



National Integrity Systems

Transparency International Country Study Report

Uganda 2003

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The *National Integrity Systems TI Country Study Report Sierra Leone 2004* was made possible with the funding of the UK Government's Department for International Development.



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Acknowledgements

Sincere thanks go to the following persons who contributed in various ways to this country study of the National Integrity System of Uganda:

Mr. Wafula Oguttu, Chairperson, Transparency International Uganda

Mr. Olobo Martin, Secretary to the Inspectorate of Government

Mr. Okumu Martin, Public Relations Officer, IGG Office, Kampala

Mr. John Suuza, Senior State Attorney, Directorate of Legal Advisory Service, Office of the Attorney General

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Mr. Sekono Vincent, Permanent Secretary, Ministry of Local Government

Mr. Vincent R. Rubbermaid, Secretary, Uganda Judicial Service

Mr. Ashaba Ahebwa, Director of Education, Directorate of Ethics and Integrity

Mr Kafuko Ntuyo, Chairperson, Uganda Media Council

Ms Reste Mbabazi of COM-TEC Ltd for typing the manuscript

Special thanks go to Transparency International (Berlin) for providing the funds and guidance in the production of this study.

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Abbreviations

ACCU	Anti Corruption Coalition Uganda
AG	Auditor General
CAO	Chief Administrative Officer
CBO	Community-Based Organisation
CID	Criminal Investigation Department
CSO	Civil Society Organisation
CTB	Central Tender Board
DANIDA	Danish International Development Agency
DEC	District Executive Committee
DEO	District Education Officer
DEI	Directorate of Ethics and Integrity
DFID	Department for International Development (UK)
DP	Democratic Party
DPC	District Police Commander
DPP	Directorate of Public Prosecutions
DSC	District Service Commission
DTB	District Tender Board
DTPC	District Technical Planning Committee
EC	Electoral Commission
ESO	External Security Organisation (Army based)
FY	Financial Year
GDP	Gross Domestic Product
GTZ	German Technical Cooperation
HoD	Head of Department
HURICO	Human Rights Concern
IGG	Inspectorate General of Government
IGP	Inspector General of Police
ISO	Internal Security Organisation
JSC	Judicial Service Commission
KCC	Kampala City Council
LC	Local Council
PAC	Public Accounts Committee
PAF	Poverty Alleviation Fund
PE	Procurement Entity
PPOA	Political Parties and Organisation Act
PSC	Public Service Commission
PSRP	Public Service Reform Programme
RCTB	Reformed Central Tender Board
RDC	Resident District Commissioner
RSA	Resident State Attorney

RSP	Resident State Prosecutor
SIDA	Swedish International Development Agency
SWIPCO	Swiss Procurement Company
UCBL	Uganda Commercial Bank Ltd.
UCPA	Uganda Consumer Protection Association
UDN	Uganda Debt Network
UEB	Uganda Electricity Board
UFEL	Uganda Fisheries Enterprises Ltd
UGX	Uganda Shillings
UHRC	Uganda Human Rights Commission
UNDP	United Nations Development Programme
UPC/KY	Uganda Peoples Congress/ Kabaka Yekka (Conservative Party) Coalition
UPDF	Uganda People's Defence Forces
URA	Uganda Revenue Authority
URC	Uganda Railways Corporation
USAID	United States Agency for International Development
USD	United States Dollars
UTV	Uganda Television

Uganda

Executive Summary

Uganda has an elaborate national integrity system (NIS) to fight corruption and rebuild ethics and integrity among its people. The institutions under the NIS in place include: executive, parliament, judiciary, the inspectorate general of government (IGG), the auditor general, directorate of public prosecutions and the directorate of ethics and integrity. In addition, reforms such as decentralisation and the Public Sector Review Program are steps towards building a strong national integrity system in Uganda, while civil society and the media have been able to take centre stage in nurturing a strong national integrity system. The above institutional framework is a result of the pragmatic policies of the National Resistance Movement (NRM) government, which in the early days of the regime demonstrated a keen interest in fighting corruption. This was reflected in the Ten Point Program they adopted upon gaining power in 1986.

However, corruption is still deeply rooted in Uganda's culture and is threatening the successful implementation of government programs such as the Poverty Eradication Action Plan and the wider effort to build a democratic society. The major causes of corruption in Uganda include poor service conditions of the public sector, weak enforcement of anti-corruption legislation, extensive discretionary powers of public officials and social and cultural norms that tend to glorify the corrupt. Anti-graft watchdog institutions lack adequate staff and funding and there is a general lack of political will to take punitive measures and enforce anti-corruption practices in public dealings.

The constitution guarantees autonomy of the inspectorate of government, the directorate of public prosecutions, the legislature, the judiciary, the attorney general's office and other government institutions. It also provides for the Leadership Code of Conduct and punitive measures for non-compliance. However, the executive as an institution is generally over-powerful, resulting in a lack of independence for some NIS pillars and institutions. The judiciary, for instance, is to a large extent independent but receives a lot of open negative criticism from the president whenever judgment of cases filed against the state does not favour the latter. Members of parliament who are appointed to ministerial posts continue to represent their constituents in parliament, which compromises their representative obligations.

The IGG, which also doubles as the ombudsman, suffers from capacity problems both financially and in human resource terms, as well as in the computerisation of assets declaration details of public officials, designed to increase transparency and efficiency. This has been worsened by the non-implementation of its reports and recommendations.

The Directorate of Public Prosecutions on the other hand is ineffective when making charges against government heavyweights implicated in corruption. This is perhaps one of the reasons why few corruption cases have been prosecuted. Reports and recommendations of the auditor general, just like those of the IGG, have rarely been implemented, or have been implemented with piecemeal strategies.

The civil service suffers from a general lack of independence, as most of its top servants are appointed at the discretion of the president. The auditor general lacks access to classified expenditures and has no powers to ensure the arrest or prosecution of an officer found wanting in the way he/she dispensed public funds under his/her charge.

The contribution of the media in unearthing corruption cases in public offices has been tremendous, but there is a lack of serious follow-up on the issues raised and the actions taken. Various commissions of inquiry have been instituted to investigate and provide recommendations on various high-profile corruption scandals, but the findings are never published. Some of the reports of the commissions of inquiry have suffered setbacks as they are nullified in courts of law.

Local government is currently the corruption hot spot, and there is a general feeling that decentralisation has only helped decentralise corruption. Through decentralisation, local government officials were given enormous powers in resource allocation, recruitment and award of contracts. This has accelerated instead of reduced corruption.

Under the "Movement System," political parties are constitutionally banned and prohibited from organising national delegation conferences and rallies as well as from opening upcountry branches. This denies them the chance to provide the checks and balances that are vital for the building of democracy. In addition, the contribution of civil society in monitoring the implementation of and sensitising people about government programmes is still generally low, and much of Ugandan society are ignorant of their rights and entitlements. This gives politicians and those in public office the latitude to be corrupt.

In conclusion, the challenges of building a strong national integrity system in Uganda and a broader anti-corruption campaign are not in policy per se but in practice. The various deficiencies outlined above, especially in the three arms of government, should be addressed to manifest a clear separation of powers. Punitive measures should be taken against people who breach legal provisions such as the Leadership Code Act, the Procurement Guidelines, the constitution and other legal provisions. This should be irrespective of their position or status. Government should be seen to demonstrate the will to fight corruption, as opposed to merely creating a perception of its intentions to fight corruption.

Country Overview

Political History

Uganda is governed under the 1995 constitution, which inherited a national integrity system from the colonial government. The 1962 independence constitution established the first parliament of Uganda, which was partly elected and partly nominated. The independence constitution distributed the legislative powers. It conferred certain powers to the federal governments such as the power to legislate on offices of rulers, their powers, obligations and duties.¹ However, the bulk of legislative powers were reserved for the central government.

Since independence, the history of Uganda has been characterised by political and constitutional instability, which accelerated the crumbling of political and integrity systems in the country. In 1966 the independence constitution was abrogated and in 1967 a republican constitution adopted. This constitution maintained a multiparty system of government. Parliament under the republican constitution was the Second Parliament of Uganda. Although the then constitution provided for elections, they were not held due to a military coup that took place in January 1971. From then to 1979, the Ugandan parliament was non-existent; the country was governed under the military dictatorship of Idi Amin.

Following the overthrow of the military regime in 1979, Uganda set up an interim parliament known as the National Consultative Council. It was initially composed of 30 members who were elected at Moshi, Tanzania, but was later expanded to 120 members. The interim parliament continued to be the supreme legislative body until general elections were held in 1980. This was the third parliament of the Republic of Uganda.² When the National Resistance Movement (NRM) government under President Yoweri Museveni came to power in 1986, one of its first moves was to ban political parties, which he held largely responsible for Uganda's past problems. He adopted a "no-party system" under which every Ugandan became a member of the NRM, also known as "the Movement". The Movement system was designed to prevent future ethnic conflicts and divisions. However, rather than a no-party state, Uganda became a de facto one-party state.

Current Political Context

The government is headed by a president, who is elected by universal suffrage for a renewal term of five years. The country has a parliament, composed of both directly elected members through universal suffrage and also members elected through colleges such as the representatives of women, workers, people with disabilities and youths. There are also members of parliament nominated by the president.

In June 2000, a referendum was held for the people to choose between the Movement system and a multiparty system; they voted in favour of the retention of the Movement system of government. In the same year, the Political Parties and Organisations Act no. 8 was passed by parliament, which further restricted the operation of political parties in Uganda. However, political parties representatives contested this in the constitutional court (Court of Appeal) (Semogerere and two others vs. Attorney General, Constitutional Petition No.7/2000), challenging the manner in which the Referendum Act 2000 had been passed in parliament and its constitutionality. They argued that the act had not been passed by a parliamentary majority vote as is required by parliamentary rules of procedure and the constitution of the Republic of Uganda. The court ruled in favour of the petitioner. However, effects of the decision were quickly mitigated by the sixth parliament through a change in the rules of procedure of parliament and by backdating them to have taken effect just before the passing of the Referendum Act 2000.

Another attempt to revive multiparty democracy came when leaders of the opposition filed a case in the constitutional court challenging the constitutionality of the Political Parties and Organisation Act (PPOA) 18/2002, cases no. 5/2002 (Paul Kawanga Semogerere and five others vs. Attorney General and No. 7/2002; Dr. James Rwanyarare and nine others vs. Attorney General). The constitutional court ruled in favour of the petitioners, ordering

the stay of sections of the PPOA that required political parties to register within a stipulated time frame or else cease to be considered political parties. The parties involved were the Democratic Party (DP) and United People's Congress (UPC). These were landmark cases that set a precedent for injunctions/stay against the government.

Macro Economic Reforms

The World Bank (2001) notes that the paramount instrument in Uganda's successful post-conflict macro-economic management has been its fiscal policy. The government has achieved peace and price stability over the years. It is presently targeting investment and behavioural change, although the World Bank (2001) has observed that these might be difficult to accomplish.

The macro-economic policy has faced three trades-offs:

- Between short-term fiscal adjustment monetary measures in the face of spending pressures from some sectors of the government.
- Between the maintenance of the spending allocations and of budget aggregates. Amidst inflation control since 1992, aggregate spending levels have been maintained, when necessary at the expense of sector allocations.
- Between the volume of foreign aid inflows to finance the budget and the impact of foreign aid on the exchange rate.

The annual rate of growth of real GDP in the 1990s averaged 6.8 percent, while per capita income rose by over 65 percent, from USD 200 in 1990 to USD 330 in 2000. This contributed substantially to poverty reduction. The government reports that the percentage of the population living below the poverty line has dropped from 56 percent in 1993 to 35 percent in 2000.³

The World Bank (2001) economic analysis further indicates that regional integration would only give Uganda opportunities in the food production and service industries and regional trade. Therefore future sectoral growth needs to be intensified in agriculture service exports to the region and new agro-based international exports. This however can only be possible if the government undertakes deliberate institutional and infrastructural improvements in the sector.

Progress in refunding and privatising public utilities has been slow. The public utilities present a heavy fiscal burden and yet provide poor services. Privatisation has also suffered from lack of transparency and corruption in some transactions.

Future sustainability of the apparent growth rate is envisaged in the higher share of investment and export growth and diversification. Therefore, policy should target technological change, private investment and export growth, and efficient engagement of private and public capital.

Present NIS Summary

The constitution (1995) guarantees the power of government in three organs: the executive (Chapter 7), the legislature (Chapter 6) and the judiciary (Chapter 8). It further establishes other organs such as local governments and confers upon them the powers to enact laws in the form of by-laws. The challenge however remains of how to maintain this separation of powers without the executive usurping the powers of other organs.

The presidency of Uganda has turned over eight times since independence, generally by the gun, before the 1995 constitution came into force. The 1995 Constitution provides for a president elected by the people by universal adult suffrage through a secret ballot every five years. The current president, H.E Y.K. Museveni, was elected to his second and last constitutionally permissible term in March 2001. The president is the head of government, head of state and commander-in-chief of the Uganda People's Defence Forces (UPDF) and the Fountain of Honour. All executive power is vested in him.

Listed below are some of the president's powers:

- To initiate legislation.

- To assent to bills passed by parliament before they become law.
- To constitute and abolish offices in the public service.
- To take over district administrations i.e. abolish district local government administration; parliamentary approval is only required after 3 months.
- To negotiate and sign international agreements or delegate the powers to do so.
- To determine the number of ministries hence the number of ministers to appoint, at his discretion. The constitutional requirement for parliament's approval, as a check measure, is presently too weak to restrain the powers of the president, which include establishment and dissolution of government ministries and departments at his discretion.
- To declare state of emergency and war.
- To grant prerogative of mercy and authorise the death sentence by signing death warrants.
- To appoint key office holders in the public service, government ministries/departments and statutory corporations and parastatals where the government has shares.

