



**Ghana Integrity Initiative (GII)**  
Local Chapter of Transparency International

# GII Alert

QUARTERLY NEWSLETTER

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## GII LED OSP LAW CONSULTATIONS

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### THE FIGHT AGAINST CORRUPTION:

## THE DILEMMA OF AN INVESTIGATIVE JOURNALIST - TO PUBLISH OR NOT TO PUBLISH

Ghana has witnessed some dramatic moments in the fight against corruption especially where media exposure is concerned. However, history is yet to record anything more dramatic than the various reactions that greeted the release of the investigative reports on the suspected, inflated contracts between the Ministry of Local Government and Rural Development and the Jospong Group of companies. The investigations were conducted by Joy FM's Investigative Journalist, Manasseh Azure.

Much as there has been a number of media exposé of corruption in Ghana, none of the exposures evoked such passion among the media fraternity as the 'Jospong' investigative reports.

Examples of media exposé on corruption can be cited, since the liberalisation of the media environment in 1992 and its attendant proliferation of both print and electronic media. Mention can be made of the Ex-President Rawlings' \$5m gift from Sani-Abacha in 1998, the Quality Grain Saga, the Mallam Issah's \$46,000 Black Star bonus saga and the Ex-President Mahama's Ford gift scandal. Under the current administration, corruption reports such as the National Communication Authority (NCA) alleged misappropriation of funds meant for the purchase of listening devices and the SSNIT \$72 million software/hardware allegations are a few of corruption exposés that have come to light.

In spite of the sensitivity of the famous judicial corruption exposé, the media stood united in condemnation of the culprits. However, it seems so bewildering the manner in which the media and its leadership went at each other either in defence of the Investigative Journalist or others in condemnation of the investigative work done because to those who were against the exposé, the reports have the potential of killing indigenous businesses.

What even made matters worse was the statement published by the Ghana Journalist Association (GJA) cautioning Investigative Journalist to be circumspect in their investigations of local businesses. The timing and the crafting of the GJA statement raised a lot of contentious debate "to

publish or not to publish" should an investigative journalist discover questionable business dealings which has the potential of causing financial loss to the state?

This contention prompted a reaction from Civil Society organisations and persons who have distinguished themselves in the media industry, either as practitioners or as lectures of media practices.

While all these were happening, the country lost sight of the fact that if the fight against corruption is to be won then it will take an open and transparent society. That is why the work of the Investigative Journalist is celebrated in all civilised society. Transparency International sponsors the investigative journalist award as part of the One World Media Awards held annually.

This year's award was won by Reporter Will Jordan, an investigative journalist of the Al Jazeera. Will published a story on 'Stealing Paradise'. In the story, Will Jordan showed how government sold off the islands of the Maldives amidst government officials collecting bribes and also facilitating money laundering. The investigations led to the discovery that \$80m had been stolen from state coffers and hidden in private accounts. The country's vice president is now serving a jail term.

Ghana Integrity Initiative (GII) therefore encourages all media practitioners to be resolute in their quest to ensure that corruption is brought under control. Honest business enterprises should be supported. However, the media should not shy away from exposing business entities with questionable integrity. The fight against corruption requires the total commitment of all citizens and non-citizens residing in Ghana if desirable progress is to be made. This is precisely the reason why the National Anti-Corruption Action Plan (NACAP) assigned roles to all key stakeholders which includes the media to help fight corruption.

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## EDITORIAL TEAM

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The Editorial Team of GII Alert encourages readers to write "**Letters to the Editor**" on matters they wish to comment on as well as short stories or expert pieces on corruption / good governance. The stories must, however, be relevant to the anti-corruption crusade. Articles should remain brief and straight to the point to increase their chances of being published. The Editor reserves the right to edit such articles to suit the editorial policy of the newsletter and the general mandate of the GII.

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Ghana Integrity Initiative(GII) is the local chapter of Transparency International (TI), the leading non-governmental organisation in the fight against corruption.

# GII-led OSP Law Consultations

The New Patriotic Party (NPP) won the 2016 general election on the back of the promise to fight corruption and ensure that the resources of Ghana are protected. To achieve this end, the new government while in opposition promised to establish an Office of a Special Prosecutor (OSP) to investigate and prosecute all corruption related offenses. It is presumed that the NPP's anti-corruption messages resonated with the people.

H.E. Nana Addo Danquah Akufo Addo in his first State of the Nation's Address showed his commitment to fight corruption in the following words;

"Those of us in public service should acknowledge that corruption is one of the biggest concerns to the people of Ghana. It is the one subject on which a surprising number of people are willing to tolerate a waiver of due process. This is because, unfortunately, public officials are in danger of losing the confidence of the people in the fight against corruption. There is a perception that all public officials are part of a great scam to defraud the public and that they protect each other. It is in everybody's interest that the fight against corruption is transparent and has the support of the public" (H.E. President Nana Addo, SONA 2017)

The President has spared no opportunity to talk about the establishment of the OSP to fight corruption. However as at the close of the first quarter of 2017 the public saw no clear efforts of government's commitments towards translating the rhetoric into concrete action therefore civil society led by the Ghana Integrity Initiative (GII) and supported by STAAC/DFID organised three multi-stakeholder (private sector, civil society and the media) - roundtable meetings to interrogate the approach and make inputs to the proposed establishment of the Office of the Special Prosecutor. The roundtables provided stakeholders the opportunity to among others issues analyze the independence and robustness of the proposed framework and its effectiveness in prosecuting corruption in Ghana.

