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Special prosecutor: Panacea or facade to institutionalised corruption in Ghana?

Olivia Anku-Tsede¹, Reginald Arthur² and Majoreen Osafroadu Amankwah^{2*}

Abstract: Motivated by the systematic nature of corruption and effect on the nation's potential, this study sought to assess how the establishment of the Office of the Special Prosecutor (OSP) aids in its fight. Further, it comparatively analyses this agency vis-à-vis other agencies with a similar mandate to determine whether the role of the special prosecutor makes any impact in fighting this cancer. Data was collected through interviews from professionals in the law fraternity and analysed using content analysis. Findings are that the OSP is indeed an independent prosecutor who could be regarded as free from the influence of the executive with no conflict of interest in carrying out its mandate. Further, the study found that there was dissatisfaction with the performance of the OSP due to its inability to prosecute enough high-profile cases. However, due to the commitment and track record of the OSP, many expressed confidence in his person to help wrestle corruption. Many, however, were of the view that there were overlapping and conflicting functions between the OSP and other state anti-corruption agencies. Unfortunately, the office is saddled with many challenges inhibiting the performance of its mandate, thereby questioning whether it is a panacea or facade to institutionalised corruption in Ghana.

Subjects: Criminal Law & Practice; Criminology - Law; English Law

Keywords: special prosecutor; corruption; law; anti-corruption; attorney

1. Introduction

Corruption has, for decades, remained a major impediment to social and economic development, particularly in underdeveloped and developing economies around the world and evidence about its effect has long been documented—impediments to state development, increased poverty, unfair distribution of state resources and indiscriminate use of natural and fiscal resources among others (Anderson & Tverdova, 2003; Hellman et al., 2000; Köbis et al., 2015). Its prevalence has not only been limited to underdeveloped and developing countries as there have been several reports of corruption in developed nations like the USA in the past (Quah, 2014). Nonetheless, the devastating effects of corruption on development, especially in developing countries have made the search for solutions to curb the menace central to the corruption discourse in such contexts.

Like in most developing countries in Africa, corruption is no longer merely perceived as an amoral issue but rather a security threat and impediment to sustainable development. Pupovic (2012) explains that corruption through the misuse of public power for private benefit is a double-edged sword that reduces both the volume and efficiency of investment and thus economic growth. This is rightly so as the cost of corruption in most developing countries has been found to far outweigh the foreign direct investments, grants, and loans, which these countries depend on

for essential developmental projects (Pupovic, 2012). For instance, in Nigeria, it is estimated that from 1960 to 1999, about \$400 billion of public funds had been misappropriated whilst illicit financial flows in the country between 2005 and 2014 had been estimated to be about \$182 billion (Global Financial Integrity, 2017; United Nations Office of Drugs and Crime (UNOC), 2007). In Ghana, a coalition of anti-corruption agencies including Ghana Integrity Initiative (GII), Ghana Anti-Corruption Coalition (GACC) and SEND-Ghana revealed in their report that the country loses 30% of its Gross Domestic Product (GDP) to corruption annually (Ghana Integrity Initiative (GII) Consortium, 2018). In a similar vein, the Commission of Human Rights and Administrative Justice (CHRAJ) confirmed the grave impact of corruption on Ghana's economy, explaining that the country loses an estimated GH¢13.5 billion to corruption annually (Ghana News Agency, 2018), seven times more than the amount dedicated to the implementation of the Free Senior High School programme in Ghana. The consequences of corruption in developing countries have therefore become major threats to sustainable development, hence, increasing demands by citizens for their governments to be more pragmatic in their fight against the menace in these regions.

In an audacious attempt to fight corruption, the government of Ghana passed the Office of the Special Prosecutor Act, 2017 (Act 959). This Act established a specialised agency to investigate specific cases of corruption involving public officers, politicians and individuals in the private sector and prosecute them. This agency has since been greeted with much anticipation and hope that finally there could be a firm hand in fighting corruption in the country. However, critics have enumerated this agency as among the numerous anti-corruption agencies and institutions that have been vain in their mandate (Amidu, 2019; Asante, 2019). Nonetheless, though institutions, such as the Public Accounts Committee of parliament, the Commission of Human Rights and Administrative Justice (CHRAJ) and the Economic and Organized Crime Office (EOCO) have constitutional and legislative powers to fight corruption, there have been concerns that these institutions have done little prosecuting corrupt state officials.

The purpose of this study is thus to conduct a key stakeholder review of the Office of the Special Prosecutor to assess the extent to which the office offers a potent solution in the fight against corruption. Adopting an inductive approach, this study critically assesses the establishment of the Office of the Special Prosecutor and comparatively analyses this office vis-à-vis other agencies with a similar mandate. The aim is to determine whether the Special Prosecutor offers a distinctive hope in wrestling corruption or merely follows in the challenging blueprints of previous establishments. Specifically, this study seeks to answer three main research questions. First, the study explores how distinctively relevant the functions of the Office of the Special Prosecutor are in fighting corruption. Second, this study reviews the extent to which the Special Prosecutor has been effective in pursuing his mandate as compared to other state anti-corruption agencies. The final inquiry of this study focuses on the novel challenges hindering the work and political sustainability of the Office of the Special Prosecutor.

2. Literature review

2.1. Corruption in Ghana

Basically, corruption has been described as the misuse of office for unofficial ends (Soreide & Williams, 2014). According to Hope (2015), corruption is the behaviour of office holders or employees in public and private practice in which they improperly and unlawfully advance their private interests of any kind. This behaviour could also be in the advancement of the interests of others contrary to the interests of the office one occupies (Hope, 2015). The aims of corruption perpetrators have also been identified as often to enrich themselves and others, while impoverishing and deepening inequality levels in society (Hope, 2015; UNODC, n.d). These definitions are corroborated by several authors (eg. Heidenheimer & Johnston, 2002; Rose-Ackerman, 1999; Soreide, 2014) that corruption is the inappropriate privatisation of a public cause for personal benefits. To the United Nations, corruption should not be defined but rather represented by a range of acts including bribery, embezzlement of public funds, trading in influence and concealment as well as

offenses that promote corruption such as money laundering and obstruction of justice (Ayee, 2016; United Nations, 2003). Some researchers have also further categorised corruption into political corruption—misusing political power for personal gain; administrative/bureaucratic corruption—corruption in public administration and policy implementation; individual corruption—individual straying from prevailing norms of official public behaviour and; systemic corruption—corruption integrated into the economic, social and political systems (Caiden & Caiden, 1994; Mbaku, 2007;).

