



# Toxic Duality

Isaac Bohulu

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## Dedication

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**To:**

*Present and future  
generations of people  
whose livelihoods depend, largely,  
on the output of the state*



## TOXIC DUALITY

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“Take it, we shall need it in our discussions” he ordered.

I took the book and realized that it was a copy of the national constitution.

“Grandpa,” I said surprised, “you read the constitution at your age?”

He didn’t answer; he just smiled casually and said:

“Open it and look for the chapter on the president. We are going to discuss that.”

I flipped through the table of contents in the book, soon got to the specific page, and announced: “Grandpa, I am at that page”

“OK, can you read what is there for me?”

“You mean everything under article 57?”

“You read. I don’t remember the article, but I will know what I want when you read it to me”

“Ok,” I said, and started to read article 57(1) of the constitution.

*“There shall be a President of the Republic of Ghana who shall be the Head of State and Head of Government and Commander-in-Chief of the Armed Forces of Ghana”<sup>1</sup>*

“Yeah, that is it. That’s the portion I want” Grandpa said, waving his left hand to stop me from reading any further. Then, he asked:

“Do you see anything wrong with this provision of the constitution?”

“Do I see anything wrong?” I found myself repeating his question. “No, Grandpa, it looks harmless to me. This is what I said to you earlier, Grandpa; it is the standard in most democracies.”

“You are right; it appears completely harmless. But you see, in this nation, this provision has turned out to be an insidious poison that has permeated every level of our political and economic life.”

“Eeii, Grandpa” I exclaimed rather involuntarily. “When did it become a poison to make a president

the head of state? I think you are imagining things.” I said, not holding back my words. I would normally not talk this way to my grandpa, but this was a special occasion. He was making some serious statements, and I needed to test them.

“Imagining things, you said? No, I am not. I will show you why I speak so” he insisted, and without waiting for my response he continued:

“Do you know the difference between the state and the government?”

“The state is the sovereign entity. The government is the political body given authority to run the affairs of the state” I responded, trying to simplify my answer.

“That’s good”, grandpa agreed, and continued: “now tell me: which has greater power; the state or the executive government?”

“The state, of course, the executive government only exercises the power of the state.”

“And is it only the executive government that exercises the power of the state?”

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“No grandpa; the judiciary, legislature, the army, police, civil service, and several other state bodies all exercise the power of the state”

“And is the power of the executive government more important than the power of the judiciary, for example?”

“I don’t think so, grandpa”

“So, you don’t think that the power of the legislature is inferior to the power of the executive, do you?”

“No.”

“Then, we can say that the power of every state institution is equal in importance to that of any other?”

“Yes, we can. The power of the police is as important as that of the executive government. That is how it should be”

“So you agree, my son, that no arm of the state is more important than the other?”

“Yes; absolutely, Grandpa.”

“You are right, and I agree with you. So, what happens, when the power of the judiciary, or the legislature, or the army, or the police, for example, is made inferior to that of the executive government?”

“Well... I think it would place those institutions under the direct authority of the executive government, and open them up to manipulation.”

“Manipulation; what manipulation?”

“The executive government would be able to get those institutions to do its bidding, even when what it demands is contrary to the interest of the state.”

“And such manipulation could negatively affect good governance and the rule of law; could it?”

“Yes, Grandpa”

“So what do you think must be done to ensure good governance and the rule of law?”

“Well, for good governance and the rule of law to reign, I think the balance of power between all state

institutions must be maintained as much as possible.”

“Excellent, my son; perfect understanding. So we have established that, to ensure good governance and the rule of law, the balance of power between all state institutions should be maintained as much as possible” Grandpa said with a satisfied smile on his face. He took a glass of water and continued with his questions.

“Now, how do we get our president in this country?”

“Through elections, grandpa”

“Great; and who puts up the candidates for president?”

“It’s mainly the political parties.”

“And how do our people view the elected president?”

“Well, he is supposed to enjoy the support of all, but that rarely happens. The losing parties’ followers do not fully support him.”

“And why not; why do some of our people not support the elected president?”

“It’s simple, Grandpa. It’s because, some people see the elected president as belonging more to the party that sponsored him, rather than to all the people.”

“Is that kind of reasoning a perception, or a reflection of reality?”

