



From Corruption to State Capture: Assessing the Relevance of Anti-Corruption Institutions in Ghana

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ABSTRACT

Over the course of time, corruption has evolved into a pervasive force that consistently undermines the moral fabric of society. It is widely acknowledged as the foremost impediment to a nation's progress, particularly in the realms of poverty alleviation and the reduction of inequality. This is especially true especially for developing countries like Ghana. The insidious and escalating nature of corruption renders it highly contagious across all sectors of society, thereby necessitating a thorough assessment of the phenomenon. Hence, the paper holistically, examined the issue of corruption specifically on the topic "from corruption to state capture, the relevance of anti-corruption institution". Salient issues that surfaced included an overview of corruption and state capture, some anti-corruption institutions and their role as well as the challenges encountered by these anti-corruption institutions in performing their functions as well as their role and significance in solving a state capture level of corruption through informal strategies like Co-optation, Control and Camouflage.

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The paper adopted a qualitative methodology for flexibility and broader data. Out of this a conclusion was drawn and some recommendations made for policy makers attention and action.

Introduction

Scholars have proposed multiple definitions and explanations for corruption, as it persistently erodes the well-being of society. Corruption exhibits adaptability in response to various contextual factors and dynamic circumstances. The phenomenon under consideration has the capacity to undergo adaptation in light of modifications in regulations, legislative frameworks, and even technological advancements. Furthermore, corruption can be defined as the improper utilisation of power or authority for individual benefit. [1]

The aforementioned phenomenon has detrimental effects on individuals' self-assurance, hampers the functioning of democratic systems, hinders economic progress, exacerbates disparities, poverty, social fragmentation, and contributes to the deterioration of the environmental situation. Accountability can only be achieved when the operations and underlying structures of an entity are identified and addressed. Furthermore, corruption can be defined as a form of unethical or deceitful conduct in which an individual exploits their authoritative position for personal gain, disregarding the well-being of others. The entity may encompass various actors, including individuals, corporations, or governmental bodies. These unethical practises encompass activities such as offering or accepting bribes, engaging in deceitful behaviour, and perpetrating fraud against investors, among various other actions. [3]

Government intervention has been identified as a significant catalyst for corruption; however, the implementation of specific mechanisms to establish checks and balances can effectively mitigate this issue. The phenomenon under consideration carries both social and financial ramifications, albeit with a disproportionate impact on individuals who are most economically disadvantaged. In the realm of common understanding, corruption is frequently characterised either as the act of engaging in bribery or as the significant misappropriation or exploitation of public funds. The first category of bribery is commonly referred to as administrative or petty corruption, while the second category is known as grand corruption, encompassing bribes that are paid at higher levels within public tender processes. [4]

Another form of corruption, referred to as state capture, exists and is prevalent in transition countries. Although not widely recognised, it is a significant issue. State capture refers to the phenomenon wherein the governing elite and influential entities engage in the manipulation of policy-making processes, thereby exerting control over the development of rules and regulations that govern various aspects of society, such as laws and economic policies, in a manner that serves their own interests. The economy that has been captured is ensnared in a detrimental cycle wherein the implementation of policy and institutional changes required to enhance governance is impeded by the collusion between influential corporations and state authorities who derive significant personal benefits from the lack of transparent legal framework. [5]

Conversely, the concept of state capture can be more precisely delineated by categorising the various institutions that are susceptible to capture. These institutions may encompass the Legislative, Executive, and Judiciary branches, as well as regulatory agencies and public works and ministries. Additionally, it is important to identify the specific actors who actively engage in capture, such as large private firms, political leaders, high-ranking officials, and various interest groups. For example, companies that have control over a particular market can gain additional benefits, not only through increased sales, but also by obtaining public goods, such as property rights. These firms can achieve this by acquiring

personalised protection for their property rights from the government, which incurs a substantial social cost.[6]

The issue of corruption in Ghana remains a significant concern and obstacle to the nation's developmental progress. Various measures have been implemented and advancements have been achieved in order to mitigate this pressing issue. Unfortunately, the individuals who bear the brunt of the pervasive corruption in Ghana are the socioeconomically disadvantaged residents, as they are compelled to allocate a larger portion of their earnings towards bribery, thereby dissuading their utilisation of public services. [7]

The prevalence of corruption within the nation of Ghana has resulted in the fragmentation of its populace, leading to the creation of adversaries among individuals who would otherwise share familial ties, rather than fostering a cohesive and harmonious society. Consequently, a significant number of individuals in Ghana are allegedly deprived of their basic rights and opportunities as a result of inadequate measures and initiatives to address this issue. The prevailing corruption culture in Ghana today can be primarily attributed to the intentional neglect and subversion of the fundamental institutions designed to uphold the principles of the rule of law and effective governance.[8]

Moreover, the endeavour to combat corruption has progressively evolved in complexity, necessitating a comprehensive and interdisciplinary approach. The need to address corruption has led to the creation of various anti-corruption institutions, agencies, or commissions. These entities typically carry out multiple functions, including investigation and enforcement, corruption prevention, as well as raising awareness and providing education on the issue. Nevertheless, in the context of Ghana, the prevalence of corruption has experienced a consistent upward trend, reaching alarming proportions, despite the presence of anti-corruption entities. The entanglement of Ghana in the issue of corruption and state capture is a remarkable phenomenon, particularly considering the presence of numerous anti-corruption institutions. The primary function of anti-corruption institutions is to ensure that individuals who engage in corrupt activities are thoroughly addressed and subjected to appropriate sanctions. [9]

