

THE NATIONAL ANTI-CORRUPTION ACTION PLAN IS NOT THE SOLUTION: BY MARTIN A. B. K. AMIDU

Graphic Online of 29 June 2014 carried a news story about “Ghana still reeling from corruption-“ attributed to Hon. Mr. Alban Sumana Kingsford Bagbin, the Chairman of the Parliamentary Committee on Constitutional, Legal and Parliamentary Affairs at the tabling of a motion for the adoption of the report of his Committee on the National Anti-Corruption Action Plan (NACAP) 2012-2021. He is alleged to have stated that despite several interventions that have been made by the Government to stem corruption, it persists in the country. Not long ago Hon. Mr. Bagbin was published widely to have stated that there was or had been pervasive corruption in Parliament itself resulting in his being threatened with fire and brimstone to substantiate those allegations. Somehow, as is usual with the Ghanaian media which scarcely follows up or thoroughly investigates allegations coming from very credible citizens such as Hon. Bagbin the matter has, as other serious allegations of corruption against other public officers and state institutions, been allowed to die its unnatural death. Hopefully they may be resurrected during the electoral campaign season for propaganda purposes and to woo the gullible citizen for votes. I had been hoping that Parliament would have lived to its word of investigations against the Hon. Bagbin so that those of us who were ready, able, and willing to testify in relation to bribery and corruption in the previous Parliaments would have come forward to assist Hon. Bagbin to make his case at a public hearing.

On 4 July 2014, the 35th Anniversary of the June 4 Revolution, I read another news story entitled “CHRAJ satisfied with new corruption law”. Mr. Joseph Whittal is said to have told Citi News that Ghana must adopt new laws that can help fight corruption. He is said to have welcomed new moves by Parliament to enact new laws to help fight corruption in the country. The new law is to apportion particular roles to specific institutions in both public and private sectors, including Civil Society Organizations to determine what can concretely be done going beyond the rhetoric to curb the increasing cases of corruption.

I was surprised that in spite of the elaborate provisions in the 1992 Constitution spelling out the duties and responsibilities of citizens, Code of Conduct for Public Officers, the existing law on bribery and corruption, and related offences involving public officers and their accomplices the law enforcement institutions and the Constitutional bodies entrusted with investigating such offences cannot deal with them. I have after several years of responsibility as Deputy Attorney-General and later Attorney-General been unable to disagree with those eminent lawyers and law enforcers who take the view that the problem with the implementation of our laws on bribery and corruption and related offences is lack of the will and integrity on the part of those entrusted with the enforcement of those laws in prosecuting offenders for purely partisan political reasons. Shamefully, 4 June 2014 on which the story was published symbolizes a period within which some fellow citizens were shot by firing squad just for taking what is today paltry bank loans because it was then assumed they did so under the colour of their offices.

I wished Mr. Joseph Whittal having found a bold voice to address this issue would also have told the public the reason why the Commission for Human Rights and Administrative Justice has

refused or failed to investigate the seminal bribery and corruption allegations made against certain Ghanaian public officers by Her Majesty's Government. I am referring particularly to the trove of credible and cogent documentary evidence I handed over to his office in my letter of 24th June 2011 referring to the Director-General/CID of the Ghana Police Service's letter No. S.220/SF.1/INVEST/V.2/68 dated 9th June 2011 making a request for documents in the case. I have never seen such a trove of overwhelming, cogent and credible documentary evidence in my career of almost fourteen years in the Attorney-General's Office. A set of the same documentary evidence was delivered to a representative of the Director-General/CID at the same time and in the presence of both institutions. Could that also be because of the absence of new laws on corruption? Does it not have everything to do with the integrity of law enforcement? Surely they have been burnt to obliterate them but the police have their copies!

On 6th July 2014, exactly a week after I had read Hon. Bagbin's contributions on the anti-corruption action plan, I read the former Commissioner of the Commission for Human Rights and Administrative Justice, Mr. Justice Emile Short, urging Ghanaians to be hopeful and put pressure on the government to implement the action plan. He is also reported to have advised Parliament to implement the newly adopted plan. My understanding is that implementing the new action plan includes making new laws to deal with bribery and corruption and related offences along the lines anticipated by Mr. Whittal and probably increase the financial outlay to anti-corruption institutions.

