

# Curbing Corruption and Improving Economic Governance:

## The Case of Ghana

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### Introduction

This paper focuses on Ghana, one of Africa's most vibrant emerging democracies where the problem of corruption and economic governance appears to receive high public attention. It examines the Kufuor Administration's attempts to address the problem since assuming office in Ghana's first-ever peaceful change of government in January 2001.<sup>2</sup> In his inaugural address, President John Agyekum Kufuor declared a policy of "zero tolerance for corruption," promising a relentless assault on the practice in public life. Furthermore, the Administration promised to usher the country into a "Golden Age of Business," recognizing, as H. Kwasi Prempeh has argued, that for Ghana's business sector to play its new role as "the primary engine of economic growth," both the environment for business and the quality of governance in the business sector must improve substantially.<sup>3</sup>

Corruption, defined as 'the misuse [or abuse] of public power for private profit,'<sup>4</sup> is endemic in most administrative and political systems. It manifests multifariously<sup>5</sup> and consists essentially of unlawful or improper self-enrichment, or using the influence and privilege of office/position for undue advantage or benefit. Although intolerable in all its forms, a distinction is normally drawn between "everyday" or petty corruption<sup>6</sup> and grand corruption.<sup>7</sup>

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<sup>2</sup> See: E. Gyimah-Boadi, "A Peaceful Turnover in Ghana," *Journal of Democracy*, 12,2 (April 2001), 103-107.

<sup>3</sup> H. Kwasi Prempeh, *The Persistent Corporate Governance Deficit in the Ghanaian Public Sector*, Critical Perspectives 10, Accra: Ghana Center for Democratic Development, September 2002, p. 2.

<sup>4</sup> Jayawickrama, N (1998) Working Paper: Corruption-A Violation of Human Rights? Sourced at [http://www.transparency.org/working\\_papers/jayawickrama/html](http://www.transparency.org/working_papers/jayawickrama/html) (Accessed on 6/10/03). The World Bank's definition is similar: "the abuse of public office for private gain." According to Transparency International, "corruption involves behavior on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them."

<sup>5</sup> This type of corruption includes rent seeking, extortion, bribery, embezzlement and undue influence.

<sup>6</sup> It consists generally of public officials expecting 'grease money' to perform a task which they are required to perform by law and includes accepting a bribe to perform a task that is prohibited by law.

<sup>7</sup> This involves high public officials able to influence government policy and decision-making to suit their own ends, or the ends of others from whom a bribe is received. The officials may receive payment, often offshore in a foreign currency, for using their extensive arbitrary powers to favor people who bribe them or "speed money" paid to officials to speed up consideration of a business matter that falls within their jurisdiction.

The practice of corruption is not confined to the public sector.<sup>8</sup> Recent corporate scandals and criminal indictment of CEOs and other corporate insiders at Enron and WorldCom in the United States and of the Norwegian national oil company – all over alleged corrupt business practices – the notorious Abacha of Nigeria’s billions of dollars in foreign bank accounts and allegations of financial fraud by EU officials in Brussels confirm corruption’s status as a practice that does not discriminate between private and public realms.

Despite its omnipresence, it is still fair to say that the prevalence of corruption and its negative consequences are much severe in developing countries where systems and institutions are weak and the economy frail. As John Heilbrunn points out, these countries lack the “efficient ‘Weberian’ bureaucracy” and well-defined “political and economic institutions.”<sup>9</sup> These states are not “self-restraining”<sup>10</sup> and systems of power and accountability are very thin. With such minimal constraints, therefore, opportunistic public officials are able to engage in unbridled self-dealing and with impunity.

The temptations of public office aside, the governance of the economy also offers fertile grounds for official corruption. Managers of the economy and corporate entities, again taking advantage of the poorly regulated business environment and the absence of transparency and accountability mechanisms, indulge in influence peddling and self-enrichment to the detriment of the national economy. With grave deficits in corporate governance,<sup>11</sup> the key role of government in mediating between the domestic and international economies in the public management of the domestic economy is often subverted and corrupted.

