

**U4 Helpdesk Answer 2018:21**

# Overview of corruption and anti-corruption in Ghana

**Author(s): Kaunain Rahman**

Reviewer(s): Roberto Martinez B. Kukutschka and Samuel Kaninda

Date: 11 September 2018

Ghana is considered to be one of the more stable countries in West Africa, since its transition to multi-party democracy in 1992. Corruption exists in all branches of Ghanaian government, and there is often a lack of accountability. The culprits often enjoy impunity. The judiciary and police are viewed as the most corrupt. However, the creation of the Office of the Special Prosecutor has instilled new hope in Ghana's anti-corruption efforts.

# Query

Please provide an overview of corruption and anti-corruption in Ghana. We are interested in how the role, mandate and in particular the potential of the prosecution service, courts and the Ghana Audit Service might have changed.

## Contents

1. Background
2. Overview of corruption in Ghana
3. Legal and institutional anti-corruption framework
4. References

## Background

Considered as one of the more stable countries in West Africa since its transition to multi-party democracy in 1992, the Republic of Ghana became the first sub-Saharan country in colonial Africa to gain its independence in 1957 (BBC News 2018; CIA 2018). Ghana's post-colonial life has witnessed the consolidation of the country's economy, and, in the past two decades, it has taken major strides toward democracy under a multi-party system (Oxford Business Group 2017; World Bank 2018b).

With a population of 29.6 million, Ghana consistently ranks in the top three countries in Africa for freedom of speech and press freedom, with strong broadcast media in particular, and radio as the medium with the greatest reach. Factors such as these provide Ghana with solid social capital (World Bank 2018b). Ghana's economy is estimated to have expanded by 8.5% in 2017 from 3.6% a year ago, primarily driven by the mining and oil sectors, according numbers released in April 2018 by the Ghana Statistical Service (World Bank 2018b). Gold, cocoa and oil form the

## Main points

- Widespread corruption exists in Ghana. Sectors worst affected by corruption include natural resource management, the judiciary and police.
- There is a need for an all-inclusive anti-corruption law.
- Courts are commonly perceived to be vulnerable to corruption.
- Prosecution of crime is often lengthy and people often turn to informal arbitrations.

foundation of Ghana's economy and have helped fuel an economic boom (BBC News 2018).

The inauguration of President Nana Akufo-Addo in January 2017, the candidate of the New Patriotic Party (NPP), marked the third peaceful transfer of presidential power between the country's two main parties: the NPP, and the National Democratic Congress (NDC) (Freedom House 2018). Although the 2016 election and its immediate aftermath were peaceful and generally praised by international and domestic observers, the campaign period was controversial. There were several reports of clashes between NPP and NDC supporters, as well as

attacks on Election Commission (EC) officials. Moreover, representatives of civil society raised concerns about what they claimed were alarming levels of hate speech used by politicians, as well as the alleged abuse of state resources (Freedom House 2018).

The incumbent president, Akufo-Addo has had some challenges in fulfilling his election pledges, which included setting up a factory in each of the nation's 216 districts, one dam for every village and providing free high school education. The government has started implementing some of its promises, such as setting up facilities for food, jobs and free secondary education. But the authorities need to pay attention to proper implementation and funding in the years ahead (World Bank 2018b).

Discrimination against women and LGBT (lesbian, gay, bisexual and transgender) people continues, and some weaknesses in judicial independence and rule of law persist (Freedom House 2018). Political corruption and bureaucratic ineptitude are some of the significant threats to government functioning (Bertelsmann Stiftung 2018; Freedom House 2018). Also, the seemingly uncontrollable rate of inflation continues to be a major stumbling block, while economic inequality, poverty and environmental degradation have not been adequately addressed (Bertelsmann Stiftung 2018).

## Overview of corruption in Ghana

Corruption exists in all branches of Ghanaian government, and there is often a lack of accountability in cases of violence against women and children, including female genital

mutilation/cutting, and human trafficking (US Department of State 2017). Ghana is also a transhipment point for illegal drugs, particularly cocaine from South America, as well as heroin from Afghanistan and Pakistan (US Department of State 2017). A study by IMANI (a think tank based in the country) found that Ghana loses more than US \$3 billion a year to corruption (

### Extent of corruption

Ghana ranks 81 out of 180 countries in Transparency International's 2017 Corruption Perceptions Index (CPI) (Transparency International 2018). The Worldwide Governance Indicators (WGI) by the World Bank (2016) accord the following scores in percentile rank<sup>1</sup> to Ghana:

Indicator	2016 percentile rank	2017 percentile rank
Control of corruption	51.9	49.0
Government effectiveness	45.2	49.0
Political stability and absence of violence/terrorism	41.0	49.5
Regulatory quality	45.7	49.5
Rule of law	55.8	59.1
Voice and accountability	67.5	67.5

<sup>1</sup> Percentile rank indicates the country's rank among all countries covered by the aggregate indicator, with 0 corresponding to lowest rank, and 100 to highest rank (World Bank 2016)

Apart from the data captured in 2016 and 2017, Ghana's percentile rank has witnessed the following trend in terms of the WGI control of corruption indicator:

- 2008 – 55.3
- 2010 – 57.6
- 2012 – 55.0
- 2014 – 52.4

According to the WGI, The 2017 TRACE Bribery Risk Matrix places Ghana in the “moderate” risk category, ranking it 86 out of 200 surveyed countries. Similarly, Ghana's Doing Business rank for 2018 is 120/190 with a Distance to Frontier (DTF)<sup>2</sup> score of 57.24 (The World Bank 2018a).

Ghana's economic freedom score is 56.0, making its economy the 122<sup>nd</sup> freest out of the 170 surveyed in the 2018 Index of Economic Freedom by the Heritage Foundation. Its overall score has increased by 0.2 points, with lower scores for the property rights and labour freedom indicators outweighing improvements in judicial effectiveness, government spending and fiscal health. Ghana is ranked 19 among 47 countries in sub-Saharan Africa, and its overall score is above the regional average but below the world average.

