

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

**TWENTY-THIRD REPORT OF THE
APPOINTMENTS COMMITTEE**

ON

**HIS EXCELLENCY THE PRESIDENT'S
NOMINATIONS OF JUSTICES TO THE
SUPREME COURT**

December, 2019

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1.0 INTRODUCTION

H. E. the President, Nana Addo Dankwa Akufo-Addo in accordance with Article 144 (2) of the 1992 Constitution, communicated to Parliament the nomination of three (3) Justices to the Superior Court for appointment on Friday, 8th November, 2019.

The Speaker of Parliament, Rt. Hon. Aaron Michael Oquaye referred to the Appointments Committee the nominations for consideration and report pursuant to Order 172 of the Standing Orders of the House.

The nominees are:

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|------|---|---|--|
| i. | Justice Mariama Owusu | - | Justice-Designate to the Supreme Court |
| ii. | Justice Avril Lovelace-Johnson | - | Justice Designate to the Supreme Court |
| iii. | Justice Gertrude Araba Esaaba Torkornoo | - | Justice Designate to the Supreme Court |

2.0 REFERENCE DOCUMENTS

The Committee referred to the under-listed documents during its deliberations:

- i. The 1992 Constitution;
- ii. The Standing Orders of Parliament;
- iii. President’s Appointment Letter; and
- iv. The Curriculum Vitae of the Nominees.

3.0 CONSIDERATION OF THE REFERRAL

3.1 Pursuant to Order 172 (3) of the Standing Orders of the House, the Committee in the first instance caused to be published in the newspapers of national circulation, the names of the nominees and notice of the Committee’s Public Hearings for the attention of the general public. The Committee further requested Memoranda from the general public on any of the nominees.

No complaints were received on the nominees.

3.2 The Committee subsequently obtained Confidential Reports on the nominees from the Ghana Police Service and the Bureau of National Investigations (BNI) as part of its background checks. Tax Status Reports were also obtained from the Ghana Revenue Authority (GRA).

3.3 Public Hearings were thereafter held to consider the nominations. On commencement of proceedings, the nominees subscribed to the Oath of Witness and subsequently answered questions relating to their Curriculum Vitae, matters relating to judicial administration and justice delivery, their eligibility, issues pertaining to the offices to which they have been nominated and other issues of national concern.

No adverse reports were received from the two (2) institutions.

3.4 The Committee duly considered the nominations and reports as follows:

4.0 JUSTICE MARIAMA OWUSU

- JUSTICE DESIGNATE TO THE SUPREME COURT

Background

Justice Mariama Owusu was born on the 18th November, 1954 in Daloa. She started her Primary and Middle School Education at the Asawase L/A Primary and Middle School in 1960 and completed in 1968. She attended T.I. Ahmadiyya Senior High School from the year 1968 to 1975 for both her Ordinary and Advanced Levels Certificates. She then proceeded to the University of Ghana in 1976 to read Law and subsequently proceeded to the Ghana School of Law in 1980. She was called to the Ghana Bar Association in November 1981.

Justice Owusu undertook her National Service at the Attorney General's Office in Kumasi from 1980 to 1982. She went into Private Practice from 1984 to 1990 with Messrs Totoe Legal Services, Kumasi.

The nominee then worked as a District Magistrate from 1990 to 1992. She was appointed a Circuit Court Judge in 1992 and served until the year 2000, when she was appointed as a Justice of the High Court and stationed at Kumasi. She moved to Sunyani and finally to Tema. In 2006, she was appointed a Justice of the Court of Appeal, where she currently serves.

In 2014, Justice Mariama Owusu was nominated as the President of the International Association of Women Judges (Ghana Chapter) because of her invaluable experience and expertise and served from 2014 to 2016.

The nominee was a member of the Ethics Committee from 2012 to 2013. She was also a member of Performing Access Committee of the Judicial Service.

Response to Questions

1. Role of Judicial Council in the Appointment of Supreme Court Justices

Commenting on the role of the Judicial Council in the appointment of Supreme Court Justices, the nominee, Justice Mariama Owusu noted that Supreme Court Justices are appointed pursuant to Article 144(2) of the Constitution which requires the President to effect the appointment on the advice of the Judicial Council, in consultation with the Council of State and with approval by Parliament. She justified the role of the Judicial Council on the grounds that, since the Judicial Council was the body that regulated Judges, it was the appropriate authority to advice on such an important matter.

2. Nominee's Mentorship Role

The nominee when asked whether she had mentored others in the light of her outstanding achievement at the Bench, told the Committee that she has been doing that. To substantiate, she recounted her recent visit to her former school, T. I. Ahmadiyya Secondary School in Kumasi where she took the opportunity to speak to the students, encouraging them to study hard and pursue excellence in their fields of endeavour.

