

2024 HARMATTAN SCHOOL

THEME: ACCOUNTABLE GOVERNANCE, VIOLENT EXTREMISM AND 2024 ELECTIONS

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KEYNOTE ADDRESS UNDER THE SUB-THEME: CITIZENS ACTIONS, INDEPENDENCE OF STATE INSTITUTIONS AND ELECTIONS 2024, HELD AT THE UNIVERSITY FOR DEVELOPMENT STUDIES, TAMALE, GHANA

BY

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The Chairperson,

The Vice Chancellor of the University for Development Studies, Professor Seidu Al-Hassan;

Organizers of the 18th Harmattan School 2024;

Political and Public Officeholders;

Your Highness our Eminent Chiefs;

Distinguished Participants;

Ladies and Gentlemen:

I wish first and foremost to thank those who recommended me to the organizers and the organizers themselves for deciding that I am worthy to share my perspectives on “Citizens Actions, the Independence of State Institutions and Election 2024” with such an august gathering here in Tamale.

It has been a number of years, at least since 16 November 2020, that I put a ban on myself speaking at public events, or even granting interviews to the media except in utmost necessity. I am here to share my perspective with you because the invitation came from this University which has itself been the creation of citizens actions by our forebearers from this part of the country for years supported by other Ghanaian compatriots who came together to advocate continuously for the establishment of a University for the North. The Northern Study Group based at the University of Ghana was the main seat of activity under the late Mr. Agana Banga. I had the distinguished honour of being part of that group whose activities eventually convinced the PNDC to at least promulgate the law which gave birth to this University, which unfortunately has now shrunk to its present size.

I was the Deputy Attorney-General, and Chairman of the Public Agreements Board¹ by virtue of which I attended PNDC meetings in my personal capacity as the Chairman of the Board.

¹ See paragraph 42 of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provision) Law, 1982 (PNDCL 42)

The battle was about putting a law on the setting up of this university on the backburner to enable the University of Winneba to be established with World Bank facility. This was one between the PNDC Deputy Secretary for Higher Education who hailed from the Central Region and me. Luckily, I won over the support of Mr. Kweku Baprui Asante (Dr. K. B. Asante), the PNDC Secretary for Education, and the Chairman of the PNDC. This partly explains why Chairman Rawlings donated his award for Agriculture as seed money for this university. I sent the law to Chairman Rawlings for his signature after the PNDC approved it and I took part in the deliberations of the PNDC in setting up the first Interim Council and the appointment of the first Vice Chancellor upon the recommendations of the Northern Study group. The mechanics of how Brigadier General George Kwadwo Deh² instead of Rear Admiral Chemogoh Kevin Dzang became the first Chairperson of the UDS Council and how Professor Bening instead of Professor Frimpong became the first Vice Chancellor is a discourse for another day.

THE ROLE OF CITIZENS ACTIONS IN ELECTIONS IN GHANA

When I received the concept paper for this forum and saw the sub-theme on which I was to speak, “citizens actions, independence of state institutions and elections 2024”, I wondered whether I was being invited to take part in a usual Ghanaian elections season festival of admonishing citizens to be peaceful and to ensure elections without tension and acrimony. This has been the refrain year after year since the referendum on 28 April 1992 that approved the 1992 Constitution to come into force on 7 January 1993. The first elections were held in November 1992 for the Presidential and in December 1992 for the Parliamentary elections. Thereafter, every four years national elections have taken place to culminate in the 2024 election. I have already heard and read heads of religious bodies and the National Peace Council (whose Act I had the distinguished honour to finalize and take through Parliament for enactment) putting the burden of successful elections on the sovereign citizen who has an inherent right under the 1992 Constitution to express unhindered choice as to who shall exercise the executive and the legislative authorities of Ghana.

I take the view that every institution to which the people or citizens’ sovereign power has been apportioned under the Fourth Republican Constitution has a Constitutional responsibility and duty to ensure that the will of the electorate is expressed freely and without intimidation by those for the time being holding the instruments of state power on behalf of the citizen.

I do not propose making citizens who wield the sovereign power of the Fourth Republic servants of those elected to protect their well-being as enshrined in the various constitutional oaths in the second schedule to the 1992 Constitution. The 2024 elections are not going to take place in a vacuum. They are going to be informed by thirty years of electoral history under the 1992 Constitution. I am not going to pretend that the 1992 Constitution has no

² The late Brigadier- Gen. (Dr.) Deh was the Chairman of the Task Force that recommended the establishment of the UDS which explains my suggestion for him to be Chairman of the new UDC Council which made it possible for me to propose Professor Raymond Bening as suggested by the Northern Study Group who was not on the list as the Vice-Chancellor. Rear Admiral Dzang and Prof. Bening from Upper West Region could not have been Chairman of Council and Vice-Chancellor simultaneously.

electoral history or the perception of citizens of their sovereignty has no similar history or that the independent state institutions enshrined under the 1992 Constitution have no history going into the 2024 elections. I propose therefore, to address the role of citizens actions, independence of state institutions and elections 2024 within Ghana's historical context. The results of this discourse will then enable us to make projections for elections 2024.

CITIZENSHIP OF GHANA AND THE ROLE OF CITIZENS ACTIONS

Ghanaians acquired the status of citizens on 6 March 1957. Before then, the Chiefs and peoples of the components territories made up of the Gold Coast Colony and Ashanti, the Northern Territories of the British Protectorate of the Gold Coast colony, and the Togoland under United Kingdom Trusteeship deployed separate and concerted actions of their subjects to compel political decolonization and eventually the achievement of independence on 6 March 1957 within the British Commonwealth under the name Ghana.

Between 6 March 1957 and 1 July 1960 when Ghana became a Republic various citizens actions and political groups emerged to contest the residues of pre and post-independence social and political disputes and conflicts. Ghana became a sovereign unitary Republic with the power of the State derived from the people by whom certain powers were conferred on the institutions established under the 1960 Constitution. The people, connoting citizens, reserved for themselves the right to exercise the residue of their sovereign powers and to choose their representatives in Parliament. Since the First Republican Constitution of Ghana, the country had two succeeding Constitutions. The present one, the Fourth Republican Constitution, 1992 underscores, like the three preceding Republican Constitutions, the sovereignty of the people as the foundation of the State. However, the 1969, 1979 and 1992 Constitutions accorded and accord the citizen the right to seek interpretation and enforcement of the provisions of the Constitution in the Supreme Court and also guarantees to each citizen fundamental human rights and freedoms subject only to the provisions of the Constitution.

The Fourth Republican Constitution, 1992 under which the 2024 elections will take place was preceded by eleven years of the 31 December 1981 Revolution under the Provisional National Defence Council (PNDC) Government which undertook to bring about a transformation of the society by ensuring probity, accountability, and transparency in social and political life. By 1983 the honey-moon between the government and a section of the working people appeared to have been over with the introduction of the Structural Adjustment Programme in April 1983. Citizens action groups consisting mainly of middle and working class, and university students to protect their respective interests became training grounds for citizens actions against perceived economic, social, and political injustice.

Besides the Structural Adjustment Programme which generated citizens actions underpinned by worsening working conditions, some citizens actions took the form of demands for a transition to constitutional democracy. In August 1990 a citizen action movement, the Movement for Freedom and Justice (MFJ) was founded and mobilized students, teachers, and religious bodies and other citizens action associations to protest against PNDC rule and "a return to democratic, constitutional rule and immediate end to restrictions on civil liberties". At the same time there developed external pressures from the Bretton Wood Institutions and

the West for Ghana to return to constitutional rule and the rule of law in order to facilitate deregulation and liberalization which is better achieved under a system of representative political democracy.

The Institute of Economic Affairs (IEA) was established in or around 1989 to support the agitation for the return to constitutional rule and played a pivotal role hosting the elements that opposed the PNDC regime and facilitating their efforts to push their agenda for the transition to constitutional rule and forming the next government. The IEA, claiming to be non-partisan produced reports, newsletters, and other publications, which were often featured in the media, and held conferences, meetings, roundtables, and/or lecture series. J.B. da Rocha, later to become a chairperson of the NPP as well as Haruna Esseku, also later to become the NPP chairperson, Professor Adzei Bekoe, who was later to become a member of the Council of State, were fellows of the IEA.³ Dr Charles Mensa, the founder and Chairman of IEA, was also later to become a personal adviser to President Kufour. The PNDC and its supporters boycotted these activities as invitations to them went unanswered.

The pro PNDC National Democratic Congress (NDC) and members of its progressive alliance easily won the 1992 Presidential and Parliamentary elections, as the economic hardships of the Economic Recovery Programme of the regime had begun to turn the economy around positively. The New Patriotic Party (NPP) expressed its dissatisfaction with the results of the Presidential election with “The Stolen Verdict.” The Chairman of the PNDC who won the 1992 Presidential elections became the First President of the Fourth Republic on 7 January 1993.

The Center for Economic Policy Analysis (CEPA), another not-for-profit and ideologically center of right inclined civil society organization was established in or around 1993. Two of its prominent members, Dr Anthony Osei-Akoto and Dr Samuel Nii Noi Ashong, were later to become Deputy Minister of Finance and Minister of State in charge of Finance respectively under the center right Kufour NPP government. Nonetheless, President Rawlings easily won the 1996 Presidential election with the NPP which this time took part in both elections making a formidable showing in the parliamentary elections.

