



**IN THE THIRD SESSION OF THE EIGHTH
PARLIAMENT OF THE FOURTH REPUBLIC OF
GHANA**

**REPORT OF THE
COMMITTEE ON CONSTITUTIONAL, LEGAL
AND PARLIAMNETARY AFFAIRS**

**ON THE
CRIMINAL OFFENCES (AMENDMENT) BILL,
2022**

6TH JULY, 2023

**REPORT OF THE SELECT COMMITTEE ON
CONSTITUTIONAL, LEGAL AND PARLIAMENTARY AFFAIRS
ON THE CRIMINAL OFFENCES (AMENDMENT) BILL, 2022**

1.0 INTRODUCTION

- 1.1 The Criminal Offences (Amendment) Bill, 2022 was laid in Parliament on 31st March, 2023 by Hon Francis-Xavier Kojo Sosu, the MP for Madina on behalf of other co-sponsors, pursuant to Article 106 (1) of the 1992 Constitution.
- 1.2 The Sponsors of the Bill are Hon Francis-Xavier Kojo Sosu, Hon Hajia Laadi Ayii Ayamba (MP-Pusiga), Dr Godfred Seidu Jasaw (MP-Wa East), Hon Helen Adjoa Ntoso (MP-Krachi West), and Hon Betty Nana Efua Krosbi Mensah (MP-Afram Plains North).
- 1.3 The Bill was subsequently referred by the Rt Hon Speaker to the Committee on Constitutional, Legal and Parliamentary Affairs 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

- 2.1 The Committee met on 27th May, 2023 and considered the Criminal Offences (Amendment) Bill, 2022. In attendance at the meeting to assist the Committee in its deliberations were

Justice Dennis Adjei (Justice of Court of Appeal), Ms Agnes Quartey-Papafio (Chief State Attorney at Ministry of Justice and Attorney-General's Department) and her other Technical Officers: Mr Nene Ahoma Korda (Ghana Bar Association); ACP Benjamin Osei Addae (Ghana Police Service); Ms Mercy Larbi (Commission on Human Rights and Administrative Justice); Mr Andrew Nethercott (Political Counsellor British High Commission); Mr Saul Lehrfreund (The Death Penalty Project UK); and CSP Edem Acquah (Mrs) (Ghana Prisons Service).

2.2 The Committee also acknowledges the support of ActionAid Ghana, Sanneh Institute and Amnesty International.

2.3 The Committee is grateful to all the participants for their invaluable inputs and to ActionAid Ghana, Sanneh Institute and Amnesty International for a successful collaboration.

3.0 REFERENCE DOCUMENTS

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. The 2022 Country Report on Human Rights Practices;
and

- v. Presentations from the Coalition Against Witchcraft Accusations.

4.0 BACKGROUND AND JUSTIFICATION FOR THE BILL

- 4.1 Witchcraft was seen as a common practice in the 16th and 17th centuries in England and the Witchcraft Act, 1735 was passed by the United Kingdom (UK) Parliament to criminalise accusations of witchcraft.
- 4.2 The reference to the old UK legislation is to indicate that over the years, depending on the level of sophistication of the society, appropriate laws have been enacted to protect vulnerable people.
- 4.3 Lack of knowledge and education has resulted in some vulnerable persons especially elderly women, some of whom may be suffering from dementia, being intimidated, beaten and sometimes coerced into admitting to being witches and may be subsequently banished from their communities or even lynched in some cases.
- 4.4 The immediate case that gave rise to the introduction of the Bill is the case of Madam Akua Denteh who was lynched upon accusation of witchcraft in July 2020. Following the unfortunate incident, The Sanneh Institute officially petitioned Parliament on 4th August 2020 to pass a legislation criminalising the practice of witchcraft

accusation. It then became evident that action had to be taken since the incident raised a matter of serious public interest.

- 4.5 The Bill is therefore meant to deter persons who may want to accuse or harm others of being alleged witches.

5.0 OBJECT OF THE BILL

The object of the Bill is to amend the Criminal Offences Act, 1960 (Act 29) to prohibit the practice by any person as a witch doctor or a witch finder; to proscribe the declaration, accusation, naming or labelling of another person as a witch; and for related matters.

