

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

**THIRD REPORT OF THE
APPOINTMENTS COMMITTEE**

**ON NOMINATIONS FOR APPOINTMENT
TO THE SUPREME COURT**

30th May 2008

1.0 INTRODUCTION

Pursuant to Article 144 (2) of the Constitution, His Excellency the President communicated to Parliament his nomination of four Justices of the Court of Appeal for appointment as Justices of the Supreme Court of the Republic of Ghana. They are:

- i. Mr. Justice J. Dotse
- ii. Mr. Justice Paul Baffoe-Bonnie
- iii. Mr. Justice Anin-Yeboah
- iv. Ms. Justice R. C. Owusu

1.1 In accordance with Order 172 (2) of the Standing Orders, the Speaker referred the nomination to the Appointments Committee on 19th March 2008 for consideration and report.

1.2 Owing to the fact that at the time of the referral, the House was busily completing its business for the First Meeting, the Committee decided to consider the nominees during the second meeting.

1.3 The Committee held public hearing on Tuesday 27th May 2008 to consider the nominees and hereby reports as follows:

2.0 REFERENCE DOCUMENTS

- i. Constitution of the Republic of Ghana, 1992
- ii. Standing Orders of the Parliament of Ghana

3.0 PROCEDURE ADOPTED

In accordance with Order 172 (3), the nomination was published in the mass media to inform the general public and to invite their views in the form of written memoranda on the suitability, experience and capability of the nominees for the position.

On appearing before the Committee, the nominees testified on oath and answered questions on a range of issues in relation to their office and duties.

4.0 OBSERVATIONS

No adverse reports, petitions or objections were received on any of the nominees.

The Committee noted that all the nominees have the requisite qualifications and experience to be appointed to the high office of the Justices of the Supreme Court.

Certain pertinent questions were posed, to which the nominees gave various answers. Central among them were: public perception and indeed the reality of corruption within the Judiciary, opinions about the Capital Punishment and possible amendments to portions of the Constitution of Ghana (1992).

All four nominees acquitted themselves creditably and actually proved themselves knowledgeable, competent and capable of occupying the positions to which they have been nominated.

4.1 Mr. Justice Anin Yeboah

4.1.1 Resume

Mr. Justice Anin Yeboah is currently a Justice of the Court of Appeal with twenty-Seven (27) years Standing at the Bar having been called in 1981. He was born on 24th May, 1953 at Toase and attended Amaniampong and Apam Secondary Schools from 1968 to 1976. He holds a BA (Hons) in Law and Political Science from the University of Ghana and BL from the Ghana School of Law. He was appointed to the Bench in 2002 as a High Court Judge and subsequently rose to his present position after recommendation to the bar. Before then Justice Yeboah had been a successful private practitioner and had held many positions in the Bar Association.

He travelled widely and attended many conferences, seminars relating to law and the Judiciary.

4.1.2 Capital Punishment

The nominee told the Committee that he does not subscribe to the imposition of capital punishment on convicts because it does not address the critical issues of deterring crime. Besides, an innocent person may be sentenced to death only to be exonerated later.

4.1.3 Improvement of Logistics

Justice Anin commended the District Assemblies for their effort in nation building but he, however, expressed the need for their continued assistance with respect to justice delivery in the country by providing court rooms in the districts. He also appealed to Parliament to give legal backing to the judiciary to retain 50% of their IGF instead of the current 15% retention, as it was woefully inadequate. According to him, with the approval of 50% the Judiciary could build more infrastructural facilities and court rooms to avert the situation where magistrates sit on verandas to adjudicate cases in some communities.

The nominee also advocated for the establishment of special tribunals to adjudicate cases that might arise from peculiar circumstances and execution of particular projects such as Bui Dam and related special needs and problems to avoid overcrowding at the courts.

4.1.4 Achievements

One significant judgment he believed he delivered and might want to recommend for reading to those who may be interested was the case of Kwame Addo versus CHRAJ. In his narration, the nominee stated that he considered that case '*Locus Classicus*' in the sense that his judgment from the high court went to the Supreme Court and was confirmed. The judgement in question laid a principle that the High Court has supervisory jurisdiction over CHRAJ and its holdings and activities.

