

Fruitlessness of Anti-Corruption Agencies: Lessons from the Commission on Human Rights and Administrative Justice in Ghana

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Abstract

Political corruption has become one of the most topical issues in the political discourse in Ghana. This stems from the fact that corruption has become so endemic and systemic in Ghanaian polity with its negative effects on the economy. Indeed, political corruption negatively affects job creation, investment potentials, infrastructural development and generally the standard of living of the people. It is within this context that anti-corruption institutions have been established in Ghana to address the menace of corruption. The Commission on Human Rights and Administrative Justice (CHRAJ) is one of such institutions established under the 1992 Republican Constitution of Ghana tasked with the responsibility of addressing the problem of corruption in Ghanaian public administration system. This paper examines the extent to which the Commission has achieved this constitutional mandate of addressing the problem of corruption. The study finds that some drawbacks which inhibit the potency of CHRAJ in addressing the problem of corruption include lack of political will by the governing elite to support the institution, eroding confidence of the Commission, the trend of appointing the Head of the Commission in an acting capacity, constitutional weaknesses, poor capacity building support and low motivation. The paper therefore offers pragmatic policy suggestions to address the inherent deficiencies of the Commission with the objective of making it more functional.

Keywords

Ombudsman, corruption, Africa, Ghana, effectiveness, political will

Introduction

In recent years, the problem of corruption has become a cardinal theme in public discourse in Ghana because of its negative effects on economic development. Addressing the canker of corruption has,

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thus, become an increasing international priority, as reflected in the widespread ratification by countries of the United Nations Convention Against Corruption. The literature on corruption points out that the Corruption Perceptions Index contributes to awareness-creation and gives a reasonable signal on the overall extent of corruption within countries (Heywood and Rose, 2014). Such awareness-creation has led to bringing corruption to the limelight of development discourse as a stinky public sector will have a cascading effect on overall development of people and all entities with the State (Alm et al., 2016; Banerjee, 2016). The problem of corruption has been a perennial one that appears to afflict all politically organised human societies, rich or poor, developed or developing, ancient, traditional or modern. But, it is recognized that the phenomenon of political corruption is more prevalent in some societies than in others, and it produces more catastrophic effects on some societies than on others (Gyekye, 1997).

Over the years, the challenge of political corruption has not been minimized, but has grown and become more entrenched in many developing countries like African nation-states (Johnston, 2014). It is worth mentioning that the majority of African countries are perceived as very corrupt by their citizens. A whopping 90% of the countries in the sub-Saharan African region, for instance, performed poorly in the 2013 Corruption Perceptions Index, with scores below 50, on a scale from zero (very corrupt) to 100 (very clean) (Transparency International, 2013).

On a daily basis, both electronic and print media are inundated with corruption practices being perpetuated by key public officials. These corrupt practices frequently result in the short-changing of public resources for personal gains (Rodriguez et al., 2005). Due to the fact that some public officials consider their interests to be more paramount than the public interests, the quality of governmental services can be undermined. To support the evidence that public officials indulge in corrupt practices in Ghana, the Honourable Member of Parliament for Nadowli, Kaleo, Mr Alban Sumana K Bagbin (2014), the then Majority Leader in Parliament stated that:

Some Members of Parliament take bribes to express the views of some individuals and groups on the floor of Parliament. In his view “the reality is that, MPs are Ghanaians and there is evidence that some MPs take bribes and come to the floor and try to articulate the views of their sponsors” (Daily Graphic, 2014: 3).

In Nigeria, for instance, it is reported that public procurement invoices are often grossly inflated. “When it comes to a job that attracts money,” a defense ministry IT worker told me last year, “only the director and the deputy director have knowledge of the real terms of the deal... If it’s 10 million, the director says, ‘Make it 12 million.’ Procurement will say, ‘Make it 15 million’ and the permanent secretary says, ‘Make it 25’.” (Chayes, 2015).