Emerging democracies in Africa, therefore, face severe challenges in economic governance as the private sector, after decades of neglect, begins to assume the center-stage for growing the economy and to seek foreign capital. Undoubtedly, good economic governance will enhance a country’s competitiveness in attracting foreign investment. In Ghana, as in other new democracies in Africa, the popular parlance for development

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<sup>8</sup> Transparency International lists among the worst business offenders for 2002 former WorldCom CEO Bernard Ebbers; Tyco International’s former chief Dennis Kozlowski; Switzerland’s biggest bank UBS, Canadian engineering firm Acres International, a French aircraft manufacturer; former Lesotho Highlands Developing Authority chief, Spain’s second largest bank BBVA, Japan’s largest trading company Mitsui & Co Ltd, Germany’s Lahmeyer International, and Norway’s largest construction firm Veidekke. TI ‘*Banks, energy, construction firms lead global corruption*’ Sourced at <http://economictimes.indiatimes.com/cms.dll/html/uncomp/articleshow?xml=0&artid=31672972> (Accessed on 13/10/03).

<sup>9</sup> John R. Heilbrunn, “Corruption, Democracy, and Reform in Benin,” in Schedler, Andeas, L. Diamond and M. F. Plattner, (eds.) *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder, CO.: Lynne Rienner, 1999), p. 277.

<sup>10</sup> The concept “self-restraining state” refers to a liberal democratic system that “requires governments that are not only accountable to their citizens but also subject to restraint and oversight by other public agencies.” See: Schedler, A. et. al., *The Self-Restraining State*, p. 1.

<sup>11</sup> The term refers generally to “the internal and external mechanisms that define and regulate the relationship between the ownership and the management of a corporate entity (or firms) so as to ensure that the equity (capital) and other resources of the firm are managed responsibly and in a sustainable manner.” See: Prempeh, *The Persistent Corporate Governance Deficit in the Ghanaian Public Sector*. op. cit., p. 4.

nowadays touts the private sector as the “engine of growth.” For the sector to play successfully this core role in growth strategies, however, the high incidence of corruption in the interface between the private and public sectors must be curbed significantly.

Not surprisingly, corruption and economic governance have assumed prominence in current discourse on the agenda for renewal and sustained development in Africa. It is now recognized widely that the persistence of this twin-problem could spell dire consequences for the new polyarchies. If the argument is to hold that democratic regimes tend to create more barriers against corruption, understanding better the damage it causes,<sup>12</sup> then emerging African democracies have the onerous task to accord high priority to curbing the practice.

### **Anti-Corruption Institutions in Ghana**

If, indeed, the entry point for curbing corruption is “an awareness of prevalence,” recognition of its seriousness as a problem and the expressed commitment to control it,<sup>13</sup> then Ghana is on track. Not only has the problem been officially acknowledged by government with a so-called “zero tolerance” policy, public institutions and civil society advocacy groups have been established purposely to combat the menace. By Article 218(e) of the Constitution, the Commission for Human Rights and Administrative Justice (CHRAJ), for instance, has the duty to “investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials...” The Serious Fraud Office Act, 1993, was designed similarly to detect certain types of corruption and economic crime, such as procurement fraud. The SFO is a specialized agency to monitor, investigate and, on the authority of the Attorney General, prosecute any offence involving serious financial loss to the state.

Indeed, the 1992 Constitution makes better management of the Ghanaian economy a political imperative. According to Article 36(1), the state must “take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare” of the people. Perhaps, the key arrangement for fulfilling this directive is a national budget process that is participatory, transparent, and accountable and that would lead to effective management of resources and sustainable economic growth. Several provisions (e.g., Chapter 13, Art. 178, 179, 181, 184, 187) seek to impose fiscal discipline and accountability on the management of the economy. Additionally, new legislations have been introduced recently to enhance transparency and accountability in the conduct of official financial

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<sup>12</sup> Cuadrado D (2002) *Strengthening the institutional capacity anti-corruption. Construction of an active and normalized set of directives for transparency and clean governance*. Sourced at [http://europa.eu.int/comm/external\\_relations/mexico/conf\\_en/pre/13.pdf](http://europa.eu.int/comm/external_relations/mexico/conf_en/pre/13.pdf) (Accessed on 6/10/03).

