

**RESPONSE OF THE SERIOUS FRAUD OFFICE
TO GOVERNMENT ANT-CORRUPTION POLICIES UNDER THE
FOURTH REPUBLIC OF GHANA.**

By

**ABDULAI BASHIRU DAPILAH
(PG. 2017808)**

**A Thesis submitted to the Institution Of Distance Learning, Kwame
Nkrumah University of Science and Technology in partial Fulfillment of
the requirements for the degree of**

**COMMONWEALTH EXECUTIVE MASTER IN BUSINESS
ADMINISTRATION**

SEPTEMBER, 2011

DECLARATION

I hereby declared that this submission is my own work towards the MBA and that, to the best of my knowledge, it contains no material previously published by another person nor material which has been accepted for the award of any other degree of the University, except where due acknowledgement has been made in the text.

KNUST

Abdulai Bashiru Dapilah

(PG2017808)

Signature

Date

Certified by:

.....

Supervisor

Signature

Date

Certified by:

.....

Head of Dept.

Signature

Date

DEDICATION

This work is dedicated to my wife and children for their love, support and sacrifice.

KNUST



ACKNOWLEDGEMENT

This thesis could not have been complete without the support of my Family. My profound gratitude goes to my Supervisor, Mr. E. Y, Tenkorang for his enormous sacrifices and guidance. I also wish to acknowledge with thanks the Management of Serious Fraud Office (SFO) who in diverse ways made this exercise possible.

Last but not the least, my appreciation goes to my colleagues at the work place for their encouragement and support.



ABSTRACT

As a developing nation, corruption posed a developmental challenge in Ghana. It denied the citizens full benefits of development, undermined investment, encouraged capital flight, enriched few unscrupulous ones creating social disequilibrium and stunted economic growth. Governments under the Fourth Republic have made various policy statements, “Probity and Accountability”, “zero tolerance for corruption” and enacted various anti-corruption laws and established institutions to help control corruption in the country. However, over ten years down the lane, one would have expected that with all these laws and institutions in place, corruption would have been reduced to the barest minimum. But that is not the case. In various electronic and print media, we continue to labour so much on how the public sector is endemic with corruption. Press conferences are organized to highlight corruption in public offices. Counter press conferences are equally organized to highlight corruption in previous regimes. At the end of these discussions and press conferences, the stakeholders: citizenry, civil society groups, and the public (government inclusive) did not see anything wrong with these policy statements, laws and institutions such as the SFO. All that we hear from the Executive is efforts put in place or being put in place to control corruption and never the outcome or dividends of such efforts.

The study examines the formation of the Serious Fraud Office (SFO) as a vehicle of implementation, the situation of corruption in the country ten (10) years down the lane and policy gaps. It established that, while the policies yielded minimal dividends at the beginning, loss of focus and momentum by government to sustain and build on the efforts accounted for the current situation of corruption in the country.

The study further established that over the years the SFO has worked creditable in the fight against corruption. But the Executive control in appointments, direction and funding of the SFO, its mandate and the incrementalist approach adopted in its formation and

operationalization are some of the policy gaps that militated against the SFO response to government's anti-corruption policies under the Fourth Republic.

It is recommended that, government stay focused on its policy statements on the control of corruption, sustain and build on the momentum at controlling corruption in the country.

And that, government purges itself of the perceived manipulation of the SFO by amending the SFO Act to give room for the appointment of professionals to the SFO Board, security of tenure of office of the Directors and adequate funding. The SFO should also embark on public education to educate the public on its operations.



TABLE OF CONTENTS

TITLE PAGE	i
DECLARATION	ii
DEDICATION	iii
ACKNOWLEDGEMENT	iv
ABSTRACT	v
TABLE CONTENT	vii
LIST OF TABLE	ix
DEFINITION OF ABBREVIATION	x
 CHAPTER ONE	 1
1.0 INTRODUCTION	1
1.1 BACKGROUND TO THE PRESENTATION	1
1.2 STATEMENT OF THE PROBLEM	3
1.3 OBJECTIVE OF THE PRESENTATION	4
1.4 RESEARCH QUESTIONS	5
1.5 SIGNIFICANCES OF THE PRESENTATION	5
1.6 SCOPE OF LIMITATION OF STUDY	6
1.7 ORGANISATION OF CHAPTERS	7
 CHAPTER TWO	 8
 LITERATURE REVIEW.....	 8
2.1. INTRODUCTION	8
2.2. DEFINITION	8
2.3. ANTI-CORRUPTION POLICIES UNDER FOURTH REPUBLIC	9
2.4. THE AGENDA SETTING	10
2.4.1. CABINET’S ROLE	11
2.4.2. PARLIAMENT	11
2.4.3. LIMITATION OF THE INCREMENTALIST APPROACH TO POLICY FORMULATION	12
2.5. LEGAL FRAMEWORK AND INSTITUTIONS	14
2.5.1. 1992 CONSTITUTION	14
2.5.2. CRIMINAL CODE	16
2.5.3. UNITED NATIONS CONVENTION AGAINST CORRUPTION AND THE AFRICAN CONVENTION ON PREVENTING AND COMBATING CORRUPTION	16
2.5.4. OTHER ENACTMENTS, ACTS AND LEGISLATIVE INSTRUMENTS	16
2.6. INSTITUTIONS	17
2.7. THE SFO AS A VEHICLE OF IMPLEMENTATION OF GOVERNMENT ANTI-CORRUPTION POLICIES UNDER THE FOURTH REPUBLIC	19
2.7.1. THE NAME OF THE OFFICE	19
2.7.2. NECESSITY FOR THE CREATION OF THE OFFICE	20
2.7.3. THE SFO ACT 466	21
2.7.4. FUNCTIONS	22
2.7.5. OPERATING MECHANISM	23

2.7.6. LEGAL CAPACITY OF SFO	24
2.7.7. FINANCE AND FUNDING	24
2.7.8. EXERCISE OF PREROGATIVE POWER	25
2.7.9. OPERATION OF SFO 1998 – 2003	27
2.7.11. CHALLENGES OF THE OFFICE	29
2.7.12. THE SFO IN THE EYES OF THE PUBLIC	31
2.8.0 EXAMINATION OF THE SITUATION OF CORRUPTION IN GHANA UNDER THE FOURTH REPUBLIC OF GHANA	32
CHAPTER THREE	40
RESEARCH METHODOLOGY	40
3.0 INTRODUCTION	40
3.1 DESCRIPTION OF CASE	40
3.1.1 THE ORGANISATION AND OPERATION OF THE SFO	40
3.2 POPULATION AND SAMPLE	42
3.3 DATA COLLECTION INSTRUMENT/TECHNIQUES/METHODS	42
3.4 METHODS OF DATA ANALYSIS	43
CHAPTER FOUR	44
DISCUSSION OF FINDINGS	44
4.1. INTRODUCTION	44
4.2. THE FINDINGS OF THE STUDY	44
4.2 DISCUSSION OF THE FINDINGS	45
4.3 CORRUPTION.....	45
4.3.1 POLICIES PUT IN PLACE BY GOVERNMENT TO HELP ADDRESS THE PROBLEM OF CORRUPTION IN GHANA UNDER THE FOURTH REPUBLIC	45
4.4 TO WHAT EXTEND HAS THE GOVERNMENT ACHIEVED ITS ANTI-CORRUPTION POLICY OBJECTIVES USING THE SFO AS A VEHICLE OF IMPLEMENTATION?	46
4.5 WHAT IS THE SITUATION OF CORRUPTION IN GHANA UNDER THE FOURTH REPUBLIC	50
CHAPTER FIVE	51
SUMMARY, CONCLUSION AND RECOMMENDATIONS	51
5.0 INTRODUCTION	52
5.1 SUMMARY OF THE STUDY	52
REFERENCES	54
APPENDICES	56

LIST OF TABLES

2.7.10.	TABLE 1. SFO PERFORMANCE 1998 – 2003	28
2.8.1.	TABLE 2. CRETERIA FOR MEASUREMENT OF POLICY/ PROGRAM EVALUATION	34
3.2.1.	TABLE OF DEPARTMENT DISTRIBUTION OF RESPONDENTS ...	42
4.2.1.	TABLE 3: CATEGORY OF RESPONDENTS	44
4.1.2	TABLE 4: WORKING EXPERIENCE	44



DEFINITIONS OF ABBREVIATIONS

1. SFO – Serious Fraud Office.
2. 'OFFICE' - Serious Fraud Office.
3. CDD, Ghana – Centre for Democratic Development, Ghana.
4. GTZ – German Technical Cooperation.
5. UNCAC & AUCPCC – United Nations Convention Against Corruption & African Union Convention on Preventing and Combating Corruption.
6. CEMBA – Commonwealth Executive Masters in Business Administration.
7. GACC – Ghana Anti- Corruption Coalition
8. AG – Attorney General
9. CHRAJ - Commission on Human Rights and Administrative Justice.
10. BNI – Bureau of National Investigations
11. GPS – Ghana Police Service
12. H.H – Households
13. ACTS – Acts of Parliament
14. ICA, Ghana – Institute of Chartered Accountant, Ghana.
15. NGO – Non Government Organization.
16. T.I – Transparency International.
17. GII – Ghana Integrity Initiative
18. IEA – Institute of Economic Affairs
19. PNDC – Provisional National Defence Council
20. NDC – National Democratic Congress
21. NPP – New Patriotic Party
22. ILO – International Labour Organisation.
23. IAA – International Audit Agency
24. R. V. Sinclair (1968) ALL 241- Republic Versus Sinclair, 1968. All England Law Report Page 241
25. Flt. Lt. - Flight Lieutenant

- 26. NIC – National Investigations Committee
- 27. CVC – Citizens Vetting Committee
- 28. ORC – Office of Revenue Commissioners
- 29. L&P – Legal and Prosecution
- 30. MMD - Metropolitan, Municipal and District

KNUST



CHAPTER ONE

1.0 INTRODUCTION

1.1 BACKGROUND TO THE STUDY

The issue of corruption is a developmental issue and high on the agenda of many countries. However, it is apparent from Ghana's political history and in recent times, various news paper review on television and radio that, corruption is a political game being played by politicians.

Ghana first became a republic on July 1, 1960 with Nkrumah as the first Prime Minister. Nkrumah's government was however cut short in 1966 in a Coup d'état. The reasons for the coup among others was corruption. The leaders of the Coup in 1969 restored the country to democratic government under the Progress Party (PP) led by Kofi Busia in the second republic. But again the experience and excitement of corruption and power by the military created fertile grounds for the military to continue to interfere in the governance of the country on the least opportunity.

In 1972, the military led by Colonel Ignatius Kutu Acheampong toppled the Busia administration which had existed for twenty seven (27) months. Acheampong himself was toppled in a palace Coup by General Akuffo Addo in 1978. Flt. Lt. Rawlings succeeded in his second attempt and toppled Akuffo Addo in 1979.

Despite all these infractions, elections took place in 1979 and Dr. Hilla Liman under the Peoples National Party begun the Third Republic. Two years later, that is 1981, Rawlings and some members of his group re-staged a comeback after handing over power to the Liman government. As at 31st December, 1981 Rawlings formed the eighth government within the one and half decades of Ghana's political independence. The Rawlings led government

Provisional National Defense Council (PNDC), blamed the then state of affairs of the Ghanaian economy on corruption of previous leaders.

Corruption is described as “the abuse of public office for private gain”. It encompasses unilateral abuses by Governments officials such as embezzlement and nepotism, as well as abuses that link public and private actors such as bribery, extortion, influence peddling and fraud (Ghartey, 2009). Corruption arises in both political and bureaucratic offices and may be petty or grand, organized or not organized. It is “a behavior on the part of officials in the public sector whether politicians or civil servants, in which they improperly and unlawfully enrich themselves or those close to them” (Transparency International 2009).

According to Saffu,(2003) high level (or grand or elite) corruption means the misuse and abuse of office for illegal and unethical acquisition by leaders, people chosen or imposed on society as well as those they appoint to help them make policy, manage resources and enforce laws on society’s behalf. Corrupt leaders betray peoples trust, set a bad example for everybody, plunder society’s common wealth and stifle the growth of an enabling environment for investors and entrepreneurs. It is evident that their corrupt practices have the capacity to affect and do affect millions of people adversely. They may affect the lives of millions of ordinary people worse than they otherwise were.