To facilitate an open interrogative discussion towards finding answers to the contentious issues of the legal framework needed to set up the OSP without violating the 1992 Constitution, (Ensuring the independence of the OSP, transparency of the appointment process and the relationship between the OSP, the Attorney General and other Anti-Corruption bodies like the Commission of Human Rights and Administrative Justice (CHRAJ), the Economic and Organised Crime Organisation (EOCO), the Ghana

Police Criminal Investigation Department (CID) and the Financial Intelligence Centre (FIC) the presentations were guided by the following questions:

1. What model of the OSP will be suitable for Ghana to adopt considering its legal/constitutional arrangements and political economy?
2. What is needed in terms of the legal and operational arrangements of the OSP to guarantee independence and effectiveness?
3. What legal and operational arrangements should exist between the OSP and the Attorney General and between the OSP and the Director of Public Prosecutions?
4. What legal and operational arrangements should exist between the OSP and other investigative and prosecutorial bodies?
5. What transparency and accountability requirements should the OSP possess?

Speakers at the three roundtable meetings had a good appreciation of criminal justice and human rights. They included Ms. Daphne Lariba (LRC), Mr. Ace Ankomah (Bentsi-Enchill, Letsa & Ankomah), Dr. Dominic Ayine (MP), Alhaji Inusah Fuseini (MP), Mr. Charles

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Ace Ankomah, Dr. Dominic Ayine, Charles Ayamdoo at the CSOs Consultation

Ghana Integrity Initiative (GII), the local chapter of Transparency International, wishes to commend H.E. President Nana Addo Dankwa Akufo Addo for making great strides in the fight against corruption by instructing the security agencies to investigate allegations of corruption made against officials within his government.

This commendation comes on the back of the Criminal Investigation Department's (CID) ongoing investigations into bribery allegations made against the Minister of Communications, Mrs. Ursula Owusu Ekuful, Deputy Chief of Staff at the Presidency, Mr. Samuel Abu Jinapor and Mr. Francis Asenso – Boakye at the instruction of the President.

Though this transparent unconventional approach may possibly not sit well amongst people in government, it is worth commending because it could serve as a deterrent to other government officials and public servants in general from engaging in corrupt practices. It will also boost people's confidence in government's capacity to address corruption in the country.

Having commended the President, GII would like to enquire of the status of the following allegations of corruption that are yet to be fully addressed:

i. The \$1.5m corruption scandal involving two former officials of the National Communication Authority;

ii. A corruption allegation relating to the former Chief Executive of the Ghana Standards Authority (GSA);

iii. Reported corruption scandal involving 15 senior officers of the customs division of Ghana Revenue Authority (GRA) and

iv. The National Lotteries Authority (NLA) and the Parliamentary Select Committee on Finance bribery allegation

We call on the government and respective anti-corruption agencies as well as relevant state investigative bodies to thoroughly get to the bottom of these matters and in due course inform the public of the outcomes.

## GII - led OSP Law Consultations

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Linda Ofori-Kwafo, Eric Osae-Oduro, Samson Lardy Anyenini, Clement Akapeme, Alhaji Inusah Fuseni at the media Consultation

Ayamdoo (CHRAJ), Prof. Ken Attafuah, (NIA), Mr. Korieh Duodu (STAAC) and Sampson Lardi Anyenini (Multimedia Broadcasting).

At the meeting with CSOs, Dr Dominic Ayine, Member of Parliament for Bolgatanga East on the ticket of the National Democratic Congress (NDC) said the NDC does not oppose the establishment of an OSP and that the NDC also proposed the creation of an OSP in the office of the Director of Public Prosecutor under the Attorney General. Dr. Ayine said the creation of the OSP

should not necessarily lead to the creation of new offences which are not consistent with the Criminal and Offence Act.1960 (Act 29)

The roundtables produced recommendations which were shared with the Attorney General department and the Parliamentary Select Committee on Constitutional, Legal and Parliamentary Affairs for consideration and input in the OSP Bill that was passed in November 2017. Some of the recommendations are:

1. On the appointment of the OSP, the

nomination of a candidate should be transparent and competitive and that vetting should be done by an independent body composed of Members of Parliament, the Judiciary, the Public Services Commission, Civil Society and the private sector.

2. For the composition of a governing body, it was proposed that members should be persons of proven competence and must not be selected based on political party affinity

3. On the functions of the OSP, every effort should be made to avoid the intervention of the Attorney General by filing the famous nolle prosequi and if the Attorney General must enter the nolle prosequi, then the OSP Act must compel the Attorney General to issue a public explanation.

4. On complaint procedure, it was recommended that the OSP should extend its complaints procedure beyond receiving complaints from citizens and take on referrals from other anti-corruption bodies such as CHRAJ.

Following the GII consultations, the Attorney General submitted a draft bill to key stakeholders including civil society to review and share their inputs. These input were submitted to the Attorney Generals Department and the recommendation duly considered in the draft bill. The bill has since been passed.

# SUMMARY OF COMPARATIVE STUDY

## 1. BACKGROUND

The New Patriotic Party which won the recently held presidential elections in Ghana included in its manifesto a commitment to create an Office of the Special Prosecutor (the “OSP”) for the prosecution of crimes against the state by government officials and political appointees. Since the assumption of office in January 2017, the Government of Ghana (“GoG”) has continued to look into the various options for setting up the OSP.

Various government spokespersons have indicated that the OSP will be established by an Act of Parliament. The main issue which has captured public attention so far has been how the OSP can be truly independent of the executive arm of government, considering that prosecutorial powers are vested in the Attorney General by the 1992 Constitution of Ghana.

The GII lead Coalition noted limitations but acknowledging the critical role the OSP can play in the fight against corruption commissioned a comparative analysis of the OSP across selected countries where the system is protected.

## 2. Comparative Review of OSP Jurisdictions

The OSPs or their equivalents in Kenya, South Africa, Tanzania, Uganda and Jamaica are studied in this report.

The OSPs in all the jurisdictions in this study are established by the constitutions of their respective states. This is a fundamental difference from the proposed approach in Ghana, where such an office would be set up by legislation alone. The lack of constitutional underpinning to the OSP in Ghana could provide a fundamental challenge to its effectiveness.