“Well, truthfully Grandpa, it is not a perception. Ruling political parties often ensure that the elected president pays more attention to members of his party than to those of opposition parties. Sometimes, opposition party members face total exclusion from government contracts. It’s unfortunate, but that’s the reality.”

“Well said, my son; it’s indeed very unfortunate. Now, can we therefore conclude that the political party-sponsored president of the republic has a constituency that may not be representative of the whole nation?”

“Yes Grandpa, we can definitely say that. In name, the president is for all the people, but in reality, his main constituency is the base of his party.”

*In name, the president is for all the people  
but, in reality, his main constituency is the  
base of his party.*

“Whose interests, therefore, will the elected president pursue: those of the state, or those of his political party?” Grandpa asked, pushing me further.

“That’s a difficult question, Grandpa. I expect the president to pursue the overall interests of the state.”

“But does he? If, for example, the interests of his political party conflict with those of the state, what could happen?”

“In that case, an elected president is more likely to pursue his party’s interests. Our presidents have tended to seek their parties’ advantage over other interests.”

“Exactly; a president elected on the ticket of a political party will not always defend the interests of the state.”

*A president elected on the ticket of a political party will not always defend the interests of the state.”*

“I agree, Grandpa; as sad as it is.”

“So, we have reached two important conclusions: First, for good governance and the rule of law to reign, there should be a proper balance of power between all state institutions. Then we have just seen that a president elected on the ticket of a political party will not always defend the interests of the state. Are you with me?”

“Yes, Grandpa; I am.”

“So, let’s now combine the two conclusions we have arrived at, and see why it is not prudent to make a political party-sponsored president the head of state”

“Ok Grandpa, I am all ears.”

“Now tell me, the elected president is first and foremost a political party person; right?”

“Right grandpa”, I said, nodding my agreement.

“Then he becomes head of the executive government, right?”

“Right”

“Now the elected president and his government exercise political power, don’t they?”

“Yes, they do.”

“So, when we make the political party-sponsored president, who exercises political power, the head of state, what do you think we have done?”

“Hmmm... The head of state wields the overall power of the state. So...errrrm, that will mean equating political power with errrrm... the power of the state.” I said, not sure of my answer.

“Brilliant my son, that’s exactly so. When you make a president, who exercises political power, the head of state, you equate political power with the power of the state.” Grandpa shouted with excitement.

“I agree with you, grandpa”, I said nodding my head several times.

“Now, tell me; if political power is made equal to the power of the state, what does that do to the power of other state institutions.”

“That makes political power superior to the power of all other state institutions. In other words, the power of every other state institution will be in a subordinate position to that of the executive government.” I replied; beginning to realize the point Grandpa had been driving at all the time.”

*Making the president the head of state makes the power of state institutions inferior to the executive government*

“Another brilliant answer my son, you are beginning to see the light. Listen; in making a president, who exercises political power, the head of state, we equate political power with the power of the state, and subordinate all other state institutions under political power. Political power becomes supreme, and the balance of power which is critical for good governance and the rule of law, is severely tilted.

This is the one key problem with our democracy. It explains why our president is so powerful; in making him the head of state, we have placed him above every state institution.”

“You are right Grandpa, and I think the constitution is guilty of allowing that to happen.”

“We will come to the constitution, but there is one more thing I must bring out.

“Ok grandpa”

“Making the political party-sponsored president the head of state also produces a head of state who is not for all the people, and who will not protect the interest of the state at all times,” Grandpa said, lifting himself up from his inclined position in his ‘lazy’ chair and leaning towards me.

“Grandpa, it means that we have a head of state who leans towards one political persuasion and promotes its interests above those of the state.”

“That’s exactly my point, and that is what I consider

*Making the political party-sponsored president the head of state, produces a head of state who is not for all the people*

a poison to this country”

“How very true Grandpa; this is exactly what is playing out in this country. And I still maintain that the constitution is guilty of allowing this to happen.”

You are right, my son. Not only does the constitution make political power superior to the power of other state institutions, it also allows a president of this county to have his hand in every institution of state.”

“And is that why you said the president can be likened to an octopus with a myriad of tentacles?”

“Exactly. Now, take the constitution, and let’s find out how this happens. Let’s look at the appointment of board members and chief executives of state-owned enterprises. Who makes these appointments?”

I flipped through the constitution to the relevant page and replied:

“It’s the president; lets... see, that’s found in article 195(1).”<sup>1</sup>

“And who appoints the chief of defense staff, service chiefs of the armed Forces, the inspector-general of Police, and the commissioner of the revenue authority?”

