
An ace journalist, Mr. Baako is undoubtedly one of Ghana’s finest journalist beginning his career in 1979. Among the major journalistic positions, he has served include:

- Editor of The Frontline Message (1979-1981)
- Editor of the Sports Concorde (1989-1991)
- Editor-In-Chief of the Crusading Guide (1998-2009)
- Editor-In-Chief of The New Crusading Guide (2009-Date)

Mr. Baako is a member of the Convention Peoples’ Party. He has a rich history as a frontline activist in many anti-military dictatorship movements and groups in Ghana since 1974. He was actively involved in the popular agitations for the restoration of constitutional rule. He was an activist of the People’s Movement for Freedom and Justice (PMFJ), which led to the anti-UNIGOV campaign of the mid to late 1970s. Mr. Baako was also part of groups such as the Socialist Hardliners Front for Continental Unity and Uhuru (SOHACFUU) and Socialist Revolutionary League of Ghana (SRYLOG), which joined the anti-military dictatorship agitations alongside the National Union of Ghana Students (NUGS) and other civil society groups. He was one of the founders of the Movement on National Affairs (MONAS) (1979-1981) and a member of the Alliance for Change (AFC-1995-1998).

On two different occasions, he was detained without trial. Mr. Baako was also convicted of contempt of court and sentenced to another 30 days in Prison (July-August, 1998).

In 1999, the GJA adjudged him the Journalist of the year. Mr. Abdul Malik Kweku Baako was awarded a Member of the Order of the Volta (2008).

Mr. Abdul Malik Kweku Baako is an institution-wide recognized as an untiring voice of political and social accountability on Radio and Television in Ghana.
The Ghana Center for Democratic Development (CDD-Ghana) is an independent, non-governmental and non-profit research and advocacy institute dedicated to the promotion of democracy, good governance and economic openness in Ghana and throughout Africa. CDD-Ghana's research outputs and other services are available to and used by governmental and non-governmental agencies, Africa regional bodies, development partners as well as researchers and the public.

The views expressed in this publication are entirely those of the author and do not necessarily reflect the views of the Board of Governors, officers, staff, or sponsors of the Center.

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THE **KRONTI NE AKWAMU** SYMBOL

*Kronti ne Akwamu* is the symbol from which the logo of the Center is derived. It is one of the Akan *Adinkra* symbols. (The Ghanaian *Adinkra* are visual symbols, originally created by the Akan, they represent concepts or aphorisms.)

*Kronti ne Akwamu* represents the Akan state, within which there are two active quadrants on each half of the state), one representing the *Kronti*, and the other representing the *Akwamu*. Within that state, the *Kronti*, as the overlords, initiate decisions for the collective; however, a decision is not considered final and therefore not binding until it is ratified by the *Akwamu*. It is the equivalent in the Akan traditional political system of a two-chamber legislature in which law or legislation is made by the concurrence of both the Upper and the Lower House. In that sense, the *Kronti ne Akwamu* symbol encapsulates both popular democracy and a system of institutionalized checks and balances.
Contained within each quadrant are differently shaped and sized configurations, depicting the diversity of interests, ideas and orientations of groups and individuals within the Kronti side as well as the Akwamu halves of the same state. This affirms recognition of the common interest and well as individual and group differences.

When all of this is brought together, you get a nice system of popular democracy, inter-branch accountability and checks and balances as well as unity of purpose within the same state.
ABOUT THE CDD-GHANA ANNUAL KRONTI NE AKWAMU
(DEMOCRACY AND GOVERNANCE) LECTURE

The *Kronti ne Akwamu* Lecture is the Center’s flagship annual public lecture on democracy and governance. It is one of the Center’s initiatives aimed at bridging the gap between reflection, research and analysis on one hand, and pro-democracy and good governance advocacy on the other. It is therefore aimed at enriching the quality of public discourse on governance and democratic reforms.

The lectures feature prominent scholars and/or activists of local and international repute whose work focus on democracy building and good governance. Speakers are invited to share knowledge and insights on these issues, in the hope of stimulating vibrant public debate. The lecture series have been named after the Akan *adinkra* symbol ‘Kronti ne Akwamu’ - the adinkra symbol that offers the best home-grown representation of a political system of popular democracy and decentralized political authority in which different segments of the state and branches of government complement and also check each other.

The maiden lecture was delivered in March 2005. It featured an internationally renowned scholar and activist of democratic development - Prof. Larry Diamond, a senior fellow of the Hoover Institution at Stanford University (USA). He spoke on the topic: *Democracy and Development – A Case for Mutual Dependency*. The then Chief Justice of Ghana, His Lordship Justice George Kingsley Acquah was the chairman for that occasion.

The second *Kronti ne Akwamu* lecture was delivered by the distinguished Ghanaian lawyer, statesman and former Speaker of the Parliament of Ghana, the Rt. Hon Peter Ala Adjetey. He spoke on the topic "*Reflections on the Effectiveness of the Parliament of the Fourth Republic of Ghana*. The
The distinguished chairman of that event was The Very Reverend Professor S. K. Adjepong, Chairman of the National African Peer Review Mechanism Governing Council.

The third *Kronti ne Akwamu* lecture, the Golden Jubilee edition, was delivered by Professor Richard Joseph, a distinguished political scientist, former head of the Program of African Studies at the Northwestern University (USA), and former head of Africa programs at the Carter Center. He spoke on the topic: *Ghana and Democratic Development in Africa: Back to the Future.* It was chaired by the Hon. J. H. Mensah, then MP for Sunyani, and Chairman of the National Development Planning Commission.

The fourth *Kronti ne Akwamu* lecture was delivered by Dr. K.Y. Amoako, founder and president of the African Center for Economic Transformation on the topic, *The Future of Civil Society in Democratic Governance and Development in Africa.* The chairperson was Mrs. Mary Chinery Hesse, chief advisor to the former President, John Agyekum Kufuor.

The fifth lecture was organised in partnership with KPMG-Ghana and was delivered by Dr. Kwadwo Afari-Gyan, Chairman of the Electoral Commission on the topic: *The Challenges to Conducting Free and Fair Elections in Emerging African Democracies: The Case of Ghana.* His Lordship Mr. Justice V. C. R. A. C. Crabbe (Statute Law Revision Commissioner, Ministry of Justice) chaired the lecture.

The sixth lecture was delivered by Dr. Jendayi Frazer, a former Assistant Secretary of State for African Affairs and a distinguished service professor at Carnegie Mellon University, USA. She spoke on the topic *Enhancing the Conflict Prevention Role of Elections in Africa.* The chairperson was Archbishop Charles Gabriel A. N. O. Palmer-Buckle, Metropolitan Archbishop of Accra.

The seventh lecture was on the topic: *Democratization and Women in Africa – Progress, Stagnation or Retreat* and it was delivered by Bisi
Adeleye-Fayemi, Executive Director of the Africa Women Development Fund (AWDF). The chairperson for the lecture was Justice Vida Akoto Banfo.

The eighth lecture which was delivered by Justice (Rtd.) Emile Francis Short, the first Commissioner of Ghana’s Commission on Human Rights and Administrative Justice (CHRAJ), was on the topic: The Quest for Governmental Accountability and Responsiveness in Ghana: Achievements, Challenges and the Way Forward. It was chaired by Rev. Dr. Joyce Aryee, the former CEO of the Ghana Chamber of Mines.

The ninth lecture was delivered by Justice V. C. R. A. C. Crabbe, a Statute Law Revision Commissioner & Rtd. Supreme Court Judge. The topic was: Democratic Governance in Ghana: How Political Polarization may be Abated. It was chaired by Mrs. Elizabeth Joyce Villars, Board Chairman, Camelot Ghana Ltd. & Former President, Association of Ghana Industries.

The tenth Kronti ne Akwamu lecture was delivered by Prof. Kwame Karikari, former Executive Director, Media Foundation for West Africa (MFWA) on the topic, The Paradox of Voice without Accountability in Ghana. This program was chaired by Mr. Nii Amanor Dodoo, Senior Partner, KPMG, Ghana.