For example, bribes paid by a firm to expedite government regulatory activities for the purposes of obtaining trade licenses or contracts all raise cost of doing business or products consumed by individuals. When bribes are paid to circumvent government regulations in health and safety, environmental requirements, taxation, it may reduce the net cost to the company but at a social cost (Stephen 2009).

According to Stephen, (2009) the economic costs may be even more substantial as projects may be undertaken merely to generate bribes rather than as a reflection of economic

development priorities. Major capital investment projects which were never economically viable may remain a drain on the scarce resources of the state for many years. In the extreme case, where the payment is to gain access to valuable state resources such as mining concessions, privatized enterprise, the existence and survival of the enterprise itself will largely depend upon such payments. These not only distort prices throughout the economy, create delays in economic transaction and uncertainties but undermine investment and encourage capital flight posing development challenges to governments under various regimes.

1.2. STATEMENT OF THE PROBLEM

In recent times, various press conferences are being held by the minority or opposition to highlight various governments appointees involved in corrupt practices for example STX deal by NPP and Hotel Kuffour by NDC. Counter press conferences are equally organized to show case how opposition parties condoned with corruption when they were in government for example Mabey and Johnson 2009/10 saga and Ghana at 50. After all these, what happens next appears to be of little or no interest to the public and even the institutions mandated to handle issues of corruption. At the same time no government is quick as the case may be in the press conferences they organized to show their achievements in reducing corruption from a particular level to the other. All that they (politicians) tell is various efforts being put in place to fight corruption and never the results or outcome of the fight or dividends of the efforts.

Whilst the public, civil society groups, the media and opposition continue to accuse governments and their officials of engaging in corrupt practices and condoning corruption, the same interest groups, governments inclusive do not see anything wrong with their policies and the institutions responsible for the implementation of these policies. According to the Institute of Chartered Accountants (ICA) Ghana 2005, Ghana had adequate institutional

frame work for the prevention of and control of corruption. According to ICA 2005, if the institutions of state like the SFO and laws like the Procurement Act, Financial Administration Act and the Internal Audit Agency Act were made to work effectively, corruption in the country would be reduced (Daily Dispatch 2005). Strong checks – and – balances institutions are key to a well functioning national governance system and sustainability. They help keep the executive arm of government focused on the public purpose. They are vital for fighting corruption; for ensuring that state actors at all levels use public resources efficiently and effectively and for helping to ensure that citizens perceive state institutions to be legitimate (Brian 2007). The SFO is one of such checks- and-balances institutions in the country but how it has responded to its mandate and governments’ anti-corruption policies have not been well investigated

1.3 OBJECTIVES OF THE STUDY

The main objective of this study was to explore the knowledge gap between anti- corruption policies and anti- corruption agencies of government under the Fourth Republic using the SFO as a case study.

The objectives of the study were;

- 1) To examine what corruption is about in Ghana.
- 2) To examine the policies in place by government under the Fourth Republic to help address the problem of corruption in Ghana.
- 3) .To examine the achievements of government of its policy objectives under the Fourth Republic using the SFO as a vehicle of implementation.
- 4) To examine the situation of corruption in Ghana under the Fourth Republic

1.4 RESEARCH QUESTIONS

The study would help answer the following questions;

- 1) What is corruption about?
- 2) What policies are in place by government to help address the problem of corruption in Ghana under the Fourth Republic?
- 3) To what extent has the government achieved its policy objectives using the SFO as a vehicle of implementation under Fourth Republic?
- 4) What is the corruption situation in Ghana under the Fourth Republic?

1.5 SIGNIFICANCE OF THE PRESENTATION

The study may be useful to the Government, SFO, Non Governmental Organizations (NGOs) especially, those engaged in good governance programs, academia and the public at large.

The study will help government streamline certain policies that it made taking into consideration the institutional framework and responsibility upon which such policy revolved such that the success or otherwise of the policy could be measured by the success or otherwise of that institution concerned.

It would help the SFO redefine its position in the scheme of government anti-corruption policies and fashion out objectives and strategies that can be appraised, evaluated and serve as indicators on the trends of financial crimes for policy decisions by the government.

NGOs especially those engaged in good governance programs are drivers of governments' policies and reforms. This study would help them to appreciate and understand the knowledge gaps between government anti-corruption policies and the SFO, to better play their watch dog role in shaping policy directions.

Academia may consider it as the basis for further research into gaps between policies and the appropriate institutions in place to carry on the policies we make as a nation.

The public needs to be informed and educated on government anti-corruption policies and the work of the SFO so that they can contribute their quota and demand accountability from the office by way of measuring the success of a particular government's anti corruption policies.

1.6 SCOPE AND LIMITATION OF THE STUDY

This study is limited to the first and second Governments under the Fourth Republic of Ghana. The searchlight of the study was on the SFO as a specialized agency of government in the fight against white colour crimes. The SFO has offices in all the ten regional capitals and is headquartered at Old Parliament House, Accra.

The methodology used in this work is formulation of questionnaires to Respondents and literature review by renowned civil society organizations and publications such as Centre for Democratic Development(CDD) Ghana, Institute of Economic Affairs (IEA) Legon, Ghana Integrity Initiative (GII), Transparency International (TI), Acts of Parliament and Legislative Instruments, Newspaper Publications, Magazines and Journals. It also contained excerpts from SFO annual reports and brochures.

ORGANIZATION OF CHAPTERS

The study is organized into five main chapters.

Essentially, chapter one contains the Background of the Study, Statement of the Problem, Research Objectives, Research question, significance of study, Scope and Limitation of the study.

Chapter Two deals with Literature Review; Chapter Three covers Methodology of the study; Chapter Four is Analysis of Research Finding; Chapter Five is Summary, Conclusions and Recommendations.

KNUST



CHAPTER TWO

LITERATURE REVIEW

2.1. INTRODUCTION

This chapter examines anti- corruption policies in place by the Government to help address the problem of corruption, the formation of the SFO as a vehicle of implementation of these policies and examination of the situation of corruption in Ghana after two successive governments under the Fourth Republic.

2.2. DEFINITION OF POLICY

The word “policy” is derived from the Greek words Polileia and polic which refer to state and citizenship and the latin word politia which means “administration of the Commonwealth. Thus, policy refers to the regulation of morals, social order, safety and welfare of a body politic (organization, a community, state or nation) (Study guide/CEMBA 571) . According to Pal, (1997) a policy may be defined as “a course of action or inaction chosen by public authority to address a given problem or interrelated set of problems.” In simple terms, a policy is an action which is backed by authority of government as a preferred course of action. Such a preferred course of action or decision by government may be embodied in legislation or otherwise given formal authorization by other policy instrument in accordance with the political structure that is, military or civilian government.

Before a government entertains a public policy issue, a demand for action must be called for whether from an interest group, a private individual, an elected or appointed representative, or public service. Increasingly however, opinion polls and the media are also influencing the issue search and goal setting process

Public interest balances the difference interests both special and universal that exist in society. Universal notions are showed by the integrity; for example the notions of fairness and equity. Special interest is showed by segments or groups of society. But public interest often reflects whatever special interest wins government's support. Interpretation of the public interest usually emanates or is credited to a political master. In this connection, Taylor et al (1999) stated that “ultimately the appropriateness of a form of governments’ intervention in the public interest will be value judgment based on personal standards of legitimacy, expediency and morality”. Public policy needs not be significantly developed by government, but rather, that the policy must in some way have been partly developed within the frame work of government.

As the dynamics of government and economy change, increasing the complexity in society, the role of government in public policy development is also changing. Drivers for public sector policy include the following;

- The public–civil society, individuals, concerned citizens.
- Government – manifestos, cabinets/executive arm of government
- Parliament or legislative system
- The judiciary.
- Public International laws/transactions.
- The media - 4th Estate
- Opinion polls.

2.3. ANTI-CORRUPTION POLICIES UNDER THE FOURTH REPUBLIC

The issue of corruption is high on the agenda of governments under the Fourth Republic. Various policies, enactments and institutions were therefore, established over the years to help address the problem of corruption in Ghana.

2.4. THE AGENDA SETTING

The National Democratic Congress (NDC) formed the first government of the Fourth Republic and followed the incremental approach to policy making which involves incremental changes by successively selecting alternatives that make marginal or some improvements to an existing policy or status quo. The NDC came out of the PNDC military government. The policy statement of the PNDC in its efforts to fight corruption was “Probity and accountability”. This was re-echoed in the preamble, of the 1992 Constitution. The NDC continued with the policy of probity and accountability in the Fourth Republic to sustain the efforts of the PNDC in their fight against corruption

The review exercise, culminated into the establishment of the SFO. It comprised of knowledgeable Ghanaians drawn from cross-section of stakeholders in government with Dr. Obed Asamoah the then, Attorney General and Minister of Justice supervising. The exercise was aimed at reviewing the entire investigation systems of the revolutionary organs with the view to making it more responsive to current challenges. The exercise was completed in July, 1993 with the submission of its recommendation to the government.

According to CDD (2005), the general public especially civil society as well as political parties had reservations about its objectives, content, administration and management. The public and interests groups do not get the opportunities to offer ideas and information at any fora organized by the Attorney General and Ministry of Justice. The interest groups comprised of Non Governmental Organization (NGO) on good governance programme, civil society groups, development partners and the public. The lack of information and ideas from the public did not assist in shaping the policy and enhance the work of the Serious Fraud Office (SFO). This notwithstanding, the media provided information to engage the public in debate and discussions on the policy rather than in support of it. The media not only reported

on, but also helped to shape public opinion through the selection of certain issues on the corruption policy of the PNDC for reform. It reported on the issue throughout its life cycle at the floor of Parliament. The media thus, influenced the policy making process by disseminating information to the general public regarding not only the identification of a policy issue but also its development, implementation and evaluation.

2.4.1. CABINET'S ROLE

Cabinet comprising of appointed ministers of government formulates the policy with support of permanent executives who are the civil servants. The members of cabinet (the ministers) also defended their decisions in parliament. Cabinet which is the highest decision making body and chaired by the president in the case of Ghana, played a lead role in the policy formulation process. Cabinet crystallized the vision or the dream of the president,(1992 constitution)

2.4.2. PARLIAMENT:

Parliament scrutinized the policy submitted to it by cabinet and also made amendments and provided inputs into the policy. Parliamentary select committee on legal and constitutional matters within the legislative process was charged with the responsibility of legislative reviews, hearings and consultations. The results of the reviews became recommendations or amendments to the proposed legislation. After various levels of consideration by parliament, the policy was passed into law by an Act of Parliament, (Act 466), after which it received presidential assent and became law on 30th December, 1993.

2.4.3. LIMITATION OF THE INCREMENTALIST APPROACH TO POLICY FORMULATION

The Incrementalist approach to policy formulation adopted by the NDC government under the Fourth Republic has its own limitation in policy making.

For instance, Dror (1968) provides analysis of three situations where the incrementalist approach would also be inadequate. These are;

1. When present policies are so unsatisfactory that trying to adjust them is pointless. This was perhaps so in view of the fact that the law also created a successor to the National Investigations Committee, one of the institutions highly criticized by many of numerous abuses and excesses.
2. When the problems themselves and the responses expected by government are changing quickly and as such the past doesn't provide as strong a basis for action. In the present situation, a shift from military dictatorship to a constitutional rule.
3. The ability of policy makers to solve problem is expanding through new knowledge, skill and technology. By basing decisions on the past, these new opportunities are likely to be neglected leading to potentially sub-optimal results. Dror (1968) also criticizes the aspect of consensus as described by Lindblom's (1959) incrementalist approach in that while acceptable as a criterion of good policy some of the time, it is not applicable all the time. In particular in situations where change is rapid, previous lessons that informed consensus are no longer applicable. With respect to complex, technical problems, Dror (1969) argues further that consensus is often unnecessary in this.

However, “ zero tolerance for corruption” was yet another policy statement by the New Patriotic Party (NPP) led by President John A. Kuffour in the third parliament of the Fourth Republic to purge the system of corruption. The NPP government adopted the mixed scanning approach to policy making by selectively exploring key alternatives that were

viewed as in line with their conceived goals at the same time, fine tuning existing fundamental decisions after the consequences and weakness have been identified.

