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PETTY CORRUPTION

- ‘Petty corruption’ is not explicitly defined in any Legal and Policy document on corruption in Ghana
- However, there are indications that petty corruption occurs during recruitments, promotions, contracts, procurements processes and service delivery according to the National Anti-Corruption Plan (NACAP 2012-2021). Usually the term “greasing of the palm” or “payment of facilitation fees” have become synonymous with bribe-giving.
- NACAP cites “quiet corruption” exhibits itself in the form of absenteeism, habitual lateness for work, leakage of funds, imposition of informal user fees, petty thievery (stealing of monies and office supplies) and diversion of supplies by public officers.

“QUITE CORRUPTION”/PETTY CORRUPTION DILEMMA

- **Survey on Citizens’ Knowledge, Perceptions and Experiences of Corruption, Consortium on Anti-Corruption-2017**

- Respondents advanced that bribery, fraud, embezzlement, extortion, abuse of discretion, conflict of interest and illegal contribution as manifestations of corruption. Majority believed conflict of interest, abuse of discretion and payment of facilitation fees were not forms of corruption.
- 64% believed corruption over the past 12 months have increased. Only 6% believed corruption decreased in their districts.
- 92% knows that bribery is corruption. However, majority (73%) of respondents did not consider payment of facilitation fees** as an act of corruption.
- **Perceived corruption** : Police Service** (95%) the most corrupt institution, followed by Education, (89%), Service Providers (84%) Judiciary (77%), Media (60%) and NGOs (49%)
- **Actual Bribes**: Customs division of the GRA (76%), the DVLA (74%), Passport Office (63%) and the Ghana Police Service (61%)
- Paid bribes to speed things up (facilitation fees); avoid problems with authorities and to receive services they are entitled to. 3 out of 10 people made payments to facilitate access to services they are entitled to. Least recognised form of corruption.

MOST TRUSTED INSTITUTIONS THAT CAN FIGHT CORRUPTION

- Media
 - NGOs
 - Central Government
 - National Human Rights Institution
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- Final Conclusion: high prevalence of petty bribery, low trust in public institutions to fight corruption and high cultural acceptance of corrupt practices such as nepotism, favouritism, facilitation payments and illegal contributions call for a fundamental change in national and socio-cultural discourse on corruption.

LEGAL AND POLICY PROVISIONS ON CORRUPTION

- Under CHRAJ Mandate (Chapter Eighteen of the 1992 Constitution; Act 456)
- Serious Fraud Office, (Act 466, 1993)
- Criminal Offences Act (1960)
- Office of the Special Prosecutor (Special Prosecutor Act, Act (959), 2018)
- National Anti-Corruption Action Plan (2010-2021)

CHRAJ MANDATE

- 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
- To investigate complaints concerning the functioning of the Public Services, the administrative organs of state, the Armed Forces, the Police Service, and the Prisons Service in so far as the complaints relate to the failure to achieve a balanced structure of those services, or equal access by all to the recruitment of those services or fair administration in relation to those services,

CHRAJ MANDATE

Section 8(1) Act 456

- Power to subpoena for any person to appear before the Commission
- Failure to respond to subpoenas could cause the Commission to bring any person(s) before the Commission for the prosecution

CHRAJ

- To investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under the Constitution
- To investigate all instances of **alleged or suspected corruption** and the misappropriation of moneys by officials and to take appropriate steps including reports to the Attorney-General and the Auditor General, resulting from such investigations and

CHRAJ MANDATE

- Both the Constitutional provision and CHRAJ Act 456 are silent on the kinds of remedies the Commission is empowered to grant to successful complainants.
- The Constitution references Article 229 that states that, for the purposes of performing his functions under the Constitution and any other law, the Commissioner may bring an action before any court in Ghana and may seek any remedy which may be available from that Court.

CHRAJ

SECTION 13—REFUSAL TO INVESTIGATE

- (1) Where in the course of the investigation of any complaint it appears to the Commission-
- (a) that under the law or existing administrative practice there is adequate remedy for the complaint, whether or not the complainant has availed himself of it; or
 - (b) that having regard to all the circumstances of the case, any further investigation is unnecessary, it may refuse to investigate the matter further.
- (2) The Commission may refuse to investigate or cease to investigate any complaint
- (a) if the complaint relates to a decision, recommendation, act or omission of which the complainant has had knowledge for more than twelve months before the complaint is received by the Commission; or

CHRAJ

SECTION 13—REFUSAL TO INVESTIGATE

(b) if the Commission considers that

- (i) the subject matter of the complaint is trivial;
- (ii) the complaint is frivolous or vexatious or is not made in good faith; or
- (iii) the complainant does not have sufficient personal interest in the subject matter of the complaint.

(3) Notwithstanding subsection (2) of this section, if within six months after the Commission's refusal or ceasing to investigate any complaint under this section, fresh evidence in favour of the complainant becomes available, the Commission shall, at the request of the complainant, re-open the case.

(4) Where the Commission decides not to investigate or to cease to investigate a complaint, it shall within 30 days of the decision inform the complainant of its decision and the reasons for so refusing.

