

## **Sleaze in Ghana's Land Administration - Automation as a Game Changer**

**Keywords:** Fraud, Bribery, Corruption, Dishonest practices, Land Sector Agencies, Land Administration, Ghana.

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### **Chapter One (1) - Introduction**

The May 2016 Anti-corruption summit in London, UK hosted by British Prime Minister David Cameron and attended by a number of countries including Ghana reinforced the fact that corruption still remains a global issue and concern that needs the concerted effort of all if it should be curbed.

In the case of Ghana, the rising incidence of dishonest practices such as fraud, rent seeking, bribery and corruption particularly in the public service is well now documented. A number of reports by Ghana's Auditor General, Transparency International (Corruption Perception Index), the Extractive Industries Transparency Initiative (Reconciliation Reports), The World Bank (Doing Business) and the recent undercover work by Tiger-Eye investigative journalist - Anas Aremayew Anas confirm the fact that dishonest practices within Ghana's public service in general is on the rise and the land sector is no exemption.

This paper is concerned with dishonest practices within the land sector of Ghana to be specific within public land administration. The work seeks to shed more light on the some dishonest practices and to explain the modus operandi of the perpetrators. The work makes a strong case for automation as a sure way of removing some of the conditions precipitating the rising incidence of dishonest practices. Overall, the study aims to increase the understanding, appreciation and extent of some common dishonest practices.

The specific objectives of this research are to list and discuss dishonest practices in Ghana's land sector; explain the causes of the dishonest practices; explain efforts made by successive governments at curtailing dishonest practices and the extent of successes. The work outlines specific strategies towards the reduction of specific dishonest practices within the land sector with a strong case for automation.

The subject is important because, dishonest practices irrespective of the magnitude are detrimental to the growth of every economy including Ghana. For example, bribery and corruption in the assessment and collection of land rent and tax denies government needed revenue and hampers government's ability undertake development projects. Businesses and individuals suffer as a result of unofficial payments in the form of bribes which they have to pay for services. One way or the other, these dishonest practices tend to increase the cost of doing business and makes a country uncompetitive to foreign direct investment. This work highlights the various forms of the menace and adds to the stock of literature on dishonest behavior in the land sector of Ghana which remain little known whilst provides practical solutions.

The study is based on observations within the two major land sector agencies in Ghana: The Office of the Administrator of Stool Lands (OASL) and the Lands Commission (LC) within the Greater Accra Region over the period September 2018 to January 2019. Literature used in this work comprises mainly of published reports and studies on the subject as cited. The study employs a case study approach within a quantitative and qualitative data analysis paradigm. The conclusions hinge on robust empirical evidence. In all, 103 respondents comprising of staff, clients/users of land sector agency services (were selected by purposive and snowball sampling and interviewed. Accuracy in both data collation and compilation was not compromised therefore, to ensure that, accuracy and quality of data was high, steps were taken to cross check information from multiple sources.

Results confirm that; dishonest practices exist within the Land Sector Agencies in varying forms; that; low remuneration, subjective approval systems, absence of effective checks and automation within the service delivery system are the factors contributing to the growing spate of dishonest behavior by land sector officials.

The work recommends a complete re-engineering of business and service delivery systems and process; Up-scaling of automation and a monitoring by Civil Society. Based on the findings, the work concludes that all is not lost in the fight against dishonest behavior within the land sector and that, progress can be made in the fight against dishonest behavior within Ghana's land sector agencies through automation of business processes, improving the working conditions for staff, improving supervision at key work stations and finally setting performance targets and acceptable reward systems for honest behavior.

The work comprises five chapters. Chapter 1 provides an introduction to the study. Chapter 2 provides a review of literature on the subject. Chapter 3 is about the institutions covered the main focus of the study and their importance within the socio-economic development framework of Ghana and the methodology. Chapter 4 presents the findings of the study and Chapter 5 settles the report with some recommendations and conclusion.