The eleventh lecture was delivered by renowned Israeli African social scientist, progressive politician, peace and gender activist, Professor Naomi Chazan of the Hebrew University of Jerusalem on the topic: Promoting Inclusion in African Democracies. It was chaired by Professor JRA Ayee, former Dean of the Faculty of Social Science at the University of Ghana and former Deputy Vice Chancellor of the University of KwaZulu-Natal, South Africa.

The twelfth lecture in 2016 focused on the topic: Credible and Peaceful Elections: A Prerequisite for Africa’s Progress, was delivered by His Excellency Busumuru Kofi Annan, Nobel Peace Prize Laureate and former Secretary-General of the United Nations. This lecture was chaired by Her
Excellency Judge Prof. Mrs. Akua Kuenyehia, former Judge and Vice President of the International Criminal Court (ICC) at The Hague.

I am pleased to report that the texts of all the previous lectures have been published and disseminated.

I wish to place on record our profound gratitude to KPMG, Joy FM, Unik Unik Image Ltd., The New Crusading Guide and Daily Graphic for partnering with us to host this 2017 Kronti ne Akwamu Lecture.

We owe similar gratitude to you, our distinguished guests, for honoring us with your presence.

E. Gyimah-Boadi (Ph.D)
Executive Director, CDD-Ghana

July, 2017
Accra
INTRODUCTION

A BRIEF HISTORICAL OUTLINE OF THE GENESIS AND TRAJECTORY OF THE 4TH REPUBLIC

The emergence of the Fourth Republic in Ghana on January 7, 1993 was neither an accident of history nor the gift of a military despot turned reluctant democrat. It was indeed a product of the combination of protracted internal agitation for the democratization of the Ghanaian political environment after nearly eleven long years of a “provisional” military dominated regime, called the Provisional National Defence Council (PNDC), and external pressure in the wake of the collapse of authoritarian regimes across the world and especially in many parts of the African continent.

Even though the records show that there were pockets of resistance, from both civil and military circles, to the unconstitutional disruption of the democratic 3rd Republic by a section of the Ghanaian military from the time it seized power on December 31, 1981, it wasn’t until the late 1980s and early 1990s that a critical mass of civil democratic forces emerged in opposition to the PNDC juggernaut, and began to canvass and agitate for the restoration of constitutional normalcy in the country.

The internal agitation and advocacy for change as well as the dramatic changes in the dynamics of global politics compelled the PNDC to initiate processes towards the democratization of the Ghanaian political environment. These processes, including the work and reports of the Committee of Experts and the Consultative Assembly, despite questions raised on their constitutionality, culminated in the referendum of April 28, 1992 in which the overwhelming majority of the Ghanaian electorate
voted for a return to constitutional multi-party democracy, thus essentially restoring the same political governance system which had been disrupted and overthrown on that fateful day of December 31, 1981.

The Constitution of the 4th Republic which was approved in the referendum, obviously couldn’t be an exact photo-copy of those of the previous three Republics. Times had changed —new experiences had transpired and some novel lessons learnt. PROBITY and ACCOUNTABILITY, the catch phrase of the military regime, joined the long-standing twin motto of FREEDOM and JUSTICE as part of the PREAMBLE of the fundamental law of the Land: THE CONSTITUTION OF THE 4TH REPUBLIC OF GHANA.

The key provisions in the Constitution that underpin the need for accountable and responsive governance in our system of multiple democracy can be found in Chapters One, Five, Six, Seven, Ten, Eleven, Twelve, Thirteen, Eighteen, Nineteen, Twenty, Twenty-Three and Twenty-Four. This list is by no means exhaustive. There are other chapters in the Constitution within which we can locate some provisions which have direct or indirect effect on or relationship with accountable and responsive governance. However, I intend to focus on only a couple of the above-mentioned Chapters and their provisions as we interrogate and evaluate the achievements and deficits of our Fourth Republican democratic journey.

Chapter One, which deals with the Supremacy, Enforcement and Defence of the Constitution wins my vote as the primary pillar in the constitutional architecture we adopted for ourselves.

Article 1, clause (1) of Chapter One underscores the supremacy of the Ghanaian Constitution by affirming that “The sovereignty of Ghana resides in the people of Ghana in whose name and for whose welfare the powers of government are to be exercised in the manner and within the limits laid down in the Constitution”. The
Constitution, as it is categorically stated in clause (2) of Article 1, “shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this constitution shall, to the extent of the inconsistency, be void”.

Article 2(1) (a&b) and Article 2(2) as the history of the 4th Republic has so far shown, and which I shall subsequently elaborate on in this paper, have become very critical drivers in the quest of civil society activists and advocates to ensure accountable and responsive governance by bringing actions in the Supreme Court for the Enforcement of the Constitution.

Article 2(1) states: “A person who alleges that (a) an enactment or anything contained in or done, under the authority of that or any other enactment; or (b) any act or omission of any person; is inconsistent with, or is in contravention of a provision of this Constitution, may bring an action in the Supreme Court for a declaration to that effect”.

Article 2(2) provides that “the Supreme Court shall, for the purpose of a declaration under clause (1) of this article, make such orders and give such directives as it may consider appropriate for giving effect, or enabling effect to be given, to the declaration so made”.

Clause 3 of Article 2 requires that “any person or group of persons to whom an order or direction is addressed under clause (2) of this article by the Supreme Court, shall duly obey and carry out the terms of the order or direction”, failure of which the consequences and sanctions are as captured in Clauses (4), (5 a&b) of Article 2.

Article 3 of Chapter One which deals with the Defence of the Constitution is a virtual re-cast of similar provisions in the 1979 3rd Republican Constitution with the novel exception of Clauses (4), (5), (6) and (7). The constitutional novelty under reference, obviously born out of the chequered history of disruptive military interventions in our body-politic begins with
Clause 4 which stipulate that “All citizens of Ghana shall have the right and duty at all times” “(b) to do all in their power to restore this Constitution after it has been suspended, overthrown, or abrogated as referred to in clause (3) of this article”.

Clause (5) of Article 3 provides a constitutional safeguard by indicating that “any person or group of persons who suppresses or resists the suspension, overthrow or abrogation of this Constitution as referred to in clause (3) of this article, commits no offence”.

Clauses (6) and (7) do what no other previous Ghanaian Constitution has ever done by indicating that “where a person referred to in clause (5) of this article is punished for any act done under this clause, the punishment shall, on the restoration of this Constitution, be taken to be void from the time it was imposed and he shall, from that time, be taken to be absolved from all liabilities arising out of the punishment”, and “The Supreme Court shall, on application by or on behalf of a person who has suffered any punishment or loss to which Clause (6) of this article relates, award him adequate compensation, which shall be charged on the Consolidated Fund, in respect of any suffering or loss incurred as a result of the punishment” respectively.

I have highlighted the primacy of Articles 1, 2 and 3 of the Constitution because of my conviction that if we, as a people are unable, incapable or unwilling to ensure, secure and sustain these provisions, which I regard as the challenge and burden we collectively have opted or chosen to impose on ourselves as captured in these provisions and complemented by the PREAMBLE of the Constitution, then we might as well wave an eternal good-bye to the system of accountable and responsive multi-party democratic governance!
Having underscored the primacy of Articles 1, 2 and 3 in Chapter One, let me hasten to point out that there are other very critical provisions in the Constitution whose operationalization and application have or ought to have a crucial and direct relationship with the search for accountable and responsive governance in the 4th Republic.

For the purposes of our search and interaction today, the whole of Chapter Five, which contains a host of provisions from Article 12 to Article 33 dealing with Fundamental Human Rights and Freedoms, is of vital relevance.

Article 21(1), particularly paragraphs (a), (b), (d), (e), (f) and Clause 3 of same Article (21) are essential for our discourse. Article 21(1) stipulates that "All persons shall have the right to: -

“(a) freedom of speech and expression, which shall include freedom of the press and other media;
“(b) freedom of thought, conscience and belief, which shall include academic freedom;
“(d) freedom of assembly including freedom to take part in procession and demonstrations;
“(e) freedom of association, which shall include freedom to form or join trade unions or other associations, national and international, for the protection of their interest...”

