

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

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



ON

**HIS EXCELLENCY, THE PRESIDENT'S NOMINATIONS
FOR APPOINTMENT AS JUSTICES TO THE SUPREME
COURT.**

DECEMBER, 2022

TWENTY-SEVENTH REPORT OF THE APPOINTMENTS COMMITTEE ON HIS EXCELLENCY, THE PRESIDENT'S NOMINATION OF JUSTICES TO THE SUPREME COURT

1.0 INTRODUCTION

On Tuesday 26th July, 2022, 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 four (4) Justices for appointment to the Supreme Court of Ghana.

The Rt Hon Speaker of the House in accordance with Standing Order 172, referred the Nominations to the Appointments Committee for consideration and report.

The names of the nominees are as follows:

- i. Justice Barbara Frances Ackah-Yensu
- ii. Justice Samuel Kwame Adibu Asiedu
- iii. Justice George Kingsley Koomson
- iv. Justice Ernest Yao Gaewu

2.0 REFERENCE DOCUMENTS

The Committee referred to the under-listed documents during the consideration of the nominees:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament;
- iii. The Curriculum Vitae (CV) of the Nominees; and
- iv. Certified Judgements of the Nominees

3.0 CONSIDERATION OF THE REFERRAL

Pursuant to Order 172(3) of the Standing Orders of Parliament, the names of the Supreme Court Nominees were published in newspapers for the attention of the

public. The publication also requested for Memoranda from the public in respect of the Nominees.

The Committee subsequently sought and obtained Confidential Reports in respect of the Nominees from the Ghana Police Service and the National Intelligence Bureau (NIB). Again, the Committee also requested and obtained Tax Status Reports on the Nominees from the Ghana Revenue Authority (GRA).

The Committee thereafter, held a Public Hearing on 18th and 19th October, 2022, to consider the nominations. The Nominees subscribed to the Witness Oath before proceeding to answer questions posed by Honourable Members. The Nominees were asked questions relating to their Curriculum Vitae, matters relating to judicial administration and justice delivery. Further enquiries were made about their eligibility, issues pertaining to the office to which they have been nominated and other issues of national concern.

The Committee, after its deliberations, reports on two of the Nominees:

- i. Justice Barbara Frances Ackah-Yensu
- ii. Justice Samuel Kwame Adibu Asiedu

4.0 JUSTICE BARBARA FRANCES ACKAH-YENSU (JUSTICE DESIGNATE TO THE SUPREME COURT)

4.1 BACKGROUND

Justice Barbara Frances Ackah-Yensu was born on 2nd February, 1955, in Cape Coast. She had her Middle School Education at Christ the King School in Accra from 1965 to 1967 from where she obtained the Common Entrance Certificate.

She had her Ordinary Level Education from 1967 to 1972 and Advanced Level Education from 1972 to 1974 both at the Wesley Girls High School in Cape Coast. She then proceeded to the University of Ghana to read Bachelor of Arts in Psychology and Sociology from 1974 to 1977. Subsequently, the Nominee obtained Qualifying Certificate in Law (QCL) from the Faculty of Law at the University of Ghana from January to September in 1979. She continued her professional legal education at the Ghana School of Law and was called to the Bar in 1981.

The Nominee obtained an Executive Master's Degree in Business Administration from China Europe International Business School in 2010. She had an Award of Excellence at the Chartered Institute of Arbitrators, United Kingdom (UK), The Queens College, Oxford University, UK in 2016, and obtained a Diploma in International Commercial Arbitration from the same Institution in 2019.

The Nominee served as a Marketing Officer with the Ghana Reinsurance Organisation in Accra for the mandatory national service from 1977 to 1979. She then went into Private Practice from 1981 to 2003 where she worked with institutions including Lynes Quashie-Idun & Co., National Investment Bank, Non-Performing Assets Recovery Trust, Ghanaian Australian Goldfields Ltd, Ashanti Goldfields Co. Ltd, and World Bank / Non-Performing Assets Recovery Trust in Uganda.

Justice Barbara Frances Ackah-Yensu was appointed Justice of the High Court at Tema in 2003. She then moved to the Commercial Court and served from 2005 to 2012.

In 2012, the Nominee was appointed Justice of the Court of Appeal, where she currently serves.

Regarding leadership positions, the Nominee was the First President of the National Investment Bank Ladies Club and also, the First President of the International Association of Women Judges – Ghana Chapter. She was one of the pioneer judges of the Commercial Court and served as the President of the Commercial Court from 2010 to 2012. Within the same period, the Nominee assisted in the establishment of a Commercial Court in the Kingdom of Lesotho, under the Country's Civil Legal Reform Project.

