

DEFENDING CITIZENS' RIGHTS AND FREEDOMS FROM UNCONSTITUTIONAL
CONDUCT BY GOVERNMENT AND ITS UNLAWFUL COVERT AGENT - TIGER EYE
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I had always considered Tiger Eye PI as a private not for profit establishment dedicated to fighting for transparency and accountability in Ghana. I had no reason to go beyond media and other adulations for it to investigate its background and legal status even though I knew Government had acted on some of its reports. As a not for profit anti-corruption campaigner myself, I support any citizen who undertakes the virtue of fighting for integrity in our body politic to which I had also committed my life. Like many Ghanaians, I supported the work and reports of the mystified “private” undercover investigations undertaken by Tiger Eye PI, and in particular the latest media reports on judicial corruption which had eluded proof.

It was in the midst of the steps being taken by the Chief Justice and Judicial Council to address the petitions and complaints arising out of the reports of the judicial scandal that I received an invitation to be the Guest Speaker for this year's Roll Call for beginning law students at the Faculty of Law of the Central University College on the theme: “The Challenges of Enhancing Integrity in the administration of Justice in Ghana”. As I researched and reasoned rationally and professionally to prepare my speech I realized from the research data that there were cogent and credible evidence and facts raising constitutional and legal issues of due process with the status of the undercover investigations and Tiger Eye PI, its antecedents and connection to sovereign authority – the Government of Ghana for the time being. I came to the conclusion from my review of the legal authorities that the results of the undercover investigations were still admissible for purposes of disciplinary proceedings and impeachment or removal from office but would encounter huddles in any criminal prosecutions for constitutional and other legal reasons.

Anybody interested in eradicating impunity, upholding transparency and integrity in public life will be happy that the judges have been exposed even if they were entrapped. But the 1992 Constitution of Ghana, in addition to encouraging every citizen to fight greed and avarice fundamentally guarantees and enjoins every person in Ghana, including the Executive, Legislature, and the Judiciary and all other organs of government and its agencies, to respect and uphold the fundamental human rights and freedoms enshrined in the Constitution. The letter and the spirit of the Constitution therefore enjoin every person to fight and defend against the establishment by the Executive of any Orwellian Big Brother State either alone or in collaboration with any citizen or organization. My researches led me to conclude that the Government has for some time been acting unconstitutionally with an unregistered and fraudulent Tiger Eye PI in promoting an Orwellian Big Brother State and McCarthyism in this country which must be fought before Ghana becomes fully an autocratic one party state. As citizen vigilante my armour is article 3 of the Constitution.

First, Tiger Eye PI which signed the petitions for impeachment and complaints in the judicial scandal is not registered in the register of companies in Ghana as a legal person capable of acting on its own. Section 15(1) of the Companies Code, 1963 (Act 179) mandatorily required that: “The last name of the name of a company limited by shares shall be ‘Limited’.” It has therefore always been a dummy and fraudulent scam on domestic and international public. The two companies in the register of companies with the same sole shareholder are Tiger Eye PI Media Limited, (with No. CA-57,545 incorporated on 7th April 2009) and Cobra Eye International Media Limited (with No. CA-57,546 also incorporated on 7th April 2009), both for-profit companies, which might also be unlawfully operating as private investigation organizations in Ghana without being licenced and permitted by the Minister of the Interior to carry on the business of private investigations and to employ any employees for the purpose in contravention of Regulations 1(1), 5, and 14 of the Police Service (Private Security Organizations) Regulations, 1992 (LI 1571). Of the 1034 private security companies licensed by the Minister of the Interior, only three bear a name beginning with the word “Tiger” as follows: No 819- Tiger Security Services Ltd; No.832- Tiger Force Security Services Ltd and No 899 TigerForce Security Services. The dummy Tiger Eye PI holds itself out unlawfully, fraudulently, and deceptively to the whole world on its website-tigereyepi.org- as a for-profit company rendering services in dollars whose objects are different from the incorporated Tiger Eye PI Media Limited.

Second, fraudulent and dummy Tiger Eye PI, and the registered Tiger Eye PI Media Limited appear to be owned by the same person and are politically affiliated to this Government and has been clandestinely employed and paid by the Government to undertake covert operations not normally and lawfully undertaken in pursuance of the policing and surveillance powers of the executive without a warrant issued by the courts in accordance with existing laws, particularly Sections 29, 30 and 31 of the Security and Intelligence Agencies Act, 1996 (Act 526). The dummy and fraudulent Tiger Eye PI significantly describes the Government of Ghana and Mahama Ayariga (Minister for Environment and former Government Spokesperson) and Co's Legal Resources Center on its website as its 1st and 8th clients.

Third, the Government violated Regulations 1 and 14 of the Police Service (Private Security Organizations) Regulations, 1992 (LI 1517) which criminally prohibits anybody from employing an organization not licenced under the Regulations in knowingly commissioning and collaborating with the dummy and fraudulent Tiger Eye PI in this and previous undercover investigations.

