

CORRUPTION PREVENTION THROUGH THE INTERNAL CONTROLS AND ENFORCEMENT MECHANISM

By

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INTRODUCTION

Professor Henrietta Mensah-Bonsu, a former Professor of Law at the University of Ghana and currently a Justice of the Supreme Court of Ghana, had this to say about Corruption:



“We all know how corruption in high places disadvantages the poor, raises transaction costs for all of us and demoralizes hard working people. What is more destructive is the approval of a petty corruption to secure advantages and benefits for ourselves on a daily basis. Who are we then to criticize others for being corrupt?”

AIM

- The aim of this presentation is to discuss Corruption Prevention through Internal Controls Mechanism.

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The Enigmatic Concept of Corruption

- Corruption, it is said, has been with mankind since the beginning of time.
- Success in the war against corruption has been eluding many anti-corruption fighters.
- According to the United Nations Office for Drug Control and Crime Prevention (UNODCCP), the anti-corruption works “has produced a mountain of words and hardly a molehill of solid results in terms of positive change, or, reform, in institutional behaviour”.
- The failure in this regard is substantially attributed to the complexity, dynamism and pervasiveness of corruption.

The Enigmatic Concept of Corruption

- Similarly, Dr. Andrew Tchier, a research fellow in conflict, security and development at the International Institute for Strategic Studies (IISS), as editor of the IISS Armed Conflict Database stated in 2019 that;

“Despite the growth of democracy and the establishment of several western structured anti-corruption institutions models, corruption continues to undermine governance processes and amounts annually to over \$50 billion through illicit flows and \$148 billion in corruption losses.”

The Enigmatic Concept of Corruption

- In 2018, the Global Corruption Barometer found more than one in four people on the continent paid bribes for public services.
- While there has been a failure to overcome this in the past, African governments must address corruption by bolstering anti-corruption institutions, reforming judiciaries, empowering the internal audit function, and addressing poor governance or they risk indirectly weakening their long-term national security agendas.

The Enigmatic Concept of Corruption

- The word is derived from the Latin verb '*corrumpere*' which means to destroy; spoil or break.
- The Handbook on Fighting Corruption by the Centre for Democracy and Governance defines it as “the abuse of public office for private gain”.
- According to Transparency International, it is “a behaviour on the part of officials in the public sector, whether politicians or civil servants in which they improperly and unlawfully enrich themselves or those close to them, by the misuse of public power entrusted to them.”

The Enigmatic Concept of Corruption

- Similarly, according to the Ghana Anti-Corruption Manual, “it encompasses unilateral abuses by Government officials such as embezzlement and nepotism as well as abuses that link public and private actors such as bribery, extortion, influence peddling and fraud.”

The Enigmatic Concept of Corruption

- Heidenheimer and Johnston (2017) classify the concept into three overlapping categories:
Misuse of public office for private gain;
 - i. Inappropriate exchange of money or favours for undue influence or power; and
 - ii. Violations of public interest or norms of behavior for special advantages or self-serving purposes.

- While there does not appear to be a uniform definition for the concept, the common thread is that corruption is about abusing public office for private gains.

Manifestations of corruption

- With the advancement in ICT, the types of corruption as well as the *modus operandi* used by people have evolved.
- While it manifests differently in different sectors it would usually take any of the following forms:
 - i. bribery,
 - ii. embezzlement,
 - iii. illicit enrichment,
 - iv. trading in influence,
 - v. abuse of functions (which can involve favouritism and nepotism).

Some Causes of corruption

- Generally, there are a plethora of things that cause corruption.
- According to data by the IEA in respect of a survey conducted by the Institute in 2015, the motives for corruption included:
 - i. Avoiding Punishments – 23.7%
 - ii. Avoiding higher official payments – 20.8%
 - iii. To be treated appropriately – 19.3%
 - iv. Practice of obligatory (illegal) payments to supervisors - 12.2%
 - v. Get rich quick – 23.9%
 - vi. Greed and Selfishness – 21.9%
 - vii. Low salaries – 20.4%

Some Causes of corruption

The following are also considered to influence the existence and prevalence of corruption:

a. Country size and age:

- Research shows that countries that are geographically large and have a low population density can be more prone to corruption because of the increased difficulties in monitoring public officials in dispersed locations.

Some Causes of corruption

b. Political instability:

- Political stability is associated with low corruption levels, whereas the probability of corruption is higher in politically unstable environments.
- Lack of stability in transitions to a newly elected government or regime particularly festers public sector corruption.

Some Causes of corruption

c. Lack of rule of law:

- Lawlessness or poor rule of law is an important government-level contributor to corruption.
- The probability of corruption occurring might increase where the legal system is unable to provide sanctions for officials that engage in corruption.
- In addition, corruption risks are higher in countries with less secure property rights, as corrupt means are used to ensure the security of these rights, where the legal system is unable to do so.

Some Causes of corruption

d. Failure of government:

- Poor governance can arise from low quality public sector management, a lack of accountability, poor relations between the government and citizens, a weak legal framework, a lack transparency regarding public sector processes, and poor dissemination of information.
- A lack of competence and capacity due to inadequate training also contributes to failure of governance.

