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IN THE ANNALS OF GOVERNANCE

Motions and counter-motions on the energy crisis: is Parliament serving the public well?

Ghana is facing a severe energy crisis manifested for some time now in nationwide rationing of electricity supply and weekly “no-power” periods. In a pluralistic democracy, it is natural to expect crisis of this nature to generate public concern as well as critical questions and a search for answers from the people’s elected representatives. It therefore came as no surprise when the Minority Group in Parliament coalesced behind a Private Member’s Motion originally sponsored by the NDC Member of Parliament for Tamale South, the Hon. Haruna Iddrisu. The motion expressed concern and disappointment over the Government’s seemingly ill-planned and delayed response to crisis and its apparent inability to stabilize or resolve the crisis in the short or near term. The chain of events which this motion has triggered in Parliament calls into question parliamentarians’ understanding of their role in government as well as their commitment to the progressive development of Parliament as an institution of good governance..

Hon. Iddrisu’s motion, which was originally tabled as a Half-Hour Motion, was scheduled for debate on Friday, June 15, 2007. However, following agreement among the

leadership of Parliament to expand the half-hour motion debate into a full hour, the debate was rescheduled for debate on the 19th and 20th of June. A new motion was then filed by three Minority MPs reading: “That this honourable House is disappointed by the government’s inability to end the energy crisis almost a year after it started and expresses its lack of confidence in the handling of the crisis and urges government to adopt an effective program to address the crisis.” The Majority party proposed an alternative motion, that the House “having been briefed by the minister responsible for energy on government’s plans to generate more power to end the power shortages which have occurred in the country over the past two-and-a-half decades commends government for those plans and urges government to implement the plan.”.

“ Majority party MPs are not duty bound to blindly defend the Government ”

The debate on these motions, when it finally occurred, was regrettably anticlimactic. Attended by last-minute postponements, deferments and all manner of needless procedural wrangling between the rival parties in Parliament, the quality of the debate was further undermined by rounds of partisan accusations, heckling and trading of invectives with little substance to be

found. Rather than contribute meaningfully to public understanding of the crisis and assure Ghanaians that their elected representatives are serious about their problems and committed to finding an enduring solution to this problem, the debate in Parliament has left Ghanaians wondering whether their MPs can ever rise above petty partisanship to address matters of public interest with seriousness and objectivity or whether we are condemned to the kind of spectacle we were treated to in Parliament during the energy debate.

Of course, some amount of partisanship is unavoidable, and often even desirable, in a multi-party Parliament. It is when partisanship disintegrates into pettiness and blind loyalty to party that it can rob multi-party democracy of serious and thoughtful diagnosis, analysis and discussion of national issues. Partisanship that always generates heat, never light, has no value short of sad entertainment, and does little to advance governance and policymaking for Ghana.

In every modern democracy, an information gap is bound to exist between Parliament and the Executive. Because the Executive must deal on an almost daily basis with the public problems and matters entrusted to its care, it tends to have an informational and access advantage over Parliament on matters within its jurisdiction. At the same time, the Executive, because it has a natural inclination to want to protect or shield itself from charges of incompetence or malfeasance in the management of the public business, has an incentive to keep out of public knowledge information that will expose its failings, a tendency Parliamentary oversight is supposed to correct. Two important tools the Ghanaian Parliament possesses in this regard are Question Time and Committee hearings/investigations. In addition, Parliament has power under Article 82 of the Constitution to pass, by a two-thirds majority, a Vote of Censure against a Minister, though the President retains the final say as to whether a censured Minister must resign. Parliament is entrusted with these various tools because it is seen as the primary institution for holding the Executive publicly accountable for its management of the nation's affairs, and because parliament is expected to be directly representative of its constituents.

In the context of the recent energy debate, the least Parliament could have done was to obtain from the Executive answers and responses to a host of questions and concerns that would assure a restive and frustrated public and business sector that the Government was committed and working seriously and expeditiously to resolve this crisis and forestall a recurrence. Unfortunately, the debate in Parliament produced nothing of the sort. In fact, MPs could not even reach agreement on the full

dimensions or origins of the crisis, not even whether the current crisis is endogenous or an Act of God not amenable to human solution. Rival party MPs seemed interested only in carrying out an uninformed war of words over which government's administrations incompetence or lack of action is responsible for precipitating the crisis. Reminiscent of "Junior Common Room" debates and antics, the partisan wrangling produced a great deal of entertainment for some, but little or no enlightenment or comfort for Ghanaians.

“Parliament does not exist merely to support the Government of the day, but is expected, above all else, to contribute independently to the process of governance by holding the Executive and public officials accountable for their management or mismanagement of the public's business.”

Ordinarily, one would have expected the Parliamentary Committee with jurisdiction over the Energy portfolio, and especially the Chair of the Committee, to lead the parliamentary inquiry and demand from the Executive Branch accountability and credible, verifiable information regarding the current energy crisis. Instead, the Committee and its leaders were indistinguishable from the crowd, its members having chosen to throw in their lot with their respective party lines.

The failure of the Parliamentary Committee on Energy to assume leadership in this matter, and especially its failure to initiate or call for parliamentary investigations or hearings into the current energy crisis, follows a pattern of similar omissions by committees of parliament when disturbing events and crises have arisen in areas within their legislative jurisdiction. For example, while Parliament has committees responsible for State-Owned Enterprises and for Transport, the country has suffered the bankruptcy and collapse of its decades-old national airline without any inquiry by Parliament. Worse still, Parliament looked on, again with no questions asked, as the Government invested in a successor Ghana International Airline, when the country had not learned (and still does not know) why Ghana Airways collapsed. In a constitutional democracy, citizens rely on Parliament, above all else, to ask questions and demand and obtain answers, explanations, and accountability for government policy.

