

PRESS CONFERENCE
ON
MEMORANDUM TO PARLIAMENT OF GHANA AGAINST PASSAGE OF THE
‘PROMOTION OF PROPER HUMAN SEXUAL RIGHTS AND
GHANAIAN FAMILY VALUES BILL, 2021’

Organised by: A GROUP OF GHANAIAN CITIZENS

Venue: INTERNATIONAL PRESS CENTRE, Accra

Date: OCTOBER 4, 2021.

Good morning, ladies and gentlemen of the media. We have invited you here today to share a memorandum we have presented to Parliament on ‘The Promotion of Proper Human Sexual Rights and Ghanaian Family Values Bill, 2021.’ In our memorandum, we express our opposition to the passage of a bill which we believe threatens to undermine the rights and freedoms Ghanaians have fought for and gained as citizens of our democratic republic.

We therefore call on the freedom loving people of Ghana to ask their representatives in Parliament to reject this dangerous bill and ask you to disseminate to the public our views on this issue.

Our rationale for opposing the bill is contained in the text of the 30-page Memorandum we presented to Parliament on 29 September, 2021, which we urge you to read in full. However, we would like to give you a summary of what is contained in the memorandum we submitted.

Introduction

The LGBTQ+ Bill currently before Parliament is a major step backwards for democracy, inclusiveness, the protection of minorities and the vulnerable in society, and of fundamental human rights in Ghana.

The Bill constitutes a flagrant violation of the rights and freedoms guaranteed under the Constitution and is an existential threat to our Republic and its core values as set out in the Preamble of Chapter Five on Fundamental Human Rights, and Chapter 6 on Directive Principles of State Policy of the 1992 Constitution.

Violation of fundamental freedoms

The Bill violates virtually all the key fundamental freedoms guaranteed under the Constitution (Articles 11, 15, 18 and 21), namely:

1. the right to freedom of speech and expression;
2. the right to freedom of thought, conscience and belief; including academic freedom
3. the freedom to practice any religion and to manifest such in practice (which includes the freedom not to practice any religion);
4. the right to assemble, including the freedom to take part in processions and demonstrations;
5. the freedom of association and the right to organize;
6. the right to freedom from discrimination; and
7. the right to human dignity.

In essence the provisions of the Bill are so egregious in their violation of these fundamental human rights and freedoms that it beggars belief that they could be introduced as a Bill in the House of Parliament.

With all due respect, we consider it unbecoming of the Parliament of our Republic, one of the key pillars of our celebrated democracy, to initiate such a fanatical crusade of intolerance and extremism in the 21st century, in direct contravention of the provisions in our democratic Constitution.

Furthermore, this Bill, which has been laid before Parliament as a private member's bill, in fact imposes a significant charge on the Consolidated Fund or other public funds. By the express terms of Article 108, however, a Bill that does this cannot lawfully be introduced or acted upon by Parliament as a private member's bill. Accordingly, the introduction of the LGBTQ+ Bill as a private member's bill in Parliament, irrespective of the Bill's merits or demerits, constitutes a direct and gross violation of Article 108 (a) (ii), and is therefore unconstitutional.

Denial of humanity and identity of LGBTQ persons

The Bill in its memorandum, quotes the view expressed by the National House of Chiefs that being LGBTQ+ is a "taboo and inhuman" under Ghanaian culture. That statement, with all due respect to our traditional rulers, stigmatises the being and identity of LGBTQ+ persons and denies them their humanity. It directly violates Article 15 (1) of the Constitution which provides that "**The dignity of all persons shall be inviolable.**" Importantly, by stigmatizing LGBTQ+ persons as inhuman, the Bill reinforces hatred for these persons and implies they have no place in our society and deserve to be eradicated. Under Article 21 (4) (e), the Constitution disapproves of any action that "incites hatred against other members of the community", which is what this Bill does.

Criminalising freedom of speech and expression

The Bill in Clause 12 goes to the extreme of criminalising and prohibiting also ideas, views, and expressions promoting or advocating support for LGBTQ+ practices, including in films, or broadcasting of LGBTQ+ comments or opinions on the internet, in text messages that express support or sympathy for, or solidarity with LGBTQ+ identity, cause, views and activities. Under Clause 12, any person who engages in any of these acts commits an offence which, on summary conviction, is liable to imprisonment for not less than five years or more than ten years.

This Clause directly violates Article 21(1) (a) of the Constitution, which provides thus:

“All persons are entitled to freedom of speech and expression, which shall include the freedom of the press and other media.”

Were the Bill in force, all of us here expressing our opinions on this matter and those of you whose job it is to report news and information, would risk going to jail.

