

July 14, 2021.

The Commissioner
Commission on Human Rights and Administrative Justice
Accra

Through:

The Regional Representative
Commission on Human Rights and Administrative Justice
Ashanti-Kumasi

Dear Sir,

PETITION TO THE COMMISSION ON HUMAN RIGHT AND ADMINISTRATIVE JUSTICE (CHRAJ) WITH RESPECT TO PAYMENT OF ALLOWANCES TO FIRST AND SECOND LADIES (PAST AND PRESENT) FROM 2000 TO 2021 WHEN THEIR HUSBAND(S) WERE PRESIDENT/VICE PRESIDENT

1. We are three individuals with interest in governance, politics, constitutionalism and rule of law. By way of identity, we are:
 - a. Keskine Owusu Poku (Citizen of Ghana)
 - b. Victor Osei-Poku (Citizen of Ghana)
 - c. Michael Essel-Mills (Citizen of Ghana)
2. This petition is motivated by the revelations emanating for the Prof Yaa Ntiamoah-Baidu Presidential Emolument Committee's report 2020, and the passage of same by the 7th Parliament of Ghana on January 06, 2021. Of interests is the revelation on the payment of allowances to sitting First and Second ladies especially at the time their husbands were in charge of the decision to pay them allowances. The ensuing public discourse points to (1) public displeasure with the payment of allowances to First and Second Ladies when their husbands are Presidents and Vice Presidents at the time of such payments, (2) that such payments had about 20 years of history which many Ghanaians were oblivious of, and lastly (3) the need to help protect the public purse by ensuring that all illegitimate payment of allowances are refunded to the Consolidated Fund of the State.
3. To make our case, references are made to portions of the Prof. Yaa Ntiamoah-Baidu Committee's report, particularly, paragraph 6.2.2 on page 51 (Spouses of former Presidents) and *PCE/2020-Rec.18* of Point 7.3.1 on page 61 (Spouses of sitting and former Presidents and Vice Presidents should be catered for by the State as part of privileges extended to the President/Vice President).
4. For the avoidance of doubt, point 6.2.2 reads:

The Committee notes that neither Article 71 nor any other provisions in the Constitution bestows benefits on spouses of Presidents and Vice Presidents. Similarly, no legislation mentions what the State should provide for spouses of Presidents and Vice Presidents. In the course of the consultation a recurring issue with respect to spouses of former presidents was the rumour that some former First Ladies struggle to survive in foreign lands.

Incidentally, the Committee was reliably informed that the State has since early 2000s been taking care of former First and Second ladies, providing them with quarterly allowances and extending to them other courtesies. This support is purely on humanitarian grounds without any legal basis or policy guideline. In addition to the quarterly allowances, the Office of the Chief of Staff receives several cheques, sometimes in the form of Save our Souls (SoS) which the State obliges.

5. For the avoidance of doubt, paragraph PCE/2020-Rec.18 reads:

The administration of President Kufour introduced the extension of courtesies, including the payment of monthly allowances to spouses of former Heads of State/Presidents/Vice Presidents. Subsequent administrations have continued the gesture and even extended them to incumbent First and Second Ladies. The gesture remains purely humanitarian, to support, and in some cases rehabilitate former First Ladies who were evidently struggling to subsist. However, there is no legal basis for this support. Thus, the Committee recommends that the support extended to spouses of Presidents/former Presidents/Vice Presidents/former Vice Presidents be regularised and included in the privileges of Presidents/former Presidents/Vice Presidents/former Vice Presidents. We have accordingly, included these allowances at same level as current pertains, in Table 7.3 (A & B) on privileges and benefits for the President/Vice President.

6. We wish also to refer to paragraph 2 of point 2.4 on page 10 of the Chinery-Hesse Committee Report of December 2008 (2005-2009). It reads:

The key recommendations included the payment of non-taxable pension to Article 71 Office Holders. The Committee recommended that a former President be paid a pension equivalent to the consolidated salary of a sitting President. On the demise of sitting President, the spouse was to be paid a pension equivalent to the salary of a Minister. A former Vice-President who served for a full four-year term was to be paid a pension equivalent to 60 percent of the consolidated salary of a sitting Vice President, and 80 percent upon completion of two or more consecutive terms in office. The surviving spouse of a deceased Vice-President was to be paid a salary equivalent to the salary of a Deputy Minister.

7. We wish to also bring to your attention the clear provisions of Article 71 (1)(2) and (3) which are unequivocal on the category of public officers under Article 71 and Article 286, and the fact that the "Office of the First and Second Ladies" are alien to the 1992 Constitution of Ghana and without any expressly defined duties and responsibilities in our statutes hence, no legal basis exist for the payment of allowances to wives for Presidents and Vice Presidents (at a time that their husbands are in office).

8. We wish to draw your attention to the following provisions in the 1992 Constitution of Ghana:

Article 284 - A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.

