

**REPORT OF THE SELECT COMMITTEE ON CONSTITUTIONAL, LEGAL
AND PARLIAMENTARY AFFAIRS ON THE CRIMINAL OFFENCES
(AMENDMENT) BILL, 2021**

1.0 INTRODUCTION

- 1.1 The Criminal Offences (Amendment) Bill, 2021 was laid in Parliament on 2nd August, 2021 by Majority Chief whip, Hon Frank Annoh-Dompreh on behalf of the sponsors of the Bill, Hon Kwame Anyimadu-Antwi and Hon Benard Ahiafor pursuant to Article 106 (1) of the 1992 Constitution.
- 1.2 The Bill was subsequently referred to the Committee on Constitutional, Legal and Parliamentary Affairs by the Rt. Hon. Speaker for consideration and report pursuant to Article 106 (4) of the 1992 Constitution and Order 179 of the Standing Orders of Parliament.

2.0 DELIBERATIONS

The Committee met on 21st February, 2022; 1st June, 2022 and 29th June, 2022 and considered the Bill. In attendance at the meeting to assist the Committee in its deliberations were Her Ladyship Henrietta Mensah-Bonsu Justice of Supreme Court, His Lordship Sir Dennis Dominic Adjei, Justice of Appeal Court, Honourable Diana Asonaba Dapaah, Deputy Attorney-General, Mr. Isaac Ken Yeboah, Director-General, Criminal Investigation Department, Ghana Police Service, Mr. Daniel Korang and Mr Musah Suleman from the Ghana Bar Association. Others were Dr Collins Badu Agyemang, National President, Ghana Psychological Association, Prof Joseph Osafo, Head of Department, Psychology, University of Ghana; Prof Akwasi Osei, CEO and Chief Psychiatrist, Mental Health Authority and Ms Akorfa Akpanya-Hlorvor,

Deputy Director, Mental Health Authority. The rest were Dr Ruth Owusu-Antwi, President, Psychiatric Association of Ghana, Dr Eugene Dordoye, Co-founder, Mental Health Advocacy Group Ghana, DCOP Afriyie Sakyi, Ghana Police Service and Officials of the Office of the Attorney-General.

2.1 The Committee is grateful to all the participants for their invaluable inputs.

3.0 REFERENCE DOCUMENTS

3.1 The Committee referred to the following documents during its deliberations:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament;
- iii. Criminal Offences Act, 1960 (Act 29);
- iv. Criminal and Other Offences (Procedure) Act, 1960 (Act 30); and
- v. The Mental Health Act, 2012 (Act 846).

3.2 The following Articles also served as useful information to the Committee:

- i. World Health Organisation (2014). Preventing suicide: A global imperative. Geneva, Switzerland;
- ii. World Health Organisation (2021). Live life: An implementation guide for suicide prevention in countries;
- iii. Hjelmeland, H., Osafo, J., Akotia, C. S., & Knizek, B. L. (2014). The law criminalizing attempted suicide in Ghana. The views of clinical psychologists, emergency ward nurses and police officers.

- iv. Adinkrah, M. (2013). Criminal prosecution of attempted attempt survivors in Ghana. *International journal of offender therapy and comparative criminology*, 57(12), 1477-1497.
- v. Andoh-Arthur, J., Knizek, B. L., Osafo, J., & Hjelmeland, H. (2018). Suicide among men in Ghana: The burden of masculinity. *Death studies*, 42(10), 658-666.
- vi. Owusu-Ansah, F. E., Addae, A. A., Peasah, B. O., Oppong Asante, K., & Osafo, J. (2020). Suicide among university students: prevalence, risks and protective factors. *Health psychology and behavioral medicine*, 8(1), 220-233.
- vii. Quarshie, E. N. B., Asante, K. O., Andoh-Arthur, J., Asare-Doku, W., & Navelle, P. L. (2021). Suicide attempts and deaths in older persons in Ghana: A media surveillance approach. *Current Psychology*, 40(1), 292-305.

4.0 BACKGROUND INFORMATION

- 4.1 The American Centres for Disease Control and Prevention (CDC) defined suicide attempt as "a nonfatal, self-directed, potentially injurious behaviour with any intent to die as a result of the behaviour. A suicide attempt may or may not result in injury".
- 4.2 Suicide is regarded by many religions including Christianity, Islam, Judaism and Hinduism as a mortal sin against God and the creator of the universe.

