

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



APP/9/2/3/019

NINETEENTH REPORT OF THE APPOINTMENTS COMMITTEE

ON

**HIS EXCELLENCY THE PRESIDENT'S NOMINATIONS FOR APPOINTMENT AS
JUSTICES OF THE SUPREME COURT**

AUGUST 2026

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1.0 INTRODUCTION

1.1 On Friday 21st August 2026, His Excellency President John Dramani Mahama, acting in accordance with Article 144(2) of the 1992 Constitution of the Republic of Ghana, submitted to Parliament the nominations of the underlisted individuals for appointment as Justices of the Supreme Court:

- i. Justice Edward Amoako Asante
- ii. Mr Anthony Forson Jnr
- iii. Justice Sophia Rosetta Oduokuwa Bernasko Essah

1.2 In accordance with Standing Order 217 of the Parliament of Ghana, the Right Honourable Speaker duly referred the nominations to the Appointments Committee for consideration and report to the House.

2.0 REFERENCE DOCUMENTS

During the consideration of the Nominees, the Committee referred to the following documents:

- i. The 1992 Constitution of the Republic of Ghana
- ii. The Standing Orders of Parliament
- iii. The Curriculum Vitae (CVs) of the Nominees

3.0 CONSIDERATION OF THE REFERRAL

- 3.1** By a decision of the House, the provisions of Order 217 of the Standing Orders of Parliament, 2024 were partially waived. Accordingly, the Committee dispensed with the requirement for newspaper publication under Order 217(10) of the Standing Orders of Parliament. The Committee, however, sought and obtained confidential reports on the nominees from the Ghana Police Service and the Bureau of National Intelligence (BNI). The Committee also received tax status reports on the Nominees from the Ghana Revenue Authority (GRA).
- 3.2** Subsequently, the Committee held a public hearing on Thursday, 27th August, 2026 to consider the nominations. The nominees subscribed to the Oath of a Witness before the Committee and responded to questions from Hon Members. They were questioned on their curricula vitae, eligibility, competencies, matters of national concern, and issues pertaining to the administration of justice.
- 3.3** Following its deliberations, the Committee reports on the Nominees as follows:

3.0 Preliminary Issues

The Hon Minority Leader and Ranking Member made the following preliminary remarks.

*Preliminary Objection by the Ranking Member
Osahen Alexander Afenyo-Markin*

Mr Chairman,

We, the Minority, raise a preliminary objection to the vetting of the three nominees for appointment as Justices of the Supreme Court scheduled for today.

This is not an objection to the principle of vetting, nor is it an objection to the nominees as individuals. It is an objection grounded in the 1992 Constitution and the Standing Orders of Parliament to the manner and timetable within which the vetting is proposed to be conducted. We respectfully ask that this objection be resolved before the Committee proceeds further and that it be recorded in the proceedings, whatever its determination.

We advance nine grounds, each of which stands independently. Together, they are, in our respectful submission, conclusive.

Ground One: No Vacancy, No Exigency

The Supreme Court presently sits with its full complement of Justices. No seat on the Bench is vacant. The three persons before this Committee are nominated to augment the existing membership, not to fill a vacancy occasioned by death, retirement or removal.

This is material because the justification offered for compressing the ordinary vetting timetable is urgency. Where

no vacancy exists, no functional urgency exists. We invite the Majority to state on record what harm would befall the State, the Judiciary or any litigant if these additional appointments were vetted with the care that ordinarily attends a Supreme Court nomination. We submit that no such harm can be shown because none exists.

Ground Two: Breach of Established Practice on Public Notice

Since 1992, the established practice of this House has been that Supreme Court nominations are advertised in the national dailies for a minimum of fourteen days to invite memoranda from the public.

The nominations were announced by Mr Speaker on Monday. Referral was made on the same day. Vetting is then proposed for Tuesday to Thursday of the same week. This departs fundamentally from settled practice.

In support of this ground, we refer to the verbatim report of the Appointments Committee proceedings of 30th July 2024. At that sitting, when in opposition, the present Majority insisted on strict compliance with the fourteen-day rule.

Mr Mahama Ayariga, MP for Bawku Central, stated:

> *"We discussed this matter and said we do not want to embarrass these judges... Notice was served to the nominees to come without us having had a meeting... We said, 'What is the rush? We have a lot of time, so let us take our time and not embarrass these judges. Let us do a decent job.'"*

Hon Armah-Kofi Buah, then Deputy Minority Leader, stated:

> *"These appointments are important. These are lifetime appointments. And while they sit on the Supreme Court, there is no opportunity for any Ghanaian to revoke the appointment... These nominees are going to replace Supreme Court judges who are not going on retirement until November... The people of Ghana must be part of this process. It is a serious process."*

Dr Cassiel Ato Forson, then Minority Leader, now Minister for Finance, stated:

> *"You have broken the trust of the NDC Minority caucus... You unilaterally wrote a letter to the nominees inviting them for vetting without the input of the Appointments Committee... At the minimum, you have to give us the opportunity to study the nominees and the people of Ghana must see us doing our work... All we are asking is that you advertise for a minimum of fourteen days, invite memoranda."*

Mr Chairman, on that occasion, the then Majority yielded. As Majority Leader, I pleaded with Dr Forson, and in the interest of protecting our democracy, we suspended the vetting, apologised to the nominees and re-advertised for fourteen days.

What has changed? The principle then espoused was that democracy must be protected and lifetime appointments must not be rushed. We yielded to that argument. We now ask the Majority to be seen to act consistently with its own stated principles.

The Court is currently on vacation. Within fourteen days we can properly advertise, receive memoranda and prepare our report well before Parliament resumes in October and before the new legal year begins.

Ground Three: Misapplication of Order 217(11)

Order 217(11) requires this Committee to report to Parliament within three days after the conclusion of its proceedings. That is a clock triggered by conclusion, a matter within the Committee's own determination, not a clock that runs from the date of referral or compels conclusion by a particular date.

No provision of the Standing Orders converts Order 217(11) into a general requirement that vetting itself must be completed

within three days, or within the life of any particular recall. Order 267(4), by contrast, allows a committee up to three months to report on a matter referred to it.