In Ghana, corruption could be described as systemic due to its pervasiveness in almost all facets of society. Ayee (2016), in his study, found corruption in almost all major public activities including the judiciary, police service, government, parliament, office of the president and local assemblies, among others. Contrary to views that social norms and cultural practices incentivise corruption in Ghana, the monetisation of politics through vote-buying, weak institutional structures and other non-supportive organisational practices have also been found to inspire corruption (Ayee, 2016). Further to these findings, the perceived ineffectiveness of law enforcement and state agencies mandated to fight corruption were identified as ensuing challenges in curtailing the menace in the country (Bureau for International Narcotics and Law Enforcement Affairs, 2017). These findings corroborate the arguments of the government of Ghana as presented in the memorandum for the establishment of the Office of the Special Prosecutor. That notwithstanding, the extent to which the Office of the Special Prosecutor addresses the challenges the country faces in fighting corruption still remains largely unknown.

The subsequent sections explain the meaning and mandate of a special prosecutor, drawing instances from various jurisdictions that have established these offices as well as the underlying issues that led to the establishment of such an office in Ghana.

3. Special prosecutor—meaning and mandate

According to the Black's Law Dictionary (Garner, 2014), a prosecutor is a legal officer who represents the state or federal government in criminal proceedings and a special prosecutor is a lawyer appointed to investigate and if justified, seek indictments in a case. In the United States, state courts may appoint special prosecutors in situations where the regular government attorneys are disqualified from a case based on incapacitation or interest (Harriger, 1992). In other words, special prosecutors could, in some cases, be appointed to avoid conflict of interest or its appearance. The origin of the term, special prosecutor, is traced to the 1870s when John Brooks Henderson was appointed as the first federal special prosecutor by Ulysses Grant, the 18th president of the United States, in 1875 to investigate the Whiskey Ring scandal¹ (Hopper). Ever since, special prosecutors have been appointed across several countries with specific investigation and prosecutorial mandates.

In British Columbia, special prosecutors are senior or experienced lawyers in private practice appointed in situations where there is significant potential for perceived or real improper influence in prosecutorial decision-making (The Davies Commission, 2011). Their consideration is primarily based on the need to maintain public confidence in the administration of criminal justice. In Ethiopia, special prosecutors are mandated to conduct investigations and institute proceedings in respect of persons having committed or responsible for committing an offense by abusing their position in government as established in Proclamation 22/1992 of the Transnational Government of Ethiopia.

4. Guiding principles of special prosecutors

The mandate of special prosecutors has often been in the areas of criminal justice and the fight against corruption. In the exercise of their mandate, there are several international legally binding treaties (e.g., The United Nations Convention Against Corruption, [UNODC, 2004]), “soft law” recommendations by international organisations (e.g., Council of Europe Committee of Ministers (CM) Recommendation No. 19, 2000, on the role of public prosecution), self-regulatory standards of

professional associations of prosecutors (e.g., International Association of Prosecutors' Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, 1999), and other jurisdiction-specific case laws that collectively constitute international standards guiding the work of prosecutors.

The Anti-Corruption Network for Eastern Europe and Central Asia (ACN; 2011) outlines some of these international best practices that should guide the work of prosecutors in the criminal justice system. Among these principles concerning the role of prosecutors are the need for policy framework that guides institutions of law enforcement by clearly defining the powers and obligations of different institutions; the need for clear rules and guidelines on the use of discretion and the need for clear rules of procedure concerning the prosecutor's capacity to act, and that a prosecutor cannot at the same time while acting as such, perform duties of a court judge nor cast doubt on judicial decisions. Concerning the independence of the prosecutor, some of the best practices include the need for "external" independence of their office from other branches of power, as well as "internal" independence of individual prosecutors from their hierarchy. Concerning anti-corruption specialisation, the need to improve the specialisation and independence of persons or entities in charge of the fight against corruption and the need for continuous training as a right and duty for all prosecutors on anti-corruption before and during their tenure have been identified as among the best practices. These standards for public prosecutors have largely been adopted by the ACN in criminal justice and fight against corruption and its proven implementation success (see Organisation for Economic Co-operation and Development OECD, 2021) offers an important reference for the establishment of a corruption prosecution office.

In Ghana, prior to the establishment of the Office of the Special Prosecutor in 2017, civil society organisations including the Ghana Integrity Initiative (GII), Ghana Centre for Democratic Development (CDD Ghana) and the Ghana Anti-Corruption Coalition (GACC) submitted their memoranda to the parliament indicating the principles and expectations demanded of the Office of the Special Prosecutor in Ghana.² Drawing from the Jakarta Statement of Principles for Anticorruption Agencies, November 2012, the United Nations Convention against Corruption (UNCAC) and the Legislative Guide for the Implementation of UNCAC proposed that the Office of the Special Prosecutor (OSP) should be guided by the following principles:

- (1) The OSP must have clear and specific legal mandate and powers.
- (2) The appointment of the special prosecutor and deputy must be a transparent and inclusive process.
- (3) The special prosecutor and his deputy must have security of tenure.
- (4) The provision of sufficient and reliable financial resources.
- (5) The need to develop clear rules and standards of operating procedures for the OSP, including monitoring and disciplinary mechanisms, to minimise any misconduct and abuse of power by officers.

Generally, these recommended principles are in tandem with international standards as earlier discussed, though they were not binding on the parliament to fully implement them.

What remains thus, is that if there were state institutions mandated to fight corruption, why was there the need for the establishment of yet another institution to fight the same cause? In exploring the mandate of the OSP, it is important to review the state of the fight against corruption and the circumstances leading to the establishment of the Office of the Special Prosecutor.

5. Fighting Corruption through State Institutions: Ghana's Experience

The Fourth Republican Constitution and other legislative instruments in Ghana have made the fight against corruption a central activity to ensuring good governance and a just and fair society for all. The 1992 Constitution of the Republic of Ghana prescribed the establishment of the Commission of

Human Rights and Administrative Justice in Articles 216 to 230. Article 218 spells out the three-fold functions of the Commission which include human rights, administrative justice and combating corruption. In 2010, another state institution, the Economic and Organized Crime Office (EOCO), was established by another Act of Parliament, the Economic and Organized Crime Office Act, 2010 (Act 804) as a specialised agency to monitor and investigate economic and organised crime and on the authority of the Attorney-General, prosecute these offences to recover the proceeds of crime. This institution was established to replace the Serious Fraud Office (SFO) which had an anti-corruption mandate of investigating any suspected offence that involved serious financial or economic loss to the state or to any state organisation or other institution in which the state had a financial interest. Other state institutions that have been empowered to fight corruption are the Audit Service whose power is derived from the Audit Service Act 2000 (Act 584) and the Public Accounts Committee of parliament. These state institutions have been popular in handling some corruption-related issues some of which have led to surcharges and prosecutions. However, the growing perception and incidence of corruption in Ghana has not put into great question the pragmatism of these institutions in their fight against corruption. For example, Transparency International's score of Ghana on the Corruption Perception Index (CPI) has remained below 50 for a decade and recently dropped from 48 in 2014 to 41 in 2019 with a comparative rank of 80 out of 180 countries (Transparency International, 2019).

