

CAREER OPPORTUNITIES IN THE LEGAL PROFESSION – A CAREER IN POLITICS: BY MARTIN A. B. K. AMIDU

Introduction

I accepted to make a modest contribution in speaking to you, the graduating students of the Ghana School of law, my alma mater, to-day on the topic “career opportunities in the legal profession – a career in politics” because I place a very high premium on the honour and integrity of the lawyer and his role in building a vibrant and healthy constitutional democracy. The political moral and legal principles underpinning and enshrined in the 1992 Constitution will come to naught if lawyers who more than any professionals are expected to understand the twin values of constitutionalism and democracy do not honourably and sincerely commit ourselves to the preamble objectives of freedom, probity, accountability, rule of law, preservation of fundamental human rights and freedoms, unity and stability of this great nation. Who is better trained to understand, ensure the smooth and fair working of the Constitution of Ghana than those trained academically and professionally as lawyers? Society is governed by rules and every law derives its validity from the Constitution which governs the politics and political system as enshrined in the concepts of constitutionalism and democracy.

Lawyers have played leading and leadership roles in the Gold Coast and Asante up to independence and have continued to play leading and leadership roles in Ghana. In spite of this our constitutions and practice of democracy have been on trial since independence. 24th February 1966, 13th January 1972, and 31st December 1981 are clear indications of our constitutions and democracies on trial. Lawyers have also played leading roles in the military regimes that have usurped and overthrown the Constitutions of this nation. We have for the past nineteen years been working the 1992 Constitution in which lawyers have played and are playing leading and leadership roles. Ghana, our mother and father land, has invested in its lawyers to be the gate-keepers and moral conscience of the Ghanaian society. Nonetheless the Ghanaian society is still crying today of corruption, impunity, abuse of power for private gain, monumental, dubious and Gargantuan judgment debts, lack of or shortages of basic amenities of life such as good drinking water, electricity, humane health delivery systems, employment, and indeed affordable formal education for our people.

You are the future lawyers of this nation upon who will fall the mantle of being the gate-keepers and moral conscience of this society. The future is yours to uphold the honour and dignity of the law in whatever profession you decide to practice the law as lawyers. The successes and failures of our society, its constitution and democracy, will come from the role you will play if you choose politics as your vocation. The circumstances of our nation today, with the negatives for constitutionalism and democracy, I have outlined above are clearly a failure of lawyers as leaders of the law, the political system, and of society. The honour and sincerity with which lawyers have undertaken the vocation of politics determined the fate of several societies. I am here to

encourage those of you who may wish to make politics your vocation in the future to do so with the honour and dignity required of the lawyer in all endeavours of life in which he finds himself.

Most of you are young men and women who would soon join the profession of legal practitioners when you are enrolled on the roll of lawyers. It is an honourable profession. Legal practitioners trust each other and the courts trust legal practitioners. On the day of your call to the Bar of Ghana you will each be given a copy of the Legal Profession (Professional Conduct and Etiquette) Rules, 1969 (L. I. 613), and the Constitution and Code of Ethics of the Ghana Bar Association. The rules of the code of conduct and etiquette enjoin you to cultivate a high sense of honour. The wig and gown that you will wear are the hall mark of wisdom and sincerity. Deception is no part of the make-up of a lawyer. In as long as you remain on the roll of lawyers you must cultivate a high sense of honour and dignity in everything you say and do in life.

