



CONSTITUTION DAY
PUBLIC LECTURE

**A Few Good Men:
Suppressing and
Repressing Corruption
and State Capture in
Aid of Development**

Kissi Agyebeng
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Opening Credits – A Few Good Men

I will state my purpose right away. I call for constitutional reformation and a reimagination of our collective mindsets in the fight against corruption and state capture in aid of national development. That is my thesis. That is my conclusion. As if in a flashback, I will now attempt to work my way backwards to my conclusion.

Let me quickly point out though that I do not pretend to propound an elixir in the fight against corruption. Indeed, I doubt if any exists. I do not have any definite answers. I wish I had. I am much the poorer in this regard. Here I am to tell you a bit of what I have encountered in the fight against corruption. It seems to me that as it stands, there are only a few good men among us. Hopefully, the pieces I share today will spur us on collectively to comprehensively suppress and repress corruption and state capture. I have shared some of what I say today in the past. They bear repeating.

I am a reluctant occupier of the position of the Special Prosecutor – in the sense that I neither asked for nor lobbied for it. I am not inclined to recount how I got to sit in this seat, except to say that the position was laid on my head. Sacrificially, I eventually accepted the position, after several weeks of prompting. I allude to sacrifice because the acceptance of the job required me to drastically change my lifestyle and my life as I knew it. Not that I was engaged in some opprobrious vocation or habit. Not in the least. But that I was fun loving and the outdoorsy reveling type, being an elite walker. I cannot do anymore most of the things which bore a meaning to life in my estimation. The job requires so. The job demands so. That is one aspect of the sacrifice – purely private quests, you would say.

The other aspect of the sacrifice is impersonal. This is that the position of the Special Prosecutor is a very thankless job. It fetches you droves of enemies daily, and it brings you into frontal contact with the lowest forms of debasement in humans. You do not go asking for it. It finds you. That is the nature of the job. Everyone wants the Special Prosecutor to do his job. Yet no one wants the Special Prosecutor to do his job. It all depends on the subject of the investigation.

This paradoxical predicament is perhaps an index of the human condition – which is that though we accept that we need to rein in corruption, yet no one wants to yield freely to scrutiny. No one happily accedes to indictment. No one welcomes investigations. No one wants to be called out as suspected of

engaging in corruption and corruption-related activities. And so, there is always a strong pushback intended at deflecting the focus of scrutiny and accountability.

The pushback is reflected in so many forms, including the sponsorship of attacks and vile publications against the Special Prosecutor and the Office of the Special Prosecutor (OSP). Sadly, some of the enemies the job attracts would not hesitate to take a life should opportunity present itself. Thus, my security risk is ultra-high, and I have to perpetually be on the lookout for attacks on my person. Same applies to especially the operational officers of the OSP.

Such is the volatility in which the fight against corruption is being waged in our nation. The only fine hour of the job is the hope that one is helping to build a just and fair society. One always hopes that it is not a hopeless sort of hope. And that it is a hopeful sort of hope. This perhaps accounts for the realism of only a few good men in the space. In the ordinary circumstances of mankind, not many persons would offer their services and expend their energies in such a charged environment.

The fight against corruption demands immense sacrifice from us all. It requires purging oneself of reproach and forming a containment ring of communal reckoning of not having a choice about it but to keep suppressing and repressing such acts. It is upon this aspiration I proceed.

Part I – The Usual Suspects: Corruption and State Capture

Corruption is as old as time itself. If you put any premium on the creation story in the Bible, then it would seem that from the moment Eve allowed herself to be beguiled by the serpent which precipitated the fall of man from grace, the human situation has been forged negatively in corruption.

I have always wondered how the serpent procured the guileful information about the knowledge of the tree of good and evil. Who passed the information to the serpent and for what purpose? And what was in it for the serpent? What did it stand to gain from the venture?

