople, security, embargoes and claimant consent.
Filing	State the legal issue, facts that are safely public, relief sought and what the case does not decide.
Opposition surge	Use approved facts; correct dangerous falsehoods; avoid amplifying fringe abuse.
Hearing	Provide a short legal explainer, logistics and one accountable source of updates.
Judgment	Read the order first. Distinguish binding holdings, dicta, immediate effect and next steps.
Loss	Explain honestly, protect claimants, identify appeal and preserve the wider movement record.
Implementation	Report concrete institutional changes, breaches, data and community experience.

21.1 Message frame

FOUR-PART FRAME

(1) The case concerns equal protection and freedom from unjust punishment. (2) It concerns consenting adults and leaves protections against violence and abuse intact. (3) Criminalisation causes documented harm to safety, health, justice and public institutions. (4) The remedy asks the state to treat every person with equal dignity under its own constitution.

22. Remedies

Draft the proposed order early. A right without an effective and implementable remedy may leave the criminalisation system intact.

Remedy	Use
Declaration	State invalidity, incompatibility, unlawful application or rights violation.
Invalidation/severance	Remove offending words or provisions while preserving valid protections.
Reading down/in	Adopt a rights-consistent construction where legally permitted and sufficiently clear.
Suspension	Allow legislative correction, paired with interim protection against enforcement.
Injunction/prohibition	Stop arrests, examinations, disclosure, deregistration or discriminatory practice.

Remedy	Use
Mandatory order	Require registration, record correction, guidance, training, investigation or service access.
Damages/reparation	Compensate material, moral and bodily harm; support rehabilitation and guarantees of non-repetition.
Expungement	Remove convictions, arrest records, cautions or administrative consequences.
Supervisory order	Require a plan, timetable, reports and return to court.
Costs	Protect public-interest litigants and recognise state-caused proceedings.

22.1 Remedy design questions

- Who must do what, by when, under which standard?
- Does the order bind police, prosecutors, health facilities, prisons, registries and local authorities?
- What happens to pending investigations, prosecutions, convictions and records?
- Must seized property and data be returned or destroyed?
- How will people outside the case learn of and use the judgment?
- Is a circular, protocol, training programme or revised form required?
- What information must the state report, and can it be safely disaggregated?
- Who can return to court if implementation fails?

23. Implementation and movement aftercare

Implementation starts before filing. Identify the officials who control police databases, prosecution policy, prison rules, medical protocols, registry systems and official publication. Build a lawful route for each required change.

Period	Priority actions
0–72 hours	Verify the sealed and public orders; protect claimants; explain legal effect; serve responsible institutions; address stays.
First 30 days	Issue implementation letters; seek circulars; brief lawyers and services; monitor arrests; correct misinformation.
1–6 months	Track compliance; support expungement; train duty bearers; gather safely disaggregated data; pursue costs and reparations.
6–24 months	Audit institutional rules; document evasion and proxy enforcement; return to court if needed; support legislative completion.
Movement review	Assess benefits, harms, distribution of resources, claimant aftercare, coalition governance and lessons for future cases.

PART VI | COUNTRY LITIGATION CHAPTERS

These chapters state the working legal position as at 18 July 2026. They are strategic starting points. Counsel must verify gazettes, amendments, court rules, pending appeals and the status of every bill immediately before taking action. Where personal safety or criminal exposure is possible, verification should occur before community consultation creates identifiable records.

COUNTRY CHAPTER 1 | NIGERIA

1. Litigation posture

Nigeria presents a layered system of federal offences, regionally applicable penal legislation, state Sharia laws, police practice and administrative exclusion. A single challenge framed only against the Same Sex Marriage (Prohibition) Act 2013 will not produce full decriminalisation. The litigation plan should identify which legal layer causes each harm and should join the public authority capable of changing it.

PRIORITY ASSESSMENT

The strongest near-term cases may arise from concrete enforcement, unlawful arrest, association, health access, search, outing or denial of registration. They can establish standing and an evidential record while preserving a broader challenge to the SSMPA and consensual-conduct offences.

1.1 Current offence map

Instrument	Provision and exposure	Litigation significance
Criminal Code Act	Sections 214 and 215 criminalise “carnal knowledge against the order of nature” and attempts. Section 217 criminalises acts of “gross indecency” between males. Maximum penalties include fourteen years under section 214.	Applies in southern criminal-code jurisdictions. Attack privacy, dignity, legality, sex discrimination and disproportionality; insist on strict proof of every element.
Penal Code	Section 284 criminalises “carnal intercourse against the order of nature.” Other public-decency and personation provisions may be used as proxies.	Verify the version adopted in the relevant northern state, its penalty and all local amendments.
State Sharia penal codes	Several northern states criminalise liwat and related conduct. Penalties and evidential rules vary. Some texts provide death by stoning in specified circumstances.	Never generalise. Obtain the state gazette. Assess constitutional supremacy, appellate route, fair trial, evidence, dignity, life and treaty obligations.
Same Sex Marriage (Prohibition) Act 2013	Sections 1–3 invalidate and prohibit same-sex marriage or civil union. Section 4 prohibits registration, operation and support of gay organisations and public displays. Section 5 creates prison terms of	The Act extends criminalisation from intimate conduct to identity, association, assembly, expression and support. Separate challenges to each clause and its severability.

Instrument	Provision and exposure	Litigation significance
	up to fourteen or ten years for specified conduct and assistance.	
Proxy enforcement	Cybercrime, public-order, vagrancy, public indecency, personation, sex-work and anti-trafficking provisions may be used against perceived LGBTQ+ people.	Plead discriminatory enforcement, absence of reasonable suspicion, unlawful search, evidential defects and abuse of power.

