



National Integrity Systems
Transparency International
Questionnaire

Uganda 2003

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Uganda

The National Integrity System Indicators

Questionnaire

Executive

Can citizens sue Government for infringement of their civil rights?

Yes. Constitutional objective no.26 (iii) expressly states that all lawful measures including Court proceedings shall be taken to expose, combat and eradicate abuse or misuse of power by those in political and other public offices. The Government Proceedings Act, Cap 69 Laws of Uganda provides that citizens can sue Government for infringement of their civil rights. Government is sued through the Attorney General. Art.50 empowers citizens and organisations whose fundamental rights have been infringed/threatened to apply to a competent court for redress. Art.51 provides for the creation of Human Rights Commission (UHRC) and the Commission is empowered to investigate at its own initiative or on a complaint made by any person or group of persons against the violation of any human right, and resolve as a court (Art.53) complaints of violation of human rights and freedoms.

Practice

Occasions where citizens have sued government are rare. Citizens have sued Government for false imprisonment, malicious prosecution and so on. For example in Samuel Kaggwa vs. Attorney General 1982 H.C.B 101, the plaintiff sued the Attorney General for unlawful arrest and detention. He was detained in a police station for 36 days and was harshly treated. So he sued Government. The Court ruled that the arrest and detention of the plaintiff was unlawful. The Court awarded him exemplary damages for the illegal arrest and detention. Secondly, sometimes people have sought redress from UHRC. The UHRC handled 3,316 complaints between 1998 to the end of 2001. Out of 175 cases set out for investigation in 2000, 110 (63%) had been concluded by the close of 2000 (UHRC, 2001). People find it difficult to sue the government because:

- Of ignorance of human rights by most Ugandans;
- The court proceedings in Uganda are precarious and lengthy;
- The cost of litigation is prohibitively high for an average Ugandan;
- Of fear of government officials;
- The legal language is very technical for ordinary people to understand.

Are there procedures for the monitoring of assets, including disclosure provisions, for the chief executive, ministers and other high level officials?

Monitoring procedures including disclosure provisions exist.

Are there any differences in procedures & disclosure provisions between elected ministers, appointed ministers and high-level officials?

No. Art.233 provides for parliament to make laws establishing a Leadership Code of conduct for persons holding such offices as may be specified by parliament. The leadership Code Act 2002 was recently enacted by parliament in July 2002 repealing the Leadership Code 1998 that was very deficient. S.4 of the Leadership Code Act 2002 states that, "every 2 years all leaders as is stipulated in second schedule of the Act shall declare their assets/properties". The Leadership code of conduct requires specified officers, Ministers inclusive, to declare their incomes, assets, and liabilities from time to time, and how they acquired or incurred them, as the case may be. It is a prudent Act that does not give preferential treatment between leaders, be they appointed ministers, elected ministers or high-level officials.

Practice

By June 2002, the President, the Vice President and all Ministers had declared their property as is required by the Leadership Code. But out of 304 MPs only 26 had declared their assets and liabilities by the same date. So the application of the Leadership Code has remained an issue of some few public officials. The law has not been implemented meaningfully at the district levels.

Are there conflict of interest rules? For ministers? For high-level officials?

Yes. S. 8 of the Leadership Code Act 2002, states that a leader shall not put his or her life in a position in which personal interest conflicts with his or her official duties and responsibilities. The Local Government Act, the IGG Act 2002 and the Public Finance (Procurement) Regulations 2000 all require public officers participating in meetings of various statutory bodies to disclose any pecuniary interest they may have in any matter that is under consideration by the body concerned, in which case they disqualify themselves from attending.

Practice

In practice, conflicts of interest are frequent among public officials of high profile whatever their rank: high-level public officials, Ministers, Members of Parliament, etc.

As a matter of fact, very often acquisition of holdings in private corporations is concurrent with holding high-level public position. In 2002 the Electoral Commission chairperson and other Commissioners awarded a tender to supply fuel to the EC to a petrol station in which they hold shares. They were later dismissed from office by the President upon the IGG's recommendations.

Are there rules and registers concerning gifts and hospitality? For Ministers? For high-level officials?

Yes. It is corruption and abuse of office under the Penal Code Act to receive gifts in the performance of public duty. Section 10 of the Leadership Code Act 2002 (LCA), provides that gifts received by public officials are to be treated as gifts to the government, and sanctions that government should maintain an inventory of such gifts in the individual institutions concerned. Section 11 of LCA provides that leaders who do not disclose gifts, or who accept gifts, are punishable by (Section 36 of the LCA) imprisonment of 2-3 years, or a fine not exceeding Ug. Shs. 20m to Ug. Shs. 30m, or both.

Practice

Public officials do not declare gifts and hospitality. No registers have been kept up to this day. Enforcement of the Leadership Code Act only started July 2002, so it is in its initial stages. The Leadership Code 1998 did not provide for any punitive measures against officials guilty of breach of the Code.

If so, are these registers kept up to date? By whom?

No.

Have they legal powers to enforce disclosure? Have they staff to investigate allegations?

No. The Permanent Secretary of the individual ministries/institutions or departments are charged with the responsibility of maintaining registers after disclosing the gifts to the IGG. Both the Leadership Code Act 2002 and IGG Act 2002 give powers of enforcement of disclosure to the IGG. He has some staff to do this, although he is below the required staffing capacity.

Practice

Donations and liberalities received by public authorities are not taken into account.

What powers of sanction are in place against parliamentarians?

Censure by Parliament, recall by constituency (A.84), and R. 81 and R. 84 of the Rules of Procedure of Parliament.

Practice

Censure by the constituency is not practical due to technicalities in the law and lack of a well-established procedure. Civil society is also not litigious enough to initiate such censure.

Have they ever been invoked?

Yes. 2 ministers and/or Members of Parliament were censured by the 6th Parliament. However, in the 7th Parliament they were given other ministerial positions.