Clause (3) provides that "all citizens shall have the right and freedom to form or join political parties and to participate in political activities subject to such qualifications and laws as are necessary in a free and democratic society and are consistent with this Constitution”.

I believe it is beyond dispute that a society devoid of the above attributes and features cannot by any stretch of imagination aspire towards an institutionalization of accountable and
responsive governance. The history of humanity has shown that without the existence and prevalence of these attributes or characteristics, all we get or bargain for, will be a democracy of the graveyard or the cemetery; a culture of silence and fear; a society of ‘dead men walking’ as it were! In my opinion, the seeds of civil society activism and advocacy are sown and nurtured within the context of Article 21.

I see an organic relationship between Article 21 (General Fundamental Freedoms) and Articles 162 (Freedom and Responsibility of the media), 163 (Responsibility of state-owned media) and 165 (Media Rights and Freedoms to be Additional to Fundamental Human Rights) of Chapter Five of the Constitution. Article 165 says “For the avoidance of doubt, the provisions of this Chapter (12) shall not be taken to limit the enjoyment of any of the fundamental human rights and freedoms guaranteed under Chapter 5 of this Constitution”.

The other key provisions in the Constitution that seek to anchor accountable and responsive governance in our system of multi-party democracy are as follows:

(i) **Article 42**: RIGHT TO VOTE

(ii) **Article 45 (a-f)**: FUNCTIONS OF ELECTORAL COMMISSION

(iii) **Article 46**: INDEPENDENCE OF THE ELECTORAL COMMISSION

(iv) **Article 49**: VOTING AT ELECTION AND REFERENDA

(v) **Article 55(1),(2),(3),(11)&(12)**: ORGANIZATION OF POLITICAL PARTIES

(vi) **Article 93(1)&(2)**: THE PARLIAMENT OF GHANA (LEGISLATIVE POWER)

(vii) **Article 103(3)&(6)**: COMMITTEES OF PARLIAMENT (QUASI-JUDICIAL POWERS)
(viii) Article 125(1): THE JUDICIAL POWER OF GHANA
(ix) Article 127(1-4): THE INDEPENDENCE OF THE JUDICIARY
(x) Article 103(1) (paragraphs a&b): ORIGINAL JURISDICTION OF SUPREME COURT
(xi) Article 162(1-6): FREEDOM & RESPONSIBILITY OF MEDIA
(xii) Article 163: RESPONSIBILITY OF STATE-OWNED MEDIA
(xiii) Article 164: LIMITATIONS ON RIGHTS & FREEDOMS
(xiv) Article 165: MEDIA RIGHTS & FREEDOMS TO BE ADDITIONAL TO FUNDAMENTAL HUMAN RIGHTS
(xv) Article 187(1-7) & 188: THE AUDITOR-GENERAL & THE AUDIT SERVICE
(xvi) Article 216 (paragraphs a&b): COMMISSION OF HUMAN RIGHTS & ADMINISTRATIVE JUSTICE
(xvii) Article 218(a-g): FUNCTIONS OF COMMISSION
(xviii) Article 219(1) (a-d): SPECIAL POWERS OF INVESTIGATION
(xix) Article 225: INDEPENDENCE OF COMMISSION & COMMISSIONERS
(xx) Article 228: REMOVAL OF COMMISSIONERS
(xxi) Article 229: INITIATION OF LEGAL PROCEEDINGS
(xxii) Article 231: ESTABLISHMENT OF NATIONAL COMMISSION FOR CIVIC EDUCATION
(xxiii) Article 233(a-e): FUNCTIONS OF COMMISSION
(xxiv) Article 234: INDEPENDENCE OF COMMISSION
(xxv) Article 236: REMOVAL OF CHAIRMAN & DEPUTY CHAIRMEN
A strict adherence to the above-listed provisions in the Constitution and an uncompromising commitment to operationalize and actualize them would determine how well we as a people would build for ourselves an enviable system based on accountable, responsive and democratic governance which would reflect the sentiments and the spirit expressed in the PREAMBLE of The Constitution of the 4th Republic.

In terms of longevity and sustainability, the 4th Republic has surpassed the three previous Republics whose existence were truncated by military interventions or coups d’état. Apart from its longevity, the 4th Republic has also been widely acclaimed for institutionalizing regular and competitive but peaceful multi-party elections as well as orderly transitions.

Unlike the 2nd and 3rd Republics which survived for twenty-seven months each and the 1st Republic which had nearly five years and eight months, the 4th Republic is in its twenty-fourth year and still counting! Not only has it surpassed the earlier republics in terms of the number of years of survival, but also in the number of competitive elections and transfers of power from one party to another.

The first qualitative democratic transition happened on January 7, 2001 when President J. J. Rawlings peacefully handed over power to President-elect J. A. Kufuor, whose party, the New Patriotic Party (NPP) had won Election 2000 after a run-off on December 28, 2000. That marked the first time ever in the entire history of independent Ghana that an opposition party had defeated an incumbent party and the latter had handed over power to the former in accordance with the Constitution! Similar transfer of power from an incumbent party to a winning opposition party transpired on January 7, 2009 following the victory of Candidate J. E. A. Mills and his NDC party in Election 2008.

This trend was reinforced by the outcome of the 2016 Elections, during which we witnessed another incumbent President and his
ruling party losing the competition and peacefully handing over to an opposition Presidential Candidate and his party, which also won a huge majority in the parliamentary polls.

These characteristics of our democratic transition have helped deepen the commitment and faith of all sections of the Ghanaian society in the viability, credibility, integrity and competitiveness of the political governance system of the 4th Republic. The pursuit or the search for Accountable and Responsive Governance, in my candid opinion, can best be accomplished within such an environment.

THE RECORD: THE JOURNEY TO ACCOUNTABLE GOVERNANCE SO FAR

Having outlined some of the key provisions of our Constitution that seek to anchor accountable and responsive governance in the Ghanaian multi-party democratic dispensation, I think it's now time to focus on how Ghanaians including the relevant state institutions and non-state actors have lived by those provisions and principles as enshrined in the Constitution.

In other words, what have been our achievements and deficits in the journey to accountable governance since January 7, 1993? How does the balance sheet of our 4th Republican democratic journey look like? How have key institutions of state and creatures of the Constitution and Acts of Parliament which are of primary importance in the search for accountable and responsive governance fared or performed relative to the provisions of the Constitution which are tailored to guide their conduct and mode of operations? The jury may still be out there, but I believe we can still attempt a sober, dispassionate and realistic assessment of our performance so far.
I shall undertake a “performance audit” by citing some specific cases and incidents in the last twenty-four years, and then attempt to make a ‘judgment call’ as to whether or not our search for accountable and responsive governance can be said to be a success or a failure or perhaps a combination of both! The ultimate judgment will be left to you gathered here and ultimately to posterity.

Whatever judgment we may individually come to, let me hasten to put on record that it is my belief that Ghana under the 4th Republic has chalked some “impressive gains in the enjoyment of basic civil rights, including freedom of expression and association”, which have come along with the process of democratic consolidation. This is very important because, democratic, accountable and responsive governance goes beyond the institutionalization of ‘regular and competitive but peaceful multi-party elections”.