The cabinet⁴ comprises the president, the vice-president and a several ministers. It formulates government policy and supervises policy implementation. Cabinet ministers (or ministers of state in the case of absence of a cabinet minister) oversee the functions of the ministries under the direction of the President.⁵

There is no provision for a prime minister in the 1995 Constitution. The prime minister is chosen and appointed by the president, as is the vice president and some other ministers. There is no provision for electing ministers. The president can appoint ministers from elected members of parliament or persons qualified to be elected members of parliament on his sole discretion upon approval by parliament. Cabinet ministers attend parliament as ex-officio members if they are not elected members of parliament (although ex-officio ministers cannot vote they are governed in parliament by its rules and procedures).

While ministers are responsible for making policy and directing its implementation, civil servants implement all ministerial activities. The head of the civil service is the secretary to the cabinet, appointed by the president in consultation with the Public Service Commission.⁶ The permanent secretary is the top civil servant and also accounting officer in each ministry/department (Article 174 of the constitution). There are separate and partially autonomous service commissions, but they come broadly under the executive branch, especially in terms of appointments.

Uganda operates a local government system of governance based on the district as a unit (Article 176). The district is headed by a chairperson (Article 3) and endowed with a speaker with similar functions to those of the speaker of parliament. Every district has an elected local government council equivalent to parliament (Article 180). The local government council is the supreme district authority, with both legislative and executive powers. A district executive committee (DEC)⁷ exercises the executive powers of the council.

The chief administrative officer (CAO) is the chief accounting officer of a district under the local government system (Article 188). He/she is appointed by the District Service Commission (DSC). The attorney general, the auditor general, the directorate of public prosecutions (DPP), the police, the Uganda People's Defence Forces, the directorate of ethics and integrity (DEI), the IGG, the Uganda Human Rights Commission (UHRC), the prison services, the intelligence services, the Chieftaincy of Military Intelligence, the International Security Organisation (ISO), the External Security Organisation (ESO), the National Security Council, institutions of traditional or cultural leaders (Kyabazinga, Kabaka, Omukama etc.), the Public Service Commission, the Health Service Commission, the Education Service Commission, the Law Reform Commission, the Disaster Preparedness and Management Commission, the solicitor general, local government, the Electoral Commission, the National Development Agency and the public service etc., all fall under the executive arm of government, although many of them have district and regional offices embedded within the local government system.

The Uganda Police, a unified central force headed by the inspector general of police (IGP), maintains law and order. The police service is highly centralised save for the Local Government District Administration Police, which is limited to individual districts. The president appoints the IGP and all the commissioners and assistants. He also promotes all officers to the rank of assistant superintendent and above.

The constitution of Uganda in Chapter 8 provides for the establishment of a judiciary, charged with the functions of:

- Interpretation of the laws of the land;
- Exercise of judicial power and
- Administration of justice to peoples of Uganda.

Article 129(1) of the 1995 constitution provides that the courts of judicature shall comprise: the Supreme Court of Uganda; the Court of Appeal of Uganda; the High Court of Uganda; and such subordinate courts as parliament may by law establish, including Qadhis' courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by parliament. The Supreme Court is the final court of appeal and comprises the chief justice and six other judges. It has jurisdiction to hear and determine appeals in constitutional, civil and criminal matters and it is the only court with original jurisdiction to hear and determine presidential election petitions.

The High Court on the other hand has unlimited original jurisdiction in all matters (civil, criminal and election cases) under any law and such appellate and other jurisdiction as may be conferred on it by the constitution or any other law (Article 138). Presently there are 45 judges including the chief justice and deputy chief justice.

At every district headquarters, there is a subordinate court ordinarily with jurisdiction limited to the district or sub-county for which it is constituted. There are different grades of magistrates, starting from the lowest to the highest as follows: grade II magistrates, grade I magistrates; chief magistrates; principal chief magistrates, resident judge and principal resident judge. Only the grade II magistrates are not professional (i.e. trained lawyers enrolled to the High Court). The subordinate courts handle the bulk of criminal trials. Local courts handle matters involving customary law and rarely deal with criminal trials or statutory law. The courts have power to review both legislative and executive actions.

The Uganda constitution also provides for a legislature⁸ comprising more than 304 members of parliament (MPs). Of these, 214 MPs are directly elected to represent constituencies, and there are 56 MPs women representatives, 10 army representatives, 5 youth MPs, 5 workers' representatives, 5 persons with disabilities, and 10 nominated ex-officio MPs. These are assigned to make laws, assess and evaluate the operations/actions of government (Article 90 [3]) and approve government budgets (Article 155).

Uganda has a flourishing media industry following the freedom of expression that was ushered in when the NRM government took over power in 1986. Since then, many privately owned radio and TV stations and newspapers have sprung up. The TV industry has 5 TV stations of which only 1 is state owned (UTV). The remaining 4 are privately owned. There are a number of commercial, religious and community FM radio stations that have started to compete with the traditional stations such as Capital FM (91.3) Radio and Central Broadcasting (88.8 FM) Service (CBS), which have reasonable coverage.

There is one state-owned newspaper, *The New Vision*, which has 4 sister papers in local languages (Bukedde, published in Luganda; Orumuri, published in Runyankole; Rupiny, in Luo and Etop, in Ateso. The privately owned newspapers include the *Daily Monitor*, *The Weekly Message*, *The Sun Rise*, *The East African* and *Red Pepper*, a tabloid.

The relative media freedom has also enabled the mushrooming of "outside broadcasting", popularly known as "Ekimeeza" – the people's parliament. In these programmes, the public are allowed to discuss and share their views on topical issues that affect them. However, the government has occasionally made threats to regulate the conduct of the media. An example is when the media council prompted a move to enforce all media laws as a means to bar media houses from engaging in outside broadcasting.⁹ This was after the outside broadcasting talk shows became very critical of government.

Political Party

Uganda has a monolithic system of government called the Movement system based on the ideology of individual merit i.e. everyone in their individual capacity has "equal rights" to stand or contest and be elected into political office. Presently the Movement system operates like a party. It has a Movement secretariat headed by a national political commissar and a national executive committee (NEC). NEC organises delegates' conferences for the Movement to elect its chairperson/presidential candidate. It also advises on which candidates among its members should be fielded for various elections at various levels such as parliamentary elections.

Other political parties do exist, although they are barred from engaging in activities such as opening up branches and organising campaign rallies, as stipulated in the Political Parties and Organisations Act 2002. Examples of the parties include Reform Agenda, DP, UPC, Free Movement, JEEMA among others.

Corruption Profile

One of the causes of frequent change of governments in Uganda was the problem of corruption. In the regimes prior to the NRM, the problem of corruption was greatly rooted in the administration and the military without a clear formula of reprimanding those who perpetuated the problem. When the NRM government assumed office in 1986, tackling corruption was listed as point no. 1 on its Ten Point Programme. There are three types of corruption in Uganda: petty corruption (usually involving amounts of small monetary value); bureaucratic/grand corruption; and electoral corruption.

Forms of Corruption

Petty Corruption

Petty corruption usually takes the form of paying bribes to obtain services and affects mostly the police, district administrations, schools management/administration and public service workers.¹⁰

The effect of petty corruption is that those who cannot afford to pay the bribes either get delayed services, are denied services they are entitled to or are deprived of their rights. As a result, a gradual loss of confidence in government institutions brews within the society. For example, due to lack of trust in the judiciary, it is the trend for those who lose cases to appeal to the Court of Appeal and, not surprisingly, most appeals have been successful.¹¹ The number of cases handled by the IGG in this regard are reflected in Table 1.

It can be deduced from the table that corruption in local government still remains high, as demonstrated by the complaints reported from local government departments, including sub county chiefs (60), tender boards (91), Kampala City Council (KCC) (137), town council and municipals (187), local councils (282) and the district administration, registering the highest number of cases for the period under review (774).

Grand Corruption

Grand corruption involves large sums of money i.e. exceeding UGXUGX 20 million according to the IGG. It occurs in many forms including commissions paid or promised by private sector companies in order to win government contracts; commissions paid to procurement officers, especially those in the military and in the privatisation of state-owned enterprises; and bribes paid to approve shady purchases of equipment and dead stock. Bribes are paid to clear goods through customs (URA), for business licenses and for release of payments from government.

Other forms of grand corruption include misappropriation of public funds, commissions or bribes paid for signing loan agreements or for authorising development projects.

Examples of exposed grand corruption in Uganda include:

- Cephas Kasozi, M.J. Echo and C. Onegaodeo, all immigration officials at Vurra border in Arua district, issued various travel documents to various persons, out of which they collected government revenue to the tune of UGXUGX 20 million. The trio receipted the money but did not hand it over to the immigration department.¹²
- A director of the East African Civil Aviation Academy (Soroti Flying School) with three other staff sanctioned and paid UGXUGX 62 million to various officials at the academy, pretending that they were payments made to various agencies. All the requisition documents were forged. The IGG prosecuted and they were convicted in Court (IG Ref. TS. 268/96. court Ref. CRC Ms15/2000).¹³
- A supervisor of works in Busia District obtained money amounting to UGX 78 million from the district works department, allegedly for administrative expenses incurred in the course of supervision, but presented accountability not connected

Table 1 Number of Corruption Complaints by Sector

	July-Dec 2000	Jan-June 2001	July-Dec 2001	Total
District Administration	394	219	161	774
Police	304	233	100	637
School Head of Teachers and BOGs	293	145	76	514
Ministry of Public Service	152	119	84	355
Private Organisations	81	156	127	364
Local Councils	143	57	82	282
Ministry of Education DEO	65	52	42	159
DEO	84	26	32	142
Town Council/Municipals	38	48	101	187
KCC	56	20	61	137
Water, Lands and Environment	34	40	56	130
Tertiary Institutions	69	40	47	156
Tender Boards	50	11	30	91
Admin. General	47	13	33	93
Banks	40	15	16	71
Ministry of Defence	19	27	38	84
Ministry of Works	34	11	12	57
Hospitals	25	17	16	58
Min. of Gender and Labour	28	12	10	50
UEB	25	14	17	56
Prisons	28	10	15	53
URA	25	10	5	40
Members of Parliament	19	14	3	36
Custodian Board	25	8	6	39
Electoral Commission	22	10	11	43
Sub-County Chiefs	-	31	29	60
NGOs	22	9	16	47
Private Security Agencies	25	4	7	36
Privatisation Unit	22	6	13	41
URC	9	18	15	42
Health Ministry	9	17	6	32
DPP	-	-	5	5
UCC	-	-	5	5
Prime Minister's Office	-	-	2	2
Ministry of Local Government	16	4	34	54
Ministry of Agriculture Forestry Department	16	3	12	31
Uganda Posts Ltd	12	4	9	25
NSSF	3	12	20	35
IGG	7	8	3	18
District Land Board	-	14	70	84
Uganda Human Rights Commission	6	6	3	15
Civil Aviation Authority	9	3	6	18

Source: IGG Reports; 2000 and 2001.

to supervisory activities, an indication that the money was not used for the intended purpose (IGG Report, 2001).

- A permanent secretary in the prime minister's office and the financial controller authorised and paid UGXUGX 96 million and 169 million to a proprietor of Dolima Associates/agent of ODFA Holdings Ltd for the supply of linseed oil and furniture to schools respectively. These were not received, and yet the assistant CAO of Arua District wrote letters purporting to acknowledge receipt of non-existent property/goods (IG Ref.TS.36/99-Court Ref.Cr792/99).
- The CTB authorised the Defence Ministry (President's Office) to purchase two vehicles (Toyota Hiace 14-seater and Toyota Hilux double-cabin pick-up) from a local dealer at a (VAT inclusive) cost of USD 54,803. For unexplained reasons, the Defence Ministry instead bought one vehicle from the company, moreover at an inflated cost of UGXUGX 77 million, equivalent to USD 51,393.¹⁴
- There is often failure to remit revenue collected by government departments to the Treasury. For example, in 1994 over UGXUGX 90.7 billion of collected government revenue was not accounted for; in 1995 about UGXUGX 215.4 billion was not accounted for; in 1996 UGXUGX 222.2 billion was not accounted for; and in 1998 UGXUGX 200 billion was not accounted for (Auditor General [AG] Report, 1999; Uganda Debt Network, Sept 2002).
- The Auditor General's Report (2001) indicates that unaccounted for advances totalled up to UGX 2.5 billion for the fiscal year 1999/2000 alone. The worst offenders were the police with UGX 12.2 billion and the Ministry of Works, Housing and Communications with UGX 12.6 billion.
- According to the Auditor General's Reports (2000 and 2001), UGX 812 million plus USD 200 million was lost in 1999, while UGX 201 million plus USD 18,356 were lost due to fraud in 2000. It is not clear what percentage the above losses represent of the total government budget expenditure. However, it should be mentioned that due to the very high perceived level of corruption in the revenue and tax administration sector, the government recently instituted a commission of inquiry in to the Uganda Revenue Authority (URA), headed by Justice Julia Sebutinde.

Electoral Corruption

Electoral corruption is rampant in Uganda and manifests itself in the form of non-disclosure of sources of campaign funding, offering of material goods (sugar, salt, soap) to bribe the electorate, the victimisation, arrests and detention without trial of key persons of the opposition, lack of records of voters' cards, election campaign violence and abuse of public funds by the Movement in its referendum campaign (AG Report 2001 pp. 110 and 88).

Election malpractices were evident during the 2001 elections and were reported by NOCEM Group (National Organisation for Civic and Election Monitoring). The post-election period has witnessed a number of election petitions by losers contesting the results, hence costing the state a lot of money. For example, the Presidential Election Petition by presidential election runner-up Rtd Dr. Kiiza Besigye was heard in the Constitutional Court; several persons have petitioned the parliamentary elections results; and several local council (LC) V and LC III election results have been petitioned.

