

# ANTI-CORRUPTION TRAINING MANUAL

FOR FAITH BASED AND CIVIL SOCIETY  
ORGANISATIONS





**Ghana Integrity Initiative**

Local Chapter of Transparency International

# ANTI-CORRUPTION TRAINING MANUAL

FOR FAITH BASED AND  
CIVIL SOCIETY ORGANISATIONS

**GHANA INTEGRITY INITIATIVE**

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## PREFACE

The Ghana Integrity Initiative (GII) is pleased that this Manual would complement the efforts GII has made in initiating the Project, “*Speak Up, Resist and Report Corruption*” (the Project) to engage Civil Society and Faith-Based Organisations (FBOs). It became apparent, in the course of the project that FBOs and other Religious Organizations, as segment of the Ghanaian society, continue to play their role in shaping the values and integrity of society. For that reason, FBOs have an equally important role in addressing corruption in general and the National Anti-Corruption Action Plan (NACAP) in particular.

I have no doubt that the Manual would assist in raising the awareness of FBOs, Civil Society and the Media about corruption and enhance their capacity to report and address the canker. It would provide a good foundation for impacting the knowledge and skills of Faith-Based Organisations, Civil Society Organisations and other partners in the fight against corruption.

*Linda Ofori-Kwafo*  
*Executive Director*  
*GII*

# INTRODUCTION TO THE MANUAL

With support from the Danish International Development Agency (DANIDA), the GII initiated an Interfaith Anti-Corruption Project titled “Speak Up, Resist and Report Corruption” (the Project) targeting FBOs because of the monumental role the various Faith-Based Organisations (FBOs) and Religious Organizations (ROs) play in shaping values and integrity in Ghana.

As part of the Project, GII has developed the Manual to share knowledge, build capacity of key partners and to empower citizens to speak up, resist and report corruption. The main purpose of the Manual, which targets religious leaders and Faith-Based Organisations in particular, is to:

- enlist the support of FBOs as well as Civil Society Organisations (CSOs) and the Media in raising awareness, and
- build capacity of FBOs and CSOs to report and address corruption, as required under Ghana’s National Anti-Corruption Action Plan (NACAP 2015-2024).

## Objectives of the Manual

The specific objectives of the Manual are to:

- Serve as a guide and a reference document on Corruption for Anti-Corruption Ambassadors and leaders of FBOs/ROs;
- Increase awareness and understanding of the impact of corruption for Anti-Corruption Ambassadors <sup>1</sup>(leaders of FBOs/ROs);
- Empower Christians, Muslims, Civil Society Organisations (CSOs), the general public including the media with information on the negative effects of corruption to enable them hold duty bearers and public office holders accountable;
- Improve the level of corruption reporting through the Advocacy and Legal Advice Centre (ALAC);

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<sup>1</sup> Inter denominational religious leaders nominated by the various faith based and religious groupings based



## Methodology

The techniques and approaches adopted for training are predominantly experiential and exploratory and are based on a combination of participatory and adult-learning tools and techniques.

These include presentations<sup>2</sup> by facilitators, plenary discussions, and the following<sup>3</sup>:

- **Activity:** Learning tasks designed to teach a set of content, which leads to achieving the objectives of the programme.
- **Brainstorming:** A basic and highly popular tool for group problem solving. The purpose of using brainstorming is to generate ideas or to seek solutions to both theoretical and practical problems.
- **Case study:** A technique designed to train a group in solving problems and making decisions. It is a written description of a hypothetical situation that is used for analysis and discussion.
- **Debate:** A technique, which allows participants to state conflicting views and argue their points out. A moderator is required.

## Arrangement

The Manual is arranged in “Parts” and “Modules”. The Modules contain a set of activities, which indicate the “Objectives”, “duration/Time”, and “description” of how to execute the activity and “resources”. The “resources” consist of useful information on the Activity compiled primarily, for participants. Facilitators would also find the information useful.

Part 1 deals with the “introductory” session, which focuses on activities that lay the foundation for group interactions, and mapping expectations, among others. The Closing Part (7), consists of activities that end the whole programme and evaluate the outcome of the programme.

The rest of the Manual is arranged as follows:

- Part 2: Understanding Corruption
- Part 3: Legal Framework for Fighting Corruption
- Part 4: Anti-Corruption Strategies
- Part 5: Role of Non-State Actors in addressing corruption
- Part 6: Reporting Corruption

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<sup>2</sup> A presentation is an activity conducted by a resource specialist to convey information, theories or principles. Forms of presentation can range from straight lecture to some involvement of the learner through questions and discussion. Presentations depend more on the trainer for content than does any other training technique.

<sup>3</sup> CHRF:

## **How to Use the Manual**

The Manual is prepared for a five-day programme. The period of time provided for each activity is only a guide. A typical day begins at 8:30 (arrival and registration) and ends by 5:30 or 6:00 p.m., with 15-20 minutes breaks in the morning and afternoon and a lunch break of an hour each day.

The schedule of activities (the programme) may/can, however, be adopted/adjusted for any period of time depending on the resources, and time available to the target group as well as other circumstances at the particular time. As such, there are two sample schedules of activities/programmes annexed as part of the Manual: one is a five-day schedule and the other is a one-day schedule, both of which provide guidance to facilitators and educators.

# PART 1: OPENING

## MODULE 1: GETTING STARTED

This Module comprises Introduction of Participants, Mapping Expectations, and Programme Overview. The aim of the module is to assist participants to get to know the members of the group and to lay the foundation for group interaction, examine individual expectations and provide an overview of the content and methodology of the training or workshop.

### Activity 1: Introduction of Participants

#### Objectives

- To introduce participants, and
- To lay a friendly foundation for group interaction at the outset of the training/programme.

Time 30 Min

#### Description

The facilitator would have Participants grouped in pairs, (for example, “Partner No. 1” and “Partner No. 2”) and then request participants to interview their pairs in turns and note down name, place of work and other details that participants are comfortable to disclose. With the information of the pairs (partners), Partner No.1 would introduce Partner No. 2 to the whole class and Partner No. 2 would in turn, introduce Partner No. 1 to the whole class. This introduction would continue until the last participant is introduced.

### Activity 2: Mapping Expectations to Evaluation

#### Objectives

- To discuss what participants expect in relation to the workshop goals, objectives and content
- To complete an evaluation questionnaire

Time 20 Min

#### Description

Whole Class: The facilitator would provide each participant with an evaluation questionnaire for completion. After the completion of the questionnaire, the

facilitator would lead a discussion on the expectations of participants, allowing each participant to mention, at least, one outcome that he/she expects from the workshop/training. These would form the basis for sharing experience and or expertise and evaluation at the end of the programme.

### Activity 3: Programme Overview

#### Objectives

- To provide an overview of the workshop/training and its methodology
- To establish regulatory rules for smooth and uninterrupted flow of discussions

Time            20 Min

#### Description

The facilitator will provide an overview of the workshop schedule and state the participatory training approach of the workshop such as presentations, questions and answers sessions, group work, debates, brainstorming sessions and field visit.

With the guidance of the facilitator, participants would establish their own rules for ensuring smooth execution of the programme such as “put cell phones in silent mode/off, do not put down colleagues, do not interrupt unnecessarily, etc.

## PART 2: UNDERSTANDING CORRUPTION

### MODULE 1: DEFINITION, SCOPE, CAUSES AND EFFECTS

The phenomenon of corruption is as old as Adam and Eve, it is often said. In Proverbs 15:27, the Bible warns, “Whoever is greedy for unjust gain, troubles his own household, but he who hates bribes, will live.”

In the Holy Quran, it is said in Surah 11. Hud. Part 12 298 *“And O my people! Give full measure and weight in justice and reduce not the things that are due to the people, and do not commit mischief in the land, causing corruption”*.

In ancient India, which dates as far back as 500 years ago, corrupt acts were extensively documented in The Arthashastra by Kautilya (Tanzi, 1998)<sup>4</sup>. Since that time, the ongoing debate on corruption confirms that there exist diverging views on the definition and understanding of the phenomenon<sup>5</sup>.

This module focuses on basic theoretical understandings and types of corruption as well as symptoms and causes of corruption. Its objectives are to explore the theoretical understandings of corruption and explain the complexity of the definitions, identify the types of conduct that constitute corruption and explain the effects of corruption in Ghana.

#### Activity 1: Defining Corruption

##### Objectives

- to explore the theoretical understandings of corruption and explain the complexity of the definitions
- To identify the types of conducts that constitute corruption
- To discuss the causes and effects of corruption in Ghana

Time 60 Min

##### Description

Method: Whole Class Discussion

Defining Corruption is a daunting challenge despite its universal existence. As it is often said, every person is likely to recognize corruption when confronted with it.

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<sup>4</sup> ECA, 2016. Measuring corruption in Africa: The international dimension matters - African Governance Report IV. United Nations Economic Commission for Africa, Addis Ababa, Ethiopia

<sup>5</sup> ibid

That means participants have their own understanding of the phenomenon. The activity is in three parts:

The facilitator would ask the question “what is Corruption” and lead participants to discuss the definitions provided emphasizing the challenge in having one definition that is applicable to all jurisdictions in all circumstances.

The facilitator would also make the point that the most popular definition is the one offered by Transparency International, that is, “the abuse/misuse of entrusted power for private gain”. It would also be useful for the facilitator to make a distinction between this most popular definition and the one provided in the Criminal Offences Act, 1960 (Act 29) of Ghana.

## Resources

### Defining Corruption

The phenomenon of corruption is as old as Adam and Eve, it is often said. In Proverbs 15:27, the Bible warns, “Whoever is greedy for unjust gain troubles his own household, but he who hates bribes will live.” Similarly, in the Holy Quran, it is said in Surah 11. Hud. Part 12 298 *“And O my people! Give full measure and weight in justice and reduce not the things that are due to the people, and do not commit mischief in the land, causing corruption”*.

In ancient India, which dates as back as 500 years ago, corrupt acts were extensively documented in The Arthashastra by Kautilya (Tanzi,1998). Since that time, the ongoing debate on corruption confirms that corruption is not amenable to one single definition. There exist diverging views on the definition and understanding of the phenomenon of corruption.

Some writers regard corruption as an abuse of trust in the interest of private gain. This understanding of corruption seems to portray an unethical form of influence used by public officers to acquire things that they want, which may be both pecuniary and non-pecuniary (Osei-Hwedie B and Osei-Hwedie K, 1999).

According to Colin Leys (1999), corruption means to change from good to bad; to debase; to pervert. Joseph Nye (quoted in Gardener, 1999: 26) views corruption to be “behaviour which deviates from the normal duties of a public role because of private-regarding (family, close private clique), pecuniary or status gains.

Other definitions relate corruption to public interest (Heidenhemer, 1977), public power and office (<http://www.undp.org/governance/docs>; World Bank, 1997). For Transparency International (TI) and the World Bank, corruption is “the misuse of public office for private gain” (Transparency International 2003 ; World Bank 2005).

Asforth and Anand define corruption as “the misuse of authority for personal, subunit and/or organizational gain” (2003: 2). They interpret misuse of authority as violating

organizational and/or societal norms by way of using whatever one is entrusted with in the course of performing one's job. Nieuwenboer and Kaptein, 2008.

For Klitgard (Klitgard 1996), monopolising power coupled with abuse of discretion without accountability results in corruption, which he illustrates in the form, Corruption (C) = M (Monopoly Power) + D (Discretion) – A (Accountability)

On the African continent, what corruption is can be found in criminal legislation. Section 99 of the Botswana Criminal Offenses Act, on "Official corruption" provides,

*"Any person who-*

- (a) being employed in the public service, and being charged with the performance of any duty by virtue of such employment, corruptly solicits, receives, or obtains, or agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of his office; or*
- (b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to produce or attempt to produce, to, upon, or for any person employed in the public service, or to, upon, or for any other person, any property or benefit of any kind on account of any such act or omission on the part of the person so employed, is guilty of an offence and is liable to imprisonment for a term not exceeding three years"*

The Anti-Corruption Act (No.236/2001) of the Laws of Ethiopia, provides:

*"Corruption Offence" means any offence committed in relation to government or public service or public interest in violation of the duties proper to a government or a public service by seeking, exacting promise, or receiving any gratification or advantage for himself or for other person or group of persons, or inflicting harm on another person; and includes corruption practices, acceptance of undue advantage, traffic in official influence, abuse of power, maladministration, appropriation and misappropriation in discharge of duties, extortion and disclosure of secret and other things"*

Ghana's Criminal Offences Act, 1960 regards corruption as follows:

*"A public officer... is guilty of corruption..., if the public officer directly or indirectly agrees or offers to permit the conduct of that person as officer... to be influenced by the gift, promise, or prospect of any valuable consideration to be received by that person or by any other person, from any other person"*

*"A person commits the criminal offence of corrupting a public officer...in respect of the duties of office or in respect of the vote, if that person endeavours directly or indirectly to influence the conduct of the public officer, ...in respect of the duties of office or in respect of the vote, by the gift, promise, or prospect of any valuable consideration to be received by the public officer, juror, or voter, or by any other person, from any person"*

It can be seen from the above that, in many of the definitions, the term “corruption” is not the same and getting such a definition is difficult. Faced with this difficulty of finding a more common understanding of corruption, some scholars have indicated that corruption should be explained through its various acts such as bribery, embezzlement, fraud and extortion, abuse of discretion, intimidation, nepotism, favoritism, kickbacks and patronage. This view found expression in both the United Nations Convention against Corruption (UNCAC) and the African Union Convention on Preventing and Combating Corruption (AU Convention), which preferred to define it by listing the conduct that constitutes corruption.

The AU Convention describes “Corruption” as the acts and practices including related offences proscribed in this Convention. The offences proscribed under the AU Convention are bribery (in its various forms), diversion of public money, trading in influence, illicit enrichment, laundering of proceeds of crime, concealment. So that, the difficulty of framing one definition for corruption, is almost impossible as it is understood differently under various contexts.

The UNCAC provides in Article 3 that the *Convention shall apply, in accordance with its terms, to ... corruption offences established in accordance with this Convention.* The UNCAC then contains the list of corruption offences such as bribery (in its various forms), embezzlement, misappropriation, extortion, trading in influence, abuse of function, illicit enrichment, fraud, laundering of proceeds of crime, concealment, obstruction of justice, patronage, nepotism, and conflict of interest.

The most popular definition of corruption is the “Abuse of entrusted office for private gain.”

*(Credit: Star Ghana Discussion Paper: Entry Points for Civil Society Engagement on the National Anti-Corruption Action Plan (NACAP) as an Organising Framework for Coordinating Civil Society-State Actors’ Actions Against Corruption; prepared STAR Ghana by Author.)*

END

## Activity 2: Identifying Types of Corruption

Objectives

- To identify and describe the various types of corruption
- To identify instances of corruption from newspaper reports.

Time 1Hr, 50 Min

Description

- Whole Class Discussion and Group Work: Several steps are involved. The facilitator would, first, lead participants in a whole class fashion to list types of corruption they know of. The facilitator would have these written on screen as in



the Table below. The facilitator would place participants in groups to describe each of the types of corruption and prepare for feedback at plenary.

Table: List of Faces of Corruption

S/No	Type/Face	Description
1.	Bribery	
2.	Extortion	
3.	Influence peddling	
4.	Embezzlement	
5.	Misappropriation	
6.	Conflict of Interest	
7.	Others	

In the last of this activity, the facilitator would provide a newspaper/media report on corruption to each group and have them analyse the report, and prepare to answer the following questions:

- What type(s) of corruption can be identified in the report?
- Why is the conduct in the report considered as corruption?

The facilitator then sums up the discussion.

## Resources

### Corrupt Conduct Explained <sup>6</sup>

- **Bribery:** Bribery is the act of offering, promising or giving to someone directly or indirectly, money or other valuables (e.g., houses, shares, land, tickets to sports events, jobs, foreign travels and sex) in order to persuade the person to do something (act or refrain from acting) in favour of the person who offered the bribe. Some bribes come as “kickbacks”, “protection money”, “thank you”, “facilitation payment”, “grease money”, or “commission”.
- **Kickback:** is an illegal secret payment made in return for a favour. Kickbacks are sometimes deducted “at source” from payment to contractors for goods and services provided. Sometimes, kickbacks are included in the cost of goods and services to be provided and represent the difference between the actual cost of the goods and services and the inflated cost.
- **Facilitation Payments:** Are illegal payments made to secure or expedite the performance of a routine or necessary action to which the payer has legal or other entitlement.
- **Grease money:** Illegal payment (seen from the angle of the bribe giver, alluding to the drop of oil given to a squeaky wheel of excessive bureaucracy) in order to make “things move smoothly again”.