The Ghanaian paradox today is this – human and civil rights have expanded and improved tremendously but that progress has not been matched in the realm of public accountability, integrity and transparency. “Official graft and corruption remains pervasive, a culture of official impunity prevails, and the delivery of inclusive political and economic governance as well as social development has lagged”. And we all know the enormous social, economic and political cost of the ‘predatory animal’ called corruption!
A LIST OF NOTABLE ACHIEVEMENTS:

(i) MEDIA PLURALISM (BOTH PRINT AND ELECTRONIC)

(ii) SUPREME COURT VERDICT ON NPP VRS GBC (November 30, 1993)

(iii) SUPREME COURT VERDICT ON NPP VRS IGP (November 30, 1993)

(iv) SUPREME COURT VERDICT ON NMC VRS AG (1993/4)

(v) SUPREME COURT VERDICT ON THE RIGHT TO REGISTER TO VOTE

(Tehn-Addy vrs Electoral Commission – March 26, 997)

(vi) CHRAJ INVESTIGATIONS INTO ALLEGATIONS OF ILLEGAL ACQUISITION OF PROPERTIES AND CORRUPTION AGAINST SOME GOVERNMENT/PUBLIC OFFICIALS (1995/6)

(vi) CHRAJ INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION, ABUSE OF OFFICE & CONFLICTS OF INTEREST AGAINST PRESIDENT KUFUOR IN THE CASE OF THE AFRICAN REGENT HOTEL (2005/7)

(viii) CHRAJ INVESTIGATIONS INTO COMPLIANT LODGED BY A.S.K. BAGBIN (MINORITY LEADER) FOR & ON BEHALF OF MINORITY GROUP IN PARLIAMENT AGAINST PRESIDENT KUFUOR IN THE MATTER OF RENOVATION OF HIS PRIVATE RESIDENCE (2002/3)

(ix) CHRAJ INVESTIGATIONS INTO ALLEGATIONS OF CONTRAVENTION OF ARTICLE 284 (CONFLICT OF INTEREST) AGAINST PRESIDENT JOHN MAHAMA

(x) ENACTMENT OF WHISTLEBLOWER ACT, 2006 (ACT 720)

(xi) PUBLIC HEARINGS (LIVE TELECAST) OF PUBLIC ACCOUNTS COMMITTEE’S PROCEEDINGS
(xii) CHRAJ PROBE OF BRIBERY ALLEGATION LODGED BY THE CRUSADES GUIDE/KWEKU BAAKO AGAINST MR. SAMUEL APPIAH AMPOFO, EX-NATIONAL INSURANCE COMMISSIONER

(xiii) SUPREME COURT VERDICT ON MARTIN AMIDU VRS WATERVILLE, WOYOME & ISOFOTON (2013/14)


(xv) SUPREME COURT VERDICT ON GITMO TWO AGREEMENT/RE-LOCATION TO GHANA (2017)

(xvi) PARLIAMENTARY APPROVAL OF THE NATIONAL ANTI-CORRUPTION AGENDA

(xvii) SUPREME COURT VERDICT ON OCCUPY GHANA VRS ATTORNEY-GENERAL / (AUDITOR-GENERAL CASE) (2017)

(xviii) SUPREME COURT VERDICT ON NPP VRS ATTORNEY-GENERAL (31ST DECEMBER CASE – 1993-1994)

(xix) PARLIAMENT’s DELETION OF JUNE 4 FROM THE LIST OF STATUTORY PUBLIC HOLIDAYS (MAY 2001)

(xx) GHANA FIRST COUNTRY TO BE REVIEWED UNDER THE NEW AFRICAN PEER REVIEW MECHANISM (APRM) OF THE AFRICAN UNION (2005)

(xxii) PARLIAMENT’S REPEAL OF CRIMINAL LIBEL & SEDITIOUS LAWS (AMENDMENT) ACT, 2001 (ACT 602)

(xxii) THE REPRESENTATION OF THE PEOPLE’S AMENDMENT ACT (ROPAA) ACT 699 (February 24, 2006)

J.H. MENSAH VRS ATTORNEY-GENERAL (RETAINED MINISTER’s SAGA) (1997/8)

CHRAJ INVESTIGATIONS INTO ALLEGATIONS OF CORRUPTION, ABUSE OF OFFICE & CONFLICT OF INTEREST AGAINST DR. RICHARD ANANE (2005/6)

SUPREME COURT VERDICT ON REPUBLIC VRS FASTTRACK HIGH COURT, ACCRA; EX PARTE COMMISSION ON HUMAN RIGHTS & ADMINISTRATIVE JUSTICES (CHRAJ) (RICHARD ANANE INTERESTED PARTY) (DECEMBER 21, 2007)


OKUDZETO ABLAKWA & ANOTHER VRS THE ATTORNEY-GENERAL, THE CHAIRMAN, LANDS COMMISSION & CHIEF REGISTRAR OF LANDS, LAND TITLE REGISTRY

A LIST OF NOTABLE DEFICITS:

(i) PARLIAMENT’S FAILURE TO PROBE ABACHA’S $5M BRIBERY ALLEGATION AGAINST PRESIDENT RAWLINGS (1998)

(ii) PARLIAMENT’S FAILURE TO PROBE THE AFRICAN REGENT HOTEL CORRUPTION ALLEGATION (2005)

(iii) PARLIAMENT’S FAILURE TO PROBE THE FORD EXPEDITION ALLEGATION AGAINST PRESIDENT JOHN MAHAMA

(iv) PARLIAMENT’S FAILURE TO PROBE THE MERCHANT BANK SALE
(v) Parliament’s delay in effecting an amendment of Act 550 (assets declaration regime) to make it more transparent and effective

(vi) 6th parliament’s failure to pass the Freedom of Information Bill (2016)

(vii) President Rawlings alleged assault on Vice-President Arkaah at a cabinet meeting at the seat of government, Castle, Osu

(viii) Failure of state authorities to present PAC/Auditor-General’s findings to the financial crimes courts set up by the Chief Justice

(ix) Truncation of CHRAJ probe into allegations of corruption in the MABEY & JOHNSON case

(x) Issuance of Government white paper on CHRAJ’s probe of senior government functionaries in 1995/6

(xi) ACDRs/Castle Security attacks on Kume Preko demonstrators and police inertia to prosecute (1995)

(xii) Action on reports of findings of auditor-general reports to parliament since the 1960s

(xiii) The executive’s disregard of Serious Fraud Office (SFO) report on Quality Grain project (1998) [heated exchanges between Owusu-Acheampong, Minister of Food & Agriculture and Ms. Cotton, CEO of Quality Grain Company in the year], 2000

(xiv) The ineffectiveness of Office of Accountability at the presidency of Mr. J.A. Kufuor

(xv) The Waterville/Woyome judgement debts
(xvi) THE INEFFECTIVENESS OR NON-OPERATION OF THE INTERNAL AUDIT AGENCY ACT, 2003 (ACT 658)

(xvii) THE SCANCEM BRIBERY CASE IN NORWEGIAN COURT & DIVESTITURE OF GHACEM

(xviii) NON-APPLICATION OF FINDINGS & RECOMMENDATIONS OF THE AUDITOR-GENERAL’S INVESTIGATIONS INTO OPERATIONS OF 31DWM & CARIDEM


(xx) DISMISSAL OF CHRAJ COMMISSIONER LORETTA LAMPTETY

Since time and space would not allow me to elaborate on all the listed achievements and deficits as captured above, I have decided to focus on a select few from each category, and use them to illustrate how well or how poorly we have done in our fourth republican democratic journey so far. I will begin the illustration of our achievements from my comfort zone, as it were, ie. the media.

HIGHLIGHTING SOME ACHIEVEMENTS

(1) Media Pluralism: The breaking of the culture of silence by pro-democracy stalwarts like Professor Adu Boahen, Johnny Hansen, Tommy Thompson, Kabral Blay-Amihere, George Naykene, Akoto-Ampaw, Kwesi Pratt and others in the late 1980s on one hand and the famous blistering rebuttal of some malicious allegations and misinformation peddled by the Chairman of the PNDC, Flt. Lt. J.J. Rawlings in Paris, France in June 1992 by President Hilla Limann on the other hand, opened the floodgates for the activation and spread of a vibrant, fearless, independent private print media
advocacy and activism which was mainly targeted at the ruling PNDC, which had obviously over-stayed its welcome and outlived its 'usefulness' if any, at the time.