The serpent certainly got its just desserts by being forever conscripted to go about on its belly, since what it did by passing the information to Eve was considered by God to be very grave. Though we are not told, it seems to me

that the serpent did not act alone. It appeared certainly to be in cahoots with others. It was a masterfully calculated act. It must have been set to it by co-conspirators who wanted to assure the fall of man. Again, it seems to me that that first case of delict attracting opprobrious sanctions had corruption written all over it.

In the past twenty-six years or so, the fight against corruption has engaged global attention on almost the same scale as the human rights drive which preceded it. From the applaudable efforts by Transparency International, which took it upon itself to fight global corruption; through the augmentation of the fight by other international organizations, notably the Organization for Economic Cooperation and Development (OECD) and the United Nations Office on Drugs and Crime (UNODC); further through the adoption of national policies, laws, and regulations by States; to the involvement of civil society and corporate bodies – the fight against corruption is presently the universal bride.

Perhaps we cannot describe the malaise of corruption better than as captured by our own Kofi Annan in his Foreword on the General Assembly Resolution adopting the United Nations Convention Against Corruption that:

[C]orruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.

Much energy and scholarship have been expended on the challenges confronting the fight against corruption. I have no intention of boring you with an enumeration of these well-known and oft lamented difficulties. We know them all so well. And they play out so debilitatingly in the politics of anti-corruption. We owe a disconsolate tribute to the challenges as the reason for the unhappy state of the fight against corruption.

In my estimation, corruption begets morally opprobrious conduct. It engenders greed and individual interests. It encourages the setting aside of rules. It lowers standards in all aspects of life.

The effect of corruption is all around us. Huge sums of public money that could provide social amenities to our people are funneled into private pockets. We hear stories of corruption in almost every interaction with the systems of

the State. We hear talk that apparently, one needs to pay a bribe to obtain some government jobs, to obtain school postings, to pass exams, to triumph in elections, even to obtain some state identification documents. The list is endless. In a society governed by pay-to-play rules, the poor and the marginalized lose out completely.

The other suspect – state capture – is a form of corruption. It is characterized by a few interests and persons capturing the decision-making and resource-allocation systems and processes of a State. In effect, the captured economy is nothing more than a reflection of the few captors who steer the nation solely for their private benefit to the woe of the aggregate national interest. The few captors become the State, and the State is reduced to merely a sort of private property. In this scheme of affairs, nothing stands in the way of the few captors, and they engage in corruption to fantastic degrees.

Part II – Disappearing Acts

We know we must act. We know we have no choice. The question has been – what course do we take, and how do we stem the tide of corruption and its satellite, state capture?

It was a rather curious push against corruption that heralded our independence from colonial rule – which all came together by a conglomeration of interrelated events which commenced severally in the past and culminated in historic occurrences on one day, nine years before independence.

In the morning of Saturday 28 February 1948, exactly seventy-seven years to the day, members of the Ex-Servicemen's Union, especially those in Accra, must have felt very upbeat that by the end of the day, their long drawn out grievances against those in authority, would be well received by the head of government and perhaps usher in a turnaround in their fortunes and that of the country.

However, by about 3 o'clock in the afternoon, three had been shot dead and more than sixty lay writhing in pain from varying degrees of injury from gunshots. Their crime? They had been minded to assemble and symbolically march in a peaceful unarmed procession to present a petition to the Colonial Governor at his official residence at the Christiansborg Castle in Osu.

Upon reaching the triangular intersection of Rowe Road, Castle Road, and Christiansborg Road, they were ordered by Superintendent Imray, a white superintendent of police in Accra to halt, turn and disperse. They refused. Imray then ordered his men to open fire at the procession. His men refused. Imray, who appeared to have had some misgivings about preparations for public order that morning, as his men later recounted, carried out his own order by grabbing a rifle and shooting at the procession. The painful irony was that ex-soldiers had survived brutal battles in the Second World War only to be mowed down by a police officer of the empire they served for simply participating in a benign procession intended for the presentation of a petition.