The Hon. Jake Obetsebi Lamptey (2001) – then Minister for Information and Presidential Affairs – defined the Administration’s Policy of zero tolerance for corruption as consisting of;

- 1) Introduction of procedures in the public decision making process to ensure transparency, disclosure and responsibility from the private sector and provision of opportunities for informal participation by civil society, including the media.
- 2) Demonstrated leadership by the NPP Government in the crusade for good governance. In this direction, he indicated that the Government would not only seek to check and punish corruption, but would also encourage avoidance and work in concert with the international community to develop the means to prevent and control cross border crime.
- 3) On what the zero tolerance for corruption would involve practically, he also said that, the Government would in the medium to long term strengthen institutions that formed the ethical infrastructure of the nation to deliver equity and justice. A code of conduct for political executive would be promulgated and an office for accountability would be set up in the President’s office to implement the code and monitor anti-corruption activities, whilst at the same time disclosure enhancing legislation would be sponsored.

According to him, the Government had taken a number of measures to ascertain the extent of public malfeasance in order to inform immediate remedial measures. These include:

- 1) The institution of financial and management audit into worst affected public institutions under the aegis of the Ministry of Finance.
- 2) Establishment of a special task force within the police system by the Attorney General to expedite investigations.

- 3) The review and prosecution of outstanding investigations by the Serious Fraud Office.
- 4) The establishment of the Fast Track Court by the acting Chief Justice amongst other measures to enhance administration of justice.

2.5. LEGAL FRAME WORK AND INSTITUTIONS

The Executive Instruments, Acts and Legislative Instruments and the laws and institutions that they established are the legal frames or regimes and vehicles with which the particular policy is carried out. The legal regimes and institutions established under the Fourth Republic to persecute corruption in the country are discussed below.

2.5.1. THE 1992 CONSTITUTION

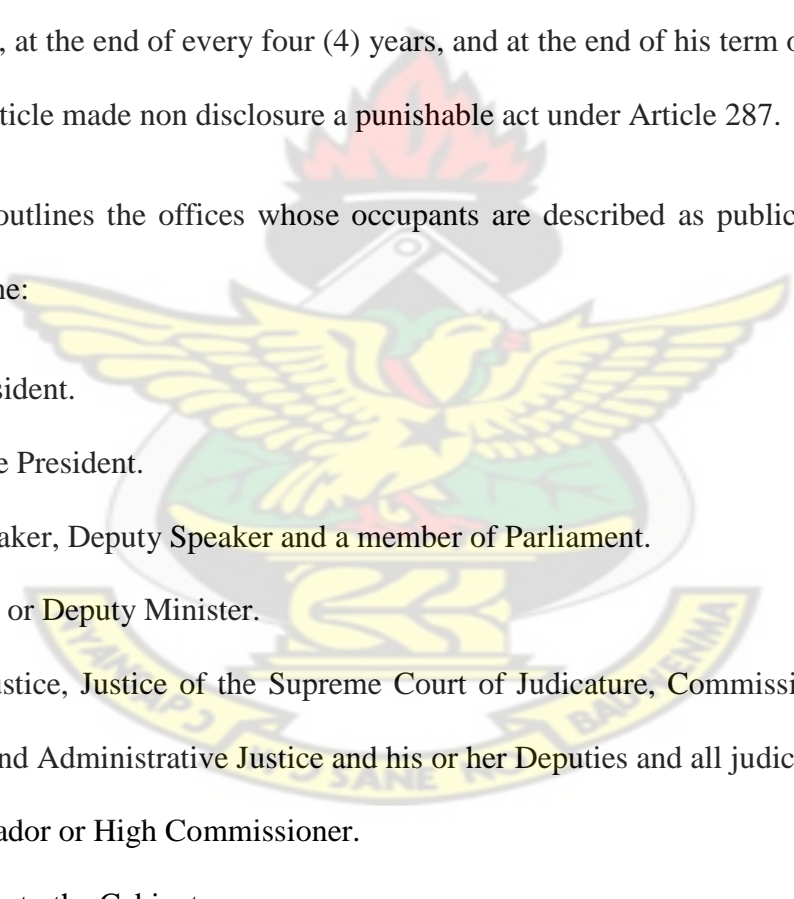
The Fourth Republic began with the 1992 Constitution. A Constitution refers to the fundamental principles and laws governing a nation. As the fundamental principles governing a nation, a Constitution may also include the basic structure of the government and its operations, powers and limitations. As the supreme and fundamental source of the principles of governance of the country, the Constitution is therefore primary to the search for any law or policy regulating the conduct of public and civil life.

Chapter six deals with Directive Principles of State Policy and underlay the principles guiding any state policy. For example Article 34 (i) states that “the Directive Principles of state policy contained in this chapter shall guide all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, Political Parties and other bodies and persons in applying or interpreting this Constitution or any other law and in taking and implementing any policy decisions, for the establishment of a just and free society”. On the subject of Corruption Article 35 (8) is emphatic when it states that “the state shall take steps to eradicate corrupt practices and abuse of power. Article 36 (i) also states that, “the State shall take all necessary action to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare among

others”. Clause 2 in particular states that, “the State shall in particular take all necessary steps to establish a sound and healthy economy...”

Chapter 24 deals with conduct of public office holders. Article 284 states that a public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of his office. Article 286 (i) states that, a person who holds a public office mentioned in clause 5 of this article shall submit to the Auditor General a written declaration of all property or assets or liabilities owed by him whether directly or indirectly within three (3) months after coming into force of this Constitution or before taking office as the case may be, at the end of every four (4) years, and at the end of his term of office. Clause 2 of the same article made non disclosure a punishable act under Article 287.

Article 286(5) outlines the offices whose occupants are described as public office holders. These include the:

- 
- a. The President.
 - b. The Vice President.
 - c. The Speaker, Deputy Speaker and a member of Parliament.
 - d. Minister or Deputy Minister.
 - e. Chief Justice, Justice of the Supreme Court of Judicature, Commissioner of Human Rights and Administrative Justice and his or her Deputies and all judicial officers.
 - f. Ambassador or High Commissioner.
 - g. Secretary to the Cabinet.
 - h. Head of Ministry or government department or equivalent office in the Civil Service.
 - i. Chairman, Managing Director, General Manager and Departmental Head of a public corporation or company in which the State has a controlling interest and
 - j. Such officers in the Public Service, any other Public institution as Parliament may prescribe.

2.5.2 CRIMINAL CODE (ACT 29) 1960

The criminal code (Act 29) 1960 predates the Fourth Republic and was rolled over into the Fourth Republic as part of the laws of Ghana.

Sections 239 – 245 of this Act provides for Corruption and bribery.

Sections 16, 131 – 145 deals with fraud. The Criminal Code Amendment Act, 1993, Act 458 has added a section 179 A and 179 C which declare acts or omission which results in serious financial or economic loss to the State and using public office for profit as offences respectively.

2.5.3. UNITED NATIONS CONVENTION AGAINST CORRUPTION AND THE AFRICAN CONVENTION ON PREVENTING AND COMBATING CORRUPTION.

Article 73 of the 1992 Constitution also provides that, the government shall conduct its international affairs in consonance with the accepted principles of public international law and diplomacy in a manner consistent with the national interest of Ghana. Under this obligation Ghana has adopted some policies and laws under UNCAC. Some of these include:

1. Anti – Money laundering Act, 2007 (Act 749).
2. Mutual Legal Assistance Bill.
3. Extradition Act 1960 (Act 22).
4. Transfer of convicted persons, Act 2007 (Act 743).
5. Economic and organized Crime Act, 2010, Act 804.

2.4.4. OTHER ENACTMENTS, ACTS AND LEGISLATIVE INSTRUMENTS

There are other Enactments, Acts and Legislations which in the main do not deal directly with corruption, but help address issues which are incidental to corruption. These include the following;

1. Political Parties Act 2000 (Act 574) for funding of political parties.
2. Public Office Holders (Declaration of Assets and Disqualification) Act 1998 (Act 553).
3. Public Procurement Act, Act 2003 (Act 663).
4. Financial Administration Act, 2003 (Act 654).
5. The Right to Information Bill.
6. Payment Systems Act, Act 2003 (Act 662).
7. Customs Excise and Preventive Service (Management) Act, Act 1993 (PNDCL 330).
8. Representation of the People Act, 1992 (PNDCL284).
9. Whistleblower Act, 2006 (Act 720).
10. Credit Reporting Act, Act 2007 (Act 726).
11. Courts Act, Act 1993 (Act 459).

2.6. INSTITUTIONS

In addition to the SFO, some other inter-related Institutions were established to address such a pervasive phenomenon, corruption.

1. Commission on Human Rights and Administrative Justice (CHRAJ)

The CHRAJ was established by the CHRAJ Act 1993, Act 456 as part of the Public Services of Ghana. It has among its numerous functions, the additional function of investigating corruption involving public officials.

2. Internal Audit Agency (IAA)

The IAA Act, 2003 Act 658 established the Internal Audit Agency as part of the public services of Ghana to coordinate the activities of the various internal audit units within state institutions and to advise government on its findings for policy decisions and further actions.

3. Office of Accountability

The Office of Accountability was established at the office of the president as a mechanism within government to check alleged acts of corruption against political appointees in government. It has no legal existence.

4. The Ghana Police Service (GPS)

The GPS handles any act of corruption which is an offence in the criminal laws of Ghana and upon the advice of the Attorney General Prosecute such offence on behalf of the state.

5. Bureau of National Investigations (BNI)

- 6.** The BNI in addition to its numerous functions conducts investigations into acts which have caused or have the potential of sabotaging the economy of Ghana.

To assess the integrity of some of the institutions CDD (2000) carried out a Households survey in Ghana. The results were also as follows;

- CHRAJ - 4.09
- SFO - 3.38
- BNI - 2.96
- Police Local - 2.25

CHRAJ ranked high, followed by the SFO, BNI and the Police.

As it would be seen, the Fourth Republic is inundated with several anti – corruption policies or legislations and various institutions in compliance with the provisions of articles 35 (8) and 36 (1) as well as article 73 of the UNCAC. The SFO Act therefore, does not create any law unknown to the laws of Ghana, but how these laws and institutions have helped to reduce corruption in the country is not the concern of stakeholders.

2.7. THE SFO AS A VEHICLE OF IMPLEMENTATION OF GOVERNMENT ANTI- CORRUPTION POLICIES UNDER THE FOURTH REPUBLIC

The policy statements through policy formulation are reduced into Executive Instruments, Acts, and Legislative Instruments establishing institutions and laws for the purpose of achieving the policy objectives through the process of policy implementation. In this regard, Edwards III emphasized the importance of policy implementation as follows; “Public policies are rarely self – executing ... without effective implementation the decisions of policy makers will not be carried out successfully.... Policy makers’ implementation.... is the stage of policy making between the establishment of policy..... and the consequences of the policy for the people whom it affects. If a policy is inappropriate it cannot alleviate the problem for which it was designed, it will probably be a failure no matter how well it is implemented. Even a brilliant policy poorly implemented may fail to achieve the goals of its designers”,(ILO,1994). It is undoubtedly the prerogative of the Executive to formulate policies “but implemented by agencies that are established by law. Therefore, the policies have to be adopted by the implementing agencies as part of their own functions. They would have to develop the policies into programmes of activities that could be incorporated in their plans and budgets” (Study guide 554).

2.7.1. THE NAME OF THE OFFICE.

The name SFO is perhaps taken from its Counter-part, SFO, UK. The word ‘serious’ may therefore have no direct bearing on the activities of the office. Once acts or omissions border down on crimes of causing financial loss to the state, the office may be interested.(SFO ,2000). The Longman’s Dictionary of Contemporary English also defines fraud as ”an act of deceitful behavior for the purpose of making money which may be punishable by law”. In legal terms fraud is intentional misrepresentation of facts or figures for monetary gain or for

any other advantage at the expense of the person(s) deceived. “To amount to fraud, the conduct must be deliberately dishonest” (see R V. Sinclair[1968] 3All 241).

