

# A COMPARATIVE ANALYSIS OF THE CURRENT ANTI-BRIBERY PRACTICES AND ISO 37001 REQUIREMENTS IN GHANA

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## Abstract

Corruption is a worldwide problem and a significant issue in Ghana, causing retarded economic growth and development, and reduced confidence in government institutions. Over the last few years, corruption has taken over various aspects of Ghanaian society, including political monetization, bureaucracy, and lack of enforcement of relevant laws. To deal with corruption, Ghana has implemented a comparatively robust legal and institutional framework against corruption. However, corruption pressures still exist in Ghanaian enterprises, and weaknesses are reported in the legal and institutional business environment. Since Ghana has failed to implement ISO 37001, an international standard for anti-bribery management systems, this paper examines the gaps between the existing anti-bribery practices in Ghanaian organizations and the requirements of ISO 37001. Employing content analysis, the study assesses the potential of ISO 37001 to reduce corruption-related challenges in Ghana and recommends promoting Ghanaian organizations to adopt and implement the standard's requirements, which would provide organization-level good practices and local anti-corruption champions and create positive examples for society.

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## 1 Introduction

Corruption, specifically bribery, remains a worldwide problem and a significant problem in Ghana [3]. Bribery is the act of giving, receiving, offering, or soliciting illicit payments or other advantages to influence a business decision or an official act [2];[7]. One in every four service users worldwide pays a bribe yearly, with higher rates observed among individuals with lower economic status and those residing in urban areas [9]. Ghana's ranking in the Transparency International Corruption Perceptions Index dropped from 50 in 2002 to 72 in 2022 [24], and several international corruption scandals have shaken the country [22]. Therefore, the prevalence of bribery in Ghana increased significantly since the mid-2000s [24], drawing substantial attention from local and global media and researchers. Bribes are often paid to expedite service delivery, prevent visiting the administrative office repeatedly, and because residents are unsure if they will get a service [22]. Bribery adversely affects a nation's economic, social, and political development by impeding foreign and domestic investments, increasing transaction costs, and creating economic insecurity. It also

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weakens the country's ability to increase revenue and results in ever-increasing tax rates imposed on fewer taxpayers. Consequently, this diminishes the country's ability to provide sufficient public goods. Bribery also imposes a regressive tax, which burdens commercial activities performed by small business enterprises [21].

The recognition of bribery as a significant impediment to Ghana's development has prompted the Ghanaian government to make significant attempts, such as enacting laws and setting up independent agencies and bodies, over the years to address the issue. Examples include the Commission on Human Rights and Administrative Justice (CHRAJ), the Whistleblower Act, the Code of Conduct for Public Officers, the Ghana Integrity Initiative (GII), the Financial Administration Act and its Regulations, the Public Financial Management Act, and the Office of the Special Prosecutor Act [4];[10].

However, corrupt practices create a real threat to businesses as well. The implementation of the U.S. Foreign Corrupt Practices Act (FCPA) of 1977 has intensified in the last decades [22]. Based on this regulation, bribery of foreign public officials and corrupt business practices could lead to a lengthy and costly prosecution against not only U.S.-based companies but also foreign companies that violate the regulations of the FCPA (extraterritorial effect).

Therefore, there is a need for FCPA-safe business practices that can guarantee compliance with extraterritorial anti-corruption regulations. For this reason, the International Organization for Standardization, an independent, non-governmental international organization with a membership of 163 national standards bodies, has decided to create an ISO standard on anti-bribery management systems [12].