These events are well known and well documented. It is their contextual significance, which I would state presently, that invites me to their revisitation.

That day also held another significance. It was the day on which the boycott of European and Asian stores, which had been observed nationwide from January 1948, was to end, and the reduction in prices of certain commodities was to come into effect. Our people expected a bountiful price reduction. They were to be disappointed. The price reduction was not what they expected.

It is also well documented that these events precipitated a five-day looting and overrunning of European and Asian businesses in Accra and other towns as news of the killing of the three ex-soldiers spread.

While the report of the Commission of Enquiry into what was described as – disturbances in the Gold Coast – attributed the primary cause of the riots to the shooting incident on 28 February, the extensive testimony the Commission took from our people showed that the contextual significance of these events was largely a fight against corruption – of long held and widespread frustration and disenchantment at corruption and abuse of power by the colonial government and European and Asian businesses organized as the Association of West African Merchants.

The ex-soldiers were being dealt a very raw deal. At the commencement of the Second World War, the colonial government enticed them with promises of jobs and lucrative pensions after service in the army and participation in the war. They were shipped off to fight in what is now Myanmar. Upon their return and about three years after the end of the war, the colonial government had reneged, and it showed no inclination to make good the promises. Indeed, the Governor, who had assumed office just six weeks prior to 28 February, misread the events of that day. He appeared to view the occurrences as an

unprovoked challenge to his authority as he assumed that the protests had been organized by local politicians. And his reaction was to imprison six of the prominent politicians.

The ex-soldiers were not unique in their agitation. The general population was highly disenchanted with its state of affairs. There had been widespread protests against low wages, abusive working conditions and undue hardship propelled by the insensitivity of the colonial government and corrupt practices of the Association of West African Merchants – including price fixation, price gouging and conditional sales. The testimony collected by the Commission of Enquiry showed that the Association, which controlled the import and export market, was sometimes making as much as 75% profit on each commodity sold. Indeed, so pervasively corrupt were their activities that, the acronym of the Association – AWAM – became synonymous with unfair, corrupt, and fictitious practices and conduct.

This was our state as we stood on the brink of independence. We fought grand corruption perpetrated against us by foreigners. May be we inherently loathed corruption. May be we engaged in that struggle because it directly affected our income levels and livelihoods. May be it was both. The point is that we did fight. A good fight it was too.

We took over our own affairs – in politics and in business – as we became masters of our own destiny. Then we descended into the fray. Since then, we have been unable to put a secure lid on the cauldron, and our efforts appear to be disappearing acts. Indeed, every government we have had cited corruption in its predecessor government. It has been such a race to the bottom that the easy excuse of all the coup makers and plotters, successful and unsuccessful, has been to level corruption charges against those they overthrew or attempted to overthrow.

On this score, I am not taking the coup makers and plotters association to task. We will revisit that another day. Today, I am only saying – there was indeed corruption at every turn and time. So, they could easily mount an excuse on that mound to overthrow or attempt to overthrow a government.

We have had about fifty corruption-related Commissions of Inquiry and five successful military coups in the name of fighting corruption. We are parties to several international treaties on corruption including the UN Convention which we ratified on 24 June 2007. We have passed several legislations designed to tackle corruption. We have re-defined corruption and enhanced the

punishment for corruption-related offences from misdemeanours to second degree felonies.

We established the Commission on Human Rights & Administrative Justice and the Serious Fraud Office, which is now the Economic and Organized Crime Office and the Financial Intelligence Centre with the same intended purpose, though to a limited degree. We instituted the National Anti-Corruption Action Plan in 2014. It recommended the establishment of an independent prosecution authority to effectively tackle corruption. The prevailing thinking was that the Attorney General, being a member of cabinet and the chief legal advisor to the President, was not well-suited to investigate and prosecute members of a government to which he belonged.