Causes of Corruption

- There is weak enforcement of anti-corruption legislation owing to incapacity of the institutions in terms of staffing, equipment and resources.
- The present Public Finance (Procurement) Regulations 2000 have very weak financial controls and there is marked disinterest by the relevant authorities in implementing even these weak controls.
- There are high levels of political patronage and cronyism arising out of the need to maintain the support of representatives of various ethnic and religious factions. As

a result, appointment and promotion to key public officials is more dependent on loyalty to the ideologies of the incumbent regime as opposed to competence.¹⁵

- There is a lack of political will to fight corruption. Government institutions set up to fight corruption are incapacitated through under-staffing, small budget allocations for their activities and the lack of actions on their reports. This discourages these institutions from effectively engaging in the anti-corruption crusade.
- Socio-cultural norms and practices compel public servants to subvert objectivity and fairness in favour of loyalty to family members, kinship and friends, leading to a high level cronyism in administration and service delivery.
- Poor conditions in the public services, including low salaries, have paved the way for corrupt practices with the aim of supplementing incomes and being able to earn a decent living.

Effects of Corruption

Corruption affects private investments in two ways: incidence (intensity) and level (frequency).

Incidence

The World Bank (2001) notes that in one survey conducted, more than three-quarters of firms (81 percent) indicated paying bribes. Firms pay bribes to public officials whose actions directly affect the firms' business operations. The amount paid depends on the profitability target of the firm. The same study stated that bureaucratic extortion models indicate that bribery slows firms' growth more than taxation.

Level

Bribery, according to the World Bank, puts a heavy burden of 7.9 percent on the total costs of firms. Of all the surveyed firms, 50 percent lost more in graft than in security; 70 percent of the firms paid more bribe money than corporate income tax; and 50 percent of the firms reported paying large bribes, more than investment. It was concluded that more investment (through expected profits) implies more bribes paid.¹⁶

Other effects of corruption include the following.

- Corruption has accelerated the already unsustainable debt burden. This is because borrowed money is often not invested; most of it disappears through corruption and thus failure to repay the debt.
- Corruption has crippled private investment. For example, many private banks have been forced to close e.g. International Credit Bank Ltd, Greenland Bank Ltd, Gold Trust Bank and the Cooperatives Bank Ltd. Many private companies have been liquidated while others have been deregistered.
- People have lost trust in political leaders and government institutions. This partly explains why the socially and economically disenfranchised rural poor, without access to complaints and investigation procedures, have succumbed to vote selling and lack of interest in reporting corruption.
- Due to corruption, the poor are denied access to government public services thus accelerating poverty among the people.¹⁷ Poverty in Uganda has been on the increase despite reports of a GDP growth rate of 6.5 percent per annum. Corruption in the judiciary, for example, makes "justice" inaccessible by the poor. Only wealthy persons can afford to sue, pay bribes and benefit. The protracted court delays cost the state a great deal and cause long-term damage to the economic life of the individuals involved in a given court case.¹⁸

The National Integrity System

Executive

The executive is the most powerful organ of government in Uganda. It is headed by a president who is also the head of state, head of government and commander-in-chief of the Uganda People's Defence Forces (UPDF) and the Fountain of Honour. Executive power is exclusively vested in the person of the president,¹⁹ who is elected by the people every five years through universal suffrage.

The president has enormous powers that have little if any checks and balances. The president is the appointing authority of all constitutional office holders. He also has the discretion to appoint extra-constitutional office holders such as ministers without portfolio, the Prime Minister and all commissioned ranks of the army, prisons and security agencies. He has the power to suspend and/or dismiss most of his appointees except for the chief justice and other judicial officers,²⁰ and the IGG.²¹

The president has powers to create and abolish offices in the public service and government ministries at his discretion without the approval of parliament. He has powers to pardon or relieve offenders, negotiate international agreements and accredit, receive and recognise ambassadors. The president has powers to appoint diplomatic representatives and consuls and ambassadors. He signs bills, issues proclamations and initiates legislation.²²

In the exercise of his duties the president enjoys immunity against civil and criminal court proceedings with respect to any act committed during his tenure of office. The immunity however ends as soon as he stops holding the position of president.²³ However, the 1995 constitution of Uganda provides for the impeachment of the president²⁴ by parliament when he has committed a serious violation of the constitution, abuse of office or gross misconduct and any other acts/omissions that are inimical to the economy or security of the country. The process can only be initiated by written notice to the speaker and signed by one-third of all MPs i.e. 101 MPs in the case of the current 7th parliament with a total of 304 members. The speaker copies the notice to both the president and the chief justice within 24 hours. The chief justice appoints a tribunal of three justices of the supreme court within seven days to investigate the allegations in the notice and report its findings to parliament. If the tribunal finds after investigations that the allegations are substantiated, then the speaker is obliged to table the motion before parliament. If parliament passes a resolution supported by two-thirds of MPs i.e. 202 MPs in the current 7th parliament, the president ceases to hold office immediately. If, however, after investigations the tribunal finds that the allegations are not substantiated, then the impeachment proceedings must stop immediately. The provision is intended to check presidential excesses but is a power that is intended to be exercised cautiously; hence the large majorities required to pass the relevant motions. This constitutional provision gives the opportunity for impeaching a president if he/she engages in gross corruption, given that he cannot be prosecuted in courts because of his immunity. But it is doubtful if this is possible in Uganda given the level of influence of the presidency on parliament.

The Presidential Prerogative of Mercy

The constitution of Uganda establishes a prerogative of Mercy by the president on the advice of a seven-member advisory committee chaired by the attorney general.²⁵ The other six members are "prominent" citizens of Uganda appointed by the president at his personal discretion. They are neither subject to approval by parliament nor appointed upon the advice of the any service commission. The six members serve for a maximum term of four years. Prerogative of Mercy Advisory Committee members can be removed if they become members of parliament, members of the Uganda Law Society or members of any district council in Uganda, or on grounds of inability to perform arising from infirmity of mind or body, misbehaviour or incompetence. In practice they have no tenure and are removed at the will of the president.

On the advice of the Prerogative of Mercy Committee, the president may:

- Grant a pardon to convicted persons, either free or subject to lawful conditions.
- Grant a respite either indefinitely or for a specified period from the execution of punishment imposed.
- Substitute a less severe form of punishment for the punishment imposed.
- Remit the whole or part of the punishment imposed or of a penalty or forfeiture otherwise due to government on account of any offence.

The constitution also provides that in case of persons sentenced to death for any offence, a written report of the trial judge(s) together with the case details shall be submitted to the advisory committee on the prerogative of mercy. Thus, this gives all death sentences a constitutionally sanctioned political consideration above the Supreme Court of Uganda. In 2003, the president released 92 convicted prisoners on the prerogative of mercy, including Lt. Mulindwa Birmumaso, who was serving a sentence of one year for embezzling public funds amounting to UGX 24 million at the Movement Secretariat where he was director for mobilisation.²⁶

Against all its good intentions, the Prerogative of Mercy can be abused. First and foremost, the integrity and moral standing of the advisory committee comes into serious question by excluding the parliamentarians, the people's representatives or the legal fraternity of Uganda save for the attorney general, who is more or less a political appointee of the president. In addition, the members of the advisory committee are not known except for the attorney general.

The Cabinet

The cabinet is a senior arm of the executive and consists of the president, vice president, and such a number of ministers as the president deems to be reasonably necessary for the efficient running of the state.²⁷

The function of the cabinet is to formulate and implement government policy and advise the president with respect to government policy and such other functions, as may be conferred to it by the constitution or any other law.²⁸ The president is not bound by the advice of the cabinet, although he is required to consult it on some matters, such as the declaration of a full state of emergency.²⁹ Ministers are in charge of running ministries or departments to which they are appointed, under the direction of the president.

Ministers of state are appointed to assist cabinet ministers in the performance of their work.³⁰ However, ministers of state have limited power. For example, they cannot deputise for cabinet ministers when the latter are absent at their ministries. All cabinet ministers and state ministers are appointed by the president from among members of parliament (both elected and nominated) at his sole discretion. They serve at the president's pleasure and can, therefore, be dismissed at any time.

Ministers are policy makers and overseers but civil servants do the hands-on implementation of government policy. The president appoints the secretary to the cabinet in consultation with the Public Service Commission (PSC). The cabinet secretary is not subject to approval by parliament and he or she may not be the top official of the public service.³¹

At the ministry level, the top civil servant and also controlling officer is the permanent secretary, who is appointed by the president upon advice of the Public Service Commission

The inspector general of police, attorney general, director of public prosecutions, solicitor general, defence force, government institutions such as the IGG, DEI, Human Rights Commission (UHRC), public service, education service, security/intelligence agencies (ESO, ISO) and the prisons service also constitute part of the executive branch.

Service Commissions

The constitution establishes all the service commissions including the Public Service Commission, the Education Service Commission and the Health Service Commission. It empowers parliament to prescribe and make laws providing for their structures,

procedures and functions and categories of its officers. It also determines the emoluments of the members of the commissions charged from the consolidated fund. The Public Service Commission is empowered by parliament to make regulations for the effective and efficient performance of its actions.³²

The PSC comprises a chairperson, deputy chairperson appointed by the president and seven other members.³³ The Education Service Commission (traditionally called the Teaching Service Commission) comprises a chairperson and two deputy chairpersons appointed by the president and four other members.³⁴ The Health Service Commission comprises a chairperson, two other persons appointed by the president of whom one is deputy chairperson and four other members.³⁵

All appointments to the service commissions run for four years and are subject to approval by parliament. In order to avoid double salary payment, the following categories of people are required to resign their positions upon being appointed to the service commissions: MPs, members of a local government council, members of the executive of a political party or movement secretariat and public officers.

The president may dismiss a member for inability to discharge the functions of his office, whether from infirmity of body or mind or misbehaviour or misconduct or incompetence. No procedures are laid down for removal. Thus members of commissions lack security of tenure and basically serve at the pleasure of the president. Generally, however, public officers enjoy protection from victimisation or discrimination, dismissal, removal or demotion in rank without just cause for any act done or attempted to be done in the course of faithful performance of their duties.³⁶

The main functions of these commissions are to appoint, discipline and remove from office any public officials in their respective areas of competence below the rank of head of department, undertake training of staff and determine the terms of reference and welfare of the public officers in their areas. The constitution requires the service commissions to advise the president in performing his functions of appointing, disciplining or removing from office the following officers:³⁷

- Permanent secretary, deputy permanent secretary, heads of departments.
- Ambassador, high commissioner or principal representative of Uganda in another country.
- Director of referral hospitals including Mulago and Mbarara Hospitals.

It is clear from these provisions that the president's powers over the public service are overwhelming. Not only does he appoint and dismiss members of the commissions but also controls the operations of the commissions. Even where the president is required to consult commissions before appointing top officials he is not bound by the advice rendered by the commissions. This considerably reduces presidential accountability.

The Judicial Service Commission (JSC)

The Judicial Service Commission is established by Article 146 of the constitution of Uganda and comprises a chairperson, deputy chairperson, one person nominated by the Public Service Commission, two advocates of 15 years' standing nominated by the Uganda Law Society, one judge of the Supreme Court, two members of the public, the attorney general as an ex-officio member, and a secretary of the commission.³⁸

All persons appointed to the Commission must be of high moral character and proven integrity. They must take an oath of allegiance and judicial oath upon assumption of office. The chairperson and deputy chairperson of the commission must be qualified lawyers of 15 years' standing and/or must have served as justices of appeal or judges of the High Court. The chairperson is barred from doing private practice while he or she holds office. The president, subject to approval of parliament, appoints all members of the commission.

The mission of the JSC is to establish and maintain independent and efficient machinery for administration of justice for all Ugandans through recruiting, training, motivating and disciplining judicial officers and promotion of public awareness of administration of and access to justice.

The vision of the JSC is an effective and efficient judiciary in Uganda and the promotion of law and order. The president may dismiss a member of the Judicial Service Commission for inability arising from infirmity of body or mind or for misbehaviour, misconduct or incompetence. In the performance of its functions, the Judicial Service Commission enjoys a great deal of independence from the direction or control of any person or authority.

The functions of the JSC³⁹ are to:

- Advise the president in performing his functions of appointing, disciplining or removing from office the following officers:
 - The chief justice, the deputy chief justice, the principal judge, justices of the Supreme Court, justices of appeal and judges of the High Court.
 - The office of the chief registrar
- Recommend on conditions of service of the judicial officers.
- Conduct educational programmes for judicial officers and administer campaigns for public awareness of justice.
- Provide a public complaint platform against the judiciary and recommend disciplinary actions against errant judicial officers.

Accountability of Public Officials to the Citizens

Constitutional National Objective No. 26 (iii) 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, of the laws of Uganda provides that citizens can sue the government for infringement of their civil rights through the attorney general. Chapter 4 of the constitution guarantees civil and political rights. Article 50(1) of the constitution permits any person who alleges that any of his guaranteed rights has been, is being or is likely to be contravened in relation to him to apply to the High Court for redress.

The High Court is empowered to make such orders, issue such writs and give such directions, as it may consider appropriate, including a habeas corpus, for the purpose of enforcing or securing the enforcement of the right in question.⁴⁰

There have been several cases in which citizens have sued the government. For example in *Samuel Kaggwa vs. Attorney General 1982 H.C.B 101*, the plaintiff sued the attorney general for unlawful arrest and detention. However these cases are insignificant given the widespread nature of civil rights violations. Few citizens sue the government because of:

- Ignorance of human rights by the majority of citizens.
- Fear of government officials as a result of lack of political consciousness.
- Prohibitive costs of litigation – most people are too poor to afford the court fees, to pay for investigation and pay lawyers to represent them.
- Fears of the costs involved in event of loss of suit in court.
- Very technical language of laws providing for fundamental human rights that the ordinary person cannot understand without the assistance of a lawyer.
- Lengthy court proceedings (especially civil cases).
- Ignorance of Article 50 (2) of the constitution, which grants *Locus standi* to the public with respect to public interest litigation relating to violation of other peoples' rights.