By 1998 the Center for Democratic Development (CDD-Ghana) which gestated from the IEA had been established by the spouse of a foreign diplomat with the Deputy Executive Director and the Director of Legal affairs reported to be card bearing members of the NPP.⁴

The 2000 Presidential and Parliamentary election season saw a coalition of most of these civil society organizations and Western institutions including diplomats advocating for a change from the NDC government to the NPP in the name of deepening democracy and policing the ballot.⁵ I became the running mate for the NDC presidential candidate on 3 September 2000.

³ See [A Great Tree Has Fallen - Tribute To B. J. da Rocha \(modernghana.com\)](#) this was the I.E.A's tribute.

⁴ One of the foremost research institutes is ISSER, a semi-autonomous institute of the Faculty of Social Studies at Legon; other non-for-profits include the Third World Network (TWN) (1994); Institute for Democratic Governance (1997); Institute of Policy Alternatives (2000); also see Linking Research and Policy: The Case of Ghana's Rice Trade Policy by Aaron deGrassi, at page 22 ([LINKING RESEARCH AND POLICY - THE CASE OF GHANA'S RICE TRADE POLICY.pdf](#))

⁵ See, Lewis Abedi Asante & Ilse Helbrecht (2018) Seeing through African protest logics: a longitudinal review of continuity and change in protest in Ghana, Canadian Journal of African Studies.

The political officer of the United States Embassy in Accra requested to have an audience with me the following month or so in my office at the Attorney-General's Department to talk about our agenda for the future of Ghana. Incidentally, she was also the spouse of the Executive Director/Secretary of the CDD-Ghana who credited her with assisting him to set up the CDD-Ghana. The PNDC and the NDC had been in government for such a long time that the electorate was easily convinced to vote for change, which they did despite the spirited campaign rallies mounted by the NDC.

The IMANI Center for Policy and Education described as a not-for-profit think tank and a member of the Atlas Economic Research Foundation dedicated to solving domestic social problems through free market solutions, was established during the Kufour regime in 2004. Its policy was to influence the Ghanaian public education and policy sphere through media appearances, publications, research, and seminars. The composition of its Board at its inception gave it an ideological and political slant towards the right of center politics.

The Danquah Institute (DI) is also another not-for-profit founded in 2008 by Gabby Asare Otchere-Darko, ostensibly to promote the Danquah-Busia-Dombo tradition tilting towards the Nana Akufo-Addo faction within the NPP at a time when he was the flagbearer of the Party. The DI put a spirited citizens actions performance through research and publishing papers on the economy, governance, and media to educate the public in order to recruit the electorate to its ideological persuasion.

The NPP under President Kufour tried to ensure that the NDC never returned to power by prosecuting diverse Ministers and Deputy Ministers under the Rawlings regime, setting up the National Reconciliation Commission, banning former President Rawlings and former NDC Ministers from going to any military establishment, and using the VVIP lounge at the airport when traveling outside or coming from abroad. I earned the nickname Shadow Vice-President as a citizen activist⁶ in an interview I granted to Class FM from the VVIP lounge of the Kotoka International Airport (KIA) when the late Victor Selormey was arrested by the BNI upon his return from abroad. President Kufuor won a second term at the 2004 elections against Professor Mills.

The 2008 Presidential and Parliamentary elections which the NPP after eight years in office was sure to win turned out disappointingly for the Presidential candidate, Nana Akufo-Addo even though his party did not have the majority at the parliamentary elections he led in the first round voting. It was between 7 January 2001 and 7 January 2008 that the affiliations of the civil society organization became more apparent as their members accepted positions on governing boards of state organizations and institutions or became advisers to the President.

Prof. Mills who assumed the Presidency on 7 January 2009 regrettably died in office on 24 July 2012 and was succeeded by his Vice-President John Dramani Mahama. The vigilance of the media, citizens' action groups, civil society and other civil society organizations actively exposed mismanagement and abuses of office during the third and fourth NDC administrations resulting in corruption and financial losses to the state. The Woyome case broke out in the media in December 2011 while I was away attending the 10 Anniversary celebration of the International Criminal Court (ICC) at the UN in New York as Ghana's

⁶ See *Amidu v President Kufour & Others* [2001-2002] SCGLR 86; *Amidu v Electoral Commission & Assembly Press* [2001-2002] SCGLR 595; and *Republic v Edward Wiredu; Ex Parte Amidu* [2001-2002] 1 GLR 273 are other citizen action lawfare cases.

Attorney-General. The President was also in New York undergoing chemotherapy treatment. The President and I met and I was given instructions for a meeting in his office in Ghana on 24 December 2011.

I made available to the President at the 24 December 2011 meeting in his office the documentation predating my appointment as the Attorney-General disclosing upon whose authority the Waterville Holding (BVI) Ltd and the Alfred Agbesi Woyome transactions were approved and paid for by the NDC Government. I submitted a requested memorandum to President Mills in his office on 9 January 2012 upon his return from New York. On 11 January 2011 I issued a press statement in answer to my critics from the rented NDC press and referred to the Gargantuan crimes committed in the Woyome case by government ministers. I was then summoned by the President on telephone around 7 pm on the evening of 12 January 2011 for a meeting in his office the next morning at 9:30 a.m. At the meeting the next day, 13 January 2011, the President asked me in the presence of the Chief of Staff, John Henry Martey Newman, the Secretary to the President, Bebaako Mensah, and Mrs. Betty Mould-Iddrisu whether the latter was the Minister I referred to as Ministers committing Gargantuan crimes in my press statement dated 11 January 2012.

I saw the confrontation as a breach of trust from the President who had been a personal friend for upwards of thirty years at that time, and I offered to submit my resignation letter to him within an hour of leaving his office. Captain Kojo Tsikata (Rtd.) was later called to persuade me at a two-person meeting in the Cabinet room not to resign. He told me that I could not abandon the process we started together since 31 December 1981 when I was fighting for those ideals. By Thursday, 19 January 2012 the forces supporting Woyome and Waterville had their way. My appointment was terminated without any reasons stated on the warrant of termination. The Chief of Staff, Mr. Henry Martey Newman then escalated the conflict by issuing a pernicious publication stating that I had been dismissed for misconduct. What the Chief of Staff overlooked was the tested and proven fact that there is no weak person in conflict.⁷

As the perceived weaker person in the disagreement with the government, I leveraged power in the conflict interaction with the counter-moves of citizen activism of press statements and media interviews. I then turned to citizen action in the Supreme Court for enforcement of Article 181(5) of the 1992 Constitution in the case of *Amidu (No. 1) v Attorney-General, Waterville Holdings (BVI) Ltd & Woyome (No 1)*⁸. President John Evans Atta Mills, who was the fourth defendant, died in July 2012. The Supreme Court of nine justices, eight of whom were preoccupied with sitting almost day to day on the 2012 Presidential election petition granted only a part of my reliefs against Waterville Holdings (BVI) Limited and asked me to vindicate my rights against Woyome at the High Court. I saw a miscarriage of justice in the silence of the justice who was the only one with time on his hands to write the judgment overlooking entirely the Statement of Claim of Woyome which I pleaded and exhibited to my writ and Statement of Case which showed him as the alter ego of the whole violation of the Constitution.

⁷ The Government negotiated Terms of Settlement which the Court adopted as a Consent Judgment on 4 September 2014 in *Amidu v Attorney-General*, Suit No AP/159/2013, High Court Accra, in which all my benefits and entitlements were ordered to be paid with interest in accordance with C.I. 52.

⁸ [2013-2014] 1 SCGLR 112; see also *Amidu (No 2) v Attorney-General, Isofoton SA & Forson (No 1)* [2013-2014] 1 SCGLR 167.

A friend who had accompanied the Sole Commissioner for Judgment Debts to brief the President on the assignment of the Commission spotted the only justice of the Supreme Court who authored the judgment waiting at the presidential reception of the Jubilee House to see the President. The judge was also the chairman of a state-owned entity. I had a more fortified reason to suspect the outcome of the first Woyome decision. I applied for a review of the judgment on grounds of miscarriage of justice, amongst other grounds. I was determined, if it became necessary, to object to the judge who had visited the President sitting on the review application. Three new justices including the Chief Justice were added to the remaining panel of the eight justices who had been pre-occupied with the day to day sitting of the 2012 election petition. The review application was unanimously decided in my favour in *Amidu (No 3) v Attorney-General, Waterville Holdings (BVI) Ltd & Woyome (No 2)*⁹.

Before, then the judge who had overlooked the Woyome Statement of Claim had authored a book in which he indirectly admonished the majority not to review my application, which Woyome's lawyers quoted in their legal submissions. I responded to those admonitions in my reply to the legal submissions supporting my review application. The review ruling by the Supreme Court was a momentous decision in Ghanaian jurisprudence and it held the loot of the public purse by a government and its cronies to be unconstitutional and ordered the refund of the loot to the public purse.¹⁰ I earned the nickname Citizen Vigilante, which I am still known by, from interviews I gave to the media on the Alfred Agbesi Woyome Affair.

