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# ASSESSMENT OF THE ANTI-CORRUPTION FUNCTIONS OF ANTI-CORRUPTION STATE INSTITUTIONS FOR THE PERIOD 2011 TO 2014





# **ASSESSMENT OF THE ANTI-CORRUPTION FUNCTIONS OF ANTI-CORRUPTION STATE INSTITUTIONS FOR THE PERIOD 2011 TO 2014**

## **ACKNOWLEDGMENT**

The Ghana Integrity Initiative (GII) Consortium was established in 2014, comprising GII, Ghana Anti-Corruption Coalition (GACC) and SEND GHANA to implement a 4-year USAID funded project titled "Accountable Democratic Institutions and Systems Strengthening (ADISS)" in 50 districts across the ten regions of Ghana.

ADISS seeks to renew and build upon on-going efforts and also increase the capacities of anti-corruption CSOs to motivate citizens to apply pressure on policy makers and institutions through a number of targeted and focused actions with the aim to reduce corruption in Ghana.

## **DISCLAIMER**

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of February, 2017. Nevertheless, GII Consortium cannot accept responsibility for the consequences of its use for other purposes or in other contexts.

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Compiled and Edited by ADISS Research Team

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## **LIST OF ACRONYMS AND ABBREVIATIONS USED**

ADISS	Accountable Democratic Institutions and Systems Strengthening
A-G	Attorney General
APR	Annual Progress Report of the National Development Planning Commission
ARIC	Audit Report Implementation Committee
AU	African Union
CHRAJ	Commission on Human Rights and Administrative Justice
CPI	Corruption Perception Index
CSO	Civil Society Organisations
EOCO	Economic and Organised Crime Office
GACC	Ghana Anti-Corruption Coalition
GII	Ghana Integrity Initiative
GSGDA	Ghana Shared Growth and Development Agenda
GYEEDA	Ghana Youth Employment and Entrepreneurial Agency
PAC	Public Accounts Committee
SAI	Supreme Audit Institution
SCGLR	Supreme Court of Ghana Law Report
MDAs	Ministries, Departments and Agencies
MMDAs	Metropolitan, Municipal, and District Assemblies
NACAP	National Anti-Corruption Action Plan
NCCE	National Commission on Civic Education
NDPC	National Development Planning Commission
UNCAC	United Nations Convention against Corruption
USAID	United States Agency for International Development

# EXECUTIVE SUMMARY

## 0.1 Background and context of the Assessment

There is a strong perception that corruption is endemic in Ghana. Corruption deprives the State of the availability of scarce resources for the supply of public goods. This is supported by various studies including those conducted by Transparency International, the membership of the Ghana Integrity Consortium and Afrobarometer surveys.

There have been efforts to combat corruption in Ghana. Part of these efforts includes strengthening the legal framework which supports the fight against corruption in Ghana. For instance, various laws have been passed with respect to financial administration, public procurement, internal audit and whistleblowing. In 2014, Parliament adopted the National Anti-Corruption Action Plan (NACAP) (2015-2024) which represents Ghana's roadmap to tackling corruption. Implementation of NACAP is on-going.

In spite of these efforts, the fight against corruption is far from over. Strengthening the institutions which have the mandate to combat corruption is recognized as one key step towards improving the fight against corruption. This is one of the key objectives of the Project titled "Accountable Democratic Institutions and Systems Strengthening (ADISS)" being implemented by the Ghana Integrity Consortium (comprising of Ghana Integrity Initiative (GII), Ghana Anti-Corruption Coalition (GACC) and SEND Ghana) with funding support from the United States Agency for International Development (USAID). In order to achieve the purpose of ADISS, several interventions have been made to promote CSO and the public sector

discourse on the effectiveness of anti-corruption efforts and the institutions mandated to fight corruption. This is expected to renew and build upon on-going anti-corruption efforts and increase the capacities of anti-corruption Civil Society Organizations (CSOs) to motivate citizens to apply pressure on policy makers and institutions with the aim of reducing corruption in Ghana. One key way to do this is to understand how effectively anti-corruption institutions have performed their various functions under their various mandates as provided for in law and by their practices. Hence, the GII Consortium has decided to deepen its understanding of the state of the performance of the functions of 3 key accountability institutions between 2011 and 2014 in order to engage in informed advocacy towards the improvement in the performance of these functions in the future. The institutions under consideration are:

- Commission on Human Rights and Administrative Justice (CHRAJ)
- The Office of the Auditor General, and
- The Office of the Attorney General.

This Report contains the findings and recommendations from the assessment of the performance of 3 specific anti-corruption functions of the 3 national institutions listed above. The findings of the assessment will be used for policy engagements and advocacy for reforms.

The functions which were assessed are:

### **Commission on Human Rights and Administrative Justice (CHRAJ)**

- Investigation of all instances of corruption and conflict of interest

- Public education on the evils of corruption and ethos of anti-corruption
- Investigation of contravention or non-compliance with Code of Conduct for Public Officers and conflict of interest

### The Office of the Auditor General

- Audit Report preparation
- The power of disallowance and surcharge
- Sensitization of stakeholders on accountability

### The Office of the Attorney General

- Civil litigation against persons suspected or accused of corruption and recovery of assets on behalf of the State
- Public education and prevention of anti-corruption
- Investigation and Prosecution of corruption cases

These functions were purposely selected taking into account the mandate of the institutions as provided for in the various laws establishing the institutions, the importance of these functions as identified in NACAP and the importance of these functions as recognized by the institutions through making programmatic and financial commitments towards the performance of these functions. For instance, financial and human resource allocations were made for the performance of all these functions in various Annual Reports, and Programme Based Budget documents by these institutions submitted to the Ministry of Finance.

## Summary of Findings

### 0.2.1 Commission on Human Rights and Administrative Justice

The summary of the findings is:

1. CHRAJ is a key anti-corruption agency in Ghana. CHRAJ has the unique mandate to investigate corruption, conflict of interest and the non-compliance with the Code of Conduct for Public Officers contained in Chapter 24 of the 1992 Constitution.
2. There is a perception that CHRAJ dedicates a small percentage of its resources to the fight against corruption. However, for the period under review, on average, CHRAJ allocated about 35% of **financial resources** to the fight against corruption annually.<sup>1</sup> The view that CHRAJ dedicates only a small percentage of its resources to anti-corruption efforts is not supported by the available records.
3. The number of corruption related cases investigated by CHRAJ either as a result of complaints received or on its own motion is low and does not adequately contribute towards the fight against corruption.
4. CHRAJ does not separate investigations into the non-compliance with the Code of Conduct for Public Officers from corruption investigations.
5. There is very limited education of public officers on the Code of Conduct for Public Officers and Guidelines on Conflict of Interest.
6. CHRAJ has a challenge in disaggregating the medium used for public education with respect to its mandates as Regional Offices adopt varied forms of templates for reporting to the National Office. Hence, CHRAJ is unable to provide reliable data on the various media used for public education.

From the above, the summary of recommendations is:

1. As the number of corruption related cases investigated by CHRAJ either as a result of

1. Annual Reports for CHRAJ from 2011 to 2014.

complaints received or on its own motion is low, CHRAJ must develop confidence-building measures to increase presentation of corruption complaints by the citizenry.

2. Every District Officer should have a target of about 4 Public Outreach Programmes in a month. At a minimum, there must be 2 Public Outreach Programmes.
  3. CHRAJ must present in its Reports under separate headings information on investigations into the non-compliance with the Code of Conduct for Public Officers and actual corruption investigations.
  4. CHRAJ must develop a plan to increase its outreach for education of public officers on the Code of Conduct for Public Officers and Guidelines on Conflict of Interest.
  5. CHRAJ must develop a standardized template for reporting from the regions such that disaggregation of corruption related investigations and the medium used for public education with respect to its mandates from the regions can be easily carried out.
4. The Office of the Auditor General has performed creditably well in the performance of its audit functions, although the Office is unable to cover all institutions of State which must be audited every year.
  5. The Office of the Auditor General relies heavily on private audit firms leading sometimes to delays in the issuance of the Audit Reports.
  6. The performance of the functions of the Auditor General with respect to surcharges and disallowance is minimal. There is a pending suit against the Auditor General by members of Occupy Ghana, a pressure group with respect to the performance of the surcharge and disallowance functions of the Auditor General.

## **0.2.2 Office of the Audit General**

The summary of the findings is:

1. The Office of the Auditor General with the Ghana Audit Service is the Supreme Audit Institution of Ghana with Audit and Non-Audit mandate to ensure the judicious use of public funds.
2. The 1992 Constitution provides a strict timeline for the performance of the Audit functions of the Auditor General. The timeline as provided in the Constitution appears unworkable at the moment.
3. The Auditor General is by law privileged to
7. Public Education of the public officers on accountability and the possibility of surcharges and disallowances is very minimal.
8. It is the responsibility of the Auditor General to recommend surcharges and disallowance. The enforcement of such recommendation lies with the individual heads of the various public institutions with which the particular public officer works.
9. Annual Reports of the Auditor General are not readily available to the public. Final

copies of such Annual Reports are difficult to locate even in the Head Office.

From the above, the summary of recommendations is:

1. The Auditor General must use its privileged position of financial independence as determined by the Supreme Court in *Brown v. the Attorney General* to improve the level of coverage of State institutions it audits. The Auditor General must develop a plan on how to achieve financial independence in practice as envisaged in the Constitution.
2. The number of sensitization workshops on corruption conducted by the Auditor General per year must increase.
3. Annual Reports of the Auditor General must be publicly available and widely circulated including posting on its website.
4. There is the need for a review of the timeline in the 1992 Constitution for the performance of the Audit functions of the Auditor General. The 30th June deadline for the audit of all public accounts as provided in the Constitution appears to be very limiting and unworkable at the moment. A deadline of 30th September will give the Auditor General 6 months within which to prepare the audits.
5. The Office of the Auditor General must endeavour to cover all institutions of State which must be audited every year. The Office of the Auditor General must develop a plan on how to achieve complete coverage of institutions.
6. The Auditor General must commence recommendations for surcharges and disallowances. The Office must develop a plan on increasing sensitization of public

officers on the power of the Auditor General to recommend surcharges and disallow expenses. There must also be a plan to ensure that individual heads of institutions implement recommendations of the Auditor General with respect to surcharges and disallowances.

