

Media Exposé of Judicial Corruption in Ghana: Ethical and Theological Perspectives

Adwoa S. Amankwah

Senior Lecturer, Department of Communication Studies,
Christian Service University College, Kumasi, Ghana
aamankwah@csuc.edu.gh

Ginn Assibey Bonsu

Lecturer, Department of Communication Studies,
Christian Service University College, Kumasi, Ghana
ginnbonsu@csuc.edu.gh

Peter White

Senior Postdoctoral Research Fellow,
Department of Science of Religion and Missiology,
University of Pretoria, South Africa
u13424280@tuks.ac.za; pastor_white@hotmail.com

Submitted: August 24, 2016 / Accepted: March 24, 2017 / Published: May 31, 2017

Abstract

Article 162, subsection 5, of the 1992 Constitution of Ghana states that “all agencies of the mass media shall, at all times, be free to uphold the principles, provisions and objectives of this constitution, and shall uphold the responsibility and accountability of the Government to the people of Ghana”. Using this constitutional provision that gives the media the power to serve as one of the agents to ensure accountability, this article discusses the media exposé of judicial corruption in Ghana by using the recent video evidence of the investigative journalist, Anas. The article considers issues of judicial corruption, the causes, consequences as well as their ethical and theological dimensions. It posits that those who pervert justice through corrupt practices, will eventually be named and shamed. The article concludes that when the media play their role by respecting high journalistic standards, the cause of justice will be served.

Keywords: judicial corruption, Ghana, media and society, constitution of Ghana, Anas Aremeyaw Anas.

Introduction

In Ghana, the judiciary is the third arm of government. It is responsible for interpreting the law. Article 125, subsection 5, of the 1992 Constitution of Ghana guarantees that “the Judiciary shall be independent of ... and be subject only to the Constitution”. In order to ensure fairness, the Constitution also guarantees equal treatment before the law. Equal treatment before the law is a pillar of democratic societies. On the other hand, when courts are corrupted by greed or political expediency, the scales of justice are tipped, and ordinary people suffer. Judicial corruption happens when the voice of the innocent goes unheard, while the guilty act with impunity. Article 4 of the African Union’s Convention of Corruption defines the acts of corruption and related offences, among others, as:

The solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions. (African Union, 2003, p. 4-5)

There have been several claims of judicial corruption in Ghana but many of these claims were seen as mere perception. A survey done within the courts in Accra, Tema, and Kumasi, by Ghana Integrity Initiative revealed that over 52 % of the judges and magistrates, 64.2% of Lawyers, and 513 % of litigants agreed that judicial corruption is very real in Ghana (Ghana Integrity initiative, 2007). Furthermore in August 2011, Abraham Amaliba, Raymond Atuguba, Chris Ackumey, and the late Larry Bimi (all lawyers of the Ghana Bar Association), stated categorically that several judges were corrupt and selling justice. The premier national newspaper in Ghana, the *Daily Graphic* in its September 9, 2015 edition disclosed that the Institute of Economic Affairs (IEA), had prior to Anas Aremeyaw Anas's revelations, corroborated these assertions, while the Judgement Debt Commission of Ghana attributes the loss of gargantuan sums of money by the State to corrupt practices in the judiciary.

Anas Aremeyaw Anas is a Ghanaian investigative journalist who conducts his mode of journalism using covert means to hide his identity. His use of anonymity for his investigations is designed to enhance his surreptitious identity, especially as he gathers incriminatory evidence from subjects, personalities, and issues interrogated. He focuses on human rights issues and corruption in Ghana and many parts of the world. His major focus is, however, sub-Saharan Africa (Ghana, Nigeria, Tanzania, etc.). He has won many awards, including Best Journalist Awards (Ghana), Heroes acting to end Modern-Day Slavery Award (US) in 2008, and Africa Achievers' Award (Kenya) in 2013. In 2015, he was recognized by Foreign Policy as one of the most influential personalities in the world. Operating with the mantra, "name, shame, and jail", he, in September 2015, shook the very foundations of Ghana's judiciary with an indicting exposé on endemic and systemic corruption by judges, magistrates, and other judicial functionaries.