- 4.3 Many societies regard suicide as a contradiction of the natural disposition of human beings to preserve and perpetuate life as well as self-worth and self-love.
- 4.4 Historically and across many jurisdictions, there are varying religious, social and legislative responses to suicide and suicide attempts, ranging from demonisation to deification, criminalization and as a fundamental human right by others.
- 4.5 In the past, societal abhorrence of suicide manifested in a range of dishonorable treatment meted out to victims of suicide. These included, denial of decent burial rites and ceremonies; abandoning of the corpses in 'evil' forests or burial without headstones; or sometimes burning of properties of victims. The essence was to deter others from committing same.
- 4.6 Several penal codes, in the past and present provide for prohibition of attempted suicide. The justification for the criminalisation of attempted suicide is usually grounded in religious and societal perspectives which date back to primitive societies. For instance, it was the church's proscription of suicide in the Middle Ages that eventually led to its criminalisation in the common law of the United Kingdom.
- 4.7 In the mid-18th century, societal re-orientation of suicide, began a paradigm shift of suicide as a morally wrong to a psychological disorder. This led to the promotion of legislations to decriminalise attempted suicide in countries such as United Kingdom in 1961, New Zealand in 1961, Hong Kong in 1967 and Canada in 1972.

4.8 Following the advent of liberalisation and increased literacy, coupled with rise in modern medicine and secularisation, many African countries including Zambia and Botswana have followed the path of these European states by also decriminalising attempted suicide.

4.9 Research has shown that the existence of anti-suicide laws provokes fear of legal recriminations and thus, inimical to science and data related to suicide and suicide prevention.

4.10 The purpose of this Bill is therefore to decriminalise suicide attempts, such that survivors of attempted suicide will no longer be at risk of being apprehended, prosecuted and penalized but rather receive medical and psychological help. The overall aim is to concede that attempted suicide is a mental health condition and provides opportunities to support those who may be found in those circumstances.

5.0 OBJECT OF THE BILL

The object of the Bill is to amend the Criminal Offences Act, 1960 (Act 29) to decriminalise attempted suicide and provide for related matters.

6.0 HIGHLIGHTS OF THE BILL

6.1 Clause (1) seeks to repeal subsection (2) of section 57 of the Criminal Offences Act, 1960 (Act 29).

6.2 Clause (2) is intended as a consequential amendment which seeks to expand the interpretation for "mental disorder" as contained in section 97 of the Mental Health Act, 2012 (Act 846) to provide for access to mental health care service survivors of suicide attempts

7.0 OBSERVATIONS

7.1 Outcome of the stakeholder's engagement

The Committee was privileged to benefit from inputs from renowned academics and professionals in the field of mental health and clinical psychology, as well as practitioners of law, including Justices of the Supreme and Appeal Courts, Ghana Bar Association and Ghana Police Service during the consideration of the Bill. The distinguished professionals unanimously agreed to the decriminalisation of attempted suicide in Ghana. They averred that abundance of research and decided cases suggest that attempted suicides are generally precipitated by psychological distress which in their view, have to be treated as a mental disorder.

They further indicated to the Committee that criminalization of attempted suicide is a setback to efforts by all stakeholders to reduce its prevalence. In their explanation, the existence of the provision in Ghana's criminal code, provokes fear of legal recriminations and is inimical to science and data related to suicide and suicide prevention. Specifically, people are not able to report victims of attempted suicide to the Police or mental experts for assistance because of legal implications. The professionals supported their assertion with research conducted by Hjelmeland et al (2014), that 71% of clinical psychologists, emergency ward nurses and police officers recommend decriminalization of attempted suicide from the statutes.

7.2 Some Key Research Findings on Suicide in Ghana

According to a survey conducted by the World Health Organisation (WHO) in 2021, 7 persons per 10,000 people within the general Ghanaian population died by suicide in the year 2019. The Committee further noted that, research conducted on the prevalence rates of suicidal behaviours in university students in Ghana reveals that 6.3% had attempted suicide, 24.3% wish they are dead, while 6.8% had suicidal ideations. Psychological distress was a risk factor in all cases. Another study also revealed a 27.6% prevalence rate of suicide attempts in a month, among junior high schools (JHSs) students in Ghana.

