

## WHISTLEBLOWING IN GHANA

### GLOBAL AND AFRICAN LEVEL

1. Corruption, considered as a cancer that destroys the fabric of society, is defined by Transparency International as ‘the abuse of entrusted power for private gain and can come in many forms such as bribery, embezzlement, extortion and nepotism’.
2. Depending on the amounts of money lost and the sector where it occurs, it can be classified as grand or petty corruption.
3. Corruption weakens state institutions, has corrosive effects on public trust and hinders development and security.
4. Goal 16 of the Sustainable Development Goals – **Peace, Justice and Strong Institutions** is dedicated to the promotion of peaceful and inclusive societies for sustainable development , the provision of access to justice and effective accountable institutions at all levels. Corruption is likely to affect the achievement of this objective.
5. The theme for the 30<sup>th</sup> African Union Summit that took place from 22-29 January 2018 was ‘**Winning the Fight against Corruption: A Sustainable Path to Africa’s Transformation**’.

I hope all African countries are really doing things differently to win the fight against corruption in 2018.

### FIGHTING CORRUPTION IN GHANA

Who is corrupt ? the Giver or the receiver ?

Who corrupted the corrupt Official ?

In the case of computers it is the virus : malware etc.

### **1. Police Officer**

A civilian jumps the traffic light and a Police Officer arrests him.

The civilian begs the Police Officer not to prosecute him.

They negotiate and the Police Officer receives a third of the fine the civilian would have paid to the state. Who is guilty of corruption?

### **2. Customs Officer**

An importer complains that the import duty is too much. The custom officer helps the importer by under invoicing the value of the import to enable him pay less tax. Who is guilty of corruption ?

### **3. Contractor**

The contractor presents a handsome gift to the procurement officer and key officers who played roles in the contract award after winning the contract. Who is guilty of corruption ?

### **4. Internal Auditor**

The Contractor is very friendly and generous. The Internal Auditor did not play any role in the procurement process but the contractor presented a fat gift to him as end of year present claiming that he has given all Management staff.

### **Conclusion**

- Both the giver and the receiver are guilty.
- Why blame only the receiver ?

## **Fight against corruption by various Presidents**

1. Corruption is a criminal offence in Ghana. It has been the agenda of all Presidents, present and past, to eradicate corruption.

2. Former President J. A. Kufuor (2001-2008) declared **Zero Tolerance for Corruption** at the beginning of his administration but after knowing how enormous the task was, he commented that **corruption is as old as Adam**. This comment was misconstrued to mean his endorsement of corruption. He later explained that it was rather an advice to office holders. Adam was corrupted by Eve and Eve was corrupted by the serpent. Office holders face a lot of temptations.

### **Anti-Corruption Laws in Ghana**

- Public Procurement Act
- Public Financial Management Act
- Internal Audit Agency Act
- Criminal Code
- Office of the Special Prosecutor
- Audit Service Act
- Whistleblower Act

### **The Role of the Media and Civil Society**

- Civil Society Organizations
- Ghana Anti-Corruption Coalition
- Occupy Ghana

### **Ghana anti-corruption coalition**

GACC is a unique cross-sectional grouping of public, private and civil society organization with a focus on promoting good governance and fighting corruption in Ghana.

Membership include :

- Centre for Democratic Development
- Economic and Organized Crime Office
- Commission on Human Rights and Administrative Justice
- Ghana conference of religions for peace (Christians and Muslims)
- Ghana Integrity Initiative (local body of transparency international)
- Ghana Journalists Association
- Institute of Economic Affairs
- Private Enterprise Foundation ( AGI, Chamber of Commerce, Employers association, exporters association)

### **Role of Journalists**

Corruption is reported on various media both paper and electronic.

1. An Internationally acclaimed investigative journalist. Anas Aremeyaw Anas, videotapes and audio records people involved in corrupt practices.

**In 2011** – 97 officers transferred and subsequently 15 Senior officers of the Customs Division of GRA interdicted for allegedly causing the state to incur a total liability of GHC 17m (USD 3.8m)

**In 2015** – Anas uncovers 34 Judges in corruption scandal. They faced impeachment. They were videotaped and audio recorded in separate conversations with suspects or persons acting as agents of suspects before them to compromise cases.

**On June 6, 2018** - GFA President. CAF Vice-President and FIFA Council member Kwesi Nyantakyi is under investigation accused of

using the name of the President in alleged fraudulent activities in the video.

Nyantakyi caught on video negotiating a deal with business men and accepting bribe of \$65,000 to help establish an oil business. He has been banned by FIFA Ethics Committee over the corruption allegations.

2. Pressure group, Occupy Ghana sued the Attorney General and the Auditor General for refusing to surcharge persons who are said to have misappropriated monies belonging to the state to the tune of over GHC40 billion ( USD 8.9 b).

### **Corruption (CPI) ranking by Transparency International**

<b>YEAR</b>	<b>SCORE</b>	<b>POSITION</b>
2012	45	64/176
2013	46	63/177
2014	48	61/175
2015	47	56/168
2016	43	70/176
2017	40	81/180
TOTAL	269	
<b>AVERAGE</b>	<b>44.83</b>	
<b>KENYA</b>		
<b>2017</b>	<b>28</b>	<b>143/180</b>
<b>AVERAGE</b>	<b>26.33</b>	

Ghana is not proud of this deteriorating position and I believe Kenya is neither proud of the 2% increase

#### **Additional Effort**

Whistle Blowers Act, Act 2006

National Anti-corruption action plan 2015-2024

Office of the Special Prosecutor

## **Office of the Special Prosecutor**

Established by an Act of Parliament to investigate and prosecute certain categories of cases and allegations of corruption and other criminal wrongdoing, including those involving alleged violations of the Public Procurement Act, 2003 (Act 663) and cases implicating public officers and politically exposed persons.