## **Chapter Two (2) - Literature Review**

Ghana's National Land Policy document identifies general indiscipline in the land market among the key problems and constraints of the land sector. The general indiscipline according to the Land Policy document is characterized by the current spate of land encroachments, multiple sales of residential parcels, unapproved development schemes, haphazard development etc. leading to environmental problems, disputes, conflicts and endless litigation. In addition to the general indiscipline, the policy document identifies issues of conflict of interests, land racketeering, lack of transparent guidelines and a generally weak land administration system. (National Land Policy, 1999)

From the Global Corruption Barometer report on Ghana by the Transparency International (TI), the statistics indicate that more than 50% of the respondents perceive that corruption has increased and significant 35% think it is extreme. Among the different institutions,

percentage of respondents perceived the following institutions as extremely corrupt; Judiciary (71%), and public officials and civil service (59%). This indicates that political/grand dishonesty is not the only type of corruption that has engulfed Ghana. To show that these statistics are not just perceptions, a whopping 57% of the respondents also indicated that they or a member of their household have paid bribe to a public institution for a service.

Many other independent studies have confirmed the fact that, corruption within the land sector is a major source of concern. In fact, Corrupt and dishonest practices within Ghana's public sector particularly fraud, favoritism, bribery and clientelism have been variously defined. The World Bank and the Transparency International define corruption to include any misuse or abuse of public office for a person's own private gain (Transparency International, 2015). Jain (2005) on the other hand refer to corruption as situations where entrusted powers of public office are used to pursue personal gains in a way and manner that contravenes the rules of the game. The UN Habitat classifies corruption into four parts: Bribery, Fraud, Favoritism and Clientelism.

Although different, bribery, fraud, favoritism and corruption are closely linked and connected. Fraud arises when there is abuse of discretion without third parties involvement but bribery involves the abuse of discretion to the benefit of a third party in exchange of some gain from the third party.

Corruption may present in different forms and shapes as observed by Alatas (1990). According to Alatas, Corruption may be transactive (that is in the business sense or for mutual benefit to both giver and receiver). Corruption may be extortive (i.e. profiting by bullying another) or may be defensive (to avoid the imminent harm). According to Alatas, corruption can also be investive (acting with the expectation of a future benefit) or nepotistic in which case it is made to favor family and friends.

Impact and effects of dishonest practices on the Economy: The global collaborative effort to fight corruption has become more important than ever before because of its continued debilitating and corrosive effects on governance, security and development. In the words of David Cameron (2016): *"Corruption is one of the greatest enemies of progress in our time. It is the cancer at the heart of so many of the world's problems. It affects everything – from a family's ability to send their child to school, to the credibility of the world's favorite sport, football... It is an enemy of progress and the root of so many of the world's problems. It destroys jobs and holds back economic growth, traps the poorest in desperate poverty, and undermines our security by pushing people towards extremist groups"*.

According to Yeboah et. al. (2017) corruption and allied dishonest practices in any form is bad for development. Land related corruption in agrarian countries such as Ghana tends to leave far reaching implications for inclusive development and shared prosperity with women being disproportionately affected. They conclude that, land related corrupt practice can be addressed when victims are adequately empowered to demand downward social accountability.

As observed in Ghana, corruption may happen big or small, involving huge sums of money or some other but small consideration. Where it involves huge consideration, there are usually many beneficiaries. The fact of the matter however is that, the impact is the same - although in bits, happens frequently by many different actors. In other words the cumulative effect is the same as if it involves huge sums of money. In the case of public officers, corruption and dishonest practices may take different forms. It could be as petty as abusing office time for private purposes or accepting or taking gifts for performing official functions. Irrespective of the form, size and shape, these dishonest practices have dyeing implications for an economy.

First of all, they have been found to interfere with sound judgment and choices of the public, thereby distorting the quality delivery of expected services and subsequently results in failure of governance, policies and programmes which would otherwise have been useful to development (Jain, 2001). The UN Habitat's work on 60 countries found that, where ever corruption is low, there is better development and higher levels of foreign direct investment and increased crop yields. Accordingly, corruption does not only taint the image of a country but is a cause as well as an outcome of poverty and underdevelopment.