II. Overview of Corruption and State Capture

Corruption is frequently characterised as the exploitation of entrusted authority for personal benefit. This definition places emphasis on the obligations of individuals in positions of trust, often perceived as individuals holding public office. However, in cases involving corruption, it is common to find the involvement of a third party that motivates the individual in power to exploit their position. This third party offers personal benefits to the officeholder, such as bribes or kickbacks, as a means of incentivizing their misconduct. The existence of a third party, which can be characterised as a corrupting influence, is not a prerequisite for the occurrence of corruption. However, it frequently serves as a primary catalyst for personal gain, leading the individual in public office astray from their official responsibilities. In practical terms, it is possible for an officeholder to personally engage in a corrupt transaction. This can occur when the officeholder deliberately withholds a service in order to exert pressure on a third party to offer a bribe. In such cases, the officeholder may also offer to expedite the process if an informal payment is made. [10]

Concept of State Capture

The emphasis in the context of state captures lies predominantly on the involvement and influence exerted by external actors. The central role in the improper influence over the formation of laws and policymaking lies with the captor group, despite the fact that it is the officeholder who is being improperly influenced to abuse their position. State capture can be understood as a form of corruption,

wherein those in positions of power exploit their authority to shape policies that favour a select group rather than the public interest. [11]

This concept highlights the influential role of these interest groups in incentivizing and facilitating such abusive practices. It also implies that, in theory, these groups could have exerted their influence in a legitimate manner through lawful lobbying. Ultimately, the advantage that the captor group employs to motivate the officeholder does not necessarily have to be financial or overtly stated. In instances of state capture motivated by political interests, the absence of a distinct third party is evident: incumbents exploit their authority to influence the development of legislation and policies, thereby securing personal advantages for themselves.[12]

The notion of state capture draws inspiration from a parallel concept found within the realm of public policy literature, namely regulatory capture. Furthermore, the captor, particularly the intention and conduct of the captor, plays a crucial role in the delineation of regulatory capture, setting it apart from regulatory practices that are characterised by negligence, flawed conception, or insufficiency.[13]

State capture can be understood as a phenomenon that shares similarities with regulatory capture, albeit with a broader scope. State functions encompass a range of powers and abilities, which include the capacity to shape the regulatory framework of the political system through constitutional and legislative reforms. Additionally, states possess the authority to exercise patronage, enabling them to make appointments to influential positions within governing or oversight bodies. Furthermore, states possess the power to allocate state assets and public funds, as well as the ability to regulate the sphere in which other oversight entities, such as the media and civil society, operate. [14]

State capture refers to the phenomenon wherein individuals in positions of authority exploit their entrusted powers in a consistent manner to manipulate regulations, appointments, distribution of government resources, and rights in a manner that prioritises the interests of specific groups rather than serving the broader public interest. Furthermore, akin to the concept of regulatory capture, it is crucial to demonstrate a discernible intention and proactive behaviour on the part of the group involved in state capture, thereby differentiating it from instances of governance that are simply characterised by incompetence.[15]

The presumed objectives of the captor group are often believed to differ depending on whether it comprises an economic or political elite. When the process of capture is primarily influenced by economic elites, it is frequently described as a competitive pursuit of state assets and personal enrichment. In instances where politicians are perceived to exert influence or control over the decision-making process, such as in Hungary under Orbán or Russia under Putin, it is commonly presumed that their primary objective is to retain political power or ensure immunity from prosecution. This phenomenon, characterised by politics-driven capture, is progressively being labelled as kleptocracy. However, the majority of comprehensive case studies on state capture reveal a notable convergence between the political and economic elites. [16]

In the context of South Africa, the Guptas, a prominent business group, have been identified as exerting influence over the state. President Jacob Zuma is believed to play a facilitating role in this dynamic, motivated in part by a desire to secure and maintain impunity, particularly in light of his involvement in previous corruption scandals. In the Russian context, the phenomenon of capture initially emerged as a result of the involvement of an influential economic elite, commonly referred to as the oligarchs, who took charge of the privatisation process.[17]

However, upon assuming his position, Putin skillfully utilised his political authority to exert control

over the distribution of benefits among the oligarchs, thereby determining who would partake in the gains of capture and who would be excluded from such privileges. State capture, in essence, operates by obfuscating the boundaries between political and economic authority, while establishing connections among influential individuals that bind them to a collaborative course of action. The term 'kleptocracy', denoting a form of governance characterised by the rule of thieves, suggests that political elites exploit their authority or manipulate their governing strategies to facilitate acts of theft.[18]

Measuring State Capture

Measuring state capture poses various methodological challenges. According to Hellman, Jones, and Kaufmann (2000), a significant challenge in assessing the degree of state capture lies in the fact that the number of firms involved in this phenomenon may not be the determining factor. In the present scenario, a dominant monopoly possesses the potential to yield a significantly greater extent of state capture compared to a greater multitude of smaller or less influential firms engaged in competition to influence public officials. In light of this context, there have been limited endeavours to quantify the extent of state capture.[19]

The initial implementation of the Business Environment and Enterprise Performance survey (BEEPS) in 1999, jointly conducted by the World Bank and the European Bank for Reconstruction and Development (EBRD), aimed to evaluate impediments within the business environment across 22 transitioning economies. This comprehensive survey encompassed inquiries pertaining to the phenomenon of state capture. The inquiries sought to assess the degree to which companies engage in unauthorised financial transactions with government officials in order to exert influence over the development of legislation, policies, regulations, or directives by state authorities. [20]

