



Controlling Authority

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Dedication

To:

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

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“Grandpa, yesterday we agreed that making one person both president of the republic and head of state is not good for our country, and you called for a head of state separate from the president of the republic. Now, if we had a separate head of state, what would be his or her functions?”

“Good question, my son. That is exactly what I want us to discuss today. But the first question that should be asked is: ‘Why do we need a head of state?’ Any ideas?”

“Well, I think a head of state, as the title implies, should be a father figure for the nation”

“Yeeees, that is a good point, my son. Errmm, have you ever heard about Charles de Gaulle?”

“Of course, Grandpa; he was a French army general and head of state. What about him, Grandpa?”

“Charles de Gaulle is quoted as saying: *‘The head of state should embody the spirit of the nation, for the nation, and for the world.’* Do you understand what that means, my son?”

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“Go ahead Grandpa”, I said, not because I didn’t understand, but because I wanted to listen to what he had to say.

“You see; the head of state position is a very important one. That position should command the respect and loyalty of every citizen, and engender national pride.

“Yes, Grandpa; and I think a head of state should be the unifying force in any nation.”

“That’s true, my son. The head of state should be the ultimate authority to step in to say ‘enough; stop’, when the partisan tendencies of our politicians and political parties threaten to tear the nation apart.”

“That is very true, Grandpa; especially in these times when our society is so much polarized on political grounds”

“And do you think that the political party-sponsored president is able to play this ‘head of state’ role as well as he should, my son?”

“I don’t think so, Grandpa.”

“And why not?”

“It’s because the president has a party tag. He might not enjoy the trust and loyalty of every citizen of the nation; certainly not those of the opposition parties”

“Great answer! The political party-sponsored president has a strong bias towards one political persuasion; he cannot, therefore, hold the center together.”

The political-party sponsored president has a strong bias towards one political persuasion; he cannot hold the center together

“True; and he may even use his power to work against the opposition political parties, just to gain an advantage over them,” I said, buttressing the point Grandpa had just made.

“Exactly, my son”

“That means then that the political party-sponsored president of the republic is not the best person to be head of state”

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“He is not, my son;” Grandpa responded with a sparkle in his eyes. “he cannot be; it will be difficult for him to override his political bias!” he ended with a clenched fist.”

“I now see why you think the two positions should be separated;” I said, nodding my head several times.

“Yes, the president should not be head of state. We must have a head of state separate from the president of the republic”

“But Grandpa, how will the two positions pan out? What will be the functions of the president and those of the head of state?”

“Wait, you are moving too fast. We are not there yet”

“But Grandpa, I asked a logical question”, I protested.

“I didn’t say your question isn’t logical. You see, you jumped one step.”

“One step; and which is that?”

“If we need a separate head of state, who will that be? I think we should settle that first”

“Ok you are right, Grandpa. But which individual, in today’s highly polarized nation of ours, will qualify to fill the head of state position? Apart from political party influences, tribal, religious, gender, and age considerations, among others, will come into play as far as the choice of one individual is concerned. Perhaps even our most distinguished sons and daughters of the land, might not qualify” I said jokingly.

“I agree with you, my son. It may be very difficult to find one individual who satisfies all conditions for the position of head of state; that is true. But a head of state doesn’t need to be an individual”

“He doesn’t? Why not? The head of state refers to an individual.”

“Not necessarily. Since finding one individual to occupy that position may be problematic, we could vest that position in a body”

A body; which body?

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“Let’s call it the ‘state council’.”

*The ‘head of state’ position should be vested in
a body called the state council*

“But Grandpa, we already have the Council of State, are you not calling for duplication?”

“Yeah; you’ve reminded me of something I wanted to say about the Council of State. You see, our national constitution came very close to separating the positions of ‘president of the republic’ and ‘head of state’ when it established the Council of State. Sadly, however, it fell far short when it placed the Council of State in an advisory position to the president. Again, the composition of the Council of State opened it up to manipulation by the president of the republic. I am calling for something radically different”

“How different, Grandpa; ‘state council’ and ‘council of state’; are you not just playing with words?”

