Revitalizing the Anti-Corruption Architecture in Africa: Ghana's Accountability Journey

Kissi Agyebeng

6 June 2025

Her Excellency, the Vice President of the Republic of Ghana, Prof. Jane Naana Opoku-Agyemang;

The Chair of the African Union Advisory Board Against Corruption, the Honourable Seynabou Ndiaye Diakhate; and the Representatives thereof;

The Attorney-General of Ghana, the Honourable Dr. Dominic Akuritinga Ayine;

Other Honourable Ministers present;

The Presidential Advisor on Anti-Corruption;

Development Partners;

Heads of Institutions;

Civil Society Actors;

Press Men and Women;

Ladies and Gentlemen.

We are united by a shared resolve to build accountable, just, and corruption-resilient societies across our continent.

The theme – **"Revitalising the Anti-Corruption Architecture in Africa: Ghana's Accountability Journey"** – reminds me of the troubling refrains I hear echoing across boardrooms, markets, classrooms, and social media alike: *"The more laws we pass, the more people steal, and nothing happens."* It is not uncommon to hear citizens ask, *"Why can't I also make money illegally? After all, what will happen?"* On the streets, the sentiment is sharper: *"The law only catches the small fishes. The big men always walk free."* This is not cynicism; it is the reality many have come to accept.

If you glance through Ghana's political and legal history, you would know that this is not a new phenomenon. It is a cycle repeating itself with disappointing consistency. That is the imperfect architecture we are here gathered to confront – and to rebuild – with better clarity, integrity by design, and renewed political courage.

There is an old Negro spiritual which probably captures the vicissitudes of the fight against corruption in our accountability journey – *Sometimes it's up; Sometimes it's down; Sometimes it's down to the ground.*

Our anti-corruption drive has been pockmarked by ups, downs, and sometimes downright downs. We begin by collectively acknowledging that we must fight corruption. That lights a glimmer on the horizon, accompanied by copious fanfare. On that ground, we commence the exercise of demanding and assuring accountability with righteous excitement, and sometimes indignation.

Each surge in corruption has been met with varied responses – from coup d'états to commissions of inquiry that generated countless reports, most of which were eventually forgotten. Even during our four republics under what is termed the rule-of-law, the relentless cycle was and is ever-present. History repeats itself. Our positions on corruption perception indices remain firm within the average region.

Then the reality of the enormity of the grimness of the human condition of repelling accountability sets in. That is – no one cheerfully welcomes scrutiny. Each of us privately hopes he or she would not be accountable for their actions. On that account, and as the pushback against accountability swells, we – somewhat overwhelmed – approach the enterprise of the fight against corruption half-heartedly. Then, by way of accretion, greed and individual interests start eroding our efforts as rules are set aside and corruption permeates through. The glimmer on the horizon dims. Then we commence the process all over again.

My recall of this reflection is not in the least intended to sound despair. It is aimed at awakening in us a renewed purpose to revitalize the anti-corruption architecture. For it is to our collective credit that when, by our own actions the glimmer on the horizon dims, we have sought to rekindle it to a glow, even if dull, by not folding up, by not rolling over.

Our restorative actions tell in us that deep down we abhor corruption, even when we paradoxically resign ourselves to some forms of corruption. And though our systems of fighting corruption may not be perfect, yet we will keep retooling and reshaping them in the hope of fitting them to suit our purposes. It is as if we keep humming in our spirits, a more melodious and less lamentatious version of that old Negro spiritual – to signify hopefulness.

Thus, we have embarked on our accountability journey throughout our quest of forging decent existence for ourselves. In our traditional set-up we hold high the principles of accountable stewardship. They are written all over our chieftaincy institutions and extended family systems. In statehood, they abound. And whenever we have reckoned that governance, in whichever form, did not reflect our ideals and aspirations and did not represent us, we have repudiated it firmly.

