

# **NANA AKUFO-ADDO'S E-LEVY BILL & E-LEVY BIRTHDAY CAKES - TREASON FELONY, TREASON, MISPRISION OF TREASON & COUP MONGERING: BY MARTIN A. B. K. AMIDU**

## **INTRODUCTION**

The Government's 2022 Budget Statement and Economic Policy, particularly its determination to impose its draconian Electronic Transfer Levy (E-Levy) on an already financially exhausted and challenged poor citizenry contrary to its own electoral promises and undertakings has seriously polarized this nation and created needless acrimony amongst the body politic in a manner I have never witnessed since my first involvement in public service and observation of the governance processes of Ghana since February 1982.

The adversarial conflict over the Government's E-Levy policy eventually deepened with the uncomplimentary public reaction to what some citizens perceived to be an opulent, arrogant, and insulting 65<sup>th</sup> birthday celebration by the Majority Leader and Minister for Parliamentary Affairs, Mr. Osei Kyei-Mensah-Bonsu, (which fell on Thursday 3 February 2022) amid their sufferings and the government's intention to further tax their scarce incomes. The "Mr. Kyei Mensah Bonsu's E-Levy cake for his 65<sup>th</sup> birthday" celebration provides the immediate context for understanding the public comments and reactions that led to the arrest and detention of a known political adversary of the Government's policies, Mr. Oliver Mawuse Barker-Vormawor, the convenor of #FixTheCountry, who was later charged unconstitutionally for the offence of treason felony. Mr. "Kyei Mensah-Bonsu's E-Levy cake for his 65<sup>th</sup> birthday" celebration has also led to other citizens being gagged and intimidated from exercising their constitutional rights and freedoms to free speech and thought on pain of being arrested and detained without bail at the behest of hawks and operatives of the Government under the smokescreen of coup mongering or first-degree felony offences against the safety of the state.

The police also later arrested and detained Mr. Kwame Baffoe, the Bono Regional Chairman of the New Patriotic Party (NPP), on 15 February 2022 and subsequently charged him with lesser offences and bailed before a court the next day for accusing former President John Mahama of high treason and/ or treason in a radio interview on 14 February 2022. Subsequently, operatives of the government made threats to arrest and detain the Dean of the University of Ghana School of Law, Prof. Raymond Atuguba, for coup mongering and treason arising out of a public lecture he delivered at the Erata Hotel in Accra on 28 February 2022. These developments make it imperative for every patriotic Ghanaian and lover of constitutionalism and representative democracy committed to the sustenance, preservation and defence of the 1992 Constitution to speak out boldly against the use or the threatened use of the investigatory and prosecutorial discretionary powers of the Republic entrusted to the executive branch of government in abusing the rights and freedoms of citizens to speech and thought by means of the deployment of the system of criminal justice administration for purely partisan political ends. Any appearance of the use of the system of the criminal justice administration to intimidate, suppress or seek to suppress the lawful political activity of political adversaries in the marketplace of democratic political discourse needs to be unreservedly condemned in defence of the 1992 Constitution.

The 1992 Constitution was intended to ensure a free marketplace of ideas in a representative constitutional democratic society where rights and freedoms of political adversaries are not

suppressed or sought to be suppressed by Government over-reach. This was because the nation's political history teaches that the contrary led to the several previous instabilities that the Ghanaian constitutional democratic processes witnessed since the darkest day of 24 February 1966 until 7 January 1993. For almost three decades, and for the first time in Ghanaian political history, the Fourth Republican Constitution, born out of a revolution led by a retired military officer, the late President, Flt Lt. Jerry John Rawlings (Rt.), who brought it into operation under his signature and nurtured it democratically for eight years against all odds and handed over political power peacefully to an opposing political party has enabled this nation to witness the transfers of political power from one political party to another through the ballot box. This singular achievement of the 31 December 1981 Revolution in ensuring a lasting 1992 Constitution for Ghana is what all patriots are to defend.