The constitution also guarantees administrative rights. Persons appearing before any administrative official or body have a right to just and fair treatment and may apply to a court of law in response to any administrative decision taken against him or her.⁴¹

In addition, apart from resorting to court action to challenge administrative decisions, aggrieved individuals can utilise administrative remedies. Public service regulations permit those dissatisfied with a decision made by officers to appeal to their superiors for redress in accordance with the chain of command existing in the particular department or ministry. Similarly, the Uganda Human Rights Commission (UHRC) is empowered to investigate at

its own initiative or based on a complaint made by any person or group of persons against the violation of any human right, and resolve, as a High Court, complaints of violation of human rights and freedoms.⁴² Reports for the UHRC indicate that people have been utilising these institutions to challenge decisions made by individual members of the executive. A total of 3,316 complaints were handled between 1998 and the end of 2001. Of these, 175 cases were set out for investigation in 2000, while 110 (63 percent) had been concluded by the close of 2000.⁴³

Corruption and corrupt practices are still rampant in the ministries and public enterprises, as reflected in the IGG report of 2001. There have been attempts at curbing corruption by state-established bodies like the IGG, the Public Accounts Committee of parliament, the Local Government Parliamentary Committee and the auditor general. However, the success of the above bodies in curbing corruption and corrupt practices has been slow due to political patronage, nepotism, influence peddling and a weak legal system.

In a further attempt to fight corruption and corrupt practices in government departments and ministries, the government has on several occasions over the years set up commissions of inquiry to establish the root causes of corruption and seek recommendations on how to redress the vice. Some of these commissions are:

- The Porter Commission of Inquiry into mismanagement of criminal cases by the police/Criminal Investigation Department (CID), DPP, and courts of law (1993).
- Ogoala Commission of Inquiry into mismanagement of funds by CAO Pallisa and Iganga respectively (1998).
- The Sebutinde Commission of Inquiry into corruption in the police Force (April 1999).
- The Sebutinde Commission of Inquiry into the purchase of inadequate food, junk helicopters, substandard army uniforms and other army procurement malpractices (2001) (see discussion under Public Procurement).
- The Porter Commission of Inquiry into the plundering the Congo resources.
- The Sebutinde Commission to has been investigating corruption in the Uganda Revenue Authority (URA) (from 2002 to date).

In addition, the president in his latest biannual address to the nation promised to appoint a commission of inquiry into the corruption in the judiciary in the year 2003.

What is most depressing from the above government efforts in the fight against corruption is that the completed reports by the appointed commissions take so long to be published. In addition, the reports of the probe commissions are never published in order to improve public awareness. Finally, implementation of the recommendations is slow where it has been undertaken, and at times it is not undertaken at all. Attempts by the current government to fight corruption in the NIS institutions (police, UPDF, DPP, civil service etc.) have remained ineffective to date and may demonstrate the fact that there is a lack of political will to fight corruption in Uganda. Overall, however, government efforts may be a positive development on the anti-corruption scene more generally.

Monitoring of Assets and Disclosure Provisions for Government Ministers and High Level Public Officials

The constitution establishes a leadership code of conduct for leaders and empowers parliament to enact a law to facilitate its implementation by the Office of the Inspectorate of Government.⁴⁴ Parliament enacted the Leadership Code of Conduct Act 2002, repealing the Leadership Code 1992. The purpose of the code is to:

- Provide a minimum standard of behaviour and conduct for leaders;
- Require leaders to declare their incomes, assets and liabilities;
- Put in place an effective enforcement mechanism and provide for other related matters.

The Leadership Code Act 2002 applies to the president and vice president; the speaker and deputy speaker; chairperson and vice chairperson of the Movement political system; the

prime minister and deputies; the national political commissar heading the Movement secretariat; the attorney general; ministers, deputy ministers and ministers of State; MPs; the director and deputy director at the Movement secretariat; political party/organisation national executives; district local government leaders (LC V chairperson and vice chairperson, LC III chairperson and vice chairperson, district and sub-county councillors, LC V and LC III speakers and deputy speakers); judges; president and deputy of the industrial court; magistrates; registrars of courts of judicature; inspector of courts; permanent secretaries; heads of government departments (division/section); presidential advisors and assistants; presidential aides (private secretaries in the president's office and state house); ambassadors and high commissioners.

It also applies to all officers in the UPDF; directors of ISO, ESO, heads of departments and their deputies; IGG, deputy and heads of departments (HoDs); IGP, deputy and officers above the rank of inspector of police; Resident District Commissioners (RDCs), deputies and assistants; CAOs, deputies and assistants; town clerks and assistant town clerks; treasurers and deputies and assistant treasurers; headmasters and deputies of secondary schools/tertiary institutions; members of service commissions and secretaries; URA commissioner general, deputy and all commissioners and all URA staff above the rank of assistant revenue officer; governor, secretary, deputy and HoDs in the Bank of Uganda and any other bank in which the government has a controlling interest; chancellor, vice, deputy, secretary and dean, wardens and all HoDs; auditor general and all staff above the rank of auditor; director/manager, HoDs of cooperative unions; Urban District Tender Board (DTB) members, sub-county chiefs and DSC; chairperson, board members, chief executive and deputy of a public body or HoDs, and members of the RCTB; all accountants of government departments and parastatals; and project managers/coordinator/administrators/financial controllers of government parastatals.⁴⁵

A major shortcoming of the Leadership Code Act 2002 is the omission of its applicability to the private sector and NGOs. Section 4 of the Leadership Code Act 2002 requires political leaders within three months after the commencement of the code and thereafter every two years, during the month of March, to submit to the IGG a written declaration of the leader's income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, children, and dependants without prejudice to the leader's spouse, children and dependants to independently own property; clearly stating how they acquired or incurred them, as the case may be.

It also makes it mandatory for leaders to declare their incomes, assets and liabilities just before expiration of their term of office if their term expires six months after the last declaration.⁴⁶ This means that a leader whose term expires five months or less after the previous official declaration is not expected to make another declaration at the time of handover of office. This provision leaves room for untold corruption in the last five months.

It is prohibited for any leader to be put in a position in which his or her personal interest conflicts with his or her duties and responsibilities, including:

- Involvement in matters in which he/she has a personal interest (spouse, child, dependant, agent, or business associate) or is in a position to influence the matter.
- Being in a position or giving services to a person or private body that is in conflict with his or her official duties.
- Lack of disclosure of personal interest in a matter in which he/she has interest before a board on which he or she is a member.

A breach of the code occurs when a leader:

- Delays in submitting a declaration i.e. submits a declaration after 30 days upon the expiry of the prescribed three months without justifiable reason.
- Falsifies the declaration of his/her income, assets and liabilities either by overstatement or by understatement, knowingly or by mistake.
- Fails without justifiable reason to submit his/her assets, income and liabilities to the IGG.
- Fails to respond to the IGG's request for clarification within 30 days after receipt of notice.

- Fails to treat a gift or donation received on any public or ceremonial occasion as a gift to the government or institution represented by the leader.

Penalties for breach of the code include:

- In case of falsification, the excess or undeclared property is confiscated and forfeited to government.
- In cases of delay or total failure to declare assets, conflict of interest, accepting a bribe, double employment or promise of post employment, the leader is dismissed or vacates office.
- In case of gifts/donations or hospitality, the leader, under the discretion of the IGG, may forfeit benefits equivalent to the monetary value of the gift/donation or hospitality received, be given a written warning or be dismissed from office.

While there are provisions for declarations of wealth and incomes, there is unfortunately no formal mechanism for verifying the accuracy of the statutory declaration of assets by presidential candidates, ministers, deputy ministers and public officials. In addition, these declarations are not accessible to the general public and the press. To stimulate accuracy, the declarations should be made public documents to enable the media to expose them so that the public can verify and be able to monitor the accuracy of the declarations.

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 requires that government i.e. permanent secretaries or departmental heads, should maintain an inventory of such gifts in their respective ministries/departments and copy the inventory records to the office of the IGG. In practice, however, public officials do not declare any gifts or hospitality. The top civil servants in ministries to this day keep no registers of gifts, donations or hospitality.

Provisions on Award of Contracts

The Public Finance (Procurement) Regulations 2000 do not permit ministers to award contracts or licenses. In order to fight against interference by ministers, award of contracts in line ministries (each of which constitutes an independent procurement entity) is by contracts committees. However, this is not free from influence. The minister, as immediate supervisor and head of the ministry, might have undue influence on the process of award of contracts.

Section 12 of the Leadership Code Act 2002 prohibits leaders, their spouses or agents, or private or public companies or business enterprises in which the leader, spouse or agent has a controlling interest to seek, accept or hold any contact with:

- A government or public body in which the leader directly participates in the decision making of its affairs.
- Any foreign business where the contract is likely to be in conflict with public interest.

Post-Ministerial Employment

Section 17 of the Leadership Code Act 2002 forbids ministers and all high-level public officials upon vacating office to act for or on behalf of any person, entity or association, offer advice or participate in a negotiation or case to which the government or public body is a party. Former ministers and high-level public officials are also prohibited by law to give advice to a client using information that is not available to the public concerning programmes or policies of government or a public body or department with which they had a direct or substantial relationship during the one year immediately prior to leaving office.

Powers of Sanction against Ministers (Parliamentarians and Non-Parliamentarians) and Administrative Checks and Balances

Parliament has the power to pass a vote of censure against any government minister by resolution supported by more than half of all members of parliament (i.e. more than 152 MPs in the 7th parliament). This can be passed on the grounds of:

- Abuse of office or wilful violation of the oath of allegiance.
- Misconduct and misbehaviour, mismanagement and incompetence.
- Physical or mental incapacity.

The censure proceedings are initiated by a petition to the president through the speaker, signed by not less than one-third of the members of parliament. They must give notice that they are dissatisfied with the conduct or performance of the minister and intend to move a motion for a resolution of censure, setting out the particulars of the grounds in support of the motion.

The president upon receipt of the petition will submit a copy to the minister in question. The motion for a resolution of censure is not debated until expiry of 30 days after the petition has been sent to the president. A minister in question is entitled to be heard in his or her defence during the motion.

In light of the powers to censure, the 6th parliament in 1996 investigated Ministers Sam Kutesa and Jim Muhwezi on allegations of corruption and corrupt practices i.e. abuse of office and mismanagement. This resulted in the censure of Jim Muhwezi, minister of state for education and sports (in charge of primary education) on 4 March 1998. One year later, Sam Kutesa Kahemba, minister of state for finance, planning and economic development in charge of investment and planning was censured generally for conflict of interest on 4 March 1999.

However, in the 2001 parliamentary elections, they were not restrained from standing for re-election. They stood and won elections in their constituencies. The president re-appointed them as ministers and parliament has not used its powers to block or reject their nomination. Muhwezi was appointed minister of health while Kutesa was re-appointed to the same position as before.

Legislature

Legislative power of the Republic of Uganda is vested in the parliament and consists of the president and the members of parliament. It is elected every five years and its main function is to enact law and check the administrative excesses of government activities. parliament is made up of four categories of people:

- The vice president and ministers who are either elected parliamentarians with full voting rights or ex-officio (if they are not elected parliamentarians). Although ex-officio ministers do not have voting rights, they are governed in parliament by its rules and procedures.
- Directly elected members from constituencies.
- One woman representative from each district.
- Interest groups namely youth, army, workers, and persons with disabilities.

Thus, the total number of parliamentarians is more than 300. The 7th parliament comprises 214 members elected from constituencies, 81 members elected from interest groups and 10 nominated members.

The parliamentary power to enact laws is derived from the constitution of Uganda, which is the supreme law of the land and has binding force on all authorities and persons throughout Uganda. The enactment powers include power to amend or revoke any law. Amendment powers conferred to parliament by the constitution regarding provisions in the constitution include alteration, modification or re-enactment with or without amendment or

modification for that provision and the suspension or repeal of a provision. Parliament can also replace one provision with another.⁴⁷

The constitution gives parliament the following powers:

- To regulate the acquisition and loss of citizenship by naturalisation.
- To implement policies and programmes aimed at redressing social, economic, educational or other imbalances in society.
- To protect the rights of widows and widowers to inherit property of their deceased spouses.
- To establish an Equal Opportunities Commission to enable implementation of the article on affirmative action for marginalised groups.
- To protect rights of persons to work under satisfactory, safe and healthy conditions, non-discrimination in payments for equal work and rest and reasonable working hours and holidays with pay.
- To prescribe the classes of information and procedures for obtaining access to information guaranteed by Article 41 of constitution.
- To regulate the performance of functions of the Uganda Human Rights Commission.
- To regulate the financing and functioning of the political organisations.
- To regulate the ratification of treaties, conventions, agreements and other arrangements between Uganda and any other international organisation or body.
- To prescribe the composition and functions of the National Planning Authority.
- To regulate the local government administration, finances and accountability.
- To regulate the operations of the Uganda People's Defence Forces.
- To prescribe the administrative structures of the police Force, prisons and intelligence services.
- To regulate the possession of firearms and ammunition.
- To enable the implementation of the IGG Act and Leadership Code Act and to determine the appropriate authority to enforce the code.
- To regulate all election processes in Uganda including registration of voters, the conduct of public elections and referenda.
- To regulate the imposition of any kind of tax.

Parliament also acts as a check on the administrative powers of the executive, including through the following powers:

- To allocate national public funds through approval of the National Budget and Appropriation Bill (see below).
- To determine emoluments of most public offices created under the constitution including emoluments of the members of parliament, and prescribe any offices, salaries and allowances.
- To change the political system in Uganda, under Article 74 (2). This can only be done in its fourth year out of the five-term period. District councils can be changed by resolution of parliament supported by not less than two-thirds of all members of parliament upon a petition supported by not less than a two-thirds majority of the total membership of each of at least half of all district councils.
- To extend and revoke a state of emergency declared by the president for a period not exceeding 90 days at a time.
- To impeach the president and censure ministers (see section on the executive).
- To demarcate and approve the boundaries of administrative/election constituencies and counties.
- To create and define the organs of the Movement political system.