<sup>13</sup> E. Gyimah-Boadi, “Confronting Corruption in Ghana and Africa,” *Briefing Paper*, 4, 2, Accra: Ghana Center for Democratic Development, May 2002.

transactions.<sup>14</sup> From the constitutional and legal framework, therefore, the country seems primed to ensure good economic governance.

Civil society advocacy groups including the Ghana Integrity Initiative (GII) have emerged in recent years to buttress the anti-corruption drive. Under the Ghana Anti-Corruption Coalition (GACC), the GII, CHRAJ, SFO, Institute of Economic Affairs (IEA) and the Ghana Center for Democratic Development (CDD-Ghana) have coordinated and unified the campaign to curb corruption. The media in particular have assumed a major role in the anti-corruption drive. Since the famous case in 2000 when a radio broadcaster succeeded in exposing and causing the prosecution of officials of SSNIT for serious financial malfeasance, the media have appeared relentless in the fight against corruption. However, they, like other civil society institutions, are fraught with problems of capacity, professionalism and integrity. Media capacity for investigations is weak and suspicions are rife that media practitioners “are bought” to champion certain parochial interests and indulge in blackmail and extortion. Thus, media exposures often have huge credibility gaps.

### **Why Corruption Control is difficult in Ghana**

Corruption control in Ghana, despite receiving the notice and attention of government at the highest levels, has proven difficult for several reasons. A major source of the problem is the constitutional limitations on horizontal accountability in executive-legislative relations. Entrenched “executive dominance,” as exemplified by the system of “executive-legislative fusion” where the President must appoint a majority of his cabinet from Parliament (Article 78) has rendered ineffectual Parliament’s oversight of the executive. The problem is that parliamentarians who are also Ministers find it difficult to balance their loyalty to the Executive and to Parliament. As a result, such potentially powerful committees as Finance, Public Accounts and Government Assurances stay timid in their duty to scrutinize executive power, actions and assurances. In effect, the robustness normally expected of legislative oversight has been lost. Furthermore, Parliament and the independent anti-corruption institutions (CHRAJ and SFO) lack both human and material capacity, including adequate and competent personnel, research, and facilities. Twelve years into the Fourth Republic, Ghanaians are yet to see parliamentary investigations into any of the numerous cases of malfeasance in the state or public enterprises.

The effort to curb corruption and improve economic governance in Ghana is also hamstrung by the lack of credible institutional reforms. It is widely acknowledged that corrupt practices are endemic in weak and malleable systems and institutions that lack clearly defined lines of responsibility, transparency and accountability. Thus, any serious anti-corruption drive should necessarily include determined efforts to reform and improve the institutional and administrative frameworks. As Jon Quah explains, the successful corruption control in Thailand and North Korea began with the introduction of wide-

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<sup>14</sup> For example, the Public Procurement Bill and draft Whistleblower Bill and Freedom of Information Bill.

ranging bureaucratic, administrative, and psychological reforms.<sup>15</sup> In North Korea, for instance, President Park Chung Hee introduced the reform movement in 1975 to enhance “administrative and political efficiency, elimination of corruption in officialdom, clean-up of social waste and injustice, and valuational and mental revolution” with emphasis on punishment for corrupt officials.<sup>16</sup>

Ghana’s official anti-corruption rhetoric has not matched the much-needed institutional reforms, despite the government’s initial enthusiasm. The President’s “zero tolerance” declaration has remained just that: a declaration without demonstrable institutional and administrative reforms. Conditions of “entrenched bureaucratic red tape and opacity” remain to encourage corruption; asset declarations by public officials are kept secret and unverifiable and are inaccessible to the public; promulgation of a Code of Conduct for public officials remains a promise;<sup>17</sup> and little has been done to enhance the capacity of existing anti-corruption institutions.

