



THE GHANA CENTER FOR DEMOCRATIC DEVELOPMENT AND THE HUMAN RIGHTS COALITION

Website: www.cddgh.org

PRESS RELEASE

Thursday, February 29, 2024

STATEMENT OF THE GHANA CENTER FOR DEMOCRATIC DEVELOPMENT AND THE HUMAN RIGHTS COALITION IN REACTION TO PASSAGE OF THE HUMAN SEXUAL RIGHTS AND FAMILY VALUES BILL BY THE PARLIAMENT OF GHANA

On Wednesday, February 28, 2024, the Parliament of Ghana, by a voice vote, passed the so-called Human Sexual Rights and Family Values Bill, 2021. While we find passage of this bill by Ghana's Parliament regrettable, the action of Parliament does not come as a surprise. The mass hysteria and fanaticism which proponents of the bill had mobilized in support of the bill and against anyone who dared to oppose it made level-headed debate about the bill practically impossible. Consequently, its passage by Parliament became politically unstoppable, particularly in a tough election year. Notwithstanding Parliament's action yesterday, we remain resolute in our conviction that this bill is grossly ill-conceived, unconstitutional, and not in the best interest of the nation. It would be a major setback for Ghana and its standing as a democratic society if such a bill was to become law.

Passage of the bill is, of course, not the end of the matter. We note, importantly, that the bill is still only a bill, not law. Thus, passage of the bill does not change the legal status quo. Parliament is only one player in the law-making process. Moreover, Parliament does not have the final say in determining whether a bill becomes law or, even if a bill were to become law, whether that law passes the test of constitutionality.

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We remain determined to fight this bill outside Parliament. Ghana's democracy is not a simple majoritarian democracy where the majority can impose their will or prejudices on a minority merely because they have numbers on their side. Ours is a **constitutional** democracy, in which even a majority, no matter how numerous or vociferous, is restricted as to what it can and cannot do in the name of law. Importantly, our constitution protects minorities against oppression at the hands of a majority. We believe that this bill passed by Parliament is a clear instance of a majority or an influential coalition of interests, acting through Parliament, to stigmatize and oppress a social minority.

Now that Parliament has proceeded to pass this bill, we believe the time is ripe for the Supreme Court to hear and finally determine the case that is already before it, challenging the constitutionality of this bill, in light of the restrictions placed on Parliament under Article 108 of the Constitution. That provision enjoins Parliament to not enact or pass a Private Member's bill that has the purpose or effect of imposing a charge on public funds. We believe, as the suit before the Supreme Court rightfully alleges, that this bill, which, among other things, imposes penal sanctions, including years of imprisonment for a violation, is precisely the kind of Private Member's bill that Article 108 prohibits Parliament from considering or acting upon.

Quite apart from being defective in terms of Article 108, the bill also fails the constitutional test on multiple substantive grounds. Among other things, the bill infringes on the rights of privacy, freedom of association, freedom of speech and expression, freedom of opinion, freedom of the media, and the right to equality under the law. In fact, the bill prohibits even advocacy intended to change or repeal the bill were it to become law. In other words, if this bill were to become law, no person, LGBTQ or otherwise, could advocate publicly for its repeal. Not even the Constitution of Ghana, the supreme law of the land, enjoys this untouchable status!

We note that an interim injunction was previously sought from the Supreme Court to prevent Parliament from acting upon this bill while the bill was still making its way through Parliament. The Court denied that application for interim injunction, as Parliament had not completed its legislative work. Now that the Legislature's work is done and the bill has been passed, we expect the Court to adjudicate the merits of the Article 108 case that has been pending before it for several months. Indeed, we believe that the bill's unconstitutionality under

Article 108 provides sufficient grounds for the President to refuse to sign the bill into law. We remain confident that this bill will ultimately fail the constitutional test.

We wish to remind Ghanaians, especially our law enforcement authorities, that the legal status quo has not changed in any way as a result of the passage of this bill by Parliament. Thus, no provision of the bill passed by Parliament may be enforced against any person, as the bill, despite having been passed by Parliament, is not law. We especially urge our law enforcement authorities to be mindful of their professional and legal obligation to enforce only the laws of Ghana and to do so without prejudice, fear, ill-will or discrimination against any person or group of persons. In particular, our law enforcement authorities must work to safeguard the rights of all persons, including persons suspected or accused of being LGBTQ, and ensure that people do not attack or cause harm to persons suspected or accused of being LGBTQ.

Signed:

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