“IGP; errrrm, it’s the president, article 202(1); CDS and service chiefs; hmmm... it’s the president, article 212(1); commissioner of revenue authority; that is.... the president (Article 195(1)).”<sup>2</sup>

“What about the appointment of new justices to the supreme court?”

“Here too..... it’s the president; article 144(1). And indeed, Grandpa, the appointments to the court of appeal and the high court are also made by the president. The president is powerful indeed!”

“When I said that the president of this country is too powerful, you were disputing it. Now you are saying the same thing. But that is not all. Let’s look at

parliament; how is the speaker of parliament elected?”

“Grandpa, the speaker is nominated by the majority in parliament; that is, by the party of the president. Parliament then votes.”

“And have you noticed that the one proposed for Speaker by the majority is always elected?”

“Yes, Grandpa, the ruling party ensures that, with its majority numbers.”

“So you see, my son; the president of the republic has his hands in all state-owned enterprises, the security establishment, the judiciary, and the legislature of this nation. This happens not because he is president; it happens because he is the head of state. It happens because political power has been equated with the power of the state.”

“Yes, Grandpa; and that is entirely the doing of the constitution of this country”

“And that is where the insidious poison I spoke about comes into play,” Grandpa said, shifting into another gear.

“How’s that, Grandpa?”

“Let’s consider some of those appointments. First, let’s look at appointments to state-owned enterprises; who are those who get appointed by the president as chief executive officers and board members of state-owned enterprises?”

“Oh, that’s easy. The president appoints mostly members and sympathizers of his party. That’s very obvious, Grandpa.”

“And why do you think that is the case?”

“Grandpa, it’s simple; it’s because they belong to his party. They may have supported the president in his election campaign.”

“So those appointments could be a way of saying ‘thank you’ to those party members; could they?”

“Most probably; it might be a case of ‘you scratch my back, and I scratch yours’.”

“So in making those appointments, the president considers the interests of his party members first and foremost; do you see that?”

“Exactly, Grandpa”

“So you see my son; making the president of the republic’ the head of state allows him to pack state institutions with members of his party; that is a poison.”

“A poison; how is that, grandpa?”

“A poison because it is a recipe for corruption. And corruption is a poison to the nation.”

*Making a president the head of state allows him to pack state institutions with members of his party. That’s a recipe for corruption*

“Yes, I think you have a point there. I even think that a president could use those appointments to exploit those state institutions for the benefit of his party.”

“You got it, my son,” Grandpa said, his eyes showing a joyous sparkle.

“Grandpa, though there is no direct evidence of this exploitation, I have observed something that makes me agree with you. It is very intriguing.”

“Indeed? What is it; what have you observed?”

“Grandpa, I have observed that when a political party is not in power, it uses mostly old vehicles, and erects small signboards, for its campaign.”

“I didn’t know that. You are in the city. If you say so, it must be true. But why is that observation intriguing as you say?”

“The use of old cars and small sign boards suggests that political parties that are not in power have very little money to spend.”

“That may be true my son, but I still don’t see why this is intriguing.”

“Grandpa, the intrigue hits you when you see the transformation that occurs when political parties win power.”

“Transformation; what transformation?”

“Grandpa, when a political party wins political power, its old vehicles are quickly replaced by brand new, top-of-the-range models, and the signboards

transform into giant billboards sited at every road intersection throughout the nation.”

“So where is the intrigue, my son?

“What explains this transformation, Grandpa? And where does the money for this transformation come from?”

“Oh, I see your point now, my son. You are implying the possibility that when parties win political power, they find ways to exploit state resources to promote their parties. Well, that’s exactly the poison I keep pointing out to you. But there is another dimension to these appointments”

“Another dimension, what could it be?”

“Interference”

“What interference?”

“When the president appoints his party men into positions of authority in state-owned enterprises, it opens the door to political interference in those organizations?”

“That may be so Grandpa, but in what form?”

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“Pressure from the president and his government can prevent the enterprises from operating according to sound business principles.”

“Grandpa, I still don’t see your point.”

“Now, look at it this way: “Why do you think the electricity people...errrrm” he stopped, struggling to remember the name.

“Which one Grandpa; the VRA, or ECG?” I quizzed.

“Both of them; and also the petrol refining company, what’s the name?”