6.0 HIGHLIGHTS OF THE BILL

- 6.1 Clause 316B (1) seeks to prohibit persons from practising as witch doctors or witch finders.
- 6.2 Clause 316C proscribes accusations of witchcraft and prescribe sanctions for offenders.
- 6.3 Under clause 316D, a person who presides over, is present at or participates in the accusation or declaration of another person as a witch, commits an offence and is liable on summary conviction to a term of imprisonment of not less than two years and not more than five years.

- 6.4 Clause 316E provides that a community leader who directly or indirectly permits, promotes, encourages or facilitates the commission of an act which is an offence under the Bill, commits an offence and is liable on summary conviction to a term of imprisonment of not less than two years and not more than five years.
- 6.5 Clause 316F provides for compensation and counselling for victims.
- 6.6 Clause 316G provides for reintegration. Under the clause, a person who, on the coming into force of the Act, resided in an organised place or community for fear of their lives, as a result of being declared or labelled as a witch may, in accordance with articles 14 and 21(g) of the 1992 Constitution, return to their communities or leave the organised place or community and relocate to any place in the country.
- 6.7 Clause 316H provides for the interpretation of words and phrases used in the Bill.

7.0 OBSERVATIONS

7.1 Distasteful consequence of witchcraft accusations

The House may recall the distasteful news which greeted the whole country on Thursday, 23rd July, 2020, when a 90-year-old woman, Madam Akua Denteh was lynched in broad

daylight at Kafaba in the East Gonja Municipality on accusation of witchcraft. The news received worldwide condemnations, with human rights advocates and citizens in general calling on the Government to arrest and prosecute the perpetrators of this heinous crime. The High court in Tamale, on Tuesday, 4th July, 2023 convicted two of the suspects to manslaughter and sentenced them to 24 years imprisonment with hard labour. The critical aspect is that it was witchcraft accusations that triggered the attacks and human right violations leading to the death of the victim. This Bill therefore forms part of the broad policy measures to dealing with attacks and human rights violations arising out of witchcraft accusations.

In particular, the Bill seeks to fulfil the obligation of the State pursuant to Article 37 (2) of the 1992 Constitution. The said provision of the Constitution provides as follows:

- (2) The State shall enact appropriate laws to assure –
 - (a) the enjoyment of rights of effective participation in development process including rights of people to form their own associations free from state interference and to use them to promote and protect their interests in relation to development processes, rights of access to agencies and officials of the State necessary in order to realise effective participation in development processes; freedom to form

organization to engage in self-help and income generating projects; and freedom to raise funds to support those activities;

(b) the protection and promotion of all other basic human rights and freedoms, including their rights of the disabled, the aged, children and other vulnerable groups in development processes.

7.2 Demography of inmates at the Witch Camps

The Committee noted with amazement that while witchcraft belief is widespread across Africa and other parts of the world, only Ghana has established “witch camps”. The need for public policy interventions to deal with the social canker of witchcraft beliefs and its attendant human right violations becomes more relevant when consider the number of inmates in the various camps and the uninhabitable conditions under which the inmates live. Information gathered by the Committee indicates that in 2021, the number of inmates in the five prominent Witch Camps in Ghana, namely the Gnani Camp, Kukuo Camp, Gushegu Camp, Gambaga Camp and Kpatinga Camp were in a total of 539. Out of this number, the females constituted 498, representing 92% and the males were 41. The inmates were all vulnerable persons consisting of older women, single mothers, widows and unmarried wome

7.3 Human rights violations at the Witch Camps

The Universal Declaration on Human Rights provides for the respect of the freedom, equality, dignity and rights of all persons. The Declaration further proclaims that all human beings are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. This very important tenets of human rights are reinforced by the Constitution of the Republic of Ghana, which also provides for the prohibition of all forms of practices that are dehumanising or are injurious to the physical and mental well-being of a person (Article 26(2) of the 1992 Constitution). Article 15(2) of the 1992 Constitution also provides for the respect for human dignity and projects that, 'no person shall, whether or not he is arrested, restricted or detained, be subjected to; (a) torture or other cruel, inhuman or degrading treatment or punishment; (b) any other condition that, detracts or is likely to detract from his dignity and worth as a human being.