Criminalising right to assemble and organize

Clause 15 of the Bill seeks to disband existing LGBTQ+ organisations, and Clause 16 prohibits the formation or registration of groups, associations or organisations set up to engage in any activity having anything to do with LGBTQ+ causes. Anyone who does so is liable upon summary conviction to imprisonment for a term of not less than six years and not more than ten years.

Clause 15 is in direct contravention of Article 21 (1) (e) of our Constitution, which provides thus:

“All persons shall be entitled to freedom of association, which shall include freedom to form or join trade unions and other associations, national and international, for the protection of their interest.”

The Bill flagrantly violates also the fundamental freedom to assemble, including the right to take part in processions and demonstrations, as guaranteed in Article 21(1) (d) of the Constitution.

Ladies and gentlemen, the sponsors of the Bill have not provided, and cannot provide, a shred of evidence to demonstrate any harm that LGBTQ+ persons or their activities pose to society, which would then have provided a reasonable justification for such extraordinarily high-handed violent assault on their fundamental human rights and the rights of other citizens.

Furthermore, the sponsors fail woefully to provide any empirical evidence to support their attempt to show that the provisions of the Bill are necessary for the protection of any countervailing public interest or individual right. So, they resort to so-called African cultural values and religious values, which they claim the overwhelming majority of Ghanaians subscribe to. However, what the Bill's sponsors singularly misconceive is this:

Protecting fundamental human rights does not simply mean protecting the beliefs and interests of the overwhelming majority. It also means protecting the rights and freedoms of minorities and historically vulnerable groups, such as LGBTQ+ persons.

Article 21 (4) (e) implicitly enjoins Parliament to enact laws that protect vulnerable and unpopular minorities, fellow members of our community, from being targeted for hatred by a majority or another section of the community. The fact that the Bill purports to make provision for criminalising individuals who take the law into their hands by attacking or even lynching LGBTQ+ persons, is no protection against the actual license that the Bill generally gives the public to consider them inhuman and alien to Ghanaian culture.

Intrusion into privacy of persons

Another pernicious provision in the Bill is Clause 12, which makes it a criminal offence punishable by a term of imprisonment of not less than five years or more than 10 years for hosting in one's house LGBTQ+ person or persons, for purposes prohibited by the Bill, regardless of the relationship of the host to the LGBTQ+ person. This provision essentially invites the police and neighbours to engage in acts that endanger and violate the privacy and property rights of such persons. It also places a duty on a parent to report a son or daughter, or siblings to report their brothers and sisters on suspicion of their sexuality, to the police!

Cultural and traditional values

On the question of Ghanaian cultural and traditional values, the sponsors of the Bill conveniently refuse to acknowledge that not all of our cultural and traditional values can stand up to the demands of inclusiveness, diversity, and fundamental rights within a democratic republic such as Ghana. For instance, traditional Ghanaian values do not fully accept persons with disability as persons having full and equal rights as those without disability. Indeed, some communities have been known to practice ritual killing of children born with disabilities because they are deemed to be possessed by evil spirits.

Similarly, the custom and values of some communities, especially in the past, have also considered twins as an abomination, with the result that they, by custom and tradition, had to be killed as evil, just like how the Bill's sponsors consider LGBTQ+ persons as inhuman and evil. The infamous witch camps in Northern Ghana and the *Trokosi* system in the Volta Region

are products of our beliefs and traditions. In parts of Nigeria and Eastern Africa also, albinos are targeted and murdered because of their pigmentation, based on similar false cultural beliefs. So, the fact that these are part of Ghanaian and African cultural and traditional norms and values do not make them acceptable in modern Ghana, in a just and humane society, and in a free democratic republic.

This is why Article 39 (2) provides as follows:

“The State shall ensure that appropriate customary and cultural values are adopted and developed as an integral part of the growing needs of the society as a whole, and in particular, practices which are injurious to the health and wellbeing of the person are abolished.”

An appeal to Ghanaian cultural values and traditional norms, as a basis for the Bill, is by itself, therefore, neither a necessary nor sufficient justification for a Bill that is undoubtedly driven by totalitarian and authoritarian ethos, and religious fundamentalist and extremist notions. Such an appeal is also no justification for a Bill that seeks to impose on the proud people of Ghana a decidedly sectarian and monolithic view of **“proper human sexual (sic) rights.”**

The promoters of the Bill seek to whip up their misguided version of Ghanaian cultural nationalism by raising the scare that LGBTQ + rights are alien to Ghanaian culture and tradition, and are being promoted by a morally depraved West. In the first place, it is Ghanaian LGBTQ+ persons who are fighting for social tolerance and acceptance, having suffered in the obscurity of darkness and social exclusion for years. Secondly, it is simply not true that LGBTQ+ tendencies and inclinations are foreign to Ghanaian or African societies.

