

# FACTSHEET – UPR 2017, GHANA

3rd CYCLE UNIVERSAL PERIODIC REVIEW

## STATE CORRUPTION AND CHRAJ



### SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES AND RECOMMENDATIONS MADE

During the 2012 cycle, recommendations were made to Ghana to strengthen the Commission on Human Rights and Administrative Justice (CHRAJ) with human and financial resources to enable it to comply with the Paris Principles and expand its mandate. Even though some progress has been made in providing CHRAJ with financial resources, a lot remains to be done to enable it to meet its mandate. In addition, other institutions that have been established with ancillary mandate to fight corruption including the Financial Intelligence Centre (FIC), Economic and Organized Crime Office (EOCO) and the Internal Audit Agency (IAA), also need strengthening.

### NATIONAL FRAMEWORK

Over the years, Ghana continues to make efforts at tackling corruption but the canker is still a major developmental challenge in the country today. As far back as 1960, corruption was criminalised in the Criminal Offences Act 1960 (Act 29, Section 239). Subsequent to this, several legislations have been passed by the Parliament of Ghana to help address the canker. Examples include:

- Public Office Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550)
- Public Procurement Act, 2003 (Act 663)
- Financial Administration Act, 2003 (Act 654)
- Internal Audit Agency Act, 2003 (Act 658)
- Whistle-blower Act, 2006 (Act 720)

Other statutes and constitutional provisions have led to the establishment of institutions such as the Commission on Human Right and Administrative Justice (CHRAJ), Financial Intelligence Centre (FIC), Economic and Organized Crime Office (EOCO) and the Internal Audit Agency (IAA) to lead the fight against corruption in the country.

In addition, Ghana is a signatory to both international and regional anti-corruption conventions such as:

- United Nations Convention against Corruption (UNCAC), 2003
- The African Union (AU) Convention for Preventing and Combating Corruption 2005
- The Economic Community of West African States Protocol on the Fight against Corruption (ECOWAS Protocol).

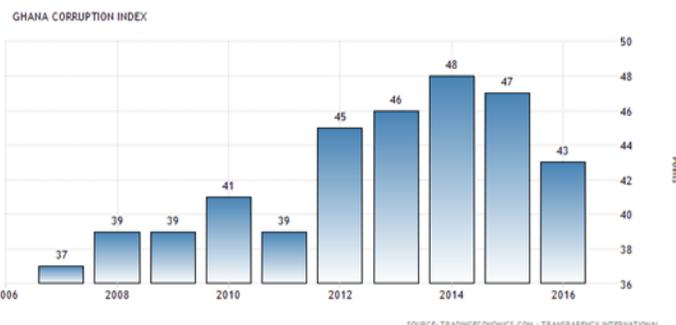
### ISSUES

According to the 2016 Transparency International (TI) ranking of corruption perception index, Ghana ranked 70 out of 176 countries included in the 2016 index, with a score of 43 points out of 100. Ghana Integrity Initiative (GII) release on the CPI noted that Ghana's score of 43 is a likely reflection of the many exposés of public sector corruption in the last few years including the police recruitment scam, Ghana Youth Employment and Entrepreneurial Development Authority (GYEEDA) scandal, Savannah Accelerated Development Authority (SADA) scandal, GHC 144 million (USD 33,181,310) GRA/Subah scandal, the Woyome GHC 51 million (USD 11,751,714) judgment debt saga and the Smartty's bus rebranding deal.

Ghana has not done too well with its efforts at fighting corruption and that is reflected in the various CPI scores that the country has recorded since 1999. Between 1998 and 2016 Ghana has only managed an average score of 38.68 points. Ghana reached its highest score of 48 Points in 2014 and its lowest score of 33 Points in 1999.

According to a review of Ghana's Auditor General's reports conducted by IMANI Ghana, Ghana loses an average of about \$3 billion each year through embezzlement, misappropriation and mismanagement of public funds by government officials.

