

# NATIONAL DEMOCRATIC CONGRESS

## NATIONAL SECRETARIAT

Your Ref:....

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The Secretary General Commonwealth Secretariat Marlborough House, Pall Mall, St. James's London. SW1Y 5HX, United Kingdom.

Your Excellency,

PETITION AGAINST HUMAN RIGHTS VIOLATIONS, CRIMINAL PERSECUTIONS AND HARASSMENT OF MEMBERS OF THE NATIONAL DEMOCRATIC CONGRESS BY THE GOVERNMENT OF GHANA,

## A. INTRODUCTION

1. The National Democratic Congress (NDC) wishes to bring to the attention of the Secretary-General of the Commonwealth of Nations various acts of human rights violations, criminal persecutions and harassment of its members and supporters by the Government of Ghana headed by His Excellency, President Nana Addo Danquah Akufo Addo, and calls upon the Secretary-General of the Commonwealth of Nations to advise and encourage the Government of Ghana to desist from these acts that threaten Ghana's peace and security.

#### B. BACKGROUND

- 2. Ghana became a member of the Commonwealth of Nations in 1957 under the leadership of the country's first President, His Excellency President Dr. Kwame Nkrumah. Since then Ghana has been an active member of the Commonwealth of Nations committed to its ideals and values. In 1991, the Commonwealth pursuant to its recognition of the principle of good
- Declaration, which, among others, recognized the "liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual's inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives".
- 3. The NDC as the largest opposition party in Ghana has a huge stake in the success of Ghana's democracy. The Founder of the NDC, His Excellency President Jerry John Rawlings of blessed memory, played a pivotal role in ushering Ghana into her fourth attempt at democratic rule in 1993. For this and other reasons, the NDC has remained steadfast and committed to Ghana's democracy and the ideals and values of the Commonwealth. It is important to note that, since 1993 the presidency of Ghana has alternated between the NDC (1993-2000 and 2009-2016) and the New Patriotic Party (NPP) (2000-2008 and 2016-). Currently, Ghana has a hung Parliament with both the NPP and NDC, having 137 Members of Parliament.
- 4. His Excellency, President Nana Addo Danquah Akufo Addo, was elected the President of Ghana in 2016 and re-elected to serve a second term of office in December 2020. As the presidential candidate of the NPP before the 2016 General Elections, then candidate Nana Addo Danquah Akufo Addo preached violence and mayhem if he did not win the 2016 Presidential Elections. Since assuming the reigns of power in 2016 the message of physical violence against political opponents that President Nana Addo Danquah Akufo Addo preached and championed before the 2016 General

 $<sup>{}^1</sup>http://country.eiu.com/article.aspx?articleid=779231462\&Country=Ghana\&topic=Politics\&subtopic=For\_1; \\ https://www.pulse.com.gh/ece-frontpage/election-2016-all-die-be-die-mantra-im-ready-to-accept-blame-nana-addo/wx0ypp9. \\$ 

Elections has turned into structural, institutional and systemic forms of violence, in the form of human rights violations, harassment and political persecutions, against members and supporters of the NDC. Significantly, buffer institutions such as the Judiciary whose core mandate is to mediate between the interests of opposing parties and ensure the promotion of the rule of law and individual liberties have become systematically enfeebled with attendant loss of public confidence in these institutions. A recent African Barometer survey report for Ghana indicates that over 84% of Ghanaians do not consider the judiciary to be impartial.<sup>2</sup>

5. The image of the Judiciary has been further dented by the delivery of unreasoned court judgments, which read more like partisan or polemical pieces than learned judicial reasoning consistent with judicial standards in the legal systems of common law countries. In one such court opinion, a judge presiding over a criminal trial involving the prosecution of a member of the NDC simply ruled that the application has been brought in bad faith and dismissed it without more.

### C. <u>HUMAN RIGHTS VIOLATIONS</u>, <u>POLITICAL PERSECUTIONS</u> AND HARASSMENT

6. It is in the light of the preceding observations that we provide below instances of human rights violations, harassment and criminal persecutions of members of the NDC by the Government of Ghana.