After decades of contemplation and experimentation, we created the Office of the Special Prosecutor (OSP) as the flagship anti-corruption institution with the unique four-fold mandate of investigating corruption and corruption-related cases, prosecuting suspected offenders, recovering and managing assets, and taking steps to prevent corruption. The advent of the OSP was forged in immense controversy.

Corruption and corruption-related issues were rather topical during the campaign season leading to the 2016 Presidential elections – owing to the ever-present unexplainable and questionable acquisition of wealth in all sectors. The opposition candidate hopped on to the anti-corruption train with a bouquet of promises. He promised to adopt the Anas method in fighting corruption – in reference to the style employed by Ghana's foremost investigative journalist, Anas Aremeyaw Anas – of naming, shaming, and jailing. He also promised to create and establish a specialized independent agency to fight corruption. He christened it the Office of the Special Prosecutor. He won the election against the sitting President with a convincing margin.

The campaign promise of the creation and establishment of a specialized independent anti-corruption agency was seemingly fulfilled. In December 2017, Ghana made its most decisive statement on the strife against corruption with the passage of the Office of the Special Prosecutor Act, 2017 (Act 959) which established the OSP. The Act came into force on 2 January 2018. It was followed by the enactment of two Legislative Instruments – the Office of the Special Prosecutor Regulations, 2018 (L.I. 2373) and the Office of the Special Prosecutor (Operations) Regulations (L.I. 2374).

Whether fortuitously or by design, the establishment of the OSP was in fulfillment of a treaty obligation – under Article 6 and Article 36 of the UN Convention – that require State Parties to establish independent specialized authorities to combat corruption through law enforcement.

The intended design of the OSP is a cure of the inadequacies of the traditional anti-corruption regime characterized by the lack of real legal and enforcement powers. Hence, the OSP's multifaceted reach and outlook. Its independence, by law, was intended to be assured in the proper sense – as the Special Prosecutor retains full authority and control over the investigation, initiation, prosecution and conduct of cases.

The OSP is required to snoop around everywhere and in whatever sector. And its mandate does not rest only in respect of public officials. It extends also to politically exposed persons and private persons. The reach of the OSP goes beyond the borders of Ghana. In this sense, the OSP has the mandate to investigate and prosecute corruption and corruption-related offences committed in Ghana or in a foreign country, so far as the act constitutes corruption or corruption-related offence in Ghana and the act was committed by a national of Ghana or against a national of Ghana.

This is borrowed from the concept of universal jurisdiction, under which national or domestic authorities are able to investigate and prosecute suspected perpetrators of certain crimes, even if they were not committed in the territory in question on the principle that these crimes are so harmful to the international community or international order itself that the offenders are classified as *hostis humani generis* – the enemy of all mankind.

So elegant it seems on paper. So joyful it sounds to the ears of the anti-corruption campaigner. However, beyond the seeming good-feeling and the paper promises – never mind by statute – graveness stares.

The very existence of the OSP is hemmed so tightly as if in a vice to scuttle it. It should perhaps not be surprising as its creation itself was greeted with immense skepticism. And it was attended by argument against argument as to why it was needed at all. Will it not be a duplication? Will it be allowed to function properly? Do we even need it? The questions poured.

In fairness, the questions themselves were not altogether problematic. Afterall, we must carefully examine the utility of the creation of institutions. However, the result was the creation of an institution with never-before-seen powers and

mandate – yet with a plethora of half-hearted statutory provisions, which effectively tie its hands behind it.

Along come the death knells. Not infrequently, we hear calls – a lot of the time from very high places – that the OSP should be scrapped. And that it serves no useful purpose. On another score, there have been and there are attempts to discredit the Office and its principal officers unfairly and unjustly, attended by formidable resistance and pushback. Often, the attacks on the Office and its principal officers are mounted by persons who are at the short end of an investigation or prosecution, and the associates of such persons.