It was surely on the back of our very essence of assuring a just and fair society grounded in accountability that fortified our forebears, in the 1890s, to firmly reject the Crown Lands Bill of 1894/1897, which had the shrouded effect of reducing our lands into possessions of the English Crown. Indeed, the anti-colonial organization formed by our people, Aborigines' Rights Protection Society, sent a delegation from our then Gold Coast to London to drive home a point – with success.

Our argument was simple. There are no ownerless lands here. Every inch of our land is tied in with the soul, culture and religion of our people. Therefore, our land could not be held to be anyone's possessions. If you desired a parcel, you negotiated for it. If the Colonial Government acquired land, it ought to compensate the owners. Thus, the principle was firmly established at Westminster that in our then Gold Coast, native law would remain and prevail with regard to the devolution of land.

Upon this fight and push, we saved ourselves the calamity that befell some of our African brethren – whereby their ancestral and heritage lands were ceded off to colonialists and foreigners.

We kept the torch up so our lighters would not dim. And so, in 1948 our outright repudiation of highhanded and unaccountable governance and grand corruption, through boycotts of European and Asian goods and a five-day countrywide riots following the clearly unjustifiable and inexcusable killing of peaceful-protesting ex-servicemen by a white police superintendent, forcefully imprinted on the minds of the colonialists – that our then Gold Coast, which had been touted as a model colony, was slipping away irreversibly.

The Watson Commission, which inquired into the 1948 occurrences in our then Gold Coast, observed that:

> We are convinced that there is a widespread and rapidly growing feeling among the people that they are being governed without their consent

> and in a manner which makes them feel that the Government is not their own. Unless prompt and bold action is taken, the present system of government cannot continue.

This was how we heralded our independence from colonial rule. We are on our Fourth Republic now and may this be our last. The Republican periods have been dot-marked by five successful military coup d'états. It may well be that the fight against corruption has been a popular go-to rubric either to get one elected or to enable one to seize power, as our history has shown. And though our efforts seem like disappearing acts, we have ever so more sought to make things work and the refrain of the fight against corruption has underlined every government that has governed us. Indeed, the last four election cycles were battled out on the fight against corruption.

And so, it came to pass, that we constituted about fifty corruption-related commissions of inquiry to stamp our opprobrium against corruption. Permit me two telling quotes from the conclusions of some of these inquiries. The Cowgill Commission, which investigated corruption in respect of the Cocoa Purchasing Company, remarked in its report in 1959 that "[T]here are disturbing indications of corruption among some public officers."

Then came the Anin Commission report in 1970 in respect of an inquiry into bribery and corruption in Ghana which opined that "[B]ribery and corruption are widespread in Ghanaian society, manifesting in various forms such as kickbacks, under-the-table payments, and other illicit financial transactions aimed at influencing decisions or securing favours."

The military adventurers also jumped on the train and refrain. They all sought to justify their forceful takeover of government by pointing to corruption in the administration they wrestled power from. Hear General Ankrah, one of the main architects of the overthrow of Nkrumah in 1966 – "We have been called upon to rescue the nation from the tyranny and corrupt practices of the past administration." This theme was continued not too long after that, "[W]e want to establish a government based on honesty, transparency, and integrity – values which had been eroded by Nkrumah's corrupt one-party dictatorship."

Then on 13 January 1972 when Acheampong overthrew the Busia regime, he addressed us that – "There is a growing gap between the rulers and the ruled**,** fueled by greed, favouritism, and corruption."

General Akuffo, who staged a palace coup in 1978 by sacking Acheampong, declared that "[T]here is a deliberate and cynical disregard for accountability in the use of public resources by some officials."

On his second military adventure on New Year's Eve, 1981, Rawlings, upon overthrowing the Limann government, lamented:

> During the Limann administration, serious allegations of corruption against top functionaries and party intrigue even in Parliament became a matter of idle gossip. Among the 'big men' it was even possible to arrive at 'settlements', sometimes judicially sanctioned, of these affairs. The wealth of this nation was merely the playground of its leaders.

Then, we adopted our present constitution into force in 1993 in which we proudly declared the principle of probity and accountability built on a complex system of checks and balances. On the international scene, we ratified the United Nations Convention Against Corruption (UNCAC) on 24 June 2007 and the African Union Convention on Preventing and Combatting Corruption around the same time.