1.2 Constitutional and statutory foundations

Source	Usable protection
Constitution of the Federal Republic of Nigeria 1999	Sections 34 dignity; 35 personal liberty; 36 fair hearing and legality; 37 privacy; 39 expression; 40 assembly and association; 42 freedom from discrimination; and 46 enforcement.
African Charter (Ratification and Enforcement) Act	Articles 2 and 3 non-discrimination and equality; 4 and 5 integrity and dignity; 6 liberty; 9–11 expression, association and assembly; 16 health; 18 family protection. The Charter is directly enforceable in Nigeria, subject to the Constitution.
Fundamental Rights (Enforcement Procedure) Rules 2009	Require expansive rights interpretation, encourage public-interest litigation, and direct courts to avoid technical barriers. Use the Preamble and standing provisions expressly.
Evidence Act and criminal procedure	Use exclusion, voluntariness, chain-of-custody, electronic-evidence and expert-evidence rules to challenge phone searches, confessions, medical practices and speculative proof.

1.3 Claim architecture

- Privacy: criminalisation of consensual adult intimacy, home, communications and decisional autonomy under section 37 and Charter protections.
- Dignity: official branding of a class as criminal, degrading arrest practices, forced exposure and custodial treatment under section 34.
- Equality: section 42 is textually limited. Plead sex discrimination, imputed status, unequal application and the broader Charter articles 2 and 3. Join equality to dignity and arbitrariness.
- Expression and association: sections 39 and 40 directly challenge prohibitions on organisations, meetings, advocacy, support and public expression.
- Liberty and fair process: absence of reasonable suspicion, arrest based on appearance, detention limits, access to counsel, bail and strict construction of offences.
- Health: use the African Charter, statutory health duties and evidence that criminalisation deters confidential services. Avoid implying that health utility is the sole basis of personhood.
- Federalism and legality: identify legislative competence, statutory inconsistency and which authority enforced the provision. Do not assume one order binds every state institution.

1.4 Forum and procedure

Route	Use and caution
Federal or State High Court under section 46/FREP Rules	Select jurisdiction by the respondent, subject matter and relief. Federal legislation and federal agencies often point to the Federal High Court, but jurisdiction must be analysed under section 251 and the case law, not assumed.
Defence or constitutional point in prosecution	Seek bail, disclosure, exclusion and a ruling on validity or interpretation. Preserve every constitutional and Charter ground for appeal.
Court of Appeal and Supreme Court	Plan record, certification, stay and expedited appeal from the beginning. An adverse first-instance decision may be strategically tolerable only with appeal resources secured.
ECOWAS Court of Justice	Nigeria is subject to its human-rights jurisdiction. Ordinary domestic exhaustion is not a general admissibility requirement in the Court's established jurisprudence. Plead a concrete violation attributable to the state and request implementable relief.
African Commission	Use after domestic remedies, unless unavailable, ineffective or unduly prolonged. Raise the African Charter substance domestically and preserve the record.
UN mechanisms	Verify Nigeria's acceptance of the relevant individual complaint procedure. Use urgent communications and special procedures without confusing them with binding adjudication.

1.5 Existing litigation lessons

- Teriah Joseph Ebah v Federal Government of Nigeria exposed the danger of an abstract challenge brought by a claimant whom the court found lacked a sufficient personal interest. Any new case should plead the FREP Rules' public-interest approach, concrete institutional harm and affected claimants in the alternative.
- The Pamela Adie litigation concerning refusal to reserve and register the Lesbian Equality and Empowerment Initiative shows the value of association claims and the need to track appellate status, frame the statutory decision precisely, and confront section 4 of the SSMPA directly.
- Rights claims arising from raids, arrests or police abuse should request preservation of station diaries, custody records, extracted-device data, exhibits, medical records and CCTV before they disappear.

1.6 Nigeria filing blueprint

25. Choose a concrete claimant configuration: affected person plus organisation or service provider where standing permits.
26. Schedule every challenged federal, state and Sharia provision separately.
27. Name only proper respondents and plead the act of each.
28. Seek anonymity, non-arrest and data-preservation relief at filing where evidence supports urgency.
29. Plead Constitution and domesticated African Charter grounds together.
30. File expert evidence on health, policing, history and proportionality.
31. Ask for invalidity, non-enforcement, expungement, return or deletion of seized data, institutional circulars and costs.
32. Prepare ECOWAS and African Commission records while domestic proceedings continue.

1.7 Nigeria evidence priorities

Proposition	Priority evidence
Threat is real despite limited reported prosecutions	Arrest files, legal-aid records, bail papers, police invitations, charge sheets, raids and community incident logs.
Association and speech are chilled	CAC decisions, rejected names, cancelled meetings, lease terminations, funding and programme changes.
Health is harmed	Confidential service trends, missed appointments, provider testimony, referral disruption and public-health expertise.
Enforcement is discriminatory	Comparator arrest data, language used by officials, appearance-based suspicion, phone-search patterns and proxy charges.
Remedy is workable	Draft police/prosecution circular, registry instructions, deletion protocol and monitoring indicators.

COUNTRY CHAPTER 2 | GHANA

2. Litigation posture

Ghana requires a dual strategy. Counsel must address section 104 of the Criminal Offences Act 1960 and the much wider Human Sexual Rights and Family Values Bill passed by Parliament on 29 May 2026. No official gazetted Act or presidential assent was identified in the sources checked for this edition. Its status must be confirmed from the Gazette and Presidency immediately before advice or filing.

