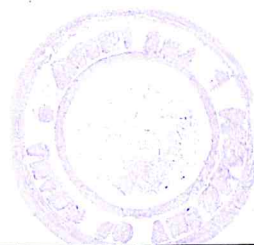


**IN THE FIRST SESSION OF THE SEVENTH
PARLIAMENT OF THE FOURTH REPUBLIC OF
GHANA**

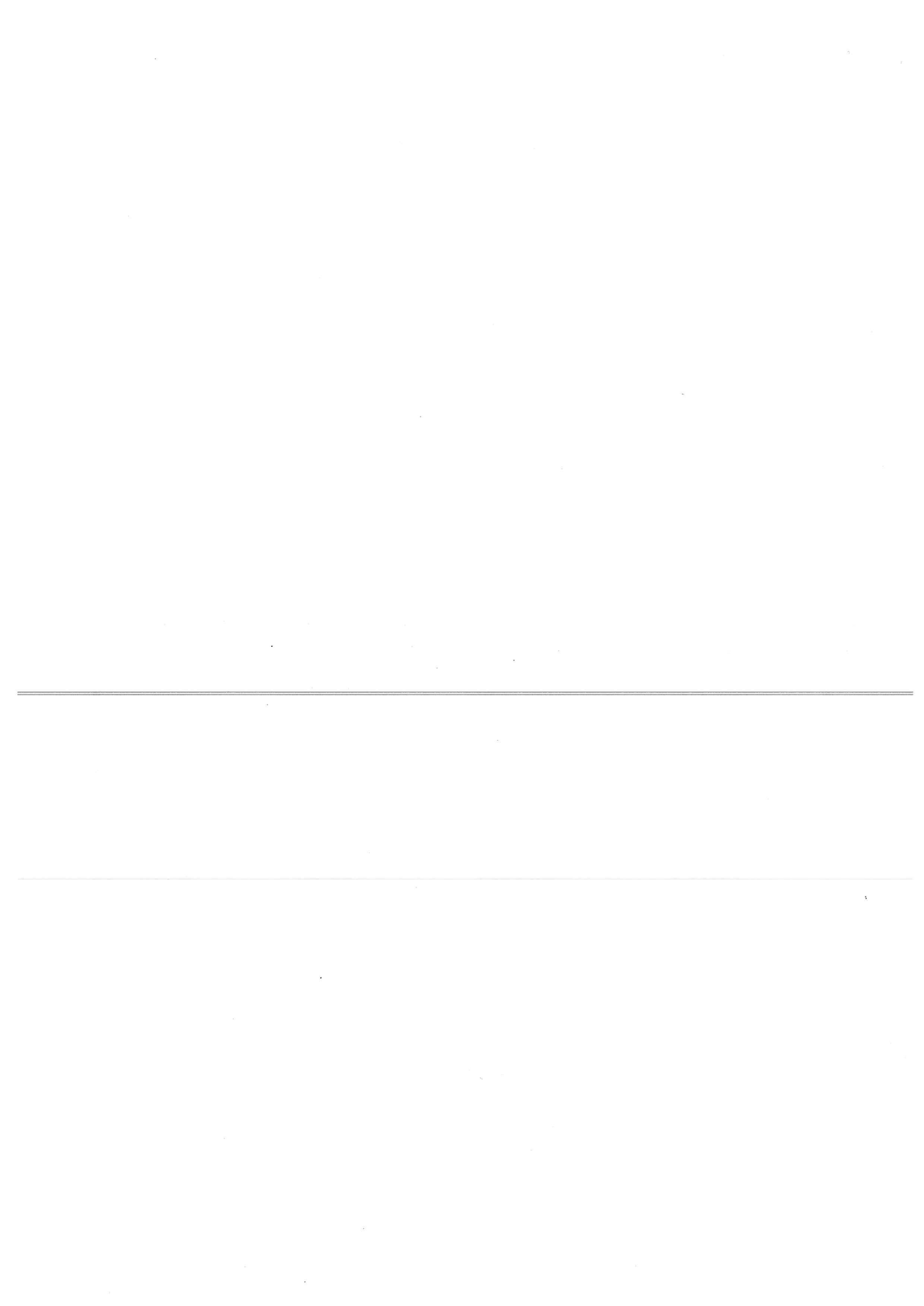
**TWELFTH REPORT OF THE APPOINTMENTS
COMMITTEE**

ON

**HIS EXCELLENCY THE PRESIDENT'S
NOMINATION FOR THE CHIEF JUSTICE OF
THE REPUBLIC**



20 JUNE, 2017



**TWELFTH REPORT OF THE APPOINTMENTS COMMITTEE ON
HIS EXCELLENCY THE PRESIDENT'S NOMINATION FOR
THE NEXT CHIEF JUSTICE OF THE REPUBLIC**

1.0 INTRODUCTION

In accordance with Article 144 (1) of the 1992 Constitution, H. E. the President of the Republic exercising his due prerogative and after prior consultation with the Council of State communicated to Parliament on Thursday, 1st June, 2017 his nomination of Her Lordship, Justice Sophia Abena Boafoa Akuffo, Justice of the Supreme Court as the next Chief Justice of the Republic of Ghana.