Four, the undercover investigations into judicial corruption was a paid enterprise commissioned by the Government after the 2010 Ghana @ 50 acquittals by the High Court; the 2011 misunderstanding arising out of the symposium organized by the National Commission for Civic Education and the reaction of the judicial service to the allegations of corruption made at that forum; and the 2011 acquittal of the suspects in the Ya Na murder trial.

Five, contemporaneous with the judicial corruption investigation the Government commissioned an investigation into parliamentary corruption. The fraudulent Tiger Eye PI completed its undercover investigations for the Government for both the judiciary and parliament but has made public only its findings in respect of the judicial corruption investigations as directed by the Government. The fraudulent Tiger Eye PI has agreed with its principal, the Government, and the leadership of parliament not to make public the findings of the parliamentary corruption undercover investigations: the leadership of parliament had the privilege of viewing in secrecy the video in respect of the parliamentary undercover investigations which is not to see the light of day. (“If you think that the yet-to-be released tape of corruption in the Judiciary is the worse ever incidence of corruption in any arm of government you are hearing about, then you must be mistaken as the expose on corruption in the Legislature is said to be worse than this” – Kwesi Pratt).

And six, the Government and its agents, the fraudulent Tiger Eye PI, have deliberately edited the undercover investigations video tapes to remove the footage affecting their favourites and that compromise their integrity in order to control the emotions, minds, perception and judgment of the public in a manner favourable to government propaganda intentions in an Orwellian Big Brother fashion.

It is within the foregoing context of the research data that I began to appreciate how the definition of a Whistleblower could have been overstretch by the Attorney General to cover a for-profit unregistered Government agent whose services to the government are denominated in United States dollars to enable the government to grant it immunity and protection under the Whistleblowers Act, 2006 (Act 720). The fraudulent Tiger Eye PI is not an investigative journalist or registered or licenced to undertake private investigations under the Constitution and laws of Ghana but a covert agent unlawfully and fraudulently commissioned by this Government. A covert Government agent working in collaboration with established security agencies of the state cannot be a whistleblower upon any interpretation of Act 720, period!

It appears to me that dummy Tiger Eye PI and its principal, the Government of Ghana, underestimated the reaction of the public to the revelations on judicial corruption to the integrity, dignity and confidence in the judiciary as a whole. Agent and principal therefore embarked upon damage control of the reaction which for the first time in the annals of the history of this country showed total loss of confidence in the whole judiciary. They put out that some justices withstood the temptation of accepting the bribes as proof that there are still some justices of integrity within the judiciary. Unfortunately apart from the bare statements I read in the press attributed to the dummy and fraudulent Tiger Eye PI and later to President John Dramani Mahama, I am not aware that any credible evidence has been made available to the public anywhere to show that any judge was made an offer of a bribe to compromise a case and he refused to accept same and threatened to report the attempt to bribe him to the police. Assuming that the statements by fraudulent Tiger Eye PI and the President are true, does equity not require that the public be

offered proof of the refusal and threat to report if indeed it did take place just as it was offered edited (instead of unedited) proof of the justices and judicial officers accepting bribes to corrupt their judgments? Have the affected and named judges and judicial officers admitted the fact that dummy and fraudulent Tiger Eye PI indeed attempted to bribe them but they drove them away with the threat of reporting them to the police? It appears to me that in the hurry of the fraudulent Tiger Eye PI and its principal, the President of Ghana, to do the damage control of the situation they had created, neither of them realized that those justices would have misconducted themselves under Article 146 if indeed dummy Tiger Eye PI offered them bribes which they refused to accept and only sent dummy Tiger Eye PI away with a friendly threat of reporting them to the police without reporting the incident to the Judicial Secretary or the Chief Justice, or the supervising Judge or disclosed same to both adversarial parties, as the case may be, for more than two years until dummy and fraudulent Tiger Eye PI made it public. (See Davidson v Scottish Ministers [2005] SC (HL) 7 where an appeal was upheld by the Supreme Court).

I have read arguments on open source media in which promoters of dummy and fraudulent Tiger Eye PI argue that it collaborated with but was not paid by the Government for this and previous undercover investigations as though payment of money is the only criteria for one being a government agent. In talking about payments, it has been forgotten that it is the collaboration with the Government that gave the dummy and fraudulent Tiger Eye PI the mystic and myth of and protection of the mask, and the asset called “Goodwill” with an accounting monetary value which it now enjoys. As LaFave and Israel (1985, p. 91) put it in their Criminal Procedure:

“It should not be assumed that a search is private whenever the physical act is done by a private person. This quite clearly is not the case when the search has been ordered or requested by a government official, when it is a joint endeavor of a private person and government official, or when the government official was standing by giving tacit approval. It is otherwise if the private individual acted in direct contravention of police instructions....”