Practice

In practice, however, censured ministers retain all the ministerial benefits inclusive of salary, an armed guard and a residence, plus all the services of electricity and water. They only lose ministerial vehicles and office. The 2 Ministers who were censured by the Sixth parliament were not stopped from standing for elections in 2001. The President has since reappointed them Ministers.

What powers of sanction are in place against ministers who are also parliamentarians? Have they ever been invoked?

Yes. A. 118 of the Constitution, Parliament may, by a resolution supported by more than half of all members of Parliament, censure a minister on specified grounds, including among others mismanagement and abuse of office.

Practice

The practice is as indicated above for parliamentarians who are not ministers.

What powers of sanction are in place against ministers who are not parliamentarians? Have they ever been invoked?

Yes. Article 118 of the Constitution and the Leadership Code Act 2002 have non-discriminatory application and a wider jurisdiction.

Practice

However, in practice censure of ministers has been done on grounds of unsubstantiated corruption allegations, ethnic hatred and malice.

Are there restrictions on post ministerial office employment?

Yes. Section 16 of the Leadership Code Act 2002 requires all leaders to disclose in writing to the IGG all offers of future employment that could place them in a position of conflict of interest.

Practice

Indeed, many Ministers have got employment after serving as ministers in the Movement system of governance. Kyemba, former Minister of State for Agriculture recently got a job with UNESCO; Sekitoleko, former Minister of Agriculture got a job with FAO, resident in Lusaka; Mr Kaijuka, Minister of State in charge of Energy got a job with the World Bank etc

Are members of the executive obliged by law to give reasons for their decisions?

Yes. Section 8 (e) of the IGG Act 2002 empowers the IGG to investigate any act, omission, advice, decision or recommendation by a public officer or any other authority to which this section applies, taken, made, given or done in exercise of administrative functions. Section 9(c) of the IGG Act 2002 lists the Cabinet among the officers and leaders over which the Act has jurisdiction.

Art. 111(2) requires the Executive to formulate and implement government policy and any other functions conferred by the laws of Uganda, in which case they are supposed to give reason, or justify to the public, the relevance of such formulated policy.

Practice

Any written decision of the Executive is preceded by a heading that indicates its constitutional, legislative and regulatory motivations. The IGG is not on record as having questioned any decision of the Executive for which reasons are not given.

Do Ministers or equivalent high-level officials have and exercise the power to make the final decision in ordinary contract award and licensing cases? Is this power limited to special circumstances?

Yes. In matters of public contract, the principle of authorization depends on the rules on calls for competitive bids. Processing and award of public contracts is devolved to Contracts Committees within line ministries, each constituting a separate and semi autonomous Procurement Entity advised and supervised by the Reformed Central Tender Board (RCTB). At local government level, the award is done by District Tender Boards (DTBs).

Practice

Against many odds, the award of contracts in line ministries is by Contracts Committees as required by the Public Finance (Procurement) Regulations 2000. However, the possibility of indirect influence by a Minister is evidently possible since they are the immediate supervisors.

There is complete lack of standardized procedures and harmony between the operations of DTBs, Contract Committees and RCTB. Actually, the RCTB only has an advisory power.

The Solicitor General of Government gives approval for large sum purchase proposals of government.

Are there administrative checks and balances on decisions of individual members of the executive?

Yes. Parliament has powers to protect the Constitution and promote good governance, Art. 79(3). Committee systems exist to assess and evaluate government Executive members' activities (Art. 90). Parliament has powers to summon and subpoena ministers, second people to examine witnesses and subpoena documents. Art.118 gives Parliament powers to censure Ministers.

Practice

2 Cabinet Ministers were censured by the 6th Parliament in 2000.

Legislature

Is the legislature required to approve the budget?

Yes. Parliament is required to approve and authorize all government expenditure from the Consolidated Fund and perform a continuous review of its operations (Art.154 of the Constitution). Art. 155 provides that the President shall cause to be prepared and laid before Parliament in each financial year, but in any case not later than the 15th day before commencement of the financial year, estimates of revenues and expenditure of Government for the next financial year.

Practice

In Uganda, we are sceptical about the efficiency of such control because, among other factors, the majority of parliamentarians are members of the parliamentary Movement caucus, and ministers are also parliamentarians. Also the process is highly technical.

Are there significant categories of public expenditure that do not require legislative approval? Which departments does this involve, what is their expenditure and what percentage does this represent of the government annual expenditure?

No. By virtue of the Constitution all public expenditures without exception are entered in the budget submitted to Parliament.

Practice

The present situation is similar to the preceding one. There is no department/ministry where public expenditure is made without a budget being put before parliament.

Are there conflict of interest rules for parliamentarians?

Yes. The Leadership Code Act 2002 applies also to all leaders including parliamentarians. Art. 80 (2) (b) of the Constitution forbids persons holding or acting in an office, the functions of which involve responsibility for or are in connection with the conduct of an election, to stand as an MP in elections.

Practice

The Current Leadership Code Act 2002 came into force on 1st July 2002 and therefore has not been implemented very meaningfully yet.

Lawyer MPs continue to do their private law firm/chamber's work without fear while they are in parliament.

Are there rules concerning gifts and hospitality?

Yes. Various legislation including the Leadership Code Act 2002, the Penal Code Act and the IGG Act 2002 provide for gifts.

Practice

The new laws are yet to be enforced by the IGG, but the Penal Code provisions have been largely redundant to the extent that public officials do not disclose gifts.

If so, are these registers kept up to date? By whom?

No.

Have they legal powers to enforce disclosure? Have they staff to investigate allegations?

The Leadership Code Act 2002 and the IGG Act 2002 empower institutions including Parliament to maintain a gifts inventory. It is the IGG who has legal disclosure powers, not the institutions authorised to maintain an inventory of gifts.