### **0.2.3 Office of the Attorney General**

The summary of the findings is:

1. The Attorney General is the Principal legal advisor to Government. The Attorney prosecutes corruption cases, retrieves proceeds of crime from corruption cases (through the Economic and Organised Crimes Office (EOCO)) and educates the public on anti-corruption measures.
2. The Office of the Attorney General does not disaggregate corruption cases from other criminal cases, hence statistics on corruption cases is difficult to obtain. This is partly due to the limited definition of corruption under the Criminal Offences Act, 1960 (Act 29).
3. The number of prosecutions of corruption cases is very low as compared to the perception that corruption in Ghana is rampant and increasing.
4. The Office of the Attorney General does not have adequate information on proceeds of crime in relation to corruption which have been recovered. The Economic and Organised Crime Office performs this function on behalf of the Office of the Attorney General. The Economic and Organised Crime Office, however, does not disaggregate proceeds of crime recovered, with a view to isolating recoveries from corruption related cases. This means that, EOCO is unable to indicate with reasonable amount of certainty and in good time what

proportion of the proceeds of crime recovered is from corruption related cases.

5. Annual Reports of EOCO since 2011 have not been made public mainly because such Reports are yet to be presented to Parliament. The Annual Reports for 2012 and 2013 have been finalized and printed but are yet to be furnished to any member of the Public.
6. The performance of the public education function in relation to corruption by the Attorney General appears to be misplaced as the Office of the Attorney General has very limited reach as compared to CHRAJ and the National Commission for Civic Education (NCCE).

From the above, the summary of recommendations is:

1. There must be expeditious prosecution of corruption cases to engender trust in persons who may have blown the whistle on accused persons. Undue delays lead to suspicions and mistrust for the fight against corruption.
2. The Attorney General's Department should be strengthened to avoid the lapses and inefficiencies documented in the report of the Justice Yaw Apau's Commission on Judgment Debts to strengthen both prosecution and civil litigation. The capacity requirements for lawyers of the Attorney General's Office may be specialized training tailored for the lawyers towards the fight against corruption in Ghana.
3. There should be close and dynamic collaboration between all the anti-corruption institutions to avert duplication of efforts and to foster synergies. The Office of the Attorney General should

coordinate this as major aspects of the fight against corruption such as prosecutions and recovery of Assets rest largely with the Office of the Attorney General and / or with Departments or Offices working under the Attorney General.

4. The Office of the Attorney General must disaggregate corruption cases from other criminal cases to make it easy to have information and statistics on corruption cases.
5. The Attorney General must expedite action on the review of the law on corruption with a view to broadening the very limited definition of corruption under the Criminal Offences Act, 1960 (Act 29).
6. The Office of the Attorney General must work with EOCO in order to have adequate information on proceeds of crime in relation to corruption.
7. EOCO must disaggregate proceeds of crime recovered so as to be able to indicate with reasonable certainty and in good time what proportion of the proceeds of crime recovered is from corruption related cases.
8. Annual Reports of EOCO since 2011 must be made public. The Attorney General must work with EOCO for such Annual Reports which are ready to be presented to Parliament and be made public soon thereafter.
9. The Attorney General must work with CHRAJ and the National Commission for Civic Education (NCCE) to improve and broaden public education and sensitization on corruption.

# INTRODUCTION

## 1.1.1 Context of assignment

Corruption has a detrimental impact on the development of any country. It affects the effective provision of public services, particularly services to the most vulnerable groups in society. Despite the plethora of efforts to combat corruption, it remains an endemic problem in most countries. Ghana is no exception.

According to Transparency International's Corruption Perception Index (CPI) for 2016, Ghana is the second worst decliner in Africa as far as how government is perceived to be corrupt by the citizenry is concerned. Ghana scored 43 out of 100 and was ranked 70th least corrupt country globally.<sup>2</sup> In 2015, Ghana was ranked 61st least corrupt with a score 47 out of 100. Ghana scored 48 out of 100 and was ranked 63rd least corrupt country globally for year 2014. Ghana's score is low and continuously declining.

Over the last couple of years, high-profile corruption cases have come to light in Ghana. Some have been channeled through the appropriate authorities which have made their findings public. A recent one of these high profile cases is the allegation of corruption and conflict of interest leveled against former President John Mahama for having received a Ford Expedition gift from a Burkinabe Contractor during the time he was the Vice President of Ghana. Investigations by the Commission on Human Rights and Administrative Justice (CHRAJ) into the allegations of corruption and conflict of

interest concluded that although the gift formed part of the prohibited gifts under the Gifts Policy in the Code of Conduct for public officers, the actions and conduct of the former President sufficiently dealt with any conflict of interest situation that could have been occasioned. Hence, CHRAJ concluded that the former President did not put himself in a position of conflict of interest, neither did he contravene the law as provided in article 284 of the 1992 Constitution.<sup>3</sup> Article 284 of the 1992 Constitution provides that "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." However, there are several corruption related cases which are yet to be concluded. These include prosecutions for allegations of impropriety as a result of investigations into the operations of the Ghana Youth Employment and Entrepreneurial Agency (GYEEDA) by a Ministerial Impact Assessment Committee between April and June 2013 following media exposition of possible corruption and mal-administration of the Agency.<sup>4</sup>

Aside investigations and prosecutions for corruption, Ghana has made significant efforts in the fight against corruption in recent times. The introduction of anti-corruption legislation with respect to financial administration, public procurement, internal audit and whistleblowing has been helpful in the fight against corruption. Parliament has also improved its watch-dog status with its Public Accounts Committee holding public

2. Transparency International Corruption Perception Index (CPI) for 2016 available at [http://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016#table](http://www.transparency.org/news/feature/corruption_perceptions_index_2016#table) (last accessed on 30th January 2017).

3. The Decision of the Commission on Human Rights and Administrative Justice (CHRAJ) in the matter between the National Youth League of the Convention People's Party and 2 others, and President John Dramani Mahama dated the 29th day of September, 2016 on the Ford Expedition investigations is available at <http://www.chrajghana.com/wp-content/uploads/2016/09/Pre-Report.compressed.pdf> (last accessed on 30th January 2017).

4. One of such cases is the Republic v. Abuga Pele & Akpeena Assibit (pending before the High Court, Accra).

sittings. However, the fight against corruption must be carried out by strong institutions effectively discharging on their mandates at the supply and demand sides of the fight against corruption. The demand side of the spectrum, mainly civil society organisations must be strengthened to enable it to be capable of holding the supply side accountable to their mandates. Strengthening the demand side of accountability is one of the objectives of the Accountable Democratic Institutions and Systems Strengthening (ADISS) Project. ADISS is a United States Agency for International Development (USAID) funded Project to increase government accountability. Specifically, ADISS is to renew and build upon on-going anti-corruption efforts and increase the capacities of anti-corruption Civil Society Organizations (CSOs) to motivate citizens to apply pressure on policy makers and institutions with the aim of reducing corruption in Ghana. The Ghana Integrity Initiative (GII) Consortium comprising GII, Ghana Anti-Corruption Coalition (GACC) and SEND Ghana is an implementing agency of ADISS.

The GII Consortium has engaged the Consultant to “assess the performance of specific functions from the constitutional mandates of three (3) key Accountability Institutions specifically, Commission on Human Rights and Administrative Justice (CHRAJ), the Office of the Auditor General and Attorney-General’s (A-G) Department. The findings of the assessment will be used for policy engagements and advocacy for reforms.

In terms of the scope of this assignment, it is helpful to note that the assessment is not about whether the mandates of the various institutions are appropriate for the combat against corruption in Ghana. The assessment is on how well the functions as mandated under the enabling laws of these institutions

have been executed by the institutions between 2011 and 2014.

The specific functions which were assessed are:

**Commission on Human Rights and Administrative Justice (CHRAJ)**

- Investigation of all instances of corruption and conflict of interest
- Public education on the evils of corruption and ethos of anti-corruption
- Investigation of contravention or non-compliance with Code of Conduct for Public Officers and conflict of interest.

**The Office of the Auditor-General**

- Audit Report preparation
- The power of disallowance and surcharge
- Sensitization of stakeholders on accountability

**The Office of the Attorney-General**

- Prosecution of corruption cases
- Civil litigation against persons suspected or accused of corruption and recovery of assets on behalf of the State
- Public education and prevention of anti-corruption

These functions were purposely selected taking into account the mandate of the institutions as provided for in the various laws establishing the institutions, the importance of these functions as identified in NACAP and as recognized by the institutions through making programmatic and financial commitments towards the performance of these functions. For instance, financial and human resource allocations were made for the performance of all these functions in various Annual Reports by the institutions and the Annual Progress Reports by the National Development Planning Commission (NDPC).

The functions of the institutions under review have been performed within the general context of the National Anti-Corruption Action Plan (NACAP) (2015-2024).

### 1.1.2 The National Anti-Corruption Action Plan (NACAP)

The Ghanaian society, recognising the negative impacts of corruption has, over the years, undertaken various policies and measures to control it.<sup>5</sup> Ghana established legal and institutional mechanisms, pursued economic and public sector reforms and strengthened the country's financial management systems. In 1998, the country organised the first National Integrity Conference that made significant proposals to tackle corruption and build integrity. Significant developments have taken place since that Conference. The country has since continued to strengthen the legal and institutional framework for fighting corruption.

On the 3rd of July 2014, the National Anti-Corruption Action Plan (2015 – 2024) (NACAP) was adopted by Parliament.<sup>6</sup> NACAP is a Plan that transcends political boundaries and tackles corruption holistically through:

- Prevention
- Education and awareness creation; and
- Investigation and enforcement.

NACAP contains strategic action plans identified and agreed upon by stakeholders including the private sector, during nationwide consultations. NACAP is expected to contextualize and mobilize efforts and resources of stakeholders to

prevent and fight corruption through the promotion of high ethics and integrity as well as vigorous enforcement of applicable laws. Further, NACAP is intended to enable collective action and sustained co-ordination of efforts, as well as the judicious application of resources of stakeholders to combat corruption and constitutes the benchmark to assess the performance of stakeholders, especially government, in the fight against corruption.<sup>7</sup> Given the broad consultative process through which NACAP was developed and adopted, it is seen as the broadly accepted roadmap to tackle corruption in Ghana in the short, medium and long term.<sup>8</sup>

## 1.1.3 Methodology

### 1.1.3.1 Desk review and interviews

The Consultant relied on a mixed methodology, mainly on desk review of secondary data and high (strategic) and project implementation level key informant interviews and primary data collection in the execution of the assignment.

