



GHANAIS HAVE HIGH LEVEL OF TOLERANCE FOR CORRUPTION - REPORT

A survey conducted in four urban cities in Southern Ghana in March/April this year has revealed that corruption has become part of Ghanaian life and way of doing business. A majority of the nine hundred respondents (about 70%) polled in Kumasi, Sekondi-Takoradi, Tema and Accra said they had been involved in bribery and corruption either as victims or perpetrators.

Most respondents indicated they were forced by circumstances such as poverty or the need to survive to indulge in corruption, while a relatively small percentage said they offered bribes freely. Almost 90 percent of some 665 respondents who admitted that they witnessed incidents of bribery and corruption, said they usually looked on unconcerned when bribery and/or corruption occurred in their presence. This is an indication of an unacceptably high level of tolerance for corruption among Ghanaians.

Dubbed the “voice of the people” survey, this Ghana Integrity Initiative (GII) public opinion survey was conducted as a follow-up to the publication of Transparency International's Global Corruption Barometer (GCB), which was launched in December 2004. At the time the TI Barometer was being launched, Ghanaians were still counting ballots from the just-ended general elections, which returned the Kufuor-led New Patriotic Party to a second four-year term in office. Striking similarities can be found in the findings of the TI Barometer of

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December 2004 and GII's survey of March/April 2005. These include the fact that respondents in both polls cited virtually the same public institutions as those most prone to corruption. Ranking at the top of both the TI and GII measures of corruption were the Ghana Police Service, customs and revenue-collecting agencies, the judiciary, the Ghana Education Service/Ministry of Education, the Ministry of Health and parliament/politicians. Worth noting is the fact that the education sector, which ranked seventh in the TI Barometer of December 2004, placed second in the GII survey, coming after the police service which was at the top in both surveys.

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Launch of “Voice of the People” survey findings. In army uniform (front row) is Commissioner for CEPS, Major-General Richardson Edwin Baiden.

GII OPENS TO MEMBERSHIP SOON!

As the national chapter of Transparency International (TI) the leading global non-governmental organization championing the fight against corruption, the Ghana Integrity Initiative (GII) will soon publish guidelines/criteria for the attention of members of the public who wish to sign up

for membership of the national chapter (NC) of this global movement.

The membership criteria being drafted by the GII's Governing Board are in keeping with guiding principles of the international movement (TI), its Code of Conduct, as well as provisions in GII's operating Manual of Policies and

Procedures. Strict criteria for membership are expected to be spelt out, taking particular cognizance of the **non-partisan** character of the movement/organization.

Watch out for the GII Membership Forms coming out soon!

EDITORIAL

RE: EDUCATION MINISTER'S QUERY TO GII

Dear Honourable Minister:

A publication in the *Chronicle* of July 28, 2005 captioned “**Osafo Marfo stung by GII report - disputes corruption claim,**” quoted you as having difficulties with the Ghana Integrity Initiative (GII) recent urban corruption perception survey report which cited your ministry as among institutions in the country perceived by the public to be highly prone to corruption. Specifically, the education sector was cited in the report as the second most corrupt public institution, placing next only to the Ghana Police Service.

You are quoted as saying your ministry “cannot adopt the report completely,” and that you wanted GII “to furnish the Ministry of Education with the details to enable us take the necessary steps.” You were further quoted as follows: “They cannot generalize that corruption is happening at MOE when just a few headmasters and lecturers have been found to be corrupt.”

Interestingly, a publication on the front page of the national *Daily Graphic* of September 14, 2005 captioned “**No admission outside computerized system**”, said the Ghana Education Service (GES) had received allegations about some headmasters going outside the official list to offer admission to some students and cautioned that, that would not be tolerated. Again, the *Independent* newspaper publication of August 29, 2005 had one of its stories captioned “**GES official arrested for altering cheque,**” while the *Daily Graphic* of September 2, 2005, had a front page caption “200m fraud exposed, GES Accountant on the run.”


A news article in the *Chronicle* of August 1, 2005 with the heading, “**Complaints to CHRAJ on the rise ... Police, GES cited as worst offending institutions,**” also noted that “the major cases involving the GES were usually those bordering on embezzlement of funds, salary disparities and delays, among others.”

The Auditor General's report for 2003 has cited many instances of alleged corruption in the education sector, from the district education offices right through to the GES headquarters in Accra.

These are but just a few instances of allegations of corruption in the education sector which, in GII's view, warrant some concern. We therefore wish to state that, the consistent defensive posture by people in positions of trust towards research that aims to gauge public trust in institutions and public office holders does very little to promote our democratic developmental process. Rather, it only further erodes public confidence in those elected or appointed to make decisions and take actions on their behalf.

We use the opportunity to appeal to all those vested with public trust in one way or the other to view public opinion polls not as attacks on their persons or the sectors they represent, but as a legitimate and relatively objective way of assessing the level of public trust in policies being implemented. For, public support to policies depends on public trust in those who initiate those policies and the institutions mandated to carry them out.

We commend GES for taking the corruption allegations relating to its outfit seriously by cautioning headmasters about the need to do the right thing, as reported. We hope the Service goes beyond the caution to actually take decisive action on the matters arising from these allegations and we hope that other institutions take a cue from your example.

Finally, we call on all policy makers to adopt more open-minded and people-centred approaches to ordinary people's expressions of concerns and worries, keeping in mind the fact that ordinary voices matter as much as elite voices. 

“We may not like the findings ... but we need to at least acknowledge and respect the fact that this is what some of our people are saying; this is how they feel, whether or not it is supported by reality.”

- Dr. Audrey Gadzekpo, at the launch of GII urban corruption survey findings, July 20, 2005


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Other interesting findings include the citing of 'low incomes' and poverty or the need to make ends meet as the leading causes of corruption. Respondents also mentioned greed and the desire to 'get rich quick' as other reasons for corruption. Respondents in both the TI and GII polls expressed confidence in the Government to tackle corruption in the future. A slight majority of respondents (51%) said they believe the government is committed to the fight against corruption as against about 49% who thought otherwise.

Asked about the type of bribery and/or corruption (they experienced, about 90% of respondents mentioned the 'demand for money before rendering of service,' while a smaller percentage mentioned 'payments without issuing receipts.' Respondents also identified among corrupt practices the consideration of 'party faithfuls' as well as nepotism and other 'backdoor' approaches to awarding contracts, as against merit and the proper laid down procedures.

Suggestions were made by respondents to mitigate or minimize corruption. Among valuable suggestions were the following:

- The need for government and employers to pay workers realistic wages;
- the strengthening of (existing) anti-corruption laws;
- the need to impose stiffer punishment such as longer prison terms on perpetrators of acts of corruption;
- increased public education on the negative consequences of corruption;
- the need for loyalty to the State as against the pursuit of personal interests;
- the need to enhance poverty-reduction strategies so as to improve the living conditions of the people, and
- the need to create more employment opportunities for the youth to engage in productive work that would revamp the economy. (See inside pages for 'Summary of findings of the Survey') 

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POLITICAL CORRUPTION, FINANCIAL MISMANAGEMENT AND GOOD GOVERNANCE

Political Corruption is defined by Transparency International (TI), the world-wide anti-corruption advocacy organization as: the abuse of entrusted power by political leaders for private gain, with the objective of increasing power or wealth. Political corruption need not involve money changing hands; it may take the form of "trading in influence" or granting favors that poison politics and threaten democracy". TI reports in its recent Corruption Perception Index (CPI) publication that corruption remains rife in many of the world's poorest countries and seems to be worsening in several key industrialized states as well. The CPI scores countries out of 10, with higher scores indicating a cleaner image. More than 70 per cent of the countries, and 90 per cent of developing countries, including Ghana had scores lower than 5.

The fact that corruption adversely affects economic development has become a commonplace knowledge. According to TI Chairman, Peter Eigan, corruption damages economic development and keeps people poor; as many of the poorest countries remain corrupt with little help from outside reforms. In his view, this presents a direct threat to the security of richer countries in whose interest it is to alleviate poverty and stamp out corruption. Millions are left in misery and poverty, and that provides the breeding ground for hopelessness and for planting the seed of terrorism. Vaclav Havel, the former Czech President boldly stated in October 2001 that; "Fighting corruption is also fighting terrorism as without corruption the attacks of September 11 could not have taken place".

Recent study by Johann Graff Lambsdorff indicates that corruption may either deter investment or render them less productive. According to Lambsdorff, "The absence of corruption can be assessed through four governance indicators: law and order, bureaucratic quality, government stability and civil liberties".