<sup>6</sup> Adopted from “ABC of Corruption compiled by CHRAJ

- **Embezzlement:** When a person holding office in an institution, organisation or company dishonestly and illegally appropriates, uses or traffics the funds and goods that have been entrusted upon them for personal enrichment or for other private purposes, the person holding the public office has embezzled the funds or goods.
- Misappropriation, on the other hand, is misuse (mis-appropriation) of property that the person has access to or is legally entrusted in the person's formal position or job as public officer, agent, trustee, or guardian.
- Misappropriation and embezzlement are forms of diversion of public funds or property.
- **Conflict of Interest:** Conflict of interest refers to the situation where a public official or agent places himself or herself in a situation where the personal interest of the official or agent conflicts with or is likely to conflict with the performance of the functions of the official's or agent's office. The "conflicting interest" could be any interest or benefit, which could either be financial or otherwise, direct or indirect.
- **Moonlighting:** is a type of conflict of interest that involves taking another regular job in addition to one's main job, which is either performed at the same time or may be in competition with one's main job.
- **Extortion:** Extortion is unlawful demand or receipt by an officer, in official capacity, of any property or money not legally due to the officer, by using force, fear or excessive authority.
- Extortion also includes requesting for fees or payment in excess of those allowed, under pretense of duty.
- **Fraud:** Fraud involves deceit, trickery or false pretenses, by which someone (the fraudster) gains unduly. The gain could be financial or political or some other benefit). The act of fraud is motivated by the desire to deceive another person. Fraud is sometimes referred to as "swindle", "double-dealing" "cheating". In recent times, some forms of fraud have emerged and are known in Ghanaian parlance as "sakawa" and "419".
- **Patronage:** Patronage is the support or sponsorship of a patron, who is usually a wealthy person or someone in power or an influential guardian. It is "kindness" done with an air of superiority and authority. Patronage transgresses the boundaries of legitimate influence and violates the principles of merit and competition. Patronage produces what Ghanaians refer to as "putting square pegs in round holes"

- **Misuse of Official Time:** is a form of abuse of office and means the use of official time for private purposes. Examples of misuse of official time are habitual lateness and absenteeism.
- **Illegal Acquisition of Wealth:** This is also called illicit enrichment and it refers to the acquisition of property that the person cannot explain in relation to the official's lawful income. It could also mean a significant increase in the assets of a public official that the public official cannot reasonably explain in relation to the official's lawful income.
- **Influence peddling:** The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuses his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.
- **Money Laundering:** Money Laundering is the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property. It also refers to the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime.

*Further reading:*

*The Many Faces of Corruption, by J. Campos & S. Pradhan, <http://www.u4.no/recommended-reading/the-many-faces-of-corruption-tracking-vulnerabilities-at-the-sector-level/>*

*Alatas, S. H. (1990), Corruption: Its Nature, Causes and Consequences.*

## Activity 1: Examining the Causes and Effects of Corruption

### Objectives

- To enable participants:
  - o List and explain the causes of corruption in Ghana
  - o Examine the effects of corruption in Ghana

Time 60 Min

### Description

Method: Film /Video & Presentation

The facilitator would select an appropriate video/film on the effects of corruption and have participants listen to the video for about 15-20 min. The facilitator would then lead a discussion on the video, after which the facilitator makes a short presentation on the effects of corruption on the Ghanaian society.

## Resources

### Causes and Effects of Corruption in Ghana

Though there are significant conceptual challenges in defining corruption, there is less controversy over the negative effects of corruption. Nations agree that corruption *“...is a pandemic and an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish. It is found in all countries—big and small, rich and poor. It hurts the poor disproportionately by diverting funds intended for development, undermining a Government’s ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development .”*<sup>7</sup>

Corruption is one of the most serious developmental challenges in Ghana today. There are several reasons for this. Corruption has a wide range of corrosive effects on societies as it undermines democracy and the rule of law and leads to violations of human rights, among others<sup>8</sup>. Corruption in Ghana was described as *“...a deadly virus that is eating its way into the body politic. If it is not checked and brought under control, it will seriously undermine the effectiveness of the present or any future government of Ghana”* (Justice Anin Report, 1970, para 141).

It is an insidious disease, a key element in economic underperformance and a major obstacle to poverty alleviation and development and no country is immune from it. Corruption allows organized crime, terrorism and other threats to human security to flourish<sup>9</sup>.

The causes of corruption in Ghana are many and varied. Prominent among them are institutional weaknesses, poor ethical standards including limited commitment to the values of integrity and self-discipline, skewed incentives structure, and insufficient enforcement of laws within a patrimonial social and political context. Other factors that promote corruption are attitudes and social circumstances that make average people disregard or circumvent the law in Ghana. Indeed the CDD nation-wide survey conducted in 2000 lists the following as the other causes of corruption: low salaries, culture of gift-giving, lack of effective incentive mechanism, and poor management practices in public organizations<sup>10</sup>.

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7 Foreword to the adoption of the United Nations Convention against Corruption by Kofi Annan, UN Secretary General, 2003

8 *ibid*

9 Foreword to the adoption of the United Nations Convention against Corruption by Kofi Annan, UN Secretary General, 2003

10 WB/CDD., 2000. The Ghana Governance and Corruption Survey Evidence from Households, Enterprises and Public Officials, 2000

Weaknesses in institutional structures may result in the failure to implement and enforce policies and laws that could otherwise ensure accountability and transparency. In the context of weak law enforcement and limited accountability in Ghana, the opportunities for corruption are immense and the chances of being caught are rather minimal.

The following factors are also implicated in the causes of corruption in Ghana:

- (a) Lack of effective corruption reporting system
- (b) Absence of good record-keeping
- (c) Poor management practices in public institutions
- (d) Low levels of integrity

The Global Integrity Report on Ghana states that:

*“Ghana’s corruption problem has deep roots in society and our political culture, where societal expectations of largesse and patronage from holders of public office combine with a culture of official impunity, low remuneration, and opacity and unregulated discretion in the use of public authority to produce a system that is hospitable to corruption...”*<sup>11</sup>

A host of other factors nurture corruption in Ghana. These include nepotism and neo-patrimonialism, where wealth and power become interchangeable and the differentiation between the business world and the political spheres is less clear<sup>12</sup>. Some public officers treat public resources as their personal property and distribute them to their families and cronies at will. Many public officers, after performing a public duty expect expressions of gratitude in material form from the persons on whose behalf they are appointed and paid to serve. The service recipient who fails to say “thank you” with a gift in cash or kind at the time of service, or who fails to give a hamper at Christmas, may in future receive poor quality service or suffer delay, a rebuke or outright denial of the service.

Corruption is rife where there is a minimal system of accountability and transparency, where salaries for public officers are extremely low, and where the remuneration and incentive package for different groups of workers or professionals are unbalanced and unfair, and where there is an inadequate incentive scheme to motivate and reward honesty. Corruption in Ghana has long been encouraged by outright impunity, non-enforcement of laws, and selective enforcement of laws and regulations against particular persons and groups. The failure to punish for corruption and economic crimes has also facilitated corrupt behaviour<sup>13</sup>.

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11 Global Integrity/The Center For Public Integrity (2004): An Investigative Report Tracking Corruption, Openness And Accountability In 25 Countries, p.7

12 Jean-Francois Medard, 2002. Corruption in neo-patrimonial States of Sub-Saharan Africa. In A.J. Heidenheimer and M. Johnston Eds Political Corruption: concepts and contexts. New Jersey, Transaction Publishers, 2002, pp. 379-403

13 NACAP

Corruption generally has serious negative consequences for the development of any nation. Corruption continues to exert a heavy toll on Ghana's economy, society and politics, retarding national development. Padding of salaries or what is generally known as "ghost names" on the public pay roll alone, costs Ghana thirty billion Ghana Cedis (¢30,000,000.000.00) annually. Corruption facilitates generalised disrespect for the law and disregard for the rule of law.

The following are among the documented effects of corruption on Ghanaian society:

- (a) Provision of poor quality services (in such areas as education, health, sanitation and electricity);
- (b) Undermining or weakening of institutions for democracy and good governance;
- (c) Loss of lives;
- (d) Abandonment of development projects;
- (e) Haphazard developments;
- (f) Flight of capital;
- (g) Increased costs of business;
- (h) High cost of infrastructural development;
- (i) Destruction of merit-based competition;
- (j) Weakening of professionalism through production of the proverbial "square pegs in round holes";
- (k) Destruction of the productive capacity and creativity of individuals (e.g. skilled and honest people remain unemployed); and
- (l) Facilitation of other criminal activities such as drug-trafficking, human-trafficking, terrorism, prostitution and money-laundering<sup>14</sup> (*credit Star Ghana*)

## **MODULE 2: CORRUPTION AND HUMAN RIGHTS**

In the National Anti-Corruption Action Plan, low appreciation of the linkage between corruption and human rights has been identified as a key cause of corruption in Ghana. This realization and other developments around the world raise a fundamental question of the close interconnection between human rights and corruption.

The Module seeks to enlighten participants of this interconnection. In order to do that the Module looks first, at what at all is "human Rights."

At the end of the Module, participants should be able to:

- define and explain what human rights are
- List at least five human rights
- Explain the principles of indivisibility and interdependence of human rights

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14 Republic of Ghana. National Anti-Corruption Action Plan (NACAP)-2015-2024. CHRAJ, Accra, 2011

- Identify articles in the Bill of Rights that may be contravened by Corruption and discuss the effects that may occur from such contravention

### Activity 1: Understanding Human Rights

#### Objectives

- To define and explain what human rights are
- List at least five human rights
- Explain the principles of indivisibility and interdependence of human rights

Time 60 Min

#### Description

Method: Group Work

First, participants will work in small groups to define what human rights are, identify the central theme/basis for human rights. Participants would also reflect and comment on some of the basic human rights principles and then present the information to the larger group in plenary. The facilitator will sum up the discussions.

#### Resources

#### Human Rights Principles<sup>15</sup>

<p><b>Equality</b> The equality concept expresses the notion of respect for the inherent dignity of all human beings. It is the basis of human rights: “All human beings are born free and equal in dignity and rights.” (article 1 of the UDHR)</p>	<p><b>Non-discrimination</b> Non-discrimination is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on some external factors. Reference to some factors that contribute to discrimination contained in international human rights treaties include: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.</p>
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15 CHRF, IHRTIP, Participants’ Manual, 2004

<p><b>Universality</b> The universality of rights means human rights values are shared in all the regions of the world and no matter where one finds herself or himself, they are entitled to them. That is why article 12 (2) of the Constitution does not restrict it to citizens but “every person in Ghana”</p>	<p><b>Inalienability</b> The rights that individuals have cannot be taken away, surrendered, or transferred</p>
<p><b>Indivisibility</b> Human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights</p>	<p><b>Interdependency</b> Human rights concerns appear in all spheres of life -- home, school, workplace, courts, markets -- everywhere! Human rights violations are interconnected; loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.</p>
<p><b>Human dignity</b> The principles of human rights are founded on the notion that each individual, regardless of age, culture, faith, ethnicity, race, gender, sexual orientation, language, disability or social class, deserves to be honored or esteemed.</p>	<p><b>Responsibility</b> Government responsibility: human rights are not gifts bestowed at the pleasure of governments. Nor should governments withhold them or apply them to some people but not to others. When they do so, they must be held accountable.</p> <p>Individual responsibility: Every individual has a responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse them.</p> <p>Other responsible entities: Every organ of society, including corporations, non-governmental organizations, foundations, and educational institutions, also shares responsibility for the promotion and protection of human rights.</p>

**Further Reading:**

1)1992 Constitution, Chapters 5 and 6: [http://www.ghana.gov.gh/images/documents/constitution\\_ghana.pdf](http://www.ghana.gov.gh/images/documents/constitution_ghana.pdf)

2)The Universal Declaration of Human Rights: <https://www.un.org/en/universal-declaration->



*human-rights/index.html*

3) *The International Covenant on Civil and Political Rights: <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>*

4) *The International Covenant on Economic, Social and Cultural Rights: <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>*

## Activity 2: Linking Human Rights and Corruption

### Objective

To identify articles in the Bill of Rights that may be contravened by Corruption and what effects may occur from such contravention

Time            60 Min

### Description

The facilitator would request Participants to consider a number of human rights provided in the Constitution or the Bill of Rights (as in the table below) and ask them to indicate which of those rights may be contravened by corruption and how. Participants would record their answers and report to plenary and the facilitator sums up the discussion.

### Resources

#### **Link: Between Human Rights and Corruption.**

Abuse of entrusted office for private Gain. Corruption has many faces, some of which are: bribery, Misappropriation, Embezzlement, Extortion, illicit enrichment, patronage, nepotism, conflict of interest, Influence peddling.

Human Rights are those basic entitlements/conditions that the human being possesses by virtue of being human and which protect the ability of the human person to satisfy his/her needs with dignity and respect. They include: the rights to education, Right to health, Right to life, Right to water, Equality before the Law, Right to fair Trial, Right to Admin. Justice and Freedom from discrimination

The impact of corruption on human rights may be indirect or direct. With indirect impact, corruption is a factor fueling human rights violations but it will not, in itself violate human rights. The corrupt act constitutes an essential contributory factor to HR violation and the HR Violation then is a consequence of the corrupt act.

### 1. Indirect impact: corruption is a factor fueling human rights violations

Corrupt Act	Potential Harm	Right Violated
Officials bribed[bribery] to allow toxic waste to be dumped illegally in a Residential area	Exposure To toxins Which have serious health and life consequences	<ul style="list-style-type: none"> <li>• Right to life</li> <li>• Right to health</li> <li>• Right to clean environment</li> </ul>

### 2. Corruption is directly linked to a HR violation. The corrupt act is deliberately used as a means to violate a right:

Corrupt Act	Potential Harm	Right Violated
Plaintiff offers a bribe[bribery] to a judge to obtain a favourable ruling in a lawsuit.	Unfair and partial trial; denial for the victim of a right to effective remedy and justice.	<ul style="list-style-type: none"> <li>• Right to a fair trial</li> <li>• Right to non-discrimination</li> <li>• Right to equality before/ protection of the law</li> </ul>

### 3. Corruption used as a condition for accessing a right

Corrupt Act	Potential Harm	Right Violated
bribing a doctor to obtain medical treatment	Restriction of access to Health Care;	Rights to Health Care, equality and non-discrimination
Bribing a teacher to attend classes	Restriction of access to education; unfair privilege given to certain students	Rights to Education equality and non-discrimination

# PART 3: LEGAL FRAMEWORK FOR ANTI-CORRUPTION

## MODULE 1: NATIONAL ANTI-CORRUPTION LEGAL FRAMEWORK

The adoption of legislative and other measures to combat corruption is the starting point of any strategy against corruption. In the 1992 Constitution (Constitution), it is provided in article 35(8) that the State shall take steps to eradicate corrupt practices and the abuse of power.

Having mandated the state to take steps to eradicate corrupt practices, a legal framework that seeks to address corruption in one way or the other has evolved over several years . It includes the Criminal Offences Act 1960 (Act 29), the Criminal and Other Offences (Procedure) Act 1960 (Act 30) and a host of over 20 others.

This module focuses on the Constitution as the foundation of the existing legislative measures for combating corruption in Ghana. It also examines the provisions of Act 29 and 30 as well as the provisions of international instruments on corruption that Ghana subscribes to.

The objectives of the module are:

- To discuss the provisions of the 1992 Constitution that seek to address corruption
- To expose participants to corruption offences in Act 29
- To enable participants appreciate the sanctions provided in Act 30 and be able to say if they are appropriate or dissuasive.

### Activity 1: Discussions on the 1992 Constitution

#### Objective

To identify the provisions of the constitution that seek to address corruption

Time 45 Min

#### Description

Method: Presentation, Q&A: The facilitator would make a presentation pulling out the various provisions of the Constitution that seeks to address corruption. After the presentation, participants would be given the opportunity to contribute by way of questions and comments.

## Resources

### Provisions of the Constitution addressing Corruption

Article	Provisions
35(8)	The State shall take steps to eradicate corrupt practices and the abuse of power.
41 (b)(f)(j)	(b) to uphold and defend this Constitution and the law; (f) to protect and preserve public property and expose and combat misuse and waste of public funds and property; (j) to declare his income honestly to the appropriate and lawful agencies and to satisfy all tax obligations
78	(3) A Minister of State shall not hold any other office of profit or emolument whether private or public and whether directly or indirectly unless otherwise permitted by the Speaker acting on the recommendations of a committee of Parliament on the ground (a) that holding that office will not prejudice the work of a Minister; and (b) that no conflict of interest arises or would arise as a result of the Minister holding that office.
88 (3)(4)	(3) The Attorney-General shall be responsible for the initiation and conduct of all prosecutions of criminal offences. (4) All offences prosecuted in the name of the Republic of Ghana shall be at the suit of the Attorney-General or any other person authorised by him in accordance with any law.
216-230	Establishment of the Commission on Human Rights and Administrative Justice, its functions, powers and other provisions.
284-288 (Chapter 24)	Code of Conduct for Public Officers

### Activity 2: Overview of Corruption Offences, 1960 (Act 29)

#### Objective

To explore the criminal offences related to corruption in Act 29

Time 60 Min

#### Description

Group Work: The facilitator would have participants in groups and provide each group with a newspaper/media report on allegations of corruption. The participants would identify the type of corruption in the newspaper/media report and provide reasons for their answer. The facilitator would then situate the types of corruption identified by the groups in Act 29 and continue to explain the other offences in Act 29.