AUTHORITY WARNING

In July 2024, Ghana’s Supreme Court rejected a constitutional challenge to section 104(1)(b) in *Prince Obiri-Korang v Attorney-General*. Counsel must obtain the complete certified judgment, identify its ratio and preclusive effect, and avoid presenting a new case as though no controlling decision exists.

2.1 Current offence map

Instrument	Position	Litigation consequence
Criminal Offences Act 1960 (Act 29), section 104	“Unnatural carnal knowledge” of a person aged sixteen or over with consent is a misdemeanour. The provision’s other limbs address absence of consent and animals. Carnal knowledge is tied to penetration under the Act.	Keep the challenge strictly directed to consenting adults. Use statutory construction and proof arguments in prosecutions. Confront the 2024 Supreme Court ruling.
Human Sexual Rights and	Parliament passed the bill on 29 May 2026.	Treat it as a bill unless official assent and

Instrument	Position	Litigation consequence
Family Values Bill 2025	Reported provisions extend liability to identity, conduct, promotion, funding, support and failures to report, with specified professional exceptions.	gazetting are confirmed. If enacted, obtain the final gazetted text. Do not rely on the 2024 or committee version.
Proxy laws and practices	Public order, obscenity, cyber, nuisance and administrative powers can support raids, censorship or exclusion.	Challenge the actual legal power, procedural fairness, equal treatment and evidential basis.

2.2 Constitutional foundation

Article	Litigation use
Articles 1 and 2	Constitutional supremacy and enforcement of acts or omissions alleged to contravene the Constitution.
Articles 12 and 17	Universal enjoyment and equality/non-discrimination. Article 17 lists gender and other grounds; develop analogous and sex/gender reasoning.
Article 15	Human dignity and prohibition of degrading treatment.
Article 18(2)	Privacy of home, property, correspondence and communication, subject to constitutionally valid limitations.
Article 21	Expression, thought, conscience, assembly, association, information and movement.
Article 23	Administrative bodies must act fairly, reasonably and lawfully.
Article 33	High Court enforcement of fundamental rights and power to grant protective remedies.
Articles 130 and 132	Supreme Court original interpretive jurisdiction and supervisory jurisdiction. Distinguish interpretation from ordinary application.

2.3 Working with Prince Obiri-Korang

33. Obtain the full judgment, pleadings, evidence and orders. Do not rely on press summaries.
34. Extract which claims were decided: statutory meaning, privacy, equality, standing, evidence and remedy.
35. Analyse stare decisis, res judicata and issue estoppel against the proposed parties and grounds.
36. Identify materially new facts or provisions, including enforcement evidence or any enacted 2025 bill.
37. Consider whether the desired advance lies in a concrete as-applied claim, association or expression claim, criminal appeal, legislative challenge, regional forum or future invitation to depart from precedent.
38. State candidly why the court has legal power to grant the requested relief despite the prior decision.

2.4 Forum strategy

Forum	Route
High Court	Article 33 fundamental-rights enforcement, criminal review and administrative claims. Seek interim protection and develop a full factual record.
Supreme Court	Use original jurisdiction only where genuine constitutional interpretation or enforcement falls within article 130. Avoid dressing an ordinary factual dispute as interpretation.
CHRAJ	Investigative and administrative pathway for discrimination, abuse of power and institutional practice, subject to mandate and remedy limits.
ECOWAS Court	Plead Charter and other applicable rights against Ghana. Domestic exhaustion is not ordinarily required, but duplication, proof and implementation still require strategy.
African Commission	Preserve exhaustion analysis and the domestic record. Use Resolution 275 and Charter rights.
UN Human Rights Committee	Ghana acceded to the First Optional Protocol to the ICCPR. Verify current treaty status, exhaustion, duplication and time requirements before communication.

2.5 Challenges if the 2025 Bill becomes law

- Procedural constitutionality: verify compliance with legislative procedure, required financial recommendation, voting, presidential assent and publication. Plead only defects supported by the official parliamentary record.
- Identity and status offences: attack legality, thought, dignity, equality and punishment without prohibited conduct.
- Promotion, advocacy and funding: plead viewpoint discrimination, vagueness, association, political speech, access to health and legal services, and less restrictive means.
- Mandatory reporting: challenge privacy, privilege, health confidentiality, vagueness, self-incrimination, family life and disproportionate surveillance.
- Gender-affirming health restrictions: use dignity, bodily integrity, privacy, professional ethics, health evidence and equality.
- Extradition consequences: scrutinise dual criminality, speciality, non-refoulement and risk of persecution or degrading treatment.
- Retroactivity and transition: insist that no offence or penalty operates before valid commencement and that criminal statutes are strictly construed.

2.6 Ghana filing blueprint

39. Confirm the legal status and exact gazetted text on the day instructions are taken.
40. Choose High Court or Supreme Court by the true nature of the claim.
41. Address Prince Obiri-Korang in the first strategy memorandum.
42. Use several claimants only where each adds a distinct legally necessary injury.
43. Seek anonymity, preservation and non-enforcement orders before publicity.
44. Build evidence on policing, health, speech, association, professional services and mandatory-reporting effects.
45. Request severable and institution-specific orders, expungement and implementation reporting.
46. Maintain a parallel ECOWAS and treaty-body admissibility file.