“Tema Oil Refinery or TOR”

“And the water people?”

“Ghana Water Company” I supplied the information.

“Yes, yes, yes; why do you think these companies find themselves in the situations they are in now, tell me?”

“Grandpa, I think there is a lot of waste in those companies, that’s all.”

“You are right, there is, but the bigger problem goes beyond waste.”

“Grandpa, you seem to know everything!”

“No, this is serious; there is a bigger problem, and it has to do with unpaid debts.”

“Debts; you mean the money some people owe those companies?”

“Yes. Those debts starve the companies of the money they need to make the necessary investments.”

“But Grandpa, why don’t the companies collect the amounts owed them? Surely, it is their responsibility to do that.”

“You have a point, my son. Some of the debt has come about from faulty meters, and poor responsiveness to customer complaints. But that is nothing compared to what the government owes”

“The government owes those companies; how?”

Yes, the biggest debt is owed by the government, and that debt often remains unpaid for years. You

see, because the government is so powerful, the companies often do not have the courage to demand the payments due them. Even when payment is demanded, the government can choose to ignore such demands, and no one can do anything about it.” Grandpa said emphatically.

“Eeii grandpa, how do you know all these things?” I quizzed looking straight into his face

“But that is not all.” Grandpa continued, completely ignoring my question. “There are several organizations on government subvention which do not pay for electricity. They don’t pay because either their subvention is never received, or the organizations do not consider paying electricity bills a priority. And here too, because of government influence, payment cannot be forcefully demanded.”

“But that is serious grandpa.”

“And there is still more to the problem; political interference prevents these companies from charging the right prices.”

“Yeeees, tell me more, Grandpa,” I said in a mocking tone

“The government promises to subsidize the prices charged by the companies, but the subsidies are always in arrears, or are never paid.”

What grandpa said jolted my memory. The oil refinery in my country accumulated so much debt in similar circumstances, and I pointed to that:

“Grandpa, I think you are right; I remember that is what happened to our oil refinery.”

“My son, this is a serious matter. This indebtedness has gone on for decades, and is still going on, and has compounded the problems of the utility companies. This is the major reason behind the erratic water supply situation, the recurrent power outages, and the sporadic shortages of petroleum products which never seem to go away.”

“Grandpa, I have never considered things this way,” I said, humbled by the political awareness of this old man.

“And you see, all that happens unchallenged because political power has been equated with the power of the state, and any employee or manager who dares to challenge the situation, does so only to his detriment.”

“And that occurs in a democracy; how ironic!”

“You can say that again, and yet our governments are supposed to be delivering development; hmmm.”

“But Grandpa, I think there is also the problem of corruption by the political appointees.”

“Yes, I was coming to that, my son.”

“Since these persons are appointees of the president, they could come under strong influences which push them into corrupt practices” I spoke quickly to prevent Grandpa taking the words from my mouth.

“And I believe those ‘strong influences’ are frequent and unchallenged, right?”

“Grandpa, no one would dare to complain openly? If they did, they could be sacked.”

“So, you can now see that political appointments made by the president to state-owned enterprises are not in the best interest of those institutions. Yet our presidents make those appointments without blinking an eye”

*Political appointments made by the president to state-owned enterprises are not in the best interest of those institutions*

“Yes, Grandpa, it’s obvious to me now; it doesn’t look good at all.”

“Now let’s consider the power of the president to appoint supreme court judges. My son, what effect do you think this has on the court?”

“I am not sure, Grandpa. Perhaps, it can give such judges some political tagging.”

“Political tagging, how do you mean?”

“I mean, when a judge is appointed by one president, that judge might be tagged as being

sympathetic to the president's party. That clearly played out during the 2012 election petition at the Supreme Court."

"You are right, my son. In open discussions on radio and television during the hearing, some of the justices on the panel were tagged as being sympathetic to one, or the other, of the major political parties."

"Grandpa, one of the parties even filed a protest against one of the judges on the panel citing his perceived sympathies towards their opponents."

"And you saw how the final verdict of the court was received?"

"Grandpa; the final verdict was clouded in allegations of political bias and bribery among the justices of the supreme court."

"So, you see how the appointment of supreme court judges by the president undermines the integrity of that court?"

"Yes, Grandpa; and considering it carefully, this is very serious for this nation. If the highest court of

*The appointment of supreme court judges by the president undermines the integrity of that court*

the land cannot enjoy the full trust of the citizens of the state, because of perceptions of political bias, then God help us.”