A major issue attributed to the ineffectiveness of the above-mentioned state anti-corruption institutions has been the lack of prosecutorial powers. In a memorandum sent to parliament for the establishment of a special prosecutor's office, the attorney-general and minister of Justice attributed the persistence of the corruption menace in Ghana to "institutional bottlenecks that impede the fight against corruption"³. The monopoly of prosecutorial authority by the attorney-general who is at the mercy of being hired or fired by the president was cited as a major gap in the use of law enforcement and prosecution as a credible and more pragmatic tool in the corruption fight. This fact underlies the establishment of yet another state institution to fight corruption, the Office of the Special Prosecutor, as a "specialized agency to investigate specific cases of corruption involving public officers, and politically exposed persons in the performance of their functions as well as individuals in the private sector implicated in the commission of corruption and prosecute these offences on the authority of the Attorney-General". In statements by the government, the Office of the Special Prosecutor is the missing slug in the corruption fight. But with typical similarities in the powers, functions, structure and appointment of the special prosecutor, there seems to be some concerns of the likely politicisation of this office and thus the likelihood of the country experiencing yet another dysfunctional anti-corruption state institution. Concerns over the independent and effective functioning of the special prosecutor's office has been exacerbated over the non-operational functioning of the office almost 2 years after its establishment by an act of parliament. This has necessitated a review of the mandate of the Office of the Special Prosecutor to explore the extent to which its establishment is achieving the expected results of making meaningful progress in the fight against corruption.

6. Methods

6.0.1. Study design

The study generally adopted the qualitative method. Qualitative methods are useful when in answering the research questions, in-depth knowledge and interpretive insights of participants are considered essential (Bachiochi & Weiner, 2002; Creswell, 2009). In the analysis, Miles and Huberman's (1994) approach to qualitative data analysis was adopted. This included the processes of data collection, data display, data reduction and verifying conclusions.

6.0.2. Participants

This study is qualitative in nature because it seeks to gather data on respondents' in-depth experiences concerning the topic. There was a total of 12 participants including private legal practitioners, judges at the Superior Court of Judicature, government attorneys, academics and public officers from the Economic and Organized Crime Office. These respondents were purposively

selected based on their knowledge of the Ghanaian law, experience in their respective practice and their seeming involvement in the legal discourse leading up to the establishment of the Office of the Special Prosecutor. The respondents were mainly male (67%) and had from 3 to 22 years of work experience in their respective professions (see Table A1 in the appendix).

6.0.3. Interviews

Interviews were conducted with respondents to allow them to express their views about the establishment of the Office of the Special Prosecutor and pass judgment on the effectiveness of the establishment in fighting corruption. These interviews were done within a space of 6 months in the year 2020 in the heat of the coronavirus pandemic. Respondents were quizzed on their knowledge of the OSP, the effectiveness of the OSP in comparison with other state anti-corruption agencies in fighting corruption as well as impediments facing the OSP in delivering its mandate. These questions were aimed at eliciting an expert view and assessment of the Office of the Special Prosecutor while respondents recounted the requirements of the legal profession and law and how it contributes to the fight against corruption.

6.0.4. Procedure (Audit Trail)

Respondents were purposively selected and reached through networks and the snowballing technique. Purposive sampling is used to sample respondents strategically to help find answers to a research question (Payne and Williams, 2005). The purposive sampling approach was thus used to allow the researchers to obtain in-depth assessments and responses from law professionals about the Office of the Special Prosecutor. These respondents, by their profession, are not readily reachable in society and thus the snowballing technique had to be relied on. Hence, the researchers used their existing social networks to reach out to other respondents to help provide sufficient data for this study (Babbie, 2004).

After getting the contact of a pool of potential respondents, they were contacted through mobile phones and the purpose of the research was explained to them. Upon confirmation about their willingness to participate in the study, the respondents were sent copies of the interview guide through their emails or WhatsApp for their perusal and phone interviews were then scheduled with them. The researchers found it necessary to first share the interview guide with the respondents prior to the interview to encourage their participation in the study considering the seemingly politically sensitive nature of the subject. The researchers were also conscious of not trying to put the respondents in contempt of the Supreme Court since the case of the eligibility of the special prosecutor in terms of his retirement age was still pending in court. Being convinced of the academic purpose of the research, 12 respondents subscribed to phone interviews when they were presented with the option of having the interview online through video conferencing tools (i.e. Skype or Zoom) or having phone interviews.

The use of phone interviews served two purposes. First, the period of the data collection occurred during the period where countries across the world including Ghana had issued regulations restricting the movement of persons because of the novel COVID-19 pandemic. In Ghana, there was partial restriction on movement of persons and more so, the risk of spread of the novel coronavirus required people to maintain social distancing and where possible, stay home away from work. Using phone interviews therefore allowed respondents to safely provide responses to the interview questions from their places of comfort without exposing them to any risk of infections. Secondly, the respondents were mainly difficult to reach and using the phone interview allowed them to participate in the research within their busy schedules without having to be restricted to a location.

Considering the sensitive nature of the research questions, the phone interviews offered respondents more flexibility and confidence in responding to the questions without concerns of being physically seen making such comments. Prior to the interview, copies of the identity cards of the interviewers were sent to the respondents via WhatsApp to allow the respondents to remotely verify

the identities of the callers. This was done to build trust and confidence in responding to the interview questions and indicate how the researchers valued them, considering their portfolios. Also, the respondents were assured of their anonymity and confidentiality of the information they provided in compliance with the ethical requirements of conducting research. In addition, respondents were informed that the interview was being recorded so it could be transcribed later for the research.