ISO 37001 is a crucial step towards a culture of integrity in Ghanaian business. Ghana Standards Authority (GSA) launched a 22-member Technical Committee for Anti-Bribery Management Standards in September 2018. The committee's mandate was to study the ISO 37001 system and determine if it can be adopted as a standard against bribery and corruption in the country [11]. However, accredited third parties can certify companies upon request. Since the GSA is a mandatory body that implements the standards of the ISO in Ghana, a report on the ISO survey from 2017 to 2022 indicates that the Anti-bribery management standard certification is not issued [13]; hence, it is not implemented as other anti-corruption frameworks are executed. Since Ghana has yet to implement ISO 37001, an international standard for anti-bribery management systems, it is essential to examine gaps between the existing anti-bribery practices in Ghanaian organizations and the requirements of ISO 37001.

The implementation of anti-corruption measurement also arises from Ghana-based enterprises being involved in FCPA-related bribery schemes five times. In comparison, Ghana has been mentioned sixteen (16) times in enforcement actions [22]. Therefore, violating the FCPA is a severe risk to Ghanaian enterprises. Examining the gaps between existing anti-bribery practices in Ghanaian organizations and the requirements of ISO 37001:2016 is crucial for International Standard Compliance. This standard encourages the establishment of effective and efficient anti-bribery management systems. By identifying gaps in existing practices, organizations can streamline their processes, enhance efficiency, and reduce the likelihood of bribery incidents. Regular reviews and improvements contribute to an ongoing culture of anti-bribery awareness in Ghana. Thus, this study aims to compare the current anti-bribery practices, the requirements of ISO 37001, and the potential advantages of introducing the ISO 37001 anti-bribery standard in Ghana.

## **2 Research Methods**

This study employed literature-based research, using a methodical approach to extract data, and aimed to integrate findings from existing research on anti-bribery practices in Ghana and ISO 37001 requirements. We commenced this by conducting a comprehensive literature review to gather secondary data from previously published academic articles, reports, and books related to our topic to examine the similarities and differences between current anti-bribery practices in Ghana and ISO 37001 requirements.

For database search, the researchers conducted a comprehensive search using academic databases such as ProQuest, EBSCOhost, Google Scholar, Sage Publications, and Science Direct to find empirical articles concerning Anti-bribery practices. For scholarly rigor, preference was given

to peer-reviewed journal articles demonstrating a high academic standard. The following search phrases were used to find review papers: "Anti-bribery practices in Ghana," "Anti-bribery in Ghana," and "ISO 37001 Requirements". A set of inclusion and exclusion criteria was developed to help identify the most relevant and credible data sources.

Regarding the inclusion criteria, articles considered included those discussing current anti-bribery practices in Ghana and those identifying the ISO 37001 requirements. For recency, the included articles were limited to those published in the past five years to ensure the current relevance of the study. Additionally, only articles published in English were included for review. Only studies and government reports that were openly available were examined. Regarding the title and abstract relevance, studies and documents included in the review had at least one of the search terms included in the topic or the abstract.

The exclusion criteria excluded podcasts, blogs, newspapers, and magazines. Studies reporting results as letters to the editor or abstracts were also excluded since they did not have all the necessary information. Furthermore, studies without free and open access were left out. Reviews and summaries of books were also disregarded since the researcher could not get all the information from them. Any government document or journal article whose abstract or subject included none of the search phrases was excluded.

We can say that relatively few literature sources were available on this basis. However, local experts from Ghana and international experts wrote them as well, providing decent quality and containing detailed information on the subject. All the research deemed trustworthy and relevant for this investigation was obtained for examination after an initial scan of the literature based on the sources or the authors' competence. Information was then extracted using a data extraction sheet. The retrieved data was analyzed by content analysis, which entails systematically analyzing the content of written, verbal, or visual communication and interpreting the content of various forms of communication to identify patterns, themes, and trends. Moreover, the thematic analysis allowed us to synthesize data from multiple studies, identifying patterns and drawing conclusions that are not only derived from single studies but from the body of evidence. This structure adheres closely to the standards of literature-based research, ensuring that all findings are methodically derived and critically examined from the existing body of scholarly work. The following section presents the study results.