In Ghana, a number of constitutional and statutory bodies are vested with the power to fight corruption. Besides the traditional law enforcement agencies such as the Ghana Police Service and the Bureau of National Investigations, the Commission on Human Rights and Administrative Justice (CHRAJ), the Economic and Organised Crime Office, and the Financial Intelligence Centre are the foremost anti-corruption institutions in Ghana. The National Anti-Corruption Action Plan was developed in 2011 which offers a more holistic and concerted approach to fighting corruption in Ghana (CHRAJ, 2013).

It must be recognized that the success of anti-corruption institutions greatly depends on the effectiveness and cooperation of a wider range of complementary institutions. In practice, these institutions are often not well connected and integrated due to their wide diversity, overlapping mandates, competing agendas, various levels of independence from political interference and a general institutional lack of clarity. For this reason, the establishment of an anti-corruption commission has been seen in many cases as adding another layer of bureaucracy to the law enforcement sector (Chêne, 2009). Some scholars assert that a lack of political will and adequate leadership

undermine the effectiveness of anti-corruption agencies. Quah (2007) and Camerer (2008) argue that anti-corruption efforts will not succeed without political support, resources, powers, independence and accountability. Political will strengthens the effort to fight corruption; nevertheless, there is increased awareness that the political will to combat corruption is usually absent because powerful players among the political leadership benefit from and perpetuate corruption (Della Porta and Vannucci, 2012).

Despite the numerous assurances by political leaders to tackle the problem of corruption, it continues to persist in Ghanaian society and poses a serious threat to the economic, social and political development of Ghana. One striking feature of anti-corruption commissions, like the CHRAJ, has been the adoption of several strategies by governments to fight corruption, yet in most cases, they fail to achieve their intended purposes. In spite of these failings, there is evidence to suggest that, the quality of a country's political institutions determines its economic and social development (Rodrik, 1999; Rose-Ackerman, 2004).

Underscoring the relevance of State institutions or quasi bodies for addressing political corruption, this paper focuses on the CHRAJ, which is legally mandated to deal with corruption in Ghana. The CHRAJ was established in 1993 by an Act (Act 456) of Parliament of Ghana as stipulated by Article 216 of the 1992 Constitution of Ghana, yet the Commission's effort in fighting corruption is perceived to be unsatisfactory, with many questions being asked regarding the effectiveness of CHRAJ. Key among these questions are: to what extent has CHRAJ achieved its constitutional mandate in addressing the problem of corruption? Does the Commission suffer from the paralyses that are usually akin to such anti-corruption institutions? What are the policy options available to CHRAJ to achieve its expected goals?

To address the questions raised in this paper, attention is paid to the decision-making processes of the Commission and how such decisions are implemented. This is because it is within these decision-making processes and the mechanisms for translating such decisions into practicable actions that various operations can be identified and addressed appropriately.

Methodology

The study adopted content analysis of secondary data and relevant materials were sourced from the 1992 Republican Constitution of Ghana, policy documents including the CHRAJ Act 456 of 1993 and annual reports, Code of Conduct for public officers. Other data were gathered from online sources, newspaper publications, and journal articles. These data sources were subjected to content analysis and triangulated with evidence from the literature (Carter et al., 2014).

Theoretical framework: Principal-agency theory

We analyze the impotence of anti-corruption agencies through the lens of principal-agency theory. The principal-agent model was originally conceived in the study of economics (Berhold, 1971; Jensen and Meckling, 1976; Ross, 1973). Ross (1973: 134) defines the principal-agency relationship as a situation when "one, designated as the agent, acts for, on behalf of, or as representative for the other, designated as the principal, in a particular domain of decision problems." The 'information asymmetry' arises because the agent has more or better information than the principal and to that effect, creates a power imbalance between the two and makes it difficult for the principal to ensure the agent's compliance (Booth, 2012). Within the model, principals delegate power to an agent to act on their behalf. Several reasons account for why principals delegate authority to agents and most prominent of these are the need to reduce transaction costs whilst improving the efficiency of decision-making processes. Also, principals delegate powers since they lack specific

information but could profit from the expertise of a specialized agent capable of working in a highly complicated or technical policy area. Again, principals could enhance credibility of policy commitment, improve monitoring, enforce compliance and even shift blame for unpopular decisions or policy failures that have political consequences, by delegating power and authority (Jensen and Meckling 1976; Pollack, 1997; Ross, 1973; Tallberg, 2002). Using this framework, the CHRAJ acts as the agent and the government and the citizens, on the other hand, as principals.