Politics and National Development

The role of politics and the politicians to national development pervades every aspect of modern societies and nations. Man they say is a political animal. In the modern state constitutions spell out the structures and institutions of the state and assigns functions and roles to various organs and bodies to ensure a smooth and organic relationship between the component parts of the constitutional structure. Democracy enshrines civil control of the key organs of governance through periodic representative elections to choose key leaders who would exercise this civil control on behalf of the sovereign people. To give citizens unimpeded access and rights to take part in the political process of governance through the will of the people, the Constitution provides for political parties as part of the freedom of association, and guarantees to every citizen the right to political participation. Even citizens who for one reason or another are not inclined to joining any political association are free to take part in the political process on their own. The Constitution guarantees minority rights by recognizing opposition parties and other divergent views in the political process. The electoral process as the chosen mechanism for civil leadership selection for good governance is entrusted to an independent electoral commission which ideally is not controlled by any organ or institution of state in the exercise of its functions. Above all, the Constitution purposefully creates an anti-majoritarian umpire, in the nature of the judiciary which is supposed to be independent and impartial, as an arbiter of disputes within the political system.

The system underpinned by the constitutional and democratic structures, institutions and principles constitute the political system within which the contest for the power to control and manage the development of the nation to achieve the collective preamble goals and objectives takes place. Politics is, therefore, the basis of any positive and purposive national development that put's the nation first – in our context Ghana First. Negative politics leads to societal dysfunction, destroys the very fabric of the society, and ultimately leads to the destruction of the state as witnessed in some nations in Central and Western Africa which are closer home. The successful lawyer who adheres to honour, dignity and sincerity, sacrifices by committing himself

to being the gatekeeper and moral conscience of the society by offering positive leadership in politics to his people.

The Work of the Practicing Lawyer

There was time when the bulk of the lawyer's work was in the preparation and trial of cases in court and giving advice in relation to real estate or other property transactions such as conveyancing, wills and trusts. Many lawyers have moved into corporate counseling and practice. Other lawyers have made the public service their occupation for a large part of their careers. Some lawyers have given up practice and become businessmen. Yet other lawyers have made politics their full time or part time careers. In all these many have continued to function as lawyers by giving advice on many types of problems. Once a lawyer, always a lawyer! The training, expertise, experiences, and artistry acquired as a lawyer is innate and available to the individual lawyer in whatever sphere of human endeavor he finds himself. Once enrolled as a lawyer one becomes an ambassador of the profession of the law unless debarred. The honour of the profession is thus inviolable to the individual lawyer and must be upheld with all sincerity if society is to continue to have confidence in the lawyer as a leader of his society.

The crafting of national Constitutions has always been a collective effort of citizens of different disciplines, professions and persuasion so as to synthesize the collective wisdom of the nation into a document which mirrors the sovereign will of the people. But a casual look at the various Constitutional Commissions for the drafting of constitutions, Constituent, and Consultative Assemblies leaves nobody in doubt as to the leading and leadership roles lawyers have played in constitution making and interpretation in Ghana. An examination of the various Governments and Parliaments of Ghana will also leave nobody in any doubt as to the leadership role lawyers have played and still play in the governance of this nation. I dare say that apart from the late Chiana-Pio, Pe Rowland Adiali Ayagitam II, all the Speakers of Constituent and Consultative Assembly, and Parliament have been lawyers, thus underscoring the leadership role of the lawyer in the interpretation of standing orders and the constitution to facilitate parliamentary debates and work. Lawyers have occupied ministerial and deputy ministerial positions in full time occupation of the executive arm of government.

Why the Honourable and Sincere Lawyer must make Politics a Vocation

Man according to Aristotle is a political animal. It follows that every human being has a penchant for politics and can make politics an avocation or a vocation. Max Weber writing on "Politics as a Vocation" says one makes politics an avocation "who engages in politics as an 'occasional politician' seeking to influence the distribution of power within and between political structures." One "makes politics one's vocation by living 'for' politics or living 'off' politics." The use of the words "living for" and "living off" politics are ideal types. In practice the contrast is not exclusive. One is said to live 'for' politics when one makes politics his life, in an internal sense by not striving to make politics a permanent source of income. One who makes politics a