Bureaucratic quality is of utmost importance if financial mismanagement and hence corruption is to be reduced or eradicated. Unnecessary bureaucratic structures are clear disincentive to high productivity and provide the breeding grounds for corrupt and lazy officials to live fat on innocent citizens. To ensure bureaucratic quality, bureaucratic systems must be continuously evaluated, employees must be sensitized all the time through continuous quality training and education while effective and efficient financial management with adequate internal controls are established.

Recently three very important financial instruments meant to regulate and bring order, control and sanity into the financial administration of the country were passed by parliament. These bills are:

- Financial Administration Act, 2003 (Act 654)
- Internal Audit Agency Act, 2003 (Act 658)
- Public Procurement Act, 2003 (Act 663)

Undoubtedly, these bills must have been passed in keeping with the NPP administration's avowed policy of zero tolerance for corruption and the institution of good governance. To prosecute the government's vision, every citizen and institution will have to play and not leave the government alone to shoulder the burden. One such group of citizens and institution well poised to help in the crusade is internal auditors, hence the importance of Act 658 and the recent inauguration of the Institute of Internal Auditors, Ghana. Unfortunately, internal auditing is a practice, which is much misunderstood by the public and very often ignored by the

governments bureaucratic system leading to colossal loses of state funds.

The first internal auditing assignments were performed to meet the earliest special concern of management as to whether the assets of the organization were being properly protected, whether company procedures and policies were being complied with, whether the financial records were being accurately maintained with considerable emphasis on fraud detection. Today, internal auditing reflects a wide spectrum of different types of operational activities having moved to very high levels in all operational areas and has established itself as a valued and respected part of top management effort. Today, internal auditors are seen as part of top management team involved in the creation of organizational wealth and value.



The Author

Today in many private sector organizations with well established visions, missions and objectives and solid management, internal auditors are helping to accomplish the set goals of wealth and value creation by bringing a systematic, disciplined approach to evaluate and improve the effectiveness and efficiency of risk management, control and governance process. In the public sector and public sector organizations, the opposite is the norm. Internal auditors in public sector organizations more often than not are intentionally frustrated by top management, particularly directors, or government bureaucracy and corruption. The result is the non-performance of virtually all state owned institutions and inefficient and ineffective government bureaucracy. However, contrary to the wrongly held belief that internal auditing only works in the private sectors, internal auditing can be made to work and it must equally work in the public sector. Internal auditing has equal place in government business as in the private sector.

The success of the practice of internal auditing in the private sector is because of the institution of good governance. Where there is no good governance, chaos reign supreme leading to corruption, abject poverty, despondency, crime, fraud, the rule of jungle law, and loss of human right and human dignity and above all, financial mismanagement. The time has come for every aspect of government business to be managed like a private sector enterprise if the nation is to achieve the level of the Asian Tigers in our own lifetime. At this juncture, it is appropriate to make reference to the financial and operational mismanagement which have bedeviled virtually every aspect of government business since independence with specific searchlight on the way some members of directors of state owned corporations, boards and agencies have abused the high trust of office imposed in them.

Despite the high level of trust imposed in them by the appointing authorities and regardless of the provisions of the Companies Code, 1963, Act 179 dealing with directors and also where appropriate the Code of Ethics of their own professions, many directors have misused their position to enrich themselves while consciously impoverishing the organizations in their charge.

Some of the organizations have collapsed without trace to the discomfort and loss to the state and innocent citizens dealing with such organizations. These acts amount to criminal negligence and financial fraud which must be met with the severest punishment possible. Classical examples are the collapse of the Bank for Housing and Construction, the Ghana Co-operative Bank and the Ghana Airways Corporation. In the advanced, civilized countries,

RELEASE OF FINDINGS

“VOICE OF THE PEOPLE” SURVEY (AN URBAN HOUSEHOLD CORRUPTION PERCEPTION SURVEY, SOUTHERN GHANA)

SUMMARY OF FINDINGS:

Prevalence of corruption

Respondents interviewed were asked whether they 'agreed' or 'agreed strongly', 'disagreed' or 'disagreed strongly' with the statement: “Ghana is perceived as a corrupt country”. Out of 900 respondents interviewed, 92.5% at least, agreed that corruption is prevalent in Ghana. More than half (55%) of the respondents said they 'agree' that corruption is prevalent in Ghana while 37.5% said they 'agree strongly'

Severity of corruption

Out of 900 respondents interviewed, 90.1% (9 out of 10 respondents) consider corruption as a serious problem.

Degree of corruption

Respondents were asked whether corruption is getting 'better' or 'much better' 'worse' or 'much worse' in Ghana today. Out of 900 respondents interviewed, 61% representing responses for 'worse' and 'much worse' said corruption has worsened whilst 36.4% said corruption is getting 'better' and 'much better' in Ghana today. Specifically 38.7% said corruption is getting 'worse', 22.3% said 'much worse' whereas 32.4% said corruption is getting 'better', 4.0% said 'much better'.

Underlying reasons for corruption by respondents

- Respondents were asked to mention some of the underlying causes of bribery and corruption. Out of 891 respondents who answered the question, 76.5% cited 'low income' as the leading cause of bribery and corruption in the country, 67.3% said 'greed/get rich quick' 55.6% said 'high cost of living,' 45.6% cited 'poverty' and 38.2% said 'making ends meet (survival).' Apart from greed/get rich quick, almost all the causes are poverty related. *(The above is a multiple response question where respondents were given the opportunity to select more than one answer. The percentage for each answer was calculated on a sample base of 891 representing 100%)*

Personal involvement in bribery and corruption

- Out of 900 respondents, 67.2% said they have been involved in bribery and corruption. Specifically, 49.6% were victims whereas 17.6% were perpetrators. The lower figure for perpetrators is

indicative of the fact that people are usually not ready to admit the offence.

- Respondents were asked why they became victims or perpetrators. Out of 457 respondents, majority (77.5%) said they were forced by circumstances (eg. delays) while 18.8% said they offered it freely.

Last time respondent got involved in bribery and corruption

- The survey results show that, out of 457 respondents 66.2% said they had been involved in bribery and corruption in the past one year while 17.7% said '2-3 years ago', a few (2.6%) said 'about 4-5 years ago' and 3.9% said 'more than 6 years ago'.
- Out of 457 respondents interviewed 47.5% said they 'occasionally' experienced bribery and corruption in their day-to-day activity whereas 33.3% said they experienced it 'very frequently.'

Types of bribery and corruption experienced

- Out of 443 respondents who experienced bribery and corruption, 393 representing 88.7%, said the most common type of bribery and corruption experienced is 'demand for money before rendering of service,' whilst 191 representing 43.1%, said 'taking money without issuing receipts'. *(This a multiple response question where respondents were given the chance to mention as many answers as possible. Calculation for each answer is on a sample base of 443 representing 100%)*
- Out of 457 respondents interviewed 76.5% disclosed that, they accepted the offer of bribe at the least opportunity whereas 16.7% said they rejected the offer of bribe.

Victims or perpetrators of incident of bribery and corruption

- Out of 900 respondents interviewed 72.9% said they had witnessed incidents of bribery and corruption.
- Respondents were asked the last time they witnessed someone being involved in bribery and corruption either as a victim or perpetrator. Out of 665 respondents 20.2% said 'everyday', followed by 15.2% who said 'a week ago' and 16.5% said 'about a month ago'
- Out of 665 respondents who witnessed incidents of bribery and corruption, 87.7% of the respondents said they are normally unconcerned when they witnessed an incident of bribery and corruption.

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POLITICAL CORRUPTION, FINANCIAL MISMANAGEMENT AND GOOD GOVERNANCE

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all the directors of these institutions would have been investigated and those found culpable tried before the law courts and those found guilty jailed and their properties seized to pay for the damage caused to the state and innocent citizens. In this country, the guilty directors are walking the earth freely while the tax payers' money was used to pay off the depositors of the failed banks, who otherwise would have lost their money. Another classical example is how many state corporations were divested were tainted with corruption. Some of us are aware of the huge sums of foreign money paid to forensic auditors to probe possible wrong doing in the way those state corporations were divested.

As at now, most of the reports appear to be gathering dust while many of the reports have been disputed by the auditees. In the mean time, the alleged criminals are walking the streets freely and enjoying their ill-gotten booties. I will plead with the President to continue with ecclesiastic zeal, the empowerment of state organizations like the Police, the judiciary, the SFO, the CHRAJ, the BNI, the Audit Service, the Internal Audit Agency Board and the

State Enterprise Commission with not only financial and operational resources but also ensure that capable personnel are recruited to manage those organizations.