## Resources

### Corruption Offences:

The Criminal Offences Act, 1960 (Act 29) defines “corruption” and provides for corruption offences, among others. These can be found in Chapter 5 of Part 4 under the broad heading “Offences relating to Public Officers and to Public Elections” Part 5 itself is headed “Offences against Public Order, Health and Morality”

The offences are:

- S. 239 of Act 29 provides: (1) *“A public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of office, commits a misdemeanour”.* (2) *“A person who corrupts any other person in respect of a duty as a public officer or juror, commits a misdemeanour”.*
- Section 240 explains corruption by a public officer, while Section 241 explains corruption of public officer: S. 240: A public officer, juror, or voter commits corruption in respect of the duties of office or the vote, if the public officer directly or indirectly agrees or offers to permit the conduct of that person as a public officer, juror, or voter to be influenced by the gift, promise, or prospect of any valuable consideration to be received by that person , or by any other person, from any other person.
- S. 241: A person commits the criminal offence of corrupting a public officer, juror, or voter in respect of the duties of office or in respect of the vote, if that person endeavours directly or indirectly to influence the conduct of the public officer, juror, or voter in respect of the duties of office or in respect of the vote, by the gift, promise, or prospect of any valuable consideration to be received by the public officer, juror, or voter, or by any other person, from any other person
- S. 252: Accepting or giving bribe to influence public officer or juror (1) A person who accepts, or agrees or offers to accept, a valuable consideration, under pretense or colour of having unduly influenced, or of agreeing or being able so to influence, any other person in respect of functions as a public officer or juror, commits a misdemeanour. (2) A person who gives, or agrees or offers to give, to a public officer a valuable consideration for the grant to that person or to any other person of a benefit or an advantage, or for the exercise of influence in favour of that person or any other person commits a misdemeanour.
- S. 253. Corrupt promise by judicial officer or juror. A person who, otherwise than in the due execution of duties as a judicial officer or juror, makes or offers to make an agreement with any other person as to the judgment or verdict which that person will or will not give as a judicial officer or juror in a pending or future proceeding, commits a misdemeanour.

- S. 260. Withholding of public money by public officer. Where a public officer who is bound in that capacity to pay or account for money or valuable things, or to produce or give up documents or any other things, fails as in duty bound to pay or account for, or to produce or give up, to any other officer or person lawfully demanding the same, commits a misdemeanour.

Strictly then, the following, therefore, constitute corruption:

- bribery of a public officer;
- bribery by a public officer;
- receiving a bribe before doing an act; promise of a bribe.
- Withholding of public money by public officer.

It stands to reason that in our criminal law then the following may be “Corruption-Related Offences”. They attract a penalty of up to seven years in prison:

- Section 151—Extortion.
- Section 128—Fraudulent Breach of Trust.
- Section 179A—Causing Loss, Damage or Injury to Property
- Section 179 (C): Using Public Office for Profit
- S. 4/SMCD 140: Using public property for private gain

Government accepted the recommendation of the Constitution Review Commission to review “...the Criminal Offences Act to define corruption to encompass all corruption-related offences and to cover all offences that fall under the scope of the “United Nations Convention Against Corruption” and the “African Union Convention on Preventing and Combating Corruption”

If that happens the Corruption-related offences as mentioned above would all be “corruption” proper and attract up to 25 years imprisonment.

END

### **Activity 3: Comparing the Criminal Offences Act, UNCAC & AU Convention**

Objective

- To compare the provisions of Act 29 on corruption with those of the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption
- To identify gaps, if any, in Act 29.

Time 45 Min

## Description

Presentation: The facilitator would make a presentation, which would be followed by a discussion by participants

## Resources

Act 29, AU Convention and UNCAC compared

Offence	Act 29	AU Conv. (Art. 4(1)(a-i))	UNCAC	Gap

## Activity 4: Overview of Sanctions Regime for Corruption Offences in Act 30

## Objective

To review the sanctions regime for corruption offences under Act 30

Time 45 Min

## Description

Presentation: The facilitator would make a presentation, which would be followed by a discussion by participants

## Resources

**Criminal and Other Offences (Procedure) Act, 1960 (Act 30)**

*Sanctions for Corruption:*

S. 296 (5) of the Criminal and Other Offences (Procedure) Act:

(5) A person convicted of a criminal offence under any of the following sections of the Criminal Code, 1960 (Act 29) that is to say, sections 124, 128, 131, 138, 140, 145, 152, 154, 158, 160, 165, 239, 252, 253 and 260 is liable to a term of imprisonment not exceeding twenty-five years. (Sections 239, 252, 263, and 260 have provided above)

Sanctions for the “corruption related offences” is up to 7 years maximum.

## MODULE 2: INTERNATIONAL INSTRUMENTS

### Activity 1: Overview of the United Nations Convention against Corruption

#### Objective

To introduce Participants to the UNCAC as a global instrument for tackling corruption

Time 45 Min

#### Description

Presentation: The facilitator would make a presentation, which would be followed by a discussion by participants

#### Resources

##### Overview of the UNCAC

The Convention was adopted by General Assembly Resolution 58/4, 31 October 2003 and Ghana signed it on 4 December 2004. It entered into Force: 14 December 2005. Ghana ratified/acceded to it on 27 June 2007. The UNCAC has a Preamble, eight (8) chapters and 71 articles:

- Chapter 1: General Provisions
- Chapter 2: Preventive Measures
- Chapter 3: Criminalisation and Law Enforcement
- Chapter 4: International Cooperation
- Chapter 5: Asset Recovery
- Chapter 6: Technical Assistance
- Chapter 7: Review Mechanism
- Chapter 8: Final Provisions

However, there are four chapters that have been subject to review. Preventive Measures, (chapter 2), criminalization and law enforcement (chapter 3), international cooperation (Chapter 4), and asset recovery (chapter 5).

##### *Chapter 2: Preventive Measures*

States Parties are required to implement corruption prevention measures in both the public and private sectors. These include, among others, transparent procurement systems, a merit-based civil service, an effective access to information regime, active involvement of civil society in the fight against corruption, an independent judiciary, elimination of bank secrecy laws, and public auditing procedures.

##### *Chapter 3: Criminalization and Law enforcement*

Specific acts that States Parties must criminalize bribery (the offer or giving of an undue advantage) of a national, international or foreign public official, passive bribery of a national public official and embezzlement of public funds. Other offences include obstruction of justice, and the concealment, money laundering. Others include bribery



of foreign and international public officials, trading in influence, abuse of function, illicit enrichment, private sector bribery and embezzlement, and illicit enrichment

*Chapter 4: International Cooperation*

States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of the Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.

2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party places the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

*Chapter 5: Asset recovery*

A ‘fundamental principle’ of the Convention, and one of its main innovations, is the right to recovery of stolen state assets. Chapter V’s provisions lay a framework, in both civil and criminal law, for tracing, freezing, forfeiting, and returning funds obtained through corrupt activities<sup>16</sup>.

END

**Activity 2: Overview of the African Union Convention on Preventing and Combating Corruption**

Objective

To review the AU Convention

Time

45 Min

Description

Presentation: The facilitator would make a presentation, which would be followed by a discussion by participants

Resources

**Overview of the AU Convention on Preventing and Combating Corruption**

*Arrangement*

The AU Convention, which Ghana ratified on 27 June 2007, has 28 Articles in addition to the preamble.

**Definition of Corruption and Corruption Offences**

“Corruption” means the acts and practices including related offences proscribed in

16 Jessica Schultz, CMI. The United Nations Convention against Corruption: A Primer for Development Practitioners.

this Convention, and in article 4, it lists and describes the acts and practices that the Convention proscribes, which in brief are the following:

- Bribery (receiver and giver) or what is sometimes referred to as “active” and “passive” bribery in public sector (article 4(1)(a) and (b) and in the private sector (article 4(1)(e)(f);
- abuse of functions (abuse of power or office)-article 4(1)(c);
- diversion of public property, that includes misappropriation and embezzlement (article 4(1)(d);
- illicit enrichment (article 4(1)(g), (and article 8) which is defined in Article 1 of the AU Convention as “...the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain in relation to his or her income”
- the use or concealment of proceeds derived from any of the acts referred to in article 4, (article 4(1)(h), or simply use or concealment of proceeds of corruption, and article 6
- (i) participation as a principal, co-principal, agent, instigator, accomplice or or accessory after the fact, or on any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in article 4 (article 4(1)(i)

It also makes provision for acts and practices not included in article 4 (1) but which could be considered corruption under the Convention, “...by mutual agreement between or among two or more State Parties...” (Article 4(2)

The objectives and principles of the Convention are in articles 2 and 3 respectively. The scope of application of Convention, that is the article that lists and describes the acts of corruption proscribed in the Convention are provided for in article 4 and article 5, it provides for the adoption of legislative and other measures to criminalise the acts of corruption in article 4(1) as well and generally implement the Convention.

### **Other provisions**

Article 9: Access to information

Article 10: Funding of Political Parties Article 10

Article 11: Private Sector

Article 12: Civil Society and Media

Article 13: Jurisdiction

Article 14: Minimum Guarantees of a Fair Trial

Article 15: Extradition

Article 16: Confiscation and Seizure of the Proceeds and Instrumentalities of Corruption

Article 17: Bank Secrecy

Article 18: Cooperation and Mutual Legal Assistance

Article 19: International Cooperation

Article 21: Relationship with other Agreements

Article 22: Follow up Mechanism

Article 23-28 contain “Final Clauses” and they include “signature, ratification, accession and Entry into Force, Reservations, Article 25 Amendment, Article 26 Denunciation, Article 27

Depository, Article 28 Authentic Texts

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Chairperson of the Commission<sup>17</sup> .

END

### Activity 3: Introduction to the ECOWAS Protocol on Corruption

Objective

To introduce participants to the ECOWAS Protocol on Corruption

Time 45 Min

Description

Presentation: The facilitator would make a presentation highlighting the main provisions of the Protocol, to be followed by a questions and answers session.

Resources

#### Highlights of the ECOWAS Protocol on the Fight Against Corruption

(Ratified 18/10/02 )

The ECOWAS Protocol on the Fight Against Corruption (the Protocol) adopted in 2001 has a Preamble and 27 articles. Its aims, objectives and scope are contained in articles 2 and 3 of the Protocol respectively. The aims and objectives are:

- i) to promote and strengthen the development in each of the State Parties effective mechanisms to prevent, suppress and eradicate corruption;
- ii) to intensify and revitalise cooperation between State Parties, with a view to making anti-corruption measures more effective;
- iii) to promote the harmonisation and coordination of national anti-corruption laws and policies.

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<sup>17</sup> UNODC, 2005. African Union Convention on Preventing and Combating Corruption, In “Compendium of International Legal Instruments on Corruption, 2ed, United Nations, New York. pp.116-130

On scope, the Protocol applies whenever an act of corruption is committed or produces some effects in a State Party. The Protocol shall also be applicable whenever a national institutional system fails to provide the most basic preventive measures such as enumerated in Article 5 below.

These measures are:

- a) National laws, ethical guidelines, regulations and codes of conduct that would eliminate conflicts of interest, emphasise methods of recruitment based on merit and provide thorough measures aimed at guaranteeing reasonable standards of living;
- b) transparency and efficiency in the procurement and disposal of goods, works and services and in the recruitment of personnel into the public service;
- c) Laws and other measures deemed necessary to ensure effective and adequate protection of persons who, acting in good faith, provide information on acts of corruption;
- d) Laws and regulations aimed at discouraging corruption of national and foreign officials;
- e) participation of Civil Society and Non-Governmental Organisations (NGOs) in efforts to prevent and detect acts of corruption;
- f) revenue collection systems that eliminate opportunities for corruption and tax evasion and provide for regulations which require companies and organisations to maintain adequate financial books and records and adhere to internationally accepted standards of accounting;
- g) policies that oblige public officials to disclose assets, liabilities and copies of their income tax returns. The disclosure rules should be extended to at least the spouses and dependent children of the public officials. Provisions should be made to ensure that the information provided shall not be misused;
- h) specialised anti-corruption agencies with the requisite independence and capacity that will ensure that their staff receive adequate training and financial resources for the accomplishment of their tasks;
- i) freedom of the press and the right to information; and
- j) policies to ensure that public officials do not take official decisions related to private business in which they have an interest.

The acts of corruption proscribed in the Protocol are bribery by a public official and private persons, bribery of foreign nationals, influence peddling, diversion of public funds by a public official, illicit enrichment, concealment, fraud, aiding

and abetment, Laundering of proceeds of corruption and similar criminal offences (articles 5-7 and 12)

Article 13-16 deal with Seizure and forfeiture, Extradition and Mutual legal assistance and law enforcement cooperation and designation of a central authority

Article 18 requires states parties to develop and harmonise their national legislation with a view to realising the aims and objectives of the Protocol.

One unique feature of the Protocol is that it envisages the creation of An anti-corruption Commission in Article 19: Establishment of a technical commission- as technical committee, for the following purposes: a) Monitor the implementation of this Protocol both at the national and sub-regional levels; b) Gather and disseminate information among State Parties; c) Regularly organise relevant training programmes; d) Provide State Parties appropriate additional assistance.

The Technical Commission shall comprise experts from the Ministries in charge of Finance, Justice, Internal Affairs and Security of States Parties and it shall meet at least twice every year and submit the reports its meetings to the Council of Ministers.

This Protocol shall enter into force upon ratification by at least nine (9) signatory States, in accordance with their respective constitutional procedures (article 22).

The rest of the articles deal with:

- Article 23: Depository authority and registration
- Article 24: Accession-Any non-ECOWAS Member State may accede to this Protocol.
- Article 25: Amendments and revision
- Article 26: Denunciation
- Article 27: Settlement of disputes

END

# PART 4: ANTI-CORRUPTION STRATEGIES

## MODULE 1: ROLE OF NACS

Fighting corruption is a complex undertaking requiring the development and implementation of national anti-corruption action strategies, which offer frameworks to effectively mobilise broad public support and resources for anti-corruption activities in a focused and sustained way. On this issue, Article 5 of the UNCAC provides:

*“1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.”*

In resolution 5/4, entitled “Follow-up to the Marrakech Declaration on the Prevention of Corruption”, the Conference of States Parties to UNCAC (CoSP) highlighted the importance of the development and implementation of effective, coordinated anti-corruption policies, consistent with article 5 of the Convention. Anti-corruption strategies can provide a comprehensive policy framework for actions to be taken by States in combating and preventing corruption. They also provide useful tools for mobilizing and coordinating the efforts and resources of Governments and other stakeholders for policy development and implementation and monitoring.

This module focuses on the role of NACs in controlling/addressing corruption. It is expected that at the end of the module, participants should be able to understand the benefits of national anti-corruption strategies and appreciate the challenges Anti-corruption Institutions encounter in their operations.

### Activity 1: Assessing the Role of National Anti-Corruption Strategies

#### Objective

To examine the role of national anti-corruption strategies in addressing corruption

Time 45 Min

#### Description:

Presentation: The facilitator would make a presentation highlighting the main provisions of the Protocol, to be followed by a questions and answers session.

#### Resources

##### Role NACs

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implementation of national anti-corruption action strategies, which offer frameworks to effectively mobilise broad public support and resources for anti-corruption activities in a focused and sustained way. On this issue, Article 5 of the UNCAC provides:

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NACs do have the following roles in combating corruption:

- They set a broader approach of addressing corruption and its underlying causes and ensure dealing systematically and comprehensively with corruption;
- facilitate coordination among institutions;
- initiate involvement of state institutions and society at large;
- set priorities;
- commit government and society;
- document commitment domestically and internationally;
- may serve as a tool for raising funds from donors;
- allow measuring of delivering on commitment<sup>19</sup>

END

## **Activity 2: Interaction with Anti-Corruption Bodies and Prevention of Corruption**

Objective

To interact with Anti-Corruption Agencies on their role in addressing corruption in Ghana

Tim 2hrs<sup>20</sup>

18 Kuala Lumpur Statement on Anti-Corruption Strategies, Kuala Lumpur, 21-22 October 2013

19 Designing and Implementing Anti-corruption Policies: Handbook: <https://rm.coe.int/16806d8ad7>

20 This period of time is provided on assumption that the venue of the training would be in Accra

## Description

Field Visit: This activity is divided into two parts. In the first part, participants will visit, at least, two of the Anti-Corruption Institutions such as CHRAJ or EOCO or Office of Special Prosecutor (OSP) and interact with them. The facilitator/organizer would have made arrangements for this visit. It is expected that responsible officers in those institutions would make brief presentations on the mandate of the institution/organization. After the visit, participants will share their impressions on the visits, in the 2nd part.

## Resources

### Role of Anti-Corruption Bodies

Article 6 of Chapter II of the UNCAC on “Preventive anti-corruption body or bodies” (a mandatory provision) requires States Parties to:

- ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as: a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies; b) Increasing and disseminating knowledge about the prevention of corruption.
- grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.
- to inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

The Anti-Corruption Body or Bodies are to prevent corruption by implementing the provisions of article 5 of the UNCAC, including:

- develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
- establishing and promoting effective practices aimed at the prevention of corruption.
- to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.



- collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption, and by

In order to play these preventive roles, Anti-Corruption Body or Bodies shall be granted “...*the necessary independence, ...to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided*”<sup>21</sup> .

Ghana has several anti-corruption institutions including the Commission on Human Rights and Administrative Justice (CHRAJ), the Economic and Organised Crimes Office and the Office of the Special Prosecutor.

### CHRAJ

The Commission on Human Rights and Administrative Justice (the Commission) is a constitutionally independent body established under the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456) pursuant to article 216 of the Constitution. It is a unique institution, fusing in one, three distinct institutions namely, a Human Rights Commission, an Ombudsman and an Anti-Corruption Agency.

The Commission consists of a Commissioner and two Deputy Commissioners who hold office until they reach retiring age. The Commissioner retires at the age of 70 years and the Deputy Commissioners retire at age 65. Once appointed, a member of the Commission cannot be removed except for stated misbehavior or incompetence or on grounds of inability to perform the functions of his/her office arising from infirmity of body or mind.