The energy debate in Parliament also highlights a negative trend in Ghana's Fourth Republic in which ruling party MPs, including backbenchers, feel compelled to throw their complete support behind the Government and every

Minister when they come under critical scrutiny from the Minority party or the public. Except for Minister-MPs, who are bound by the principle of collective responsibility to publicly support cabinet decisions and policies, Majority party MPs are not duty bound to blindly defend the Government. Especially in Ghana's constitutional system where a Government's tenure cannot be cut short by the loss of a no-confidence vote in Parliament, Majority party MPs should not feel compelled to choose support for their party over their obligations to their constituents and to the nation. MPs must understand that, while they may have been elected on the ticket of a party, they do not sit in Parliament as delegates of their parties. Rather, they are supposed to bring to their deliberative and legislative duties their own independent judgement, informed, no doubt, by their ideological and party affiliations, but bearing in mind that they are trustees, ultimately, for their constituents and the entire people of Ghana. For this, parties are only a mechanism. After all, it is the people of Ghana, not their parties, who pay MPs their salaries and provide them with their car loans and other perks.

Ghana will not overcome its long and counter-developmental tradition of Executive hegemony and impunity unless its MPs come to understand that Parliament does not exist merely to support the Government of the day, but is expected, above all else, to contribute independently to the process of governance by holding the Executive and public officials accountable for their management or mismanagement of the public's business. It would be a costly luxury indeed, and one that the Ghanaian taxpayer can ill afford, if the 230-member strong Parliament, or a significant proportion of it, was reduced to little more than a rubber stamp, acting, deliberating, and voting only on the basis of their parties' supposed interests. The size of the parliament is already excessive by comparison to most democracies, and is maintained at substantial cost to the state.

The design of Ghana's Constitution is often blamed for allegedly giving the President supremacy over Parliament. This claim, however, is overstated and ignores the multifarious ways in which MPs themselves, individually and collectively, have acted to weaken their own constitutional powers or have failed to use their important constitutional tools to the benefit of the institution of Parliament and of Ghanaian democracy. The Constitution, for example, may grant the President power to appoint as many Ministers as he deems necessary for the efficient running of the State. But nothing in the Constitution commands Parliament to approve any number of Ministers the President chooses to appoint or any new portfolio the President chooses to create. Parliament can also determine, independently of the Executive, what number

of Ministers it considers necessary for the efficient running of the State and disapprove any appointments beyond that number, especially since it is Parliament that is supposed to authorize taxation and the budgets that support public institutions. But in this area, as elsewhere, Parliament has always done the Executive's bidding, only for some MPs to turn around and blame the Constitution for making Parliament ineffective. The Constitution is imperfect, as all constitutions are, and Ghana's democracy could be benefited by certain important revisions and amendments to the Constitution. But there is still a great deal of good that Parliament can accomplish by way of checks and balances under the present Constitution and without waiting for any amendment. For this to happen, there must be MPs, on all sides of the partisan divide who put the national interest above all else. ■ ■

The Office of Accountability: which mandate, what future?

President Kufour established the Office of Accountability in July 2003 as an "internal conscience keeper" and/or an "in house" mechanism to regulate the conduct of Ministers and other government appointees. Regarded by the government as an important manifestation of the President's pledge of "Zero Tolerance for Corruption," the Office of Accountability has met with public skepticism from its inception.

Some of the initial concerns centered on whether the Office would usurp or dilute the anti-corruption functions of the Commission on Human Rights and Administrative Justice (CHRAJ) mandated by the 1992 Constitution. Concerns were also raised over the absence of legislative backing for the Office and over whether the organizational and physical placement of the Office at the Presidency afforded it the proper independence and political insulation to vigorously prosecute its supposed mandate. Others questioned whether the establishment of another 'anti-corruption' body made sense at a time when the existing constitutional and statutory anti-corruption bodies, namely CHRAJ, the Criminal Investigations Department of the Police, and the Serious Fraud Office (SFO), were grossly and routinely under-resourced, often to the point of rendering them incapable of fulfilling their assigned mission. As of yet, there is little reason to believe that the Office of Accountability has worked to put these concerns to rest.

The creation of the Office of Accountability as a special unit under the Presidency could be justified if it was dedicated to educating and advising the President's appointees about ethics in public office as well as ensuring

their compliance with existing anti-corruption laws and standards of public ethics and integrity. But the Office of Accountability has not even seen it fit to publish the Code of Ethics for Government Appointees it claims to have developed, let alone educate such appointees about their ethical and legal obligations. If the Office of Accountability has been working with government appointees on ethics matters, then the public must know what ethical standards or code it is applying and be assured that those standards are indeed higher or at least not lower than that prescribed by the Constitution and laws of Ghana.

A central condition for accountability is transparency. Curiously for an anti-corruption body, the Office of Accountability has failed to set an example in this regard. The Office does not issue annual or periodic reports, and its activities are not accessible to the public. The achievements of the Office listed recently by its new boss, three years after the Office was established, are underwhelming and devoid of verifiable details. An important tactic for fighting corruption is to be able to “name and shame” offenders and thus convey the message that nobody is above the law and that the law will take its course where one fails to comply with the law. The Office has failed to avail itself of this tactic.

**“ A central condition for
accountability is transparency ”**

Indeed, the Office of Accountability has failed to gain public acceptance as a necessary or desirable public institution. The very existence of the Office continues to raise concerns about the effective utilization of scarce public resources. In contrast to persistent complaints of inadequate funding by various anti-corruption bodies, the Office of Accountability has stated categorically that it faces no financial difficulties. This has led to tensions between various other anti-corruption bodies and the Office, as the Government is accused of diverting important funds from the constitutional and statutory bodies in favor of an in-house unit that is perceived to be little more than window-dressing.

The deleterious impact of the Office of Accountability on the work of other anti-corruption bodies became clearer following the publication of the CHRAJ report into allegations of corruption, abuse of office and conflict of interest by Dr. Richard Anane, then Minister of Roads. In reaction to the report, the head of the Office of Accountability not only questioned publicly the credibility and objectivity of the report but also the very authority of CHRAJ to investigate the Minister. The Office probably

sees its role as one of protecting the Government from embarrassing publicity about corruption than of ensuring, through proactive ethics enforcement, that the Government is spared such embarrassments in the first place. The Office has further injured its credibility and public standing by venturing into matters clearly outside its limited remit, such as publicly condemning strike actions by doctors and teachers and applauding certain DCEs for initiating projects on their own before receiving support from the government.