A mobile phone audio voice recorder, *Boldbeast*, was used to record the phone interviews and a laptop voice recorder was also used concurrently as a backup should incoming calls interrupt the interview. The interviews lasted an average of 36 minutes each. Besides, the study also used secondary sources of information, particularly legislations including the Office of the Special Prosecutor, 2017 (Act 959), reports from the Office of the Special Prosecutor, and articles, comments and documents relating to the establishment of the Office of the Special Prosecutor. These secondary sources of information are credible sources of documents that provide useful and official public information about the Office of the Special Prosecutor, and thus, were a complementary method of data collection for triangulation purposes to confirm emerging findings (Dartey-Baah et al., 2015; Merriam & Tisdell, 2015).

6.0.5. Reliability and validity

Qualitative studies require methodological rigour to ensure the trustworthiness of the study (Merriam & Tisdell, 2015). Several strategies have thus been proposed to address the issue of credibility, consistency/dependability, and transferability of qualitative studies (Lincoln & Guba, 1985). For this study, triangulation, respondent validation, reflexivity, peer review, audit trail and rich, thick descriptions (Merriam & Tisdell, 2015) were adopted as strategies to ensure the reliability and validity of the findings. Concerning triangulation, multiple methods of data collection particularly from the Office of the Special Prosecutor, 2017 (Act 959), reports from the Office of the Special Prosecutor and other articles, comments and documents relating to the establishment of the Office of the Special Prosecutor were used as documents to which interview responses were checked against. Though there was difficulty initially in reaching respondents, they eventually dedicated their time for the research through phone interviews. The responses they provided were noted and read back to them for their confirmation, which yielded further clarification in some instances before the end of each interview session. This was by way of obtaining validation for their responses.

In terms of reflexivity, the researchers followed with keen interest developments surrounding the establishment and subsequent appointment of the first special prosecutor for Ghana due to the legal background and high levels of interest of the researchers in national development. Thus, comments from civil societies, the attorney general and members of the political community were highly instrumental in analysing responses of participants on the anti-corruption prowess of the Office of the Special Prosecutor. Besides, an audit trail detailing the methods, procedures and issues that informed certain decisions such as the adoption of phone interviews have been described in the previous section. In addition, there were peer discussions with colleagues who had background in law and psychology concerning the process of the study, how the emerging findings matched with the raw narrations from the interviews as well as interpretations that were being given to the responses. In most of these exercises, colleagues provided close or similar insights for the raw narrations without having access to the insights generated by the researchers. This confirmed congruence in the findings that the researchers were drawing from the data.

Finally, there were rich and thick descriptions of the responses with raw narrations of data from the interviews being displayed in some instances to provide a context for the response. Also, the description of the background of the respondents offers some perspective to their responses.

6.0.6. Analytical approach

Content analysis were conducted on the transcribed responses to tease out underlying insights to interpret their meaning. Content analysis presents a way by which the analysis of texts could be used

to understand cognition (Gephart, 1993). Transcribed data were categorised into major insights and interpretations were drawn from them. Data reduction started with the editing, segmenting, and summarising of the transcribed data. The summary of the data was then coded and there was memoing to find insights, clusters and patterns in the responses. The insights were then conceptualised and explained to develop abstract concepts. There were also detailed narration of the raw field data in a way that provides further explanation to the insights gained. Quotations from research participants were also cited in support of the findings of the study. After this, there were analytical discussions of these insights to convey the findings of the research in a coherent data report. Various perspectives by other researchers that coincide with specific display of the data and findings were also drawn into the discussion. The final part of the analysis is where conclusions were drawn from the findings based on interpretation of the meaning of the data and lessons learned along the collection of data.

7. Discussion

This section discusses insights that emerged from the responses obtained from participants and later relates them to the research questions to establish the major findings of this study.

7.1. Independence in criminal prosecution

This theme about the independence of the OSP in criminal prosecution emerged from insights concerning the justification for the establishment of the Office of the Special Prosecutor (OSP). These underlying reasons of political independence and security of tenure that informed the establishment of the OSP are explained below:

7.1.1. Political Independence

Respondents indicated that the OSP was established due to the need for a prosecutor who could be regarded as independent in terms of influence from the executive. Respondents recounted that the authority of prosecution by government was vested in the Attorney-General (AG) in Article 88 of the 1992 Constitution of the Republic of Ghana which states in section (3), “The Attorney-General shall be responsible for the initiation and conduct of all prosecutions of criminal offences” and in section (5), “The Attorney-General shall be responsible for the institution and conduct of all civil cases on behalf of the State; and all civil proceedings against the State shall be instituted against the Attorney-General as defendant”. The appointment of an attorney-general who needed to be part of the government elected on the ticket of a political party was cited as not offering enough independence to the attorney-general in exercising prosecutorial powers. For instance, Official A explained that,

“... the Attorney-General is a politician, besides that the government or executive appoints the Attorney-General and there are even instances where Attorney-Generals are Members of Parliament (MP), and naturally a Member of Parliament would have contested on the ticket of a particular party and that means that the Attorney-General shares that political ideology or philosophy and that does not make the Attorney-General independent enough when the government of the day's matters are in issue”.

In addition, challenges in existing institutions being able to independently prosecute corruption and its related criminal offenses such as in the case of the appointment of the Attorney-General by the President called for the establishment of an independent special prosecutor. This was the view of Lawyer B who said that,

“I am also aware that the necessity for the establishment of the OSP arose because there were challenges being faced by the existing agencies. For example, there were arguments that the AG is appointed by the President and that we need an institution which is independent in the strict sense of the word which may not be influenced by the President or any political power and that was one of the reasons for setting it up”.

Also, respondents raised concerns about the likely conflict of interest when attorney-generals with their political affiliations are made to lead government prosecutions. In such an instance, Official A narrated that,

“ ... international trade between governments and other governments or other companies abroad are always in the nature of contracts, the AG advises the executive, that is the President, on these contracts. The AG may advise or give approval of it and then the government executes it. However, if there is something ontoward about that same transaction and investigations show there was fraud, how will you approach it? This is because when you look at the contract documents, they normally file them in a booklet form, you will even see the AG’s opinion there. At the end the transaction if it happens that the AG’s opinion is found to be fraudulent and then you send the document to the same AG. If there is no transition that the document you have approved is fraudulent and ask the AG to come to EOCO to give a statement, then your guess is as good as mine”.

It was added that,

“ ... when you send a docket there, the sitting Attorney-General is a cabinet member and would not want to prosecute a colleague cabinet member. Also, the decision the AG has proffered or given if the AG is a suspect or witness, then you ask the AG to prosecute himself. In view of such challenges, there was the need for an independent person, somebody who is not under the direct control of the executive to handle or play that role” – Official A

6.1.2. Security of tenure

In addition, the independence of the OSP is also expressed in terms of security of tenure of the special prosecutor. Respondents explained that the tenure of office of the special prosecutor was fashioned along that of the Justices of the Superior Court with the intention of appointing a prosecutor whose tenure would not be limited to the administrative period of any particular government.