Although many of the claims of perceived corruption in the judiciary were not taken lightly by some members of the Ghana Bar Association and the Association of Judges and Magistrates of Ghana, the recent exposé of Anas's investigation confirmed that some members of the Bench are corrupt. In Ghana, the media have been referred to as the fourth arm of the realm of government after the Executive, the Judiciary and the Legislature. Article 162, subsection 5 of the 1992 Constitution of Ghana states that "all agencies of the mass media shall, at all times, be free to uphold the principles, provisions, and objectives of this Constitution, and shall uphold the responsibility and accountability of the Government to the people of Ghana".

By this constitutional provision, the media are to serve as watchdogs of the government as they act in public trust or serve the public's interest. They are also to bring to public attention and consideration issues of salience that will enable the public access vital information for surveillance purposes.

In view of the informative and investigative role of the media, this article discusses the role of the media in ensuring justice delivery in Ghana. The article considers issues such as media and society, causes and consequences of judicial corruption, as well as the ethical and theological dimensions of judicial corruption from an interdisciplinary perspective. Literature study, descriptive, and content analyses were the data gathering tools used for the study. Wimmer and Dominick (2011), define content analysis as a method for studying and evaluating communication in a systematic, objective, and quantitative manner for the purpose of measuring variables. Content analysis is useful for describing communication content, testing the hypotheses of message characteristics, comparing media content to the "real world" and assessing the image of particular groups in society among others (Wimmer & Dominick, p. 60, p.156).

The Media and Society

As part of the media's efforts at informing the public, they bring issues of salience to public attention. The concept underlying this phenomenon is agenda-setting. Agenda-setting is where the media act as mediator "between the world outside and the pictures in our heads" (Scheufele & Iyengar 2011, p.11). Thus the media connect us to events in the world and images of the world in our heads. The concept crystallized later into the agenda-setting theory. It posits that the media may not be successful much of the time in telling people what to think. However, it is very successful in telling readers what to think about through the images and information it presents to people.

The term "agenda-setting" usually refers to the transfer of salience from mass media to audiences. The original model posits that if a particular issue is covered more frequently or prominently in news outlets, audiences are also more likely to attribute importance to the issue. Scheufele and Iyengar (2011), in their seminal study, operationalized the issue of significance and relevance among audience members as judgments about the perceived importance of issues. Later studies replaced perceptions of importance with terms such as salience, awareness, attention, or concern.

Agenda-setting is more than an issue or object of salience. It tells us what to think about; and how to think about the agenda in the news. Both the selection of topics for the news agenda and the selection of frames for stories are powerful agenda-setting roles and have grave ethical implications (Scheufele & Iyengar, 2011). Furthermore, agenda-setting could originate from the media, the public or as part of or an outlet of policy. At the first level of agenda setting is the notion that the media influences the kinds of issues that are important to people.

Closely related to agenda-setting is a kindred concept, framing. The media tell us not just what to think about issues but also how to think about them by providing appropriate frames for them, a concept known as framing. Frames emerge in public discourse in part as an outcome of journalistic routines that allow it to quickly identify and classify information and "to package it for efficient relay to their audiences" (Gitlin 1980, p. 7). Gamson and Mogdalini (1987, p. 143) define frames as "a central organizing idea or story line that provides meaning to an unfolding strip of events ... The frame suggests what the controversy is about, the essence of the issue".

In the present study, the central frame is corruption among members of the judiciary. The controversy is played out in a paradox of executors of justice, allowing the handle of justice to fly off the wheel through corrupt practices. Framing essentially involves selection and salience. To frame is to select some aspects of a perceived reality and make them more salient in a communicating text, in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, and/or treatment recommendation for the item described (Entman, 1993).

Anas Aremeyaw Anas frames judicial corruption in Ghana by "selecting some aspects of a perceived reality." In the face of pervasive corruption among the judiciary, Anas, through his genre of reportage--investigative reporting--that relies on multimedia applications of text, video, and audio, makes the issue very salient in a communication text.

Anas's evidence made other media houses to frame headlines such as "Bribery rocks judiciary, 34 judges others cited," "34 judges, others caught on camera taking bribes," "22 judges suspended." In effect, Anas Aremeyaw Anas and his team of investigative journalists called Tiger Eye carried along the wheels of mainstream media and new media technologies, and set the agenda of judicial corruption.