Location of State capture

A significant portion of the existing scholarly literature on state capture predominantly examines nations situated in Central and Eastern Europe. These countries underwent substantial changes in their political and economic systems during the transition from socialism. Consequently, this transformation facilitated opportunities for influential interest groups to exert their influence over the development of economic policies, ultimately benefiting their own interests. State capture in these countries was facilitated by several factors. Firstly, there was a significant rewriting of numerous laws, regulations, and policies, which created a conducive environment for such capture. Secondly, there was an atypical redistribution of wealth from the state to the private sector, further enabling the capture. Lastly, the lack of effective institutions, both within and outside the public sector, contributed to the absence of checks and balances on the abuse of public office.[21]

State capture can manifest in various countries, wherein the military, ethnic factions, kleptocratic politicians, or organised criminal entities amass significant power and exert influence over the formulation of legislation and policies. One example of this phenomenon can be observed in the country of Colombia.[21]

III. Anti-Corruption Institutions

The primary function of anti-corruption institutions is to ensure that individuals who engage in corrupt activities are thoroughly addressed and subjected to appropriate sanctions. The significance of anti-corruption institutions is widely recognised due to their responsibility for addressing and penalising acts of corruption. Without a doubt, corruption permeates not only governmental institutions but also various facets of society, regardless of socioeconomic status or whether it is a public or private entity.

This phenomenon is particularly prevalent in developing nations. While corruption is indeed prevalent in many underdeveloped or developing countries in Sub-Saharan Africa, it is important to acknowledge that corruption exists in virtually all nations across the globe. This includes countries that are deeply rooted in industrialization as well as those that have undergone a transition from communism.. The aforementioned phenomenon has had a significant impact on the political landscape of the nation, resulting in adverse consequences for the democratic process, the quality of governance, and accountability in various sectors, including religious, developing, and developed economies. The issue of corruption and inefficient utilisation of limited resources holds significant importance in the discourse surrounding the challenges of development and impediments to democratic governance in many developing nations. [22](Amundsen, 1999).

The role of Anti-corruption Institutions

Anti-corruption institutions (ACIs) refer to specialised entities that have been established either by governmental or non-governmental organisations with the primary objective of addressing and combating corruption (Tamyalew, 2010). [23]

A comprehensive examination of the existing body of literature pertaining to ACIs reveals a lack of consensus regarding a universally accepted model or definition for delineating the boundaries and characteristics of ACIs. According to Johnston and Kpundeh (2004) and De Sousa (2009), it is argued that certain Anti-Corruption Institutions (ACIs) are formed *de novo*, while others are established through the utilisation of existing structures such as ombudsman offices, specialised units within police departments, or justice departments. Although these agencies vary in their characteristics, they can be broadly classified into two distinct approaches, as identified by Meagher (2004) and Doig et al. (2007): single-agency and multiple-agency approaches to combating corruption. The single-agency approach is widely adopted by newly established Anti-Corruption Institutions (ACIs) globally. This approach entails the establishment of a centralised and authoritative agency that is dedicated to combating corruption. [24]

However, effective implementation of this approach necessitates collaboration and coordination with other public entities. An exemplary illustration can be observed in the line ministries and courts. The Singapore Corrupt Practises Investigation Bureau (CPIB) and the Hong Kong Independent Commission Against Corruption (ICAC) employ similar strategies, which have garnered widespread recognition as exemplary models for the establishment of effective and centralized anti-corruption bodies. Regrettably, the complete replication of these models, without considering the unique political, social, and economic circumstances of individual countries, has proven to be unsuccessful and inefficient (Doig et al., 2007). [25]

Attributes of State Capture through Informal Governance Practices Among Political Elites: Evidence in Ghana

In addition to the President's unconstitutional dismissal of the Auditor General, Mr. Daniel Yaw Domelevo, a violation that was duly addressed by the Supreme Court of Ghana, it is contended that informal governance structures play a significant role in facilitating and legitimising state capture through the enactment of pertinent legislation and even constitutional provisions. This is accomplished through the selective interpretation of constitutions to suit one's own convenience. This study aims to identify the underlying factors contributing to corruption, specifically the phenomenon of state capture, in Ghana. Despite the implementation of comprehensive legislation, institutional frameworks, and control mechanisms, corruption persists in various forms. The research seeks to diagnose the

fundamental causes of this issue. This study has successfully identified three distinct patterns of informal governance practises that exhibit a strong correlation with elevated levels of state capture in the context of Ghana. This finding provides support for the precise stance put forth by Baez-Camargo and Ledeneva (2017). This academic discourse aims to provide a concise overview of the three discernible patterns of informal corrupt practises.