It is in pursuance of the foregoing objectives that this article examines and discusses the heightened polarization of the nation arising from Mr. Kyei Mensah-Bonsu, the Majority Leader and Minister for Parliamentary Affairs' "Kyei Mensah Bonsu's E-Levy cake for his 65<sup>th</sup> birthday" celebration and the resulting public reactions and comments thereto leading to the deployment of the discretionary investigatory and prosecutorial powers of the executive branch of the Government of which he is a Minister of State against vocal adversaries of the government's E-Levy policy.

### **MEDIA HYPE OF MR. KYEI MENSAH-BONSU'S OPULENT 65TH BIRTHDAY CELEBRATION WITH AN EDIBLE DECORATED GREEN E-LEVY CAKE**

The media hype of the Minister for Parliamentary Affairs' opulent 65<sup>th</sup> birthday celebration is captured on several of the electronic media and is available online, but it will suffice for purposes of this discourse to use a publication by Citi Newsroom which cannot be accused of being biased against the government to underscore the reactions and comments of the public to the Government's E-Levy policy. #CitiNewsroom has a 0:50 minutes video publication on <https://m.youtube.com> watch with the title: "Watch: Kyei Mensah Bonsu's E-Levy cake for his 65<sup>th</sup> birthday" accompanied by the following narration – '9 Feb 2022 – "The Majority Leader and Minister for Parliamentary Affairs, Osei Kyei-Mensah-Bonsu, has celebrated his 65<sup>th</sup> birthday". Joy News also carried a 0:31 minutes similar video on YouTube on the same day showing the same celebration. One needs to watch the video of the celebration of the Minister's 65<sup>th</sup> birthday with the decorated green edible "E-Levy" cake to understand how it could generate sentimental dissent amongst bi-partisan opponents of the Government's E-Levy policy and pending Bill in Parliament. The public reactions and comments were swift and electric both by individuals and the media.

Citi Newsroom captured the public perception of the "Kyei Mensah Bonsu's E-Levy cake for his 65<sup>th</sup> birthday" on its online reportage of the event as follows:

"... It is also not clear what the motive is considering that many Ghanaians are against the proposed Electronic Transaction Levy, and may find this decision insensitive. Among the guests at the party were Vice President, Dr. Mahamudu Bawumia; Samira Bawumia; Ashanti Regional Chairman of the NPP, Chairman Wontumi, known in real life as Bernard Antwi Boasiako; and Senyo Hosi, the Chief Executive Officer of the Ghana Chamber of Bulk Oil Distributors. Many Ghanaians have started reacting to the photos since they started circulating online on Tuesday. Already, they are criticizing the controversial 1.75% E-levy which most people are kicking against.

Most of the social media comments have condemned the use of the image by the experienced politician, as they consider it a mockery of their opposition to the levy.”

Mr. Sammy Gyamfi of the National Democratic Congress (NDC) in reaction to the plush birthday party made the following post to his Facebook

**“Sammy Gyamfi**

Checkout E-Levy cake at the plush birthday party of the Majority Leader, Hon. Osei Kyei Mensah Bonsu.

Guess what? Our Jocular Vice President and Head of the Economic Management Team at large, who has been mute on the obnoxious E-Levy policy, was the special guest of honour. The continuous display of opulence and ostentation by the Akufo-Addo/Bawumia government at this time of excruciating hardships is nauseating and insulting to the sensibilities of suffering Ghanaians.”

The Pulse.com.gh’s Kojo Emmanuel reported that:

‘The Economic Fighters League on its part described the majority leader's conduct as a symbolic indication that proceeds from the E-levy will be "chopped" by government officials. Taking to its Facebook page, the group described the act as a "perfect illustration of growing old without sense".

Leader of the group, Ernesto Yeboah added that "An MP entering retirement age has just told us that he is going to take a cut of the national cake made from our own modest earnings. "If we as a nation allow this E-Levy bill and its accompanying insult to pass then we are sick..”