Accusation of witchcraft is undoubtedly a setback to the efforts at achieving the tenets of international human rights treaties to which Ghana has ratified, including, the Universal Declaration on Human Rights; Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and Convention on the Elimination of All Discrimination against Women (CEDAW).

The negative effects of witchcraft accusations on Ghana's human right efforts is evident in the 2022 Country Reports on Human Rights Practices. In the said Report, accusations of witchcrafts and its attendant human rights violations such as physical assault, stigmatisation and banishment from families and communities were recorded as part of Ghana's human right shortfalls.

7.4 The Focus of the Bill

The Committee noted that the Bill makes provision for the criminalisation of witchcraft activities. The Committee however, wondered the practicability of identifying and establishing witchcraft beliefs and witchcraft activities in law. In reacting to the concerns of the Committee, the Sponsors of the Bill explained that the Bill is not seeking to criminalise superstitious beliefs, including the belief of existence or otherwise of witches and wizards. The Bill rather focuses on criminalising human rights violations which are occasioned by witchcraft accusations.

7.5 The need for Legislation to regulate media content

The Committee opines that the scope of the Bill should have been extended to all forms of accusations including the accusations of witchcraft in churches and prayer camps often telecast on televisions and other media platforms. The

Committee was of the view that, the media freedom and independence guaranteed under Article 162 and 163 of the 1992 Constitution is not absolute but subject to the laws of Ghana. For instance, Article 164 states that,

“the provisions of Article 162 and 163 of this Constitution are subject to laws that are reasonably required in the interest of national security, public order, public morality and for the purpose of protecting the reputations, rights and freedoms of other persons.”

The Committee noted that there is currently no elaborate legislation regulating media content. The powers of the National Media Commission provided under Articles 166 - 173 of the 1992 Constitution and Section 2 of the National Media Commission Act, 1993 (Act 449) does not extend to the regulation of media content. The Committee is of the view that the proliferation of media houses without the necessary legal framework to properly regulate content, pose a serious threat to upholding the moral fabrics of Ghanaian values. Reference can be made to the Kasoa murder incident, where two teenagers aged 16 and 17, allegedly killed their colleague for money rituals. It is alleged that the children got to know of the perceived ‘money rituals’ through an advert shown on television by one of the media houses.

7.6 Empowering the vulnerable through education and poverty alleviation

Another major cause for stereotyping people as witches or wizards is their economic status. The National Commission for Civic Education (NCCE) is mandated to create and sustain awareness of constitutional democracy for the achievement of political, economic and social stability through civic education. Inherent in the constitutional democracy is the protection and respect for the fundamental human rights of all citizens. Unfortunately, budgetary allocations to the NCCE over the year has not been adequate to effectively carry out the critical function of public education.

The Committee therefore urges the Government to scale up the implementation of the pro-poor interventions, especially in the deprived communities, in order to empower the vulnerable persons, including persons who are likely to fall victims of witchcraft accusations.

7.7 The Fiscal Impact Assessment

The Committee was presented with the Fiscal Impact Assessment Report on the Bill in line with Section 100 of the Public Financial Management Act, 2016 (Act 921). The assessment shows that amendment to Act 29 to criminalize witchcraft accusations will not have any financial burden on

the State. It will rather reduce the financial burden on the State.

For instance, the Ministry of Gender Children and Social Protection will save the annual budgetary allocations for undertaking advocacy activities on the witch camps as well as providing livelihood support to the inmates. It was noted that the daily household payment for the Livelihood Empowerment Against Poverty (LEAP) by the Ministry of Gender, Children and Social Protection is GHS64 per beneficiary. This means that State spends about GHS413,952 per year to provide LEAP support to the 539 inmates at the various witch camps. Extrapolating this expenditure to cover the period of about fifteen years of implementation of the LEAP means the State would spend an estimated amount of over GHS6 million on inmates in witchcamps in Ghana. This is money which could have been channelled into other development interventions if the camps are outlawed.

Further, the innocent lives lost on account of witchcraft accusation are priceless which cannot be quantified.

8.0 CONCLUSION

The Committee is of the view that the need to pass a law to deter accusations of witchcraft and its attendant human rights abuse, provide a legal framework to law enforcement


agencies to prosecute offenders of human rights arising out of witchcraft accusations and, give confidence to victims currently residing in witchcamps to reintegrate into their communities and unite with their families is long overdue.