The unwillingness of the government to comply with the decisions and orders of the Supreme Court and to enforce the judgment led me to another round of citizen activism for enforcement of the decisions and orders of the Court. The cases against Woyome provided me with the greatest opportunity for citizens actions and lawfare using corruption in government as reason for the electorate to change the government. The Civil Society, other citizens actions groups and the NPP joined my cause and corruption became one of the biggest issues in the 2016 presidential campaign to the last day. The social, political, and economic situation of the country and the management style of the NDC government provided material for most of the not-for-profits, citizens actions groups within the NDC who had become dissatisfied with the perceived corruption within the government and other citizens actions groups and civil society organizations to advocate for a change of government at the 2016 Presidential and Parliamentary elections.

The victory of the NPP at the 2016 polls was seen by activist citizens, and civil society organizations as well deserved and beckoning a golden age of good governance, rule of law, democracy, constitutionalism and a zero tolerance for corruption by the Nana Akufo-Addo government. The foregoing demonstrates that citizens actions which denotes the right of sovereign citizens to exercise their powers as electors enjoying their fundamental rights and freedoms to free speech, association, movement, and other concomitant rights that facilitate a free and fair choice of their president and representatives has been possible with very minimal acrimony at national elections since November 1992 to 7 December 2016.

As though God had endorsed the wishes of Ghanaians for the educational purpose of teaching Ghanaians to learn to be skeptical of promises by political messiahs and demagogues, the

⁹ [2013-2014] SCGLR 606; see also, *Amidu (No 4) v Attorney-General, Isofoton SA & Forson (No 2)* [2013-2014] SCGLR 662.

¹⁰ *Ibid.*

expectations of the electorate have never materialized during the first term of the Nana Akufo-Addo regime. The social, economic, and other policies of the Akufo-Addo regime, which had begun on a promise of hope began to flounder and replicate in higher dimensions the perceived evils of the immediate predecessor government.

The failures of the Nana Akufo-Addo presidency came to roost in the 2020 elections where citizens actions groups excluding the ideologically inclined and Western foreign funded not for profits, who have also become disappointed by the broken promises of the President and his family, friends, and crony government bonded together against the regime. The resulting hung parliament with a razor thin contested victory for Nana Akufo Addo at the 2020 presidential election is testimony to the role citizens actions, civil society and objective civil society organizations can play to uphold the sovereignty of the people and defend the 1992 Constitution against bad governance and corruption.

The second term of the Nana Akufo-Addo appeared to have started with a determination to ensure that the 2024 elections are won by the NPP and in particular his Vice President whom he had groomed to succeed him on 7 January 2025.

#FixTheCountry, a non-partisan and non-political civic movement by Ghanaian youths for Ghana emerged to mobilize ordinary Ghanaians for a New Ghana.¹¹ Its convenor, Oliver Barker-Vormawor suffered harassment in the hands of regime security institutions and was eventually charged with treason for exercising his right to free speech without any attendant subversive act. IMANI Ghana and in particular its Bright Simons has been at the forefront of exposing mismanagement and corruption within the Akufo-Addo regime. Samuel Okudzeto Ablakwa Member of Parliament for North Tongu and many other citizen activists have and are holding the government to account within this 2024 election season. The projection of citizens action on the 2024 election will, therefore, dependent on how the independent state institutions encompassed in the three arms of government, particularly the executive branch, and the independent constitutional bodies, particularly the Electoral Commission under the 1992 Constitution learn from their historical performance and abide by the injunctions of the 1992 Constitution.

INDEPENDENCE OF STATE INSTITUTIONS

The three arms of government, comprising the executive, the legislature, and the judiciary, are independent and coordinate arms of government working together for the achievement of the general good enshrined in the national constitution for the social, economic, cultural, and political wellbeing of its sovereign people informed by the doctrine of the separation of powers and coordination of the powers of government.

The idea of the sovereignty of the people or citizens gave rise to the representative democratic system of government that produced majoritarian rule to the neglect or suppression of minority rights. The antidote was the evolution of the concept of constitutionalism that enshrines representative democracy, guarantees the rights and freedoms of citizens and the supremacy of the constitution enforceable by an independent judicial branch of government. By virtue of the fact that the foundation of government derives from

¹¹ See, [Welcome - FixTheCountry \(fixthecountrygh.com\)](https://www.fixthecountrygh.com).

the sovereignty of the people or citizens who choose their representatives to govern them, there must first be a body that supervises how the electors elect their government.

Consequently, in Ghana, the Interim National Electoral Commission Law, 1991 (PNDC Law 271) was promulgated creating an independent electoral body for the purpose of supervising and conducting the referendum to approve the draft Constitution to be proposed by the Consultative Assembly, 1991, and the presidential and legislative elections scheduled for late 1992. The Fourth Republican Constitution, 1992 of Ghana was approved by the electorate at a referendum on 18 April 1992 to come into force on 7 January 1993. The elections that constituted the executive and the legislative branches of the prospective government under the 1992 Constitution were conducted and supervised by the Interim National Electoral Commission (INEC) with the Presidential election taking place on 3 November 1992 and the Parliamentary election on 29 December 1992.

The INEC was replaced by the Electoral Commission, Act, 1993 (Act 451) to independently and impartially moderate the choice of the sovereign eligible citizen's exercise of his inherent right to choose the President of the Republic to exercise the executive authority of state on behalf of the collective and those who would represent the sovereign citizen in Parliament to perform the legislative functions of enacting laws on his behalf for the time being. The place of an independent Electoral Commission which is not under the control or direction of anybody or person in the performance of its functions is a constitutional injunction in the sustenance of Ghana's democracy and Constitution to be defended by patriotic citizens to ensure and sustain free, fair, transparent, and accountable elections.

I wish for purposes of addressing the subject of this discourse of the impact of independence of state institutions on the 2024 elections to depart from the normal methodology of analyzing the three arms of government by beginning first with the third arm of government which is the judicial branch, followed by the second which is legislative branch, and then conclude with the first arm of government which is the executive branch.

The Judicial Power

The 1992 Constitution apportioned the judicial power which “emanates from the people and shall be administered in the name of the Republic by the Judiciary which shall be independent and subject only to this Constitution”¹² to the judicial branch. The scheme and design of our Constitution apportions ultimate responsibility for the interpretation and enforcement of the Constitution in all disputes touching disagreements on the meaning of any provision of the Constitution to the Supreme Court as the final arbiter of constitutional and other conflicts in Ghana. The Constitution vests ultimate judicial power in the judiciary and particularly the Supreme Court. The framers of the Constitution created an anti-majoritarian judiciary and tried to secure its independence and impartiality by a structure, scheme and design making the nomination and appointment of the justices of the Supreme Court to be a shared responsibility between the executive and the legislative branches of government. The

¹² See, Chapter Eleven, particularly Articles 125, 126, and 127, 144, 146, 153, 154, 155, and 156 of the 1992 Constitution.

President as head of the executive branch nominates those justices upon the advice of the Judicial Council for the approval by Parliament, and their formal appointment by the President. The power to appoint and promote judges below the hierarchy of the Supreme Court has been apportioned by the Constitution to the Judicial Council, the Council of State, and the President, representing the executive branch. The Chief Justice as head of the Judiciary, chairs the Judicial Council and is responsible for the administration of the Judiciary. The Judiciary is the final arbiter in all electoral disputes under the Constitution. Theoretically, therefore, the Constitution guarantees an independent and impartial judiciary not subject to the control and direction of anybody or person.¹³

The Legislative Power

The 1992 Constitution vests the legislative powers of Ghana in Parliament to be exercised in accordance with the Constitution. The executive branch cannot impose taxes or otherwise alter taxes otherwise than by reduction; impose a charge on the Consolidated Fund or other public funds or alter them, otherwise than by reduction; and generally settle financial matters without the approval of Parliament under Article 108 of the Constitution. Under the rule of law ideal, democratic, and constitutionalist traditions, Parliament's ability to hold the executive branch in check is not only limited to making laws and regulations, debating the policies and executive actions but also scrutinizing those policies and actions in ensuring good governance for the welfare of the people. The experience of the failure of the executive branch to have its annual budget approved by Parliament under the Third Republican Constitution, 1979 led the Consultative Assembly, 1991 to propose for adoption and the adoption of at least fifty percent of ministers to be appointed from Parliament.¹⁴ The operationalization of the Constitution since 1993 has shown how the duality of the position of members of parliament concurrently being members of the executive branch diminishes the independence of the legislature and enhances that of the executive branch in terms of checks and balances.

The Executive Power

The executive branch is entrusted under Article 57 and 58 of the 1992 Constitution with the executive authority of Ghana¹⁵. The executive authority is expressed to extend to the execution and maintenance of the Constitution and all laws made under or continued in force under the Constitution. It encompasses the maintenance of municipal law and order, and the management of the international relationship of Ghana with other nations within the comity of nations. Settlement of financial matters by Parliament are initiated by the President who manages and controls the public purse once parliament passes the Appropriation Act subject to certain residual powers of parliament. Inherent in the notion of executive authority and power is the power to arrest, detain, investigate, and prosecute citizens who infringe the criminal laws before the judiciary.

¹³ See Chapter Eleven of the 1992 Constitution, particularly Articles 125, 126, and 127, 144, 146, 153, 154, 155, and 156 thereof.

¹⁴ See Articles 78 and 79 of the 1992 Constitution.