As Attorney-General and Minister of Justice I Chaired the Governance Working Group that oversaw the preparation of the National Anti-corruption Action Plan with the support of Ghana's donor partners during my tenure. The solution to the problem of the implementation of anti-corruption laws as far as I saw it and continue to see it, is the integrity of the fight against bribery and corruption. It is a malignant cancer that is causing serious structural violence and damage to the economic, social, and political health of the country. It is not a matter of the several years, enormous financial outlay, and energy spent crafting the action plan, and consequential laws that will stop the festering of bribery and corruption in Ghana.

The will and integrity of the law enforcement institutions of governance, particularly the Executive to depoliticize the enforcement of the offences of bribery and corruption, and related ones already on the statute books would have prevented the several billions of Ghana Cedis lost to the people of Ghana through greed and graft. Ghana needs an independent Police Service with the freedom to enforce the laws equally against everybody without interference from those entrusted with the Executive power of state.

The one area over the years where there has been the politicization of investigations and prosecution of criminal offences has been in the sphere of bribery and corruption and related offences. It is in this connection that membership of political parties and ownership of political party cards has become an insurance against prosecutions for raping the consolidated fund of the country. The politicization of Ghana's law enforcement institutions has been worsened by the fact that even leadership of law enforcement institutions including the Police Service by virtue of the appointment process have come to see themselves not as servants of the people and the Constitution but of the appointing authority.

Take stock and you will realize that most of the leadership of these law enforcement institutions change with changes in government because of a perception that they may not be loyal to the new Government. But the citizen's loyalty to the Government of the day is predicated only on the loyalty of the Government to the Constitution and people of Ghana. Where the leadership of the Government is an epitome of corruption, the citizen's loyalty to it is discharged and transferred to the defence of the Constitution. Whether it be under the Constitution or statute, only human beings occupying positions and playing roles in accordance with the agreed rules of social interaction constitute institutions and structures of governance of any form. Only a leadership with an alternate vision for integrity and incorruptibility that puts Ghana First can make that difference in good governance to instill accountability and transparency in all our Constitutional structures and institutions. Corrupt leadership breeds a corrupt people and a corrupt nation. A vision of integrity and incorruptibility must be lived and not just talked about.

I do not think expensive plans and laws purporting to stop graft and greed in Ghana would work without a change in the current habit of impunity on the part of the political elite. The 1968 Constitutional Commission lamented this same problem of law and corruption at paragraphs 669 to 700 when it referred to evidence before the various Assets Commissions of Inquiry which showed the careless abandon with which public property was dissipated. The Constitutional Commission observed that all this happened in the face of the now famous Public Property (Protection) and Corrupt Practices (Prevention) Act, 1962 (Act 121) which made it an offence for:

“any person who by reason of careless or dishonest attitude to take the affairs of the Republic...so mismanages that affairs thereof as to cause the dissipation of or grave damages to public property.”

It also made it an offence for any person deliberately to dissipate or cause grave damage to public property. The Commission observed further that the provisions of the Act had not made it impossible for public property to be mismanaged and wasted. It concluded by stating its appreciation of the fact that a statute laying down a particular offence does not necessarily by itself make dishonest people otherwise honest; it only serves as a pointer. Forty-six years thereafter and after various Assets Commissions of Inquiry in 1970's and 1980's the basic principles which they hoped would minimize the dangers of corruption and mismanagement of public property have come to naught.

In “A Social Democratic Agenda For Democracy - The Philosophy of the National Democratic Congress” it was unequivocally stated that: “The NDC accepts the principles of the June 4th and 31st December revolutions as the basis of our present democratic system.” This makes it difficult from my antecedents to accept the theory that we need action plans and new laws to defend the anti-corruption commitments of the June 4th and 31st December revolutions under an NDC Government unless we are just finding excuses for our inaction. Human integrity has always prevailed over bribery and corruption. But we appear to lack that leadership of human integrity in this seriously deteriorating economic epoch facing our country that has resulted in mass unemployment, hardship, and poverty, particularly amongst the young and youthful citizen.

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