Order 217(11) cannot, on any proper construction, be read to shorten that general period to three days for three simultaneous Supreme Court nominations.

Ground Four: Composition Safeguards under Orders 217(2) and (3) Cannot be Honoured

Order 217(2) requires the Chairperson, the Ranking Member and two other members of the relevant subject-matter committee to join this Committee for each nominee considered. For judicial nominees, that is the Committee on Constitutional, Legal and Parliamentary Affairs. Order 217(3) caps the resulting membership at fifteen.

Properly reconstituting this Committee three separate times for three distinct subject areas, whilst respecting the fifteen-member ceiling and the one-third quorum requirement under Order 265(1), cannot be done with the rigour contemplated by the Orders within three days without breaching the cap, diluting effective participation of co-opted members, or reducing substantive scrutiny to a formality. Any of those outcomes would render the recommendation procedurally unsound.

*Ground Five: Public Participation under Order 217(10)
Rendered Nugatory*

Order 217(10) requires publication of nominees' names in newspapers of national circulation for the specific purpose of inviting memoranda and representations from the public. It is the mechanism by which citizens, the Bar and civil society bring to the Committee's attention material relevant to fitness for judicial office.

Publication made this week, followed by hearings this week, affords no realistic opportunity for any person outside this Chamber to research, prepare and submit memoranda before the Committee purports to conclude. A safeguard that, as a matter of arithmetic, cannot be used is not a safeguard that has been complied with. It has been observed in form but defeated in substance.

Ground Six: No Motion to Suspend Standing Orders Moved

No motion to suspend the Standing Orders has been properly moved, argued and resolved. On the Floor, the Majority relied on the adoption of the Business Committee Report to override express provisions of the Standing Orders.

The adoption of a Business Committee Report cannot replace the express requirement under Order 3 that suspension of

Standing Orders must be by motion moved with leave of the House, with reasons stated.

No such motion has been moved in respect of Orders 217(2), (3), (10) or (11) or Orders 265, 266 or 267(4). Every one of those Orders therefore remains in full force. The Committee, or a majority within it, cannot achieve by mere scheduling what Order 3 requires to be achieved by motion, debate and vote.

Ground Seven: Constitutional Pre-conditions under Article 144(2) Not Shown to be Satisfied

Article 144(2) makes the President's power to nominate a Justice of the Supreme Court conditional upon advice of the Judicial Council and consultation with the Council of State. These are not procedural niceties; they are conditions precedent to a valid nomination.

Before proceeding to examine the nominees on merit, the Committee should require the Clerk to Parliament or the Attorney-General to confirm on record that the advice of the Judicial Council was obtained and that genuine consultation with the Council of State took place in respect of each nomination. A truncated timetable makes it materially harder to verify that these upstream constitutional conditions were met rather than merely asserted.

*Ground Eight: Discretionary Power Must be Exercised Fairly –
Article 296*

Article 296 provides that where discretionary power is vested in any person or authority, that power carries an implied duty to be fair and candid, and its exercise must not be arbitrary or capricious but must accord with due process of law.

The Chairperson's power under Order 266(3) to fix the date and hour for consideration of a referred matter and the Business Committee's power to schedule business are both discretionary powers within the meaning of that Article. A timetable driven solely by the desire of the Majority to conclude before this recall rises tomorrow, unsupported by any demonstrated exigency where no vacancy exists, is not a fair and candid exercise of discretion. It is an exercise of discretion to suit political convenience and is vulnerable to challenge as arbitrary under Article 296.

Furthermore, in his remarks opening this recall, Mr Speaker drew a clear distinction that his determination to recall Parliament was not to be understood as a determination of the merit of matters placed before the House. The responsibility to weigh these matters properly belongs to the House itself. This Committee, exercising the House's delegated function under Order 217, is bound by precisely the same discipline. The fact

of recall settles nothing about fitness for approval, still less about how quickly that question may responsibly be answered.

Ground Nine: Consequence of Error is Severe and Irreversible

Article 146 protects a sitting judge from removal save for stated misbehaviour, incompetence or infirmity established only through an elaborate process. Once appointed and sworn, a Justice of the Supreme Court is, for practical purposes, in office for the remainder of a working career.

Parliament's approval under Article 144(2) is realistically the last substantive check the Republic will exercise over that individual's fitness for judicial office. A procedural shortcut that might be tolerable for an appointment more easily corrected is not tolerable here. The gravity and near permanence of the office is itself a reason why the Committee should decline to be rushed. The Majority must not use its numerical strength to stampede this process.

Reliefs Sought

For the foregoing reasons, the Minority respectfully prays this Committee:

- 1. To rule that Orders 217(2), (3), (10) and (11) and Orders 265, 266 and 267(4) remain in full force, no motion to suspend any of them having been moved or carried under Order 3;*
- 2. To resolve to decline to conclude consideration of the three Supreme Court nominations within the life of this recall sitting and instead adjourn consideration to allow proper compliance with Orders 217(2) and (10);*
- 3. To require confirmation on record from the Clerk to Parliament or the Attorney-General that the pre-conditions in Article 144(2) have been satisfied in respect of each nomination;*
- 4. To resolve to proceed, on a fair and expeditious timetable, with the vetting of the two ministerial nominees, to which no objection has been raised; and*
- 5. To record this objection and the Committee's determination thereon in its report to the House under Order 215.*

Mr Chairman, this objection is not raised to obstruct the work of the Committee nor to embarrass any nominee. They are persons who have served the nation and the sub-region with distinction. The President has the mandate to nominate them; we do not contest that.

Save to observe: when former President Akufo-Addo nominated three additional Justices, your side argued it amounted to packing the court. You have since nominated seven Justices who have been approved by Parliament, and these three would bring the number to ten additional Justices. We ask: where is the principle?

A Committee that vets a Justice of the Supreme Court within three days, in the absence of any vacancy, and in the face of Standing Orders that remain fully in force and were never suspended, does not strengthen Parliament's constitutional role. It diminishes it.