Within the context of the CHRAJ, monitoring devices and punishment regimes will be largely ineffective if the Commission demonstrates unwillingness and a lack of commitment to enforce its rules and regulations. It is significant to note that this assumption holds true even if we assume perfect information, and even if everyone condemns corruption and realizes that a less corrupt outcome would be more beneficial for the society at large. Put differently, in a situation of unbridled corruption, any anti-corruption effort is likely to turn into a collective action problem of the 'second order' (Ostrom, 1998). Invariably, if the key actors are corrupt and do not act in the interest of the society but pursuing their own narrow self-interests, anti-corruption reforms based on the principal-agent framework will inevitably fail.

It is important to note that the lack of effectiveness of conventional anti-corruption interventions is thus quite clear (Mungiu-Pippidi, 2015) and is reflected in the implementation gap, whereby countries that have committed themselves to legal and organisational reforms as well as the implementation of anti-corruption best practices continue to experience very high levels of corruption. Persson et al. (2013) argue that traditional anti-corruption interventions fail because they are based on a mischaracterization of the problem. Most often seen through the prism of principal-agent theory, corruption is conventionally thought to occur when civil servants have discretion over public services and lack accountability.

Primarily, the principal-agent theory mistakenly assumes that there will be 'principled principals' in civil society and in positions of power, which will want to fight corruption through the enforcement of anti-corruption laws (Persson et al., 2013). However, when corruption is systemic and perceived to be the norm, it is far more likely that people will continue to go with the corrupt grain, regardless of the reforms that are instituted by establishing commissions to fight corruption (Bauhr and Grimes, 2014; Marquette, 2012). Consequently, corrupt countries remain corrupt not because they lack the legal framework or national institutions to fight it, but because people think their own actions to fight or abstain from corruption will not make a difference (Persson et al., 2013).

Literature review

The Oxford English Dictionary defines corruption as "perversion or destruction of integrity in the discharge of public duties by bribery or favour." Similarly, Webster's Collegiate Dictionary defines it as "inducement to wrong by improper or unlawful means (as bribery)." Nye (1967: 419) sees official corruption as a "behaviour which deviates from the formal duties of a public role because of private (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private regarding influence." A succinct definition of corruption endorsed and applied by the World Bank (World Bank, 2006) is the abuse of public office for private gain, and this definition covers various forms of interaction between public sector officials and other agents. In summary, corruption encompasses behaviour that violates 'formal duties' including bribery (use of compensation to pervert the judgement of a person in a position of trust); nepotism (bestowal of patronage positions by reason of ascribed relationships rather than merit); misappropriation (illegal allocation of public resources for private uses); and willful failure to enforce laws or invoke sanctions that are appropriate to a situation.

Klitgaard (1988) conceptualises corruption in terms of a formula as $C = M + D - A$, which means corruption (C) is a summation of monopoly (M), discretion (D) and the exclusion of accountability (A). This implies that corruption is more likely to prevail in a situation when public officials have monopolistic control over state resources and much discretion to use those resources without properly accounting for their use to the citizens. Predominantly, the public office is abused for private gains when an official accepts, solicits, or extorts a bribe, suggesting that private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Corruption presents not only a problem to national development but also a formidable challenge to international development. At the international level, corruption is prevalent in countries where the world's poorest people live, and significantly succeeds in siphoning precious resources from the more deprived to the affluent ones in society (World Bank, 2014). Consequently, corruption adversely affects foreign investment flows, deterring private and public sector investment in infrastructure, health, education and the full range of development that enhances the quality of people's lives (OECD, 2014).