6.2. Prosecution of corrupt cases

Insights emerging from the assessment of the effectiveness of the Office of the Special Prosecutor constituted this theme. There were mixed responses with regard to the performance of the OSP especially when compared to that of other state anti-corruption agencies. Though respondents expressed concerns about the effectiveness of the OSP, they at the same time expressed confidence in the special prosecutor. Also, challenges the OSP faced collaborating with other state anti-corruption agencies are highlighted below:

6.2.1. Ineffectiveness of the OSP

Respondents expressed dissatisfaction with the performance of the OSP in fulfilling its mandate. Among the reasons cited were the apparent failure of the OSP to take enough high-profile cases to court. In some instances, the OSP was described as ineffective due to the way it was set up; that is, an office created for political reasons to satisfy some constituents. As expressed by Academic A who vented out that,

“The OSP has not been effective because for the past two years we do not know what he has been doing ... This office as I understand it has just been passed to satisfy everybody politically, but I don’t see that it is going to make any changes I mean very certain that nothing has changed ... a job has been given to somebody, salary has been paid but I don’t think they have prepared the ground enough to enable the office to function”.

A review of the publication of the office of the prosecutor reporting on its half yearly activities as mandated under section 3 of the Office of the Special Prosecutor Act, 201 (Act 959), however, showed that two cases so far had been investigated, the accused charged for court and accused persons arraigned and being prosecuted (Office of the Special Prosecutor, 2019). These include:

- (1) The Republic v Mahama Ayariga (2) Kenerick Akwasi Marfo
- (2) The Republic v (1) Hajia Hawa Ninchemah (2) Sumaila Ewuntomah Abudu (3) Alex Avade (4) Alhaji Abdul-Mumuni Jesewunde (5) Mary-Stella Adapesa (6) Mumuni Yakubu Nambe (7) Mahama Ayariga

These cases, however, were reported to have been suspended pending a Supreme Court case of *Ayine v the Attorney-General* seeking to declare the appointments of the special prosecutor under Section 13 and the deputy special prosecutor under section 16 of Act 959, respectively, as unconstitutional and thus null and void.

6.2.2. Confidence in the special prosecutor

This notwithstanding, respondents expressed confidence in the Special Prosecutor as one who appeared committed and had the will power to investigate and prosecute acts of corruption. Respondents stressed that the effectiveness of the OSP could be seen in person and experience of the very first special prosecutor appointed. For instance, it was expressed that:

“... the Special Prosecutor has the will power to prosecute. At least I can see the readiness and will power to prosecute”. – Official B

“... the personality of the Special Prosecutor. I do not know him personally but the fact that he is the Special Prosecutor is something else. I think looking at him personally from what I have heard and read about him, he is somebody who can really push the agenda in quote of fighting corruption. I do not know much about the EOCO in investigating organized crime. Looking at the fact that the Office of the Prosecutor is specific to corruption, I am thinking that once it is with regard to fighting corruption there is some hope if he is allowed to work and if the Office receives cooperation from institutions in terms of investigations and so on”. – Academic B.

Also Judge B added that,

“I know the Special Prosecutor that he is firm and determined. He has been an anti-corruption crusader for some time and he being the Special Prosecutor is fit for purpose considering his background and commendable years of practice as a lawyer”

6.2.3. Challenges collaborating with other state anti-corruption agencies

With respect to its functions, respondents indicated that there were no clear distinctions in the scope of corrupt cases that were within the mandate of the OSP and those that were under the jurisdiction of other state anti-corruption institutions, such as the EOCO and CHRAJ. It was revealed that it appeared the OSP had taken some of the investigation functions of organised crime of the EOCO as well as some human rights functions of CHRAJ while it was created to address the independence in prosecution. One of the respondents lamented that:

“... . If other institutions can also equally investigate certain matters like the Criminal Investigation Department (CID) and EOCO, I do not see clearly from the law that sets up the OSP clearly demarcating which issues the OSP could investigate and prosecute. The set up of the OSP is fine but the law may have to give the OSP greater latitude in jurisdiction but then what happens to other state anti-corruption agencies such as the CID or EOCO. Perhaps there should be some clear guidelines, for example, which specific cases must be handled by which institution when it comes to corruption. Not just the OSP but also all the other state anti-corruption agencies must all have clear guidelines” – Lawyer C

This was re-echoed in the views of Lawyer A who explained that,

“There are many issues that come up. The issue is that which one do you take and which one do you live behind. The OSP has basically not indicated that these are cases that are reserved for the OSP, these are what are reserved for the Police, these are what are reserved for the Attorney-General”

Respondents also commented on the overlapping and conflicting functions between the OSP and other state agencies mandated with the fight against corruption. For instance, Lawyer A added that,

“ ... Mind you the AG too is basically raising the issue that look I have five six seven prosecutions ongoing regarding former government officials, but the Special Prosecutor does not even have one going. If you go and ask him he will also say well, they have not resourced me, they have not done this, they have not done that, I don't even have Police to assist me in investigations, so the positions are still overlapping, nobody knows what anyone is doing ... They should look at their various laws, they should look at the CHRAJ law, the EOCO law, the OSP law and see where they could collaborate and let them collaborate and if there is any overlap, they should give it to a committee or somebody with a law background to review the laws and come out with recommendations which can go to Parliament as an amendment”.

6.3. Sustainability challenges of the OSP

Insights were drawn from responses that pointed out challenges in the establishment of the OSP which are likely to threaten the sustainability of the agency. They included mistrust for the OSP, the predicted temporariness of the OSP and the lack of resources for the functioning of the OSP.

6.3.1. Mistrust of the OSP

Respondents explained that there was mistrust by some section of the public in the Office of the Special Prosecutor. This was premised on the way the special prosecutor was appointed and events surrounding such appointment. A respondent expressed this saying:

“The circumstances and euphoria leading to the creation of the office and the appointment that was made has led to lack of trust. May be the objective was noble, but the accompanying circumstances seem to have watered down the purpose for which it was established ... This is further entrenched by the OSP law still subjecting the authority of prosecution to the AG - Academic B”

Lawyer C also added that,

“President Nana Addo won the election largely on the alleged corruption of the former President Mahama government so he needed to satisfy his constituents. Unfortunately, there have not been any prosecutions. I believe that when we start the campaign, we will be going to look at all those issues”.