We ask that this objection be upheld.

In response the First Deputy Speaker and Chairman of the Committee also made the following remarks:

Chairperson: Hon Members and our distinguished guests, I have sat and listened carefully to the objections raised by the Minority Leader. And it gives me much interest as to how a lecture in metaphysics will be given to a newborn baby. I say so because Hon Members, following a request by His Excellency, the President of the Republic of Ghana, to recall Parliament to deal with specific items, a request that was contained in a letter emanating from the President dated 11th August, 2026.

Three items were the basis of the President's request for a recall of Parliament. One, the Banks and Special Deposits Taking

Institution Act Amendment Bill, 2026. Two, two nominations for appointment as Ministers of State for referral to the Appointments Committee, vetting and consideration by Parliament. Three, three nominations for appointment as Justices of the Supreme Court for referral to the Appointments Committee, vetting and consideration by the House.

So, clearly, the request was not only limited to the referral of the nomination of two Ministerial nominees, vetting and consideration by Parliament. It includes the referral of the three judges' nominees, referral and vetting by the Committee. Based on this request, Parliament was duly recalled to sit from Monday, 24th to Friday, 28th August, 2026.

Hon Members and distinguished guests, accordingly, these referrals were made. And again, the referrals were not limited to that of the two Ministerial nominees. It extends and operates to include the three judges' nominees. Following the referral, there was a meeting held yesterday. The meeting was consequent upon the Chairperson of the Committee having a preliminary meeting with the Minority Leader to consider the request of His Excellency, the President.

We were supposed to have the vetting on Wednesday, but it will interest you to know that at the instance of the Minority Leader, today, Thursday, nine o'clock has been scheduled to conduct the vetting. We had a preliminary meeting yesterday, dealt with certain issues and concluded them. For me, that was the end. What was the issue raised and considered? I will go straight to the one that is relevant to the objection raised by

the Minority Leader and how we dealt with the issue. The issue was to the effect that we should only consider our Colleague Ministerial nominees, two of them, but we should not consider the three judges based on the fact that there was no publication and therefore we should not proceed to do the vetting of the judges.

The Committee resolved that the referral includes the three judges' nominees. We cannot therefore discriminate in favour of our Colleague nominees and against the three judges' nominees. Therefore, we must take a decision to vet all of them together. This was the decision of the Committee. The further reason of the Committee was to the effect that on Monday, when the Business Statement was presented, part of the Business Statement requested from the House to use Standing Order 3 to suspend the Order 217 of our Standing Orders in order to path the way for us to deal with the urgent items based on which the request for recall was made and the House was accordingly recalled.

I have in my hand the provisional Hansard of Parliament of Ghana. I am not tendering it, but to quote the relevant portion. Hon Members, Rockson-Nelson Kwami Etse Dafeamekpor, the Majority Chief Whip, raised the issue that upon the presentation of the Business Report, he wants to formally move a motion for the House to adopt, to waive, the Standing Order 217 so that we can urgently consider the request of the President.

Now, the Rt Hon Speaker, Alban Sumana Kingsford Bagbin, was the one presiding. This is what he said: "Once a request for

waiver based on Standing Order 3 of the House was part of the Business Committee's Report presented to the House and the House having adopted the Report of the Business Committee, there is no need acceding to the request of the Majority Chief Whip to move a motion to waive the Standing Order 3". Once the House has adopted the Business Committee's report, it means that the House has taken a decision to waive Standing Order 3 for the Committee to consider these matters as a matter of urgency.

Hon Members, when the Committee takes a decision, we present a Report to Parliament and at the adoption of the decision of Parliament, Parliament as a plenary has the right to vary the decision of the Committee. However, if the House takes a decision, no Committee can vary the decision of the House. If you are aggrieved by the decision of the House, the method available for you to reverse that decision is contained in our own Standing Orders.

Hon Members, distinguished guests, I will not preside over this Committee and purport to vary the orders or directions or decisions taken at the plenary by the entire House. It is not done in any democracy and I will not be the first to introduce it in Ghana's democracy. I will not also preside over this particular Committee and discriminate against the judges, allow the vetting of our Colleagues and then reject the vetting of the judges nominated. I will not do that today; I will not do that tomorrow, I therefore consider all grounds of the Minority Leader as flimsy and hollow. I consider his objection to be

frivolous, vexatious and unmeritorious and baseless on the facts, the rules and the law. Therefore, I will accordingly dismiss the objection by the Minority Leader in limine.

Thank you for your apt attention. Hear! Hear!

5.0 JUSTICE EDWARD AMOAKO ASANTE
(Justice-designate to the Supreme Court)

5.1 BACKGROUND

5.1.1 Justice Edward Amoako Asante was born on 1st December, 1963 at Sefwi Wiawso in the Western North Region of Ghana. He commenced his formal education at the Anglican Experimental School, Sefwi Wiawso, and then continued at St Anthony Catholic Primary School, Akyem Oda, before proceeding to Oda Secondary School, Akim Oda. He subsequently attended Sefwi Wiawso Secondary School and Mfantsipim School, Cape Coast, where he obtained his GCE Ordinary Level and GCE Advanced Level qualifications between 1981 and 1985.

He proceeded to the University of Ghana, Legon, from 1986 to 1989, where he obtained a Bachelor of Laws (LLB Hons) degree. He thereafter attended the Ghana School of Law, Accra from 1989 to 1991 and was called to the Ghana Bar as a Barrister-at-Law.

5.1.2 Justice Asante undertook his national service at Government School 'D' Junior High School at Sefwi Wiawso from 1985 to 1986, where he taught Economics and French. His professional legal career began at the Legal Aid Board, Kumasi, where he served as a Legal Officer from October 1991 to August 1992, and he later practised as a private legal practitioner at Mmieh & Co and Obeng Manu & Co from August 1992

to October 1998. From October 1996 to October 2002, he served as Legal Officer at CashPro Company Limited, Kumasi/Accra.