Political corruption is usually associated with the acceptance of bribes; but in reality, it transcends the giving and/or acceptance of bribes. For instance, graft, fraud, nepotism, kickbacks, favouritism, and misappropriation of public funds are all acts of political corruption when such acts are committed by public officials exploiting their official positions for their own advantage (Inokoba and Ibegu, 2011). For instance, a Head of State or President who stealthily and fraudulently amasses wealth from the State and deposits these in foreign banks, the public official who receives a bribe from a prospective employee in return for a job acquisition, an official who favours less qualified relatives over meritocracy, are all forms of political corruption. Thus, political corruption generally involves reciprocities between the public official and the other beneficiary of the corrupt act (Gyekye, 1997). The reward offered in return for influence can be nonmonetary: what is key is that it is offered with intent to influence decisions of the public officer (Becker et al., 2013; Pacini et al., 2002).

Yeboah-Assiamah et al. (2014) have discussed how corruption is bargained between public officials and clients through a transactional model. The conceptual framework was modified by Yeboah-Assiamah and Alesu-Dordzi (2015) to assess why, in spite of rules and systems to fight the menace of corruption, it still permeates in the Ghanaian society. Looking at corruption from the perspective of the organisation, antecedents of bribery and corruption include micro-behavioural factors such as blind spots (Bazerman and Tenbrunsel, 2011), bounded ethicality (Kahneman, 2011; Simon, 1959), framing, individual perceptions regarding how ethical it is to pay bribes (Bernardi et al., 2009), groupthink, conflicts of interests (Janis, 1982) and plenty of other behavioural, psychological, and social factors (World Bank, 2014).

It can be argued also from the 'bad apple' theory that individual greed, unethical behaviour and crude rational self-interest are responsible for organisational corruption (Trevino, 1986; Trevino and Youngblood, 1990). It can be argued from this perspective that corrupt practices are pursued for private benefits (Aguilera and Vadera, 2008), which typically violate an organisation's formal goals. In contrast, a 'bad barrel' view of corruption argues that organisational deviance and corruption are not exceptional individual events, but instead are systematic results of a complex combination of different factors, including environmental forces, organisational structures and processes and individual choices.

The discussion of corruption in Ghana will be incomplete if one fails to look at the cultural dimension of corruption. Gyekye (2013) argues that culture influences people's tendency to be corrupt, especially in Africa which has a collectivist culture. The Ghanaian culture, for instance, provides various indicators that facilitate public sector corruption. There are various proverbs in the cultural setting, for instance, which tend to foster peaceful co-existence with one another.

However, when these proverbial expressions transcend into the formal work of individuals in the public or private office, they may have a tendency to enhance corruption (Yeboah-Assiamah et al., 2016). These cultural tendencies could have implications on how anti-corruption agencies such as the CHRAJ in Ghana appear not to be so effective in handling cases of corruption.

A brief account of Ghana's CHRAJ

The 1992 Constitution considers better management of the Ghanaian economy as a critical issue that must be pursued vigorously. According to Article 36(1), the State must “take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare” of the people. The CHRAJ was established under the 1992 Constitution to investigate complaints of violations of fundamental human rights and freedoms, administrative injustice, abuse of power, all instances of alleged or suspected corruption and misappropriation of funds by public officials.

The CHRAJ, as enshrined in Chapter 18 of the 1992 Fourth Republican Constitution of Ghana, was established by Act 456 of 1993. The CHRAJ is not only responsible for checking and redressing incidents of maladministration but also to promote human rights. Article 287 of the Constitution, for instance, mandates the Commission to investigate complaints of contravention of the Code of Conduct for public officers, including conflict of interest, non-declaration of assets by public officers and illegal acquisition of wealth by public officers.