The Nominee was a member of the Board of the Judicial Training Institute in 2013 and currently serves as a member of the Governing Council of the University of Ghana. Justice Barbara Frances Ackah-Yensu is a member of the Chartered Institute of Arbitrators in the UK, the Association of Magistrates and Judges in Ghana, and the International Association of Women Judges. She co-authored a book entitled "**Alternative Dispute Resolution – A Ghanaian Perspective**"

Justice Barbara Frances Ackah-Yensu attended the Commercial Court Development Course held at the Royal Institute of Public Administration, London, UK, in 2004 and the Advanced Arbitration and Mediation Course at the International Law Institute, Washington DC, United States of America (USA) in 2010.

4.1 RESPONSES TO QUESTIONS

4.2 THE NOMINEE'S EVALUATION OF HER JUDGMENTS AT THE COMMERCIAL COURT

When Justice Ackah-Yensu was asked whether she had any judgments that she was proud of, or which she wishes could be reversed as a Pioneer of the Commercial Court, she stated that she puts much industry in every judgment she writes, that she is proud of all her judgments, and therefore, has no regrets.

4.3 FAITH, MORALITY AND LAW

When asked what she would do when her faith, conviction and morality are at variance with the law, Her Ladyship stated that if she feels strongly about a particular case, she would recuse herself from it. On morality and law, she stated that most cases do not require the weighing of personal morality against the law.

4.4 JUDICIAL ROLE MODELS

On who her judicial role models are, the Nominee stated that female judges who have risen to the top, especially, the female Chief Justices are her role models.

4.5 JUDICIAL ATTITUDE TOWARDS ILLEGAL MINING/GALAMSEY

The Nominee, when asked what her judicial attitude towards illegal mining would be considering the havoc that it is wrecking on our environment, she stated that she would apply the law as deemed fit to the crime committed. She again stated that she would look at the issues concerning galamsey and water pollution and apply Alternative Dispute Resolution (ADR) in finding solutions to them. Her preferred choice of doing justice to this case would however be sitting with both the perpetrators and the communities affected.

4.6 YEARS TO SERVE AT THE SUPREME COURT

When asked on the number of years that she would serve at the Supreme Court when her nomination is approved, the Nominee stated that she would serve the Superior Court of Judicature for two and a half years before proceeding on retirement as a Supreme Court Judge.

4.7 PUBLIC PERCEPTION OF CORRUPTION IN THE JUDICIARY

The Committee inquired from Her Ladyship, her opinion on the low image of the Judiciary. She indicated that more often than not, people confuse the Judges, the Prosecutors and all other employees of the Judiciary as part of the Judiciary. As such, any allegation of corruption levelled against any such persons are perceived to be against the Judiciary. She therefore, advocated for Ghanaians to be circumspect in their attack on the Judiciary.

The Nominee opined that despite the voluminous cases brought before the courts, which lead to delays in the execution of justice and some allegations of corruption, people still look up to the Judiciary to resolve their disputes. According to her, the number of cases brought to the courts have increased over the years and that is an indication of the continuous trust and confidence in the Judiciary. She again opined that, the Justices of the Supreme Court are bound by the judicial oath in the Constitution and that enjoins them to deliver justice without fear or favour.

The Nominee stated that she does not accept gifts in order to adjudicate cases in favour of persons who appear before her court. She recommended that the public should be educated on the meaning and circumstances under which a gift could be received or rejected. She, however, said that she would receive gifts from her relations and persons privately known to her.

The Nominee informed the Committee that, like any human institution, the Judiciary is saddled with its fair share of indiscipline and its related challenges. Nonetheless, there are internal mechanisms within the Judiciary to address litigations that would arise.

She further stated that, there are avenues for petitioning the Chief Justice or the Judiciary when a member of the public has a complaint against a Judge.

4.8 JURISDICTION OF THE SUPREME COURT

Justice Barbara Frances Ackah-Yensu informed the Committee that unlike other jurisdictions such as the United States of America, United Kingdom, Australia, Canada, and Nigeria, the jurisdiction of the Supreme Court of Ghana is wide and varied. She indicated that Article 129 of the 1992 Constitution provides the general jurisdiction of the Supreme Court to be the final Court of Appeal, which shall have such appellate and other jurisdiction as may be conferred on it by the Constitution. The Supreme Court among others, has supervisory jurisdiction over all courts and over any adjudicating authority as well as the exclusive jurisdiction in respect of presidential elections. She added that the varied jurisdiction of the Supreme Court accounts for the huge workload and subsequently, the number of judges appointed to facilitate the expeditious delivery of justice.