One of the objectives of the mass media is to influence audience perceptions by highlighting the importance of issues (first level agenda setting) or issue attributes (second level agenda setting, equivalent to framing). Thus through framing, Anas promotes a definition of the problem of corruption in the judiciary and enjoins the Chief Justice and the Ghana Bar Association to interpret the evidence or frames he has presented. As a result of the agenda set, the judiciary, the media, and the general public are encouraged to evaluate the frames provided.

The essence of framing assumes that the effects of particular frames are strengthened or weakened, depending on how applicable they are to a particular cognitive schema. In other words, the mode of presentation of a given piece of information (i.e., frame), makes it more or less likely for that

information to be processed using a particular schema (Scheufele & Iyengar, 2011). Relating Anas's exposé to the framing theory, one could say that Anas's revelations of judicial corruption strengthened the frame within the background of earlier perceptions and allegations of corruption (cognitive schema) by some members of the public and the four members of the Ghana Bar Association (Abraham Amaliba, Raymond Atuguba, Chris Ackumey, and the late Larry Bimi). The ethical, theological, social, and economic implications are daunting to the extent that it can provoke the public to have total distrust and disregard for the judiciary and encourage mob justice.

The exposé did not only strengthen the perceived judicial corruption in Ghana, but also made the annual conference of the Ghana Bar Association (GBA) held in Kumasi, Ghana from September 14-18, 2015 a time of reflection on how to address issues of corruption in the judiciary and also restore public confidence in it. The Chief Justice of Ghana, Justice Georgina Theodora Wood at the Conference, assured the public that the current happenings offered an opportunity to clean and sanitize the judiciary in order to strengthen the rule of law and democracy.

A former president of Ghana, John Agyekum Kufuor, who also attended the conference said access to justice was not only the foundation of a fair and democratic society but an index to the level of civilization of a nation. He underlined the need for the State to initiate strategies that would promote access to the law by all including the vulnerable and the disadvantaged. Otumfuo Osei Tutu II, the Asantehene (the King of the Asante Kingdom), said corruption posed a serious challenge to the administration of justice and rallied all Ghanaians to work together to salvage the integrity of the nation's judicial system (*Ghana News Agency* September 15, 2015).

In a nutshell, the role of the media is to exercise social responsibility in the society whose interest they ought to champion. They have the obligation of serving as the watchdogs, rather than the lapdogs, of power brokers. They are therefore, to operate by the highest journalistic standards of truthfulness, accuracy, fairness, balance, and objectivity among others. According to the Ghana Journalists' Association (GJA) and the International Center for Journalists (ICJ, 2009) journalists ought to be truthful and accurate, i.e., saying or writing exactly what was said. They also have the professional duty to be fair, i.e., being unbiased and giving equal treatment to various sides of issues.

Judicial Corruption

A well-functioning justice system is crucial to addressing corruption effectively, which in turn fosters development (Gloppen, 2014). However, since the judicial system consists of humans it is prone to corruption. This has made many institutions and organizations to probe the legal systems in order to expose such practices. Among such institutions is the Ghana Integrity Initiative (GII), which conducts surveys, to bridge the gap between perceived corruption and reality. In a report by GII (2007), it was apparent that corruption exists among legal practitioners in Ghana. The findings by GII suggest that judicial corruption is undermining justice in Ghana, denying victims and the accused the basic human right to a fair and impartial trial. Corrupt judges therefore fracture and split communities by injury created by unjust treatment and mediation which destroys the integrity fiber of the legal and judicial systems in Ghana (GII Report, 2007, p.5).

Judicial corruption is defined as the use of public authority for the private benefit of court personnel. It undermines the rules and procedures to be applied in the provision of court services. Judicial corruption is categorized in two: administrative corruption and operational corruption (Buscaglia, 2001). Administrative corruption occurs when court administrative employees violate formal or informal administrative procedures for their private benefit. Examples of administrative corruption include cases where court users pay bribes to administrative employees in order to alter the legally-determined treatment of files and discovery material, or cases where court users pay court employees to accelerate or delay a case by illegally altering the order in which a case is to be adjudicated by a judge, or even cases where court employees commit fraud and embezzle public property or private property in court custody. These cases involve procedural and administrative irregularities.