The Commission cannot be easily dissolved or altered unless by referendum where, at least, forty percent of the persons entitled to vote, voted at the referendum and at least seventy-five percent of the persons who voted, cast their votes in favour of the bill seeking to dissolve or alter the Commission.

It submits annual reports to Parliament, which may debate and pass resolutions but Parliament cannot change any of the decisions of the Commission.

In terms of its anti-corruption mandate, the Commission has power under article 218, Chapter 24 of the Constitution and section 7 of Act 456 to investigate: a) complaints of corruption and abuse of power by a public officer in the exercise of his official duties; b) allegations that a public officer has contravened or has not complied with a provision of the Code of Conduct for Public Officers specified in Chapter 24 of the Constitution; c) all instances of alleged or suspected corruption and the misappropriation of public

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21 Article 6 of UNCAC

moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation, and d) to educate the public on the ethos of anti-corruption.

It also has the power to investigate disclosures of impropriety and to protect whistleblowers. The Commission has the power to issue subpoenas, to question a person in respect of any matter under investigation and to require any person to disclose truthfully any information within his knowledge relevant to any matter under investigation by the Commission. It may take action in court to seek any remedy available from that court for the proper discharge of its functions. The Commission can go to any Court for the enforcement of its decisions and recommendations.

Under section 14 of the Whistleblowers Act, 2006 (Act 720), the Commission may issue orders it considers necessary for the protection of whistleblowers against victimisation including an order for police protection, reversal of transfer of a public officer or order for the payment of compensation to the whistleblower. Such orders have the same effect as a judgment or order of the High Court and are enforceable in the same manner as a judgment or order of the High Court<sup>22</sup>.

### **Economic and Organised Crime Office (EOCO)**

The Economic and Organised Crime Office was set up by the Economic and Organised Crime Office Act, 2010 (Act 804) and its object is to *“prevent and detect organised crime and generally to facilitate the confiscation of the proceeds of crime”*. To achieve its object, it has the following functions (S.3 of Act 804):

1) to investigate and on the authority of the Attorney-General, prosecute serious offences that involve a) financial or economic loss to the Republic or any state entity or institution in which the state has financial interest, Money laundering, Human trafficking, Prohibited cyber activity, Tax fraud, and Other serious offences, which is defined to include Terrorism, money laundering, terrorist financing, serious fraud, murder, armed robbery, grievous bodily harm

to b) Recover the proceeds of crime, c) Monitor activities connected with the offences specified in para (a) above to detect correlative crime d) take reasonable measures necessary to prevent the commission of crimes specified in para (a) and their correlative offences and any other similar offence or related prohibited activity punishable with imprisonment for a period of not more less than 12 months

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22 Ayamdo, C.A. 2011. A Review of The Anti-Corruption Strategy of Ghana, submitted in partial fulfillment of a Post Graduate Certificate in Anti-Corruption Studies, November 2011 HKU SPACE, Hong Kong

It is also to take steps to recover the proceeds of crime, monitor, detect and take reasonable measures to necessary to prevent the commission of those serious offences specified in the enabling Act.

As the functions of both institutions show, the **CHRAJ** investigates corruption, misappropriation of public money by officials, conflict of interest and other breaches of the code of Conduct for Public Officials.

The core function of the **EOCO** is to investigate suspected offences, which involve serious financial loss to the Republic or to any state entity or institution in which the Republic has financial interest. It also investigates other offences such as money laundering, human trafficking, cyber offences, tax fraud and other serious offences. The EOCO may prosecute on the written authority of the A-G

**END**

### **Activity 3: Inter-organisational Collaboration**

#### Objectives

- To determine the necessity for collaboration
- To review existing networks for cooperation between anti-corruption agencies on one hand and between government, civil society and private sector (GACC), on the other hand.

Time            45 Min

#### Description

Presentation: The facilitator would make a presentation, which would be followed by questions and answers.

#### Resources

##### **Ghana Anti-Corruption Coalition**

The Ghana Anti-corruption Coalition (GACC) is a unique cross-sectoral grouping made up of Public Institutions; Private and Civil Society Organisations with the sole aim of building a national effort to confront the problem of corruption and devise effective control measures.

Vision: A Ghana free from corruption where honesty, transparency, accountability and integrity are upheld

Mission: Facilitate anti-corruption activities in Ghana through the concerted efforts of its membership and in collaboration with other stakeholders

Members:

- 1 Commission on Human Rights & Admin Justice (CHRAJ)
- 2 Economic and Organised Crime Office (EOCO),
- 3 Private Enterprises Federation (PEF),
- 4 Ghana Journalist Association,
- 5 Ghana Integrity Initiative (GII),
- 6 Center for Democratic Development-Ghana (CDD-Ghana),
- 7 Institute of Economic Affairs (IEA), and
- 8 Ghana Conference of Religions for Peace (GCRP).

Since its establishment, the GACC has made tremendous achievements in the fight against corruption in Ghana. Among others, it facilitated the development of an Anti-Corruption Action Plan (2001-2005), brought together government, civil society and the private sector to dialogue on major issues relating to the fight against corruption. GACC has been involved in the formulation of major policies of state including the NACAP and the Structures for the implementation of the Sustainable Development Goals in Ghana.

## **MODULE 2: GHANA'S NATIONAL ANTI-CORRUPTION ACTION PLAN (NACAP)**

Ghana ratified the United Nations Convention against Corruption in 2007. By the fact of ratification, Ghana is obligated to implement the UNCAC. Article 5 of the UNCAC, provides, as a means of addressing corruption, that:

“1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

In line with the UNCAC, Ghana developed a ten-year National Anti-Corruption Action Plan (NACAP) as her coordinated anti-corruption policy.

This Module deals with the following: 1) Background, Development & Strategy of NACAP, 2) Programme of Action and its Implementation, and 3) how the NACAP envisages monitoring and evaluating progress over time.

The objectives of the Module are:

- To identify the reasons for developing the NACAP,
- To discuss the methods and approaches used in preparing the NACAP
- To explain the strategy
- To study the POW and identify actions related to participant's cluster, and
- Discuss the Institutional Implementation arrangements
- To discuss the M&E Framework

## Activity 1: Discussion on the Background, Development and Strategy of NACAP

### Objectives

- To discuss the reasons for developing the NACAP, and
- To explain the strategy

Time 45 Min

### Description

Presentation: The facilitator would make a presentation, which would be followed by a questions and answers.

### Resources

#### NACAP: Background, Development and Strategy

It is widely acknowledged that fighting corruption is a complex undertaking requiring the development and implementation of a comprehensive national anti-corruption action strategies which offer a framework to effectively mobilise broad public support and resources for anti-corruption activities in a focused and sustained fashion. Article 5 of the UNCAC, a global instrument to fight corruption, provides

*“1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.”*

In accordance with the provisions of UNCAC, Ghana developed a ten-year (2015-2024) National Anti-Corruption Action Plan, called NACAP, which seeks, among others, to promote and mainstream the values of integrity, transparency and accountability in all sectors of society and ensure effective sanctions for corrupt conduct.

The Parliament of Ghana adopted it on 3rd July 2014 and implementation started officially in 2015. The development of the NACAP signaled Ghana’s determination to control corruption holistically.

#### Why was NACAP developed?

The NACAP was developed to address a number of serious governance challenges that a gap analysis of the state of corruption in Ghana revealed, to address the gaps in the implementation of the various anti-corruption strategies adopted by Ghana since independence in a more holistic and sustained manner; and deal with new emerging issues to combat corruption, such as the role of gender in the fight against corruption<sup>23</sup>

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23 *ibid*, para 2.3.

- . Some of the challenges that NACAP seeks to address are the following:
  - Acceptance of Corruption or high tolerance for corruption and public cynicism and apathy toward the fight against corruption;
  - Limited awareness of the linkage between human rights and corruption;
  - Weak political will to dispassionately pursue anti-corruption measures;
  - Under-resourced anti-corruption agencies and independent governance institutions;
  - Weak co-ordination and collaboration among anti-corruption agencies;
  - Weak capacity of civil society and media to address public accountability;
  - Abuse of incumbency;
  - Politicisation of the fight against corruption;
  - Limited investigative journalism;
  - Weak assets declaration regime;
  - Limited attention to gender in anti-corruption programming;
  - Limited attention to international cooperation in the fight against corruption<sup>24</sup>

### **How was NACAP Developed?**

NACAP was developed using a variety of approaches:

- broad confidence-building and partnership-fostering measures were undertaken such as the establishment of a Working Group and consultations with government, MDAs, Metropolitan, Municipal and District Assemblies (MMDAs), and other public institutions, private sector, civil society organisations and the general public.
- The members of the Working Group were drawn from government, anti-corruption agencies, civil society, private sector, media, other key accountability institutions, experts and development partners.
- Three primary methods of consultation were employed. These were: conducting interviews with key informants (key Government institutions, Members of Parliament (MPs), civil society organisations (CSOs) and representatives of the private sector at the national, regional and district levels); holding Focus Group Discussions (FGDs) with stakeholders, and staging a Regional Forum in each of the ten (10) regional capitals in Ghana.
- The general public was also given the opportunity to provide inputs into the NACAP process via the website of the Ghana Anti-Corruption Coalition (GACC).
- To enlist public support for the project and to popularize it, the media was effectively used to educate citizens on the ills of corruption and to publicise the processes and activities leading to the development of the NACAP.

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<sup>24</sup> NACAP, para 2.3.

- Validation of the draft NACAP document at a three-day National Conference on Integrity held in October 2011 in Accra.
- Unanimous adoption by the Parliament of Ghana.

### **Strategy**

The NACAP contains the Vision, mission and strategic objectives.

The Vision is *“the creation of a sustainable democratic society founded on good governance and imbued with high ethics and integrity, while the Mission seeks “to contextualise and mobilise efforts and resources of all stakeholders...to prevent and fight corruption ...”*<sup>25</sup>

The four (4) Strategic Objectives of NACAP are as follows:

1. Build public capacity to condemn and fight corruption and make its practice a high-risk, low-gain activity;
2. To institutionalise efficiency, accountability and transparency in the public, private and not-for profit sectors;
3. To engage individuals, media and civil society organisations in the report and combat of corruption; and
4. To conduct effective investigations and prosecution of corrupt conduct.<sup>26</sup>

All the Strategic objectives have taken into account the three prong approach to fighting corruption, summed up as Prevention, public education and law enforcement, which in turn consists of investigations, prosecutions and recovery of stolen assets or proceeds of corruption.

Consistent with its mission to contextualise and mobilise efforts and resources of all stakeholders to prevent and fight corruption, all sectors, (public, private and civil society sectors), have roles to play in the implementation of NACAP, which are largely contained in the NACAP under the Programme of Action.

NACAP adopts the three-prong approach, which consists of prevention, public education and investigation and prosecution.

### **Prevention**

Corruption prevention is detection and elimination of the causes and conditions of corruption through the development and implementation of a system of appropriate measures as well as deterrence of persons from the commission of crimes of corruption. The common wisdom has it that “prevention is better than cure”. This is particularly true for the prevention of corruption, when public trust, the effectiveness of institutions, economic development and the security of the State are at stake. Even the most successful enforcement of criminal law happens after the crime has already been committed and the detrimental consequences of corruption have taken place.

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<sup>25</sup> NACAP, para 3.0.

<sup>26</sup> *ibid*, para 3.0.



The importance of corruption prevention is recognized in Chapter II of the United Nations Convention against Corruption which underscores the need to address the risks of corruption by:

- Adopting effective and coordinated policies against corruption
- Strengthening transparency and public reporting
- Strengthening the integrity of the judiciary and prosecution services, addressing corruption in the private sector and promoting participation of society are other important elements of the effective system for prevention of corruption<sup>27</sup>

No doubt corruption prevention as one approach, has significant benefits including the following:<sup>28</sup>

- It helps to reveal how best to tackle the menace of corruption and boost trust and integrity in both public and private sectors; prepares law enforcement officers, agencies and policy makers to be alert in dealing with corruption and where there is genuine and clear interest in corruption prevention, the image of government and the nation at large improves.

### **Awareness Raising (Public Education)**

Corruption is worsening every day. It is becoming endemic, if it is not already. Many people take it as a way of life rather than as a fact of life. In Ghana, studies have shown that there is high tolerance for corruption. Fighting it, therefore, requires, among other strategies, a change of attitude, mindset and culture. One way to effect such changes is through an effective public education on the evils of corruption and the advantages that would inure to the public and the individual by a corruption free society/country. It is not for nothing that in article 6, paragraph 1(b) of the UNCAC, States Parties are to have anti-corruption body or bodies that should among others, *“Increase and disseminate knowledge about the prevention of corruption”*.

The objectives of public education measures are to change public attitude and enlist its support for anti-corruption, encourage the public to report, promote the deterrent measures put in place and promote a clean society. Some tools are available for the purpose. These are

- Media (Publicity, Commercials, and Drama)
- Face to Face (Campaigns, Seminar/Conferences)
- Community outreach activities (Town hall meetings for rural areas, exhibition, competition)
- Youth and Student Camps

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27 <https://www.unodc.org/unodc/en/corruption/prevention.html>

28 Ayamdoo, C.A. Notes for Presentation at a GII TOT



### 3. Investigation and Prosecution

An investigation is the process of inquiring into or following up; Research; study; inquiry...“(Webster’s Revised Unabridged Dictionary 1913). Meaning that to Investigate an allegation is “to observe or study by close examination and system inquiry” to enable the investigator to form an opinion on the merits of the complaint or allegation. The purpose of an investigation therefore is to clear innocent people from guilt and have those found liable face the law.

For investigations, the benefits are the following: it does prevent repetition of the corrupt conduct and deter others. It also provides a basis for public education and enables recovery corrupt proceeds.

#### Key Risks and Assumptions of NACAP

The effective implementation of the NACAP should result in enhanced levels of integrity, reduced corruption, improved economic performance, and accelerated development of Ghana<sup>29</sup>. However, this is premised on some key risks and assumptions<sup>30</sup>, which include the following:

- (a) Successive governments will garner and maintain political will for the effective implementation of the NACAP over the 10-year period and beyond;
- (b) Democratic governance and the rule of law will continue to be strengthened through free, fair and credible elections in the country;
- (c) There will be sustained commitment to, and ownership of, the NACAP by each Ghanaian and all other stakeholders in Ghana’s developmental process;
- (d) The state will make substantial investment in the implementation of anti-corruption measures;
- (e) Funds will be mobilised and made available in time for the implementation of planned activities, and
- (f) Acceptance, cooperation and participation of stakeholders

END

### Activity 2: Examining the Programme of Action & Implementation

#### Objectives

- To study the Programme of Action (POA)
- To examine how the POA has incorporated the three-prong approach
- To discuss the institutional arrangements for implementation

Time 45 Min

#### Description

Presentation: The facilitator would make a presentation, which would be followed by questions and answers.

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<sup>29</sup> NACAP, para. 1.2

<sup>30</sup> Ibid, para 1.4

## Resources

### NACAP Programme of Action

The Programme of Action (POA) specifies actions to be taken by stakeholders called implementing partners or agencies within the 10-year period. The actions to be implemented relate to each of the four strategic objectives and with “*indicators*”, “*means of verification*”, “*time frame (short, medium and long-term)*”, “*an indicative budget (which is no more relevant)* and “*implementing agencies*” (both lead and collaborating).

*The indicator and means of verification provide the evidence of implementation of the activities outlined for monitoring progress, as well as for purposes of evaluation. The timeframe is divided into Short-term (1-2 years), Medium-term (3-5 years) and Long-term (6-10 years). -(NACAP, para 6.0.)*

NACAP is integrated into national development, meaning that public sector implementing partners would have to put the actions they are required to implement in the specific year into their annual programmes and budget for them. The Budget proposals are then submitted to the Ministry of Finance for budgetary allocation to be made. However, a number of the activities to be undertaken in the NACAP require no serious financial outlays but self-regulation, policy, decision-making, enactment of legislation, and use of existing resources and facilities ).-(NACAP, para 6.0.)

The NACAP adopts the three-prong approach to fighting corruption. The actions under strategic objectives 1(to build public capacity for anti-corruption) and 2 (efficiency, transparency and accountability) deal mostly with prevention and raising awareness of the evils of corruption, while strategic objective 3 combines both prevention and public education. Strategic objective 4 focuses on investigation and prosecution.

It is expected that beyond this Plan, individual stakeholders will work out their detailed strategies and secure the resources necessary to execute them.

### Institutional Arrangement for Implementation

1) **High Level Implementation Committee:** To facilitate its performance and ensure high level commitment, the membership of the HiLIC has been capped at 25, and to be drawn from key anti-corruption bodies and accountability institution, as well as non- governmental organisations, civil society organisations, the public sector and private sector organisations.

Its Terms of Reference are two (2): *to provide strategic policy direction and advice to Implementing agencies/bodies, and to assist CHRAJ and the NDPC in the monitoring and coordination of the implementation of NACAP.* The Chief of Staff at the Office of the President is to chair the HiLIC. However, a Deputy Chief of Staff chairs it currently.

The other members are the Heads/Representatives of the: 1) Office of the President, 2) CHRAJ, National Development Planning Commission, 3) Public Services

Commission, 4) Office of the Head of Civil Service, 5) Office of the Head of Local Government Service, 6) State Enterprises Commission, 7) Ghana Education Service, 8) Ghana Health Service, 9) Ghana Police Service, 10) Audit service, 11) Private Enterprise Federation, 12) Ghana Anti-Corruption Coalition, 13) Economic and Organised Crime Office, 14) Ministry of Finance, 15) Controller and Accountant-General, 16) Office of the Attorney-General and Ministry of Justice, 17) Ministry of Local Government, 18) Ministry of Information, 19) Judicial Service, 20) Internal Audit Agency, 21) Parliament of Ghana. It is to meet at least four times in a year.