Laws, policies and plans in relation to corruption were reviewed as part of the secondary data. In addition, Annual Performance Review Reports of the 3 institutions submitted to the Office of the Head of Civil Service, and Annual Reports where available, were reviewed. A full list of the documents reviewed is contained in appendix 1 to this Report.

5. See Forward to NACAP by Richard Quayson, Chairman, National Working Group on NACAP.

6. NACAP was first published in December 2011. After the initial publication, CHRAJ and other stakeholders wanted more buy-in. Hence, CHRAJ led public education and engagement with relevant stakeholders on NACAP until 2014 when Parliament adopted it as the National Action Plan to give effect to laws and policies in place to combat corruption.

7. NACAP, page 20.

8. Actions to be undertaken between 2015 – 2016 are considered as short term ones. Medium term is defined as the period between 2017 – 2019. The period from 2024 is considered as long term.

The high (strategic) level interactions provided information which were used to triangulate information obtained from the desk review. The strategic level interaction was deemed very critical for the purposes of creating ownership of the final report for easy implementation of the recommendations herein contained. The project level staff of the institutions under review provided relevant hands-on information for the assessment.

The list of officials interviewed and / or interacted with for the purposes of this assignment is contained in appendix 2 to this Report.

An assessment of this nature needs to be objective. That requires that results achieved would be measured against benchmarks. These benchmarks should under normal circumstances be set using baselines from the 3 institutions under review. Where available, targets set by the institutions themselves have been used as the benchmark for the assessments. Where targets and baselines are unavailable, other variables which would make it reasonable for the functions to be performed in a manner so as to cover the entirety of the country within the medium term to long term as defined under NACAP were used.

### 1.1.3.2 Validation workshop

A Validation workshop was held on 25th April 2017 to discuss the preliminary findings of the Assessment Report. Stakeholders, particularly, institutions whose functions are being assessed made useful input into the Report. The inputs covered:

#### CHRAJ:

- Efforts of CHRAJ to implement its mandate under article 218 of the 1992 Constitution;

- The effect of the Republic v. Fast Track High Court, Ex parte CHRAJ, Richard Anane<sup>9</sup> on the performance of the anti-corruption mandate of CHRAJ;
- The skeletal nature of the provisions of Chapter 24 of the 1992 Constitution and the efforts of CHRAJ to elaborate and bring clarity to the constitutional provisions on the Code of Conduct for Public Officers. This required CHRAJ to expend resources available for other aspects of CHRAJ's mandate on elaborating the Code of Conduct for Public Officers;
- Training of high level public officers such as Metropolitan, Municipal and District Chief Executives, Ministers of State on the Code of Conduct for Public Officers and Guidelines on Conflict of Interest;
- Capacity of CHRAJ staff at the district level to investigate corruption complaints at the district level;
- The focus of CHRAJ on "soft" aspects of corruption as other state institutions take up criminal investigations and prosecution of complaints of corruption;
- Budgetary constraints for CHRAJ and heavy reliance of CHRAJ on development partners though the situation began to improve from 2009; and
- Inadequate Government funding for implementation of NACAP.

#### Attorney-General's Department

- The perception is that there is a high level of corruption in Ghana. However, the number of corruption cases coming to the attention of the Attorney General is low.
- EOCO and other investigative bodies are mainly under the Ministry of Justice, equally as the Office of the Attorney General.

9. (2007-2008) SCGLR 213.

- There is no disaggregation of cases with a view to isolating corruption cases.
- In spite of the fact that corruption is classified as a misdemeanour, convicts could potentially be sentenced to 25 years imprisonment.
- There is the need for training on anti-corruption efforts.

# **FUNCTIONS OF CHRAJ, ATTORNEY GENERAL AND THE OFFICE OF THE AUDITOR GENERAL ASSESSED**

## **2.1.1 CHRAJ**

CHRAJ was established in 1993 under the 1992 Constitution. Article 218 provides that the functions of the Commission shall be defined and prescribed by an Act of Parliament and shall include the duty:

- To investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties
- To investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including report to the Attorney-General and the Auditor-General, resulting from such investigations.

Article 287(1) of the 1992 Constitution also provides that an allegation that a public officer has contravened or has not complied with a provision of Chapter 24 of the Constitution<sup>10</sup> shall be made to the Commissioner for Human Rights and Administrative Justice and, in the case of the Commissioner of Human Rights and Administrative Justice, to the Chief Justice who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

CHRAJ is the national institution for the protection and promotion of fundamental rights and freedoms and administrative

justice in Ghana. CHRAJ combines the work of an Ombudsman and a Human Rights Commission and an Anti-Corruption Agency under one umbrella.

In pursuance of article 218 of the 1992 Constitution, the CHRAJ was established in October 1993 by the Commission on Human Rights and Administrative Justice Act, 1993 (Act 456). Among the principal functions of CHRAJ are to:

- investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties;
- investigate all instances of alleged or suspected corruption and take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigation;
- investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution.

CHRAJ also engages in awareness raising and public education regarding corruption and its effects on society. Public education must foster a broad societal appreciation of the causes, costs and ramifications of corruption and its linkage to the erosion of human rights. It must improve public understanding of how

10. Chapter 24 of the Constitution provides a Code of Conduct for Public Officers.

corruption contributes to the broadening of the scale of poverty in society. This should strengthen the citizen's resolve to resist, condemn and report corruption.

For the purposes of this Assessment, the functions of CHRAJ are:

- Investigation of all instances of corruption and conflict of interest
- Investigation of contravention or non-compliance with Code of Conduct for Public Officers and conflict of interest
- Public education on the evils of corruption and ethos of anti-corruption

### **2.1.2 Auditor General's Office**

The Auditor General and the Ghana Audit Service constitute the Supreme Audit Institution of Ghana in accordance with the 1992 Constitution and the Audit Service Act, 2000 (Act 584). Article 187 (2) of the 1992 Constitution requires the Auditor-General to audit the public accounts of Ghana and of all public offices and submit his findings and recommendations to Parliament within six (6) months after the end of the financial year to which the accounts relate.

The public offices subject to audit by the Auditor-General include: central and local government administrations, the universities, the courts, and public institutions of like nature, public corporations or entities established by an Act of Parliament. In effect, any public institution established by the Constitution or by an Act of Parliament automatically falls due to be audited by the Auditor-General.

Article 184 (2) and (3) of the Constitution also mandates the Auditor-General to carry out the audit of the half-yearly Foreign Exchange Receipts and Payments Statements prepared by the Bank of Ghana and to also report his findings to Parliament.

For the purposes of this Assessment, the functions of the Office of the Auditor-General and the Audit Service are:

- Regular annual and special audits of the accounts of public institutions
- Issuance of Management Letters to institutions audited
- Surcharging persons cited for malfeasance in the Audit Reports and disallowing inappropriate expenditure incurred on behalf of the public
- Approval of the form in which the various books of account should be maintained

### **2.1.3 Attorney General's Department**

The Attorney General is the Principal Legal Advisor to Government in accordance with article 88 of the 1992 Constitution. In furtherance of its constitutional and statutory role, the Ministry of Justice and the Attorney General's Department implements core objectives including:

- Developing the capacity of the legal system to enhance speedy and affordable access to justice for all;
- Reviewing of the 1992 Constitution and conflicting Acts of Parliament towards amendment where necessary;
- Promoting transparency and accountability and reducing opportunity for rent seeking;
- Effective public awareness creation on laws for the protection of the vulnerable and excluded.

These objectives are achieved through the performance of certain functions including:

- Prosecuting civil cases on behalf of the State;
- Providing legal opinions on loans contracted by government or any of its agencies before the disbursement of the loan;
- Settlement of disputes or cases out of

- court;
- Prosecuting all constitutional cases involving the government and government agencies;
- Initiating and conducting criminal prosecutions;
- Assisting regional tender boards in their work.

For the purposes of this Assessment, the

relevant functions of the Attorney-General are:

- Prosecution of persons accused of corruption;
- Civil litigation against persons suspected or accused of corruption and recovery of assets on behalf of the State; and
- Prevention of corruption through public awareness creation.

## **ASSESSMENT OF THE FUNCTIONS: EXTENT TO WHICH THE FUNCTIONS HAVE BEEN PERFORMED BY CHRAJ**

### **3.1.1 Some general considerations**

From its inception, the Commission has linked human rights protection and promotion with the fight against corruption, insisting that there could not be development and sustainable democracy without good governance and the adherence to the rule of law.<sup>11</sup> The Commission is the only constitutional body expressly mandated to investigate corruption and conflict of interest of public officers. CHRAJ's anti-corruption strategy has been prevention, public education and investigation. In pursuing this strategy, in 2005, the Anti-Corruption Unit of the Commission was upgraded to the status of a Department to further augment its

capacity to execute its anti-corruption mandate.<sup>12</sup>

The Commission has also pursued anti-corruption educational activities within the general human rights education framework of the Commission to raise public awareness of the evils of corruption and its negative impacts on development.<sup>13</sup> Furthermore, the Commission has developed Guidelines on Conflict of Interest. Target groups that have benefited from workshops on the Guidelines on Conflict of Interest include the Trades Union Congress (TUC), the media, Chief Directors of Ministries and members of the Ghana Anti-Corruption Coalition.

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11. Anna Bossman, the Anti-Corruption Mandate of the Commission on Human Rights and Administrative Justice, Paper delivered at the United Nations Conference on Anti-corruption, Good Governance and Human Rights, Warsaw, 8-9 November, 2006 at page 3.

12. Anna Bossman, the Anti-Corruption Mandate of the Commission on Human Rights and Administrative Justice, Paper delivered at the United Nations Conference on Anti-corruption, Good Governance and Human Rights, Warsaw, 8-9 November, 2006 at page 3.

13. Paper by Justice Emile Francis Short, Empowering Ghana's Anti-Corruption Institutions in the fight against corruption, Institute of Economic Affairs at page 11 (2015).

