



GHANA CENTER FOR DEMOCRATIC DEVELOPMENT

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PRESS RELEASE

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CDD-GHANA CONDEMNS ARREST AND PROSECUTION OF LGBT+ ACTIVISTS

On May 20, 2021, the Volta Regional Police Command arrested 21 young Lesbian Gay Bisexual and Transgender (LGBT) activists in Ho. The accused persons, comprising 16 women and 5 men, were arrested after Police invaded a hotel where a conference on human rights was ongoing. On May 21, 2021, the accused persons were brought before the Circuit Court, Ho, on the charge of unlawful assembly under Section 202 of the Criminal Offences Act, 1960 (Act 29). Their bail application was denied by His Honour Felix Datsomor on grounds that the Police required more time to investigate the matter. The accused persons were remanded in police custody. Counsel for the accused persons appealed the decision on the bail application at the High Court but this appeal was also refused on grounds that the accused persons were a flight risk.

On June 4, 2021, the Prosecutor, Chief Superintendent Ayamga, told the Circuit Court, Ho, that the matter had been referred to the Attorney-General for advice. A second application for bail made by counsel for the accused persons was unopposed by the prosecutor. The Circuit Court Judge, His Honour Felix Datsomor, adjourned the case to June 8, 2021 to consider the arguments made by counsel. The accused persons were once again, remanded in police custody. When the court reconvened on June 8, 2021, the Circuit Court judge refused the bail application again on grounds that a High Court had already decided on the matter and the Circuit Court was unwilling to deviate from it. The accused persons continue to remain in police custody.

The Ghana Center for Democratic Development (CDD-Ghana) is appalled at how the Courts and the State have handled this matter and have allowed these young Ghanaians to be incarcerated for 19 days and counting.

First, it is clear that gathering to educate people at a hotel venue on LGBT+ issues is not a criminal act or crime under the Constitution or any statute. At the time of their arrest, the arrestees were not engaged in or found to have engaged in any unlawful act or in possession of any unlawful or prohibited items. Their arrest and subsequent mistreatment are, therefore, a clear violation of their constitutional right to freedom of assembly and association. Second, given the charge that has been preferred against them, which is, at worst, a misdemeanor, and the facts of the case (facts which hardly support the charge), the inferior court judge ought to have been guided by the prevailing law on the

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determination of bail applications. The circuit court's refusal to grant bail on three (3) different occasions unfairly prejudices the accused persons even before their trial. This is at variance with the Supreme Court decision in ***Martin Kpebu v Attorney-General (2016)***, Section 96 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) and the Practice Direction for the Determination of Bail and Consequential Matters issued by the Chief Justice in 2019.

The occasional use of archaic colonial legal relics like Section 202 of Act 29 by the police to undermine constitutional rights, particularly the right to assemble, exposes the stagnation we continue to experience in efforts to promote and protect human rights in Ghana.

In a democratic dispensation where the rights of all persons, including social minorities, are guaranteed under the Constitution, targeting and singling out LGBT+ persons for such harsh and unfair treatment, merely for associating and assembling with each other for noncriminal purposes, including to plan advocacy for better treatment under the law, further marginalizes and victimizes them and sets a dangerous precedent for the treatment of unpopular minorities in general. The Constitution does not prohibit any group of citizens from banding together to advocate for better treatment under the law, including for reform of the law or of law enforcement to enhance their lives as equal citizens.

The Center calls on the Attorney-General who is clothed with the State's exclusive prosecutorial power under the Constitution to intervene in this matter and stop the needless continuing harassment and violation of the constitutional rights of these 21 compatriots.

The Center also calls on the Commission on Human Rights and Administrative Justice (CHRAJ) to take proactive steps, including public education, to ensure that all citizens, regardless of social approval or disapproval of their personal choices and preferences in purely private matters, are able to exercise and enjoy the rights guaranteed equally to all persons under the Constitution without social or official harassment.

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About CDD-Ghana

With a mission to promote and deepen democratic consolidation, good governance, and inclusive growth and development, the Ghana Center for Democratic Development (CDD-Ghana) works to support and promote a free, peaceful, and a well-governed democracy in Ghana and in other parts of Africa. The Center has over two decades of experience, expansive reach, and a robust network of partners at the national, continental and global levels. CDD-Ghana has cultivated an enduring reputation as a leader in the field of democracy and governance, which enables the adoption and implementation of targeted strategies aimed at addressing the fundamental issues hindering citizens from enjoying the full benefits democracy and good governance has to offer.

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