Where investors are tasked with paying huge sums of money as part of obtaining social services, they view these payments as taxes and eventually pass these costs to consumers who end up bearing the cost. Dishonest practices result in a reduction in government revenues and a reduction of funds available for development. This affects the economy in varied ways. Firstly, savings that could have been made and channeled into investments are reduced by the deficit. Secondly, the government has to borrow funds from which results in costs for future generations. There is a direct effect on the standard of living as a result of the government's inability to provide basic amenities and where infrastructure is provided, they tend to be done haphazardly and deteriorate faster. Corruption and other dishonest practices have grave impact on an economy.

The laws of Ghana frown on these illicit practices. The Criminal Offences Act (1960) Act 29 criminalizes both passive and active bribery, extortion from the public and the use of office by public officers for personal gain. In Ghana therefore, both indirect and indirect acts of any corrupt act is illegal and by implication both parties to the transaction are guilty and punishable by law. Offenders are therefore not willing to discuss such matters and it is for this reason that, access to information on corruption remains a challenge unless obtain using unorthodox means. These unorthodox means includes carefully framing questionnaires for administration. So, instead of asking a direct question such as "did you pay bribe to obtain the service", we reframed our question to read as follows: "did you receive an official receipt for the payment you made for the service" or "were you given a receipt for all the payments you made at Lands Commission?" and so on. Answers to such leading questions enabled enumerators to then follow up with questions to ascertain the amounts involved which are usually not problematic once the ice has been broken.

It is partly for the dishonest practices and other reasons that, the Ghana Land Administration Project was commissioned. The Project sought to improve land governance generally by reducing corruption in land administration and to deepen transparency checks across the various typologies of land ownership in the country. Fifteen years on,

corruption remains a major issue within the land administration system of Ghana. (World Bank, 2003)

### **Chapter Three (3) - The Study Area, Institutions Covered and Methodology**

The Study was restricted to the Greater Accra Region. The choice of the Greater Accra Region was influenced by the fact that, the capital city of Ghana can be located within the region. The demand for land sector services including registration, valuation, searches and acquisition are highest in the Greater Accra Region.

Land Sector Institutions involved in the study:

The Lands Commission (LC) was established by Articles 258 – 265 of the 1992 Constitution and was accentuated by the Lands Commission Act 2008, Act 767. Act 767 provides the legal basis for the merger of four previously separate land sector agencies to be merged. They are now the Land Valuation Division, Land Registration Division, Survey and Mapping Division and the Public and Vested Land Management Division. The vision of LC is to become the center of excellence for land services delivery, and the mission is to provide high quality, reliable and efficient services in geographic information, guaranteed tenure, property valuation, surveying and mapping through teamwork and modern technology to stakeholders. The vision of LC is to become a center for excellence for land service delivery. The mission of the LC is to provide high quality, reliable and efficient services in geographic information, guaranteed tenure, property valuation, surveying & mapping through teamwork and modern technology.

The Lands Commission provides Land Services consisting of managing public and vested lands; surveying, mapping and maintaining national territorial boundaries; developing and maintaining national and geodetic reference network nationwide; registering title to land and other interests in land, registering deeds and other instruments affecting land, assessing compensation upon compulsory acquisition, assessing stamp duty & determining values of properties for letting, sale, purchase and rating. The LC more or less supervises and regulates the land market by controlling the survey and demarcation of land for land use and registration as well as supervising, regulating and certifying the production of maps. LC provides advice to government, Metropolitan, Municipal and District Assemblies as well as traditional authorities on policy frameworks on land administration in coordination with the Land Use and Spatial Planning Authority; the preparation and maintenance of valuation lists or rolls for rating purposes, acquisition of land for government and comprehensive programme for registration of title to land. LC is the custodians of land related records through surveying of data on parcels of land and maps for the country, land registering that contain records of land and other interest in land, keeping records on historical land transactions, real estate valuation and claimants for compensation.

The divisions of the Lands Commission – The Survey and Mapping Division is supervise, regulate and control the survey and demarcation of land for the purposes of land use and land registration; take custody of and preserve records and operations relating to the

survey of any parcel of land; direct and supervise the conduct of trigonometric, hydrographic and topographical surveys; coordinate the preparation of plans from the data derived from survey and any amendment of the plans; coordinate the production of photogrammetric surveys (aerial photography and orthophoto mapping); survey, map and maintain the national territorial boundaries including maritime boundaries; develop and maintain the national geodetic reference network for the country; Supervise, regulate, control and certify the production of maps.