She however, stated that, the number of cases that go to the Supreme Court "as of right" should be re-looked at by stakeholders to ensure a reduction in the workload of the Supreme Court.

4.9 PROVISION OF LEGAL AID TO THE VULNERABLE

Responding to a question on whether it was fair for people to lose their cases because they could not afford a lawyer, she stated that it is sad for the vulnerable Ghanaian not to have access to justice simply because they cannot afford it. She recommended that the Ghana Bar Association should have a look at how to make provision for those who are financially constrained to enable them have access to justice. She again recommended that Legal Aid should be extended to all parts of the country.

4.10 DELAYS IN ADJUDICATING CASES

Commenting on the major problems facing the Judiciary with regard to delays in judgements, she stated that there are only 460 magistrates and judges for

the over 30 million people in Ghana. Her ladyship lamented that there are infrastructural limitations and as such, most districts do not even have proper structures and logistics to hear cases. She called for investment in the Judiciary as a matter of urgency.

Juxtaposing investing in the Judiciary and the current economic challenges facing the country, she advised that, there should be a balancing act between the economy and investment in the Judiciary, and that if we think peace is expensive, we should try war.

4.11 CAPITAL PUNISHMENT

The Nominee, in response to whether she believed in "life for life" and "death for death" stated that, based on her profession as a judge, her duty is to uphold the laws of Ghana and interpret same. However, as a Christian, she does not believe in capital punishment. She added that during her career as a judge, she has not been saddled with a situation where her personal beliefs conflict with the ethics of her profession. She stated that should such an internal conflict arise; she would recuse herself.

According to her, Ghana is described as an abolitionist in practice because although there are currently 172 persons on the death row, they are yet to be executed. She recommended that, the House should take a second look at the existing law and decide whether the Criminal Offenses Law requires some Amendment.

4.12 CAPPING THE NUMBER OF JUDGES APPOINTED TO THE SUPREME COURT

When asked if she supports the capping of the number of judges appointed to the Supreme Court pursuant to Article 128(1) and (2) and Article 144(2) of the 1992 Constitution, Her Ladyship indicated that in view of the workload at the Supreme Court resulting from its wide jurisdiction, there is the need to have

adequate judges to dispense with the plethora of cases that come before the Apex Court. Hence, she is of the opinion that the number of judges appointed to the Supreme Court is apt.

4.13 ALTERNATIVE DISPUTE RESOLUTION (ADR)

In response to whether Ghana has fully embraced the Alternative Dispute Resolution Act, 2010 (Act 798), the Nominee stated that there is the need for education and awareness on the benefits of ADR. She bemoaned the failure to provide Arbitration Centres as stated by the law.

As a pioneer Justice and former president of the Commercial Court, she stated that, beside commercial cases, it is imperative to also resolve all civil cases with ADR since it allows for speedy and more satisfactory determination of cases.

She said that in our traditional system, Customary Arbitration is engaged in settling disputes in our communities. She further stated that, even though one loses the right to an appeal with Alternative Dispute Resolution, the beauty of it is that, both parties sit and, reach an agreement and bring finality to the dispute.

When asked whether she would advocate for Pre-Trial Conference for all civil cases in the High Court, Her Ladyship was emphatic that she is a firm advocate of ADR and as such, would highly recommend Pre-Trial Conferences for all civil cases. She explained that this would aid the expeditious administration of justice in the country.

Her Ladyship informed the Committee that her biggest contribution to the Alternative Dispute Resolution is the book she co-authored with Justice Dennis Adjei titled, "**Alternative Dispute Resolution: The Ghanaian Perspective**". It is the first textbook on ADR for students reading law in Ghana.

4.14 JUDICIAL PHILOSOPHY

The Nominee in answering a question as to what her philosophy at the Bench is, stated that the paramount consideration of a Judge in a case is the Constitution. Her Ladyship indicated that, the hallmark of a good Judge is competence and knowledge of the law and the Constitution. She added that a judge must be fair, humble, patient, courageous, and have integrity as well as judicial comportment.

She further informed the Committee that her philosophy is fidelity to the Constitution, which contains all the directive principles of integrity, fairness and reticence.

4.15 POLITICAL INTERFERENCES IN THE JUDICIARY

On whether she perceived there was political interference in the Judiciary, the Nominee said she did not. She stated that, to the best of her knowledge, the Judiciary discharges its duties within the tenets of the Constitution and as such, if there is a unanimous decision in political matters such as the Election Petition, it is rather due to that area of the law. According to her, the issues that were interpreted were constitutional and formed part of the jurisdiction of the Supreme Court. She reiterated that even though there were perceptions that the decisions of the Supreme Court were political rather than constitutional, they were adjudicated upon within the Jurisdiction of the law.