The Commission was given a broad mandate under Chapter 18 of the 1992 Constitution of Ghana and the CHRAJ Act, 1993 (Act 456) to achieve the objective of social justice. The Commission's mandate is three-fold; namely, human rights, administrative justice, and combating corruption. The Commission is therefore the National Human Rights Institution of Ghana; the Ombudsman, an agency, which promotes administrative justice; and an Anti-Corruption Agency and Ethics Office of the Public Service of Ghana.

The Commission is one of the major anti-corruption agencies in Ghana. Its anti-corruption powers stem from Articles 218 (a) “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” and (e) “to investigate all instances of alleged or suspected corruption and the misappropriation of public moneys and to take appropriate steps, including reports to the Attorney General, results from such investigations by officials.”

The Commission comprises a Commissioner, who is the chair, and two Deputy Commissioners at the national level. The three Commissioners constitute the governing body of the Commission. The President appoints the Commissioner and his two deputies, acting in consultation with the Council of State and with the approval of Parliament. This is to ensure that the Commissioners are independent of the executive arm of government. The CHRAJ Act equates the Commissioner to an Appeal Court Judge whilst the two deputies are equated to High Court Judges. Further, Article 223 assigns the Commissioners terms and conditions of service of judges, including a security of tenure that goes with these positions. The Commissioners are supported by departmental directors who have direct responsibility for the Commission, namely: legal and investigations, anti-corruption, public education and finance and administration. The Commission has 10 regional offices that coordinate the Commission's work in the 10 administrative regions of Ghana. In addition, it has 2 sub-regional and 99 district offices across the country that ensure that the services and work of the Commission are brought to the doorstep of the ordinary person in Ghana (*Chraj*, 2013).

Discussion

Since the establishment of the CHRAJ, there have been instances of some modest achievements in fighting political corruption regardless of the challenges faced by the Commission. One significant accomplishment of the Commission is the preliminary investigations conducted into media allegations of corruption and conflict of interest against the then sitting President of the Republic, His Excellency John Agyekum Kufour. The *National Democrat* (March 16, 2005) a national newspaper, reported that the President had acquired a building located near his private residence at the cost of US\$3,000,000 and had registered the building in the name of his son, Mr John Addo Kufour. After an extensive investigation by the Commission, it was established that the allegations of corruption and conflict of interest against the President were unfounded. It is argued that, having the audacity to investigate the sitting President at the time which is consistent with Chapter 18 of the 1992 Constitution of Ghana (Act 456, 1993) is a plus to the Commission.

Another landmark case was the investigations into allegations of corruption, conflict of interest and abuse of power against Hon. Dr Richard Anane, a Member of Parliament and also the then Minister for Road and Transport. The Commission investigated Dr Anane for corruption, abuse of office and lying under oath in a matter regarding his relationship with Ms Alexandria O'Brien, an American. The Commission ruled that the Minister was not corrupt but had abused his office and lied to Parliament under oath. It recommended that the accused be removed from office by the President and apologise to the Government, Parliament and the people of Ghana for misleading Parliament and also bringing his position to disrepute. The Minister subsequently tendered in his resignation letter upon the recommendation in order to challenge the findings in court. The ruling is of significance, in the sense that the Commission sees corruption and abuse of office as two different things. If the World Bank's definition of corruption (see IMF/World Bank, 2006) as the abuse of office is something to go by, then one can conclude that the ruling is quite inconsistent with the World Bank's definition of corruption.