Reacting and commenting on the 65<sup>th</sup> birthday celebration by the Minister of Parliamentary Affairs of the Government, on Wednesday 9 February 2022, Osagyefo Oliver Barker-Vormawor who was in the United Kingdom but was apparently following the news in Ghana published on YouTube media concerning the opulent, flamboyant, and arrogant “Kyei Mensah-Bonsu’s E-Levy cake for his 65 birthday” celebration amidst the national economic hardship and suffering of poor citizens posted the following statement on his Facebook wall:

“If this E-Levy passes  
after this Cake bullshit,  
I will do the coup  
Myself.

Useless Army!”

In another and second post he stated that:

“Okay, let’s try again. If this E-Levy still passes after this cake bullshit, then may God.... Help us to resist oppressor’s rule, With all our will and might for evermore.  
(2x)  
Useless Army.

Anaa, the value is the same?”

As a result of Mr. Barker-Vormawor's Facebook posts some social media users who put varying interpretations on his two contradictory and ambiguous posts, called on the security agencies to arrest him over his comments (See Ghana Web of 11 February 2022 with source as dailmailgh.com).

### **ARREST, RESTRICTION OR DETENTION OF MR. BARKER-VORMAWOR ON ARRIVAL FROM THE UNITED KINGDOM AT THE AIRPORT AND A 'CYNICAL' CHARGE OF TREASON FELONY**

Mr. Barker-Vormawor was picked up by the police on the evening of 11 February 2022 at the Kotoka International Airport upon his arrival from the United Kingdom. He was cautioned for the misdemeanour offence of offensive conduct conducive to the breaches of the peace contrary to section 207 of the Criminal Offences Act, 1960 (Act 29) as the basis of his arrest as required under Article 14 of the 1992 Constitution. The police kept him in custody from 11 February 2022 until on 14 February 2022 when he was brought before a District Court at Ashaiman in flagrant breach of the Constitutional injunction for any citizen who is arrested, restricted, or detained to be brought before a court within forty-eight hours or be set at liberty.

While Mr. Barker-Vormawor was in police custody, the police took a written caution statement from him for the misdemeanour offence for which he was arrested at the airport and detained at the police station. The suspect had a right to a lawyer before interrogation and the taking of any written statement by the police from him and it is axiomatic from the subsequent facts that he exercised his right to a lawyer when he gave a written statement to the police. However, on 14 February 2022, when Mr. Barker-Vormawor was surprisingly brought before a District Court for the misdemeanour and summary offence of offensive conduct conducive to breaches of the peace, the reasons for his arrest and detention changed in the court room. His lawyers and him learnt for the first time in the court that he had been brought before the Court on a charge of treason felony under section 182(b) of the Criminal Offences Act, 1960 (Act 29) for which the court had no bailable powers.

The nature of the unconstitutional, unethical ambush, and abuse of the investigatory and prosecutorial discretion of the executive branch of government in informing the suspect and his lawyers for the first time in the court room of the treason felony charge shocked Mr. Akoto Ampaw, the lawyer leading the suspect's defence team, to the extent that he is quoted by the Daily Graphic Online of 14 February 2022 to have said that: "Until this morning [Monday], it was a misdemeanour, only to appear in court and be told he is being charged with treason felony which has no factual basis."

The Daily Graphic Online reported its interaction with Mr. Akoto Ampaw as follows:

“Counsel for Oliver Mawuse Barker-Vormawor who has been charged with treason felony has described the charge by the police as "cynical".

Mr Akoto Ampaw who is leading the team defending Barker-Vormawor told Graphic Online's Della Russel Ocloo that the charge is "cynical" and amount to "bad faith" on the part of the prosecution.

Mr Akoto Ampaw wondered why the prosecution, which initially charged Barker-Vormawor for offensive conduct conducive to the breach of the peace, which is a misdemeanour and went ahead to take a statement from him would show up in court with the charge of treason felony.... He also questioned the basis for the adjournment of the case to February 28, 2022, when the court does not have jurisdiction over the charge for which the accused was brought before it.”