Bertelsmann Stiftung's Transformation Index (BTI) 2018 ranks the country 32 out of 129 countries. It adds that corruption in the country has evolved into a pressing problem, especially with regard to high-ranking cases, which has diminished public trust in the government and is poised to have long-term, adverse effects on public attitudes toward the democratic system. Freedom House, in its 2018

Freedom in the World report, on the other hand, accords the status of “free” to Ghana with a score of 83/100. Although, the Freedom House 2018 report cautions that existing “political corruption presents challenges to government performance”.

The Open Budget Index by the International Budget Partnership (IBO), provides a comparative measure of central government budget transparency. According to IBP's 2017 Open Budget Survey, Ghana provides the public with limited budget information, receiving a score of 50/100 in transparency. Moreover, a score of 22/100 in the category of public participation shows that there are few opportunities for public engagement in the budget process. Finally, the Ghanaian legislature and supreme audit institution were found to provide limited supervision of the budget, as IBP scores the country 43/100 in terms of budget oversight.

According to the 2017 Ibrahim Index of African Governance (IIAG), Ghana ranks in the top 10 highest scoring countries (8 out of 54) with a score of 65.0 (out of 100.0) in overall governance. In the last 10 years, however, it is also the eighth most deteriorated country on the continent in overall governance, having declined by -1.5 points in this period (Mo Ibrahim Foundation 2017).

The Africa Integrity Indicators (AII), a product of the collaboration between Global Integrity and the Mo Ibrahim Foundation found that the overall category score for Ghana did not show any substantial change, increasing by only two points from 58 in 2015 to 60 in 2016 (“somewhat weak” on the Global Integrity scale<sup>3</sup>). On five out of the six

<sup>2</sup> The distance to frontier (DTF) measure shows the distance of each economy to the “frontier”, which represents the best performance observed on each of the indicators across all economies in the Doing Business sample since 2005. An economy's distance to frontier is reflected on a scale from 0 to 100, where 0 represents the lowest performance and 100 represents the frontier. The ease of doing business ranking ranges from 1 to 190 (World Bank 2018a).

<sup>3</sup> The Global Integrity scale on the Africa Integrity Indicators website is as follows: 81-100 (strong), 61-80 (moderate), 41-60 (somewhat weak), 21-40 (weak), 0-20 (very weak).

subcategories, however, Ghana's aggregate scores were higher than those of the West African region and the continent (Global Integrity 2016).

Finally, in response to the corruption levels in the country, according to Afrobarometer 2017, 73% of the surveyed Ghanaians want corrupt officials prosecuted and jailed, and 64% opine that, in addition, corrupt officials should return stolen funds and be publicly named and shamed.

## Forms of corruption

### Political corruption

Political corruption remains a problem, despite legal and institutional frameworks to counter it, plus active media coverage and government anti-corruption initiatives (Freedom House 2018). The previous Mahama-government faced a number of high-ranking and highly publicised cases of corruption in office, which shaped its public image and contributed to its downfall. Aggravated by economic problems during the last years, corruption seems to be increasing and public perception of how cases are dealt with has become increasingly negative. Thus, these corruption scandals have weakened the legitimacy of democratic institutions among the broader population (Bertelsmann Stiftung 2018).

During the campaign, a widely shared video showed Mahama allegedly “buying votes” by handing out money to women at a market (Cheeseman, Lynch and Willis 2016). However, what was troubling were the results of the survey conducted by Washington Post in 2015, as part of a project on the impact of elections in Africa. Forty-three percent of Ghanaians answered that bribing voters was either “not wrong at all” or was “wrong but should not be punished”. Similarly, 76% of Ghanaians felt that politicians should not be punished for directing development projects

toward areas that support them (Cheeseman, Lynch and Willis 2016). Vote buying is a common phenomenon with many opining that activists from both parties, in this campaign as in previous years, routinely give gifts (Cheeseman, Lynch and Willis 2016).

When it comes to corruption and politics in Ghana, cases, even at the cabinet level, have been witnessed. Politically motivated dismissals or removals have been evident in the past, especially involving potential contenders for the presidency. Those in power and their loyalists often enjoy widespread impunity (Bertelsmann Stiftung 2018).

A report by the CHRAJ (see later) cleared President Mahama from allegations of bribery after the president received a car from a construction firm from Burkina Faso bidding on a lucrative government contract in Ghana. The firm later secured the road-building contract. The president denied the corruption allegations, claiming that the vehicle was a gift and that it was added to the government car pool. Although the CHRAJ cleared the president of bribery, it found him guilty of breaching government rules (Business Day 2016; GAN Integrity 2018).

Later, in 2017, the Youth Employment Agency announced that an internal audit discovered payroll fraud of approximately GHc 50 million (US\$11.1 million). However, by the end of the year, there was no indication of the government holding anyone accountable for the fraud.

Also in 2017, the Election Commission (EC) was entangled in a corruption scandal, as senior members of the commission accused each other of fraud and mismanagement, including the unlawful awarding of contracts, misappropriation of funds and political bias (Freedom House 2018; Koswe 2018). After the launch of a probe by Economic and Organized Crime Office investigating allegations

that senior EC officials had misappropriated funds in 2012 and 2013, Osei, the EC chairperson, and two of her deputies were removed by the president in 2018 for corruption and incompetence (Koswe 2018).

### **Corruption in business**

Despite corruption levels in Ghana remaining low compared to other African countries, it still poses an obstacle for businesses operating or planning to invest in Ghana (GAN Integrity 2018). Rampant corruption, weak rule of law and an under-regulated property rights system remain significant impediments to business confidence (Freedom House 2018).