The Committee accordingly recommends to the House to adopt its report and pass the Criminal Offences (Amendment) Bill, 2023 into law in accordance with Article 106 of the 1992 Constitution, subject to the amendment proposed by the Committee attached as Appendix A.

The Committee also recommends for extensive public education after the passage of the Bill into law to ensure smooth implementation and enforcement.

The Committee further recommends for the passage of a legislation to regulate media content pursuant to Article 164 of the 1992 Constitution.

Respectfully submitted.



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



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

5th July, 2023

APPENDIX A

AMENDMENT PROPOSED

CRIMINAL OFFENCES (AMENDMENT) BILL, 2022

- i. **Clause 316A – Amendment proposed** – *Delete*.
- ii. **Clause 316B – Amendment proposed** – Subclause (1), *delete*.
- iii. **Clause 316B – Amendment proposed** – Subclause (2), line 1, *delete* “professing to be” and *insert* “acting as”.
- iv. **Clause 316B – Amendment proposed** – Subclause (2), paragraph (b), line 2, *delete* “whatsoever”.
- v. **Clause 316B – Amendment proposed** – Subclause (2), paragraph (b), line 2, *delete* “being” and *insert* “the purposed of determining.”
- vi. **Clause 316B – Amendment proposed** – Subclause (2), paragraph (b), at the end *add* “by witchcraft”.
- vii. **Clause 316B – Amendment proposed** – Subclause (2), paragraph (c), line 1, *delete* “an unnatural” and *insert* “any”.
- viii. **Clause 316B – Amendment proposed** – Subclause (2), paragraph (c), line 3 *delete* “whatsoever”.

ix. **Clause 316B – Amendment proposed** – In the closing phrase, *delete* and *insert* the following:

i. “commits an offence and is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than one year and not more than five years or both.”.

x. **Clause 316C – Amendment proposed** – Subclause (1), lines 3 and 4, *delete* “term of imprisonment of not less than three years and not more than five years” and *insert* “five of not less than one hundred and fifty penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than one year and not more than five years or both.”.

xi. **Clause 316C – Amendment proposed** – subclause (2), lines 5 and 6, *delete* “terms of imprisonment of not less than one year and not more than three years” and *insert* “fine of not less than one hundred and fifty penalty units and not more than two

thousand five hundred penalty units or to a term of imprisonment of not less than one year and not more than five years or both.”.

xii. **Clause 316C – Amendment proposed** – Subclause (3), line 1, *delete* “imputes or”.

xiii. **Clause 316C – Amendment proposed** – Subclause (3), lines 4 and 5, *delete* “term of imprisonment of not less than three years and not more than ten years” and *insert* “fine of not less than one hundred and fifty penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than one year and not more than five years or both.”.

xiv. **Clause 316D – Amendment proposed** – Line 1, *delete* “,is present at”.

xv. **Clause 316D – Amendment proposed** – Lines 4 and 5, *delete* “term of imprisonment of not less than two years and not

more than five years” and *insert* “fine of not less than one hundred and fifty penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than one year and not more than five years or both.”.

xvi. **Clause 316E - Amendment proposed** - *Delete* and *insert* the following:

“Abetment of an offence under section 316B, 316C or 316D by a community leader”

xvii. **316E.** (1) A community leader who directly or indirectly instigates, commands, counsels, procures, solicits or in any other manner purposely aids, facilitates, encourages or promotes, the commission of an act which is an offence under section 316A , 316B or 316C commits an offence and is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than two thousand five hundred penalty units or to a term of imprisonment of not less than one year and not more than five years or both.”.

- xviii. **Clause 316F – Amendment proposed** – Headnote, *delete* “and counselling”.
- xix. **Clause 316F – Amendment proposed** – Opening phrase, line 1, *delete* “may” and *insert* “shall”.
- xx. **Clause 316F – Amendment proposed** – Paragraph (b), *delete*.
- xxi. **Clause 316G – Amendment proposed** – Subclause (1), line 6, *delete* 21(g) and *insert* 21(1)(g).
- xxii. **Clause 316G – Amendment proposed** – Subclause (5), line 1, after “Minister” *insert* “responsible for Gender, Children and Social Protection”.
1. **Clause 316H – Amendment proposed** – Interpretation for “Minister”, *delete*.