¹⁵ See Chapter Eight of the 1992 Constitution on the executive power and its plentitude.

While the Constitution apportions the executive power to the President it sought to restrict its concentration in his hands by the creation of various public services to which he could delegate the execution of his authority within a regime of the rule of law¹⁶. Article 190 of the Constitution thus defines the Public Services of Ghana to include the Civil Service, the Police Service, the Prison Service, the National Fire Service, the Immigration Service, the Ghana Revenue Authority, and the Legal Service, amongst other services over which the Public Services Commission is given gatekeeping functions and responsibilities. Under Article 190(3) of the 1992 Constitution, I saw the Security and Intelligence Agencies Bill 1993 through Parliament to become Security and Intelligence Agencies Act, 1993 (Act 526) setting up the architecture of the National Security Council provided for in Articles 83, 84 and 85 of the Constitution. The National Security Secretariat and the Bureau of National Investigation structures were formally established for the Fourth Republic. After twenty-seven years it was replaced by the Security and Intelligence Agencies Act, 2020 (Act 1030).

The President as the repository of the executive power is also the Commander-in-Chief of the Ghana Armed Forces established under Chapter Seventeen of the 1992 Constitution “to be equipped and maintained to perform their role of defence of Ghana as well as such other functions for the development of Ghana as the President may determine.” The Constitution defuses power by enjoining that: “No person shall raise an armed force except by or under the authority of an Act of Parliament.”¹⁷

The Constitution provides for an IGP and the Director-General of Prisons who are the head of the Police Service and the Prison Service respectively responsible for the operational control and administration of their respective services. These public officers are, however, subject to the control of the Police, and Prison Councils, as the case may be¹⁸. The National Fire Service, the Ghana Immigration Service, the Ghana Revenue Authority, and the Legal Service, National Security Secretariat, the National Intelligence Bureau, the Research Department, and the National Signals Bureau are all answerable to the executive authority of the President as a part of the apportioned power of the executive branch.

The Constitution sought to insulate these public institutions from direct and unwarranted executive interference in the performance of their functions from political interference and enjoins the heads and members of these public services to take the Official Oath “to at all times well and truly serve the Republic of Ghana in the office of ...and ...uphold, preserve, protect, and defend the Constitution of the Republic of Ghana as by law established.” The strength of a public institution is measured by the integrity of the leadership of that institution to live up to its official oath and act at all times to uphold, preserve, protect, and defend the Constitution¹⁹.

How far the Ghanaian public services have come as institutions to internalize the culture of service to the Republic and not politicians was recently demonstrated by the maneuvers by

¹⁶ See generally Chapter Fourteen of the 1992 Constitution dealing with the Public Services.

¹⁷ See, Articles 210 and 214 of the 1992 Constitution.

¹⁸ See, Articles 200 and 202 on the Police Service and Articles 205 and 207 on the Prison Service thereof.

¹⁹ The ancient proverb is that: “The fish rots from the head down.”

senior police officers to have the IGP replaced by one of them on purely political partisan grounds of allegiance to the government in power²⁰. Nauseating as the exposure of the internal political partisan allegiance of senior police officers has always been, this episode opened the eyes of citizens to the deep seated roots of partiality within the public services encompassing the security services of Ghana.

The 1992 Constitution, from the foregoing theoretically honours all the modern requirements for any nation to achieve representative democracy, the rule of law, good governance, and above all constitutionalism which restrains the ability of the executive and the legislature in a representative democracy to promote majoritarian rule and undermine the rights and interest of minorities. The judiciary was consequently made the bulwark and protector of the liberty of the citizenry.

The Independent Constitutional Bodies

The scheme and design of the 1992 Constitution in addition to establishing three independent and coordinate arms of government also established with hindsight from our constitutional history what has come to be known as independent constitutional bodies. The Electoral Commission whose role I have already discussed in summary is one such body. The National Commission for Civic Education (NCCE) was also established free from the direction and control of any person or authority to perform the functions hitherto performed by the National Commission for Democracy in educating the citizen of his civic rights and responsibilities not only to vote but hold government to account. The Ombudsman was converted into the Commission for Human Rights and Administrative Justice to enhance citizens access to administrative redress for infractions of the law and the constitution by the delegates of constitutional power, particularly the executive branch. There are others that are not relevant for this discourse²¹.

Politics, the Executive and Legislative Branches and Independence of State Institutions

The letter and the spirit of the 1992 Constitution provides the framework within which the three independent and coordinating arms of government guarantee not only the separation, equal, and coordinating powers of governance in accordance with the respective constitutional oaths in the Second Schedule to the Constitution but act together to enhance the well-being of citizens. Unfortunately, constitutional documents are not self-executing. The constitutional document depends on the agency and instrumentality of the human actors within the constitutional framework to whom the sovereign people have entrusted power for the time being and to whom the Constitution has apportioned separate but equal powers of governance to adhere to their oaths of office to govern “by protecting, preserving, and

²⁰ See, my published article: [Martin Amidu affirms authenticity of leaked tape alleging plot against IGP Dampare \(FULL STATEMENT\) - Graphic Online.](#)

²¹ See, e.g., Article 187 established the Auditor-General and Article 265 of the 1992 Constitution also establishes the Lands Commission and grants them independence from the direction or control of any person or authority in the performance of the functions of their office.

defending the Constitution and to render service to and ensure the well-being of the Republic of Ghana.”

The politicized nature of the executive and the legislative branches as they evolved within the last thirty years of the life of the 1992 Constitution shows an incipient laxity in fidelity to the core principles of representative democracy, the rule of law and constitutionalism. The representative multi-party democratic system has led to a partisan exercise of the executive and the legislative powers of government as a concomitance of the adversarial contest for power during elections for office. The legislature has particularly been weakened by the nomination of its members to serve as ministers in the executive branch and making it almost impossible for the legislature to exercise independent oversight over the executive branch which is the most powerful of the three arms of government by virtue of its control over the public purse, the instruments of violence within the state, and international relationship with other states. The gradual evolution of the conception, contrary to the intentions of the framers of the Constitution, by the political parties and their cultural system of winner takes all has negated the constitutional oaths of fidelity to service and the well-being of the people of the Republic of Ghana.

The adulteration of the structure, scheme, and design of the Constitution by a toxic political culture of partisan power grabbing and monopoly for the in-group political party elite members only has permeated into the hallowed constitutional and conventional underpinnings of the public services which are expected to be exercised with professionalism and efficiency to serving the government and people of Ghana.

The Judicial branch, an unelected and anti-majoritarian in structure and composition is the only remaining perceived bulwark of an independent arm of government to which citizens may look up to uphold and defend their well-being against encroachment by the other two arms of government. The 2013 and the 2021 election petitions and the politicization of judicial norms through lawfare as an adjunct of adversarial democratic representative contests has brought even the Judiciary to the bar of politics²².

As the 1992 Constitution developed within the past thirty-years, human agency holding the executive power on behalf of the sovereign people have incrementally been guided more by political partisan considerations in making appointments to all strata of power than to constitutional requirement of merit, the national good and well-being. The present situation is inconsistent with and contravenes what the framers of the Constitution intended to be the role of the public services to insulate the citizen from excessive political partisan consideration in the implementation of policies affecting the well-being of citizens. Within the past thirty-

²² In re: Presidential Election Petition (No 1); Akufo-Addo, Bawumia & Obetsebi-Lampsey (No 1) v Mahama & Electoral Commission (National Democratic Congress Applicant (No 2); In re: Presidential Election Petition (No 2); Akufo-Addo, Bawumia & Obetsebi-Lampsey (No 2) v Mahama & Electoral Commission (National Democratic Congress Interested Party (No 2); In re: Presidential Election Petition (No 3); Akufo-Addo, Bawumia & Obetsebi-Lampsey (No 3) v Mahama & Electoral Commission (National Democratic Congress Interested Party (No 3); In re: Presidential Election Petition (No 4); Akufo-Addo, Bawumia & Obetsebi-Lampsey (No 4) v Mahama & Electoral Commission (National Democratic Congress Interested Party) (No 4) [2013 SCGLR (Special Edition) 1; 50; 61; and 73 respectively; and John Dramani Mahama v Electoral Commission & Nana Addo Dankwa Akufo-Addo, Writ No, J1/05/2021, Supreme Court (Unreported).

years the constitutional structure, scheme, and design appears to have been undermined by lack of the will and integrity to sacrifice the benefits of one's office to stand one's principled ground in defence of the 1992 Constitution²³.

The foregoing has affected the neutrality and impartiality of the leadership of Article 190 public institutions and the Ghana Armed Forces Command structures. The Civil Service, the Police Service, the Prison Service, the National Fire Service, the Immigration Service, the Ghana Revenue Authority, and the Legal Service, the composition of National Security Secretariat, the National Intelligence Agencies and other instrumentalities of the executive power have come to be perceived rightly or wrongly as mere appendages of the executive chariot which may be used to undermine the sovereignty of the people guaranteed under the Constitution in favour of the sovereignty of the political party elected into power for the meantime.

ELECTIONS 2024

The Historical context of elections under the 1992 Constitution up to the 2016 elections

The 2024 Presidential and Parliamentary elections partake of the nature of the 2000, 2008, and 2016 elections in which each of the two major political parties in Ghana, the NDC and the NPP had had a sting of eight years in government exercising the executive authority of the Republic. In the 2000 and 2008 elections the Presidents who were about to exhaust their tenure under the 1992 Constitution assumed the responsibility of assisting the EC with the policing powers of state to supervise the election of their successors.