### **3 Results and Discussion**

#### **3.1. Current Anti-Bribery Practices in Ghana**

Findings revealed that Ghana has established bodies/policies, institutional frameworks, and some domestic legal frameworks. Ghana has signed to be a member state of internationally recognized bodies like the United Nations Convention Against Corruption (UNCAC), African Union Convention on Preventing and Combating Corruption (AUCPCC), etc., indicating its efforts to fight against corruption. One constitution-guaranteed independence institution for investigating corruption and other related issues is the Commission of Human Rights and Administrative Justice (CHRAJ). It combines the work of the Human Rights Commission, an anti-corruption agency, and the ombudsman [1]; [8]. CHRAJ's anti-corruption powers stem from Articles 218(a) & (e); 284-288 of the 1992 constitution and section 7 (1) (a), (e) & (f) of Act 456. According to Asamoah and Ofoosu-Mensah (2018) [5], although CHRAJ assesses and works to stop corruption, this body does not have budget autonomy or power to prosecute. Based on this, more budget autonomy, prosecution power, and internal reorganization would significantly improve CHRAJ's performance.

Ghana has also established public financial management reforms like the Audit Service Systems to deliver good governance, accountability, transparency, and probity in the country's public financial management systems [16]. This is achieved through auditing renowned organizations and reporting their audit results and recommendations to parliament. However, findings reveal that the Audit Service of Ghana faces operational and financial challenges, adversely affecting its efficiency [19]. For instance, the main shortcomings of the 2016 audit results were the inadequate internal control measures within institutions, contributing to increased occurrences of financial misconduct in areas such as cash management, contracts, payrolls, procurement, tax irregularities, and the non-settlement of outstanding loans [19].

Also, in 2017, the Ghanaian government, through a parliamentary act, instituted the Special Prosecutor's Office [3]. As stated in the Criminal and Other Crimes Act 1960 (Act 29), this organization must investigate and execute some instances of criminal crimes and corruption. The office's jurisdiction encompasses alleged breaches of the Public Procurement Act, 2003 (Act 663), as well Regarding instances involving public servants and those with political exposure. The special prosecutor, once appointed for a non-renewable term of seven years, cannot be dismissed at the discretion of the president [17]. Upon filing corruption charges by the Office of the Special Prosecutor (OSP), the special prosecutor can seize properties linked to accusations of wrongdoing, restrict assets, and seek judicial aid [19].

Another important institution in Ghana's anti-corruption initiatives is the Economic and Organized Crime Office (EOCO). EOCO was established in 2010. It is a dedicated law enforcement agency focusing on detecting, investigating, preventing, and prosecuting economic crimes. It is also tasked with recovering the crime proceeds. The office's responsibilities include the examination and prosecution, under the authorization of the attorney-general, of significant offenses causing financial or economic harm to the republic, state entities, or institutions in which the state holds a financial stake. EOCO is also authorized to seize the proceeds of criminal activities. However, executive meddling and limitations of prosecuting power often reduce its efficacy. Supporting this statement, Rahman (2018) [19] argues that EOCO faces difficulties in executing its responsibilities, with one significant challenge being interference from the executive. This interference is facilitated by the executive appointing the director and board members, who report to the attorney general.

Another essential program to enhance the detection, investigation, and conviction of corruption is the National Anti-Corruption Action Plan (NACAP). NACAP's strategic objectives include (i) building public capacity to condemn and fight corruption and making it practice a low-gain and high-risk activity; (ii) institutionalizing transparency, efficiency, and accountability in the private, public, and not-for-profit sectors; (iii) engaging civil society, individuals, and media organizations in reporting and combating corruption; and (iv) conducting effective investigations and prosecution of corrupt conduct [20]. Although NACAP has suggested various approaches to the fight against corruption, including legal, educational, and multi-stakeholder approaches, Ghanaian cultural practices have challenged the implementation of these approaches [20]. Also, a lack of political commitment undermines NACAP's efficacy.