The government must also take a more active interest in and give recognition to the work of civil society organizations, independent think tank institutions and professional bodies like the Ghana Integrity Initiative (GII), the Centre for Democratic Development (CDD), the Institute of Economic Affairs (IEA) and the Centre for Economic Policy Analysis (CEPA), the Institute of Internal Auditors (Ghana), (IIAG) and the Ghana Institution of Engineers (GhIE) just to mention but a few. This dear country of ours must be made to work and I do not have any doubt in my mind that, the institution of good governance can only be achieved in an environment of zero tolerance for political corruption and high level practice of financial management. The three new bills must be made to work. 🌐

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Institutions perceived by respondents as highly affected by corruption

• The survey captured the perceptions of respondents on institutions or organizations highly affected by corruption in the country today. The top 10 institutions mentioned were: the Police Service 76.8%, Ministry of Education 31.5%, Customs-CEPS 31.1%, the Judicial Service 16.4%, Civil/Public Service 16.4%, Ministry of Health 15.6%, Politicians- (MP's, Ministers, etc) 8.7%, Electricity Company 5.5%, Internal Revenue 5.2%, and Ghana Immigration Service 4.3%. *(The above is a multiple response question where respondents were given the opportunity to select more than one answer. The percentage for each answer was calculated on a sample base of 829 representing (100%)*

Respondents were asked how many MP's/Ministers, civil and public servants and officials of the Metropolitan/Municipal Assemblies they thought are involved in bribery and corruption. Their responses are as follows:

- Out of the 900 respondents interviewed 37.3% said they 'don't know' the number of MP's/Ministers involved in bribery and corruption, while 28.3% said 'a few' (some) are involved.
- Out of a total of 900 respondents interviewed, 37.2% said 'most' civil/public servants are involved in bribery and corruption; 30% said 'a few' (some) are involved.
- Out of a total of 900 respondents 34.7% said 'most' officials in the Metropolitan/Municipal Assemblies are involved in bribery and corruption.

Respondents were asked to state which other means apart from tender they thought are applied by the Government and the Metropolitan/Municipal Assemblies in award of contracts in the country. Their responses are as follows:

- For Government, out of 900 respondents interviewed, 66.2% said consideration of party faithfuls, 54.5% mentioned backdoor (underhand) activities, 53.9% mentioned nepotism while 51.6% respondents said ethnicity.
- For Metropolitan/Municipal Assemblies, out of 900 respondents interviewed, 61.7% said consideration of party faithfuls, 53.3% mentioned backdoor (underhand) activities, 52.6% mentioned nepotism while 48.4% said ethnicity *(The above are multiple response questions where respondents were given the opportunity to select more than one answer. The percentage for each answer was calculated on a sample base of 900 representing 100%)*

Government's commitment towards the fight against bribery and corruption

- Out of 900 respondents interviewed 51.1% said the government is committed to the fight against bribery and corruption as against 48.4% who said government is not.
- In response to the question, 'How well is the government handling bribery and corruption in the country?' Out of 900 respondents 40.3% claimed government is handling bribery and corruption 'fairly well' followed by 29.7% who said 'not very well', and 19.3% who said 'not at all'. Only 10% said government was handling bribery and corruption 'very well'
- Respondents were asked to mention key institutions or organizations fighting bribery and corruption in the country. Ironically, most respondents mentioned the Police Service. Other institutions/organizations mentioned included: Serious Fraud Office (SFO), Commission on Human Rights and Administrative Justice (CHRAJ), the Judicial Service, the Media, the Christian Council of Ghana (e.g. Catholic Secretariat) and Ghana Integrity Initiative (GII). Paradoxically, in spite of the fact that the Police Service and the Judicial Service were mentioned as being in the forefront in the fight against bribery and corruption, they were rated high as perpetrators.

Suggestions by respondents

- The following are some of the suggestions (in order of importance) given by respondents to mitigate or minimize bribery and corruption
 1. Government/employers should pay workers realistic salaries and living wages coupled with good working conditions.
 2. Government should strengthen existing laws and impose stiffer and longer prison terms on perpetrators to serve as a deterrent to others.
 3. Ghanaians should be educated to eschew greed and be loyal to the state.
 4. Poverty-reduction strategies should be enhanced to improve on the living conditions of the people.
 5. The need to create more employment opportunities for the youth as the devil provides work for the idle hand.

Conclusions

GII believes that the findings of the survey, with all its limitations, provide the public and policy makers with some useful information on the perceived state of corruption in the country, and the expectations of the public in terms of dealing with the canker. Some of the findings are particularly interesting in that, they corroborate other findings of earlier research by Transparency International (TI) and other organizations. This calls for serious reflection and considerate action to address the issues raised by respondents.

- The findings reveal a perception of high prevalence of corruption in Ghanaian society from the respondents in the three (3) urban areas surveyed. This could in part be attributed to the frequent reports of alleged bribery and corruption put out by the media and the perception that nothing/not much is being done to disprove the allegations or investigate them. Since such reports are often not investigated and their findings made known to the public, people make their own judgments, adding to the perception of pervasive corruption.
- There is a perception of high administrative or bureaucratic corruption compared to political corruption. Three out of ten of the respondents said they 'don't know' the number of MPs, Ministers, etc. involved in bribery and corruption, whereas the same (3 out of 10) of the respondents are certain that 'most' civil/public servants and officials in the Metropolitan/Municipal Assemblies are involved in bribery and corruption. Again, respondents cited 'delay tactics' as a way by which the people are 'forced' to pay bribes for public services or indulge in other forms of bribery. This is a sure disincentive for investors in particular and a minus in terms of public trust in the efficient management of public resources.
- The report indicates a high tolerance for corruption among Ghanaians. Most of the respondents interviewed said they looked on unconcerned when witnessing acts of bribery and corruption. Typically, persons who try to confront perpetrators of bribery and/or corruption are often labeled 'too know', or asked to 'mind your own business' by their fellow citizens. Moreover, where reports are made to the Police and offenders are sometimes arrested, they (the offenders) still get off and nothing comes out of the investigations. For most people, therefore, reporting corruption is an exercise in futility. This is a particularly disturbing finding as it means that we are breeding a culture of impunity, in which those involved in corrupt acts get away with their destructive behaviour.
- Some of the institutions perceived to be highly corrupt, such as the Police Service and the Judicial Service, are paradoxically also the ones expected to help control corruption. This clearly indicates that there is a serious need for institutional renewal and reforms that will reinvigorate these oversight institutions and enable them play their expected roles to help address the canker of corruption in the society.
- Certain tendencies such as nepotism, cronyism and ethnicity, which are often inimical to development, appear to have eaten very

KEY PUBLIC ANTI-CORRUPTION AGENCIES AND THE FULFILLMENT OF THEIR MANDATES: THE SERIOUS FRAUD OFFICE (SFO)

1. Anti-corruption Mandate of the SFO

a) The Serious Office Act, 1993 Act 466

The Serious Office Act, 1993, Act 466 states the purpose of the Serious Fraud Office as follows:

“An act to establish a Serious Fraud Office as a specialized agency of Government to monitor, investigate and on the authority of the Attorney General, prosecute any offence involving serious financial or economic loss to the state and to make provision for connected and incidental purposes”

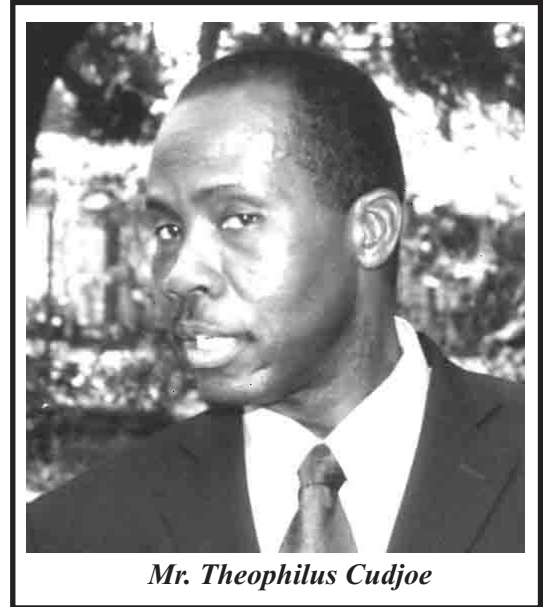
Section 3 of the Act states the function of the Office as-

a) to investigate any suspected offence provided for by law which appears to the Director on reasonable grounds to involve serious financial or economic loss to the state or to any organization or other institution in which the state has financial interest;

b) to monitor such economic activities as the Director considers necessary with a view to detecting crimes likely to cause financial or economic loss to the state;

c) to take such other reasonable measures as the Director considers necessary to prevent the commission of crimes which may cause financial or economic loss to the state;

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Mr. Theophilus Cudjoe

Corruption and weak democracies are related - weak democracies allow corruption to flourish and corruption, in turn, weakens democracies.