The effectiveness of an OSP is likely to be fundamentally impacted by the independence the OSP enjoys from the government. The OSP's level of freedom from government's interference ordinarily hinges on whether the government or the Attorney-General exercises some form of control over the OSP, directly or indirectly. In Tanzania, for example, the Attorney-General exercises direct control over the workings and operations of the OSP, although the

Constitution of Tanzania provides that the OSP's work should not be interfered with. The exercise of control by the executive through the Attorney-General is made possible by a provision in the Constitution which allows laws to be made to regulate the powers and functions of the OSP. The government may also indirectly control the OSP through its budgetary allocations and staffing of the office. Complaints to this effect have been made with regards to the government's financing of the OSP in Kenya.

Naturally, the processes for the appointment and removal of OSPs also affect the OSPs' independence. It has been observed that elaborate and participatory processes for the appointment and removal of OSPs as well as security of tenure impacts positively on the independence and ultimately the effectiveness of the OSP. In South Africa, the OSP under Thabo Mbeki was suspended by the President because of an alleged “irretrievable breakdown” in his relationship with a member of the Executive. Such interference utterly undermines the effectiveness of the office.

Another factor contributing to the effectiveness of the OSP is the power to conduct investigations, as well as to direct and control investigations by other authorities. In Kenya, where the OSP has to rely on the police or other investigative agencies to gather evidence for prosecution, the OSP can be rendered ineffectual, particularly in the case of prosecutions against political appointees. Naturally this is because in many jurisdictions (including those we have considered), the investigative organs are most often controlled by the very government the OSP is established to police.

It is also critical that there is a clear demarcation of offences for which the OSP can prosecute. Any enabling legislation should carve out the offences which come under the Office's mandate, to avoid turf wars and competition with other prosecuting authorities. At the same time, the Attorney-General and other delegated prosecuting authorities should make a commitment not to prosecute such offences, or interfere with the work of the OSP. This, as we discuss below, will require a significant amount of political will, prior to any

amendments to the Constitution of Ghana.

## 3. Challenges to Setting up the OSP in Ghana

Ghana's current system presents some important issues which need to be considered in setting up the OSP. The power to initiate and conduct prosecution is vested in the Attorney-General by Art. 88(3) of the 1992 Constitution. The Attorney-General may delegate this power to other agencies or persons but exercises the ultimate control over the initiation and conduct of criminal proceedings. The Attorney-General may even discontinue a case at any time before judgment on his/her sole discretion (under the power known as *nolle prosequi*). Unless a constitutional amendment is made, it is impossible for the Attorney-General's power of prosecution to be transferred wholesale or irretrievably to the OSP, or for the Attorney-General to do so without exercising a degree of control.

The laws on corruption, bribery, causing financial loss, etc. are scattered in a myriad of diverse pieces of legislation. There have also been debates among the general public on whether offences like bribery and corruption have been properly and clearly defined. In our view, there is the need to consolidate the laws and specifically provide for the offences over which the OSP may be given the mandate. This is an opportunity to amend the criminal and other offences (Procedure) Act - 1960 (Act 30).

## 4. Recommendations

In light of the challenges to the setting up of the OSP, it is suggested that:

- (1) The OSP may be set up through an Act of Parliament or through a Constitutional Instrument immediately.
- (2) Notwithstanding the legislative framework for the office to be set up, the OSP will remain under the control of the Attorney-General, since the provisions of Art. 88 of the Constitution will take priority over any legislation in the event of any conflict.
- (3) There is a clear requirement for political will of the GoG and executive for the OSP to operate independently so as to achieve the intended purpose, prior to any amendment of the Constitution. A clear statement to this effect might be

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# The Fight Against Corruption - 2017 Retrospect



President Nana Akufu-Addo

**G**hana Integrity Initiative (GII), the local chapter of Transparency International, in September 2017 commended H.E. President Nana Addo Dankwa Akufo Addo for making great strides in the fight against corruption. GII's commendation followed the President's directive to the security agencies to investigate allegations of corruption made against officials within his government.

The members of his government against whom corruption allegations were made included the Minister of Communications, Mrs. Ursula Owusu Ekufu, Deputy Chiefs of Staff at the Presidency, Mr. Samuel Abu Jinapor and Mr. Francis Asenso – Boakyie at the instance of the President.

Prior to what came to be known as the A-Plus corruption allegations, Parliament had already investigated a bribery allegation made by Mr Mahama Ayariga, the Honourable Member of Parliament for Bawku Central constituency against Mr. Boakyie Agyarko, then Minister of Energy nominee in January 2017. By this transparent and unconventional approach to fight corruption, the President signalled to the anti-corruption community in Ghana and the world over of his determination to have corruption under control.

However the excitement of the anti-corruption community was short lived when corruption allegation at the Bulk Oil Storage and Transportation (BOST) made the headlines. The handling of investigation into how the petroleum products got

contaminated and most importantly how the contaminated products were disposed off, the investigative process and the outcome thereof left a sour taste in the mouths of many Ghanaians.

The confidence of Ghanaians in the President's ability to fight corruption hit rock bottom when a host of corruption allegations against the past government of Ex-President John Mahama made the news and for months all that Ghanaians were told of these corruption allegations was that they are under investigation and awaiting the establishment of the Office of Special Prosecutor.

These cases include the following: \$72 Million for SSNIT pension software SAGA, Former NCA boss, 4 others charged with causing financial loss, A corruption allegation relating to the former Chief Executive of the Ghana Standards Authority (GSA), Reported corruption scandal involving 15 senior officers of the customs division of Ghana Revenue Authority (GRA) and YEA audit uncovers GHC 50 million payment fraud - BNI chases culprits amongst others. The deafening silence by the law enforcement agencies on progress made on the above cases caused a lot of anxiety among many Ghanaians as they wondered if President Nana Addo was being infested with the 'business as usual syndrome'.