Practice

No account is taken of gifts and liberalities members of the parliament may receive and/or benefit from while carrying out their duties. There is no information available although sanction is provided for in case of abuse.

What powers of sanction are in place against parliamentarians? Have they ever been invoked?

No. Recall by the constituency is sanctioned in Art. 84 of the Constitution. Art. 83 (d) sanctions that a MP should vacate his or her seat due to absenteeism from parliament for 15 sittings without satisfactory explanation, and on the grounds of violation of the Leadership Code (Art.83 (e), R.81 and 84 of the Rules of Procedure of Parliament (Standing Orders). They have not been invoked.

Practice

It is upon Parliament by law to prescribe the procedure to be followed for recall of parliamentarians by their constituencies (Article 84(6) of the Constitution). Recall procedures have never been prescribed by parliament up to this day. They have not been invoked.

Are there restrictions on post legislature employment?

No. No restrictions are in place against post legislature employment.

Practice

On many occasions MPs who lose their seats have sought private or corporate employment. Sometimes they have been appointed Resident District Commissioners (RDCs), ambassadors or simply damped at the Movement secretariat, especially if they cherished membership of the Parliamentary Movement caucus loyal to the President.

Electoral Commission

Is there an independent Electoral Commission (if not, are the arrangements for elections in the hands of agencies who are widely regarded as being non-partisan)?

Yes. The EC is established by Art.60 of the Constitution and its independence is sanctioned by Art.62. Its independence exists to the extent of not displeasing the appointing authority, the President.

Practice

The Electoral Commission (EC) is not considered legitimate by all the stakeholders. Cases of victimization and framing of EC workers suspected to be disloyal to the state machinery were very common in the press during the elections of 2002 (UHRC Report, 2000).

Who appoints the head of the Commission?

The topmost six (6) officials of the Commission including the Chairperson, Deputy Chairperson and five other members are by law appointed by the President with approval of Parliament.

Practice

The President nominates the topmost officials of the EC to Parliament and vets them and recommends their appointment. Apart from the recent occasion where Parliament rejected one person whom the President had nominated as Commissioner of the EC, Parliament in practice has been reduced to almost a rubber stamp as regards appointments. This therefore impacts on the independence of the Commission.

Political Parties

Are there rules on political party funding?

None, before the Political Organisations Bill (POB) was enacted. The PO Act requires declaration of assets and liabilities of a political party or organisation. Section 15 provides that records and audits of a political party or organisation are to be kept of any contribution, donation, pledge of contribution or donation in cash or in kind. S. 17 of the PO Bill provides for restrictions on foreign contributions.

Practice

The law is redundant. In the 2001 elections, the President sponsored many Movement candidates, but when asked the source of the money no answer has been given to date. The doctrine of individual merit is mutually exclusive with political organizations.

Are substantial donations and their sources made public?

Yes. S.15 (2) of the POB requires publication of accounts of political parties/organisations, for which copies can be made available to the public upon payment of a reasonable fee, as sanctioned by S. 15 (3).

Practice

The monolithic Movement System and the suffocated parties have made no declarations as yet.

Are there rules on political party expenditures?

No rules are in place.

Practice

Parties and the Movement system spend the way they think fit without any restrictions.

Are political party accounts published?

Yes. The law sanctions publishing of political party accounts, which can be disposed only by the Registrar General of political parties, who may allow public access and avails copies to public or levy a reasonable fee.

Practice

Neither the Movement nor the embargoed parties have published their accounts.

Are accounts checked by an independent institution, are they published and are they submitted to parliament?

Yes. By law the accounts are audited and published by Registrar General.

Practice

The Movement Secretariat accounts are checked by the Auditor General.

Does that institution start investigations on its own initiative?

No.

Who appoints the head of the institution?

The Registrar General of Companies just recommends to police and may de-register the organisation. The Police CID handles all investigation work in Uganda. The President appoints the Registrar General.

Practice

No information is available on that matter. Practically, it is a political appointment.

Supreme Audit Institution

Is the national auditor general independent?

No. The AG is reasonably independent. Art.163 (8) of the Constitution provides that the salary and allowances payable to the Auditor General shall be charged on the consolidated fund; and Art. 163(4) sanctions the Auditor-General to submit annually to Parliament under 163(3) a report of accounts audited by him or her for the financial year immediately

preceding. Art.163 (b) expressly states that in performance of his/her functions the Auditor General shall not be under the direction and control of any person or authority.

Practice

Appointment of the Auditor General (AG) is by the President, with the approval of parliament (Art.163 (1)). The independence of the Auditor General is grossly compromised by his lack of power to appoint and fire staff. The Public Service Commission appoints staff of the office of the Auditor General. The independence of the supreme audit institution is seriously jeopardized by its organic attachment to the President of the Republic. As a matter of fact, this monitoring structure cannot decide on making the results of its monitoring public or not.

Is the appointment of the auditor general required to be based on professional criteria/merit?

Yes. Art.163 (2) provides that a person shall not be appointed Auditor General unless that person is a qualified accountant of not less than 15 years standing. He or she must be a person of high moral character and proven integrity.

Practice

The issue of high moral character has not well emphasized in practice, although the qualifications have been strictly observed.

Is the appointee protected from removal without relevant justification?

Partially. The AG is protected from removal by Art. 163 (10) of the Constitution.

Practice

Up until now, no removal case has been noted in the supreme audit institution. The clause, however, is vague as to what amounts to misbehaviour or misconduct (163(10)(b)) and incompetence (163 (10) (c)). It lends itself to manipulation and could allow for dismissal on grounds of carrying out the duties of the office against the wishes of the Executive, in other words the discretion to determine incompetence and misconduct lies with the President.

Are all public expenditures audited annually?

No. A.163 (3) gives the AG sufficient mandate to cover all public institutions.