The effect of the existential challenge confronting the OSP is that though the nation collectively acknowledges that we must fight corruption, yet there is also a specter that the flagship agency designed (even if imperfectly) to fight corruption is not needed and should be disbanded while others actively undermine it and its principal officers.

This has translated into a rather curious cycle – the outburst of an outcry where the OSP acts; and an outcry where it is seen as not acting. It is as if we do not know what we want. The situation in Ghana now is – **we must fight corruption, but we must not fight corruption**. It all depends on where we stand in respect of an active investigation. Our collective behaviour shows that we do not reward integrity, and we do not want to reward integrity.

The bi-malady of corruption and state capture has every intention of staying with us unless we act. In their various manifestations, they inhibit our progress and dissipate our resources. We experience their debilitating effects all around us in their full force and they are ingrained in our society much like rituals. Meritorious or otherwise rightfully deserving standards for the allocation of opportunities and resources are eluding us. The abuse of entrusted power for private gain is the currency. Misrepresentation of events and facts for pecuniary gain has never been this attractive. And there is a sprint for the inordinate control of state institutions and the public decision-making process. State institutions are being neutralized as appendages of individuals and existing laws and the legal system are being weakened for private gain.

To further sink ourselves in our ill-progress, we are flighting away and secreting our illicitly gorged up bounties in other jurisdictions to avoid detection and to evade recovery. And it seems to me that no one can put an actual price tag on the attendant social and economic cost of corruption and state capture. These are endemic in several sectors in the economy. A notorious suspect is the

extractive industry. Offshore, we are confronted with the scourge of oil bunkering. On land, we are bedeviled with wanton destruction of protected forests and real property and the mind-numbing pollution of our water bodies – all in the name of making wealth. Go ahead. Get paid.

We are standing at a single spot and spinning around slowly on one foot in a circle – much like a gyroscope. The conversation has become sterile. The fight against corruption is proving to be an unruly bride indeed. She is not lending herself to agreeable domestication and cohabitation. And we are not recording much success. Our progress is hampered. And we are unable to move the needle of development to any appreciable height.

Our story is a cycle of self-defeat and disappearing acts. We begin by collectively acknowledging that we must fight corruption. That lights a glimmer on the horizon. Then we dim the glimmer by approaching the enterprise of the fight against corruption half-heartedly. That is to say – we appear to know the cure to the malaise; but we are unwilling to take the medication fully. It is as if we do not want to actually cure it, though we reckon it is slowly killing us. I dare say, it is quite a head-scratcher.

Citizens view anti-corruption law enforcement institutions as largely hemmed in by political marginalization and thus, part of the problem. This is because the citizens perceive a high incidence of impunity among the elite. And that corruption investigations would invariably amount to nothing and yield no consequences.

Further, citizens view those in authority as the problem and they are quick to condemn corrupt acts attendant upon official acts – as they should. Yet, citizens play a significant role in the problem – through acts of open support for official corruption and sometimes participation in same.

On another score, not too infrequently, the public decries the state, longevity and quality of our infrastructure. Why do we not have the best infrastructure as they do in some places – the citizen ponders. Why are our roads so bad – the motorist asks. This stretch of road was constructed just two years ago, why has it developed craters for potholes already – he quizzes further. Whoever designed this roundabout or intersection does certainly live on another planet – a by-standing observer muses. Whose idea was it to design and fit such a closed up claustrophobic casket for an elevator in such a huge and busy public building – a visitor fumes. Whoever designed the approaches and accesses to this building is certainly not a friend of disabled persons – another visitor

contemplates. We hear like complaints daily. We see the sources of the grumbling all around us.

We may attribute some of these defaults to the poverty question. Afterall, if we had the wherewithal, we could insist on the very best and we would not have to sort of beat back on the designs and construction of projects. We may not be inclined to accept the not-so-very best. We may link some of the sources of the public consternation to the maintenance question; the lack of it, I mean – which in itself is likely an offshoot of the poverty question. Or may we trace it to our collective attitudes, if I may ask.