Some Causes of corruption

d. Nature of bureaucracy:

- **Tanzi (1998), Kaufman and Wei (1999), and Goel and Nelson (2010) all contend that government bureaucracy and government intervention in the economy promote corruption.**
- **Tanzi (1998) further asserts that "the existence of regulations and authorizations gives a kind of monopoly power to the officials who must authorize or inspect the activity".**
- **He also specifies the quality of the bureaucracy as an important causative factor for corruption.**

Some Causes of corruption

- Other causes of corruption include
 - i. poor technological infrastructure,
 - ii. weak institutions,
 - iii. undermining of institutions by politicians,
 - iv. lack of political will,
 - v. poor ethical standards,
 - vi. lack of accountability,
 - vii. social and cultural norms, and
 - viii. lack of effective corruption reporting system.

Consequences of corruption in Ghana

- The cases of the Padma Bridge scandal in Bangladesh, the 2018 earthquake in Mexico City and the South Korean ferry disaster are examples of the impact of corruption in the sense that due to corruption, important infrastructure projects were awarded to companies which used cheap and low-quality materials, neglected safety procedures and enjoyed impunity and lack of government control over their actions.
- Corruption may be episodic (a single act of corruption) or systemic (a pervasive pattern of corrupt activities and practices over time), and its effects can range from isolated to far-ranging in nature.

Consequences of corruption in Ghana

- In the forward to the 2003 UN Convention Against Corruption (UNCAC) the then UN Secretary-General, Mr. Kofi Annan of blessed memory made it clear that:

“Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish. This evil phenomenon is found in all countries, but it is in the developing world that its effect are most destructive”.

- **Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a government’s ability to provide basic services feeding, inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development”**

Consequences of corruption in Ghana

- The detrimental impact of corruption includes a substantial increase in the costs of public goods and services, leads to the misallocation of public resources, weakens policymaking and implementation, and destroys public confidence in the government.
- A research report on the cost of education and health by a consortium comprising Ghana Integrity Initiative (GII), and Ghana Anti-Corruption Coalition (GACC) and SEND-Ghana revealed that about 30 per cent of the nation's Gross Domestic Product (GDP) is lost to corruption, as 70 per cent of Ghanaians have attested to experiencing corruption in education and health.

Consequences of corruption in Ghana

- The Country Director SEND-Ghana, Mr. George Osei-Bimpeh – presenting the research finding on the cost and impact of corruption on education and health sector in Ghana, indicated that approximately 52 per cent of Ghanaians have paid bribes, were asked to pay bribes, or have collected a bribe in the education and health sectors (Source: Business & Financial Times. Monday, November 26, 2018, back page. By Ernest Bako WUBONTO).
- Mr. Richard Quayson, Deputy Commissioner of CHRAJ, revealed that GHANA loses more than GHC13.8billion (\$3 billion) every year through corruption. He said that the amount represents more than 300 per cent of the 2016 annual budget estimates.

Consequences of corruption in Ghana

- “Imagine what 20 per cent of the nation’s budget could do in the lives of the struggling masses, the unemployed and the elderly who are struggling to survive on pension after many years of service, and what USD3billion could do if it was gainfully invested in the development of Ghana,” said the Deputy Commissioner of CHRAJ.
- He pointed out that if Ghana could use a loan facility of USD 250million to build the 430-bed Accra Regional Hospital, the country might as well build 12 such hospitals with USD 3billion without a loan. (Source: Ghanaian Times. Saturday, September 22, 2018, Page 16. By Alberto Mario Noretta, Ho).

Consequences of corruption in Ghana

- The Ghana Integrity Initiative, indicated that the country loses about US\$3 billion to corruption annually.
- Consequently, corruption retards growth, good governance, and reduces the ability of developing countries to supply essential public services.

Internal controls with regards to corruption prevention

- In light of the adverse effect corruption can have on the economy of Ghana, the Constitution (1992) makes provision for various anti-corruption tools as well as enjoining the State in Article 35(8) to take steps to eradicate corrupt practices and abuse of power.
- To combat corruption, robust and effective internal control systems are needed to detect, prevent, deter and respond to corruption risks.

Internal controls with regards to corruption prevention

- The system does not necessarily have to involve a higher number of checks and verifications, since strong evidence indicates that where governance is weak and corruption widespread, adding multiple layers of controls may generate further opportunities for fraud and abuse.

Internal controls with regards to corruption prevention

- As recognized by article 5 of the UN Convention Against Corruption (UNCAC), core principles associated with the prevention of corruption in the public sector are:
 - i. the rule of law
 - ii. proper management of public affairs and public property,
 - iii. integrity,
 - iv. transparency and accountability.

Internal controls with regards to corruption prevention

- In articles 7 and 8, UNCAC requires States to put in place specific measures that ensure adherence with these principles, including
 - i. adopting merit-based systems for the recruitment and promotion of civil servants,
 - ii. prescribing criteria for election to public office,
 - iii. enhancing transparency in the funding of political parties,
 - iv. preventing conflicts of interest,
 - v. promoting codes of conduct for the public sector, and
 - vi. establishing systems for the declaration of assets.