I have already underscored the pivotal and crucial role of the EC to the success of the representative multi-party democratic architecture built into the constitutional design and scheme by the framers of the 1992 Constitution. The EC has since the retirement of its chairperson in June 2015 not been free from perceptions of partisan suspicions resulting from the exercise of the appointing power by incumbents of the executive power. The end of the tenure of Dr. Kwadwo Afari-Gyan who had been the chairperson of the EC since 1993 with the resignation of Josiah Ofori-Boateng after the 1992 elections introduced a new unknown into the management of elections after several years at the helm of the EC during which the NPP succeed the NDC and the NDC in turn succeeded the NPP after a keenly contested election in 1996, 2000, 2004, 2008, and 2012.

The retirement of Dr. Kwadwo Afari-Gyana was bound to create a vacuum in the EC unless he was replaced by another experienced and mature person with sufficient public service experience as a replacement. The EC under Dr. Kwadwo Afari-Gyan supervised the 1996 elections which saw former President Rawlings retain power for the second and last time by beating his opponent, candidate John Agyekum Kufuor. The Parliamentary election brought a

²³ See the principles established in *Morrison v Olson*, 487 U.S. 654 (1988); the reported consequences - [WashingtonPost.com: Nixon Forces Firing of Cox; Richardson, Ruckelshaus Quit, and Cox's Ouster Ruled Illegal, and No Reinstatement Ordered - The New York Times \(nytimes.com\)](#). President Richard Nixon was impeached, he resigned, and no such abuse of executive power has repeated itself in the U.S.; also- [Why Martin Amidu resigned as Special Prosecutor \[LETTER TO PRESIDENT\] - Graphic Online](#).

sizeable number of NPP and other independent members of parliament into Parliament. President Rawlings then assumed the role of exercising the executive power in aid of the EC to supervise the election of his successor in office and a new parliament. Within the second and last term of President Rawlings' governance, the international community inclined to promoting pluralistic multi-party democracy to support the Economic Recovery Programme imposed on Ghana since the 1980s preferred a change in the political agency to govern the country. Citizens actions groups, partisan political action groups, civil society organizations ideologically funded by foreign agents to ensure pluralistic democracy and others advocated for change in the political party to assume the reins of governance in the country.²⁴

The 2000 elections were acrimonious and intense with defections from within the NDC to form a National Reform Party (NRP) and diplomats from foreign missions and embassies descending into the political electoral affray.²⁵ The EC under Dr. Afari-Gyan successfully supervised the election of John Agyekum Kufuor and Aliu Mahama who defeated Professor John Evans Atta-Mills and me to form the NPP government of 7 January 2001 with a majority in Parliament. At a National Executive Council meeting in the credentials room in the Castle, Osu, Vice-President Mill's was given the licence to decide whether and when to congratulate the declared winner. Within hours he had done so even without my knowledge as his running mate. I was only to learn from him later that he was under immense pressure from the UN General Secretary, the late Kofi Annan, and other international actors to preserve the democratic and constitutional process by conceding defeat and congratulating his opponent.

The EC under Dr. Afari-Gyan supervised the 2004 election in which President John Agyekum Kufuor retained power for his second and last term under the Constitution. The EC under Dr. Afari-Gyan again supervised the 2008 elections with the NPP's President Kufuor as President leading to the victory of the NDC's Prof. Mills as the President elect, and John Dramani Mahama as the Vice-President elect. The loser of the elections, then candidate Nana Akufo-Addo, was displeased with the inability of President Kufuor to have assisted in turning the results of the elections in his favour²⁶.

The regime of the NDC from 7 January 2009 to 2012 witnessed several citizen discontent resulting in citizens actions for good governance and the rule of law. Civil Society Organizations and civil society mobilized against the regime leading to the 2012 elections. The results of the 2012 presidential elections and other parliamentary elections were contested in the Supreme Court and the High Court. The Supreme Court by a narrow majority of one decided the elections in favour of the NDC whose Presidential candidate had already assumed the reins of government²⁷.

²⁴ Ibid. footnote 5.

²⁵ See the then British Deputy High Commissioner to Ghana Craig Murray in: [Your government is corrupt! Ghana 2000 - Craig Murray; How Britain helped NPP win elections \(modernghana.com\).](#)

²⁶ See [Akufo-Addo scheming to undermine 2024 elections - Martin Amidu - Starr Fm; Akufo-Addo is playing games with the security apparatus to 'break the 8' - Martin Amidu - MyJoyOnline.](#)

²⁷ Ibid. footnote 20 supra.

The conflict escalation brought about by the disagreement over the 2012 presidential election results intensified and carried the residues of past electoral conflicts into the Government under the 1992 Constitution. Civil society and civil society organizations particularly the foreign aligned and funded ones teamed up with individual citizen activists to advocate for a change of government at the next election using corruption, unpopular taxes, and other economic policies of the incumbent government as justification. It was within these circumstances and context that the decisions of the new Electoral Commissioner appointed by the incumbent President after the retirement of Dr. Kwadwo Afari-Gyana in June 2015 fed into the general suspicions of a collaborative effort between the executive branch and EC to rig the 2016 elections for the incumbent President by his appointee, the Electoral Commissioner.²⁸

Promises of a better and good governance without draconian taxes on the people and with an assurance of the judicious use of the nation's resources for the well-being of Ghanaians recruited even members of the NDC, including myself, into supporting then candidate Akufo-Addo who easily beat the incumbent President at the 2016 elections to make a first in the history of the country of defeating an incumbent President. Candidate Nana Akufo-Addo was so successful in convincing the electorate about his determination to fight the canker of corruption which was pervasive within the government that the electorate went along and voted him to be President.

Ghanaians were mesmerized by the exhibited sincerity and promises of President Akufo-Addo to abide by the letter and spirit of the constitutional oath of the President that on 8 December 2016, I published my thanks and congratulations to the people of Ghana for voting a new government stating, inter alia, that:

“The decision that we, the majority of fellow citizens have, made at this year's elections portends hope, expectations, and anticipation in each of us who put Ghana First at the ballot for good governance, the rule of law, probity, accountability, and transparency in the coming four years of the administration of the President Elect, his Government and the Parliament Elect. Ghanaians have by this ballot rightly served warning to our Government that we can no longer be taken for granted by a political establishment and elite of patronage, cronyism, lootism, and above all unbridled corruption of the winning political party.²⁹”

I have no regrets for writing these words of thanks and congratulations and the trust I placed in Nana Akufo-Addo's presentation of self to the majority of the electorate as going to make a difference as president in deepening democracy, the rule of law, constitutionalism and nipping in the bud the privileges of the political establishment and elite patronage, cronyism, lootism and above all unbridled corruption of the winning political party. If, with hindsight, I got it wrong it means the electorate also got it wrong and there is nothing to regret except to learn from the rhymes of history.

The appointment of a new Electoral Commissioner and the 2020 elections

²⁸ [Ghana elections: 5 reasons why Ghanaians don't trust the process | CNN](#).

²⁹ See: [Thank you for voting for change – Amidu \(ghanaweb.com\)](#).

I have stated already that on 28 June 2018, the Electoral Commissioner who acted as the Returning Officer of the 2016 elections was removed from office with her two Deputy Commissioners for stated misbehaviour on complaints and corruption allegations levelled against her under Article 146(4) of the Constitution which I believed were brought about by inexperience in public service, immaturity, particularly of the Commissioner, as a public administrator and informed by the residues of the conflicts that she generated in her supervision of the 2016 elections as the Returning Officer.

The opportunity was thus created or presented itself for the appointment of a replacement for the Electoral Commissioner and her two Deputy Commissioners. Coincidentally, the Office of the Special Prosecutor, had started to function and a governing Board needed to be put in place that had to include “(i) one other person who is a female representing the Anti-corruption Civil Society Organisations.” Mrs. Jean Mensa, an Executive Director with her spouse who established the IEA in 1989 threw in her hat to represent the anti-corruption CSOs on the OSP Board. She is reported to have also worked as a junior lawyer at JB Da Rocha Chambers in Accra in 1998.

The elections for the nomination of the one female representative to represent the anti-corruption CSOs was supervised or entrusted to CDD-Ghana which had undergone its own gestation under IEA before it was incorporated by the spouse of the Political Officer of the United States Embassy in May 1998 as a not-for-profit NGO. Amongst the female contestants for representation on the Board of the OSP was also the Executive Director of the Ghana Integrity Initiative (GII) which had also undergone its gestation under the CDD-Ghana before it broke the umbilical cord for its independence. These foreign supported civil society organizations which were established to foster an electoral process that would unseat the PNDC regime and bring in a government aligned with Western values had their own agenda for the new political dispensation brought about by citizens actions on 7 January 2017. As it became clear that the impeachment committee was about to remove the sitting Electoral Commissioner and her two Deputies, Jean Mensa was advised not to proceed further with her candidature as an anti-corruption CSO representative for the OSP.