**Monitoring and Evaluation Committee:** Monitoring and Evaluation (M&E) are necessary to ensure a successful implementation of NACAP. For that matter a Monitoring and Evaluation Committee (MONICOM) was established to, among others, develop an M&E Plan; conduct monitoring and evaluation activities; advise implementing agencies on implementation strategies and measures; hold periodic review meetings to provide opportunities for sharing of experiences; generate reports; develop data collection instruments and tools; provide technical support to implementing agencies where warranted, and generally facilitate the implementation of the NACAP.

It is made up of ten (10) members drawn from: 1) CHRAJ, 2) NDPC, 3) SEC, 4) PSC, 5) GACC, 6) Private Sector (PEF) (see NACAP para 5.1- 5.3. )

**NACAP Implementation Support Unit:** This is a special Unit established by CHRAJ to: serve as the NACAP secretariat, which provides administrative support to HiLIC and MONICOM. More specifically, the responsibilities of NISU include the following: preparing minutes of meetings and reports; preparing quarterly and annual progress reports for the approval of HiLIC; assisting in developing and administering data collection tools, and processing and analyzing of data collected from implementing agencies; receiving enquiries from public/implementing agencies on NACAP for processing by appropriate persons; providing information to the general public on NACAP; and, organising meetings and other incidental activities (see (see NACAP para 5.1- 5.3.)

**Implementing Partners/Agencies (IPs):** These are the identified key public, private and civil society organizations whose involvement is critical for the effective implementation of NACAP. They are responsible for ensuring that NACAP activities are incorporated and mainstreamed into their respective medium-term development plans and annual work plans for implementation. The IPs are also to ensure that periodic monitoring is conducted to collect data/information in line with the data collection tools developed by MONICOM. In addition, IPs are required to organize capacity building activities for their staff to enable them deliver on the objectives of NACAP.

**END**

### Activity 3: Discussions on Monitoring & Evaluation of NACAP

#### Objectives

- To appreciate the importance of M&E for NACAP
- To study the M&E Framework for Monitoring Implementation of NACAP

Time 45 Min

#### Description

Presentation: The facilitator would make a presentation, which would be followed by a discussion by participants

#### Resources

##### Monitoring & Evaluating NACs

Importance of M&E of anti-corruption strategies has been vividly captured below:

*“Regular monitoring, evaluating and reporting are essential if a national anti-corruption strategy is to have its desired effect. Monitoring provides data on the strategy’s progress over time in achieving its objectives; evaluation uses these data to determine which elements are working, which ones are not, and what changes need to be made. Reporting the results of monitoring and evaluation helps maintain support for the strategy, not only by keeping stakeholders and citizens abreast of progress, but also by candidly revealing setbacks and explaining what is being done to address them. Periodic reporting helps citizens hold Government accountable for strategy results<sup>63</sup> and provides opportunities for citizen input into strategy execution”<sup>31</sup>*

And rightly so, NACAP provides for monitoring and evaluation (M&E) as necessary for its successful implementation. First, to form the basis for a systematic measurement of progress of achievement of the strategic objectives of NACAP an M&E framework has been developed for collecting and providing information that will, among others, assist implementing agencies to: a) make decisions about their budgets for anti-corruption activities; b) track progress of implementation of NACAP within their respective institutions, c) assess strategies, systems, and processes to identify and correct deficiencies/weaknesses in implementation of NACAP and d) promote collaboration among implementing agencies by sharing implementation reports.

The M&E plans and tools will be used to generate information and data that will allow the measurement of changes that may occur as a result of the implementation of NACAP. To guarantee efficiency and effectiveness, baselines will be drawn according to the data collected and evaluations conducted. Evaluation efforts will include commissioning and supervision of a number of evaluation efforts: term-end

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<sup>31</sup> UNODC, 2015. National Anti-Corruption Strategies: A Practical Guide for Development and Implementation, United Nations, New York. Page. 39

evaluations (i.e. at end of years 3 and 5), ad-hoc evaluations, special thematic studies and final evaluations (i.e. at end of year10) to inform the formulation of the next NACAP (see NACAP, para 5.1 – 5.3)

END

## MODULE 4: CODE OF ETHICS AND/OR CONDUCT

The role of integrity in society can be seen from religions teachings. In Proverbs 10:9, it is said: *“Whoever walks in integrity walks securely, but he who makes his ways crooked will be found out.”*. In *The Believers (al-Mu’Minum) 469*, of the Quoran, it is stated *“O messengers, eat of the good things, and act with integrity. I am aware of what you do.”* *The Believers (al-Mu’Minum) 469*. Another verse in the Quoran reads *“Whoever acts dishonestly will be his dishonesty on the day of the Resurrection. (The family of Imran (Ali’Inram)”*

These religious and other teachings underscore the importance of integrity in society. Integrity is even more important for persons in positions of trust such as public officers or servants and other leaders of society. Thus, integrity is essential for advancing the public good and ensuring the legitimacy of public organizations, as well as non-state actors. It is also considered an antithesis to corruption.<sup>32</sup>

A key instrument for strengthening integrity in any public service organisation is the code of ethics or code of conduct, which provides the ethos of public service in order to guide the conduct of public officers/service.<sup>33</sup> It is equally important for building and sustaining public confidence in other organisations providing services to ordinary citizens and who they hold in high esteem.

In terms of the public service, the 1992 Constitution provides a Code of Conduct (CoC) for Public Officers in Chapter 24 which, include conflict of interest, assets declaration, illicit enrichment and Oaths of Office. This Module will focus on the CoC in addition to gifts and other advantages as aspects of the Code of Conduct for Public Officers.

The Objective of the Module are 1) to introduce participants to the minimum standards of conduct provided under the Constitution for compliance by public officers, 2) to provide participants with a sample of tools to apply in their own areas of endeavor/ organisations, where appropriate.

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32 Education for Justice (E4J) University Module Series: Integrity & Ethics

33 ibid

## Activity 1: Examining the Code of Conduct for Public Officers

### Objectives

- To introduce participants to the Code of Conduct for Public Officers under the Constitution
- To discuss, at least, three minimum standards of conduct for the public service under the Code of Conduct for Public Officers

Time 60 Min

### Description

Group Work: The Facilitator would provide a list of the standards in Chapter 24 of the Constitution to participants. He/she would have the participants in groups as appropriate and convenient. Each group should be assigned to pick one of the standards and explain them in plenary. The facilitator would then sum up the discussion.

### Resources

#### Some Standards of Conduct for Public Officers (Chapter 24 of the 1992 Constitution)

1. Avoidance of conflict of Interest: Article 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”
2. Prohibition on holding certain additional positions in the public service: art. 285: A person shall not be appointed to or act as the Chairman of the governing body of a public corporation or authority while he holds a position in the service of that corporation or authority.
3. Declaration of assets and liabilities: Art. 286 (1): A person who holds a public office mentioned in clause (5) of this article shall submit to the Auditor-General a written declaration of all property or assets owned by, or liabilities owed by him whether directly or indirectly, (a) within three months after the coming into force of this Constitution or before taking office, as the case may be, (b) at the end of every four years, and (c) at the end of his term of office.
4. Acquisition of only legitimate wealth: Art. 286 (4): Any property or assets acquired by a public officer after the initial declaration required by clause (1) of Article 286 and which is not reasonably attributable to income, gift, loan, inheritance or any other reasonable source shall be deemed to have been acquired in contravention of this Constitution, i.e. acquired illegally.

5. Upholding of/keeping faith to the Oaths of Office (Art. 286 (7)): Before beginning the duties of his office, a person appointed to an office to which the provisions of this article apply, shall take and subscribe the Oath of Allegiance, the Oath of Secrecy and the Official Oath set out in the Second Schedule to this Constitution, or any other oath appropriate to his office.

END

## Activity 2: Introduction to Conflict of Interest & Assets Declaration

### Objectives

- To explain conflict of interest
- To identify conflict of interest situations
- To explore the relationship between conflicts of interest and corruption
- To discuss how conflict of interest may be managed
- To examine the assets declaration regime in Ghana and discuss its weaknesses

Time 60 Min

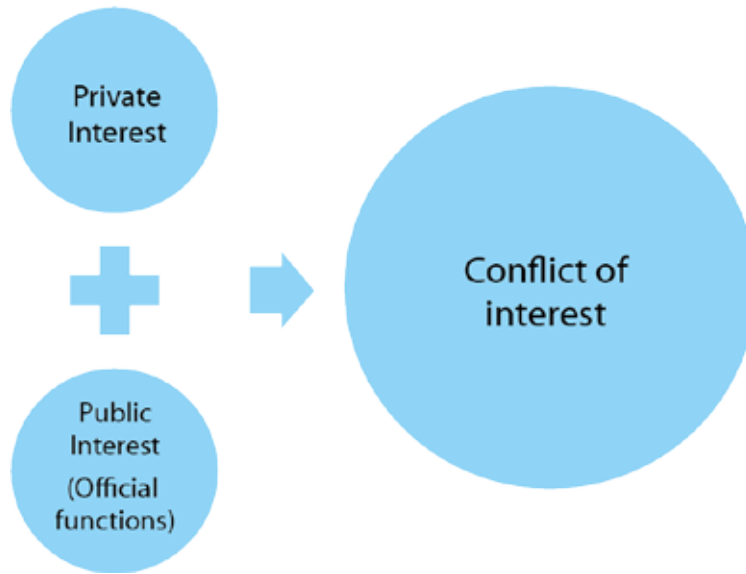
### Description

Presentation: The facilitator would make a presentation with illustration of cases, to be followed by comments and questions from participants

### Resources

#### Conflict of Interest

Article 284 of the Constitution: “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”.



Conflict of interest occurs when a public official attempts to promote or promotes a private or personal interest for himself/herself or for some other person, the promotion of the private interest then results or is intended to result or appears to be or has the potential to result in the following:

- i. an interference with the objective exercise of the person's duties; and
- ii. an improper benefit or an advantage by virtue of his/her position<sup>34</sup>.

Examples of conflict of interest include self-dealing and moonlighting.

### COI and Corruption

From the provisions of Article 284 of the Constitution, there could arise "actual" conflict of interest, or the likelihood of conflict of interest occurring. Potential/possibility, (possible" for a COI situation to arise if the person were to take the relevant official action) or the COI could be "apparent" that is, the "appearance of it (that is the private interests of the person could improperly influence the performance of a public duty of the person but it is not the case yet (if at all).

#### Example of Potential COI:

A manager was promoted from a position where he worked with his wife. The promotion made him his wife's boss in the company. In this situation, there is the potential of COI because being the boss, he was likely to take certain actions affecting his wife, if she continues to work under her husband.

<sup>34</sup> CHRAJ, 2006. Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflicts of Interest, Accra-Ghana, p. 9 (unpublished Version)



### Example of Apparent COI:

X Company is considering using Y Company as a supplier, because Y offers the best goods on the best terms. Y is owned and operated by A, whose twin brother AZ is a senior manager of X. AZ has nothing to do with purchasing anything for X (where his brother is manager) and rigorous controls are put in place at X to ensure that he doesn't in any way help Y in its dealings with X.<sup>35</sup>

The "Actual COI" is that which leads to improper performance of duties, such as abuse of power and corruption. It therefore, follows that Conflict of Interest is either Corruption or an incubator of corruption.

### Assets Declaration

Declaration of assets and liabilities serves very useful purposes. It is a way of monitoring to determine whether or not people use public office for self-aggrandizement. Public disclosure discourages those who see public administration as being useful only as a channel for amassing illegal wealth at the expense of the nation. In that sense assets declaration is a good mechanism for fighting corruption as it promotes probity, accountability, and transparency in governance.<sup>36</sup> More importantly, assets declaration offers a degree of protection against rumour mongering and unfair charges of corruption against the public office holder<sup>37</sup>.

Article 286 of the Constitution on "Declaration of assets and liabilities", provides

- A person who holds a public office mentioned in clause (5) of this article shall submit to the Auditor-General a written declaration of all property or assets owned by, or liabilities owed by him whether directly or indirectly, (a) within three months after the coming into force of this Constitution or before taking office, as the case may be, (b) at the end of every four years, and (c) at the end of his term of office.
- The Auditor-General shall make a written declaration of his assets and liabilities to the President in the manner and subject to the conditions provided in clauses (1) to (3) of this article.

### Who should Declare?

- The President and Vice President
- The Speaker of Parliament and Deputy Speakers
- MPs, Ministers, Judges
- CHRAJ Commissioner and Deputy Commissioners, and
- Many more, and
- an officer in any other public office or public institution other than the

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35 <http://conflictinterestblog.com/2013/10/the-problem-with-apparent-conflicts-of-interest.html>

36 Parliamentary Debates, 1998, Fourth Series, Vol.18. No. 21-38

37 Ayamdoo C.A. 2005. The Assets Declaration Law in Ghana: A Viewpoint

Armed Forces the salary attached to which is equivalent to above the salary of a Director in the Civil Service (see section 3, First Schedule of Public Office Holders (Declaration of Assets and Disqualification Act 1998 (Act 550)

*Assets Declaration (Cont'd)*

### **Challenges with Assets Declaration Regime:**

Among the main challenges are the following:

- It is argued that the Auditor-General keeps the declarations, *which shall, on demand, be produced in evidence before a court of competent jurisdiction, a commission of enquiry appointed [by the President by constitutional instrument<sup>38</sup>,] or an investigator appointed by the Commissioner for Human Rights and Administrative Justice<sup>39</sup>*. Thus, the assets declared to the Auditor-General are not publicly accessible, as the law does not allow verification of the assets declared.
- Owing to the lack of verification, there is the possibility of the declarants making anticipatory declarations, wrong entries, false declaration that would be difficult to detect in absence of verification. Above all, the regime is not transparent and therefore its potential as an anti-corruption tool is weak.

These and other challenges were presented to the Constitution Review Commission, which made proposals for the reform of the assets declaration regime. In Issue Eight: Code of Conduct for Public Officers, of the Government White Paper on the CRC Report, it is stated:

- *Government accepts the CRC recommendation for amendment of Chapter 24 of the Constitution to create a more effective regime on Assets Declaration by public officers and the verification and monitoring of such assets by the Auditor General.*
- *Government is of the opinion that it would be more feasible for such verification and monitoring of the declared assets to be done within one year of the declaration and within three (3) months after the officers' exiting of office.*
- *Government does not, however, accept the CRC position that the CHRAJ should be mandated to verify and monitor declared assets without cause or complaint of wrong doing.*
- *Government accepts the recommendation for extensive amendments to the Public Office Holders (Declaration of Assets and Disqualification) Act 1998 (Act 550) to be supported with clear Regulations on: How assets declared can be verified; How the public may access the declaration, and the punishment for failure to declare and/or false declaration*

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38 Article 278 of the 1992 Constitution

39 Article 286(3) of the 1992 Constitution

Making a presentation at a STAR Ghana Stakeholders Forum in Accra on 20th March 2019, a representative of the Auditor-General, disclosed that the Auditor-General had started to open the sealed envelopes to verify completion of the form and was liaising with “google” to assist in locating assets declared for purposes of verification.<sup>40</sup>

END

### Activity 3: Discussions on Gifts and Gratuities

Objectives

- To explain gifts and gratuities
- To discuss the distinction between a gift and a bribe as some gifts may be bribes in disguise
- To discuss the gift rules under the Code of Conduct for Public Officers of Ghana

Time 60 Min

Description

Method: Whole Class Discussion

The facilitator will lead a whole class discussion of the subject, allowing participants to share experiences on the subject, whether or not gifts to public officers should be regulated. The Facilitator then makes a short presentation with illustration of real case studies.

Resources:

#### Gifts and Gratuities

A ‘gift’ is ‘something of value given gratis or something of value given without the expectation of receiving something in return.’<sup>41</sup> That means that a gift is given voluntarily, out of the will of the giver/donor as opposed to a solicitation or extortion by the receiver. Again, there is no movement of consideration either from the giver or the receiver. Where there is any evidence of consideration, the transaction fails as a gift and mutates to a sale, barter, payment for a service<sup>42</sup>, or better still, a bribe.

Giving and receiving gifts have been justified on social, cultural, political and economic contexts. In the social context, gifts given are normally unsolicited and meant to convey a certain sense of feeling such as gratitude or friendship. The benefit of the gift could also be given as a show of hospitality towards the receiver. In this

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40 White Paper on the Report of the Constitution Review Commission presented to the President., p. 24-25

41 Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflict of Interest, 2006, p.36

42 *ibid*

context, however, the value of the gift is in the spirit of giving or sharing rather than the nominal value of the gift.

Gifts play a vital role in business or economic relations. In businesses, gifts are offered to individuals for purely charitable purposes. The gift is usually of little or no commercial value such as a corporate memento or marketing trinket or even calendars. Gifts given in the context of business relationships are mostly the policy of the entity to make gifts to beneficiary institution and individuals. The recipient institution therefore has no feeling of obligation to the donor.

Another justification for the giving of gifts is cultural. Culture and religion are intertwined, and it sometimes appears impossible to separate them. Major religions in Ghana encourage their followers to give gifts either to members of the religion or to a Deity.