### **THE INFRINGEMENT OF THE RIGHTS AND FREEDOM OF MR. BARKER-VORMAWOR AND ABUSE OF THE SYSTEM OF CRIMINAL JUSTICE ADMINISTRATION UNDER THE 1992 CONSTITUTION**

Mr. Ampaw’s quoted words and the paraphrased description of his interaction with the media which is contemporaneous with the arraignment and remand of the suspect shows a clear and calculated intention on the part of the executive branch of government to infringe the fundamental human rights and freedoms of Mr. Barker-Vormawor to personal liberty and respect for his human dignity (under articles 14(2) and (3) and 15(1) and (2) of the 1992 Constitution respectively) from the time of his arrest to the time of his arraignment on a provisional indictable treason felony charge before a District Court which could not exercise bailable powers in felony cases. The Government had knowingly and intentionally turned the administration of justice into an inquisitorial and persecutorial system to intimidate and suppress the lawful political activity, personal liberty and right to equality before the law and non-discrimination of a citizen, Mr. Barker-Vormawor under articles 3, 14, 17, and 291 of the 1992 Constitution. There is no constitutional rational justification for the conduct of the Government in the manner it executed the persecution of the suspect as the executive branch has consistently sought to justify to the public.

The answer by the Government to the public outcry and objection to the unlawful detention of Mr. Barker-Vormawor for more than forty-eight hours was the lame justification that the Republic was unable to reach the Chief Justice to assign a judge or court during the weekend. The excuse is lame and frivolous because if Mr. Barker-Vormawor was in lawful custody for the offence of offensive conduct conducive to breaches of the peace with which he was charged upon his arrest and a statement taken from him in custody exercising his right to a lawyer of his choice, then the police did not need the Chief Justice or a court to exercise the

discretion to grant him police enquiry bail to appear before them or a named court on a named date and time. On the other hand, if the Government and the police had received further information and facts with which they had reasonable changed grounds for the continued arrest, restriction or detention of Mr. Barker-Vormawor, without informing him of the changed reasons and his right to a lawyer of his choice, the contention that he was not brought before a court within forty-eight hours of his original arrest or detention because of lack of a court during the weekend is vacuous.

I have painstakingly read Osagyefo Oliver Barker-Vormawor's two posts on his Facebook on 9 February 2022 while he was in the United Kingdom within the context of other posts and reaction to the ostentatious, opulent, and profane "Kyei Mensah-Bonsu's E-Levy cake for his 65<sup>th</sup> birthday" celebration. It is my considered view that the two contradictory and ambiguous Facebook comments taken separately or together do not measure up to the basic ingredients of the provisional charge of the indictable offence of treason felony for which he was 'cynically' and surprisingly brought before an inferior court without powers of bail on 14 February 2022, and for which he is still in police custody on remand. The perception that the unconstitutional and unlawful arrest and detention of Barker-Vormawor was politically motivated and intended to suppress his lawful political activity has further polarized this country along ideological and partisan lines which is inimical to the unity and stability the Constitution enjoins each citizen to strive to preserve in our democracy.

I had served the Republic of Ghana as the only Deputy Attorney-General in the Ministry of Justice continuously for upwards of twelve and half years with unfettered power for all subject matters of the Attorney-General's Office and especially dealing with the system criminal justice administration. I have also served as the Minister for the Interior of the Republic of Ghana before serving as the Attorney-General of the Republic of Ghana. I have had the privilege of working with eminent and distinguished Directors of Public Prosecutions such as Mrs. Joyce Bamford Addo until she was appointed to the Supreme Court, the late Mr. A. A. Forster, until he was appointed to the Court of Appeal, the late Mr. S. G. Baddoo, until he was also appointed to the Court of Appeal (and later to the Supreme Court), and the venerable Mr. J. C Amoono-Monney until his appointment to the Court of Appeal, and I will bet my last farthing that none of these distinguished and seasoned Directors of Public Prosecutions would have agreed to the police bringing Mr. Barker-Vormawor to any court on an indictable charge of treason felony upon the ambiguous statements he posted on his Facebook.