By all accounts, the Office of Accountability has added little value to the fight against corruption and ethical laxity in government since its establishment some three years ago. The scarce public resources spent to establish, staff and operate the Office would be better spent strengthening the anti-corruption and anti-fraud operations of CHRAJ, SFO and the Police. If the Office must stay, then it must work to complement and support the work of CHRAJ by, for example, helping to popularize and ensure compliance with CHRAJ’s new Conflict of Interest Guidelines within the Executive branch. The Office should leave investigations to the appropriate bodies with the capacity and proper authority to execute these functions and, instead, monitor the government’s “Zero Tolerance” policy to ensure that predetermined targets are reached and that the public is accurately informed on the progress or challenges of implementation. ■■

The party foot soldier phenomenon and Ghanaian democracy

Ghanaian politics went through an important democratic ritual when the main opposition party, the National Democratic Congress, held a successful congress to elect its flag bearer for the 2008 presidential race and the ruling New Patriotic Party held its convention to review the party’s performance and future plans.

These meetings also generated a great deal of debate about the place of so-called “party foot-soldiers,” their grievances and the supposed revenge they might wreak on their respective parties for perceived “neglect” and “ingratitude”. Who is a party foot-soldier? What is his/her role in party politics? And most importantly, what are the implications of this phenomenon for Ghana’s long term democratic development?

Popularly understood, a party foot soldier is a person who devotes exceptional amounts of his or her time and energies to canvassing support and votes for a party and its candidates as well as countering similar activities by rival

parties. In more established electoral democracies, they would be called party workers or party volunteers. As a “career,” the party foot soldier in Ghana dates back arguably to the late colonial period, when the CPP and the NLM opposition party recruited bands of supporters, mainly unemployed youth, and organized them into Action Troopers and Storm Troopers respectively to mobilize mass support for their respective parties and neutralize the activities of their rivals. These party foot soldiers were tasked to conduct door-to-door campaigns, engage in various activities to boost support, and serve as “tough guys” ready to perpetrate or counter election-related thuggery for their respective political parties or candidates. The phenomenon of party foot soldiers was firmly established and consolidated in the period immediately after independence when the foot soldiers of the CPP found jobs in the vastly expanded state and parastatal sector and in the party bureaucracy. A growing number of Ghanaians thus came to rely on political party operations for their livelihoods, and the party foot soldier has remained a viable career choice for many since the restoration of multi-party politics in the country.

“The persistence of the party foot soldier phenomenon also reflects the weakness of real checks on the abuse of incumbency and the near absence of sanctions for abuses of public and political office for personal or partisan ends”

This mode of political mobilization and support operates as a game of musical chairs in which each change in regime brings to the foreground a new set of foot soldiers. Each batch of foot soldiers is comprised of members of the out group (people excluded from benefiting directly from the largesse of the previous regime), individuals who have often opportunistically defected from the previous camp, as well as others starting a new career as foot soldiers.

It is true that parties in democracies everywhere engage paid personnel to run their organizations. However, the paid staff is usually small relative to the large number of party activists who help to keep the party operational at all levels, canvass votes, attend party conventions and congresses, and do routine fundraising. The vast majority of the latter category of party supporters receives no compensation for their services for free, their primary interest being to ensure victory for their party at the polls and, with it, the triumph of their common ideological and policy preferences. In short, they are volunteers who devote time and talent to promote the party or candidate without expecting a direct personal reward. The story, of

course, is entirely different in Ghana. Here, party activists have come to expect, and typically demand, direct and personal reward for their efforts, even when they are not officially employees of the party. Election season in Ghana has thus become “*cocoa harvest season*,” with party activists expecting to be compensated handsomely, and sometimes immediately or soon after their party or candidate has won the election.

“...the party foot-soldier phenomenon deepens the neo-patrimonialism and clientelism—the “politics of ‘big man’ patronage”

This phenomenon partly reflects Ghana’s status as both a developing country with a large population of poor and unemployed voters and a new democracy in which few have the resources to donate their time and energies without compensation. In addition, Ghanaian parties are largely non-ideological and non-programmatic. Parties and candidates do not necessarily appeal to supporters on the basis of ideologies, policies and programs. Rather, political parties are largely vehicles for men and women of ambition to seek power and take control of the vast patronage resources located within the state. In this regard, party foot soldiers expect to be compensated personally for their efforts because they believe that elections are personally and primarily beneficial materially to the candidates and the party leaders themselves. Many Ghanaians believe that politicians are self-seekers and are in politics to look after their own interests. This pervasive belief and cynicism leads citizens to assume that it is fair game for them to do what they have to do in order to get something out of these otherwise self-serving politicians. As long as large numbers of Ghanaians believe—and as long as politicians act in ways that reinforce the belief—that politics is a ticket to self-enrichment for politicians, party foot soldiers can be expected to reject uncompensated party activism as exploitative (a kind of “*monkey dey work, baboon dey chop*” situation).

The persistence of the party foot soldier phenomenon also reflects the weakness of real checks on the abuse of incumbency and the near absence of sanctions for abuses of public and political office for personal or partisan ends. A number of supply side factors are also at work. The existence of a large and growing supply of people available for recruitment as foot soldiers is fueled by the generally slow growth of the economy and accompanying job scarcity and the persistent dominance of the state and public sector in the Ghanaian economy.

From the point of view of a party, the party foot-soldier is a

valuable asset and a resource, especially during election season and on Election Day. And from the standpoint of the foot-soldier, trading party activism for material reward, including the resources to meet one's daily subsistence needs, seems imminently rational. Yet the overall impact of the practice on Ghana's economic and political development is decidedly negative.

“Under the constitution and laws, however, political parties are not private clubs or self-regulating entities”

The foot-soldier phenomenon, and especially the monetary benefits that flow to these “career activists” in the heat of campaign season, creates unrealistic—and inappropriate—expectations about what incumbent parties and victorious candidates can and must do for their supporters. In turn, these expectations on behalf of the party foot soldiers impose extreme pressure on incumbent parties and representatives to exploit incumbency, abuse their offices, and set up illegal slush funds in order to satisfy the financial and other material demands of their followers. Undoubtedly, this situation distorts political competition in favor of “deep pocket” candidates and parties and, by making money, not record, issues or policies, the ultimate determinant of a party's success in mobilizing and motivating its supporters, it also corrupts the political process and fuels political corruption. The practice also heightens tension and animosity between rival parties and their supporters, because it reinforces the zero-sum, winner-take-all character of Ghanaian politics. While the victorious party's foot soldiers are usually promised and often offered rewards, including jobs, supporters of the opposition parties are excluded. In this regard, the party foot-soldier phenomenon deepens the neo-patrimonialism and clientelism—the “politics of ‘big man’ patronage”—that have bedeviled and retarded Ghana's postcolonial development. The persistence of such practices in the present era undermines the legitimacy of Ghana's democracy, as it signals continuity, rather than a change, from the past.