2.7.2. NECESSITY FOR THE CREATION OF THE SFO

The creation of the SFO is another effort by the government of Ghana in the fight against corruption in general and white color crimes in particular (SFO Report,1999). The Fourth Republic began on 7th January, 1993 with Flt. Lt Jerry John Rawlings as the first Fourth Republican President after eleven years of military rule. The Rawlings led military government blamed the poor economic conditions of the people in 1981 to corruption on the leaders of previous regimes and some public officials. A policy statement, probity and accountability was therefore made to give direction to the government’s efforts in fighting corruption in the country. To actualize this policy statement, various decrees were promulgated by the Head of State establishing various committees to scourge for corrupt practices and officials for investigation and necessary action. These committees included the Citizens Vetting Committee (CVC), National Investigation Committee (NIC) (PNDCL1982 L.2), and Office of Revenue Commissioners (ORC) (PNDCL1984 L.80). However, under the Fourth Republic, the PNDC government came to an end with all these committees. The fundamental questions that arose in the fourth republic were, what happens to the unfinished business of these committees, their assets and liabilities? How do we sustain the gains made while minimizing the excesses? The search for answers to all these questions and many unasked needed to be addressed.

Undoubtedly, most of the public sector and International institutions have their monitoring mechanisms – Internal Audit Units, Monitoring and Evaluation Units and Audit Service. But the activities of these Units and Agencies are limited in scope and aimed at achieving the limited objective of the institutions concerned (SFO 2000). The police are also trained to handle ordinary crimes and do not have the capacity to handle complex and sophisticated

crimes like white color crimes (Nanfuri 2000). White color crimes are complex and sophisticated, usually involving syndicate or clientele operations, no complainants and no victims. The state is the victim and in the eyes of predominantly illiterate communities, the state is no body or entity. This state of affairs does not convey in depth the nature and magnitude of economic crimes to government and management of International Financial Institutions for policy decisions. The cumulative result of the aforementioned is that, the responsibility for the control of white color crimes could no longer be left to the various institutional mechanisms and police alone. The need for a specialized body charged with the sole responsibility of economic crime detection, investigation and prevention was the challenge (SFO,2000).

It is against this background that the First Parliament under the Fourth Republic established the Serious Fraud Office under Act 466, 1993 as part of the public Service with the sole onus of economic crime detection, investigation and upon the advice of the Attorney General, prosecutes offenders as a Successor to the defunct anti-corruption committees. The office also collaborates with other bodies in the performance of its functions (SFO ACT, 1993).

2.7.3 THE SERIOUS FRAUD OFFICE (SFO) ACT 466

The SFO Act, Act466 established the Serious Fraud Office. The preamble to the Act says that, “an Act to establish a SFO as a specialized agency of government to monitor, investigate and on the authority of the Attorney General, prosecute any offence involving serious financial or economic loss to the state and or to make provision for connected and incidental purposes”.

Section one, sub-section one, also states that, there is established by this Act a SFO referred to in this Act as “the office” which shall form part of the Public Services. Sub-section two, said that, the office shall consist of;

- (a) An Executive Director,
 - (b) Deputy Executive Directors; and
 - (c) Such other officers and staff as the President may appoint for the office under this Act
- (SFO Act 466, 1993)

2.7.4. FUNCTIONS

The SFO is empowered by the enabling SFO Act to discharge its functions without fear or favour and to all manner of persons. Section 3(1) of the Act describes the functions of the office to include the following;

- (a) To investigate any suspected offence provided for by law which appears to the Director on reasonable grounds to involve serious financial resource or economic loss to the state or any state organization or other institution in which the state has financial interest;
- (b) 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;
- (c) Take such other reasonable measures as the Director considers necessary to prevent the commission of crimes which may cause or likely to cause financial loss to the state; and
- (d) To cooperate with such international agencies as the Director considers appropriate for any of the purposes under this section.

Section 3 (2) states that in the performance of its functions under subsection (1) of this section, the office shall collect, collate and disseminate information from state agencies and other public bodies (SFO, Act 466, 1993).

2.7.5. OPERATING MECHANISMS

As part of its monitoring functions, the SFO looks out for information on about to be committed crimes as well as crimes that have already been committed through research and monitoring of financial and economic activities for relevant information. It picks up information from sources such as the print and electronic media. It also relies on public-spirited citizens (informants) for information. There are also occasions where organizations refer cases to the SFO for investigation. (SFO,2000).

Section 11 of the SFO Act, authorized officers of the SFO to exercise all the powers and enjoy all the immunities conferred by law upon a police officer. Section 13 also empowers the SFO to compel any person or representative of any organization by written notice whose affairs are under investigation or any person whom an investigation officer has reason to believe has relevant information to appear before the officer in charge of the investigation to answer questions or otherwise furnish information relevant to the investigation. Similarly, documents relevant to a particular case under investigation are secured by written notice under the same section 13 to the same person or organization under investigation. Where an officer of the office has cause to believe that a person has failed to comply with a request for information, where it is not practicable to serve the notice required to compel the production of the information, or the service of notice for the production of documents is likely to prejudice investigation, the officer can apply to a judge or chairman of a regional tribunal for a warrant to search the premises on which the documents are suspected to be held and to take possession of them or take the necessary steps to preserve them. Where the Director deems necessary he may also apply to the court seeking confirmation of the freezing of the assets or accounts of any individual or institution whose affairs are being investigated within seven (7) days of making the freeze order. The SFO is thus clothed with broad powers by the SFO Act for the realization of its objectives.

2.7.6. LEGAL CAPACITY OF SFO

As a specialized agency of state charged with the sole responsibility of economic crime detection, investigation and prosecution, it means that the SFO is authorized by law to implement any government policies on corruption or white color crimes in the country. The concise Oxford Dictionary of Current English for example gave the meaning of “response” as “a spoken or written answer” or “a reaction to something that has happened or been said”. Response of the SFO to governments anti corruption policies of “probity and accountability” and “zero tolerance for corruption” in the context of policy implementation means that the SFO must first have the legal capacity or the particular policy to be implemented must be within the mandate of the office.

Having given SFO the mandate, it also means the SFO has the ability towards answering and or responding readily to governments anti –corruption policies. The Ministry of Justice and Attorney General Department is the lead implementing organization of the SFO Act. They coordinated all activities to ensure a smooth implementation of the law. They also prepared the provisions of the Act, the new investigation structure and prepared the calendar for the take-off.

2.7.7. FINANCE AND FUNDING

Financing and funding constitute a critical resource requirement for any policy initiative and must therefore be judiciously exploited to ensure the highest policy outcome possible. This calls for a deliberate and conscious effort to balance the competitions, needs and within the constraints posed by availability of funds on one hand and national aspirations of making good governance more relevant to development and modernization of the predominantly agriculture-based economy. For implementation to be effective, funds must be made available for the provision of office infrastructure. Human Resources must be available to

ensure effective and efficient policy implementation. Capacity building is an essential aspect of the implementation process. Training of various professionals in fraud detection and investigation systems is key to making them fully competent to enable them under take technical tasks required in the process of delivering good quality investigation. Fraud detection and investigation materials should be made available at all levels of the stratum to ensure sound quality and effective delivery.

Another important aspect of policy implementation is the effectiveness of the various actors in the implementation process. Institutions in the fight against corruption have an enjoined responsibility to ensure that their workers collaborate in the detection and investigation of economic crimes as soon as issues of corruption come up to prevent or serve as disincentive to corruption. The public, opinion leaders and other individuals who are beneficiaries of policy, must provide the needed support to the policy and must be willing to report issues of corruption. Non-governmental organizations and civil society organizations must all lend their support to the policy. This can take the form of education and sensitization of the populace on the new policy. The support can also be in the area of provision of logistics and training.

2.7.8. EXERCISE OF PREROGATIVE POWERS

Despite the suspicion and anxiety expressed by a section of the populace and civil society groups, the SFO Act, Act 466 was passed and signed into law in 1993 as part of the Public Service of Ghana (CDD,2005). As part of the Public Service, it is incumbent upon the political executive to make the SFO work. The 1992 Constitution is clear on the political executive and defines its powers and functions. Article 58 (i) of the 1992 Constitution says that executive authority of Ghana shall vest in the President and shall be exercised in accordance with the provision of this Constitution. Clause three (3) also says that subject to the supervision of this constitution, the functions conferred on the president by clause (i) of

this article may be exercised by him either directly or through officers' subordinate to him. Article 70 (i) says that the president shall, acting in consultation with the Council of State, appoint (e) the holders of such other office as may be prescribed by this constitution or by any other law not inconsistent with this constitution. What these meant is that, the executive powers are vested in the President. The executive authority appoints the administrative executive. The administrative executive so appointed is authorized by the political executive to implement policies formulated by the political authority.

The Act that established the office made provision for SFO governing board. The board has general powers of the SFO on matters of policy and is responsible for advising the president on the appointment of the Executive Director and other officers, professionals and experts of the SFO. The Attorney General and Minister of Justice exercises ministerial responsibility of the SFO, and as the chief state prosecutor, authorizes prosecution of the cases investigated by the SFO.

The board is responsible for reducing the broad policy objective of the political authority into policy decisions of the office. The board is made up of seven members. These include the chairman, the Executive Director of the office, the Inspector General of Police or his representative, the Minister of Interior or his representative, the Attorney General and Minister of Justice or his representative, the Secretary of Narcotic Control Board or his representative. The President also has a representative on the board. The President in fulfillment of these constitutional requirements appointed the Chairman, Executive Director and Deputies. He also appointed the Ministers of Interior and Justice as board members in 1997

2.7.9. OPERATIONS OF SFO 1998-2003

The SFO, is head quartered in Accra at Old Parliament House. It has regional offices in all the ten (10) regional capitals including, Tema. The regions are further sub-grouped into five (5) zones. The three (3) Northern Regions Upper East, Upper West and Northern Region make up the Northern Zone with Tamale the Zonal Office. The Eastern Zone is also made up of the Volta Region and Eastern Region with Koforidua as the Zonal Office. The Central and Western Regions make up the Western Zone with Takoradi as the Zonal Office. Kumasi as a Zonal Office covers Ashanti and the Brong Ahafo Regions as Central Zone whilst the Tema Office makes up the Greater Accra Zone. There are however, no representation in the Metropolis, Municipal and District (MMD) level.

The Regions report to the Zones and the Zones in turn report to the Head Office. The Head Office directs, supervises and coordinates the activities of the Zonal Office in matters pertaining to the functions of the office. The Head Office is made up of various Units. These are the monitoring, investigation, Legal and Prosecution (L&P) and Administration. The monitoring investigation and L&P are the major functions of the office with Administration as auxiliary. The performance of the SFO over the years, 1998-2003 is shown in the table below.

2.7.10. TABLE 1. SFO PERFORMANCE 1998 – 2003 .

	*No. of Cases Investigated.	**No. of cases recommended for prosecution	***No. of cases prosecuted.	****No. of cases pending in court.	*****Total Monies Released to SFO (Cedis)	***** Total Financial Loss Involved/ prevented.(cedis-estimated)	***** Total Monies Retrieved (cedis)
1998	27	-	-	6	2431382000	-	283572992.06
1999	64	6	11	11	2579800000	9,882,467,287.24 ~\$6,025,136 ~19,035.93 (pounds)	1716735260
2000	40	3	-	26	5567221968.59	-	5700000000
2001	37	-	2	16	3763620149	-	568661381
2002	44	5	0	-6 cases completed - 17 cases ongoing -5 cases awaiting AG's fiat	4339881143	161,203,907,000~\$ 223,612,640.80 ~400,000 (pounds) ~44,000,000 (DM)	5990000000
2003	34	0	0	20	-	254000000000	2,720,000000

SOURCE: CDD,2005

2.7.11. CHALLENGES OF THE OFFICE

Against the background of the SFO's wide investigative powers – powers of request for appearance and production of documents especially by third parties such as financial institutions to assist its investigations and the power to freeze the assets of persons under investigation were viewed by civil society groups and individuals objected to the creation of the SFO as cynical and as tools with which the executive could harass its political opponents (CDD,2005).

These broad powers have become and continue to be the subject of debate and controversy in the first parliament of the fourth republic and the public at large in view of the background to its establishment. The PNDC came to power against the backdrop of accusing the previous leaders of corruption as a cause of the economic state of affairs at the time. Therefore the various committees(NIC and ORC) took centre stage in the affairs of governance of the country at the time. These committees used various measures to collect information, conducted investigations and confiscated properties of people who were found guilty of amassing wealth through corrupt means. These measures were criticized as abuse and violation of people's human rights and dignity. The grounds for confiscation of some of the properties confiscated were equally criticized as inadequate, lacked transparency and illegal (CDD, 2005).

