



**NEW ANTI-CORRUPTION GOVERNMENTS: THE CHALLENGE OF DELIVERY**

# **GHANA**

**A CASE STUDY**

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# Ghana

## 1. Executive Summary

Popular desire for change swept the John Kufuor-New Patriotic Party (NPP) to election victory in December 2000 and to power on 7 January 2001. The new administration declared a commitment to fighting corruption as one of its main priorities. It has, however, fulfilled few of its anti-corruption promises. The repeal of criminal libel and greater accessibility to media and tolerance of media scrutiny have improved official transparency; anti-corruption reforms have been incorporated into poverty reduction strategies; new transparency-enhancing public procurement legislation has been passed; new measures to improve budget transparency have been adopted etc. However, very little substantial change has occurred: flaws in the law and Constitution that foster political patronage and inhibit checks and balances remain, public institutions are dysfunctional and the political and popular culture of corruption and weak demand for accountability remains.

## 2. Conclusions

### 2.a. Overall outcome and current status

Ghana has made considerable progress in democratising its politics and institutionalising good governance since 1992. However, this experiment in democratic and good governance faces several crucial challenges including entrenched neo-patrimonialism, a culture of political patronage and public corruption. The political upheaval of 2001 appeared to signal an end to the patronage culture as long-term patronage networks and niches were thrown asunder and the new administration committed itself to 'clean government.' But it is also noteworthy that the scramble for patronage jobs began as soon as the December elections produced a clear winner and has been ongoing ever since. It is noticeable that most of the positive moves promised by the government to address corruption have failed to materialise - with the exception of the repeal of the criminal libel law, greater openness towards the media, the passage of the largely donor-driven and still not fully functional Public Procurement Act and Board, and the incorporation of governance and anti-corruption reforms in PRSP. Indeed, the agenda to pursue a policy of "zero tolerance for corruption" appears to be increasingly subsumed under, and displaced by, the nebulous problem of indiscipline.

## 2.b. Current Challenges

- ❑ Flaws in the 1992 Constitution reinforce political patronage - such as those that foster a “hegemonic presidency” by granting the president monopoly control over the public purse, vast appointing powers, (with no ceiling on the number of appointments he can make to the Supreme Court and the number of ministers he can appoint,) and the power to leave positions at the head of key institutions such as SFO and the Auditor-General’s Department unconfirmed.
- ❑ The actual ability of the constitutional, legal and political orders to promote national integrity and the control of corruption is undermined severely by several factors. These include: a lack of operational and financial independence on the part of Parliament and the Judiciary and executive/presidential dominance over those institutions; dependence of integrity bodies such as CHRAJ and SFO on the politically partisan Office of the Attorney General (AG) and Minister for Justice for prosecution; absence of comprehensive legislation on public ethics and anti-corruption (instead, there are a multiplicity of laws and methods for tackling corruption which makes the terrain extremely murky, full of conflict, ‘forum-shopping’ and loopholes); and a lack of clarity in the mandates of key anti-corruption bodies such as CHRAJ, SFO and Auditor-General (for example, in terms of who takes primary responsibility for public officers’ asset declarations).
- ❑ There has also been a failure to devise and promulgate a credible code of conduct for public officials, to reform and improve the weak public official asset declaration regulations. Corporate governance and conflict of interest avoidance rules have also been neglected, which means that Ghana is pursuing anti-corruption without vital preventive components. Under present regulations, public office holder assets are infrequently declared once every four years, they are declared behind closed doors, they are not ordinarily accessible to the public, and they are lodged with agencies that are not adequately independent of the executive branch. Thus, the declarations fail the essential tests of ease of verifiability and monitoring.
- ❑ Other problems include: a lack of parliamentary independence; a limited judiciary; a technically and politically weak civil society; a weak main opposition party - lacking in anti-corruption credentials and credibility;
- ❑ There are also general environmental challenges such as the prevailing economy of hardship, low income/high dependency ratios; and a culture of low popular expectation of public officials and tax-payer funded agencies, as well as generally poor standards for measuring political conduct and performance.

- ❑ A lack of sustained pressure and demand for action on the part of public and unofficial watchdog agencies as well as development partners is also problematic.
- ❑ Ghanaian civil society enthusiasm for public accountability and anti-corruption agenda is undermined by internal weaknesses, lack of inter-organisational cohesion, and vulnerability to manipulation and cooptation by government.
- ❑ Huge gaps are apparent in levels of media professionalism and integrity. And there are disturbing but credible reports of an emerging practice of media practitioner shake-down/blackmail and “pocket book” journalism.
- ❑ Inconsistency and/or declining development-partner interest in anti-corruption are of concern. This is sometimes driven by a lack of institutional memory (especially when there is turnover of key officers), and an opportunistic desire to curry favour with political authorities in order to gain and expand access and/or to promote home country commercial and diplomatic objectives (to the detriment of the governance agenda in Ghana).
- ❑ The persistence of a political culture of patronage vitiates many otherwise well designed governance and corruption control structures and institutional arrangements. Among political leaders, officials in key oversight bodies, the media and civil society, there is a pronounced tendency to curry favour, take the spoils of office, peddle influence and exploit the huge loopholes in the system.

