



Ghana Integrity Initiative (GII)

Local Chapter of Transparency International

GII Alert

QUARTERLY NEWSLETTER

June, July, August 2016 - Issue Number 46 - ISSN:0855 - 742X

Is NACAP on Course to Address Ghana's Corruption Challenges?

PAGE 4 & 12

GII CONSORTIUM ENGAGES CITIZENS ON

SOCIO-CULTURAL PRACTICES THAT HINDER THE FIGHT AGAINST CORRUPTION

PAGE 11



Mrs. Linda Ofori-Kwafo
Executive Director of GII

GII CALLS ON POLITICAL PARTIES:

LET MANIFESTOS DEMONSTRATE COMMITMENT TO FIGHT CORRUPTION!!!

PAGE 2



REPORT CORRUPTION ON THE ALAC TOLL-FREE NUMBER: 0800 100 250 / 0302 782 364

REPORT YOUR EXPERIENCE OF CORRUPTION ONLINE: www.ipaidabribe.org.gh

VISIT GII's WEBSITE AND FACEBOOK PAGE ON: www.tighana.org www.facebook.com/tighana.org

Let Manifestos Demonstrate Commitment to Fight Corruption!!!

The Ghana Integrity Initiative (GII) Consortium comprising Ghana Anti-Corruption Coalition (GACC), SEND Ghana and Ghana Integrity Initiative, in a letter to Political Parties and their Presidential Candidates contesting the 2016 General Elections have presented a list of legislative gaps which when addressed will contribute immensely to the fight against corruption in Ghana.

The documented gaps presented to the Political Parties are made up of corrupt conducts that should either have been criminalized or if already criminalized, are deemed inadequate (*ie. gaps in anti-corruption legislation*) to deal with the offence more effectively. The document captures the offence, the existing legislation (if any) that deals with the offence, the gaps that have been identified, and more importantly the actions proposed to close these gaps.

WHY THIS ACTION?

According to Ghana's National Anti-Corruption Action Plan, (NACAP), corruption continues to exact a heavy toll on Ghana's economy, society and politics, retarding national development. To address the challenge of corruption, Ghana criminalised corruption and has passed several laws as well as also signed a number of international and regional Anti-corruption Conventions. Despite the progress made, the impunity with which some public officials are engaging in corruption is very worrying. Several factors may account for this including the lack of enforcement of the laws confirmed during the review of Ghana's implementation of the United Nations Convention against Corruption (UNCAC) in 2013. The review of UNCAC also brought to the fore some weaknesses in the Anti-corruption laws that need to be addressed.

WHY THIS TIME?

Pre-elections periods in Ghana are characterised by many campaign promises across the length and breadth of the country. These periods are also characterised by Parliamentary and Presidential debates where corruption is still a key subject on the agenda and so to inform any policy change by any government, these periods offers the most opportune time.

WHY POLITICAL PARTIES MANIFESTOS?

It is also common knowledge that Political Parties manifestos have become the main development planning tool that is implemented after elections by the party that forms the government. This is also one important reason why the GII Consortium has chosen now as the time to share the anti-corruption gaps.

What the GII Consortium wants to achieve is to take advantage of the pre-electioneering period to influence the development of political parties' manifestos to reflect appropriate strategies that have capacity to address some of the gaps needed to strengthen Ghana's Anti-Corruption Legislative framework in order to make corruption a high risk and low gain activity.

The full list of the Anti-Corruption Legislative Gaps as presented to the Political Parties is on page 5.



CONTD. ON PAGE 5

1. Let manifestos demonstrate commitment to fight corruption!!!

2. Front page comment

3. Is NACAP on course to address Ghana's corruption challenges?

4. GII and Zambian Public Procurement Authority (ZPPA) officials compare notes on anti-corruption

5. Gaps in Ghana's anti-corruption legislation - 2016

8. Events in pictures

14. An RTI Law: The good, the bad and the country Ghana

15. Ghana's commitment to open governance questioned

16. Land battle

16. What is Grand Corruption and how can we stop it?

EDITORIAL TEAM

Mrs Linda Ofori-Kwafo

Mrs. Mary A. Addah

Mr. Michael K. Boadi

Mr. Christopher Tetteh - Graphics

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.

OUR CONTACT

Ghana Integrity Initiative (GII)
Tel: 233 302 760884 / 782364/5,
House No. 21 Abelenkpe Road,
Abelenkpe.
P. M. B. CT 317. Cantonment,
Accra, Ghana.
Fax: 233 302 782365
Email: info@tighana.org
ghanaintegrity@yahoo.com
Website: www.tighana.org

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

IS NACAP ON COURSE TO ADDRESS GHANA'S CORRUPTION CHALLENGES?

Corruption has been defined by Transparency International as misuse of entrusted power (by heritage, education, marriage, election, appointment or whatever else) for private gain. The United Nations Secretary-General, Ban Ki-moon was quoted by the Inter Press Service (IPS) as saying in a presentation to a gathering of Civil Society in St. Petersburg, Russia on 2 November, 2015 that, "To achieve the sustainable development agenda, corruption and bribery must end.

Mr. Ban Ki-moon continued to say, "Across the globe, corruption and bribery has devastated lives. No country is immune; everyone suffers" and Ghana is therefore not also immune to the devastating effects of corruption and bribery. Corruption in Ghana has contributed to increased cost of living and depleted public funds to the extent that the country is behind in almost all its statutory payments: the District Assembly Common Fund (DACF), the Ghana Education Trust Fund (GETFUND) and the Road Fund.

