

Promoting Trust and Confidence in the Construction Industry in Ghana through the Development and Enforcement of Ethics

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Abstract

The construction industry in Ghana continues to experience unethical practices, caused by engineers and contractors and sometimes the strong influence of politicians. Unethical practices such as corruption, favoritism, unfair conduct, embezzlement and manipulation of tender could be mentioned. Unethical conduct affects the general public by influencing investment and deters public access to services such as good education, efficient healthcare deliveries, and good roads among other services. Unethical practices could undermine good governance, erode public trust and truncate democracy and consequently complicate social responsibility. This can only be reduced by employing professional ethics which form the basis of ethical organizations.

Keywords: Projects, Ethics, Industry, Practitioners, Negligence, Time and Cost Overrun

1.0 Introduction

The construction industry has become important and strategic to policy makers in recent times, due to its impact on economic growth. Generally, activities in the construction industry affect the well-being of people in terms of size composition of household wealth, accessibility to credit, employment and other macroeconomic variables. The industry constitutes a large part of the economy (Bank of Ghana, 2007). Studies show that construction contributes between 5% and 10 % of Gross Domestic Product (GDP) in all countries, employs up to 10 % of the working population, and is responsible for about half of the gross fixed capital formation (Ofori, 2012). It is estimated that, investments in housing alone account for 2 to 8 % of Gross National Product (GNP) between 10 and 30 % of gross capital formation; between 20 and 50 % of accumulated wealth; and between 10 and 40 % of household expenditure (Ofori, 2012). Owing to its large size, the construction industry has the potential to contribute directly to the growth of the national economy. At the same time, a period of low construction output can adversely affect the growth of the economy. Since construction projects have a long period of gestation, the industry only responds slowly to any stimulus acting on it, whether this is planned or not. Thus, a long period of low demand can significantly impair the ability of the industry to meet an increase in demand, and possibly slow down the growth of the economy over the short term, and national development in the long run (Ofori, 2012). According to the Ghana Statistical Services (GSS April, 2012), the construction industry increased by 20% in 2011 and it is estimated that for Ghana to meet the infrastructure needs in the next ten years, an amount of US\$1.6 billion would be needed for infrastructure development per year. Ghana government spends about 60 % of her development budget to develop infrastructure which remains the major employer of consultants, contractors and construction artisans. Over the years, the construction industry in Ghana has moved away from only satisfying basic needs of clients because project financiers and beneficiaries have become increasingly more sophisticated and challenging. Many projects are getting larger and more technical, both private and public clients require high quality professional services of more specialized workforce and better control systems to offer satisfaction and value for money (Oyewobi et al, 2011). Though the construction sector plays a vital role in the country's economic and social development, it remains one of those areas occupying the top position as far as unethical professional practices are concerned. Construction sector is particularly, prone to grand corruption, because of the large amount of funds involved in the execution of projects. Lack of transparency in the process of procuring the services of consultants and contractors also aggravate the perpetuation of unethical practices in the construction industry. Some government officials award contracts and execute the same contract with fictitious company names (Mridoko, 2011).

Oyewobi (2011) stressed that, unethical practices have been on the increase in the last two decades unabated and that, the view could not have been nearer the nub of the matter, in respect of the phenomenon of corruption and the new order of business, politics and society. Unethical practices have devastating consequences on the environment, built structures and social welfare of the communities, in which the project is constructed. As a result of deeply entrenched perceptions among clients, contractors and consultants, that everything commands corrupt payments, construction as a profession has suffered; morale amongst professionals and technicians has dropped, leaving the industry in the hands of the general merchants (Oyewobi, 2011). The involvement of

international contractors and consultants is good for the industry, because of the skills and knowledge brought in to assist in the country's development, the sad story is that the foreign multinational companies sometimes worsen the problems rather than offering the solutions (Mridoko, 2011).