Bribes and irregular payments are often exchanged in return for obtaining public utilities (GAN Integrity 2018; Freedom House 2018). Low-level government employees have been known to ask for a “dash” (tip) in return for facilitating licence and permit applications, and companies applying for licences and permits are frequently confronted with demands for facilitation payments (GAN Integrity 2018).

Financial analysts state that the widespread corruption in the public sector that companies have to deal with has taken Ghana to the dark ages, with the country's state being described as a “man drowning and clutching at straws” (Business Ghana 2017).

Companies also contend with high corruption risks when dealing with Ghana's public procurement system. Known as “Sakawa” (online fraud), online business scams are common in Ghana. Many foreign companies often report being contacted by an unknown Ghanaian firm claiming to belong to a governmental procurement entity and are lured into paying a series of fees to register or have their

products qualify for sales in Ghana or the West African region (GAN Integrity 2018).

Procurement processes for businesses to acquire government tenders often remain opaque. While introducing a rapid bus transit system in 2015, the erstwhile government circumvented open bidding and awarded an overinflated contract for the branding of the 116 new buses to Smarttys Management and Productions, a company owned by Selassie Ibrahim, the wife of the former minister for food and agriculture. It is rumoured that Mahama was allegedly rewarding her for supporting his election campaign. The purchased buses were further branded at a cost of about US\$828,000, and it was later found that the company overbilled the government, as the branding of the buses should have cost only half that amount (Sagoe-Moses 2017).

Most recently, an investigative documentary, “Number 12”, aired in 2018, revealed widespread corruption in the football business in Ghana (Ghana Web 2018a). It was revealed that match referees were receiving bribes to favour certain teams, and, on several occasions, match officials and football administrators were engrossed in match-fixing deals, as well as influencing who played for the national team (Ghana News Agency 2018).

A total of 77 Ghanaian referees and 14 Ghana Football Association (GFA) officials were caught in numerous acts of corruption (Ghana News Agency 2018; Ghana Web 2018b). However, what was most alarming was the sting interview of the former president of the GFA, Kwesi Nyantaky, who claimed to have significant power to influence many sectors of the Ghanaian economy. He added that, for a bribe, he could also facilitate business deals involving the president and vice president of

Ghana (Ghana News Agency 2018; Ghana Web 2018a; Modern Ghana 2018).

### Petty and bureaucratic corruption

Bureaucracy in Ghana is viewed as being inefficient, inept and riddled with corruption scandals (Bertelsmann Stiftung 2018). Existing reasons as to why Ghanaian bureaucrats engage in corruption focus on the numerous opportunities to be corrupt on account of limited monitoring. Alternatively, bureaucrats are said to be motivated to steal from state resources or the public to get wealthy or meet financial pressures from their family members (Brierley 2017). Despite the fact that salaries have been paid on a regular basis, corruption remains a challenge (Bertelsmann Stiftung 2018) In fact, researchers funded by the International Growth Centre (IGC) found that police officers demanded larger bribes after the salaries were doubled in 2015 (IGC 2016).

A study conducted by Brierley of the IGC (2017) found that bureaucrats also facilitate corrupt practices in response to threats from local politicians of being transferred to less desirable districts in the country.

It is also difficult to find civil servants willing to accept a post in rural areas, a problem which has hindered administrative effectiveness (Bertelsmann Stiftung 2018). The legitimacy and image of state officials are frequently questioned.

A recent survey (funded by the IGC) of 1,400 citizens with respect to "social norms and petty corruption" found that a third of Ghanaian citizens have paid a bribe in 2017. The sectors that are most corrupt are the police, followed by electricity and water services. The most common reasons for paying bribes include: to speed up the delivery of the service, to avoid going to the administrative office multiple times and because citizens do not

feel sure that they will get the service (Star Ghana 2018).

### Sectors affected by corruption

#### Natural resource management

Corruption is not uncommon when dealing with the natural resources sector in Ghana (GAN Integrity 2018). Local elite capture coupled with limited transparency and accountability, lead to funding misuse and embezzlement in community-based natural resource management in Ghana, especially with regard to mining community development funds. Although such funds are usually established with good intentions, their ability to uplift mining communities through improved incomes, social services and infrastructure tend to be undermined by local power dynamics (Dupuy 2017).

The country's mining sector performs better than equivalents in many of its African neighbours. In fact, Ghana's oil and gas sector scores a satisfactory 67 of 100 points in the 2017 Resource Governance Index (Natural Resource Governance Institute) making it the best performing extractives sector in sub-Saharan Africa (NRGI 2017).

However, the first decade of Ghana's new petroleum industry was not without challenges. It gained international attention when the new government in 2009 started investigating Kosmos Energy, who in June 2007, announced that commercial quantities of oil and gas had been found in Ghana. To quell corruption accusations, and to amend its relationship with the Ghanaian government, Kosmos removed two original front men of the initial Jubilee oil discovery, Musselman and Owusu, out of the picture (Skaten 2018).

Although there is a lack of regulation covering the management of oil revenue, and the country's

institutions are not strong enough to handle the cash influx in a transparent way, Ghana is still viewed as a “compliant country” of the Extractive Industries Transparency Initiative (EITI) (GAN Integrity 2018).

In fact, EITI reports that the Ghanaian government does not have a policy of contract disclosure, but some petroleum contracts are published by the Ministry of Energy and Petroleum. The Ghana chapter of EITI has come up with recommendations aimed at addressing gaps in the legal and fiscal frameworks governing the extractive sector. These include (EITI 2017):

- Streamlining fiscal policies.
- Ensuring open licensing rounds.
- Establishing an online repository on petroleum blocks.
- Developing an investment guide for the Ghana Petroleum Funds.
- Publishing an investment plan for the Ghana National Petroleum Corporation (GNPC).
- Harmonising the methodology, the revenue authority and GNPC use for revenue computation to ensure that figures match.

By 2017, Ghana was found to have achieved meaningful progress in implementing the EITI Standard (EITI 2017).