### a. Republic v Stephen Kwabena Opuni and two others.

7. The first is the case of the Republic v Stephen Kwabena Opuni and two others. On 14<sup>th</sup> March 2018, the Government charged Dr. Stephen Kwabena Opuni, Seidu Agongo and Agricult Ghana Limited for 27 counts of offences, including abetment of defrauding by false pretences and willfully causing financial loss to the Republic of Ghana. While this matter is still pending in the courts of Ghana (and we do not wish to comment on the merits of the case) we feel compelled to draw attention to the conduct of the Government, which demonstrates that the entire prosecution of Dr. Stephen Kwabena Opuni is nothing but political witch-hunting.

 $<sup>^2\</sup> https://citinewsroom.com/2021/04/down-the-up-escalator-reflections-on-ghanas-future-by-a-senior-citizen-sam-k-jonah-article/$ 

- 8. During the trial it came to the attention of the lawyers for the defendants that the Government had suppressed relevant evidence that exculpate the defendants. These pieces of relevant evidence included witness statements obtained during investigations conducted by the State which showed that some of the farmers who used the fertilizer on their cocoa farms indicated that their yield had increased; witness statements showing that there had been alternative laboratory tests of samples of the fertilizer in question by the Ghana Standards Authority, whose results differed from the test results being relied upon by the prosecution, among others.
- 9. Quite apart from the above, in the course of the trial of Dr. Stephen Kwabena Opuni, the then Deputy Attorney General of Ghana, Godfred Dame (now the substantive Attorney General) granted an interview in the United Kingdom where he presented Dr. Stephen Kwabena as a symbol of corruption of the NDC Government. What is more worrying is that the trial of Dr. Stephen Kwabena Opuni increasingly looks like a political show trial than a genuine attempt at ensuring accountability of public officers.
  - 10. A key figure in this political show trial has been the presiding judge, Mr. Justice Clemence Jackson Honyenuga, whose conduct breaches established principles of judicial composure and commitment. In February 2020, Mr. Justice Clemence Jackson Honyenuga, the presiding judge, who is also the Paramount Chief of Nyagbo in the Volta Region of Ghana called on his people, at a durbar, to vote for President Nana Addo Danquah Akufo Addo in the 2020 Presidential Elections. This is a flagrant breach of article 276 of the Ghana's 1992 Constitution which prohibits chiefs from "taking part in active party politics". An application for Mr. Justice Clemence Jackson Honyenuga, to recuse himself from the hearing of the case came to naught.
  - 11. Since then Mr. Justice Clemence Jackson Honyenuga has been unable to hide his intention to convict Dr. Stephen Kwabena Opuni. At the close of the Prosecution case and upon an application of submission of no case to answer by lawyers for Dr. Stephen Kwabena Opuni, Mr. Justice Clemence Jackson Honyenuga, contrary to all standards of common law adjudication on the legal principles that govern the consideration of an application of no case to answer, literally established the guilt of Dr. Stephen Kwabena Opuni before the latter had opened his defence. In delivering his ruling on the application, Mr. Justice Clemence Jackson Honyenuga, who was appointed a Supreme Court Justice in the course of the criminal prosecution of Dr. Stephen Kwabena Opuni made the following unfortunate remarks, which

in any fair legal system would warrant his recusal from the case on the ground of real likelihood or appearance of bias:

Page 54 of the ruling "All these were perpetuated to facilitate the 2<sup>nd</sup> and 3<sup>rd</sup> accused business and defraud COCOBOD, indeed these acts were all perpetuated to facilitate and intentionally, voluntarily to aid the 2<sup>nd</sup> and 3<sup>rd</sup> accused to perpetuate fraud on COCOBOD by supplying a different product from what was tested and approved."

Page 54 again "...However, the 1st Accused although he knew the correct state of affairs and knowingly facilitated and aided the 2nd and 3rd accused to defraud COCOBOD."

Page 55 of the ruling. "The 1st accused made things easier for the 2nd and 3rd Accused to succeed in their enterprise of defrauding."