Consequently, the nomination was referred to the Appointments Committee by the Rt. Hon. Speaker for consideration and report pursuant to Order 172(4) of the Standing Orders of the House.

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. The Nominee's Curriculum Vitae; and
- iv. Selected Judgements and Publications of Her Lordship, Justice Sophia A. B. Akuffo.

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 newspapers of national circulation, the name of the nominee and notice of the Committee's Public Hearing for the attention of the general public. The publication further requested Memoranda from the general public on the nominee.

3.2 The Committee subsequently obtained Confidential Report on the nominee from the Ghana Police Service and the Bureau of National Investigations (BNI) as part of its background checks. The nominee's Tax Status Report was obtained from the Ghana Revenue Authority (GRA).

3.3 A Public Hearing was thereafter held to consider the nomination. At the start of proceedings, the Nominee subscribed to the Oath of a Witness and

subsequently answered questions relating to her Curriculum Vitae, matters relating to her eligibility, issues pertaining to Judicial administration and other issues of national concern.

3.4 The Committee has duly considered the nomination and report as follows:

4.0 BACKGROUND

Justice Sophia Abena Boafoa Akuffo was born on 20th December, 1949 at Akropong-Akwapim in the Eastern Region. She had her primary education at Konongo-Odumase United Primary School (1955), Kyebi Presbyterian Primary School (1955 - 1956), Osu Presbyterian Girls' Primary School (1956-1957), Kyebi Presbyterian Primary School (1957), Osu Presbyterian Girls' Primary School (1958-1959), Nsawam Presbyterian Primary School (1959) and Suhum Presbyterian Primary School (1960-1961).

She continued at Oyoko-Koforidua L.A. Middle School (1961-1962) and later enrolled at Parliament Hill School, Kampstead, London, England in 1962 where she obtained her G.C.E. Ordinary Level Certificate- 1966. From 1966 to 1967, Justice Akuffo registered as a private candidate at the London University for another G.C.E. Ordinary Level Certificate. She later attended the Wesley Girls High School in Cape Coast for her G.C.E. Advanced Level Certificate from 1967 to 1969.

Justice Sophia Akuffo attended the University of Ghana in 1969 and was awarded an LLB Degree in 1972. In 1974, on a Fulbright Scholarship, she obtained her LLM Degree at Harvard Law School, Cambridge, Massachusetts and was awarded a BL certificate from the Ghana School of Law in 1975.

The Nominee started her career as a National Service Person at the Legal and Consular Section of the Ministry of Foreign Affairs from 1975 to 1976 and as Legal Associate at U. V. Campbell & Co (1976-1977), Legal Associate, Fugar & Co (1977-1979), Legal Officer and Deputy Corporation Secretary at Ghana Airways Corporation (1979-1982). She was later employed as the Legal and Relations Manager and Company Secretary for Mobil Oil Ghana with functional responsibility for Mobil Oil, Liberia and Sierra Leone from 1982 to 1992. She later became a Managing Consultant at Akuffo Legal Consultancy from 1992 to 1995.

On 30th November, 1995, Justice Sophia A. B. Akuffo was appointed as a Justice of the Supreme Court of Ghana and has been a Justice of the Supreme Court

till date. From February 2006 to September 2014, she was a Member of the African Court on Human and Peoples' Rights.

She has held a number of leadership positions including the Chairperson of the Disciplinary Committee of the General Legal Council (2003 to date), Vice President of the African Court on Human and Peoples' Rights where she served out two statutory terms of two years (2008-2012), President of the African Court on Human and Peoples' Rights (2012-2014), Head of the African Union General Elections Observation Mission to the Republic of Mozambique and Uganda October 2014 and February 2016 respectively. Chairperson of the Board of Directors of the IBIS Ghana Civil Society Governance Fund (2004-2006), Chairperson of the Council for the Law Reporting (2001-2005), Chairperson of the Judicial Task Force on Alternative Dispute Resolution (2002-2004) and the Chairperson of the Ghana Civil Aviation Authority (1991-2001).

Among the honours accorded Her Lordship, Justice Sophia A. B. Akuffo, an alumnus of the Wesley Girls' High School, was the Wesley Girls' High School English Literature Prize (1969), the Mensah Sarbah Prize for the Best Law Student (1975) and the recipient of the President's 2000 Millennium Excellence Award for Outstanding Statesmen and Women of Ghana.