4.2 Ms. Justice Rose Constance Owusu

4.2.1 Resume

Justice Rose Constance Owusu is a Justice of the Appeal Court with Thirty-Nine (39) years standing at the Bar. She was called to the Bar in 1969 upon completion of the Barrister-at-Law programme at the Ghana School of Law. She was born on 25th August, 1944 at Koforidua and attended Wesley Girl's High and Aburi Girl's Secondary Schools from 1958 to 1964.

She holds LLB (Hons) from the University of Ghana and BL from the Ghana School of Law. In March 1973 she was appointed as a State Attorney in the Attorney-General's Department. Having performed creditably, she was promoted to the rank of Snr. State Attorney, Second in Command in 1976 and progressed to the position of Principal State Attorney 1983. She was then appointed to the Bench on 19th September, 1989 as a High Court Judge and steadily progressed to his current position in April, 1999.

4.2.2 Capital Punishment

In expressing her views on capital punishment, Justice Rose Owusu was emphatic about her position and said that she had always supported capital punishment and would not advocate for its abolishment. She was firm on the law and stated that "he who kills must be killed". The nominee clarified her position on the matter by quoting a portion of the Bible with specific reference to Matthew 26:52 where Jesus Christ rebuked Peter after he had cut the earlobe of one of the soldiers who had come to arrest him at Gethsemane and said to Peter, ".anyone who draws the sword must die by the sword".

She added that as far as she was concerned there had not been any instance where the review of cases of capital Punishment have been positive, since a wider opportunity given to prove ones innocence was adequate before an execution was carried out.

In response to whether the state would not be committing murder if it executes Capital Punishment, the nominee said that the state would only be performing its constitutional mandate and it would therefore be improper for people to conclude that the state is equally guilty as individual criminals.

4.2.3 Corruption in the Judiciary

Ms. Justice R. C. Owusu stated that it is difficult to substantiate cases of corruption especially those involving judges. Nevertheless, she admitted that as a human institution there could be some element of truth in the perception, but to her the situation was not that ugly as it is perceived to be.

She told the Committee that corruption could be reduced to the barest minimum if 'givers do not give'. She informed the Committee that she tried to stand by her principles during her twenty (20) years of service in the Judiciary. Citing an instance, the nominee said she once had to return a carton of fish delivered to her house from an unidentified source to the police station.

4.3 Mr. Justice Paul Baffoe-Bonnie

4.3.1 Resume

Justice Paul Baffoe-Bonnie is currently a Justice of the Court of Appeal with twenty-five (25) years standing at the Bar having been

called in 1983. He was born on 26th December, 1956 at Goaso and attended Konongo-Odumase Secondary School from 1969 to 1976.

He holds LLB (Hons) from the University of Ghana and BL from the Ghana School of Law. After a successful carrier in private practice, he was appointed to the Bench in 1992 as a Circuit Court Judge and subsequently rose steadily to his present position. He has worked in four (4) regions of the country and currently President of the Fast Track High Courts.

4.3.2 Long-term Sentence

Justice Boffoe-Bonnie told the Committee that even though he subscribed to the decongestion of the prisons, long-term sentences given to Attaa Ayi and his accomplices was necessary to deter other armed robbers.

The nominee told the Committee that in the case of Attaa Ayi, he took judicial notice of public concern over the spread of violent armed robbers then in the country. He therefore delivered a harsh sentence to keep the convicts away from the society for a long while.

4.3.3 Appointment to the Supreme Court

The nominee disagreed with the perception that he was too young to be nominated for the Supreme Court. According to him, his experience on the Bench and a little above a year and - a - half at the Appeal Court was not peculiar. Giving instances, he mentioned Ms. Justice Sophia Akuffo who rose to the Supreme Court before age 48 and Justice Azu Crabbe who was appointed to the Supreme Court right from High Court. The nominee contended that in the circumstance he was not too young to be nominated and appointed to the Supreme Court.