The anti-corruption CSOs had already submitted to President Akufo-Addo the name of Mrs. Linda Ofori-Kwarfo (of GII) as the representative of the anti-corruption CSOs on the OSP Board. This matter came to my knowledge when as the Special Prosecutor I had sought audience with the President on 5 May 2018 about the delay occasioned by the appointment of a Board for the OSP since my appointment in February 2018. The President assured me that the membership for the Board was complete with the anti-corruption CSOs having presented their nominee to him. The President gave me a document with the names of the nominated Board members with one name, that of Mrs. Linda Ofori-Kwarfo, written in pencil.

I was elated having a Board soon³⁰. At the same meeting, I convinced the President that in view of the fact that the other representatives on the Board were going to be of the rank of

³⁰ I conveyed the information of the nomination of anti-corruptions CSO representative on the OSP Board the same day to a friend in the CSO who was concerned about the non-appointment of the Board because what transpired about the nomination with the President was not confidential. My friend was later to prove me with

directors from other security and intelligence agencies, in order not to promote a situation where a subordinate public officer became the chairperson over the Special Prosecutor, a former Attorney-General, and Minister of Interior the only female representative from the private sector ought to be the chairperson of the Board. The President invited an assistant whom he instructed to convey the agreement for the chairperson to the OSP Board to the heads of security agencies as directives for purposes of the first meeting of the Board in the election of a chairperson. Unbeknown to me, the CSOs had in April 2018 received five nominations from sixteen CSOs for purposes of meeting the requirement under Act 959 for a representative to the OSP Board and Mrs. Linda Ofori-Kwarfo was not the nominee as the President alleged at our meeting with her name in pencil. In the nominations from the CSOs Beauty Emefa Nartey of the Anti-corruption coalition was nominated by 10 CSOs. Mrs. Linda Ofori-Kwarfo was nominated by only three (3) CSOs. Mrs. Jean Mensa and two others were nominated by only one CSO each. After engaging two each of the nominees on 2 and 8 May 2018 respectively, Mrs. Beauty Emefa Nartey was unanimously recommended to the President as the nominee to the OSP Board with her 10 points lead from the CSOs nomination. Mrs. Jean Mensa gave notice after 2 May 2018 of her decision not to proceed further with the process to make her available for the EC.

I make this point to underscore the fact that the appointment of Mrs. Linda Ofori-Kwarfo as the anti-corruption CSO representative on the OSP Board and her subsequent election by the Board as its chairperson was made possible by the rigging of the process by the foreign supported CSOs inclined to the NPP, and a suggestion I had made on the smooth working of the Board with the chairperson coming from outside the security agencies. The preponderance of the circumstantial evidence led to the credible speculation that it was through and by the orchestrations of these very foreign supported Ghanaian registered CSOs that Mrs. Jean Mensa of the IEA was nominated and appointed as the Chairperson of the EC. Two new Deputy Electoral Commissioners and a member of the EC were also nominated and appointed to add to her³¹.

The foregoing also underscores how in the teeth of the constitutional oaths of office, integrity and morality are sacrificed on the altar of political expedience in the appointments to independent constitutional bodies contrary to the intentions of the framers of the 1992 Constitution.

The supervision of the 2020 Presidential and Parliamentary elections in which Mrs. Jean Mensa was the Returning Officer generated a lot of inter-political party conflict and disagreements. There are still doubts in the minds of citizens actions groups, civil society, and the electorate generally whether their votes did really count during the 2020 elections.³² The

mathematical precision that what I was told at the meeting was fake news and that the subsequent appointment was rigged.

³¹ See [Jean Mensa is unfit to occupy high position of EC chairperson - NDC - Graphic Online](#); contra [-If my wife is NPP or NDC and so what? - IEA chair defends EC boss - MyJoyOnline](#). Also see [The IEA, NPP & Apartheid Kingpin De Klerk's Lecture \(modernghana.com\)](#).

³² Contra the continued support by her mentors in the CSOs who got her nominated: [Ghanaians accept EC's authority to declare election results - CDD \(gbcghanaonline.com\)](#); [2020 election was generally free and fair -](#)

processes in handling the 2020 Presidential election petition which was preceded by the appointment of a Chief Justice whom any casual analysis of the Ghana Law Report shows had throughout his career sided with almost every legal issues before the Supreme Court affecting the NPP raised suspicions, however, unfounded about the results of the petition. These conflict residues have not been helped by the appearance of partisan appointments to the security apparatus of state after President Akufo-Addo was sworn into office for his second and last term.

The elections 2024 within the historical context

While I was the Special Prosecutor I knew that the relationship between President Rawlings, Captain Kojo Tsikata (Rtd.), and President Nana Akufo-Addo was going to be moderating factor in Nana Akufo-Addo's second term and the preparations for the 2024 elections. Indeed, on 10 October 2020 when the President's cousin visited my residence while I was finalizing the Agyapa Royalties Transactions Report he asked me "what are you and Rawling going to do to take over the NDC after we end our second term?" I saw the question as an insinuation and ingratiation intended to be taken into consideration in whatever report I was writing and refused to give any answer: the 1992 Constitution proscribed me from partisan politics in that office. Unfortunately, former President Rawlings died on 12 November 2020 and Captain Kojo Tsikata also went home on 20 November 2021.

My personal knowledge of the strategies and tactics Nana Akufo-Addo had in place to ensure self-succession was an expectation for him to begin putting in place his plans in 2023. The plan was brought forward to 2022 when the President started the appointment of Directors from his family's Danquah Institute to occupy the commanding heights of the security and intelligences services. I styled these publications "Nana Akufo-Addo's long game to break the 8" beginning with my article dated 11 August 2022 captioned: "New leadership appointments to national security apparatus and Akufo-Addo's long game of breaking the eight." On 1 May 2023 I published "A new chief justice – the last three stops of Nana Akufo-Addo's long game for the 7 December 2024 election" which was preceded on 15 April 2023 with the publication of: "The appointment of three new electoral commission members – we emboldened Nana Akufo-Addo to disregard the Constitution". The personal involvement of President Nana Akufo-Addo in the NPP internal party elections for a flagbearer to succeed him at the contest for the 2024 Presidential election also attracted publication from me which concluded with: "Nana Akufo-Addo has anointed Mahamudu Bawumia as his successor to break the eight by hook or crook."

The enormous constitutional authority granted to the executive branch represented by the President and the constitutional oath of office he takes to at "all times preserve, protect, and defend the Constitution of the Republic of Ghana; and that I will dedicate myself to the service and well-being of people of the Republic of Ghana and to do right to all manner of persons" enjoins Presidents of Ghana to be apolitical in taking decisions that will eventually affect the multi-party representative democratic process guaranteed under the Constitution,

[CODEO \(ghanaweb.com\)](http://ghanaweb.com); [Election results: CDD-Ghana urges NDC to seek redress at Court \(gbcghanaonline.com\)](#) . CODEO is a subsidiary of CDD-Ghana when the corporate veil is pierced.

and in particular the right to vote without intimidation. The pronouncements of President Akufo-Addo appear to escalate conflict between and amongst the contesting political parties to the 2024 elections rather than being an umpire moderating the choice of a successor.

The posture and pronouncements of the President does not present the possibility of an outgoing president willing to use the executive power to supervise a free and fair election at the 2024 Presidential and Parliamentary elections. The posture and the pronouncements of the President led me into writing that:

‘The euphoria of the moment brought out what otherwise had been a covert long planned game for the succession to the one person trusted to protect President Nana Akufo-Addo and his regime of family, friends, cronies, and hangers-on in the quiet enjoyment of their loot from the public purse after 7 January 2025.

Nana Akufo-Addo could not hide his elation and happiness about the success of his long rehearsal for winning the 2024 Presidential Election by hook or crook for his anointed successor as the NPP flagbearer. Nana Addo on the night of 4 November 2023 at the Accra Sports Stadium in addressing the NPP faithful gathered for the introduction of the new party leader stated that:

“I want to thank every single NPP person here that for the last 16 years – 2007, 2010, 2014, and 2020, you have conferred your confidence in me to lead this great party, you have honoured me an honour I can never ever forget, and you have allowed me to serve the party, through the party, to serve the people of Ghana. I have done my best but I still have one more task to do and that is with all my strength, all my energy, to help the new flagbearer, Mahamudu Bawumia win the election of 2024³³.” (Emphasis supplied).

Nana Akufo-Addo has done his best since losing the 2008 elections with Mahamudu Bawumia, and upon assuming the presidency together on 7 January 2017 with all their strength, energy, and might to actualize the long game of helping Mahamudu Bawumia to win the 4 November 2023 presidential primaries as a steppingstone to win the 2024 Presidential Election using incumbency advantage and abuse of the security and electoral process provided for under the 1992 Constitution. Listen yourself to the 6.21 minutes self-adulation of Nana Addo on: [Ghana cannot afford the return of the NDC, especially under the leadership of Mahama - Akuffo- Addo - YouTube](#).

President Nana Akufo-Addo continues to date with his tantrums of intimidation and threats that affect the evolving electoral environment for the 2024 Presidential and Parliamentary elections. The atmosphere of distrust the President has consistently knowingly or unknowingly created amongst the body politic also partake of transmitted signals to his appointees in leadership positions in the Ghana Police Service which is responsible for internal security and other back-up security and intelligence agencies.