From where I sit, poverty notwithstanding, I place these ills firmly at the door of corruption and state capture. They beget our poverty, which further begets more corruption. It is a poverty trap we have to spring out of to meaningfully develop. Simply put, we have managed to build for ourselves a solid culture of illegal and unfair gain. And it is strangling us.

Part III – Glimmer on the Horizon

It is not all despair. There is a glimmer on the horizon. The constitutional review process presents us with a golden opportunity to change the narrative and to get things effectively and efficiently working. We should transform the constitution by weaving anti-corruption concepts and institutions tightly into its outlook and reach. And right thereupon, build on that framework a robust and pragmatic wave of statutory detail to give firm effect to the constitutional provisions to render corrupt activities high risk and ultra-costly and unattractive enterprises.

Four truisms must guide this exercise. First, it must be borne in mind that the law always appears to be a step behind criminal innovation and as technological advancement ushers in marvels hitherto unknown, perpetrators of corruption device sophisticated ways adapted to avoid detection.

Second, the truth is always the first casualty in any criminal enquiry. Those who engage in grand corruption are wealthy. They possess the means and wherewithal to mount formidable campaigns of misinformation and truth distortion. They also pose a real and present danger to anti-corruption officials through intimidation, open threats, and actual harm – even to the point of killing.

Third, corrupt activities are the most difficult to prove, as they are carried out in stealth and the state of mind accompanying such acts are often unclear.

Fourth, corruption-prevention is preferable to after-the-fact models of fighting corruption. It is more productive and cost-effective. Better to prevent the outbreak of a stitch, than to seek to sew it after it ensues.

Upon this foundation, we must situate the fight against corruption in a comprehensive philosophical context. By this, I mean that we should examine the regime from an introspective reflection – are we doing this because we believe it is the right thing to do? And will it produce the best results or consequences? On this score, we have to conceptualize anti-corruption legal concepts in a fundamental manner. That is, a review of the historical, philosophical, linguistic, economic, social, and political implications of law. Only then will the anti-corruption quest have real meaning as being secured firmly by law. This is because what may work in other jurisdictions may spectacularly fail here and what may amount to corruption in other parts of the world may not necessarily fit in our worldview.

All I am stating is – we must link our laws empirically to the facts of life. This is because the development of law is not just a construct intended to guide human conduct. There is the larger objective of formulating law and viewing it essentially as a drive from its evolution to its future direction as a tool for social change.

A great starting pointing should be the reckoning that gift-giving is ritualistic in our society. It is always difficult to distinguish between the lawful and the unlawful. When a bystander lends a hand to assist you lift the side of your vehicle that is hanging over a gutter, he expects you to show appreciation by gifting him a token cash sum. Well, these days the bystander will actually demand the cash and may probably verbally abuse you if it does not forth-come.

In some of our traditions, and as recognized by the courts, where a person is gifted valuable property by a donor during the lifetime of the donor, the donee is expected to present a symbolic gift as *aseda* in acceptance of the gift. The absence of the symbolic gift in acceptance of the valuable property may, in some cases, render the gift ineffective and be subject to contention.

Then again, in some of our traditions, a notification of bereavement to an important person and an invitation of that important person to the impending funeral must be accompanied by Schnapps and a symbolic cash sum. This signifies the premium the bereaved places on the departed person, the person being informed of the bereavement and being invited to the funeral, as well as an indication of the funeral donation expected from the invited person.

All I am stating is that our society is one of promise-for-promise, gift-for-gift, give-and-take, and live-and-let-live. This should guide our anti-corruption constructs.

Further, we must always be quick to realize that the world is run on self-interest. Each one of us silently reflects on the question of what-is-in-it-for-me when engaged in whatever vocation or activity. It is the desire for self-preservation and self-enhancement that drive our actions. In the craft of statehood, often, the interests of the populace get lost in translation and are sacrificed, as opposed to the interests of the main actors whose opinions and actions dramatically shape the course of the State, whether for beauty or for debasement.