5.1.3 In October 2002, Justice Asante was appointed a Circuit Court Judge at Obuasi in the Ashanti Region, where he presided over court proceedings, researched laws and regulations, and delivered judgements and rulings. From 2003 to 2008, he served as additional Magistrate at the District Courts in Manso Nkwanta and Fomena in the Ashanti Region.

5.1.4 In March 2008, he was appointed Justice of the High Court (Fast Track Division), Accra. From October 2013 to July 2018, he served as Supervising High Court Judge in Sekondi-Takoradi. In August 2018, he was appointed President of the Community Court of Justice of ECOWAS, Abuja, Nigeria. From July 2018 to date, he has been a Judge of the Community Court of Justice, ECOWAS. From August 2020 to date, he has been serving as a Justice of Appeal at the Court of Appeal of Ghana, Accra.

5.1.5 Justice Asante has significant international recognition and experience. Since October 2025 to date, he has served as a Member of the Advisory Committee of the United Nations Human Rights Council in Geneva, Switzerland. As a member of the Advisory Committee, he has served on drafting groups dealing with important contemporary human rights issues. He has also held several significant leadership positions, notably Supervising High Court Judge, Western Region; and Chancellor of the Anglican Diocese of Sekondi from 2014 to 2024. He previously served as Chancellor of the Anglican Diocese of Sefwi Wiawso from 2009 to 2010, Registrar of the Anglican

Diocese of Sefwi Wiawso from 2006 to 2009, and Member of the Governing Council of St Nicholas Seminary, Cape Coast, from 2008 to 2014.

- 5.1.6 Justice Asante has undertaken extensive professional development locally and internationally. This includes training in Legislative Strategic Management at the International Law Institute, Washington, D.C., and the London Summer Arbitration School at The Arbitration Lab, United Kingdom, in 2025. He also pursued Private International Law at The Hague Academy of International Law (2024) and Public International Law at The Hague Academy of International Law (2023).
- 5.1.7 Justice Asante has also contributed to legal and judicial scholarship through lectures and conference papers on ECOWAS jurisprudence, freedom of expression, access to information, safety of journalists, climate justice, unconstitutional changes of government, human rights, the rule of law and the digital ecosystem.
- 5.1.8 Justice Asante has received a number of professional and leadership awards, including the honour of being a Grand Fellow of the Institute of Security and Strategic Studies in Abuja, Nigeria. He also received the African Bar Medal of Merit Award in Leadership from the African Bar Association at its international conference in Lilongwe, Malawi, in August 2022, and an Award for Excellence in Leadership, Peace and Community Development at the Peace Achievers International Awards organised by the Peace Ambassador Agency Worldwide.
- 5.1.9 Justice Asante is a member of several professional associations, including the Association of Judges and Magistrates of Ghana (AJMG),

the Commonwealth Magistrates and Judges Association (CMJA) and the World Jurists Association (WJA). Beyond his professional affiliations, he has served as Patron of the Atomic Tennis Club, Accra; Patron of the Hill Club Tennis Club, Cape Coast; Patron of the Army Mess Tennis Club, Accra; Patron of the GHACEM Tennis Club, Takoradi; and is a member of the 4 Garrison Tennis Club, Kumasi.

5.1.10 Justice Edward Amoako Asante is a senior Ghanaian jurist with extensive experience in domestic and international adjudication, judicial administration, human rights, international law, arbitration, institutional management and judicial leadership.

5.1 11 He is married with three children and is fluent in English, Sefwi and Asante Twi. His hobbies are playing lawn tennis, watching local films and watching football.

6.0 RESPONSES TO QUESTIONS

6.1 ACHIEVEMENTS AT THE ECOWAS COURT

6.1.1 When asked to highlight three (3) key achievements during his tenure as President of the ECOWAS Court, the Nominee stated that his tenure witnessed significant institutional and administrative improvements.

6.1.2 First, he indicated that longstanding staff promotion backlogs were addressed and staff welfare concerns were resolved. He further stated that the Court recruited an adequate number of Research Officers to strengthen judicial research. According to the Nominee, these interventions significantly enhanced the capacity of the Research

Department and made it one of the best judicial research departments in West Africa.

6.1.3 Secondly, the Nominee stated that he introduced an online hearing system during the COVID-19 pandemic, which enabled the Court to continue hearing cases despite the restrictions imposed during the period. He informed the Committee that the system did not only ensure continuity in the administration of justice and prevent the accumulation of cases, but also reduced operational costs and conserved resources.

6.1.4 Finally, the Nominee indicated that he initiated the development of an electronic case management system during his tenure. Although the system was launched after his tenure, he stated that its development commenced under his leadership. He informed the Committee that the system provides for the automation and digitisation of case management processes, thereby reducing reliance on physical documentation, improving efficiency, and facilitating a faster processing and management of judicial cases.

6.2 INTEGRATION OF ARTIFICIAL INTELLIGENCE (A.I.) IN THE COURT SYSTEM

6.2.1 In response to a question on the necessity of incorporating Artificial Intelligence (AI) into the judicial system, the Nominee expressed the view that integration of A.I was necessary to improve efficiency and facilitate the expeditious resolution of cases. He stated that he had acquired some practical knowledge of the application of AI in judicial

administration through his efforts to promote its adoption within the ECOWAS Court.

6.2.2 The Nominee, however, emphasised that AI should complement rather than replace human judgment. He noted that human reasoning and judgment remained unique and indispensable to the administration of justice. He, therefore, stressed the need for human oversight and thorough verification of AI-generated outputs before they were relied upon in judicial processes.

6.2.3 He further opined that AI systems required appropriate training and supervision by humans to ensure that their outputs were accurate, reliable and suited to a particular legal environment. In this regard, the Nominee advocated for the development of AI systems that were specifically adapted to Ghanaian jurisprudence. He expressed his readiness to share his experience and provide support in the adoption of AI within the judicial system when called upon.

6.3 SAFEGUARDING THE INDEPENDENCE OF THE JUDICIARY

6.3.1. In response to a question on safeguarding the independence of the Judiciary, the Nominee indicated that judges swear on oath to be independent, fair and equitable to all manner of persons who appear before them. Additionally, judges apply the law to the facts as presented and are not influenced by external factors. He intimated that in his professional work, "*independence of the mind*" has been a guiding principle. He believes that professionalism is crucial for judges in the adjudication of cases. The Nominee added that where a matter

appears to create conflict, a judge in good conscience must recuse himself.

