

POLICY BRIEF

ADDRESSING CORRUPTION RISKS IN THE ACHIEVEMENT OF THE SDG 16 (JUSTICE DELIVERY SYSTEM) IN GHANA

Issued by Ghana Integrity Initiative (GII) &
Ghana Anti-Corruption Coalition (GACC)

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The Ghana Integrity Initiative (GII) and the Ghana Anti-Corruption Coalition (GACC), with the support of the Strengthening Transparency, Accountability and Responsiveness in Ghana (STAR-Ghana), carried out a Corruption Risks Assessment in the Achievement of the Sustainable Development Goals 3, 4 and 16 (SDGs 3, 4 & 16) between July and October, 2019. The Corruption Risks Assessment was part of a project titled “Creating Anti-Corruption Voices in the Implementation of the Sustainable Development Goals (SDGs)” aimed at generating recommendations for anti-corruption advocacy to help deal with corruption in relation to the implementation of interventions towards achieving the SDGs 3, 4 & 16.

The overall goal of the intervention is to reduce corruption in the implementation of SDGs 3, 4 & 16, which have to do with Health, Education and the promotion of peaceful, just and strong institutions for sustainable development, especially increased access to justice and effective, accountable and inclusive institutions.

The project seeks to make the SDGs anti-corruption targets visible and known by the CSO platform on SDG 3, 4 and 16 and the general public at large. It also seeks to strengthen CSOs capacity to mainstream SDG 16 targets - 16.5.1 and 16.5.2 into SDGs-related service delivery engagements and to promote sustainable procurement in the implementation of the SDGs.

As Ghana has signed on to the global commitment to sustainable development goals, it must address all the goals, including eradicating corruption as required by SDG 16.5, seriously. This is because it is virtually impossible to achieve any of the SDGs without dealing successfully with corruption. Ghana's inability to successfully deal with corruption has, therefore, drawn the attention of many stakeholders, including the government and its agencies and Civil Society Organizations (CSOs), hence the need to take up the fight against corruption much more seriously than has been done so far.

In particular, corruption in justice delivery weakens institutions and denies citizens of justice and their basic human rights.



METHODOLOGY

The Methodology for conducting the CRA started by identifying the key stakeholders in the delivery of the SDGs 3, 4 and 16, particularly with regards to procurement. These stakeholders included the Ministries of Health, Education and Justice and Attorney-General's Department, the Ghana Education Service, the Ghana Health Service, Audit Service and the Judicial Service. Other stakeholders included the National Procurement Authority, the Economic and Organized Crime office, the CHRAJ, the GETFund, the National Health Insurance Authority, and some hospitals and schools. The rest were the CSO Platform on SDGs 3 and 4 as well as CSOs working on these Goals, including GACC, GII, SEND Ghana and experts and individuals working on procurement, among others.

These stakeholders were then surveyed to help identify the types of corruption that exist or can arise within their sectors, the probability of the occurrence of these corrupt acts and their impact if they do occur. The study also examined the control measures that exist to minimise their occurrence and assessed how effective these measures are. In addition, the stakeholders also proposed additional control measures that could be introduced and assessed how effective they would be in curbing corruption in their sectors.

CORRUPTION RISKS IN THE JUSTICE DELIVERY SYSTEM

In justice delivery, bribery, extortion and illegal payments involving judges, lawyers and judicial staff came out prominently as high corruption risks. This includes court users paying bribes to administrative employees in order to alter the legally-determined treatment of files and discovery material, court users paying bribes to accelerate or delay a case by illegally altering the order in which a case is to be adjudicated by a judge, and payment of money or other gifts to judges and magistrates to influence decision-making.

When there is a strong perception that the lawyer on one side has seen the judge behind one's back, the lawyer on the other side will also be tempted or even prompted to also "do something". Too many cases before a judge can lead to a lot of frustration and prompt lawyers and their clients to try and "do something" so as to jump the queue. Political patronage, cronyism, favouritism, nepotism and other unfair influences in the justice delivery system also came out prominently as high corruption risks.

Other corruption risks include judges possibly being influenced by politicians in cases involving highly placed persons while in some cases, the Attorney-General may refuse to prosecute some politically sensitive and high-profile cases. Some

lawyers may also bribe judges and clerks for frequent adjournments so as to make more money from their clients while litigants may also pay the clerks to speed up or delay cases. Some lawyers may also deliberately manipulate the system to delay cases that they perceive are going against them or in order to charge additional fees as well as pay clerks to get "favourite" judges before whom they appear. This latter case may be curbed by the electronic assignment of cases.

Other corruption risks involve judicial staff hiding dockets, committing fraud and embezzling public property or private property in court custody, demanding money before assisting in the preparation of documents for execution of a court order, demanding money for serving court processes and enticing litigants to part with money by giving them misleading information. On the side of prosecutors, the risk that some prosecutors can deliberately make wrong charges in order to exonerate accused persons is perceived to be high.

All these corrupt acts could lead to the denial or delays in justice delivery, create a sense of injustice and loss of trust in the judicial process, leading to people taking the law into their own hands and endangering the lives of citizens. It can also result in human rights violations and lawlessness as offenders are not punished appropriately while the poor and marginalized in society remain at the receiving end of injustice.



As shown in the impacts of corruption in the justice delivery system, the implications are obvious and do not augur well for any democratic society. This calls for serious action to stem them in the bud and help improve justice delivery, especially to the poor and marginalized in the country.

As such, GII and the GACC call for action on the part of the government and its various agencies to address the situation by adopting the following recommendations:

- The automation of court processes and the redeployment of the electronic reporting system should be extended to at least all high courts throughout the country;

The Ghana Bar Association (GBA), a very strong professional body of lawyers, must more effectively control and sanction its members for malpractices in the way they handle cases;
- Anti-corruption CSOs should be allowed and encouraged to design a CSO tracking system to track performance of the courts in terms of quality justice delivery. The Judicial Service should accept their findings in good faith and address any gaps the CSOs identify;

It is important and imperative that the Judicial Service promptly investigate and deal drastically with judges and other employees who engage in corrupt acts;
- The Judicial Service has a Complaints system in place but it is recommended that the system be expanded by providing more complaints channels and units in all high courts throughout the country. In line with this, it is also recommended that any complaints received should be promptly dealt with;

The Judicial Service should automate its payment system, use trained cashiers and provide onsite banks for all monies paid to the courts;
- Finally, it is recommended that all appointments, postings and promotions of judges and judicial staff be based on merit, experience and integrity.

CONCLUSION

The corruption risks that were identified as having being most likely to occur include bribery, extortion and illegal payments, collusion such as tender rigging, contract splitting, procurement fraud, political patronage and interference in procurement and management of the relevant MDAs and favouritism and nepotism. Although Conflict of Interest is not corruption just by itself, most of the respondents saw it as a corruption risk and treated it as such in their responses. The impacts of all these corruption risks, which include loss of public funds, decreased access to social services and even loss of lives, are very high, making it imperative that efforts are taken to minimise them.

In order to help curb procurement corruption in the country, it is important to ensure that all procurement entities comply with the Public Procurement Act and the Public Procurement Manual which are seen as a strong regulatory framework that, if allowed to work, will be effective in curbing procurement corruption. However, there is a need for political commitment in the fight against procurement corruption so as to save the country from heavy losses of state revenues that are needed for an expanded infrastructure and quality delivery of basic social services like health and education.