The Land Title Registration Division is to undertake publication of notices of registration upon receipt of an application for registration; Registration of title to land and other interests in land; Registration of deeds and other instruments affecting land in areas outside compulsory title registration districts; Maintaining land registers that contains records of land and other interests in land. Other functions determined by the Commission.

The Land Valuation Division include the assessment of compensation payable upon acquisition of land by the Government; Assessment of stamp duty; determining the values of properties rented, purchased, sold or leased by or to Government; preparation and maintenance of valuation list for rating purposes; Valuation of interests in land or land related interests for the general public at a fee; valuation of interests in land for the administration of estate duty.

The Public and Vested Land Management Division of the Lands Commission is mandated to facilitate the acquisition of land for Government; Managing state acquired and vested lands in conformity with approved land use plans, provide land related information to the public for various purposes among others.

The Office of the Administrator of Stool Lands is mandated by the 1992 Constitution, the Office of the Administrator of Stool Lands Act 1994 (Act 481) and it's enabling Legislative Instrument 2019 (LI 2377) to mobilize and disburse Stool Land revenue. The OASL exists to enhance stool land revenue mobilization and disbursement, to facilitate sustainable development and efficient management of stool lands for the benefit of present and future generation. The vision of the office has been stated to excel as the major source of stool land revenue mobilization agency, for the development of stool land owning communities and to help alleviate poverty.

A broad range of stakeholders were interviewed as part of this work. The study interviewed personnel of the Lands Commission and the Office of the Administrator of Stool Lands as the principal institutions involved in this work. Investors and individuals were also interviewed on site within the premises of the Lands Commission and the Office of the Administrator of Stool lands at Cantonments in Accra. Some key informant interviews were conducted with 2 focus group discussions comprising staff of Customary Land Secretariats and revenue collectors.

#### **Chapter Four (4) - Findings**

As indicated, the laws of Ghana frown on these illicit practices. The Criminal Offences Act (1960) Act 29 criminalizes both passive and active bribery, extortion from the public and the use of office by public officers for personal gain. In Ghana therefore, both indirect and indirect acts of any corrupt act is illegal and by implication both parties to the transaction

are guilty and punishable by law. Offenders are therefore not willing to discuss such matters and it is for this reason that, access to information on corruption remains a challenge unless obtain using unorthodox means. These unorthodox means include carefully framing questionnaires for administration. So, instead of asking a direct question such as “did you pay bribe to obtain the service”, we reframed our question to read as follows: “did you receive an official receipt for the payment you made for the service” or “were you given a receipt for payments you made at Lands Commission and the Office of the Administrator of Stool Lands?” and so on. Answers to such leading questions enabled enumerators to then follow up with questions to ascertain the amounts involved which are usually not problematic once the ice has been broken.

Below are findings of the study covering 4 areas of dishonest practices within the land administration system.

- a) **Stamp duty assessment by officials of the Land Valuation Division of the Lands Commission:** Stamp Duty is a statutory payment for most contracts and agreements not only relating to land. The payment of Stamp duty is a requirement so as to give legal recognition to the documents/agreements brought into being for the purposes of recording transactions. That is why during litigation, law courts in Ghana will not recognize un-stamped instruments tendered in as evidence. Apart from being a source of revenue for the state, it affects documents which are meant to have legal effect including land transfer agreements.

In Ghana, Stamp duty for landed property is collected by the Ghana Revenue Authority (GRA) stationed at the Lands Commission. The amount to pay is determined after an inspection and valuation of the subject property by officers of the Land Valuation Division and the amount ranges from 0.02 percent to 1 percent of the value of the property.

What the study found with respect to Stamp Duty relates to under-valuation of the subject property which translates to a lower payment in stamp duty. The study found that, this is possible because of a number of factors:

- Subjectivity of the process (May undertake inspection or not)
- No standardized property values
- No other means of independently cross-checking the details of the subject property

The subjectivity, absence of standards and ability to cross check details leaves the process in the hands of the official who tends to negotiate with the client in order to suppress the property values. Question; Do people pay bribe when they are asked to pay in order to pay lower stamp duty? The evidence from the survey indicates that 53% of the clients end up paying some money privately to the public officer(s). It was observed that, in half of those instances, the corrupt practice tends to be initiated by the client who first makes an offer after been informed of the sum amount to pay as stamp duty.

