

Stop scandalizing Judiciary over SC's ruling
on Deputy Speaker's right to vote – Danquah
Institute

**Danquah Institute on Voting Rights for Deputy Speakers and condemnation of statements
made by some persons on the ruling of the Supreme Court**

The Danquah Institute has noted with great concern the disturbing comments made by a section of Ghanaians following the supreme court's ruling on the constitutionality of voting rights for deputy speakers of parliament whilst presiding. The Institute wishes to state that 'in as much as we recognize the right of individuals to constructive criticisms and intellectual debates, it is our respected view that all of such should be made with decorum and respect and devoid of scandalizing the sanctity of the very arm of Government (Judiciary) that serves as the resort for people seeking justice'.

It will interest all to note that Ghana is a country of laws, and the supreme law of Ghana is the 1992 Constitution which ushered in our current Fourth Republic. Article 1(2) of the Constitution therefore provides that **"This Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void."** A cursory reading of Article 11 of the Constitution indicates that the laws of Ghana comprise the Constitution, enactments made by or under the authority of Parliament, Orders, Rules and Regulations, the existing law and the common law. The Constitution is therefore at the summit of the laws of Ghana, and there can be no dispute about this.

Our Constitution also clearly establishes three branches of government and provides them with specific powers and functions. Thus, executive authority is vested in the President under Article 58(1); legislative authority is vested in the Legislature under Article 93(2); and judicial power is vested in the Judiciary under Article 125(3).

In particular respect to the functioning of the Legislature/Parliament, Article 110 of the Constitution (captioned 'Standing Orders of Parliament') clearly stipulates in 110(1) that **"Subject to the provisions of this Constitution, Parliament may, by standing orders, regulate its own procedure."**

We must also note that, just as the Constitution grants legislative power to Parliament under Article 93(2) and further empowers Parliament to regulate its own procedure under Article 110(1), the Constitution also subjects Parliament's general legislative power and the power to regulate its own procedures to the Constitution. What this means is that, Ghana's Parliament is not sovereign and must thus in the performance of its functions and exercise of its powers, conform to the dictates of the 1992 Constitution.

It is not for nothing that the framers of our Constitution thought it wise to include Article 2 which deals with the enforcement of the Constitution. For the avoidance of doubt, Article 2(1) provides that: **"A person who alleges that – (a) an enactment or anything contained in or done, under the authority of that or any other enactment; or (b) any act or omission of any person; is inconsistent with, or is in contravention of a provision of this Constitution, may bring an action in the Supreme Court for a declaration to that effect."** The Supreme Court is thus empowered

to make orders and give such directions as it may consider appropriate for giving effect, or enabling effect to be given to any declaration they make.

This is the reason why all laws subsidiary to the Constitution can be challenged for unconstitutionality, and even acts or omissions of any person, including the President, Vice President, Speaker of Parliament and even the Chief Justice can also be challenged for unconstitutionality.

What “**dangerous precedent of judicial interference in Parliamentary procedure for the future**” is His Excellency John Mahama therefore referencing? What “**travesty of parliamentary justice**” is Honourable Haruna Iddrisu also referencing? Are they suggesting that Parliament’s prerogative to regulate its own procedure under Article 110(1) of the Constitution has no limits? Does Article 110(1) not expressly state that Parliament’s power to regulate its own procedure is “subject to the provisions of this Constitution?” Is Article 2(1) of the Constitution which makes it possible to challenge enactments of Parliament etc., not a provision of the Constitution?

The Supreme Court of Ghana has ruled that Standing Order 109(3) of the Standing Orders of Parliament, which was made pursuant to Article 110(1) of the 1992 Constitution, and which provides that a Deputy Speaker or any other person presiding shall not retain his original vote while presiding, is unconstitutional. The full judgment has been made available and we call on all to peruse the judgment to appreciate the rationale for the decision to declare Standing Order 109(3) of the Standing Orders of Parliament unconstitutional. We sincerely believe that Ghanaians must be made to understand that no one branch of government under our Constitution (including Parliament) is a law unto its own self. Rather, all are subject to the provisions of the Constitution as has been outlined above.

The Danquah Institute respectfully urges all Politicians regardless of their personal interest to uphold Ghana’s Constitution, its institutions and the Rule of Law at all times.