1. Co-option: This refers to the practise of selectively appointing individuals who are either allies or potential adversaries to public office. These individuals are granted unrestricted impunity to exploit the power and resources associated with their positions. The primary objective of co-option is to mobilise support and ensure the continuity of the regime by fostering loyalty among those in power.
2. Control: This mechanism plays a crucial role in managing conflicts arising from concealed interests among individuals, with the aim of maintaining unity among the elite and enforcing discipline among allies. This highlights the significant reliance of the unwritten rules of co-optation on the presence of informal control practises. One notable illustration of this phenomenon can be observed in the discriminatory implementation of anti-corruption legislation against political adversaries, thus lending support to the veracity of the well-known adage attributed to Brazilian dictator Getulio Vargas: "for my friends, everything; for my enemies, the law" (Baez-Camargo & Ledeneva, 2017).[26][27]
3. Camouflage: This pertains to the concealment of political co-optation and dominant control through the use of institutional facades and policies that ostensibly align with the principles of good governance and democratic accountability. Consequently, the act of penalising a political dissenter may be accompanied by declarations emphasising the dedication to combating corruption.[28]

The aforementioned evidence substantiates the prevalence and significance of informal practises, which play a pivotal role in shaping the daily interactions within power networks of political and business elites, as well as influencing the manner in which state actors engage with the broader public. There are numerous examples that demonstrate how political elites in authoritarian regimes employ the "three C's" to informally reallocate public resources based on particularistic criteria, with the intention of benefiting their concealed networks of regime interest "insiders" while disadvantaging "outsiders". Indeed, within these particular circumstances, it is appropriate to classify informal practises as governance mechanisms that are closely linked to the preservation of a political regime. This is due to their ability to foster unity among the ruling elite, cultivate sources of support, and effectively undermine the interests of adversaries.[29]

The aforementioned respondents have elucidated various strategies employed in the electoral process, wherein informal practises are utilised to attain desirable election outcomes. These broad observations possess applicability in this context.

Firstly, informal governance facilitates the mobilisation of political support and ensures elite cohesion through the strategic allocation of resources, including goods, financial assets, and privileged access to economic benefits, to individuals who align with the governing regime. Furthermore, informal mechanisms are employed to induce panic and disrupt the operations of opposing factions. This is achieved, for instance, by leveraging co-opted solidarity within the law enforcement sector or by discreetly implementing discriminatory practises in the enforcement of laws pertaining to national security. Informal governance practises are employed to effectively engage co-opted members of informal associations, with the purpose of obtaining the necessary financial resources to support electoral campaigns. Additionally, these practises are utilised to procure votes and undertake other

endeavours aimed at ensuring favourable outcomes. [30]

One widely recognised strategy involves collusion between influential business partners who have been co-opted, providing financial assistance to political elites during electoral campaigns in return for exclusive financial benefits, such as lucrative government contracts and undisclosed tax exemptions, which ultimately burden the state. Furthermore, there have been several instances of high-profile corruption scandals, such as the Richmond scandal in Tanzania and the Goldberg scandal in Kenya, which have been associated with the illicit intention of diverting substantial amounts of state funds for electoral objectives. To summarise, the accumulating evidence indicates a strong association between informal electoral practises and both political corruption and economic crimes within competitive authoritarian regimes. In general, this study reveals an increasing disparity between the prescribed principles of democratic governance and the level of dedication to combating corruption, as compared to the prevailing informal practises of authoritarian regimes, which rely on electoral fraud and the misallocation of public resources for their sustenance.[31]

Moreover, it is evident that the divergence between formal and informal practises plays a crucial role in enabling criminals to effectively conceal their illicit activities within the framework of the legal system. The aforementioned discoveries enhance comprehension regarding how informal governance undermines the efficacy of the customary legal mechanisms employed in combating corruption. If there is indeed a correlation between corruption and the tactics employed by regimes to maintain power, it implies that implementing anti-corruption measures is unfeasible from the standpoint of established authoritarian elites, as it would involve undermining the foundations of their support.[32]

The Ghana Anti-Corruption Coalition (GACC)

Ghana is home to multiple anti-corruption institutions that play distinct roles in combating corruption and addressing state capture. The Ghana Anti-Corruption Coalition (GACC) is an inclusive coalition comprising of various stakeholders from the public, private, and civil society sectors. Its primary objective is to advance the principles of good governance and combat corruption within the Ghanaian context. In addition to their regular activities, the organisation consistently disseminates studies on corruption, operates a hotline dedicated to combating corruption, and maintains a platform where individuals can disclose instances of bribery under the name "I Paid a Bribe" (GACC 2018). [33]

The primary objective of the Ghana Centre for Democratic Development (CDD-Ghana) is to advance the principles of a just and equitable society, characterised by a government that upholds the rule of law, implements effective mechanisms to limit the power of the state, and ensures integrity in public administration. The organization's initiatives encompass the advancement of human rights, the governance of natural resources, the implementation of Afrobarometer Surveys, and the development of constitutional frameworks (CDD-Ghana, 2018). The Ghana Extractive Industry Transparency Initiative (GHEITI) is the national component of the global initiative known as the Extractive Industry Transparency Initiative (EITI). Its primary objective is to ensure adherence to proper procedures and promote transparency in the financial transactions between extractive industry corporations and governmental or government-affiliated entities. In addition to other endeavours aimed at enhancing transparency in government budgetary practises, there is also a concerted effort to establish mechanisms through which citizens can effectively ensure governmental accountability.[33]

Commission of Human Rights and Administrative Justice (CHRAJ)