4.0 RESPONSE TO QUESTIONS

The Conditions of Service of Magistrate and Judges

When the nominee was asked what she would do about the conditions of service of the Magistrates and Judges of the lower Courts, she informed the Committee that when she assumes office as the Chief Justice, she would review the current conditions of service of the Magistrate and Judges including the environment in which they work and make proposals for change. She indicated that she would streamline the issue of promotion to ensure fairness.

Archaic Guidelines and Regulations

As to what she would do about some of the old guidelines and regulations regarding the legal profession particularly the issue of self-advertising, the nominee stated that there is a continuous review of the procedures regulating the law profession to correspond to modern trends. She informed the Committee that in the course of the application of the law, one may come across many rules which are old and archaic. She stated that the General Legal Council regulates the Bar in accordance with the Legal Profession Act, 1960(Act

30) and the ethics of the profession. She maintained that dignity of the Bar is as important as dignity of the Judiciary. She indicated her resolve to ensure that the dignity of the legal profession is upheld.

On the issue of self-advertisement or touting of Lawyers on social media platforms such as Facebook, Twitter and others, the nominee stated that it was very distasteful and improper. She added that although self-advertisement is permissible in a few countries, in many other countries, it is not allowed. She stated that in countries where advertising is allowed, she had not studied the extent to which it was permissible. While she abhors touting on social media, she remains open to the idea of law firms establishing their own website.

Court Automation

The nominee stated that Court automation would be one of her pet programmes. According to the nominee, significant achievements have been made in the quest to automate the Court processes. She informed the Committee that automation of the Courts and the entire judicial system would enable faster trials and ensure a better administration of justice. She confirmed that a lot still needed to be done in that area and she was keen to extend the automation processes to other parts of the country. She indicated her preparedness to deploy solar energy to support the automation processes in parts of the country that lacked the technology (ICT).

Perception of corruption in the Judiciary

On the issue of perception of judicial corruption, the nominee was of the view that corruption as perceived was a double edge sword. She stated that perception is a factor of effectiveness on the part of the person perceiving. She indicated that although the judiciary had gone through various measures with the aim to gain public confidence, lack of effectiveness, access and transparency have undermined the efforts.

Another factor in the nominee's view that fuels the perception of corruption is the delay in justice delivery. According to her the cliché that 'justice delayed is justice denied' is still legitimate. She assured the Committee that she would put in place measures to ensure that the delays in justice delivery is reduced to the barest minimum through the deployment of Information Communication Technology (ICT).

The nominee further stated that the perception of corruption is fueled by the belief that nothing happens when issues of corruption are reported. She stated that accountability in the Judicial Service would be dealt with in an open and transparent manner without favour. She alluded to the fact that administering discipline is difficult in situations where complaints are made under the cloak of anonymity. She informed the Committee that the disciplinary procedure now allowed for written submissions and these submissions go a long way to assist the process even when the complainant disappears.

Ensuring High Professional Standards of the Legal Profession

Regarding what she would do to ensure professionalism in the legal profession, the nominee informed the Committee that she would encourage Judges to report the conduct of unprofessional lawyers in their Courts to the General Legal Council. She would also encourage the Bar to ensure that in their continuing professional development programmes, they educate lawyers on best professional and ethical behaviour.

Traditional Authorities and delivery of Justice

The nominee stated that jurisdictions for delivery of justice are creations of the Constitution and Statute. Traditional Judicial jurisdictions could be created through dialogue with all stakeholders and when Parliament deems fit, it could pass a law to cede some aspect of justice delivery to the traditional authorities. She assured the Committee that when this is done, she would comply.

Scrapping Ghana School of Law

When asked whether she will support the suggestion that the Ghana School of Law be scrapped, the nominee answered in the negative. She stated that while Law Faculties in the Universities educate people academically on the knowledge of the law, the Ghana School of Law is a professional training institution where the theories learnt in classrooms are supposed to be taught from a more practical point of view. She maintained that at the Law School, instead of the theory of procedure, students are taught the practice, how to draw up a charge and marshal evidence to support charges. She stated that during her time at the Law School it was such a seamless transition from the University of Ghana that she thought the Ghana School of Law was part of the University of Ghana. She promised to improve the efficiency of the School to provide legal training that would meet the needs of the country.

Establishment of Sanitation Tribunals

On whether she would establish sanitation tribunals to complement the efforts of Government in keeping the cities clean, the nominee assured the Committee that the Judiciary would facilitate the establishing of Sanitation Tribunals as envisaged under the Local Governance Act 2016 (Act 936).