Internal controls with regards to corruption prevention

- Additional measures for preventing corruption, called for in articles 10 and 13 of UNCAC, include the promotion of stakeholder participation and open government.
- A few of the measures are discussed below:
- **Codes of conduct:**
 - i. Corruption prevention mechanisms often start with rules that prohibit certain types of conduct. Rules include legal prohibitions against corruption, and criminal and civil penalties directed at both the public and private sectors (Williams-Elegbe, 2012), but also include codes of conduct and ethics for public officials.
 - ii. Codes provide guidance on how public officials should conduct themselves in relation to these standards and how they may be held accountable for their actions and decisions.

Systems of rewards and incentives

- At a basic level, all countries should establish a system that rewards appropriate behaviour and penalizes corrupt behaviour in the public sector.
- The system should include extrinsic motivations such as a decent wage and merit-based appointments and promotions.
- Research compiled by the United States Agency for International Development (USAID, 2017) suggests that an invariable link between lower wages for public officials and corruption does not exist in all countries, but that, in some cases, higher wages and merit-based promotions are associated with a lower probability of the acceptance of illegal payments.
- In terms of intrinsic motivations, a high staff morale is crucial for anti-corruption efforts to succeed, and there is a lower tolerance for corruption among persons who find their jobs satisfying (Kwon 2014).

Accessibility

- This refers to the ability of all firms to access government contract opportunities (OECD, 2016).
- Full accessibility is required to increase competition in public procurement and foster the participation of small and medium-sized enterprises (SMEs) in public procurement.
- Access is fostered by reducing the bureaucracy inherent in the tender process, cutting the cost of participation in public procurement and streamlining the tender process.
- Limiting bureaucracy is particularly important in public procurement.
- Access to public contracts by SMEs and other target companies can be facilitated by rules requiring a portion of government contracts to be awarded to SMEs, women, minorities and other target groups.

Human Resources Management

- The rules and procedures for hiring, rotation, promotion, professionalization, and training of civil servants also play a role in the combating of corruption in the public sector.
- For example, staff rotation in jobs that are vulnerable to corruption is expected to assist in preventing corrupt relationships from forming and in disrupting established corrupt relationships.
- Rotation may also lead to reduced incentives to engage in corruption for private sector actors, as there might not be the future guarantee of the corrupt partner's continuation in a particular position.

Human Resources Management

- Merit-based recruiting is another example of a human resources management system designed to disrupt corruption.
- Article 7 of UNCAC stipulates that, the human resources management system of the civil service must be based on the underlying principles of transparency, integrity and efficiency.
- As with all anti-corruption measures, rotation must be balanced against other concerns, such as building competency and commitment to public service.

Citizen and stakeholder participation

- Public sector accountability requires that a wide range of stakeholders participate in public sector processes and in the procurement process in particular (OECD, 2016).
- **Managing conflicts of interest**
- Conflicts of interest could lead to corruption, therefore such conflicts need to be disclosed and addressed in a manner that will prevent a descent into corruption.
- In general, conflicts of interest are addressed through financial and asset disclosure requirements, codes of conduct and other regulations.

Compliance-friendly environment

- In relation to ensuring compliance with anti-corruption rules and norms in the public sector, nudges and training programmes are common ways of creating an environment for compliance.
- The nudge theory, as popularized by Thaler and Sunstein (2008), is any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives.
- To count as a mere nudge, the intervention must be easy to implement and cost effective.
- The theory presumes that, when faced with a choice, people are more likely to go for a default option, and so presenting simple alternatives at the moment of decision-making can alter behaviour without heavy-handed enforcement.

Monitoring and oversight

- Monitoring can take the form of audits, transparency measures that provide information needed to hold the public sector to account and civil society monitoring.
- Research by Di Tella and Schargrotsky (2003) demonstrates that audits on public hospitals in Argentina reduced the cost of medical supplies by 15 per cent, and Bobonis, Fuertes and Schwabe (2016) show that audits reduced municipal corruption by 67 per cent in Puerto Rico.
- Control measures can thus serve as risk management tools as long as they are "coherent and include effective and clear procedures for responding to credible suspicions of violations of laws and regulations, and facilitate reporting to the competent authorities without fear of reprisals" (OECD, 2016).

Accountability and scrutiny (the four-eyes principle)

- The four-eyes principle refers to a requirement that some public sector activities or decisions must be approved by at least two people.
- The four-eyes principle is a tool for monitoring and increased accountability and operates on the basis that it is harder to corrupt two people than one person (Bodenschatz and Irlenbusch, 2019), although this might not be the case in systemically corrupt societies (Williams-Elegbe, 2018).

Conclusion

- Following from the foregoing, it is evident that sound internal controls can help prevent corruption.
- If not completely eradicated, internal controls can help reduce the incidence of corruption to the barest minimum, as well as ensure it is not pervasive.
- Where internal controls have assisted in unearthing corruption, enforcement of the law must follow with recovery of funds and prosecution, to serve as a deterrent to others with likeminded ideas to perpetrate corruption.

THANK YOU!!!!

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