4.16 APPOINTMENTS AND PROMOTIONS TO THE SUPREME COURT

The Nominee, in response to the unfair nature of promotions and appointments of Judges of the Court of Appeal to the Supreme Court, was of the view that it did not matter how long one stays at one position, as far as one efficiently discharges his duties. She declined to comment on the longevity of her service at the Appeals Court because in her opinion, the Constitution stipulates the qualification for promotions in the Judiciary, and when those provisions are

satisfied, she cannot challenge them. According to her, the Constitution draws a balance between the Executive, the Legislature and the Judiciary; that is why the Executive, in consultation with the Judicial Council, nominates Justices of the Courts and they are vetted by Parliament.

Even though there are financial implications to promotions to the Supreme Court, she suggested that there could be stakeholder conversations held dispassionately on the matter.

4.17 LAND LITIGATION

Justice Barbara Frances Ackah-Yensu opined that Article 257 of the Constitution and the **Land Act, 2020 (Act 1036)** vests lands in the hands of chiefs instead of the State and as such, there are always disputes to the ownership and boundaries of lands. She said a Specialised Land Unit was set up to resolve these disputes but the courts are still inundated with land cases and that is why delays in the adjudication of such cases are prevalent and almost unending. She suggested the use of ADR, and the education of the masses about its benefits and effectiveness in conflict resolution.

4.18 PRESIDENT OF INTERNATIONAL ASSOCIATION OF WOMEN JUDGES IN GHANA

The Nominee was asked what her greatest achievements were during her tenure as the president of the International Association of Women Judges in Ghana. The Nominee stated that as the first President of the Association, she organised conferences for judges and queen mothers and brought them up to speed on issues of Gender and Children.

4.19 POTENTIAL ABUSE OF NOLLE PROSEQUI BY THE STATE

On her view on the unrestrained use of *nolle prosequi* by the State, Justice Ackah-Yensu stated that the law gives the Attorney-General power to discontinue prosecution of cases where necessary with the assumption that it

would be used in the interest of the people and the State. She advised that if there is abuse of that discretion, stakeholders could appeal for redress.

4.20 LEGAL EDUCATION

In her response to a question on Legal Education in Ghana, she opined that the increase in the Ghanaian population means an increase in the number of students who want to study law and as such, there is the need to properly accredit schools. According to her, accreditation to these law schools is not consistent with acceptable standards and thus must be consistently monitored.

4.21 THE GENERAL LEGAL COUNCIL

The Nominee was asked whether the General Legal Council's directive to students who wrote the 2022 entrance examination at the Ghana School of Law to relinquish their rights to remarking and re-tallying was arbitrary and contrary to Article 23 and Article 296 of the 1992 Constitution. Her Ladyship said she could not conclude that the undertaking was unconstitutional or arbitrary as there are avenues for redress and the courts will determine the circumstances and facts of each case.

She intimated that even though, the Chief Justice and Supreme Court judges are on the General Legal Council, there are also others like, the Attorney-General and the President of the Ghana Bar Association and so she does not see why there is the perception of conflict of interest with regard to the Chief Justice. In her opinion, there is no need to call for the removal of these Superior Court Judges on the council. She said demand for accountability should not be an issue unless there is evidence of abuse.

4.22 CONGESTION IN THE PRISONS

On measures to decongest our prisons, Her Ladyship stated that there is the need for Government to provide more infrastructure and logistics to prisons.

She advocated that Judges should reconsider the sentencing mechanisms and adopt Non-Custodial Sentencing for some crimes. She also suggested the use of Victim Offender Conferences to alleviate the problem of congestion.

4.23 USE OF PUBLIC TIME FOR PRIVATE BUSINESS

The Nominee, when asked of her opinion on the use of public time for education and private business, said that furthering her education has never impacted negatively on her work. She said the programmes were either sponsored by the Bench or done during her legal vacation with permission from the Chief Justice.

4.24 RECOMMENDATION

The Committee recommends to the House by **Consensus** the approval of the nomination of **JUSTICE BARBARA FRANCES ACKAH-YENSU** for appointment as a Justice to the Supreme Court of Ghana.



