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1st July 2024

**H.E NANA ADDO DANKWA AKUFO-ADDO,
PRESIDENCY OF THE REPUBLIC OF GHANA,
JUBILEE HOUSE,
ACCRA.**

Your Excellency,

**ADVISORY OPINION ON THE CRIMINAL OFFENCES (AMENDMENT)
BILL, 2023 (ANTI-WITCHCRAFT BILL) TO HIS EXCELLENCY, THE
PRESIDENT OF THE REPUBLIC OF GHANA**

1. INTRODUCTION

We bring you warm greetings from members and staff of the Commission on Human Rights and Administrative Justice (the Commission).

As you are aware, the Commission is a Constitutional Body established by the Commission on Human Rights Administrative Justice Act, 1993 (Act 456) pursuant to Article 216 of the Constitution, 1992, to promote and protect fundamental human rights of all persons in Ghana, ensure administrative justice and fight corruption. The Commission is further mandated specifically under article 218(f) and Section 7(1)(g) of the 1992 Constitution and Act 456 respectively “*to educate the public as to human rights and freedoms by such means as Commissioner may decide including publications, lectures and symposia.*”

As a national body with global affiliations, the functions of the Commission are also benchmarked against a number of UN frameworks especially the **Principles Relating to the Status of National Institutions for the promotion and protection of human rights (The Paris Principles)** adopted by General Assembly

Resolution 48/134 thus qualifying the Commission as a National Human Rights Institution (NHRI) with status “A” Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI) and the Office of High Commissioner for Human Rights (OHCHR).

As the NHRI of Ghana, the Commission is thus expected from time to time under the Paris Principles to issue advisories on matters of human rights concern to Government and other relevant authorities. In particular, paragraph 3(a) of the Paris Principles states that an NHRI shall inter alia, have the following responsibilities:

*To submit to the Government, Parliament and any other competent body, on an **advisory basis** either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights;*

The Vienna Declaration and Programme of Action, 1993 (World Conference on Human Rights) underscored the important and constructive role of NHRIs in the promotion and protection of human rights, in particular, in their **advisory capacity** to Government and other competent authorities, their role in remedying human rights violations among others.

It needs to be stressed that the Commission has followed recent developments of the passage of the CRIMINAL OFFENCES (AMENDMENT) BILL, 2023 (ANTI-WITCHCRAFT BILL) introduced by the Hon. Francis Xavier Sosu, in his capacity as Member of Parliament of Madina as a Private Member’s Bill. The Commission further notes that following the passage of the bill by Parliament, His Excellency the President raised some concerns with the bill thereby halting the presidential assent to the bill. His Excellency, the President however indicated that in principle he supports the bill.

Whilst the Commission acknowledges the current state of affairs, the present advisory seeks to urge His Excellency the President to tilt towards a position that would strengthen the protection of the rights of vulnerable women in the country. It is therefore against this backdrop and the obligation imposed on the Commission under the 1992 Constitution, Act 456 and the Paris Principles which has informed the present advisory to your distinguished office.

2. THE WITCHCRAFT PHENOMENON AND ITS IMPACT ON WOMEN'S RIGHTS IN GHANA

Witchcraft is deeply rooted in the culture, belief systems, and lifestyle of many communities across Africa including Ghana. The belief in witchcraft has unfortunately occasioned fear and violence, most especially against aged women who are accused or are suspected of witchcraft. These women are normally subjected to public ridicule, isolation, physical and verbal assault, banishment, stigmatization, and other forms of inhumane and degrading treatment. These accusations emanate from persons who claim to have suffered various misfortunes – illness, deaths, accidents, poor harvest, poverty or infertility.

What is extremely worrying about the Ghanaian situation is that it is the only country in the world where physical facilities have been developed to as it were provide a “haven” (commonly referred to as the witch camps). This reality is more evident in the northern part of our beloved country with a disproportionate number of victims being women. These camps often lack the necessary basic amenities such as water, ventilation, sanitary conditions, security to give occupants a certain modicum of the dignity they deserve as human beings. Confronted with sometimes threats of being killed, victims find themselves socially, physically, economically, and psychologically ostracized from their communities into finding solace in these deplorable living conditions.

Witchcraft accusations not only reflect and perpetuate stigma and discriminatory beliefs but also dehumanize and marginalize women, often the elderly and widowed. For example, the infamous case of the 90-year-old Akua Denteh accused of being a witch and publicly lynched in Kafaba in the East Gonja municipality of the Savannah Region in 2020 constitutes one of the recent examples of egregious acts of human rights violations.

Furthermore, a Baseline Study Report on Access to Justice and Gender Based Violence against Elderly Women Alleged as Witches in Ghana (CHRAJ 2022), a research project of the Commission conducted in 2022 revealed that most women alleged as witches were the elderly, widowed, illiterate, and with poor socio-economic standing. The study thus recommended *inter alia* the criminalization of the practice through legislation as one of the steps to confront the canker.