We established the Commission on Human Rights and Administrative Justice (CHRAJ) and tried to clothe it with anti-corruption mandate under article 218(e) of the Constitution. We created the Serious Fraud Office, which we re-christened the Economic and Organised Crime Office (EOCO) to tackle economic crimes with a side-wind criminal anti-corruption mandate.

Twenty years after running this model it became clear that the CHRAJ anti-corruption model was impractical and unworkable. This is because CHRAJ's real intended purpose as the national human rights commission and the ombudsman rendered it unsuitable to fight corruption in the real sense and the Article 218(e) mandate was clearly a stop-gap measure for a much more robust and concrete future anti-corruption regime. Further, it saddled CHRAJ with debilitating inundation as it lacks any real power in the anti-corruption space as its mandate does not involve any sanctions. This is because, it is required merely to circuitously forward the outcome of its anti-corruption investigations to the Attorney-General and the Auditor-General.

The EOCO set-up was also not optimal. This was mainly because EOCO is an agency under the Attorney-General's Department and is invariably able only to institute criminal proceedings on the say-so of the Attorney-General. This

rendered it incapable of tackling corruption especially regarding political actors and politically exposed persons.

The need for an independent institution with an effective and all-encompassing anti-corruption mandate became increasingly pronounced, especially during the institution of the National Anti-Corruption Action Plan (NACAP) in 2014. An underlying philosophy of the NACAP is the recommendation of the establishment of an independent prosecution authority to effectively tackle corruption. The thinking was that the Attorney General, being a member of cabinet and the chief legal advisor to the Government, is not well-suited to investigate and prosecute members of a government to which he belonged. There is still immense force in this thinking.

This was the chief consideration that informed the passage of the Office of the Special Prosecutor Act, 2017 (Act 959) which established the Office of the Special Prosecutor (OSP) in 2018 as the flagship anti-corruption institution of the Republic with a unique four-fold mandate of investigating corruption and corruption-related cases, prosecuting suspected offenders, recovering and managing assets, and taking steps to prevent corruption.

Intended as fulfilment of a campaign promise during the 2016 presidential election process, the OSP is actually the satisfaction of Ghana's treaty obligations under Articles 6 and 36 of UNCAC that require State Parties to establish independent specialised authorities to combat corruption through law enforcement; and Article V(3) of the African Union Convention. Its outlook is also intended as founded on the Jakarta Statement on Principles for Anti-Corruption Agencies pronounced in November 2012 by parties to UNCAC.

The OSP model represents our best bet in tackling corruption. It is a unique and never-before-seen remedy designed as a cure of the inadequacies of the traditional methods we had previously adopted – which are characterised by the lack of real legal and enforcement powers and independence of action – as the model retains total control over the initiation of the conduct of investigations and the institution of criminal proceedings. Then again, the model affords political neutrality and non-selectiveness in the fight against corruption.

For the first time in our history, this model forcefully carries the fight against corruption not only in the province of public officers and public life, but also among politically exposed persons and persons in the private sector.

The model is not without its shortcomings – as is suffered by every human construct. Yet we have a golden opportunity to, once again, re-tool and reshape it to fit our purposes – during the current exercise of constitutional review.

On this score, it must be borne in mind that the fight against corruption is multifaceted. First, 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, 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. Afterall, wealth equals protection, and power is immunity from scrutiny.

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 well-tight shrouded and unregulated by clear criminal constructs.

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.

These pragmatic considerations should guide our plans. The focus should be on a system which would stand the test of time – with this in mind, that while no anti-corruption system is failsafe, ours should be reasonably able to withstand attack.

On this reckoning, we should highlight lifestyle audit non-conviction-based asset recovery. Global anti-corruption best practices indicate that broad-based lifestyle audit non-conviction-based asset recovery represents the fairest and optimal method of frontally addressing corruption and unexplained wealth in both public and private contexts – though it is not without controversy.