6.3.2. Limited existence of the OSP

Respondents expressed pessimism about the likelihood of the OSP to exist beyond the current government indicating that a new government may decide to adopt a new approach in the fight against corruption. For instance, Official B predicted that:

“It is a political decision and many political decisions undergo amendment or even withdrawal. My guess is that I do not see the future of the office. The Police, Bureau of National Investigations, CHRAJ and EOCO, it is that they are unable to do their work. It is all because the constitution has tied down the everybody's hands to that of the Attorney-General being the prosecutor ... If another person comes and says that instead of funding a whole agency or institution, it is just a matter of amending the EOCO Act and saying that the Attorney-General by this Act will give the Executive Director a fiat to prosecute. Or the Executive Director will apply to the Attorney-General for a fiat to prosecute which will not be restrained unreasonably by the AG and if that fiat is given, that is all”.

Another respondent concluded that,

“We need something to fight corruption, but will the special prosecutor be the magic wand. I do not think so” – Lawyer A

6.3.3. Lack of resources

Respondents also explained that the lack and delay in the provision of office space and staff that will support the work of the special prosecutor were challenges that threatened the effectiveness and sustainability of the OSP. Judge B bemoaned this phenomenon saying,

“The provision of resources for the Special Prosecutor to operate with are critical in determining the effectiveness of his work. We heard about the lack of a working space for the Special Prosecutor months after his appointment and if these things continue it can affect the work of the Prosecutor”.

Respondents also indicated that the OSP is likely to suffer the same fate of being starved of sufficient resources just like other state anti-corruption agencies; a situation that has now rendered them ineffective in executing their mandate necessitating the establishment of the OSP. Lawyer A recounted that:

“I think that the way to go is to make sure that the various agencies that are existing be resourced and let them do the work. Maybe you may want to go and check for example people who are in prosecution unit at the AG Department, find out how they do their work. What kind of resources are available to them? Do they have the kind of resources a private legal practitioner like me will have? I don’t think so. If you don’t resource them like that, no way. You remember this Woyome case, the Woyome case arose simply because the judge who eventually gave the judgement in default of defence, did so because the AG people were never coming to court. They did not even file a defence. If you don’t file a defence, court will enter judgement in the default of the defence against you”.

7. Findings

This study sought to assess the establishment of the Office of the Special Prosecutor and comparatively analyse this agency vis-à-vis other agencies with a similar mandate to determine whether the special prosecutor offers a distinctive hope in wrestling corruption.

From the responses of participants, it was found that the underlying reason for the establishment of the Office of the Special Prosecutor was the need not just for an anti-corruption state agency with prosecutorial powers but indeed an independent prosecutor who could be regarded as free from the influence of the executive and who will not be in conflict of interest in carrying out the mandate of the office. This finding corresponds with international best practices for the appointment of criminal justice and anti-corruption prosecutors as pointed out by Anti-Corruption Network for Eastern Europe and Central Asia (ACN; 2011) that prosecutors must be independent from “external” pressures from other branches of government. Also, the study found that the security of tenure of the special prosecutor which was fashioned along that of the Justices of the Superior Court with the intention of appointing a prosecutor whose tenure will not be limited to the administrative period of any particular government matched with international principles of independence of a special prosecutor.

In terms of the effectiveness of the Office of the Special Prosecutor (OSP), it was found that there was dissatisfaction with the performance of the OSP due to its inability to prosecute enough high-profile cases. A review of the report of the OSP, however, showed that a suit at the Supreme Court challenging the appointments of the special prosecutor and his deputy on the basis of their retirement age per Articles 190(1)(d), 199(1) and 295 of the 1992 Constitution of Ghana stalled most of the work of the agency. Ever since, the Supreme Court in a 5–2 majority decision ruled that the special prosecutor was eligible to hold office due to the specialised nature of the agency (Hawkson, 2020).

The study nonetheless found that though the performance of the agency was dismissive, respondents expressed confidence in the person of the special prosecutor, citing his commitment, experience and track record in anti-corruption fights in a private capacity. This was found to be critical as it corresponds with international guidelines such as the Council of Europe Committee of Ministers (CM) Recommendation No. 19, 2000, which proposes that the anti-corruption specialisation of a criminal justice and anti-corruption prosecutors were crucial in effectively fighting corruption. This could be regarded as an important step in the fight against corruption.

However, the overlapping and conflicting functions between the OSP and other state anti-corruption agencies with no clear distinction in the scope of corrupt cases that were within their respective jurisdictions was identified as inimical to its overall fight against corruption. This phenomenon falls short of the international guidelines on anti-corruption since it is strongly recommended by such conventions that there is the need for policy framework that guides institutions of law enforcement to clearly define the powers and obligations of different institutions (see The United Nations Convention Against Corruption, 2005).

With regard to the challenges being faced by the OSP, it was reported that there remains some level of mistrust by some sections of the public in the Office of the Special Prosecutor. The main reason cited for this was the way the special prosecutor was appointed and the euphoria that surrounded the appointment. Also, the mistrust is reported to stem from the reporting of the special prosecutor to the attorney-general, the “political prosecutor”. This takes away the unqualified independence expected of the OSP. Further to this, respondents expressed doubt about the likelihood of the OSP existing beyond this current government. This assertion was premised on the belief that the OSP came into existence upon a political campaign promise and not a constitution. Though there appeared to be trust in the competence of the special prosecutor appointed, the mistrust and political undertone of the special prosecutor questions the international guideline requirement of ensuring perceptions of fairness and impartiality in the procedures for the recruitment of prosecutors (Anti-Corruption Network for Eastern Europe and Central Asia (ACN), 2011). Besides, the lack of resources in terms of office space and support staff were identified as challenges of the OSP.

8. Conclusion

The establishment of the Office of the Special Prosecutor has been a welcoming news for the fight against corruption in Ghana. However, there remains uncertainties concerning the ability of the office in fighting institutionalised corruption in a developing country where other anti-corruption agencies have largely been unsuccessful. In assessing justifications of the doubts concerning the OSP, this study explored how distinctively relevant the functions of the Office of the Special Prosecutor were in fighting corruption. The need for an independent prosecutor of corrupt offences—one separated from executive influence—was found to be crucial for the establishment of this office. This is in line with international best practices and remains a popular decision across the political divide in Ghana. However, there have been concerns about the effectiveness of the OSP in pursuing its mandate, deepening doubts about the longevity of the office under successive governments. For instance, for an OSP established on the backdrop of political independence, provisions of the law mandating the special prosecutor to report to the attorney-general who is a political appointee defeats the goal of independence in its corruption fight. Besides, the resource starvation of most state anti-corruption agencies, such as CHRAJ and EOCO appears to have caught up with the OSP and have serious implications for the execution of its mandate.