As the public continues to question whether the president was losing momentum on the efforts to bring

corruption under control, the Office of the Special Prosecutor (OSP) Bill landed in Parliament. GII invested considerable efforts with support from STAAC, a DFID initiative to influence the OSP Bill to increase the transparency and accountability clauses in the draft law. Views of civil society such as specified tenure of office for the Special Prosecutor, publication of reports of the Special Prosecutor and the composition of the governing board of the Office of the Special Prosecutor were all accepted and included in the OSP draft law.

The passage of the law by parliament renewed the public interest in the commitment of President Akufo Addo's fight against corruption. The passage of the OSP bill into law then strengthened the people's belief that indeed there seem to be a light at the end of the tunnel for the fight against corruption. There is light because the only one weakest link in the country's fight against corruption, investigation and prosecution is at last being addressed. This weak link has not only been the perception of the Ghanaian people but has also been identified in the United Nations Convention Against Corruption (UNCAC) review of Ghana. Chapter three of the UNCAC 2015 Review observed that Ghana has a lot of sanctions for corruption offences – ranging from simple fines to imprisonment. However, what is weak is the commitment to prosecute corruption cases.

The last effort of government in its fight against corruption in 2017 was charging and prosecuting the National Communication Authority (NCA) for alleged embezzlement of six million dollar meant for the procurement of listening devices. Considering government's efforts in the year 2017, GII commended the Nana Addo's administration. GII in September 2017 issued a press statement to applaud government for some commendable decisions it took on the fight against corruption but encouraged government to be forthright with information on the following investigations:

- i. The \$1.5m corruption scandal involving two former officials of the National Communication Authority;
- ii. A corruption allegation relating to the former Chief Executive of the Ghana Standards Authority (GSA);
- iii. The reported corruption scandal involving 15 senior officers of the customs division of Ghana Revenue Authority (GRA) and the National Lotteries Authority (NLA) and the Parliamentary Select Committee on Finance's bribery allegation.

# Citizens' Participation in Local Governance: **A Tool for Strengthening Transparency and Accountability at the Local Level**

In the months of May and June, 2017, the Ghana Integrity Initiative (GII) held capacity building workshops for various citizen's groups called Social Auditing Clubs (SACs) in 8 districts of the 3 regions in the north. The capacity building exercise was under an Open Society Initiative for West Africa (OSIWA) project titled, 'Strengthening Accountability, Transparency and Participation in Anti-Corruption Governance'.

The capacity building exercise focused on engaging the SACs to build their capacity on social auditing and social accountability practices to demand transparency and accountability from

their district authorities. It was also meant to empower them to better engage with local government authorities at the sub-national level to ensure inclusion and participation in development as well as hold duty bearers accountable in the discharge of their duties.

GII undertook the exercise in collaboration with the district office of the National Commission for Civic Education (NCCE).

The activities brought together members of the SACs, selected key assembly staff and staff of the National Commission for Civic Education (NCCE) in each of the eight (8) selected project areas. The

project districts are Jirapa, Wa Municipal and Sissala East in the Upper West region, Kasena Nankena East, Builsa South and Bawku West in the Upper East region and Kpandai and Gonja Central in the Northern region.

Participants were taken through presentations on their roles and responsibilities as SAC members, Social Auditing for good governance as well as highlights of their previous activities after the formation of the clubs. At the end of the workshops, participants drafted their quarterly work plans based on the district specific priorities. The work plans highlighted the issues and strategic to accomplish them.

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## **Summary of Comparative Study**

included by GoG in the proposed legislation.

(4) The Constitution ought to be amended to ensure that the powers of the AG as per Art 88 are made to reflect the independence and autonomy of the OSP. This is in line with all the other OSPs where the AG plays no prosecutorial function but rather focuses on acting as the legal representative of the Government in civil cases.

(5) The process towards constitutional amendment (including by referendum) should begin immediately.

(6) A national referendum on the Constitution, with a central issue being the creation of an independent and autonomous body to combat corruption,

will bring additional focus to the issue of corruption in public consciousness and discourse. This could aid critical work that the President and GoG have committed to. This will not only facilitate the development of a stronger regulatory framework for tackling corruption, but addressing the underlying cultural and attitudinal changes that are necessary, primarily through education.

(7) We consider that there is strong merit in the proposition that the various laws on bribery, corruption and related crimes be consolidated for easy accessibility, understanding and reference. This will assist the OSP in understanding its remit and also assist the public in understanding the new approach and intolerance to corruption-related offences.

(8) The OSP should be given power to control and direct not just prosecution but the investigation of offences over which it may prosecute. This will be a further measure to prevent interference by government cases the law in enforcement agencies choose to investigate diligently and prosecute.

(9) The OSP should be placed within a closely co-ordinated framework of other investigating and prosecuting agencies. It is essential that extensive consideration is given to how cases are allocated to the various agencies for investigation and/or prosecution. Overlaps between agencies should to a large extent be removed. A central co-ordinating office should determine the allocation of cases. Ultimately, the OSP should have the power to take over any prosecution which it considers to be within its remit. This would avoid some of the turf war problems Tanzania has experienced.

(10) Security of budget, tenure and emoluments, as well as a lifecycle of the OSP that runs independently of the President, will assist significantly to ensure the office is capable of carrying out its mandate with the resources required, and without interference.