Fruitlessness of the CHRAJ

Recruitment and selection of Commissioners

The appointment of members of the Commission is found in Article 217, Chapter 18 of the 1992 Republican Constitution of Ghana which states that "the President shall appoint the members of the Commission under Article 70 of this Constitution." Article 70 (1) also states that "the President shall, acting in consultation with the Council of State, appoint (the Commissioner for Human Rights and Administrative Justice and his Deputies)." These provisions imply that the President has powers to appoint persons to provide oversight responsibilities of his activities in terms of corrupt practices perpetuated by him and his officials. This means that there is the likelihood that the President may appoint persons perceived to be loyal to him to the leadership of the Commission. Notably, the unfettered discretion to appoint leadership to commissions and councils could be a notorious vehicle for political patronage. In most cases, some of these appointments are clearly made in favour of known political allies of the President and ruling party, thereby undermining the institutions' effectiveness and credibility (Gyimah-Boadi, 2009). Political appointments have been observed to contribute significantly to corruption risks in public administration (Heywood and Meyer-Sahling, 2013). Political appointees to various administrative positions in most cases have the potential to collude with politicians in their corrupt practices instead of having the audacity to expose such nefarious and corrupt practices perpetuated by such public officials. From the principal-agency perspective, the 'agents' who are empowered to secure the public interest may

end up stabbing the State in the back by pursuing actions that promote their own interest. It is against this backdrop that Yeboah-Assiamah (2017) argues for a ‘corruption control tripod’ which is an interplay between *strong institutions*, *strong personalities* (public officials with ethos and spirit of statesmanship) and more importantly *strong third force* to compel public officials to enforce institutions. Without the latter to watch the back of State agencies, public officials may be tempted to act ‘calculously’ at the blindside of institutions to render them less effective (see Yeboah-Assiamah and Alesu-Dordzi, 2015). The civil society or entire citizenry ‘principal’ in this case has a profound role to play in the anti-corruption processes by exposing such public officials who indulge in corrupt practices.

Syndrome of ‘Acting Commissioners’

The weakness of the Commission is even more demonstrated in terms of the tendency of the political leadership to appoint the Head of the Commission in an acting capacity, i.e. ‘Acting Commissioner.’ This nomenclature has been creeping quietly into the lexicon of the CHRAJ, where instead of appointing a Substantive Commissioner to head the institution, an Acting Commissioner is appointed instead. In the case of Mr Whittal, he was appointed as a Substantive Commissioner when the then government had lost an election and knew it was leaving office the following week.

Under the Fourth Republican Constitution, out of the five officials appointed to head the Commission, three have been appointed as Substantive Commissioners and the other two as Acting Commissioners. Table 1 buttresses this point.

The practice whereby the Head of CHRAJ is appointed in an acting capacity has the tendency to undermine Commissioners’ authority to investigate corrupt practices by government officials, probably for the fear of losing their jobs.

Eroding popular confidence in the CHRAJ

Again, the fruitlessness of the CHRAJ is evidenced in terms of perceived lack of confidence on the part of the populace regarding the effectiveness of the Commission to seriously investigate corrupt practices by public figures and make appropriate recommendations to the Attorney-General’s Department for prosecution. A case in point is when a private radio station in Accra, Joy FM, published a story of an alleged Ford Expedition gift to President John Dramani Mahama while in office by a Burkinabe contractor. Subsequently, some petitioners levelled allegations against the President through separate petitions that the gift violates Article 284 of the 1992 Constitution. Article 284 specifically states 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 the office.” Incidentally, the Gift Policy under the Code of Conduct for public officers stipulates that a public official shall not accept gifts-tangible or intangible, that may or appear to have the potential to influence the

Table 1. Commissioners serving in Active and Substantive Positions.

Period	Name of Commissioners	Status/designation
1993–2010	Justice Emile Short	Substantive Commissioner
2010–2011	Anna Bossman	Acting Commissioner
2011–2015	Laureatta Vivian Lamptey	Substantive Commissioner
2015–2016	Richard Quayson	Acting Commissioner
2017–	Joseph Akanjoluwer Whittal	Substantive Commissioner

exercise of his/her official functions, proper discharge of his/her duties or his/her judgement, indirectly from a person with whom he/she comes into contact in relation to official duties. Upon investigations, the Commission dismissed the bribery and conflict of interest allegations levelled against the President over the receipt of the Ford Expedition vehicle as a gift. Essentially, the Commission exonerated the President of the conflict of interest by stating that:

At the end of preliminary investigation, the Commission has come to the conclusion based on the extensive evidence assembled, that the allegation that the respondent has contravened Article 284 of the 1992 Constitution by putting himself in situations of conflict of interest has not been substantiated. Consequently, the Commission holds that full or further investigations into the allegation are not warranted (*Daily Graphic*, 30 September 2016: 3).