It is gratifying to note the receptiveness of our jurisprudence of lifestyle audit under Article 286(4) of the Constitution. However, it is limited in scope and outlook as it only applies to certain public officers and only in respect of the asset declaration regime. Then again, there is no prescribed sanction beyond a declaration that property or assets acquired after the initial declaration of assets,

and which are not reasonably attributable to reasonable sources would be deemed to have been acquired in contravention of the Constitution.

Further, our criminal anti-corruption provisions in the Criminal Offences Act, 1960 (Act 29) and other enactments look primarily to public officers. Private persons are only implicated if they corrupt or seek to corrupt public officers. Otherwise, private persons are not within the purview of our traditional anti-corruption fight.

It is for the above and other considerations that the advent of the OSP regime took the fight against corruption beyond our traditional arena of public life and situated the fight squarely among public officers, politically exposed persons and persons in the private sector as reflected in the long title and under sections 2(b)&(d) and 3(1)(c)&(d) of Act 959 in the specific context of asset recovery – that is, the third mandate of the OSP – which is to recover and manage the proceeds of corruption and corruption-related offences in relation to public officers, politically exposed persons as well as persons in the private sector.

However, this mandate is largely in the context of conviction-based proceedings, though the OSP is mandated to exercise limited aspects of civil asset recovery under its declaration of property and income regime under regulation 20 of L.I. 2374.

Therefore, the principle of lifestyle audit non-conviction-based asset recovery should be stamped in the Constitution to encompass public officers, politically exposed persons, and persons in the private sector suspected of having engaged or engaging in corruption and corruption-related activities – on the reckoning that a person must have legitimate sources of income sufficient to justify the interests in any property that the person holds. Therefore, where a person's resources far outstrip his legitimate income, the unexplained portion should be liable to confiscation. This would also be a critical tool to detect fraud and undeclared income for tax purposes.

Thus, conviction after criminal proceedings should not be a condition-precedent for asset recovery purposes. That is, proceedings on an application for a confiscation order or a restraint order should be civil and not criminal. Then again, the rules of evidence applicable to civil proceedings should apply to confiscation and restraint proceedings and confiscation orders should have the effect of a civil judgment appealable from the High Court to the Court of Appeal.

In relation to this, there should be a reverse onus clause of a presumption of corruption tied to lifestyle audit. That is to say, in all proceedings, civil and criminal, there should be a presumption of corruption – of liability or guilt unless the contrary is proved – (i) where a person (private or public) is in possession of property or resources for which he cannot satisfactorily account for or pecuniary resources and property disproportionate to his known legitimate sources of income should be deemed to have been obtained or received through corrupt means; and (ii) a gift to a public officer by a person who has or seeks to have any dealings with the Government or public agency should be deemed to have been given and received corruptly as an inducement or reward.

Further, there should be a more robust and effective asset declaration mechanism in respect of public officers and persons undergoing lifestyle audit to close the loop on the amassing of illicit wealth and to enhance accountability. We should move beyond mere repositories to a system of verifying and tracing undeclared assets.

However, I do not and I would not add my voice to calls for the publication of assets for public scrutiny. In our experience, it would be unhelpful and would merely subject public officers to inordinate public curiosity and the spectre of the real likelihood of reprisals against their assets. In my estimation, a publication of who has declared or has not declared his assets, in the context of a workable asset verification and tracing model would be sufficient to assure the integrity of the asset declaration system.

On another score, I daresay, corruption begins where values collapse. That is why integrity must be designed into our educational system – from basic school through to the tertiary level. A student who regards a corrupt businessman as his or her role model would invaribaly emulate him without remorse. A soceity in which the youth adore and celebrate illwealth would only reap get-rich-quick corrupt and fraudulent practices.

I cannot state all that is on my mind on our accountability journey at this stage, except to say that we must strive to change the narrative and fashion our own cause and course by keeping the glimmer on the horizon glowing until the light beckons closer and shines overhead in a just and prosperous trajectory. Let that old Negro spiritual be re-sang in our context as:

Sometimes it's up
Sometimes it's down
And even when it's down

We shall keep the lights up

Thank you.