It is therefore against this backdrop that this study attempts to answer the following key research questions:

- Do professional bodies' enforce adherence to their codes of ethics?
- What are the major challenges facing professionals in the construction industry in discharging their duties?
- What have been the effects of poor professional or unethical practices in the construction industry and on the economic development of Ghana?

Ghana has witnessed the collapse of several buildings in recent times, with the most current ones being the collapse of a three –storey building in a suburb of Kumasi where three people lost their lives (myjoyonline.com 16th April, 2013) and also the collapse of the a six- storey Melcom Shopping Mall in Accra, where 14 lives were lost and more than 60 people were injured (Ghana Broadcasting Corporation 7th November, 2012). Similarly there have been cases of poorly and substandard constructed infrastructure projects in most parts of the country. These cases raise crucial concerns that should be addressed. Despite the existence of codes of conduct for all professional associations, the construction industry in Ghana continues to experience unethical conducts, caused by professionals, contractors and sometimes through the strong influence of politicians (Osei Tutu et al, 2009).

Unethical conduct affects the general public by influencing investment and deters public access to services such as good education, efficient healthcare deliveries, and good roads among other services. Unethical practices can undermine good governance, erode public trust and truncate democracy and consequently complicate social responsibility. This can only be reduced by employing professional ethics which form the basis and foundations of ethical organizations (Githui, 2011).

2.0 Some Unethical Construction Practices in the Construction Industry.

Recently, there has been an increase in international concern about the extent of corruption in the construction industry. According to the American Society of Civil Engineers, corruption accounts for an estimated \$340,000,000,000 of worldwide construction costs each year (Sohail et al 2009). An unethical practice such as unfair conduct, negligence, conflict of interest, collusion, bribery and fraud in construction projects undermines the benefits of infrastructure. For the purposes of this paper the above unethical practices are discussed below:

2.1 Unfair Conduct

It is difficult to define such practices, as there is a correlation between dishonesty and illegal behavior, but the most appropriate will be links to fraudulent activities such as biased tendering evaluation systems, the process of re-tendering and shopping for prices after tenders have closed, as well as state bodies making it difficult for private businesses to compete. Other instances centered mainly on non-payment of consultants fees by clients and developers after engagements (Vee et al, 2003). It is noteworthy that most of the latter types of complaints are fairly easy to prevent if consultants employ defensive contractual strategies, thereby helping to distinguish between business practices that are 'unfair' from those that are illegal.

2.2 Negligence

Professional competence comprises efficiency, sufficiency and capacity. In contrast, negligence is the absence of proper care, and also the omission of such duty of care for the interests of others as the law may require. The Encarta Dictionary (2001) defines negligence as "failure to exercise the degree of care considered reasonable under the circumstances, resulting in an unintended injury to another party. To be negligent, the professional must had the ability to be competent, but has disregarded the crucial importance of exercising this ability. The negligent professional disregards the course of action, which is in the client's best interests.

2.3 Conflict of interest

This falls within a 'grey area', as it often involves a personal interpretation of whether or not certain behaviour is commonly acceptable, rather than if it is illegal. The onus should clearly be placed upon individuals to declare all possible instances of potential negative interpretations, before proceeding with projects.

2.4 Collusion

The Oxford Dictionary (2009) defines collusion as "fraudulent secret understanding, especially between ostensible opponents". A secret agreement between two or more parties for a fraudulent, illegal, or deceitful purpose. The primary problem with collusion is that it is contrary to the principles of free competition. It benefits only the parties to the collusive agreement at the expense of those not privy to the arrangement, including principals and other contractors. Sheldon (1982), in his work on the extent of collusion in the United Kingdom contends that tendering may be conducted through collusive agreements because such agreements, are "... an attractive means of maintaining a steady flow of work and achieving higher joint, risk-adjusted, discounted profits". Lee's (1990) study of collusion in the United States of America's highway construction industry has demonstrated that collusion causes a reduction in the number of available builders, an increase in the average bid

price, and a reduction in bid variance irrespective of the particulars of the collusive tendering arrangement. In practice, this could lead to artificially increased building prices, possible quality compromises, company failures through unfair competition, a negative industry image, and decreased employee productivity through moral dissatisfaction.