It is important to state that, Ghana indeed has come a long way as far as the fight against corruption is concerned, as far back as 1960 corruption was made a criminal endeavour, under the Criminal Offences Act, 1960. A number of laws have been passed and many programmes have been initiated. Ghana also adopted a multi-institutional approach by setting up key accountability institutions including the Commission on Human Rights and Administrative Justice (CHRAJ) to lead the fight against corruption in the country. Ghana is also a state party to a number of international and regional Anti-Corruption Conventions including the United Nations Convention against Corruption (UNCAC), the African Union Convention for Preventing and Combating Corruption and the ECOWAS Protocol. On July 3, 2014, Ghana's Parliament adopted the NACAP, a ten-year strategy to tackle corruption holistically through prevention, education and enforcement and President John Mahama

inaugurated a High Powered Implementation Committee (HiLC).

These efforts notwithstanding, Ghana's performance on TI's Corruption Perception Index (CPI) still remains below average, an indication that corruption is still a problem in Ghana and remains prevalent in most spheres of the Ghanaian society.

The Ghana Integrity Initiative (GII) on 28th June, 2016 therefore brought together key stakeholders in the fight against corruption to institutionalise an annual National Anti-Corruption Forum that will evaluate Ghana's performance in the fight against corruption and also strategize to address any identified challenges that hinder progress.

The 2016 forum was attended by 130 participants drawn from the public sector, the academia, political parties and civil society at large.

Ghana's Progress under NACAP

At the forum Dr. Franklin Oduro, Deputy Director of Ghana Centre for Democratic Development (CDD-Ghana), affirmed Transparency International's (TI) position that Ghana is not doing too well with the fight against corruption, even after almost two years of the adoption of a National Anti-Corruption Action Plan (NACAP). Dr Oduro admits that two years is too short a time to begin to make any objective and comprehensive assessment of the plan, however he believes the formative years of any long-term plan is crucial for the determination of how far such a programme or plan will go.

According to Dr. Oduro, assessing NACAP on all four strategic objectives of the plan to test whether Ghana is on course in terms of prevention of corruption, educating people on corrupt practices and corruption risk areas and enforcement of laws used to control corruption is the way to go.

The four strategic objectives of NACAP are;

- Build public capacity to condemn and fight corruption and make

its practice a high-risk, low-gain activity;

- Institutionalize efficiency, accountability and transparency in the public, private and not-for profit activity;
- Engage individuals, media and civil society organizations in the report and combat of corruption; and
- Conduct effective investigations and prosecutions of corrupt conduct.

Progress of NACAP Implementation

Dr. Oduro then made his assessment of the progress NACAP has made to the fight against corruption and concluded that NACAP is yet to make any meaningful impact to the fight against corruption. He cited an example from NACAP's progress report which indicated that, only EOCO had prosecuted some persons who violated the public financial management laws. Even with that they were not able to back their assertion with any documentation. CHRAJ reported in 2015 that, of the 51 cases received to which various actions were initiated, only 26 were resolved.

Dr. Oduro observed that, it appears however, that the education component of NACAP has been focussed on more than the other two, prevention and enforcement; perhaps, it is the case of focussing on the soft side of the equation. Even on education, the progress report indicates that the lack of awareness and knowledge of NACAP on the part of MDAs/MMDAs presents one of the key challenges faced during the first year of implementation of NACAP.

The Inability of the NACAP to push for the passage of some of the anti-corruption legislations (Right to Information Bill and the Conduct of Public Officer's Bill 2013) before the Parliament of Ghana is a testament of the not too good the progress made by NACAP, Dr. Oduro concluded.



From Right: Gilbert Mbone, Linda Ofori-Kwafo (GII), Ethel Kayonde, Lemmy Nyirenck and David Damoah (PPA Ghana)

GII AND ZAMBIAN PUBLIC PROCUREMENT AUTHORITY (ZPPA) OFFICIALS COMPARE NOTES ON ANTI-CORRUPTION

The Zambia Public Procurement Authority (ZPPA), on the 14th July, 2016 visited the Ghana Integrity Initiative (GII) to familiarise itself with how GII operates. This visit was part of the ZPPA's benchmarking visit to Ghana. In all, three senior officials from the ZPPA made the trip.

The three officials from ZPPA were Ethel Kayonde, Lemmy Nyirenck and Gilbert Mbone and they were accompanied by David Damoah of Ghana's Public Procurement Authority (PPA).

GII hosted the ZPPA delegation as part of its mandate to continue to share experiences with anti-corruption entities across Africa and the world.

ZPPA was established in December 2008 by an Act of Parliament, the Public Procurement Act No 12 of 2008. It was originally called the Zambia National Tender Board.

Like the Public Procurement Authority of Ghana, the ZPPA is an independent body with powers to regulate the public procurement of ZAMBIA. The ZPPA is responsible for making policies with regards to procurement, standard setting, compliance and performance monitoring, professional development and information management and dissemination in the field of public procurement.

The Zambian officials indicated that, the ZPPA has the same framework as the Procurement Agency of Ghana, the Public Procurement Act No 12 of 2008 is a law to control corruption associated with public procurement in Zambia. The ZPPA recognises that the fight against corruption cannot be won if it is prosecuted in isolation therefore the ZPPA has signed Memorandum of Understanding with a number of entities, both private and public to draw one each other's strengths to reduce corruption in the public sector of Zambia.