Alternative Dispute Resolution (ADR) Mechanism

On whether she would encourage the use of ADR methods in the Courts, the nominee indicated that the resort to the use of ADR could go a long way to reduce the backlog of cases. She indicated her resolve to encourage the use of ADR in resolving cases instead of always resorting to the traditional Courts which are adversarial.

In a response to the proposal espoused by the Constitutional Review Commission that criminal cases should be considered under the ADR framework, the nominee stated that she did not agree with their position.

She told the Committee that there was a school of thought which is of the view that ADR in criminal cases might be unconscionable as the complainant would be compensated and that the accused would not be punished for the crime committed. She stated that in criminal cases, the issue is between the State and the accused, and not the complainant. The complainant could therefore resort to other civil remedies.

She stated that she would rather encourage plea bargaining and similar processes other than ADR in criminal cases, as that process still kept prosecution of crime in the hands of the State.

She however indicated that not everybody would opt for the Judicial ADR. She said that there are some communities with well-defined ADR system and which the people are used to. It has therefore been decided that with regard to ADR, it should not be based on who the persons are or where the case is but rather whether the mediator has the capacity to handle the matter. There are a number of training programmes on-going to improve the capacity of respected personalities in the communities who handle ADRs. In this way, the ADR is being facilitated and promoted.

Establishing Judicial Police

When she was asked whether she would consider establishing a judicial protection unit within the Judiciary to protect the courts in the discharge of their mandates, the nominee stated that she would first conduct a study about the benefits and the duplication effect of such a measure. She indicated that in the past the Sheriff was enough to give the Courts the needed protection. Currently, the courts rely on the Ghana Police Service to provide it with the required protection. She however, assured the Committee that the idea was worth exploring.

Obstacles to Justice Delivery

As to what obstacles affected justice delivery in Ghana, she suggested that the main obstacle was the delay in completing cases. She stated that although a lot had been done to reduce the time spent in justice delivery, more could be done through the use of technology. She assured the Committee that she would explore various forms of technology including video conferencing, skype and others to reduce the duration of adjudication of cases as well as the cost associated with such delays.

Judicial Philosophy

When asked about her judicial philosophy, the nominee stated without equivocation that her judicial philosophy is justice.

Constitution as a Living Organism

When the nominee was asked whether the Ghanaian Constitution could grow organically to accommodate emerging issues, the nominee answered in the affirmative but declined to proffer a position on gay rights. She explained that it is an issue which may one day come before the Supreme Court for determination and therefore she may not want to prejudge the matter.

Discrepancy in the date of her appointment to the Supreme Court

The effective date of appointment of the nominee to the Supreme Court as indicated on her CV was 30th November 1995 as the day Parliament approved her nomination. However, the Official Report of Parliament (Hansard) indicates

15th December, 1995. When this was pointed out to the nominee for her to set the record straight, she stated that she was not aware of that discrepancy in the date of her appointment. She assured the Committee that a copy of her warrant of appointment to the Supreme Court bearing the effective date of appointment will be provided to the Committee.

Recruitment of Judges

When she was asked how she would ensure transparency in the recruitment of judges, the nominee stated that various processes and criteria are used in the recruitment of judges. She mentioned that some of the criteria used include the number of years on the bar or bench, written examinations and interviews among others. She told the Committee that written examination is used to test the competencies and knowledge of the law, whilst interviews are used to check the character and behaviour of the person.

The nominee further indicated that enquiry from the Bar has been used to screen those coming from practice. She opined that on occasions inputs from the bar have assisted in the appointment or otherwise of private practitioners onto the Bench. She stated that if the higher Bench is to get the right calibre of personnel, then more work needs to be done at the Lower Bench. She maintained that looking at best practices in other countries, there was more room for improvement.

She told the Committee that from the Bar to the Bench, another criteria which has developed to assist in determining whether a person is to be appointed to the bench is focusing on lawyers' written submissions in Court and the reputation of the individual. While the nominee would not fault the current system of recruitment, she indicated that it leaves room for further improvement. She therefore promised to polish the rough edges and make the system better.

Admissibility of Electronic Evidence

Responding to a question on the admissibility of electronic evidence in court, the nominee informed the Committee that everything that helped to preserve the integrity of records and would speed up litigation should be in the realms of possibility. She said there were many jurisdictions that were at various stages of mainstreaming technology on how things should be done.

She shared with the Committee her experiences over the years where she has had the opportunity to observe a number of countries that had successfully integrated technology with their legal systems. One such country is Algeria, where cases are dispensed with without the parties being present at one place at the same time. In Algeria, one could use phone to conduct his case as a result of the availability of a strong satellite connectivity backbone infrastructure.