The Commission of Human Rights and Administrative Justice (CHRAJ) is a prominent anti-corruption organisation in Ghana. The integration of the functions of an ombudsman, human rights commission,

and anticorruption agency is consolidated within a single entity. The authority to combat corruption is vested in the 1992 constitution through Articles 218(a) and (e), 284 and 288, as well as Sections 7(1)(a), (e), and (f) of Act 456. The commission is responsible for investigating instances of corruption and implementing measures to prevent its occurrence. Nevertheless, it is important to note that both the budget autonomy and prosecutorial authority of the Commission on Human Rights and Administrative Justice (CHRAJ) are non-existent, as stated in the ACA 2018. The organisation lacks protection from executive influence due to the president's authority to appoint commissioners based on the recommendations of the Council of State (Global Integrity, 2011; ACA, 2018).[35]

The website of the Commission on Human Rights and Administrative Justice (CHRAJ) encompasses a comprehensive collection of research and publications pertaining to the subject of corruption. Additionally, it provides frequent updates on news and events related to corruption. Furthermore, the CHRAJ (2018) provides a hyperlink that offers access to three distinct categories of complaints, namely standard complaints, whistle-blower complaints, and discrimination reporting. Furthermore, in accordance with a ruling by the Supreme Court, the ombudsman is prohibited from initiating an independent inquiry. In order to initiate an inquiry, it is necessary for the ombudsman to be presented with a formal complaint (Global Integrity, 2011). The coordination and monitoring of the National Anti-Corruption Action Plan (NACAP) is overseen by the Commission on Human Rights and Administrative Justice (CHRAJ). However, it is important to note that the primary responsibility for implementing NACAP lies with the presidency (Boateng, 2018).[35]

Office of the Special Prosecutor (OSP)

The establishment of the Office of the Special Prosecutor was authorised through legislation passed by the parliament in 2017. Its primary mandate is to conduct investigations and legal proceedings pertaining to instances of corruption and other forms of criminal misconduct as outlined in the Criminal and Other Offences Act, 1960 (Act 29). This includes cases that involve potential breaches of the Public Procurement Act, 2003 (Act 663), as well as those that implicate individuals holding public office and individuals with political influence (Osei-Amoako 2018). [37]

The establishment of the Special Prosecutor's office, which is dedicated to the investigation and prosecution of corruption, specifically at the state level, and operates independently from government interference, has generated significant optimism among the general population of Ghana (Okello, 2018). The establishment of the office primarily aimed to fulfil President Nana Akufo-Addo's electoral commitment to combat corruption upon assuming office in 2017 (Okello, 2018). According to certain experts, the creation of this office may potentially undermine existing programmes and initiatives aimed at addressing corruption, such as CHRAJ and NACAP. According to Boateng (2018), there is a contention that the success of the National Anti-Corruption Action Plan (NACAP) hinges on the active involvement and leadership of political leaders, similar to their role in establishing the Office of the Special Prosecutor (OSP).[37]

The establishment of an autonomous special prosecutor's office, once fully functional, necessitates its independence from the executive branch. To ensure this independence, the officeholder should be granted protection from retribution or termination by the president for the diligent execution of their responsibilities. According to Tenkorang (2018), the implementation of this approach will equip the government with the necessary means to effectively tackle the issues pertaining to corruption that have adversely affected preceding administrations. According to Ghana Web (2017b), the Office of the Special Prosecutor (OSP) is bound by the identical employment terms and conditions as the Justice of the Court of Appeal. This includes the restriction on the president's ability to dismiss the special

prosecutor arbitrarily, as they are appointed for a fixed term of seven years that cannot be extended. After the Office of the Special Prosecutor (OSP) has initiated legal proceedings against an individual suspected of engaging in corrupt activities, the special prosecutor is empowered to impose a freeze on the suspect's assets and seek judicial assistance in the process of seizing said assets, which are believed to be connected to acts of graft. According to the Special Prosecutor Act (Act 959), the Office of the Special Prosecutor (OSP) is mandated to periodically disclose a compilation of the cases and corresponding convictions it has secured. This disclosure is required to take place every three months and must be disseminated through two prominent national newspapers as well as the OSP's official website (Ghana Web 2017).[38]

In the year 2018, Mr. Martin Amidu, a former attorney general and minister of justice, administered the official oath to the special prosecutor. The individual has been assigned the responsibility of investigating and prosecuting instances of corruption in both the public and private domains, with the aim of addressing the "institutional bottlenecks" identified by the administration in the fight against bribery (Ipotnews, 2018). The extent of the OSP's accomplishments remains to be observed.[39]

Civil Society and Media

In the Republic of Ghana, individuals possess the liberty to establish civil society organisations and engage in various forms of activism, including endeavours aimed at combating corruption. Government-imposed limitations do not apply to civil society organisations (CSOs) engaged in anti-corruption endeavours. Furthermore, the role of civil society has become increasingly significant in ensuring government accountability. In countries such as Bangladesh, non-governmental organisations (NGOs) play a crucial role in delivering essential services to the population, thereby establishing themselves as influential and reliable service providers. Non-governmental organisations (NGOs) and the private sector, as well as the middle class and citizens at large, exert external pressure to drive progress in governance reforms. In Ghana, there exists an entity known as the Anti-Corruption Coalition (GACC), which comprises government officials, official anti-corruption agencies, and civil society organisations. The Global Anti-Corruption Coalition (GACC) has undergone a significant expansion, incorporating business and media sectors, in its efforts to establish a cohesive and collective stance against corruption. Nevertheless, it is conceivable that governmental authorities closely monitor the actions and statements of individuals, with occasional instances of response being observed (Global Integrity, 2011). According to a report by GAN Integrity (2018), non-governmental organisations (NGOs) and civil society groups (CSOs) are generally granted the freedom to operate and play a vital role in promoting government accountability and transparency.[40]

