IMANI CENTER FOR POLICY & EDUCATION

IMANI Will Track the Accumulated Wealth of Public Holders beginning with Cecilia Dapaah & Baba jamal

Opening the Envelope:

An RTI Campaign to Break the Sealing Convention on Ghana's Asset Declarations & apply longitudinal analysis to the wealth of politicians

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Summary

This morning, I instructed a team of analysts at IMANI and our legal advisors to commence a new campaign to use Right To Information requests and "longitudinal" analysts to collect asset declaration forms of senior politicians, in a bipartisan manner, to track their wealth accumulation over the span of their political careers. This is likely to be a serious drawn-out fight, but IMANI under my leadership is ready for it.

Ghana's Constitution commands public office holders to declare their assets to the Auditor-General. It is a duty written directly into Chapter 24, and it has existed since the republic's return to constitutional government in 1993. Yet for three decades, declarations have been filed in sealed envelopes that no citizen, journalist, or civil-oversight institution has ever been permitted to examine. The Auditor-General sits atop a vault of constitutionally mandated disclosures that might as well not exist.

I have been advised that no statute really mandates this confidentiality. No provision of the Constitution actually authorises it. It is more or less a convention that has been inherited, assumed, and never challenged by successive authorities. IMANI intends to challenge it.

This announcement sets out the legal architecture of that challenge, the two initial RTI applications IMANI has filed, the escalation path if those applications are refused, and the strategic relationship between this campaign and Ghana's commitments to the International Monetary Fund, another issue of interest to us. When the IMF decamps in a few months, would we be ready in Ghana to assume the mantle of checking the government or we shall wait for another crisis and then run to Washington for salvation. IMANI feels that we have copped out of our civil duties for long enough.

Part I - A Constitutional Obligation Hollowed by Custom

Here is what the Constitution Actually Says

Article 286(1) of the 1992 Constitution provides that a person holding a specified public office "shall submit to the Auditor-General a written declaration of all property or assets owned by, or liabilities owed by, that person whether directly or indirectly".

The offices covered include the President, Vice-President, Ministers and Deputy Ministers, Members of Parliament, judges, commissioners, ambassadors, and a broad range of other constitutional and statutory officeholders. For each of them, Article 286 mandates declarations at three points: entry into office, every four years, and exit from office.

Article 286 says nothing about confidentiality. It does not say that the declarations shall be sealed, that they shall be withheld from the public, that they shall be unavailable to civil society, or that they shall be exempt from any right of access law that Parliament may in future enact.

Does Statute Add Something Different?

The Public Office Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550) operationalises Article 286. It sets out the forms, the timelines, and the mechanics of the Auditor-General's role as receiving authority. Act 550 does not contain an express confidentiality provision making declarations immune from access. It requires that declarations be submitted. It does not restrict who may subsequently examine them.

What are we to make of this omission? Parliament, when legislating on asset declarations in 1998, could easily have inserted a clause declaring them confidential. Legislatures around the world have done exactly that in comparable statutes where they wished to restrict access. The absence of any such clause in Act 550 says everything we need to know. It is a common maxim in Ghanaian jurisprudence that if Parliament wishes for something to be so, it proclaims in black and white. The default under Ghanaian law is openness. Secrecy was smuggled into the arrangement. My intent is to toss it out.

So where from the Sealing Convention?

My analysts tell me that the practice of filing declarations in sealed envelopes appears to be an administrative arrangement that predates the Right to Information Act and possibly even the current Constitution. It may have its origins in a bureaucratic caution about exposing wealthy individuals' financial details to public scrutiny. That caution may have had some logic when no formal right to information access regime existed. It is now hopelessly outdated. Especially since Act 989 came into force in 2020.

> *The convention functions, in practice, as an unofficial confidentiality regime that Parliament never enacted and the courts have never been asked to validate. It has survived on our blindside.*

Part II – We want access now!

Act 989 and Article 21(1)(f)

The Right to Information Act, 2019 (Act 989) gives every person the right to access information held by a public institution. The Office of the Auditor-General is a public institution. Asset declarations submitted to the Auditor-General under Act 550 are information held by that institution. The right of access, on the face of the statute, is clear.