5.0 JUSTICE SAMUEL KWAME ADIBU ASIEDU

(JUSTICE DESIGNATE TO THE SUPREME COURT)

5.1 BACKGROUND

Justice Samuel Kwame Adibu Asiedu was born on 9th April, 1966 in Accra. He attended Seventh Day Adventist (SDA) Primary School, Koforidua, from 1971 to 1972, L/A Primary School, Kaneshie North 3 and 4, Bubuashie, from 1972 to 1975, Methodist Primary School, Mangoase, from 1975 to 1976 and the Universal Academy Preparatory School, Bubuashie, from 1976 to 1979. He proceeded to City Secondary and Business College and Accra Academy for his General Certificate of Education, Ordinary and Advanced Levels from 1979 to 1983 and 1983 to 1985 respectively.

He was admitted to the University of Ghana in 1987. He graduated with LLB (Hons) in 1990 and proceeded to the Ghana School of Law for the Professional Law Course from 1990 to 1992. The Nominee read Public Administration at the Ghana Institute of Management and Public Administration (GIMPA) from 2009 to 2011. In 2012, he studied International Maritime Law in Swansea University, UK and graduated with a Master of Law (LLM) in 2013.

The Nominee worked at Kinbu Junior Secondary School from 1985 to 1986 under the National Service Scheme. He became an Audit Clerk at K. E. Wood and Company from 1986 to 1987. After his Professional Law Course, he did National Service at Legal Aid/Oyirifie Chambers, Koforidua from 1992 to 1993. From 1994 to 1995, he worked as a Legal Officer with the Commission on Human Rights and Administrative Justice. He worked as a Magistrate from 1996 to 2002, a Judge in the Circuit Court from 2002 to 2006 and a Justice of the High Court from 2006 to 2019. Between 2016 and 2018, the Nominee worked as an adjunct Lecturer at both Wisconsin and Central University Colleges. The

Nominee has been working as a Justice of the Court of Appeal since 2019 and also as a Senior Lecturer at the Ghana School of Law since 2020.

Justice Samuel Kwame Adibu Asiedu was a member of the Ghana Bar Association from 1992 to 1995. He has been a member of the Association of Magistrates and Judges of Ghana (AMJG) since 1996. He was again a member of the Chartered Institute of Taxation, Ghana, until 2016. He is currently a Resource Person for the Judicial Training Institute, a position he has held since 2016.

The conferences and workshops attended by the Nominee includes; The Grant of Bail in Narcotic Drug Cases in August, 2005, Pre-Trial Process: Freedom and Security of the Accused organised from 4th to 6th October, 2006, and "An overview of the Legal and Regulatory Framework for the Practice of Religion and Faith in Ghana" from 3rd to 6th October, 2010. He also attended a workshop in June, 2021 dubbed "Justice Delayed is Justice Denied – How does the Judicial System in Ghana give confidence to the diaspora investor."

Also, on capacity-building, he participated in a training on Narcotic Drugs and Money Laundering by the United Nations Office on Drug and Crime in October, 2005, Commonwealth Judges and Magistrates Association in "Judicial Reforms in the Commonwealth– Impact, Driving Force and the Future" in August, 2005. There was also a Seminar on Environmental Law organised by the United Nations' Environment, Sub Regional Sensitisation Office in March, 2006 and workshop on "The Role of the Court and Judges in Arbitration" organised by the International Center for Arbitration and Mediation Abuja, Nigeria, in March, 2016.

5.2 RESPONSES TO QUESTIONS

5.3 DELAY IN JUSTICE DELIVERY

The Nominee told the Committee that time management is key in dispensing justice, for "justice delayed is justice denied". He reiterated that delayed justice affects investor confidence in the Judiciary. He advocated for litigants to opt for Alternative Dispute Resolution (ADR), which is comparably quicker, cheaper, and a win-win situation.

He admitted that he is a strict adherent to time management and that had resulted in petitions against him. He said petitions also cause further delays in dispensing justice. He held that if a client is insincere, the lawyer should discontinue representation to save his name and reputation.

5.4 E-JUSTICE AND AUTOMATION OF COURTS

His Lordship touted the benefits of the implementation of E-Justice in the Courts for speedy adjudication. He mentioned amenities like E-service, which allows for service without a bailiff, and service via email or WhatsApp. E-Justice according to the Nominee, allows for online filing of court papers. He similarly admitted to the fact that the successful implementation of the programme does not wholly reside with the Judiciary but also availability the internet. The Nominee held that the implementation is a process and added that lack of funds has inhibited the implementation of the pilot programme nationwide.

He said the Supreme Court rules do not totally lend themselves to E-Justice, hence, the need to amend the rules to conform to the E-Justice system.

5.5 CONFLICT BETWEEN NOMINEE'S FAITH AND THE LAW

Justice Adibu Asiedu expressed his views on conflict of law with regard to religion and the law. He stated that if his religious views conflicts with the law, he would choose the law because he is at the Court to administer justice.