There is always this old subtle trick. The main actors make believe that the good of the populace is so dear to them. They are always quick to tell and remind the populace that they have their best interests at heart. For the most part, this trick works, especially when the populace is indoctrinated enough. Chinua Achebe summed this up so well in *A Man of the People* – a novel which eerily captured corrupt happenings in society.

I will attempt to illustrate my point with the biblical trial and execution of Jesus. Do not get me wrong. I am not trying to preach. I am the least qualified to. Four characters deserve mention, from the account of the Gospels. First, Judas. He has been vilified enough, and he has gone down in infamy. His name is a synonym for traitor. May be he deserved it. However, his actions tell me a different story. I do not think he set out to betray Jesus at all. To me, he was just a con artist who set out to defraud the High Priests and cash-in a handsome amount.

The man had been with Jesus for a considerable time, and he witnessed the spectacular miracles recounted in the Bible. He probably never at any moment thought that Jesus was amenable to capture. It was more probable than not, that he thought Jesus would vanish and escape any attempt to capture him. Afterall, Jesus had previously inexplicably escaped a throng of people who were

desirous of throwing him over a cliff. He simply walked through and away from them, the Bible recounts. Therefore, in the estimation of Judas, Jesus would escape again, and he would get to keep his small fee just for revealing Jesus' whereabouts to the authorities. His interest was just getting paid. Simple.

Next, the High Priests. Their interest was clear enough. Jesus was bad for their business. They were losing their audience to this upstart who was pulling crowds and claiming to be the Son of God. They feared that it was only a matter of time, their synagogues would be emptied of the faithful and they would lose their perch as the very respected and influential spiritual leaders. Better to contrive charges against him and have him taken from the scene – permanently.

Now let us call up Pilate. He was the Governor of the Roman province of Judea at the time. The Gospels appear to portray him as a reluctant judge who pronounced the death sentence on Jesus. However, for a man whose contemporaries described as prone to unnecessary violence and brutality, his dramatic public washing of his hands to signify a lack of responsibility for the killing of Jesus belied his real interest – simply, to save his own skin and ingratiate himself to his boss, Tiberius Ceasar. Judea was extremely volatile at the time and characterized by violent protests and unrest. Pilate's high handling of affairs had not gone unnoticed in Rome. Therefore, the Jesus trial and execution provided him a wonderful opportunity to appease the people and their leaders and to quieten them down awhile, so as not to attract unpleasant sanctions from Rome.

Now, the people. What was their interest? It appears difficult to apprehend even to this day. Yet, they screamed for the execution of Jesus and the freeing of an accomplished criminal.

In the scheme of affairs, Judas satisfied his interest, albeit with unintended disastrous consequences as his con game went seriously awry. The interest of the High Priests was very served. Jesus was permanently taken off the scene and they regained their influence and respect among the people. Pilate also served his interest very well. Tiberius Ceasar left him to his designs for a while. What about the people? It would appear that the trial and execution of Jesus served them no useful purpose. The old ruse worked well and served the main actors satisfactorily and left the people with – nothing. And this is my point.

There is sound force in the reckoning that there is no objective way of doing things or attaining heights from an individual perspective. Consequently, societal interests must remain supreme. In the end, our collective good is worth the fight against corruption. And we must always guard against the tendency of personal interests overriding the commonweal. The mantra should be – *our collective ailment, our collective solution*.

On the back of the foregoing, I call for the following:

First, we must write the Office of the Special Prosecutor into the constitution and board it up firmly. Do not dwell on me. Leave me out of the equation. I am just one person – obviously. My tenure will end at some point and like everyone else, I will leave the scene.

I say so because my experience has been that the OSP is being increasingly equated to me. It is as if I am the Office and the Office is me. Sometimes it feels as if the fight against corruption is solely my concern. I daresay that personalized spotlighting is without utility.