The EC did not fare well when it appeared on the same platform at a seminar on “Impact of Disinformation on Electoral Integrity, Peace and Security in Africa” at which the Minister of National Security identified some individuals in academia, civil society, and the media as

³³ - See, [Martin Amidu: Akufo-Addo has anointed Bawumia as his successor to 'Break the 8' by hook or crook - MyJoyOnline](#)

leveraging their influence in society to incite a coup to destabilize the country through spreading mis/disinformation³⁴. Jean Mensa unfortunately on the same platform appeared to be supporting the National Security Minister's covert threat of using the phenomenon of mis/disinformation as an instrument to put in place a surveillance scheme that facilitates election rigging by dictators when she said that: "We, at the Electoral Commission of Ghana, support the development of a framework to guide the use of social media around elections and around peace and security of our respective countries³⁵."

The University of Ghana branch of the University Teachers Association of Ghana was swift in its condemnation of the veiled threat from the Minister of National Security's insinuations without evidence. 20 October 2023 a Press Release by UG-UTAG Members stated, inter alia, that:

"The antidote to coups and military interventions in politics, are good governance, fight against corruption, proper management of the economy, and the implementation of proactive pro-poor policies, that can help bridge the gap between the poor and the rich, as well as create a vibrant Middle Class society³⁶."

It is within this context that one must look at the effectiveness of the National Election Security Task Force (NESTF) under the Chairmanship of the IGP and which is made up of heads of security institutions, the EC, representatives of the Research Department of the Ministry of Foreign Affairs and Regional Integration (MoFARI) and the Ministry of Local Government which are in substance appendages of the executive chariot.

The NESTF held several preparatory and planning meetings at which strategies and tactics for the 2020 were operationalized but the results of the supervision of those elections by Jean Mensa as the Returning Officer have left residues of discontent and deaths which nobody cares to address before the 2024 elections. The situation was not helped by recent publication emanating from the NESTF meeting held at the Ghana Police Headquarters for the activation and operationalization of the national and regional security task forces ahead of the district assembly elections and the 2024 national elections.

The Electoral Commissioner and Returning officer for elections was reported to have stated that:

"We are aware of the security threats we face today when elections are coming. The evidence of threats to our security confronts us daily. Indeed, elections have become the lifeblood of our society, people eat, drink, and breathe elections 24 hours a day. We do witness the dialogues on our radio and TV on a 24-hour basis, the quest for power today has become so fierce....Presently one of the major challenges we face is that whereas the violence experienced in elections in the early 2000s and the early 90s were birthed out of genuine causes and disagreement, what we witness today is a predetermined well-orchestrated strategy to unleash violence before, during, and after the elections for the sole purpose of undermining

³⁴ See, [UG-UTAG urges gov't to fight corruption, manage economy properly to secure Ghana's peace \(modernghana.com\)](https://www.modernghana.com).

³⁵ See, [Electoral Commission advocates for social media regulation to safeguard peace, democracy - Ghana Today](https://www.ghanatoday.com).

³⁶ Ibid, note 29.

the credibility and integrity of elections and denting image of institutions such as the EC, Police and other security agencies³⁷.”

Mrs. Jean Mensa’s statement exposed her lack of public service experience and her naivety of the dynamics of electoral conflicts which she herself recognized when she said that “elections have become the lifeblood of our society, people eat, drink, and breath elections 24 hours a day.” Elections indeed underpin the sovereignty of the people guaranteed under Article 1 of the 1992 Constitution as their lifeblood. In making the above quoted statements the Electoral Commissioner was simply shifting blame to others and claiming victim-hood, a common conflict waging strategy and tactics. The claim of victimhood overlooks the responsibility of the EC for the genuine causes and disagreements its supervision of the 2020 elections and the loss of lives without any attempt to redress them has engendered. The Electoral Commissioner also overlooked the fact that her last minute refusal to take the stand at the 2020 Presidential election petition hearing created the perception that having been appointed by the President from the IEA with the support of her sister foreign funded CSOs she had become an appendage of the executive chariot instead of an independent Returning Officer of elections. It does not take rocket science to learn that instead of further polarizing the political environment under the smokescreen of NESTF she should have been organizing a reconciliation and mediation forum as part of engendering trust in the EC for the 2024 elections.

The IGP who hosted the meeting was reported to have assured the Chairperson of the EC that the security agencies were committed to ensuring that all elections held in the country are conducted in an atmosphere of peace and security. In given this assurance the IGP took for granted the intellect of the electorate to ask how the residues of the 2020 elections escalated conflicts and deaths engendered and contributed to by members of the security agencies were resolved? Security and peace do not thrive in an environment charged with conflict residues from previous elections that have not been addressed by the NESTF if it wishes to be trusted and not considered a mere appendage of the executive doing its political bidding. The Chief of Defence Staff reportedly stated in his contribution that even though the Ghana Armed Forces will not play a lead role in the election security, they will be on hand to provide background support to the police and other security agencies who will be in charge of the polls. This of course contradicts the roles the Ghana Armed Forces has been used in playing in the 2020 elections and in previous elections in which lives of innocent citizens exercising their inherent right to elect their representatives and President were lost.

The statement of the Electoral Commissioner blaming others for electoral violence and claiming victimhood was met with the reposit by Mr. Franklin Cudjoe of IMANI-Ghana on X on 6 December 2023 which stated that: “Good. The EC should start by asking questions on the state of things regarding the killing and maiming of innocent voters in 2020. They should also be thorough on campaign financing, which attracts suspicious/illicit financing, which fuels violence.”

December 2023 saw pronouncements and activities by the EC and the President which escalate rather than deescalate an already tense election year environment informed by past residues of conflicts. In May 2021, the opposition NDC had rejected a proposal by the EC to

³⁷ See, [We’re witnessing predetermined, well-orchestrated strategies to unleash violence in elections – EC Chair | 3News.](#)

close the polls at 3 pm instead of 5 pm on election day 7 December 2024. On 15 November 2022, the proposal to close the 2024 polls at 3 p.m. instead of 5p.m was revisited at what was called a multi-stakeholder session to strengthen partnership for the prevention of conflict and violence in elections in Ghana. A Deputy Chairperson of the EC claimed that the proposal to change the closing time to 3 p.m. (which had already been captured in the EC's new constitutional instrument which was yet to be laid before Parliament) was to prevent electoral violence and ensure that the results were declared on time before darkness. As is usual with foreign interference in electoral processes and administration in developing country which are underpinned by ideological and geopolitical considerations this forum was funded by the European Union and the German Development Cooperation (GIZ), in the name of also strengthening collaboration and partnership among the stakeholders to contribute to peaceful elections and democratic transition in the country³⁸.

This proposal of closing the polls at 3 p.m. appears to have surfaced in full force in mid-December 2023 and met opposition not only from political parties but also citizens actions groups despite the smokescreen rational given by the Chairperson of the EC that the adjustment was intended to facilitate a transparent and orderly collation of votes by electoral officers in broad daylight. While the controversy raged on the NDC announced its agreement to return to the Inter-Party Advisory Committee (IPAC) which it had withdrawn from for alleged dictatorial tendencies of the EC which sought to impose its will on political parties instead of reaching consensus with them on electoral matters³⁹.

On the same day, the NDC's flagbearer during a tour in the Western North Region stated that a credible election depended on the posture of the EC and called on the Commission to: "...do their duty to God and country. They shouldn't cheat for anybody. I don't want them to cheat for me and they shouldn't rig the elections for anybody. They should let the wishes of the Ghanaian people prevail."⁴⁰ Other citizens have also questioned previous proposals of the EC on using the Ghana Card as the sole identification for voter registration which was suspected to have been intended by the EC to disenfranchise voters. "How many people have a Ghana Card. She should be careful she doesn't cause mayhem. What is the issue? The issue is counting at night?...⁴¹"

Before the disagreements and controversies generated by the claim of victimhood by the EC could die down the EC provoked another pre-electoral conflict with an announcement on Monday, 18 December 2023 at a media briefing that the indelible ink which had been a feature of Ghana's electoral landscape will no longer be used in the district level elections and subsequent polls. The attempt to justify the abolition on grounds of biometric technology guaranteeing verification of voters fell flat once more as the proposal was met with all round rejection and condemnation. Political actors and analysts argued and raised concerns that the EC's decision could compromise the integrity of future elections.