At the time of the enactment of the SFO Act, there was also no effective opposition in parliament because the largest opposition party, the New Patriotic Party (NPP) had boycotted the 1992 parliamentary elections. In view of the combination of all these circumstances, the SFO Act was viewed with great suspicion by many in the opposition who felt that the ruling party had taken advantage of their absence from parliament to push through a law with which to vilify its opponents.

The fact that the law created a successor to the National Investigations Committee, one of the institutions highly criticized by many of numerous abuses and excesses did not also help matters much. There was distrust and ill feelings about the creation of the SFO. This watered down the potency of the office and the needed support from the public, civil society groups and the international community.

Implementation of the new policy was therefore confronted with a lot of challenges. These include inadequate infrastructure, limited number of trained investigators, lack of logistics, inadequate investigation materials and equipments especially at the evidence gathering level. For these and related issues, since the Act was passed in 1993, it became operational in 1997.

After a careful analysis of the situation on the ground, it would have been prudent to give the existing policy sufficient funding to operate in order to have a better assessment of the outcome and impact of the policy. It is obvious that a lot more work needed to be done to address the issues of inadequate infrastructure, inadequate trained investigators, limited supply of evidence gathering materials, laxity in supervision and motivation of investigators risking their lives in evidence gathering.

As a political party in government, the President in the exercise of his prerogative rights may appoint people who share the same or similar visions with him as a leader of political party. The President in fulfillment of these constitutional requirements appointed the Executives of the SFO. These appointments made the SFO a convenient vehicle to be used by the government in power to carry out its anti-corruption policies, but this also worked against the office credibility and independence as a public service institution.

2.7.12. THE SFO IN THE EYES OF THE PUBLIC

Between 1998 and 1999 the SFO embarked on a public education programme to educate the public about its activities and all that the SFO stood for. Various views about the office from some very important personalities were also collected.

Some of the views expressed were as follows:

1. Honourable, Kwamena Bartels, Member of Parliament, Ablekuma Central, had this to say about the SFO. “So far, I think the SFO has done fairly well. There were a lot of skepticism about them at the beginning. But they have tried to stay clear of any negative perception like trying to target in on people who are supporting government. They are going only at people who are suspected to have done something wrong and are doing it objectively” (SFO,1999).
2. Mr. Francis Emile Short, Commissioner of CHRAJ. “An agency which specializes in fighting white colour or economic crimes as the SFO can complement the efforts of CHRAJ in dealing with such a pervasive phenomenon as corruption.
3. Mr. Peter Nanfuri, the Inspector General of Police. “The policeman is trained to handle ordinary crimes and does not have the capacity to handle sophisticated white colour crime. The SFO handles serious Economic losses to the state and employs expert and specialized approach. The sophistication that fraud is assuming these days calls for such specialized institution like the SFO”.
4. Mr. Osei Tutu Prempeh, Auditor – General, Audit Service. “The Audit Service and the SFO complement each other in the performance of their functions. The SFO operates through a process of intensive interaction with other institutions including Audit Service”.

2.8. EXAMINATION OF THE SITUATION OF CORRUPTION IN GHANA UNDER FOURTH REPUBLIC

Stakeholders who are drivers and beneficiaries of public policies have expectations which they hope would be met by the particular policy in place. How and to what extent policies impact on these expectations is a concept of evaluation. The concept of evaluation can be defined as attaching a value to something for the purpose of comparing it with other comparable things. Thus in the context of policy formulation and implementation, evaluation is involved at two stages. One is at the formulation stage, once the policy objectives have been identified. Then, each of these options has to be evaluated and all must be compared with each other. The second context in which evaluation is considered is in relation to the policy implementation stage. In this context evaluation is defined as the function of assessing the effectiveness and relevance of policy output. If the extent of policy activity's output and project approval is as expected then, the activity has been effective and if the activity resolves the focal problem, then it has been relevant. Evaluation is thus, the exercise of comparing the actual output and impact of the activity with its expected or planned output and impact. (Study guide 571).

Policy evaluation is pertinent in governmental operations because of the need for increased transparency, accountability, efficiency and effectiveness which is imperative of government. Key trends following this approach include the view of the citizen as a client of government service, performance reports and budgetary allocation.

A program of evaluation should therefore involve the following:-

1. The application of performance measures and program standard
2. The application of client/citizen indices satisfaction and
3. The translation of evaluation or reviews into opportunities for organization learning and improvement.

In this regard, Posavac and Carey (1992, 45-50) recognized five possible sources of data for

evaluation. These are

- a. Program Records
- b. Program Participants
- c. Program Staff
- d. Evaluator Observation
- e. Community Indexes

Program evaluation is generally understood to be independent and objective assessments to determine the adequacy of a program given its objectives, design and results (Kernagban and Siegel 1999, 180).



2.8.1 TABLE 2. CRITERIA FOR MEASUREMENT OF POLICY/PROGRAM EVALUATION

CRETERIA	MEASUREMENT
Effectiveness	Has the valued outcome been achieved? What have been the actual effects of policy
Efficiency	How much effort was required to achieve a valued outcome? Are the changes affordable. Have the personnel proven adequate to achieve the changes.
Adequacy	To what extent does the achievement of a valid outcome resolve the problem?
Equity	Are cost and benefits distributed equitable among different groups?
Responsiveness	Do policy outcomes satisfy the needs preference or values of particular groups? Can the policy be lived with politically or socially. Has the environment changed?
Appropriateness	Are designed outcomes (objective) actually worthy or valuable.
Sustainability	To what extend would the systems and efforts generated of a respective policy action be sustained in the long term?

SOURCE :C.6 Public system measurement.

According to a survey conducted by CDD in August, 2000 Ghanaians appeared to have very little faith in Government anticorruption efforts thus far. In fact, 63% of households and 74% of public servants remained skeptical of the Government commitment to fight corruption. In a 5th National Governance Workshop organized by the Ghana Anti-corruption Coalition (GACC, 2001), the position of investigative institutions like SFO and CHRAJ were discussed in terms of their mandate and accountability. The group was doubtful about the extent to which the mandate that these institutions operated under, could make them effective anti-corruption institutions.

The group noted with concern the aura of secrecy that shrouded policy decision-making, intended to leave out the very people who would be affected. Examples cited were the law making procedures and the present process of enacting the whistle Blower Bill which had not been subjected to any form of consultation and public debate. Asamoah Boaben, Executive Secretary of GII and Secretary, GACC – explained that, there were several rules about corruption in the country, many of them conflicting and working at cross purposes. And that, it was important to refine the law on corruption and to bring all of that law together in one place to enable easier access and understanding of what would be meant by corruption.

In 1999, the Magazine, Business in Africa, June edition, at pages 33 and 34 also reported that “Despite anti –bribery campaign by President Rawlings, corruption appears to be the national language of Ghana. It has its own grammar and idioms, it is spoken in politics, commerce, industry, religion and almost every aspect of life in the country” it went further to say that “the list of what constitutes corrupt practices in Ghana is virtually in exhaustible. It starts with the outright bribery of government officials, and goes on to the more ambiguous question of financial contribution to parties by businessmen. Then there is the misuse of state or company assets for political favours, kick backs and protection money for the police and even the courts, payola for disc jockeys, free Junkers for Members of Parliament (MPs), party functionaries and journalist and inside dealings of various kinds including the use of old – boys networks, cronyism and family connections. Ghana is apparently running a lucrative and flourishing corruption industry with virtually every Ghanaian a share holder reaping dividends of disgrace, mismanagement, stunted development and hardship”.

In a Governance and Corruption survey commissioned by the World Bank and conducted by CDD, Ghana in 2000, a high majority of Ghanaians (about 75% of House Holds (HHs) with urban distribution of 76% and 70% respectively) saw corruption as a serious problem in

Ghana then.. About 80% of HHs agreed that corruption had become worse now than it was 3 years ago.

An overwhelming percentage of public official (82%) saw corruption as more prevalent than 3 year ago.

Similarly, the Daily Dispatch Newspaper, volume 13 number 75 dated Thursday 26th May 2005 published a story “GII Survey Bombshell... corruption in Ghana is worse”. According to the paper, the Chief Executive of the Ghana Integrity Initiative (GII), Mr. Daniel Batidam in a thought provoking lecture revealed the results of GII urban (House Hold) Corruption survey conducted in Accra, Takoradi and Kumasi, the three biggest cities in Ghana. The paper quoting the Chief Executive of GII said that “an overwhelming majority (over 90%) of respondents in all the four cities agree strongly or at least agree with the statement that corruption is rife in Ghana today. They also think that the problem is getting severe in the urban cities. Asked whether corruption was getting better or worse, the majority of respondent (over 60%) said it is worse or much worse, whilst a smaller number of respondents (36%) said it was much better. The above revelation suggests how corruption is pervasive in all aspects of our economic life and deeply rooted in the urban areas.

According to the Institute of Chartered Accountants (ICA) Ghana, Ghana had adequate institutional frame work for the prevention of and control of corruption. According to the ICA, if the institutions of state like the SFO and laws like the Procurement Act, Financial administration Act and the Internal Audit Agency Act were made to work effectively, corruption in the country would be reduced (Daily Dispatch, 2005). The observation that corruption is on the increase or worse against the background that Ghana had adequate institutions and if made to work effectively could reduce corruption, suggest that corruption was on the increase because these institutions and laws were not made to work effectively.

In the Briefing News Paper, May 2005, Volume 7, Adam Keith has this to say about the situation of corruption in Ghana: “Whether viewed over the last year or the last five (5) years, the index (T. I corruption perception index) reveals no meaningful improvement in the corruption situation in Ghana. Some progress seems to be made, but an incomplete focus. The New Patriotic Party (NPP) administration has initiated potentially helpful institutional reforms in some area. Most recently, the government in 2003 passed three laws governing public finances. These laws – the Internal Audit Act, the Public Procurement Act, and the Financial Administration Act create central boards designed to oversee the most basic financial function of government agencies at every level. These reforms if well implemented could provide useful deterrents to corruption by increasing the perception that corrupt activities will be detected. Early reports on the creation of these new institutions however are worrisome and reflect the shortcomings of the Kuffour Administration’s overall approach to anti corruption reforms. One area of concern is the cost. The Public Procurement Boards strategic plan projects a first year operating cost of 25 billion Cedis (\$2.7m). By comparison, the government has failed several times in recent years to provide the entirety of the SFO much smaller budget, delivering in 2003 only 6.4 billion Cedis of the 7.2 billion Cedis budgeted.”

He went on to explain further that, “in Ghana existing anticorruption agencies provide examples of the many ways in which a watchdog operational independence on government may conflict with its mandate to expose corruption. The SFO never truly considered independent from its parent Ministry, has government continuing failure to grant its director the security and independence that come with a permanent appointment”. According to him, effectively controlling corruption required additional external checks that were further removed from direct government influence. This kind of government – to public “vertical accountability” is a necessary complement to the government-to-government “horizontal

accountability that peer agencies within the state can provide. Opposition parties, civil society advocates, media organizations and interested citizens may willingly invest time and effort in investigating graft. Their efforts will complement the state limited policy resource with network of actors who are more numerous, more objective and have a stronger interest – exposing and preventing corruption. The result is a “dense, overlapping system of accountability that ensures greater transparency than a state only effort can provide.

Similarly, on the issue of inadequate funding security of tenure of appointees especially, with regards to the SFO, in a Briefing Report in 2002, Volume 4 number 4, CDD, Ghana was of the view that, the effectiveness of official anti-corruption agencies (such as CHRAJ) continued to be undermined by severe under resourcing and neglect. Moreover, the administration had also continued with the practice of keeping heads of key oversight agencies in acting positions and without confirmation. Whatever the bureaucratic and political motives that drove this practice, it undermined the self-confidence and independence of important official watch dog and investigative agencies such as the SFO and the Auditor General’s Department. Combined with the chronic under resourcing such agencies were rendered too weak to offer meaningful oversight over the executive.

The report went on to state that the Kuffour administration’s voluntary and unilateral declaration, zero tolerance for corruption, represented a most refreshing initiative and the boldest of the administration efforts to pursue a good governance agenda. It continued further that, indeed the administration has posted some impressive gains in the pursuit of this declaration. These include the efforts to enforce post regime accountability by prosecution of ex-political leaders notable through the automated court system and other normal and credible judicial forums and the swift prosecution and conviction of the first Minister for Youth and Sport (Mallan Issah). These are the administration best example of zero tolerance for corruption.