2.5 Fraud

Fraud is deceit, trickery, sharp practice, or breach of confidence, by which it is sought to gain some unfair or dishonest advantage (Encarta, 2001). Once again, the distinction is evident between an act that is illegal, and that which may be interpreted as 'unfair conduct'. The more common application of this term, however, would suggest a form of intended unlawful action. A typical example of this would include tampering / altering documents used for the contractual administration of a project.

2.6 Bribery

There is a thin line between what is considered acceptable gifts and bribery/corruption (Vee and Skitmore, 2003). Corrupt payments can be categorized in different ways, namely: paying a person to do what they should ordinarily do to expedite matters; paying a person to use their power or influence over others to get something done by those others; and compelling a person to pay (extortion) through threats of what will occur if the payment is not made. Corruption is the "offering, giving, receiving or soliciting of anything of value to influence the action of an official in the procurement or selection process or in contract execution" (Shakantu, 2003). It can be deduced therefore that bribery is at the core of what is commonly viewed as unacceptable, corrupt practice. Corruption includes bribery, extortion, fraud, deception, collusion, cartels' abuse of power, embezzlement, trading in influence and money laundering, among others.

3.0 Effects of Unethical Practices

Unethical practices have a lot of undesirable effects on the construction industry, including the development of the economy and human resources. Unethical practices tend to alter construction process and thereby obstruct economic growth. A poor ethical performance hinders the free play of market forces, discourages economic aid from the foreign donors and makes it difficult for the industry to attract international investors. Allegations of bribery and corruption are rife in the construction industry despite the anti-corruption crusades intended to support clean governance (Mensah et al, 2003). The consequences of poor professional ethics include time and cost overruns, kickbacks and also disguise of the quality of work whereby defective materials could be used or cheaper materials of inferior specification or materials omitted out rightly (Oyewobi et al, 2011).

Unethical practices impact negatively on the economy of a country as well as the capacity of the construction industry to address imperatives. Most projects that were abandoned by successive governments were due to unethical practices between government officials, consultants and contractors. Some government officials award contracts and at the same time execute the same contracts with fictitious company names. Rose Ackerman (2008) argued that kickbacks changing hands amongst parties to the contract are easy to hide in construction contracts and the competitive nature of many bidding processes encourage firms to try to outwit each other through payoffs.

In addition, it was further stressed that once the contract is written, officials tend to extract payoffs from the contractor and unscrupulous contractors have an incentive to pay bribes that permit them to cut corners to increase profits. Unethical conducts affects not only the cost or time of projects, but both the environment for business and policymaking. It was stressed further that the effects of unethical practices has increased the level of awareness of corporate executives that corruption not only affects profits, but also increases business risk.

4.0 Research Methods

The scope of the study is confined to construction professionals in Kumasi. The main groups of professionals selected for the study were Engineers, Quantity Surveyors and Architects who have been involved in project management from inception to handing over of completed projects. Primary data was collected from these sources through the administration of a semi-structured questionnaire on project execution factors and interview guides for managers of construction companies and also site observations. Seventy -five respondents consisting of architects, quantity surveyors, engineers were involved in the study, with 25 sets of questionnaire per professional group. The response rate was 90 %. The responses were analyzed to determine the most important causes and effects of unethical construction practices and ways of preventing unethical practices and maintaining good governance, public trust and sustaining democracy. Relative Important index ranking was used to analyze the data collected. The relative important index ranking was computed by the formula:

$$I = \frac{100 \sum (a_i \cdot f_i)}{AF}$$

Where i = important index
 a_i = variable expressing the weight of the i^{th} term ranging from 1-4

A = highest weight, that is 4
 fi= frequency of the i^h response
 i= response category index, where i= 1,2,3,4
 F=total number of respondents.