She told the Committee that reforms were both onward and upward and that there were various methods of enhancing justice delivery. She intimated that all avenues for enhancing quality justice delivery would be explored and encouraged.

Streamlining Procedures Governing Presidential Petitions

In response to the issue of developing rules to govern presidential election petitions, the nominee informed the Committee that the Courts had already developed the rules governing the regulation of presidential petitions. The duration for the consideration of these petitions had been optimized. She informed the Committee that time lags have been built into the Constitution and until the Constitution is amended, little could be done.

Districts without Court Services

The nominee informed the Committee that it has been part of the Judicial Policy that every district should have a district court and that districts without district courts suffered setbacks in the administration of justice and that the anomaly needed to be corrected.

She indicated that in line with government development programmes, such as the one district -one factory, business activities are expected to thrive which would lead to an increase in possible litigation. It has therefore become imperative that districts are served with services that facilitate the administration of justice and justice delivery.

She assured the Committee that if she is approved, all districts without courts in the country would be given ultra-modern courts to ensure justice delivery at the district level.

Existence of the Death Penalty in our Statutes

In a response to a question on whether the Courts should still be enforcing the death penalty, the nominee informed the Committee that death sentence is still on our statute books and until it was scraped, the courts were obliged to resort to it.

She therefore called on the Legislators, as representatives of the people, to take the necessary steps to remove the death penalty if in their view, it should be removed.

Independence of the Judiciary

The nominee in response to a question on whether the Judiciary is independent explained that under the Bangalore principle, the independence of the Judiciary included financial independence.

She stated that funding the Judiciary is very important as it facilitates justice delivery. She said everyone would like to see a well-built and properly equipped court room. She opined that justice must have a certain cliché and that when justice is delivered from a dirty room, it detracts from its force and effectiveness. She therefore suggested that the Magistrate Court to the Supreme Court should be well equipped to ensure and promote speedy trial and justice.

The nominee informed the Committee that lack of financial resources adversely affected the work of the Judiciary. She said this has consequences on development, security and stability of the nation.

She therefore called on government to provide more resources including increasing the percentage of Internally Generated Fund (IGF) retained to enable the Judiciary perform its functions effectively

Funding the Judicial Training Institute

She told the Committee that in order to ensure quality judgment, judges would have to be trained in new norms and applications to improve upon their competence. New judges also required necessary orientation. She said these training programmes were very vital for justice delivery.

She indicated that the institution used by the Judiciary to undertake these requisite training is the Judicial Training Institute (JTI). She informed the

Committee that the Institution is under resourced and that with the requisite funding, the Institute could run several quality training programmes that would improve justice delivery.

The nominee intimated to the Committee that in November, 2014, the African Court on Human and Peoples Rights passed a number of resolutions including the importance of judicial training and the need to establish regional centers to improve the competence of justices and magistrates in the AU and ECOWAS sub region.

She said a quality JTI would be well positioned to run these and other international training programmes and Ghana's competence would be greatly enhanced as the JTI would be in the position to train people in the sub-region.

She urged Government to assist to make the JTI a quality training Institute.

Empaneling of Judges Using Computer Empaneling System

In a response to a suggestion that the Judiciary should use a computer empaneling system to select judges to sit on cases, the nominee stated that the empaneling system was good and that a number of countries had adopted it. She however indicated that the computer empaneling system still required the human interface to enable it work effectively.

The nominee indicated that whereas computer empaneling system could not be ruled out, it would require the necessary human interventions if it is to work effectively.

Incompetent lawyers in the Legal Sector

Responding to measures she would take to deal with incompetent lawyers in the legal profession, the nominee conceded that the legal sector had in their fold a number of lawyers whose work bothered on carelessness. She indicated that at the Supreme Court, the Bench often took note of such lawyers.

The nominee said she used to tongue lash at these lawyers in her judgments. She informed the Committee that the lawyers that fall into that category, negatively impacted on their clients' cases and also dented the image of the profession.

She stated that the practice now is to report such lawyers to the Disciplinary Committee of the General Legal Council for the necessary action to be taken against them.

Constitutional Instrument 78 (C I 78)

The nominee's attention was drawn to a recent ruling by the Supreme Court in *Benjamin Aryee Mensah v the Electoral Commission and Attorney General (2015)* where the Supreme Court held among others that the reference to C.I. 78 proved illusory as its existence could not be countenanced. It further held that the legislation was not even listed in the manual of the Electoral Commission.

In a follow up to the issue, the nominee's attention was drawn to the fact that the C I 78 was in the statute books and was passed by Parliament. The Committee enquired from the nominee what she would do to correct the anomaly, if she is approved.

The nominee suggested that an application should be brought to enable the Supreme Court revisit the matter.

