

DON'T EXPROPRIATE WATERVILLE AND ISOFOTON SUPREME COURT ORDERS AS GOVERNMENT'S ANTI-CORRUPTION AGENDA: BY MARTIN A. B. K. AMIDU

My attention was attracted to the peacefmonline.com banner headline – “Prez Mahama Orders: Retrieve €25M, US\$325k from Waterville, Isofoton....Suspend Gyeeda Payments” – on the 15th November 2013. Upon reading the full text of the statement attributed to the President I formed the distinctive impression that the Government was trying to expropriate the orders of the Supreme Court in the Waterville and Isofoton cases as part of its anti-corruption campaign agenda.

The lumping of the execution of the judgments and orders of the Supreme Court in the Waterville and Isofoton declarations with suspected misappropriations and misapplications of public funds under this very Government in the contracts with SADA, GYEEDA, and the Ghana Revenue Authority smacks of opportunism, propaganda and downright disingenuity. It is not for the President or his Government to decide whether or not to retrieve the monies involved in the deliberate breaches of the Constitution perpetrated by the very Government in favour of its foreign friends in Waterville and Isofoton. The Supreme Court has made those conclusive declarations, orders and directions already. The grave consequences for the President and the Government should they fail to obey and execute the orders and directions of the Supreme Court are clearly spelt out in articles 2(2), (3) and (4) of the Constitution.

There is a duty imposed by the Constitution upon the President as the repository of the executive power, and upon Waterville and Isofoton as parties to the case to duly obey and carry out the terms of the Supreme Court's orders and directions in the two cases. The failure of the President in particular to ensure the execution of the judgments in the Waterville and Isofoton cases could open him up to charges of high crime under the Constitution and constitute grounds for his removal from office. It is my contention that for anybody who is under such a burdensome duty to execute judgments brought about willfully and intentionally by his own Government, to turn round and claim to be pursuing an anti-corruption agenda is to engage in mere propaganda, and opportunism par excellence.

Why is the Government not pursuing an anti-corruption agenda with the residual matters left by the Waterville and Isofoton cases? Austro-Invest Management Services Limited (whose lawyer was Lithur Brew & Co) was owned by Raymond Smith who also owns the Ghanaian company, M-Powapak, with his wife. When Austro-Invest had not been registered as an external company in Ghana, and had been liquidated in Switzerland to avoid liability in the Waterville related cases, Lithur, Brew & Co. were litigating on their behalf in the High Courts of Justice in Ghana contrary to law. Is Interpol unable to get Mr. Raymond Smith because of the alleged association of Lithur Brew & Co with the Government of Ghana in the management of three Ministries? Secondly, is the Government still unaware of the Ministers of its Government implicated in the gargantuan crimes I referred to on 12th January 2012 and the public officers who actively facilitated the unconstitutional payments to Waterville and Isofoton? Is the President saying that

he is not aware that only one month after the Attorney-General appointed a firm of forensic auditors to investigate whether or not the Government had a contract with Isofoton, the Deputy Attorney General signed a settlement with Isofoton and the Attorney General followed up with instruction to Ministry of Finance for payment? The Government paid over US\$400,000.00 for the work that was done by the Auditors who opined in January 2011 that the Government had no contract with Isofoton. How are the people of Ghana going to have the money, wasted in engaging the Auditors without waiting for their report before settling the Isofoton case, repaid to the consolidated fund?

I will not be surprised when Ghanaians are told that the above are matters waiting for the Sole Commissioner on Judgment Debts to deal with. But that is precisely where the propaganda and deception about fighting corruption lies. What prevented the Government through the Attorney General from directing the Commissioner/CID to investigate and have these matters prosecuted before the Sole Commissioner's report comes out somewhere next year? The Government is not proactive in this respect because it is not serious about fighting corruption. The Government knows that the Sole Commissioner's report when it is submitted will take not less than one year for the gestation period to ripen and give persons adversely affected the right to appeal to the Court of Appeal and then to the Supreme Court. This process could take several years to go through the Court process after the Sole Commissioner's report. Ghanaians will with the effusion of time forget all about the Sole Commissioner's report. Corruption will go on as usual. By this stratagem of this Government people bleeding this nation through bribery and corruption will go off the hook. This is why the Government's promise to implement the Sole Commissioner's report is hollow, looked at from the conditions precedent for this Government to be able to implement such constitutional reports.

I am amazed that the Government is expecting "the support and involvement of all Ghanaians" - "to sustain this fight against corruption". How can a citizenry show support and involvement in the fight against corruption when the President who utters these supposedly noble words is not known to encourage those who have already shown the way in the fight against corruption upon the success of their endeavours? When Government uses the power at its disposal to victimize and continue to victimize those who have and still fight against corruption, abuse of power and impunity, such exhortations on public occasions looks like self-serving propaganda. Walk your talk, Mr. President or forget about fighting corruption and impunity.

The President in his written speech appears to pretend that there exists in Ghana today "various independent Anti-Corruption and Governance institutions, including CHRAJ, EOCO etc..." Unfortunately my experience with EOCO and CHRAJ as presently constituted when I was in Government does not bear this out. These institutions were established to be independent and impartial in the execution of their duties to all Ghanaians without political colouration. Our former Ambassador's daughter is sitting on one of the provable corruption cases in which I provided her all the material evidence from the United Kingdom; and the EOCO is known to me to chicken out of water tight criminal cases when it detects the involvement of Government or its

associates. The Criminal Investigations Department (CID) of the Ghana Police Service is apolitical and does an excellent job without regime protection as the others. I saw the politicization of EOCO and CHRAJ as Minister for the Interior, and the Attorney General; and no change has taken place there to convince me of their independence and impartiality. The problem lies not with the principle of establishing an institution but more with the integrity and trustworthiness of the individuals elected or appointed to lead it. The same goes for a nation under its Constitution.

The fight against corruption, abuse of power and impunity must be proactive and not reactive. We do not need to wait to be charged with poor leadership in fighting it before reacting in seeking to show leadership where we had all the opportunity but failed to be proactive. Good leaders act; they do not wait to react to situations. Ghanaians will have difficulty electing another President from the geo-political north which the President and myself come from for more than thirty years after he has left office should this President fail to fight corruption, abuse of office and impunity in obedience to our ancestors and God during his tenure of office. Mark my words!

Martin A. B. K. Amidu

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