“No, I am not playing with words; the state council should not be an advisory body. Indeed, it should

have oversight authority over all institutions of the State, and should be their custodian.”

“Including even the president and the executive arm of government, grandpa?”

Exactly, the state council should exercise authority over the president of the republic. The state council should carry all the power of the state.

“Hmm, very interesting”

“The state council should be different in another way; its membership should not be determined on political, ethnic, tribal, religious, gender, geographic or regional considerations”

“You are excluding all the factors considered important in this nation. What considerations should come into play then?”

“The only consideration for membership of the state council should be merit; merit, and merit alone.”

Membership of the state council should be solely on merit

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“That’s very interesting, Grandpa. But what criteria are you going to use to determine merit? “I think a 7-member state council will be ideal for this nation”

“Only seven members; why seven, Grandpa?”

“Seven is the perfect number, they say; but that is what I think is ideal”

“So, back to my question Grandpa; how are these seven members going to be chosen?”

“This is the formula I propose. Let’s choose:

- 1. a distinguished retired General of the Armed Forces, retired Inspector-General of Police, or retired Director-General of Immigration Services;*
- 2. a former President, or Vice-President of the Republic;*
- 3. a traditional Ruler of the status of a Paramount Chief,*
- 4. a distinguished and accomplished woman;*
- 5. an accomplished individual who has served this country well in international circles like the UN, or AU, and*

6. *two persons who have made significant contributions in the lives of our people, or have demonstrated love for this nation in their work in private life or public office*”

“Wait Grandpa, you’ve listed only six categories, but you said you were proposing a seven-member council...”

“Yes, yes; notice that we are selecting two persons from the sixth category. That makes seven”

“Wow, Grandpa, you never cease to amaze me. That is a very brilliant idea. But I have one question: If someone qualifies according to this formula, but has dual citizenship, what happens?”

“Answer that question yourself, my son. Should we allow people with dual citizenship on the state council?” I think not.”

“Ok, I thought the same. But I still have another question. How are we going to choose from each of the categories in your formula?”

“A three-stage approach can be used for the selection”

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“Uh-huh”

“First, nominations for membership of the state council should be received from citizens of all walks of life. Political parties should, however, not be allowed to make nominations to the state council.”

“Nominations from citizens; then we are going to have millions of nominees, and that will complicate the process.”

“No, you are wrong, my son. The nominations will be made based on the qualifying criteria.

“Ok, ok. I see; the criteria will limit the number of nominees”

“Exactly, my son”

“So what happens after the nominations?”

“The nominees should then go through a process of vetting”

“Vetting, by whom?”

“By a panel of retired Supreme Court judges; we can get the Chief Justice to constitute that vetting panel”

“Ok, that sounds good. And how many people should go through the vetting”

“Since we want seven members, I think that if twelve people go through the vetting, it should be great”

“And why is that, Grandpa; why not nine, or ten, or eleven, persons”

“Twelve nominees will increase the competition for places on the council and ensure that the most qualified eventually get selected.”

“Yeah, you are right; it means that out of the twelve, five persons risk being eliminated”

“Yes, and that will improve the quality of the process”

“Agreed, Grandpa. So what next after the vetting; how do we select the final seven for the state council”

“We vote”

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“Vote? That will bring partisanship into the whole process”

“No. it will not. Not everybody will vote”

“And why not; Grandpa?”

“Because of the nature of the position, we should use representative voting”

“Representative voting; how?”

“It’s very easy my son. We should have a simultaneous vote in all metropolitan, municipal, and district assemblies, and in parliament.

“So you are suggesting that instead of letting every citizen be involved in the selection of the state council, we should rather let the district assembly members and members of parliament do the voting?”