“You have said it, my son. And all this stems from the power given to the president to appoint supreme court Judges, on account of his position as head of state.”

“It’s very clear now, Grandpa; making the political party-sponsored president the head of state works against the interests of the State. It breeds political corruption, undermines the rule of law, and it kills state-owned enterprises.”

*Making the political party-sponsored president the head of state works against the interests of the state*

“Exactly; it allows the executive arm of the state to assume superlative authority over all other state institutions.”

“And Grandpa, I think these are only a few examples. This political interference must be very pervasive.”

“You have said it, my son. It even affects recruitment into the security services and undermines professionalism in those institutions.”

“The security services? I thought those institutions had very strict recruitment processes.”

“You are right my son, they have. Do you know Opanin Asare Kwame’s son; the policeman?”

“Yes, Grandpa; the one he had with Maame Yaa Badu?”

“Exactly; do you know how long it took him to get into the police service? One whole year” Grandpa said, lifting his right index finger to emphasize his point.

“One whole year; and why was that?”

“As part of the recruitment process, the police administration visited every school the young man had attended and checked his academic records

and behaviour to ascertain whether he was suitable for recruitment. He got his letter of recruitment only after they were satisfied that he was suitable.”

“Wow, that’s one long process.”

“Yes, it may be rather too long, but it shows you how rigorous the normal police recruitment procedure is.”

“Isn’t that the situation anymore, Grandpa?”

“That procedure still exists, but it’s been seriously threatened by political interference.”

“How do you know this, grandpa?”

“Ha, my son; are you asking me? It’s common knowledge that constituency chairmen of political parties and other party bigwigs handpick party followers and send them in groups for recruitment.”

“Common knowledge is no proof, Grandpa!”

“You want proof? Two boys from this village have been recruited in this way. Those boys barely managed to finish school, but they got themselves

deeply involved in political party activity and before we realized it, they had been recruited.”

“But that is serious; it will really affect professionalism in the police service.”

“And it’s already showing. Haven’t you realised that the police appear friendly towards followers of the ruling political party, but hostile to those of the opposing parties?”

“How, Grandpa?”

“Do you listen to the news at all, my son? There have been times when the police have been reluctant to arrest the supporters of the party in power who had flouted the law but have been swift to arrest supporters of the opposition parties for similar unlawful acts. If you listened to the news, you would have discerned this.”

“Does it mean that some policemen could be dancing to political party tunes, Grandpa?”

“Your guess is as good as mine. But, you see, professionally recruited policemen will always

arrest lawbreakers, no matter who they are. This professionalism seems to be under some pressure.”

“That is very serious and sad. If the police and other security agencies become politicized, law enforcement will suffer greatly.”

“Exactly,” Grandpa agreed, “and that is why it is not apt for the president to appoint the inspector-general of police and the army chiefs. It opens the door to political interference in those institutions.” Grandpa said, shaking my knees in the process

*It is not apt for the president to appoint the  
inspector-general of police and the army  
chiefs*

“Eeii grandpa, you know things oo; but I think we should end this conversation. You have been sitting for too long. You must get something to eat. We can continue tomorrow.”

“Ok my son, but let me be sure that you clearly understand what we have been talking about this afternoon.”

“Oh grandpa, Ok. We talked about why it is not in the best interest of the state to make a president of the republic the head of state.”

“Yes, and what did we say?”

“First, making the president the head of state allows him to appoint his party men and sympathizers into state institutions. We discussed how that breeds corruption in state-owned enterprises, how it undermines the integrity of the courts and the rule of law, and how it affects professionalism in the security agencies.”

“Excellent, my son.”

“So, how do you think this situation can be improved, Grandpa?”

“Simple; we need a political system that does not fuse the positions of ‘President of the Republic’ and ‘Head of State’ in one individual. The two positions must be separated, to allow all institutions to operate in the best interest of the state.”

“Are you calling for a separate president and a separate head of state?”

“Yes, I am. We should not stick at all costs to what is considered the norm or the international best practice in governance when that does not serve the interest of this nation. Let there be a ‘head of state’, separate from the ‘president of the republic’.”

*Let there be a head of state, separate from  
the president of the republic*

END OF PART 2



1. 1992 Constitution of the Republic of Ghana.  
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