The second type of abusive practices involves cases of operational corruption that are usually part

of grand corruption schemes where political and/or considerable economic interests are at stake. This second type of corruption usually involves politically-motivated court rulings and/or undue changes of venue where judges stand to gain economically and career-wise as a result of their corrupt acts. These cases involve substantive irregularities affecting judicial decision-making. Anas Aremeyaw Anas's recent judicial corruption exposé, provided evidence on both administrative and judicial corruption. His video revealed how some judges were bribed both in cash and in kind.

Causes of Judicial Corruption

Judicial corruption per administrative dimension is not only concerned with the outcome of a judgment but the procedural influences of a judicial decision (Bedner, 2002). The causes of these influences which yield judicial corruption are very difficult to determine in reality since empirically, most of the causes are perceived data derived from survey of lay people, lawyers and judges who are not culprits. Judicial corruption relating to bribery corruption is mostly initiated by individuals within the judicial terrain, which grows into an organizational culture and for this reason, becomes highly resistant and resilient to change (Bedner, 2002).

Bribery or systematic corruption in the judiciary mostly happens because of social tolerance of corruption by some judges who value social capital rather than the rule of law (Transparency International, 2007). Another reason for judicial corruption is that some judges have problems fulfilling their needs so they succumb to bribes to meet these needs, which are mostly socially oriented. In other words, some judges accept bribes and illicitly amass economic wealth in order to achieve social capital and fulfill the societal perception about them (Bedner, 2002).

The next cause is the inadequacy or absence of legal information due to unreliable impartial judgments pronounced and concealed legal documents which are used by corrupt judges as leeway to perpetuate their wrongful practices (Bedner, 2002). Contributing to the debate on the causes of judicial corruption, (Abdulkarim, 2012) explains that the judges who practice corruption do so because the hedonistic theory posits that humans naturally gravitate towards pleasurable things and move away from anything that constrains and produces pain. However, since judges operate in a system with set rules and regulations, it is their duty to conform to these rules and regulations.

In light of these insights into the causes of judicial corruption, it becomes apparent that this social vice can be minimized since the causes are acquired and cannot be justified. In the case of Anas Aremeyaw Anas's recent judicial corruption exposé, there is no clear evidence on the causes of both administrative and judicial corruption, thus making it difficult for a conclusion to be drawn on the causes of judicial corruption in Ghana. The factors above are, however, some of the general views on the causes of judicial corruption in the world.

Economic and Social Consequences of Judicial Corruption

In every society, rule of law which ensures that legislation is applied to all in a fair, reasonable, and understandable manner is crucial for socio-economic development (Abdulkarim, 2012). In every community, human behavior is controlled by societal norms and values which are either inherent in its culture or have been built into it. Culture, in this regard, serves as one of the means of promoting, nurturing, and sustaining peace in a society. The modernization of our societies has brought about laws which were obtained from our culture for regulating societies to foster peace and punish the law breakers as an art of refining them through separation in some cases (Abdulkarim, 2012). However, when law-breakers go unpunished on account of judicial corruption, this creates malfunctioning societies with little or no trust in the judiciary. This mistrust incites the societies to mete out instant justice to law breakers, thus creating a system of the survival of the strongest as a means of correcting injustice and moral decadence. Economic growth is retarded and degraded in some instances due to judicial corruption visible in impartial trials in favour of officers who have misused State funds and looted the nation's coffers for their personal gains. Funds meant to help businesses grow and the country develop end up in the account of a single person or his/her accomplices and when such people are arrested but later freed as a result of injustice, it incites others to also engage in such acts of

impunity. This culture of impunity, lawlessness, and near anarchy destroys the societal moral fiber and creates an unsecured social system and a manipulative judicial system.