“Exactly; this process will ensure that party politics do not play any role in the selection of the state council members. With party politics out of the way, the state council will attract the respect and loyalty it requires”

“But Grandpa, parliament is made up of political party representatives, so the process will not be completely free from party politics”

“No, that will not be the case, you will see as we go further. The parliament which will do the voting will not be made up of political party representatives”

“Ok, grandpa. So, assuming we have a state council as you envisage; what will be its functions, and what will be the function of the president of the republic?”

“You work in a company, don’t you?”

“Yes, Grandpa”

“And how is your company run?”

“Grandpa, are you referring to the structure of the company?” I asked, not sure of what he meant.

“Yes, exactly that.”

“Ok. There is a Board of Directors that sets the policy direction for the company to follow. The board is ultimately responsible for the success or otherwise of the company. Then, there is the chief executive

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officer, who implements the policies of the board, and who is in charge of the day-to-day running of the company. He is assisted in this by managers who are specialists in their areas. Then, there are the other employees who are the direct operatives of the company”

“Great; the state council should perform functions similar to your board of directors. Just as your board sets policy directions for your company, the state council should set the policy directions for the nation. It should bear ultimate responsibility for the development of the nation. One major role the state council should play would be to craft development blueprints for the nation.”

The state council should craft development blueprints for the nation

“How will the state council do that? Setting a nation’s policy direction is a huge task, unlike that of a small company like mine. Will a 7-member state council be able to carry out this task?”

“The task of setting the nation’s policy directions should not be done directly by the state council. It should accomplish that through appropriate state institutions.

“Grandpa, in my company, the chief executive officer is appointed by the Board. Will the state council be responsible for appointing the president of the republic?”

The state council should exercise authority over the president of the republic

“Great question, but no; that should not be a function of the state council”

“I like that, Grandpa; otherwise, that would completely place the president under the state council, and open him up to manipulation by the council”

“No, that should not happen. The state council should exercise supervisory authority over the executive arm of the state, but should not have the power to appoint the president. Indeed, the president should be elected as pertains now.”

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“So how will the state council relate to the president?”

“In the exercise of its supervisory authority, the state council should evaluate the performance of the president of the republic periodically, probably once every six months. The state council should then provide insights on national issues and point out shortfalls that need addressing.”

“Will the president be obliged to act on those insights; what if he ignores them?”

“Remember, the state council will have supervisory authority over the president. Such insights and directives of the state council should not be considered advisory. Rather they should be mandatory, to be complied with by any president.

“But what if the president refuses to comply? After all, he is the president”

“No, he cannot refuse to comply. With the state council in place, the president will have a serious check on his performance.”

“Ok. So what other functions will the state council perform?”

“The state council should be directly responsible for all state institutions”

The state council should be responsible for all changes in the top hierarchy of all state institutions

“How will that pan out, Grandpa?”

“The state council should be responsible for all changes in the top hierarchy of state institutions such as the owned enterprises, the police the armed forces, customs, immigration, the judiciary, the central bank, and such other institutions of the state.”

“But Grandpa, how will this be different from having the President make those appointments?”

“The difference is that the state council will not have the power to carry out those appointments directly. The duty of the state council will be to ensure that the established procedures for

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appointments in those institutions are strictly followed.”

“So, assuming that the position for a new chief of defence staff comes up; your point is that the state council should ensure that the procedures existing in the armed forces for selecting someone to fill that position are followed, instead of making the appointments directly; is that right?”

“Exactly so”

“That is a great arrangement, Grandpa. It will allow the State Institutions to work independently without undue interference from powerful influences”

“You got that spot on, my son.”

“I am wondering though, Grandpa; will the state council have the power to remove the president from office? After all, the board of directors can sack the chief executive officer”

“My answer is ‘yes’ and ‘no’.”

“When is it ‘No’ Grandpa?”

“The state council should not have the power to directly remove the president of the republic from office or to dissolve his cabinet. That’s a ‘no’.”

“And when is your answer ‘yes’?”

“The state council should however have power to call for the removal of the president from office through a vote of no-confidence passed in parliament. That’s a ‘yes’.”