Party foot soldiering is indeed a soft under-belly of democratic politics in Ghana that must be reined in. In the long term, the practice might be curbed by sustained economic growth, expansion of private sector employment opportunities especially for wage labor, and consistent reduction in the levels of poverty. But as long as party foot-soldiering remains a rewarding career, its practitioners might not be easily persuaded to look for gainful employment or to improve their employment prospects through acquisition of skills or additional education. In that regard, party foot-soldiering is also wasteful of the country's

scarce human resources, as it diverts significant manpower away from directly productive uses.

In the short term, foot soldiering might be controlled if the constitution and laws regulating political parties and elections were respected and enforced. Since multiparty democracy was restored in Ghana, political parties have behaved, and been left to behave, as if they were private, self-regulating clubs, free to do whatever they may to win or retain power. Under the constitution and laws, however, political parties are not private clubs or self-regulating entities. Rather, they are constitutionally and statutorily regulated because they are seen as an essential and integral part of the constitutional plan for the democratic “representation of the people”. Accordingly, Article 55 of the Constitution and various existing statutes place important obligations and limitations on the organization and conduct of political parties. Among other things, Ghana's political parties are legally obligated to “declare to the public their revenues and assets and the sources of those revenues and assets; and publish to the public annually their audited accounts.” So far, no political party has seen it fit to voluntarily comply with this constitutional requirement. Done meaningfully and with due respect for the spirit of the constitution, full mandatory disclosure of the finances and financial dealings of political parties will help monitor such activities as the party's expenditures on elections, including payments for the services of party activist.

“Ghana's political parties are legally obligated to ‘declare to the public their revenues and assets and the sources of those revenues and assets; and publish to the public annually their audited accounts.’”

Additionally, Ghana's political parties are also required to uphold the Directive Principles of State Policy, contained in chapter six of the constitution. Thus, under article 35(8), political parties, like the State they seek to manage, must “take steps to eradicate corrupt practices and the abuse of power.” As understood and practiced in Ghanaian politics, however, party foot-soldiering helps to trap Ghana's political parties and politicians in a cycle of corruption, contrary to the dictates of the constitution. It is time to hold political parties to their obligations under the constitutions and laws of Ghana and to remind them that they are not private, self-regulating clubs, free to do as they please. The success of Ghana's democracy will depend on what kind of political parties we have. As things stand now, Ghana's political parties fall short of the constitution's requirements and expectations.

The problem with too many ruling party presidential aspirants

By last count, about twenty or so men (and, yes, they are all men) have announced their intention to seek the NPP presidential nomination for the 2008 elections. For some, this extraordinarily large number of persons interested in a party's presidential nomination reflects positively on the party's attractiveness to persons of ambition as well as its openness. Upon close scrutiny, however, this exceptional level of competitive interest in the presidential nomination of the ruling party, particularly in the light of the fact that most of the candidates are ministers of states—and thus colleagues—in the present government, raises and signals a number of troubling concerns.

The first question is why so many politicians in the incumbent party and government feel compelled to compete to be their party's nominee for president? Is it simply a reflection of the sheer abundance of presidential talent in the ruling party, or is something else amiss? Given that the presidency has become the ultimate "prize" in Ghana's highly president-dominant political culture, it seems natural that persons of ambition would channel their energies and efforts towards capturing the office of the president.

Indeed, that persons with experience as ministers of state should want to be president is not at all surprising. At independence, we built a state structure where all executive power is concentrated at the center and in the hands of a unitary president. As a result, Ghana lacks meaningful sub-national or sub-presidential "training grounds" for presidential office. Even where we have had vice presidents, the nature of their experience in office has depended primarily on delegation by the president. Apart from the vice presidency, cabinet-level ministerial office, to the extent it provides an opportunity for one to manage an important slice of the executive's portfolio and learn the inner workings of the executive branch, constitutes the one main avenue *in the governmental system* for the attainment for some meaningful preparation for presidential office.

Even so, there is something unseemly and disconcerting about nine or so senior ministers in an incumbent President's cabinet competing against one another for the right to be the next presidential nominee of their party. At a minimum, such intra-cabinet rivalry for power signals an absence of cohesiveness, mutual trust and team spirit among leading members of the current administration, with the potential to create these problems where they do not already exist. Others query whether the fact that several of the President's past and present ministers see themselves equally capable

of occupying the presidential office reflects favorably or poorly on the leadership of the President.

Then, of course, there is the obvious concern about ministers who are supposed to be managing important government business criss-crossing the country and traveling abroad, at taxpayers' expense, ostensibly doing ministerial business but, in fact, devoting substantial time to promoting their own presidential ambitions. This abuse of ministerial incumbency, quite apart from taking away from the people's business, also disadvantages other contestants for the presidential nomination who must finance their campaigns from their private resources. The notion of current public officers who each believe themselves best qualified to occupy the highest public office in the land placing their personal ambitions above the public business in their charge is indeed paradoxical,

The abuse of ministerial incumbency also raises serious issues of possible violation of the constitutional injunction on public office holders (whether career politicians or civil servants) not to put themselves in positions where their private interest conflicts with the duties of their office. While many commentators have focused on the possible negative implications for the NPP internal party unity and coherency or the legacy of the Kufuor government, this type of wanton abuse of office for private gain played out in the full glare of the public and the media with little restraint represents the most important reason why this matter should be resolved quickly and effectively.