6.4 EVOLUTION OF SPOUSAL RIGHTS IN THE JURISPRUDENCE OF GHANA

6.4.1 In tracing the evolution of spousal rights in Ghana, the Nominee indicated that spousal rights have a chequered history in Ghana. He cited that previously, women and children were unfortunately considered as chattel of the man. Consequently, all property belonging to a man passed on to his family upon the death of the man, and not the wife or children. The wife and children even lived in the man's family after his death, subject to good behaviour. Subsequently, the courts, in cases such as *Abebreseh v Kaah* ruled that if the wife made substantial contribution towards the acquisition of the property, she must be given a part of the property.

6.4.2 He bemoans Parliament's reluctance to make laws on spousal property rights, although Article 22 of the 1992 Constitution empowers the House to promulgate the statute. The Supreme Court has over the years, through judicial activism in cases such as *Mensah v Mensah* and *Quartson v Quartson*, held that marital property must be distributed based on spousal contribution during the pendency of marriage. He added that each spouse could own his or her own property or they can hold joint property.

6.5 DIFFERENCE BETWEEN INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL LAW

6.5.1 In response to a question on the difference between international humanitarian law and international law, the Nominee noted that international humanitarian law, also known as the law of war, is law made in wartime and affects victims of war, business of war, refugees and migration. International humanitarian law governs the kind of weapons to be used in war, and the places that could be attacked. For instance, hospitals, schools and areas occupied by civilians cannot be attacked for the sake of war. It involves internal and international armed conflict. The nominee added that the Red Cross Society and Red Crescent are some of the institutions involved in international humanitarian law.

6.5.2 On the other hand, international law affects international institutions and states such as non-governmental organisations and agencies of the United Nations. These laws mostly come by either bilateral or multilateral treaties.

6.6 CONSTITUTIONAL SUPREMACY

6.6.1 The Committee sought the nominee's views on the significance of the case of *Tuffour v. Attorney-General* (1980) in Ghana's jurisprudence and its contribution to the constitutional development of the country.

6.6.2 In response, the nominee described the case as very important to the constitutional independence of Ghana. He explained that, prior to the case, there were issues regarding the question of supremacy. He noted that the case affirmed the principle of constitutional supremacy, establishing that the Constitution was supreme and that its provisions were final, as opposed to the principle of parliamentary supremacy.

6.6.3 The nominee further explained that, although certain powers had been vested in Parliament, the case upheld the position that the Chief Justice who served prior to the 1969 Constitution of Ghana should remain the Chief Justice. He indicated that the case also reinforced the rule of law and established that citizens could approach the courts not only where they had suffered personal injury. Citizens could also to raise matters that concerned rights that generally affected the entire nation, thereby granting them the power to sue.

6.7 SEPARATION OF JUDICIAL AND ADMINISTRATIVE DUTIES OF THE CHIEF JUSTICE

6.7.1 The Committee sought the nominee's opinion on whether the judicial and administrative functions of the Chief Justice should be separated, such that the Chief Justice would concentrate on judicial work while administrative functions were assigned to another person, given the complex and increasing volume of cases within the justice system.

6.7.2 The nominee did not support the separation of the two functions. He explained that the Chief Justice was the head of the Judiciary, just as the President was the head of State and the Speaker was the head of Parliament. The duties of the Chief Justice could, therefore, not be divided.

6.7.3 The nominee noted that certain administrative responsibilities, such as the empanelment of judges, were functions which the Chief Justice should be able to perform. He further indicated that he did not subscribe to the idea of using computer-generated panels of judges. He explained that, for instance, where a matter that involves human

rights law or international law arises, a computer-generated panel could not be relied upon to select a judge with sufficient experience in that area. In his view, judges with relevant experience should be empaneled to hear such matters in order to enrich the experience of the Court and contribute to the quality of its decisions.

- 6.7.4 The nominee, therefore, maintained that the judicial and administrative functions of the Chief Justice should not be separated, as the Chief Justice is the head of the Judiciary and should continue to perform both functions.

6.8 RELATIONSHIP BETWEEN CHAPTER FIVE AND CHAPTER SIX OF THE 1992 CONSTITUTION

- 6.8.1 The nominee was asked whether there was a distinction between the Fundamental Human Rights and the Directive Principles of State Policy contained in Chapters Five and Six of the 1992 Constitution, respectively.

- 6.8.2 He explained that Chapter Five guarantees fundamental rights and freedoms accruing to individuals, such as the right to life, dignity and the right to be informed of the reasons for arrest. Chapter Six, on the other hand, sets out the Directive Principles of State Policy, which focus broadly on the social and economic well-being of society.

- 6.8.3 The nominee indicated that, while the rights under Chapter Five are generally enforceable by the courts, the provisions of Chapter Six are generally not directly enforceable. He, however, noted that where a

provision in Chapter Six is also guaranteed elsewhere in the Constitution as an enforceable right, it may be subject to judicial enforcement, as recognised in *NPP v. Attorney-General (CIBA Case)*.

- 6.8.4 He further explained that the non-enforceability of most provisions under Chapter Six is partly due to their financial implications, as their enforcement could impose significant and potentially unlimited obligations on the State to provide social amenities such as schools and hospitals.

6.9 RIGHT TO BAIL AND THE CALL FOR A BAIL ACT

- 6.9.1 The Committee sought the nominee's views on the right to bail under Chapter Five of the 1992 Constitution and whether, in view of the controversies surrounding the exercise of judicial discretion in bail matters, Parliament should consider enacting specific legislation to define the parameters and circumstances for the grant of bail, as has been done in some other jurisdictions.