Practice

The AG's monitoring structures are under-staffed and not suitably provided with the material and financial means to carry out effective monitoring of all public services.

Most public institutions are subjected to audit of their expenditure and revenues annually. Some projects of central and local government and statutory bodies do escape audits because delayed or failure to produce financial statements.

Is reporting up to date?

No. In some mainstream ministries they are up to-date.

Practice

Some still are in arrears, especially local governments and statutory corporations.

Are reports submitted to a Public Accounts Committee and/or debated by the legislature?

Yes and no. The AG's reports are submitted to the Public Accounts Committee, the Standing Committee on Commissions, Authorities & State Enterprises; and the Local Government Public Accounts Committee of Parliament. They are consequently debated by parliament as is sanctioned by Art.163 (5) of the Constitution, "Parliament shall, within 6 months after the submission of the report of accounts debate and consider the report and take appropriate action."

Practice

The audit reports of the supreme audit institution are never expeditiously debated by Parliament. The 7th Parliament is currently debating the AG's Report for the FY 1998/ 99. No action has ever been instituted upon recommendations of the AG Report.

Are all public expenditures declared in the official budget?

Partially. Expenditure of central government is declared in the official budget of the government. Expenditure designated as classified is not declared in sufficient detail. Expenditure for local government is included in the official budgets of the respective local governments. Many commissions, authorities and state enterprises do prepare official budgets that include all their expenditures.

Practice

Expenditure of local governments financed by donor funds is not included in the official local government budgets. Some government commissions, authorities and enterprises do not prepare any budgets at all, thus their expenditure are not included in any official budget.

Judiciary

Have the courts the jurisdiction to review the actions of the Executive (i.e. Presidency, the Prime Minister's or other Ministers and their officials)?

Yes. Any prejudicial administrative decision is liable to court proceedings. Under A.129 only the courts of judicature exercise judicial power in Uganda. A.139 gives the High Court unlimited original jurisdiction in all matters, be they related to the Prime Minister, Ministers and or their officials providing their actions contravene the laws of Uganda.

Practice

Administrative jurisprudence is full of Court decisions condemning the Administration. However, it is only the President who enjoys immunity against any court proceedings while he still holds office (Article. 98(4) of the Constitution) but Court proceedings may be preferred against him upon leaving office. Several Ministers have been engaged in court proceedings on many matters including criminal ones.

Are judges/investigative magistrates independent?

Yes.

Are appointments required to be based on merit?

Yes.

Are the appointees protected from removal without relevant justification?

Yes. The independence of judiciary power is provided by Article 128 of the Constitution. The President makes appointments to the Judiciary on the advice of a Judicial Service Commission and with the approval of Parliament (A.142), and these are made on merit. Removal from office of any judicial officer is by the President through a tribunal appointed by Parliament (A. 144).

Practice

The Executive has tried to bias courts' decisions as in the referendum case Ssemwogere vs. Uganda, where members of the opposition challenged the legitimacy of the results.

Are recruitment and career development based on merit?

Yes. Magistrates are recruited after proven qualification and experience.

Practice

Their career development is based on seniority.

Have there been instances of successful prosecutions of corrupt senior officials in the past 3 years?

Yes. Magistrates are not above the law. The Penal Code Act, the IGG Act 2002, The Prevention of Corruption Act 1970, the Leadership Code Act 2002 are applicable to them.

Practice

A judge was interdicted and prosecuted for abuse of office. He lost his job as a judge though acquitted on hearing of the case. A number of magistrates have been charged with abuse of office and corruption. Though acquitted, they lost their jobs.

Civil Service

Are there laws establishing criminal and administrative sanctions for bribery?

Yes. The Penal Code Act provides for a range of criminal offences that aim to fight corruption, including bribery. The Prevention of Corruption Act no.8/70 prohibits both the soliciting, receiving by one or on behalf another, as well as the giving, promising and offering of any gratification as an inducement or reward to a member, officer or servant of a public body.

Practice

Cases of civil servants' corruption or public monies embezzlement are sued in courts of law.

Are there rules requiring political independence of the civil service?

Yes. Theoretically the administration is organized and run on the basis of the principle of neutrality, impartiality and national interest pursuant A. 172. Appointments, confirmation of appointments, disciplinary control and removal from office of all heads of department is by the President on the advice of the Service Commissions that are themselves appointed by the President (Arts. 165,167& 169). Civil service independence is therefore very fragile.

Practice

In reality the running of the administration is founded on clientelism, favouritism and bias. Patronage is the order of the day.

Are recruitment/career development rules based on merit?

Yes, in theory. Competence, integrity and efficiency are the theoretical guiding principles for public agents' career development. A. 165(2); A.170 (1)(c); 168(1)(c); and 166(1)(c) provide for high moral character, proven integrity, experience and merit based recruitment to the civil service.

Practice

Clientelism and favouritism, which characterise public agents' career development so deeply, pervade the system so that merit is not the sole recruitment and promotion criterion in the civil service.

Are there specific rules to prevent nepotism? Cronyism? (note: rules discriminating positively in favour of marginalised or minority groups are not included in this description)

Yes. The Penal Code punishes nepotism and related activities.

Practice

The actual management of the public service reveals the persistence of nepotism and neighbouring phenomena.

Are there rules (including registries) concerning acceptance of gifts and hospitality?

Yes, not specific but can be found in staff rules and regulations. But the IGG Act 2002 and Leadership Code Act 2002 apply.

Practice

Until the formal provisions become applicable, there is thick opacity in this area.

If so, are these registers kept up to date? By whom? Have they legal powers to enforce disclosure? Have they staff to investigate allegations? What powers of sanction are in place against parliamentarians? Have they ever been invoked?

Practice

None/nothing.

Are there restrictions on post public service employment?

No.

Practice

None/nothing.

Are procedures and criteria for administrative decisions published (e.g. for granting permits, licences, bank loans, building plots, tax assessments, etc)?