In Islam, a Moslem is encouraged to abide by the five pillars of Islam. To that end, a Moslem ought to perform the *Zakat* which entails the giving of alms to the poor and needy.

In Christianity, gifts and offerings must be given to the Lord God. Christians are thus encouraged to give to the needy in society<sup>43</sup>

In the traditional political set up, gifts are given to chiefs and elders. But it is normally done in the open and not in secret; the gift is a modest one, not life changing; they are shared with the elders and public rights are not violated.

In Ghana we are aware of ‘amantuo’ and ‘aseda’ which depict a culture of gift giving among certain communities. ‘Amantuo’ is a gift made to an elder to facilitate him or her to plead one’s case before the chief and his elders.<sup>44</sup> ‘Aseda’ is a gift made to one as ‘thank you’ for the bestowment of a benefit. These gifts are usually given transparently, they are of a modest scale and their benefits are often shared among a group of elders<sup>45</sup>

However, gifts in the public service present serious challenges to the integrity of the public service. From experience, public officials are not always offered a direct bribe at the outset. It often starts with the official being offered small favours to keep him/her “sweet”-the sweetening process. Then, it escalates to larger proportions and are often given in secret, under the table and not transparent.

Where a gift is made in secret, the gift is big, the source unfamiliar, and can make a significant change in the life of the receiver, then it is a bribe and it amounts to corruption<sup>46</sup>

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43 Matt 6:2; Deut 15:7; 2 Cor 9:7;

44 Commission of Enquiry on Bribery and Corruption, 1975, p....

45 Source: Ayamdoo C.A. “Gifts-To take or not to take” (forthcoming)

46 CHRAJ, 2007. Human Rights Manual for Teachers (Human Rights Simplified for Basic Schools) CHRAJ, Accra, Ghana.

It is not for nothing that religious teachings warn against gifts. The Holy Quoran in Surah 2, Al Baqarah Part 2. 39 warns:

- *And eat up not one another's property unjustly (in any illegal way e.g. stealing, robbing, deceiving, etc.), nor give bribes to the rulers/ judges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully.*
- Allah Curses the giver of bribes and the receiver of bribes and the person who paves the way for both parties - Islam (Sayings of the Prophet)
- “Thy princes are rebellious, and companions of thieves: every one loveth gifts, and followeth after rewards...” (KJV)-Isaiah 1:23
- And thou shalt take no gift: for the gift blindeth the wise, and perverteth the words of the righteous (Exodus 23:8, KJV).

In Plato's Laws (Ancient Greece), it is said “The servants of the nations are to render their service without taking any presents. The disobedient shall die, if convicted, without ceremony”

The lesson to note from wise counsel of these religious teachings is that, gifts can be bribes and that everyone, especially public servants and those who serve in leadership positions should be careful with gifts as they may be bribes camouflaged as gifts. The motives for gifts are difficult to determine as they are in the head of the giver. The gift can be given before or after the act, the motive of the giver will be difficult to determine.

Consider this case: A couple had brought a dispute between them to a public officer to settle. One spouse later presented two birds to the public officer as a “gift”, which the public officer received graciously. When the public officer determined the dispute that went against the spouse who made the gift, she complained that the public officer had asked her for two guinea birds in order to settle the dispute in her favour but failed to do so after she had paid the two birds.

Finally, some gifts are appropriate, whilst others may not be appropriate.

In Article 202 of the 1979 Constitution of Ghana, which is under “Code of Conduct”, the receipt of gifts by public officials was restricted.

Art. 202 (2)(3) of the 1979 Constitution provides:

- *A gift or donation to a public officer on a public or ceremonial occasion shall be treated as a gift to the appropriate institution represented by the public officer and shall be used as such.*
- *The receipt by a public officer of a gift or benefit from a commercial firm, business enterprise or any other person who has entered into contract or is likely to enter into a contract, or enters into a contract with the Government, shall be presumed to have been received in contravention of ...[the Constitution]*

Though the 1979 Constitution has been replaced by the 1992 Constitution, the provisions of the 1992 Constitution indirectly regulate gifts as potential sources of conflict of interest. Thus, the CHRAJ issued Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflicts of Interest (the COI Guidelines) which provide rules on giving and receiving gifts to include the following:

### *“3.6.1. Accepting Gifts*

**General Rule:** *A Public official shall not:*

- *solicit gifts, tangible or intangible, directly or indirectly from persons with whom they come into contact in relation to official duties;*
- *accept gifts, tangible or intangible, that may or appear or have the potential to influence the exercise of their official functions, proper discharge of their duties or their judgement, indirectly from a person with whom they come into contact in relation to official duties and;*
- *accept cash of any amount.*

The COI Guidelines go further to provide a “Gifts Check List” that public officials should use to evaluate gifts offered them before receiving same. They provide:

A public official should consider the following checklist when offered a gift:

- Is this gift in appreciation for something I have done in my role as a public official, and not sought or encouraged by me?
- If I accept this gift, would a reasonable person have any doubt that I would be independent in doing my job in the future, when the person responsible for this gift is involved or affected?
- If I accept this gift, would I feel free of any obligation to do something in return for the person responsible for the gift, or for his/her family or friends/associates?
- Am I prepared to declare this gift and its source, transparently to my organisation and its clients, to my professional colleagues, and to the Internal Revenue Service<sup>47</sup> ?

Persons in position of trust should be mindful of gifts. In a case investigated by CHRAJ, one of the issues set for determination was *“Whether or not the Defendant understood the true meaning of a bribe vis-à-vis gift” or put in another way, whether the over USD 90,000 that the defendant received was a gift or a bribe.* In the said case, the defendant, a public officer, received money from a company after the public officer performed his functions. The defendant told the CHRAJ that the “money was meant to thank the boys”. The Commission determined that what the defendant received was not a gift but a bribe (and the High Court supported the finding by CHRAJ).

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<sup>47</sup> CHRAJ, 2006. Guidelines on Conflict of Interest to Assist Public Officials Identify, Manage and Resolve Conflicts of Interest, CHRAJ, Accra-Ghana, para. 3.7.3.

The CHRAJ came to this conclusion after it had considered the following:” 1) the source of payment was an employee of the company from a foreign country the public officer served in his capacity as such, 2) the timing of the payments, that they were made after the award of the contract to Nicholson, 3) the money- over 90,000 USD was significant (4) the continued denial that he received any money from the employee of the company, signified lack of transparency in the payment of the money<sup>48</sup> .

This case provides the legal basis for determining when a gift is a gift and not a bribe and vice versa. Thus the criteria to consider are the following:

- The Occasion
- The Quantum or size
- Timing of the gift
- The source of the gift
- Transparent or not

See Appiah Ampofo v. CHRAJ (HC)2/20, decision dated 17 February 2006 (Unreported)

**END**

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48 Appiah Ampofo v. CHRAJ (HC)2/20, decision dated 17 February 2006 (Unreported)

## PART 5: ROLE OF NON-STATE ACTORS UNDER NACAP

### MODULE 1: ROLE OF NON-STATE ACTORS IN ANTI-CORRUPTION

In order to fight corruption successfully all segments of society must be involved. No one, it is said, can successfully fight corruption alone. Therefore, apart from the public sector, non-state actors play key roles in addressing corruption. These include civil society and the private sector. Of the members of civil society, faith-based organizations, which occupy a unique position in society, is key.

Speaking on the role of civil society in general, Peter Eigen stated: *“For dealing with the overwhelming problem of corruption, the best position for civil society is within a broader coalition consisting of three pillars: government, the private sector and civil society. All three partners have to be involved for the fight against corruption to be credible as well as effective and sustainable.”*<sup>49</sup>

The Module focuses on the role of each of the non-state actors in addressing corruption in Ghana: civil society organisations, faith-based organisations and the media.

It is expected that at the end of the Module, participants would:

- appreciate the role of non-state actors, especially Faith based organisations, in preventing and combating corruption,
- have explored ways that each of the non-state actors can employ to effectively raise awareness about the evil effects of corruption.
- Have enhanced capacity individually in anti-corruption

#### Activity 1: Assessing the role of Civil Society in the NACAP

##### Objectives

- To identify the role of civil society in NACAP
- To explore ways that civil society can employ to raise awareness about the evil effects of corruption under NACAP
- To consider to what extent individual members of civil society can resist and report corruption

Time 60 Min

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<sup>49</sup> Peter Eigen, Civil Society in the fight against corruption” 8th International Anti-Corruption Conference



## Description

Group Work: The facilitator would have the participants group by cluster (CSOs, FBOs, Media, and Others). Each member of a group would be provided a copy of the NACAP Document and each group would identify the roles applicable to the group and prepare to report to plenary.

S/NO.	Stakeholder	Role
1.	FBOs	
2.	CSOs	
3.	Media	

The facilitator would sum up the discussion

## Resources

### Role of Civil Society

Civil society plays a vital role in re-shaping attitudes, reversing public apathy and tolerance for corruption and monitoring the social and ethical performance of the public officials. It exerts pressure on government and the private sector for greater transparency and accountability. Civil society also ensures that reform measures to combat corruption match the perceptions and expectations of the people (UNDP, 2004)<sup>50</sup>

No doubt, therefore, that in the United Nations Convention against Corruption (UNCAC), provides that each State Party to the UNCAC should take measures to encourage active participation by civil society in the fight against corruption, as well as measures to increase public awareness about the existence and causes of corruption and its importance.<sup>51</sup>

Article 13 of the United Nations Convention against Corruption, states that “Each State Party shall take appropriate measures ...to promote the active participation of individuals and groups outside the public sector [non-state actors], such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation of non-state actors should include undertaking public information activities that contribute to non-tolerance of corruption, disseminating information concerning corruption, and reporting corruption<sup>52</sup>. In Resolution 6/5 of the Conference of State Parties to UNCAC, “St. Petersburg statement on promoting public-private partnership in the prevention of and fight against corruption” the

50 UNDP Practice Note: Anti-Corruption-Final Version, February, 2004

51 Article 13, UNCAC

52 ‘ibid’<sup>51</sup>

Conference “Calls upon States Parties, in accordance with the fundamental principles of their legal systems, to foster public-private partnership in the prevention of corruption by, inter alia, increasing dialogue and cooperation, developing initiatives to promote and implement appropriate public procurement reforms, addressing practices that generate vulnerability to corruption and promoting good practices and anti-corruption ethics and compliance programmes for private sector entities, Calls upon States Parties to support public-private partnership in order to strengthen the understanding of both public officials and private sector actors that bribery and solicitation are unacceptable;<sup>53</sup>”. Herein grounds the principle of “public-private Participation (PPP) in the fight against corruption.

Of this PPP, public awareness programmes, understood as activities designed to increase the knowledge and understanding of the public on the various forms, effects and other aspects of corruption, therefore, is one of the most important ways that non-state actors can contribute to prevent corruption.

Consistent with the provisions of article 5 and 13 of the UNCAC and the tradition laid in Ghana prior to the adoption of UNCAC, Civil Society involvement in NACAP is obvious. It is provided in paragraph 3.8.9 of NACAP thus:

*“The support of the citizenry must be enlisted to ensure the success of the NACAP. Citizens should serve as anti-corruption watchdogs and be encouraged and supported to report corrupt practices to the appropriate anti-corruption and law enforcement agencies. Citizens must demonstrate integrity and say “no” to corruption. Citizens must be empowered through education and sensitisation to put the nation first by saying “no” to vote-buying, bribe-giving, bribe-taking and all forms of corruption”.*

Thus, the role envisaged for Civil Society<sup>54</sup> under NACAP are focused around:

- raising public awareness about the dangers of corruption and their rights and responsibilities as citizens in confronting corruption.
- creating awareness of the NACAP and generally educating the general public on anti-corruption issues.
- building on their power of advocacy, independently monitor and evaluate NACAP
- partnering with government to ensure considerable success in the fight against corruption;
- whipping up public interest in the fight against corruption, and
- upholding strict principles of transparency and accountability in their own operations.

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53 Resolutions adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its Sixth Session, held in St. Petersburg, Russian Federation, from 2 to 6 November 2015.

54 CS comprise CSOs, Media and FBOs

In terms of the Media, its role in investigating and reporting corruption and building support to combat it was also outlined under NACAP, which provides that the media must be bold and fair in publishing information about corrupt officials and corruption cases. The Media must be prepared to “name and shame” without compromise (NACAP para 4.8.8).

More general roles under the M&E Framework for reporting produced annually, the Media is to undertake the following:1) Implement NACAP and report on the implementation, 2) Take measures to prevent corruption within, such as strengthening internal control measures to reduce opportunities for corruption, establishing safe reporting systems/mechanisms at the work place, developing and publicising sexual harassment policies, developing and implementing codes of conduct/Ethics as well as implementing transparent and fair recruitment policies.

With regard to roles under the specific Strategic Objectives, Civil Society has the following, among others:

*Strategic Objective 1:*

- Organise regular public education and awareness programmes on the evils of corruption and the ethos of anti-corruption in MDAs, general public, and private sector organisations.
- Intensify public education on linkage between corruption and fundamental human rights and freedoms to general public, MDAS and CSOs
- Develop and implement code of conduct for corporate bodies, traditional authorities and not –for-profit organisations

*Strategic Objective 2:*

- Review the Assets Declaration law
- Strengthen the capacity of MMDAs for accountable and effective service delivery at the district level
- Conduct public expenditure tracking surveys
- Strengthen GACC and widen its membership to include human rights organizations
- Protect journalists by providing legal assistance if their reporting on corruption results in criminal charges.

*Strategic Objective 3:*

- Undertake awareness-raising programmes for the public on whistleblowing
- Create a confidential system for citizens to report cases of corruption and provide legal advice to victims of corruption.

- Enact the Right to Information Law
- Educate and sensitise public Civil Servants, Media, Civil Society and general public on the Rights to Information Law
- Conduct and publish yearly studies on state of corruption in Ghana
- Enhance institutional and operational capacity of Civil Society Organisations in monitoring and evaluating public revenue and expenditure and physical projects

*Strategic Objective 4:*

- Establish social movement and conduct social marketing campaigns to boost public support for the work of Anti-Corruption Agencies

Over all, Civil Society has been assigned three (3) broad activities under Strategic Objective 1 as lead and eleven (11) as collaborator. In Strategic Objective 2, Civil Society has three (3) as lead and fourteen (14) as collaborator, whilst under Strategic Objective 3, it has seven (7) broad activities as lead and five (5) as collaborating. In Strategic Objective 4, Civil Society has one (1) activity as lead and nine (9) as collaborator

## **Activity 2: Examining the Role of the Media in the NACAP**

### **Objective**

To discuss the role of the media in addressing corruption in Ghana

Time 45 Min

### **Description**

Presentation: The facilitator would make a presentation, which would be followed by questions and comments.

### **Resources**

#### **Role of the Media**<sup>55</sup>

This anti-corruption action plan will not succeed without the utmost support of the Media and Civil Society serving as watchdogs. The Media plays an important role in investigating and reporting corruption and building support to combat it. A free and independent media, with adequate access to information, is extremely important in the fight against corruption. The Media must be bold in publishing information about corrupt officials and corruption cases. The Media must be prepared to “name and

<sup>55</sup> Republic of Ghana. National Anti-Corruption Action Plan (NACAP)-2015-2024. CHRAJ, Accra, 201, para., 4.8.8 of NACAP

shame” without compromise. It is by exposing incidents of corruption that will make it a high-risk and low-gain undertaking.

However, it is important that the Media operates in an impartial manner and avoid sensationalising cases. Bias and sensationalism can undermine the ability of anti-corruption agencies to deal effectively with corruption. Journalists must be properly trained in principles and techniques of investigating and reporting cases and monitoring corruption trends and practices.

Media houses should be actively involved in the fight against corruption by providing airtime for sensitising the public on corruption and its impact on society and how to address it. The National Media Commission must contribute to the success of the NACAP by thoroughly investigating allegations of Media corruption, sanctioning corrupt Media practitioners, and upholding the highest standards of Media practice.

In terms of the roles under the Strategic Objectives, the Media has the following actions to implement, among others:

- Strategic Objective 1: Organise regular public education and awareness programmes on the evils of corruption and the ethos of anti-corruption, and Depoliticise Corruption and related crimes
- Strategic Objective 2: Train Journalists in investigative Journalism
- Strategic Objective 3: Educate Media Practitioners and NGOs on anti-corruption methods, practices and challenges of fighting corruption, Develop and implement codes of conduct/ethics for Journalists and Media establishments.

END

## **MODULE 2: ROLE OF FAITH-BASED ORGANISATIONS**

Faith-Based Organisations (FBOs) have a very important role in addressing corruption. It is said that “Religion provides a language of ethics and, often, an actual ‘list of rules’ to live by” and that in countries where religion plays a vital role in the lives of most people, many, including public servants, are likely to derive their ethical framework in part from their religion<sup>56</sup>. This is partly because many believe that fairness and honesty form the basis of many religions<sup>57</sup>. This position is not different from the Ghanaian context.

The Module has two main components: role of FBOs in addressing corruption in general and in the National Anti-Corruption Action Plan, in particular and the rationale for focusing on FBOs.

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56 Marquette, H 2010 ‘Whither morality? ‘Finding God’ in the fight against corruption’ Religions and Development. Working Paper Series, vol. 41, University of Birmingham, Birmingham

57 *ibid*<sup>56</sup>

The objectives of the Module are 1) To discuss the role of faith-based organisations in preventing and combating corruption and in NACAP, and 2) to examine the role of FBOs under the NACAP.