To break the cycle, reformers must undertake an institutional approach to combating corruption.

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deep into Ghanaian social fabric such that, nobody seems to see anything wrong with them. For example, when respondents were asked their perception on other means applied by the Government and the Metropolitan/Municipal Assemblies in the award of contracts, apart from tender, most of the respondents were quick to cite 'party faithfuls,' followed by 'nepotism', 'backdoor' and 'ethnicity,' in that order. The challenges of cronyism, nepotism and ethnicity therefore remain areas in urgent need of attention.

Recommendations

- A strong code of conduct for civil/public servants as well as political appointees, especially those in positions to hire, fire, and influence resource allocation, is needed as a matter of urgency. Such a code of conduct must be systematically and rigorously enforced.
- Parliament should consider reforming and reviewing legislative instruments establishing the Commission on Human Rights and Administrative Justice (CHRAJ) and the Serious Fraud Office (SFO) to make them sufficiently independent as well as grant them powers of prosecution. This would go a long way to increase public confidence in such institutions, which have been established as instruments of accountability. More importantly, giving CHRAJ and SFO prosecutorial powers would help ensure that acts of corruption and abuse of office do not go unpunished. This will help check the creeping culture of impunity among those entrusted with elective and administrative power.

- Government should strengthen existing laws to include the imposition of stiffer punishment, such as longer prison terms for perpetrators of corruption. At the same time, the Public Service should institute a reward system for those who exhibit high standards of performance and commitment to duty in public office.
- Parliament should, as a matter of priority, enact the Whistleblowers Bill and the Freedom of Information Bill to encourage exposure of wrongdoing in the workplace as well as foster transparency in governance and public administration.
- Civic education should be increased to educate and sensitize Ghanaians on the deleterious effects of corruption. Ghanaians must learn to be loyal to the state rather than to friends, relatives and members of their ethnic groups. This calls for a change of attitude and a system of democratic practice where all citizens are equal before the law and where meritocracy rules over and above all other considerations.
- Government, employers, trade unions and other stakeholders should take steps to organize a national debate on income policy as a matter of urgency since research findings suggest that low income and poverty-related issues are among the root causes of bribery and corruption.
- Finally, recognition should be given to people who risk their lives and/or livelihoods in order to champion the anti-corruption cause. ☺

d) to co-operate with such international agencies as the Director considers appropriate for any of the purposes under this section.

The investigation of offences which involve serious financial or economic loss to the state or to state organization would seem to restrict the SFO to cases where financial or economic loss has been caused to the state through offences provided by law, such as the offences of

(i) Stealing contrary to section 124(1) of the criminal Code, Act 29 of 1960

(ii) Fraudulent breach of trust contrary to section 128 of the Criminal Code, 1960

(iii) Causing financial loss to the State contrary to section 179A (1) of the Criminal Code Amendment Act, Act 458

“179A (1) Any person who by willful act or omission causes loss, damage or injury to the property of any public body or any agency of the State commits an offence.

(2) Any person who in the cause of any transaction or business with a public body or any agency of the state intentionally causes damage or loss whether economic or otherwise to the body or agency commits an offence.

(3) Any person through whose willful malicious or fraudulent action or omission

(a) the state incurs a financial loss; or

(b) the security of the state is endangered commits an offence”

“179D A person convicted of the offence under any of the offences specified in this chapter is liable on conviction to a fine of not less than 5 million cedis or imprisonment not exceeding ten years or both.”

Based strictly on its legal mandate therefore it could be argued with some plausibility that the SFO has no statutory mandate to investigate allegations of corruption if these allegations do not involve the willful acts or omission or intentional damage or malicious action which cause financial loss under section 179A of Act 458.

(b) Other Statutory Sources

i) Section 179C (a) and (b) of Act 458

I have however always admitted section 179C (a) and (b) of Act 458 as adding another element to the acts by which financial losses is caused to the state. That section provides for the offence of Abuse of Public Office For Private Profit and its states as follows:

Section 179C “Any person who

(a) while holding a public office corruptly or dishonestly abuses it for private profit or benefit; or

(b) not being a holder of a public acts and is found to have acted in collaboration with a persons holding public office to corruptly or dishonestly abuse the office for private profit or benefit commits an offence”

A corrupt act by a public officer which makes a private gain for himself must necessarily have led to loss to the state. Section 179 C (a) and (b) therefore add a corrupt act to the category of acts that cause financial loss and therefore give the SFO as mandate to investigate corrupt acts of public officers where there is a possibility of financial loss to the state.

ii) The Companies Code, Act 179 of 1963

Under the companies Code of Ghana, Act 179 of 1963, the consequences of the abuse of company directorship described as 'conflict of duty and interest' would result in the liabilities stated at section 206 as follows:

a) the director and any other person who knowing participate in the

breach shall be liable to compensate the company for any loss it suffers as a result of such breach;

b) the director shall account to the company for any profit made by him as a result of such breach; and

c) any contract or other transaction entered into between the director and the company in breach of such duties may be rescinded by the company.

This principle of corporate accountability is necessarily applicable to directors of public offices since the modern political state is depicted as a corporate entity, in view of the economic and commercial transaction that it necessarily must engage in on an everyday basis with its citizens and or foreign companies or other states. This provision of the Companies Code therefore offers a statutory mandate to the SFO to hold public official accountable in situations of conflicts of interest where they corruptly benefit privately.

(iii) The constitution

Article 284 of the constitution states:

“284. A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.”

Again this article of the constitution restates the injunction against public officers to keep their businesses out of their public offices.

I would humbly submit therefore that in spite of the absence of the word “corruption” among the stated functions of the SFO it has to deal with corruption by public officers as a necessary concomitant to its mandate of preventing financial loss to the state.

2. Accomplishment of the SFO in the Anti-Corruption Project.

I am sure many here would wonder at my arguments for assuming an anti-corruption mandate in view of the dangerous virulent press attacks one exposes their institution to, in these days of governance and accountability and the declaration of a 'Zero Tolerance For Corruption'. Am I a fool rushing in where angels fear to tread?

The reality is indeed that in all cases of financial loss to the state there is always an element of private gain. That equation is sacrosanct. From the 'petty' corruption of the clerks in the ministries to the acceptance of under invoicing of imports or underpayment of income taxes or undervaluing of the state assets during divestiture the losses to the state are always due to considered and deliberate acts of public officers to which the term corruption can be justifiably applied. I further justify this assertion by describing aspects of the workload of the SFO since 1999.

The Annual Report of the SFO for the year 1999 listed 64 cases investigated by the Investigation Department 34 of those cases involved public officers (i.e. in revenue collecting agencies and District and Metropolitan Assemblies exercising their discretion

(Contd on page 10)

Today, corruption is recognized as one of the greatest obstacles to development and economic growth. This is not a struggle of business against government, of “us” against “them”; rather, it is a struggle for all of us to build stronger ethics across society at large.

GII ACTIVITIES FOR THE QUARTER (JULY - SEPTEMBER, 2005)



Launch of "Voice of the people's survey" findings



A cross section of participants at the survey launch.



Koforidua Municipal Workshop: **From left:** Mr. F. Lansah, Municipal Co-ordinating Director, Odeefuor Nana Boadi Asiedu I, Mrs Linda Ofori-Kwafo, Programme Manager, GII and Mr Solomon Djaba-Mensah, E/R Chairman-GNAT.



A section of participants at a round table discussion on the Whistleblower bill organised jointly by GII and CHRAJ.



Some security personnel- at Koforidua Workshop



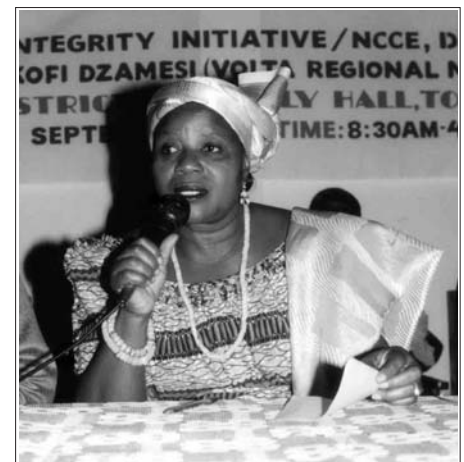
A section of participants at Koforidua Workshop



Ketu District Workshop: Panelists at the high table including Mr Daniel Batidam of GII and Mama Ayaba II, who chaired the function.