³⁸ See, [Support proposal to close polls at 3pm - Deputy EC Chair urges political parties - Graphic Online; Will Africa ever be free from neocolonialism! - see, e.g. The Reality of Neocolonialism and the Façade of Democracy across Africa \(linkedin.com\).](#)

³⁹ See, [NDC returns to IPAC after boycotting meetings in 2021 \(citinewsroom.com\).](#)

⁴⁰ See, [Don't rig the 2024 elections for anybody; I am appealing to your heart and conscience - Mahama tells EC - Adomonline.com.](#)

⁴¹ [Jean Mensa should be careful she doesn't cause mayhem in 2024 election – Kwame Jantuah warns \(ghanaweb.com\).](#)

One citizen activist on the same day Monday, 18 December 2023 accused the Chairperson of the EC, Jean Mensa, of running a system in which decisions were made unilaterally without consultations or advice and without consideration of their potential consequences. More importantly, he pointed out that Jean Mensa when she was the Executive Director at the IEA she criticized decisions of existing chairperson of the EC for making decisions without consultation only to turn round now as the Chairperson of the Commission to replicate those same alleged mistakes she criticized previously.⁴² In the reported words of Peace FM's Kwabena Marfo: "Jean Mensa was criticizing a lot during her time at the IEA platform; she used to talk as an angel. But the same issues she used to criticize, she is now doing those 10 times as EC chair, autocratic leadership...". The debate is still on-going with the EC's collaborators within CSO trying to suggest a common ground as the CDD-Ghana's Coalition of Domestic Election Observers (CODEO), has advised the EC as recently as 9 January 2024 to review its decision to eliminate the use of indelible ink from the 2024 elections.⁴³ Incidentally, the EC reportedly used indelible ink at just conducted the NPP primaries on 27 January 2024. The Majority Leader, thereafter, urged that the indelible ink be maintained.⁴⁴

The conduct and supervision of the District Assembly elections exposed the inexperience and immaturity of the EC under the Chairpersonship of Mrs. Jean Mensa. The elections were suspended in some electoral areas and rescheduled on grounds of technical challenges involving the printing of ballots by the EC's contractors amongst other reasons. The Managing Editor of the Insight Newspaper sarcastically commented on the incompetence shown at the District Assembly elections when he commented that: "Some competence level is very high.... You really done a good job. We need to reward these people (EC).... I can't believe it; it's impossible for me to understand this.... In fact, we salute you, Electoral Commission."⁴⁵

On 25 December 2023 the President who had shown a determination to install his Vice President as his successor in the 2024 presidential election and who is responsible under his constitutional oath in assisting the EC to hold a free, fair, and transparent 2024 Presidential and Parliamentary elections rather turned round to appeal to Ghanaians to ensure that the country holds a free, fair, and transparent elections. The president who appeared to have forgotten the duty imposed upon him by his constitutional oath to do right to all manner of people including political parties without fear or favour now states and expects his opponents to believe in his sincerity that:

"We all have a duty to conduct ourselves in such a manner that we have a free, fair and transparent election that will enable the Ghanaian people to choose in peace and serenity the person who will manage the affairs on their behalf for the next four years."⁴⁶

⁴² [EC chair Jean Mensa is running an autocratic system – Peace FM's Kwabena Marfo \(ghanaweb.com\)](#); contra: [CDD-Ghana inaugurates Media Forum to enhance electoral reform advocacy ahead of 2024 elections \(modernghana.com\)](#).

⁴³ See, [EC must reconsider decision to discontinue the use of indelible ink - CODEO - MyJoyOnline](#).

⁴⁴ See, [Maintain Electoral Ink – Majority Leader | Politics | Peacefmonline.com](#).

⁴⁵ ['Some competence level is very high' - Pratt mocks EC for postponing district elections \(ghanaweb.com\)](#).

⁴⁶ See, [FULL TEXT: President Akufo-Addo's 2023 Christmas message \(ghanaweb.com\)](#).

On 7 January 2024, the rhetoric deepened when the President presented himself to the nation as though he had just remembered his Presidential oath with the advent of the New Year when he stated in his constitution day address to the nation *inter alia*, that:

“I swore an oath on 7th January 2017 and, again, four (4) years later, on 7th January 2021, to be faithful and true to the Republic of Ghana, and preserve, protect, and defend the Constitution. I shall continue to do just that. It will not be under my watch that any adventurer will seek to torpedo the democratic path on which we are embarked. I will help see to it that we have a free, fair, and transparent election in December 2024. You have my word! Ghana will be the victor of such an outcome, not any individual party or candidate.⁴⁷

How the President’s 7 January 2024 rhetoric can be reconciled with his previous determination to crown his Vice President whom he has anointed as his successor on 7 January 2025 will unfold with the effluxion of time during the year.

The end of tenure elections for Presidents in Ghana have always been clouded with suspicions by the largest opposition party because of the pronouncements and activities of the incumbent and out-going President. The second term of Nana Akufo-Addo, his posture and pronouncements as have been suggested are not helping the perception of his intention to assist the EC to conduct free, fair, and transparent elections. It has also been suggested that the lack of public service experience apart from her IEA antecedents have not helped perceptions of the impartiality of the EC. Amidst these suspicions the Electoral Commissioner is reported to have proposed to an IPAC meeting held on 22 January 2024 to move both Presidential and Parliamentary elections from 7 December to 7 November. This was a proposal that had been tabled by her predecessor in 2016 when the NPP was in opposition and was flatly rejected by it. Apart from the elections held before the coming into force of the 1992 Constitution all elections have been held on 7 December without the heavens falling down, particularly when the messenger of the message does not command the trust of the political players for who she is the arbiter of electoral conflict. The NDC has already rejected the proposal to change the election date and we are to see the dynamics of how this conflict also unfolds with Mrs. Jean Mensa.⁴⁸

CONCLUSIONS

The 2024 elections are not going to take place in a vacuum. They are going to be informed by thirty years of electoral history under the 1992 Constitution. The Fourth Republican Constitution, 1992 underscores, like the three preceding Republican Constitutions, the sovereignty of the people as the foundation of the State. The citizen has since the 1969 Constitution been accorded a sovereign right to seek interpretation and enforcement of the provisions of the Constitution in the Supreme Court with guarantees of fundamental human rights and freedoms subject only to the provisions of the Constitution.

⁴⁷ See, [I'll make sure 2024 polls are free, fair and transparent' — Akufo-Addo \(modernghana.com\)](https://www.modernghana.com).

⁴⁸ See, [Haruna Iddrisu fires EC, claims proposal to change voting time is against 'common sense' - MyJoyOnline; Minority will not support election date change proposal, says Ato Forson - MyJoyOnline](https://www.myjoyonline.com).

In addition to individual citizen activists such as Bright Simons, Samuel Okudzeto Ablakwa, Oliver Barkar-Vormawor, and others, too many to mention by name, citizens movements and entities such as the MFJ, IEA, CEPA, CDD-Ghana, IMANI, DI, #FixTheCountry, and many others have played various roles to influence the electorate at various periods in the electoral history of Ghana to hold governments to account.

The politicized nature of the executive and legislative branches as they evolved within the last thirty years of the life of the 1992 Constitution shows an incipient laxity in fidelity to the core principles of representative democracy, the rule of law and constitutionalism. The legislature has particularly been weakened by the nomination of its members to serve as ministers in the executive branch. The gradual evolution of the conception, contrary to the intentions of the framers of the Constitution, by the political parties and their cultural system of the winner takes all has negated the constitutional oaths of fidelity to service and the well-being of the people of the Republic of Ghana.

The foregoing has affected the neutrality and impartiality of the leadership of Article 190 public institutions and the Ghana Armed Forces Command structure. The Civil Service, the Police Service, the Prison Service, the National Fire Service, the Immigration Service, the Ghana Revenue Authority, and the Legal Service, the composition of National Security Secretariat, the National Intelligence Agencies and other instrumentalities of the executive power have come to be perceived rightly or wrongly as mere appendages of the executive chariot which may be used to undermine the sovereignty of the people guaranteed under the Constitution in favour of the sovereignty of the political party elected into power for the meantime.

The 1992, 2000, 2008, 2016, and the impending 2024 elections on 7 December at which an incumbent President has the Constitutional responsibility in accordance with his oath of office, and not his political party affiliation to assist the EC to supervise the transition of power from the incumbent to a successor freely elected by the sovereign people has posed challenges to fidelity to the 1992 Constitution by the executive branch.

The victory of the NPP at the 2016 polls was unique and seen by activist citizens, and civil society organizations as well deserved and beckoning a golden age of good governance, rule of law, democracy, constitutionalism and a zero tolerance for corruption by the Nana Akufo-Addo government. The second term of the Nana Akufo-Addo appeared to have started with a determination to ensure that the 2024 elections are won by the NPP and in particular his Vice President whom he had groomed to succeed him on 7 January 2025.

The Judicial branch is the only remaining perceived bulwark of an independent arm of government to which the citizen may look up to uphold and defend their well-being against encroachment by the other two arms of government. However, the 2013 and the 2021 election petitions and the politicization of judicial norms through lawfare as an adjunct of adversarial democratic representative contests has brought even the Judiciary to the bar of politics.

The end of tenure elections for Presidents in Ghana have always been clouded with suspicions by the largest opposition party because of the pronouncements and activities of the incumbent and out-going Presidents. The second term of Nana Akufo-Addo: his posture and pronouncements are not helping the perception of his intention to assist the EC to conduct free, fair, and transparent 2024 elections. It has also been suggested that the lack of extensive public service experience by the Electoral Commissioner, Ms. Jean Mensa, apart from her IEA baggage of antecedents as well as her posture and pronouncements have not helped perceptions about the impartiality of the EC with the new appointees made by the President for the 2024 elections. The history of the 2016 elections underpinned by a new appointee and inexperience in election management appears to have rhymed during the 2020 elections. It may as well rhyme again at the 2024 elections unless citizens actions demand fidelity to the 1992 Constitution by the President and the EC.

The 1992 Constitution has been resilient for the past thirty years and I am optimistic that citizens actions will defend it again, against any infidelity to the Constitution that will affect a free, fair, and transparent election at the 2024 elections. May the will of the people always prevail at elections under the 1992 Constitution!

Martin A. B. K. Amidu
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