“In Zambia, what we have done is to set up an electronic procurement portal, an open sourcing platform which allows Civil Society to monitor and interact with public procurement. We also have MOUs with two universities to support our capacity building activities”. They were therefore delighted to learn that the Public Procurement of Ghana is collaborating with the Ghana Integrity Initiative, which is an anti-corruption civil society organisation.

They visited GII to learn at first-hand how the collaborations between a CSO and public sector organisation have been and look out for the lessons they can take with them to improve transparency and networking of the ZPPA.

The Executive Director of Ghana Integrity Initiative (GII), Mrs Linda Ofori-Kwafo welcomed the delegation and briefed them on the relationship that exist between the Public Procurement Authority of Ghana and anti-corruption organisations like GII. She said, the GII always participates in public education exercises organised by the PPA of Ghana and have also shared information including research findings and recommendations with the Authority.

The Zambian delegation and the Executive Director of GII, both agreed that the single most challenging phenomenon in both countries is the abuse of the sole sourcing window that exist in the Public Procurement (Amendment) Act 2016, Act 914 of



The Zambia PPA delegation in a discussion with the Executive Director and the Corporate Affairs Manager of GII

CONTD. ON PAGE 12



USAID
FROM THE AMERICAN PEOPLE



Ghana Integrity Initiative (GII)
Local Chapter of Transparency International



ACCOUNTABLE DEMOCRATIC INSTITUTIONS AND SYSTEMS STRENGTHENING
[ADISS]

GAPS IN GHANA'S ANTI-CORRUPTION LEGISLATION - 2016

INTRODUCTION

The Ghana Integrity Initiative (GII) Consortium comprising GII, Ghana Anti-Corruption Coalition (GACC) and SEND Ghana is implementing a project dubbed **Accountable Democratic Institutions and Systems Strengthening (ADISS)**. ADISS is a four-year activity funded by USAID over the period September 2014 to September 2018. The goal of ADISS is to increase government accountability in Ghana. Specifically, ADISS's purpose is to renew and build upon on-going anti-corruption efforts and increase the capacities of anti-corruption Civil Society Organizations (CSOs) to motivate citizens to apply pressure on policy makers and institutions with the aim of reducing corruption in Ghana. ADISS is being implemented in fifty (50) Districts across the ten regions of Ghana.

As part of ADISS the GII Consortium have identified *Gaps in the various Anti-Corruption Legislation of the country*. This has been developed to supplement on-going advocacy against corruption. It contains a list of corrupt conduct that should either have been criminalized or if already criminalized, the legislation is deemed inadequate to deal with the offence more effectively. The document captures the offence, the existing legislation (if any) that deals with the offence, the gaps that have been identified, and the action proposed to

close these gaps.

In 2007, Ghana ratified the **United Nations Convention against Corruption** (the Convention), which provides a list of conduct that constitutes "corruption" and mandates each state party to criminalize the conduct as contained in articles 15-42 of the Convention. The conduct considered as corruption that States Parties should criminalize are the following:

- 1) Bribery of national public officials (Art. 15)
- 2) Bribery of foreign public officials and officials of international public organizations (Art. 16(1))
- 3) Bribery of foreign public officials and officials of international public organizations (Art. 16(2))
- 4) Embezzlement, misappropriation or other diversion of property by a public official (Art. 17)
- 5) Trading in influence (Art. 18)
- 6) Abuse of functions (Art. 19)
- 7) Illicit enrichment (Art. 20)
- 8) Bribery in the private sector (Art. 21)
- 9) Embezzlement of property in the private sector (Art. 22)
- 10) Laundering of proceeds of crime (Art. 23)
- 11) Concealment [of corruption] (Art. 24)
- 12) Obstruction of justice (Art. 25)
- 13) Participation in corruption offences

(Art. 27 (1), para. 1)

- 14) Attempt / preparation of UNCAC offences (Art.27, paras. 2-3)
- 15) Freezing, seizure and confiscation (Art. 31)
- 16) Protection of witnesses, experts and victims (Art 32)
- 17) Protection of reporting persons (e.g. whistleblowers) (Art 33)
- 18) Compensation for damage (Art 35)
- 19) Specialized authorities (Art. 36)
- 20) Jurisdiction (Art 42 (2),(4))

GAPANALYSIS

The review of the implementation of the Convention in relation to Criminalization and Law Enforcement was done in 2013 by experts from Rwanda and Swaziland, and a report with recommendations on Ghana was published. Some of the recommendations touch on the gaps in legislation.

Prior to the review, Ghana through the Attorney-General's Office, conducted a gap analysis of the country's anti-corruption legislation as against the Convention and the AU Convention for Preventing and Combating Corruption. That analysis also indicated that though there appears to be a plethora of legislation on corruption, gaps still existed. In the report of the Constitution Review Commission 2012, some gaps in the anti-corruption legislation of the country were also identified. This current document draws on those reports.