# Ghana Integrity Initiative (GII) Events In Pictures



OSP Consolutions: Media, Private Sector & CSO's



Beneficial Ownership training in the Western Region



GII engages the people of Biakoye District in the Volta Region on reporting Corrupt practices



Land Forums and traditional authorities workshop



Public forum on Corruption

Beneficial Ownership training in the Eastern Region





# Memorandum on the Office of Special Prosecutor Bill, 2017 Civil Society Organisation(cso) Input

The Ghana Integrity Initiative (GII), Ghana Centre for Democratic Development (CDD-Ghana) and the Ghana Anti-Corruption Coalition (GACC) wish to express our appreciation to the Honourable Attorney General and Minister for Justice for inviting our three organisations to participate in the Stakeholder Meeting on the proposed Special Prosecutor Bill held at Movenpick on 27-28 June 2017. While we acknowledge that a lot of progress was made during the two-day deliberations to improve the bill, we want to use the opportunity presented by your formal request for written submission to make a few additional proposals to strengthen the bill before it is submitted to Parliament. In this regard, we wish to propose the following additional amendments to specific provisions of the draft bill for consideration.

## Section 12: Appointment of Special Prosecutor

The plenary at the stakeholder meeting agreed that the President shall appoint the Special Prosecutor upon the nomination of the Attorney General (AG). This was to ensure that the AG's original jurisdiction under Article 88 of the 1992 Constitution was appropriately acknowledged. However, we believe that leaving the appointment process in its current form will not enhance the independence of the Special Prosecutor and the Office. We therefore propose a prelude to the nomination process of the AG which can be accommodated under Article 195(2) of the Constitution. Specifically, we propose the following:

- a. Make the process to nominate the Special Prosecutor open and competitive by advertising the position for Ghanaians home and abroad.
- b. Include clear criteria for selection of the Special Prosecutor including issues of competence, experience, integrity and non-partisanship. On the issue of integrity, the person should be of high moral character or proven integrity.
- c. An independent vetting committee comprising the following stakeholders to scrutinise and recommend at least three applicants for consideration by the AG.

- 1) Parliament (2)
- 2) Judiciary (1)
- 3) Public Services Commission (1)
- 4) Traditional authority and Religious Groups (2)
- 5) Civil Society and Media (2)
- 6) Private sector (1)
- 7) AG's Nominee (1)

d. Substantive Appointment – The appointment of the Special Prosecutor should always be a Substantive Appointment. Where a person is appointed in an acting position the tenure should not be more than six months, after which a substantive appointment should be made.

## Section 5 - Governing Body of the Office

We wish to affirm the conclusions reached at the stakeholders meeting on the composition of the Governing Body, which will be made up of 10 individuals including the chairperson. We affirm the following:

- a. Inclusion of criteria for selection of the governing body, this criteria should include issues of competency, experience, integrity and non-partisanship
- b. The constituted governing council members should elect their own Chair

## Section 3 - Functions of the Office

We propose a new sub-clause 3 which states that "where the AG seeks to trigger her original powers under the constitution to interfere with the delegated prosecutorial powers of the Special Prosecutor, it shall be under clear operational rules established in a regulation to this Act, it shall be for stated grounds and these reasons must be made public. The format and scope of public disclosure should be established in a regulation to this Act.

## Section 13 – Functions of the Special Prosecutor

We propose the insertion of a new sub-clause 3, which states, that "the AG shall not exercise the power of *nolle prosequi* in respect of any prosecution initiated by the Special Prosecutor under this Act."

## Section 20- Funds for the Office

We affirm the agreement at the stakeholder meeting that Parliament should approve the budget of the OSP whilst the Auditor-General audits expenditure. The OSP should not directly receive gifts or donations for its operations. Where necessary, these should be received on behalf of the OSP by the Ministry of Finance and lodged in a dedicated account for the exclusive financing of the OSP.

## Section 24 – Annual Reports

We confirm that the stakeholders agreed that apart from the reports to the AG and Parliament, the Special Prosecutor should provide information to the public on the activities of the office periodically through a website and publication in two national dailies. The content, scope and regularity of the report shall be established under regulations to this bill.

## Clause 25 – Complaint Procedure

This clause should have a new heading "Initiation of Investigations and Prosecutions". Apart from triggering investigations or prosecutions through complaints, the clause should also include referrals from CHRAJ and other investigative bodies like EOCO, FIC, CID, media allegations of corruption, informants, and investigations initiated by the Special Prosecutor, on his/her own accord.

There should also be a sub-clause on "protection of whistle blowers and informants". This clause will draw on the provisions of the Whistleblowers Act 2006 to spell out the protections complainants and other informants may have.

We also propose for consideration the issue of plea-bargaining prior to the prosecution process under this clause to provide incentives for informants who may be excluded under the Whistleblowers Act 2006.

## Conclusion

Again, we thank you for the opportunity to make our input in the draft bill. Be assured of our continued support to the process. We look forward to further engagements to improve the draft bill and to achieve the successful establishment of the Office of the Special Prosecutor.

# SOCIAL ACCOUNTABILITY AND SOCIAL AUDITING:

## TOOLS FOR MMDAs TO JOIN THE FIGHT AGAINST CORRUPTION



A cross section of the MMDA staff who participated in the training in the Upper West Region

As part of the Ghana Integrity Initiative's (GII) efforts to bring the fight against corruption closer to the citizens, some selected Metropolitan, Municipal and District Assemblies (MMDAs) were trained between the period of May and June, 2017 to promote social accountability using social auditing as a tool. In addition to the Social Auditing tool, the MMDAs had their capacities built on the various anti-corruption laws in Ghana.

The training was aimed at "Strengthening Accountability, Transparency and Participation in Anti-Corruption Governance". The project seeks to contribute to the establishment of anti-corruption governance system in Ghana that is more accountable, transparent and participatory and supports strengthening cooperation and responsiveness of accountability institutions in addressing corruption issues at the local level. The project is funded by the Open Society Initiative for West Africa (OSIWA).

In line with this, GII in collaboration with the National Commission for Civic Education (NCCE) organized capacity building workshops for eight (8) selected MMDAs in Ghana. These selected Assemblies were Jirapa, Wa Municipal and Sissala East in the Upper West region. The rest are Kasena Nankana

East, Builsa South and Bawku West in the Upper East region and Kpandai and Gonja Central in the Northern region.