- To approve most appointments to senior public offices including ministers, ambassadors and heads of diplomatic missions, the auditor general, the IGG, the solicitor general, the attorney general, chairpersons of commissions and commissioners, the chairperson of the National Citizenship and Immigration Board, the DPP, the IGP, etc. Through this process parliament can ensure that those appointed to the various positions have the requisite qualifications and integrity.
- To authorise government to borrow, guarantee or raise a loan for itself or any other public institution or authority.

The constitution however forbids or denies parliament power to enact a law establishing a one-party state in Uganda⁴⁸ and to pass any law to alter the decision or the judgment of any court.⁴⁹ Parliament also is restrained from initiating and passing on its own any bill on:

- Imposition of a taxation or alteration of taxation in any way other than reduction,
- Charging on the consolidated fund or other public fund of Uganda,
- Payment, issue or withdrawal from the consolidated fund or any other public fund of Uganda of any money not charged in that fund or any increase in the amount of that payment, issue or withdrawal and
- The composition of remission of any debt due to the government of Uganda.⁵⁰

Under Article 90 and Rule 117 of the rules of procedure of parliament, parliament appoints two types of committees: standing committees and session committees necessary for the efficient discharge of its duties. The members of the standing committees are elected from among MPs during the first session of parliament and run for five years. The session committees are elected from among MPs every year during the term appointed for parliament. This means that every parliamentarian belongs to one standing committee throughout the term of parliament but assumes membership to at least five session committees during the same period. The Parliamentary Public Accounts Committee (PAC) is one of the 10 standing committees appointed by parliament.

The Public Accounts Committee (PAC) of Parliament

Rule 123 of the rules of procedure of parliament establishes the PAC. It consists of 15 members elected from among members of parliament. The PAC has a chairperson (presently Okullo Epak) and a vice chairperson (presently Jack Sabiiti).

The functions of the PAC, similar to all other standing committees, are to:

- Discuss and make recommendations on all bills laid before parliament related to public accounts.
- Initiate public accounts-related bills.
- Assess and evaluate activities of the government related to public finance expenditure.
- Carry out relevant research in the field of public accounts.
- Report to parliament on their functions.

In the current 7th parliament, the PAC has been able to hold the executive administrative powers accountable to the people of the Republic of Uganda. Specifically the PAC under Rule 123 is assigned the responsibilities of:

- Examining public expenditures, as reported in the auditor general's report covering a given fiscal year, to establish their correctness and whether they are in conformity with relevant laws e.g. Public Accounts Act, treasury accounting instruments, financial accounting instruments etc.
- Monitoring expenditure of public funds as required by the constitution.
- Reporting their findings to parliament twice in a calendar year.

Relationship with the Auditor General and Other Institutions

The clerk to parliament receives the auditor general's report and presents it to the chairperson of the PAC. The chairperson of the PAC then presents it to the speaker of parliament, who in turn presents it to parliament. It is then passed back to the chairperson of the PAC for scrutiny, after which the PAC submits a report to parliament regarding the investigated matters. During the auditor general's report examination, the PAC has powers that are equivalent to the High Court and may:

- Compel attendance of witnesses,
- Examine witnesses on oath,
- Order the production of documents, and
- Request the examination of witnesses abroad.

Apart from reporting the findings and making general recommendations to parliament, the PAC may undertake immediate actions against errant accounting officers including instructing the IGG to take action or instructing the police to conduct thorough investigations in a particular case.⁵¹ It may also instruct the DPP to institute criminal proceedings or make charges against any accounting officer when and where there is incriminating evidence.

The major weakness of the PAC is that once it refers the matter to other institutions, it lacks follow up mechanisms. It also lacks powers to duly punish on its own those it finds highly criminal. Instead, it relies on the IGG and DPP for prosecution in courts of law, and on the judiciary.

In addition, Rule 146 of parliamentary procedure rules empowers parliament to appoint a special or ad-hoc committee at any time to investigate any matter of public interest that does not come under the jurisdiction of any standing or session committee. In this way parliament can initiate investigations of corruption. Parliament indeed has taken a central role in probing allegations of corruption and corrupt practices in government, with special emphasis on ministers and parliamentarians themselves.

Another weakness is that the Parliamentary Session Committee on Appointments meets in camera. In a government where all appointments to government departments are by the president, closed meetings seriously harm transparency. Worse still, some ministers, who are the executive arm of government, double as MPs with full voting rights in the legislature.⁵²

The National Budget

The major role of parliament is to control the raising and spending of public funds. No moneys can be withdrawn from the consolidated fund unless by the constitution or an act of parliament with the approval of the auditor general in a manner prescribed by parliament, or through an appropriation act or supplementary appropriation act. Any sum issued in a given financial year from the consolidated fund account must not exceed the amount approved by parliament. Requiring parliament to approve and authorise all government expenditure from the consolidated fund and continuous review of its operations is another strength of parliament.⁵³

The minister of finance normally presents the budget to parliament on 1 June or in the second week of June. The approved estimates of the expenditure are then included in an appropriation bill. There are no departments in which public expenditure is made without a budget being put before parliament by the ministry concerned or in charge of that department, including the judiciary and classified departments such security agencies and defence.

Donor funds and foreign loans do not require legislative approval. Yet from 1987 to 2000 foreign aid accounted for 33 to 66 percent of the total recurrent government expenditure budget.⁵⁴

Post-Legislature Employment Restrictions

Parliamentarians are forbidden from holding any other public employment paid by government while they serve in parliament. It is a contravention of the Leadership Code Act for any MP to be influenced by offers of post-leadership employment in the performances of their duties.⁵⁵ The post-employment restrictions stipulated in the leadership code apply to MPs as well. However, MPs who lose their seats have sought private or corporate employment. Sometimes the president has appointed them as resident district commissioners representing the executive in the districts, as ambassadors or to be engaged at the Movement secretariat.

Powers of Sanction against Parliamentarians

Parliamentarians can be recalled from parliament by their constituencies (Article 84 of the constitution). They can be compelled by law to vacate their seats due to absenteeism of 15 parliamentary sittings without satisfactory explanation, violation of the leadership code, Articles 83(d) and 84(e); and Rules 81 and 84 of the rules of procedure of parliamentary standing orders.

Judiciary

Article 129 establishes the courts of judicature under chapter five of the constitution. The mission of the judicature is to provide timely administration and delivery of justice to all people of Uganda. Its objectives include:

- To hear, consider and judge cases and dispose of them quickly and fairly in accordance with the constitution.
- To interpret and apply the constitution and other laws of Uganda.
- To establish and facilitate effective and efficient machinery capable of functioning as an adjudicating service.
- To introduce modalities for an out-of-court dispute resolution mechanism to reduce the burden of cases on the courts.

The Judiciary comprises four organisational elements:

- The chief justice
- The Judicial Service Commission (JSC)
- Four courts of judicature
- The registrars

The head of the judiciary is the chief justice. The day-to-day management of the affairs of the judiciary is carried out by the chief registrar, who is appointed by the president on the advice of the Judicial Service Commission. Parliament decides the total number of registrars appointed to the judiciary.

The judiciary is organised in a hierarchical structure. Starting from the highest to the lowest, the courts are:

- Supreme Court
- Court of Appeal
- High Court and
- Magistrates Courts i.e. chief magistrate, grade I, grade II, Qadhis' courts and local council courts.

Appointments, Qualifications and Tenure

The president appoints the chief justice, the deputy chief justice, the principal judge, the justices of the Supreme Court and Court of Appeal and the judges of the High Court, acting upon the advice of the Judicial Service Commission and subject to approval by parliament.

To qualify to be appointed as a chief justice one must have served as justice of the Supreme Court of Uganda or practiced law for at least 20 years after admission to the bar. For appointment as a deputy chief justice one must have served as a justice of the Supreme Court or Court of Appeal or judge of the High Court or practiced law for at least 15 years after admission to the bar. For appointment to the Supreme Court one must have served as a justice of appeal or practiced law for at least 15 years after admission to the bar. For appointment as a justice of appeal one must have served as a judge of the High Court or practiced law for at least 10 years. For appointment as judge of the High Court one must have served as a magistrate grade I promoted to registrar of the High Court or practiced law for at least 10 years after admission to the bar. The same applies to the president and deputy president of the industrial court.

Magistrates (grades I and II) and the supporting staff are appointed by the Judicial Service Commission, a semi-autonomous body established under Article 146 of the constitution.⁵⁶ The constitution forbids the chief justice, the deputy chief justice and the principal judge from appointment as chairperson or deputy chairperson of the Judicial Service Commission.⁵⁷ It should be noted that professional magistrates grade I have law degrees and have completed a post graduate diploma in legal practice. Lay grade II magistrates, who constitute the bulk of the magistrate establishment, undergo a one-year magistrates diploma course at the Law Development Centre.

Recruitment, Career Development and Removal

The JSC is responsible for appointments, promotion, discipline and removal of judicial personnel on behalf of the president. As can be seen from above, recruitment to the judiciary and career development is based on merit. No one can apply to be appointed to the judiciary without first completing a bar course at the Law Development Centre, save for grade II magistrates. The Judicial Service Commission advertises in the newspapers and eligible persons respond through handwritten applications addressed to the secretary of the JSC, who is also appointed by the president. The selected candidates then sit for an interview by a panel set up by the JSC.

Judicial officers can be removed by the president only for infirmity of body or mind, misconduct or incompetence. The question of an officer's removal is referred to a tribunal appointed by the president, and removal is only authorised when the tribunal recommends it to the president. The Judicial Service Commission or cabinet initiates the process, laying down clearly the grounds for removal and advising the president to appoint a tribunal. The tribunal consists of:

- Five justices of the Supreme Court or advocates of 20 years' standing in cases of removal of the chief justice, deputy chief justice or the principal judge.
- Three justices of the Supreme Court or advocates of 15 years' standing in cases of removal of a justice of appeal or Supreme Court.
- Three judges of the High Court or advocates of 10 years' standing in cases of removal of a judge of the High Court.

Independence of the Judiciary

The independence of the judiciary is enshrined in Article 128 of the constitution, which states that in the exercise of judicial powers the courts shall be independent and shall not be subject to the control or direction of any person or authority. These provisions are further reiterated in other acts of parliament relating to the judicature. However, sometimes the executive has tried to bias decisions of courts. For example, when members of the opposition challenged the legitimacy of the results of the referendum, the president is on record as making an unconstitutional outburst against the decision reached by the Constitutional Court: "Judges are insensitive to our political situation. . . they do not know the implications of some of the rulings that they make."

Judicial Review of Executive and Legislative Actions

Administration of justice is exclusively vested in the courts of judicature. Article 129 prescribes for courts of judicature to exercise judicial powers. Article 139 gives the High Court unlimited original jurisdiction in all matters, be they involving the prime minister or ministers and their officials., Provided their actions contravene legal provisions or constitutional provisions, courts can review them. Only the president enjoys immunity against any court proceedings (Article 98(4) of the constitution).

Strengths of the Judiciary

One strength of the judiciary is that the removal of a judicial officer can only be after the matter has been referred and decided by the tribunal. Merit-based recruitment of judicial officers is another strength of the judiciary. Prosecution and interdiction or dismissal of any such judicial officers has been ongoing, which is a positive development in the fight against corruption in the judiciary.

Weakness of the Judiciary

As Table 2 shows, there are 17 chief magistrate courts in existence countrywide to serve more than 60 districts. The chief magistrates only number 29. This means that there is inadequacy in terms of both court infrastructures (premises) and judicial staff (manpower). Many high-profile cases are referred to the few competent courts hence leading to case backlog and crowding of inmates in prison. Ideally, every district would have a chief magistrate's court. Corruption in the form of bribery is common to hasten cases to be heard given the small number of judicial officers.⁵⁸

Table 2 Summary of Judicial Staffing

	Number of Justices Approved	Number of Seats Filled	Vacant Positions	Total Number of Courts
Supreme Court	7	7	0	1
Court of Appeal	8	8	0	1
High Court	31	29	2	7
Chief Magistrates	29	29	0	17
Magistrate Grade I	97	68	29	52
Magistrate Grade II	213	209	4	26
Registrars	20	17	3	

Source Staff Update by Judiciary to Parliament 2003.

The judiciary has made a number of suggestions in order to improve the administration of justice and fight against corruption in Uganda. These include professionalising the bench through regular training of magistrates to improve their technical skills to interpret and apply the law; payment of a living wage to staff given that the code of conduct presently bars judicial officers from engaging in other income-generating activities; facilitation for the chief magistrates to carry out inspection visits of subordinate magistrates; overhaul of the burden of proof in corruption cases from the prosecution to the respondent; modernisation of the case recording systems; allocation of resources to expedite discharge of cases and ensuring the independence of the judiciary.

Corruption in the judiciary manifests itself in the form of bribery (Directorate of Ethics and Integrity Report, 2000). For example, Mutazindwa Katorogo (chief magistrate) and Kisakye Charles (magistrate grade I) were indicted and prosecuted for abuse of office. They lost their jobs but were later acquitted. A number of magistrates have been charged with

abuse of office and corruption. Justice Angline Munaba was indicted on grounds of abuse of office. Most complaints about corruption in the judiciary are aimed at the magistrates courts, especially grade II courts, which operate up-country. Law clerks are the most corrupt, according to public perceptions.

Political Parties

The first act to regulate the activities of political parties was the Political Parties and Organisation Act no. 18/2002 (PPOA). The Political Parties and Organisation Act provides for the declaration of assets and liabilities of a political party or organisation. It also provides that records and audits be kept of any contribution, donation or pledge of contribution or donation in cash or in kind.

The PPOA guarantees political parties freedom to hold delegates' conferences and any other meeting but only in the capital, Kampala. When parties have organised such meetings outside Kampala, the police have dispersed them. The law is currently being challenged in the Constitutional Court (law suits no. 5/2002: Paul Kawanga Ssemogerere and five others vs. Attorney General, and no. 7/2002: Dr. Rwanyarere and nine others vs. Attorney General) for being an unconstitutional limit on citizens' right of association.