CONTD. ON PAGE 6

GAPS IN ANTI-CORRUPTION LEGISLATION – 2016 MATRIX

OFFENCE	EXISTING LEGISLATION	GAP/ACTION REQUIRED
1. Bribery	The following Sections of the Criminal Offences Act 1960 (Act 29) apply to the offence of Bribery: 3, 151, 239, 242-244, 247, 253, 254 of national public officials.	Bribery of foreign public officials and officials of public international organizations has not been criminalized, though the sections listed may apply to the offence to a limited extent. For purposes of clarity of the law, transnational bribery (passive & active) should be criminalized.
2. Embezzlement, Misappropriation or other diversion of property by a public official	Sections 124, 125, 128, 129, 179A, C and D, and 260 of the Criminal Offences Act, 1960, (Act 29), Section 62(1)(d) of the Financial Administration Act, 2003 (Act 654) and section 93 of the Public Procurement Act, 2003 (Act 663) apply to these offences. In addition, Sections 1 to 4, of the Public Property Protection Act, 1977 (SMDC 140) also apply.	Though these provisions apply to all persons, including public officials, section 3 of the Public Property Protection Act refers to assets “entrusted to the care” of the offender, but not assets that are <i>entrusted by virtue of an official position</i> . The law does not also provide for embezzlement for the benefit of a third person specifically. This gap requires amendment to s. 3 of SMCD 140 to create a more specific offence for public officials in relation to assets entrusted to the official by virtue of their position.
3. Trading in influence	Section 252 (2) of Act 29 covers the offence of trading in influence.	Though Section 252 (2) of the Criminal Offences Act, 1960 (Act 29) is the relevant criminal offence, it is still deficient in two respects: 1) the offence only covers the case in which an undue benefit is given, or agreed to be given or has been offered to a public officer, not to “any other person”, 2) it also does not cover the conduct of “promise” and the granting “directly or indirectly” of such undue benefit. An amendment to the law is required in that respect.
4. Abuse of functions, or abuse of office/power	Section 179 C of Act 29 contains the relevant offence, “Using Public Office for Profit”	Though Section 179 C of Act 29 is applicable, there is need for legislative clarification to bring it into conformity with the elements of the offence and for that matter, into conformity with UNCAC. Art. 19 of UNCAC provides: <i>Each State Party shall consider adopting such legislative and other measures... to establish as a criminal offence, ... the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.</i>
5. Illicit enrichment	Article 286 (4) of the 1992 Constitution, section 5 of Act 550, Sec. 7(1)(e) of Act 456, relate to the offence.	Although the provisions in the Constitution, Act 550 and the CHRAJ Act 456, deal with illegal acquisition of wealth or illicit enrichment, the conduct has not been criminalized.

CONTD. ON PAGE 7

OFFENCE	EXISTING LEGISLATION	GAP/ACTION REQUIRED
6. Bribery in the private sector	Section 241 of Act 29, Sections 92 & 93 of the Public Procurement Act, 2003 (Act 663) contain relevant provisions in relation to the offence.	Although sections 92 and 93 of the Public Procurement Act contain provisions that can be relevant to bribery in the private sector, they are limited to the procurement process. Therefore, there is the need to criminalize bribery in the private sector (active & passive)
7. Embezzlement of property in the private sector	Sections 124, 125, 128, 129 and 140 of the Criminal Offences Act, 1960 (Act 29) apply. Further, Sections 1-4, and especially Section 3, of the Public Property Protection Act (1977), establish the offence	Section 3 of SMCD 140 refers to assets “entrusted to the care” of the offender but does not specifically address embezzlement or misappropriation by those directing or working in a private sector entity. Furthermore, they refer to public property. Also embezzlement for the benefit of a third person is not specifically regulated. Legislative amendments are required.
8. Laundering of proceeds of crime	Sections 1-3 of the Anti-Money Laundering Act, 2008 (Act 749) contain the relevant offence.	<p>The Ghana Anti-Money Laundering Act, 2008 (Act 749), covers the disguise of the origin and the location, but not of the true nature, disposition, movement or ownership of or rights with respect to property as stipulated in art. 23 (1)(a)(ii) of UNCAC.</p> <p>Amendment is required to provide for the disguise of the origin, true nature, disposition, movement or ownership of or rights with respect to property.</p>
9. Concealment	Section 1(a)(b) and 3 of the Anti-Money Laundering Act, 2008 (Act 749). Section 62 (1)(e) of the Financial Administration Act, 2003 (Act 654) do apply.	<p>The provisions being referred to cover the concealment of product of corruption but not the "continued retention" as required.</p> <p>If “continued retention” would not be interpreted as “takes possession”, then the element of "continued retention” should be provided for.</p>
10. Obstruction of justice [in criminal process]	Sections 222, 234, 235 and 251, together with Section 20, of the Criminal Offences Act provide relevant provisions.	<p>The use of physical force, threats or intimidation for purposes of obstruction of justice described as in article 25 (a) are regulated in Section 222 of the Criminal Offences Act, however, only for the interference with the giving of testimony, not with the provision of false testimony or the production of evidence.</p> <p>Furthermore, the provisions of the Criminal Offences Act only provide for obstruction of justice by the use of violence against justice or law enforcement officials, not by means of threats and intimidation.</p> <p>Section 21 of the EOCO Act is broader, but does not specifically cover the use of physical force, threat and intimidation.</p> <p>The relevant legislation should be amended to provide for elements of threat and intimidation in a comparable manner to physical violence.</p>

EVENTS IN PICTURES



The GII Consortium on Accountable Democratic Institutions and System Strengthening initiative organized a learning and sharing forum of various USAID funded project on Governance at Sunlodge Hotel, Accra