And if indeed, the police did any such thing on our blind-side we would have immediately called for the police docket, reversed their action, and ensured respect for the rights and

freedoms of the suspect based on the reasons for his initial arrest. This is how it happened that on three different and separate occasions we declined to charge citizens some of whom are now eminent journalist and outspoken social commentators and activists with the offence of sedition.

The foregoing exposition demonstrates that the manner the system of criminal justice administration has been deployed punitively by the executive branch of government against the suspect gives ample grounds for the conclusion that the government untowardly abused its executive powers of the Republic to suppress or seek to suppress the lawful political activity of a known political adversaries in a McCarthy-like hysteria of hunting for supposed coup mongers who are merely exercising their constitutional right to free speech and in defending the constitution by forewarning the government so that it may be forearmed against those who may wish to abrogate the Constitution in violation of article 3 thereof.

### **ARREST AND DETENTION OF MR KWAME BAFFOE, THE BONO REGIONAL CHAIRMAN OF THE N. P. P AND THE EQUAL APPLICATION OF THE LAW IN CRIMINAL JUSTICE ADMINISTRATION**

Mr. Barker-Vormawor has suffered unconstitutional arrest, restriction or detention and an inferior court misled into remanding him into police custody for 14 days in the first instance and another 14 days on his second appearance on a spurious provisional treason felony charge which came to his notice for the first time on 14 February 2022 in the court room. His relatives, friends and he were put to the expense of seeking his release at the High Court, Tema, on a Habeas Corpus application without success. They went to the Supreme Court upon an application for certiorari which turned out to be faulty only to be assured by the office of the principal legal advisor to the Government under the Constitution that should he make a proper application for bail to aailable court the Republic will not object it.

What a cynical assurance this was! The Government knew before or from the moment of Mr. Barker-Vormawor's arrest and detention that the government was going to keep him in undignified and unconstitutional custody to compel him to go to the needless expense of applying for bail before the suppose generosity of the Attorney-General's Office and the Government will be showered upon him for political point scoring in the eyes of the public. His unconstitutional arrest and detention were orchestrated so that the Government will tell him, as the Office of the Attorney-General is now telling him in words to the effect that: "You think you are somebody. We now have you. Go and apply for bail and we will show you mercy." This is not a constitutional and democratic attitude enjoined by the letter and spirit of the 1992 Constitution, and it is patently inconsistent with article 3 (2) thereof.

But what makes the Government's attitude more 'cynical', to borrow Mr. Akoto Ampaw's words, is the fact that the Bono Regional Chairman of the New Patriotic Party, Mr. Kwame Baffoe, popularly known as Abronye DC granted an interview to 93.9 Hot FM on 14 February 2022 when Mr. Barker-Vormawor was in detention alleging that His Excellency former President John Mahama had met with Al-Qaeda militants to assist him to topple the Government of the New Patriotic Party by force of arms. The Bono Regional Chairman of the NPP claimed that John Mahama "approached the group in a bid to help him become president again" according to the rendition by Citi Newsroom.

I have listened several times to the video publication of the interview which is online on different media platforms in which Mr. Kwame Baffoe, the Bono Regional Chairman of the NPP, says clearly and without equivocations that former President John Mahama was working with Al Qaeda (an internationally proscribed terrorist organization) to assist him to overthrow the Government of the NPP by force of arms and links Mr. Barker-Vormawor's Facebook posts and his subsequent arrest and detention for treason felony to his being one of the co-conspirators of John Mahama's unlawful machinations to overthrow the NPP Government by force of arms. The serious allegations of high treason and/or treason made by Mr. Kwame Baffoe against former President Mahama and the public reaction to it in the media compelled the Government through its policing powers to attempt an exercise in damage control.