Custodial Sentences on Free Speech

The nominee was asked whether offences relating to free speech committed by journalists should be punished with custodial sentences.

The question was asked in relation to *Lohé Issa Konaté v. Burkina Faso* where the Court had held that apart from serious and very exceptional circumstances such as in the defence of international crimes, public incitement to hatred, discrimination, violence, threats of violence against a person or a group of people, it was the considered view that violations of laws on freedom of speech and the press could not be sanctioned by custodial sentences, without going contrary to [the African Charter and the ICCPR].

The nominee explained to the Committee that the issue before the African Court on Human and Peoples rights was "insulting", however she indicated that the law applied was based on Civil law.

She told the Committee that contempt as exhibited by the press amounts to scandalizing the courts and that did not defame anyone but the courts. She said

custodial sentencing was a specific power that the Constitution had given to the Courts, and that free speech did not mean scandalizing the Court with contemptuous statements.

The nominee however declined to comment on the decision of the Supreme Court in the case involving the 'Montie 3' saying that she felt uncomfortable discussing decisions of the Supreme Court.

The Jurisdiction of the Supreme Court

To a question about the jurisdiction of the Supreme Court, the nominee informed the Committee that the Jurisdiction of the Supreme Court is clearly spelt out in the Constitution. She explained that where the jurisdiction of the Supreme Court is invoked, the Court sits on the matter. The Supreme Court sometimes does jurisdictional scanning and when an issue is within its scope, it takes it up.

She said in some countries such as Kenya, their Constitution specifically states matters which their Supreme Court could handle but in Ghana, the Constitution rather provides us the right to determine whether the Supreme Court has jurisdiction or not.

In a response to a question as to whether the Supreme Court would not be overloaded with work, the nominee said it was important for the Supreme Court not to be seen as closing its door to litigants.

Maximum number of Appointments as Justices of the Supreme Court

The nominee's attention was drawn to a recommendation by the Constitutional Review Commission in its report that there should be an amendment to Article 128 by providing for a ceiling to the number of Supreme Court Justices.

The nominee responded that although the Constitution placed no cap on the appointment of the Justices to the Supreme Court, their number had never exceeded fourteen (14) except for one brief period when they were fifteen (15) in number. Therefore if the number is increased, the Court would accordingly adjust. However, the nominee indicated that should the law be amended, the Judiciary was ready to work with the cap.

Empaneling of a full Bench

Responding to what it takes to empanel a full bench, the nominee informed the Committee that Article 133(2) provides that when the Supreme Court is reviewing its decisions, it shall be constituted by not less than seven Justices. The practice has been that when the Supreme is hearing a matter, a minimum of five Justices would be empaneled. In the event of a review, two more Justices would be added to the panel in order to comply with the constitutional provision.

She was of the view that for it to be mandatory that the full bench should be empaneled during a hearing of a constitutional matter, there would be the need for an amendment to the Constitution.

The nominee however explained that the current law helped to encourage a review process. The nominee said the idea of sitting the entire panel may not only be cumbersome but may elicit an adverse psychological impact.

She held the view that the current system is less cumbersome and has a positive psychological impact.

The Justice-For-All Programme

The nominee informed the Committee that the Justice-For-All programme has not only helped to decongest the prisons but also brought justice to the doorsteps of the people in the prisons.

The nominee indicated that she would continue with the programme, however she indicated that she needed to study how the programme was being implemented. She said there is the need to introduce para legal staff to assist in the documentation and preparation of case files, as this would go a long way to expedite trials.

Non-Custodial Sentences

The nominee informed the Committee on the issue of non-custodial sentences that the prisons in the country are congested and that the courts have undertaken a number of measures to decongest the prisons. She indicated that if approved as Chief Justice, she would undertake a number of reforms to help address the issue.

The nominee intimated to the Committee that the current sentencing regime had contributed significantly to the congestion in the prisons. She said the sentencing regime is based on legislation. Therefore should Parliament enact law for non-custodial sentences, judges would implement them which would lead to the decongestion in the prisons.

She indicated to the Committee that there have been instances where the judges in a criminal case have felt frustrated passing judgment, but had little alternative as the law enjoined them.

Politicisation Affecting the Judiciary

The nominee agreed with an observation by a Committee member that in Ghana everything was politicised and there is the need to work against it.

She stated that there was the need to shield the judiciary from all external influences. She informed the Committee that her background cuts across all the political divide. She was appointed in 1995 under the Rawlings administration to the Supreme Court. She has been nominated to the position of Chief Justice by the current administration. The two governments are from different sides of the political divide and hence this places her at the centre of the divide.