As we can see from the anti-corruption measures already implemented, they mostly focus on creating new anti-corruption controls in the public sector, and the private sector's support was sidelined.

### **3.2. ISO 37001 Requirements**

ISO 37001 compiles adequate tools for managing the risk of bribery. It also aims to set up a structure that ensures adherence to national anti-bribery laws [18]. It is focused on organizations gaining the requirements to create a culture of integrity and compliance with legal requirements, enhance trust, and improve reputation.

Findings revealed that the ISO 37001 standard, on the other hand, provides a more methodical approach to anti-bribery procedures [15]. This norm, which applies to the public, commercial, and nonprofit sectors, strongly emphasizes creating an anti-bribery culture within businesses. It covers all aspects of bribery, including non-financial and financial advantages, and requires the implementation of laws and compliance management [18]. The standard requires adopting anti-bribery policies, conducting regular risk assessments and audits, training employees and business associates on policy, implementing financial and non-financial controls, and establishing efficient reporting and investigative procedures. Another requirement is that, for an organization to be ISO 37001 certified, it must have a specific policy to combat corruption and fraud.

Comparatively, there are gaps in Ghana's anti-corruption efforts. It was established that ISO 37001 and Ghana's anti-bribery practices emphasize the need for a thorough legal and regulatory framework that targets preventative and punitive measures in the fight against bribery. However, ISO 37001 defers from the existing anti-bribery strategies since it offers a more comprehensive and methodical strategy that incorporates anti-bribery procedures into an organization's general management framework. The existing anti-bribery practices are dispersed and have significant gaps

in execution and enforcement. This suggests that a unified and integrated approach is lacking while various programs and institutions may be involved.

Implementing the ISO 37001 standard at the national level in Ghana would provide a practical tool for Ghanaian enterprises to develop their internal control system and create an enterprise-friendly environment, showing the government's commitment to fighting corruption. International companies are seeking business investment possibilities, and they prefer countries where the legal environment, political commitment, and business practices comply with international anti-corruption standards. Furthermore, the implementation of ISO 37001 anti-bribery management standards by Ghanaian enterprises will provide organization-level good practices and local anti-corruption champions and create a pool of local experts who will have the necessary knowledge in this specific field and can further support the implementation of international anti-corruption standards by public and private entities. However, the sound implementation of the ISO 37001 anti-bribery standard needs a balanced approach based on preventative and punitive measures, a strong political commitment, and persistent support from Ghanaian and international businesses, which are still lacking.

The first implementation steps could be a toolkit with samples for potential enterprises, a webpage on the advantages and implementation cost of the ISO 37001 standard, and an expressed engagement from the Government or CHRAJ towards implementation. We know that implementing the ISO 37001 standard in Ghana is not the only anti-corruption tool and will not radically change the business environment but would create a relevant competitive advantage compared to other Western African countries.

## 4 Conclusion

Although Ghana's law system is generally effective in combating corruption, there are still gaps in its implementation and adherence, which impedes its efforts to curb bribery and corruption, especially in the business sector. Since ISO 37001 offers a more comprehensive and methodical strategy incorporating anti-bribery procedures into an organization's general management framework and the existing anti-bribery strategies have deficiencies, Ghana should consider implementing ISO 37001 standards to strengthen the existing anti-corruption programs. Implementing ISO 37001 will allow Ghana to establish comprehensive anti-bribery frameworks, enhance transparency, improve its compliance with international standards, provide organization-level good practices and local anti-corruption champions, and thus reinforce a culture of integrity, gain a competitive advantage, and become more business-friendly for international enterprises.

The study faces limitations in obtaining reliable and comprehensive data on the effectiveness of anti-bribery measures in Ghana. However, it has contributed to academic research and offers directions for further research, both for academics and businesses, on the implementation challenges of ISO 37001 in Ghana. It also brings additional perspective by studying how other countries have successfully adapted and utilized the ISO 37001 guidelines.

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