When Mr. Kwame Baffoe was challenged several times by his interviewer as to the veracity of his assertions, he insisted that they were true and sought to justify the allegations on the interview which is now trending online. By failing or refusing to report former John Mahama's recruitment of Al Qaeda and Mr. Barker-Vormawor to over-throw the government of Ghana by force of arms Mr. Kwame Baffoe was committing the suspected offence of misprision treason under section 181 of the Criminal Offences Act, 1960 (Act 29) which states that:

"181. Misprision of treason

A person who knows the commission of high treason, or a treason within the meaning of clause (17) of article 19 of the Constitution, and does not forthwith reveal it to the President, or to a police officer not below the rank of Inspector, commits a misprision of treason and is punishable as a first-degree felony."

Consequently, on 15 February 2022 the Ghana Police issued a public statement inviting Mr. Kwame Baffoe to report to the police to assist investigations into his allegations. He was arrested and detained overnight on the lesser charges of publication of false news, and offensive conduct conducive to breaches of the peace. The detention overnight by the police of the Bono Regional Chairman of the governing party was so offensive to operatives of the governing party who openly expressed their disquiet leading to bail being facilitated for the suspect when he was brought before a court to be with his family while poor Barker-Vormawor, "the cockroach", who made the mistake of making himself available in the den of "the fowls" administering the system of criminal justice administration received the justice cockroaches deserve before the executive branch of government run by "fowls".

Mr. Kwame Baffoe upon gaining his liberty took to the media to vent his spleen against the Inspector-General of Police and the Ghana Police Service for daring to humiliate him by his arrest and detention overnight. The Inspector General of Police and the Ghana Police Service have not dared to bring further charges against him for obstructing the police in the execution



of its law enforcement duties or for any other offence simply because he is a powerful regional chairman of the political party of the government in power.

The arrest and detention of Oliver Barker-Vormawor, the Convenor of #FixTheCountry and Mr. Kwame Baffoe, the powerful Bono Regional Chairman of the governing political party, demonstrates the partiality with which the fundamental human rights and freedoms guaranteed to citizens might through the exercise of the investigatory and prosecutorial discretion in the system of criminal justice administration at the level of the executive branch of government has been wittingly or unwittingly abused in the matter of the “Kyei Mensah-Bonsu’s E-Levy cake for his 65<sup>th</sup> birthday” contrary to article 3(2) of the 1992 Constitution.

### **PROF. RAYMOND ATUGUBA’S PUBLIC LECTURE AND THE RESULTANT HYSTERIA ABOUT COUP MONGERING AND CALLING FOR HIS ARREST**

On 28 February 2022, Prof. Raymond Atuguba, the Dean of the University of Ghana School of Law delivered a public lecture at the Erata Hotel under the auspices of Solidaire Ghana on the topic: “A Reviewed 1992 Constitution And Its Impact On The Economy of Ghana: Looking Forward.” To prove the hypothesis of his public lecture he made references to the state of the national economy and how to prevent a coup in Ghana. One Saka Salia, reported in the media to be a Communication Team Member of the New Patriotic Party (NPP), called for the immediate arrest and investigation of Prof. Atuguba for advocating for a coup by his public lecture. Mr. Saka Salia charged the government to treat Prof. Atuguba the same way as the FixTheCountry convener, Mawuse Oliver Barker-Vormawor, who was arrested for similar comments. Mr. Saka Salia is quoted to have stated, inter alia, that:

“The NDC are coup mongers and I will employ that Prof. Raymond Atuguba is arrested and investigated. If he is not, it will be considered discrimination. The Ghanaian community will start thinking some people are above the law which is wrong.”

The Minister of Information, Mr. Kojo Opong Nkrumah, devoted time to speak to journalist to criticize Prof. Atuguba’s public lecture. He is reported to have said, inter alia, that:

“Even if they were worse, the constitution provides legitimate means for advocating for and executing a change. For respected persons to be purporting that such conditions legitimise coups is a terrible attack on our democracy itself and should not be condoned.”