No. The principle of prior publicity is admitted in administrative procedures.

Practice

The public users are completely ignorant.

Are there complaint mechanisms for public servants and whistleblower protection measures?

Partially, yes. Formally, suggestion boxes are in place for this purpose.

Practice

They are never used, as people fear being identified by top officials, which would tantamount to sacking.

Are there means for complaints by members of the public?

Yes.

Are there administrative checks and balances on decisions of individual public officials?

Yes. The answer is as above. Theoretically through the immediate supervisors in the vertical hierarchy.

Practice

The answer is as above. No such checks have been invoked.

Police and Prosecutors

Is the commissioner of police independent?

No. The head of the police in Uganda is the IGP, Art.213.

Practice

He is independent to the extent of not displeasing the President. Such independence is volatile and subjective to the extent of being non-existent.

Are appointments required to be based on merit? Is the appointee protected from removal without relevant justification?

No. Appointment is at the will of the President with the approval of Parliament. There are no set criteria and guidelines for the appointment of such office holder. The issue of merit is subjective, given that it rests upon the President's discretion. History has it that

appointments have often been in the interest of the President. The IGP is not protected from arbitrary removal from office. He is removed from office at the will of the President (Art.213 (5)).

Practice

Clientelism and arbitrariness, which are outstanding features of the public service, equally affect the police force and influence police officials' and other agents' career development.

Are public prosecutors independent?

No. Prosecutors are under the Directorate of Public Prosecution (DPP), who under Art.120 (6) is independent. The President on recommendation of the Public Service Commission (PSC) appoints the DPP with the approval of Parliament.

Practice

Prosecutors do not make or take independent decisions on prosecution without the direction or authority of the DPP.

Are there special units for investigating and prosecuting corruption crimes?

Yes. The police have powers to investigate and prosecute corruption crimes under the Penal Code Act. The IGG has powers to investigate and prosecute corruption crimes independent of the police under the IGG Act 2002.

Practice

Many cases have actually been prosecuted by the IGG. There is a feeling among the public that the IGG goes for small corrupt "fish".

Is there an independent mechanism to handle complaints of corruption against the police?

Yes. The Police Disciplinary Committee set up by the Police Statute 1994 can discipline corrupt officers. The IGG has powers to investigate & prosecute all corruption cases in all government departments, Police Force inclusive.

Practice

Only small "fish" are handled.

Does civil society have a role in such a mechanism?

No.

Practice

Indirectly as private individuals, they can report to the police or the IGG then these organs investigate the report.

In the last five years, have police officers suspected of corruption been prosecuted (or seriously disciplined or dismissed)?

Yes/no. The commission of inquiry report into police corruption was published and implicated many high profile officers. Several of the officers were dismissed and retired in the public interest, and the police in-house mechanism disciplined others. No one has been prosecuted in the courts of law.

Practice

Many of the high-ranking dismissed officers were recalled after one year and since have been re-deployed to other duties within the police.

Are there any cases of corruption within the prosecuting agencies?

Yes. The legal official position is that there is no corruption in the DPP and IGG.

Practice

A number of state attorneys (DPP) and investigators of the IGG have been arrested and charged with corruption by the IGG. Instances of corruption therefore exist.

Which legislative instruments can be used by the police and public prosecutors for the investigation and prosecution of cases of corruption/bribery?

Many instruments are in place.

Is the law applied?

Yes, but not universally, nor often for "big" fish.

Is private-to private corruption punishable by law?

No. A number of instruments can be used by the police and the IGG to investigate and prosecute cases of corruption/bribery including: the Penal Code Act (cap. 106) as amended; the Prevention of Corruption Act no.8/1970; the IGG Act 2002 and Leadership Code Act 2002; the Public Finance Act; the Income Tax Decree; the Companies Act; the Partnership Act; the Divestiture Statute; the Local Government Act no. 1/1997; and the Constitution 1995.

Practice

Nothing.

Is the law applied?

Yes. The laws are often applied but due to technicalities in some of them, they are not effectively applied.

Practice

Many cases have been lost due to absence of evidence.

How many cases of prosecution have been undertaken in the past years? How many have been successful? If the number is low, are there other effective measures or other good reasons why the number is low?

Over 50 cases have been prosecuted in the past years. About 15 of those have been successful and others have failed. The figures are low due to a lack of proper investigation.

Investigations are poor due to poor logistical facilitation, poor timing and lack of technical know-how by investigators. Group interests have a bearing, as some investigators are colleagues of the affected persons. Influence and corruption of investigators also destroys evidence.

Practice

The remedy lies in training investigators in investigation techniques. Facilitation should be increased in terms of resources.

Public Procurement

Do rules for public procurement require competitive bidding for all major procurements with limited exceptions?

Yes. R.S. 20 of the Public Finance (Procurement) Regulations 2000, orders for open tendering to be the procurement procedure by all procurement entities (PE) except in specified circumstances (Rules. 21-24 of the Regulations). All international and resources are routing subject what is described as international tendering procedures. SWIPCO handles the auditing of all procurements valued at USD 50,000.

Practice

The Public Finance (Procurement) Regulations 2000, mandate the Contracts Committees in all Procurement Entities to invite tenders for all purchases above Ug.Shs. 50m. The Regulations also sanction that purchases exceeding Ug.Shs. 500m must first seek approval of the Solicitor General. Procurement has been decentralised to line ministries, of which each constitutes a procurement entity (PE).

Are the rules laid down in documents publicly accessible?

Yes. Procurement rules are published in the form of laws and regulations and are publicly accessible i.e Local Government Act, 1999, and the Public Finance (procurement) Regulations 2000.

Practice

The high rate of illiteracy hinders the efficiency of such a publication.

Are there strict formal requirements that limit the extent of sole sourcing?