Commercial fraud is particularly predominant in gold dealings. Potential purchasers of gold and diamonds are often advised to avoid middlemen and deal directly with the Precious Minerals Marketing Company (PMMC) in Ghana, the sole authority through which gold and diamonds can be legally exported (GAN Integrity 2018).

The government regularly publishes records surrounding the total cost and revenue generated from oil production in Ghana in an effort to ensure

transparency in the management of natural resources. Nevertheless, these efforts fall short when it comes to disclosure of financial records associated with gold mining and logging (GAN Integrity 2018)

In Ghana, post-privatisation of water facilities, tariffs have increased by 80%, and around 30% of the population still lack access to clean water (Jenkins 2017). The Ghana Anti-Corruption Coalition (GACC) is leading the way in helping eradicate corruption plaguing the water sector, including the removal of tampered water metres and illegal connections (Yusif 2018).

### Judiciary

Judicial independence in Ghana is constitutionally and legally enshrined; nevertheless, corruption and bribery continue to pose challenges (Freedom House 2018).

Ghana's judiciary was thrown into crisis in 2015 following the release of a documentary that implicated 180 judicial officials, 34 judges, and scores of prosecutors and state attorneys in accepting bribes in exchange for favourable judgments from 2013 to 2014 (Freedom House 2016; US Department of State 2017). Following the exposé by investigative journalist Anas Aremeyaw Anas (also responsible for uncovering corruption in the GFA), 22 circuit and magistrate judges were suspended, and 12 high court judges were being investigated (GAN Integrity 2018). However, no criminal prosecutions were pursued against any of the corrupt judicial officials (US Department of State 2017).

While there has been no obvious proof of government meddling in judicial systems, corruption and limited administrative capacity continue to pose the greatest difficulties, illustrated in unduly long legal procedures and sometimes

incomprehensible verdicts (Bertelsmann Stiftung 2018). Moreover, scarce resources and underpaid judges have gone on to hamper the integrity of the body, by indulging in high levels of bribery and extortion within the courts (GAN Integrity 2018).

Large corruption cases are prosecuted in court; however, proceedings are lengthy and convictions are slow in coming (US Department of State 2017; GAN Integrity 2018).

Going to court is often too expensive for the average citizen, and only those with means can afford legal proceedings. Informal procedures of arbitration (e.g. through traditional rulers or elders) are more easily accessible and still play an important role (Bertelsmann Stiftung 2018).

## **Police**

According to the Afrobarometer results for 2017, the police and the judges were perceived as most corrupt in both government and private-sector leadership (Ghana Web 2017a).

Police in Ghana have a history of using excessive force, making arbitrary arrests, detaining suspects for extended periods and taking bribes (Freedom House 2016). In fact, some of the most significant human rights abuses in Ghana are carried out by the police (US Department of State 2017).

In 2015, high-ranking police officials, including a commissioner, were arrested and charged for their involvement in a scandal in which approximately 200 potential police recruits were given fake acceptance letters and charged around \$500 to begin training at the police academy (Freedom House 2016).

Police brutality, corruption, negligence and impunity continue to be issues. Credible reports of police beating, raping, and abusing suspects and other citizens are common (US Department of

State 2017). As of 2017, the Police Intelligence and Professional Standards Unit (PIPS) had investigated 33 reports of police brutality (US Department of State 2017).

There are delays in prosecuting suspects, reports of police collaboration with criminals and a prevalent public perception of police ineptitude. Police often failed to respond to reports of abuses and, in many instances, do not act unless complainants end up paying for police transportation and other operating expenses. Police have also extorted money by acting as private debt collectors, setting up illegal checkpoints and arresting citizens in exchange for bribes from disgruntled business associates of those detained. A study by the Ghana Integrity Initiative, conducted in 2016 and released in February 2018, indicated 61% of respondents had paid a bribe to police (GAN Integrity 2018).

## **Legal and institutional anti-corruption framework**

### **International conventions**

Ghana signed the United Nation Convention against Corruption in 2004 and ratified it in 2007 (UNODC 2018). Similarly, the African Union Convention on Preventing and Combating Corruption was signed in October 2003 and ratified by parliament in June 2007.

The country signed the United Nations Framework Convention on Climate Change (UNFCCC or FCCC) in 1992 and ratified it in 1995 (UNFCCC 2018) and ratified the Kyoto protocol in 2003 and brought it into force from 2005 (UNFCCC 2018).

### **Domestic legal framework**

The country's anti-corruption legal framework is comprehensive and strong, but faces challenges of implementation (Global Integrity 2011; US

Department of State 2017; Bertelsmann Stiftung 2018)

While there is no singular piece of legislation to tackle corruption, the criminal code criminalises corruption in the form of active and passive bribery, extortion, wilful exploitation of public office, use of public office for private gain and bribery of foreign public officials (Global Integrity 2011; Parliament of the Republic of Ghana 2012; Duodo and Goddard 2017). Moreover, corruption is deemed illegal, and both agent and principal are liable – regardless of the nationality of the person who is bribing or being bribed (Global Integrity 2011; Parliament of the Republic of Ghana 2012; GAN Integrity 2018).

Corruption under section 239 of Ghana's criminal code is defined as "corruption of a public officer", and subsequent clauses define various forms of corruption, including bribery and extortion. According to legal experts, this definition needs modernising as it does not include corporate or private bribery offences, and bribery between citizens is not currently outlawed in Ghana. There is also a Code of Conduct for Public Officers and the Civil Service Act which provides guidelines on conflicts of interest for civil servants. However, none of these provisions include safeguards against nepotism, cronyism and patronage. For example, civil servants are not prohibited from entering the private sector after leaving office (Global Integrity 2011; Duodo and Goddard 2017; GAN Integrity 2018).

The Anti-Money Laundering Act 2008 criminalises money laundering (GAN Integrity 2018). The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter financing of terrorism (AML/CTF) standards in Ghana was undertaken by the Financial Action Task Force (FATF) in 2017.