4.3.4 Corruption in the Judiciary

As regards the perception of corruption within the Judiciary, the nominee indicated that the perception has moved from that stage to the realm of reality. In his view however the situation appears to have been exaggerated much more than the reality.

He told the Committee that studies have shown that less than 15 percent of the existing corruption could be attributed to judges and the remaining 85 percent was attributed to other staff of the Judiciary. He also indicated that out of 90 percent of litigants who expressed the interest of seeing the judges only 10 percent succeeded whiles the rest ended up in the pockets of other people who ostensibly influence judges.

4.4

Mr. Justice Jones Victor Mawulom Dotse

4.4.1 Resume

Justice Dotse is currently a Justice of the Court of Appeal with thirty (30) years standing at the Ghana Bar having been called in 1978. He was born on 8th June, 1953 and attended Kpando Secondary School and Accra Academy from 1966 to 1973 respectively.

He holds LLB (Hons) from the University of Ghana. He was called to the Bar in 1978 upon completion of the Ghana Law School in the same year. Justice Dotse was in private practice before he was appointed to the Bench in June, 2002 as a High Court Judge and subsequently progressed to his current position. Justice Dotse currently serves in the Gambian Judiciary from 5th February, 2008 as a Justice of the Supreme Court of the Gambia.

4.4.2 Perceived Corruption in the Judiciary

In response to a question on corruption, Justice Dotse indicated that the perception of corruption has moved beyond perception to reality. He however, stated that findings have proved that though these perceptions may be true, people must be prepared to move beyond allegation to actually substantiate cases of corruption involving judges and other Judicial Officers.

He was of the view that which ever angle corruption is viewed in the judicial system it could be dealt with. He cited instances such as delays in the execution of cases due to the work load of the judiciary as a cause to the problem. In his opinion needed infrastructure and logistics and improved remuneration and provision of infrastructure by Government would serve as a means of reducing the incidence of corruption.

Justice Dotse with the rest of nominees appealed to the Honourable House to allow them to retain 50% of the Internally Generated Funds to assist in their developmental process and reduce the rate of dependency on the Government.

4.4.3 Establishment of Electoral Court

With regard to the establishment of an electoral court system, Justice Dotse told the Committee that he will advocate for the establishment of an electoral court to reduce the numerous cases that are pending before the courts. He acknowledged the innovation by Her Lordship Chief Justice in the establishment of a Saturday court to help reduce the backlog of cases pending.

4.4.4 Expertise

Justice Dotse told the Committee that his vast experience as a Supreme Court Judge at the Gambian Supreme Court will offer him a greater opportunity to contribute immensely to the developmental process and improve upon its work.

4.4.5 Capital Punishment

Justice Dotse told the Committee he does not subscribe to the imposition of Capital Punishment on convicts and will therefore advocate for its abolishment. He further explained that some innocent persons who have suffered from the death penalty only turn out to be exonerated later.


4.4.6 Justiceability of Chapter Six (6) of 1992 Constitution

When asked about his opinion on Justiceability and enforcement of provisions of Chapter 6 of the 1992 Constitution, which are referred to as 'Directive Principle of State Policy', Justice Dotse stated that he does not believe that in his opinion they are justiceable and enforceable, because he believed that they are guiding principles for public servants, Judges, Politicians and Citizens of the country.

7.0 CONCLUSION AND RECOMMENDATION

The Committee has carefully examined the eligibility of the nominees: Mr. Justice J. Dotse, Mr. Justice Paul Baffoe-Bonnie, Mr. Justice Anin-Yeboah and Ms. Justice R. C. Owusu for appointment as Justices of the Supreme Court and was observed that the nominees were forthright in their answers to questions put to them. They demonstrated confidence and good knowledge of the law and on relevant national issues.

Based on these findings therefore, the Committee recommends the four (4) nominees, by consensus, for approval by this Honourable House.


Linda Gyekye Boadu
Clerk to the Committee


Hon. Frederick W. A. Blay
1st Deputy Speaker and Chairman,
Appointments Committee

30th May 2008