3. Lessons Learnt from Child Trafficking Summit

The nominee in answer to lessons she had learnt from a summit on Child Trafficking that she had attended, told the Committee that she honoured an invitation to participate in a Summit of African Women Judges and Prosecutors on Human Trafficking and Organised Crime in Rome last year, and that she honoured the invitation to learn about the experiences of other jurisdictions in combating the menace of Child Trafficking. She told the Committee that one lesson that she learnt from the Summit was the revelation that most victims of child trafficking were children who had been brought from rural areas to live with their relatives in the cities but were later pushed to the streets due to maltreatment by relatives. She intimated that these children ended up on the street and become vulnerable to traffickers, who lure them out of the country on the pretence of taking them abroad to give them better opportunities. She indicated that the menace of child trafficking was a complex and lucrative enterprise that required a multifaceted approach to combat. The practice she

cautioned has moved from forced labour and sexual exploitation of victims to human organ trade. She warned that the activities of the traffickers if not controlled could disrupt governance and that the menace was still going on and globally, had become a big business. The nominee called for tightening of our porous borders which the perpetrators continued to exploit for the nefarious act and urged the Ghana Immigration Service to do more to curtail the activities of child traffickers. She also called for increased and sustained public education on the activities of the traffickers especially those who recruit young ladies to the Gulf States. She assured the Committee that, as a justice of the Superior Court, she will not allow her activism in child trafficking to affect her decisions when matters relating to child trafficking are brought before her.

4. Relevance of the e-Justice Project and the use of ICT

The nominee in response to the relevance of the e-justice project noted that though some older people felt apprehensive in using modern technology, it has become extremely useful to adopt information and communication technology to improve the work of the judiciary. She stressed that instead of carrying briefcase full of books, all the information contained in those bulky documents could be put on a pen drive and used automated with utmost ease and efficiency. She recalled that, before the Courts became computerised, judges used to record their entire proceedings manually and that caused long delays in the compilation of records of appeal to be forwarded to the Court of Appeal for determination. She, however, noted that with the aid of computerisation, the records of daily proceedings could be completed and made available to parties at the end of each Court Sitting and that has helped to speed up the administration of justice.

5. Property Rights of Spouses

On how she would contribute to ensuring respect for Property Rights of Spouses as enshrined in Article 22 of the Constitution, Justice Mariama noted that, despite the inability of Parliament to enact the relevant legislation as mandated by that provision, the Supreme Court had intervened and developed the principle of *equality is equity* for the fair distribution of matrimonial property upon divorce. She defined matrimonial property as property acquired during the subsistence of marriage and explained that, the new posit of the law was that wives were not required to show their contribution, since their role in performing household chores and taking care of children et cetera had been held to be sufficient contribution to merit equal right to property acquired in the course of marriage. She took the view that society was dynamic and therefore the need to embrace the new development of the law.

6. The Ghana/Cote d'voire Maritime Dispute

The nominee in response to whether Ghana acted in good stead in going to seek arbitration at the International Tribunal for the Law of the sea in our maritime border issue with Cote D'voire, acknowledged before the Committee that maritime law was a very technical and specialised branch of law and ought to be seen in that light. She told the Committee that Ghana took a good decision to submit the dispute to the internationally recognised body, the Special Chamber of the International Tribunal for the Law of the Sea (ITLOS) to get the dispute determined. She explained that, the decision to seek arbitration at ITLOS ensured that apart from the country avoiding the dangers of violent boundary dispute between the two countries, the country even gained an extension of its continental shelf.

7. Political Interference in the Judiciary

On whether she perceived there was political interference in the Judiciary, the nominee responded in the negative. She stated that the Judiciary had discharged itself very well to the satisfaction of people and that could be seen from the confidence and eagerness of people to run to the Courts to get their disputes settled. She informed the Committee that the Supreme Court of Ghana had delivered judgments that had satisfied a lot of people and helped to shape and deepen our democratic culture and also has ensured peace and security. She opined that Judges subscribe to the Judicial Oath which enjoin them to deliver justice to all manner of people according to law without favour or ill-will.

8. Major Challenges facing the Judiciary

Justice Mariama Owusu on the major challenges facing the judiciary, identified major reforms the Judicial Service was undertaking to improve the administration of justice in the country. She recounted her experience at the Court of Appeal in contending with long delays in the compilation and forwarding of records of appeal from the High Court to the Court of Appeal. She also noted the difficulties judgement creditors had to endure to enforce their judgements and called for the system to be streamlined to clarify the roles and obligations of auctioneers. She opined that lack of succession planning is another major challenge facing the Judiciary and suggested that the matter be taken up seriously. In that regard, she urged the incoming Chief Justice to work closely with the outgoing Chief Justice to ensure a smooth transition.