### 3.1.2 Table of Assessment of the 3 anti-corruption functions of CHRAJ (2011 to 2014)

Assessment areas	Period of implementation				Comments
	2011	2012	2013	2014	
<b>Investigation of all instances of corruption and conflict of interest</b>					<ul style="list-style-type: none"> <li>• CHRAJ has investigated public officials at the highest levels of the 2 political parties which have governed since the inception of the 4<sup>th</sup> Republic.</li> <li>• 2012 election year appears to attract attention of CHRAJ as the percentage of cases resolved is comparatively high.</li> <li>• After 2012, there was a consistent decline in the percentage of corruption related cases that CHRAJ investigated with each of the year recording less than 50% resolution of cases.</li> <li>• In terms of the resolution of cases, the NDPC deems CHRAJ to have made significant progress in both 2011 and 2012.</li> <li>• In 2011, there were no targets set. However, the number of cases investigated dropped from 39 in 2010 to 13 in 2011 with a 62% rate of resolution.</li> <li>• There were no targets for 2012. However, the number of cases investigated rose from 13 in 2011 to 31 in 2012 with a 70% rate of resolution.</li> <li>• There were targets for 2013. However, the cases investigated dropped from 31 in 2012 to 20 in 2013</li> <li>• For 2014, the target of investigating 120 cases was not achieved as only 18 cases were investigated.</li> </ul>
Number of complaints of corruption from <b>CHRAJ Annual Reports</b> /Percentage resolved	21/62%	43/72%	42/48%	49/37%	
Number of complaints investigated	13	31	20	18	
<b>Rating</b>  Where applicable:  <b>SP</b> means Significant Progress made (over 70% accomplishment).  <b>GP</b> Progress (over 60% accomplishment).  <b>NP</b> means No Progress made (Resolution worse than previous year or 50%).  <b>NT</b> means No target set for the year.	GP	SP	NP	NT	
Total number of cases <sup>14</sup> investigated from 2011 to 2014 / Total number	<b>75/155</b>				<ul style="list-style-type: none"> <li>• On average, about 39 cases are received by CHRAJ each year throughout the country.</li> </ul>

14. These include abuse of office; bribery; conflict of interest; extortion of money; fraud; misappropriation and embezzlement, whistleblowing; abuse of power, mismanagement and tax evasion according to information received from CHRAJ Officers. =\}

Assessment areas	Period of implementation				Comments
	2011	2012	2013	2014	
of cases received from CHRAJ Annual Reports and Annual Progress Report of the National Development Planning Commission for 2011 to 2014.					<ul style="list-style-type: none"> <li>Between 2011 and 2014, about 48% of cases received were investigated.</li> <li>On average, this represents about 0.71 case per district over the course of 4 years.</li> <li>On average, this represents 0.17 case per district per year.</li> <li>This represents 1 case in each district in 6 years.</li> </ul>
<b>Public education on the evils of corruption and ethos of anti-corruption</b>					<ul style="list-style-type: none"> <li>Ideally, a minimum of 2 outreaches per district per month should be carried out.<sup>15</sup></li> <li>There were 170 MMDAs as at 2011, hence, the likelihood that there was no outreach in many districts in 2011 is very high. On 28 June 2012, an additional 46 districts were created bringing the total to 216 administrative districts.</li> </ul>
Number of outreach programmes conducted from CHRAJ Officers	3756	4551	3382	5470	<ul style="list-style-type: none"> <li>These figures represent the entirety of Outreach conducted in all the mandate areas of these was dedicated towards sensitizing the public on corruption.</li> <li>The public education mandate of CHRAJ is mainly in the area of human rights.</li> </ul>
<b>Rating</b>	<b>Unable to rate due to no disaggregation</b>				It will be useful for future reports on public education to disaggregate in terms of activities targeted at educating the public on anti-corruption and those on other aspects of the work of the Commission.
Total number of Outreach programmes conducted from 2011 to 2014 from CHRAJ Officers				17159	
<b>Investigation of contravention or non-compliance with Code of Conduct for Public Officers and conflict of interest</b>					<ul style="list-style-type: none"> <li>The number of cases being received and investigated is very low.</li> <li>This may be because the public does not appreciate issues around the Code of Conduct and Conflict of Interest.</li> </ul>
Cases received/number investigated from CHRAJ Officers	1/0	2/0	4/1	3/1	
<b>Rating</b>	<b>NP</b>	<b>NP</b>	<b>NP</b>	<b>NP</b>	
Number of public officers trained on the Code of Conduct for Public Officers	300	355	400	500	<ul style="list-style-type: none"> <li>On average, this is about 7 public officers per district trained on the Public Officers Code of Conduct in 4 years.</li> </ul>

15. This was confirmed as an acceptable target in an interview with the Commissioner of CHRAJ in February 2017.

Assessment areas	Period of implementation				Comments
	2011	2012	2013	2014	
<b>Rating</b>	<b>NP</b>	<b>NP</b>	<b>NP</b>	<b>NP</b>	
Total number of public officers trained on the Code of Conduct for Public Officers between 2011 and 2014				1555	<ul style="list-style-type: none"> <li>• Target groups that have benefited from workshops on the Code of Conduct and Guidelines on Conflict of Interest include the Trades Union Congress (TUC), the media, and Chief Directors of Ministries.</li> <li>• This represents about 2 officers in each district in each year.</li> <li>• This is woefully inadequate taking into account the total number of public officers in the region of 641,633 as at 2010.<sup>16</sup></li> <li>• At this rate, it will take over 1,485 years to cover all public officials.</li> <li>• Ideally, the total number of public officers to be trained in a year should not be less than 500 per district. That way, in the medium term (5 to 6 years), the entire public service would have been covered.</li> </ul>

16. Information from the Statistical Service of Ghana, available at [http://www.statsghana.gov.gh/docfiles/employ\\_15\\_64\\_reg\\_dist\\_2010.pdf](http://www.statsghana.gov.gh/docfiles/employ_15_64_reg_dist_2010.pdf) (last accessed on 31st December 2016).

# **HOW THE PERFORMANCE OF CHRAJ CONTRIBUTED TO THE FIGHT AGAINST CORRUPTION**

## **3.2.1 Investigation of all instances of corruption and conflict of interest**

In general, the number of complaints made to CHRAJ on cases of corruption is very low. This is averagely about 20 cases per year according to available CHRAJ Annual Records. This is exceedingly minimal to effectively contribute to the fight against corruption in Ghana. However, when such complaints were made to CHRAJ, in exception of 2011, CHRAJ dealt with the bulk of the cases in the course of the year. Over the course of the period under review, on average, CHRAJ resolved about 66.25% of the complaints received per annum.

The contribution of CHRAJ by way of the resolution of complaints of corruption is therefore good. It is however important to note that CHRAJ could not deal with all the cases which were reported although the number of cases reported is considered low. The low number of cases being reported to CHRAJ could be as a result of low level of visibility of CHRAJ in all districts across the country.

## **3.2.2 Public education on the evils of corruption and ethos of anti-corruption**

Public education on the evils of corruption and the ethos of anti-corruption is carried out through the public Outreach activities of CHRAJ. Public Outreach is important as it holds the potential to create awareness and educate the people on the dangers of corruption and what to do in the event that one comes into contact with a potential corruption situation. In other words, this is the function of CHRAJ through which its

strategy to prevent corruption instead of waiting to resolve cases can be achieved. In view of this, a minimum of 2 Outreach Programmes per month per district would be a good start.

As the foremost constitutional anti-corruption body, the CHRAJ must urgently develop a comprehensive strategy for educating the general public about the negative effects of corruption. Working in concert with other relevant stakeholders, CHRAJ must use its strategic presence in the districts to appropriately educate the general public about the importance of combating corruption at the local level. Public education is vital in building intolerance towards corruption and encouraging the active involvement of the population in the fight. CSOs and the media should be supported to extend anti-corruption messages which encourage citizens to report breaches of regulations and procedures, such as those relating to financial management and conflict of interest.

## **3.2.3 Investigation of contravention or non-compliance with Code of Conduct for Public Officers**

Investigations of the contravention or non-compliance with the Code of Conduct for Public Officers is one of the functions of CHRAJ aimed at detecting such contravention or non-compliance in order to apply the necessary punitive measures against persons found culpable.

CHRAJ Annual Records reviewed for the period covering 2011 to 2014 revealed very

minimal efforts of CHRAJ to investigate any such contravention or non-compliance with the Code of Conduct for Public Officers. The efforts made by CHRAJ in the performance of this function are the production and dissemination of the guidelines on Code of Conduct for Public Officers and on Conflict of Interest. In addition, some public officers have been trained on the Code of Conduct for Public Officers.

Production of the guidelines on the Code of Conduct for Public Officers and on Conflict of Interest is important in the fight against corruption. However, actual investigations in the event that cases are reported or identified by CHRAJ will be in direct fulfilment of the obligations of CHRAJ under the 1992 Constitution and the CHRAJ Act. This certainly has resource implications for CHRAJ. It is recommended that CHRAJ should be provided with sufficient resources to enable it perform effectively.

In view of the very few direct investigations on the non-compliance with the Code of Conduct for Public Officers, performance of CHRAJ of this function is poor. There is no progress recorded year after year. Hence, the contribution of CHRAJ to anti-corruption fight through the investigation of non-compliance with the Code of Conduct for Public Officers over the period of interest is low.

### 3.2.4 Challenges of CHRAJ

A number of factors militate against the ability of the CHRAJ to effectively perform its constitutional functions. These are:

1. CHRAJ is under-resourced as government after government routinely provides it only a fraction of its required annual budgets.<sup>17</sup> The inadequate budgetary provision stifles the ability of the CHRAJ to discharge its triple mandates effectively. Without significant donor support, particularly from

DANIDA, USAID and other development partners, CHRAJ would have been unable to meet financial obligations for the discharge of its constitutional duties.

2. There is a perception of an imbalance or disproportionate allocation of time and resources to the various mandates of the CHRAJ, with the anti-corruption responsibilities receiving negligible attention.<sup>18</sup> The concerns with the allocation of resources between the triple mandate of CHRAJ was expressed by former Commissioner of CHRAJ, Emile Short, thus:

"...Significantly, when on September 17, 2014, in a radio interview with Citi FM, the current Commissioner of CHRAJ, Ms. Laretta Lamptey, was confronted by the media as to why the CHRAJ was not vigorously pursuing its anti-corruption mandate, her response was that the CHRAJ spends 95% of its time and resources on human rights and 5% on administrative justice and anti-corruption work. This implies, at best, an imbalanced or disproportionate allocation of time and resources to the various mandates of the CHRAJ, with the anti-corruption responsibilities receiving negligible attention."<sup>19</sup> However, for the period under review, on average, CHRAJ allocated about 35% of financial resources to the fight against corruption annually.<sup>20</sup> The view that CHRAJ dedicates only a small percentage of its resources to anti-corruption efforts is not supported by the available records.