No. Apart from restrictions against direct procurement (Arts. 37, 38, 39, 140) there are no formal restrictions against sole sourcing. The situation is made worse by the lack of standard procurement documents for consultancy services and civil/building works.

Practice

International aid funded projects rely on "copy and apply" of the World Bank procurement documents most times unfavourable with provisions to the local providers hence encouraging sole sourcing.

Are all major public procurements widely advertised to the private sector?

Yes. R. 20 of the Public Finance (Procurement) Regulations 2000.

Practice

Implementation of the regulations is not yet satisfactory due to lack of skilled staff, and lack of facilitation. There are general complaints about the response time allowed to respond to quotations, and on the "copy and apply" World Bank documents, which do not favorably address the local situation.

Are procurement decisions made public?

No. Records of the procurement decision are only accessible to the CTB but not to the public and by court order.

Practice

Not even non-selected competitors are informed of contract awards.

Is there a procedure to request review of procurement decisions?

Yes. Procurement decision review is by the chairperson of the contracts committee (Rules.44, 45, 46), but the complaint must be made within 30 days of the decision.

Practice

Information is lacking attesting to any one occasion of a review taking place.

Can an unfavourable decision be reviewed in a court of law?

Yes. A.139 vests jurisdiction in all matters in the High court. Nothing stops an aggrieved party in any situation from seeking redress in court.

Practice

No records are available.

Are there provisions for blacklisting of companies proved to have bribed in a procurement process?

Yes, the "Code of Business Conduct" which comprises the schedule of the Public Finance (Procurement) Regulations 2000. The IGG Act 2002 and the leadership Code Act 2002 (15) both have crosscutting application to all public officers.

Practice

No company has ever been blacklisted.

Are there rules and procedures to prevent nepotism/conflict of interest in public procurement?

Yes & no.

Practice

The rules against conflict of interest and nepotism are provided in the Procurement Regulations 2000. However the procedure of open tendering as a mechanism for preventing conflict of interest and nepotism has not been effective, to say the least.

Are assets, incomes and life styles of public procurement officers monitored?

No. The Leadership Code Act 2002 applies to procurement officers as well.

Practice

It is yet to be applied meaningfully, given that it came into force on 1st July 2002.

Ombudsman

Is there an ombudsman or its equivalent (i.e. an independent body to which citizens can make complaints about mal-administration)?

Yes. The IGG serves both functions of ombudsman and investigative anti-corruption agency in Uganda. The institution is established by A. 223 and is mandated by A. 233 to enforce the Leadership Code of Conduct with crosscutting jurisdiction to all government institutions & parastatals (Article 226 of the Constitution; Section. 9 of the IGG Act 2002).

Practice

Many of the IGG investigations relate to allegations of maladministration.

Is the ombudsman independent?

Yes. The independence of the IGG is required by law (A. 227 and S. 10 the IGG Act 2002).

Practice

In fact, the IGG is satisfactorily independent.

Are appointments required to be based on merit? Is the appointee protected from removal without relevant justification?

Yes. His appointment is not based on merit and is made by the President with the approval of Parliament. Requirements are for a person with considerable experience, demonstrated competence and with a record of high calibre in the conduct of public affairs.

Removal of the IGG is by a tribunal constituted for that purpose by Parliament (S. 5 of the IGG Act 2002 and A. 224). The conditions for removal are similar to those for judges of the High Court

Practice

It was only the Deputy IGG whose contract was not renewed for reasons best known to the President. There has been no outright removal so far.

Has an ombudsman been removed without relevant justification in the last five years?

Yes. Removal of the IGG has occurred once in the past five years. (see previous/next answers.)

Practice

Hon. Augustine Ruzindana, the first IGG and an accountant of high standing, only resigned in favour of a Parliamentary seat, but his Deputy, Mr. Waswa Lule, a long time multipartist, was not allowed to continue by way of a refusal to renew his contract on grounds best known to the President.

Can petitioners complain anonymously if they fear possible reprisals?

Yes. Petitioners are free by law to do so anonymously.

Practice

Rules are not explicit and complainants are not always aware that they can complain to the IGG anonymously.

Are reports of the ombudsman published?

Yes. The IGG must present a biannual report to Parliament and to the President. This report is published.

Practice

Up until now, the IGG's report has always been presented to Parliament and to the President and has been published.

Does the government act on the Ombudsman's recommendations?

Yes. According to the law, the ombudsman can make recommendations to the government.

Practice

Sometimes the government responds to the IGG's findings and recommendations (pgs.7 & 8, IGG Report, 2001). However, a major constraint and challenge to the effectiveness of the IGG's office has been laxity in implementing the IGG recommendations (pgs.9&10, IGG Report, 2001).

Investigative/Watchdog Agencies

Are there special investigative or watchdog agencies?

Yes.

Practice

The IGG plays the role of investigative/watchdog agency against corruption. It is worth noting that the setting up by civil society of the National Coalition Against Corruption, that organises the annual Awareness Week against Corruption, greatly aided the anti corruption watchdog function of the IGG.

What are their main responsibilities?

The IGG undertakes investigation, education and prevention roles.

Are they independent?

Yes.

Are appointments required to be based on merit? Are appointments generally based on merit?

Yes.

Are the appointees protected from removal without relevant justification?

Yes.

Are their reports published (other than when criminal charges are pending)?

Yes.

Do they report publicly to the legislature on the general scope of their work?

Yes.

Can people complain to the agency without fear of recrimination?

Yes.

Media

Is there a law guaranteeing freedom of speech and of the press?

Yes. Freedom of opinion is guaranteed by the Constitution (A. 20 & 29).

Practice

The media scene has many newspapers and private radio stations. Freedom is, however, superficial as laws to thwart this freedom are implemented to control political dissent, despite the liberalisation of broadcasting and the expansion of private media.

Is there censorship of the media?