permanent source of income lives ‘off’ politics. In the modern constitutional state professional politicians in the employment of the state may both live ‘for’ and ‘off’ politics in a positive sense. The 1992 Constitution, for instance, makes provision for the remuneration and retirement benefits of persons holding purely civil political offices such as the President, Vice President, Speaker and Deputy Speakers of Parliament, Chairman and Members of the Council, Ministers and Deputy Ministers of State, Members of Parliament, Metropolitan, Municipal and District Chief Executives, and Presiding Members of MMDAs. In a sense then these professional politicians may be said to live ‘off’ politics as a vocation. But the Constitution at the same time requires of these officers a high sense of honour, sincerity and accountability in their dealings with the economic aspect of politics – the national resources. The Constitution, therefore, expect the politician to live ‘for’ politics by making politics his life in the internal sense of providing selfless dedicated service to the body politic. The distinction between living ‘for’ and living ‘off’ politics as a vocation is important because of the underlying legal and political moral philosophy underpinning the distinction for lawyers who wish to make politics a vocation.

In my opinion the framers of the Constitution made adequate provision for political office holders some of whom retire on their salaries and are given certain privileges and benefits for life because of the expectation that their attitudes and behaviours will preponderate towards living “for’ politics rather than living ‘off’ politics. The professional politician was expected to be self-sufficient and free from using political office as a means of economic acquisition. The training and profession of the lawyer puts him in a better position to play a greater and dominant role as a professional politician because by the time he takes up politics as a vocation he must be doing so to make an honourable and sincere contribution to the society and not because of the need to directly seek remuneration for his political work. I have no doubt, however, that there are some lawyers who see politics as a source of regular and reliable income. But I still think that a lawyer who internalizes the ideals underpinning his training, and abides by the code of conduct and etiquette of his profession will while living ‘off’ politics, live also ‘for’ politics in a positive sense.

In my opinion, for a lawyer to be able to uphold the honour and dignity of his profession with all sincerity, he must make politics a vocation when he feels convinced that he can give service to the nation without infringing the code of conduct and ethics of his profession. This you can do when you do not see politics as only a means of income but as a service to the nation in the achievement of the ideals of governance enshrined in the Constitution. It is my considered opinion that it will be near impossible for the young lawyer just enrolled from law school who has no years of practice of the law and work to his credit to make politics a vocation in which his preponderant attitude is to live ‘for’ politics. Just look around and you will not miss the disgraceful images projected by most of the young lawyers who have rushed into politics straight from law school whose conception of a successful lawyer is not one of honour but of indecent and illegal wealth. Such lawyers live ‘off’ politics not only in terms of the remunerations of office but in terms of the abuse of office for private gain. There are of course a few exceptions.

Influence of Lawyers in Ghana's Development

Lawyers in politics have had considerable influence in the development of this nation, particularly the Gold Coast and Asante. John Mensah Sarbah, J. B. Danquah, A. Casely Hayford, R. S. Blay, Dr. Ako Adjei, Edward Akuffo Addo, Obetsebi Lamptey, William Ofori Atta, Bashiru E. Kwaw Swanzy, S. A. Attoh, A. E. A. Ofori Atta, Victor Owusu, Kwaku Boateng, and others are examples of lawyers who straddle the Gold Coast and Ghana. Until after independence the British Protectorate of the Northern Territories of the Gold Coast Colony did not have any lawyers. Lawyers from northern Ghana since independence who have played roles in politics include the first northern lawyer on the roll, R. I. Alhassan (1961), G. Y. Mahama (1962) my own senior – A. A. Luguterah (1963), latter day ones like Abayifa Karbo (1965) S. B. Dy-Yakah, Ibrahim Mahama, (both 1966), etc.

In this country, lawyers have occupied the position of President of the Republic, Vice President, Speakers of Parliament, Chairmen or Members of Council of State, Members of Parliament some holding various chairmanship and ranking membership of committees, Ministers and Deputy Ministers of State, Chief Executives or Presiding Members of Metropolitan, Municipal, and District Assemblies (MMDAs), and Members of MMDAs. The verdict as to the honour and sincerity exhibited in these positions by lawyers has been mixed and generally on the negative side. A few lawyers have upheld the honour and dignity of the profession. Their sacrifice and efforts have invariably been overshadowed by the negative attitudes of the many. This makes it more than imperative for those of you soon to be enrolled on the roll of lawyers to give a new face to the original conception of the lawyer as a gatekeeper and moral conscience of his society. You should be the lawyer who is an honest and sincere servant of the Constitution and the laws of Ghana who will die serving his people rather than use his superior knowledge of the law for unjust enrichment at their expense.