2.7 Ghana evidence priorities

Issue	Evidence
Section 104 enforcement	Charge sheets, dockets, bail conditions, police statements, plea outcomes and threatened prosecutions.
Bill or Act procedure	Certified bill, Hansard, committee report, votes, presidential documents, Gazette and commencement material.
Speech and association	Cancellations, platform restrictions, funding decisions, organisational records and witness evidence.
Mandatory reporting harm	Professional protocols, client avoidance, privilege and confidentiality evidence, safeguarding and public-health analysis.
Prior precedent	Certified record and judgment in Prince Obiri-Korang; subsequent treatment and pending applications.

COUNTRY CHAPTER 3 | CAMEROON

3. Litigation posture

Cameroon combines active enforcement of a specific same-sex conduct offence with restricted individual access to constitutional review. Litigation should therefore integrate immediate criminal defence, treaty supremacy in ordinary courts, administrative and civil remedies where available, and carefully sequenced international complaints.

3.1 Current offence and enforcement map

Provision/practice	Position	Response
Penal Code, section 347-1	Sexual relations with a person of the same sex are punishable by six months to five years' imprisonment and a fine of CFAF 20,000 to 200,000.	Demand proof of sexual relations, not identity, appearance, messages or association. Challenge privacy, equality, legality, treaty compatibility and proportionality.
Penal Code, section 347	Provides enhanced punishment in specified offences involving a person over sixteen and under twenty-one, including section 347-1.	Check exact text, age, consent and charging theory. Keep adult consensual-conduct claims separate from protection against abuse.
Attempt, public indecency and identity-document allegations	Frequently increase exposure for gender-nonconforming and transgender defendants.	Challenge elements, discriminatory inference, searches, confession evidence and cumulative charging.
Forced medical examination and HIV	May be used to seek proof or humiliate	Seek an immediate prohibition, independent care, preservation, exclusion

Provision/practice	Position	Response
testing	detainees.	and reparation under the absolute ill-treatment prohibition.
Police and gendarmerie practice	Arrest may follow denunciation, digital messages, appearance or extortion rather than proof of a sexual act.	Challenge reasonable basis, custody duration, access to counsel, seizure and the authenticity and relevance of electronic evidence.

3.2 Constitutional and treaty foundation

Source	Use
Constitution and Preamble	The Preamble affirms equality, dignity, liberty, privacy of the home and correspondence, expression, association, fair trial and protection against arbitrary action, and forms part of the constitutional framework.
Constitution, article 45	Duly approved or ratified treaties and international agreements prevail over national laws after publication, subject to reciprocal application where relevant. Plead direct treaty supremacy with proof of ratification and publication.
ICCPR	Privacy, equality, liberty, fair trial, expression, assembly and association. Toonen is directly useful persuasive treaty jurisprudence.
African Charter	Equality, dignity, liberty, fair trial, expression, association, assembly and health. Use Resolution 275 and due-diligence duties concerning violence.
Convention against Torture	Forced examinations, custodial violence, coercion and failure to investigate. The prohibition is absolute.

3.3 Procedural reality

- Cameroon does not provide a general individual constitutional complaint comparable to some common-law systems. Access to the Constitutional Council is constitutionally restricted. Verify any statutory expansion before relying on direct access.
- Raise constitutional interpretation and article 45 treaty supremacy in the trial court. Seek reasoned rulings on every argument and preserve them through appeal.
- The legal system is bijural and officially bilingual. Match procedure, counsel and authoritative language to the court and region. Verify whether the French or English text controls any disputed wording.
- A criminal file must address custody, interrogation, counsel, medical evidence, electronic evidence and proof of the sexual act before a broad constitutional submission.
- Administrative courts may be relevant to registration, bans, licences or official acts. Confirm prior administrative complaint requirements and time limits.
- International litigation should not expose a detainee to retaliation without a protection, communications and family-support plan.

3.4 Defence-to-decriminalisation pathway

47. Secure liberty, counsel, medical care and a confidential account.
48. Demand the procès-verbal, seizure record, custody register, medical orders and complete prosecution file.
49. Contest identity-based inference and require proof of section 347-1's elements.
50. Exclude coerced statements, unlawful digital extraction and scientifically invalid medical material.
51. Plead articles 17 and 26 ICCPR, African Charter articles 2, 3, 5 and 6, and constitutional treaty supremacy.
52. Request dismissal or acquittal, return/deletion of data, investigation of abuse and a reasoned compatibility ruling.
53. Exhaust ordinary appeals unless ineffective, unavailable or unduly prolonged, recording the basis of any exception.
54. Prepare African Commission and UN Human Rights Committee complaints, verifying Cameroon's treaty and optional-protocol status at filing.

3.5 Institutional and international routes

Route	Strategic use
Criminal trial and appeal	Strict proof, exclusion, acquittal, treaty supremacy and a record for later review.
Administrative/civil proceedings	Registration, official bans, damages, medical or data violations where jurisdiction permits.
National Commission on Human Rights and Freedoms	Documentation and protective engagement, assessed against independence, confidentiality and remedy.
African Commission	Challenge section 347-1 and enforcement after exhaustion or a proved exception. Seek provisional measures for serious imminent harm.
UN Human Rights Committee	Cameroon is reported as party to the First Optional Protocol. Confirm status and duplication rules. Frame privacy, equality, liberty and remedy.
Committee Against Torture	Verify article 22 competence before an individual complaint; use urgent and reporting mechanisms for forced examinations and custody abuse.