**The coming into force of the Constitution from January 7, 1993 with its liberal, pro-media and fundamental human rights provisions served to expand the scope and coverage of that new phase of fearless and crusading private print media advocacy and activism. Speaking hyperbolically, hundreds of newspapers mushroomed onto the Ghanaian landscape; sports and entertainment newspapers suddenly shed their skins like snakes, and became outright politically-inclined and/or public interest focused newspapers. Indeed the genesis of this transformation or skin-shedding pre-date January 7, 1993 but it became more pronounced with the advent of the 4th Republic.**

The vibrancy and activism on the private print media landscape were however, not matched by happenings in the electronic media landscape which remained dominated by a docile, subservient and domesticated state-owned, government-controlled media still in a deep slumber, unaware of the new dynamics unleashed by the restoration of constitutional normalcy after eleven years of a culture of silence and a regime of fear! A classic case is how the State-owned Ghana Broadcasting Co-operation (GBC) aborted a “Talking Point” program on the NDC “Killer Budget” in 1993 and also declined to provide the NPP an opportunity to present its position on the same ‘Killer Budget’. This culminated in the Supreme Court verdict on the NPP vrs GBC Case in which the principles of fairness and equal access to the State-owned, government-controlled media were upheld by the Highest Court of the Land.

**Enter Dr. Charles Wereko-Brobby, Victor Newman & Company and their Radio Eye (FM) and the whole Ghanaian media**
landscape, especially the electronic media front got awaken and shaken to its very foundation. A panicky government full of “reluctant democrats” cried foul; they cried illegality; they cried piracy, they cried hysteria, and proceeded to clamp down on “those bunch of radio pirates and political adventures who were out to subvert the constitutional order and endanger law, order, stability and peace” of the country. That is how and when Dr. Charles Wereko-Brobby became known as “TARZAN”, courtesy the then Minister of Information, my good friend, Mr. Kofi Totobi-Quakyi.

The rest is history. The Ghanaian electronic media landscape underwent a dramatic transformation. Radio Eye, even though was eventually not allowed to survive, had succeeded in serving as a catalyst for the proliferation of radio stations in the country. Today, Ghana can boast of more than 350 radio and television stations across the length and breadth of the country.

Media pluralism or the proliferation of media outlets in both the print and electronic sectors, some with some level of specialization, has become a key driver in the search for accountable and responsive governance in the 4th Republic. The repeal of criminal libel and seditious laws by Parliament in July 2001, though not exclusively for the benefit of the media, served as a catalyst in expanding the frontiers of free expression, as a new phenomenon of social commentary ‘boomed’ on our airwaves and televisions sets. A new era, albeit complicated and somewhat unrestrained, had dawned in Ghana! Culture of silence was not only manifestly dead but effectively buried.

The Supreme Court’s January 26, 2000 decision that the National Media Commission had the constitutional mandate to appoint the Board of
Directors, including the Chief Executives, of the State-owned media also opened a new page in that sector of the Ghanaian media.

(2) **CHRAJ investigations into alleged executive misconduct:** I have opted to consolidate into a unit for purposes of illustration the CHRAJ's investigations into the allegations of illegal acquisition of properties and corruption made against some members of the Rawlings-led NDC(1) Administration, namely Mr. P.V. Obeng, Presidential Adviser on Governmental Affairs, Mr. Ibrahim Adam, Minister for Food & Agriculture, Mr. Adjei-Maafo, Presidential Staffer for Cocoa Affairs and Col. Osei-Owusu, Minister of Interior, in 1995/96; the complaint lodged by then Minority Leader, Mr. A.S.K. Bagbin for and on behalf of the Minority Group in Parliament against President Kufuor and three others, namely the Attorney-General, Nana Akufo-Addo, Mr. Kwamena Bartels, former Minister for Works & Housing, and Mr. Jake Obetsebi-Lamptey, former Chief of Staff, Office of the President, in the matter of the constructional and electrical works undertaken by PWD Prestige at the private residence of President Kufuor in 2001; media allegations of corruption and conflict of interest against President Kufuor in respect of the acquisition of a “Hotel” at Airport West, Accra (2006); investigations into allegations of corruption, conflict of interest and abuse of power against Mr. Richard Anane (MP) & Minister for Roads & Transport on September 15, 2006 and last but not least, the allegations of contravention of Article 284 in the matter of Chapter 24 of the 1992 Constitution between the National Youth League of the Convention People’s Party (CPP), Nana Adofo Ofori and the Progressive People’s Party (PPP) (Complainants) and President John Mahama (Respondent) (2016).

In the report of the investigation of the first illustration, CHRAJ made adverse findings against three of the Rawlings appointees, Ibrahim Adam, Adjei-Maafo, Col. Osei-Owusu, while purging one Mr. P.V. Obeng of any wrongdoing. The Government subsequently
issued a White Paper rejecting in part the Commission’s findings. Unsurprisingly, it accepted the verdict on Mr. P.V. Obeng.

Predictably, the Government’s ambivalent reaction as reflected in the White Paper provoked widespread condemnation from many sections of the society including the opposition political parties.

The NPP issued a statement saying “…both the language used in describing the Commission’s report and the veiled imputation of its intentions as well as the specious arguments used to reject the Commission’s findings are a clear effort to discredit the CHRAJ and render it ineffective”.

“The NPP is dismayed by the White Paper’s claim that the government has evidence that other sources of income could have accounted for the remaining 18 million cedis excess findings against Colonel E.M. Osei-Owusu…. The NPP is also outraged that a Minister of State (Ibrahim Adam) who signs off more than two billion cedis of the state’s funds to private interests can walk away free because government chooses to interpret the law in a manner that exonerates him”.

The NPP concluded that if anything discourages foreign private investors “it is this type of government activity, the tendency to justify lawlessness and illegality among operatives of this regime”.

President Rawlings was compelled to use an occasion of swearing into office of two Ministers and five Deputy Ministers in April 1997, to explain that Government had not completely rejected the findings of the Commission against the three former senior officials but rather had raised some important issues which had been neglected during the investigations.
“These had to do with legal and constitutional issues. It is important to underline this to clear the unfortunate impression that the report has been rejected. In addition to that there are matters which I cannot close my eyes to”, Rawlings said.

He underscored that the White Paper might be correct when it argued that a Presidential Staffer was not legally obliged to declare his assets.

“To the public however, it is not simply a matter of strict interpretation of the law. They see it as a moral duty and they are right in demanding it from us on account of the principles that we stood for since the revolt.......I also find it not merely disappointing but totally unacceptable that highly-placed government functionaries should abandon their revolutionary and moral principles”, added President Rawlings.

Let it be put on record here that though Mr. P.V. Obeng in his testimony before the Commission, had denied ownership of a building located at Ogbojo, a suburb of Accra, and the Commission on basis of the evidence before it, had accepted that the building belonged to a friend of his, one Mr. Renato Noce, Mr. Obeng shockingly made a dramatic U-turn some fourteen years after the CHRAJ investigations, to claim ownership of the same building upon the demise of Mr. Renato Noce. His belated ownership claim was however thwarted by a determined son of the deceased. Questions have thus been raised about the efficacy or otherwise of the CHRAJ’s finding on Mr. Obeng relative to that particular building. A scrutiny of the Commission’s proceedings would show however that, based on the evidence before it, the finding could not be faulted. Note must also be taken of the fact that the principal complainant against Mr. Obeng, ace investigative journalist and publisher of The Chronicle newspaper, Nana Kofi Koomson suddenly opted to boycott proceedings and thus failed to testify against Mr. Obeng at a very crucial stage of the Commission’s
investigations into the allegation of illegal acquisition of properties against Mr. Obeng.

Interesting, something similar happened in CHRAJ's investigations into the complaint lodged by Mr. Alban Bagbin for and on behalf of the Minority Group in Parliament against President Kufuor on 26th October, 2001. The Commission unanimously dismissed the Minority Group's case for "lack of prosecution" due to Mr. Bagbin's reluctance to proceed with cross-examination without his counsel though Commissioner Short had ruled that he should proceed with it.

The following conversation ensued on that fateful day of January 19, 2004 at the Commission's Hearing:

**Commissioner Short:** Mr. Bagbin, the Panel has seriously considered your application (for adjournment) but we find little or no merit in it. We believe that you are in a position to go on. We also believe that any adjournment will cause serious inconvenience to all parties. So the decision of the Commission is that you should proceed with the cross-examination. If you fail to do so, the Commission will take it that you are not willing to go ahead with your case and that you are not in a position to substantiate your complaint.