A section of participants at Ketu District Workshop



Mama Ayaba II, President, Ketu Council of Queen Mothers addressing participants at Ketu District Workshop

INSTITUTE OF ECONOMIC AFFAIRS (IEA) ON CONDUCT OF AUGUST 30, 2005 ODOODIODOO BY-ELECTION

A four-member pre-election Assessment Team of the Institute of Economic Affairs was deployed before the election. The same team was later constituted into an election observation group on the day of voting.

The Institute made the following observations after a careful collation and analysis of reports submitted by the observation team.

1. The tensions that existed in the constituency before the election continued till voting day on Tuesday, August 30, 2005.
2. The by-election was largely free and fair, in spite of a few isolated incidents.
3. Security was good.
4. The Electoral Commission (EC), National Commission for Civic Education (NCCE), Security Forces and leadership of the contesting Political Parties must be commended for ensuring peaceful election.

The IEA urged all political parties to exercise greater control over their supporters before and during voting; greater civic education by the EC, the NCCE and other governance NGO's; the broadcast media as much as possible give accurate reportage to avoid a heightening of tension and the EC to give more training to Electoral officers. 🌐

Source: The Daily Dispatch

GII FAMILY GROWS

The secretariat of GII has expanded to meet the increasing demand for advocacy and public awareness/education on anti-corruption and good governance. The secretariat now has a Public Procurement Audit Unit (PPAU) headed by an international public procurement consultant, and two (2) newly appointed senior level personnel, a Business Development Manager and a Programme Officer.

This brings to ten (10) the total number of staff working at the secretariat to assist in the implementation of GII's programmes and activities countrywide. See list of staff and their designations below. 🌐



List of GII Staff and Positions

1. Daniel Batidam
- Executive Secretary (CEO)
2. Linda Ofori-Kwafo
- Programmes Manager
3. Julius Aidoo-Buameh
- Business Dev. Manager
4. Gilbert Sam
- Programme Officer
5. Tony Amakpa
- General Services Officer
6. Gifty Ofori
- Project Support Assistant
7. David Nawurah
- Security

Hired Consultants/Services

1. T. A. Aikins
- Consultant, Public Procurement Audit Unit (PPAU)
2. Pat Al-hassan
- Executive Assistant (PPAU)
3. Charles Inkum
- Driver

Front row: Tony Amakpa, Gifty Ofori, Daniel Batidam, Linda Ofori-Kwafo

Back row: T. A. Aikins, Pat Al-hassan, David Nawurah, Gilbert Sam and Julius Aidoo-Buameh

“We at GII and the entire anti-corruption movement across the globe are convinced beyond any doubt that the much lauded Millennium Development Goals (MDGs) are unreachable without a commitment to fighting corruption around the globe.”

CHRAJ AND GII HOLD ROUND-TABLE DISCUSSION ON WHISTLEBLOWER BILL

The Ghana Integrity Initiative (GII) in collaboration with the Commission on Human Rights and Administrative Justice (CHRAJ) organised a round table discussion on the Whistleblower Bill at CHRAJ, Conference room, old Parliament House, Accra on August 18, 2005. The participants for the event were drawn from CHRAJ, Civil Society Organisations (CSOs), the Attorney General's (AG) office, Serious Fraud Office (SFO) and the media.

The event was moderated by Mrs. Chris Dadzie, Director, Public Education and Anti-corruption and in attendance was Mr. Richard Quayson, the newly appointed Deputy Commissioner of CHRAJ.

Some concerns raised by the participants on the Bill are as follows: List of persons to whom disclosures of impropriety may be made should be expanded to include pastors/religious advisors, credible NGO's, Member of Parliament and Assembly members; anonymous disclosures should be allowed since anonymous callers could provide vital information that could lead to the retrieval of stolen monies; Participants were worried about the silence on Information Communication Technology (ICT) in the Bill.

The workshop provided a platform for the major stakeholders in the fight against corruption to thoroughly analyse, critique and collate views with the aim of refining the Bill, which is before Parliament. 🌐

improperly for their benefit or other reasons. This statistic does not include cases involving state enterprises or commercial enterprises in which the state had a stake.

In 2001, of 37 cases, 20 involved public officers abusing their office. Again this statistic does not include state commercial enterprises such as Ghana Airways or state banks or insurance companies.

In 2002, out of 44 cases, only 6 did not involve the abuse of office by public offices as an element of fraud.

In 2003, of 34 cases, 21 involve public officers and the abuse of public office. The 2003 cases involved most of the business transaction of the Investment Department of the Social Security and National Insurance Trust (SSNIT) in which billions of cedis of social security contributions were doled out as 'loans' or advances to private persons to acquire state assets on divestiture, the well known example being:

- i) The State Transport Company (S.T.C)
- ii) The privatization of the toll collection on some highways of the Ministry of Roads and Highways
- iii) The Kumasi Catering Rest House
- iv) The Ambassador hotel
- v) The Star Hotel and the La Palm Royal Hotel
- vi) The Elmina Motel
- vii) G.I.H.O.C Paints
- viii) Aluworks Limited
- ix) Ghana Film Industry Corporation

Each of these divestitures has left the state with financial losses due to the exercise of executive decision making power which turned out to be unobjective and biased in fact.

I think the lessons from the investigations in these cases are that even though in the first instance, the SFO sets out to find financial losses to the state, and not corrupt acts, the intrinsic nature of corruption within the state polity shows itself in almost all cases of financial losses to the state. In that respect, the lack of a specific provision in the SFO Act to investigate allegation of corruption is not necessarily a bar to an active engagement by the SFO in the anti-corruption project.

3. Limitation and obstacles

The lack of a specific statutory mandate to investigate allegations of corruption, especially what is known as grand corruption, is obviously a statutory limitation.

However, I would submit the absence of an articulated code indicating all the possible acts of corruption on the part of public holders is a significant limitation on the investigation and prosecution of corruption cases and incidentally on cases of Causing Financial Loss.

4. Specific recommendation for strengthening SFOs anti-corruption functions

Even though the SFO does not covet an anti-corruption mandate, I have made it clear that action in the anti-corruption project for Ghana does not compromise or pose an obstacle to its mandate. On the contrary actions in the anti-corruption project are necessary complements to the effective execution of the SFOs own mandate.

I support the Anti-Corruption Coalition's call for giving teeth to the public Office Holders (Declaration and Disqualification) Act 1998, Act 550, which was originally intended to provide a reliable record to assist the determination of illegal private gain through the abuse of public office.

Recent learned commentaries on the operation of this Act have shown the lack of a verification regime and a transparency standard in the administration of this Act which have made it ineffective to date.

I would recommend that the following interventions either by statute or by administrative arrangements between the SFO and the Auditor General's Department to give teeth to the Public Office Holders (Declaration of Assets and Disqualification) Act 1998, Act 550:

- i) Make the assets declaration as public as possible in the present domain of the public;
- ii) Enable the relevant agencies of accountability to verify the declaration in the first instance of its delivery and therefore subject to periodic verification;
- iii) Enact confiscatory statutes to deter non-disclosure or concealment of assets;
- iv) Amend the Act to enable an examination at least, of the assets of family members including extended family members;
- v) On the prohibition in principle of the offering of gift to public officers and their receiving them as a major aspect of corruption in the public services, I think this time is appropriate to revive the principle enunciated during Dr. Busia's administration in the 2nd Republic which admonished the giving of gifts to public officers as amounting to bribery and receiving gifts by public officers as amounting to corruption;
- vi) A gift which is genuine and given on ceremonial occasions and which cannot be refused on grounds of state protocol must be relinquished to the state protocol Department to be distributed to charity or other purposes, not related to private enjoyment. 🌐

The above was a presentation made by the Acting Executive Director of the Serious Fraud Office at a Stakeholders Forum held on Tuesday, 14th June, 2005 at the La Beach Hotel

Minister spent €700m on brother-in-law's house

Western Regional Minister, Mr Joesph Boahen Aidoo has given conflicting accounts of the exact amount spent on the renovation of his brother-in-laws private bungalow at Wassa Akropong to serve as the residence for the District Chief Executive (DCE) for Amenfi East. Official documents available to the Chronicle indicate that 830 million cedis of state resources was used to renovate and refurbish the DCE's residence, while another 920 million cedis was used to refurbish the District Coordinating Director's (DCD) bungalow.

The Minister, who was acting DCE at the time of the refurbishment, told the Chronicle that the state spent 689.5 million cedis on the renovation and refurbishment of the house. However, in his handing over notes after the newly created assembly was inaugurated on 27 August, 2005, he quoted 830 million as the cost of the renovation and refurbishment. When asked about the discrepancies in the figures, Mr Aidoo asked; "Are you saying you have never committed an error while writing a story? If my handing over notes captured 830 million cedis that is an error". However, a letter dated June 16, 2005 with reference

number AEDA/DA/1 by the Amenfi East Assembly asking the Regional Chief State Attorney to intervene in the tenancy agreement between the assembly and the minister's brother-in-law quoted 830 million as the cost of renovation and refurbishment.

