

THE POLICE DID NOTHING UNLAWFUL IN SEARCHING HON. DR. KWABENA
DONKOR'S RESIDENCE: BY MARTIN A. B. K. AMIDU

I write to register my strongest objection to the unsavory development in which some politicians - particularly some Members of Parliament and other political office holders – have cultivated the dishonourable habit of under rating the intelligence of We the People by holding press conferences, radio interviews, and issuing press statements to deliberately spew half-truths and inaccurately misrepresent the injunctions of the Constitution and laws of Ghana to court cheap public sympathy anytime one of the law enforcement agencies executes the law against one of them for suspected commission of crime.

I felt gravely embarrassed when I read that the Minority in Parliament (the Minority) released a misleading statement in which it was reported to have purported to: "...condemn in very strong terms the dastardly act of raiding the private residence of Hon Dr Kwabena Donkor, an honourable member of parliament, early in the morning ostensibly to conduct a search and the subsequent seizure of his laptop and other media of communication. This is shameful and sad in a country that upholds the rights of citizens to privacy." The Minority was reported to have stated further: "That it was based on the order of a lower court provides an inadequate defence."

I feel ashamed that my own political party that is now recognized under the 1992 Constitution, as the official opposition in the current Parliament charged with making laws and being a watch dog for the citizens will call a search warrant issued by a lower court with constitutional and statutory powers to do so as an inadequate defence for searching a citizen of Ghana's residence simply because he is a fellow Member of Parliament.

First, it is untrue to say that because the suspected offender is a Member of Parliament a lower court could not have adequately issued the warrant for the search of his residence. Second, it is also untrue that because the suspected offender is a Member of Parliament, his residence could not be searched early in the morning because it cannot be said that the search was executed "while he is on his way to, attending at or returning from, any proceedings of Parliament." Third, the Minority knew that article 18 of the 1992 Constitution dealing with the protection of privacy of home and other property of their colleague Member of Parliament was not infringed by the police acting under the exception in article 18(2) in accordance with a warrant validly issued by a court of competent jurisdiction for the purpose. Fourth, the Minority knew that in executing a search warrant the police may take possession of items they suspect to have been used in or to facilitate the commission of the offence, to aid in their investigations. Fifth, the Minority could not have been ignorant of the fact that laptops, documents, pen drives, and other items of interest for the investigation can be taken by the police in as long as they make an inventory of the items and give the suspect a copy. Sixth, the Minority will be strangers to the truth in their contention that a lawful search and seizure of items likely to be exhibits in an ongoing criminal investigation from a suspected criminal sleeping in his residence at dawn can constitute impeding the work of a sitting Member of Parliament and be tantamount to contempt under article 122 of the

Constitution. Seven, it is an exhibition of outright naivety and unpardonable ignorance unbefitting any Member of Parliament to demand of seasoned and experienced police criminal investigators to forewarn a suspected criminal before executing a search warrant on his residence. And Eight, it is cowardly and unbecoming for Members of Parliament, whom we have elected to represent us, to intimidate and threaten not only law abiding citizens in their exercise of their right to freedom of expression, speech, conscience and thought; but even law enforcement agencies, the police in this case, lawfully executing the law with being charged before Parliament for contempt. Respect must be earned not coerced!

The about 26 million citizens of Ghana cannot all be Members of Parliament. That is why the adults within the 26 million citizens consented to being represented in Parliament by 275 of our fellow citizens. Our consent to have 275 of our fellow citizens represent us for a period of four years does not turn the remainder of us into second rate citizens with less legal rights under the criminal laws and procedure of Ghana. We the sovereign people of Ghana were gracious enough to have provided clearly in article 117 of the Constitution the limited occasion on which our 275 Members of Parliament may be immune from service of process and arrest as an exception to the general fundamental human right of equality of everybody before the law. The Minority could simply have quoted article 117 in its press statement for the people to make up their minds whether the police violated the constitution or any law. The failure or refusal to quote the clear provisions of article 117 of the 1992 Constitution in the Minority's statement for the public to make up its own mind is what makes one believe that the whole Minority strategy is simply to court public sympathy. Article 117 of the Constitution for the benefit of those who may not have time to look it up states as follows:

“117. Civil or criminal process coming from any court or place out of Parliament shall not be served on, executed in relation to, the Speaker or any member or the Clerk to Parliament while he is on his way to, attending at or returning from, any proceedings of Parliament.”

Let everybody judge for him or herself whether the police did anything unlawful in executing a warrant on a suspected criminal in his residence even before he could wake up and prepare for Parliament. Incidentally, the report is that the search warrant was executed at dawn on Monday 24th July 2017 and Parliament does not sit on Mondays for the search to have impeded any preparation to go to or “be on his way to” proceedings of Parliament.

I have known Hon. Dr. Kwabena Donkor since the early days of the PNDC Government. He worked for quite some time in my friend and brother, Hon. Joseph Yieleh Chireh's Confiscated Assets Committee which I frequented before he left for the UK. I am therefore not writing the foregoing because I rejoice in Hon Donkor's misfortune of being suspected of crime. But I hate the hypocrisy, double standards and audacity of the Minority in Parliament to unlawfully and unconstitutionally impede the police in the performance of their duties contrary to their very

oaths of office as Members of Parliament, simply because their colleague, Hon. Dr. Kwabena Donkor, is now under suspicion of crime in relation to the stinking AMERI contracts.

As a former Chairman of Ghana's Public Agreements Board under PNDC Law 42, a former Deputy Attorney General for over twelve years, a Minister of the Interior, and an Attorney General I also smelt a rat in the AMERI contracts to be interested in a thorough investigation into the transaction. I have myself questioned the fairness of this transaction which has been published in the media. But I have no reason to believe that Hon. Dr. Donkor personally committed any crime in relation to the contract.

The AMERI affair is to me not about Hon. Dr. Donkor whom I have known closely for years. It is about the conduct and integrity of the John Dramani Mahama Government particularly when he has just been reported to have visited Namibia in circumstances that breed suspicion that he is fronting for the same company, its associates and/or its affiliates for profit, even in retirement, contrary to the 1992 Constitution. Which police service will not be interest in the AMERI contract in these circumstances?

Dr. Kwabena Donkor, I am sorry to wade into this matter when you chance to be the suspect but I do not see you as the principal problem or culprit. Ghanaians need to get to the bottom of Government corruption no matter whose ass is gored.

We lost the last election not only because of the gargantuan crimes including massive corruption which I had warned our then Government about in my press statement of 11th January 2012 as being committed by colleague Ministers of State, but also because of the several deceptions contained in our interactions with the voting public. We can only return to power by exhibiting the highest degree of integrity and honour in all our dealings with Ghanaians while we execute our new functions as a loyal opposition to the people of Ghana. I have the passion of a foundation member of the NDC who wants it to return to its founding values of integrity and honour in the service of Ghanaians in the true traditions of social democracy for which it was founded in 1992. I will continue to challenge the NDC and the Minority to exhibit our founding ideals so Ghanaians may forgive us and return us to power once again.

I feel strongly that it is against the founding values and principles of the NDC rooted in probity and accountability that the Minority should under any circumstances give the impression to the voting public that being a Member of Parliament can be used by former Government Ministers as an insurance against the commission or suspected commission of crimes for which they voted us out of office. That is the impression I get from the Minority's unlawful and unconstitutional statement condemning and intimidating the police with contempt of Parliament. Ghanaians, be alert!

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