Constitutionalism and Democracy on Trial

Constitutionalism and democracy are on trial and have been on trial since independence. The verdicts can be found in the events of 24th February 1966, 13th January 1972, and 31st December 1981. This nation has since 7th January 1993 renewed its faith in constitutionalism and democracy. Everything appeared to be on course leading to a successful change in governance from one political party to another on 7th January 2001. The decade since then has seen constitutionalism and democracy honoured more in breach than in the observance. Form has been placed over substance in all spheres of governance and daily life. Charges of corruption, impunity, abuse of due process, and a decline in the wellbeing of the ordinary Ghanaian have been common. In my perspective the situation has worsened within the last five years. Speaking from today's experience, one can predict that the verdict seems to be going against constitutionalism and democracy. Since 7th January 1993, the tax burden has incrementally become unbearable for almost every segment of our society; we see our national resources being used for valueless purposes – wasted - the unhappiness of the people grow worse. Politics has

assumed the hall mark of deception of the people and dishonour. The destruction of the social fabric of our society is because of the fact that honour, honesty and sincerity have ceased to be the guiding stars of our political leadership. Selfishness and the desire for immediate adulation, power, and personal advancement have become the valued goals of political leadership than the welfare of their people. There is an urgent need for lawyers who have been in the leadership of politics and society to go back to basic principles that uphold the honour and dignity of the profession.

The urgent demand for a lawyer to cultivate a high sense of honour in all he does must be characterized principally by sincerity and its attendant traits. His advice to the public must be accurate, frank, sincere and honest in words and in deed. They must convey the truth no matter how unpleasant it may be to the listener or unpleasant the immediate reaction may be to the speaker. The honest man will give to his listeners what he believes; not what is easy for the listeners to accept. By the training of a lawyer he is equipped with better weapons of mind and tongue. This gives the lawyer great influence. We owe these qualities to the society which made it possible for us to acquire them. The cultivation of a high sense of honour, and sincerity is therefore an eternal debt we owe to society. Society expects lawyers to exhibit these qualities of the profession and leadership when they make politics a vocation.

Conclusions

Professional lawyers have played roles as gatekeepers and the moral conscience of the Ghanaian society in providing distinguished and leadership roles in the vocation of politics. The verdict on the Ghanaian lawyer's contribution to the achievement of the ideals enshrined in the preamble of Ghanaian Constitutions have been mixed and skewed negatively since independence. The Ghanaian today unavoidably yearns, however, for only that professional lawyer who does not make politics his predominant source of income. Ghana needs only those professional lawyers who uphold the honour and dignity of the legal profession with sincerity and absolute commitment to the wellbeing of the people. The professional lawyer in politics as a vocation must not only fight for justice, equality, and equity in every aspect of the body politic even when the heavens come down. The professional lawyer in politics must manifestly and undoubtedly be seen to live by those same ideals. That is why it is reasonable experience and practice in the law that guarantees economic and intellectual independence which will provide a safeguard against greed in politics.

Whether or not the future verdict on our constitutional democracy and politics will be positive or negative on the role of the lawyers in politics for a fair and equitable national development will depend on your commitment to live a life of honour and sincerity as lawyers when you come to make politics a vocation. I pray that none of us will ever live to see the day when the people of Ghana will call for all lawyers to be hanged because of the behavior of some lawyers who do not live in accordance with the honour and sincerity mandated of the professional lawyer. I heard such calls in the early days of the 31st December Revolution 1981. May it be the last!