Dummy and fraudulent Tiger Eye PI is clearly a government agent within the above description and upon its own admissions in the media. On 11th February 2011 one of the promoters of fraudulent Tiger Eye PI was reported on Ghana web under the heading ‘I was not paid for “Enemies of the State”’ to have said that:

“Over the years, we have collaborated with state institutions and this doesn’t constitute funding. I have collaborated with TV stations including TV3 and all that. Currently if you go to the police with any idea that is good and will benefit the State, you will be assisted.”

“The Cocoa Investigations was triggered by Ghana Cocoa Board. Let anybody show me a written contract that shows that I have charged this or that. Can anybody pay me for my life? In the Cocobod investigation, I needed a truck full of cocoa, so they provided those

logistics for me to move forward. The security agencies supported me because in that story, I was in arrested (sic) and put in cell for two days, and the police helped to release me. So if they were not supporting me in my work, how would I have been released?' (Emphasis supplied).

The above was said in response to an official statement by the Ministry of Information which the Ghana News Agency (GNA) reported and was carried on 7th February 2011 of Ghana web were GNA reported that:

"The government on Monday revealed that *the recent investigative work by investigative journalist,, that exposed cocoa smuggling and corruption at the Tema Harbour were funded by a state institution.*

An official statement said the principle behind the two projects was to employ counter-check measures in order to assess whether or not existing systems put in place are yielding the required results. Mr. Samuel Okudzeto Ablakwa, a Deputy Minister of Information, signed the statement that reiterated the government's commitment to fighting and rooting out corruption and in so doing ensure that it maximises revenue collection." (Emphasis supplied).

As the Attorney General at the time I was not consulted or informed about those covert operations but I came to know as a fact that the Ministry of Information was speaking the truth and that the denials were an afterthought. Just as the operation was covert for purposes of deniability, the payment was also supposed to be covert and not announced to the public but government floundered.

An exclusive interview reported by peacefmonline.com News on 1 August 2012 puts the matter of Government agent at rest as follows:

"In an exclusive interview, *Anas confirmed that Professor Mills personally assigned him to unearth the 'corrupt' deals at ECG. 'It was something that he (Mills) really wanted and asked me to do',* he disclosed."

The report continued: "The highly rated undercover journalist has *hinted of another big expose' of his ongoing investigations soon to hit the country, which he noted was 'the last wish of the President'.* (Emphasis supplied). This shows the nexus between this 2012 hint by the fraudulent Tiger Eye PI and the alleged undercover judicial investigation begun in 2013 in fulfillment of "the last wish of the President" and consummated by his Vice President and successor as President.

Capping it all, Ghanaians will wish to know which department of the Government the fraudulent and dummy Tiger Eye PI or its other illegal variant works for to have warranted the Government

to issue to its CEO a biometric Government Service Passport in Accra in 2013 expiring in 2018 for his foreign travels when he was on the judicial investigations.

The most recent direct evidence that dummy and fraudulent Tiger Eye PI is a Government agent is contained in another denial of state sponsorship of dummy Tiger Eye PI in the current judicial scandal on Peace FM online on 16th September 2015 under the heading – “ChallengeExpose? I'd Love that...The Investigator Being Investigated! ...” (names omitted) where in spite of the lame denial it was admitted that: “...*He has a unique collaboration with the security agencies especially the police; he will investigate you no matter who you are if he has to.* The subtle attempt by some to question his integrity is repugnant.” (Emphasis supplied). It is precisely the collaboration with sovereign authority - the Government of Ghana and through it the police and other agencies which makes dummy and fraudulent Tiger Eye PI an unconstitutional Government covert investigation agent and objectionable under the letter and spirit of Articles 2, 3, 12, 15, 17, 18, 21, 37, and the Presidential Oath in the Second Schedule to the 1992 Constitution and Sections 29, 30 and 31 of the Security and Intelligence Agencies Act, 1996 (Act 526). The Government and its covert agent, dummy Tiger Eye PI, are shepherding this country towards a one party Orwellian Big Brother State contrary to the 1992 Constitution. That is what is repugnant. If dummy and fraudulent Tiger Eye PI had acted purely as a lawful private entity and not a Government fraudulent and unlawful surrogate nobody would have complained.

I have said already or elsewhere that the Government used dummy and fraudulent Tiger Eye PI to target the judiciary because it has since 2009 considered the judiciary as a political opponent reluctant to convict its' political opponents tried before the courts. Government has spared Parliament publication of its undercover video tapes because of the damage publication may do to Government members in parliament caught on it and not because it likes the opposition in parliament for whose sake the operation was undertaken in the first place. There is no guarantee that the Orwellian Big Brother State being created by this Government and its dummy Tiger Eye PI has not already extended to covert investigations and operations against private citizens and political parties considered and perceived as political opponents. The mystic and myth of the mask which fraudulent and dummy Tiger Eye PI has and is enjoying with the protection of the Government is the same as that portrayed by the Orwellian Big Brother that instilled fear, intimidated and controlled the minds of citizens in George Orwell's one party state in his book “1984”. The 1992 Constitution and democracy are clearly under attack and must be defended! Ghana First!

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