**Hon. Bagbin:** Well, I am not challenging the decision of the Commission but with the greatest of respect I am not in a position to continue without my counsel. As to your decision, it is your decision; I can’t challenge it. But I still believe and pray that without my counsel I am not in a position to continue.

**Commissioner Short:** Then Mr. Bagbin, your case is dismissed for lack of prosecution. That is the order of the Commission. So
ladies and gentlemen, that is the unanimous view of the Commission, that the complaint is dismissed for lack of prosecution.

The NDC, as a party and her representatives in Parliament, did not take the decision lightly. They cried foul and accused the Commission of acting unfairly. They read into the decision executive manipulation of the CHRAJ, of course, without providing anything of evidential value to back up their claim. They accused CHRAJ of failing to realize the public interest nature of their complaint.

The Minority Group’s complaint was filed on October 26 2001. After a couple of requests for adjournments and extension of time from both Complainants and the Respondents, and after preliminary investigations, the Commission began formal Panel Hearing only for the process to be ‘truncated’ due to the reluctance of the lead complainant to continue with his cross-examination because his counsel was absent. Two years and three months, in the opinion of many CHRAJ watchers, was enough time for the complainants to have effectively canvassed their case before the Commission!

In addition to the preceding case, CHRAJ has had to deal with two other ‘presidential probes’ – involving allegations of corruption and conflict of interest against President Kufuor and President Mahama in respect of the acquisition of a ‘Hotel’ at Airport West (2006) and a gift of a Ford Expedition by a Burkinabe Contractor (2011) respectively. Both former Presidents were cleared of the allegations made against them after investigations. Again, politicians and commentators from across the political divide, adopted divergent positions on the outcome of the investigations. Some praised CHRAJ for doing a professional job while others doubted the efficacy of its methods of investigations and the credibility of its findings and conclusions.
For me, the key point was that we were and are developing and growing a governance system which allows the alleged misconduct or transgressions of incumbent Presidents to be investigated by a creature of the Constitution, Acts of Parliament or the relevant institutions of state. A process of demystification of the Executive Presidency as it were – a phenomenon which had been rare in our history as a Nation! If allegations against a sitting President could be probed without hindrance by a creature of the Constitution or an Act of Parliament, then who else in public office in particular or the society in general could be immune from investigations and scrutiny? This can only advance accountable and responsive governance.

The Dr. Anane investigation and its outcome also provided an opportunity for the Supreme Court to clarify the limits and scope of CHRAJ’s mandate relative to investigations into allegations of corruptions, abuse of office and conflicts of interest, and the appropriate procedures to adopt in dealing with them in accordance with Article 218(a), (b) and (c) on one hand and Article 218(e) on the other.

The Supreme Court decided that while Article 218(e) allows the Commission to investigate “all instances of alleged or suspected corruption and misappropriation of public moneys by official…”, Article 218(a), (b) and (c) would require the submission of a formal complaint by an identifiable complainant. Consequently, the CHRAJ’s adverse findings of abuse of office and conflicts of interest against Dr. Richard Anane were quashed for lack of jurisdiction on the part of CHRAJ. The latter had cleared Dr. Anane of the allegations of corruption in its decision of September 15, 2006.

The Supreme Court’s decision also attracted divergent opinions. While some thought it had brought about some clarity and focus, others felt it had the
effect of diminishing the investigative capacity of CHRAJ to probe public officials.

Now, let me deal with the final leg, and in my candid opinion, the most important segment of my list of achievements as far as our fourth republican democratic journey goes. Again, I am consolidating into a unit the following: **(a) the disciplinary proceedings and sanctions against judges found to have engaged in acts of corruption and unethical conduct by the President and the Chief Justice (The Tiger Eye Exposé - 2015-2016); Supreme Court Verdict on Occupy Ghana vrs the Attorney-General (The Auditor-General Case); Supreme Court Verdict on GITMO Two Agreement/Re-location and Supreme Court Verdict (1&2) on Waterville & Woyome cases.**

I have opted to isolate and consolidate these four cases into a unit not exclusively because of the historical significance of the judgments delivered by the highest court in the land but especially because of the spirit behind the advocacy which activated the legal and judicial processes which eventually culminated in these historic or landmark judgments in the 4th Republic.

I have experienced the phenomenon of political activism and mass agitations which facilitated the restoration of constitutional normalcy and produced very important results like the judicial decisions in the cases involving the NPP vrs GBC; NPP vrs IGP; NPP vrs Attorney-General (December 31, 1981 Public Holiday Celebration) and J.H. Mensah vrs Attorney-General (The Retained Ministers) among others.

That was the phase of restoration and consolidation of our constitutional-democratic process. It was a necessary phase, without which we might not have reached where we are today.
However, I hasten to suggest that a new era of citizen activism, civil society advocacy and, judicial assertiveness has dawned in our collective efforts to grow and consolidate a multi-party democracy driven by the principles of accountable and responsive governance!

Citizens like Martin Amidu, Anas Aremeyaw Anas, Ace Kojo Anan Ankomah, Kofi Bentil, Bright Simons, Manasseh Azure Awuni, Sydney Casley-Hayford, Franklin Cudjoe, Professor Stephen Asare aka Kwaku Azar, Madam Margaret Bamford, Henry Nana Boakye, etc. are a new generation of focused activists, advocates and agitators who are striving to grow the culture of accountable and responsive governance in Ghana. And they are my contemporary heroes and heroines! Same recognition and compliments go to corporate entities such as Occupy Ghana, Citizen Ghana Movement, Imani Ghana and Tiger Eye among others.

These citizens and corporate entities represent a new spirit; a driving new force; a new phenomenon which I sincerely believe, if are well cultivated and directed, would inspire a qualitative consolidation of our democracy and enhance accountable and responsive governance to greater heights never experienced in Ghana! That is not just a hope. It is a conviction!

**Tiger Eye**, employing modern technological methods of undercover investigative journalism exposes rot in our judiciary. This leads to the activation of constitutionally laid-down procedures and processes culminating in appropriate disciplinary measures and sanctions being applied by the President and the Chief Justice in accordance with the Constitution. Of course, it was not the first time some judges had been punished or sanctioned for unethical behavior. But the scale, scope and impact brought about by the earth-shaking disclosures by Tiger Eye’s exposé were unprecedented in the annals of the Ghanaian, and perhaps global judicial history! I understand the disciplinary
proceedings have been temporarily ‘suspended’ in view of some litigation in the courts. However so far, out of the 34 judges who were caught on video by the Tiger Eye Investigative Team, twenty-one out of the twenty-two Circuit and Magistrate Court judges have been sacked. The remaining one was reprimanded.

Five out of twelve High Court judges have also been sacked leaving seven judges whose cases are still pending. Meanwhile, over sixty judicial staff have been fired as a result of their role in facilitating the corrupt activities of the judges.

My understanding is that the twenty-six fired are awaiting criminal prosecution while the seven whose cases are pending are heading to the African Human Rights Court, thus holding up, hopefully temporarily, the disciplinary proceedings initiated by former Chief Justice Madam Georgina Theodora Wood.

A corrupt judge or judiciary infested by the virus of corruption cannot and will not deliver true justice. Justice bought or sold is the most dangerous or lethal commodity in the world. Its rejection and exposure can only help grow accountable and responsive governance!

The Supreme Court’s verdict in the case of Occupy Ghana vs the Attorney-General concerning the chronic failure of the Auditor-General to discharge his constitutional mandate relative to Article 187(7)(b)(i)(ii) & (iii) of the Constitution was a great victory for accountable governance. It was a long shot in the arm of civil society activism and advocacy, and hopefully, would empower the Auditor-General to operationalize Article 187 (b) by disallowing any item of expenditure which may be contrary to law, and to surcharge the amount of any expenditure disallowed upon the person responsible for incurring or authorizing the
expenditure or any sum which had not been duly brought into account, upon the person by whom the sum ought to have been brought into account.