“Ok. So under what circumstances can the state council call for the removal of the president”

“The constitution can prescribe the circumstances, but I think that when the president persistently mismanages the economy he should be liable to removal from office.”

“There is a danger here, Grandpa; this could expose the president to threats of removal from office for the flimsiest of reasons”

“You are wrong, my son. There is a safety cover for the president. Parliament can refuse to pass the vote of no-confidence in the president if it finds the reasons adduced for his removal unconvincing.”

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“Oh, it means that before it calls for a no-confidence vote, the state council will need to have really convincing reasons for doing so?”

“Yes, my son; otherwise it will risk a crisis. And that is the safety net I am talking about”

Grandpa’s idea on the separation of the positions of ‘president of the republic’ and ‘head of state’ makes sense to me. Under the current democratic arrangement, a president may mismanage the economy so badly, and yet get away with it without facing any consequences. Moreover, he would leave office and earn a handsome gratuity, even though he might have ‘killed’ many businesses, and ruined many individual lives and homes.

A separate head of state, with oversight authority, would call a non-performing president to order, or get him booted out of office before he caused more damage to the nation. It made great sense to me also because a separate head of state will prevent the executive president and his political party from manipulating state resources for their purposes.

Indeed, going back to our early independence experience, if a state council with supervisory authority over the president had existed, much of the political excesses of the immediate independence era, including the imprisonment of political opponents may have been prevented.

Likewise, the various unlawful activities perpetrated by the opposition against our first president, including the several assassination attempts on his life may have been avoided.

And perhaps, if we had a state council, wielding the power of the State, and exercising the position of commander-in-chief of the armed forces, the various coups d'état that rocked this country for twenty-odd years might have been avoided, and this nation would have been the better for it. I could not help but make my thoughts known to him

“Grandpa; having tossed our conversation over in my mind this afternoon, I totally agree with you, I think your proposals are right on point.”

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“I am glad that you are slowly coming along with me. But there is one more thing the state council should do it should be responsible for the appointment of ambassadors and high commissioners”

The state council should be responsible for appointing ambassadors and high commissioners

“But Grandpa, the appointment of ambassadors and high commissioners has always been made by the president.”

You are right, my son; but remember we are thinking about an improved democracy; not the present arrangement.”

“Oh ok, Grandpa; we are talking in terms of the changes you have proposed”

“Exactly”

“So why shouldn't the president appoint ambassadors and high commissioners?”

“But why are you asking that; do ambassadors represent the state or the president?”

“I guess they represent the State, Grandpa”

“That is why they should be appointed by the state council; it seems the logical thing to do”

“And will the state council make those appointments directly?”

“No, it will do that through the appropriate state institution.”

“I see, grandpa. But I sense that this will create an administrative problem”

“Which is?”

“I fear that ambassadors and high commissioners might not support the president in his work.”

“No, that should not happen. In the interest of the state, ambassadors and high Commissioners should cooperate with the president; the state council will ensure that. Nevertheless, ambassadors and high

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commissioners should not be under the direct control of the president”

“Ok, it seems reasonable; but there is something you haven’t clarified yet, Grandpa.”

“And what is that?”

“You said the state council will exercise the position of ‘head of state, right?’”

“Yes, that’s right, my son”

“So what will be the power play in the state council itself?”

“Oh, that? It’s easy. The state council should be led by a chairman.”

“And should the state council have the right to elect its chairman?”

“Yes it should, and the elected individual should be chairman for only one year.”

“Ok, you are thinking of a rotating chairmanship for the state council, right?”

“Exactly, my son, except that it should not be an automatic rotation. The state council could decide to keep one of its members as chairman for a maximum of three years, instead of changing the chairmanship every year.”

“And why is that necessary, Grandpa?”

“It’s necessary to avoid rigidity and allow the council members to choose the most competent among them to be chairman.”