When the Nominee was asked where he derives guidance for his work, he said he seeks divine guidance from his religion.

He asserted that if the Court would have to sit on a Saturday, he would inform the Chief Justice that he is an Adventist and attends Church service on Saturdays. Regardless, if the matter borders on the Security of the State, then he would sit on a Saturday.

5.6 SEPARATION OF POWERS AND RESIDUAL POWERS OF PARLIAMENT

His Lordship specified that there is separation of powers within the Legislature and the Judiciary, and per Article 110 of the 1992 Constitution, the Legislature regulates its own procedures. However, if a provision conflicts with the 1992 Constitution, then the Legislature becomes subservient to the 1992 Constitution. In reference to a case in which the Supreme Court directed the Legislature to strike out Standing Orders 109 (3) with the reason that it contravenes the Constitution, the Nominee stated that he was unaware of any such case at the Apex Court.

5.7 DESTRUCTION OF THE ENVIRONMENT AND WATER BODIES BY GALAMSEY OPERATIVES

The Nominee espoused that communities engaged in the destruction of the environment should be educated on the vices of their activities. The youth should specifically be the target of such education since they claim they engage in "galamsey" due to unemployment. The Nominee said their claim is not an excuse to indulge in such an activity. He reiterated that as a Judge, he would enforce the law against the destruction of the environment.

When asked of his opinion on the visit to the "galamsey" site by members of the Christian Council, His Lordship stated that, he would plead with the Chief Justice for the Judiciary to also pay a working visit to the "galamsey" sites. In his opinion that would inform the justices of the Apex Court of the magnitude

of the "galamsey" menace, and aid them in their judgements against illegal mining.

5.8 RELIGIOUS LEADERS AND ACCOUNTABILITY

The Nominee stated that religious leaders like the rest of the citizenry should be held accountable for their conduct and stewardship. Religious leaders who indulge in exorcism, bathing pregnant women among others, should be held accountable. They should not be allowed to take advantage of the vulnerable. These abuses hardly transpire at the orthodox churches, but rather at churches referred to as 'one-man churches'. He opined that society should take a second look at those churches so that structures could be put in place for tax purposes and regulation of their activities.

5.9 PRO BONO SERVICE BY LAWYERS

The Nominee agreed that *pro bono* services should be regulated to allow many lawyers to render legal service on *pro bono* basis. He agreed to the suggestion that *pro bono* should be a pre-requisite for renewal of solicitor's licenses.

5.10 DEATH PENALTY ON STATUTE BOOKS

Justice Adibu Asiedu stated that he does not subscribe to the death penalty. He was of the view that mistakes do occur in trials, but once a life is taken, it is irreplaceable. He, however, mentioned that the death penalty would be applied as long as it stands in our statute books, and thus, welcome the introduction of a Bill in Parliament to replace the death penalty with life sentence.

5.11 ADMISSIONS TO THE GHANA SCHOOL OF LAW

The Nominee, who is also a lecturer at the Ghana School of Law mentioned that admission to the Ghana School of Law has always been thorny and

problematic. He reiterated that the issue has been exacerbated by inadequate space and infrastructure.

Regarding the declaration by the school that students would not have recourse to their marks and subsequent remarking, His Lordship stated that, students could take the Ghana School of Law to court to challenge the directive.

He encouraged students to persevere in their quest for legal education. He also said that the accreditation system for legal education should be given a second consideration.

When asked whether the Ghana School of Law should be decentralised, the Nominee submitted that the Ghana School of law is decentralised because there are branches in Kumasi, and other locations in Accra. However, there must be investment in the Ghana School of Law to meet the growing demands for professional law education.

5.12 HIS NOMINEE'S PHILOSOPHY TO THE INTERPRETATION OF THE LAW

The Nominee submitted that his approach would be to bear truth, faith and allegiance to the Constitution. He alluded that every case is different, and there are occasions where the Constitution does not provide for direct interpretation of the law. In such instances, he would resort to research for interpretation. He mentioned that research would not be the sole aid to his interpretation of the law and that our cultural practices and values would also find expression in his interpretation of the law.

5.13 RIGHTS OF ACCUSED PERSONS UNDER ARTICLE 19 OF THE 1992 CONSTITUTION

Justice Adibu Asiedu dismissed the notion that accused persons are sometimes surprised in our courts. According to him, the trial procedure is a process where evidence is adduced to support a particular offence. Evidence that does not

support a substantive offence can be adduced to support a lesser charge against the accused; this does not constitute a surprise against the accused. Besides, the accused person is allowed under the law to engage in cross-examination.