Ethical and Theological Implications of Judicial Corruption

Ethics involves the basic concepts and fundamental principles of right human conduct. The ethical standards required from judges call for perhaps the highest and most rigorous standards, sacrifice, and discipline of any profession in the community (Thomas, 1988). Ethics is a concept central to the judge's role. To confront some of the issues facing the judiciary, it is necessary to look at the meaning and requirements of judicial ethics (MacKay, 1995). According to the 1992 constitution of Ghana, "a Justice of the Superior Court or a Chairman of the Regional Tribunal shall not be removed from office except for stated misbehavior or incompetence or on ground of inability to perform the functions of his office arising from infirmity of body or mind" (chapter 9:6). Even though the Constitution mentioned "misbehaviour", it did not give instances of what constitutes misbehavior. However, the judicial ethics training manual for the Nigerian judiciary, states:

Violation of a disciplinary rule may constitute misconduct or misbehaviour and may entail disciplinary action, while ethical principles are self-regulatory standards of conduct. While there may be an overlap or an interplay, the latter are independent of the former in the sense that failure to observe such principles does not of itself constitute either misconduct or misbehavior (nd)

Using this definition as a point of reference, one could say that "misbehavior" as spelt out in the 1992 Constitution of Ghana, suggests a violation of rules of engagement for judges.

The three philosophical indicators that undergird the ethics debate are the principle of utilitarianism espoused by John Stuart Mill, the Golden Mean principle, and Emmanuel Kant's categorical imperative. The principle of utilitarianism stipulates that the final decision to be taken by the decision-maker, in this case the journalist, is one that will ensure the greatest good for the greatest number of people and the least harm to a few people. This is like a cost-benefit approach to reach a decision in journalism situations (ICJ, 2009). The Kantian principle of the categorical imperative indicates that decisions that can be justified ought to be made no matter the consequences (ICJ, 2009). The golden mean principle posits that decision-makers ought to put themselves in the place of the other, see the problem from several perspectives and take a decision on the right course of action (ICJ, 2009).

Justice is a core biblical component and embedded in the statement, "You must not distort justice; you must not show partiality; and you must not accept bribes, for a bribe blinds the eyes of the wise and subverts the cause of those who are in the right". Without impartial justice, it would be impossible to "live and occupy the land that the Lord your God is giving you" (Deut. 16:19, 20). Furthermore, an important component of the Old Testament prophetic movement is its uncompromising demand for a just society where the relationship between humans and God is intrinsically measured by, and correspondent to, the right relationship among humans (Kakkanattu, 2012).

The Old Testament prophets spoke against the corruption, exploitation, and injustice prevalent in their society. Justice is ultimately connected with the way people's lives go and with the nature of the institutions surrounding them (Sen, 2009). This theological understanding of justice is based on Israelites' understanding of God. In the Bible, God is the standard of justice and those who properly relate to Him become just.

According to Nardoni (2004), the two terms "justice" (*mispāt*) and "righteousness" (*zedāqāh*) are employed by the prophets, especially Isaiah, Jeremiah (Jer 7:5-6; 9:13; 22:3, 13), Amos, and Micah, to designate the contours of a society founded on a covenant relationship (p.102). In this regard, Zechariah 7:9-10, says, "execute true justice, show mercy and compassion everyone to his brother. Do not oppress the widow or the fatherless, the alien, or the poor." In many contexts, those who experience injustice are the poor and the vulnerable. Brueggemann (1978) submits that just like political power,

money can become a power, insensitive to the principles of justice, such as fairness. It can become a negative determinant force in the society. Because of its purchasing strength, the rich can silence many dissonant voices.

Isaiah 10:1-4 presents clear evidence that, unjust judges bring the anger of God upon their lives and they will face the divine justice of God. He wrote:

What sorrow awaits the unjust judges and those who issue unfair laws? They deprive the poor of justice and deny the rights of the needy among my people. They prey on widows and take advantage of orphans. What will you do when I punish you, when I send disaster upon you from a distant land? To whom will you turn for help? Where will your treasures be safe? You will stumble along as prisoners or lie among the dead. But even then the Lord's anger will not be satisfied. His fist is still poised to strike.

One could argue at this point that the "sorrow that awaits the unjust justices and those who issue unfair laws" as mentioned in Isaiah 10:1, came to reality in the lives of the judges that were exposed in Anas's video on judicial corruption in Ghana. In the video, some judges went home with bribes in the form of goats, sheep, *waakye* meal for lunch (*waakye* is a Ghanaian dish of cooked rice and beans), guinea fowls, foodstuff, and other freebies, while others took as little as GH¢500 (about \$100) to influence the determination of cases. They met at places such as their chambers, residences, restaurants, car parks, hotels, shopping malls, and other popular landmarks to collect their bribes.