9. Appellate Jurisdiction of the Supreme Court

The nominee, in response to a question on the automatic right of appeal to the Supreme Court, endorsed the recommendation of the Constitution Review Commission which suggested that all interlocutory appeals be made to end at

the Court of Appeal and not be permitted to go to the Supreme Court. She explained that such a measure would free the Supreme Court to focus more on developmental and germane issues that the Court was often inundated with. The nominee suggested an amendment to the appellate jurisdiction of the Supreme Court under Article 129(1) of the Constitution which allowed litigants to appeal from the District Court right through to the Supreme Court, subject to leave of the Court of Appeal.

10. Exercise of Discretionary Power

The nominee in response on the exercise of discretionary power, under Article 296 of the Constitution as construed by the Supreme Court in the case of *Ransford France v. EC & Attorney-General*, expressed her endorsement of that decision. She explained that the law was interested in addressing excesses in the exercise of discretion and not merely by invalidating decisions which have been taken without the backing of a statutory instrument.

11. Religious beliefs on Judges

The nominee in response to possible role that religious beliefs hold sway on judges in their discharge of duties intimated that she had never been influenced by her religious beliefs in the discharge of her duties in her long career as a Judge. She observed that parties who came before her were from different religious orientations but her duty had always been to apply the law without any consideration of her religious background or that of the litigants. She assured the Committee that, if her nomination is approved, she would continue to administer justice according to the laws of the country.

12. Corruption in the Judiciary

The nominee, commenting on the high perception of corruption in the Judiciary as reflected in the 2019 Afrobarometer Survey, told the Committee that the perception was unfortunate. She stated that until recently, the Judiciary had remained a conservative institution, hence lot of people did not know how the Judiciary operated. She cited the example of some people who could not distinguish between Judges and other Court officials and as such, ascribed wrongdoing by such persons to Judges. She suggested that the Judiciary should be more open to allow people to understand its operations as a way of addressing the issue. She indicated that the court room is a public place and encouraged the public to patronise the courts to better understand its workings.

13. Religious Tolerance in Schools

On religious tolerance at schools, the nominee recounted her experience during her secondary education at T. I. Ahmadiyya Secondary in Kumasi where she experienced total religious freedom. She recalled that, during morning assemblies of the School, both Muslim and Christian prayers were said. She also recounted that T. I. Ahmadiyya, as of today, admits students with diverse religious beliefs and religious intolerance had never been a problem in the school. She wondered why any school could impose a single religious practice and prevent others from exercising their constitutional right to freedom to practise any religion and express same. She noted that the country had advanced in religious tolerance and that she has seen some Muslim women wore hijab to Court, among others.

14. Exercising Powers of Contempt

On whether she would support a suggestion to regulate the exercise of powers of contempt, the nominee responded in the negative. She explained that contempt was quasi-criminal offence, and the Superior Courts could convict contemnors and sentence them to fine, imprisonment or caution, but they always did so in a judicial manner and not in a vacuum. She explained that the use of the powers of contempt have been vested to prevent people from bringing the administration of justice into disrepute and advised that all must respect and support the Courts.

15. Reforms in Legal Education System

On her ideas on reforming the current legal education system, the nominee informed the Committee that she will support any initiative aimed at improving legal education in Ghana. She observed that prior to the abolition of interview as part of the admission process, there was no major challenge with legal education in Ghana. She wondered why students advocated for the removal of interview when it was not creating problems, and cautioned that we should hesitate to change a system that is working. She disagreed with the suggestion that there is a deliberated scheme in place to limit legal education to few people and cautioned that quality and standards should not be compromised for numbers. Justice Mariama Owusu blamed the mass failure in the Ghana Law School to the large number of students who pursue law on a part time basis. She told the Committee that she would welcome suggestions that would contribute to reform efforts if appointed to the Supreme Court. She also endorsed proposal for the introduction of para legal education and training in Ghana, pointing out that such a measure would deepen the country's democracy and development.

16. Speedy Adjudication of Justice

In a response to how to ensure speedy justice delivery in the courts, the nominee advocated for the introduction of information technology into the justice delivery system to speed up justice delivery. She indicated that though the automation of the courts is playing an important role, there is the need to improve on the delays in the courts. She observed that the deployment of the e-justice system is making justice delivery more efficient. She explained that delays are not only caused by judges but through the conduct of all parties concerned which includes lawyers, court officials and the feuding parties. She called for increased supervision and training for court officials to ensure efficiency and timeliness in justice delivery.

17. Judicial Temperament on the Bench

The nominee in a response to how Judges should conduct themselves in court emphasized the need for Judges to create a conducive and friendly environment in Courts. She opined that judges need not engage in verbal altercation with either lawyers or accused persons in open court. She told the Committee that, as a judge, you may be provoked by the conduct of a person in court but that should not be enough of a justification to engage openly in a confrontation. She advised her fellow judges to desist from such a practice and always ensure that the court room presents a friendly atmosphere that allow both accused persons and their lawyers to freely express themselves.