She said to ensure that the judiciary is shielded from these politicization, there is the need to enforce the code of conduct, ensure quality justice and make the appointment process transparent with the help of procedural guidelines

Mode of Appointment and the Independence of the Justices and the Judiciary

On a question on whether Judges of the Superior Courts of Justice are appointed in a way that compromised their independence and that of the Judiciary, the Nominee played down the issue of compromise, however she opined that the appointment process needed to improve with laid down processes and procedures being spelt out in a form of set criteria. She conceded that, laid down guidelines or a criteria of appointment would help to some extent. However, the issue was not only peculiar to Ghana and that many democracies had to deal with similar challenges.

She observed that, even though one could legislate on the criteria, in her considered view, the critical factor is to do what is just, which every judge

should remember since they swore an oath to dispense justice in truth and fairness.

Independence of the Judiciary

On how the independence of the Judiciary was affected in its relationship with the Executive and the Legislative arms of government, given the fact that some Judges served as board members of some public institutions and agencies and make pronouncements on legal issues, which consequently became part of the law, the nominee stated that law making powers is part of the judicial process. She opined that the Judiciary had the power to declare what the law is and what was unlawful. She intimated that the Constitution empowered the Judiciary to declare an act of Parliament void and that whenever there are gaps in the law, rules of interpretation enabled the true application of the law.

She told the Committee that, she did not see how a justice serving on a state body amounted to loss of judicial independence because judicial independence related more to the work and not to the judge as an individual.

Value of Judicial Precedents in the Judicial System of Ghana

On the value of precedents in the judicial system, the nominee stated that judicial precedents have been part of our set of laws, and that only the Supreme Court was not bound by its decisions. However, every Court below the Supreme Court was bound by its previous decisions and that of the Supreme Court. The nominee insisted that this was valuable, however, there could be times when it would be necessary to depart from an existing decision because the Constitution is a living document.

On how the Lower Courts could learn from the Supreme Court with respect to differing judgements on contempt cases, the nominee said that the questioner, in stating his case had mixed up a number of elements namely discretion, sentencing and judgements. She told the Committee that one would hardly find any two cases where the circumstances are identical.

The nominee however explained that when there are different opinions of the Supreme Court on the same principle of law the court takes the earliest opportunity to bring finality to the issue.

Experiences at the African Court on Human and Peoples' Rights

The nominee shared her experiences on the African Court on Human and Peoples' Rights and how her experiences could positively affect human rights cases before our Courts. The nominee said the experiences she had was valuable as a domestic Judge who had served in an international court and that the jurisprudence of different jurisdictions came to play towards the goal of enforcing and protecting human rights. She told the Committee that she had learnt how to deal with differences and divergent views and that she had realized how different Ghana is compared to many African countries. She informed the Committee of her belief that our judicial system was better than many others on the continent.

Adopting the South African Case Management System to end Court Delays

On whether the nominee would consider and adopt the South African Case management system where Judges who are assigned to cases could only take on another case if the previous case had been dealt with, the nominee stated that it was a good practice but there was the need to have a better understanding in the number of Judges there were in each region or district and the cost implications for such a policy. She reiterated that we could copy best practices but needed to know the entire circumstances and the environment in which it was practised.

Justification against Budget Cuts and Increment in Budgetary Allocation to the Judiciary

The nominee was asked why in her view the Judiciary's budget should not be reviewed downward against the practice where often the Executive had "cut" their budget. In her answer, the nominee proceeded on the assumption that the budget is prepared on all the requisite sound principles. She lamented that budget cuts resulted in the Justice delivery system suffering as a result of non-implementation of a number of programmes. She told the Committee that quality justice does not come cheap and that if the Judiciary are given their required budget, the Service would be in a position to give Judges the needed training to ensure quality justice delivery, and the nation would get value for money in terms of justice delivery and end up with a satisfied populace.

The nominee was of the view that the ideal situation would be for Parliament to give approval to what it presents to the Executive without an Executive revision.

Commitment to Time Limit to Signing on to Decisions, Orders and Rules

Asked to give a commitment on reducing the time span that Decisions, Orders and Rules of the Courts take to get signed on, which in the long run affects investors and litigants among others, the nominee assured the Committee that she would come up with specific time lines within the first few months of assuming office, if approved.

Examination as Mode of selecting Judges

On the nominee's thoughts on the mode of selecting Judges through an examination or through the Ghana Bar Association facilitated through the Judicial Council to determine competent hands across the country. The nominee stated that it is always possible to establish standards and criteria which in turn would ensure objectivity.

The nominee said that there was the need for a study to be done to determine which method would be better.

Matters Relating to the General Legal Council and Professional Law Training

The nominee declined to comment on whether or not the General Legal Council was enjoined by law on its own accord to organize legal training as the matter was "sub-judice".