On the minus side, there have been several sins of omissions and unfulfilled promises in the anti – corruption area. The administration corruption fighting credential had been tarnished by public allegations of sole sourcing and opacity in the award of major contracts like the Sahara Oil deal, Purchase of Police Vehicles from Nigeria, Nation-wide Airline/Ghana Airway deal etc. Not much has been done or is being done to strengthen or give teeth to existing weak and sub-standard anti-corruption regulations (such as the public officer assets declaration) or to improve public sector cooperate governance. The pursuit of a policy of “Zero Tolerance for Corruption appears to be increasingly subsumed under and displaced by the highly nebulous and difficult to operationalize problem of indiscipline, (Keith,2005).

Overall assessment of the record of accountability and anti-corruption of the Kuffour NPP administration is that, while a promising start has been made, much more remained to be done. The administration’s anti-corruption record was diminished by it’s over emphasis on post-facto and post-incumbency accountability and inadequate emphasis on preventive strategies.

Additionally there were serious concerns with loss of momentum. Mr. Arthur Kennedy at chapter one, State of the Nation, in his book “Chasing the Elephant into the Bush” said that, the NPP government had come into office pledging “zero tolerance for corruption” and in the judgment of many, had failed to deliver. Despite dealing promptly with the Mallam Issah case and passing some anti-corruption laws, many felt that the vim had gone out of the NPP government’s anti-corruption crusade. According to him, many of the NPP government Ministers and functionaries had become too big for their breeches. Too many lived ostentatiously or dealt with people in a manner they did not appreciate and that, perhaps the group that in the public’s mind exemplified this attitude the most were the District, Municipal and Metropolitan Chief Executives.

CHARTER THREE

RESEARCH METHODOLOGY

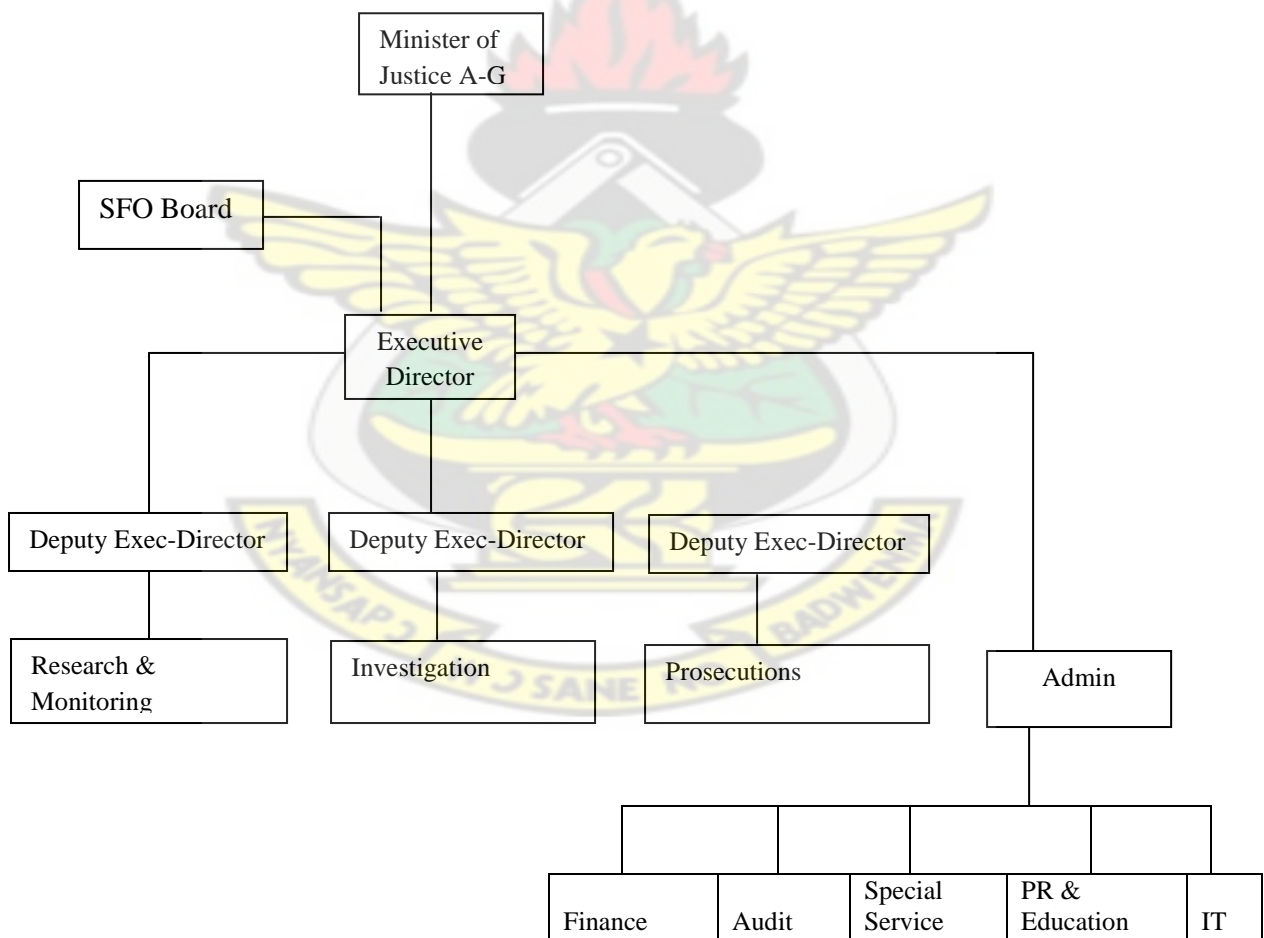
3.1. INTRODUCTION

The study here covers the area of case and the methodology used. The case is the SFO, Ghana. The methods used in carrying out the study involved sampling procedure, sources of data and data collection methods.

3.1. DESCRIPTION OF THE CASE

3.1.1. THE ORGANIZATION AND OPERATION OF THE SFO

a. Organization Structure of the SFO



SOURCE: CDD, April 2005

The SFO is headquartered in Accra and has offices in all the ten regions of Ghana. It is organized into three divisions, research and monitoring, investigations, and prosecutions. These divisions are supported by administrative support units for finance, internal audit, and administration and information technology. Additionally, the SFO has a special services unit which is responsible for the organization's internal security and integrity and a public relations and education unit that directs the organization's public outreach and media programs and activities.

The Research and Monitoring Division is responsible for gathering intelligence on unusual patterns in expenditure and areas most vulnerable to waste and fraud, through its research and monitoring of the expenditure of ministries, departments and agencies of government. Its aim is to detect, prevent and report criminal activity that involves serious financial loss to the state. This Division operates out of the headquarters in Accra and all of the SFO's regional offices and is responsible for disseminating the intelligence gathered by the SFO internally and externally.

The Investigations Division, which is centralized in Accra, is comprised of two departments which conduct investigations within the SFO's mandate, in the northern sector of the country and in the southern sector of the country. Although the SFO has wide latitude to investigate any offence or suspected offence provided for by law upon its reasonable belief that the investigated activity involves or could involve serious financial loss to the state, the SFO has defined its own operational guidelines such that it will only undertake investigations in which (i) a suspect or an accomplice who is a public figure is involved, (ii) the mode of commission of the offence involves multiple transactions or steps and (iii) the loss threatened to the state is "substantial" (i.e. in excess of ₵100 million). The Legal and Prosecutions Division reviews the outcome of all cases investigated by the Investigations Division with view to determining which cases are suitable for prosecution. Upon such determination, the cases are forwarded

to the Attorney General (the “A-G) together with an application for the authority to prosecute the identified offenders.

3.3. POPULATION AND SAMPLE

All staff of the SFO were target population. The method of sampling adopted was the judgmental or purposive sampling based on knowledge that those selected are the key individuals who can give the necessary information required for the study. In this regard the divisions and number of people sampled are as follows:

3.3.1. TABLE OF DEPARTMENT DISTRIBUTION OF RESPONDENTS

No.	Department	Population Size	Sample Size	% of Sample Size
1	Administration	100	15	15
2	Monitoring	150	25	16.7
3	Investigation	50	7	14
4	Legal and Prosecution	10	3	30.3
	Total	310	50	76

The sampled size is therefore fifty (50).

3.4. DATA COLLECTION INSTRUMENT/TECHNIQUES/METHODS

The study relied on both primary and secondary data sources as well as the administration of questionnaires. In view of the fact that the office is a quasi security institution collection of information about the office with regards to how responsive the office had been with respect to its performance over the years in helping the control of corruption under NDC and NPP regimes under the Fourth Republic posed a lot of problems such as initial unwillingness on the part of some staff without recourse to their superiors and the difficulty with which the superior officers of the office posed on the release of official information, at times classified information or issues pending further action. Significant amount of the relevant information

was therefore gathered from secondary data sources such as Annual Reports, brochures and publications of the office and works done by renowned institutions such as the CDD and GACC among others. A questionnaire was designed in line with the objectives of the study outlined to supplement the information gathered from the various reports, publications and books.

3.5. METHODS OF DATA ANALYSIS

The method employed to organize and analyze information gathered were basically editing, tabulation and some statistical concepts.



CHARTER FOUR

DISCUSSION OF FINDINGS

4.1. INTRODUCTION

This Chapter discusses the presentation of the study, interpretation of data collected during research work and inter-related issues.

4.2. THE FINDINGS OF THE STUDY

4.2.1. TABLE 3: CATEGORY OF RESPONDENTS

Respondents	Frequency	Percentage
Administration	15	28.57
Investigation	15	28.57
Monitoring	15	28.57
Legal and Prosecution	5	14.29
Total	50	100

SOURCE: Field Work 2011

4.2.2. TABLE 4: WORKING EXPERIENCE

Years	Frequency	Percentage
1997-2000	35	70.0
2000-2004	7	14.0
2005-2009	8	16.0
2009 and above	0	00.0
Total	50	100

SOURCE: Field Work 2011

4.3. DISCUSSION OF THE FINDINGS

On the strength of the objectives are answers to the research questions.

4.4. CORRUPTION

In the various definition of corruption above, the dominating themes were, “public office holders or leaders” “misuse or abuse”, “illegal or unethical acquisition,” “private gain or people closer to them”. These suggested that any private gain or acquisition by public office holders or leaders or those closer to them which is considered illegal or unethical can be described as corruption. The definitions also suggested that corruption resides in political and bureaucratic offices. This is perhaps so because the role of the public sector is more significant, as it is here that corrupt practices are most extensive and creates the opportunities for corruption in the private sector by creating the necessary institutional and market conditions. These definitions further raised the issue of principal – agent relations where the core difficulty lies in the ability to monitor the actions of those to whom authority is delegated though, perpetration of corrupt acts take the collaboration of the private and public sector to do most of them.

4.4.1. POLICIES PUT IN PLACE BY GOVERNMENT TO HELP ADDRESS THE PROBLEM OF CORRUPTION IN GHANA UNDER THE FOURTH REPUBLIC

It is apparent from the literature review that the Fourth Republic had significant legislations and structures in place to help check corruption in the country. With regards to these legislations the

Executive Secretary GII and Secretary GACC, Asamoah Boaben, in 2001 explained that, there were several rules about corruption in the country, many of them conflicting and working at cross purposes. According to him it was important to refine the law on corruption and to bring all of that law together in one place to enable easier access and understanding of what

would be meant by corruption and that, the available options for that included the rationalization of mandates among others. This was true because in 2001, for instance, SFO and CHRAJ were both investigating SSNIT and one wondered what would happen if they came to different conclusions (GACC, 2001).

4.5. TO WHAT EXTEND HAS THE GOVERNMENT ACHIEVED ITS ANTI-CORRUPTION POLICY OBJECTIVES USING THE SFO AS A VEHICLE OF IMPLEMENTATION?

Corruption is described as “the abuse of public office for private gain”. It encompasses unilateral abuses by Governments officials such as embezzlement and nepotism, as well as abuses that link public and private actors such as bribery, extortion, influence peddling and fraud (Ghartey 2009). The Longman’s Dictionary of Contemporary English defines fraud as ”an act of deceitful behavior for the purpose of making money which may be punishable by law”. In legal terms fraud is intentional misrepresentation of facts or figures for monetary gain or for any other advantage at the expense of the person(s) deceived. “To amount to fraud, the conduct must be deliberately dishonest” (R V. Sinclair [1968] 3All 241).