18. Congestion in Prisons

The nominee in response to a question on congestion at the Prisons and what advise she would proffer, agreed with suggestions from the Committee that the time has come for the introduction of non-custodial sentencing to reduce congestion in the country's prisons. She attributed the congestion in the prison to the absence of non-custodial sentencing and delays in completing cases leading to the numerous remand prisoners being held in the country's prisons. She also intimated weaken investigation systems, the frequent absence of prosecutors and witnesses in court as some of the problems that causes delays in completing cases. This she insinuated compel suspects to be held in remand. She advocated for the amendment of the statutes to incorporate non-custodial sentencing for petty and non-violent crimes in order to decongest our prisons.

19. State of Rule of Law in Ghana

The nominee responding to how the Rule of Law is being upheld in the country, explained to the Committee that rule of law requires that, citizens should not take the law into their own hands but present their grievances and disagreements before the law and let the courts rule on the matter. On how to improve Ghana's ranking in the World Justice Index, she urged the judiciary to work to instil public confidence in the operations of the Courts. This she intimated will ensure that the public develop the trust when their cases are presented to the courts. The nominee assured the Committee that cases would be disposed of expeditiously and in a fair and just manner. She intimated that this will reduce the numerous instance of instant justice and improved the country's ranking on the world justice index.

Recommendation

The Committee recommends to the House for the approval *by consensus* the nomination of Justice Mariama Owusu for appointment as Justice to the Supreme Court of Ghana.

5.0 JUSTICE AVRIL LOVELACE-JOHNSON

- JUSTICE DESIGNATE TO THE SUPREME COURT

Background

Justice Avril Lovelace- Johnson was born on the 30th of April, 1961 in Accra. She started her education at SNAPS Preparatory School in 1967. She attended Wesley Girls Senior High School from 1973 to 1978 for her GCE "O" level and then to Aburi Girls Secondary School from 1978 to 1980 for her GCE "A" level. She then proceeded to the University of Ghana, Legon in 1981 where she read law and enrolled at the Ghana School of Law in 1985. She was called to the Ghana Bar in 1987.

The nominee undertook her National Service at the Attorney General's Office, Koforidua in 1988 and moved to the Accra Office as an Assistant State Attorney from 1989 to 1990.

The nominee worked as a District Magistrate in the Kibi and Tafo Magistrate Courts in the Eastern Region from 1990 to 1991. She later worked as a District Magistrate at the La and 28th February Road Magistrate Courts in Accra from 1991 to 1994.

She was promoted to the sitting Circuit Court at the 28th February Road Courts from 1994 to June 2002.

The nominee was elevated to the High Court of the Republic of Ghana in 2002. She sat at the Accra and Tema Division of the High Court.

In October 2012, she was appointed a Justice of the Court of Appeal. She still sits as a Justice of the Court of Appeal.

Justice A.L. Johnson was assigned as a Justice of the High Court of the Gambia on an assignment for the Commonwealth Secretariat, London, United Kingdom from December 2005 to 2009. She also worked in the Gambia as an additional Justice of the Court of Appeal as and when she was directed by the Chief Justice during that same period.

The nominee served as a Former Director of the Public Complaints and Court Inspectorate Unit of the Judicial Service from October 2014 to October 2016. She was the Vice President of the Association of Magistrates and Judges of Ghana from 2000 to 2002. She has held a number of positions with Planned Parenthood Association of Ghana.

Response to Questions

1. Competence as a Supreme Court Judge

The nominee in response to a question on what she would bring to the Supreme Court with her nomination, extolled to the Committee, her competence and integrity. She informed the Committee that she has risen through the ranks at the Bench, starting as a District Magistrate Grade 2 and has been working as a judge her entire working life. She told members that her track record fortified the former Chief Justice of the Republic, Her Ladyship Georgina Theodora Wood to appoint her as the Director of the Public Complaints and Court Inspectorate Unit of the Judicial Service. She has also chaired, the Disciplinary Committee of the Judicial Service. That in itself according to the nominee is not only an honour but also speaks volumes about her competence and integrity.

2. Qualities of a Good Judge

When asked what she considered to be the qualities of a good Judge, the nominee told the Committee that she places premium on competence and not just the goodness of a Judge. She described a competent Judge as a Judge who has the ability to identify the issues at the core of cases, and make informed judgement thereof. She asserted that this ability enables a Judge to find the appropriate law to ensure that rulings are fair and unbiased to parties.

3. Planned Parenthood Association of Ghana (PPAG)

The nominee when asked about her role with the Planned Parenthood Association of Ghana told the Committee that, she has been and continue to be an active member of the Planned Parenthood Association of Ghana. She indicated that PPAG is a law abiding Association and that the Association promotes sexual health for quality life. She told the Committee that the Association still has presence in Ghana however, lack of funding has curtailed its activities. She intimated that even though the age for consent to sex is 16 years, she believes that a 16 year old child is not matured to marry, hence she supports the legal age for marriage in Ghana which is pegged at 18 years.