Article 297(b) - The exercise of discretionary power shall not be arbitrary, capricious or biased either by resentment, prejudice or personal dislike and shall be in accordance with due process of law

9. A combined reading of the referenced relevant pages in the primary documents supra points to one simple and unambiguous fact that the humanitarian gesture commenced by President Kufour was targeted at only former First and Second Ladies (line 1 of paragraph PCE/2020-Rec.18) and until his exit from office, the incumbent First and Second Ladies were exempted from such allowances. Line 2 of paragraph PCE/2020-Rec.18 also indicate clearly that the *Subsequent administrations have continued the gesture and even extended them to incumbent First and Second Ladies.*

10. The approval of the Chinery-Hesse Committee Report of December 2008 (2005-2009) by the 4th Parliament of Ghana meant that an approval had been given for the payment of former First and Second Ladies who had lost their husbands hence, monies advanced to these former First and Second ladies are legal and right.

11. Our main contention, however, rests with the payment of allowances to INCUMBENT FIRST AND SECOND LADIES AT THE TIME THEIR HUSBANDS WERE EITHER PRESIDENT OR VICE PRESIDENT, a practice that started after the Kufour regime.

12. We wish to state that we are not oblivious of the fact that the current First and Second Ladies have committed to refund all monies given to them as allowances from 2017 to date and also decline the proposal for the regularization of such allowances to salaries. We assume that is the right decision based on the alien nature of their portfolios to our constitutional set up. Deriving from that, we are of a firm conviction that other monies advanced to wives of incumbent Presidents and Vice President (at the time of payment) must be retrieved and paid to the Consolidated Fund of the State. Specific reference is made to 2009 to 2016 since the practice of paying sitting First and Second Ladies started after the 4th Parliament of the 4th Republic. Secondly, the First and Second Ladies from

2017 to 2021 have already consented to refund every penny taken as allowances from the State.

13. Within the period of 2009 and 2016, 3 ladies had the benefit of occupying the portfolios of First and Second Ladies by reason of their husbands' election/selection to the offices of President and Vice President. They were Mrs. Ernestina Naadu Mills, Mrs. Lordina Mahama, and Mrs. Matild Amissah-Arthur. Mrs. Ernestina Naadu Mills served as First Lady from January 07, 2009 to July 24, 2012 when she lost her husband, the Late J.E.A. Mills. Mrs. Lordina Mahama was the Second Lady from January 07, 2009 to July 24, 2012. She assumed the portfolio as First Lady with the swearing in of her husband, Mr. John Dramani Mahama. She continued in this capacity till the eve of January 06, 2017. Mr. John Dramani Mahama is alive and remains active in Ghanaian politics. Mrs. Matilda Amissah-Arthur became second lady on July 24, 2012 and served in this position till the eve of January 06, 2017. Mr. Amissah-Arthur is also late.

From the foregoing, 2 of the 3 First and Second Ladies from 2009 to 2016 are safely covered by the humanitarian principle. The only odd one out is Mrs. Lordina Mahama who served through the 8 years of the Mills/Mahama/Amissa-Arthur administration from 2009 to 2016.

14. Related and equally relevant concern rests with the admission of Former President Mahama that the allowances of First and Second Ladies are already covered under the budget of the Office of the President. Following the principle outlined in point 7 of this petition in respect of the alien nature of the First and Second Ladies' portfolios to public office, we contend that there is no legal basis for including them and any related activity of theirs in the budget of the Office of the President.

Secondly, the Office of the President is a public office and at no time has the First and Second Ladies portfolios been a department of the Office of the President. It is therefore untenable to advance tax payers money meant for the Office of the President to a First or Second Lady.

<https://citinewsroom.com/2021/07/allowances-for-presidential-spouses-already-covered-under-presidency-budget-mahama/>

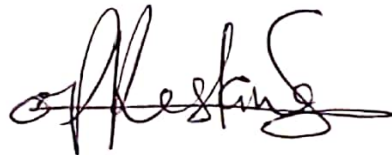
15. We wish to, among other things, request your good office to:

- a. Investigate the legal propriety of the payment of allowances to wives of incumbent Presidents and Vice Presidents and demand a refund if found inappropriate;
- b. Investigate a possible case of conflict of interest in the determination of the amount paid as allowances to incumbent First and Second Ladies at the time of payment;
- c. A disclosure of the entire amount paid to all sitting First and Second Ladies (on individual basis) from 2009 to 2021; and
- d. Make consequential orders and recommendations for the consideration of the State.

16. As enshrined in the CHRAJ Act, 456 of 1993 and Article 218 of the 1992 Constitution of Ghana, in which your noble office is vested with powers to investigate administrative impropriety and possible cases of conflict of interest in public office, we humbly petition your high office to cause an investigation into the payment of allowances to SITTING AND FORMER FIRST AND SECOND LADIES at a time their husbands are/were President and Vice President. We are of the firm conviction that the determination to pay allowances to SITTING First and Second Ladies was capricious and an abuse of office contrary to Article 297(b). Secondly, this in our humble estimation constitutes a conflict of interest contrary to Article 284 hence, for which reason all monies paid at such a time must be refunded.

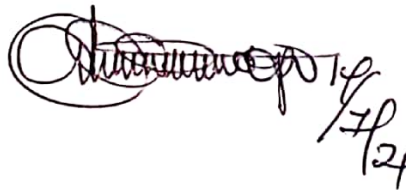
Yours in Service to the Nation,

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14/7/21

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Cc:

H.E. President Nana Addo Dankwa Akufo-Addo (Jubilee House, Accra)
Rt. Hon. Speaker of Parliament (Parliament House, Accra)
His Lordship Kwasi Anin-Yeboah, the Chief Justice (Judicial Service of Ghana)
All Media Houses