3. Documentation and easy retrieval of information on anti-corruption efforts of CHRAJ is a challenge. Targets were not set for all critical areas regarding anti-corruption programme of CHRAJ, neither were baseline information always readily available.

17. Anna Bossman, the Anti-Corruption Mandate of the Commission on Human Rights and Administrative Justice, Paper delivered at the United Nations Conference on Anti-corruption, Good Governance and Human Rights, Warsaw, 8-9 November, 2006 at page 6.

18. Justice Emile Francis Short, Empowering Ghana's Anti-Corruption Institutions in the fight against corruption, Institute of Economic Affairs at page 8 (2015). See also Anna Bossman, the Anti-Corruption Mandate of the Commission on Human Rights and Administrative Justice, Paper delivered at the United Nations Conference on Anti-corruption, Good Governance and Human Rights, Warsaw, 8-9 November, 2006 at page 6.

19. Justice Emile Francis Short, Empowering Ghana's Anti-Corruption Institutions in the fight against corruption, Institute of Economic Affairs at page 8 (2015).

20. Annual Reports for CHRAJ from 2011 to 2014.

# **ASSESSMENT OF THE FUNCTIONS: EXTENT TO WHICH THE FUNCTIONS HAVE BEEN PERFORMED BY THE ATTORNEY GENERAL'S DEPARTMENT**

## **4.1.1 Some general considerations in the prosecution of persons accused of corruption**

The Attorney-General is the principal legal advisor to Government on both criminal and civil matters. The 1992 Constitution of Ghana vests the Attorney-General with the exclusive authority to prosecute crimes. The Office of the Attorney-General is therefore a key player in the fight against corruption.

The Ghana Shared Growth and Development Agenda (GSGDA) contains six (6) Policy Objectives that are relevant to the Ministry of Justice and Attorney-General's Department.<sup>21</sup> These are:

- Increase the capacity of the legal system to ensure speedy and affordable access to justice for all.
- Strengthen the capacity of judges, lawyers, the police and para-legal staff in both public and private sectors to promote the rule of law.
- Increase national capacity to ensure safety of life and property.
- Ensure affirmative intervention to produce preferential justice options for all.
- Promote transparency and accountability and reduce opportunities for rent seeking.
- Promote effective and efficient anti-corruption systems.

Of these 6 Policy Objectives for the Attorney-General's Department, promoting transparency and accountability and reducing opportunities for rent seeking; and promoting effective and efficient anti-corruption systems are relevant to this Assessment. The core functions of the Attorney-General's Department, which are relevant to anti-corruption efforts include to prevent and detect organised crime and to facilitate the confiscation of the proceeds of crime. A Strategic Objective for the Attorney-General's Office is to improve economic crime prevention, transparency and public accountability.

One of the three-pronged approaches in the fight against corruption recognized internationally and adopted in the NACAP is effective investigation and prosecution, besides education and prevention. The deterrent factor is promoted when potential culprits know that the risk of detection, investigation and prosecution is real and high.

In sum, the relevant functions of the mandate of the Attorney General's Department for this assessment are:

- Investigation and Prosecution of corruption cases
- Civil litigation against persons suspected or accused of corruption and recovery of assets on behalf of the State
- Education and prevention of corruption

21. Ghana Shared Growth and Development Agenda (GSGDA II, 2014 – 2017).

#### 4.1.2 Table of Assessment of the 3 anti-corruption functions of the Attorney-General's Department (2011 to 2014)

Assessment areas	Period of implementation				Comments
	2011	2012	2013	2014	
<b>Civil litigation against persons suspected or accused of corruption and recovery of assets on behalf of the State<sup>22</sup></b>					<ul style="list-style-type: none"> <li>It is unclear what the actual figures of recoveries are. This should be publicly available at the end of each financial year of Government.</li> </ul>
Recoveries of proceeds of crime <sup>24</sup> Annual Progress Report by the National Development Planning Commission	No data	No data	No data available but 40% of cases investigated	30% of recoveries made on cases investigated. 20% of cases prosecuted.	<ul style="list-style-type: none"> <li>Information from Officers of EOCO indicates that these are not disaggregated in terms of the types of crime with any specific attention to corruption. In other words, the figures represent proceeds from crimes including money laundering, drug trafficking, theft, etc. These are normally lodged into the Exhibits Account of the Economic and Organised Crime Office.</li> </ul>
<b>Rating</b>	Unable to rate	Unable to rate	Unable to rate	Inadequate	<ul style="list-style-type: none"> <li>Interviews conducted with personnel of the Attorney-General's Department revealed that it is difficult to disaggregate corruption cases from other criminal matters which may lead to loss of resources to the State. Embezzlement of State funds may be treated as stealing rather than a corruption case.</li> <li>The Civil Division recovered monies amounting to GH¢ 17,900,000.00 wrongfully paid to some individual and companies. Also, efforts are on-going to retrieve the sum of GH¢ 46,236,580.40 from some companies. Proceedings have also been initiated at the Supreme Court to recover an amount of US\$ 325,472.00 paid to an international business firm which had no binding contract with the Government of Ghana.<sup>23</sup></li> </ul>

22. Government has been concerned about the lack of an Office to manage assets recovered from corruption and other criminal activities in the country and has been exploring ways to set up an office for that purpose. See a speech by former President John Dramani Mahama on the management of the proceeds of crime at <http://www.gh.undp.org/content/ghana/en/home/presscenter/speeches/2015/12/10/president-mahama-s-speech-on-anti-corruption-day.html>

24. Interviews conducted with senior members of staff of the Office of the Attorney General reveals that there is no information in the Office of the Attorney General on the absolute figures of the proceeds of corruption related cases recovered and the percentage of the total recoveries expected. Information provided is to the effect that the Economic and Organised Crime Office (EOCO) will have the appropriate information on the recoveries. With regards to loans illegally granted to some service providers under GYEEDA, the state has been able to recover an amount of GHC 20,449,368.44 in relation to the various modules from Asongtaba Cottage Industries, RLG Communications and Craft PRO Ltd. The President asked the Economic and Organised Crime Office (EOCO) and the Attorney General to ensure that they are able to recover the outstanding balance of about GHC 40.5 Million from the said companies by close of 2015.

Public education and prevention of corruption					Comments
Number of workshops and seminars on awareness creation on economic and organised crime	4	4	6	6	<ul style="list-style-type: none"> <li>In 2014, 6 sensitization sessions were organized as planned.</li> </ul>
Total number of Outreach programmes conducted from 2011 to 2014	20				<ul style="list-style-type: none"> <li>On average, the Attorney-General's Department carried out 5 Outreach Programmes per year, through the Economic and Organised Crime Office.</li> <li>It is unclear how much time is dedicated to corruption as compared organized crimes generally.</li> <li>There is a duplication of efforts of CHRAJ in the execution of this function by the Attorney-General's Department although it may be argued that the Attorney General and EOCO focuses more on crimes other corruption.</li> <li>It is unclear how much time is dedicated to corruption as compared to organized crimes generally.</li> </ul>
<b>Rating</b>	<b>Inadequate and misplaced</b>				<ul style="list-style-type: none"> <li>This function should be taken over by CHRAJ or the NCCE as each has better presence throughout the country. This will mean that resources should be allocated to CHRAJ or the NCCE to take care of these responsibilities.</li> </ul>
Prosecution of corruption cases					
% of cases prosecuted from APR from NDPC	No Data Available	No Data Available <sup>25</sup>	No Data Available <sup>26</sup>	No Data Available <sup>27</sup>	<ul style="list-style-type: none"> <li>There is data available on different types of cases such as murder, robbery, rape, defilement, narcotics and domestic violence.</li> </ul>
Data from the Annual Performance Report of the Civil Service				20%	<ul style="list-style-type: none"> <li>The Office recovered proceeds of crime from 30% of the cases they investigated, prosecuted 20% and organised 6 sessions to sensitize the general public about their activities for 2014.</li> </ul>
<b>Rating</b>	<b>Inadequate</b>				

25. There were however 793 corruption related recommendations by the Public Accounts Committee of Parliament in 2012. See Annual Progress Report by the NDPC for 2012 at page 206. There is no data on the prosecution of any of these cases.

26. There were however 14 corruption related recommendations by the Public Accounts Committee of Parliament in 2013 with about twenty-eight million and six hundred thousand Ghana cedis (GHS28.6 million) to be recovered. See Annual Progress Report by the NDPC for 2013 at page 210. There is no data on the prosecution of any of these cases.

27. There were however 15 corruption related recommendations by the Public Accounts Committee of Parliament in 2014 with about thirty-three million and ninety-nine thousand Ghana cedis (GHS33.099 million) to be recovered. See Annual Progress Report by the NDPC for 2014 at page 192-193. There is no data on the prosecution of any of these cases.