Media Training on OGP at Kofi Annan ICT Centre on 26th August 2016



GII organised a National Anti-Corruption Forum on 28th June, 2016 at the La Palm Royal Beach Hotel on the theme "Consolidating Ghana's Anti-Corruption Effort - Building Consensus to Address existing Gaps"



GII and NCE sets up integrity club in selected basic Schools in Bolga, Berekum, Gomoa East, Assin South, South Tongu and Akim South Districts



GII in collaboration with the OGP Secretariat of the Public Sector Reform forum and a media training on the Ghana's progress under the Open Governance Partnership, 25 & 26 August, 2016 at the Kofi Annan-India ICT Centre



OFFENCE	EXISTING LEGISLATION	GAP/ACTION REQUIRED
11. Liability of legal persons	Section 46 of the Interpretation Act, defines “person” to include a body corporate; Section 2 of Act 29 (Provisions Relating to a Company and its Officers); Section 39(2), (4) and (5) of the Anti-Money Laundering Act, 2008 (Act 749); Section 7 of the Public Property Protection Act; Section 3 (q) and (r) of the Public Procurement Act, all apply.	Criminal sanctions for legal persons are not clear and steps ought to be taken to sanctions applicable to legal persons for corruption, with a view to ensuring that they are effective, proportionate and dissuasive.
12. Protection of witnesses, experts and victims	Section 69 of the Evidence Act gives the court the general obligation to protect witnesses from intimidation and harassment:	The existing law is inadequate to deal with the offence. The enactment of witness protection legislation is advised. Fortunately, a Witness Protection Bill is before Parliament.
13. Compensation for damage	Section 15 of the Whistleblower Act, 2006 (Act 720) provides for it.	S. 15 of Act 720 provides an exceptional privilege of an employee victimized due to breach of contract or other entitlements but no law provides for compensation for damage as a result of corruption. Such a law is desirable.

RELATED LEGISLATION/MATTERS

OFFENCE/AREA	EXISTING LEGISLATION/MEASURE	GAP/ACTION REQUIRED
14. Breaches of the Code of Conduct for Public Officers, including Assets Disclosure and Conflict of interest	Article 286 of 1992 Constitution, CHRAJ Act and Act 550, apply. There are guidelines on conflict of interest	<p>Assets Disclosure: No Verification, No Publication, and scope is limited, among other deficiencies.</p> <p>The Guidelines on conflict of interest also remain soft law and are largely unenforceable.</p> <p>The CRC recommendations provide for reform in the area to include: verification and monitoring of the declared assets to be done within one year of the declaration and within three (3) months after the officers' exiting of office; extensive amendments to Act 550 and issuance regulations on: (a) how assets declared can be verified; (b) how the public may access the declaration; and (c) the punishment for failure to declare and false declaration.</p> <p>Gift Rules: new legislation on ethics, on “gifts” and “conflict of interest, are also to be put in place.</p> <p>A Conduct of Public Officers' Law should be enacted. Indeed, the Bill, which is before Parliament, seeks, among others, to consolidate the law on Assets disclosure, breaches of the Oaths of Office and conflict of interest.</p> <p>The Bill received considerable attention from GII, CHRAJ and other stakeholders, in the last few years, and is at the consideration stage.</p>



Parliament of Ghana in Session

OFFENCE/AREA	EXISTING LEGISLATION/MEASURE	GAP/ACTION REQUIRED
15. Definition of Corruption	Section 239-240 of Act 29 defines the scope of corruption offences, in the main.	The scope of corruption under the definition falls short of UNCAC & AU Convention. An amendment of Act 29 to widen the scope to include illicit enrichment, conflict of interest, bribery in the private sector, embezzlement in the private sector, is recommended.
16. Specialized Authorities (Anti-Corruption)	CHRAJ, EOCO and others established by legislation and funded from Consolidated Fund (Chapter 18 of 1992 Constitution); EOCO Act, among others	<p>Funding has been inadequate, powers of CHRAJ limited. Allocations are made through the Ministry of Finance. This method does not guarantee the financial/functional independence of these bodies. It is proposed that an Independent Constitutional and other Bodies Fund be established to finance the operations of all Independent Constitution and other Bodies</p> <p>Powers: The CRC recommends that (a) the Commission on Human Rights and Administrative Justice should be empowered to initiate investigations without a formal complaint in all aspects of its mandate. (b) the decisions of the Commission on Human Rights and Administrative Justice should be directly enforceable by the Courts.</p>
17. Transparency, Public Reporting and access to information	Article 21 (1) (f) of the 1992 Constitution, Whistleblower Act, 2006.	<p>Though, the Constitution and the Whistleblower Act, are the relevant laws, they are inadequate to ensure that the public has unfettered access to information.</p> <p>A Right to Information law that does not contain too many claw back clauses, should be passed. This law has been pending since 2003.</p>
<p style="text-align: center;"><u>For more on the gaps visit:</u> www.tighana.org/resources/reports/gaps-in-ghanas-anti-corruption-legislations/</p>		<p>Though it is being considered by Parliament and hopes are that it will be passed this time round, it would be advisable to still keep an eye on it.</p>

GII CONSORTIUM ENGAGES CITIZENS ON

SOCIO-CULTURAL PRACTICES THAT HINDER THE FIGHT AGAINST CORRUPTION



A cross section of community members of Kibi in the Eastern Region one of the project locations where the community durbars were held (inset - the chiefs and elders of the kibi community)

The Ghana Integrity Initiative (GII) Consortium comprising GII, Ghana Anti-Corruption Coalition (GACC) and SEND Ghana have in September 2016, held district durbars in each of the 50 project districts across the country where the Accountable Democratic Institutions and Systems Strengthening Project (ADISS) is being implemented. The durbars are aimed at bringing the anti-corruption campaign closer to the ordinary citizens of Ghana and empower them to demand accountability from their leaders – political, traditional or religious. The durbars brought together, key stakeholders in the districts including chiefs, accountability institutions, CSOs and other organised groups with the communities and also community members to collectively discuss the various socio-cultural practices that hinder the fight against corruption.