The nominee, espousing her personal ideology, told the Committee she is Pro-Choice; nonetheless, abortion generally is a criminal offence in Ghana and her personal ideology is not important and does not influence her in her line of duty.

4. Sexual harassment

The nominee in a posit to sexual harassment, emphatically told the Committee that sexual harassment is a huge problem in Ghana, and comes in many forms. She indicated that most people are not aware that some of their utterances and activities offend others or constitute sexual harassment. Consequently, she is convinced that it is important to educate the public on sexual harassment to help alleviate its incidence. She recommends that every organisation should have a sexual harassment policy to guide employees.

5. Death penalty

The nominee in response to what she thinks of the Death Penalty, suggested that she feels horrible that the death penalty in the country's statute books. She indicated that despite the fact that the victim of a death penalty may have infringed on the right of another person, there is the possibility of human error being committed in conviction, in so far as the Judiciary comprise of human beings. The difficulty then would be how to reverse the punishment after it has been enforced. She recounted her experience when she sat as a judge of the assizes where she had to administer the death penalty as a sentence. Though rarely used, that among many others changed her perception about the death sentence.

6. Legislation to Guide Adjudication of Contempt Cases

On measures to ensure conformity and reduction in biases of judges in the adjudication of contempt cases, the nominee accepted the view that instituting

guidelines through enactments would reinforce certainty and predictability in the process. She however emphasised that in the absence of such guidelines there are a number of decided cases on contempt which has informed decisions by the Court on punishments and also limits the discretions of presiding judges.

7. Challenges in Accessing Legal Education

In reference to recent difficulties in accessing professional legal education in the country, the nominee indicated that a number of independent institutions are involved in the conduct of the entrance examination and examinations held at the Ghana School Law. She told the Committee that the low rate of candidates passing the examination is proof that there is a challenge with the process which must be investigated and fixed. To her, students who failed the examinations may not necessary be bad students.

8. Tracking Cases on Appeal by Judges

The nominee indicated that the tracking of cases on appeal by Judges whose decisions are being contested in a superior court is very important as it would ensure that the judge and other judges avoid repetition of mistakes made in decisions being contested. She recalled that an attempt was made to introduce some form of mechanism to track cases on appeal. She advocated for the revival of that mechanism.

9. Backlog of Court Cases before the courts

On how to deal with the backlog of cases pending in the High Court, the nominee did not agree with the suggestion that Justices of the Supreme Court should be encouraged to assist with suits before the Court of Appeal and the High Courts. She also disagreed with the suggestion that the Courts should sit outside the remit of prescribed periods to expeditiously deal with the backlog of cases. She told the Committee that the workload at the Supreme Court is enormous which makes the suggestion impracticable. She intimated that the only circumstances under which she would accept the implementation of such suggestion is when a specialised skill or knowledge of a particular judge is required. This however should not be a regular occurrence. On extending court sittings, the nominee averred that it could affect the health and effectiveness of the judges and other officials of the court and therefore should not be encouraged. She advocated a general improvement in the court processes to facilitate the expeditious delivery of justice.

10. Imposing Time Limits on the Adjudication Process of Election Petition

The nominee in response to whether there should be a time line in the adjudication process on election petition told the Committee that Article 64 of the Constitution is not problematic on electoral petitions. In her opinion, the

time frame within which the electoral petition in 2013 was heard and determined was reasonable, given that it was the country's first experience with an election petition and also because the case had to be heard and determined properly to alleviate doubt between the parties. She told the Committee that she was not an active participant in the two election petitions, therefore it would be difficult for her to make any further comment on the time frame within which the suit was adjudicated. She opined that even though other jurisdictions such as Kenya and Nigeria have a time frame for election petitions, if it was the desire of Ghanaians, then perhaps, the Constitution should be amended to reflect same

11. Improving Court Infrastructure across the Country

On improving infrastructure across the country, the nominee agreed that the state of most court infrastructure across the country was poor and has the potential to undermine access to justice. She related to inadequate funding as the main challenge. She said the Chief Justice currently has a policy whereby District Assemblies are encouraged to provide an infrastructure for a court with the appropriate facilities, while the Judicial Service supports with the provision of the requisite human resource.

12. Increase in land litigation

When asked whether she finds the constitutional architecture on land ownership under Article 257 of the Constitution as the main cause of the high incidence of land litigation, the nominee said her experiences revealed otherwise. She explained that most of the land cases brought before her borders on dishonesty, a situation whereby grantors or land owners sell a parcel of land to multiple buyers. She advocated for the sensitisation of land owners to desist from such acts as it undermines the development of the country.