The Commission however expressed the view that:

The gift in question forms part of gifts prohibited under the Gift Policy under the Code of Conduct but the action did not constitute bribery. Although the evidence shows that the respondent subsequently surrendered the gift to the State, the action nevertheless contravened the Gift Policy (*Daily Graphic*, 30 September 2016: 3).

Most people felt that the ruling was meant to protect the President from possible prosecution. Claiming that the President has violated the Gift Policy and at the same time exonerating him was therefore found to be against the spirit and the letter of the Commission's mandate in fighting corruption. Disappointed with the ruling by the Commission, one of the petitioners, for example, who triggered the investigations, Mr Ernesto Yeboah, a National Youth Organiser of the Convention People's Party expressed disappointment that "the CHRAJ report is a mild way of telling the President he has abused his office" (*Daily Graphic*, 30 September 2016: 16).

Commenting on the ruling, a former Commissioner of the Commission, Justice Emile Short, described the decision of exonerating the President from allegations of conflict of interest as "troubling and problematic because it does not give guidance on how Public Office Holders should behave when they are confronted with expensive gifts" (*Daily Graphic*, 1 October 2016). Justice Emile Short was of the view that section 144 of the President's Code of Ethics for Ministers and Public Office Holders prohibited Ministers and other Public Office Holders from accepting gifts, either in cash or kind, from commercial organisations. Justice Short, therefore, expressed disappointment that "the President is the leader of public officers and certainly not an exception to the rule" (*Daily Graphic*, 1 October 2016).

Logistical constraints

Poor budgetary support and lack of resources have been stated as constituting a bane to effective functioning of the CHRAJ. The 2010 Annual Report of the Commission points out that poor funding, coupled with inordinate delays in releasing budgeted funds, have often delayed investigations and implementation of planned programmes, in addition to increasing cost of operations. This point is consistent with Doig's (1995) assertion that a number of guidelines for effective anti-corruption agencies have been proposed in developing countries as 'ad hoc' and 'cosmetic' measures, with the result that they have usually been denied the resources necessary to make them function effectively. This has been noted by Gyimah-Boadi (2009) that "the Commission's work is hampered by sometimes serious financial and logistical constraints"; this coupled with its manifold mandate (anti-corruption, human rights protection, and administrative justice), the CHRAJ mostly

gets overstrained in terms of capacity. This point has been corroborated by Aye (1994) that "...in practice, however, the CHRAJ fails to get the financial autonomy and backing that will enable it perform its task effectively and efficiently."

Combined with poor conditions of service, which have also brought about a high rate of staff attrition, especially in the professional class, poor infrastructural and logistical support, are also huge challenges affecting the Commission (CHRAJ, 2010).

Under-funding sends negative signals to the public and government agencies about the government's commitment to combating corruption and improving accountability and government services. It also limits the Commission's capacity to set itself up to do its job to obtain appropriate facilities and equipment and to hire sufficient staff and train them to a professional level. The ombudsman's staff members need training in face-to-face public service; in interviewing techniques; in analysis of complex cases; in report writing and provision of advice; in understanding the machinery of government; and in knowledge of laws, regulations and procedures and of legal and judicial institutions. Scrutiny must be comprehensive if it is to be effective. This requires a lot of resources: accountants, investigators, and lawyers, along with computer specialists and other support staff to back them up. Not only does a counter-corruption commission need a lot of well-trained staff, it also needs to pay them enough to deter temptation to be corrupt.