CONTD. ON PAGE 12

GII AND ZAMBIAN PUBLIC PROCUREMENT AUTHORITY (ZPPA) OFFICIALS COMPARE NOTES ON ANTI-CORRUPTION



The Zambia delegation at GII

Ghana and Public Procurement Act No 12 of 2008 of Zambia. This has in a lot of ways compromised the aim for which the laws were passed (to fight corruption in public sector procurement).

On the issue of compliance the GII said that because of the various training exercises organised by the Public Procurement Authority in Ghana, most agencies comply with the law. The sole sourcing is now the most exploited part of the law and the government itself is the guiltiest. This consistently undermines value for money in large procurement contracts.

The delegation asked why CSOs in Ghana are not campaigning against the abuse of sole sourcing in awarding contracts. GII responded that even though CSOs are doing as much as they can about the abuse of sole sourcing, the problem goes far beyond the abuse of sole sourcing. Currently, GII

continued, q almost all of Ghana's anti-corruption agencies do not have substantive heads. The acting heads are therefore at the mercies of the government to be confirmed as the substantive heads of their respective organisations. This has to a large extent weakened the ability of these organisations who must act in response to CSOs' advocacy against sole sourcing to carry out their anti-corruption duties independently and effectively.

The second concern of CSOs is the position of the Attorney General and the Minister of Justice. By Ghana's constitution, it is only the Attorney General who has the power of prosecution. The combined portfolio and the fact that the occupant is an appointee of the executive makes it almost impossible to have culprits of corrupt practices punished especially

when they are members of the ruling government or party. CSOs in Ghana have been calling for a separation of the combined position so that the Attorney General's position is made independent of the executive and the security of office guaranteed by law.

GII also explained to the delegation, who had earlier enquired about the impact of the judicial scandal on the fight against corruption? Mrs Kwafo said, the judicial corruption is one thing but what is more worrying is the appointment of judges by the executive. The exposure of the judicial corruption came to confirm findings of a study that GII had done earlier. "Currently, it seems it is the courts that are holding the country together, in Ghana, everybody is able to go to court to seek redress. Citing the example of a fisherman who stopped a whole District Assembly Election due to the failure of the national Electoral Commission to follow the law regulating the conduct of such elections in Ghana" Mrs Kwafo concluded.

The Zambia delegation in apparent bemusement said this is what is lacking in Zambia, elections are scheduled for the 11th of August 2016 in Zambia just like Ghana is having elections this year and were hoping that citizens would emboldened to use the courts just like it is done here in Ghana.

In a concluding remarks, Mrs Kwafo condemned the abuse of power of incumbent candidates in Africa which invariably affects the outcomes of national elections of our respective countries. The President of Ghana is currently on a national tour dubbed "Accounting to the People" which he is using to canvass for votes for his re-election. This is Abuse of Incumbency.

.....SOCIO-CULTURAL PRACTICES THAT HINDER THE FIGHT AGAINST CORRUPTION

This came in the wake of a seeming low citizens' enthusiasm in the fight against corruption. The durbars were to rekindle citizens interest in the fighting against corruption, particularly to raise awareness of the various socio-cultural practices in Ghana that not only hinders the fight against corruption but also promote encourage it. These include but not limited to the culture of gift giving and receiving, pressures from family members to extend favour close relations (family and friends) over ever other citizen – nepotism and cronyism, group loyalties, unwillingness or the fear to report corruption acts and the practice of recognising the rich and affluent in society.

The durbars were organised in collaboration with the NCCE offices in the various districts. This is a strategic alliance to

ensure the sustainability of the anti-corruption community forums concept. The various forums were also addressed by the CHRAJ and in some cases the district Police Commander Other information shared with the communities are the various corruption reporting platforms that has been developed by the GII consortium. These platforms are for reporting corruption are the www.ipaidabribe.org.gh internet platform and the Advocacy and Legal Advice Centres (ALAC) 0800 100 25(0) toll free lines. The Whistle Blowers Act was explained to the audience present.

Some community members used the opportunity to report instances of corruption they had either witnessed or been victims to. Others also called the ALAC numbers to make reports.

MAKE ELECTION 2016 FREE & FAIR



With financial support from



Ministry of Foreign Affairs of Denmark
DANIDA



Have **YOU** paid a bribe?

Have **YOU** resisted paying a bribe?

Have **YOU** witnessed a bribe being paid?

Visit
www.ipaidabribe.org.gh
to tell your story

or Call on (toll-free):
0800 100 25 (Vodafone)
0800 100 250 (Tigo & Airtel)



Report Corruption on the ALAC Toll-free Number:
0800 100 250 / 0302 782 364

Report your Experience of Corruption Online:
www.ipaidabribe.org.gh

Visit GII's Website and Facebook page on:
www.tighana.org and www.facebook.com/tighana.org

AN RTI LAW: THE GOOD, THE BAD AND THE COUNTRY GHANA



His Excellency President John Mahama

The Right to Information Coalition on August 8th 2016, presented a petition to His Excellency, President John Mahama on the need for Ghana to pass the Right to Information Bill which is before Parliament before his term of office ends under the current administration.