The Ghana Anti-Corruption Coalition (GACC) is a collaborative partnership comprising public, business, and civil society entities. Its primary objective is to promote effective governance and combat instances of corruption within the Ghanaian context. The organisation consistently disseminates studies on corruption, maintains an anti-corruption hotline, and provides a platform for individuals to document instances of bribery through their "I Paid a Bribe" section, alongside other initiatives (GACC 2018). The utilisation of income generated from the extractive industry, as reported by GHEITI in 2018. The Extractive Industries Transparency Initiative (EITI) has put forth a number of aforementioned suggestions aimed at enhancing transparency within the extractive sector, which falls under the purview of natural resource management. The Global Extractive Industries Transparency Initiative (GHEITI) has engaged in extensive communication with various stakeholders regarding numerous recommendations. This proactive approach has led to the implementation of policy modifications,

including the establishment of a capital gains tax, an increase in ground rent for mining activities, and the adoption of a fixed royalty rate (EITI 2018).[41]

Ghana Integrity Initiative

The Ghana Integrity Initiative (GII) is a non-partisan and non-profit civil organisation that is dedicated to combating corruption within the country of Ghana. The Ghana Integrity Initiative (GII) was established in the year 1999 with a primary objective of combating corruption. The Ghanaian chapter of Transparency International is commonly referred to as the Ghana Integrity Initiative (GII). A number of notable initiatives, as identified in the Global Innovation Index (GII) of 2018, encompass activities such as organising educational seminars, lectures, and other events focused on exploring the causes, impacts, and potential remedies for corruption. Additionally, these initiatives involve actively involving school populations and specific youth groups in discussions aimed at understanding the underlying factors contributing to corruption and exploring potential strategies for addressing this issue.[42]

Advocating for the implementation and/or acceptance of legislative measures aimed at enhancing transparency and combating corruption, including the Freedom of Information Act, the Whistleblower Law, and the Assets Declaration Law (Regulation).

Collaborating with media outlets to disseminate radio and television programming on a national scale, with the aim of educating the public about the significance of anti-corruption legislation. Once again, engaging in dialogues pertaining to transparency and integrity within the water sector is of utmost significance.

Challenges That Influence the Effectiveness of Anti-Corruption Institutions in the Fight Against Corruption and state capture

The efficacy of Anti-Corruption Initiatives (ACIs) hinges upon the establishment of a comprehensive and deliberate collaboration with various governmental bodies, civil society entities, private enterprises, donors, media outlets, and other pertinent stakeholders. Moreover, the presence of a robust legal framework is crucial in ensuring the efficacy of Anti-Corruption Initiatives (ACIs). This efficacy can be compromised when government institutions fail to meet expectations and when there is an insufficient legal framework to address such shortcomings (Doig et al., 2007).

Furthermore, the credibility and efficacy of anti-corruption institutions (ACIs) are contingent upon the conduct exhibited by the anti-corruption agency itself. Nevertheless, in spite of the distinct attributes of various Anti-Corruption Initiatives (ACIs) as described in contemporary literature, there exist specific prerequisites for the optimal functioning of an ACI (Johnston, 1999; De Sousa, 2009; Quah, 2009; De Speville, 2008; Doig et al., 2007; Johnston, 2005; Dionisie and Checchi, 2008). The factors discussed can be categorised into two main groups: exogenous factors and endogenous factors. Exogenous factors refer to external circumstances that impact the institutional effectiveness of an agency, whereas endogenous factors pertain to internal conditions that influence an Anti-Corruption Institution's (ACI) capacity to effectively combat corruption.[43]

Fighting corruption in state capture

In delving into the recognition of the dynamics of state capture, comprehension of the underlying factors contributing to the enduring presence of corruption in numerous transitional nations becomes significantly enhanced. While corruption has traditionally been regarded as an indication of inadequate state institutions, our analysis sheds light on the influential factors that actively promote and sustain these feeble institutions.

Captor firms possessing significant political influence will vehemently resist any proposed reforms aimed at enhancing the institutional framework, as these reforms may potentially undermine their substantial advantages. Therefore, addressing the issue of state capture is an essential requirement for implementing reforms aimed at enhancing governance and bolstering the legal, judicial, and regulatory framework. [44]

The Essence of ACIs in Prioritizing the reform agenda

The endeavours of corporations to exert influence over the legal, policy, and regulatory framework in which they operate are a customary and beneficial process that is observed universally across nations. Exclusion is the primary distinguishing factor of interactions within the capture economy. Certain firms possess exclusive privileges that grant them the ability to exert influence over state decisions, whereas other firms are consistently marginalised, resulting in state officials making choices that concentrate benefits on those with privileged access, often at the expense of those who are excluded. While it is widely recognised that transparency and competition are effective measures to address such issues, the precise strategies for combating state capture remain less apparent.[45]

Transparency encompasses two key dimensions: the level of accessibility to the state's decision-making procedures and the extent to which the interactions that may impact those decisions are disclosed. In the majority of transition economies, the processes by which the state engages in the deliberation of legislation, regulations, and decrees remain predominantly concealed from public scrutiny. The utilisation of public hearings and online platforms to facilitate a transparent forum for open decision-making is infrequently observed. The publication of draught laws for discussion is a rare occurrence. The transcripts of deliberations are not accessible for public examination. The public does not have access to the voting records of individual legislators. Simultaneously, the available institutional mechanisms for different interest groups to obtain entry into the state's decision-making processes are severely constrained. Political parties exhibit a notable lack of strength. Trade associations, interest groups, and collective organisations are limited in their ability to exert influence on policy due to their insufficient resources and lack of experience. When firms are unable to access government decision-making processes through collective representatives, they are compelled to establish informal, individual relationships with state officials in order to advocate for their interests.[46]