## **National Anti-Corruption Action Plan 2015-2024**

- NACAP is a strategy that involves all Ghanaians in fighting corruption. NACAP is in line with United Nations Convention Against Corruption.
- High Level Implementation Committee to provide strategic policy guidance is chaired by the Chief of Staff at the Office of the President.
- CHRAJ is responsible for implementation.
- NACAP ensures awareness creation, appointment of officers to coordinate anti-corruption activities and establishment of structures for dealing with corruption in various institutions.
- Both public and private sector institutions are required to prepare their Anti-Corruption action plans.
- They are also required to submit annual reports on NACAP to the Office of the President.

## **WHISTLEBLOWING IN GHANA**

- Some public and private sector institutions have established mechanisms for blowing the whistle.
- While some report to external parties, others report internally.
- Reports through hotlines are treated with high level of confidentiality.

## **The Whistle Blowers Act, Act 2006**

### **Disclosure of Impropriety (Acts reportable under the Whistleblower Act**

- Economic crime
- Breaking a law
- Miscarriage of justice
- Waste, misappropriation or Mismanagement of public resources
- Environmental degradation
- Endangering the health or safety of an individual or a community

## **Persons To Report To**

Employer	Police officer
Attorney-General	Auditor-General
Intelligence Agencies	Member of Parliament
Serious Fraud Office (EOCO)	
Commission on Human Rights and Administrative Justice	

## **Victimisation of Whistleblowers**

A whistleblower shall not be subjected to victimisation by the employer or by a fellow employee or by another person because a disclosure has been made.

A whistleblower shall be considered as having been subjected to victimisation if because of making the disclosure, he/she, is

- Dismissed ( a few cases against Internal Auditor)
- Suspended
- Declared redundant
- Denied promotion
- Transferred against the whistleblower's will (very common)
- Harassed
- Intimidated
- Threatened with any of the matters above

## **Protection of Whistleblower**

1. A whistleblower who has been subjected to victimisation or learns of a likely subjection to victimisation may in the first instance make a complaint to the Commission.
2. A complaint made shall contain the following particulars;
  - Name, description and address of the whistleblower
  - Name, description and address of the whistleblower's employer
  - The specific acts complained of as constituting victimisation.

## **Action by CHRAJ and enforcement to of its orders**

1. The Commission shall conduct an enquiry into the complaint at which the whistleblower and the person against whom the complaint is made shall be heard.
2. The Commission in the course of conducting an enquiry may make an interim order that it considers fit.
3. After hearing the parties and other persons considered necessary by the Commission, the Commission shall make an order considered just in the circumstances including an order for (a) reinstatement, (b) reversal of a transfer ,or (c)transfer of the whistleblower to another establishment where applicable.
4. The Commission may, where it considers it just in the circumstances of the case, make an order for payment of reward from the Fund established

## **Right of action for victimisation**

A whistleblower who has been subjected to victimisation may bring an action in the High Court to claim damages for breach of contract or for another relief or remedy to which the whistleblower may be entitled, except that an action shall not be commenced in a court unless the complaint has first been submitted to the Commission

## **Legal assistance**

Where the Commission in the course of an inquiry or hearing before it, is of the opinion that the whistleblower is in need of legal assistance, the Commission shall issue a certificate to the whistleblower to obtain legal aid from the Legal Aid Board or another institution that the Commission may specify in the certificate.

## **Police protection**

A whistleblower who makes a disclosure and who has reasonable cause to believe that (a) the whistleblower's life or property ,or (b)the life or property of a member of the whistleblower's family is endangered or likely to be endangered as a result of the disclosure, may request police protection and the police shall provide the protection considered adequate. (2) Despite subsection(1),the Commissioner, the Attorney-General as appropriate may in relation to

a disclosure of impropriety made or about to be made direct that the person who has made or is about to make the disclosure and the person's family be given police protection.

### **Protection against civil and criminal action**

A whistleblower is not liable to civil or criminal proceedings in respect of the disclosure unless it is proved that that whistleblower knew that the information contained in the disclosure is false and the disclosure was made with malicious intent.

### **Challenges**

- Processes can delay – whistleblowers suffer for some time before restoration.
- Culture of non-reporting (cover up) in institutions leading to victimisation and lack of support for reporting.
- Confidentiality cannot be guaranteed.
- Labelled as informants in the society
- Attitude toward public good : *'COUNTRY BROKE, COUNTRY NO BROKE WE ALL DEY INSIDE'*

### **Way Forward**

- Collaboration : among professional bodies
- Change The Culture :
- Gift policies should be strengthened
- Laws and Sanctions should be enforced
- Strengthen the Institutions
- Build Institutional Structures
- Internal Auditors should be bold to blow the whistle

### **Conclusion**

I believe the experiences and contributions at the panel discussion would identify strategies for preventing corruption, inefficiencies, abuses and wastes that collapse our institutions.

I also believe the discussions would identify strategies for protecting the good citizens who sacrifice their lives and resources to report the rot in our institutions.

Thank you.