13. Dual Citizenship of Public Officials

On whether it was proper for officials of state and within the public service to hold dual citizenship, the nominee held the view that barring of public officials, particularly the President of the country and Members of Parliament, from holding dual citizenship as provided under Article 62 of the Constitution was appropriate. She explained that the administration of a nation involves taking critical decisions and that requires total loyalty, particularly, when faced with threats from an adversary. This is why public officials occupying high public offices should not owe allegiance to any other nation.

14. Constitutional change

Justice Lovelace-Johnson informed the Committee, that given the opportunity she would advocate for the amendment of Article 131 of the Constitution. She

opined that the automatic right of appeal to the Supreme Court is misused. In this regard, the Supreme Court is currently as busy with suits as the High Courts. She stated that the right of appeal to the Supreme Court should be curtailed and initiated sparingly to adjudicate on high level cases and on matters involving the original jurisdiction of the Supreme Court.

Recommendation

The Committee recommends to the House to approve *by consensus* the nomination of Justice Avril Lovelace-Johnson for appointment as Justice of the Supreme Court of Ghana.

6.0 JUSTICE GERTRUDE ARABA ESAABA TORKORNOO - JUSTICE DESIGNATE TO THE SUPREME COURT

Background

Justice Gertrude Torkornoo was born on 11th September, 1962 at Cape Coast in the Central Region. She started her primary education at Suhum Presby Primary School in 1966 and to Ajumako Catholic School in 1969 where she completed her primary school education. She went to Ajumako Methodist School from 1966 to 1973. She attended Wesley Girls' High School for her Ordinary Level Certificate from 1973 to 1978 and to Achimota School for her Advanced Level Certificate from 1978 to 1980.

The nominee enrolled at the University of Ghana in 1980 and graduated with a Bachelor of Laws and Sociology in 1984. She proceeded to the Ghana School of Law in 1984 and obtained a Qualifying Certificate in Law in 1986. She was called to the Ghana Bar in 1986. She holds a Graduate Diploma in International Law and Organizations for Development from the Institute of Social Studies now part of Erasmus University in The Hague, Netherlands in 2001. She also holds a Master's Degree in Intellectual Property Law from the Golden Gate University in San Francisco, USA, obtained in 2011.

Justice Torkonoo undertook her National Service at the National Service Secretariat from August 1987 to July 1988 and later volunteered for FIDA Legal Aid Services until 1989. She interned in Nabarro Nathanson in London, UK from 1989 to 1990. She worked with Fugar & Co, in Accra as a Pupil Associate, and

Director from 1988 to 1996. She was a Managing Partner of Sozo Law Consult and SLC Law Forum from 1997 to 2004.

In May 2004, she was appointed a Justice of the High Court where she worked till 2012. She was appointed a Justice of the Court of Appeal in October 2012 where she is serving to date.

Response to Questions

1. Apparel worn by Judges and Lawyers

Responding to a question whether it was time to do away with the colonial dressing relics of gowns and wigs that judges wear, Justice Torkornoo told the Committee that their mode of dressing was still played useful role in the legal jurisprudence in the country as it serves as legal disguise, as such judges could hardly be recognized after removing them. Responding in her personal opinion if a change was required, she opined that it would be preferable to wear an African print on the bench.

2. Deficiency in the training of Lawyers

On what she viewed to be some deficiencies in the training of lawyers in the country, the nominee averred that the law profession is a skilled-based profession, which requires that legal training curriculum must lay emphasis on practical content than what currently pertains. She observed that too much classroom lesson by law students has to some extent deprived many of our lawyers the skill of distilling issues. She called for critical re-examination of the curriculum content to enable law students acquire more practical skills while under training.

3. Challenges with Intellectual Property Legal Regime

In an answer to a question on what she found to be gaps within the legal regime governing intellectual property in the country, the nominee was of the view that the country's laws on intellectual property were comprehensive, except the law of fair competition, which appeared weak. She told the Committee that the level of education on intellectual property laws among Ghanaians is too low, for which reason, many Ghanaians do not secure their intellectual works to derive maximum benefits when compared to other countries.

4. Role of ICT in Justice Delivery in the Country

On the importance of ICT to Justice Delivery, the nominee acknowledged that Information Communication and Technology (ICT) play critical role in addressing many of the challenges confronting the administration of justice in the country. She said the Judicial Service recognizes the same fact, and has rolled out a number of ICT projects to reform many of the court processes. She mentioned the computerization of our courts, filing of writs on-line, and notifying litigants through SMS text messages as some of the outcomes of ICT reforms undertaken by the Judicial Service.

5. Capping the Number of Supreme Court Judges in Ghana

The nominee told the Committee that she does not subscribe to the school of thought that the number of Justices of the Supreme Court should be capped. She explained that the jurisdiction of the Supreme Court is so broad that it is constantly being inundated with lots of constitutional cases and therefore require many Judges to speed up the determination of the cases. She averred that the capping policy has the tendency to undermine justice delivery during constitutional crisis where the Supreme Court may not have the required number to deal with the crisis due to constraints of the capping policy.