Indeed, as a matter of fact, LGBTQ persons have been a well-known ‘secret’ in Ghanaian and African families and society for a long time, and not just the product of any external advocacy.

Unscientific notions of determination of sex

The Bill is grounded on the unscientific and speculative notion that a person’s sex is always determined or determinable at birth and that sex is either male or female. While this may be a notion encouraged by some religions, any open-minded gynecologist, medical doctor or biological scientist knows that a person’s gender is not always determined at birth, nor is it necessarily binary by nature. So, for example, it is a scientific fact that in all societies there are people born intersex, with reproductive or sexual anatomies that do not fit the boxes of “female” or “male.” In our respectful view, this fact alone destroys the very foundation upon which the Bill is built.

So-called threat to the family unit

The Bill argues that LGBTQ+ activities threaten the heterosexual family unit as the foundation of society and that permitting LGBTQ+ activities to flourish is a threat to society and even the human species. The proposers of this far-reaching claim have not provided any data or evidence to suggest that there is such a threat, beyond a resort to some dogmatic religious tenets and so-called Ghanaian family values.

In our respectful view, any serious discussion of, or concern for, maintaining Ghanaian family values, ought first of all, to begin with addressing the rampant issue of pregnancy of young women and teenagers out of wedlock, and the abandonment, after the act, of such young women and teenagers by their male partners. That is one of the most critical social acts that clearly undermine Ghanaian family values. Another rampant social activity that undermines the family as a unit and family values in Ghana are extra-marital relationships. Yet the apostles of “Ghanaian family values” are conveniently unconcerned about these manifest realities.

In its attempt to demonize LGBTQ+ persons, the Bill seeks to associate LGBTQ+ persons with pedophilia. Yet the Memorandum to the Bill has not provided any material or evidential link between LGBTQ+ activities and the abuse of minors. It needs to be stated that current law rightfully prohibits, on the pain of grave punishment, any sexual relationship with a child, whether heterosexual or homosexual. As we all know, news reports continue to confirm public anxiety about the crime of defilement, which is mostly perpetrated by heterosexuals.

Religious intolerance

Some Christians and Muslims may find LGBTQ+ activities offensive and may detest them. That is well within their rights, as persons with strong religious views, although such attitudes do little in promoting a diverse, tolerant and inclusive society. But let it be stated that ours is a secular democratic republic, not a theocratic Christian or Islamic Republic or an African traditional monarchy or chieftdom.

Our Constitution forbids the imposition of a religious dogma on Ghanaians, whether Christian or Islamic or traditional. Article 21 guarantees and embraces religious diversity, while guarding the freedom of people not to be bound by any particular belief or dogma.

Hypocritical condemnation of ‘foreign imposition’

The main proponents of the Bill, the National Coalition for Proper Human Sexual Rights and Family Values, decry foreign impositions. Yet it is undeniable that the Coalition has, in fact, collaborated with, and received considerable assistance from the Western global anti-gay and

anti-abortion network, the self-styled World Congress of Families. Indeed, it is no secret that this World Congress of Families organized a regional conference in Accra in October/November, 2020, in collaboration with the very same National Coalition for Proper Human Sexual Rights. The self-styled World Congress of Families has been active in promoting the passage of similar repressive anti-LGBTQ+ laws in Nigeria, Cameroon, Uganda and elsewhere in Africa, Eastern Europe and Latin America.

Let us assure you, therefore, that there is nothing original or homegrown about this Bill. It takes its inspiration from Western right-wing crusaders, and follows a template used in recent years in such places as the Russian Federation, Moldova and Hungary, countries not particularly famous for their democratic credentials.

Violation of international and African rights instruments

Just as the Bill violates Ghana's constitutional provisions on fundamental human rights, it also violates a number of international, ECOWAS and African human rights instruments and norms.

The African Commission on Human and Peoples' Rights, in its Resolution 275 of 2014, condemned systematic attacks by state and non-state actors against persons on the basis of their imputed or real sexual orientation or gender identity. It additionally made discrimination against LGBTQ+ persons a violation of their fundamental human rights.

A number of African courts have also upheld the right of LGBTQ+ persons to protection against discrimination and enjoyment of their fundamental human rights. Furthermore, African states, notably South Africa, Cape Verde, Sao Tome and Principe, Lesotho, Seychelles and Angola have passed legislation abolishing the criminalisation of homosexuality.

Conclusion

In July this year, the Speaker of the ECOWAS Parliament, in an interview with Accra-based TV 3, advised that Ghana, as the beacon of democracy in a troubled region, should be cautious in passing this dangerous Bill because it risks promoting fear, insecurity and undemocratic principles. We seriously urge our Parliamentarians to take this warning from the Speaker of a Parliament they are represented in very very seriously.