A significant number of transition countries lack adequate mechanisms to ensure the transparent disclosure of attempts to exert influence on public officials, thereby fostering an environment that is highly vulnerable to capture. There exists a limited motivation for firms to disclose their political donations, while public officials encounter minimal or nonexistent consequences for accepting said contributions. In numerous transitional nations, there is a current requirement for government officials, and occasionally their dependents, to disclose their assets and sources of income through periodic public declarations. However, the effectiveness of the mechanisms employed to enforce this requirement is still lacking. The comprehension of conflict-of-interest regulations is limited and their enforcement is minimal. Public interest watchdog organisations possess limited capability to oversee the transfer of financial resources from corporations to political figures.[47]

Lack of rivalry among businesses and other stakeholders to affect the state's deliberative processes often goes hand in hand with a lack of transparency. Within the framework of the capture economy, the concentration of political influence is dominated by influential corporations across various tiers of government, while the oversight and accountability mechanisms imposed by collective interests are limited in their effectiveness. The monopolisation of political channels of influence in various transition countries is indicative of the economic structure, particularly in cases where there is a significant

concentration of natural resources in the national output. This concentration leads to a notable disparity in power distribution among different firms and sectors. Monopolisation in various nations is indicative of ongoing limitations imposed on the level of political competition. The primary obstacle in preventing and addressing state capture lies in cultivating competition within the economy and the political sphere, particularly in terms of influencing political processes. There exists a consensus regarding the necessary measures to attain reform, encompassing actions such as the restructuring of monopolies to enhance competition, the promotion of trade, and the cultivation of a more conducive business milieu.[48]

While the general solutions may be widely recognised, the process of formulating specific and practical reform measures, as well as successfully implementing and adopting them in countries with capture economies and political economy constraints, is not as straightforward. Considerable attention has been devoted to the significance of external shocks or crises in disrupting the fundamental political equilibrium underpinning the capture economy. Indeed, critical elections or shifts in political regimes frequently serve as catalysts for politicians to pursue wider constituencies by dismantling the monopolisation of political influence. Simultaneously, our analysis indicates a lack of sufficient attention towards endeavours aimed at orchestrating the endeavours of the extensive array of stakeholders who bear the negative consequences of the capture economy, while only a limited group of influential companies reaps the benefits. The act of mobilising marginalised stakeholders within the capture economy, such as small and medium-sized enterprises, consumers, and various interest groups, and empowering them to collectively advocate for their rights and interests, can potentially have a transformative impact in undermining the fundamental structure of the capture economy. The power of data is an increasingly utilised reform mechanism by various stakeholders, including competitive sectors, disenfranchised groups, non-governmental organisations, and other entities engaged in countering state capture. In addition, it is crucial to emphasise the significance of policies that promote market entry, as these measures may be disregarded by the current incumbents. Over the course of time, an increasing number of "lesser oligarchs" may arise in order to vie for power and disperse the profits obtained through the capture of the state.[48]

The acknowledgement of the difficulty associated with state capture should not be utilised as a means to excessively broaden the reform agenda beyond the realistic capabilities of even the most dedicated governments focused on reform. Instead, it should serve as a catalyst to enhance the prioritisation of said agenda by gaining a better understanding of the obstacles that hinder the implementation of additional institutional reforms. While the primary responsibility for implementing reform lies with domestic political leaders, local business actors, and civil society, our data indicates that foreign investors can contribute to the issue and should therefore undertake additional measures to modify their incentives. This includes promoting social responsibility among foreign-based corporations in the areas where they have invested. It is evident that further efforts are required to promote a wider acknowledgment of the significant social, economic, and political ramifications associated with state capture. This research should encompass comprehensive diagnostic analyses of governance to investigate the intricacies of state capture, along with periodic cross-national surveys, such as the Business Environment and Enterprise Performance Survey (BEEPS), examining the interactions between the state and businesses. It is imperative to conduct these assessments not only within transition countries, but also across various global regions. Indeed, recent comprehensive diagnostic surveys on governance carried out in several Latin American nations indicate that the issue of countering state capture is also a prevalent challenge in other regions.[48]

Components of successful anti-corruption legislation

The effective implementation of anti-corruption laws relies on several fundamental principles, namely the identification of cases, thorough investigation and prosecution, as well as the imposition of appropriate penalties. Additionally, the enforcement of these laws and the implementation of preventive measures are essential components of an efficient anti-corruption framework. Del Mar Landette (2002) underscores the importance of enacting anti-corruption legislation that establishes clear public standards of conduct and ensures their enforcement through rigorous investigation and prosecution. In contrast, Messick and Kleinfeld (2001), Mollah and Uddin (2002), and Hin (2011) place greater emphasis on the proactive approach of corruption prevention.