The capacity building activity focused on the role of the MMDAs in encouraging citizens' participation in local government, existing anti-corruption interventions such as the National Anti-Corruption Action Plan (NACAP) and the concept of Social Auditing. The importance of promoting social accountability at the local level is to help empower citizens to exercise their rights by scrutinizing the activities of public authorities in the use of public resources.

The intention, GII believes will promote good governance at the local level and

ensure citizens' satisfaction in the delivery of public services.

There were 8 districts made up of both elected and appointed officials of the MMDAs. There were senior officials of the MMDAs such as Presiding Members, Metropolitan, Municipal and District Chief Executives (MMDCEs), Metropolitan, Municipal and District Coordinating Directors (MMDCDs) and their deputies, Internal Auditors and heads of some decentralized agencies of the assembly.

One major challenge highlighted by most of the MMDAs is the lack of resources for participant decision making and implementation. This leads to their inability to engage citizens as required by their mandate. The general consensus going forward has the recognition and appreciation of the need to agree to be transparent and accountable to the people, as well as embark on intensive campaigns to encourage citizens' participation in the local governance process. They also proposed strict enforcement of Assemblies Bye-laws and the protection of whistle blowers in order to encourage corruption reporting.

The most remarkable outcome of the training is the increased openness of the selected assemblies to the extent that various citizen's groups in the assemblies have confirmed to GII that the capacity building exercise has opened up the assemblies for more dialogues. Notable among the successes chalked during the implementation of the activity was the participation of the DCEs of the Kassena Nanka and Sissala East districts in discussion to develop a workplan for the Social Auditing Clubs (SACs).



A cross section of the MMDA staff from Upper West Region

# Can Corruption be Eradicated in Ghana?

The question as to whether corruption can be reduced or eradicated in Ghana is an issue which like all social science questions, has a split reasoning and a divided conclusion. If you are of the school of thought that corruption is second nature to mankind, then the answer is no. This is because you would then argue that corruption is a natural response to scarcity of resources, which is inevitable.

However, it is the belief of another school of thought that we are all products of our environment and as such, corruption can be curbed if the environmental factors including societal values consider corruption as a social evil which must be controlled or stopped.

Many children have learned from society that integrity is not 'cool.' In fact, more often than not, children who stand for truth and fairness are bullied mercilessly by their peers at school. It is not uncommon to find such children being labelled as 'Holy Marys' and 'Snitches.' This culture discourages children from standing up for the right thing and these children grow into adults believing that it is 'uncool' to go against the grain and fight corruption. A child needs to be taught to do right because it's the right thing to do, and not

because he or she will be rewarded for it. A child needs to see his father or mother stand up to the police officer and refuse to pay bribe. Then the child learns that paying bribe is wrong. Children need to see their teachers punish their peers who are dishonest and fraudulent, so that they learn it is not right to be so. Children learn by example and it is important to set a good example because they grow up to become the adults who lead the nation. And if this means a child stays behind for a year because his/her parents refused to pay bribe so he/she could go to school despite his/her poor performance, then so be it.

The present government has proposed an Office of the Special Prosecutor bill which is no doubt well-intentioned. However, a Special Prosecutor will be of no use if he or she is not independent of the executive arm of government. Separation of Powers is extremely important in the fight against corruption. It is ironic, because Separation of Powers is a principle exclusive to the democratic system of governance and so are Checks and Balances and while these two tenets go hand in hand, they also have a way of undermining each other. There cannot be total and effective separation of powers where there are checks and balances. Still, we are going to have to try

to ensure that there is as much separation of powers as possible; especially in relation to true separation of powers of parliament in the light of the constitutional injunction (Article 78(1) of the 1992 constitution of Ghana) that requires the executive to appoint at least fifty per cent of ministers from parliament. The government cannot be fully accountable if parliament continues to transact business on partisan lines. Also Ghanaians are disillusioned by the high levels of perceived judicial corruption in Ghana have disillusioned Ghanaians and made them reluctant to follow up on cases relating to corruption. In this vein, firmer structures need to be put in place with regards to the sanctioning perpetrators of corrupt practises. Naming and shaming should be practiced and penances should be carried out without bias or reservation. These measures will serve as deterrents to all parties involved in corruption. Needless to say, bills regarding the safety of informants need to be passed as well. This will motivate people to come forward and report corruption.

It therefore goes without saying that education is very important. We need to create awareness on the pitfalls and long term effects of corruption on the nation's wellbeing. We need to teach people that corruption is not unavoidable, that corruption is the catalyst of poverty and that corruption does affect all of us in ways that we can never imagine. I believe that if we do, corruption will be stopped and the society will be a level playing field where all and sundry will have equal chances to



**GII representatives at the SCUT mid-term review and learning meeting in Zambia**

The Ghana Integrity Initiative (GII) participated in a mid-term review and learning meeting of the Tax Justice Network project in Lusaka, Zambia under the SCUT Project in collaboration

## GII PARTICIPATE IN TAX JUSTICE PLANNING IN LUSAKA, ZAMBIA

with the Center for Trade, Policy and Development (CTPD). The SCUT project is jointly funded by TJN-A and Open Society Foundation (OSF) under its Fiscal Governance Programme. The review meeting was conducted to map out progress made during its first year of implementation at different levels (national and regional) and sharing of experience for learning, adaptation and partnership.

As part of efforts by GII to promote transparency, accountability and reduce corruption in Ghana, a study was conducted into how gender sensitive the country's tax laws are, and to what extent the laws promote equity. The study which was funded by the Tax Justice project was entitled, 'Tax and Gender'. The study confirmed the existence of gaps in Ghana's tax administration.

GII started its tax project in September 2016. The project was designed to enhance and sustain capacity for engagement in policy and legislative processes at national level to contribute to strengthening domestic resource mobilization.