The petition, which was received by the Chief of Staff on behalf of the President became necessary following numerous broken promises by the leadership of Parliament to ensure that the Bill is passed and also the President himself to the international community that the RTI Bill will be passed before the end of his current term of office.

The RTI Bill which the President himself admitted in his 2016 State of the Nation Address to Parliament as the Bill that has spent the longest time before Parliament, incidentally is the bill that empowers the citizens to demand instant accountability from duty bearers and elevate their ability to participate in decision making by making available information. Sadly, this is the very bill which is receiving official reluctance to its passage.

So why has it become very difficult for people who are supposed to be acting in the best interest of Ghanaians now refusing them the right to the very information with which they act in their interest and why this fierce demand by members of the RTI Coalition for the passage of the RTI bill before the term

of the current Parliament ends?

1. Empowerment of the common man: The passage of the RTI bill into law not only activates Article 21(f) of the 1992 Constitution of Ghana which gives the Right to Information subject to such qualification and laws, but also empowers the common man in the nation to demand accountability and further gives life to such regulations as the Beneficiary Ownership Disclosure, Extractive Industry Transparency Initiative (EITI) and to a large extent the whole Open Governance Partnership process.

2. Easy mode of spreading information rightfully: The RTI law will facilitate the incubation/processing and easy mode of spreading information of all kind in all forms where apt information will be received by only the person concerned. This will in turn result in easy access to information on one hand and participation in decision making by all on the other hand.

3. Protection of Information: Since the selected people with selected queries will be entertained and informed rightfully and aptly, this will lead to protection of information thereby protecting everyone from being wrongly or inappropriately informed or misinformed.

4. Corruption will decrease gradually and development will in turn increase progressively: Because decision making and information about the decision are accessible to everybody who may demand it, it is likely that decision will gradually be made with utmost care, hence reducing the potential corruption risk associated with public sector procurement and contracting. Savings made as a result of transparency increase resources available for investment and improvement in the wellbeing of all citizens.

Even though the RTI Bill is being pursued with so much zeal as if the passage will solve all of the nation's problems, it will be instructive to start a conversation around the possible difficulties that may result in the law suffering a stillbirth if some form of

regulations are not put in place to manage the following:

1. Potential chaos all over: There is a big fear that given the ordinary Ghanaian's incessant appetite for information, the passage of the RTI bill into law will open the floodgate and create unnecessary disturbance and chaos over just about every decision of government. This can potentially slow down government business and by extension the running of the state.

2. An extra burden to the Authorities: Bureaucrats in the public sector are already complaining about the pressures of the daily work schedules, they are always complaining that they are inundated with work to make the administration of the state go on, the passage of the RTI law is going to add an additional burden to be delivered. The Passage of the RTI Bill therefore will call for the employment of Information Officers who will interface with the information seeking public and the sources of the required information.

3. Reorganisation of how information is kept: One of the Country's biggest challenge is information management. The passage of the RTI law will prompt the setting up of or the reorganisation of the country's public records to make information readily accessible and useful.

The RTI law when passed will fall in a horizon of a country struggling to entrench its credentials as the most democratic and transparent nation in Africa. The implications and applications of the law will throw up a mix-bag of outcomes – the good, the bad and ugly situations, however, the fact that it gives citizens an opportunity to hold its elected or appointed officials accountable and also promote greater transparency in governance makes the law worth its while and must be passed before the term of the current Parliament expires to avoid another cycle of processes and procedures come the next Parliament in 2017.

<http://www.jagranjosh.com/articles/group-discussion-rti-advantages-and-drawbacks-1407329072-1>

GHANA'S COMMITMENT TO OPEN GOVERNANCE QUESTIONED

...as absence of RTI is cited as hindrance to the fight against corruption



GII & OGP Secretariat forum at Kofi Annan-India ICT Centre to assess process made by Ghana

The Country Director of SEND-GHANA, Mr George Osei-Bimpeh, has described the delay in the passage of the Right to Information Bill as “unfortunate” as it inhibits the country's effort at fighting corruption.

According to Mr Osei -Bimpeh, the absence of a Right to Information law provides cover for rent-seeking behaviours and other corrupt practices on the part of public officials, especially, in the award of contracts and other procurement activities. He argued that the corrupt acts of public office holders continue to fester because citizens lack opportunities for accessing information on their activities, and so are unable to meaningfully support the relevant state agencies to effectively exercise their accountability mandate.

Making information public helps to enhance the demand-side of social accountability and increases trust and cooperation among government, civil society and the general public, Mr. Bimpeh explained.

Mr. Bimpeh made these remarks at a forum organised by Ghana Integrity Initiative (GII) in collaboration with the Public Sector Reform Secretariat in Accra, on the theme *'Building an Open Governance, Why Open Government Matters.'*

Mr Bimpeh said, it's been five years since Ghana became a member of the Open Governance Partnership (OGP) initiative, but not much has been achieved in terms of its implementation due to the lack of political will on the part of political leaders, and low enthusiasm on the part of some appointed government officials on the National Steering Committee.

The OGP secretariat which is hosted by the Public Sector Reform Secretariat is faced with lots of challenges including financial, logistical and human resource, thus disabling it from performing its duty of coordination, development and implementation of the country's OGP action plan.