5.14 ALTERNATIVE DISPUTE RESOLUTION (ADR)

The Nominee admonished litigants to opt for settlement as against litigation. He espoused the Alternative Dispute Resolution (ADR) system as fast, relatively cheaper, and a win-win situation for participants.

He held that fees of Lawyers play a significant role in their inspiration for clients to settle. Thus, a structure should be put in place to encompass fees for legal representation.

5.15 OVER CROWDED PRISONS

In dealing with prison reforms, he mentioned a couple of remedies; he advised that those who ought to be committed to bail should be granted bail. Non-custodial sentences like community service should be encouraged. Economically, community service tends to benefit society because the State would not be responsible for their up-keep.

His Lordship further added that weekend visitations should be instituted for certain category of prisoners to spend some time with their partners and relatives. Most importantly, prison infrastructure should be expanded to deal with the ever-growing population of inmates.

5.16 RECOVERY OF FEES BY LAW FIRMS

When the Nominee was asked of his opinion on the principle espoused in the case of **TONY LITHUR vs. GHANA COCOBOARD**, the Nominee explained that per the provisions in the **Legal Profession Act, 1960 (Act 32)**, it is only a lawyer who is considered a natural person, and can sue to recover legal fees. This

response was in consonance with the ruling of the judge in the above-named case, when he stated that:

"According to the Act, it is such natural persons whose names are entered on the Roll of lawyers who may, subject to being licensed, to practice law, whether as barrister or solicitors or both, and who are given the power under the Act to sue to recover fees, charges and other disbursements for services which they have rendered to their clients."

The nominee emphasised that per the decision in the case, law firms do not qualify as natural persons and cannot, therefore, claim legal fees.

When the Nominee's attention was drawn to the ruling in the case of **SCIPION CAPITAL (UK) vs. ATUGUBA & ASSOCIATES [2021] DLCA11108** which has changed the position of the law to permit law firms to claim legal fees, he thanked the Committee for the information and promised to educate himself on the new position of the law.

5.17 ADJUDICATION OF LAND CASES IN COURT

According to Justice Adibu Asiedu, the 1992 Constitution stipulates that all Land cases be referred to the Courts for adjudication. It did not make room for administrative Tribunals that would have dealt with cases of land reparations and incidental issues. He said that so long as population continues to grow, issues of such nature would avail themselves.

He reiterated that reforms like E-Justice and automated Courts have aided in the administration of Justice, and the State must abide by the provisions of the Constitution in dealing with vested lands.

5.18 BUILDING OF NATIONAL CATHEDRAL

When asked about his opinion regarding the National Cathedral, he humbly asserted that Judges should be left out of such controversies.

5.19 HOLDING OF CERTAIN POLITICAL POSITIONS BY PERSONS WITH DUAL CITIZENSHIP

The Nominee's position was that he would not encourage an amendment to allow for dual citizens to hold certain positions in the Republic. He specifically mentioned the position of the Inspector General of Police (IGP).

5.20 PERCEPTION THAT THE JUDICIARY IS TAINTED WITH POLITICS

His response to the perception of politics in the Judiciary was that, certain cases assume political colours, but once they find their way into the court room, their political colours evaporates. He emphasised that the Court is interested in wrongs committed, and not politics.

5.21 NUMBER OF JUSTICES OF THE SUPREME COURT AND CRITERIA FOR APPOINTMENTS

Justice Adibu Asiedu opined that the number of Justices at the Supreme Court should not be considered in isolation. He submitted that the Supreme court sits in sets of five (5) and seven (7), which translate into only two (2) sets at any given time. In his estimation, a membership of twenty-one (21) Justices is ideal for the Supreme Court of Ghana.

He admitted that he is mindful of what it takes to maintain a Justice of the Supreme Court, and equally mindful of the reverse, if there are fewer Justices than needed to attend to the Court's jurisdiction.

Though the appointment to the Supreme Court is the prerogative of the President, he concurred that the citizenry would be glad to know the criteria for nominating persons to the Apex Court.

5.22 MENACE ON SOCIAL MEDIA AND ABUSE OF RIGHT OF INDIVIDUALS

When the Nominee was asked about his opinion on how the menace on social media infringes on the right of the individuals, He advised that those whose rights have been breached by the media, and have the means to pursue legal

remedy should do so. He added that those who cannot afford litigation should make formal complaints to the National Media Commission (NMC).

He advocated that pictures of suspects should not be paraded on social media because they are presumed to be innocent until proven guilty. Although the media similarly claims to have a right to protect the public, he submitted that it is a balancing act.