SFO MANDATE

- Under the Minister of Justice and Attorney-General shall be responsible for the Office:
- The functions of the Office are-
 - to investigate any suspected offence provided for by law which appears to the Director on reasonable grounds to involve **serious financial or economic loss to the State or to any state organisation or other institution in which the State has financial interest;**
 - to monitor such economic activities as the Director considers necessary with a view to detecting crimes likely to **cause financial or economic loss to the State;**

COA

Both Grand and Petty Corruption

Corruption of public officials/ Judicial Officers or Persons to influence any public process including voting; judicial proceedings; delivery of public services etc

- Extortions/bribes
- Agrees/ offers/ gives to or to be influenced by gifts; bribes; promise of such

OSP

- Matters stipulated in the Criminal Offices Act
- Mandate to recover and manage assets/proceeds of corruption
- Investigate and prosecute allegations of corruption and corruption-related offences involving public officers, politically exposed persons and persons in the private sector/ allegations referred by institutions including parliament/ CHRAJ./Auditor General

CASE STUDIES

COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

- Offender: Juvenile (13yrs)

13year old boy was detained in a police station in a suburb of Accra for defilement. He was refused bail for three weeks. The parents of the boy contacted CHRAJ for assistance since “in spite of the small small things [they] gave him (the police officer)”, the officer refused to grant bail.

CHRAJ: Sought relief for the boy at the District Magistrate Court in regards to juveniles right to bail.
Bail granted on 5th November, 2007

However, the CHRAJ relief failed to secure compensation for unlawful detention.

COMMISSION ON HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE

- Complainant reported an act of impropriation against a regional officer of CHRAJ to CHRAJ Headquarters. The Complaint alluded that the CHRAJ officer repeatedly demanded GHC200 in bribe in order to peruse his file although services offered by CHRAJ are free.
- Consequently, both the officer and the complainant were invited to the CHRAJ Headquarters to appear before a Panel set up by CHRAJ. The complainant was asked to provide evidence indicative of his report against the officer. To which he was unable to provide. CHRAJ on its part called up other Clients to inquire whether the said officer had a past history of ever attempted to demand money from clients.
- Consequently, the report was considered frivolous by the Panel.
- The substantive case of the complainant was however, transferred from the regional office to the Headquarters.

PRISON MONITORING BY POS FOUNDATION

- In 2015, some police officers in the Western region conducted swoops on persons suspected of being in possession of marijuana. All suspects arrested were detained until their relatives paid an amount of GHC 200-500 for their release. The suspects who were unable to settle the said amount were remanded.
- The Justice for All Programme identified some these prisoners and filed for application for the resumption of their trials.

HUMAN RIGHTS CLINIC AT HRAC

- An MSM lodged a complaint of physical assault and went to the Police to report. The Police took his statement and referred him to the Police Hospital for treatment. The medical personnel responsible for signing the medical forms indicative of injuries as a result of the assault demanded GHC 50. Claiming that he will use the said amount for fuel in case he was invited to testify in Court.
- The MSM reported to the HRAC for assistance since he could not pay.
- HRAC contacted the Police Hospital and the medical officer who insisted that although there was no policy by the Hospital in regards to his demands, he has every right to charge the said amount.
- Subsequently, HRAC wrote to the medical doctor to ask for a waiver in the said amount.

PETTY CORRUPTION BEFORE UNTB: OPPORTUNITIES

- Generally, the Constitution of Ghana provides under Article 33 for the Courts of Ghana to provide –measures for redress in situations where any person alleges that a provision on fundamental human rights and freedoms has been, or is being or likely to be contravened under the Constitution
- Any provision excluded in the Constitution but are considered to be inherent in a democracy and intended to secure the freedom and dignity of man can be applied in furtherance of the protection of fundamental rights of persons.

PETTY CORRUPTION BEFORE UNTB: OPPORTUNITIES

Wherein 'petty corruption' is silently acknowledged, there is the opportunity to apply international norm on behalf of and for the protection of the rights of victims of corruption:

- This may include:
- Provide a working, coherent, systematic definition/conceptualization of petty corruption
- Receive complaints of petty corruption
- Determination of remedies/reparations in situations where effective national level remedial mechanisms are non-existent or failed to be invoked

UNTB AND CIVIL SOCIETY

- Develop indicators for identifying and reporting on petty corruption (may not be reported if not asked).
- Consideration of specific cases/decisions by National Human Rights Institutions or Courts captured and given prominence in CSOs reports to the Human Rights Committee; consequently makes the subject visible on the Universal Human Rights Index etc
- Ensure consistency in prioritizing petty corruption in:
 - Concluding Observations/Recommendations
 - Follow-up methods/activities

UNTB AND CIVIL SOCIETY

- National Level:

Capacity building of CSOs to engage with the HR Committees and National Human Rights Institutions on the subject of petty corruption in relation to:

- Identification of situations of petty corruption and establish the interconnection with Covenant Rights
- Will enable reporting and integration into advocacy

THANK YOU!