#### 4.1.3 Assessment remarks

1. The unavailability of Annual Reports of EOCO for the period under review is problematic. This is even more difficult to understand when one is aware that the Reports have been finalized and are only awaiting for administrative instructions to forward these Reports to Parliament and the Office of the President.
  2. Recovery of Assets from the proceeds of crime needs to improve after convictions have been achieved. This information should be disaggregated into various categories of crimes.
  3. There is a low rate of prosecution of corruption offences.
  4. With respect to the period under review, there were a number of allegations of corruption related cases which were to be prosecuted although reliable data on all corruption related prosecutions and recoveries is hard to find.<sup>28</sup>
  5. There should be close and dynamic collaboration between all the anti-corruption institutions to avert duplication of efforts and to foster synergies. This should be coordinated by the Office of the Attorney General as major aspects of the fight against corruption such as prosecutions and recovery of Assets rest largely with the Office of the Attorney General.
1. Allegations of inefficiency and commitment deficits that undermine its ability to effectively combat corruption. In an address to law students on Monday, 13th April 2014, Justice William Atuguba of the Supreme Court of Ghana is reported as stating that:

“... the Attorney General's Office also has lost much of its glory. Its operation these days cannot be fairly matched with the days of A. N. E. Amissah, Taylor, Gyeke-Darko, etc. It is said that the conditions of service have for long stagnated there and may be the cause of this present situation. But this does not seem to be the exclusive factor. There were those days when unlike today high-ranking state officials, including former ministers of state were prosecuted to conviction for various economic crimes. In the civil sector, we all know of several governmental international agreements which have found way to the Supreme Court” (Citifmonline, 2015, para 5)
  2. The proceedings and report of the one-member Judgment Debts Commission chaired by then Court of Appeal judge, Justice Yaw Apau, revealed serious lapses in the Attorney General's Office, including failure of State Attorneys to attend court resulting in judgments being entered against the State, and state attorneys consenting to judgments in cases which should have been contested. The Government needs to take immediate steps to build the capacity of the Attorney General's Department to enable it

#### 4.1.4 Challenges for the Attorney General's Department

The challenges for the Attorney General's Department include:

28. The cases include the National Service Ghost names case where the BNI and the Attorney General's Department are almost concluding investigations into allegations of corruption (padding of salaries or “ghost names”) and prosecutions are on-going. As December 2015, some 33 officials including the former Executive Director and his Deputy have been arraigned before Court while about 130 others were yet to be prosecuted. One hundred and sixty-three (163) personnel of the Scheme have been dismissed and over 18.5million cedis has, so far, been recovered to the state. See a speech by former President John Dramani Mahama on the management of the proceeds of crime at <http://www.gh.undp.org/content/ghana/en/home/presscenter/speeches/2015/12/10/president-mahama-s-speech-on-anti-corruption-day.html> and the Ghana Youth Employment and Entrepreneurial Agency (GYEEDA) case where a number of persons, including the former CEO, are being prosecuted. Investigations of other persons implicated in the GYEEDA matter have concluded and are pending prosecutions. The Republic vrs. Akpeena Assibit, Dr. Shaibu Gariba and 1 other is also under prosecution. Other high profile corruption cases, or cases of causing financial losses are ongoing. The Republic vrs. Alfred Agbesi Woyome, the Republic vrs. Ben Atsu Elleblu, Robert Azumah, and Christopher Elleblu, the Republic vrs. Joseph Osborne Djeni and 1 other.

29. Paper by Justice Emile Francis Short, Empowering Ghana's Anti-Corruption Institutions in the fight against corruption, Institute of Economic Affairs at page 16 (2015).

represent the State effectively in cases brought before the courts and also to enable the Department proffer sound legal advice to the Government.<sup>29</sup>

The Attorney General's Department should be strengthened through the recruitment of competent and well-trained lawyers to avoid the lapses and inefficiencies documented in the report of the Justice Yaw Apau's Commission on Judgment Debts to strengthen both prosecution and

civil litigation. The capacity requirements for lawyers of the Attorney General's Office may not necessary be in the addition of more lawyers but rather specialized training tailored towards the fight against corruption in Ghana.

3. Documentation and easy retrieval of information on anti-corruption efforts of the Attorney General's Department is a critical challenge. Documents on anti-corruption measure are hardly available.

# **HOW THE PERFORMANCE OF ATTORNEY GENERAL'S DEPARTMENT CONTRIBUTED TO FIGHT AGAINST CORRUPTION**

## **4.1.1 Civil litigation against persons suspected or accused of corruption and recovery of assets on behalf of the State**

Civil litigation against persons suspected or accused of corruption and the recovery of assets provide a disincentive to public officers to engage in corruption. Information on the rate of the recovery of assets from corruption related cases is not publicly available. Neither is there information on the recovery of assets from proceeds of crime which may have been deposited outside Ghana. It has been observed that the recovery of assets from corruption is an extremely complex process and requires dedicated efforts. There is much room for improvement in the recovery of assets as a result of corruption or inappropriate possession of public resources as recommended in the Report of the Ministerial Committee on GYEEDA.<sup>30</sup>

The rate of contribution of civil litigation by the Attorney General's Department to the fight against corruption is low. The Attorney General's Department should be strengthened to avoid the lapses and inefficiencies documented in the report of the Justice Yaw Apau's Commission on Judgment Debts to strengthen both prosecution and civil litigation.<sup>31</sup> The capacity requirements for lawyers of the Attorney General's Office may not necessarily be in the addition of more lawyers but rather specialized training tailored towards the fight against corruption in Ghana.

There is also a very strong perception that political interference in the work of the Attorney General contributes to less efficient and effective litigation on behalf of the State.

## **4.1.2 Public education and prevention of anti-corruption**

The regular programming for public education and prevention of corruption is not one of the very key areas of the mandate of the Attorney General. Hence, the limited number of public fora by the Attorney General's Department working through EOCO is understandable. Limited though as they are, the public education would have contributed to the fight against corruption in Ghana.

## **4.1.3 Prosecution of corruption cases**

The fear that a public officer implicated in a corruption case will suffer prosecution provides a deterrent effect. It is the prerogative of the Attorney General to prosecute persons accused of corruption.

Prosecution and recovery of assets require dedication of resources in order to be successfully pursued. In view of this, there should be close and dynamic collaboration between all the anti-corruption institutions to avert duplication of efforts and to foster synergies. CHRAJ may be better placed to conduct education and awareness campaigns on corruption. Staff of the Attorney General's Office and the EOCO could be invited as Resource Persons if the need arises. The idea

30. This Report was submitted to the Minister for Youth and Sports in June 2013.

31. Report of the Sole Commissioner on Judgment Debt.

is to free up time allocated to these awareness campaigns for the lawyers of the Attorney General's Department and EOCO so they dedicate more time to other critical aspects of the mandate of the Attorney General in the fight against corruption. The Attorney General's Department could lead the coordination required.

Information on the success rate of even the limited number of cases prosecuted is unavailable publicly. It is understandable that the Attorney General does not engage in the investigations which support prosecutions.

This falls mainly within the mandate of the Ghana Police Service and the CHRAJ. In that respect, the Attorney General must work with the Ghana Police Service and CHRAJ to ensure that cases are ready for prosecution within a good period of time. What is a good period for the investigation of cases will have to be decided on a case by case basis taking into account the complexities of each case.

It is essential for the institutions tasked to promote transparency and accountability to make information available for the public and media to scrutinize their work.

# **ASSESSMENT OF THE FUNCTIONS: EXTENT TO WHICH THE FUNCTIONS HAVE BEEN PERFORMED BY THE OFFICE OF THE AUDITOR GENERAL**

## **4.3.1 Some general considerations**

### **4.3.1.1 Mandate of the Auditor General and the Audit Service**

Audit Service of Ghana is a constitutional body headed by the Auditor General. It is an oversight body to promote good governance, ensure accountability and transparency in the Public Sector as required by article 188 of the 1992 Constitution. Thus, Audit Service is the only institution mandated by the Constitution to monitor the use and management of all public funds and report to Parliament. Audit Service is therefore the monitoring and accountability organ of the state, and the Supreme Audit Institution (SAI) of Ghana. The Audit Service has both audit and non-audit functions.

The Constitution and the Audit Service Act confer a wide audit mandate on the Office of the Auditor-General which covers the entire public sector of the country. In this respect, Article 187 (2) of the 1992 Constitution requires the Auditor-General to audit the public accounts of Ghana and of all public offices and submit his findings and recommendations to Parliament within six (6) months after the end of the financial year to which the accounts relate.

The public offices subject to audit by the Auditor-General include: central and local government administrations, the universities, the courts, and public institutions of like nature, public corporations or entities established by an Act of Parliament.<sup>32</sup> In effect, any public institution established by the Constitution or by an Act of Parliament automatically falls due to be audited by the

Auditor-General.

Article 184 (2) and (3) of the Constitution also mandates the Auditor-General to carry out the audit of the half-yearly Foreign Exchange Receipts and Payments Statements prepared by the Bank of Ghana and to also report his findings to Parliament.

Even though under Article 187 (7) (a) of the Constitution, and section 18 (1) of the Audit Service Act, 2000, (Act 584), the Auditor-General, in the performance of his functions, under the Constitution or any other law, is not subject to the direction or control of any other person or authority, the President, under Article 187 (8) is not precluded from requesting the Auditor-General to audit, in the public interest, any of the entities specified by Article 187 (2) of the Constitution, which fall under the mandate of the Auditor-General. However, the President's request is required by the Constitution to be endorsed by the Council of State before it is made or submitted to the Auditor-General.

The legal framework on auditing as reflected in the Constitution and the Audit Service Act, Act 584 has also provided the Auditor-General the mandate to carry out varieties of audits in addition to financial or regularity audit, which remains at the core of the functions of the Auditor-General.<sup>33</sup> These include Performance Audits, Forensic Audits, Environmental Audits and Information Technology (IT) Audits.

Section 11(5) provides for all financial and accounting systems in respect of the accounts provided under subsection (I) and

32. This is in accordance with section 11 of the Audit Service Act.

these are subject to prior approval of the Auditor-General and any change in any such system shall be notified to the Auditor-General and shall be subject to prior approval before implementation. Any head of a public institution or other body subject to auditing by the Auditor-General who fails to comply with subsection (5) is liable to be surcharged with the cost of any loss occasioned by defective or deficient internal controls of auditing. This is in accordance with section 11(5) of the Audit Service Act.

The Non-Audit functions and powers conferred on the Auditor-General by the Constitution and the Audit Service Act include:

- i The review and approval of manual and computer-based financial management systems of all public sector agencies before they are operationalised;
- ii The power of disallowance and surcharge;
- iii Review of all Contract Agreements between Government and other parties where payments are to be made from the Consolidated Fund.

The law puts the burden on the heads of public institutions to institute an action for the recovery of any sums surcharged on their subordinates by the Auditor General. This is provided for in section 17(5) of the Audit Service Act. Where the person surcharged is in receipt of remuneration from government or any institution, the remuneration shall be attached to the extent of the sum lawfully due.

It is the responsibility of the Auditor General to specify to the appropriate head of department or institution the amount due from any person upon whom he has made a surcharge or disallowance and the reasons for the surcharge or disallowance. This is in accordance with section 17 (1) of the Audit

Service Act.

In summary, the mandate is to conduct Annual Regular and Special Audits of MDAs and MMDAs and other public institutions and to conduct specified Non-Audit functions.