“The image of the ruling party ... suffers when too many of its ministers are seen as more interested in hankering after the spoils of presidential office than devoting their time and talents to doing the people's business”

The President has often countered criticism of the large size of his ministerial pool with the argument that they are all necessary for the efficient running of the government. With several recently incumbent ministers now pursuing their own political ambitions, and beginning to do so while still serving as ministers, one must wonder whether the business of government was not shortchanged. The President's laudable move to force all such ministers to resign may have prevented such an outcome but the cost in governmental efficiency and effectiveness of replacing all of those ministers and appointing new ones in their place will still be significant. This says nothing of the time it will take for the new appointees to settle effectively into their new positions and get some work done. While all of turmoil

may further the ambitions of the persons involved, there is no clear sense that any of it benefits the people of Ghana.

There was, of course, no easy remedy to this problem. To the extent that this involves competition for a party's presidential nomination, the regulation was best left to the party itself. Nonetheless, the image of the ruling party no doubt suffers when too many of its ministers are seen as more interested in hankering after the spoils of presidential office than devoting their time and talents to doing the people's business. This is not about internal party democracy; this is about currently serving ministers advancing their personal ambitions at the expense of the smooth and efficient running of the public's business.

By all means, 'let a hundred flowers bloom' in the NPP presidential race; but let it not be at the expense of effective and efficient administration of the state and at the risk of legitimizing the abuse of ministerial incumbency. ■ ■

Avoiding accusations of bias in the prosecution of politicians

On the 7th of February 2007, Mr. Dan Abodakpi, the NDC Member of Parliament for Keta Constituency and a former Minister for Trade and Industry in the last Rawlings administration, was convicted by an Accra High Court on multiple counts of conspiracy to commit a crime, defrauding by false pretences and wilfully causing financial loss to the state, in the amount \$US 400,000. The court sentenced him to a ten-year term of imprisonment.

The conviction and sentencing of the Keta MP sparked off a drama of protests from the NDC and the MP's Keta constituents. To show solidarity with their convicted colleague, NDC Members of Parliament announced an indefinite boycott of Parliament, a threat they kept when they stayed away from Parliament on the occasion of the President's Annual State of the Nation address. The NDC MPs and the party's national leadership also journeyed to Keta, the home of their convicted colleague, where they addressed a rally of their supporters. Leaders of the party charged the ruling NPP government with selective prosecution aimed at NDC politicians. The judiciary also came under attack for what the NDC leaders alleged was judicial bias against the party's leading members. The NDC boycott of Parliament went on for three weeks.

The NDC's reaction to Mr. Abodakpi's conviction and sentencing raises a number of concerns. First, the party's allegations of judicial bias are worrisome, as they call into question the independence of the judiciary. This is not the first time the NDC has sought to impugn the integrity of the judicial process and administration of justice in cases

involving their own?. The party made a similar charge when the High Court presided over by the late Justice Afreh found Messrs. Kwame Peparah, Selormey, and others guilty on multiple counts of wilfully causing financial loss to the state, in the famous "Quality Grain" case. That the same High Court dismissed charges against Messrs. Kwesi Ahwoi and Ato Dadzie in the same case attracted no adverse comment from the NDC critics. Indeed, other NDC defendants, prosecuted on similar charges, have been acquitted by the courts. Apparently, the Opposition party appears to have doubts about judicial impartiality only when a leading member of their party receives an unfavourable judgement from a court of law. Judicial bias is not a charge to be made lightly, and under no circumstance should it be made for the purpose of scoring political points. If, as Ghana's constitution commands, all persons are equal before the law, then the Opposition party must understand that, depending on the evidence in a case, a trial could end either in a guilty verdict or in an acquittal. The NDC cannot reasonably suggest that only one outcome—an acquittal—is acceptable whenever one of its members is on trial. If the NDC believes that a guilty verdict in a particular case constitutes an error, it must simply advise the defendant to appeal the conviction, instead of making unsubstantiated allegations of judicial bias.

“Judicial bias is not a charge to be made lightly, and under no circumstance should it be made for the purpose of scoring political points”

That said, the NDC's charge of selective prosecution deserves a more sympathetic hearing. It is possible that that the law, and most notably the law against wilfully causing financial loss to the State, is being enforced against members of the NDC and the former Rawlings administration, but not against alleged NPP offenders. In other words, the NDC is accusing the NPP Government, at best, of pursuing "post-incumbency" accountability (against its rivals) while refusing to apply the law to itself. Implicit in that accusation is a claim that there are credible prosecutable cases of criminal wrongdoing involving members or allies of the NPP that the Kufuor Government has failed or refused to pursue. Indeed, while the very first use of the law against wilfully causing financial loss to the State involved the first Minister of Sports in the first term of the Kufuor administration, Mallam Issa, and the case ended in the conviction and jailing of the Minister, all subsequent prosecutions have involved NDC functionaries who served or transacted business with the past Rawlings government or other persons unrelated to the NPP. It is this picture that the NDC finds unacceptable.

It is indeed true, that apart from Mr. Issa, who incidentally was not a member of the NPP, no person associated with the Kufuor administration has been criminally prosecuted during the tenure of the NPP. Of course, if no NPP member or functionary has been involved in criminal wrongdoing, it is unreasonable to expect any to be prosecuted merely to even the political score. But the NDC believes otherwise, and its newspaper, the *Palaver*, has made repeated accusations of criminal wrongdoing against named members or associates of the NPP. Regrettably, given the highly partisan atmosphere that the two main rival parties have managed to create in this country, the NPP Government has routinely dismissed NDC accusations of criminal impropriety within the NPP as partisan rhetoric. Thus the Government has not even seen fit to order a criminal investigation into any of the NDC many and incessant accusations.

The problem is partly the predictable consequence of Ghana's constitutional design. Under the Constitution, the Attorney General, who is an appointee of the President, doubles as a Minister of State and member of the President's cabinet, and thus serves solely at the pleasure of the President. In short, the Attorney General is a politician. At the same time, the sole power to initiate or stop all criminal prosecutions is vested, constitutionally, in the Attorney General. In fact, as a matter of tradition, Ghanaian attorneys-general have personally led prosecutions of most high-profile cases, a practice that deepens public perception of a political or partisan stake in such prosecutions.

Given this constitutional tradition, it is not surprising that criminal accountability for political office holders in Ghana has historically been of the "post-incumbency" kind. Successive governments have been unwilling to subject their own members or allies to criminal accountability in the courts of law. It is in this regard that the constitutional alternative of lodging a complaint of corruption or abuse of office with CHRAJ, and thereby triggering an independent investigation by CHRAJ, is a route that must be taken seriously and seized upon by those who have reason to believe that Government functionaries have engaged in breaches of the law. Even though CHRAJ has no powers of criminal prosecution, its adverse findings can carry significant sanctions and are of political consequence.