Mr. K. T. Hammond, an NPP Member of Parliament, joined the government hawks in calling for Prof. Atuguba’s arrest by the police for the exercise of his constitutional right to freedom of speech and of thought. Mr. Hammond is reported online to have said in an interview to the media, inter alia, that:

‘I will be surprised if they (police) have not already invited him, clear foolishness. I believe that the theory that has been brought up will be best explained to an assembly of national security apparatus. They will understand it better than where he took the opportunity to say these things. Coup does not resolve difficulties in any country, we should be careful.’

The electronic media also reported the interpretations and reactions of some leading members of the NDC to Prof. Atuguba’s lecture. Dr. Obed Asamaoh, a respected former Attorney General, without whose experience and practical abilities in political organization the NDC

would never have become a vibrant party capable of winning elections is reported to have allegedly described Prof. Atuguba's statements on the ripeness of an environment for coups as "childish" and coming from someone who is not aware of the consequences of military takeovers. The Speaker of Parliament, Mr. Alban S.K. Bagbin was also reported by the media to have disagreed with the perspectives expressed by Prof. Atuguba in the public lecture without calling for his arrest. But Dr. Obed Asamoah an eminent and experienced former Attorney-General, and former Minister of Foreign Affairs underscored the principles and conventions underlying the proper use of the investigatory and prosecutorial discretion of the executive branch of government when he politely concluded that:

"There is a difference between speech and action. [If I were the Attorney General] I will take action only when there is evidence of preparation to carry out a coup. If somebody is only talking, I will just take it to be over-excitement. I won't go arresting people for that,"

In accordance with my usual work habit, I have critically read several times over the twenty-one pages published public lecture Prof. Atuguba delivered in which he analyzed the political and economic circumstances of Ghana and what must be done to avoid a coup in Ghana. I do not agree with some of the facts, analysis and conclusions Prof. Atuguba arrived at in his public lecture. But from my considered critique and analysis of his lecture, I cannot find any ingredient of criminal incitement on the part of Prof. Atuguba of anybody to commit high treason, treason or treason felony or any criminal intention and act on his part to over-throw the elected Government of Ghana by force of arms or any unlawful means to warrant his arrest and detention.

Constitutionalism and democracy were undermined when the hawks in the governing party called for Prof. Atuguba's arrest without first carefully and critically reading his full public lecture but merely relying on or listening to comments by social commentators who themselves might not have read or heard the full lecture delivered by the learned Professor. My conclusions are based on what Prof. Atuguba said within the context of his whole public lecture and not on hearsay, sentiments, and emotions.

At page 7 of the public lecture of Prof. Atuguba, he states that:

"We do not want a coup in this country. Yet I fear that if we do not act quickly, we may have one in our hands very soon.... I urge my good friend the Minister for National Security, Hon. Kan Dapaah, to have a conversation with my friend at the War College.... A big part of why certain coups succeed and others fail is the Economy. What is the state of our economy today?..."

Prof. Atuguba also stated at page 10, inter alia, that:

"Marching on the Office of the President, a National Security Zone, is not a crime. Saying that you will do the coup, using the definite article, a reference to the coup that the market women in Kumasi already say they will do, is a heinous crime.

Then at page 15 he states further that:

“... There is only one thing to do now, prevent a Coup in Ghana, since the climate and the environment, national and immediate international, are conducive for one....”

On his concluding page on page 21 he makes, inter alia, the following statements:

“Canada of all places is clamping down on citizen demonstrations, and the United States experienced their first attempted coup d'état in centuries in January last year. As for Africa, literally every government is being toppled or sitting on tenterhooks.... The world cannot continue like this and Ghana, always the pacesetter, must show the way....”