According to that evaluation, Ghana was deemed "compliant" for 14 and "largely compliant" for 18 of the 40 FATF recommendations (GIABA 2018).

Noting Ghana's significant progress in improving its AML/CFT regime with regard to the strategic deficiencies that the FATF had identified in October 2010, Ghana is no longer on the FATF list of countries that have been identified as having strategic AML deficiencies, and is no longer subject to FATF's monitoring process under its on-going global AML/CFT compliance programme (the country now works with Inter-Governmental Action Group against Money Laundering (GIABA) on its AML issues) (KnowYourCountry 2017).

While there is no law supporting the beneficial ownership transparency agenda in the country, the Companies Act 2016 lays a firm legal basis for collecting and maintaining a national database on beneficial owners in Ghana. The law mandates the Registrar General's Department to be the institutional body responsible for the collection and maintenance of beneficial ownership register in the country (EITI 2017).

Despite Ghana's comprehensive legal framework and sound institutional structure for investigating and prosecuting money laundering (ML), investigation and prosecution appear to focus more on predicate offences, thus leading to few ML convictions. Ghana also does not actively pursue a policy of tracking confiscation of criminal proceeds. Thus, while Ghana's anti-money laundering laws largely comply with international standards, they are weakly and sporadically enforced (Bureau for International Narcotics and Law Enforcement Affairs 2017).

While there is a Whistle-blowers Act, passed in 2006 to protect witnesses in corruption cases from prosecution once they come forward with pertinent information, it is rarely implemented, as potential

informants frequently fear losing their well-paid employment (Bertelsmann Stiftung 2018).

The Public Procurement Act, the Financial Administration Act and the Internal Audit Agency Act promote public sector accountability and seek to combat corruption. Companies found guilty of corruption are debarred from participating in future bidding for up to five years. Implementation of this provision, however, is weak (Bertelsmann Stiftung 2018; GAN Integrity 2018).

Ghana is still struggling to pass the Right to Information (RTI) Bill (Graphic Online 2017). The right to information is a fundamental human right guaranteed by the country's 1992 constitution and recognised as a right under international conventions on human rights. The bill, when passed, will give substance to Article 21 (1) (f) of the constitution which states: "All persons shall have the right to information subject to such qualifications and laws as are necessary for a democratic society" (Graphic Online 2017).

A National Anti-Corruption Action Plan (NACAP) was passed in 2014, which aims to improve the prevention, investigation and prosecution of corruption by strengthening a number of state agencies and putting a premium on public awareness of corruption (Government of Ghana 2012; Freedom House 2016; Boateng 2018). However, A UN report, released in February 2015, highlighted the government's inability to implement its anti-corruption policies and effectively prosecute offenders (Freedom House 2016). Moreover, the NACAP story is deemed "not all that rosy", as politicians, after their initial in-front-of-camera pledges, do not seem too committed to the common strategy but rather to some party manifesto pledge; for instance, to create of the Office of the Special Prosecutor (Boateng 2018).

According to anti-corruption activists working on the ground, Ghana's criminal law in relation to corruption needs to be updated, arguing that a new and all-inclusive anti-corruption and bribery act is the need of the hour (Duodo and Goddard 2017).

## Institutional framework

There are several anti-corruption bodies that exist in Ghana; however, like most civil service organisations, they remain understaffed and face funding challenges (Bertelsmann Stiftung 2018).

### **Commission of Human Rights and Administrative Justice (CHRAJ)**

CHRAJ is one of Ghana's leading anti-corruption bodies. It consolidates the work of an anti-corruption agency, ombudsman, and human rights commission under one umbrella (Kukutschka 2014; ACA 2018). Its anti-corruption powers stem from Articles 218(a) & (e); 284-288 of the 1992 constitution and section 7 (1) (a), (e) & (f) of Act 456. The commission investigates and works to prevent corruption (ACA 2018). However, CHRAJ does not have the power to prosecute, nor does it have budget autonomy (ACA 2018). As the president, on the advice of the Council of State, appoints the commissioners, the organisation is not kept free from the executive's influence (Global Integrity 2011; ACA 2018).

The CHRAJ website regularly updates news and events related to corruption, and offers research and publications on the topic. It also provides a link to submit three types of complaints: normal, whistle-blower and discrimination reporting (CHRAJ 2018). Also, in accordance with a supreme court ruling, the ombudsman cannot initiate its own investigation. Somebody must make a complaint before the ombudsman can begin an investigation (Global Integrity 2011). It should also be noted that, although CHRAJ coordinates and

monitors the NACAP, it is the presidency that has the lead role as the implementation agency (Boateng 2018).

### **Economic and Organised Crime Office (EOCO)**

EOCO, inaugurated in 2010, keeps a specialised police agency which concentrates on economic crime prevention, detection, investigation and prosecution, as well as recovering the proceeds of crime (Bertelsmann Stiftung 2018; Office of the Attorney-General and Ministry of Justice 2018).

The functions of the office are to investigate and, on the authority of the attorney-general, prosecute serious offences that involve financial or economic loss to the republic or any state entity or institution in which the state has financial interest. It is also empowered to recover the proceeds of crime. It specifically targets the following areas (EOCO 2018; Office of the Attorney-General and Ministry of Justice 2018):

- money laundering
- human trafficking
- prohibited cyber activity
- tax fraud
- other serious offences

EOCO, like CHRAJ, faces challenges in performing its duties, including interference from the executive. This interference is made possible by the fact that the director and the board are appointed by the executive and report to the attorney-general (Kukutschka 2014).

### **Focus areas**

#### **Audit Service of Ghana**

The aim of Ghana's audit service is to deliver good governance, transparency, accountability and probity in Ghana's public financial management system by auditing to recognised international

standards and reporting their audit results and recommendations to parliament (Ghana Audit Service 2018).