Even though Ghana has made progress in Governance, the issue of corruption continues to be a development challenge and could potentially threaten the political and economic stability that the country has achieved since returning to democracy in 1992. This has necessitated the call for an increased effort towards the fight against corruption using a multi-institutional approach to combat a multi-dimensional canker. The following institutions have been established to fight corruption:





## FACTSHEET – UPR 2017 – GHANA

1. Commission of Human Right and Administrative Justice (CHRAJ)
2. Economic and Organised Crime Organisation (EOCO)
3. Financial Intelligence Centre (FIC)
4. Ghana Police Criminal Investigation Department (CID)
5. Bureau of National Investigation (BNI)
6. Attorney General
7. Public Accounts Committee of Parliament
8. Office of the Special prosecutor (OSP) – yet to be established.

### The Commission of Human Rights Administrative Justice (CHRAJ)

This CSO continue to single out the CHRAJ among a number of anti-corruption agencies in Ghana for attention because, the mandate of CHRAJ draws the link between human rights and anti-corruption. The mandate of CHRAJ requires of the institution to promote equal participation, accountability, democracy and empowerment particularly of vulnerable and marginalized groups within a society. In Ghana, areas where corruption impacts negatively on the enjoyment of human rights include access to basic services such as health care and education, as well as in the equitable use of land. Through its research and advocacy work, the Ghana Integrity Initiative (GII) has identified critical areas of concern that require the attention of the government as well as the international community to ensure that existing legislation and international obligations that protect human rights and safeguard a country's integrity system are upheld and vigorously enforced.

A further concern is the degree to which CHRAJ, the main institution tasked with the protection of human rights and promotion of integrity, has over the years been under resourced (human and financial) and incapacitated to fulfill its mandate. It is also instructive to note that, a bulk of CHRAJ's work in the last few years has been dependent on donor support.

However, it is important to mention that, the 2017 Appropriation Act of Ghana allocated GHC1.2m or \$270,000 to CHRAJ for the implementation of the National Anti-Corruption Action Plan (NACAP) since the last UPR. This is an indicative progress made on the 2012 recommendation to *strengthen the Commission on Human Rights and Administrative Justice (CHRAJ) through financial and Human resources.*

### The Office of the Special Prosecution (OSP)

In the review of the Implementation of the UNCAC, the following was observed:

“In the context of the limited number of prosecutions on corruption offences, note was taken of the fact that EOCO was still in its initial phase (as at 2015) and CHRAJ did not have the power to prosecute. Ghana was encouraged to clarify and align its investigation and prosecution powers and responsibilities to ensure efficiency, effectiveness and independence of the prosecution function in corruption cases.”

In the spirit of the UNCAC recommendation on prosecution, the Government of Ghana has initiated the process of the establishment of the OSP. However, the public has raised questions, which the proposed legislation must provide answers to and increase confidence in the OSP when established:

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

What transparency and accountability requirements should the OSP possess?

## RECOMMENDATIONS

- Ensure the provision of continuous and adequate funding for CHRAJ to enable the Commission to effectively and efficiently fulfill its mandate
- Decouple the anti-corruption mandate from the CHRAJ's human rights and administrative justice mandates to ensure effectiveness in CHRAJ's work.
- Ensure that the OSP:
  - (a). Is independent and that the appointment process is transparent
  - (b). Has independence and security of tenure of office (7 years) with the condition of service equivalent to a Judge of the Court of Appeal
  - (c). Has adequate resources charged ton the consolidated fund to discharge duties.
  - (d). Salary is charged to the consolidated fund and condition of service should be as an Appeals Court Judge.
- Pass the right to information bill to enhance open governance process and transparency.
- Pass the office holder's code of conduct bill

## ABOUT THIS FACT SHEET

Prepared by: POS Foundation/KASA Initiative/Africa Centre for International Law and Accountability (ACILA) – JOINT UPR SUBMISSION – 2017 Under the Ghana Human Rights NGOs Forum

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