Thus, early signals of a more determined governmental drive against corruption<sup>18</sup> has given way to widespread public perception that government is indifferent about corruption in high office. Public suspicions about official commitment were deepened by the creation of an “Office of Accountability” at the Presidency where the appointed head is the wife of a Senior Policy Advisor to the President and the mother of a close Presidential Aide. The appointment of an in-house “corruption czar” with some close and familial ties with influential insiders obviously betrayed a lack of sensitivity to conflict of interest avoidance norms, and undermined the government’s credibility in its declared commitment to a policy of “zero tolerance for corruption.” It thus came as no surprise to many Ghanaians when the 2003 “corruption perceptions index” of the Berlin-based Transparency International showed Ghana dropping from the fiftieth in 2002 to seventieth position as the most corrupt country among the 133 countries surveyed.<sup>19</sup>

So far, efforts to curb corruption and improve economic governance in Ghana have been confined largely to the public sector, although, as the foregoing discussion also shows, these efforts have proved to be more superficial and impressionistic than substantial. Scant recognition has been given to the private sector where a weak regulatory framework and the absence of good corporate governance practices and norms could combine to unleash the worst forms of corruption in financial transactions. Among the effects of systematic corporate corruption are: loss of tax revenues, poor quality

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<sup>15</sup> Jon S.T. Quah, “Combating Corruption in South Korea and Thailand,” in Schedler, Andreas, L. Diamond and M. F. Plattner (eds.), *The Self-Restraining State: Power and Accountability in New Democracies*, (Boulder, CO.: Lynne Rienner, 1999).

<sup>16</sup> *Ibid.*, p. 246.

<sup>17</sup> Gyimah-Boadi, “Confronting Corruption in Ghana and Africa” op. cit.

<sup>18</sup> In the first months of the Kufuor Administration, a Minister of State Alhaji Issa Yusuf was prosecuted and convicted for “theft” and two ministers and a top bureaucrat of the former NDC government were convicted and imprisoned for “causing financial loss to the state.”

<sup>19</sup> Transparency International, *Corruption Perception Index*, Berlin, 2003 See: [www:transparency.org](http://www.transparency.org)

infrastructure; it could also affect the national treasury by precipitating government bailouts, loan guarantees, debt write-offs and subsidies.<sup>20</sup>

Already, the private sector in Ghana is believed to suffer serious deficits in financial management, accountability and integrity. A UNECA commissioned study in 2002 established that corporate governance in the country was afflicted by weak and incompetent governing boards; weak ministerial and parliamentary and public oversight; excessive presidential and other kinds of political interference in the running of public boards; and the absence of a directors' liability law.<sup>21</sup> According to the study, a solid 96% of Ghanaian experts regarded corruption, evasions, abuse and misapplication of exemption laws as the bane of the tax collection system.

It seems imperative, therefore, that an appropriate legal and regulatory framework be established for economic governance to forestall graft and corruption and ensure the sustainable development of the private sector. An effective enforcement mechanism should promote transparency, integrity, diligence and accountability in the corporate sector and, as Prempeh cautions, to be effective the mechanism should be "impartial, and not a political tool with a partisan agenda."<sup>22</sup>

### **How should corruption be curbed and economic governance improved?**

Curbing corruption and improving economic governance in Ghana is a daunting task that requires strong political will, institutional reforms, and formation of international partnerships. Political will to tackle corruption, as rightly pointed out elsewhere "is best demonstrated through leadership by example, enforcement of a leadership code of conduct/ethics, and whenever the occasion presents itself, willingness to prosecute and punish corrupt and or proactively protect and empower those who blow the whistle on corrupt insiders and key political allies."<sup>23</sup> Many anti-corruption advocates today see the Kufuor Administration to have softened and even backpedaled on pre-election and immediate post-inauguration promises to demonstrate most of these measures.

Official commitment should also be demonstrated through increased and high-visibility governmental support for CHRAJ's and SFO's anti-corruption work as some of the ways for government to display its seriousness about fighting corruption. Because these two agencies are perceived as more independent of government, giving them the resources they need to play the lead role in the official corruption control fight gives the anti-corruption drive more credibility than the government's resort to an in-house, non-

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<sup>20</sup> Prempeh. *The Persistent Corporate Governance Deficit in the Ghanaian Public Sector*: op. cit., pp. 3-4.

<sup>21</sup> See: UNECA Commissioned Report, "Monitoring Progress Towards Good Governance: National Country Report – Ghana." Accra: Ghana Center for Democratic Development, 2002, p. 15

<sup>22</sup> See H. Kwasi Prempeh, *Making the Policy of "Zero Tolerance for Corruption" a Reality in Ghana: A Focus on the Serious Fraud Office*. Critical Perspectives, No.12. Accra: Ghana Center for Democratic Development, 2003, p. 18.