The recent Supreme Court verdict on the GITMO 2 Agreement underscored the supremacy of the Constitution (Article 75(2)(a) & (b) and the authority and independence of the Legislature (Parliament) in the context of separation of powers and international relations. It put a check on an unbridled Executive which might want to behave like an octopus!

Last but not least was the singular patriotic crusade waged by the indefatigable, indomitable citizen vigilante, my good friend and comrade, Martin Amidu who single-handedly got the Supreme Court to rule on the gargantuan fraud perpetrated against Mother Ghana by some of her citizens in collaboration with foreign and local interests.

The decision of the Supreme Court on the Waterville and Woyome judgment debts did not only underscore the unconstitutionality of the Waterville Contract per Article 181(5) of the Constitution but also declared the payments made to both Waterville and Mr. Woyome illegal, and ordered the two to refund the monies to the State. The struggle to retrieve the monies illegally paid is on-going as both Waterville and Mr. Woyome have resorted to some international fora to block the recovery efforts.

But one thing is clear; the tenacity, perseverance and relentlessness displayed by Mr. Martin Amidu in pursuit of his objective, are highly commendable, and can and must inspire more citizens to take up similar causes as we grow a culture of accountable and responsive governance!

Having dealt with the select few of my list of achievements with the appropriate illustrations, let us now shift our attention to the other side of
the coin, the set of deficits. Here again, I will endeavor to highlight some of the deficits by consolidating them into single units and illustrate how we have dealt with those challenges and their impact on our search for accountable and responsive governance in the 4th Republic.

HIGHLIGHTING SOME DEFICITS

(1) **Classic cases of legislative impotence:** I am a student of parliamentary history and the legislature is my favorite arm of government. In my opinion, the longer a parliament survives or lives, the more experience parliamentarians gain in the legislative and over-sight of the executive arm of government. As our post-independence history shows, Parliament had always been the first casualty of unconstitutional disruptions of civil democratic governance. Thankfully, the twenty-four years of the 4th Republican democratic governance have witnessed seven different Parliaments since January 7, 1993.

However, inspite of the enactment of some progressive legislative instruments and ACTS such as National Commission on Civic Education Act, 1993 (Act 452); Commission on Human Rights & Administrative Justice, 1993 (Act 456); Children's Act, 1998 (Act 560); Audit Service Act, 2000 (Act 584); Internal Audit Agency Act, 2003 (Act 658); Political Parties Act, 2000 (Act 574); National Reconciliation Act, 2002 (Act 611); Representation of People's Amendment Act, 2006 (Act 699); Whistleblower Act, 2006 (Act 720); Economic & Organized Crime Organization Act, 2010 (Act 804); Petroleum Revenue Management Act, 2011 (Act 815); Public Financial Management Act, 2016 (Act 921); Securities Industry Act, 2016 (Act 929), etc, etc. which have undoubtedly facilitated the pursuit of accountable and responsive governance, the chronic inability or failure of various Parliaments to deal with high-profile issues of probity and accountability have unfortunately constituted a grave indictment on the integrity of the
Legislature. The following issues would require some scrutiny and interrogation.

(A): Parliament’s failure to Probe Abacha’s $5m bribery allegation against President Rawlings in 1998:

President Rawlings’ recent admission or better put, confession that he had received $2m instead of the widely touted $5m from the Government of the late Nigerian Head of State, General Sani Abacha in 1996, is a manifest proof of the 2nd Parliament’s abject failure to effectively handle that explosive allegation when the Minority in Parliament led by Mr. Hackman Owusu-Agyeman sought to get “this House (Parliament) to take steps to safeguard the integrity of the Presidency and the image of the country by requesting the Government to set up a high-powered independent Board of Enquiry to determine the veracity or otherwise of the allegation” by filing an urgent motion to that effect.

The Rt. Hon. Speaker of Parliament at the time, the venerable Mr. Justice D.F. Annan, on December 10, 1998, ruled not to admit the motion because “…the reports being relied upon to activate proceedings by way of a motion, namely, newspaper reports amount in my opinion at the present time, to little better than rumors, having regard to the paucity of material evidence of any weight offered in support of, or to lend some credence to these media reports…”

He continued: “…I, accordingly, rule that a proper foundation has not been laid by the proponents of this motion to enable them to pursue the course of action contemplated in the motion and they can therefore not proceed with it until such time as more material becomes available to justify the course of action proposed therein” (uproar).
The Speaker’s ruling was challenged by an “Urgent Substantive Motion” per Order 98 of the Standing Orders of Parliament by Mr. Hackman Owusu-Agyeman on the same day to the effect that “This House urges the Right Hon. Speaker to review his decision not to admit the urgent motion on the setting up of a board of enquiry to look into the allegation of improper payment to the President by the government of former Nigerian Head of State, General Sani Abacha, which urgent motion was originally submitted in my capacity as the Hon. Member of Parliament for New Juaben North and the Minority Spokesman on Foreign Affairs”.

This time round, the Speaker admitted Mr. Owusu-Agyeman's “Urgent Substantive Motion” and placed it before the House for a determination as to when it could be debated. After expression of some divergent opinions resulting in a motion by the then Majority Leader, Mr. Owusu-Acheampong, calling for the debate on the “Urgent Substantive Motion” to be held on Tuesday, December 15, 1998 instead of December 10, 1998 as demanded by Minority Leader, J.H. Mensah, the House voted by a majority of 78 against 55 to uphold the motion filed by Mr. Owusu-Acheampong.

On Tuesday, December 15, 1998, the House of Parliament was rocked to its very foundation with heated and fiery debate over technicalities and legalities. Proceedings came to a temporary halt when the Minority Group staged a walk-out following the Speaker’s refusal to heed Mr. J.H. Mensah’s request for the conduct of Deputy Minister of Agriculture, Mr. Mike Akyeampong to be referred to the Privileges Committee of Parliament. In the words of Mr. Mensah at a press conference held same day (December 15, 1998), the Deputy Minister in the heat of the debate had risen from his seat and moved “with threats of violence towards the NPP Member of Parliament for Bekwai, Hon. Alex Agyei-Acheampong, with a clear intention of assaulting him, had he not been restrained”.

The walk-out by Minority, with the exception of the 5 CPP Members of Parliament, provided the Majority and the host of Ministers and Deputy
Ministers including Dr. Obed Asamoah, Mr. Kwamena Ahwoi and Okaija Adamafio who had ‘invaded' the House that day to participate in the anticipated debate a free rein to steer affairs in the direction which the ruling party (NDC) and the Executive (The Rawlings Administration) so desired. The “Urgent Substantive Motion” was ‘killed and buried' by the Majority on that fateful day of December 15, 1998 after Mr. Doe Adjaho had moved for the question to be put at 6.30pm with Mr. Asiedu Nketia seconding the motion.

The remains of Hackman Owusu-Agyeman's “Urgent Substantive Motion” remained buried until President Rawlings strangely and inexplicably decided to resurrect it almost eighteen years after categorical denials of the allegation of improper payment of $5m to him by the Abacha Administration. President Rawlings now admits or confesses receipt of $2m rather than $5m. He insists it was for “nationalistic purposes” and not for his personal benefit! $2m or $5m? Either way, there was a “swallow”!
Remember the biblical story of “Jonah and the Whale”?

Speaker Justice Annan may have been sincere in his assertion that “...newspaper reports amount in my opinion at the present time, to little better than rumours...” but I doubt whether the then NDC Majority in Parliament and the host of Ministers, Deputy Ministers and party big guns who ‘invaded' Parliament that day were sincere and honest about their position that not a cent had been improperly paid to President Rawlings by the government of General Abacha.

Perhaps, Mr. Rawlings in line with his avowed principles of probity and accountability which form part of the Preamble to our Constitution, could have helped the search for accountable governance if he had publicly admitted the receipt of $2m (granted it was not $5m) from General Abacha to Parliament or the Nation. Parliament then may have had something more than newspaper reports which Justice Annan thought were “little better
than rumours” to trigger an enquiry which could have demystified that “malicious and baseless allegation to further their (opposition) evil political agenda” as Rawlings perceived the situation back in 1998!