“Ok, that is reasonable to me”

“The chairman of the state council at any point in time, should be the commander-in-chief of the armed forces”

The chairman of the state council at any time, should be the commander-in-chief of the armed forces

“But Grandpa that can be dangerous”

“Dangerous; what is dangerous about that, my son?”

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“You see, one of the members of the council will be a former president. What...”

“I see what you mean,” Grandpa cut in before I could finish my point. “You fear that a former president will become a chairman of the state council?”

“Yes, Grandpa. And if that happens, he becomes commander-in-chief of the armed Forces. He could manipulate things.”

“But there is a simple solution to that, my son”

“There is?”

“Yes; the state council could be barred from electing as its chairman, any member who has ever occupied the position of ‘president of the republic. It’s that simple”

“Ok, that sounds good to me. So Grandpa, what should be the term of office of the state council?”

“Nine years; I think it should be nine years”

“And, why nine years?”

“That will make for stability.”

“And should members be eligible for re-election?”

“After nine years? No, my son; it must be a one-time affair”

“So, Grandpa, if the state council is performing all these functions, what roles will a president of the republic play?”

“The president?”

“Yes, what will be his functions?”

“He will play roles similar to your chief executive officer. He will be responsible for implementing the policies of the State, as defined by the state council.

“Oh, I see. So the state council will establish development policies and the president will implement them?”

“You are right, my son.

“And how will he go about doing his work?”

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“The president will appoint ministers to assist him in his work as usual. He will use budgeted resources of the state to push the development agenda of the State”

“Grandpa, you said that state institutions will be under the control of the state council; will the president control anything at all?”

“Yes. I think the Ministries will be under the control of the president”

“But Grandpa, if the president controls the ministries, then he will virtually control everything.”

“No, you are wrong. You see, like the president, the ministries should only implement state policy. The ministries will not be controlling anything.”

“Ok. But if the president controls the ministries, it means he can create new ministries; he could create as many ministries as he wants and push his people there.”

“No, no, no; the president should not have the power to create new ministries, merge existing ministries into new ones, or reduce the number of ministries.

The power to create new ministries should be vested in the parliament of the republic

That power should be vested in the parliament of the republic.”

“And, you said the president will not have the power to make any appointments to any state institution?”

“Never; state institutions should be free from political party influences.”

“Ok. So Grandpa, who will represent the nation in international circles: the president or the state council?”

“Great question, my son; I think the president should be the chief public relations officer of the State. He should therefore represent the nation in all local and international forums.”

“So the president will be the face of the nation?”

“Yes, he should. The state council should play its roles in the background”

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“What about international loans; who will contract loans on behalf of the State: the state council or the president?”

“I think the president should initiate moves for international loans. Such loans should, however, be vetted and approved by parliament.”

“So the state council will have no role in the contracting of international loans?”

“Not initially. But the state council should monitor the use of such loans to ensure that they are employed for the intended purposes.”

“But Grandpa, how will the state council do this monitoring, if it is not involved in the initial process?”

“But they don’t need to be part before they can monitor. The president of the republic will be obligated to give an account of his stewardship to the state council. That is how the council will monitor things.”

“I see, grandpa. So the president will give an account to the state council and also to parliament; that will be too much work, don’t you think so?”

“No, not so; the president should give an account of his stewardship to the state council only. The annual ‘state of the nation’ report to parliament should be presented by the state council, through its chairman. Remember, the state council will ultimately be responsible for the development of this nation.”

“Oh, oh, ok; that is interesting, Grandpa; that means the report to parliament will be an independent report, representing the true state of affairs, not tainted with any political party colouration.”

“Brilliant, my son; that’s exactly so.”

“So how often will the president give account to the state council?”

“Twice a year; the first account should be in June, and the second, in December.”

“Ok Grandpa; but I have another question. You said the state council will be in office for nine years. What about the president; how long will his term in office be?”

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“Four years. And he should be eligible for only two terms in office, as is the case now, or as parliament may determine in future”

END OF PART 3