Regarding the state of prosecutions, the Committee noted that twenty-one (21) attempted suicide survivors were prosecuted between the period of 2001 to 2011. A total of 17, representing 81.0% of the defendants were male, whereas 4 (19.0%) were female. The defendants ranged in ages from 16 to 52 years. It is instructive to note that majority of persons prosecuted for attempted suicide during the said period were of low socioeconomic background. Six persons representing, 28.6% were unemployed at the time of the crime, three (14.3%) were peasant farmers, two (9.5%) were students, two (9.5%) were semi-skilled artisans (mason and brick-maker), two (9.5%) were taxi drivers, one was a fisherman, one was a teacher, and one was a labourer.

7.3 Key motivations for committing suicide in Ghana

The Committee gathered that among the key motivations underlying attempted and completed suicides were experiences of shame related to loss of economic control; sexual weakness; marriage and familial problems; poverty and financial difficulties; evasion of dishonour and punishment; health problems; and previous attempted suicides.

With specific reference to the 21 prosecuted cases between 2001 and 2011, some of the reasons given for their attempts at suicide were as shame and stigmatisation emanating from financial ruination, apprehension for varied criminal offenses, remand in police cells and impending prosecution, long-term jail sentences, intrafamilial disharmony; infidelity; and termination of an intimate relationship by their partners. For instance, three defendants tried to kill themselves after their boyfriends terminated their relationships. One woman tried to kill herself when her boyfriend denied responsibility for her pregnancy. Two male defendants were motivated by financial difficulties; one carpenter could not raise money to establish his own workshop, whereas another had been bedevilled by chronic unemployment and financial problems.

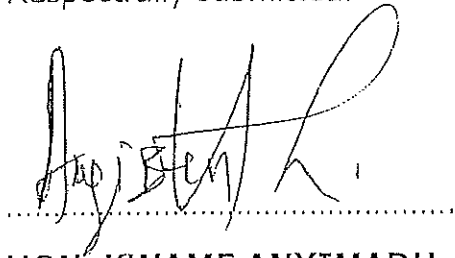
8.0 CONCLUSION

The Committee has examined the provisions of the Bill and is of the view that, the best remedy to deal with attempted suicide is to provide avenues in schools, workplaces, churches, mosques and community centers for distressed persons to vent their emotional problems, seek therapy and also seek treatment for their mental health challenges.

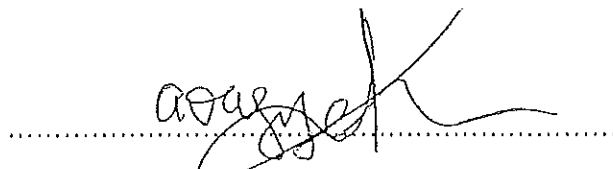
The Committee accordingly finds the Bill as a crucial legislative measure towards the reformation agenda of Ghana's justice delivery system. The Bill when passed into law also has the potential to contribute to Ghana's efforts of decongestion prisons and reducing caseloads on the courts and prosecutors.

The Committee accordingly recommends to the House to adopt its report and pass the Criminal Offences (Amendment) Bill, 2021 into law in accordance with Article 106 of the 1992 Constitution, subject to the amendments proposed by the Committee attached as Appendix A.

Respectfully submitted.



HON. KWAME ANYIMADU-ANTWI
(CHAIRMAN, COMMITTEE ON CONSTITUTIONAL,
LEGAL AND PARLIAMENTARY AFFAIRS)



AKUA DUROWAA OWUSU-AGYEKUM (MRS)
(HEAD, LEGAL COMMITTEES CLUSTER)

June, 2022

RECEIVED
SECRETARY GENERAL
PARLIAMENTARY COMMISSION
ACCRA

APPENDIX A

CRIMINAL OFFENCES (AMENDMENT) BILL, 2021

AMENDMENTS PROPOSED

- i. Clause 1 - Amendment proposed – *Delete and insert a new section 57 as follows:*

“Section 57 of Act 29 amended

1. The Criminal Offences Act, 1960 (Act 29) is amended by the substitution for section 57 of

“57. Counselling and assisting suicide

A person commits a first-degree felony if the person, knowing that another person has suicidal thoughts, intentionally does an act that is aimed at aiding, assisting, facilitating or encouraging the person to commit or attempt suicide whether or not the suicide or attempted suicide is actually committed.”

- ii. Clause 2 – Amendment proposed – *Delete and insert the following:*

“Consequential amendment

2. The Mental Health Act, 2012 (Act 846) is amended in section 95 by the addition of a new subsection (3) as follows:

“(3) A person who attempts suicide shall be conclusively considered to have severe mental disorder and the provisions of the Mental Health Act, 2012 (Act 846) shall apply.”