Of course, the existence of CHRAJ is not a warrant for Attorneys-General to indulge in selective prosecution. The prosecutorial discretion vested in the Attorney-General is not supposed to be used in a biased or arbitrary or capricious manner. Article 296 is intended specifically to ensure that such discretion, like all administrative discretion, is exercised in a fair, impartial, and impersonal manner.

Furthermore, subsection (c) of article 296 seeks to prevent or minimize accusations of bias or caprice in the use of official discretion, by requiring nonjudicial officers vested with discretionary power to publish, by constitutional or statutory instrument, regulations to guide the exercise of that discretion. These published regulations are supposed to make transparent the principles, considerations and evidentiary grounds that must guide and inform a particular public official's exercise of lawful discretion. In the absence of such safeguards, decisions involving official discretion are bound to attract accusations of bias from those who are unfavourably affected by such discretion. It is untenable that successive Attorney Generals have failed to comply with article 296(c), thus leaving in place the old common law practice whereby prosecutorial decisions are left to the unfettered and unregulated discretion of prosecutors and the Attorney General.

In addition to complying with the requirements of article 296, the Attorney-General would help to restore credibility to the prosecutorial function by delegating the investigation and prosecution of cases involving politicians to the Director of Public Prosecutions and other career state attorneys in the Attorney General's Department. Moreover, the tradition whereby Attorneys-General feel compelled to lead prosecutions of high-profile cases themselves needlessly politicizes such trials when they involve politicians. The Attorney-General must be able to count on a team of well-trained and carefully selected career prosecutors to handle such trials.

“Some accountability is better than no accountability at all, especially at this infant stage of our democratic journey”

Given Ghana's highly partisan political culture, it would be naïve to expect an instant remedy to the problem of a lack of "incumbency" prosecutions, on the one hand, and the one-sided pursuit of post-incumbency accountability, on the other. Still, we must not let the perfect be the enemy of the good. Criminal prosecution of public office holders is a public good in and of itself, regardless of the party affiliation or identity of the defendant. It fosters public accountability. A government that is committed to the rule of law would normally demonstrate that commitment by dealing even-handedly with all suspected offenders and violators of the law, without regard to their political association. Regrettably, the current state of Ghanaian politics falls far short of this standard. Does it mean, then, that post-incumbency accountability must not be pursued? We think not..

Some accountability is better than no accountability at all, especially at this infant stage of Ghana’s democratic journey.

“As long as our electoral politics remain politically open and competitive, and ... the possibility of regime turnover is an ever present prospect, post-incumbency accountability will beget, ... incumbency accountability”

In the course of time, post-incumbency accountability alone will become politically unsustainable. A government that openly pursues a policy of prosecuting its political rivals for violations of the law, while ignoring criminal violations within the ranks of its own party or government, would be courting a political backlash that could cost it in the next general elections. As long as Ghana’s electoral politics remain politically open and competitive, and thus the possibility of regime turnover is an ever present prospect, post-incumbency accountability will beget, in due course, incumbency accountability, as the rival parties compete to show the Ghanaian electorate which one can be better trusted in the area of integrity, probity and accountability. But to suggest that post-incumbency accountability be held off until it is coupled with incumbency accountability is to give the entire political class an exemption from the operations of the criminal laws of Ghana. Such a result would be worse kind of insult to the people of Ghana.

“Democracy is never a finished task; it is always a work-in-progress that can progress, stagnate or regress depending on the actions and omissions of the governed and the government”
E. Gyimah-Boadi

**CDD-GHANA DEMOCRACY PROGRAMS
January- June 2007**

CDD-Ghana/German Presidents’ Partnership with Africa Initiative Collaboration

Jan. 11-14

The Center served as a local partner for the Second Forum of the German President’s Partnership with Africa Initiative which was held at the Kofi Annan International Peace Training Center (KAIPTC). It involved a bilateral visit between the German President and Government of Ghana followed by a Youth Forum involving selected African Heads of State and political, business, and civic leaders as well as over 40 young leaders from Africa and Germany. They deliberated on issues affecting the interests of the youth in Africa and Germany/Europe. Kojo Asante of the CDD-Ghana’s Program Department was one of the two young leaders from Ghana who participated in the Forum. Prof. Gyimah-Boadi was a technical advisor on the Initiative and co-moderator of the Forum. CDD-Ghana was the local co-organizer.

CDD/World Bank project on Social Accountability

Jan. 31

A World Bank/CDD-Ghana workshop on Social Accountability was held at the Regency Hotel. The topic was “Building the Demand-Side of Good Governance: Enhancing Conditions for Social Accountability in Ghana.” Prof. Gyimah-Boadi made introductory remarks on behalf of CDD-Ghana, Mrs. Esther Ofei-Aboagye of Institute of Local Government Studies, Dr. Emmanuel Akwetey of IDEG and Mr. Ted Lawrence of USAID were panelists for the workshop and Dr. Audrey Gadzekpo chaired the event.

Kronti ne Akwamu Annual Democracy and Governance Lecture

Feb. 1

The Jubilee edition of CDD-Ghana’s Annual Democracy (“Kronti ne Akwamu”) Lecture was held at the British Council Hall, Accra. It was delivered by Prof. Richard Joseph, a political scientist and Director of African Studies at the Northwestern University in Chicago, USA. The topic of the public lecture was “Ghana and Democratic Development in Africa: Back to the Future.” Hon. J.H. Mensah, MP for Sunyani East and Chairman of the National Development Planning Commission (NDPC), chaired the function. He was introduced by Mrs. Justice Striggner-Scott, a CDD-Ghana Board member. Prof. Gyimah-Boadi gave the opening/welcome remarks. The lecture which formed part of the Center’s activities to mark Ghana’s Golden Jubilee anniversary attracted over 180 participants.

