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**GHANA**

**Tiger Eye Foundation, Ghana/POS Foundation/KASA Initiative/Africa Centre for International Law and Accountability (ACILA)/Coalition on the Right to Information, Ghana (RTI)/Commonwealth Human Rights Initiative, Africa Office (CHRI), – JOINT UPR SUBMISSION – 2017**

**(Under the Ghana Human Rights NGOs Forum)**

**Joint Stakeholders' Report**

**United Nations**

**Third Universal Periodic Review Ghana**

## **INTRODUCTION AND METHODOLOGY**

1. This report considers the progress Ghana has made on the issues of Corruption and the Commission on Human Rights and Administrative Justice (CHRAJ).
2. The submission is prepared in line with Information and Guidelines for Relevant Stakeholders on the Universal Periodic Review Mechanism [as of 2 August 2016]. It covers the methodology for the preparation of the submission and measures undertaken by Ghana to entrench democracy, which has implications for human rights, constitutionalism, rule of law and the fight against corruption in the country. The information was further discussed at a pre-UPR submission workshop organised by Ghana Human Rights NGOs Forum (POS Foundation-Secretariat), KASA Initiative and UPR-Info Africa Office, Kenya on 21<sup>st</sup> and 22<sup>nd</sup> March, 2017 which was attended by more than 70 civil society organizations in Accra, and validated by same on 28th March, 2017. The submission subsequently highlights specific developments and follow-up measures by Ghana in relation to the summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution (16/21A/HRC/WG.6/14/GHA/3).
3. Ghana has ratified the International Covenant on Civil and Political Rights (ICCPR), the Second Optional Protocol to the International Covenant on Civil and Political Rights, the UN Convention against Corruption (UNCAC), the UN Convention against Transnational Organised Crimes, The African Union Convention on Preventing and Combating Corruption, The UN Declaration against Corruption and Bribery in International Commercial Transactions, The International Code of Conduct for Public officials, The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and FATF 40+9 Recommendations. Additionally, Ghana is a member of the Inter-Governmental Action Group against Money Laundering in West Africa, the Financial Action Task Force and the Open Government Partnership (OGP).
4. Ghana's domestic legal foundation is provided by the 1992 Constitution. Chapter 5 of the Constitution promotes and ensures the protection of the human rights of the citizenry. Subsequent Acts and legislation derived from the Constitution have been enacted by Parliament of Ghana under the 4<sup>th</sup> Republic, which include, but are not limited to, the establishment of the Commission of Human Rights and Administrative Justice (CHRAJ, Act 456) and The National Anti-Corruption Action Plan (NACAP) in 2014.

### **Corruption:**

5. Certain comments on the state of corruption were made during the interactive dialogue session of the 2012 UPR Process; 38 (Egypt), 53 (Malaysia), 56 (Morocco), and 102 (Turkey).
6. Corruption continues to be a drawback to the fight against poverty. According to the Ghana Integrity Initiative (GII), the local chapter of the Transparency International (TI), corruption is one of the many

reasons Ghana was unable to achieve some of the targets of the Millennium Development Goals (MDGs)<sup>1</sup>.

7. According to the 2016 edition of the GII's Corruption Perception Index (CPI), Ghana ranked 70 out of 176 countries included in the years' index, with a score of 43 points out of 100. The GII report 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<sup>2</sup>, Ghana Youth Employment and Entrepreneurial Development Authority (GYEEDA) scandal<sup>3</sup>, Savannah Accelerated Development Authority (SADA) scandal<sup>4</sup>, GHC 144 million (USD 33,181,310) GRA/Subah Scandal<sup>5</sup>, the infamous Woyome's GHC 51 million (USD 11,751,714) judgment debt saga<sup>6</sup> and the Smartty's bus rebranding deal<sup>7</sup>. According to GII, this is likely compounded by government perceived inability to fully resolve high profile corruption cases<sup>8</sup>.
8. In the case of GYEEDA for example, the GYEEDA was established by the government of Ghana as a means of reducing the mass rate of youth unemployment confronting the nation. In the 4-year period, spanning 2009 to 2012, GYEEDA received GHC 949,661,017 (USD 218,826,363) from five unauthorized sources (District Assembly Common Fund, Ghana Education Trust Fund (GETFUND), The National Health Insurance Scheme) NHIS, Ministry of Finance and Economic Planning and Communication Service Tax) to fund its unspecified and ill-defined projects/activities (sometimes called modules). Not only was the allocation of the sum of GHC 949,661,017 (USD 218,826,363) from 2008-2012 not accounted for, by way of audited (or even unaudited) financial statements, GYEEDA also owed an additional sum of GH¢259,000,000 (USD 59,680,272) as at June 2013. Thus, the total spending by GYEEDA within the 4-year period exceeded GH¢1,000,000,000 (USD 230,425,762) of monies allocated to it.
9. According to the US Ambassador to Ghana, Ghana has lost many business opportunities due to acts of bribery and corruption. "Corruption inhibits free enterprise and slows economic growth, and is compromising the quality of much needed services that safeguards health, creates opportunity and save lives".<sup>9</sup> Reports indicate that a typical agricultural exporter in Ghana faces more than forty check points between Accra and the border with Burkina Faso. These check points add up to 100 dollars or more in what is known as 'facilitation fees'<sup>10</sup>.
10. Obligations: Ghana is obliged to fulfil its obligations under the various international and regional conventions/treaties relating to corruption, implement the NACAP, the 2016 UK Anti- Corruption summit recommendations as well as commitments under the Open Government Partnership National Action plan.