#### **4.3.1.2 Administration of the Audit Service**

The Service has 94 District office units countrywide but is physically located in 68 out of the 216 administrative districts. Currently, the Service has only 76 chartered accountants whereas a total number of 170 are required.<sup>34</sup>

The Service also aims to give more attention to payroll audits to ensure that salaries and gratuities are paid to those who actually earned it so as to reduce the incidence of payroll associated fraud and overpayments. This requires an increase in the staffing numbers of that Unit from 10 officers to 16.

The IT Audit Unit which is currently made up of 18 personnel requires 12 additional staff to increase the total personnel to 30 to cope with the plan of the Auditor-General to train financial audit staff to be able to carry out both IT and performance audit functions in the normal course of their work to meet the challenges posed by the automation of clients' systems and operating environments and reporting challenges of the introduction of programme based budgeting. The new IT experts would assist with the interrogation of complex IT systems so that more grounds can be covered on the Information Communication and Technology fronts in the achievement of the Auditor-General's mandate under Section 11 of the Audit Service Act. To be able to execute its audit mandate, the Service was to have recruited, between 2015 and 2016, a total of 170 additional staff to enable it carry out at least 70% of its planned audits yearly.<sup>35</sup>

33. Section 16 makes provision for Special Audits. The section provides that the Auditor-General may in addition to the audit of public accounts, carry out in the public interest such special audits or reviews as he considers necessary and shall submit reports on the audits or review undertaken to Parliament.

34. Interview with senior officials of the Office of the Auditor General (Note of interview on file with author).

35. Audit Service Activity Report for 2012 and 2013 at page 12.

#### 4.3.2 Table of Assessment of the 3 anti-corruption functions of Auditor General (2011 to 2014)

Assessment areas	Period of implementation				Comments
	2011	2012	2013	2014	
<b>Audit Report preparation</b>					<ul style="list-style-type: none"> <li>• The percentage of institutions covered is high</li> <li>• Institutions not covered in a particular year must be on the priority list for the following year.</li> <li>• Percentage of Audits conducted for 2012 is unavailable online.</li> </ul>
Deliver full range of audits specified under the Auditor-General's mandate	70%	Unavailable	65%	69%	
<b>Rating</b>	Good	Unable to rate	Above average	Above average	
Deliver full range of audits specified under the Auditor-General's mandate from Annual Reports of the Audit Service <sup>36</sup>	Unavailable	80%		Unavailable	<ul style="list-style-type: none"> <li>• The Service planned to undertake a combined total of 6,267 audits of public sector entities within its audit universe for the two years. This target included central and local government institutions, public boards and corporations and educational institutions, among others.</li> <li>• The Service executed 5,430 audits out of the planned total number of 6,267 (about 80% of planned audits).</li> <li>• As at close of 2013, planned audits outstanding were 837. These were rolled over to be carried out in 2014.<sup>37</sup></li> <li>• There is room for improvement as ideally all state institutions which are to be audited must be audited.</li> </ul>
<b>Rating</b>		Very Good			
Delivery of Management Letters	173	170	215	250	
Actual number of Reports issued from 2011 to 2014	32				
<b>Sensitization of stakeholders on accountability</b>					<ul style="list-style-type: none"> <li>• Surcharge is a critical issue to introduce personal liability. More workshops needed.</li> </ul>
Number of sensitization of stakeholders on accountability including surcharge	2	2	2	3	

36. A report on the activities of the Audit Service is required to be prepared and submitted annually by the Audit Service Board to the President and Parliament, within six months after the end of the financial year to which the report relates. This report by the Board fulfils the legal requirement of Section 25 of the Audit Service Act, 2000, Act 584. It consolidates auditing services executed under the mandate of the Auditor-General as given by Article 187 (2) of the 1992 Constitution during the two calendar years ending 31 December 2012 and 31 December 2013.

37. Annual Reports of the Audit Service Board for 2011 and 2014 were unavailable to the Consultant for review.

Assessment areas	Period of implementation				Comments
	2011	2012	2013	2014	
<b>Rating</b>	<b>Unacc- eptable</b>	<b>Unacc- eptable</b>	<b>Unacc- eptable</b>	<b>Unacc- eptable</b>	<ul style="list-style-type: none"> <li>• Sensitisation is critical to preventing corruption.</li> <li>• These efforts appear superficial taking into account the number of public officers who must be sensitized on important aspects of work of the Auditor General in relation to the fight against corruption.</li> </ul>
Total number of Outreach programmes conducted from 2011 to 2014					

### 4.3.3 State of Audit Reports

Type of Report	Year				
		2012		2013	
		Latest Report to Parliament	No. of Reports in arrears	Latest Report to Parliament	No. of Reports in arrears
Consolidated Fund		2011	-	2012	-
MDAs		2011	-	2012	-
District Assemblies and Traditional Councils		2009 2010	1	2011 2012	-
Pre-University Education Institutions		2009	2	2011	1
Public Boards, Corps & other Statutory Institutions		2010	1	2011 2012	1
Foreign Exchange Receipts & Payments of Bank of Ghana		2011	-	2012	-
	Total		4		2

Adapted from Audit Service Activity Report for 2012 and 2013.

### 4.3.4 Assessment remarks

- The Consolidated Annual Reports<sup>38</sup> of the Audit Service Board for the years 2012 and 2013 indicate that the target set could not be reached mainly because moneys expected to be released to finance the audit activities was not forthcoming. The Service depended largely on the goodwill of staff members who used their own salaries to fund expenses related to the audit work, on the understanding that they would be reimbursed when funds were received from the Ministry of Finance.<sup>39</sup> It is noteworthy that constitutional provisions guarantee the financial independence of

38. The Annual Reports of the Audit Service Board submitted to the President and Parliament are referred to as "Audit Service Activity Reports."

39. Consolidated Annual Reports of the Audit Service Board for years 2012 and 2013 submitted to the President and Parliament

the Auditor General. This was confirmed in *Brown v. Attorney General*<sup>40</sup> holding that even Parliament cannot validly review the budget of the Auditor General except in some limited situations to cure some obvious absurdities.

2. Various irregularities discovered in the cause of auditing activities of the Auditor General during 2012 and 2013 amounted to GHS 2,734,772,807.<sup>41</sup> These were noted to have occurred as a result of systemic lapses, inadequate supervision of subordinate staff, non-compliance with laws, rules and regulations governing public financial management, fraud and other malfeasance.
3. There is the need to create the consciousness in public officials that the law permits that they may have personal responsibility for financial decisions they take contrary to the directives of the Auditor General.
4. Political Parties do not fall under the mandate of the Auditor General and therefore the Auditor General does not

audit their accounts. However, in view of the fact political finance is a major vector for corruption and the close connection between political parties and Governments, it is recommended to broaden the mandate of the Auditor General to include Political Parties.

#### **4.3.5 Challenges for Auditor General's Office**

The main challenges for the Office of the Auditor General include:

1. The 3 months period provided under the 1992 Constitution within which the Auditor General is to present Audited Accounts of the Public Institutions to Parliament.
2. Delays in the release of financial resources for the timely execution of its mandate
3. Documentation and easy retrieval of its plans of information. For instance, Annual Reports are not timely published and publicly available on the website of the Office of the Auditor General and the Audit Service.

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40. *Brown v Attorney-General* (Audit Service case) [2010] SCGLR 183.

41. Audit Service Activity Report for 2012 and 2013 at page 4.

# **ASSESSMENT OF THE FUNCTIONS: HOW THE PERFORMANCE BY THE AUDITOR GENERAL HAS CONTRIBUTED TO FIGHT AGAINST CORRUPTION**

## **4.4.1 Audit Report preparation**

1. On average, the Auditor General has covered 68% of all institutions the Auditor General is mandated to audit over the period between 2011 and 2014 excluding 2012.
2. In sum, the contribution of the Auditor General to the fight against corruption through the scrutiny of the accounts of all target state institutions is considered good for the purposes of this assessment. This is the case although the Auditor General sometimes relies on the services of private Audit Firms and sometimes as a result faces delays in issuing its Reports.
3. On average, audit reports on institutions and programmes are ready 3 years after and this often results in situations where sometimes it is even difficult to trace people who have committed crime. For instance, there have been instances where public officials indicted are said to have retired or died. Time lag is a critical issue and must be tackled as such.
4. These Reports are submitted to the Public Accounts Committee of Parliament which has commenced public scrutiny of the Reports of the Auditor General.
5. The findings of that study had revealed, among other things, that most MDAs did not receive copies of the PAC's report and thus were unaware of the

recommendations for their outfit that were raised in it. The recommendations were not implemented and those which were implemented did not have reports on status of implementation while management members of the MDAs and MMDAs did not know they were legally mandated by section 30(2) of the Audit Service Act to send the status reports to The Office of the President and Parliament.

6. These factors therefore ensured a recurrence of issues of financial mismanagement cited in the PAC reports as well as the Auditor General's Reports. The study found persistent non-compliance with laws and regulations that guide the management of public accounts in Ghana. Follow up on PAC recommendations were generally poor, partly because management of the MMDAs and Audit Report Implementation Committees (ARICs) hardly receive PAC reports, let alone follow-up on them.

## **4.4.2 Sensitization of stakeholders on accountability**

1. The Auditor General conducted limited Outreach to sensitise public officials on the work of the Auditor General with a focus on possible surcharge of public officers who disregard directives of the Auditor General resulting in losses to the State. In the 4 years under assessment, the Auditor General conducted 9 sensitisation sessions. In view of the seriousness of the

- actions and inactions of public officers which may lead to losses to the State and possible surcharges, these sensitisation workshops must be carried out more often than the current situation.
2. The contribution of the Auditor General to the fight against corruption through sensitization of stakeholders on accountability with particular reference to surcharges is very low.
  3. It is recommended that these sensitisation efforts are coordinated with CHRAJ, Office of the Attorney General, Economic and Organized Crime Office (EOCO) and the National Commission for Civic Education (NCCE).

## **FINDINGS AND RECOMMENDATIONS**

In general, apart from the Audit of public institutions by the Auditor General, the performance of the functions of the anti-corruption institutions examined is below the desired level for any appreciable change in the state of corruption in Ghana. All the 3 institutions need support in setting targets and establishing clear baselines to be used as benchmarks for future assessment. This is important as all 3 institutions may face assessments of the performance of their roles under NACAP.