The focus should be on building institutions that stand the test of time. From my experience, the OSP represents our best bet in fighting corruption. Its present attributes, mandate, powers, and reach afford it a pole-position as the foremost and focal institution in tackling the problem. The OSP does need a lot of tweaking though to render it fully fit for purpose. Its independence must be fully assured, and its powers and mandate should be enlarged and enhanced. The job is daunting. We must be fully kitted for it.

Therefore, the quest should be an entrenchment of the fight against corruption in the constitution; a retrofitting and full equipment and insulation of the foremost anti-corruption law enforcement institution from political marginalization and reprisals.

Second, we must enact a comprehensive Corrupt Practices Act to frontally address all forms of corruption and corruption-related activities. This will afford us the opportunity to clearly and concisely set out what we mean by corruption and corruption-related offences. The present formulation under section 79 of Act 959 is unhelpful and circuitous. It engenders confusion.

It is symptomatic of our penchant for crafting criminal legislation in an arcane and roundabout fashion instead of simply stating what we mean to say – which then festers decades of debate as to what act, if at all, has been criminalized. An

example is section 104 of the Criminal Offences Act, 1960 (Act 29). Instead of simply stating and describing the sexual acts we were prohibiting, we chose to say that we were prohibiting unnatural carnal knowledge. We then proceeded to define unnatural carnal knowledge in a most unhelpful manner by stating that unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or, with an animal. Sexual intercourse with an animal is straightforward enough an act. Fair enough. But what does it mean to say sexual intercourse with a person in an unnatural manner. It requires one to decode sexual intercourse in a natural manner, as we did not define what that means. Go figure that out yourselves. You should be able to. Why adopt such a formulation when we can simply describe the act?

We did a similar thing with the definition of corruption and corruption-related offences. We selected ten sections from Act 29, and one subsection from the Public Procurement Act. Then it seems we got tired because we proceeded to throw in a blanket provision which refers to existent offences under enactments arising out of or consequent to offences to the selected offences. This is inelegant and unclear.

We are stultifying ourselves with these preventable shortcomings in our formulation of laws and the legal fictions we have employed to prop up legal principles in a seemingly unsuccessful attempt to give them a semblance of validity. We would do ourselves a world of good if we state out clearly and in simple terms the acts and conduct we are prohibiting.

On this score, we must forcefully address unexplained wealth not only among public officers but also private persons, with biting lifestyle auditing. Then again, we must highlight the vexed question of the opacity attending political party financing and the monetization of public elections. This would surely change the narrative.

Third, we must set up specialized anti-corruption courts manned by especially trained judges in the field to swiftly and efficiently deal with corruption cases. Related to this, we must, in practice, assure the independence of the judiciary and fortify in it a culture of the defence of truth and the reward of integrity.

Justice, fundamental to any thriving society, cannot flourish in the context of corruption. The scales of justice should remain untainted if the fight against corruption is to attain any notable result. Corruption itself is curtailed through justice. And the absence of justice begets corruption. It is much like light and darkness. The brighter justice shines, the dimmer corruption gets.

I also call for the establishment, in our schools, at the basic and secondary levels, curricula in anti-corruption studies intended at instilling an unyielding commitment to combatting corruption at every level.

All I am saying is this – we must channel our anti-corruption laws as a construct for national development.

End Credits – More Good Men Needed

We are back from the flashback. Permit me to restate my purpose. I call for constitutional reformation and a reimagination of our collective mindsets to meaningfully tackle down corruption and state capture in aid of national development. For it is upon the fight against corruption that we may forge ourselves decent existence.

Perhaps I know how to assure my own integrity. But I do not know how to assure personal integrity in others beyond a plea to good sense, morality and fairness. And this is all I have done in this lecture. A lot more good men should join the fight. The nation needs you.

*Esum εεε eduru yen.
Mo ma yen nyinaa enso mu bi.*