- 6.9.2 In response, the nominee indicated that, there was no need for a separate Bail Act, as the existing legal framework was sufficiently clear. The nominee referred to the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) as providing the statutory framework for the grant of bail. He specifically cited the Supreme Court decision in *Martin Kpebu v Attorney-General*, which established that all offences are bailable, thereby addressing the previous statutory restrictions contained in section 96(7) of Act 30. The decision was

grounded, among other provisions, on Articles 14 and 19(2)(c) of the Constitution, including the constitutional presumption of innocence.

- 6.9.3 He emphasised that where a person is unlawfully detained beyond the constitutionally prescribed period, the appropriate remedy is to challenge the detention before the courts. He indicated that courts should be prepared to award appropriate relief against persons or institutions responsible for unlawful detention, thereby reinforcing respect for the constitutional right to personal liberty.

7.0 MR ANTHONY FORSON JNR
(Justice-designate to the Supreme Court)

7.1 BACKGROUND

- 7.1.1 Mr Anthony Forson Jnr was born on 21st November 1964 in Takoradi in the Western Region of Ghana and hails from Cape Coast in the Central Region. He began his basic education at Chapel Hill Preparatory School in Takoradi, where he studied from 1971 to 1977. He subsequently attended Mfantshipim School in Cape Coast from October 1977 to June 1982, where he obtained his GCE Ordinary Level Certificate. He thereafter proceeded to St John's School in Sekondi from October 1982 to June 1984 for his GCE Advanced Level Certificate. Between 1984 and 1985, he undertook national service with the Internal Revenue Service.

- 7.1.2 The nominee then proceeded to the University of Cape Coast, where he studied from October 1986 to June 1990 and obtained a Bachelor of Arts degree in English and Classics, as well as a Diploma in

Education. Following the completion of his university education, he undertook his national service at the Takoradi Polyclinic from 1990 to 1991. During this period, he also served as President of the National Service Personnel Association in the Western Region from 1990 to 1992. In that capacity, he represented the National Service Personnel Association on the Consultative Assembly from 1991 to 1992.

- 7.1.3 He pursued his legal education at the Ghana School of Law from October 1992 to June 1996 and obtained a Qualifying Certificate in Law and Professional Qualification as a Barrister and Solicitor in Ghana. He thereafter trained with the law firm of Tetteh & Co, Legal Practitioners, in Accra from 1997 to 2005. Since January 2006 to date, he has worked with T. Forson & Co, Legal Practitioners and Investments, Accra.
- 7.1.4 Mr Forson Jnr has held several leadership positions within the legal profession, particularly within the Ghana Bar Association. He served as National Public Relations Officer of the Ghana Bar Association from September 2007 to September 2015. He subsequently served as National Vice-President from September 2015 to September 2018 and as National President from September 2018 to November 2021.
- 7.1.5 In addition to his leadership roles within the Ghana Bar Association, the nominee has served in various capacities within the legal profession. He served as a Member of the General Legal Council from 2015 to 2021 and as a Member of the Legal Aid Board, representing the General Legal Council, from 2019 to 2022. He has also served as a Member of the Disciplinary Committee of the General Legal Council from 2023 to date. He further served as a Member of the Judicial

Council from 2018 to 2024 and as a Member of the Council's Appointments Committee from 2019 to 2022.

- 7.1.6 He also served as a Member of the National Board of the Lands Commission, representing the Ghana Bar Association, from 2022 to 2024. He is a Member of the Board of the Council for Law Reporting, representing the Ghana Bar Association, and a Member of the Audit Committee of the Council for Law Reporting. At the international level, he has served as a Council Member of the International Bar Association, representing the Ghana Bar Association, from 2015 to date.
- 7.1.7 In the corporate sector, Mr Forson has served as a Director of Donewell Insurance Company Limited from 2022 to date and as Chairman of the Company's Audit Committee from 2024 to date.
- 7.1.8 The nominee is a member of the Ghana Bar Association and the International Bar Association (IBA). With regard to conferences and capacity-building programmes, he has attended all Ghana Bar Association conferences from 1999 to 2025. He has also participated in International Bar Association conferences in Dublin, Tokyo, Dubai and Austria in 2011, 2013, 2014 and 2015 respectively.
- 7.1.9 Mr Anthony Forson Jnr is married with two daughters. His interests include watching football, playing Scrabble and listening to various genres of music.

8.0 RESPONSES TO QUESTIONS

8.1 Establishment of Regional Tribunals

8.1.1 The Committee sought the views of the Nominee on the establishment and operationalisation of Regional Tribunals.

8.1.2 In response, the Nominee stated that Regional Tribunals were expressly provided for under the Constitution. He emphasised that the Constitution remained the fundamental law of the land and that the establishment of Regional Tribunals did not constitute an importation into the Constitution. Accordingly, where Parliament sought to give effect to an existing constitutional provision, he had no objection to such an initiative.

8.1.3 The Nominee maintained that, since the establishment of Regional Tribunals was contemplated by the Constitution, any steps taken by Parliament to operationalise them would be consistent with the constitutional framework.

8.2 CONFLICT OF INTEREST

8.2.1 Given the Nominee's direct appointment from legal practice, where he had represented several clients, including major commercial interests, the Committee sought assurance that his prior professional relationships, clients, colleagues at the bar, and related institutions would not improperly influence his judgement as a justice of the Supreme Court.

8.2.2 The Nominee acknowledged that his twenty-nine (29) years of professional experience, particularly in commercial practice, had inevitably shaped his worldview and would form part of the experience he would bring to the Bench. He, however, stressed that his professional responsibilities would not permit such relationships or experiences to result in bias in the determination of cases before him.

8.2.3 He maintained that his decisions would ultimately be guided by the law and the professional obligations associated with judicial office.

8.2.4 On the threshold for recusal, the Nominee stated that he would recuse himself from a matter where there was a conflict of interest. He cited, as an example, a situation where he personally, or his law office, had previously handled an aspect of the matter before it reached the Supreme Court. In such circumstances, he considered recusal appropriate.

8.3 ELECTION OF METROPOLITAN, MUNICIPAL AND DISTRICT CHIEF EXECUTIVES

8.3.1 The Committee sought the views of the Nominee on whether Metropolitan, Municipal and District Chief Executives (MMDCEs) should be elected.