- b) **Ground Rent assessment by the Office of the Administrator of Stool Lands**

As indicated, the Office of the Administrator of Stool lands is mandated to mobilize and disburse Stool Land revenue. The process involved the assessment and service of demand notes by officers. It was observed that the assessment of the ground rent is currently done manually by officers of the Department. The process is subjective, with no recourse to strict guidelines within and among the various offices (district offices) within the region. Processes are not only subjective but are done without strict adherence to scientifically determined comparable values. As a result, rents charged are arbitrary and largely influenced by “the mood” of officers. Where rent sums are high either due to arrears, location, use or size of the land officers may have the discretion or freehand to adjust figures at the request of the client. Question we asked; Do people pay bribe to have their ground rents reduced? The evidence from the survey indicates that 37% of respondents close to half of the clients attempted to pay some money privately to the public officer in order to influence his judgment on the amount of rent to demand. It was observed that, in some instances, the corrupt practice first emanates from the client who makes an offer after been informed of the amount of stamp duty to pay.

**c) Searches conducted at the Public and Vested Land Management Division of LC.**

The PVLMD is mandated to facilitate the acquisition of land for Government and individuals. A popular service rendered by the PVLMD is the preparation of search reports on land with an average turnaround time of three weeks (21days). Due to the delay in preparation of reports, clients are inclined make offers to officers for expedited services. Respondent confirmed that, officers demand payment of an extra charge quite apart from the statutory fees in order to expedite the preparation of search report. This process has a number of implications.

- Tends to further delay the process of service delivery because, official assignment which should have been worked on is suspended for the processing of the un-official searches.

Question we asked; Do people pay bribe to ensure that, their search reports are conducted earlier than (three weeks) 21 days? The evidence from the survey indicates that 41% of respondents who conducted did pay in order to ensure expedited search reports. It was observed that, in the case of searches, regular clients prefer to undertake back door searches where they receive services either on the spot or within an hour. It came to light that, many clients were aware of two parallel systems for searches (official and unofficial) and it was up to the client to determine the kind of search he requires.

As observed in the Ghanaian study, bribery within the land sector 98% were paid in cash with the remaining paid in kind of all sorts such as treating officials to lunch or dinner. However, the impression was gathered to suggest that, members of the public had accepted the payment of bribe to public officials if they wanted work to be done for them. This was observed from the utterances of respondents as follows:

*“...for government workers, you must put weight on your application in order to receive service”*

It appears a perception is created in the minds of the public that, if you want a service to be provided, bribe must be paid.

## **Chapter Five (5) – Recommendations and Conclusion**

As to what can be done, respondents both the public and public officers listed the following:

- Improvements in the condition of service - Since remuneration of public sector worker are generally low, staff indicated that, one sure way of reducing rent seeking is to ensure that, wages and salaries and conditions of staff are improved.
- Automation and re-engineering of business processes – In view of the subjectivity of in the decision making processes by public officers, the deployment of automated systems such as the use and application of live Ariel imagery could help confirm the development situation of properties inspected and assessed for stamp duty payment. Thus, it could be possible to verify whether a piece or parcel of land is either bare or developed to mirror the inspection report produced by officer. The use of software to assess and automatically generate ground rent demand notes will also take away the discretion that public officers have in determining the rent sum amount to be paid as ground rent.
- Monitoring by Civil Society – The work recommends the a process of monitoring located within Civil Society and based at the community level with individuals, groups and the media acting as Monitors to actually help citizens to get deeply involved to defend abuses by public officers about how they use their positions as public officers.

**Conclusion:** The battle against corruption will not be won overnight. It will take time, courage, effort, investment and determination to deliver the reforms that are necessary. In the case of corruption within Ghana's land sector and the land administration, the deployment and proper application of technology and the automation of business processes holds the key to abating most of the problems.

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