6. Time limits to the determination of Election Petition

On legislating on time limits in the determination of election petitions, the nominee lauded the idea and posited that it would serve the nation well by introducing predictability and certainty in the election petition hearing process. She however could not tell which time limits would be appropriate. She suggested to the Committee and Parliament debate and come to a conclusion on the time limits at the August House own pleasure.

7. Judicial Reforms in Ghana's Business Environment

The nominee when asked about suggestions she would profer to improve the business environment of the country based on her experiences at the Commercial High Court, intimated to the Committee that institutionalization of transparency measures would boost the confidence of investors in the business environment. She opined that investing in asset registers and database of businesses and their owners would be the way forward. She indicated that the

Courts often have had tough times in locating addresses of companies and assets of debtors and that it takes many days and extra effort to serve writ on the accused. She alluded to situations whereby debtors cleared their accounts and even transfer properties to other people without a trace, because of lack proper asset register. These, impacted on having a fair trial.

The nominee told the Committee that although the courts have adopted a pre-trial disclosure to deal with the situation, it was still important that transparency measures are enhanced to ensure fairness to aggrieved parties. She opined that delays are inimical to concluding business contracts and called for attitudinal change towards contracts and to adopt Alternative Dispute Resolution mechanisms in addressing differences.

8. Inadequacies of our Laws in promoting Affirmative Action

In response to a question on the inadequacy of the country's laws to ensure women participation in decision making at the highest level, the nominee was of the opinion that the Constitution of the Republic provide adequate guiding principles which obliges leadership, particularly appointing authorities to ensure balance in whatever they do. She said the constitution is full of non-discriminatory provisions that are sufficient to deal with the vulnerable in society. She told the Committee that adherence to these constitutional tenets could go a long way to support affirmative action policies of the State. She called for more sensitization on the constitutional tenets.

9. Tackling Corruption in the Country

The nominee noted that the issue of corruption is national in character which must be discussed holistically in order to come out with effective measures to address. According to the nominee, corruption is of three different dimensions - criminal, ethical and cultural. The cultural ones are the most prevalent which require collective efforts in defining boundaries of ethical conduct to make everybody aware of what actions constitute corruption.

On the perception of corruption in the judiciary, the nominee indicated that the arrangements in the court environment is prone to abuse by some unscrupulous people who use challenges in the justice administration system to their advantage. This, she opined feed into people's perception that the judiciary is corrupt. She said the Judicial Service was aware of some of these issues and have taken steps to conscientise its Officials to conduct themselves

ethically. The nominee informed the Committee that given the nature of their work, members of the judiciary should refrain from accepting gifts altogether, except from perhaps their own children or immediate family members.

10. Views on low ratings of the Courts in the Afrobarometer Survey

On what the nominee's views are on the recent report on the Afrobarometer Survey by Ghana Center for Democratic Development, the nominee told the Committee that the low ratings on the courts by Ghanaians on questions as to its independence, professionalism, responsiveness and transparency did not augur well for the image of the Judiciary as the bastion of last resort for citizens, when aggrieved. The nominee told the Committee that the complicated nature of the law, delays in the court processes and other myriad of challenges confronting justice delivery system could be the rationale for the low ratings. She is of the view that continuous reform by the Judiciary could change the perceptions of people about the courts.

11. Curtailling the Right to Automatic Appeal

The nominee in response to a question as to whether it was okay to curtail the right of automatic appeal to the Supreme Court, told the Committee that she supported the stance of the Constitutional Review Commission on the need for a constitutional amendment to terminate interlocutory appeal processes at the Court of Appeal. She emphasized that such an amendment will reduce the burden of cases imposed on the Supreme Court Judges and enable them to focus more on critical constitutional matters. On whether she did not think that the quality of Judges at the lower levels was responsible for the workload at the Supreme Court, the nominee responded in the negative, she laid blame on the expansiveness of the jurisdiction of the Supreme Court.

12. Improving our Mortgage Market

The nominee on how the mortgage market could be improved, referencing her experiences at the commercial court, stressed the need to invest in transparency measures as one of the critical steps to developing on the country's nascent mortgage market. She noted that many people naturally do not have the urge to voluntarily declare or register their assets which could be relied upon as collateral. She favours enactments that would compel people to register their assets.

13. Suggestions for Constitutional Amendments

Commenting on some provisions in the Constitution which in her opinion must be amended, the nominee told the Committee she would like to see the constitutional provisions on Directive Principles of State Policy concretised. She contends that the justiciability of the provisions are difficult to determine and therefore must be amended to provide times frames within which the State must discharge the responsibilities imposed on it by the provisions.