The specific findings and recommendations on the institutions are:

### **5.1.1 Commission on Human Rights and Administrative Justice**

The summary of the findings is:

1. The number of corruption related cases investigated by CHRAJ either as a result of complaints received or on its own motion is low and does not adequately contribute towards the fight against corruption.
  2. CHRAJ does not separate investigations into the non-compliance with the Code of Conduct for Public Officers from corruption investigations.
  3. There is inadequate education of public officers on the Code of Conduct for Public Officers and Guidelines on Conflict of Interest.
  4. CHRAJ has a challenge in disaggregating the medium used for public education with respect to its mandates as Regional Offices
- adopt varied forms of templates for reporting to the National Office. Hence, CHRAJ is unable to obtain reliable data on the various media used for public education.
- From the above, the summary of recommendations is:
1. As the number of corruption related cases investigated by CHRAJ either as a result of complaints received or on its own motion is low, CHRAJ must develop confidence-building measures to increase presentation of corruption complaints by the citizenry. Every District Officer should have a target of about 4 Outreach Programmes in a month. At a minimum, there must be 2 Outreach Programmes.
  2. CHRAJ must present in its Reports under separate headings information on investigations into the non-compliance with the Code of Conduct for Public Officers and actual corruption investigations.
  3. CHRAJ must develop a plan to increase its outreach for education of public officers on the Code of Conduct for Public Officers and Guidelines on Conflict of Interest.
  4. CHRAJ must develop a standardized template for reporting from the regions such that disaggregation of corruption related investigations, the medium used for public education with respect to its mandates from the regions can be easily carried out.

### 5.1.2 Office of the Attorney General

The summary of the findings is:

1. The Office of the Attorney General does not disaggregate corruption cases from other criminal cases, hence statistics on corruption cases is difficult to find. This is partly due to the limited definition of corruption under the Criminal Offences Act, 1960 (Act 29).
2. The number of prosecutions of corruption cases is very low as compared to the perception that corruption in Ghana is increasing.
3. The Office of the Attorney General does not have adequate information on proceeds of crime in relation to corruption which have been recovered. The Economic and Organised Crime Office performs this function on behalf of the Office of the Attorney General.
4. The Economic and Organised Crime Office does not disaggregate proceeds of crime recovered. This means the EOCO is unable to indicate with reasonable amount of certainty and in good time what proportion of the proceeds of crime recovered is from corruption related cases.
5. Annual Reports of EOCO since 2011 have not been made public mainly because such Reports are yet to be presented to Parliament. The Annual Reports for 2012 and 2013 have been finalized and printed out but are yet to be furnished to any member of the Public.
6. The performance of the public education function in relation to corruption by the Attorney General appears to be misplaced as the Office of the Attorney General has very limited reach as compared to CHRAJ and the National Commission for Civic

Education (NCCE).

From the above, the summary of recommendations is:

1. There must be expeditious prosecution of such cases to engender trust in the citizenry. Undue delays lead to suspicions and mistrust for the fight against corruption.
2. The Attorney General's Department should be strengthened to avoid the lapses and inefficiencies documented in the report of the Justice Yaw Apau's Commission on Judgment Debts to strengthen both prosecution and civil litigation. The capacity requirements for lawyers of the Attorney General's Office may be specialized training tailored for the lawyers towards the fight against corruption in Ghana.
3. There should be close and dynamic collaboration between all the anti-corruption institutions to avert duplication of efforts and to foster synergies. The Office of the Attorney General should coordinate this as major aspects of the fight against corruption such as prosecutions and recovery of Assets rest largely with the Office of the Attorney General and / or with Departments or Offices working under the Attorney General.
4. The Office of the Attorney General must disaggregate corruption cases from other criminal cases to make it easy to have information and statistics on corruption cases.
5. The Attorney General must expedite action on the review of the law on corruption with a view of doing away with the very limited definition of corruption under the Criminal Offences Act, 1960 (Act 29).

6. The Office of the Attorney General must work with EOCO in order to have adequate information on proceeds of crime in relation to corruption.
  7. The Economic and Organised Crime Office must disaggregate proceeds of crime recovered so as to be able to indicate with reasonable certainty and in good time what proportion of the proceeds of crime recovered is from corruption related cases.
  8. Annual Reports of EOCO since 2011 must be made public. The Attorney General must work with EOCO for such Annual Reports which are ready to be presented to Parliament and be made public soon thereafter.
  9. The Attorney General must work with CHRAJ and the National Commission for Civic Education (NCCE) on the performance of public education and sensitization on corruption.
4. The Office of the Auditor General has performed creditably well in the performance of its Audit functions, although the Office is unable to cover all institutions of State which must be audited every year.
  5. The Office of the Auditor General relies heavily on private audit firms leading sometimes to delays in the issuance of the Audit Reports.
  6. The performance of the functions of the Auditor General with respect to surcharges and disallowance is minimal. There is a pending suit against the Auditor General by members of Occupy Ghana, a pressure group with respect to the performance of the surcharge and disallowance functions of the Auditor General.

### 5.1.3 Office of the Auditor General

The summary of the findings is:

1. The Office of the Auditor General with the Ghana Audit Service is the Supreme Audit Institution of Ghana with Audit and Non-Audit mandate to ensure the judicious use of public funds.
  2. The 1992 Constitution provides a strict timeline for the performance of the Audit functions of the Auditor General. The timeline as provided in the Constitution appears unworkable at the moment.
  3. The Auditor General is by law privileged to have financial independence with respect to its administrative expenditure as determined by the Supreme Court in *Brown v. the Attorney General*. However,
7. Public Education of the public officers on accountability and the possibility of surcharges and disallowances is very minimal.
  8. It is the responsibility of the Auditor General to recommend surcharges and disallowances. The enforcement of such recommendation lies with the individual heads of the various public institutions with which the particular public officer works.
  9. Annual Reports of the Auditor General are publicly unavailable. Final copies of such Annual Reports are difficult to locate even in the Head Office.
- From the above, the summary of

recommendations is:

1. The Auditor General must use its privileged position of financial independence as determined by the Supreme Court in *Brown v. the Attorney General* to improve the level of coverage of State institutions in its audits. The Auditor General must develop a plan on how to achieve financial independence in practice as envisaged in the Constitution.
2. The number of sensitization workshops conducted by the Auditor General per year must improve.
3. Annual Reports of the Auditor General must be publicly available and widely circulated including posting on its website.
4. There is the need for a review of the timeline in the 1992 Constitution for the performance of the Audit functions of the Auditor General. The timeline as provided in the Constitution appears unworkable at the moment.
5. The Office of the Auditor General must endeavour to cover all institutions of State which must be audited every year. The Office of the Auditor General must develop a plan on how to achieve complete coverage of institutions.

# APPENDICES

## 1. List of interviewees

- i. Chief Director, Ministry of Justice and Attorney General's Department
- ii. The Director of Public Prosecutions, the Attorney General's Department
- iii. The Solicitor General, Attorney General's Department
- iv. The Commissioner for CHRAJ
- v. The Director in charge of Anti-Corruption Department at CHRAJ
- vi. Deputy Commissioner at CHRAJ
- vii. Officer in charge of Monitoring and Evaluation, CHRAJ
- viii. Deputy Auditor General, Office of the Auditor General
- ix. Officer in charge of Budgets at the Office of the Auditor General
- x. Former Executive Director, EOCO
- xi. Head of Administration, EOCO
- xii. Legal Officer, EOCO
- xiii. Public Relations Officer, EOCO

## 2. Select list bibliography

### Laws and Cases

- i. 1992 Constitution of Ghana
- ii. Audit Service Act, 2000 (Act 584)
- iii. Commission on Human Rights and Administrative Justice Act, 1993 (Act 456)
- iv. Decision of CHRAJ in National Youth League of the Convention Peoples' Party, Nana Adofo Ofori, the Progressive Peoples' Party v. John Dramani Mahama
- v. William Brown v. Attorney General (2015-2024) (Ghana)
- ii. Strategic Plan for CHRAJ, 2011 to 2015
- iii. Audit Service Annual Reports for 2012 and 2013
- iv. Centre for Public Interest Law, National Commitment to fighting corruption, how Ghana is not investing enough into anti-corruption initiatives, August 2015
- v. Programme Based Budget Documents for Audit Service for 2011 to 2014
- vi. Reports of the Auditor General on the Accounts of District Assemblies for the year 2014
- vii. The State Auditor, Issue Number 024 (January to June 2015)
- viii. Programme Based Budget Documents for CHRAJ for 2011 to 2014
- ix. Programme Based Budget Documents for Attorney General Department and Ministry of Justice for 2011 to 2014
- x. Annual Performance Reports for 2011 to 2014 of the Civil Service
- xi. Annual Progress Report on the implementation of the Ghana Shared Growth and Development Agenda, 2010 to 2013
- xii. Annual Progress Report on the implementation of the Ghana Shared Growth and Development Agenda (GSGDA II), 2014

### Action Plans and Reports

- I. National Anti-Corruption Action Plan

### Papers delivered

- i. Anna Bossman, the Anti-Corruption Mandate of the Commission on Human Rights and Administrative Justice, Paper delivered at the United Nations Conference on Anti-corruption, Good Governance and Human Rights, Warsaw, 8-9 November, 2006.



<b>Prevention</b>	
<b>1. Legal Source of Mandate</b>	
<b>2. Programmes developed to deliver on mandate</b>	
<b>3. Success achieved</b>	
<b>4. How success was measured</b>	
<b>5. Evidence of success</b>	
<b>6. Obstacles faced</b>	
<b>7. Areas for improvement</b>	
<b>Investigations, Prosecutions and Remedial Actions</b>	
<b>1. Legal Source of Mandate</b>	
<b>2. Programs developed to deliver on mandate</b>	
<b>3. Success achieved</b>	

<b>4. How success was measured</b>	
<b>5. Evidence of success</b>	
<b>6. Obstacles faced</b>	
<b>7. Areas for improvement</b>	
<b>Protection of Victims, Informants and Whistle Blowers</b>	
<b>1. Legal Source of Mandate</b>	
<b>2. Programs developed to deliver on mandate</b>	
<b>3. Success achieved</b>	
<b>8. How success was measured</b>	
<b>4. Evidence of success</b>	
<b>5. Obstacles faced</b>	
<b>6. Areas for improvement</b>	
<b>Special concerns</b>	

**Is /are there any other issue(s) you will want to see addressed or is there any comment you would like to make on anti-corruption in Ghana?**