This study sheds light on the mandate of the Office of the Special Prosecutor in terms of how its independence, appointment and resourcefulness could contribute to the fight against corruption in Ghana. By so doing, this study advances scholarly discussions beyond the assumption of the mere assumption that establishment of the Office of the Special Prosecutor may be the antidote to systemic corruption in the country. Rather, this study provides insights into the political dynamics, background and institutional frameworks needed to produce an effective special prosecutor.

8.1. Theoretical and policy implications

This study is among the first to undertake a post-implementation analysis of the efficacy of the Office of the Special Prosecutor since its establishment in 2017. This study provides an ex-post analysis of the Office of the Special Prosecutor and serve as a blueprint for future studies about corruption. Furthermore, this study provides scholars with some understanding of the interface between legislative instruments and institutional functionality.

Also, this study is insightful to policy and lawmakers as it reveals aspects of the legislative framework governing the Office of the Special Prosecutor that require amendment for the independent and effective functioning of the office. For instance, to ensure full independence, the path to becoming a special prosecutor should be made a career progression for state attorneys who have over the years worked as civil servants under different political administrations. This will help to ensure their independence and promote perceptions of their non-political partisanship.

Furthermore, the resource constraints of the OSP could be addressed through amendments of the Act mandating a percentage of government consolidated revenue to be allocated to the OSP. This will ensure an uninterrupted source of state support rather than political government sponsorship that can be easily manipulated by different political administrations. In addition, this study could contribute to future legislative proposals especially those targeted at eliminating corruption. The findings of this study provide some reference with regard to the content of future bills laid before parliament.

8.2. Limitations and future research directions

Typical of qualitative research, the study suffers in its generalisation of findings. Besides, the study obtained views from a relatively small sample size who were likely to be biased in their responses particularly considering the political sensitivity of the subject. Nonetheless, the respondents were high profile professionals with appreciable years of experience in the legal profession and public service (see Table A1 in Appendix). Their views could therefore be considered as expert opinion on the subject thereof.

It is, however, recommended for future research to increase the sample of respondents and also purposively select respondents across political parties to obtain a possible balance in perceptions and opinions about the Office of the Special Prosecutor.

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Notes

1. The Whiskey Ring scandal is an American scandal exposed in 1875 which is reported to have involved the diversion of tax revenues in a coordinated conspiracy that included politicians, agents of the government, whiskey distillers and their distributors.
2. The memorandum with subject, "Office of the Special Prosecutor Bill, 2017: Analysis and Comments" was written by the Ghana Integrity Initiative (GII), Ghana Centre for Democratic Development (CDD Ghana) and the Ghana Anti-Corruption Coalition (GACC) on behalf of the Coalition of Civil Society Organizations and was submitted to the Committee on Legal, Constitutional, and Parliamentary Affairs of the Parliament of Ghana.
3. This was contained in the Memorandum written by the Attorney-General and Minister of Justice, Gloria Afua Akuffo (Miss) dated 13 July 2017, that accompanied

the Office of the Special Prosecutor Bill, 2017 that was laid before Parliament.

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References

- Amidu, A. B. K. (2019). *Challenges of the Office of the Special Prosecutor in fighting corruption in Ghana - Martin Amidu writes*. Graphic Online. <https://www.graphic.com.gh/features/features/challenges-of-the-office-of-the-special-prosecutor-in-fighting-corruption-in-ghana-martin-amidu-writes-2.html> on October 10, 2022
- Anderson, C. J., & Tverdova, Y. V. (2003). Corruption, political allegiances, and attitudes toward government in contemporary democracies. *American Journal of Political Science*, 47(1), 91-109. <https://doi.org/10.1111/1540-5907.00007>
- Anti-Corruption Network for Eastern Europe and Central Asia (ACN). (2011). *Anti-corruption specialisation of prosecutors in selected European Countries*. Working Paper. Organisation for Economic Co-operation and Development (OECD).
- Asante, K. P. (2019). *An assessment of the Office of the Special Prosecutor, one year on*. Corruption Watch Ghana. https://www.cddgh.org/wp-content/uploads/2019/05/OSP-AFTER-ONE-YEAR_ASSESSMENT-1.pdf on October, 10, 2022
- Ayee, J. A. (2016). *The roots of corruption: The Ghanaian enquiry revisited*. Institute of Economic Affairs.
- Bobbie, E. (2004). *The practice of social research*. Belmont, CA: Wadsworth Publishing Company.
- Bachiochi, P. D., & Weiner, S. P. (2002). Qualitative data collection and analysis. In S. G. Rogelberg (Ed.), *Handbook of research methods in industrial and organizational psychology* (pp. 161-183). Blackwell.