The SFO Act, Act466 established the Serious Fraud Office. The preamble to the Act says that, an Act to establish a SFO as a specialized agency of government to monitor, investigate and on the authority of the Attorney General, prosecute any offence involving serious financial or economic loss to the state and or to make provision for connected and incidental purposes. From the study, 70% of respondents agreed that out of 100 reported cases of corruption, the office could handle less than 50 of them while 20% thought the office can handle more than 50 and 10% said less than 25. It is clear from the above that, it is not every case of corruption that the office can handle but deceitful acts for personal gains at the expense of the state or which caused financial loss to the state.

As to whether the mandate of the office was well suited for government anti-corruption policies, 35% thought so, 45% did not think so and 20% could not tell. This also suggest that,

under Act 466, Serious Fraud Office Act, 1993, unless the particular corrupt act caused or likely to cause financial loss to the state, the office is constrained by its mandate to handle it. From the study, 60% of respondents said that the president exercise of his prerogative powers under the 1992 Constitution affected the office so much. The areas affected most according to the study, were appointments and funding. Article 58 (i) of the 1992 Constitution says that executive authority of Ghana shall vest in the President and shall be exercised in accordance with the provision of this Constitution. Article 70 (i) says that the president shall acting in consultation with the Council of State appoint (e) the holders of such other office as may be prescribed by this constitution or by any other law not inconsistent with this constitution.

The Act that established the office made provision for SFO governing board. The board has general powers of the SFO on matters of policy and is responsible for advising the president on the appointment of the Executive Director and other officers, professionals and experts of the SFO. The Attorney General and Minister of Justice exercises ministerial responsibility of the SFO, and as the chief state prosecutor, authorizes prosecution of the cases investigated by the SFO.

During the study, 60% of the Respondents agreed that the President's powers of appointment of the Executive Director, the two deputies and entire Board have affected the office or created perception problems for the SFO. Indeed it was one of the major initial causes of the office's perceived lacked of credibility and real motivation of the then government in creating the SFO as a tool with which to harass its political opponents. To date the public skepticism remains and the negative perception of the office credibility and political independence, persist (CDD, 2005).

The real problems were the incrementalist approach to the formulation of the office as a successor to the defunct NIC which was criticized of wide human rights abuses, the president's virtual unchecked influence of the office and the lack of compulsion on the

president to fulfill this constitutional requirement. As a result, no president has appointed a substantive Executive Director since the creation of the office (CDD, 2005). Whatever the bureaucratic and political motives that drives this practice, it undermines the self-confidence and independence of important official watch dog and investigative agency such as the SFO. About 30% of respondents however, is of the opinion that, it makes the office a convenient vehicle for the government of the day to carry out its anti-corruption policies. With 10% unable to tell.

Closely related to appointments, is the Attorney General's (AG) responsibility for the operations of the office. He is authorized under section 23 of the SFO Act to enact regulations to give fuller effect to the SFO. Ever since its inception the AG has not been able to do so. He is also a liaison between the office and Parliament, the President as well as the Minister for Finance with regards to the SFO report on its activities and budgetary issues respectively. Additionally, the AG is also empowered by the SFO Act to determine whether the Director may institute and conduct criminal proceedings arising out of its investigations. These powers have been viewed by many as a problem since the AG is a political appointee. Majority of respondents, 80% were of the opinion that, it was very unlikely that the AG would initiate criminal proceedings against another appointee of the same political party in government. Similarly, a survey conducted by CDD on the same subjects, revealed that 80% of respondents were of the opinion that the lack of both financial and prosecutorial independence could hamper and have hampered the work of the SFO's investigative work and 61% also believed that political authorities had used and continue to use the SFO's lack of financial and prosecutorial autonomy to impede the work of the SFO.

It also came to light that, the implementation of the SFO law was also confronted with inadequate infrastructure, limited number of trained investigators, lack of logistics, inadequate investigation materials and equipment especially at the evidence gathering level.

In a question whether the staff strength was sufficient for its functions, 70% said it was not and 30% thought so. There were no responses to the other options, very sufficient and largely sufficient. On the question of sufficient equipments for work, there was no response to the answer yes, 50% said no, 40% said just basic and 10% could not tell. From the literature review too, there had not been a single occasion when the SFO was given the full budget. The combined results from the literature review and study was that, the office had not got the needed logistics and trained the needed staff for its work.

The SFO like other public institutions in the fight against corruption, over the years had not also done much to purge itself of this perception through public education. The public perception of public institutions efforts at fighting corruption was therefore generally low. For instance from the literature review, in the CDD Ghana Survey in August 2000, many Agencies with direct or indirect anti-corruption function were not seen by the public as effectively contributing to the fight against corruption. Only 11% of HHs regarded the police as having helped eradicate corruption. Correspondingly percentages, Serious Fraud Office (SFO), the courts and Members of Parliament, are 36%, 24%, 16% respectively.

In comparison, public agencies outside the ambit of the Executive Branch were given thumbs up by households for their efforts to fight corruption. The percentages of HHs who regarded them as having helped eradicate corruption were, respectively Radio 66%, print media 58%, TV 55%, CHRAJ 58% and NGOs 55%.

The SFO as a vehicle of implementation did creditable well. Though the bill was passed in 1993, it begun work in 1998. From table 2, in 1998, the office handled 27 cases, with 6 pending at court. In 1999, 64 cases were investigated with 11 sent to court and 11 pending. In 2000 too, it handled 40 cases 3 went to court. The number of cases at court as at 2000 were 26. In 2002, the office completed 44 cases, 5 recommended for prosecution. At the

courts too, 6 cases were completed and 17 on going. The amounts involved and retrieved ran into millions of US Dollars, hundreds of thousand Pounds and billions of old Ghana Cedis.

4.6. WHAT IS THE SITUATION OF CORRUPTION IN GHANA UNDER THE FOURTH REPUBLIC?

The Fourth Republic began on 7th January, 1993 with Flt. Lt Jerry John Rawlings as the first Fourth Republican President after eleven years of military (PNDC) rule. A policy of probity and accountability, under the PNDC was therefore continued to give direction to the government's efforts in fighting corruption in the country. To actualize this policy statement, the anti-corruption decrees were collapsed into the SFO Act, Act 466 of 1993. Basically, there was no sharp change in focus, functions and objectives between the committees and the SFO. It was empowered as a vehicle in the NDC government anti – corruption drive with powers to investigate any act or omission which the office has cause to suspect it has caused or likely to cause financial loss to the state, and upon the advice of the Attorney General, who is the chief state prosecutor, prosecute any offence consequent on the act or omission. CHRAJ was also established. Among its functions it also investigate corruption.

However, “ zero tolerance for corruption” was by the New Patriotic Party (NPP) led by President John A. Kuffour in the third parliament of the Fourth Republic in line with their conceived goals as consisting of;

Introduction of procedures in the public decision making process to ensure transparency.

Demonstrated leadership by the NPP Government in the crusade for good governance.

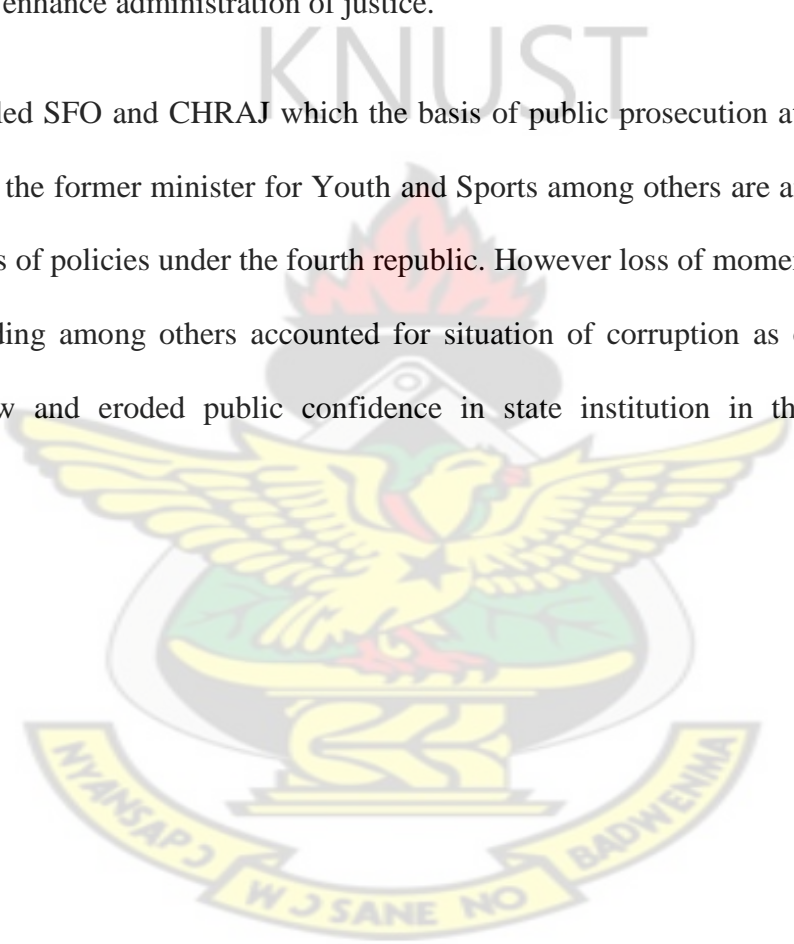
In the medium to long term strengthen institutions that formed the ethical infrastructure of the nation to deliver equity and justice whilst, at the same time disclosure enhancing legislation would be sponsored.

The Government had taken a number of measures to ascertain the extent of public malfeasance in order to inform immediate remedial measures. These include:

The institution of financial and management audit into worst affected public institutions under the aegis of the Ministry of Finance.

- 1) Establishment of a special task force within the police system by the Attorney General to expedite investigations.
- 2) The review and prosecution of outstanding investigations by the Serious Fraud Office.
- 3) The establishment of the Fast Track Court by the acting Chief Justice amongst other measures to enhance administration of justice.

The cases handled SFO and CHRAJ which the basis of public prosecution at the Fast Track High Court and the former minister for Youth and Sports among others are among the initial policy dividends of policies under the fourth republic. However loss of momentum, focus and inadequate funding among others accounted for situation of corruption as observed in the literature review and eroded public confidence in state institution in the fight against corruption.



SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0. INTRODUCTION

The study examined the anti-corruption policies in place by government to address the problem of corruption under the Fourth Republic, and the extend government has addressed the problem of corruption using the SFO as a vehicle of implementation of these policies and the corruption situation in Ghana under the Fourth Republic.

5.1. SUMMARY OF THE STUDY

The study revealed that corruption is pervasive in Ghana. It is most prevalent in the public sector and posed problems to development. It denies citizens the full benefits of development, undermines investment, encourages capital flight, enriches few unscrupulous ones creating social disequilibrium and stunted economic growth and must be addressed by governments if the full benefits of development to the people is to be achieved.

It also came to light that, governments under the Fourth Republic had made various policy statements, “Probity and Accountability”, “zero tolerance for corruption” and enacted various anti-corruption laws and established institutions to help control corruption in the country. These include 1992 constitution, the criminal code 1960, Act 29(as amended), Financial Administration Act, Internal Audit Act among others as adequate under the Fourth Republic to address the problem of corruption in the country and the institutions were CHRAJ, SFO, GPS, BNI and Office Accountability at Presidency..

However, the Executive control appointment direction and funding of the SFO as well as the SFO mandate among others militated against the office as a vehicle of carrying out government anti-corruption policies under the Fourth Republic. Even though this was perception as there were no empirical evidence, the SFO itself had not done much to erode this perception.

It is recommended that government should increasing funding to the SFO to enable it acquire logistics, train its staff and engage the services of professional in their investigations.

The SFO Act should also be amended to make appointment to the SFO executives based on representation from professional bodies and not likes and dislikes of the President under the exercise of prerogative powers. The SFO should also embark on public education to help eradicate the perception that it is under the executive manipulation.

The institutional and legal frame work for corruption control under the fourth republic had been laid by government over the years. What is however missing is focus and momentum to make the laws and institutions work. It is also recommended that government remain focused on its policy objectives and the same momentum which characterize the formulation of these policies and institutions

Conclusion

The objective of the study was to explore knowledge in anti-corruption policies and the institution established to implement these policies.

The intention is that, it would stimulate further study into such knowledge gaps and assist government streamline its polices taking into consideration the institutional responsibility for accessing the success or otherwise of its policies.