The video evidence provided by Anas brought shame to the judges involved and also to their relatives. In a response to the videos on the judicial corruption, the Judicial Council set up a five-member committee to discipline those implicated after the outcome of the investigations. Following the investigations by the panel, the guilty judges and court officials have been suspended and asked to return all State property in their possession. This therefore serves as a warning to all those who pervert the course of justice through corrupt practices that one day whether here on earth or dead, the just God will grant justice to all those who were unfairly treated by any judge.

What should the Church do?

The Scripture says "Speak up for those who cannot speak for themselves, for the rights of all who are destitute" (Proverbs 31:8). The implication of Proverbs 31:8 is that, the Church has a missional call to serve as the prophetic voice to speak against corruption and injustice in society. Christians are called upon to be a prophetic people, bearing witness to God's word; a priestly people, offering the sacrifice of a life lived in discipleship; and a royal people, serving as instruments for the establishment of God's reign. Further, the Church, as the body of Christ, acts by the power of the Holy Spirit to continue Christ's life-giving mission in prophetic and compassionate ministry, thereby participating in God's work of healing a broken world (Lorke & Werner, 2013) and also recognizing the moral imperative of confronting injustice as an integral part of "costly discipleship" (Welty, 2013, p.1).

The Church should keep reminding believers that they are the salt and the light of the world. The salt, in this context, serves to preserve and give taste to life while the light imposes on people the obligation to show the way and also become good examples in all matters of life. Being the light also implies the imperative of exposing the dark spots (that is to expose those involved in corrupt practices both within and outside the Church). On the other hand, the role of the Christian, as the salt and the light of the world, may be hindered or prevented through choices that compromise our integrity or incline us settle for to that what is convenient or comfortable, rather than that which is truly best and pleasing to the Lord. In this light, Lloyd-Jones (1960) submits that:

For effectiveness the Christian must retain his Christlikeness as salt must retain its saltiness. If Christians become assimilated as non-Christians and contaminated by the impurities of the world, they lose their influence. The influence of Christians in and on society depends on their being distinct, not identical...The glory of the gospel is that when

the Church is absolutely different from the world, she invariably attracts it. (p. 46)

Final Reflections and Conclusion

Taking these various scenarios of judicial corruption through the three ethical lenses (Mill's principle of utilitarianism, the Golden Mean principle, and Kant's categorical imperative), it becomes obvious that Anas, as an investigative journalist is likely to have used the utilitarian ethical principle that espouses the dictum "the greatest good for the greatest number of people and the least harm to a few people". For, in the process of carrying out this ethical principle, Anas's exposé has caused some harm to the judiciary as a whole, the judges themselves, and other court workers in that it has stripped them naked, chipping off a huge chunk of their mantle of respect, integrity, and public confidence in them as fair adjudicators of justice. Nonetheless, to the extent that the majority have benefited from it, the exposé has offered the greatest benefit to the greatest number of people.

The role of the journalist is to ensure accuracy in reportage, truthfulness, fairness, objectivity, and balance. Anas and his Tiger Eye team have displayed these standards in the execution of their journalistic functions and duties, all the more so as none of the judges/magistrates have come out to allege falsity regarding the evidence Anas has provided. Future justice seekers have been exposed to the dark side of what happens in the corridors of power. Additionally, those who might have been victims of the greed, avarice, and egotism of corrupt judges/magistrates have been vindicated. For the rest of the judiciary, a light has shown on them as the Scriptures say, the "people who sit in darkness have seen a great light." Metaphorically speaking, Anas and his Tiger Eye team have made the justice-givers know that they are being watched even in the secrecy of their law and private chambers.

On the basis of the frame and agenda-setting theory, the present study concludes that Anas's revelations have succeeded in exposing the administrative and operational corruption within the judiciary. He has managed to set a sizzling agenda, the outcome of which will help rid the judiciary of corrupt elements. The result of the judicial enquiry into these misdemeanors that ended in the suspension or dismissal of the judges involved suggests that when the media play their role by exhibiting the journalistic standards of fairness, truthfulness, accuracy, objectivity and, balance and also operating from utilitarian premise and disregarding self-interest, the cause of justice will be served, the wrongs in the society will be exposed. As efforts are made to correct wrongdoing even among adjudicators of justice, seekers of justice are likely to be assured of receiving fair judgements and following the rule of law.

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