3.6 Cameroon evidence priorities

Issue	Record
No proof of prohibited act	Charge narrative, witness account, digital material, medical reports and prosecution admissions.
Arbitrary identity inference	Officer language, clothing or gender-expression references, photographs, arrest location and comparator evidence.
Custody abuse	Register, medical examination, injuries, access-to-counsel requests, cell witnesses and prompt independent assessment.
Pattern of enforcement	Anonymised case files, court registers, lawyer records, NGO incident data and

Issue	Record
	geography.
Treaty supremacy	Certified treaty status, publication, translations and domestic decisions applying article 45.

3.7 Cameroon remedies

- Release, dismissal or acquittal and cancellation of warrants
- Exclusion of forced examination, coerced confession and unlawful digital evidence
- Return and secure deletion of devices, images, health data and extracted communications
- Compensation, rehabilitation and independent investigation of abuse
- A reasoned ruling declining application of incompatible domestic law under article 45
- Protection from retaliation and confidentiality of identity and health information
- Institutional instructions to police, gendarmerie, prosecutors and medical personnel

COUNTRY CHAPTER 4 | SIERRA LEONE

4. Litigation posture

Sierra Leone retains inherited offences directed principally at male same-sex conduct. The country's Supreme Court constitutional jurisdiction and membership of ECOWAS create two important pathways. A strong case should pair a concrete domestic record with a precise challenge to the colonial offence, discriminatory scope, severity and continuing enforcement effects.

4.1 Current offence map

Instrument	Position	Litigation significance
Offences Against the Person Act 1861, section 61	The inherited provision criminalises buggery and carries a maximum sentence of life imprisonment in Sierra Leone sources.	Verify the locally applicable adopted text and all later penalty amendments. Challenge consenting adult application, severity, privacy, equality and dignity.
Offences Against the Person Act 1861, section 62	Addresses attempt, assault with intent and indecent assault against a male, with serious imprisonment exposure.	Separate non-consensual assault from consensual conduct. A remedy must preserve protection against sexual violence while removing consensual adult criminalisation.
Proxy offences	Public order, loitering, indecency, cyber and other offences may be used against perceived LGBTQ+ people.	Challenge the actual elements, reasonable suspicion, selective enforcement and evidence.
Administrative and private consequences	Police indifference, outing, eviction, employment loss and barriers to health services may follow even without	Use positive duties, administrative fairness, equal protection and targeted

Instrument	Position	Litigation significance
	prosecution.	remedies.

4.2 Constitutional foundation

Provision	Use
Section 15	Rights framework and entitlement without distinction, read with the operative rights and limitations.
Section 16	Life and lawful limits; relevant to the extraordinary severity and state protection from violence.
Section 17	Personal liberty, arrest, information, court production and compensation.
Section 20	Protection from inhuman or degrading punishment or treatment.
Section 22	Protection for private life, home, property and correspondence, subject to specified limitations.
Sections 24 and 25	Conscience, expression, assembly and association.
Section 27	Protection from discrimination, with listed grounds and textual exceptions that require exact analysis.
Section 28	Application to the Supreme Court for redress for contravention of protected rights and remedial jurisdiction.
Section 124	Supreme Court original jurisdiction in constitutional interpretation and enforcement questions.

4.3 Main domestic claim

- Privacy: consensual adult intimacy and the continuing threat to home, correspondence, identity and relationships.
- Dignity and treatment: stigma, degrading policing and the gross severity of life imprisonment exposure.
- Equality: male-only scope, sex discrimination, imputed orientation and arbitrary distinction. Analyse section 27's wording and exceptions candidly.
- Legality: archaic terms, foreseeability, evidential uncertainty and arbitrary discretion.
- Proportionality: no evidence that imprisonment protects others where consent, adulthood and privacy are established; ordinary sexual-offence laws protect against abuse.
- Expression and association: chilling of organisations, health services, speech and assembly, even where the statute addresses conduct.
- Colonial continuity: history can rebut claims of immutable local tradition, but constitutional rights and present harm should remain the legal centre of the case.

4.4 Procedure and forums

Route	Strategy
Supreme Court under sections 28 and 124	Use for constitutional redress and genuine interpretation. Confirm Supreme Court Rules, standing, originating process, service, evidence and time limits.
Criminal proceedings	Seek bail, strict proof, constitutional referral or determination, exclusion and appeal. Preserve the distinction between consent and assault.
Human Rights Commission of Sierra Leone	Use for investigation, institutional practice and documentation, assessing confidentiality and remedial power.
ECOWAS Court	Bring a concrete human-rights claim attributable to Sierra Leone. Domestic exhaustion is not generally required, but proof, duplication and implementation need planning.
African Commission	Use after exhaustion or a reasoned exception, pleading African Charter privacy-related dignity, equality, liberty, expression, association and health.
UN treaty bodies	Verify ratification of the individual complaint procedure. Do not assume ICCPR ratification alone creates an individual petition right.

4.5 Sierra Leone filing blueprint

55. Obtain the locally authoritative OAPA text and Imperial Statutes adoption legislation, not merely the current UK version.
56. Confirm whether any later statute altered penalty, procedure or terminology.
57. Choose a claimant with concrete threat or harm and seek identity protection.
58. Frame relief to preserve offences against rape, coercion, assault and child abuse.
59. Plead each limitation clause and answer public morality with necessity and evidence.
60. Use African Charter standards and comparative African judgments as persuasive support.
61. Request invalidation or rights-consistent severance, non-enforcement, expungement, data deletion and institutional guidance.
62. Prepare an ECOWAS route and implementation coalition at the same time.

