

MR. PRESIDENT, THINK LONG BEFORE SIGNING THE MAJOR MAHAMA TRUST ACT: BY MARTIN A. B. K. AMIDU

I am writing to add my voice to three written and published appeals by three well-meaning citizens to His Excellency the President, Nana Akufo Addo to think long before appending his signature to the Major Mahama Trust Bill which Parliament passed on 8<sup>th</sup> November 2017. (See “Major Mahama Bill; good idea gone bad” on Ghana Web’s features column of 11<sup>th</sup> November 2017: “Lawyer begs Akufo-Addo not to sign Major Mahama Trust Fund into Law”, Ghana Web’s General News of 11<sup>th</sup> November 2017; and “A Bill Akufo-Addo must not sign into law just yet” on Ghana Web’s features column of 12<sup>th</sup> November 2017.)

Mr. President, the Bill that Parliament passed for your signature suffers from several constitutional, legal and policy defects that should have been conditions precedent to its enactment. Portions of the Bill passed by Parliament for your signature are inconsistent with and contravene the 1992 Constitution in several material particulars. It also seriously undermines and puts to naught several provisions of the Armed Forces Act, 1962 (Act 105) as revised, and Regulations made thereunder to compose and regulate the conduct of the Ghana Armed Forces.

Mr. President, the speed with which the Major Mahama Trust Fund Bill was laid on 24<sup>th</sup> October 2017 and passed by Parliament on 8<sup>th</sup> November 2017 without citizens being given the chance to make any inputs into its constitutionality and legality ought to be sufficient reason for you, who promised participatory democracy to the electorate, to make haste slowly in signing this Bill. Major Mahama was killed on 29<sup>th</sup> May 2017 by Ghanaian citizens who at the time could not have known his official identity, let alone his name and tribe. The perpetrators committed a criminal offence for which they must face the consequences under the Constitution and laws of Ghana, which presumes them innocent until proven guilty.

Mr. President, the appeals you are receiving from patriotic citizens (some of whom have been your ardent supporters over the years) is an indication that the Bill was treated as though it were one under a certificate of urgency, without adequate invitation to the public to make inputs to ensure acceptability by the mass of Ghanaians and particularly a substantial portion of the membership of the Ghana Armed Forces when enacted.

Mr. President, Lieutenant-General Emmanuel Kwasi Kotoka, Captain C. Y. Borkloe, Captain A. K. Avevor and Sergeant Osei Grunshie fell during the insurrection of 17<sup>th</sup> April 1967. They had been preceded by Pte. Adjoba Grunshie; Pte. Lawrence Mensah; Cpl. Lassey Sewoatsri; Sgt. Abudulai Allasan; Pte. Arnold Kwao and Cfn. Daniel Odame who died in the 24<sup>th</sup> February, 1966 Revolution. These events happened during a military regime but it took the National Liberation Council (NLC) and the Ghana Armed Forces almost three and four years respectively to pass the General Kotoka Trust Act, 1969 (NLCD 339) not for Gen. Kotoka alone but all the gallant men who fell during the two events.

Mr. President, the NLC saw wisdom in allowing the criminal justice system and the Armed Forces Act to exhaust their processes in accordance with the due process of law before acting on the matter.

Mr. President, I know your love and penchant for democracy, the rule of law and due process. My worry, Mr. President, for the Nana Akufo Addo I have known over the years, is why this matter is being rushed through as though it were a matter which cannot wait for the constitutional and legal processes connected with or related to the gruesome killing of the army officer to be exhausted before you decide on enacting the Major Mahama Trust Fund Bill into law.

Mr. President, you have shown by word and deed that Ghana is a constitutional democracy, ruled under laws in accordance with the rule of law and the due process of law. In view of the fact that the victim of the gruesome act turned out to be a commissioned officer of the Ghana Armed Forces one expected that in addition to the Constitutional processes and the criminal laws taking their natural course fairly and impartially, the Armed Forces Act, 1962 (Act 105) as revised would be complied within whatever actions the Government wanted to take in this matter.

Mr. President, the Executive, and Parliament of Ghana through its Defence and Interior Committee has a duty as representatives of the electorate of Ghana under the 1992 Constitution to investigate and disclose to the electorate of Ghana the circumstances under which a fellow citizen, in this case a member of the Ghana Armed Forces, found himself at the time and place he was killed. Why was the officer in that village at that time of the morning alone? Was he on active duty or on a frolic of his own? The answers to these questions will not excuse the lynching of any citizen whether a soldier or a civilian but for a member of the Ghana Armed Forces it is a condition precedent to further actions under Act 105.

Mr. President, is it true that Major Mahama was repatriated from Lebanon on Ghanabatt 82 in 2015 for driving into what seemed like a no-go area that was under the control of Hezbollah elements and was consequently repatriated on the last chalk 4? Mr. President, this question is important for those who are questioning the lone mission he was on in the village at the time of his killing. The records are to the best of my knowledge at the IPO at Burma Camp and you as Commander-in-Chief should have been briefed by now. This is public knowledge in Burma Camp!

Mr. President, on 30<sup>th</sup> May 2017 the Minister of Defence was reported by Joy FM to have promised Ghanaians a thorough investigation into the killing of the army officer which he described as weird. On 2<sup>nd</sup> June 2017 Class FM reported that the Chief of Defence Staff (CDS) Lieutenant General Obed Akwa promised Ghanaians that: "...investigations will be conducted into why Captain Maxwell Mahama, ...was jogging alone at the time he was attacked." Mr. President, the CDS was reacting to very pertinent military issues raised by Major Osahene Boakye-Djan (rtd).

Mr. President, you know that under the Armed Forces Act, 1962 the death of the army officer would of necessity have to be investigated and the people of Ghana are entitled to the results of that investigation. Ghanaians are not aware that this has been done. The Minister of Defence who promised an investigation has also not made available to the electorate any results of any investigations. What was his authority under Act 105 for presenting the Bill to Parliament under his signature as the Minister of Defence as though he was acting under the Armed Forces Act for and on behalf of the Ghana Armed forces?

Mr. President, the Parliamentary Committee on Defence and Interior which has a constitutional duty to investigate this matter on behalf of the electorate has taken no such steps to the best of my knowledge to do so. Yet when four United States of America soldiers were killed in active service in Niger a few days ago Sen. John McCain, the chairman of the Senate Armed Forces Committee threatened to issue a subpoena to the Executive for more information. He was reported in the following terms: “the White House was not being up front about the Niger Ambush, and he said he would like the information his committee ‘deserves and needs’”.

Mr. President, in Ghana, Parliament on the contrary has rather presented you with a Bill to sign into law in which the Chairman of the Defence and Interior Committee and his Ranking member are to be trustees of the fund with financial benefits even before they could undertake their constitutional duties to the people of Ghana under the 1992 Constitution. Could this be an incentive to kill any parliamentary investigations?

I have been away since 3<sup>rd</sup> November 2017 to my village where electricity and network is a scarce commodity that is why I am trying to get this appeal to you so belatedly through the media before the budget overtakes the pertinent issues I have raised herein tomorrow.

Mr. President, there is a tendency on the part of many politicians and political appointees to over please every sitting President in whatever he says. Your wishes when you state them ought to be implemented in accordance with the due process of law where feasible. I sincerely do not think the Bill presented to you for signature meets constitutionality and due process of law. That is why I urge you to think long before you sign it.

Martin A. B. K. Amidu  
(Citizens Vigilance for Justice – CIVIG-JUSTICE)  
13<sup>th</sup> November 2017