8.3.2 In response, the Nominee observed that the current District Assembly system was party-connected. He indicated that, if, following a holistic assessment, it was collectively determined that MMDCEs ought to be elected, Parliament could exercise its legislative mandate to make the necessary amendments to the law.

- 8.3.3 The Nominee therefore maintained that the matter was ultimately one for the country and Parliament to determine within the appropriate legal and constitutional framework.

8.4 COMPOSITION AND SIZE OF THE SUPREME COURT

- 8.4.1 The Committee sought the opinion of the Nominee on the continuing public debate as to whether the number of Justices appointed to the Supreme Court should be capped.
- 8.4.2 In response, the Nominee expressed his opposition to imposing a cap on the number of Justices of the Supreme Court under the existing constitutional arrangement. He explained that his position was informed by the wide jurisdiction conferred on the Supreme Court.
- 8.4.3 The Nominee indicated that there was justification for expanding the membership of the Supreme Court, having regard to the Court's overwhelming workload and the inability of its current composition to adequately cope with the volume of cases before it.
- 8.4.4 He emphasised that, unless the jurisdiction of the Supreme Court was reduced, there should, at present, be no cap on the number of Justices appointed to the Court.

8.5 REDUCTION OF JUDICIAL CASE BACKLOG

- 8.5.1 The Committee sought the views of the Nominee on measures that could be adopted by the Judiciary, particularly under the leadership of the Chief Justice, to address the backlog of cases before the courts.
- 8.5.2 The Nominee identified Information and Communication Technology (ICT) as one of the most effective tools that could be deployed to improve the disposal of cases. Drawing on his experience at the Ghana Bar

Association, he referred to efforts to digitise aspects of the Association's operations and indicated that similar technological interventions could assist the Judiciary.

8.5.3 He expressed his willingness to support the Chief Justice in the deployment of ICT to facilitate the expeditious disposal of cases, subject to the availability of the necessary resources.

8.5.4 The Nominee acknowledged that some reforms, including adjustments to sitting arrangements and working periods, could potentially be resisted by practitioners. He nevertheless maintained that the justice delivery system had to continue evolving and reiterated his conviction that ICT represented a viable means of reducing case backlogs and improving efficiency within the Judiciary.

8.6 PRINCIPLES OF APPELLATE PRACTICE

8.6.1 The Committee engaged the Nominee on principles of appellate practice, particularly appeals by way of rehearing and judgment against the weight of the evidence.

8.6.2 On appeals by way of rehearing, the Nominee explained that an appellate court reconsiders a matter previously determined by a lower court. This does not ordinarily involve recalling witnesses but requires an examination of the facts, evidence and reasoning of the lower court.

8.6.3 On judgment against the weight of evidence, the Nominee explained that an appellant must demonstrate that the lower court failed to properly consider the totality of the evidence or relevant pieces of evidence which could have resulted in a different conclusion.

- 8.6.4 He added that the lawyer advancing such a ground must identify the specific evidence that was overlooked or improperly evaluated and demonstrate how its proper consideration could have affected the decision of the lower court.

8.7 ARTIFICIAL INTELLIGENCE AND THE FUTURE OF LEGAL PRACTICE

- 8.7.1 The Committee sought the views of the Nominee on the increasing application of Artificial Intelligence (AI) in legal practice, particularly its use in legal research, contract review and other routine aspects of legal work, and whether developments in AI could ultimately diminish or replace the role of lawyers.
- 8.7.2 In response, the Nominee described Artificial Intelligence as an aid or tool that could enhance legal practice but maintained that it could not replace human beings in the practice and administration of law.
- 8.7.3 He explained that AI systems ultimately depend on information supplied by humans and, while they could significantly improve the speed and efficiency with which legal practitioners undertake their work, they were not infallible and could sometimes produce misleading results.
- 8.7.4 The Nominee therefore stressed that legal practitioners needed to possess a sound understanding and grasp of the law before relying on Artificial Intelligence. In his view, such knowledge would enable practitioners to appropriately assess and verify AI-generated information rather than accept it without scrutiny.
- 8.7.5 He concluded that when properly utilised by a lawyer with the requisite knowledge of the law, AI could facilitate faster and more economically

efficient legal work. He nevertheless maintained that AI remained an aid to legal practice and could not replace human effort and judgment.

9.0 JUSTICE SOPHIA ROSETTA ODUOKUWA BERNASKO ESSAH (MRS) (Justice-designate to the Supreme Court)

9.1 BACKGROUND

- 9.1.1 Justice Sophia Rosetta Oduokuwa Bernasko Essah was born on 19th July 1965 in Accra and hails from Cape Coast in the Central Region of Ghana. She is a Christian, married with four children, and is fluent in both spoken and written English. She also speaks Fante and Ga.
- 9.1.2 She had her middle school education at Achimota Preparatory School from 1971 to 1977, where she obtained her Common Entrance Certificate. She had her Ordinary Level education from 1977 to 1982 and her Advanced Level education from 1982 to 1984 at Wesley Girls' High School in Cape Coast.
- 9.1.3 She then proceeded to the University of Ghana to read for a Bachelor of Laws from 1985 to 1988. Subsequently, the nominee continued her legal education at the professional level at the Ghana School of Law from 1988 to 1990. After completion, she pursued a Master of Laws (LLM) at the University of Warwick in the United Kingdom from September 1997 to September 1998. She holds an Executive Master of Arts in Conflict, Peace and Security obtained from the Kofi Annan International Peacekeeping Training Centre in 2017.