4.6 Sierra Leone evidence priorities

Issue	Evidence
Continuing operation	Police records, threatened charges, legal-aid files, community incidents, official statements and collateral decisions.
Male-only discrimination	Text, charging patterns, comparator analysis and constitutional equality evidence.
Life-penalty disproportionality	Sentencing framework, comparative penalties, prison effects and proportionality expert evidence.

Issue	Evidence
Health and safety effects	Provider records, anonymised service data, violence reporting and state response.
Workable remedy	Draft order preserving non-consensual offences, guidance for police/prosecutors and expungement process.

Cross-country coordination matrix

Question	Nigeria	Ghana	Cameroon	Sierra Leone
Primary offence	Criminal Code/Penal Code/Sharia + SSMPA	Act 29 s 104; monitor 2025 Bill	Penal Code s 347-1	OAPA 1861 ss 61–62
Domestic rights forum	Federal/State High Court under s 46	High Court art 33; Supreme Court art 130	Trial/appeal; restricted constitutional access	Supreme Court ss 28, 124
Key obstacle	Layered laws, standing and security	2024 Supreme Court precedent; new bill	Active enforcement and access limits	Old law, scarce reported precedent
Regional route	ECOWAS + African Commission	ECOWAS + African Commission	African Commission	ECOWAS + African Commission
Priority record	Police, CAC, health and Sharia variation	Prior judgment, Gazette and parliamentary record	Custody, medical and digital evidence	Authoritative adopted statute and enforcement
Early remedy	Non-arrest, anonymity, preservation	Status quo, anonymity, preservation	Release, no examination, exclusion	Non-enforcement, anonymity, preservation

REGIONAL COORDINATION RULE

Use a shared evidence taxonomy and legal-issue matrix, but keep claimant instructions, privileged files and country decisions separate. A favourable judgment in one country is persuasive material, not permission to transplant pleadings without local constitutional and procedural analysis.

PART VII | LITIGATION INSTRUMENTS AND TEMPLATES

Instrument 1. Case intake and triage form

A. Contact and safety

Field	Response / notes
Matter code	
Date and intake lawyer	
Safe name and pronouns	
Safe contact method and times	
Immediate detention, medical, housing or violence risk	
Interpreter, accessibility or support needs	

B. Incident

Field	Response / notes
What happened, in the client's words?	
Dates, places and officials or other actors	
Arrest, charge, search, device seizure, medical act or disclosure	
Witnesses and records	
Upcoming court, police, immigration or employment dates	

C. Legal position

Field	Response / notes
Provisions cited	

Field	Response / notes
Current procedural status	
Prior lawyers and proceedings	
Possible remedies and deadlines	
Conflict and privilege check	

D. Consent and referral

Field	Response / notes
What help does the person want?	
Risks explained	
Authority to obtain records	
Publicity preference	
Safe referrals made	
Next action, owner and deadline	

Instrument 2. Pre-filing decision memorandum

Community mandate and consultation record

[Complete in no more than one page unless complexity requires more.]

Proposed claimant(s) and standing

[Complete in no more than one page unless complexity requires more.]

Challenged law or practice

[Complete in no more than one page unless complexity requires more.]

Case theory in one paragraph

[Complete in no more than one page unless complexity requires more.]

Forum and jurisdiction

[Complete in no more than one page unless complexity requires more.]

Causes of action and legal tests

[Complete in no more than one page unless complexity requires more.]

State justifications anticipated

[Complete in no more than one page unless complexity requires more.]

Key evidence and remaining gaps

[Complete in no more than one page unless complexity requires more.]

Interim relief

[Complete in no more than one page unless complexity requires more.]

Final remedy and implementation route

[Complete in no more than one page unless complexity requires more.]

Security and safeguarding rating

[Complete in no more than one page unless complexity requires more.]

Budget through appeal

[Complete in no more than one page unless complexity requires more.]

Alternatives to litigation

[Complete in no more than one page unless complexity requires more.]

Recommendation and decision authority

[Complete in no more than one page unless complexity requires more.]

Instrument 3. Standing and admissibility checklist

✓	Requirement	Evidence / action	Owner	Deadline
☐	Correct court/body and originating process			
☐	Territorial, temporal, personal and subject jurisdiction			
☐	Claimant legal capacity and authority			
☐	Individual, organisational, representative or public-interest standing			

✓	Requirement	Evidence / action	Owner	Deadline
☐	Actual, imminent or continuing injury			
☐	Ripeness and absence of prohibited advisory claim			
☐	Mootness plan and continuing collateral effects			
☐	Domestic remedies identified and exhausted, or exception evidenced			
☐	International complaint procedure accepted by state			
☐	Time limit calculated and independently checked			
☐	No disqualifying duplication or abuse of process			
☐	Constitutional/treaty substance raised domestically			
☐	Notices, service and joinder completed			
☐	Certified decisions and complete procedural chronology			
☐	Translations and authentication			
☐	Costs and security application			
☐	Interim measures requested where necessary			

Instrument 4. Evidence matrix

Issue / element	Fact to prove	Source	Admissibility route	Disclosure risk	Status / owner

Issue / element	Fact to prove	Source	Admissibility route	Disclosure risk	Status / owner

Instrument 5. Expert instruction template

- Identity of instructing counsel, client and proceedings
- Expert's overriding independent duty
- Questions within the expert's discipline
- Material facts and assumptions
- Complete bundle, including adverse material
- Required method, source transparency and limitations
- Conflicts, confidentiality and data security
- Report form, declaration and deadline
- Availability for conference, cross-examination and supplemental report
- Fees that are not contingent on outcome

Suggested instruction

Please provide your independent opinion on the questions below. Your duty is to assist the court within your expertise. It overrides any obligation to the instructing party. Identify the facts and assumptions on which you rely, the method used, all material limitations, any range of responsible opinion, and any matter that may affect your independence. If a question falls outside your expertise or the material is insufficient, say so expressly.