Parliamentary Support Project

Feb. 2:

CDD-Ghana, in collaboration with the Constitutional, Legal and Parliamentary Affairs Committee of Parliament, held a public forum on the Draft "Interpretation Bill," which seeks to regulate the interpretation of statutes and subsidiary legislation at the Teachers' Hall, Accra. The main speakers were Dr. Bimpong Buta, former Director of the Ghana School of Law and Mr. Kwame Tetteh, President of the Ghana Bar Association. The event was chaired by Hon. Kofi Osei-Ameyaw, Chairman of the Constitutional, Legal and Parliamentary Affairs Committee.

March 16

CDD-Ghana collaborated with the Subsidiary Legislation Committee of Parliament to organize a district level public forum at the New Juabeng Municipal Assembly Hall in Koforidua. The forum was part of programs under the CDD/USAID Parliamentary Strengthening project. The Chairman of the Committee, Hon. Francis Agbotse chaired the function The keynote address was delivered by the New Juabeng Municipal Chief Executive, Nana Adjei Boateng.

March 21

The Center collaborated with the Subsidiary Legislation Committee of Parliament to organize a district level public forum at the Teachers' Hall Complex, Accra. The forum was part of programs under the CDD/USAID Parliamentary Strengthening project. The Chairman of the Committee, Hon. Francis Agbotse chaired the function The keynote address was delivered by the New Juabeng Municipal Chief Executive, Nana Adjei Boateng.

March 23

The CDD-Ghana/ Public Affairs Department of Parliament fourth parliamentary briefing was held for the Parliamentary Press Corps at the Speaker's Conference Room in Parliament House. The parliamentary briefings are aimed at creating a platform for the Parliamentary Press Corps and the leadership of Parliament to periodically assess the performance of Parliament. Forty-five (45) journalists from the Parliamentary Press Corps participated in the press conference. The function was chaired by the MP for North Dayi, Hon. Sena Akua Dansua. Hon. Alban Bagbin, Minority Leader, and Hon. Abraham Osei Akoto, representing the Majority, addressed the conference.

April 18-20

CDD-Ghana, in collaboration with the Constitutional, Legal and Parliamentary Affairs Committee of Parliament, organized a field tour to Nadowli in the Upper West Region, Siniesi in the Upper East Region and Sayoo in the Northern Region; areas recorded to have high prevalence of female genital mutilation (FGM) The objective of the tour was to enable

Committee Members to solicit civic input into the amendment to the Criminal Code 1960. The amendment sought to:

1. distinguish FGM from male circumcision
2. expand the definition of offenders under the law to include those who assist in committing the act
3. increase the penalty for those convicted.

The 18-member Committee toured these areas and met with chiefs, assembly members, presiding members, DCEs, CSOs and 'wanzams' in the various communities and explained the Bill to them. A report was submitted to Parliament for consideration.

May 18-20

CDD-Ghana, in collaboration with the Parliamentary Committee on Constitutional, Legal and Parliamentary Affairs, organized a 3-day workshop on the Interpretation Bill at Akosombo. The aim of the workshop was to do a final clause-by-clause review of the Interpretation Bill, the objective being to recast the Interpretation Act of 1960. The Committee is preparing a report on the review to be laid before Parliament before passage into Law. The workshop was attended by nine Members of Parliament.

June 28 –July 2

CDD-Ghana, in collaboration with the Judiciary Committee of Parliament and with the support of G-RAP, organized a public forum on the Non-Custodial Sentencing as a Policy Option for Ghana. A key part of the program was a visit to the Nsawam, Kpando and Ho Prisons. The aim of this visitation was to provide additional background to proposed reforms by the Judiciary Committee of Parliament as well as open up the debate on penal reforms. The information and views collated from these two activities will provide the basis for formulating a draft legislative instrument (LI) by the Judiciary on non-custodial sentencing. Fifteen Members of Parliament, three Committee Clerks, a representative of the Chief Justice, a representative of Commissioner of CHRAJ, Retired Justice VCRAC Crabbe, Nii Osah Mills and five staff from CDD participated in both the forum and visits.

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Disability Advocacy Project

Feb. 20-21

A roundtable conference was held in Kumasi and Sunyani to disseminate a popular version of the "Disability Act" developed by CDD-Ghana for educating the general public. Mr. Jedua Mahama of the Prisons Service was the lead presenter. CHRAJ officials in the Ashanti Region and leaders of the Ghana Federation for the Disabled were among the participants.

March 21

A "Public Education Seminar on the Popular Version of the Disability Act 2006 (Act 715) was held at the Raybow Hotel, Takoradi. It was the third of such seminars and forms part of

CDD/USAID’s larger program to strengthen disability organizations, facilitate equal opportunity for persons with disability to participate fully in the decision-making process. The seminar was chaired by the Regional Director of CHRAJ, Mrs. Amuah-Sekyi. Mr. Nicholas Halm who represented the Ghana Federation of the Disabled gave the opening remarks. The lead presenter, Dr. K. Appiagyei-Atua gave a presentation on the post-enactment activities emanating from the Act.

March 22

The seminar was replicated at Cape Coast Hotel, Cape Coast. The Cape Coast program was chaired by Dr. Ebow Bondzie-Simpson of the University of Cape Coast.

April 16

The Center held a one-day public education seminar and dissemination of the popular version of the Disability Act 715 in Wa, Upper West Region. The venue was the GNAT Hall, Wa. Mr. Jeduah Mahama Abudu, a legal practitioner and a social worker, was the resource person. He gave a presentation on the post-enactment activities emanating from the Act. The event was chaired by Mr. Amadu Ibrahim, a Wa-based legal practitioner. The Ghana Federation of the Disabled (GFD) was represented by Mr. Nicholas Holm, the advocacy officer of the Federation who gave the opening remarks. There were about 160 participants representing various disability organizations including Ghana National Association for the Deaf (GNAD, Ghana Society for the Physically Disadvantaged (GSPD) and Ghana Association for the Blind (GAB).

April 18-19

The seminar was replicated in Bolga and Tamale respectively.

April 27-28

Public education seminars in Ho and Oda were the last of a series designed to inform people on the popular version of the Disability Act 715. The program was among a number of activities sponsored by USAID’s “Promoting and Protecting the Rights of People with Disabilities.”