<sup>23</sup> Gyimah-Boadi, "Confronting Corruption in Ghana and Africa," p. 6.

statute-based Office of Accountability or to episodic criminal prosecution by a politician-Attorney General.

Introducing institutional reforms and a comprehensive anti-corruption legislation is crucial to the success of the anti-corruption drive. For instance, amendments to the Constitution may be necessary to enhance the independence and oversight role of Parliament. Also, by assuring their financial independence, the autonomy and capacity of the public anti-corruption bodies, including the Auditor General, would be enhanced for effective horizontal accountability.

Good corporate governance is imperative for curbing corruption and improving economic governance. Reforms in corporate governance should be extended to the public and civil society sectors. An informed and well functioning board of directors is the key to good governance in any corporate entity. However, the appointment, capacity and responsibilities of directors on Ghana's public boards undermine sound corporate governance, as they are immune from liability "for even the most egregious cases of mismanagement that have occurred on their watch."<sup>24</sup> Thus, the public sector might gain considerably from the proposal to introduce a "Directors Liability Act" that will subject corporate directors to a "uniform set of fiduciary duties, responsibilities, liabilities, immunities, ethical standards, and code of conduct."<sup>25</sup> Also, CEOs or managing directors of state enterprises and other public agencies should be appointed by a process that it is meritocratic, competitive and transparent.<sup>26</sup> Undoubtedly, the state owned enterprises need the most regulation to prevent negligence and fraud that creates underperformance and a system where resources are merely transferred from the state to political patrons.<sup>27</sup>

Ghana's efforts to improve economic governance can also benefit from international partnerships. For instance, sponsored regional diagnostic studies can be done through partnerships. Of great benefit will be cooperation with partners in organizing and funding, and then sharing the results of private sector studies of systematic corruption in several areas (such as procurement, health care, and courts). Studies will help identify systematic improvements that might be made to suggest how to ensure the permanence of improvements through monitoring.

Another potential area of benefit from international partnership could be organized contests on the best "corruption-reduction" strategies. Such contests among, say the sub-regional countries, could generate and popularize ideas for national strategies against corruption and provide examples of how this might be done. Technical assistance to design proposals could help countries that wished to enter the contest. Finally, as incentive additional sustained development aid, say for five years, could be awarded to the winners and the strategies and ideas generated by the contest should be shared with the rest of the world.

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<sup>24</sup> Prempeh, *The Persistent Corporate Governance Deficit in the Ghanaian Public Sector*, op. cit., p. 18.

<sup>25</sup> Ibid., p. 19.

<sup>26</sup> See: The OECD Principles of Corporate Governance (1999).

<sup>27</sup> S. Kwaku Asare, "Does the Constitution Promote Sound Economic Governance?" Mimeo, Accra: Ghana Center for Democratic Development, 17 July 2003, pp. 10-11.

International partners can also support programs to enhance the capacity of the anti-corruption institutions. For instance, training in investigative reporting will benefit the media; the development of literature and public education on corruption will be useful; and seminars for the managers of the economy will also improve economic and corporate governance.

## **Conclusion**

Corruption and economic governance are two key challenges to development that Africa's emerging democracies must confront. Ghana appears fully cognizant of these challenges and possesses the legal framework (Constitutional provisions and statutory laws) and anti-corruption institutions to tackle them. However, the effectiveness of the institutions is severely constrained by structural weaknesses and inadequate human and material resources. No serious attempts have been made toward institutional reforms that could introduce good corporate governance in both the public and private sectors. Political commitment seems lukewarm and evasive at best, and the high-level anti-corruption rhetoric is hardly backed with concrete measures.

Thus, while Ghana may seem to be confronting the menace of corruption, much of the effort has been surface-scratching and a lot remains to be done to truly control or curb it. A comprehensive anti-corruption legislation that will make the practice a high-risk and low-gain activity, a renewed political commitment backed by respect for the legal framework and effective law enforcement, a sustained crusade by enhanced anti-corruption institutions, and international partnership in the crusade will go a long way to reduce the opportunities for corruption and improve economic governance in Ghana.