Instrument 6. Skeleton originating pleading

1. Parties and capacity

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

2. Court and jurisdiction

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

3. Standing and public interest

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

4. Challenged provisions or conduct

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

5. Material facts

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

6. Operation and effects of criminalisation

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

7. Interim protection

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

8. Claim 1: equality and non-discrimination

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

9. Claim 2: privacy, liberty and autonomy

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

10. Claim 3: dignity and bodily integrity

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

11. Claim 4: expression, association or assembly

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

12. Claim 5: legality, vagueness or administrative unlawfulness

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

13. Limitation and proportionality

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

14. Applicable African and international law

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

15. Remedies

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

16. Costs

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

17. Verification and schedules

[State material facts and the applicable test concisely. Cross-reference the evidence. Do not plead confidential facts unless necessary and protected.]

Instrument 7. Interim relief checklist

Question	Evidence / answer
What exact conduct must stop or occur?	
What right is prima facie engaged?	
What makes the matter urgent?	
What harm cannot be repaired later?	
What is the balance of convenience?	
What public interest supports relief?	

Question	Evidence / answer
Is notice safe and practicable?	
What undertaking or safeguard is required?	
How will the order be served and enforced?	
When should it return for review?	

Instrument 8. Claimant informed-consent record

Counsel should adapt this record and take jurisdiction-specific advice. It is evidence of a process, not a substitute for a continuing relationship.

Matter explained	Confirmed / notes
Purpose and realistic prospects	
Possible loss and adverse precedent	
Time, hearings, cross-examination and appeal	
Open justice and identity-protection limits	
Media and digital exposure	
Family, work, housing, immigration and health consequences	
Adverse costs and funding	
Data collection, storage and sharing	
Right to ask questions and seek independent advice	
Right to withdraw, with legal consequences explained	
Support and emergency arrangements	
Publicity choices recorded separately	

Client confirmation: I have received an explanation I understand, had the opportunity to ask questions, and freely instruct counsel to proceed subject to the limits recorded above.

Client / authorised representative: _____ Date: _____

Counsel / witness: _____ Date: _____

Instrument 9. Communications plan

Audience	Desired understanding/action	Messenger	Channel	Risk	Approval

Holding statement template

Today, [court/body] will consider whether [precise law or practice] is compatible with [domestic right]. The case concerns [consenting adults / specified organisational or identity issue]. It does not challenge laws protecting people from violence, coercion or abuse. The claimants ask the court to [precise relief]. To protect those involved, we will not comment on confidential evidence while proceedings continue.

Instrument 10. Judgment-day checklist

- Obtain the signed, sealed and complete decision.
- Confirm which orders take immediate effect and whether any are suspended.
- Identify appeal deadline and test for stay.
- Check anonymity, redaction and publication directions before circulation.
- Contact claimants privately before public comment.
- Prepare a holding line that distinguishes outcome, reasoning and next steps.
- Serve responsible officials and request written implementation contacts.
- Preserve the court file, exhibits and certified record.
- Review security and psychosocial risks.
- Schedule appeal, remedy and movement debriefs separately.

Instrument 11. Implementation tracker

Order / commitment	Responsible body	Required act	Deadline	Evidence of compliance	Gap / escalation

Instrument 12. After-action review

- What changed in law, practice and lived experience?
- Which harms were reduced, displaced or increased?
- Whose priorities shaped the case, and who was left out?
- Were claimant consent, safety and support adequate?
- Which factual and legal choices helped or hurt?
- How did opposition actors adapt?
- What remains to be implemented?
- What information must be retained, anonymised or deleted?
- What should the next team do differently?

PART VIII | SELECTED AUTHORITIES AND RESEARCH PATH

This is a starting set, not a substitute for an updated jurisdiction-specific authorities search. Verify official citations, procedural history, subsequent treatment and the precise proposition before use.

24. African constitutional and regional authorities

Authority	Potential use
National Coalition for Gay and Lesbian Equality v Minister of Justice 1999 (1) SA 6 (CC), South Africa	Invalidation of consensual same-sex conduct offences; equality, dignity and privacy.
Letsweletse Motshidiemang v Attorney General, Court of Appeal, CACGB-157-19 (2021), Botswana	Decriminalisation; constitutional interpretation, privacy, equality, public interest and evidence.
Friedel Dausab v Minister of Justice, High Court of Namibia, 21 June 2024	Invalidation of common-law sodomy and related offences; equality and constitutional supremacy.
Ah Seek v State of Mauritius [2023] SCJ 399	Invalidation of consensual same-sex conduct offence under constitutional non-discrimination protection.
Eric Gitari v Non-Governmental Organisations Co-ordination Board, Supreme Court of Kenya, Petition 16 of 2019 (2023)	Freedom of association and registration despite criminalisation; limits and careful use in later litigation.
EG & 7 others v Attorney General; DKM & 9 others (Interested Parties), Court of Appeal of Kenya (2019)	Forced anal examinations; dignity, privacy and freedom from torture or degrading treatment.
Digashu v Government of the Republic of Namibia; Seiler-Lilles v Government of the Republic of Namibia [2023] NASC 14	Recognition and equality implications for same-sex spouses; constitutional treatment of dignity and discrimination.
African Commission Resolution 275 (2014)	State duty to prevent and remedy violence based on real or imputed sexual orientation or gender identity.
Zimbabwe Human Rights NGO Forum v Zimbabwe, Communication 245/02, African Commission	Due diligence, non-state violence and state responsibility; includes sexual orientation among prohibited discriminatory grounds in its discussion.
African Charter on Human and Peoples' Rights, arts 1–6, 9–11, 16, 18 and 26	Binding regional framework for equality, dignity, liberty, fair process, expression, association, assembly, health and protection.