Moreover, Treaty bodies such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee in 2014 in its concluding observations on Ghana's combined 6th and 7th Periodic reports expressed grave concerns about the witchcraft situation in the country and called for an effective State's response. Similarly, the Convention on the Rights of the Child (CRC) Committee in 2015 in its concluding observations on Ghana's combined 3rd to 5th periodic reports bemoaned the witchcraft phenomenon in relation to children and urged her to take decisive steps including the closure of the so-called witch camps.

3. GHANA'S HUMAN RIGHTS OBLIGATIONS

Ghana is generally regarded internationally as a human rights compliant State. This has been demonstrated through the ratification of the nine (9) core human rights instruments including the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) which is the standard bearer for the promotion and protection of women's rights globally.

At the African Regional level, the African Charter on Human and People's Rights, the Protocol on the Rights of Women in Africa (the Maputo Protocol) have also been ratified. Under human rights law, the ratification of these treaties imposes obligations on Ghana to **respect, protect and fulfil** the rights of persons including women. Also, under the principle of *pacta sunt servanda*, as a state party to these human rights instruments Ghana must in good faith give effect to the provisions contained therein. In other words, Ghana is expected take to all reasonable steps including legislative measures to address all forms of discriminatory and harmful practices against women.

As a recently elected member to the Human Rights Council, Ghana has become a key actor on the global stage in advocating for the protection and promotion of human rights. It would therefore be a contradiction if the country has been confronted with this long-standing human rights problem and it has failed to take decisive steps to address same. It is important to emphasize that during the 4th Universal Periodic Review (UPR) which took place in Geneva in 2023 which Ghana participated fully under the leadership of the Attorney General and Minister of Justice, Honourable Godfred Yeboah Dame countries such as the **Kingdom of Netherlands, Australia, Paraguay, South Africa, Brazil, Angola, Colombia** and

others have called on Ghana to take urgent steps to eradicate the phenomenon of witchcraft accusation with its associated human rights violations against women. In view of these recommendations, Ghana will be expected to update the Human Rights Council during the next review cycle in 2027/28 on the steps taken to combat this phenomenon. It would therefore be remiss as a country if no effective steps are taken before the next review in Geneva. It must also be stressed that Ghana is up for mid-term review in 2025 of the recommendations it accepted at the 4th Cycle UPR in 2023 which includes addressing witchcraft accusations and the resultant human rights violations associated with the practice.

Furthermore, the preamble and other relevant provisions of the 1992 Constitution have set out the extent of obligations imposed on State actors in relation to human rights. For instance, article 12 (1) of the 1992 Constitution states “*the fundamental human rights and freedoms enshrined in this chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all other organs of government and its agencies....*” The Directive Principles of State Policy provide in article 34(2) that “*the President shall report to Parliament at least once a year all steps taken to ensure the realization of the policy objectives contained in this chapter and in particular, the realization of basic human rights [emphasis mine], a healthy economy, the right to work, the right to good health care and the right to education.* Further, article 37(2)(b) also stipulates that “*The State shall enact appropriate laws to assure – (b) the protection and promotion of all other basic human rights and freedoms, including the rights of the disabled, **the aged, children, and other vulnerable groups** in the development process.* While article 37(3) stipulates that “*in the discharge of the obligations stated in clause (2) of this article, the State shall be guided by international human rights instruments which recognize and apply particular categories of basic human rights to the development process.*”

It is therefore the considered view of the Commission that the 1992 Constitution enjoins the organs of State to be guided by human rights principles in the performance of their constitutional functions and to apply same to the development process for the protection of all especially the vulnerable groups to which women belong.

4. CONCLUSION

The culture of witchcraft accusation and its connected witch camps is a serious dent on Ghana's image as a country. It has become an albatross around the neck of the country for decades. Its dire consequences on the rights of Ghanaian women is beyond debate. It also undermines national efforts towards the realization of the Sustainable Development Goals (SDGs) particularly Goal 5 on gender equality.

In an era of constitutional democracy hinged on the protection of fundamental human rights and freedoms, the rights of one of the most vulnerable groups in society, elderly women accused of witchcraft must therefore be of high priority to the State and urgent steps must be taken to safeguard their human rights and dignity.

5. ADVISORY

In the light of the foregoing, the Commission respectfully urges His Excellency the President of the Republic to take urgent steps including any legislative steps that will resolve any constitutional concerns raised by H.E the President in order to assent to the Criminal Offences Amendment Bill, 2023 (Anti-Witchcraft Bill) to further enhance the protection of this vulnerable group and the consolidation of Ghana's human rights record.



DR. JOSEPH WHITTAL
COMMISSIONER

**DATED 1ST JULY, 2024 AT THE COMMISSION ON HUMAN RIGHTS
AND ADMINISTRATIVE JUSTICE OLD PARLIAMENT HOUSE, HIGH
STREET, ACCRA**