### **Activity 1: Why the Focus of Faith-Based Organisations**

#### **Objectives**

To examine the unique position of FBOs in addressing corruption in Ghana

Time 45 Min

#### **Description**

Presentation: The facilitator would make a presentation to be followed by questions and answers.

#### **Resources**

##### **Why Faith-Based Organisations in Anti-Corruption?**

It is said that “Religion provides a language of ethics and, often, an actual ‘list of rules’ to live by” and that in countries where religion plays a vital role in the lives of most people, many, including public servants, are likely to derive their ethical framework in part from their religion<sup>58</sup>. This is partly because many believe that fairness and honesty form the basis of many religions<sup>59</sup>. Thus, the power of religion places FBOs in much better position to assist in tackling corruption, for at least two major reasons: access to the people (citizens) and huge influence.

More than 60% of the population of Ghana profess one religion or the other. Ordinarily, then Ghana should have a reducing rate of corruption, as religion abhors corruption.

In Proverbs 15:27, the Bible warns, “Whoever is greedy for unjust gain troubles his own household, but he who hates bribes will live.” Similarly, in the Holy Quran, it is said in Surah 11. Hud. Part 12 298<sup>60</sup> “And O my people! Give full measure and weight in justice and reduce not the things that are due to the people, and do not commit mischief in the land, causing corruption”.

Siirah 26. Ash-Shu’ara Part 19 183. “And defraud not people by reducing their things, nor do evil, making corruption and mischief in the land.

It is therefore, not surprising that “Traditional leaders and religious leaders are seen to be the least affected by corruption in the region, although 21 per cent and 15 per cent, respectively, say that most or all of these leaders are corrupt<sup>61</sup>”. And FBOs should be concerned about this trend.

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58 Marquette, H 2010 ‘Whither morality? ‘Finding God’ in the fight against corruption’ Religions and Development. Working Paper Series, vol. 41, University of Birmingham, Birmingham

59 ibid

60 Dr. Muhammad Taqi-ud-Din Al-Hilali, Dr. Muhammad Muhsin Khan. Translation of the meanings of THE NOBLE QURAN IN THE ENGLISH LANGUAGE, <https://www.holybooks.com>

61 People and Corruption: Africa Survey, 2015. Global Corruption Barometer. TI, 2015. p.8

FBOs have a duty to confront corruption for the betterment of Society as a whole. FBOs should participate in fostering accountability and eradicating corruption and should act as a resister to corruption <sup>62</sup>

## Activity 2: Assessing the Role of FBOs under NACAP

### Objective

To identify and discuss the role of Faith-Based organisations under the NACAP

Time 60 Min

### Description

Group Work: First, participants will work in small groups to identify the roles assigned to FBOs under the NACAP and then present the information to the larger group in plenary. The facilitator will sum up the discussions

### Resources

#### Role of FBOs under NACAP

In cognition of the role of FBOs in addressing corruption, the NACAP provides in 4.8.11 that

*“... religious bodies have a key role in fighting corruption in their communities. To succeed, ...religious authorities should revisit and re-examine the country’s value systems as a prelude to engaging in broad public educational and sensitisation campaigns to raise awareness about anti-corruption issues and to improve the quality of public ethics and morality in the country...Religious bodies should also take the anti-corruption message to the pulpit..” as well as “...develop and implement a Code of Conduct for themselves and also uphold strict principles of transparency and accountability in relation to funds entrusted to them”.*

With regard to roles under the specific strategic objectives, FBOs have the following, among others:

#### Strategic Objective 1:

- Institute a national cultural Review Programme
- Mainstream anti-corruption, ethics and integrity in public, private sectors, Civil Society and religious organisations, and
- Introduce anti-corruption sermons/teaching in places of worship

#### Strategic Objective 2:

- Develop and implement a code of conduct for corporate bodies, traditional authorities and not-for-profit organisations

END

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62 Theron, P.M. & Lotter, G.A., 2012, ‘Corruption: How should Christians respond?’, Acta Theologica 32(1), 96–117. <https://doi.org/10.4314/actat.v32i1.6>

# PART 6: REPORTING CORRUPTION

## MODULE 1: CREATING AN ENABLING ENVIRONMENT

Exposing Corruption can assist in addressing it. And exposing it can only take place when incidence of corruption, have been reported to relevant institutions for follow up. Therefore, reporting corruption is a critical component of the fight against corruption because, it helps to expose corrupt activities and the risks that may be hidden, and ensures that public sector employees act in the public interest.

The objectives of the Module are: have Participants appreciate the environment necessary to aid reporting of corruption and to empower the participants to participate in reporting corruption.

### Activity 1: Discussions on the Importance of Reporting Corruption

#### Objectives

- To discuss how important, it is to report corruption
- To underscore that every person has a duty to assist expose corruption
- To empower the participants to participate in reporting corruption.

Time 45 Min

#### Description

Presentation, Q&A: The facilitator would make a presentation, which would be followed by a questions and answers.

#### Resources

#### Importance of Reporting Corruption

Why: Exposing Corruption can assist in addressing it, i.e. Providing detailed account or statement of suspected or alleged corrupt conduct

Reporting corruption is critical, because, it:

- helps to expose corrupt activities and the risks that may be hidden
- Provides the assurance that dishonest practices can be disrupted and stopped
- Ensures that public sector employees act in the public interest
- Identifies corruption trends, issues and potential risks
- It enables ACAs to follow up
- Promotes the participation of citizens and ordinary people



States Parties to UNCAC are to take measures to promote the active participation of individuals and groups outside the public sector in the prevention of corruption.... (Art. 13)

- For that purpose, Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies ...are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Reporting Corruption comes with challenges

- Pointless because nobody will care (43.1%);
- Everybody is doing it and therefore there is no need to report it
- Persons who report illegal or corrupt conduct of others are sometimes persecuted and victimised for doing so, including dismissal, if an employee
- Reporting corruption, therefore, is for public spirited citizens

That is why appropriate measures should be provided to protect reporting persons against any unjustified treatment for reporting corruption in good faith and on reasonable grounds to competent authorities any facts concerning corruption offences (see art. 33 of UNCAC)

END

## **MODULE 2: LEGAL FRAMEWORK SUPPORTING REPORTING OF CORRUPTION AND PROTECTION OF WHISTLEBLOWERS AND WITNESSES**

In the previous Module, the environment that enables people to report corruption in Ghana as patriotic people and for the good of a greater section of the Ghanaian society was presented.

Connected with the legal environment, this Module examines the 1992 Constitution, the Whistleblower Act 2006 (Act 720) and the recently enacted Witness Protection Act, 2018 as laws that empower participants to report corruption.

The main objective of the Module is to provide participants with tools for reporting corruption and knowledge to seek protection for reporting corruption.

### **Activity 1: Examining the Provisions of the 1992 Constitution on Reporting Corruption**

Objective

To examine the provisions of the 1992 Constitution on the duty of citizens to report corruption and be protected.

Time 60 Min

### Description

Group Work: First, with copies of the relevant provisions of the 1992 Constitution, participants will work in small groups to examine the provisions of the 1992 Constitution that support the duty to report corruption/ combat corruption. Participants would discuss those provisions and prepare for plenary. The facilitator will sum up the discussions.

### Resource

#### 1992 Constitution & Duty to Report Corruption

Article of Const.	Provisions
35(8)	The State shall take steps to eradicate corrupt practices and the abuse of power.
41 (b)(f)(j)	(b) to uphold and defend this Constitution and the law; (f) to protect and preserve public property and expose and combat misuse and waste of public funds and property; (j) to declare his income honestly to the appropriate and lawful agencies and to satisfy all tax obligations
294	Legal aid (1) For the purposes of enforcing any provision of this Constitution, a person is entitled to legal aid in connection with any proceedings relating to this Constitution if he has reasonable grounds for taking, defending, prosecuting or being a party to the proceedings.

### Activity 2: Introduction to the Whistleblower Act, 2006 (Act 720)

#### Objectives

- To explain what a disclosure is under Act 720
- To discuss how and where to make a disclosure

Time 45 Min

#### Description

Presentation, Q & A: The facilitator would make a presentation, which would be followed by questions and answers.

#### Resources

##### Overview of the Whistleblower Act 2006, (Act 720)

It seeks to empower employees and other persons to report corruption and other forms of impropriety (which has occurred, is occurring or is likely to occur) in good

faith and in the public interest. It protects such persons from victimisation and reprisal.

#### *Background to the passage of Act 720:*

It is recognized that criminal, corrupt and other illegal conduct in the organs of States, the private sector and other institutions in society undermines efficiency, accountability and transparency in governance and good corporate practice. Hence, the need to establish a mechanism that leads to the detection of criminal, corrupt and other illegal conduct to promote good governance

Additionally, Corruption and other unlawful conduct in both the public and private sectors as well as in the society as a whole cannot be effectively combated unless there is reliable disclosure about their incidence. This disclosure must come from persons who know the inside workings of the department, institution or organization involved; and these are invariably the employees.

Act 720 provides 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.

The Act aims at ensuring that persons who make the disclosures are not subjected to victimization. It also provides a system for victims who make disclosures to receive monetary compensation, where applicable, from the Whistleblower Reward Fund established specifically for the purpose.

#### *Who is a Whistleblower under the Act?*

A Whistleblower is a person who makes a disclosure of impropriety.

“Impropriety” includes conduct which falls within any of the matters below (s.1): an economic crime, another person has not complied with a law or is in the process of breaking a law or is likely to break a law which imposes an obligation on that person; a miscarriage of justice, waste, misappropriation or mismanagement of public resources; environmental degradation, endangering the health or safety of an individual or a community.

#### **Where to Make a Disclosure**

The disclosure of impropriety shall be made to one or more of the Agencies designated to receive disclosures:

- an employer of the whistleblower
- a police officer
- the Attorney-General
- the Auditor-General
- a staff of the Intelligence Agencies
- a member of Parliament
- the Serious Fraud Office [now EOCO]

- the Commission on Human Rights and Administrative Justice
- the National Media Commission
- the Narcotics Control Board
- a chief
- the head or an elder of the family of the whistleblower
- a head of a recognised religious body
- a member of a District Assembly
- a Minister of State
- the Office of the President
- the Revenue Agencies Governing Board, and
- a District Chief Executive

### Steps to be taken on Receipt of a Disclosure

#### *Section 6. (1):*

1. Make a record of the time and place where the disclosure is made,
2. Give to the whistleblower an acknowledgment in writing of receipt of the disclosure, and
3. Keep the writing in which the disclosure is made confidential and in safe custody pending investigation of the impropriety.
4. Submit a copy of the written disclosure to the Attorney-General within 7 working days: s. 7
5. Where the disclosure is made to a chief, head of a recognised religious body or a head or an elder of a family, the chief, head or elder may instead of recording the disclosure as required under subsection (1), assist the whistleblower to make the disclosure to the police or to some other authority specified in section 3: section 6 (2).
6. Where a person to whom the disclosure is made fails to keep confidential the disclosure, the person commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty unit~ and not more than one thousand penalty units or to a term of imprisonment of not less than two years and not more than four years or to both: section 6 (3).
7. Investigate within 60 days: s. 8(3)

### **Protection for WB**

#### *Conditions for protection:*

- One must be a “whistleblower”
- the disclosure must be made in good faith
- the whistleblower must have had a reasonable cause to believe that the information disclosed and the allegation of impropriety contained in it are substantially true

- the disclosure must be made to one or more of the persons or institutions specified in section 3: s.1(4)

### Forms of Protection:

- **Reliable anonymity Protection:** Record disclosure; Acknowledge receipt in writing to the WB-“...Keep writing in which the disclosure is made confidential and in safe custody pending investigation of the impropriety...” -s. 6(1)-(3), Stiff sanctions for failure to keep confidential the disclosure is an offence and the person, on summary conviction suffers a fine-500-1200 penalty units or 2-4 years in jail or to both.
- **Speedy and Expeditious Investigations:** “Investigation undertaken in respect of impropriety shall be carried out as expeditiously as possible and ...be completed within sixty days of receipt of the disclosure or directives to undertake the investigation”-s. 8 (3), No concealment or suppression of evidence during investigations. A person commits an offence and is liable on summary conviction to a term of imprisonment of not less than two years and not more than five years. S. 8 (4), No option of a fine
- **Protection against Victimization:** *A WB shall not be subjected to victimisation by the employer of the WB or by a fellow employee or by another person because a disclosure has been made* - s. 12 (1), Victimization because of making disclosures are: Dismissal, Suspension, Being declared redundant, Being denied promotion, Transfer against the WB’s will, Harassment, Intimidation, Threats [with any of the above]
- **Protection Against Discrimination:** The WB shall not be subjected to a discriminatory or other adverse measure by the employer of a fellow employee or, by another person or an institution. It is not victimisation “...if the person against whom the complaint is directed has the right in law to take the action complained of and the action taken is shown to be unrelated to the disclosure” – s.12(3)
- **Police Protection: By Request of WB:** A WB who has reasonable cause to believe that the whistleblower’s or the whistleblower’s family’s life or property is endangered or likely to be endangered as a result of the disclosure, may request police protection and the police shall provide the protection considered adequate. –s. 17 (1). This is to be made by either the Commission or the Attorney - General, as appropriate.
- **Protection against civil and criminal action:** A whistleblower is not liable to civil or criminal proceedings in respect of the disclosure unless it is proved that that whistleblower knew that the information contained in the disclosure is false and the disclosure was made with malicious intent. – s. 18. Makes void employment contracts and agreements (in existence or on commencement of the Act)-s.19, Right of action for victimisation – s.15, and Legal Aid-s.16

Apart from the protection, a whistleblower who makes a disclosure that leads to the arrest and conviction of an accused person shall be rewarded with money from the Whistleblower Reward Fund (s. 23) in appropriate circumstances.

*(see Notes for Presentation by Ayamdoo at Training of Trainers Workshop on Anti-Corruption Legislation organised by the GII)*

**END**

### **Activity 3: Introduction to the Witness Protection Act, 2018**

Objectives

- To introduce participants to the newly enacted Witness Protection Act, 2018 <sup>63</sup>
- To examine the protection Mechanisms in the Witness Protection Act, 2018

Time 45 Min

Description

Presentation: The facilitator would make a presentation, which would be followed by questions and answers.

### **Activity 4: Examining the Right [of Access] to Information Law**

Objective

To examine legislative opportunities for guaranteeing access to information

Time 60 Min

Description

Presentation and Group Work

The facilitator will provide the highlights of the provisions of the Constitution and the Local Governance, 2016 (Act 936) on access to Information in a power point. After the presentation, the facilitator would have participants explore in groups, how the Right to Information Legislation can assist in addressing corruption in the country and report the conclusions to plenary. The facilitator would then sum up the discussion.

**Resources**

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<sup>63</sup> As at time of finalising the Manual, copies of the Witness Protection Act were not yet available

## Right to Information

Transparency is key to addressing corruption. As often has been said, “Sunlight is the best disinfectant for Corruption, laws that seek to promote transparency are generally referred to as “Sunshine Laws”. Freedom of Information Legislation is one of such legislation which are designed to open official dealings and records to the public and to ensure that officials and employees maintain high ethical standards.

Article 21, General fundamental freedoms, of the Constitution

*(1) All persons shall have the right to .... (f) Information, subject to such qualifications and laws as are necessary in a democratic society.*

In *Lolan K. Sagoe-Moses and 6 ors v the Honourable Minister and Attorney-General*, Suit No. HR/0027/2015 (High Court-Unreported), the plaintiffs demanded for copies of a contract for branding some buses (Bus Branding Case), which the respondents denied. The Court granted the request for the documents and held inter alia, that *“under article 21(1)(f) of the Constitution, the applicants were entitled to access public information that is in the custody or possession of the Government upon request and where appropriate and lawful, the Government is bound to release the requested information or document to the persons requesting”*. The Court also stated that *“... in a democracy, the free and unrestricted marketplace for the free exchange of ideas and public debate is the heartbeat of democracy as well as the assurance of probity and accountability”*. p. 12

Local Governance Act 2016 (Act 936) on Access to information:

Section 47. *“(1) Every resident in a district shall have access on request to information held by a District Assembly or a Department of the District Assembly subject to limitation imposed by law.*

*(2) The Secretary to a District Assembly is responsible for ensuring access to information on request”*.