### **2.c. Evaluation and lessons learnt**

- ❑ Positive signals from the political leadership are crucial. The anti-corruption reform agenda was promising in the first year and a half of the Kufuor administration because the president and key officials repeated it so often that they were beginning to be taken seriously; the jailing of a serving minister signalled that action might back words; and the encouragement from civil society and donors provided positive feedback.
- ❑ The good intentions of our leaders are not sufficient to deliver anti-corruption reforms. Political will to fight corruption is difficult to sustain in the absence of strong and sustained demand from the bottom; and top-down promises and a steady supply of anti-corruption reforms must be backed by demand for official transparency and accountability.
- ❑ The government was more receptive to pressure and encouragement to undertake anti-corruption reforms in its first year than in subsequent ones. Better strategising and prioritisation of reforms would have delivered better results.
- ❑ Development partner support and tactical application of leverage are vital to anti-corruption reforms, but they are also volatile commodities.

- ❑ It is difficult, if not impossible, to sustain anti-corruption reforms without the reform of dysfunctional public institutions and effective public/civic education. In the meantime, a culture of political patronage and the sharing of the spoils of office is reasserting itself, entrenched rent-seeking interests are re-establishing themselves. There is also diminishing resolve to resist the pressure to construct a pro-NPP patronage network and thereby make up for the long years in the political wilderness and nearly 20 years under PNDC/NDC monopolistic regimes.

#### **2.d. Recommendations**

To effectively combat corruption, the Ghanaian government should adopt the following recommendations to:

- ❑ Reform administrative procedures and policies, streamline administrative law, develop administrative procedures to make them fully transparent, and reduce official discretion. There is also a need for the deepening of administrative and political decentralisation, and rules should be simplified;
- ❑ Develop equitable and meaningful wage policies;
- ❑ Implement the new public procurement law in a credible manner; award public contracts strictly on the basis of open tender and recruit for public service jobs strictly on the basis of open advertisement and merit;
- ❑ Undertake corporate governance reforms in both public and private sector along the lines of the King Report of South Africa; elaborate and actively enforce article 284 of the Constitution, which provides that *“(a) public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office”* together with a *directors’ liability law*;
- ❑ *Pass* comprehensive anti corruption legislation - encompassing a “reasonably comprehensive and unambiguous definition of bribery and corruption,” credible access to information and whistle-blower encouragement and protection laws, and elaborate clear guidelines on conflict of interest;
- ❑ Strengthen the independence and capacity of constitutional and statutory anti-corruption bodies; enhance Parliament’s ability to play a proactive role in combating corruption by strengthening the technical capacity of the Public Accounts Committees and institutionalising the practice of parliamentary public hearing and other enquiries;
- ❑ Establish equitable party financing arrangements in order to strengthen multi-party competition, enhance the prospects for opposition party vibrancy, and reduce the rampant corruption associated with multi party elections by enhancing the capacity of the Electoral Commission to carry out its constitutional obligation to audit political

- party accounts; strengthen law enforcement mechanisms, which in turn requires strengthening the independence and credibility of the judiciary;
- ❑ Promulgate and enforce credible asset declaration regulations, particularly those that conform to international best practices (such as easy verifiability and easy monitoring);
  - ❑ Enhance media professionalism and integrity; alert the media to its loss of focus on anti-corruption, helping NMC and GJA to articulate a philosophy of media regulation that strikes a balance between censorship and license;
  - ❑ Enable CHRAJ to regain its focus, address instability in its leadership and high staff turnover; provide greater clarification of different mandates, especially between CHRAJ and SFO;
  - ❑ Improve enforcement of CHRAJ decisions;
  - ❑ Bolster the SFO's independence, corporate governance, and resources;
  - ❑ Increase civil society commitment and technical know-how in the areas of anti-corruption research and advocacy; reconfigure the GACC and protect its independence from the Executive branch;
  - ❑ Strengthen links between the main opposition NDC, Office of the Minority Leader and the anti-corruption movement;
  - ❑ Initiate public service reforms with a view to redressing the culture of secrecy and formulating a credible wage policy, tackle loopholes in the 1992 Constitution that reinforce the status quo of neo-patrimonialism.