14. Philosophy of Judges

The nominee is answering a question as to what her philosophy on the bench is, told the Committee that the paramount consideration of Judges in the determination of cases, is the law. Other considerations such as the faith and values of the Judges to her, are secondary. She cited an example of herself of being pro-life but emphasised that it would not matter in situations it in determination cases what she believes conflict with the law. Her judicial philosophy has been to work for the purpose of the law to be achieved.

15. Establishment of Democracy Fund to support Independent Constitutional Bodies

The nominee told the Committee that she supports the views of the Constitutional Review Commission that a Democracy Fund should be established to support the independent constitutional bodies. She is of the view that such a Fund could assist in asserting the independence of the Judiciary.

15. Application of Practice Directives by the Chief Justice in Justice Administration

The nominee agreed with the Committee that the Practice Directives are excellent judicial tools that could be employed by the Chief Justice to support the administration of justice in the country. She intimated that Practice Directive would assist greatly in cases where legislations are found “wanting” and would not hesitate to recommend more of such directives to the Chief Justices.

16. Measures to address delays in the Judicial System of the country

On measures to be adopted to address delays in the justice system the nominee admitted that delays in the judicial system are of concern to the Judiciary as well, and that her experiences point to the fact that the country must invest heavily in case management. She said the Judicial Service has been doing its best through the E-Justice program to improve on the judicial processes and that the only limitation is funding to scale it up to many parts of the country. She indicated that there was the need for the Bar to play complementary role by paying attention to the rules of courts to ensure the speedy dispatch of cases.

17. Need for Guidelines on Adjudication of Contempt Cases

In answering a question whether it would not be useful to have regulations guiding the adjudication of cases to reduce the discretion in the award of punishment in contempt cases, the nominee explained that contempt cases are quasi-criminal and that in such matters the law provide for elements that the judge must consider in deciding on the case. She alluded that the law requires that cases of criminal class has their punishment expressly stated in law but same cannot be said of quasi-criminal cases. She advised that Parliament was at liberty to pass a law to classify contempt cases as criminal cases and accordingly provide for appropriate punishments to be awarded.

18. Measures to tackle current Challenges with Legal Education in the Country

On the challenges facing legal education, the nominee stated that in her assessment the bane of the current challenges with the legal education was because of lumping of solicitors work with that of advocates. She explained that some people are not necessarily interested in becoming Advocates and many after completion of the law school do not practice at the courts. She suggested that the country should consider unbundling solicitors from advocates to give people options which could reduce some of the challenges that confront the sector.

19. Nominees Demeanor in Court

In response to a question on people perception of her demeanor on the bench, the nominee posited that, her demeanor in court which some lawyers have described to be very confrontational and uncompromising, on observation, perhaps emanate from her frankness to a fault approach to issues. She told the Committee that she was unable to dissociate herself from what is necessary to get the right thing done. She alluded that the application of a little diligence will move the court processes very quickly and ease the burden for judges and appellants and therefore she cannot hold back against inadequacies. She told the Committee, as one of the few judges who are very insistent on case management, her posture is usually misinterpreted.

Recommendation

The Committee recommends that the House approves *by consensus* the nomination of Justice Gertrude Araba Esaaba Torkornoo for appointment as Justice to the Supreme Court of Ghana.

8.0 CONCLUSION AND GENERAL RECOMMENDATION

The Committee has duly considered the nominations in the light of the provisions of the 1992 Constitution and Order 74 of the Standing Orders of the House, the Committee is satisfied that the underlisted nominees have exhibited character, competence, independent thinking and depth of understanding of the law.

They assured the Committee of the will to be above partisanship and interpret the law without fear or favour in the discharge of their duties.

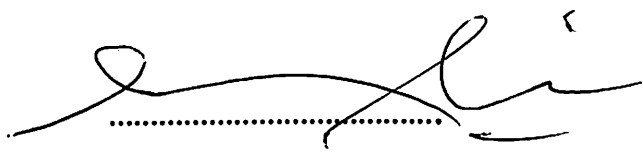
The nominees further demonstrated to the Committee that the Constitution being a living document would not be interpreted with their biases and that the spirit and letter of the law would prevail for the good of the citizenry.

The Committee accordingly finds the nominees suitable to be appointed as Justices of the Supreme Court of Ghana.

The Committee therefore recommends to the House to adopt its Report and to approve the following nominees unanimously as Justices of the Supreme Court of Ghana:

- i. Justice Mariama Owusu
- ii. Justice Avril Lovelace-Johnson
- iii. Justice Gertrude Araba Esaaba Torkornoo

Respectfully submitted.



**HON. JOE OSEI-OWUSU
(FIRST DEPUTY SPEAKER,
& CHAIRMAN
APPOINTMENTS COMMITTEE)**



**ASANTE AMOAKO-ATTA (MR.)
(CLERK TO THE COMMITTEE)**

December, 2019