Electoral Commission

The Electoral Commission (EC) is established under Article 60 of the constitution. It is charged with the following functions, as provided for in Articles 61 and 5.12 (1) of the Local Government Act 1997:

- Ensure that regular, free and fair elections are held.
- Organise, conduct and supervise elections and referenda in accordance with the constitution.
- Demarcate constituencies in accordance with the provisions of the constitution.
- Ascertain, publish and declare in writing under its seal the results of elections and referenda.
- Compile, maintain, revise and update the voters' register.
- Formulate and implement civic education programmes relating to elections.
- Perform such other functions as may be prescribed by parliament.

The EC enhances the process of democratisation and constitutionalism through holding regular elections. However, it faces the challenge of organising free and fair elections. According to various election observer reports, bureaucracy and government interference are evidenced in the late provision of funds for the printing of voters' registers, voter cards and civic education materials; the conducting of civic and voter education and the setting of the timetable for nominations and voting procedures. In addition, the government usually tables the electoral laws before parliament late in relation to the timetable set by the 1995 constitution. The result is usually that the laws are hastily passed without sufficient debate. Ultimately, Uganda has seen fraught elections that have led to many petition cases being filed against the commission, its returning officers and successful candidates at all levels of election.

Prominent among these cases is the Presidential Election Petition no. 1/2001: *Col.(Rtd) Kizza Basigye vs. Yoweri Museveni and the Electoral Commission*. The complaint against the commission as the second respondent was for "acts of omission which amounted to non-compliance with provisions of the Electoral Laws, i.e. failure to effectively compile, maintain and update the voters' roll; to display copies of the voters' roll for each parish for the prescribed period of not less than 21 days; to publish a list of all polling stations within the prescribed period of 14 days before nominations; and increasing the number of polling stations on the eve of polling day without notice to the candidates". The Supreme Court of Uganda ruled that, whereas there were acts of rigging, voter manipulation and other electoral irregularities in the elections, the malpractices and irregularities were not substantial enough to affect the results of the elections.⁵⁹

Allegations of corruption have been rife in the Electoral Commission. In 2002, the IGG commissioned a probe into the mismanagement of office in the Electoral Commission. The probe resulted into some top commissioners being relieved of their duties on grounds of incompetence and corruption.⁶⁰

Article 62 of the constitution provides for the independence of the Electoral Commission. However, the president with approval of parliament appoints the top six officials of the EC including the chairperson and deputy chairperson. This raises concerns of interference and a conflict of allegiance among the officers in the execution of their duties. Where there is a conflict of interest involving the appointing authority, the officers may not represent the interests of the EC but instead the he who appointed them.

Supreme Audit Institution

The supreme audit institution in Uganda is the office of the auditor general. This is a constitutional office, established by Article 163 of the 1995 constitution. It is headed by the auditor general (AG), who is appointed by the president subject to approval by parliament. Only qualified accountants of not less than 15 years' professional service, with high moral character and proven integrity, may be appointed to this position. Next to the AG are four directors; the director of audit (statutory corporations), director of audit (central government), director of audit (project training and administration), and director of audit (local governments). Appointment and dismissal of subordinate professional and support staff in the AG's office is conducted by the Public Service Commission.

The functions of the office as per Article 163 and Cap 149 and sections 24 of the Public Finance Act are to establish whether:

- Sufficient safeguards have been undertaken in collection and custody of public moneys.
- Laws, directions and instructions relating to revenue collection have been observed.
- Issues of moneys from the consolidated fund have been executed with proper authority.
- Instances of wasteful expenditure have been noted.
- Reasonable precautions have been taken to safeguard custody, receipts and proper use of government property including stores, regulations, instructions and directions in relation thereto.

It is therefore the duty of the AG to:

- Audit and report to the parliament of Uganda and all public offices, including the courts, the central and local government administrations, universities and public institutions of like nature, and any public corporation or other bodies or organisation established by an act of parliament.
- Conduct financial and value-for-money audits with respect to any project involving public funds.

Structure

The institution has 10 regional offices countrywide. The regional offices were previously headed by a senior auditor but under the approved restructuring of the Public Service Reform Programme (PSRP), they are now headed by principal auditors. Principal auditors report to the directors of audit. The challenge to the effectiveness of the AG is that the office is understaffed. Currently, the office employs only 300 people to cover the whole country.

The AG is required by the constitution to make an annual report of accounts to parliament. Within six months of the submission of the report parliament must debate and take appropriate action.⁶¹ Under the Local Government Act, Section 5.88 (3), the AG provides a copy of the report to the Ministry of Finance, the minister for local government, the local

administrative unit concerned, the local government PAC, the local government finance commission, the IGG and the RDC.

While the discussion of the AG report is mandatory, they take long to be discussed. Sometimes even when they are discussed, their recommendations are not implemented. For example, by the time of issuance of the AG report for the fiscal year ending June 2000, no action had been taken on the 1998/99 report issued on 24 March 2000.⁶² It was therefore unlikely that the 1998/99 report would be dealt with by the 6th parliament, and yet the 2000 report was tabled for discussion. Finally, by the time the reports are discussed, the crucial issues contained in them may have been overtaken by events and therefore of little value. Nor does the office have the resources to contract out services to private audit firms, unless the project being audited incorporates a budget for audit. The delay or failure to produce financial statements by some projects of central and local governments and statutory bodies has hindered expeditious audits by the AG.

The independence of the AG is provided for under Article 163 (b) of the 1995 constitution of the Republic of Uganda. It is expressly stated that in the performance of his/her functions, the AG shall not be under direction or control of any person or authority. The AG may be removed from office only for bodily infirmity, inability to perform, misconduct or misbehaviour and incompetence, at the discretion of the president.⁶³

However, the constitution is silent as to what amounts to misbehaviour or misconduct in case of removing the AG, thus leaving this to the discretion of the appointing authority. This leaves room for manipulation and could allow for dismissal on the grounds of carrying out the duties of the office faithfully but against the wishes of the executive. The discretion to determine incompetence and misconduct lies with the president.

Article 163 (3) of the constitution guarantees the AG sufficient mandate to cover all public institutions, including the Ministry of Defence. However, the AG does not have access to classified expenditures. Classified expenditures includes those related to the State House, special branch of police, military intelligence, Ministry of Internal Affairs and the office of the president. Yet a lot of transactions can be made and disguised under classified expenditure. For example, UGX 18 billion was not audited/accounted for on grounds of classified expenditure (AG Report, 1999). In the AG report for the fiscal year 1999/2000 issued on 23 March 2001, the AG noted that classified expenditures amounting to UGX 43 billion were not audited by the AG's office. To give the AG full control of the audit function, efforts are under way to put in place a legal framework that permits the AG to access classified expenditure.⁶⁴

The other weakness of the AG is the lack of powers to ensure the arrest or prosecution of any accounting officer it finds guilty of financial malpractice. The AG only points out aspects of financial mismanagement; it is up to the discretion of other authorities to take action that they consider appropriate.

Civil Service

The civil service is the operational arm of government, charged with analysis, recommendation and administration of policy. For best results, the institution should be responsive to the real needs of its customers – the citizens – through efficient use of the resources at its disposal. The permanent secretaries, who are the accounting officers, are the top civil servants in the ministries. The president appoints them on the advice of the Public Service Commission. The president also appoints all civil servants of the rank of head of department and above on advice of the service commissions. Civil servants work in at least 22 ministries. The head of the civil service is the secretary to the cabinet, appointed by the president in consultation with the Public Service Commission.

Lower-level officials and middle-management positions are appointed, promoted and disciplined by the service commissions on behalf of the president.⁶⁵ A department or ministry that wishes to recruit staff must inform the Public Service Commission, except for the Ministry of Health and Ministry of Education and Sports, which have their own service commissions to handle their affairs. Transfers of personnel within ministries are effected by the permanent secretaries in the respective ministries. Inter-ministerial transfers of personnel are rare and are effected through the Public Service Commission in consultation

with the head of the civil service. Ministers have no power to transfer civil servants but may recommend transfer to the service commission concerned.

The Public Service Reform Programme

The Public Service Reform Programme (PSRP) was designed to develop a service that could operate as a facilitator rather than a bureaucratic hindrance. Efficient and effective institutional arrangements are one of the implementation strategies established for the PSRP. Despite the gains made under PSRP 1992, the programme seemed to lose momentum. In order to reinvigorate it, PSRP 2002 was designed as a new strategy for the period 1997–2000. The strategy's key objectives include:

- Rationalisation that takes into account the goals of devolution of power from the centre;
- An emphasis on results-oriented management across government departments in order to improve service delivery;
- Raising the calibre of public service personnel by improving recruitment, promotion and training procedures;
- Strengthening resource management and expenditure control through improved audit and inspection procedures and the use of information technology;
- Creating harmony and consistency in cross-cutting reforms;
- Strengthening the public service so it can serve as a vehicle of the Poverty Eradication Action Plan; and
- Strengthening collaboration with the private sector.

PSRP 2002 aims at deepening the reform process by focusing on results-orientated management. It links pay to performance and improves budgeting and financial management systems. By improving service delivery standards and training and creating a customer-focused culture within the public service, it was hoped that PSRP 2002 would improve efficiency and integrity and restore the reputation of the public service.⁶⁶

However, although the reform process made recommendations for salaries of civil servants, actual salaries are low and cannot, at the lowest grades, be classified as living wages. This means that many people still rely heavily on informal mechanisms to obtain additional revenue, including corruption.⁶⁷

This is exacerbated by the significant gap between public and private sector wages. The reform has attempted to overcome this to a certain degree by creating higher-paid enclaves in principal public services such as the URA and judiciary. While this policy might be justifiable on the grounds that it will increase the efficiency of key areas, it has, on the whole, undermined the morale of those who do not hold the preferred status. Salaries remain significantly below the level of private sector salaries and this has led to a loss of technical competence as skilled individuals leave public service to join the private sector. As long as this situation remains, it will be difficult to foster an efficient and professional civil service.⁶⁸

While it is evident that the appropriate institutional structures are in place for the effective reform of the civil service, it is also clear that the leadership needs to demonstrate a firm and visible commitment to the reform process. This commitment is necessary to ensure sustainability.

Staff Recruitment, Promotion and Discipline

Only persons of high moral character and proven integrity and experience can be appointed to the service commissions (Articles 165(2), 170(1)(c), 168(1)). Article 166(1)(e) provides for merit-based recruitment to the civil service. Discipline of civil servants from the rank of head of department and above is the responsibility of the president, although it is executed by the service commissions on his behalf. Though there may be no direct evidence, there are strong perceptions and presumptions among the public that recruitment has undertones of nepotism, cronyism and political influence. This

arises out of the fact that many people who are appointed to different offices are affiliated with the powers that be, through tribal or political ties.

Accountability of Civil Servants

The provisions against corruption as stipulated in the Penal Code, Prevention of Corruption Act, and Leadership Code Act 2002 also apply to civil servants. The Penal Code Act (cap. 106) {as amended}, for example, provides for a range of criminal offences that aim at fighting corruption including bribery in the civil service.

The Prevention of Corruption Act no. 8/70 prohibits both the soliciting and receiving, for oneself or on behalf of another person, as well as the giving, promising and offering of any gratification as an inducement or reward to a member, officer or civil servant of a public body. The act defines 'public body' to include the civil service.

The civil service has no established rules on gift registers and maintains no registries for gifts and hospitality. Staff rules and regulations (in the public service code of conduct) are in place but are silent on gifts and gift registers. In practice, however, civil servants in vulnerable positions claim that such gifts are given as remuneration for good performance and therefore do not require the keeping of records. Hopefully, under the new Leadership Code Act 2002, registers will soon be established and maintained. The procedures and criteria for administrative decisions in the public service are not published and the public is very ignorant of them.

The other activity of importance under the PSRP 2002 is the development of an integrated personnel payroll system that is intended to reduce the problem of "ghost" workers on the payroll. The "ghost" workers on the teachers' roll caused government loss of public funds to the tune of UGX 1.4 million (Auditor General Report, 2001).

Article 172 of the constitution provides that 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. In practice, the president has powers to hire and fire upon his personal discretion. Civil service independence is therefore very fragile, as there is room for patronage.

Privatisation of Public Enterprises

The Public Enterprises Reform and Divestiture Statute 1993 was passed to enable the government to sell off most of its parastatals and divest some ministries or departments into the private business sector. This was intended to encourage private investment in the country. The divestiture of non-core government public functions is intended to limit the public services to only those that cannot be performed efficiently by the private sector. Table 3 shows the possible areas to be divested.

The Auditor General Report (2001) stated that a total of 111 government enterprises had been divested by 31 July 2001. Of these, 69 enterprises had been privatised, former Asian owners had repossessed 5 enterprises, 15 enterprises were struck off the Register of Companies and 22 enterprises were liquidated. The report further states that Nile Hotel complex was sold under joint venture arrangements but the sale was later cancelled after the buyers failed to fulfil their obligations. The hotel is presently being prepared for resale. The sale of Uganda Fisheries Enterprises Ltd (UFEL) caused the government a loss of UGX 994 million (AG Report, 2001). The buyer had used the UFEL title to secure a loan from the East African Development Bank (EADB), but was unable to service the loan. The firm was put under receivership by the EADB, and UFEL was written off and the privatisation unit was unable to recover the outstanding balance. Privatisation of government enterprises up to 1998 caused a government financial loss to the tune of UGX 3.2 billion due to poor management (see Table 4).