Also unclear are the terms of the tenancy agreement. According to the Minister, his brother-in-law was offering the house to the assembly for free until it builds a residence for the DCE. Documents available to the paper indicate otherwise. The landlord is insisting that the assembly occupies the house for 36 months beginning June 1, 2004, according to the assembly's records. 🌐

Source: The Chronicle

HOW TO EARN MILLIONS AFTER CONGRESS: BECOME A LOBBYIST AND CASH IN

In the spring of 2003, things were looking bleak for U.S. aid to Turkey. Angered at Turkey's refusal to allow U.S. troops to cross Turkish territory during the invasion of Iraq, some Republicans in the House of Representatives were aiming to eliminate a \$1 billion foreign aid package.

But thanks in large part to former Rep. Bob Livingston, a Louisiana Republican, Turkey's \$1 billion was saved. Knowing that Livingston had served 10 terms in the House and had been chairman of the powerful House Appropriations Committee, the Turkish government hired his lobbying firm to go to battle for it. At one crucial moment, as the House was about to vote on the aid amendment, Livingston arranged for a delegation of Turkish officials to stand just off the House floor where they could meet his former colleagues.

In the end, 315 House members voted to continue aid to Turkey.

From Turkey's point of view, hiring the Livingston Group was a smart decision. Between 2000 and 2004 the Turks paid the firm \$9 million. For that investment, they received \$1 billion that might well have been lost.

And the former Rep. Livingston well, it was just a skillful move in a lucrative Washington game known as the Congressional Revolving Door.

The revolving door is one of the main ways members of Congress turn their public service into a stepping-stone to wealth. Using the knowledge, connections and friendships they made while serving in the House or Senate, they hire themselves out as lobbyists after they leave Congress and rake in fees that dwarf their congressional salaries.

Public Citizen's Congress Watch has just issued a report detailing how the game is played. The study found that exactly half of all departing senators have become lobbyists since 1998. For Congress as a whole, that figure is 43 percent.

The report includes interesting insights into the game. For example, two-thirds of departing Republican senators have become lobbyists since 1998, while just one-third of departing Democratic senators have done so.

The departing congressional class of 2000 had the highest percentage of members who joined the lobbyists' ranks: 50 percent. Since 1998, more than twice as many Republicans as Democrats have become lobbyists.

Most likely, that's because 2000 was the year that George W. Bush was elected president and the Republicans maintained control of both houses of Congress. So Washington became a hostile landscape for lobbyists whose contacts were squarely in the Democratic camp.

That hostility was exacerbated by the "K Street Project," a plan pushed by anti-tax activist Grover Norquist and House Majority Leader Tom DeLay (R-Texas) to get as many Republicans as possible into the upper ranks of Washington's K Street lobbying shops while excluding Democrats. (K Street is the general location for many of the country's most powerful lobbying firms.)

Rep. Livingston, I Presume

Livingston's great success as a lobbyist has apparently not been hampered by the scandalous circumstances under which he left the

House. That departure came in early 1999, during the effort to impeach President Bill Clinton after his relationship with intern Monica Lewinsky (not a good time to get caught in sexual improprieties). House Speaker Newt Gingrich (R-Ga.) had resigned, and Livingston was in line to succeed him. But news surfaced of infidelities in Livingston's past, and he quickly gave up his shot at the speakership. He then resigned his House seat. Since leaving Congress and his \$136,700 salary, Livingston has built a lucrative lobbying business. Immediately after his resignation, he started the Livingston Group, first year of operation. This was during a so-called "cooling-off" period: Under congressional rules, a former member may not directly lobby former colleagues during the first year after leaving Congress. But that doesn't stop the former member from supervision lobbyists, which Livingston did.

A review of lobbying disclosure records reveals that between 1999 and 2004, Livingston's various lobbying businesses brought in more than \$39 million with the totals, \$11 million came through lobbying for foreign governments, including the \$9 million from Turkey.

More than \$1.3 million in revenues came though an allied firm, Livingston-Moffet Global Consultants, which Livingston formed with former Rep. Toby Moffet (D-Conn.). In the world of lobbying, it is not unusual for Democrats and Republicans to combine forces: It allows the firm to solicit business no matter which party holds power.

Livingston offers no apologies for cashing in on his two decades in the House or his chairmanship of the powerful House Appropriations Committee. "Nobody understands the appropriation process better than me," Livingston told *The Washington Post*. "If we understand the process and can get through the front door, that's primarily the reason why clients hire me."

Public Citizen this summer is launching a new campaign, "Clean Up Washington!" That will tackle not only the Congressional Revolving Door but other ethics abuses endemic to Capitol Hill.

For a copy of this report, go to LobbyingInfo.org, a new Public Citizen Web site that tracks the business of lobbying in Washington. ☎

Source: *Public Citizen News*

Corruption directly affects the viability of the social contract, altering the nature of the relationship between governments and citizens: public officials are not providing what is expected, and citizens no longer trust their authorities.

CIPE Economic Reform (Feature Service) Vol 2

CORRUPTION ISSUES IN AFRICA AND AROUND THE GLOBE

MOZAMBIQUE

People believe more in the media and NGOs than in the institutions that should be in the lead when the matter is fight against corruption, concluded a survey on Governance and Corruption, which report was presented in Maputo recently.

Institutions that should lead this fight, such as the police and the courts, are among those that respondents say have done close to nothing to that end.

The study showed that the worst institution is, paradoxically, the Anti-Corruption Unit, created specifically for this purpose, and the Attorney General's Office, where it functions, was rated the second worst.

"One possible explanation for that paradox is that the existence of the Unit is little known among the public, but one cannot exclude completely the hypothesis that the findings reflect the lack of confidence of the public in their work", reads the report of the National Survey on Governance and Corruption-2004, conducted under the auspices of the Public Sector Reform Technical Unit (UTRESP).

The 2,475 families interviewed in the enquiry, all acknowledged the important role played by institutions independent from political power in the fight against corruption. Among them, 45 per cent believe more in the media, and 30 per cent in the NGOs, which are described as having "contributed greatly". Even academicians and the military were better rated than the Attorney General's Office and the Anti-Corruption Unit. Ironically, the police and the courts are among those institutions that people think that "they did nothing to fight against this social ill".

The survey covered also 500 companies and 1,000 civil servants. The prevailing feeling among the interviewed companies was that "there is no fight against corruption" in the country, and the most common answer to the question posed to companies on this issue was that "there is much talk but no action at all".

All the sectors surveyed were unanimous in saying that corruption in public sector "is a very serious matter".

Among the different forms of corruption, families surveyed think that bribe is the most common in the customs (29 per cent) traffic police (26 per cent), Inspection services (19 per cent), and the protection police (19 per cent).

The judgment of the companies is not much different from that of the families, because 38 per cent of the companies think that traffic police will take bribes, protection police (21 per cent), and customs (19 per cent).

On the situations where bribe occurs, civil servants have a point of view slightly different from that of families and the companies.

For the families the most common situations are where the bribe is demanded by the civil servant, while for the companies there is a balance between the three suggested situations (demand by the civil servant, offer by the client, and when the client knows beforehand that he must pay and how much). But for the civil servants it is always the clients who take the initiative.

some (46 per cent) think that bribe will never, or will rarely result in a better service, while for others it will some times yield good results, and others still (10 per cent) believe that this results in a better service.

This was the most inclusive survey, so far, on governance and corruption in that country, and was ordered by the government, in the context of the promotion of transparency in governance, and community participation in denouncements, all as part of the reforms in the public sector. 🌐

ZAMBIA

The Task Force on corruption has completed investigations of more than 70 cases while 10 are under prosecution before the courts of law, President Levy Mwanawasa has disclosed.

Mr. Mwanawasa who revealed that some donor countries had offered to meet fees of three more private prosecutors said though he was pleased with the speedy progress, the Task Force needed to move faster.

He directed Justice minister George Kunda who is also attorney-general and director of public prosecutions Chalwe Mchenga to ensure the three prosecutors were engaged as soon as possible.

Addressing journalists at State House recently, Mr. Mwanawasa reaffirmed his commitment to fighting corruption.

He was glad that the benefits of the fight against graft were beginning to show and that monies and property recovered so far would be announced.

The President said his Cabinet was working on how to distribute the resources recovered to key institutions in the country and that such information would be made public in a few weeks' time.