5.0 Results and Discussions

5.1 Experiences in Construction Industry

It was necessary to find out the working experience of the respondents in order to obtain practical and convincing answers to the questions asked. Out of the 75 sets of questionnaire, 74.7% (56) were submitted and responsive and 25.3% of them were not submitted. The study revealed that 23.2% of the respondents had 0-5 years experience followed by 6- 10 years, 48.2%, 11 - 15 years (12.5%) and then 16.1 % had over 20 years working experience.

5.2 Compliance and Challenges of Code of Ethics

The study revealed that all the professional institutions involved in the construction industry had codes of ethics that governed the performance of their registered members. All the respondents indicated that all their operations had been guided by the rules and regulations of their respective institutions over the years. The professionals were satisfied to the procedure for admitting members into their respective institutions. But the Architects and the Quantity Surveyors were of the view that their governing bodies should reconsider the procedures for admitting new members. This would generate interest in some people without professional certificate to become members of their respective institutions. Other challenges facing professionals in the industry were the unethical practices of some individuals who have no qualification at any level but pretend to be members of particular institutions with invalid certificates.

5.3 Unethical Practice in the construction Industry

The study revealed that professionals in construction industry work according to their code of conduct, but there are unethical practices among some of their members and other non professionals working in the industry and these practices exist in all the recognized professional bodies in Ghana. Some of the unethical practices identified in the Ghanaian construction industry include the following; negligence, Fraud, acts of corruption, acts of conflict of interest and collusion. Using relative important index rankings, professionals' identified corruption as the most unethical conduct, conflict of interest was the next this was followed by fraud, negligence and collusion. Osei Tutu (2009) identified Conflict of interest, bribery, embezzlement, kickbacks, tender manipulation and fraud as observed corruption practices in the Ghanaian infrastructure projects delivery system. In table 1, the rankings of unethical practices in the Ghanaian construction industry are shown.

Table 1. agreement between professionals on some unethical practices in the Ghanaian construction industry.

Unethical Practices	Quantity Surveyors	Architects	Civil Engineers	Sum of Ranking (R _i)	Means of Ranking (R̄)	R _i - R̄	(R _i - R̄) ²	Overall Ranking
Negligence	7	4	4	15	5	-0.4	0.16	5 th
Collusion	6	6	6	18	6	0.6	0.36	4 th
Fraud	10	9	8	27	9	3.6	12.96	3 rd
Conflict of interest	2	3	1	6	2	-3.4	11.56	2 nd
Embezzlement	4	5	9	18	6	0.6	0.36	7 th
Kickbacks	7	4	4	15	5	-0.4	0.16	5 th
Tender manipulation	6	6	6	18	6	0.6	0.36	7 th
Corruption	1	1	2	4	1.33	-4.07	16.56	1 st

Source: Field Survey, April, 2009

The findings depicted that 28% of the respondents had experienced breaches in professional responsibility, 29% in 'conflict of interest' and 25% in breaches of negligence. 18 % of the professionals have encountered all the unethical practices in their respective works. An interesting aspect to note is that architects have experienced far more problems relating to environmental damage than their counterparts. The results also indicated that contractors are considered to be the most likely group to participate in unethical practices. This is because in our part of the world, more contractors apply for the few jobs that are available and most lucrative construction works are awarded to foreign contractors due to economic or political conditions. Political corruption is being addressed very directly by several professional societies and business groups around the world (Bowen et al., 2007). It can be noted that political systems play a critical role in fueling unethical practices in the construction industry. For instance in Nigeria and Ghana, many projects have failed to achieve the desired course due to bribery, favoritism and political corruption (Oyewobi et al, 2011). Achieving professionalism in the Ghanaian construction industry depends on the moral and ethical practices of all players in the industry. The construction processes should solely focus on the contractual and moral conditions and code of conduct in service delivery and what it means to be held responsible while relating these to construction practices (Polo 2008). From the responses of the sampled focus groups, it construction as they concentrate only on the financial aspects of the project neglecting the pre and post contract activities. These results in adoption of unethical means by concerned people, which can be avoided if they are not penalized on account of given preference to technical aspect or financial aspect. Construction professional institutions can help members understand by training on how to diagnose potentially problematic situations. This type of training could be part of the Codes of ethics and provide clear definitions of wrong-doings (Harrington & Moussalli 2005).