Discussions covered achievements and challenges on the interim report as against the Monitoring, Evaluation and Learning (MEAL) plan of the project and outcomes harvested over the implementation period of September 2016 to August 2017.

Participating members were representatives from SEATINI in Uganda, Ghana Integrity Initiative (GII) in Ghana, Centre for Trade Policy and Development (CTPD) in Zambia, Policy Forum (PF) in Tanzania and Civil Society Legislative Advocacy Centre (CISLAC) in Nigeria including TJN-A.

# Transparency International elects new executives



“Transparency, Integrity and Accountability are the principles that shall guide our work as an organization. We shall walk the talk”

**Delia Ferreira Rubio**  
TI New Chair

**D**elia Matilde Ferreira Rubio was elected chair of Transparency International, the global anti-corruption movement, at its Annual Membership Meeting in Berlin.

Rueben Lifuka was elected as vice-chair, along with seven new board members. All will serve a three-year term.

“Globalisation and technology have changed the nature of corruption. It is the role of Transparency International to face up to this changed world. Our work will be guided by our strong principles of transparency, integrity and accountability. We shall walk the talk and in this I will lead,” said Ferreira Rubio.

Ferreira Rubio is from Argentina and was the former president of Transparency International's Argentine chapter, Poder Ciudadano. She has served as chief advisor for representatives and senators at the Argentine National Congress and has advised the Constitutional Committee of both the House of Representatives and the Senate. Ferreira Rubio has a PhD in law from Madrid's Complutense University and is the author of numerous publications on democratic culture and parliamentary ethics. She served on the international board of Transparency International from 2008 to 2014.

Rueben Lifuka is from Zambia and is an architect and an environmental consultant. He is the founder and a director of the

consultancy firm Dialogue Africa and chair of the National Governing Council of the Africa Peer Review Mechanism process in Zambia. He was appointed by the Zambian President to the technical committee responsible for drafting the country's new constitution. Lifuka served on the Transparency International board from 2008 to 2014 and was president of Transparency International Zambia from 2007 to 2012 and re-elected in 2017.

The elections took place as representatives of more than 100 chapters, the movement's Advisory Council and individual members came together for the Annual Membership Meeting to discuss their work around the world.

The newly elected board members are: Robert Barrington is the executive director of Transparency International UK, a post he has held since 2013 having joined the chapter in 2008. Within the chapter he has led campaigns for key anti-corruption legislation, including the UK Bribery Act. Before joining TI, Barrington was the European CEO of Earthwatch, a global environmental organisation.

A.J. Brown has been a board member and committee chair at Transparency International Australia since 2010. He is professor of public policy & law at Australia's Griffith University, president-elect of the Australian Political Studies Association and project leader on two of

the world's largest whistleblowing research projects, Whistling While They Work parts one and two.

Karen Hussman was one of the first employees of Transparency International following its foundation in 1993 and helped build-up the first national chapters in Eastern Europe and Latin America. She also co-founded and chaired Integrity Watch Afghanistan and is currently the project director of La Fundación Internacional e Iberoamericana in Colombia.

Samuel Kimeu is a lawyer and a human rights activist who has served as executive director of Transparency International Kenya since 2007. Through this role he has contributed to governance provisions in the constitution of Kenya and was the national convenor for transparency and accountability in Kenya's National Action Plan for Business and Human Rights.

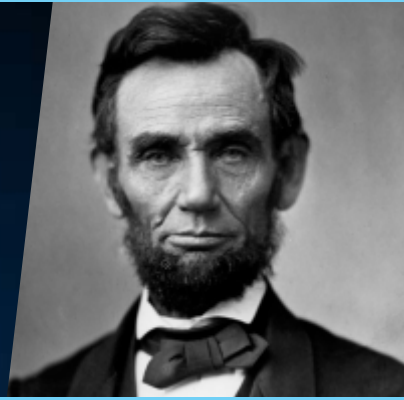
David Ondracka is the Director of Transparency International Czech Republic and has worked there since 2008. He is an international consultant on anti-corruption legislation, policy design and governance with 15 years of professional experience in the field of public investments and procurement reforms.

Oya Özarslan has been the chair of Transparency International Turkey since 2008.

## INTEGRITY SPOTLIGHT

"I am not bound to win, but I am bound to be true. I am not bound to succeed, but I am bound to live up to what light I have."

— Abraham Lincoln



## CORRUPTION QUOTES

"When one gets in bed with government, one must expect the diseases it spreads."

— Ron Paul



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## MONEY QUOTES

"Everyone wants to ride with you in the limo, but what you want is someone who will take the bus with you when the limo breaks down."

— Oprah Winfrey



## The difficult fight against police corruption in Nampula

More than 10 police officers were charged with extortion in Mozambique's northern Nampula province in September alone. The police recognize the problem and say they are addressing it. Drivers admit their participation but blame the economic crisis.

Police corruption has increased in Mozambique recently, particularly in Nampula, says motorists who claim to be the major victims on the province's roads.

Many of them are professional drivers transporting people and goods on both short and long distance routes.

Donaldo Paulo has been a public transport driver for more than five years. He tells DW-Africa that he is worried about the increase in corruption in recent years, especially in the city and on provincial roads.

"Even if you present all possible documents, they will find an excuse to keep your documents, threaten to prevent you from driving and other things that are not legal and we, out of fear, end up bribing them," he says.

### Blame the crisis

Paulo blames the economic and financial crisis that Mozambique has been experiencing since the beginning of 2015, with the discoveries of the so-called hidden

debts causing donors to withdraw support from the country, as the main reason for the increase in police extortion and corruption.

"It is because of the hunger, because of the crisis. Because we already know that our country is facing difficulties that affect almost all sectors, and people are in revolt in their respective sectors and, with this revolt, it is the population that suffers. In this case we, the drivers," he explains.

Paulo says corruption will never end, despite the efforts and promises of the government.