Page 59 of the ruling. "The 1<sup>st</sup> accused scientist with all his knowledge and skill had the benefit of an original Lithovit Foliar Fertilizer submitted, tested and approved by him yet knowingly he agreed and caused the state to lose millions of Cedis in foreign exchange by paying these monies to the 2<sup>nd</sup> and 3<sup>rd</sup> accused persons. The 1<sup>st</sup> accused thus caused financial loss through this action."

- 12. Aside the above prejudicial statements Mr. Justice Clemence Jackson Honyenuga in his ruling on the submission of no case to answer on his own rejected 18 exhibits 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74 and 75 that were favourable to the case of Dr. Stephen Kwabena Opuni while retaining on the record of the case similar exhibits that had been tendered in similar circumstances that were favourable to the case of the Prosecution.
- 13.Dr. Stephen Kwabena Opuni challenged the decision of Honyenuga JSC at the Supreme Court. The majority of 3-2 judges set aside the ruling of Honyenuga JSC and ordered him to recuse himself from the trial on grounds of real likelihood of bias. The Government feeling embarrassed that the prosecution of the Dr. Stephen Kwabena Opuni had come to naught and further that the good people of Ghana had seen through their persistent lies

<sup>&</sup>lt;sup>3</sup> The Republic v High Court (Criminal Division 1)

and attacks on Dr. Stephen Kwabena Opuni and the NDC, invoked the review jurisdiction of the Supreme Court to overturn the decision of the Original Bench of the Supreme Court. In a flawed ruling, ridden with palpable error, an enhanced panel of the Supreme Court reversed the decision of the ordinary panel and ordered Mr. Justice Clemence Jackson Honyenuga to continue hearing the case.<sup>4</sup>

- 14.It is clear to us that the Government of Ghana is bent on abusing the criminal justice system to ensure that Mr. Justice Clemence Jackson Honyenuga convicts Dr. Stephen Kwabena Opuni regardless of the evidence on record. Well-meaning Ghanaians keep asking, rhetorically, what would it cost the State to appoint a new judge to adjudicate the matter in the interest of fair trial!
- open bias and hostility towards Dr. Stephen Kwabena Opuni. In a recent ruling by him on an application to recuse himself on ground of real likelihood of bias the judge accused Dr. Stephen Kwabena Opuni of "hallucinating", "malicious lies", "engineered to court public support". These statements and more have caused Ghanaians to question the partiality of the judge. For example, Professor Stephen Kwaku Asare a Fellow in Public Law and Justice at the Ghana Centre for Democratic Development (CDD), retorted as follows: "How then can a judge remain on a case for alleging that a party's affidavit (sworn statement) in support of a motion for recusal is filled with malicious lies and is engineered to court public support?" 5

#### b. The Republic vrs Samuel Ofosu Ampofo and Anthony Kwaku Boahen

16.Another example of criminal persecution being perpetrated by the Government of Ghana against the members of the NDC is the case *The Republic vrs Samuel Ofosu Ampofo and Anthony Kwaku Boahen*. The 1<sup>st</sup> Accused person is the Party Chairman of the NDC and the 2<sup>nd</sup> Accused person is a Deputy Communications Officer of the NDC. The brief background to the case is that on 31<sup>st</sup>January, 2019 there was a bye-election

 $<sup>^4\</sup> https://www.ghanaweb.com/GhanaHomePage/NewsArchive/You-want-Opuni-jailed-at-all-cost-Twists-turns-show-justice-won-t-be-served-NDC-to-AG-1402837$ 

<sup>5</sup> https://www.facebook.com/kwaku.azar

in Ghana that was marred by State-sponsored violence. Unspeakable violence was unleashed on members and supporters of the NDC leading to the withdrawal of the party from the elections. Following the Ayawaso West Wuogon by-election violence the State set up a commission of inquiry that made adverse findings against certain state officials, which recommendations, the Government has blatantly refused to implement. Chairman Samuel Ofosu Ampofo met a group of the Party's communicators to agree on a communication strategy for the NDC following the withdrawal of the party from the bye-elections.