Act 989 provides for a closed list of exemptions. Relevant sections are:

- Sections 5 to 7, which set out specific grounds (national security, personal privacy, commercial interest, legal privilege, and a few others) on which information may be withheld;
- Section 6(2), which expressly provides that factual or statistical information cannot be withheld under any exemption;
- Section 3(2), which provides that doubts about application of the Act must be resolved in favour of disclosure.

None of the listed exemptions covers asset declarations by public office holders as a category. A refusal premised solely on the sealing convention would therefore have no statutory foundation.

Privacy has limits, especially for public officers

The strongest potential argument against disclosure is the privacy of the declarant. Article 18 of the Constitution and section 5(1)(b) of Act 989 both protect personal privacy. However, this protection is not absolute, and several considerations diminish its weight here. My legal advisors tell me that:

1. Assumption of public office is, by definition, an assumption of reduced privacy expectations in respect of the performance of that office and the financial interests that attend it. This is why Article 286 requires disclosure in the first place.
2. Asset declarations do not capture details of an intimate or personal kind. They record property ownership and liabilities. Their core content is financial, institutional, and transactional. We believe that this is precisely the category of information that is most susceptible to oversight and least entitled to privacy protection in a public officer context.
3. Section 6(2) of Act 989 preserves the right of access to factual and statistical data regardless of any applicable exemption. The contents of an asset declaration are, almost by definition, factual and statistical.
4. Where a public officer's assets have already become the subject of formal investigation and public reporting, a residual privacy claim in respect of what was declared at entry into office has very little force.

Convention versus Statute

A recurring theme in IMANI's legal analysis is the relationship between administrative convention and statute. If the Auditor-General refuses disclosure on the ground that it has always been the practice to treat these envelopes as sealed, that answer will need to identify a statutory provision that authorises or requires the practice. No such provision exists. Convention, however long-standing, cannot create a legal right to withhold information in the face of an express statutory entitlement to receive it.

The matter is in some ways analogous to challenges, elsewhere in Ghanaian administrative law, to entrenched departmental practices that turn out to lack any basis when tested against the statutory framework. The sealing convention is vulnerable to precisely that kind of scrutiny. We won't rest until we peel away this sealing scam!

Part III - IMANI's Chosen Test Cases

Why These Two Individuals

My decision is that IMANI should launch this campaign with RTI applications seeking the asset declarations of Hon. Cecilia Abena Dapaah and Mr Abass Nurudeen (Baba Jamal). The selection was very deliberate, so let me set out the reasoning for the public.

Cecilia Dapaah

Hon. Dapaah served as Minister of Sanitation and Water Resources until her resignation in August 2023. Before that she had enjoyed a long record in public office beginning sometime in 2001. She had been a Deputy Minister in 2005 and a full Minister in 2007.

Her case entered the public domain in an unusual way: domestic workers employed at her residence were arrested in connection with the alleged theft of substantial sums of cash, including large amounts of US dollars and British pounds, found in the house. The Office of the Special Prosecutor investigated.

The constitutional mechanism for assessing whether a minister's accumulated wealth over time is consistent with their disclosed assets is the asset declaration regime. If her declarations over the years show a significantly different picture from what was discovered at her residence, that is a matter of direct public concern. If they are consistent, the public is entitled to know that too. Either way, the sealing convention has prevented any such assessment. It has denied the public of a grounded conversation about the issue. We have been left to the mercy of snippets of information from aborted court proceedings.

The citizens of this country don't know what to believe. It is an illustration of the specific damage that sealed declarations do to public accountability: they make it impossible for citizens to draw the one comparison that the entire system was designed to enable. Or to track the meandering path of wealth accumulation of those officials in whom the

greatest trust has been reposed. Why should such officials keep such secrets from us?