No. S.10 of the Press and Media Statute 1995 gives powers to the Media Council to censor films, video etc., but not the whole media.

Practice

The Media Council has cautioned a number of media houses for publications related to morality and pornographic films and videos.

Is there a spread of media ownership?

Yes. Freedom of enterprise for media is guaranteed by the Constitution.

Practice

There are many of press owners in Uganda.

Does any publicly-owned media regularly cover the views of government critics?

Yes. Articles 20 and 29 of the Constitution guarantee this.

Practice

Both public and private print media carry views critical of the government, excepting the government electronic media which do not carry critiques of government.

Have journalists investigating cases of corruption been physically harmed in the last five years?

Yes. The law prohibits harming journalists at least physically in the course of their work.

Practice

The torture has been more psychological than physical except for one notable instance when a minister, Hon Otafire, physically slapped a journalist for taking his photograph without his consent.

Does the media carry articles on corruption?

Yes. The law only forbids the media to carry pornographic articles or material, and does not forbid corruption coverage.

Practice

All media in Uganda carry articles on corruption, which is commendable and has helped expose it and fight it.

Do media licensing authorities use transparent, independent and competitive criteria and procedures?

Yes. The Media Council licenses editors and producers from media organisations and media houses. The Broadcasting Council licenses the electronic media and the Communications Commission allocates frequencies and operational licences (The Print and Journalist Statute and the Electronic Media Statute, 1996).

Practice

This is done in a transparent manner.

Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?

Yes. The laws are used to curb criticism of government rather than to cover up corruption investigation. At one stage the state used the withdrawal of advertising from The Monitor News paper, a private daily, to restrict its criticism of state actions.

Practice

There has been reduced use of these laws lately by the government against journalists. The position seems to be changing lately although not improved.

Civil Society

Does the public have access to information and documents from public authorities?

No. The Constitution provides for access to information (A.41).

Practice

However, Parliament needs to pass a law to enable it become enforceable. The public has little information on official documents.

Do the public authorities generally co-operate with civil society groups?

No.

Practice

Public government agencies like the IGG and DEI actively co-operate with civil society. Also, the Police sometimes cooperate with the public regarding security matters.

Are there citizen's groups or business groups campaigning against corruption?

Yes.

Practice

On the initiative of civil society, several seminars and awareness weeks against corruption have been held since 1997, under the Anti-Corruption Coalition of Uganda (ACCU). There is no business group fighting against corruption at present.

Are there citizen's groups monitoring the government's performance in areas of service delivery, etc?

Yes.

Practice

A modest start has been made by Uganda debt Network (UDN) with a successful pilot program to monitor School Facilitation Grants (SFG), and the multi-lateral donor supported Poverty Eradication Fund (PAF) programme.

Do citizen's groups regularly make submissions to the legislature on proposed legislation?

No.

Practice

It is not a tradition with local authorities to embark into dialogues with the public or the press.

Does the education system pay attention to integrity issues and corruption/bribery? Is it expected to?

No.

Practice

Integrity issues and corruption or bribery do not form part of the formal education system (the Schools Curriculum) in Uganda. Previously, integrity issues were handled informally by the community through emphasis on group norms, values and expectations that have been replaced by "individual merit" under the Movement system.

Regional and Local Government

Are there, at regional level, rules and disclosure provisions similar to those operating at national level on nepotism, conflict of interest, gifts and hospitality, and post service employment?

Yes. The IGG Act 2002 and the Leadership Code Act 2002 have been expanded to apply to all leaders including the local district administration. The laws have adequate provisions on conflict of interest rules, disclosure of public officials' assets and post employment of public officials.

Practice

Enforcement of the IGG Act 2002, and the Code Act 2002 has not spread to the district local governments as yet.

What public offices at regional and local level are appointed by the national government?

The Resident District Commissioner (RDC) and the District Internal Security Officer (DISO) are appointed by the President. The District Police Commander (DPC) and the District Electoral Returning Officer are also appointed from national government.

Practice

They are basically political appointees.

Is there a legal requirement that meetings of city/town councils be open to the press and public?

Yes. Section 29, Local Government Act: meetings of local/town councils are open to the public.

Practice

Cases of abuse are already on record in many districts where councils have stopped journalists from attending council sessions.

Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?

Yes. S. 9 (3) of the 3rd Schedule of the Act gives powers to the Council Speaker or Chairperson to determine the place for the meetings, including those in camera, if discussing "matters of confidential" nature. The confidential matters are not defined and their determination is left to the discretion of the Speaker and or Chairperson of Council.

Practice

In the practice no explanation is given when the press is locked out, except the usual saying that the matters to be discussed are not for public consumption.

Are there clear criteria restricting the circumstances in that city/town councils can exclude the press and public?

Yes. IGG and the Auditor General have national coverage legally but in practice these institutions cover particularly central government and a few government agencies.

Practice

Instances exist where the IGG and Auditor General have failed to cover some government agencies because they are treated as classified. There is also failure of some Government projects to submit their books in time. Sometimes lack of capacity due to lack of staff and equipment has constrained IGG and Auditor General's smooth operations.

Do national agencies with a remit to deal with corruption (anti-corruption agencies, ombudsmen, supreme audit institutions, and so on) work at regional or local levels and are there specific agencies with regional and local responsibilities?

Yes. The IGG coverage of district level is constrained by lack of personnel and facilitation at present. He only operates at regional level.

Practice

Generally speaking, impact of these institutions is felt at the central level and to some extent the regional level. The impact of these institutions at the local level is basically minimal or non-existent.

Progress with Government Strategy

Has the government announced an anti-corruption strategy and a timetable for implementation?

Yes.

How much of the strategy has been implemented? Is the strategy at national level or regional/local level?