24.1 Country-specific starting authorities

Country	Authority or instrument	Use / caution
Nigeria	Constitution 1999; African Charter (Ratification and Enforcement) Act; FREP Rules 2009; Criminal Code Act; SSMPA 2013	Obtain official current text and state-specific Penal/Sharia enactments.
Nigeria	Teriah Joseph Ebah v Federal Government of Nigeria; Pamela Adie litigation against the Corporate Affairs Commission	Standing and association lessons. Verify citations, record and current appellate status.
Ghana	Constitution 1992; Criminal Offences Act 1960, s 104; Prince Obiri-Korang v Attorney-General (Supreme Court, 2024)	The Supreme Court decision is adverse controlling material. Obtain the certified judgment and subsequent treatment.
Ghana	Human Sexual Rights and Family Values Bill 2025, passed by Parliament 29 May 2026	Verify assent, Gazette, commencement and final text on the filing date.
Cameroon	Constitution, especially Preamble and art 45; Penal Code 2016, ss 347 and 347-1; Criminal Procedure Code	Use treaty supremacy and strict proof. Verify authoritative language and procedural text.
Sierra Leone	Constitution 1991, ss 15–28 and 124; OAPA 1861, ss 61–62; Imperial Statutes adoption legislation	Use the locally operative adopted text and verify later amendments and penalties.

25. Global and comparative authorities

Authority	Potential use
Toonen v Australia, UN Human Rights Committee, Communication 488/1992	Privacy; sexual orientation within non-discrimination protection; public-health justification rejected.
Human Rights Committee, General Comment No 18	Non-discrimination framework.
Human Rights Committee, General Comment No 35	Liberty, arbitrary arrest and detention.
Human Rights Committee, General Comment No 37	Peaceful assembly and state protection duties.
Committee Against Torture, General Comment No 2	Non-discrimination and prevention obligations under the torture prohibition.
Orozco v Attorney General of Belize, Claim 668	Decriminalisation using dignity, privacy, equality and freedom of

Authority	Potential use
of 2010 (2016)	expression.
Jones v Attorney General of Trinidad and Tobago, High Court, Claim CV2017-00720 (2018)	Decriminalisation reasoning; check later appellate history before citation.
Navtej Singh Johar v Union of India (2018) 10 SCC 1	Constitutional morality, dignity, privacy, equality and transformative constitutionalism.
Norris v Ireland (1988) 13 EHRR 186; Dudgeon v United Kingdom (1981) 4 EHRR 149	Privacy and the continuing interference caused by unenforced criminal law.
Yogyakarta Principles (2006) and Yogyakarta Principles plus 10 (2017)	Persuasive articulation of applying international law to SOGIESC; not a treaty.

26. Research protocol for every new case

63. Obtain the current official penal code and amendment history.
64. Search reported and unreported decisions using every historic name for the offence.
65. Check constitutional text, rights limitations, standing and remedies.
66. Check treaty ratification, domestication, reservations and complaint access.
67. Locate police, prosecution, health, prison and registry directives.
68. Request arrest, charge, conviction and complaint data using lawful access procedures.
69. Map pending bills, constitutional cases and political commitments.
70. Review adverse and regressive authority, not only favourable cases.
71. Shepardise, note up or otherwise verify every authority to the filing date.
72. Create a confidential update sheet showing source, date checked, proposition and owner.

27. Recommended institutional sources

- African Commission on Human and Peoples' Rights and African Court on Human and Peoples' Rights official databases
- National judiciary, gazette, parliament and law-reform commission sources
- OHCHR treaty-body jurisprudence and Universal Human Rights Index
- UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity
- WHO and UNAIDS evidence on criminalisation, health access and key populations
- National human rights institutions and official public-record bodies
- Peer-reviewed research, with methods and conflicts critically assessed
- Community-led documentation produced with consent and suitable security

Closing note

The best decriminalisation case does more than win a legal proposition. It changes what officials may do, what institutions must do, and what affected people can safely do with the freedom recognised. That requires legal

precision, movement accountability, care for the people whose lives form the record, and sustained work after judgment.

JUSTICE BRIDGE COMMITMENT

Law should become a bridge between contested rights and lived freedom. Litigation earns its place in a movement when it helps people cross that distance with greater safety, power and dignity.

Matter control sheet

Function	Name	Safe contact	Deputy
Client decision-maker			
Lead counsel			
Local counsel			
Community liaison			
Evidence lead			
Security lead			
Safeguarding lead			
Communications lead			
Finance/operations			
Implementation lead			

Milestone	Date	Owner	Status
Mandate confirmed			
Legal audit complete			
Claimant consent confirmed			
Risk review approved			
Evidence record closed			
Pre-action steps complete			
Filed and served			
Interim hearing			

Milestone	Date	Owner	Status
Merits hearing			
Judgment			
Appeal deadline			
Implementation review			