Baba Jamal

Mr Nurudeen held office as Deputy Minister and was later appointed to a diplomatic post. He was recalled from that post amid publicly reported investigations by the OSP and his own party, the National Democratic Congress, concerning vote-buying allegations. He has since been elected to Parliament after an NDC primary process in which his recall remained a live issue.

His case presents a different dimension of the same problem. A diplomat recalled under a cloud of investigation represents exactly the kind of situation where the public has both the right and the reason to ask what was declared at the beginning of his entry into public service all those years ago, ahead of his latest appointment, and just before the wild vote-buying allegations. The opacity of the current system makes that impossible.

My Broader Framing

The two cases are illustrative and should thus not be treated as exhaustive. IMANI's goal isn't about primarily exposing the financial affairs of two particular individuals. The goal is to generate a legal ruling - either from the RTI Commission or from the courts - on whether the sealing convention is lawful. A positive ruling will open the door to a functioning asset declaration regime accessible to all Ghanaians. It will also give our analysts massive data sets from which to construct a grand narrative of what politicians enter public office with and how their financial and material status changes over time. This is information that we believe all Ghanaians are keen to know.

> *These applications haven't been made to harrass Cecilia Dapaah and Baba Jamal. They have been made to deepen Ghana's constitutional accountability framework, and throw away an unnecessary opacity hindering our insight.*

Part IV - Escalation Path and Litigation Strategy

Stage 1: RTI Applications to the Auditor-General

IMANI has submitted formal RTI applications to the Auditor-General under Act 989, requesting the asset declarations of both individuals. The Auditor-General has 14 days in which to respond. Three outcomes are possible according to my legal advisors:

- **Full disclosure:** If it occurs, IMANI will publish the documents and use them as the basis for a broader campaign for systemic reform of accessibility as well as scholarly research to understand how politicians' financial and material status evolve differently from other professions.
- **Partial disclosure or refusal with reasons:** This creates a formal record of the grounds relied upon, which IMANI will analyse and challenge.

- **Deemed refusal by inaction:** If no response is received within 14 days, Act 989 treats this as a refusal and triggers IMANI's right of internal review.

Stage 2: Internal Review

A refusal triggers the right to internal review within the Auditor-General's office. IMANI expects this to be a procedural step rather than a substantive remedy. Exhausting internal review is a necessary precondition to appeal under Act 989, and the internal review response will itself be a document of legal significance.

Stage 3: Appeal to the RTI Commission

An appeal lies to the RTI Commission established under Act 989. The Commission has authority to order disclosure. An appeal before the Commission will allow IMANI to present the full legal argument: that no statutory exemption applies, that the sealing convention has no legal basis, and that Act 989 read with Article 21(1)(f) of the Constitution requires disclosure.

The Commission's decision, whether favourable or adverse, will create a formal legal record. A Commission decision in IMANI's favour can be enforced; a decision against IMANI can be appealed to the courts. We are relishing all of these prospects.

Stage 4: Judicial Review and Constitutional Challenge

If the Commission upholds refusal, or if enforcement of a favourable Commission decision proves necessary, IMANI will escalate to the courts. My legal advisors say that the judicial route offers two possible heads of claim:

- **Statutory interpretation under Act 989:** The courts will be asked to determine whether any of the listed exemptions covers asset declarations in the circumstances of these applications. IMANI's position is that none does.
- **Constitutional challenge:** If the Auditor-General seeks to rely on any statutory or constitutional basis for confidentiality, IMANI will contend that such reliance is inconsistent with Article 21(1)(f) read in its structural context alongside Article 286. A constitutional argument that the purpose of mandatory asset declaration is defeated by mandatory confidentiality is a strong one.

The courts will be invited to give a ruling that either confirms or denies the legal basis of the sealing convention. I think that this is a ruling that will have permanent systemic significance regardless of the outcome in these two specific cases.

Part V - IMF Leverage and Structural Benchmarks

What has the IMF matter got to do with this sovereign Ghana issue?

Ghana's Extended Credit Facility arrangement with the IMF, and the associated structural benchmarks, create a significant external accountability pressure that is directly relevant to this campaign.