The institutions involved would also redefine their position in the scheme of government policies and develop objectives which can be appraised among others for policy decisions and funding.

It is my conviction that this had been achieved. I therefore hope that the stakeholders in the fight against corruption would find this piece useful for further studies and consideration in policy decision.

REFERENCES

Brian Levy, (2007) Governance Reform, Bridging, Monitoring and Action. The International Bank for Reconstruction and Development/ The World Bank. Pp 57 – 87

Brian Slack – Policy Process,
<http://people.hofstra.edu/geotrans/eng/ch9en/c...>(d.unavailable)

Briefing Newspaper, (2005) Volume 7, Number 2. Invigorating Ghana's lagging anti-corruption Agenda – Instrument for enhancing Civic Involvement.

Briefing Newspaper, (2002). Volume 4, number 4 – Midterm Governance Record of the Kuffour – NPP Administration.

Briefing Newspaper, (2005). Volume 7, Number 3- Enhancing the Credibility of the Public Office Holders Assets Democratic Regime.

Business in Africa. (1999). *Ghana Corruption- Special Report*. Crooked Nation? Pp 33-34

CDD, Ghana, (2005) *Report – Empowering the Serious Fraud Office*. Pp 4 – 17

GACC, (2001) *Report*. 5th National Governance Workshops, “Uniting Against Corruption”. Pp 17 – 45

CDD, Ghana, (2000) *The Ghana Governance and Corruption Survey: Evidence from Households, Enterprises and Public Officials*.

CEMBA 554- *Study guide- Public Systems Management* (CEMBA)

CEMBA 562 *Study guide- Contemporary Administration Systems*.

CEMBA 571- *Study guide- Policy Analysis and Implementation*. Pp 2,3,and5

Deardeen Stephen J H,(2000), *Discussion Paper No. 18 Corruption and Economic Development*. Manchester Metropolitan University, Department of Economics.

Democratic Watch, (2008). *Volume 7, Number 4.. In the Annals of Government*.

Dieter Frisch, (1995). *Article*, The effects of corruption on development. EUFORIC Home page DG Development(n.d.unavailable).

Governance *News letter*. (2004). Deepening Our Democracy: The Funding of our Democratic Institutions PART A.

GTZ (2009), *Comparative Analysis of anti-corruption laws of Ghana compared with the United Nations Convention Against Corruption and African Union Convention on Preventing and Combating Corruption*. Pp 1 – 130

Kennedy Arthur, (2009) – Chasing the Elephant Into the Bush. The politics of Complacency. Published by Author House. Pp 2

Oko Tetteh, (2005), *GII Survey Bomshell* Corruption in Ghana is worse, *The Daily Dispatch*, Vol.13 Number 75 ISSN 0855319 (Front Page).

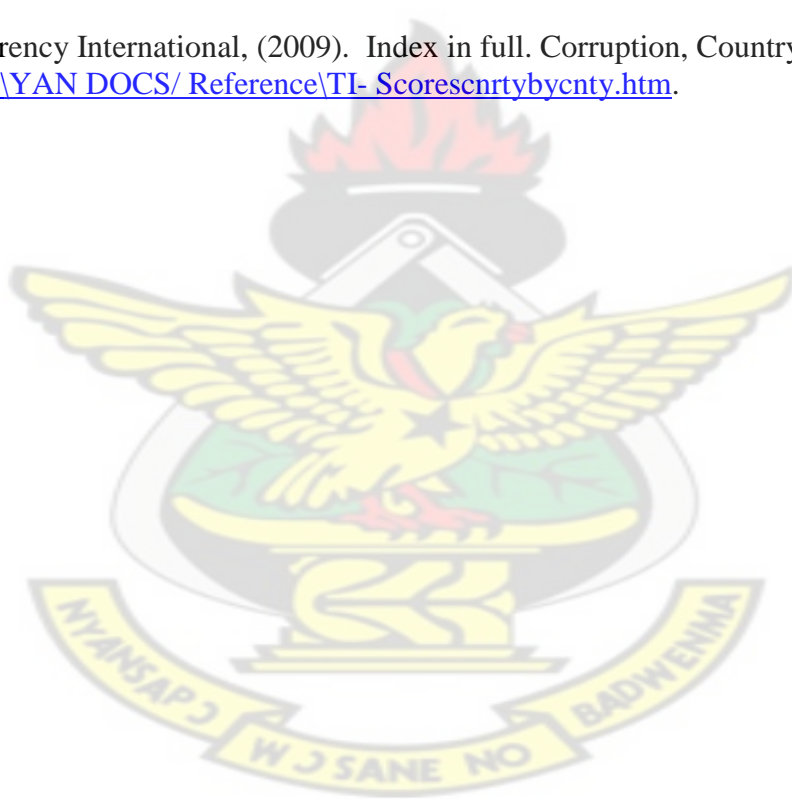
Orpen Christopher, (1998), *Third Series Volume 4, the Journal of Managemet Studies* The practical Effectiveness: Problems and Prospects. Published by the School of Administration, University of Ghana, Legon. Pp 51 – 61

Serious Fraud Office, Ghana, (2000). Frauds known to Ghana Criminal laws.(*Handout*)

Serious Fraud Office, Ghana, (2000). Your Questions Answered. *Volume 1*. Pp 4 -12

The (1992) Constitution of the Republic of Ghana, *the Assembly Press (GPC)*

Transparency International, (2009). Index in full. Corruption, Country by Country. - <File://E:\YAN DOCS/ Reference\TI- Scorescnrtybycnty.htm>.



APPENDICES

KWAME NKRUMAH UNIVERSITY OF SCIENCE AND TECHNOLOGY (KNUST), KUMASI

Examining Government anti-corruption policies objectives under the Fourth Republic

**using the SFO as a case study, Head office,
Accra**

SECTION A

DEMOGRAPHIC/ WORK HISTORY

1. SEX

☐ Male

☐ Female

2. SINCE WHEN WERE YOU ENGAGED BY THE SFO?

☐ Since Inception

☐ 1999 – 2000

☐ 2000 – 2003

☐ 2004 – 2007

3. WHICH DEPARTMENT WERE YOU ATTACHED TO?

☐ Administration

☐ Investigation

☐ Monitoring

☐ Prosecution

4. POSITION IN OFFICE

☐ Management Staff

☐ Senior Staff

☐ Junior Staff

Seconded staff

5. IS THE STAFF STRENGTH OF THE SFO SUFFICIENT FOR ITS FUNCTIONS?

☐ Not Sufficient

☐ Sufficient

☐ Largely Sufficient

☐ Very Sufficient

6. WHAT DO YOU THINK ACCOUNTED FOR THIS SITUATION?

☐ Inadequate Funding

☐ Specialist Skills Required

☐ There is not much Work to be done

☐ People Just Don't Want to Work in SFO

SECTION B. FUNCTIONS OF THE OFFICE

1 DO HAVE AN IDEA WHY THE SFO WAS ESTABLISHED BY ACT466 UNDER THE 4TH REPUBLIC?

Yes

No

Not interested

2. DO YOU AGREE THAT THE SFO WAS FORMED BY GOVERNMENT AS A VEHICLE TO CARRY OUT ITS ANTI-CORRUPTION POLICIES UNDER 4TH REPUBLIC?

☐ Agree

- ☐ Disagree
- ☐ Some how
- ☐ Can not tell

3. HAS A SUSPECT GOT THE RIGHT TO A COUNSEL WHEN APPEARING BEFORE THE OFFICE?

- ☐ Yes
- ☐ No
- ☐ At times
Can Not Tell
- ☐

5. WHAT HAPPENS AFTER INVESTIGATIONS OF A CASE BY THE OFFICE?

- ☐ President Issue a White Paper on Findings
- ☐ A Report to Parliament ends the case
- ☐ A Docket is sent to the Attorney General
- ☐ The Executive Director decides the end of the case

6. IS THERE A TIME FRAME THAT A CASE CAN BE INVESTIGATED BY THE SFO?

- ☐ No
- ☐ Yes
- ☐ 3 Months
- ☐ 1-Year

7. HOW EFFICIENT IS THE SFO IN CASE MANAGEMENT?

- ☐ Not Efficient
- ☐ Efficient

☐ Very Efficient

☐ Can Not Tell

8 DO HAVE ENOUGH OFFICE EQUIPMENT TO WORK EFFICIENTLY AND EFFECTIVELY WITH?

Yes

No

Just Basic

Can not tell

KNUST

SECTION C. POLICY FRAME WORK OF THE SFO

1. DO YOU AGREE THAT THERE ARE GUIDELINES OR REGULATORY FRAME WORK WITHIN WHICH THE SFO WORK?

☐ Agree

☐ Disagree

☐ Can Not Tell

2. IF AGREE, WHERE IS THE SOURCE?

☐ The Executive Director

☐ The Attorney General

☐ The SFO Board

☐ Parliament

3. HOW DOES THE SFO SELECT ITS CASES FOR INVESTIGATION? BASE ON

☐ Mandate of the Office

☐ Government Policy on Corruption

☐ Public Agitations

Recommendation from Parliament

3. DO YOU AGREE THAT THE SFO CAN INVESTIGATE ANY ISSUE OF CORRUPTION?

- ☐ Agree
- ☐ Disagree
- ☐ Can not tell

5. WHICH OF THESE CORRUPT ACTS CAN THE SFO INVESTIGATE?

- Bribery
- Extortion
- Fraud
- Nepotism

IN YOUR OPINION WHICH OF THE ABOVE CORRUPT ACTS AFFECTS STATES RESOURCES MOST?

- Bribery
- Extortion
- Fraud
- Nepotism

SECTION D. RESPONSE TO GOVERNMENT ANTI-CORRUPTION POLICIES

1. ON THE AVERAGE OF 100 CASES OF CORRUPTION A YEAR. HOW MANY CAN THE SFO HANDLE?

- ☐ All Cases
- ☐ 1 - 25
- ☐ 26 - 50
- ☐ 51 - 75

2. ON THE AVERAGE OF 50 CASES OF CORRUPTION A YEAR HOW MANY WILL INVESTIGATION BE

☐ Not Commenced?

☐ Pending?

☐ Completed?

☐ Prosecuted?

3. IN THE SCHEME OF GOVERNMENT ANTI-CORRUPTION POLICIES AND THE FUNCTIONS OF THE OFFICE DO YOU AGREE THAT THE MANDATE OF THE OFFICE IS WELL SUITED FOR SUCH POLICIES?

☐ Agree

☐ Disagree

☐ Can Not Tell

4. DO YOU AGREE THAT, THE MANDATE OF THE SFO IS A LIMITATION ON THE NUMBER OF CASES IT HANDLES YEARLY?

☐ Agree

☐ Do Not Agree

☐ Can Not Tell

5. DOES THE HEAD OFFICE SET OUT PERFORMANCE TARGETS FOR THE REGIONS?

☐ Yes

☐ No

☐ Can Not Tell

☐ Other (Specify)

6. WHAT IS THE BASIS OF APPRAISING ITS STAFF

- ☐ Number of cases staff handled in a year
- ☐ No Appraisal
- ☐ Staff Loyalty to Superior
- ☐ Size of Amount Recovered in a Year

7. DOES THE SFO HAVE REPRESENTATION IN ALL THE REGIONS?

- ☐ Yes
- ☐ No
- ☐ Some
- ☐ Can Not Tell

8. DO YOU AGREE THAT THE WORK OF THE SFO CAN NOT BE QUANTIFIED IN MONETARY TERMS?

- ☐ Agree
- ☐ Do Not Agree
- ☐ Can Not Tell

SECTION E. EXECUTIVE INFLUENCE

1. THE EXERCISE OF THE PRESIDENTS PREROGATIVE RIGHT IS A CONSTITUTIONED MANDATE. DOES THIS AFFECT THE WORK OF THE OFFICE?

- ☐ It Does Much
- ☐ It Does Not
- ☐ Can Not Tell

2. WHICH AREA DO YOU THINK THIS AFFECT THE OFFICE MOST?

- ☐ All Areas
- ☐ Funding and Appointment

☐ Prosecution and Investigation

3. WHICH CATEGORY OF SFO MEMBERSHIP GROUP IS MOST AFFECTED BY THIS APPOINTMENT?

Not applicable

The Board

The Management

The Senior Staff

KNUST



KNUST