"It will be very difficult to end corruption, unless you review the constitution so that drivers know the laws and can fight against corruption, because the [police] agent, when he realises that you do not know [the traffic] laws, takes advantage," he explains.

### Drivers also contribute

Albino Alexandre is another professional driver. He's been on the road for more than eight years. Carrying passengers and cargo is his only source of income. Like Paulo, Albino is saddened by the wave of corruption on public roads, but he splits the blame between the drivers and the Traffic Police officers.

"We also try to corrupt the police. There are police who do not ask for anything, but we put money in the documents and sometimes he does not resist. Corruption on the roads – there's no way of stopping it."

This harsh reality coexists with the many appeals and anti-corruption commitments from almost every level of government. Our interviewees, however, want concrete improvements, not beautiful speeches and strategies.

### Police incite denunciations

Nampula police spokesman Zacarias Nacute admits the involvement of its agents in corruption, and asks motorists to report the officers involved.

"The police are exemplary and very forceful in the face of indiscipline and all individuals who are indicted in criminal acts, after their involvement has been proven, are held criminally and disciplinarily accountable. We need to maintain integrity in the performance of the police function," he said.

Last September alone, at least 10 traffic and criminal investigation police officers were prosecuted for extortion, some of them caught red-handed. At the moment, criminal and disciplinary processes are underway, said Francisco Baúque, spokesman for the Provincial Anti-Corruption Office in Nampula.

"What we want is for them to be held accountable. Everything is at the discretion of the judge. If caught red-handed, they rarely escape conviction. When we accuse them of crimes, we tell the institutions to initiate disciplinary proceedings and we do not leave them there," he says.

Baúque said that his institution would not tolerate corruption and asked the population to continue to report any instances.

Source: [Deutsche Welle](http://www.deutsche-welle.com)

## Council of Ministers: Fight Against Corruption is Our Priority

The government has taken as its priority the systematic fight against corruption at all levels of government and the adoption of anti-corruption legislation by the end of the year. The draft law on counteracting corruption and for taking away the illegally acquired property of the Council of Ministers was submitted for consideration by the National Assembly and presented at today's meeting of the National Security Advisory

Council to the President of the Republic of Bulgaria, reported BGNES.

The Government fully supports the efforts of the President of the Republic of Bulgaria to consolidate the institutional actions in the fight against corruption and will continue to participate actively in this process. Any allegations of a boycott during the National Security Council meeting are speculations.

# Expert: Fight against corruption starts at home

**KUALA LUMPUR:**

**T**he fight against corruption should begin at home with parents instilling such values in their children, says a body language expert.

Dr Leow Chee Seng said this during an anti-corruption forum organised by Malaysia Corruption Watch on Friday night.

"A children's education originates from their parents. If adults have the wrong perception on corruption, then what about the children?" said Dr Leow who works for South China Morning Post.

Citing his own research conducted on a group of eight-year-old pupils, he found that these kids struggled to understand the concept of corruption due to lack of exposure.

"So, they will instead learn from the television and social media," he said, adding that children may in turn emulate the wrong values.

"They will think to themselves, 'if there's an opportunity, then take it, no one will see'.

"This, will then make the 'culture of it is okay' to spread in society," he said.

While stressing that education on anti-corruption must begin at an early age, Dr Leow urged the Education Ministry to "take action so that children can know the meaning of corruption at a young age." Malaysian Anti-Corruption Commission (MACC) deputy chief commissioner Datuk Shamsun Baharin Mohd Jamil, who was also present at the event, lamented that national corruption issues were being politicised by certain parties.

"Sometimes, there are certain individuals or groups who want to be champions on the issue of corruption." "But, when they are personally faced with a similar issue, they refuse to walk the talk," he added. **(Star online - 7 Oct 2017)**

## Sustainable Development Goals turn two: time to ensure justice for all

**S**eptember 25, 2017 marks the 3year anniversary of the adoption of the Sustainable Development Goals (SDGs). Since their adoption, these aspirational international development targets have garnered significant attention among development partners. The indicators, data and statistics they contain are now becoming a focal point of discussion at the international level.

On this SDG birthday, Transparency International is highlighting the need for governments to stay ambitious in the way they measure success.

Transparency International believes that the official UN indicators for measuring SDGs are [too narrow](#). They provide an overview of SDG progress at the global level, but fall short in assessing what really matters: the difference that the SDGs can make in the everyday lives of people.

For example, Target 16.5 – "sustainably reduce corruption in all its forms" - is officially measured by the number of people and businesses which pay, or are asked to pay, bribes to the public sector in a country. However, this narrow interpretation of corruption leaves out a broad range of corrupt practices including fraud, embezzlement, misappropriation of finances, nepotism and favouritism.

Similarly, SDG Target 4.5 aims to eliminate gender disparities in education. However, sextortion, a wide-spread practice in corrupt educational institutions in some countries, hinders both access to and completion of education by female students. This corrupt practice is not covered by the

official UN indicators.

Transparency International believes it is important to broaden the narrow scope of UN indicators and ensure that SDG targets have a positive impact on the most marginalised groups in society who are often not even considered in the data of national statistical commissions. These include ethnic minorities and indigenous groups.

If no one is to be left behind, governments, businesses and civil society organisations will all have to be involved in identifying, prioritising and monitoring progress, especially in giving a voice to those who are often not represented. That is why in April this year, Transparency International published a resource guide to [monitoring corruption and anti-corruption in the SDGs](#). This guide looks at five SDG goals related to health, education, gender, climate action, and water and sanitation, and presents corruption challenges, indicators and data which can be used to more effectively measure SDG progress.

The SDGs undoubtedly provide an aspirational framework for enhancing the quality of human lives. However, their real impact can only be achieved by localising the SDGs and connecting their meaning to people's lived experience, and that must be a priority for national governments.

Source: Transparency International

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