- 17. The conduct of the Government of Ghana in this matter has been dreadful leaving no doubt the Government is bent on a conviction regardless of the quality of the evidence. When on 29<sup>th</sup> January 2020, the Prosecution called its first witness in the person of one Benjamin Osei Ampofo Adjei, he testified that he had no recollection of the statements contained in the witness statement attributed to him. However, the signature on the witness statement was his. This is how the leading State newspaper captured the proceedings of 29<sup>th</sup> January 2021.
- "Even before the statement was presented to him to identify if the signature on it was his, [Benjamin Osei Ampofo] Adjei had testified that the police had brought a statement to him to sign and that he had signed it because he was told it was part of investigations"
  - 18.It is unfortunate that the State has taken no interest in prosecuting or taking action against the perpetrators of the Ayawaso-West Wuogon bye-election violence, who caused life-threatening injuries to members and supporters of the NDC. The failure of the Government of Ghana to punish the culprits involved in the destruction of lives and property at the Ayawaso West Wuogon by-election emboldened the Security Agencies to perpetrate the heinous crime of killing eight (8) unarmed Ghanaians at Techiman South and other constituencies during the 7<sup>th</sup> December 2020 elections. This atrocity as well has gone unpunished.

# c. The Republic vrs Cassiel Ato Forson & Two Others. Dr. Cassiel Ato Forson

19. The next instance of criminal persecution of members of the NDC is the recent case of **The Republic vrs Cassiel Ato Forson & Two Others**. Dr. Cassiel Ato Forson is the NDC Member of Parliament of Ajumako-Enyan-

Esiam Constituency in the Central Region of Ghana. In its budget statement for 2022 read in Parliament in November 2021 the Government has made it a policy priority to introduce an Electronic Transaction Levy (E-levy), which has been stiffly opposed by the NDC and Ghanaians. The immediate reaction of the Government to this opposition has been the harassment, persecution or threatened prosecution of members of Parliament of the NDC who have been at the forefront of the NDC's opposition to the E-levy. On 22<sup>nd</sup> December 2021, Dr. Cassiel Ato Forson granted an interview, during which, he expressed his strong opposition to the imposition of the E-levy. On 23<sup>rd</sup> December 2021, a day after his interview, the Government levelled criminal charges against him for willfully causing financial loss to the Republic and for intentionally misapplying public property. We believe that the charges against Dr. Cassiel Ato Forson are politically motivated and engineered to weaken his opposition to the E-levy. This is a brazen abuse of power by the Government of President Nana Addo Danquah Akufo Addo.

#### d. Our Humble Petition

- 20. These actions of the Government of Ghana create conditions that threaten Ghana's political stability and further erode our democratic values. It is very unfortunate that after riding on the high horse and banner of a human right activist, President Nana Addo Danquah Akufo Addo has become a democratic despot who brooks no opposition.
- 21. The Petitioner believes that in line with the objectives of the Commonwealth of Nations and the Harare Declaration, it is appropriate that we address this petition to this honourable body. The persecutions, threats and killings of supporters and members of NDC violate the values and objectives of the Commonwealth and will create conditions that will threaten and jeopardize the peace and security of Ghana.
- 22. We humbly request the Commonwealth of Nations through your good office to:
  - i. closely follow the political and human rights situation in Ghana since the promotion and protection of human rights, democracy and fundamental freedoms is a core value of the Commonwealth;
  - ii. send a team to investigate the matters raised, and in particular, send a team of lawyers, judges and legal experts to assess the adequacy and

- quality of the justice being administered to members of the NDC who are facing criminal persecutions;
- iii. continue to engage with the Government of Ghana and support and encourage their pursuit of accountability for the perpetrators of the Ayawaso West Wuogon Constituency bye-election violence and the gruesome state-sponsored killings of eight (8) innocent Ghanaians during the 7<sup>th</sup> December, 2020 general elections;
- iv. monitor the human rights situation in Ghana and the criminal persecutions of members of the NDC;
- v. engage with a broad range of actors, including government officials, political parties, representatives of civil society, to respect, promote protect human rights in Ghana; and
  - e. call upon the Government of Ghana to put a stop to these persecution, harassments, threats and killings of supporters and members of the NDC.

Yours faithfully,

Johnson Astedu Nketiah

(General Secretary of the NDC)