Table 3 List of Potential Candidates for Divesture 2002/3

Ministry	Candidate
Justice and Constitutional Affairs	Administrator General
	Law Development Centre
	National Registration Services Bureau
Health	Butabika Hospital
	Mulago Hospital
	Uganda Health Research Organisation
Tourism, Trade and Industry	Department of Antiquities and Museums
	Management Training and Advisory Centre
Education and Sports	Directorate of Industrial Training
	Education Standards Agency
	National Curriculum Development Centre
	National Council of Sports
Lands, Water and Environment	Land Registration and Valuation
	National Forestry Authority
	National Meteorology Agency
Finance, Planning and Economic Development	Central Tender Board
	National Planning Authority
	National Council of Science and Technology
	Uganda Bureau of Statistics
	Uganda Computer Services
	Uganda Population Secretariat
Public Service	National Records Centre
Gender, Labour and Social Development	Nsamizi Training Institute
	Public Libraries Board
	Uganda National Culture Centre
Office of the President	Uganda Broadcasting Agency
	Uganda News Agency
Internal Affairs	National Citizenship Immigration Board
Commissions	Disaster Preparedness Management Commission
	Equal Opportunities Commission
Works, Housing and Communication	Bugembe Mechanical Workshop
	National Roads Agency

Source PSRP Action Plan Report, 2002.

Table 4 Losses Incurred by the Privatisation Unit

Name of Enterprise	Buyer	Sale Amount (UGX)	Outstanding Balance as of 31/12/1998 (UGX)	Extent of Default
African Textiles Millers	R.S. Patel Nordic Africa Fisheries Ltd	1.7 billion	1.6 billion	>4 years
UFEL	Patel Iceland Co. Ltd	1.1 billion	1.0 billion	>4 years
Acholi Inn	M/s Laoo Ltd	230 million	180 million	>5 years
Hill top Hotel	Three links Ltd	35 million	25 million	>5 years
Lira Hotel	Showa Trading Co.	250 million	200 million	>5 years
Uganda Meat Packers Soroti	Uganda Meat Industries	300 million	150 million	>5 years
Uganda Pharmaceuticals	Vivi Enterprises Ltd	1.5 billion	24 million	>5 years
Total		5.1 billion	3.2 billion	

Source Auditor General Report, 2001.

The AG Report (2001) noted that interest on the outstanding balances was not collected, nor did the privatisation unit hold any securities for the balances.

Public opinion on the divestiture policy today is rather negative regarding the proceeds from the sale of these enterprises. These are not made public as and when they accrue, but rather information is released a year later, after the transaction is concluded. The sale of most enterprises is done so hastily that suspicions of corruption are inevitable.

The sale of parastatals has not yielded the expected results, and parliament has consistently contested the viability and benefit to the country of the whole exercise.⁶⁹ For instance the sale of the Uganda Commercial Bank Ltd. (UCBL) has been marred with allegations of lack of transparency, influence peddling, bribery, undervaluation and outright fraud by connen with the aid of politicians and bureaucrats. After the government signed the sale agreement with the South African Standard Bank of Investment Corporation (Stanbic), media reported that the Museveni family might have been involved. A parliamentary probe committee was set up to establish the facts relating to the sale of UCBL to Stanbic. From the report the following facts emerged, as reported in the government newspaper *New Vision* of 19 February 2003:

- The price paid by Stanbic was USD 3.2 million (UGX 5.9 billion) below UCBL's average value. Various valuations methods by the reputed KPMG audit firm put the bank's value at USD 28.4 million (UGX 51.2 billion).
- The report indicates that considering that Stanbic bought 80 percent shares in UCBL, the estimated price that Stanbic would pay should have been USD 22.7 million. Instead, Stanbic offered and paid USD 19.55 million. The report indicates that UCBL was willing to take any price.
- The report indicates that the bidding process was not advertised and that the resolutions of parliament on the sale were ignored.
- The bid evaluation and negotiation process was not fair to the second bidder, DFCU Bank.
- Under the sale agreement, the 20 percent shares would translate into 10 percent in the merged entity, with a higher price per share.
- The committee found that foreign consultants involved in the sale of UCBL evaded taxes worth USD 348,470.

In contrast to the above, the divestiture of Uganda Electricity Board and Uganda Posts and Telecommunications Ltd went smoothly.

Uganda Police Force

The Uganda police force is established under Article 211 of the constitution. Detailed provision for its operations and organisation is under the Police Act. The functions of the police are to:

- Protect life and property;
- Preserve law and order;
- Prevent and detect crime;
- Cooperate with the civilian authorities and security organs established under the constitution and with the population generally.

The total police force in Uganda today is slightly more than 15,000 persons (Judicial Commission of Inquiry into Corruption in the Police Force Report, 2000).

The head and commander of the police in Uganda is the inspector general of police (IGP), provided for under Article 213 of the constitution. The president appoints the IGP and the deputy IGP subject to approval by parliament. There are no set criteria or guidelines for appointing such officeholders. The issue of merit is subjective given that it is up to the president's discretion. History has shown that appointments have often been in the interest of the president. The IGP and deputy IGP can be removed from office at the will of the president. The IGP is therefore not protected from removal from office arbitrarily.

The IGP is charged with planning, budgeting and procuring funds for the police. The IGP also ensures proper expenditure and accountability of the expended funds. He or she is responsible for building in-house financial control systems, which must conform to the overall government control policy while ensuring that the funds are spent scrupulously in accordance with the force's priorities and plans.⁷⁰

The police force departments are:

- Criminal Investigation Department (CID), charged with prevention and detection of crime and prosecution of offenders;
- Special Branch Department, charged with gathering and dissemination of intelligence on organised crime and threats to national security;
- Directorate of Administration, the largest department, comprising administration, research and planning, inspectorate of police, finance, police stores, police training, estates and construction, public relations, police band, police medical services, legal and human rights desk, and personnel management;
- Directorate of Operations, whose main objective is also crime prevention, consists of the traffic department, mobile police patrol, police air wing, marines, dog section, police signals and fire brigade.

The CID comprises of nine squads, namely the national fraud squad, serious crime squad, anti-narcotics squad, identification bureau squad, central office for homicide and minor offences, central arms registry squad, Interpol, anti-terrorism squad and the public accounts squad. The fraud squad, serious crime and public accounts squads investigate cases of fraud, corruption and abuse of office in public and private organisations.

Currently the fraud squad together with the IGG are investigating fraud and corruption cases in the Electoral Commission, Uganda Revenue Authority and the education ministry. Fraud and corruption cases handled by the police are shown in Table 5.

Table 5 CID Crime Report for Forgery and Corruption, 1995–98

Action Taken	Number of cases per year				
	1995	1996	1997	1998	Total
Investigated	563	430	419	450	1,475
Prosecuted	339	245	283	290	1,157
Not prosecuted	224	185	136	160	318
Percentage	60.2	57	67.5	64.4	

Source Commission of Inquiry Into Police Report, 2000.

In the late 1990s corruption in the forms of mismanagement, discrimination, arbitrariness, incompetence, apathy, impunity, inefficiency, abuse of office, miscarriage of justice, misappropriation and misuse of public resources in the police had reached alarming levels. The then minister of internal affairs, Tom Butime, acting under the direction of the president, commissioned a one-year inquiry into police corruption on 23 April 1999, led by a justice of the High Court, Julia Sebutinde. The mandate of the commission as specified in Legal Notice no. 2 of 1999 as amended by Legal Notice no. 5 of 1999 included conducting investigations into:

- Specific allegations of corruption and mismanagement of criminal investigations made against the top officers in the CID of the Uganda police.
- Allegations of mismanagement of police investigations into specific criminal cases.
- General allegations of corruption and mismanagement in the Uganda police force.
- Any other matters incidental to the foregoing.

The commission was also charged with making appropriate recommendations on its findings, including for the efficiency and effectiveness of the force.

Some of the major findings of the inquiry were:

- The Uganda police force is autonomous as far as finances are concerned, given that every year parliament through the budget of the Ministry of Internal Affairs approves the non-wage recurrent and capital expenditure of the force. The commission heard from the secretary to the Treasury that six priority programs of the police are funded in full even when there are shortfalls in revenue collection. These include material supplies and manufactured goods; administrative and support services department; operational technical services department; CID; special branch services; and mobile patrol unit. The commission noted that actual releases to the police are relatively high: UGX 11.79 billion in the 1994/95 fiscal year; UGX 22.27 billion in 1995/96; UGX 22.52 billion in 1996/97; UGX 24.05 billion in 1997/98; and UGX 30 billion in 1998/99 fiscal year.
- Former IGP John Cossey Odomele abused his office by engaging in insider trading with the force. He resigned from the service after his insider trading was exposed and on allegations of corruption. He allegedly used his own companies, namely MAJE EXT. LTD and AINO General Merchandise, to supply materials to the police worth millions of shillings.
- The next IGP, John Kitembo, while chairperson of the Police Savings Association in 1996, used the association's money to buy land at Lubowa Estate from a squatter at an inflated cost of UGX 39 million. He did not consult a land valuer to give him indicative rates before squandering police funds. Evidence cited by the commission stated the market value of the land was UGX 9 million. Therefore Kitembo caused the Police Savings Association a loss of UGX 30 million. The IGP also operated five vehicles for his personal use when other departments and up-country stations did not have any. Before the commission he admitted that the vehicles were more than he needed and promised to look into the matter. The commission categorised the practice as abuse of office.
- The head of the CID, Chris Bakiza, engaged in abuse of office when he successfully used his position to intimidate a Mr. Kashaka from pursuing his claim of UGX 10

million he had lent to Bakiza's wife and their company, Brevans Enterprises Ltd. In another incident, Bakiza's wife was shot and killed in his presence. He did not investigate the shooting so that the culprits could be apprehended. Independent investigations by junior CID officers implicated Bakiza's girlfriend. Bakiza allegedly tampered with the scene of crime by removing the car wherein the shooting occurred from the scene. The police file on the matter disappeared. The suspects were released on his orders. Given these facts, the commission concluded that Bakiza was trying to protect himself and his girlfriend, who later became his wife. Meanwhile, the commission heard sworn evidence from fellow police officers that the new wife was on the police list of wanted persons for drug trafficking. By marrying the suspect, Bakiza protected her from police investigations.

The commission's report also indicated that the police have not achieved any of their mandatory constitutional objectives due to lack of a documented plan of action, bribery and abuse of office etc. The welfare of lower police officers was reportedly in a sorry state. Three to four families shared one-room round huts, called a "Unipot", in police barracks. The salaries of the police were generally low, with police constables, who constitute the bulk of the police, receiving only UGX 73,851 per month. The report revealed that a good number of police constables wore torn uniforms. This seriously erodes their morale and leaves them with little option other than to find supplementary income through bribes.

Apart from government rhetoric there is no practical will to fight corruption. This position is supported by the fact that whereas the several officers implicated in the commission's report were dismissed or retired in the public interest, and the police in-house mechanism disciplined others, no one has been prosecuted in courts of law. Some were simply transferred from the police headquarters to districts as district police commanders.

Internally, a disciplinary committee set up by the Police Statute 1994 can discipline corrupt officers. The IGG has powers to investigate and prosecute all corruption cases in all government departments, including the police force. Although the police force is by law supposed to investigate corruption, high levels of corruption in the force presently do not allow the police to initiate and conduct corruption investigations. "They simply lack moral authority" said one member during the NIS focus group discussion. However, the CID report 1995-1998 indicates that the Uganda police do investigate corruption, especially in the form of fraud and forgery.⁷¹

Directorate of Public Prosecutions

The constitution mandates the DPP to conduct and control criminal prosecutions. The DPP works closely with both local and international organisations and institutions that are engaged in criminal justice. The DPP is assisted by two deputies. One of these is in charge of the prosecution department as well as the inspection and research department, and the other is in charge of management support services and controls the departments of administration and finance and international and field affairs as well as the resource centre.

The president on recommendation of the Public Service Commission appoints the DPP subject to approval by parliament. The position enjoys the same terms and conditions of service as those of the judges of the High Court.⁷² Only advocates of at least 10 years' standing after admission to the bar can be appointed to the post of DPP. He/she is directly under the executive arm of government.

The DPP's mission is to maintain an efficient and effective system of criminal prosecution and to deter crime in the country. The functions of the DPP therefore include:

- To direct the police to investigate any information of criminal nature and to report to him or her expeditiously;
- To institute criminal proceedings against any person or authority in any court with competent jurisdiction other than court martial;
- To take over and continue any criminal proceedings instituted by any person or authority;

- To discontinue at any stage before judgment is delivered any criminal proceedings to which this article relates, instituted by the DPP or any other person or authority, only upon seeking the consent of the court concerned.

The person of the DPP enjoys exclusive privilege of discontinuation of cases.

The DPP delegates power to perform any of his or her functions to any person or authority in writing as he may deem appropriate. In this connection all prosecutors (resident state prosecutors [RSP], resident state attorneys [RSA] and police prosecutors) with the exception of IGG prosecutors are formally appointed by and operate under the supervision of the DPP. Prosecutors do not take independent decisions on prosecution without the direction or authority of the DPP. The DPP has discretion to appoint private legal prosecutors to conduct prosecutions.

Weaknesses

The current total staffing of the DPP is 262, of which 172 are professional. The approved structure recommends 600 staff for the DPP, of which this represents only a mere 43.7 percent.

Table 6 Staffing Levels of the DPP

	Current Level	Structural Level (Approved)	Vacancies
State Attorney	55	116	61
State Prosecutors	117	300	123
Administrators and Accounts Staff	9	31	22
Secretarial Staff	3	54	59
Junior Support Staff	18	99	81
Total	262	600	338

Source DPP Management Support Services.

The DPP in 2001 had up-country offices in only 34 districts out of the 55 administrative districts in Uganda, run by 27 resident state attorneys and 17 resident state prosecutors. This is one of the reasons why the DPP is unable to fulfil its mandate of prosecuting all criminal cases in the country.

Operating in only 34 districts due to inadequate staff and financial resources means that the remainder of the prosecutions, in more than 20 districts, are handled by police prosecutors who are not staff of the DPP.

Table 7 Ratio of DPP Staff to Judiciary Staff

Type of Court	Judiciary Courts	DPP Offices	Judiciary Professional Staff	DPP Prosecutors	Police Prosecutors
Supreme Court	1	1 HQ	7		
Court of Appeal	1	27 RSA	8		
High Court	7	17	31		
Chief Magistrates' Court	27	RSP	28		
Magistrates' Court I	52	Officers	71		
Magistrates' Court II	26		210		100
Total	351	44	354	172	100

Source DPP Staffing as at 2003.