5.4 Effects of Unethical Practices in the Ghanaian Construction Industry

The introduction of the Public Procurement Act 2003 (Act 663) in Ghana has brought in some discipline in the construction industry. But before the Act was passed the construction industry in Ghana was characterized with conflicts of interest, bribery, embezzlement, kickbacks, tender manipulation and fraud, which were observed as corruption practices in the Ghanaian (Osei-Tutu, et al, 2009). The construction industry has a poor reputation for unethical conducts, with a conservative estimate of 10% of its US\$4 trillion global turnover lost to corruption, and the poorest countries suffer the most. Delayed and dangerous buildings mean not being able to get more children into school or safely threat to patients in clinics and hospitals. And the poorest countries are least able to afford the extra costs associated with fraud, bribery, and extortion (DFID, 2007). Recently there has been an increase in international concern about the extent of corruption in the construction industry. For example the American Society of Civil Engineers claim that corruption accounts for an estimated US \$340 billion of worldwide construction costs each year. Corruption such as bribery, embezzlement, kickbacks and fraud in construction projects undermines the benefits of infrastructure (Sohail, et al, 2006). According to the Ghana Statistical Services (GSS April, 2012), for the government of Ghana to meet the infrastructure needs over the next ten years, an amount of US\$1.6 billion would be needed per year, assume that 10%(US\$16 million) of the proposed amount is lost through unethical practices. Unethical practices can undermine governance, erode public trust and truncate democracy and consequently complicate social responsibility.

6.0 Conclusion and Recommendations

6.1 Conclusion

The study highlighted the growing demand for good professional ethics in the construction industry. The survey revealed that all the selected professionals have encountered one form of unethical professional practices that have been identified in this study. The study identified corruption fraud, conflict of interest, tender manipulation, kickbacks, embezzlements and collusion as some of the common unethical practices in the Ghanaian construction industry. The respondents agreed in ranking corruption as the most common unethical construction practices, this was followed by conflict of interest collusion, fraud as indicated in table 1. Respondents also indicated that political interferences as another factor that influenced unethical construction practices in Ghana. The survey revealed that though all the professional associations have their own ethical codes of conduct. They agreed that promoted good ethics, the curbing of unethical conduct is difficult, that all professionals need a common understanding of ethical and professional values. In conclusion, though since the introduction of the procurement Act (Act 663, 2003) unethical practices continue to persist in the construction and there is the need to control the impact on the national resources.

6.2 Recommendation

In order to enhance the performance of professionals and control the impact of unethical conduct in the construction industry, it is important to state clear responsibility guidelines, adequate contract documentations, sanctions for failure, trust and provide motivation and incentives to use resources efficiently and effectively. The

respondents agreed that the following mechanisms will help improve sanity in the performance of professionals in the construction industry: The professionals recommend that the current procurement act needs revision, especially with the threshold for head of organizations. Also the issue about the ministry having the authority to employ any form of tender depending on the time, capacity and other resources need to revise. Professional associations are encouraged to blacklist and publically disclosure all companies and individual professional involved in unethical conduct. This will inform companies and individuals to protect their corporate image and professional integrity. The study recommends for individuals and companies to establish internal and independent oversight agencies to monitor their activities regularly in order to avoid any form of unethical code of conduct of Consultants and contractors should be encouraged to update their skills in modern construction and project management practices to help them manage and supervise works as closely as possible. Project team members should also be trained to improve their skills to help reduce the chance of misunderstanding and thereby preventing disputes at the earliest opportunity. Initial on-site decision makers should be educated on how to address a potential problem. Organizations like the Ghana Institute of Surveyors, Ghana Institute of Architects and the Ghana Institute of Engineers should organize such courses for the consultants.

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