- 9.1.4 The nominee worked with the Ghana Education Service from 1984 to 1985 and the Judicial Service of Ghana from 1990 to 1991 under the National Service Scheme. She served as an Assistant State Attorney in the Attorney-General's Department from April 1992 to October 1998. From September 1998 to April 2000, she served as State Attorney at the Attorney-General's Department in Accra. Subsequently, from 2000 to 2004, Justice Bernasko Essah became Senior Legal Counsel at the Volta River Authority. She served as Legal Services Manager and as Solicitor at the Tema Oil Refinery from 2004 to 2007 and from November 2007 to July 2011 respectively. In September 2011, Justice Bernasko Essah was appointed a Justice of the High Court and subsequently a Justice of the Court of Appeal until her nomination for appointment to the apex court.
- 9.1.5 Regarding leadership positions held, the nominee has served as Chancellor of the Anglican Diocese of Accra from 2012 to date. She also served as Secretary of the International Association of Women Judges (Ghana Chapter) from 2012 to 2016. From July 2023 to date, she has served as a Member of the Election Management Committee and as Chairperson of the Gender Equality Committee of the Judicial Service. She served as Presiding Judge on the Court of Appeal Panel for the Western and Central Regions from 2024 to 2025. She also serves as Chairperson of the Users Committee on Gender-Based Violence and Juvenile Justice for the Northern and Southern Sectors of Ghana.

9.1.6 The nominee has attended and participated in several workshops, conferences, seminars and professional development programmes, both locally and internationally. These include the Meeting of Directors of Research of Central Banks and Representatives of Ministries of Finance and Debt Management in Johannesburg, South Africa, in 1996, and the UNITAR Arbitration Programme on Debt and Financial Management in Windhoek, Namibia, also in 1996. In 2014, she attended a Seminar on Maritime Laws in Ghana. In 2016, she participated in the 13th Biennial Conference on Women Judges and the Rule of Law in Washington, D.C., and in April 2017, she attended a Workshop on Financial Crimes and Digital Evidence in Ghana.

9.1.7 In 2018, the nominee participated in the 14th Biennial Conference, themed "Building Bridges Between Women Judges of the World", organised by the International Association of Women Judges in Buenos Aires, Argentina. She has also attended a workshop on "Adoption and Human Trafficking in Ghana" and received training in Mental Health, Stress and Suicide Management for High Court Judges in Ghana in 2015. In 2021, she participated in the 43rd Conference of the National Association of Women Judges in Nashville, Tennessee. She has also visited the District of Columbia Court of Appeals in Washington, D.C., and participated in the Commonwealth Convention on Advancing Economic, Social and Cultural Rights in Ghana.

9.1.8 Her professional development has further included specialised courses and programmes in the petroleum and energy sector. These include a course on "Improving Refinery Profit Margins" in Houston, Texas; a course on "Loss Control and Risk Management in a Refinery" in London; a programme on "Fundamentals of Petroleum Refining: Non-

Technical Introduction" in Oxford and Princeton in the United Kingdom; and a course on "A Practical Approach to Legal Issues for Successful Management of Claims and Disputes" in Oxford and Princeton in London.

9.1.9 The nominee undertook a course in Natural Gas Negotiations and Contracts at the Centre for Energy, Petroleum and Mineral Law and Policy (CEPMLP). She also attended a UNITAR meeting on Debt Management in Johannesburg, South Africa, as well as an ECOWAS Meeting of Directors of Research of Central Banks and Representatives of Ministries of Finance and Debt Management, also held in Johannesburg, South Africa.

9.1.0 In her leisure time, the nominee enjoys the sea, crocheting, reading and music.

10.1 RESPONSES TO QUESTIONS

10.1.1 DEPARTURE OF THE SUPREME COURT FROM ITS PREVIOUS DECISIONS

10.1.2 The Nominee was asked whether the Supreme Court, being the apex court of the land and whose decisions are ordinarily binding on all courts, including itself, should be permitted to depart from its previous decisions.

10.1.3 In response, the Nominee stated that, to the extent necessary, the Supreme Court is required under Article 129(3) of the 1992 Constitution to depart from its previous decisions where circumstances so warrant.

- 10.1.4 She explained that previous judicial decisions promote certainty, stability and predictability in the law. However, she noted that where a previous decision has resulted, or is resulting, in injustice; where there has been an error in principle; where the decision is inconsistent with the Constitution; or where the decision is otherwise unworkable, the Supreme Court may depart from it.

11.0 PRIOR VETTING AND NOMINEE'S COMPETENCE

- 11.1 The Committee recommended that the nominee be appointed as a Justice of the Supreme Court following her successful vetting by the Appointments Committee during the 8th Parliament. The Committee noted that the nominee had previously appeared before the Committee and successfully undergone the vetting process for appointment to the Supreme Court. However, the earlier nomination did not proceed to approval by the House due to the circumstances surrounding the end of the parliamentary term and the election year.
- 11.2 Members who had participated in the previous vetting expressed confidence in the nominee and recalled that she had demonstrated her suitability for appointment. Members who had not participated in the earlier exercise indicated that, having reviewed the nominee's curriculum vitae and listened to her responses during the current vetting, they were satisfied with her qualifications, experience and suitability for appointment to the Supreme Court.

12.0 CONCLUSION AND RECOMMENDATION

12.1

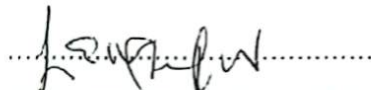
The Chairperson confirmed that despite the Minority members' decision not to participate in the vetting process, the Committee maintained a legal quorum under Article 102 of the Constitution of Ghana. Furthermore, with six out of the eleven total members present, the proceedings satisfied the constitutional voting threshold required by Article 104. Without any dissenting votes recorded, the Committee unanimously resolved to recommend all three nominees to the House for approval as Justices of the Supreme Court of Ghana.

12.2

Consequently, the Committee recommends to the House by **Majority Decision of Members present and Voting, pursuant to Articles 102, 104 of the 1992 Constitution** the approval of the following Nominees:

- i. **Justice Edward Amoako Asante**
- ii. **Justice Anthony Forson Jnr.**
- iii. **Justice Sophia Rosetta Bernasko Essah**

Respectfully submitted.



**HON BERNARD AHIAFOR
(FIRST DEPUTY SPEAKER AND
CHAIRMAN OF THE APPOINTMENTS COMMITTEE)**



**EUNINCE K. ABEKA (MRS)
(PRINCIPAL ASSISTANT CLERK,
AND CLERK TO THE COMMITTEE)**

Thursday, 27th August, 2026