5.23 QUORUM IN PARLIAMENT

When asked of his position on Parliamentary quorum, the Nominee stated that the quorum for Parliament is what is stated in the 1992 Constitution and the Standing Orders of Parliament.

5.24 THE USE OF *NOLLE PROSEQUI* BY THE ATTORNEY-GENERAL

On his opinion of the abuse of *nolle prosequi*, the Nominee submitted that *nolle prosequi* is a right given to the Attorney-General under our laws. He is not in a position to ascertain whether it is used indiscriminately or otherwise.

5.25 ECONOMIC MISMANAGEMENT AND PROTECTION OF THE ORDINARY MAN BY CHRAJ

The Nominee contended that he has not engaged with the Commission for Human Rights and Administrative Justice (CHRAJ) since 1995, and hence not capable of commenting about the Commission. He, however, remarked that CHRAJ could only engage in activities that fall within its mandate.

5.26 CHIEFTAINCY DISPUTES AND THEIR RESOLUTIONS

When inquired by the Committee on what judges should do when factions refuse to accept judgements that go against them, the Nominee stated that duties of Judges are expensed by the pronouncement of their judgements. Factions that refuse to accept these judgements and resort to violence should be handled by law enforcement agencies.

5.27 WHETHER NOMINEE HAS BEEN THE SUBJECT OF ANY JUDICIAL ENQUIRY

He answered in the affirmative and said a petition was brought against him in a marine case. The petitioner claimed that he, the presiding Judge, was biased against him due to his association with the opposing party. The General Legal Council considered the petition and he was exonerated.

5.28 PARLIAMENTARY RATIFICATION

The Nominee was asked to express his view on whether Parliamentary ratification is the responsibility of the executive or the private player. The Question was in reference to a case similar to the Exon Cubic Case. The Nominee respectfully declined to comment because the matter is sub judice.

5.29 JURISDICTION OF THE SUPREME COURT

When the Nominee was requested to express his views on whether the jurisdiction of the Supreme Court be maintained, Justice Adibu Asiedu opined that the jurisdiction of the Supreme Court should be limited to Interpretation of the law, Review of Legislation and Election petitions.

5.30 RECOMMENDATION

The Committee recommends to the House by **Consensus** the approval of the nomination of **JUSTICE SAMUEL KWAME ADIBU ASIEDU** for appointment as a Justice to the Supreme Court.

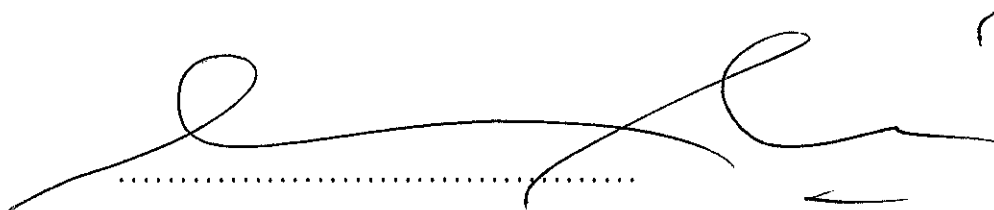
6.0 CONCLUSION AND GENERAL RECOMMENDATION

The Committee in the light of the provisions in Article 128(4) of the 1992 Constitution and Standing Order 74 considered the two Nominees of H.E. the President as Justices to the Supreme Court. The Nominees demonstrated dexterity in the knowledge of the law and showed character and

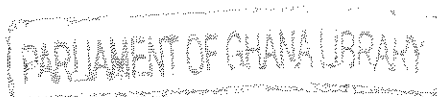
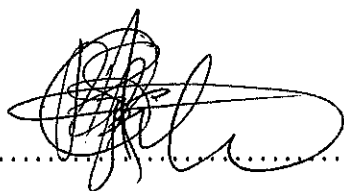
competence. They pledged to interpret the law without fear or favour and eschew partisanship in their rulings.

The Committee, therefore, recommends to the House by **consensus**, the approval of **JUSTICE BARBARA FRANCES ACKAH-YENSU** and **JUSTICE SAMUEL KWAME ADIBU ASIEDU** as Justices to the Supreme Court of Ghana. The Committee also requests the House to adopt its report and approve the nominees as Justices to the Supreme Court.

Respectfully submitted



HON. JOSEPH OSEI-OWUSU
(FIRST DEPUTY SPEAKER AND CHAIRMAN OF THE APPOINTMENTS COMMITTEE)



ANITA QUARTEY-PAPAFIO
(HEAD, GOVERNANCE CLUSTER OF COMMITTEES AND CLERK TO THE COMMITTEE)