The auditor-general's audit jurisdiction extends to the following (Intosaiaudit 2018):

- the public accounts of Ghana and of all public offices, including the courts, the central and local government administrations, the universities and public institutions
- the accounts of any public corporation or other body or organisation established by an act of parliament
- the Bank of Ghana
- the accounts of a statutory corporation, a state enterprise or a public commercial institution operating under its own enactment.

The 2017 report by the Audit Service of Ghana stated that the body faced "financial and operational challenges." Nevertheless, the Service still made substantial progress - completing 80% out of the 3,463 planned audits including 2,010 institutions and agencies of Ministries, Departments and Agencies, 210 Metropolitan, Municipal and District Assemblies and 550 Educational Institutions. However, it was unable to present any of its reports to Parliament (Audit Service of Ghana 2017).

The major shortcomings of 2016 audit findings were that institutions often lacked effective internal control measures to minimize instances of financial malfeasance in areas such as cash, procurement, payroll, contract and tax irregularities, as well as non-payment of outstanding loans (Audit Service of Ghana 2017).

Currently, the on-going National Payroll and Personnel Validation Audit Exercise, which started earlier in 2018, has revealed some pertinent issues. There is a worrying trend of the widespread use of

fake certificates and promotional letters by some public workers to receive salaries (Ghana Web 2018c). This disclosure by the GAA showcases the present-day relevance of the institution in mitigating corruption in the country.

### **Office of the Special Prosecutor (OSP)**

The government of Ghana has established by an act of parliament in 2017 the Office of the Special Prosecutor to investigate and prosecute certain categories of cases and allegations of corruption and other criminal wrongdoing under the Criminal and Other Offences Act, 1960 (Act 29), including those involving alleged violations of the Public Procurement Act, 2003 (Act 663) and cases implicating public officers and politically exposed persons (Osei-Amoako 2018). A popular term for special prosecutor is the anti-corruption tsar.

The office of the Special Prosecutor carries with it a lot of hope for ordinary Ghanaians, as this is the first time that a position has been created solely to investigate and prosecute graft, particularly at state level, and with a commitment that there will be no interference from the government (Okello 2018).

The office was primarily created to fill an election promise of stamping out corruption made by President Nana Akufo-Addo when he came to power in 2017 (Okello 2018). However, some experts suggest the creation of this office may be undermining several other existing bodies and policies that are currently in place to tackle corruption – including CHRAJ and NACP. Some have gone said that "NACP will succeed when political leaders champion and lead the process, just as they championed the establishment of the Office of the Special Prosecutor (OSP)" (Boateng 2018).

Once fully operational, the special prosecutor's office ought to be independent of the executive,

with the office-bearer being protected from presidential sanction or dismissal for carrying out their job. Observers believe this will allow it to adequately deal with corruption-related issues which have plagued past governments (Tenkorang 2018).

The same terms and conditions of service of the Justice of the Court of Appeal apply to the OSP including that special prosecutor cannot be removed at the will of the president once appointed for a fixed non-renewable seven years (Ghana Web 2017b). The special prosecutor has the power to freeze and get the court to assist in seizing property (deemed to be related to graft) of a suspect accused of corruption once charges have been pressed by the OSP. The OSP is also under an obligation of law (Special Prosecutor Act, Act 959) to publish, quarterly, in two major national newspapers and on its website the list of cases and convictions secured (Ghana Web 2017b).

The OSP is authorised to issue plea bargains if the accused shows a "willingness to cooperate in the investigation or prosecution of other persons". However, the accused would still have to plead guilty which cannot be re-appealed or pardoned by the president (Ghana Web 2017b).

Martin Amidu, a former attorney-general and justice minister, was formally sworn in as the special prosecutor earlier in 2018. He is set to investigate and prosecute corruption in the private and public sectors, streamlining what the government said were "institutional bottlenecks" in the fight against graft (Ipotnews 2018). What the OSP achieves is yet to be seen.

### **Courts**

According to the constitution, the structure and the power of the judiciary are independent of the two other branches of government. The Supreme Court

of Ghana stands at the apex and has broad powers of judicial review. The constitution authorises the apex body to rule on the constitutionality of any legislation or executive action at the request of any aggrieved citizen. The hierarchy of courts derives largely from British juridical forms. The courts have jurisdiction over all civil and criminal matters. They include<sup>4</sup> the superior courts of judicature, established under the 1992 constitution, and the inferior courts, established by parliament (High Commission 2014).

As mentioned earlier, the judiciary is viewed as one of the most corrupt bodies, especially after the 2015 scandal involving a host of judicial officers (Freedom House 2016; Ghana Web 2017a). The judiciary is also known to use its discretionary powers to punish the poor and favour the rich. While influential people charged with corruption face jail time of two to four years, those that are less fortunate receive 10 year sentences for stealing a basket of tomatoes (Braimah 2016). Experts recommend a clean-up of the Ghanaian justice system to counteract the ill effects of judicial corruption that affects the entire country (Braimah 2016).

## Other stakeholders

### Media

Ghana has an enthusiastic press that plays a key role in political discourse, national identity and popular culture. Economic sustainability, however, is a challenge for Ghana's media (Freedom House 2017; Press Reference 2018). Freedom House, awarded a "partly free" status to Ghana in the 2017

Freedom of the Press report. The report also pointed out that several attacks against journalists were carried out in 2016, including a mob attack against a radio station in Brong Ahafo Region<sup>5</sup>, and seizing equipment belonging to three Danish journalists reporting on a private mining corporation (Freedom House 2017).

However, there have also been some legal developments favourable to press freedom. In 2016, the government withdrew the Interception of Postal Packets and Telecommunications Messages Bill, known as the "spy bill", from parliamentary consideration which would have the potential to undermine the right to privacy in private communications (Freedom House 2017). Regulations issued by the National Media Commission (NMC) in 2015 that could have facilitated prepublication censorship were also struck down by the supreme court (Freedom House 2017).