He said he dreamt of a Zambia where Government would have the trust of its people to deliver on their aspirations.

He noted that such a feat would only be achieved by having men and women in Government who were not only capable but also accountable.

"It is in this context that I say to you, ladies and gentlemen, that my administration and my personal commitment to fighting corruption has never wavered.

"Fellow citizens, I ask you to trust me when I say I have never moved my attention from fighting corruption since you elected me into office," Mr. Mwanawasa said.

He noted that his being provided the privilege to be Head of State had accorded him an opportunity to see clearly the devastating effects that corruption has had on Zambia.

President Mwanawasa, however, noted that the fight against graft would not be won by himself alone nor his Cabinet, but through the concerted efforts of every Zambian.

He praised the watchful eyes of the media, the church, the trade unions and non-governmental organisations on corruption vices. "We may have differences in the way we put our views across and this should be expected, but surely there is no doubt that we share the ideal

(Contd from page 12)

of a corrupt-free Zambia," he said.

President Mwanawasa said Zambians had given his Government a mandate to build a strong nation, and united in vision and one that was free of corruption and other vices.

He reiterated his earlier statement made at the Mulungushi Rock of Authority in Kabwe during the MMD national convention that the fight against corruption remained his Government's rallying cry.

"I have never at any time imagined that it would be an easy task. To win a war is no easy task - warfare is a series of battles; you win some and lose others. However, this is a war I intend to win, failure is not part of my vocabulary," Mr. Mwanawasa said.

Asked about the 150 vehicles the MMD still held on after the Supreme Court ruled that they were obtained using Government funds, Mr. Mwanawasa said he was only sued as presidential candidate and not the party.

He said there was no breach of any order more so that even the then party office bearers, Dr Frederick Chiluba and the then party national secretary, Michael Sata, were not sued.

He explained that MMD lawyers were looking into the issue and would advise the National Executive Committee accordingly.

On MMD national chairman, Michael Mabenga, Mr. Mwanawasa said the Supreme Court did not order his arrest but merely suggested to police to consider his case with a view for further prosecution, but failed to find grounds to do so and as a result, the matter was discontinued.

Mr. Mabenga was taken to court for allegedly abusing Constituency Development funds at the time he was Mulobezi Member of Parliament.

Source: The Times of Zambia

WASHINGTON

Federal banking regulators, addressing supervisory problems disclosed in last year's money-laundering probe of Riggs Bank N.A., are taking steps to guard against conflicts of interest among federal bank examiners and the institutions they monitor.

New rules, required under legislation passed late last year and published in proposed form recently would bar for one year senior bank examiners from going to work at banks they have supervised. The restrictions would apply to examiners at the Federal Reserve, Federal Deposit Insurance Corp., the Treasury Department's Office of the Comptroller of the Currency and Office of Thrift Supervision, and the National Credit Union Administration.

Violations could result in an industry wide employment prohibition for as long as five years and a civil penalty of as much as \$250,000. The proposal calls for a 60-day public-comment period.

OCC officials acknowledged last year that there was a "failure of supervision" regarding the agency's handling of a money-laundering case at Riggs, which recently was acquired by PNC Financial Services Group Inc. The regulator imposed a \$25 million fine in May 2004, alleging that Riggs aided money laundering by corrupt leaders in Chile and Equatorial Guinea. The bank also pleaded guilty in January to a criminal violation of the Bank Secrecy Act related to the charges.

The new employment restriction stems in part from conflict-of-interest questions surrounding the OCC's former examiner-in-charge at Riggs. The examiner, after serving for four years as OCC's examiner at Riggs, went to work in late 2002 at the bank.

The OCC was slammed for not taking action sooner. The regulator confirmed that it first became aware of questionable activities at Riggs as far back as 1997.

GHANA

The issue of fraud at the country's ports of entry was the subject for comment by the Executive Secretary of the revenue agencies governing board at the launch of a tax education campaign at the Accra airport recently.

The Customs , Excise and Preventive Service organised the campaign to improve level of compliance and enforcement of tax and duty regulations at the ports.

Mr. Harry Owusu, the Executive Secretary accused CEPS officials of involvement in high levels of fraud at the ports.

He said stringent measures needed to be taken to ensure compliance with tax regulations at the port, noting that, that could not be achieved if the fraudulent practices continued.

Mr. Owusu noted that it was regrettable that some officials and destination inspection agencies connived with importers to evade through forging import documents and under-declaring imported items

"Such fraudulent activities have been identified and would be nibbed in the bud," he said.

He said there were instances where CEPS collectors did not fully account for duties collected and alleged that some connived with agents to slash the agent duties and share the profits later.

"I am not just speculating but speaking on facts that there is high incidence of fraud," he said adding that the culprits would be tracked and dealt with.

He urged CEPS officials and the destination inspection companies, not to hesitate to report fraudulent activities and attempts to evade tax to the police for prosecution since such activities were criminal.

Mr Owusu also entreated destination inspection companies to review their activities, saying that there had been instances where revenue had been lost through improper import declaration from their end.

Major- General Richardson Baiden, Commissioner of CEPS talked about the adverse effects of tax evasion on the economy and noted that CEPS and other stakeholders need to redefine their mode of operation in enforcing tax regulations.

"The time has come for us to expertly manage our intelligence operation by broadening our intelligence network and delivering accurate and timely information to combat all forms of commercial fraud," he stated.

Source: The Ghanaian Times

***"I am not just speculating
but speaking on facts that
there is a high incidence
of fraud"***

AN OVERVIEW OF THE WHISTLEBLOWER BILL 2005

By *Ayamdoo Charles*
CHRAJ, Accra

Whistle blowing is a key element of accountability and transparency framework of good governance. In workplaces and in some public places, we witness one wrongdoing or the other. Some people speak out when the wrongdoing occurs. Speaking out may sometimes lead to an improvement in the work ethics of the organization or place concerned or it might save the country some millions of cedis. Rather than praise and encourage those who speak out (whistleblowers), they are usually exposed to and targeted for harassment, intimidation, demotion, dismissal or other forms of mistreatment that generally make life difficult for them. They are sometimes considered "...a danger or at least a nuisance whose presence is not wanted." For obvious reasons, others do not speak. The state and the organization therefore lose.

In the context of combating corruption and eliminating unethical conduct in public and private businesses, ensuring good governance and respect for human rights, whistle blowing has particular relevance. Unless people are enabled, encouraged and protected to blow the whistle when a bribe is solicited or a ten percent levy placed over a contract sum is received, the fight against corruption in the country has little chance to succeed.

Whistleblower Bill 2005

A Whistleblower Bill (the Bill) was recently laid before the Parliament of Ghana. The Bill seeks to encourage and enable persons give information about corruption, misappropriation and impropriety generally so that those improprieties can be properly raised and addressed.

The purpose of the Bill is to provide for the manner in which individuals may in the public interest disclose information that relates to unlawful, corrupt or other illegal conduct or practices in the country and to ensure that persons who make the disclosures are not subjected to victimization.

The Bill when passed into law would strengthen the implementation of the Financial Administration Act, 2003 (Act 654), the Procurement Act, 2003 (Act 663) and the Internal Audit Agency Act, 2003 (Act 658) laws, which together provide a legal framework for combating corruption and ensuring financial sanity in the country.

The Bill, though long overdue, is a step forward. However, there are a few areas that the Bill ought to have addressed adequately. This paper makes an overview of the Bill and generally discusses some of those areas of concern.

Overview of salient provisions

The Bill applies to persons raising genuine concerns or giving information about crimes (committed or likely to be committed), breaches of the law, miscarriages of justice, waste or mismanagement of public resources, dangers to health and safety of an individual or community and degradation of the environment.

The disclosure of the impropriety is protected if five preconditions are met, namely; if the disclosure is made in good faith and not made for personal gain or benefit from a Fund to be established, and if made to one or more of the persons or institutions specified in the Bill. Where the whistleblower meets the tests for disclosures and where the whistleblower reasonably believes that the information and any allegation of impropriety in it are substantially true, the person making the disclosure will be protected.

Who may blow a whistle and to whom?

Three categories of persons are specified: an employee of an employer; an employee of another employee, or any other person. The Bill allows a person who wishes to disclose impropriety to do so to specified institutions. It also provides guidance as to which of those institutions the person may make the disclosure. The whistleblower must take into account five factors: (a) a reasonable belief or fear on his/her part that he/she will be subjected to dismissal, suspension, harassment, discrimination or intimidation; (b) a reasonable belief or fear that evidence relevant to the impropriety may be concealed or destroyed; (c) that the person to whom the disclosure is made will not frustrate the objective; (d) the impropriety is of an exceptionally serious nature that expeditious action must be taken to deal with it; and (e) the place where and the prevailing circumstances under which the whistleblower lives. The Institutions specified are: an employer of the whistleblower; a police officer at a police station; the Attorney-General; the Auditor-General; a staff of the Intelligence Agencies; a member of Parliament; the Serious Fraud Office; the Commission on of



The Author

Human Rights and Administrative Justice; the National Media Commission; the Narcotic Control Board; a chief, or the head or an elder of the family of the whistleblower.