- Bureau for International Narcotics and Law Enforcement Affairs. (2017). *International Narcotics Control Strategy Report*. <https://www.state.gov/2017-international-narcotics-control-strategy-report/>
- Caiden, G. E., & Caiden, N. (1994). Administrative Corruption (1977) Revisited". *Philippine Journal of Public Administration*, XXXVIII(1 January), 1–17. [https://www.google.com/url?sa=i&rct=j&q=&esrc=s&source=web&cd=&ved=0CAMQw7AJahcKEwjAjb7FuZf8AhUAAAAHQAAAAAQAw&url=https%3A%2F2Fwww.pssc.org.ph%2Fwp-content%2Fpssc-archives%2FPhilippine%2520Journal%2520of%2520Public%2520Administration%2F1994%2FNum%25201%2F05_Administrative%2520Corruption%2520\(1977\)%2520Revisited.pdf&psig=AOvVawOylz5C0YqR357r23OaHz_d&ust=1672149791730889](https://www.google.com/url?sa=i&rct=j&q=&esrc=s&source=web&cd=&ved=0CAMQw7AJahcKEwjAjb7FuZf8AhUAAAAHQAAAAAQAw&url=https%3A%2F2Fwww.pssc.org.ph%2Fwp-content%2Fpssc-archives%2FPhilippine%2520Journal%2520of%2520Public%2520Administration%2F1994%2FNum%25201%2F05_Administrative%2520Corruption%2520(1977)%2520Revisited.pdf&psig=AOvVawOylz5C0YqR357r23OaHz_d&ust=1672149791730889)
- Creswell, J. W. (2009). *Research design: Qualitative, quantitative and mixed methods approaches*. Sage Publications.
- Dartey-Baah, K., Amponsah-Tawiah, K., & Agbeibor, V. (2015). Corporate social responsibility in Ghana's national development. *Africa today*, 62(2), 71–92. <https://doi.org/10.2979/africatoday.62.2.71>
- The Davies Commission. (2011). *Alone and cold: The Davies Commission inquiry into the response of the criminal justice branch*. British Columbia: Ministry of Labour and Citizens' Services.
- Garner, B. A. (2014). *Black's law dictionary* (10th ed.). Thomson West.
- Gephart, R. P. (1993). The textual approach: Risk and blame in disaster sensemaking. *Academy of Management Journal*, 36(6), 1465–1514. <https://doi.org/10.2307/256819>
- Ghana Integrity Initiative (GII) Consortium. (2018). *Cost and impact of corruption on education and health sectors in Ghana*. <https://www.tighana.org> on October 10, 2022
- Ghana News Agency. (2018). *Ghana losing GH¢13.5bn to corruption every year – CHRAJ*. <https://www.myjoyonline.com/politics/2018/October-3rd/ghana-losing-gh135bn-to-corruption-every-year-chraj.php> on April 20, 2019
- Global Financial Integrity. (2017). *Illicit financial flows to and from developing countries: 2005–2014, April 2017*. http://www.gfintegrity.org/wp-content/uploads/2017/05/GFI-IFF-Report-2017_final.pdf, pp. 30–34 (accessed April 20, 2019).
- Harriger, K. (1992). *The federal special prosecutor in American Politics*. University Press of Kansas.
- Hawkson, E. E. (May 13, 2020). *Supreme court okays martin amidu's appointment as special Prosecutor*. Graphic Online. <https://www.graphic.com.gh/news/general-news/ghana-news-supreme-court-says-martin-amidu-s-appointment-as-special-prosecutor-is-lawful.html> accessed on June 15, 2020
- Heidenheimer, A. J., & Johnston, M. (eds). (2002). *Political corruption: Concepts and contexts* (3rd ed.). Transaction.
- Hellman, J. S., Jones, G., Kaufmann, D., & Schankerman, M. (2000). *Measuring governance, corruption, and state capture: How firms and bureaucrats shape the business environment in transition economies*. World Bank Publications. <https://doi.org/10.1596/1813-9450-2312>
- Hope, K. R. (2015). Contextualizing corruption in the health sector in developing countries: Reflections on policy to manage the risks. *World Medical and Health Policy*, 7(4), 383–401. <https://doi.org/10.1002/wmh3.165>
- Hopper, J. R. (1). "Reexamining the Nineteenth-Century Presidency and Partisan Press: The Case of President Grant and the Whiskey Ring Scandal". *Social Science History*, 42(1), 109–133. <https://doi.org/10.1017/ssh.2017.40>
- Hubberman, A. M., & Miles, M. B. (1994). *Qualitative data analysis*. Sage.
- Köbis, N. C., van Prooijen, J.-W., Righetti, F., Van Lange, P. A. M., & Aidman, E. V. (2015). Who doesn't? – The impact of descriptive norms on corruption. *PLoS ONE*, 10(6), 1–14. <https://doi.org/10.1371/journal.pone.0131830>
- Lincoln, Y. S., & Guba, E. G. (1985). *Naturalistic inquiry*. Sage.
- Mbaku, J. M. (2007). *Corruption in Africa: Causes, Consequences and Cleanups*. Lexington Books.
- Merriam, S. B., & Tisdell, E. J. (2015). *Qualitative research: A guide to design and implementation* (4th ed.). Jossey-Bass.
- OECD. (2021). *Anti-Corruption Network for Eastern Europe and Central Asia: Dedicated to preventing and fighting corruption since 1998*. <https://www.oecd.org/corruption/OECD-Anti-Corruption-Network-for-Eastern-Europe-and-Central-Asia-Brochure.pdf> on October 11, 2022
- Office of the Special Prosecutor. (2019). *Statutory Half Yearly Publication of The Office of The Special Prosecutor Pursuant To Section 3 (3) Of The Office Of The Special Prosecutor Act, 2017 (Act 959)*. No. OSP/2019/2Q.
- Payne, G., & Williams, M. (2005). Generalization in Qualitative Research. *Sociology*, 39(2), 295–314. <https://doi.org/10.1177/0038038505050540>
- Pupovic, E. (2012). Corruption's effect on foreign direct investment: The case of Montenegro. *Economic Review: Journal of Economics and Business*, 10(2), 13–28. <https://www.econstor.eu/bitstream/10419/193813/1/econ-review-v10-i2-p013-028.pdf>
- Quah, J. S. T. (2014). Curbing police corruption in Singapore: Lessons for other Asian countries. *Asian Education and Development Studies*, 3(3), 186–222. <https://doi.org/10.1108/AEDS-07-2014-0029>
- Rose-Ackerman, S. (1999). *Corruption and government: Causes, consequences and reform*. Cambridge University Press.
- Soreide, T. (2014). *Drivers of corruption: A brief review*. World Bank.
- Soreide, T., & Williams, A. (2014). *Corruption, grabbing and development: Real world challenges*. Edward Elgar.
- Transparency International (2019). *Corruption perceptions index*. <https://www.transparency.org/en/cpi/2019>
- United Nations. (2003). *United Nations Convention Against Corruption (UNCAC) of 2003*. UN.
- United Nations Office of Drug and Crime. (2004). *The united Nations convention against corruption*. United Nations.
- United Nations Office of Drugs and Crime (UNODC). (2007). *Anti-corruption climate change: It started in Nigeria*. Speech by UNODC Executive Director at the 6th National Seminar on Economic Crime 13 November 2007. <https://www.unodc.org/unodc/en/frontpage/nigerias-corruption-busters.html> on October 10, 2022

Appendix

| Table A1. Respondents | | |
|------------------------------|---------------------------------------|-----------------------|
| Respondent | Profession | Tenure (years) |
| Judge A | Judge of Superior Court of Judicature | 13 |
| Judge B | Judge of Superior Court of Judicature | 18 |
| Lawyer A | Private legal practitioner | 12 |
| Lawyer B | Private legal practitioner | 3 |
| Lawyer C | Private legal practitioner | 25 |
| Academic A | Law lecturer | 15 |
| Academic B | Law Lecturer | 11 |
| Attorney A | Government attorney | 8 |
| Attorney B | Government attorney | 13 |
| Attorney C | Government attorney | 5 |
| Official A | Public servant | 22 |
| Official B | Public servant | 8 |



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