In my opinion, the 2nd Parliament (especially the Majority side), President Rawlings and the NDC abysmally failed to subject themselves to the test of probity and accountability at that time.

The 4th and 6th Parliaments also had similar challenges in handling the issues concerning the allegations of corruption, abuse of office and conflict of interest against President Kufuor in the case of the African Regent Hotel and the Ford Expedition vehicle gift to President Mahama by a Burkinabe Contractor respectively.

A motion filed by the Minority Group for a parliamentary enquiry in the former case never really got tabled for debate on the floor of the House due to a combination of extreme partisanship across the political divide and other technicalities. Of course, as already indicated, CHRAJ conducted preliminary investigations into the case and subsequently cleared the President of the allegations.

Same situation with the Ford Expedition vehicle gift to President Mahama. The Speaker in response to a request from the Minority, summoned a special meeting of the House, pursuant to Standing Order 38(1) which derives from Article 112(3) of the Constitution. Attached to the Minority’s request was a proposed motion urging Parliament to investigate the receipt by the President of a Ford Expedition vehicle from a Burkinabe Contractor.

The Speaker after indicating that the matter was already before CHRAJ per three separate petitions filed before it by the Convention People’s Party National Youth League, Nana Addo Ofori, a private citizen and the Progressive People’s Party (PPP), made references to Articles 286(5) and 287 of the Constitution which mandate CHRAJ to investigate matters relating
to the breach of Code of Conduct of public officers including the President on one hand and the Supreme Court judgment in the case of Samuel Okudzeto Ablakwa and Dr. Omane Boamah vrs Jake Otanka Obetsebi Lamptey & the Attorney-General on the other, and refused to admit the Motion for deliberation and debate.

“It is my view, therefore, that CHRAJ is the institution vested with the exclusive constitutional authority to deal with all relevant matters relating to breach of Code of Conduct for public officers, including this matter on the receipt of the Ford Expedition vehicle. Furthermore, as indicated earlier, CHRAJ also has jurisdiction to investigate all matters of corruption and abuse of power. As Rt. Hon. Speaker of this House, I am of a firm conviction that, constitutional bodies must respect one another in the performance of their duties, in order to avoid conflicts”, articulated Speaker Doe Adjaho.

“......I am therefore, unable to admit this motion. I hereby direct the Clerk to return the Motion to the Hon. Member in whose name it stands, in line with Standing Order 79(4)”, Speaker Doe Adjaho ruled. (Source: Official Report, Parliamentary Debates, 1st September, 2016).

Interestingly, CHRAJ pursued its investigations and eventually cleared President Mahama of allegation of abuse of power and conflict of interest. Predictably, the Minority then (now Majority) cried foul and described the Speaker’s ruling as “Capricious, impulsive, whimsical and unfair.”

(B): A Catalogue of Significant Deficits in the Fourth Republic

(i) PARLIAMENT’S DELAY IN EFFECTING AN AMENDMENT OF ACT 550 (ASSETS DECLARATION REGIME) TO MAKE IT MORE TRANSPARENT AND EFFECTIVE
(ii) 6TH PARLIAMENT’S FAILURE TO PASS THE FREEDOM OF INFORMATION BILL BEFORE ITS DISSOLUTION

(iii) FAILURE OF STATE AUTHORITIES TO PRESENT PAC/AUDITOR-GENERAL’S FINDINGS TO THE FINANCIAL CRIMES COURT SET UP BY THE CHIEF JUSTICE

(iv) FAILURE TO ACT ON FINDINGS OF AUDITOR-GENERAL’S REPORTS TO PARLIAMENT SINCE THE 1960s

(v) THE EXECUTIVE’S DISREGARD OF SERIOUS FRAUD OFFICE (SFO) REPORT ON QUALITY GRAIN PROJET (1998) (REFER TO HEATED EXCHANGES BETWEEN MR. OWUSU-ACHEAMPONG, MINISTER OF FOOD & AGRICULTURE AND MS. COTTON, CEO OF QUALITY GRAIN COMPANY IN THE YEAR 2000)

(vi) THE INEFFECTIVENESS OF THE OFFICE OF ACCOUNTABILITY AT THE PRESIDENCY OF MR. J.A. KUFUOR
CONCLUSION

A balance-sheet of the list of achievements and deficits as outlined in my presentation today, I want to believe, would indicate that our search for accountable and responsive governance in the 4th Republic has been a chequered one; a mixture of successes and failures. I dare say that Ghana today is far from being a failed state but we are seriously challenged when it comes to the principle of PROBITY and ACCOUNTABILITY. We could have done much better than we have done so far. Both human and institutional factors continue to undermine our search for accountable and responsive governance.

Corruption, blatant corruption, selfishness, greed, cronyism combined with institutional weaknesses and inertia from 1993 to 2017; a propensity to enact beautiful laws without the requisite will or commitment to ensure their enforcement is the bane of our protracted search for accountable and responsive governance.

RECOMMENDATIONS

(1) Enhancing and Deepening Civil Society activism and advocacy as reflected in the initiatives of Occupy Ghana, Citizen Ghana Movement, Tiger Eye, etc., including individuals like Martin Amidu, Anas Aremeyaw Anas, Prof. Stephen Asare, Kojo Anan Ankomah, Sydney Casley-Hayford, Manasseh Azure Awuni. We need a critical mass of such entities and individuals as we continue our search for accountable and responsive governance. We must make the Courts, particularly the Supreme Court a very busy place relative to enforcement of our laws!
The promotion, projection and application of the works on good governance of think tanks such as CDD-Ghana, IEA, IDEG among others, can and must be encouraged. The knowledge, research works and contributions of these well-focused groups are critical ingredients in the search for accountable and responsive governance.

A strict adherence and pursuit of the objectives of the National Anti-Corruption Action Plan (NACAP 2015-2024) which the Parliament of Ghana unanimously adopted in 2014 as a non-partisan document, a blueprint for fighting corruption in the country

Fast-track the passage of the Freedom of Information Bill by Parliament

Enhance the capacity of CHRAJ, EOCO, Auditor-General Office and Audit Service (Financial, Logistical and Human Resource) to carry out their core mandates. (Refer to Kan Dapaah’s observations and recommendations on appointment of Auditor-General)

Activation of the Internal Audit Committees & Audit Report Implementation Committees of the various MMDAs

Fast-track the Amendment of Act 550 (Public Officers Holders (Declaration of Assets & Disqualification) (Access, Verification, Filing Frequency, Coverage, Contents of Declaration and Sanctions) (Refer to Working Group Document 2005)

Upgrading the capacity of Parliamentary Committees (especially the Committee on Government Assurances) to enable them perform their duties in checking the conduct and actions of the Executive
(9) Enforcement of the Findings & Recommendations of Auditor-General & PAC of Parliament by prosecuting established cases at the Financial Crimes Court established by the Chief Justice (Refer to Correspondence from Judiciary to Parliament) & (Supreme Court judgment on Occupy Ghana vrs Attorney-General)

(10) Amendment of Article 78(1) of the Constitution which requires the President to appoint a majority of Ministers from Parliament (separation of powers, history of 3rd Republic – 1980 Budget)

(11) Amendment to reverse the powers of President to establish Ministries as and when the President wishes by subjecting this law to parliamentary approval (this is an APRM Panel recommendation in its first report on Ghana in 2005)

(12) A review of Article 108 to provide Parliament the power to determine or influence its own institutional budget

(13) A re-engineering of the mandate of CHRAJ to either limit or restrict the scope of its powers to investigating human rights issues or corruption, abuse of office & conflict of interest rather than the present ‘bloated mandate’ (APRM Recommendation – 2005)

(14) Enforcement/Activation of Sections 2(1) (a&b), (2), (3), & 2, 23(1&2), 24, 25(1&2) & (3) of The Political Parties Act 2000 (Act 574)

(15) Refunds from corrupt deals should be accompanied by punitive interest. Those who do not refund and opt to go to jail, to come and enjoy should be tracked down and assets seized

(16) Pictures of persons convicted of corruption should be published in the media and on huge billboards