The foregoing sample of extracts from Prof. Atuguba's public lecture taken within the context of the lecture do not disclose any intention on his part to commit any criminal offence let alone any act in fulfilment of his criminal intention. I would not have referred to any relationship with Oliver Barker-Vormawor and the undignified conditions under which he is detained in such a lecture if I had researched, written and delivered the public lecture. I would also have avoided the frontal comparison made between John Mahama's government and the present government because of its potential to be misinterpreted as doing politics in such an important public lecture. But God did not create Prof. Atuguba to reason with my brains and socialization which explains why everyone is a unique social being resulting in Shakespeare saying that there are as many opinions as there are men. I am entitled to criticize Prof. Atuguba as I have just done, just as Mr. Bagbin and Dr. Asamoah are reported to have done but none of us is entitled to gag Prof. Atuguba in the exercise of his fundamental right and freedom of speech and expression, and freedom of thought, conscience, and belief, which includes his academic freedom guaranteed to him under the 1992 Constitution as both a citizen of Ghana and a professor of laws.

## CONCLUSIONS

This examination and analysis of the adversarial conflict over the Government's E-Levy policy eventually deepening with the uncomplimentary public reaction to what some citizens perceived to be an opulent, arrogant, and insulting 65<sup>th</sup> birthday celebration by the Majority Leader and Minister for Parliamentary Affairs, Mr. Osei Kyei-Mensah-Bonsu in February 2022 amid their sufferings and the government intention to further tax their scarce incomes has shown how discretionary investigatory and prosecutorial power vested in the executive branch of government can be abused in a manner inconsistent with the letter and spirit of the 1992 Constitution for purely unconstitutional partisan ends.

In George Orwell's dystopia novel *Nineteen Eight-Four*, (1984) the Thought Police (Thinkpol) is the secret police of Oceania, which discovers and punishes thoughtcrime, personal and political thought unapproved by Ingsoc's regime. Thinkpol uses criminal psychology and omnipresent surveillance via informants, telescreens, cameras, microphones to monitor and arrest all those who have committed thoughtcrime in challenge to the status quo authority of the party and the regime of Big Brother. The Government is using the Ghana Police now as its Thought Police in the E-Levy national disagreements to have its way despite the proscription of such unconstitutional methods under the 1992 Constitution as the foregoing article has demonstrated. The unconstitutionality being inflicted upon citizens and political adversaries for alleged thoughtcrimes for deciding not to be mere spectators but active citizens exercising their constitutional rights and freedoms can become pervasive and undermine the Constitution. Therefore, real patriots must come together on a non-partisan

basis and advocate against turning our democracy into a Big Brother regime and defend the 1992 Constitution by putting Ghana First!

**Martin A. B. K. Amidu**

### **Postscript/**

I just read on Joy News Online that the Government is now objecting to the grant of bail to Oliver Barker-Vormawor, the #FixTheCountry lead convener who is not well because he will not be likely to appear to stand his trial as he has no fixed place of abode for a search warrant to be executed by the police by visiting and searching his residence and his refusal to obey a court order to grant the police access to his mobile phone. The application for bail has been adjourned to 14 March 2022 for hearing. Joy News reports that the provisional charge of treason felony for which he was unconstitutionally detained before being brought before a court is “over allegations that he has instigated members of his group to overthrow the government.” Is the Government now fishing for the evidence to support the initial unconstitutional treason felony charge? Whatever it may be, at face value this looks cynical but let us hold our horses and abide how this case pans out and whether #Fixthe Country and its convener will eventually be cancelled out as political adversary of our Big Brother.

Readers who can find some time should re-visit my article on SIM card re-registration and integrate that material and conclusions with the use by Orwellian Thought Police (Thinkpol) of criminal psychology and omnipresent surveillance via informants, telescreens, cameras, microphones to monitor and arrest all those who have committed thoughtcrime in challenge to the status quo authority of the party and the regime of Big Brother. The use of the Pegasus spyware I wrote about in that article makes one’s smart phone, iPad or computer and the SIM card used with them, surveillance devices modern Thinkpols employ for omnipresent surveillance as in the dystopian Big Brother Oceania. Can the constitutional right against self-incrimination protect anybody any longer? Think about it and re-register your SIM card.