### Activity 5: Identifying Institutions to Report Corruption

#### Objectives

- To describe the institutions and organisations to which reports of corruption may be made
- To discuss the mandates/functions of these institutions and organisations
- To consider the role played by ALAC to complement the efforts of state institutions in addressing corruption

Time 45 Min

#### Description

Presentation, Questions and Answers

## Resources

### List of Institutions/Organisations

S/No	Institution/Organisation	Enabling Legislation
1.	CHRAJ	Constitution & Act 456
2.	EOCO	Act 804
3.	Ghana Police Service	Constitution and Act 370
4.	Office of Special Prosecutor	Act 959
5.	Advocacy and Legal Advice Centre (ALAC):	

**The Advocacy and Legal Advice Centre (ALAC)** of the Ghana Integrity Initiative complements the efforts of the Investigative institutions. It provides free, confidential and professional legal advice and assistance to victims and witnesses of corruption. Its main objectives are to:

1. *Empower citizens and corporate bodies to make and pursue corruption related complaints.*
2. *Undertake advocacy for broader structural and institutional reforms with the view to minimizing corruption in Ghana.*
3. *To complement the anti-corruption work of public institutions including the Commission of Human Rights and Administrative Justice (CHRAJ), Serious Fraud Office (SFO), Legal Aid Scheme and the Attorney General's (AG's) Department.*
4. *To build synergies with Civil Society with similar objectives to broaden the frontiers of a just, fair and caring society in Ghana.*
5. *To educate the people on corruption related issues*

### Services Offered by ALAC

The ALAC offers the following services free of charge to its complainants:

1. *Consultation with trained legal professionals*
2. *Case receipt and preparation*
3. *Referrals to Anti-Corruption Agencies for investigations and redress of corruption*
4. *Toll-free hotline, walk-ins, email, WhatsApp and postal complaint submission*

*ALAC is accessible to all persons in Ghana including corporate bodies. However, emphasis is given to indigents or the poor and the vulnerable who otherwise may find it difficult to access justice. Furthermore, the ALAC seeks to particularly support individuals who are empowered and are seeking to assert their rights.*



*The ALAC deals with all types of reported instances of corrupt behaviour; from small-scale to large-scale in-service delivery. Cases may come from across sectors such as health, education, mining, business and governance from anywhere in Ghana.*

Services NOT provided by the ALAC:

1. *The ALAC does not have the power to pronounce judgments. As a matter of law and practice, it is the judiciary that has this power. The centre can only, based on the evidence presented, counsel victims, refer cases to the appropriate authorities, monitor the solution, prepare periodic reports, and publicize monitored cases;*
2. *The Centre exposes cases of corruption only to advocate for their solution, without campaigning against persons or institutions;*
3. *The Centre does not represent victims of corruption in court;*
4. *The Centre does not investigate reported cases;*
5. *The Centre does not publicize cases of corruption UNLESS it has sought explicit prior consent of the parties involved in the matter.*
6. *Though the ALAC takes anonymous complaints; it cannot pursue such complaints”*

Source: <https://www.tighana.org/programs/ongoing-projects/advocacy-and-legal-advice-centre-alac/>- accessed 10-04-2019

## PART 7: CLOSING PART

### MODULE 1: CLOSING OF TRAINING

The Module relates to the following: 1) Wrap Up/Way forward and 2) evaluation.

The objectives are to close the training programme/workshop, reiterate the key messages/conclusions of the programme, provide an opportunity to Facilitator and organisers to make concluding statements and generally to assess the training outcomes.

#### Activity 1: Wrap Up/Way forward

Objectives

- To close the Training programme/Workshop
- To make a summary of key messages of the entire programme.

Time 15 Min

Description

Summary statements by Facilitator and organisers

#### Activity 2: Post Training Evaluation

Objectives

- To provide feedback on this training programme by completing an evaluation questionnaire
- To assess training outcomes

Time 15 Min

Description

Whole Class, and completion of an evaluation questionnaire

Resources

Sample Evaluation Questionnaire (refer to Appendix)

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# APPENDICES

## APPENDIX 1: SAMPLE WORKSHOP PROGRAMME-4-5 DAYS

### DAY 1

#### PART 1: INTRODUCTION/GETTING STARTED

TIME	PERIOD	ACTIVITY
0830-0900	30 Min	Introduction of Participants
0900-09:40	40 Min	Mapping Expectations and Evaluation
09:40-10:00	20 Min	Overview of Workshop

#### PART 2: UNDERSTANDING CORRUPTION

##### MODULE 1: DEFINITION, SCOPE, CAUSES AND EFFECTS

10:00-11:00	60 Min	Defining Corruption
11:00-11:20	20 Min	Break
11:20-12:20	60 Min	Faces of Corruption
12:20-13:10	50 Min	Faces of Corruption (Cont'd)
13:10-14:10	60 Min	LUNCH
14:10-15:10	60 Min	Causes and Effects of Corruption

##### MODULE 2: CORRUPTION AND HUMAN RIGHTS

15:10-16:10	60 Min	Understanding Human Rights
16:10-16:30	20 Min	Break
16:30-17:00	30 Min	Wrap Up/Closing for day

### DAY 2

#### MODULE 4: CORRUPTION AND HUMAN RIGHTS (CONT'D)

08:30-09:00	30 Min	RECAP
09:00-10:00	60 Min	Linkage Between Human Rights and Corruption
10:00-10:20	20 Min	Break

#### PART 3: ANTI-CORRUPTION LEGAL FRAMEWORK

##### MODULE 1: NATIONAL LEGAL FRAMEWORK

10:20-11:05	45 Min	1992 Constitution
11:05-12:05	60 Min	Act 29: Overview of Corruption Offences
12:05-12:50	45 Min	The Criminal Offences Act, UNCAC & AU Convention

12:50-13:35	45 Min	Sanctions for Corruption Offences under Act 30
13:35-14:35	60 Min	Lunch

## **MODULE 2: INTERNATIONAL INSTRUMENTS**

14:35-15:20	45 Min	UNCAC
15:20-16:05	45 Min	AU Convention
16:05-16:20	15 Min	Break
16:20-17:05	45 Min	ECOWAS Protocol
17:05-17:20	15 Min	Wrap up/End of Day

## **PART 4: ANTI-CORRUPTION STRATEGIES**

### **MODULE 1: ROLE OF NACs**

08:30 -09:30	30 Min	RECAP
09:30-10:15	45 Min	Role of NACs
10:15-12:15	2 Hrs	Anti-Corruption Bodies & Prevention of Corruption

### **MODULE 2: NACAP**

12:15-13:00	45 Min	Background & Development
13:00-14:00	60 Min	LUNCH
14:00-14:45	45 Min	POA
14:45-15:30	45 Min	M&E
15:30-15:45	15 Min	BREAK
15:45-16:00	10 Min	Wrap Up/End of Day

## **DAY 3**

### **MODULE 5: CODE OF ETHICS AND/OR CONDUCT**

08:30-09:00	30 Min	RECAP
09:00-10:00	60 Min	Code of Conduct for Public Officers
10:00-11:00	60 Min	Conflict of Interest & Assets Disclosure
11:00-11:20	20 Min	BREAK
11:20-12:20	60 Min	Conflict of Interest & Assets Disclosure (Cont'd)
12:20-13:20	60 Min	Gifts and Gratuities
12:20-13:20	60 Min	LUNCH BREAK

## **PART 5: ROLE OF NON-STATE ACTORS IN COMBATING CORRUPTION**

### **MODULE 1: ROLE OF NON-STATE ACTORS**

13:20-14:20	60 Min	Role of CSOs
14:20-15:05	45 Min	Role of the Media

## **MODULE 2: ROLE OF FBOs**

15:05-15:20	15 Min	BREAK
15:20-16:05	45 Min	Why FBOs?
16:05-17:05	60 Min	Role of FBOs
17:05-17:20	10 Min	Wrap Up/End of Day

## **DAY 4**

### **PART 6: REPORTING CORRUPTION**

#### **MODULE 1: ENABLING ENVIRONMENT**

08:30-09:00	30 Min	RECAP
09:00-09:45	45 Min	Importance of Reporting

#### **MODULE 2: LEGAL FRAMEWORK ON REPORTING CORRUPTION**

09:45-10:45	60 Min	1992 Constitution
10:45-11:00	15 Min	BREAK
11:00-11:45	45 Min	Whistleblower Act
11:45-12:30	45 Min	Witness Protection
12:30-13:30	60 Min	Access to Information
13:30-14:30	60 Min	LUNCH
14:30-15:15	45 Min	Where to Report Corruption

### **PART 7: CLOSING PART**

#### **MODULE 1: EVALUATION**

15:15-15:45	30 Min	Wrap Up/Conclusions/Evaluation
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## **APPENDIX 2: SAMPLE ONE-DAY WORKSHOP PROGRAMME**

<b>TIME</b>	<b>PERIOD</b>	<b>ACTIVITY</b>
08:30-08:45	15 Min	Introduction of Participants
08:45-09:00	15 Min	Mapping Expectations
09:00-09:20	20 Min	Pre-Evaluation
09:20-09:40	20 Min	Overview of Workshop
09:40-10:40	60 Min	Understanding Corruption
10:40-11:00	20 Min	Q&A
11:00-11:15	15 Min	BREAK
11:15-11:45	30 Min	Corruption and Human Rights
11:45-12:15	30 Min	Overview of Anti-Corruption Legal Framework
12:15-12:30	30 Min	Q&A
12:30-13:00	30 Min	Strategies To Combat/Control Corruption

13:00-14:00	60 Min	LUNCH BREAK
14:00-14:45	45 Min	NACAP
14:45-15:00	15 Min	Q&A
15:00-15:30	30 Min	Code of Conduct for Public Officers
15:30-15:45	15 Min	BREAK
15:45-16:45	60 Min	Role of FBOs under NACAP
16:45-17:15	30 Min	Protecting Reporting Persons And Witnesses
17:15-17:45	30 Min	Workshop Evaluation/Wrap up/Closing

## APPENDIX 3: PRE-TRAINING QUESTIONNAIRE

### PART A: GENERAL INFORMATION

1. What is your title/responsibility at your organization?

- Executive Director/Secretary
- Head of Religious Organisation
- Staff
- Member of Board of Directors
- Adviser
- Other (Specify).....

2. What is your primary occupation?

- Religious Leader
- Anti-Corruption Practitioner
- Lawyer
- NGO Administration
- Government Official
- Parent/Homemaker
- Other (Specify) \_\_\_\_\_

3. Age:

- |                                     |                                   |                                    |
|-------------------------------------|-----------------------------------|------------------------------------|
| <input type="checkbox"/> 20 & under | <input type="checkbox"/> 30 to 35 | <input type="checkbox"/> 46 to 49  |
| <input type="checkbox"/> 21 to 25   | <input type="checkbox"/> 36 to 39 | <input type="checkbox"/> 50 & over |
| <input type="checkbox"/> 26 to 29   | <input type="checkbox"/> 40 to 45 |                                    |

4. Gender:     Male  Female

5. What is the main activity of your organization?

- Religious Organisation
- Civil Society Organisation
- Media
- Other (Specify).....



6. How many times have you facilitated training sessions?

.....  
 .....

7. Have you attended other training for trainers programs?

- No
- Yes - Please explain. (When? where? offered by whom?)

**PART C: EXPECTATIONS**

8. What do you expect from the programme? List two expectations

- i. \_\_\_\_\_
- ii. \_\_\_\_\_

9. Rate your level of appreciation of the following:

S/No	SUBJECT	VERY HIGH	HIGH	AVERAGE	CANNOT TELL
1.	Definition, scope, causes and effects of Corruption				
2.	Linkage between Corruption and human rights				
3.	Legal Framework for fighting corruption				
4.	International Instruments on Corruption				
5.	Code of conduct for public officers of Ghana				
6.	Gifts Policies in the Public service				
7.	Assets Declaration Regime in Ghana				
8.	Role of Faith-based organisations under NACAP				
9.	Where and how to report corruption				
10.	Where and how to blow a whistleblower on corruption and wrong doing				

*Thank you very much for taking the time to complete this questionnaire.*

## APPENDIX 4: POST-TRAINING QUESTIONNAIRE

### PART A: GENERAL INFORMATION

1. What is your title/responsibility at your organization?

- Executive Director/Secretary
- Head of Religious Organisation
- Staff
- Member of Board of Directors
- Adviser
- Other (Specify).....

2. What is your primary occupation?

- Religious Leader
- Anti-Corruption Practitioner
- Lawyer
- NGO Administration
- Government Official
- Parent/Homemaker
- Other (Specify) \_\_\_\_\_

3. Age:

- 20 & under       30 to 35       46 to 49  
 21 to 25       36 to 39       50 & over  
 26 to 29       40 to 45

4. Gender:  Male  Female

5. What is the main activity of your organization?

- Religious Organisation
- Civil Society Organisation
- Media
- Other (Specify).....

### PART B: LOGISTICS

6. Please evaluate your main facilitator on the following:

	Very Good	Good	Average	Poor
Ability to ask questions that stimulate discussion				
Commitment to the task at hand				
Familiarity with program content				
Accommodation				
Hall				

Quality of Food and Service				
Overall organization of training programme				

7. Please evaluate the Venue

	Very Good	Good	Average	Poor
Accommodation				
Hall				
Quality of Food and Service				
Overall organization of training				

**PART C: OBJECTIVES AND ACTIVITIES**

8. Were the objectives of the training met?

- Yes, completely
- Partially (please explain below)
- No, not at all (please explain below)

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9. Rate your level of appreciation of the following:

S/No	Subject	Very High	High	Average	Cannot Tell
1.	Definition, scope, causes and effects of Corruption				
2.	Linkage between Corruption and human rights				
3.	Legal Framework for fighting corruption				
4.	International Instruments on Corruption				
5.	Code of conduct for public officers of Ghana				
6.	Gifts Policies in the Public service				
7.	Assets Declaration Regime in Ghana				
8.	Role of Faith-based organisations under NACAP				
9.	Where and how to report corruption				
10.	Where and how to blow a whistleblower on corruption and wrong doing				

10. Were your expectations met?
- Yes, completely
  - Partially (please explain below)
  - No, not at all (please explain below)
- 
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11. What aspects of the program did you find most useful?

.....

.....

.....

12. What aspects of the program did you find less useful?

.....

.....

*Thank you very much for taking the time to complete this questionnaire.*

## APPENDIX 5: RELIGIOUS TEACHINGS ON CORRUPTION

THE HOLY QURAN		
S/No.	Verse/Reference	Quotation
1.	Surah 16. An-Nahl Part 14 <sup>64</sup>	And those who disbelieve are allies of one another, (and) if you (Muslims of the whole world collectively) do not do so [i.e. become allies, as one united block under one Khalifah (a chief Muslim ruler for the whole Muslim world) to make victorious Allah's religion of Islamic Monotheism], there will be Fitnah (wars, battles, polytheism) and oppression on the earth, and a great mischief and corruption (appearance of polytheism
2.	Surah 11. Hud. Part 12 298	“And O my people! Give full measure and weight in justice and reduce not the things that are due to the people, and do not commit mischief in the land, causing corruption.

<sup>64</sup> Dr. Muhammad Taqi-ud-Din Al-Hilali, Dr. Muhammad Muhsin Khan. Translation of the meanings of THE NOBLE QUR'AN IN THE ENGLISH LANGUAGE, <https://www.holybooks.com>

3.	Siirah 26. Ash-Shu'ara Part 19	“And defraud not people by reducing their things, nor do evil, making corruption and mischief in the land.
4.	Surah 2, Al Baqarah Part 2. 39	And eat up not one another's property unjustly (in any illegal way e.g. stealing, robbing, deceiving, etc.), nor give bribery to the rulers Qudges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully.
5.	The Believers (al-Mu'Minum) 469	O messengers, eat of the good things, and act with integrity. I am aware of what you do.”
6.	(The family of Imran (Ali'Inram)	Whoever acts dishonestly will be his dishonesty on the day of the Resurrection.
7.	Siirah 26. Ash-Shu'ara Part 19 183.	And defraud not people by reducing their things, nor do evil, making corruption and mischief in the land.

8.	Chapter 61 (As-Saaf) verses 2-3:	“O you who believe! Why do you say that which you do not practise? It is most loathsome in the sight of Allah that you should say what you do not practice” <sup>65</sup>
9.		“The hypocrite has three signs even if he offered the Prayer and observed the Fast, and professed to be a Muslim: That is, when he spoke he lied; when he made a promise, he broke it; and when he was entrusted with something, he proved dishonest. (a Hadith (a statement by the holy prophet, [peace be upon him]), (Bukhari, Muslim) <sup>66</sup>

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65 Credit Alhaji MAK Addo

66 ibid

67 ibid

68 ibid

10.	Chapter 83 (Al-Mutaffifin) verses 1-3:	1. 'Woe to those who deal in fraud – 2. Those who, when they have to receive by measure from, exact full measure, 3. But when they have to give by measure or weight to others, they give them less than due' <sup>67</sup>
11.	Chapter 8 (Al-An-faal) verse 27 thus	'O you who believe! Betray not the trust of Allah and the Messenger, nor misappropriate knowingly things entrusted to you <sup>68</sup>
<b>HOLY BIBLE</b>		
S/No	Verse	Quotation
12.	Deut 10:17	For the Lord your God is God of gods and Lords of lords, the great God mighty and awesome, who shows no partiality and accepts no bribes.
13.	2 Chron 19:7	Now then, let the fear of the Lord be upon you. Be careful what you do, for there is no injustice with the Lord our God, or partiality or taking bribes.”
14.	Matt 6:19 - 21	Do not store up for yourselves treasures on earth, where moth and rust destroy, and where thieves break in and steal. But store up for yourselves treasures in heaven, where moth and rust do not destroy and where thieves do not break in and steal!
15.	James 2: 9-10	But if you show partiality, you are committing sin and are convicted by the law as transgressors. For whoever keeps the whole law but fails in one point has become accountable for all of it.
16.	Gen 6:11 – 12,	“Now the earth was corrupt in God’s sight and full of violence. God saw how corrupt the earth had become for all the people on earth had corrupted their ways”.

17.	2 Kings 5:15 – 16	<p>Then he returned to the man of God, he and all his company, and he came and stood before him. And he said, “Behold, I know that there is no God in all the earth but in Israel; so accept now a present from your servant.”</p> <p>But he said, “As the Lord lives, before whom I stand, I will receive none.” And he urged him to take it, but he refused.</p>
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#### **GHANA INTEGRITY INITIATIVE**

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