Limited powers

Although the CHRAJ is mandated to investigate inter alia breaches of the Code of Conduct by public officers in all instances of alleged or suspected corruption, misappropriation of public moneys, abuse of power as well as taking appropriate steps, including reporting to the Attorney-General and the Auditor-General of adverse findings, the law currently precludes the prosecution of public officials. Specifically, the law prohibits the CHRAJ from prosecuting public officials found to be culpable of corruption and misappropriation of public funds. Sadly, the mandate of the CHRAJ is only limited to making reports to the Attorney-General, without opportunities for prosecuting their cases as they may deem fit. It is only the Attorney-General who has the authority to conduct prosecutions whilst the CHRAJ and other anti-corruption agencies are not legitimately empowered to prosecute officials who are found culpable in corrupt practices. It must be noted that the requirement to submit a report on its findings and not to prosecute is not deterrent enough to public officers. It is inconceivable that a Commission of three experienced lawyers qualified for the appointments as Appeal/High Court Judges can only investigate cases of corruption but are without the legal mandate to prosecute such cases.

Appearance of institutional laxities

There are also other constitutional flaws, which impede the effectiveness of the CHRAJ. The Public Office Holders (Declaration of Assets and Disqualification) Act 1998 (referred to as Act 550) was enacted in conformity with Article 286 of the Constitution of 1992. The Act provides for the declaration of assets and liabilities owned and owed respectively by Public Office Holders. The Act, inter alia, states that "any property or assets acquired by a public officer after the initial declaration and which is not reasonably attributable to income, gift, loan, inheritance or any other sources shall be regarded as acquired illegally." Again the Direct Principle of State Policy of the 1992 Constitution provides that "the State shall take steps to eradicate corrupt practices and the abuse of power." Unfortunately the Act does not specify the individual or organisational responsible for verifying the declaration of assets and liabilities in order to arrive at any such conclusions. Until the CHRAJ is provided with a new and response mandate, perhaps through Parliament, it

may continue to be a Commission without the requisite mandate to pursue its objectives and ensure social justice.

Conclusions and implication for practice

The capacity of the Commission to function effectively is impeded due to inadequate funding, and limited resources, which also make it difficult for the Commission to attract adequate personnel with the relevant knowledge, skills, abilities and experience. The problem of inadequate financial and human resources facing the Commission must be seriously addressed in order to enhance the CHRAJ's effectiveness in fighting political corruption. Accountability works vigorously when accountability agencies are appointed, supervised, and funded by an independent authority. Manning (1999) stresses the importance of strong political backing from all arms of government, combined with independence from executive government intervention, and adequate financial and human resources. With adequate budgetary allocation, the Commission's independence would be enhanced and better placed to perform its constitutional obligations.

It is also recommended that there should be legal reforms to empower the CHRAJ to investigate and subsequently prosecute corrupt culprits and other related criminal cases to discourage political corruption. Parliament as a matter of urgency should amend Act 456, which requires the Commission to submit its findings and recommendations to the "appropriate person, Minister, department or authority concerned, with a copy of the complaint." By so doing it will increase the public confidence in the CHRAJ, as an effective tool of ensuring accountability.

Parliament should also speed up the enactment of the Freedom of Information Bill so as to encourage exposure of wrongdoing in the workplaces in order to foster transparency in governance and public administration. Individuals who voluntarily provide information leading to exposure of corrupt activities should be adequately rewarded to serve as an incentive to others to join in the crusade against corruption. There should be strong political will and an independent authority that would be empowered without any political interference to prosecute public officials found to be corrupt by the Commission. In Ghana, the authority to prosecute rests with the Attorney-General, appointed by the President. Considering his/her position as a Cabinet member, he/she may feel reluctant to prosecute his/her colleagues who are found to be corrupt by the Commission. An independent authority being able to prosecute can therefore ensure a greater likelihood that offenders will be prosecuted and punished.

To this end, the Office of the Special Prosecutor, which is a specialized independent agency, must have the fortitude to uproot the canker of corruption. To curb corruption, purposeful leadership and the rule of law should be enhanced. Further, addressing the problem of low wages and poor remuneration, especially in the public service, is vital to discouraging petty stealing as well as large-scale bribery in public bureaucracies.

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