Procedure for making disclosures

Disclosure of impropriety may be made in writing or orally by the whistleblower. Where a disclosure is made orally, the person to whom the disclosure is made shall cause the disclosure to be reduced into writing which must contain material particulars specified in the Bill.

Where a disclosure is made to a person specified under section 3, other than the Attorney-General, the person shall submit a copy of the written disclosure to the Attorney-General within five days of receipt of the disclosure and the Attorney-General may on receipt of a copy of a written disclosure, cause investigation to be conducted into the disclosure.

Procedure after investigations

The investigating institutions or person must issue a report after investigations are completed. Such a report shall be submitted to the Attorney General for directives. The investigations shall not last more than 60 days. The Attorney-General may on receipt of the report of investigation from the person or the institution, accept the recommendations contained in the report and act on it, ask for further investigations by the same person or institution that conducted the investigations or by some other person or institution, or reject the report and the recommendations for stated reasons which shall be communicated to the investigator.

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Protection Mechanisms

Protection against victimization

The whistleblower is protected from victimization because a disclosure has been made. Victimization takes place if because of making the disclosure, the whistleblower, being an employee, is dismissed, suspended, declared redundant, denied promotion, transferred against the whistleblower's will, harassed, intimidated, threatened with any of the matters aforesaid, subjected to a discriminatory or other adverse measure by the employer or a fellow employee, or not being an employee, the whistleblower is subjected to discrimination or intimidation by a person or an establishment affected by the disclosure.

However, victimization is excluded if the person against whom the complaint is directed has the right in law to take the action

A whistleblower who has been victimized may also bring an action in the High Court to claim damages for breach of contract or for another relief or remedy but then he/she must have first submitted the complaint to the Commission.

Whistleblower compensation fund

The Bill establishes a Whistleblower Compensation Fund for payment of compensation to a whistleblower who makes a disclosure of impropriety that leads to the arrest and conviction of an accused person and to a whistleblower whose disclosure results in the recovery of an amount of money. The amount of compensation payable in both circumstances is either ten percent of the amount of money recovered, or as the Attorney-General shall, in consultation with the Inspector-General of Police, determine.

The Legal Service Board (the Board) established under Section 8 of

In the context of combating corruption and eliminating unethical conduct in public and private businesses, ensuring good governance and respect for human rights, whistle blowing has particular relevance.

complained of and the action taken is shown to be unrelated to the disclosure made. Nevertheless, the person against whom the complaint is directed shall postpone a lawful action against the whistleblower until after the complaint has been dealt with by the Commission on Human Rights and Administrative Justice and at least sixty days have passed after the Commission's decision.

Other forms of protection

Other forms of protection for the whistleblowers are envisaged. They are:

- A) Police protection for whistleblower and family [spouse, father, mother, child, grandchild, brother and sister]
- b) Protection against civil and criminal action [if information contained in the disclosure is made without malice]
- c) employment contracts entered into before or in existence on commencement of the Act are void insofar as they conflict with the protection mechanisms,
- d) Preservation of confidentiality by making it an offence for any person concerned with the administration of the law to disclose information to unauthorized persons,
- e) Complain to the Commission on Human Rights and Administrative Justice for redress

Complaints of victimization

A whistleblower who honestly and reasonably believes that he/she has been subjected to victimization or learns of a likely subjection to victimization because a disclosure of impropriety has been made by him/her may, in the first instance, make a complaint to the Commission. On receipt of a complaint, the Commission shall conduct an enquiry into the complaint and may make interim orders as it deems necessary or make other orders it considers just in the circumstances. The orders include an order for reinstatement, reversal of a transfer, or transfer of the whistleblower to another establishment, or make an order for payment of compensation from the Whistleblower Fund. The powers of the Commission as enumerated are additional to those already conferred on it under Act 456, the Commission's enabling Act.

The Bill then makes a very radical provision: *“An order of the Commission under this section shall be of the same effect as a judgment or an order of the High Court and is enforceable in the same manner as a judgment or an order of the High Court”*.

the Legal Service Law, 1993(PNDCL. 320), expanded to include the Inspector-General of Police or his/her representative will manage the Fund. It is envisaged that the Fund would be resourced primarily from two sources, voluntary contributions to the Fund from individuals resident in the country and abroad, and other moneys that may be allocated by Parliament for the Fund.

Areas of concern

The Role of the Attorney-General

The role of the Attorney-general in the administration of the law has been overstretched to the point of robbing the law of its raison d'etre. The Bill provides that written disclosures received by the persons or institutions specified by the Bill other than the Attorney-General, shall be submitted to the Attorney General within five days of receipt of the disclosure.

Though the persons and institutions specified in the Bill have power to undertake an investigation in relation to a disclosure, if they are capable of doing so, the Attorney-General may on receipt of a copy of a written disclosure from that person or institution, cause an investigation to be conducted into the disclosure. After the investigation by the person or institution is completed a report on the investigation shall be submitted to the Attorney General for directives.

On receipt of the report of investigations, the Attorney-General, may accept the recommendations contained in the report and act on it, ask for further investigations by the same person or institution that conducted the investigations or by some other person or institution, or reject the report and the recommendations for stated reasons which shall be communicated to the investigator.

The powers that the Bill seeks to confer on the Attorney-General make him/her superintend over or supervise every person or institution specified in the Bill, which includes the Media Commission and the Commission on Human Rights and Administrative Justice(CHRAJ). The two institutions are expected under the Bill to submit copies of disclosures to the A-G and take directives from him/her. Article 225 of the 1992 Constitution provides that *“except as provided by this Constitution or by any other law not inconsistent with this constitution, the Commission and the commissioners shall, in the performance of their functions,*

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not be subject to the direction or control of any person or authority". It is submitted that a provision requiring the Commission to submit to the Attorney-General copies of disclosures it receives and take directives from him/her is inconsistent with the Constitution. A similarly provision is made in Article 172 of 1992 Constitution regarding the independence of the Media Commission. Quite obviously, the Attorney-General cannot play any supervisory role over the two institutions. It will be unconstitutional.

Time for Attorney General's actions

Also, unlike the investigator who is given 60 days within which to complete its investigations, the Attorney-general has not been given any time frame. This may provide the Attorney-General a fiat to delay in taking action on reports submitted to it. What is good for the goose is equally good for the gander.

There is also no provision in the Bill for the investigator to appeal against the Attorney-General's decision on the investigation report should the investigator, who can be an institution, not be satisfied with the reasons why the AG should reject the report and recommendations.

Funding the Whistleblower Fund

The Bill provides that the money for the Fund would consist of voluntary contributions to the Fund from individuals resident in the country and abroad, and other moneys that may be allocated by Parliament for the Fund. As currently worded, it suggests that the primary source of funding is "from individuals resident in the country and abroad". A law which aims at combating corruption

should derive its funding principally from state resources. Targeting funding from individuals has a potential to invite corrupt practices of individual donors.

Protecting witnesses

The Bill is silent on the need to protect witnesses who may provide information in the investigation of impropriety under the Bill. Witnesses often face threats, intimidation and other forms of reprisals or even threats of death when they provide vital information concerning crimes or other impropriety. It would be prudent to make provisions for the protection of such persons.

Conclusion

The Whistleblower Bill seeks to regulate the giving of information relating to unlawful, corrupt or other illegal conduct or practices in the country for the good of the larger Ghanaian society. The Bill also seeks to protect whistleblowers against victimization and other forms of reprisal that might be visited on them because of a disclosure. It also makes provision for compensating whistleblowers. Thus, the Bill in its entirety is a good step forward but it still has areas of concern. The role the Bill assigns to the Attorney-General runs contra to the essence of a law on whistle blowing and undermines the independence of autonomous constitutional bodies such as the CHRAJ and the Media Commission. It is hoped that the Parliament of Ghana would take into consideration suggestions provided in this paper as well those offered by stakeholders and citizens of the country when passing the Bill into law. ☺

“Corruption is not about an amount of money changing hands or about “greasing the wheels of business.” It is about the future of the nation.”

Boris Begovic, Ph. D.

Vice President, Centre for Liberal Democratic Studies

The Editorial Board 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. They must however be relevant to the anti-corruption crusade. Articles however should also 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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