Among the structural benchmarks and measures that Ghana's authorities have committed to in the context of the IMF programme are reforms to anti-corruption architecture, public financial management, and the integrity of institutions. The inaccessibility of asset declarations is a known gap in this architecture. Civil society organisations, including IMANI, have previously raised this with international counterparts and in IMF consultation processes. At any rate, the IMF shall leave soon. If changes don't occur before they do, civil society is duty bound to continue the struggle anyways. We can't always run to Washington for salvation.

Our strategy is thus time-bound

IMF programme reviews are conducted periodically, and Ghana's 2026 reviews will assess progress on structural benchmarks. IMANI's RTI campaign serves two functions in this context:

- **Generating substantive evidence of a compliance gap:** A formal refusal by the Auditor-General to disclose constitutionally mandated asset declarations will be documented evidence, submitted to and through appropriate channels, that Ghana's accountability framework has a structural deficiency that the authorities are actively defending rather than remedying.
- **Creating incentives for proactive reform:** If the authorities understand that IMANI will present the outcome of these RTI applications as part of the IMF review process, there is a prospect, however modest, that they may choose to act before the litigation reaches its conclusion. Pre-emptive reform is a better outcome than a court-ordered one.

> *The IMF's leverage over Ghana's fiscal programme is ultimately a lever available to civil society too. IMANI intends to use it.*

Part VI - Anticipated Arguments and Responses

"The Law Has Always Been This Way"

This is true as a matter of practice but false as a matter of law. The sealing convention predates Act 989 and has never been effectively tested against it. When tested, it will need to identify its statutory authority. It has none. IMANI has two decades of bruising experience behind it to go the long haul.

"Disclosure Will Compromise the Security of Public Officers"

This argument, if seriously advanced, would be an argument for amending Act 550 to include an express security exemption. It is not an argument that the existing law provides one. Moreover, the information in a standard asset declaration - property owned, liabilities held - does not inherently create security risks of the kind that would justify blanket non-disclosure of all declarations by all public officers.

"The RTI Act Itself Provides a Privacy Exemption"

The privacy exemption in Act 989 is not a trump card. It requires a balancing of the privacy interest against the public interest in disclosure. For a minister of state disclosing assets held during the exercise of public power, the public interest is substantial. For a declarant whose assets have already been the subject of public investigation and media reporting, the residual privacy interest is attenuated. And section 6(2) of Act 989 provides an independent and absolute obligation to disclose factual and statistical data.

"Parliament Should Legislate Rather Than Courts Decide"

Parliamentary reform of the asset declaration regime is desirable and IMANI actively supports it, including the enactment of the long-delayed Conduct of Public Officers Bill. But the argument that courts should decline to give effect to existing law because Parliament might eventually improve it is a non-sequitur. Act 989 is in force. Article 21(1)(f) is in force. The RTI Commission and the courts are the appropriate forums for resolving disputes about the application of law that is already on the books.

Part VII - Broader Reform Objectives

This campaign is a litigation vehicle in the service of a larger institutional argument. Even a successful court ruling will not, by itself, deliver a functioning asset disclosure regime. It will establish that declarations are legally accessible. The following further steps will be necessary:

- Amendment of Act 550 or enactment of the Conduct of Public Officers Bill to expressly provide for a publicly accessible register of declarations, with appropriate redaction of genuinely sensitive personal information (such as home addresses and dependants' details);
- A verification mechanism, allowing oversight institutions and civil society to cross-check the accuracy of declarations against publicly available registries and financial records;
- Annual filing intervals in place of the current four-year cycle, which allows a full parliamentary term to pass before assets are re-examined;
- Sanctions that are automatic and substantial, rather than dependent on commission of inquiry findings;
- Coverage expansion to include directors of state-owned enterprises, state-linked company boards, and senior officials of public institutions not currently captured by Act 550.

The RTI campaign plants the first flag on the first hill. The territory beyond it is where the substantive reform work lies. You can trust IMANI not to relent. We welcome all public spirited individuals, especially those with legal and financial forensic skills to team up with us on this quest. For Ghana, our Motherland.

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