Promotion of "Lay Magistrates"

With regard to the issue of the promotion of "Lay Magistrates", the nominee explained that they are appropriately known as "Career Magistrates" for a purpose; which is what they are to have a career in the Magistracy. Therefore their recruitment, orientation and training are all designed to achieve that purpose. There is therefore, no issue of promotion beyond the Magistracy.

Poor Court Infrastructure and Quality of Courtrooms

The nominee, in response to plans to improve the infrastructure of courts in the country, told the Committee that a lot needed to be done to improve the physical facilities of the courts and that improving the infrastructure would also ensure quality administration and the delivery of justice. She stated that a programme is in place to refurbish all existing courtrooms across the country and advised the adoption of a good maintenance culture and programme to preserve judicial assets.

She expressed her concern on the present state of the physical infrastructure of the courts as well as the state of electronic facilities.

Completion of Cases in the Administration of Justice

In response to a question that there are instances where Court of Appeal Judges sit as additional High Court Judges in cases and as a result of which cases at the Appellate Court span over periods of five to eight years before being dispensed with, the nominee intimated that a case that takes five or eight years to be decided on was not the best of practices, and that she would take it up if she is approved.

She however asserted that making Court of Appeal Justices sit as additional High Court Judges, may not necessarily be the cause of delays and that the delays may be due to other circumstances outside the judicial administration.

She recommended the utilisation of procedural rules which enables the Court Registrar to certify cases that are inordinately delayed for them to be struck out for want of prosecution

Existence of the Judicial Council

In response as to whether there is a Judicial Council in place to assist her in the discharge of her duties, the nominee stated that the Judicial Council was not in place and that if approved, she would bring it to the attention of the appointing authority as a matter of priority.

Conditions of Service for the Judiciary and Need for a Constitutional Instrument

The Committee enquired from the nominee what steps she would take to improve the conditions of service for judicial and non-judicial staff as well as Article 71 office holders of the Judicial Service as provided for under Articles 158(2) and 149 of the 1992 Constitution.

The Committee was of the view that a Constitutional Instrument would clearly distinguish the officers working with the Judicial Service, mainly made up of Judicial Officers, Non-Judicial Officers and holders of Article 71 under the Judiciary. Further, matters concerning conditions of service as specified under Article 149 of the 1992 Constitution would be specified and provided for to enhance performance of the Judiciary.

The nominee responded that she was aware that a draft Constitutional Instrument in respect of that has already been submitted to the Attorney General for study and review.

Seniority at the Supreme Court

Responding to a question about seniority at the Bench, the nominee informed the Committee that in the Judiciary, seniority is highly regarded and upheld. This is an established practice in the Judicial Service as well, she added.

The nominee stated that at the Supreme Court, Justice Atuguba is the most senior in the sense that he was the first to have sat on the Bench. She explained further though that Justice Atuguba and she entered the Law School the same time. Continuing, she said she left after the Ghana Law School to pursue her Master's Degree and when she returned, her mates had been called to the Bar.

She however informed the Committee that both Justice Atuguba and she were appointed to the Supreme Court on the same date in 1995 and that at the Supreme Court, they share the same date of birth.

Amendment of Article 88(3)

Responding to a question on how Article 88(3) of the 1992 Constitution, an entrenched provision, could be amended, the nominee stated that the

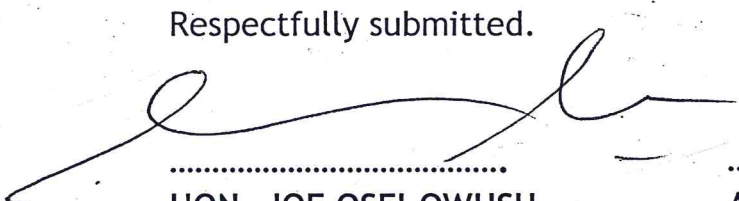
procedure for the Amendment of the various provisions of the Constitution is provided for by the Constitution

6.0 CONCLUSION AND RECOMMENDATION

The Committee observed that given her high standard of competence and integrity, forthrightness and independence of thought, astuteness and in-depth appreciation of the law, fairness and selflessness, the nominee, Her Lordship Sophia Abena Boafoa Akuffo qualifies to serve as the Chief Justice of the Republic. Her demeanor and composure during the stretch of her vetting portrays her as a patient and tolerant person.

The Committee is also satisfied that the nomination of Justice Sophia Abena Boafoa Akuffo is in conformity with the 1992 Constitution and Standing Orders of the House, and is persuaded of her eligibility, competence and suitability and, accordingly, recommends by consensus the nominee to the House for approval.

Respectfully submitted.



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



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

20 JUNE, 2017