According to Messick and Kleinfeld (2001), the initial measure to be taken is the implementation of anti-corruption legislation. Prevention is widely regarded as a more favourable approach compared to treatment. Based on the findings of the DPSA Report (2006), the cost of preventing corruption is considerably lower when compared to the expenses incurred in researching it, conducting disciplinary investigations, and engaging in legal proceedings. The Prevention of Corruption Act in Singapore is responsible for regulating instances of corruption that are considered to be of a severe nature, as well as determining the extent of authority held by the enforcement agency (Hin, 2011). The World Bank Group (2007) asserts that anti-corruption legislation plays a crucial role in deterring corrupt conduct, prosecuting individuals engaged in corruption, and reinstating a sense of justice.[49]

However, as stated by Transparency International (2011), there is a widely accepted recognition that combating corruption should be a primary focus of reform endeavours. In addition to this, it is imperative to emphasise the significance of implementing robust anti-corruption laws and procedures to ensure efficient identification and sanctioning of corrupt practises. According to Mollah and Uddin (2002), anti-corruption legislation aims to reinstate a sense of justice, which is scarce in nations plagued by endemic corruption. Additionally, USAID (1999) highlights the significance of imposing sanctions on corrupt activities as a pivotal measure in establishing accountability. The assertion that legislation criminalising bribery and other forms of corruption has expanded in developing countries is corroborated by the World Bank (2001) (World Bank, 2001).[49]

Messick and Kleinfeld (2001) present a comprehensive framework outlining three fundamental characteristics that are commonly linked to legislation that is effective in addressing and mitigating corruption. The effective enforcement of anticorruption legislation necessitates the presence of clearly delineated guidelines that are specifically designed to align with the enforcement capabilities, and should be supplemented by additional measures. The World Bank (2001) recommends that countries without robust enforcement agencies should incorporate clear and explicit regulations into their anti-corruption legislation.

- i. Government employees are strictly prohibited from accepting gifts, payments, or items of value that exceed a nominal threshold from individuals who are not classified as immediate family members.
- ii. According to the regulations, it is strictly forbidden for any employee to have any form of financial stake in a business or entity that could potentially be influenced by the employee's decision-making power, regardless of whether this connection is established directly or indirectly, such as through familial ties or other representatives.
- iii. On an annual basis, employees whose salaries surpass a predetermined threshold are obligated to provide a comprehensive declaration of all assets under their possession, including both direct and indirect holdings.

iv. In adherence to the established policies of the organisation, it is explicitly forbidden for any employee to partake in the practise of recruiting a family member. It is imperative to acknowledge that the policy incorporates a precise demarcation pertaining to the extent of familial connection that designates an individual as a relative.

v. All employees are required to disclose any affiliations they possess with individuals they employ, as well as with corporations or organisations to which they grant a contract or concession. Due to the scarcity of proficient labourers and competent enterprises in numerous nations, this regulation effectively entrusts the responsibility of ascertaining corruption to the court of public opinion. [50]

Conclusion and Recommendation

In conclusion, the significance of anti-corruption institutions in addressing the widespread problem of corruption, which encompasses both corruption and state capture, cannot be emphasised enough. The nation relies on these institutions to ensure accountability and transparency in the relationship between the government and its citizens, as well as in the opposite direction. Hence, the effective mitigation of corruption through state capture requires the collective engagement of various anti-corruption entities, alongside the active participation of pertinent stakeholders. An additional noteworthy aspect of consideration pertains to the establishment of safeguards for individuals who disclose vital information to these organisations, commonly referred to as whistleblowers. These entities should possess the requisite capacity to effectively advocate for government action in addressing diverse manifestations of corruption, in accordance with their respective roles.

Consequently, this paper highlights the disparity between the prescribed principles of democratic governance and the level of dedication to combating corruption. It also sheds light on the prevailing informal strategies employed by authoritarian regimes, such as electoral fraud and the misallocation of public resources, which are experiencing an increasing trend.

Moreover, it is evident that the divergence between formal and informal practises plays a crucial role in enabling criminals to conceal their illicit activities within the confines of the legal framework. The aforementioned discoveries enhance comprehension regarding the manner in which informal governance undermines the efficacy of the customary legal mechanisms employed in combating corruption. If there is indeed a correlation between corruption and the strategies employed by regimes to maintain power, it implies that implementing anti-corruption measures becomes unfeasible for established authoritarian elites, as doing so would undermine their sources of support.

Therefore, it is advisable that policymakers initiate a dialogue aimed at formulating a fresh set of anti-corruption norms and laws that are free from political tactics. African value-based norms exhibit considerable efficacy and expediency as they resonate with the intrinsic essence of individuals or are revered and upheld in daily life, as exemplified by their implementation in Rwanda and Botswana, where they have demonstrated notable achievements in combating corruption. Consequently, it is imperative to revitalise these norms in Ghana to supplement existing legal frameworks and anti-corruption establishments.

In addition, it is imperative that individuals appointed to public office undergo a thorough audit of their assets and liabilities prior to assuming their positions. This audit should be conducted annually throughout their tenure, and should include a comprehensive assessment of their lifestyle. This measure is crucial in ensuring a stringent oversight of government appointees who are entrusted with the management of resources on behalf of the Ghanaian populace. The existing system for asset declaration serves as a comprehensive enabler of state capture.

Furthermore, the efficacy and pertinence of anti-corruption institutions can solely be achieved through the careful consideration of factors such as the appointment, remuneration, and removal processes associated with these entities. The appointment and oversight of heads and deputies are not under the purview of the executive branch of government, but rather fall within the jurisdiction of parliament. As a result, there is a pressing necessity to amend the 1992 Constitution.

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