As far back as November 1992, in the seminal judgment of the Supreme Court of Ghana in **NPP v. IGP**, affirming the right of the people to assemble, demonstrate and process against the repressive Public Order Decree 1972 (NLCD 68), Amua-Sekyi JSC, as if anticipating these dark days that our Republic is threatened with today, stated in a compelling and deeply insightful dicta at pages 470 to 471 of the Ghana Law Reports 2 [1993 – 1994] GLR, his opinion as follows:

“In countries that practice true democracy, supporters and opponents of every conceivable cause are given freedom to associate and express their views. In the end, some have succeeded and their unpopular demands have eventually become majority wishes and have been recognized. The examples are the anti-slavery groups in eighteenth century England and nineteenth century America and the suffragettes of both countries at the beginning of this century...In this day and age, it is necessary for us to see that consent not force is the basis of a just society, and that it is not for government or our neighbor to tell us what to think or feel or do?...Except in a time of war, when a state of emergency has been declared, it cannot be right for any agency of the executive to suppress the free expression of any opinion, however unpopular that opinion may be. The believer in absolutism, the anarchist, those who oppose equal rights for women – **yes lesbians and homosexuals too** – are all entitled to the free expression of their views, and the right to assemble and demonstrate in support of those views. Once the state takes for itself the power to license association, assemblies and processions, it resorts to support of the status quo, and the only way of changing the prevailing state of affairs is by use of force.”

Ladies and gentlemen of the media, that decision was delivered in 1992!

It is our view that the provisions of the LGBTQ+ Bill are, in their totality, egregious in their violations of the fundamental human rights guaranteed under the Constitution and if passed into law, would be unconstitutional, null and void.

Worse still, the criminalisation of LGBTQ persons, their identity, activities, associations and allies, rather than promoting public health, can only drive such persons into the shadows, where they will have no access to public health or public education. No compelling public interest is served by this attempt to drive LGBTQ persons underground and render them social outcasts and second-class citizens.

As we have demonstrated, the Bill constitutes an impermissible invasion of the inviolability and human dignity of the person; of freedom of expression and thought, conscience and belief, including academic freedom; of freedom of assembly, including the right to organize and take part in processions and demonstrations; of the right to protection against discrimination on grounds of gender, race, ethnic origin, religion, creed or social economic status.

These rights are at the very heart of our constitutional architecture. It is indisputable that, without these rights, Ghana’s democracy would be meaningless. It is accordingly our respectful view that any law that seeks to restrict and repress these rights in specific instances must meet the very high standard of “necessity and reasonableness” in the defence of life, property, the rights of others, public safety, or public health or public interest generally.

Ladies and gentlemen, when all the fanciful justifications, supposedly grounded in culture, tradition and religion, are stripped of their beguiling clothes and adornments, what is left of the high sounding “Bill for the Protection of Proper Human Sexual Rights and Family Values” is an Orwellian nightmare fraught with stigmatization, bigotry, intolerance, repression, authoritarianism, violation of the fundamental human rights of LGBTQ+ persons and those who defend their human rights, false piety, cruelty to, and lack of empathy, for difference in our society.

We urge that the Bill ought, with respect, to be firmly rejected by the Parliamentary Select Committee on Constitutional, Legal and Parliamentary Affairs, and by Parliament as a whole. It has no place in our constitutional democratic republic.

Thank you.

Members of the group of Citizens:

1. **Mr. Akoto Ampaw**
2. **Professor Emerita Takyiwaa Manuh**
3. **Professor Kwame Karikari**
4. **Professor Kofi Gyimah-Boadi**
5. **Professor Audrey Gadzekpo**
6. **Dr. Rose Mensah-Kutin**
7. **Dr. Yao Graham**
8. **Professor Dzodzi Tsikata**
9. **Professor H. Kwasi Prempeh**
10. **Mr. Kwasi Adu Amankwah**
11. **Dr. Kojo Asante**
12. **Mr. Kingsley Ofei-Nkansah**
13. **Mr. Akunu Dake**
14. **Mr. Tetteh Hormeku-Ajei**
15. **Professor Raymond Atuguba**
16. **Dr. Charles Wereko-Brobby**
17. **Dr. Joseph Asunka**
18. **Nana Ama Agyemang Asante.**

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Contact Persons:

Prof. Kwame Karikari Tel: 020-817-0991 Email: afumkarikari@gmail.com

Mr. Akoto Ampaw Tel: 030-225-3900 Email: sheeysheey@yahoo.co.uk

Dr. Kojo Asante: Tel: 024-407-3430 Email: kjasante@gmail.com