June 26:

The Center held a public education seminar for service providers on the Disability Act at the Fiesta Royale Hotel, Accra. The objective was to sensitize service providers on their duties and responsibilities towards Persons with Disability (PWDs). The program was chaired by the Deputy Minister of Manpower, Youth and Employment, Hon. Frema Osei-Opere. The lead presenter was Dr. K. Appiagyei-Atua; other resource persons were Rev. Fred Deegbe of the Christian Council and Mr. Yao Debrah of the Ghana Federation for the Disabled (GFD). Over 27 organizations representing different service providers across the country were present. About 60 participants attended the seminar.

CDD-Ghana/ Friedrich Naumann Foundation (FNF) Collaboration

Feb. 22

A roundtable discussion was held in Kumasi on: “Enhancing Local Revenue Mobilization: The Case for Street Naming and House Numbering in Ghana’s District Assemblies.” Mr. Eric Oduro Osaе, Senior Lecturer, Institute of Local Government Studies, was the lead presenter and Mr. Cletus Avoka, a private legal practitioner and former Minister of State, was the discussant. The function was chaired by Hon. Isaac Edumadze, MP and Chairman of the Parliamentary Committee on Local Government and Rural Development.

May 10

A roundtable discussion sponsored by CDD-Ghana and FNF was held in Koforidua on the topic: “The Case for Enhancing the Participation of Traditional Authorities in Ghana’s Local Government System.” Nana Asante Bediatuo, a traditional ruler and legal practitioner, was the lead presenter. Dr. Yao Graham, the Executive Director, Third World Network, was the discussant. The function was chaired by Daasebre Prof. Emeritus Nana Oti Boateng, the Paramount Chief of the New Juaben Traditional area. About 60 people attended the function.

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Ghana@50 Activities

March 8

As part of the Center’s activities to mark Ghana 50th anniversary, a roundtable discussion was held at the Golden Tulip Hotel, Accra, on the topic: “The Transformation of the Political Elite Competition and Democratization: the Case of Ghana.” Mrs. Johanna Svanikier, a PhD candidate at the Oxford University, UK, was the lead presenter. The event was jointly sponsored by the Fidelity Bank, the Golden Tulip Hotel and CDD-Ghana. Prof. Gyimah-Boadi moderated the discussions. Other panelists included Frema Busia, (a daughter of Dr. K.A Busia), as well as sons of Obetsebi-Lampsey, Krobo Edusei and Kofi Baako. The function was chaired by Prof. Justice Modibo Ocran, Justice of the Supreme Court of Ghana.

March 9

A joint seminar organized by ECOWAS, CDD-Ghana, and the University of Ghana at Legon Political Science Department was held at the Department of Political Science lecture room. The theme was: “*The African Integration Project: Perspectives from Ghana and West Africa.*” The seminar featured speakers from Nigeria, Senegal and Ghana including Dr. Said Idejemobi of the ECOWAS Secretariat who read a speech on behalf of the ECOWAS President, Dr. Mohammad Ibn Chambas. About 180 people attended the seminar which was also part of CDD-Ghana’s programs to reflect on Ghana’s independence 50 years on. It was chaired by Prof. J. A. Ayee, Dean of the Faculty of Social Sciences, Legon, with opening remarks by

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Prof Kwame Boafo-Arthur, Head of the Department of Political Science, Legon.

March 12

Prof. H. Kwasi Prempeh, Board Member of CDD-Ghana and professor of law at Seton Hall University, USA led a roundtable discussion on the topic: "The Progress Towards the Rule of Law and Constitutionalism in Ghana." It was held at the CDD-Ghana conference room. Mr. Sam Okudzeto, a lawyer, former politician and philanthropist was the chairperson. Participants included Justices of the Supreme Court, Legal practitioners and the academia.

CDD-Ghana/Coexistence International project

March 4-7

The Center's "Transitional Justice and Peace-building in West Africa" project funded by Coexistence International at Brandeis University organized a workshop in Monrovia, Liberia. There were representatives from Ghana, Nigeria, Sierra Leone and Liberia. This was the first major activity of the Brandeis University coexistence project.

June 7

The Center held its first capacity workshop for women in Ghana at the Fiesta Royale Hotel, Accra. The workshop, part of ongoing collaboration with Coexistence International, was designed to (i) consult experts in the field of transitional justice about the role of gender in reconciliation efforts in Ghana; (ii) examine the role gender should play in specific institutions such as the National Reconciliation Commission (NRC) and the media in promoting women's rights; and (iii) build the capacity of future leaders and gender advocates in the transitional justice process. Ms. Nansata Saliah Yakubu, a Transitional Justice Fellow, gave an "Overview of Transitional Justice in Ghana" to provide the background for the workshop. Prof. Henrietta Mensa-Bonsu, Acting Dean of the Faculty of Law, University of Ghana, made a presentation on "Gender, Justice and Transitional Justice: Lessons from Ghana's NRC." Dr. Audrey Gadzekpo of the School of Communications, University of Ghana, presented a paper on "The Role of the Media in Addressing the Concerns of Women in times of Conflict." Ms. Kristin Williams of the Coexistence International (USA) gave the opening remarks. The function was chaired by Prof. Ken Attafuah, a private Legal Practitioner and former Executive Secretary of the NRC. Over 60 people attended.

West Africa Transitional Justice Research Project

April 23-24

Dr. David Backer (College of William & Mary, US) and Dr. Anu Kulkarni (Stanford University, US) in collaboration with CDD-Ghana conducted a study on Transitional Justice in Ghana as part of the broader West Africa Transitional Justice

Research Project, which includes Liberia, Sierra Leone and Nigeria. The research is aimed at evaluating political transition processes in West Africa. The Center trained and deployed 15 field staff to administer a questionnaire in nine of the ten regions for the Ghana study. ■■

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“ Democracy is a learned behaviour; it is not some natural or genetic trait that is bestowed on some peoples and denied others ”
by divine predestination

H. Kwasi Prempeh

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The Ghana Center for Democratic Development (CDD-Ghana) is an independent, nonpartisan, nonprofit and public policy oriented organization based in Accra, Ghana. It is dedicated to the promotion of society and government based on the rule of law and integrity in public administration. The Center's mission is to promote democracy, good governance and the development of a liberal economic environment. In so doing, CDD seeks to foster the ideals of liberty, enterprise and integrity in government and society at large.