## 11. Recommendations:

### 12. The State Party should:

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<sup>1</sup> <https://www.tighana.org/media/upcoming-events/annual-anti-corruption-forum/#sthash.2Wam50QB.dpuf>

<sup>2</sup> <http://www.myjoyonline.com/news/2016/March-21st/police-recruitment-scam-finding-cop-patrick-timbilla-culpable-may-be-difficult-police.php>

<sup>3</sup> <http://citifmonline.com/2016/03/16/gyeeda-scandal-rlg-asongtaba-refund-looted-cash-with-interest/>

<sup>4</sup> <https://yen.com.gh/57962-scandals-that-have-rocked-mahama-administration.html>

<sup>5</sup> <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/GHc144m-GRA-Subah-Scandal-Where-the-monies-went-289928>

<sup>6</sup> <http://www.myjoyonline.com/news/2015/March-12th/live-update-woyome-verdict.php>

<sup>7</sup> <http://www.myjoyonline.com/news/2016/May-9th/explosive-expos-on-smarttys-bus-branding-deal-by-occupyghana.php>

<sup>8</sup> <https://www.tighana.org/assets/Uploads/DOC-20170125-WA0000.pdf>

<sup>9</sup> <https://www.newsghana.com.gh/gii-survey-reveals-the-true-picture-of-corruption-at-dvla-gra-passport-office/>

<sup>10</sup> <http://citifmonline.com/2017/03/08/corruption-at-dvla-gra-passport-office-very-real-gii-survey>

- I. Strengthen Anti-Corruption institutions such as CHRAJ, EOCO etc. to effectively carry out their mandate;
- II. Demonstrate political will and take the necessary steps to sanction corrupt officials both past and present;
- III. Close the legislation gaps, for example there is an urgent need to pass outstanding legislation such as the Right to Information Bill and the Code of Conduct for public officials;
- IV. Adequately incentivise whistle blowers to enable them to expose corruption without fear of victimisation;
- V. Ensure that assets disclosed by public officers are made public to enable verification and monitoring.

## **CHRAJ:**

13. At the UPR Process in 2012, Ghana received and accepted the following Recommendations 125.7 – 125.9<sup>11</sup> to:

- Strengthen the Commission on Human Rights and Administrative Justice (CHRAJ) through financial and human resources;
- Strengthen CHRAJ for its compliance with the Paris Principles;
- Effectuate the expansion of the mandate of the CHRAJ.

14. The Commission on Human Rights and Administrative Justice (CHRAJ) serves as the Anti-Corruption Agency in Ghana. Its anti-corruption powers are derived from Articles 218(a) & (e), 284-288 of the 1992 Constitution of Ghana and Section 7(1) (a), (e) & (f) of Human Rights and Administrative Justice Act 1993 (Act 456). The Commission is mandated to investigate abuse of power and all instances of alleged and suspected corruption and the misappropriation of public monies by officials. Some of the challenges confronting CHRAJ include the lack of demonstrable political will for the enforcement of its decisions, the lack of statutory power to verify the accuracy of assets declared by public officials, lack of financial autonomy and inadequate financial resources (CHRAJ cannot obtain funds without recourse to the Ministry of Finance). Following recommendations by the Constitution Review Commission (CRC) in 2011, the Government of Ghana in its white paper accepted the proposal to strengthen the prosecutorial powers of CHRAJ; however, this recommendation has not been satisfactorily fulfilled.

15. Obligations: Ghana is obliged to implement the UN UPR 2012 recommendations, the international instruments to which it is a State Party, and the recommendations of the government white paper.

## **16. Recommendations:**

17. The State Party should:

- I. Strengthen CHRAJ by granting it the financial autonomy needed to effectively deal with corruption;
- II. Take steps to implement the government white paper recommendations on CHRAJ;
- III. Ensure that assets disclosed by public officers are made public to enable verification and monitoring.

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<sup>11</sup> A/HRC/22/6 - Para. 125