Although the state-run Ghana Broadcasting Corporation (GBC) is protected by the constitution from government interference, political parties often try to influence coverage. Private media also face editorial pressure from their owners, especially those with political connections (Freedom House 2017).

Reporters without Borders ranks Ghana 23 in the 2018 World Press Freedom Index 2018, citing that while media pluralism exists there is not enough independence.

### Civil society

<sup>4</sup> The superior courts are, from highest to lowest, the Supreme Court of Ghana, the court of appeal, the high court of justice, and the 10 regional tribunals. The inferior courts, since the Courts Act 2002, include the circuit courts, the magistrate courts, and special courts such as the juvenile courts (High Commission 2014).

<sup>5</sup> Clients of a failed microfinance company controlled by the same person who owned the radio station attacked it. The attackers not only threatened to kill members of the station's staff if their demands for money were not met, one attacker also kidnapped the child of one of the station's journalists (the child was rescued by the police later) (Freedom House 2017).

In Ghana, citizens are at liberty to create civil society organisations and engage in activism of any kind, including anti-corruption activities. The government does not create barriers for anti-corruption civil society organisations (CSOs). However, it is possible that the government monitors their activities and pronouncements, and sometimes reacts to the pronouncements (Global Integrity 2011). Non-governmental organisations (NGOs) and CSOs are generally able to operate freely, and play an important role in ensuring government accountability and transparency (GAN Integrity 2018).

A few noteworthy CSOs are:

The Ghana Anti-Corruption Coalition (GACC) is a cross-sectoral grouping of public, private and civil society organisations with a focus on promoting good governance and fighting corruption in Ghana. Among other work, they routinely publish corruption research, run an anti-corruption hotline and have a section for people to report if they have paid a bribe (I Paid a Bribe) (GACC 2018).

The Ghana Center for Democratic Development (CDD-Ghana) is dedicated to the promotion of society and government based on the rule of law, appropriate checks on the power of the state and integrity in public administration. Its programmes include human rights promotion, natural resource governance, Afrobarometer Surveys and constitutional development (CDD-Ghana 2018).

Ghana Extractive Industry Transparency Initiative (GHEITI), is the Ghana subset of the global initiative (EITI) aimed at following due process and achieving transparency in payments by Extractive Industry companies to governments and government-linked entities. Alongside other efforts to improve transparency in government budget practice, it also seeks to usher processes whereby citizens can hold their governments accountable for

the use of revenues earned from the extractive sector (GHEITI 2018). EITI has provided several aforementioned recommendations to improve transparency in the extractive sector (part of the natural resource management section). GHEITI has followed up with all the involved stakeholders on many of these recommendations, which has resulted in policy changes such as the introduction of capital gains tax, higher ground rent for mining and a fixed royalty rate (EITI 2018).

Ghana Integrity Initiative (GII) is a non-partisan, non-profit civil organisation focused on addressing corruption, and was established in 1999. GII is the Ghana Chapter of Transparency International. A few notable projects include (GII 2018):

- organising sensitisation workshops, seminar etc. on the causes, effects and solution to corruption
- engaging student bodies in schools and identifiable youth groups to talk about the canker and possible remedies of corruption
- advocating for the initiation and/or passage of transparency-enhancing and anti-corruption legislations, such as Freedom of Information Bill, Whistle-blower Law, Assets Declaration Law (Regulation)
- organising nationwide radio programmes to educate the public on the importance of anti-corruption legislation to counter corruption
- holding meetings with key stakeholders in the water sector on transparency and integrity in the water sector under another new GII project called Transparency and Integrity in Service Delivery in Africa (TISDA)
- organising ethics workshops titled “Zero Tolerance Against Corruption Campaign: The Role of Religious Bodies in Ghana” for religious groups throughout the country

- organising workshops for public officials to promote awareness of the guidelines on conflicts of interest developed by CHRAJ
- empowering communities to demand transparency, responsiveness and accountability in the provision of water, under the poverty and corruption in Africa pilot project
- collaborating with Ghana Association of Women Entrepreneurs (GAWE) to implement a project, Gender and Tax Justice in Ghana to research into the impact of taxation on women

