

THE CHIEF JUSTICE'S PETITION TO THE GENERAL LEGAL COUNCIL:

ASSAULTS ON FREEDOM OF EXPRESSION

**STATEMENT BY THE NDC MINORITY CAUCUS IN PARLIAMENT IN RESPONSE TO A
PETITION TO INVESTIGATE STATEMENTS ALLEGEDLY MADE BY HON. DR. DOMINIC
AKURITINGA AYINE, MP FOR BOLGATANGA EAST CONSTITUENCY, CHAIRMAN
OF THE SUBSIDIARY LEGISLATION COMMITTEE OF PARLIAMENT AND FORMER
DEPUTY ATTORNEY GENERAL AND MINISTER OF JUSTICE - 9TH JUNE, 2021**

INTRODUCTION

Our attention has been drawn to an invitation originating from the office of the Judicial Secretary, requesting the Disciplinary Committee of the General Legal Council to investigate alleged statements made by the Hon. Dr. Dominic Akuritinga Ayine, the NDC Member of Parliament for Bolgatanga East Constituency, Chairman of the Subsidiary Legislation Committee of Parliament, and former Deputy Attorney General and Minister of Justice over some comments. The Honourable Member was

alleged to have made the Statements at a panel discussion hosted by a Civil Society Organization, Centre for Democratic Development (CDD), on the Theme; "Presidential Election Petitions and their Impact on Africa's Democracy".

The Chief Justice's petition is based on hearsay. It says his attention has been drawn to statements allegedly made by Dr. Dominic Ayine during a panel discussion on Presidential Election Petition and their impact on Africa's Democracy. He submits a Joy FM report of the panel discussion.

The Chairman of the General Legal Council who is also the Chairman of the Judicial Council and head of the Judicial Service has already determined that

the comments are “totally unacceptable” and wants the Disciplinary Committee of his Council to investigate it further.

It is against this backdrop that we, the Minority Caucus in Parliament find this invitation to be in utter bad faith and meant to be an attack on free speech on Parliament, as an institution, and also an affront to democratic and academic freedom. This invitation is also seen to be an attack on freedom of expression and deepens the growing concern about the culture of silence, which is gradually lingering its ugly head in our democratic dispensation.

Dr. Ayine’s comments be appreciated as a matter within the public interest and the comment seeking to improve our democracy and the functioning of our institutions.

Dr. Ayine was speaking as a Member of Parliament, Chairman of the Subsidiary Legislation Committee of Parliament and not only as a Lawyer. He has a duty and responsibility as a Member of Parliament and a Chairman of the Subsidiary Legislation Committee of Parliament to speak to the public on matters of public interest as he did at the forum of the Presidential Election Petition and their impact on African’s democracy. Why must the tangential fact that he is a professional lawyer deprive him of his right to free speech, first as a citizen of Ghana, secondly as a Member of Parliament and thirdly as a Chairman of the Subsidiary Legislation Committee of Parliament? The Chief Justice’s position is an infringement of Dr. Ayine’s right to free speech on all scores and intended to render him ineffective as a representative of the constituency and as Chairman of the Subsidiary Legislation Committee of Parliament.

We note with regret that the Chief Justice is on record in recent times to have demonstrated his intolerance for dissenting views, particularly those emanating from Minority Members of Parliament. Not long ago, the Hon. Rockson-Nelson K. Etse Dafeamekpor, the NDC member of Parliament for

South Dayi, received a similar invitation to appear before the Disciplinary Committee of the General Legal Council. We are also aware of invitations to other members of the National Democratic Congress in the very recent past for statements which allegedly criticized some decisions of the Supreme Court.

It must be observed that this is the first time that any Chief Justice in Ghana is descending into a pure matter of discourse to prevent a Member of Parliament and a lawyer from freely expressing his right to free speech in a matter not pending in court but a judgement of the Supreme Court. Could this be fighting a proxy electoral battle on someone's behalf, we ask?

Dr. Ayine as an academic and legislator was making one of those contributions to the deepening of democracy, rule of law and frontiers of jurisprudence generally, rather than an attack on the Judiciary. We therefore consider the petition a "disproportionate interference" with his rights to freedom of expression and therefore not necessary in our democracy.

It is trite knowledge that practitioners are restrained from commenting or making any prejudicial statements relating to pending matters before the courts but they are free to critique the judgments after delivery. The fact that Dr. Ayine appeared before the Court for contempt and was cautioned is no bar for him to hold opinions and to express them after the Presidential Elections Petition case had been decided. The judgement was now in the public domain for scrutiny. The case was therefore no more pending at the time of the panel discussions.

We believe strongly that attacks on free speech and freedom of expression can create a crisis of confidence in our democracy. For us, the viability of our democracy hinges of freedom of speech.

The Chief Justice finds the alleged disparaging comments totally unacceptable and would like the General Legal Council to investigate this matter further.

Is it not the case that judgements of the Supreme Court are in the public arena opened to discussions, criticisms, analysis and intercourse and this probably was one of the objectives of the CDD's Round Table discussion. We note with satisfaction that CDD's credentials and their contributions to the evolution and development of our democracy remain paramount. Is it wrong for an astute academic of Dr. Ayine's standing to make academic commentary or criticism of a judgment delivered by the Supreme Court and by extension expressing an academic opinion on the independence of the Judiciary? We therefore conceive of Dr. Ayine's comments seeking to improve the administration of justice, we do not share the view that he over stepped certain bounds.

We consider the actions of the Chief Justice a restriction of political speech or on debate on matters of public interest. The hostility emanating from the Chief Justice's office will only negate his right to free speech.

We therefore call on the Chief Justice to reconsider his request to the Disciplinary Committee of the General Legal Council to investigate the alleged statements made by Hon. Dr. Dominc Ayine in the interest of peace, national cohesion and to safeguard our democracy.

Thank you.