The government developed a three-year (2000-2003) Action Plan and Strategy to fight corruption in Uganda. The Action Plan proposes the following actions/strategies:

- Planning, monitoring, co-ordination and initiation of anticorruption commitment by government.
- Corruption preventive strategies.
- Corruption reactive strategies.
- Creation of an environment enabling active civil society participation in anti-corruption.

Practice

The government strategy/action has been implemented slowly by the IGG, DEI, DPP, Judiciary and other institutions of good governance due to financial constraints, lack of adequate staffing, and lack of materials and equipment. The pace needs to be improved. Government anti-corruption strategy has tended to be a concentrated at national and

regional levels by and large. Little effort is evident at the local district levels let alone the grassroots.

Is the government meeting its own timetable?

Yes.

Practice

Government is meeting its own timetable under various constraints ranging from lack of technical staff, lack of personnel, lack of equipment & materials and lack of facilitation. The speed is notably slow.

Donor Anti-Corruption Initiatives

Which multilateral and bilateral donor agencies are based in your country? What type of anticorruption initiatives have they supported?

Many.

What types of anti-corruption initiatives have they supported?

These range from investigation training through to service delivery surveys.

Are there any examples of donors co-operating or co-coordinating their programmes?

Yes. There are a number of multilateral and bilateral donors in Uganda including Irish-Aid, European Union, USAID, DANIDA, the Netherlands Embassy, the Australian Development cooperation, the World Bank, DFID, the British Council, the German Development Cooperation (GTZ), the German technical Cooperation (DED), Japanese Development cooperation (JICA).

The EU Human Rights and Good Governance Programme covers all local governments, DFID supports many government programmes, GTZ, USAID, MS-Uganda support anti-corruption awareness campaigns, and anti-corruption drama performances.

Under the PAF and SFG grant to government (basket funding system), the EU spearheaded the possibility of donor co-operation to fund an anti-corruption monitoring programme for the PAF at all district levels countrywide. The donors have since formed what is called the Donors Consultative Group (DCG) that meets annually with the government. The donors have also developed a good governance donor's matrix, which is intended to serve as the basis for donor funding in this area, and at the same time serve as an evaluation yardstick for the government's good governance strategic objectives.

Future Research and Donor Support

Can key areas or issues be identified in terms of corrupt activity that the research for the report has demonstrated as requiring immediate attention, and which are they?

Yes. There is a lot of procurement-related corruption especially at the local government level, i.e at district level, taking the form of embezzlement, conflict of interest, & misappropriation of public funds. This has been attributed to the present procurement regulations 2000 being deficient, or having loopholes, hence the observed corruption. Both government and donors, at present, seem to agree that the enactment the Public Procurement and Disposal of Public Assets Bill is high priority. Efforts to consult civil society regarding this proposed law are in high gear. But this still remains a key area that requires immediate attention.

Cognizant that it is local leaders that are mostly implicated in this kind of corruption, it would be prudent if the civil society capacity to hold or demand accountability could be enhanced through a massive anticorruption campaign by the CBOs, NGOs and CSOs. This would ensure aggressive monitoring of the School Facilitation Grant and the Poverty Alleviation Fund money which is generally available under the poverty alleviation programme at local government level.

Is there a particular aspect of corrupt activity either particular to the country concerned, or significant in terms of effect or impact, that would require more in-depth research?

Yes. Conduct a study on corruption linked to vote buying and election violence and other related election malpractices in the electoral process and make recommendations.

Is there a particular approach or initiative to combating corruption that may be considered for further research or study as an example of best practice?

Yes. An anticorruption public information service (on radios, and public notice boards in community centres, churches) that leads to the creation of community based PAF or voluntary accountability committees to act as watchdogs at the grassroots to monitor public projects' funds. This is being successfully piloted by Uganda Debt Network and Transparency Uganda in some the districts.

Another initiative/approach is the Report Card methodology. This involves conducting routine corruption surveys in public service departments and publicizing it in the media (print and radio). This serves as way of warning the persons concerned and at the same time alerting civil society to what is happening, so that they are more prepared to fight corruption whenever they encounter it.

Can key areas or issues relating to possible anti-corruption initiatives be identified as requiring donor support?

Yes. There is a general absence of investigative skills among the journalists i.e those working for government media and private media. Erroneous reporting or simply inadequately researched issues (corruption related or not) have been reported, many times leading to a lot of friction between individual journalists/ media houses and the

government. The most recent incidence is when the government closed the Monitor Publication Ltd (the only daily private paper) for two weeks on grounds of erroneous reporting. Conducting training in investigative journalism is an anticorruption initiative requiring donor support, but should lead to greatly improve corruption reporting, based on evidence and well-researched facts.

Can key areas or issues relating to anti-corruption initiatives be identified in terms of forming the basis for potential donor prioritization, sequencing, co-operation and co-ordination?

Yes. In descending order of urgency, the following can be identified as anticorruption initiatives forming the basis for potential donor cooperation:

- Promotion of the enactment of the Public Procurement and Disposal of Public Assets Bill which is before Parliament.
- Promotion of continuous but voluntary monitoring by civil society of all public projects' funds. Presently School facilitation and Poverty Alleviation Funds under the poverty Eradication Programme need proactive monitoring rather than the "wait and see" attitude. Donors to fund NGOs, CBOs & CSOs to do this work.
- NGOs, CBOs & CSOs to be facilitated to conduct through their networks a massive anticorruption and sensitization programme countrywide.
- Facilitate the enforcement and implementation of IGG Act 2002 and Leadership Code Act 2002. Two options exist. The IGG staff numbers need to be increased in order to handle the task effectively. The quality of staff needs to be improved through expert training plus the computerization of the assets declaration forms. The other option is to facilitate the already established NGOs' & CBOs' network operating at the grassroots so that they can help with declared assets verification.
- The Auditor General (AG) is presently constrained by staffing, equipment and financial problems. Donors would probably consider cooperating in this area so that the AG's services could be extended to the districts and to the grassroots in particular.