## References

- Ablorh, R. 2016. *Corruption: An Everlasting Item on Ghana's Elections Agenda*. My Joy Online.
- Anti-Corruption Authorities (ACA). 2018. *Commission on Human Rights and Administrative Justice* (CHRAJ).
- Audit Service of Ghana. (2017). *Republic Of Ghana - Medium Term Expenditure Framework (Mtef) For 2017-2019 & Programme Based Budget Estimates For 2017*.
- BBC News. 2018. *Ghana Country Profile*.
- Bertelsmann Stiftung. 2018. *Ghana Country Report*.
- Boateng, C. 2018. *Ghana United against Corruption – National Anti-Corruption Action Plan*. Graphic Online.
- Braimah, A. 2016. *Are Judges Corrupt? An Empirical analysis of the Ghana Judiciary*. IOSR Journal of Humanities and Social Science (IOSR-JHSS) Volume 21, Issue 8, Ver.6.
- Brierley, S. 2017. *Local Government Corruption in Ghana: Misplaced Control and Incentives – IGC*. International Growth Centre (IGC).
- Bureau for International Narcotics and Law Enforcement Affairs. 2017. *International Narcotics Control Strategy Report Volume II*.
- Business Day. 2016. *Ghana's Mahama Cleared of Corruption over Car Gift*.
- Cheeseman, N., Lynch, G. and Willis, J. 2016. *Ghana shows a troubling willingness to accept political corruption, our recent survey shows*. Washington Post.
- CHRAJ. 2018. *About Us*.
- CIA. 2018. *Ghana Profile*.
- Development, T. 2018. *About CDD Ghana*. CDD Ghana.
- Duodo, K. and Goddard A. 2017. *ALB Time for a New Bribery and Corruption Act for Ghana – Articles*. African Law and Business (ALB).
- Dupuy, K. 2017. *Corruption and Elite Capture of Mining Community Development Funds in Ghana and Sierra Leone*. Chr. Michelsen Institute (CMI).
- Economic and Organised Crime Office (EOCO). 2018. *About Us*.
- Extractive Industries Transparency Initiative (EITI). (2017). *Ghana*.
- Freedom House. 2016. *Freedom in the World: Ghana*.
- Freedom House. 2017. *Freedom of the Press: Ghana*.
- Freedom House. 2018. *Ghana*.
- GACC. 2018. *About us Ghana Anti-Corruption Coalition*.
- GAN Integrity. 2018. *Ghana Corruption Report*.
- Ghana Audit Service. 2018. *Mission Statement*.
- Ghana Extractive Industry Transparency Initiative (GHEITI). (2018). *About EITI in Ghana*.
- Ghana Integrity Initiative (GII). 2018. *About GII*.
- Ghana News Agency. 2018. “*When Greed and Corruption Become the Norm*”.
- Ghana Web. 2017. *Police, judges Most Corrupt in Ghana*.
- Heritage Foundation. 2018. *Index of Economic Freedom*.
- International Budget Partnership (IBP). (2017). *Open Budget Survey Results*.
- Inter-Governmental Action Group against Money Laundering (GIABA). 2018. *Anti-money Laundering and Counter-Terrorist Financing Measures Ghana: Mutual Evaluation Report*.
- International Growth Centre (IGC). 2016. *Higher Salaries Worsened Police Corruption in Ghana, According to IGC-Funded Research - IGC*.
- Intosaiitaudit. 2018. *Ghana Audit Service*.
- Ipotnews. 2018. *New Ghana Anti-Corruption Tsar Takes Office*.

- Jenkins, M. 2017. *The Impact of Corruption on Access to Safe Water and Sanitation for People Living in Poverty*. U4 Anti-corruption Centre.
- KnowYourCountry. 2017. *Ghana AML Report*.
- Koswe. 2018. *Ghana Electoral Commission Corrupt*. The Zambian Observer.
- Kukutschka, R. 2014. *Overview of Corruption in Ghana*. Transparency International.
- Mo Ibrahim Foundation. 2017. *Ibrahim Index of African Governance*.
- Modern Ghana. 2018. *Nyantakyi's \$12 Million Deal Exposed at Last*.
- Natural Resource Governance Institute (NRGI). 2017. *Ghana's Oil and Gas Sector is Best-Governed in Sub-Saharan Africa, but Challenges Remain*.
- Natural Resource Governance Institute (NRGI). 2018. *Ghana's New Petroleum Register Features Full-Text Contracts*.
- Office of the Attorney-General and Ministry of Justice. 2018. *Economic and Organised Crime Office*.
- Okello, C. 2018. *High Hopes in Ghana after New Anti-Corruption Tsar Named*. RFI.
- Osei-Amoako, Y. 2018. *Reflections on Ghana's Office of the Special Prosecutor*. Ghana Web.
- Oxford Business Group. 2017. *The Report: Ghana*.
- Parliament of the Republic of Ghana. 2012. *Criminal Offences (Amendment) Act, 2012*.
- Reporters Without Borders (RSF). 2018. *Ghana: Media Pluralism but Not Enough Independence | Reporters without Borders*.
- Sagoe-Moses, L. 2017. *How to Unmask Corruption in Ghana*. The New York Times.
- Skaten, M. 2018. *Ghana's Oil Industry: Steady Growth in a Challenging Environment*. The Oxford Institute for Energy Studies, University of Oxford.
- Star Ghana. 2018. *Social Norms and Petty Corruption in Ghana*.
- Tenkorang, E. 2018. *Amidu Sworn in As Ghana's First Special Prosecutor – citifmonline.com*. Citi FM Online.
- The High Commission of Republic of Ghana New Delhi, India (High Commission). 2014. *The Legal System of Ghana*.
- TRACE International. 2017. *TRACE Bribery Risk Matrix*.
- Transparency International. 2017. *Corruption Perceptions Index*.
- UNFCCC. 2018. *Status of Ratification of the Convention*.
- United Nations Office on Drugs and Crime (UNODC). 2018. *UNCAC Ratification status*.
- US Department of State. 2017. *Ghana Human Rights Report*.
- World Bank. 2016. *Worldwide Governance Indicators*.
- World Bank. 2018. *Doing Business in Ghana*.
- World Bank. 2018. *Ghana Overview*.
- Yusif, F. 2018. *GACC Urges Gov't to Deal with Corruption in Water Sector*. Citi FM Online.

## **Disclaimer**

All views in this text are the author(s)' and may differ from the U4 partner agencies' policies.

## **Partner agencies**

DFAT (Australia), GIZ/BMZ (Germany), Ministry for Foreign Affairs of Finland, Danida (Denmark), Sida (Sweden), SDC (Switzerland), Norad (Norway), UK Aid/DFID.

## **About U4**

The U4 anti-corruption helpdesk is a free research service exclusively for staff from U4 partner agencies. This service is a collaboration between U4 and Transparency International (TI) in Berlin, Germany. Researchers at TI run the helpdesk.

The U4 Anti-Corruption Resource Centre shares research and evidence to help international development actors get sustainable results. The centre is part of Chr. Michelsen Institute (CMI) in Bergen, Norway – a research institute on global development and human rights.

[www.U4.no](http://www.U4.no)

[U4@cmi.no](mailto:U4@cmi.no)

## **Keywords**

Ghana - judiciary - audit

## **Open access**

We apply a Creative Commons licence to our publications: CC BY-NC-ND 4.0.



*U4 Partner staff can use the helpdesk for free.  
Email us at [helpdesk@u4.no](mailto:helpdesk@u4.no)*