The OGP is a global initiative, with the sole aim of securing concrete

commitment from governments around the world, to promote transparency, empower citizens, fight corruption and harness new technologies to strengthen the governance of their respective countries.

Mr P.A.K. Danyo, a Director at the Public Sector Reform Secretariat, said Ghana has made some modest gains under the second action plan (2015-2017) which includes the passage of the Petroleum Exploration and Production Bill, and the Public Financial Management Bill into law; as well as the amendment of the Companies Act to provide for Beneficial Ownership Disclosure.

Mr. Danyo explained that as Ghana has signed onto the Open Government Partnership Initiative (OGPI) in 2011; it has become an obligation under the Partnership to develop and implement a two yearly Action Plans. The first Action plan that Ghana developed was from 2013 - 2014 and the second Action Plan also covers the period 2015-17.

On her part Mrs Mary Awelana Addah, the Programmes Manager of the Ghana Integrity Initiative (GII), said despite the achievement made under the Action Plan 2, it is incumbent for Ghana to set for itself higher goals in the next Action Plan in order to deepen its democratic and OGP credentials.

Mrs Addah also stated that the passage of the Right to Information Bill is very critical in the practice of open governance because without it, all the other laws such as Beneficial Ownership Disclosure cannot be fully implemented.

She emphasised the commitment of GII to collaborate with all stakeholders in its bid to eradicate the menace of corruption from the Ghanaian society. She therefore called on other CSOs, the media, the International Community and general public to put pressure on Parliament and government to pass the Right to Information Bill before the current Parliament is dissolved in 2017.

LAND BATTLE

When Isabella* holds the title to the land she lives on, it's more than just a piece of paper – she's holding answers. For the first time in 23 years, she no longer has to question whether she has paid the right person, or whether someone else can claim her home. She has the proof of ownership in her hands.

Isabella moved to her current neighbourhood in the Honduran capital, Tegucigalpa, in 1990. When she and her family set up homes on the originally empty hillside, they didn't know who owned the land they lived on. However, as the community grew and amenities were added, alleged owners began stepping up, demanding payment for the land.

The land ownership system in Honduras is complicated and technical, often shifting potential land owners between government agencies and requiring dozens of forms. This leaves those most vulnerable to losing their land least able to obtain a title for it. People who are able to navigate the

system can claim ownership of land where others have lived for years; and suddenly residents face steep rents or evictions from these supposed owners.

"I can have something I say is 'mine,'" Isabella said, "But when I go to the bank, they'll say, 'I'm sorry, but it says here you didn't pay.' Without the legal title you can lose what's yours."

Isabella tried to obtain a land title for the home in her nephew's name, where she has been living. She understood the security that owning land gives. Although she was willing to start paying, it wasn't clear who she was supposed to pay.

While one branch of the government told residents to stop paying, another office continued to charge them. By the time the government had sorted out who had to be paid, the payments had accrued interest and put residents even further away from their titles. For someone like Isabella, who only has a first-grade education, the process seemed almost impossible to navigate.

Things changed when Isabella met the team from the Association for a More Just Society, Transparency

International's chapter in Honduras, who had gone to her neighbourhood to help sort out the legal status of residents and offer legal counsel and assistance.

With our support, Isabella was finally able to obtain her title. Today, she's using her knowledge to help others – as a member of one of our community groups, she's speaking with her neighbours on why titles are important, and assisting people in legally becoming owners of the land they live on.

It's people like Isabella who motivated us to start fighting for a fairer, cleaner land registration process in Honduras. Since we met her we've investigated reports of corruption and mismanagement in the system – finding widespread evidence of abuse.

Already our work has prompted the government to fire the national property institute's board of directors and launch an official investigation, and we're pushing to ensure this change goes further. Read more about our work here.

*Name has been changed.

https://www.transparency.org/news/story/land_battle

What is Grand Corruption and how can we stop it?

Grand corruption is one of the great unresolved legal challenges of our day. With its serious and often global effects, combatting grand corruption must be the responsibility of the international community.

For this to happen grand corruption should be treated as an international crime.

Transparency International has developed a legal definition of grand corruption to encourage advocates, scholars, lawmakers, and others to seek ways to enhance accountability of high-level public officials and others whose corruption harms their citizens egregiously and too often with impunity.

If designated as an international crime countries could exercise universal jurisdiction, similar to the treatment of

war crimes.

Our targets: the leaders who co-opt the institutions of state for their own personal gain and sweep all before them to do that: human rights, human dignity, equality, development.

Domestic authorities are often unable or unwilling to bring the grand corrupt to justice. In these cases, the international community has an obligation to act, collectively and through action by individual states.

Grand corruption is a crime that violates human rights and deserves adjudication and punishment accordingly. This ranges from stealing from public budgets used to build hospitals and schools, to

constructing dangerous facilities as the result of underfunding caused by corrupt actors.

CREDIT: transparency.org

Grand corruption is the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society. It often goes unpunished.

REPORT CORRUPTION ON
THE ALAC TOLL-FREE NUMBER:
0800 100 250 / 0302 782 364

REPORT YOUR EXPERIENCE
OF CORRUPTION ONLINE:
www.ipaidabribe.org.gh

VISIT GII'S WEBSITE AND FACEBOOK PAGE ON:
www.tighana.org
www.facebook.com/tighana.org