The DPP is constitutionally an independent institution under Article 120(6). However, given that in some districts police prosecutors are still responsible for prosecution and yet fall under the command of the IGP for recruitment, training, promotion, discipline and salaries, the institution's autonomy is seriously comprised. The lack of a comprehensive programme for staff training is another weakness of the DPP. Few personnel have specialised training in key areas such as prosecution of corruption, fraud, violence against women and children, drug trafficking, money laundering and environmental offences.

Table 8 Cases Handled by DPP in 1997

	Number Reported	Number Charged	Convictions	Acquittals	Recoveries
Embezzlement	375	244	13	17	0
Corruption	33	16	1	0	0
Bribery	2	1	1	0	0
Causing Financial Loss	49	7	1	0	0
Abuse of Office	67				
Total	526	281	16	17	0

Source Uganda Police Crime Report 1997.

Instances of corruption in the DPP abound. A number of state attorneys and investigators from the IGG's office have been arrested and charged with corruption by both the IGG and police (see Table 5).

Public Procurement

On 1 March 2001, the government issued new regulations regarding procurement. Under the new system, tendering centralised under the Central Tender Board (CTB) was abolished. Each ministry now has its own procuring entity headed by the permanent secretary who is the accounting officer in each ministry.

Section 92 of the Local Government Act 1997 provides for establishment of District Tender Boards (DTB). A DTB consists of seven members, including a chairperson. The district council appoints it upon recommendation of the district executive committee. The secretary to the DTB is at the rank of assistant chief executive officer. The DTB members

hold office for three years and are eligible for reappointment for only one term. In performance of their functions, the DTBs conform to the standards set by the CTB and are guided by the local government financial regulations.

DTBs make mandatory quarterly summary reports of all awarded tenders to the relevant councils of the district, the minister of local government, the IGG and the CTB as a control and regulatory measure.⁷³ Contracts committees of procurement entities are directed to make monthly reports of all procurements considered during the month to the CTB before the 15th of the following month. There is need for harmonisation of the reporting system across the board.

The contracts committees as well as procurement secretariats are established under R.10. The composition of the contracts committee includes the permanent secretary of the ministry who chairs the contracts committee, a secretary, a representative of the Internal Audit section, a representative of the solicitor general appointed with the approval of the Ministry of Justice as permanent member, and non-permanent members including representatives from other departments of the ministry such as technical, finance and internal audits.

Every procurement secretariat is headed by a secretary who is assisted by two other officers, one responsible for recording the minutes of the contracts committee meetings and the other for public opening of tenders. The secretariat also has a stenographer and office attendant.

In order to implement the procurement reforms, procurement entities were expected to put in place contracts committees as well as procurement secretariats. The Ministry of Public Service handles all the staffing issues in Uganda. However, no provision for staffing and budgetary allocations was made to enable the ministries to handle their new roles. On 23 May 2002 under Standing Instruction no. 1, the public service ministry approved a structure for procurement secretariats categorising them into large, medium and small and made staff recommendations according to this categorisation. This means that procurement reform, like many other government reforms, was introduced and ministries were asked to implement it before a relevant law was in place. The Ministry of Works, Housing and Communications is an example where the establishment is inadequate.⁷⁴ Ideally there should be another procurement officer, office typist and a driver. Table 9 gives the recently approved posts compared to what the Ministry of Works views as ideal.

Table 9 Staff Establishment for Large Procurement Secretariats

	Number of Posts	
	Approved	Required
Principal Procurement Officer	1	1
Senior Procurement Officer	1	1
Procurement Officer	1	2
Pool Stenographer	1	1
Office Typist	0	1
Office Attendant	1	1
Driver	0	1

Source Ministry of Works, Housing and Communications.

Under the Public Finance (Procurement) Regulations 2000, procurement is divided into nine categories, each of which has an approved prescribed threshold for its application. The categories are micro procurement, direct procurement, local purchase order (request of quotation), small procurement (request of quotation), restricted tendering, domestic open tendering, domestic open tendering (high value), international open tendering and international open Tendering (high value).⁷⁵

A stakeholders' workshop conducted by the Ministry of Works in August 2001 recommended to the reformed CTB thresholds for consideration beyond those previously approved. These are presented in Table 10.

Table 10 Thresholds for Procurement Procedures

Procurement	Previous Threshold Provisions (UGX)	Workshop-Recommended Thresholds UGX)	Comments
Micro	Less than 100,000	Less than 2m	CTB approved and adopted
Direct Procurement	Not applicable	Not applicable	Depends on the circumstances
Local Purchase Order (Request of Quotation)	100,000 to 500,000	2m to 5m	Adopted
Small Procurement (Request of Quotation)	5m to 25m	To remain	Remained
Restricted Tendering	25m to 100m	25m to 400m	Revised to 25m to 50m
Domestic Open Tendering	100m to 200m	400m to 800m	No response from CTB
Domestic Open Tendering (high value)	More than 200m	More than 800m	No response from CTB
International Open Tendering	100m to 200m	400m to 1 billion	No response from CTB
International Open Tendering (high value)	More than 200m	More than 1 billion	No response from CTB

Source Reformed CTB 2002.

The Public Finance (Procurement) Regulations, 2000 prescribe that contracts exceeding UGX 50 million must first seek approval of the solicitor general as a measure of obtaining legal advice. However the office of the solicitor general is over-stretched regarding the provision of legal advice to the existing procuring entities, let alone the upcoming ones. It is highly recommended that resident representatives of the solicitor general be recruited and posted to every procurement entity (PE).

The regulations mandate the CTB to set standards for procurement and to audit published reports of both procurement entities and DTBs. Procurement regulations charge the reformed CTB with a number of duties, including to:

- Prepare standard documents.
- Issue procurement guidelines.
- Inspect records of procurement entities.
- Maintain an up-to-date list of suppliers.

The greatest corruption in procurement is at the local government level (see Table 1 on summary of corruption by sector). Examples reported include:

- The land registrar of Luwero District was arrested after he solicited and received a bribe of UGX 200,000 in order to effect a transfer of a land title. Charges for bribery were dropped for lack of evidence but it was recommended that he should be interdicted due to conflict of interest.
- At Agogomit primary school in Mukura County, Kumi District, a district forest officer was given a contract to build two four classroom blocks for UGX 43 million after paying the district education officer (DEO) a UGX 2.5 million bribe. The IGG found that the district executive council interfered with the award of tenders for the construction of Agogomit primary school and recommended the sacking of the DEO.

All international and donor resources are subject to international tendering procedures.⁷⁶ SWIPCO handles auditing of all procurements valued at above USD 50,000.⁷⁷

Procurement procedure inefficiencies were raised in the public media with special reference to Ministry of Defence (Army) procurement procedures, which enabled the purchase of

inadequate food for the army from South Africa and junk helicopters from Belarus. The government appointed a commission of inquiry, headed by Justice Julia Sebutinde, into the purchase of MI-24 helicopters. The *New Vision* newspaper on 31 August 2001 reported Judge Sebutinde as saying that “the purchase of the Military helicopters is a test case that highlights the weaknesses and shortcomings in the system of classified procurement in the Ministry of Defence”. Justice Sebutinde further said, “The Commission discovered that corruption, bribery, negligence and incompetence by various officials involved in the transactions as well as the resultant loss to government are merely outward manifestations of a large problem rooted in the procurement procedure and practices of the Ministry”.

The *New Vision* newspaper on 19 May 2003 in the story entitled “Chopper Report Pins Senior UPDF Officers” reported that the government lost at least USD 7 million (UGX 14 billion) in the deal.

Except as otherwise provided in R.20, procuring entities use open tendering as the preferred procedure of procurement. Procurement guidelines are in place for different categories of tendering procedures and for different goods and services as prescribed by the reformed CTB, namely:

- 11th schedule: Open Domestic Bidding for Supplies
- 12th schedule: Open International Bidding for Supplies
- 18th schedule: Open Domestic Bidding for works
- 19th schedule: Open International Bidding for works
- 25th schedule: Open Domestic Bidding for Services
- 26th schedule: Open International Bidding for Services

The rules require competitive bidding for all procurements exceeding UGX 50 million, although there are some exceptions provided by the regulations.

Restricted tendering

If the goods, works or services, being of a complex nature, are available from a limited number of suppliers, and the time and cost required for examination and evaluation of tenders is disproportionate to time available in the case of emergencies, or to the value of goods, services and works, then at least two prospective tenders are invited. This is a situation of restricted tendering procedure. Restricted tendering procedure is like open tendering except that:

- The invitation to tender is addressed to a limited number of qualified bidders upon prior declaration of interest. The law does not restrain PEs from inviting only one bidder, so the possibilities of sole sourcing of supplies are high.
- Selection is meant to be non-discriminatory, but there is no selection procedure laid down for selection under restricted tenders. This therefore may permit discriminatory selection as well.
- Selection of a prospective bidder is to be from an updated list of qualified bidders maintained by the PE. In practice, PEs have discretion in updating this list, leaving room for manipulation. In addition, no control is in place to force the PE to make the list available for viewing.
- The PE has discretion in setting or not setting any tender security.
- In absence of a list, PEs are encouraged to advertise the tender in at least two newspapers of wide circulation for at least five working days. This is a common practice. However the business community complains that such advertisements are done just to fulfil the formal requirements, when in fact the bidder is pre-selected.

Ordinarily most tenders are subject to advertisement in the print media alone. However in the case of the exceptions in the procurement regulations shown above, tenders are neither advertised in the newspapers nor in any other publication for which restricted tenders are invited from nominated firms. The contracts committee of a given PE may

therefore authorise direct procurement, requests for proposals or requests for quotations at its discretion or upon consultation and approval by the RCTB.

Direct Procurement

Direct procurement has no set threshold; it depends on circumstances. R. 38 requires any PE engaging in direct procurement to prepare a description of its needs and any special requirements as to quality, quantity, terms and time of delivery. The rule grants freedom to the PE to directly negotiate and sign contracts with the sole prospective bidder as a confirmation of such agreement. This requirement was violated by Uganda Television; the auditor general observed that during the period July 1998 to December 1998, a total of UGX 157 million and USD 10,951 was received as revenue from sponsored programmes but was not supported by contracts. Revenue amounting to UGX 161 million was supported by invalid contracts, which were not signed by the two contracting parties. The auditor general advised the accounting officer that the practice was not only irregular but created difficulties in recovering revenue from defaulters in the event of litigation.

The conditions for direct procurement in the following situations:

- Emergency and/or urgency not resulting from dilatory conduct on the part of the PE.
- Absence of competition due to technical reasons i.e. goods, services or works can only be provided by one prospective bidder.
- Additional goods, service or works not exceeding 15 percent of the original contract value.
- Unforeseen additional works repetitive of the original contract not exceeding 15 percent of the contract value.
- Continuation of satisfactorily performed services.
- Purchase of perishable goods.
- Purchase of goods or services under exceptionally advantageous conditions. This provision is intended for incidental disposals by firms that are not normally suppliers, as opposed to routine purchases.

Requests for Proposals

In the case of requests for proposals intended for goods and/or services that are not easily definable, the request is addressed to a minimum of three and a maximum of six bidders. It contains an integrity pact stating that "a prospective consultancy tenderer is to exclude its self from procurement of goods or works that may follow as a result of or in relation to the consultancy agreement".⁷⁸

Requests for Quotations

Requests for quotations are for readily available goods, services and/or works. For those categorised as small purchases, local purchase orders, and micro procurements i.e. not exceeding UGX 25 million, three quotations must be obtained.⁷⁹ These tender procedures are the most prone to corruption. Given the weak internal control of the current procurement system, nothing may stop unscrupulous contracts committee chairpersons from undertaking authorised but "small" direct purchases not exceeding the threshold required for open tendering of more than UGX 50 million. For example, the AG in 2001, when reporting on the office of the prime minister, noted that the office purchased 34 tyres without authority from the CTB at a cost of UGX 16 million. During verification it was discovered that the office had subsequently obtained retrospective CTB authority for only 24 tyres, leaving a balance of 10 tyres valued at UGX 5 million.

The situation is made worse by the lack of standard procurement documents for consultancy services and civil/building works.⁸⁰ International-aid-funded projects rely on "copy and apply" of the World Bank procurement documents, sometimes with provisions on sole sourcing, hence eliminating local competition at present. However, the CTB is in the process of formulating the procurement documents as per the reports from the 15

August 2003 Workshop on Procurement Regulation Review. There are general complaints about response time allowed on quotations, and on the “copy and apply” World Bank documents, which do not adequately address the local situation.

Records of procurement decisions are not accessible to the public except by court order. The law provides for a review of procurement decisions by written complaint to the chairperson of the contracts committee (Rules 44, 45, and 46) provided the complaint is made within 30 days of the decision. There is a possibility of bringing unfavourable procurement decisions to a court of law. Article 139 of the constitution vests unlimited jurisdiction on all matters in the High Court. Nothing stops an aggrieved party in any situation from seeking redress in court.

Unfortunately, the procurement regulations are silent on blacklisting of companies proved to have engaged in fraudulent procurement processes. So it is evidently possible that a company that proved corrupt to one PE can involve itself in business with another PE from a different ministry.

No specific rules are in place against conflicts of interest or nepotism apart from a general provision that “a prospective tenderer shall not be excluded from participation in public procurement on the basis of nationality, race or any other criterion not having to do with qualifications”.⁸¹ The qualification and disqualification criteria are well highlighted in the “Code of Business Conduct”, which comprises the first schedule of the Public Finance (Procurement) Regulations 2000. The IGG Act 2002 and the Leadership Code Act 2002 (5.15) both have crosscutting application to all public officers.

Regulations forbid bribery and canvassing for tenders by calling upon PEs to “reject a tender, proposal or quotation if it is determined that the prospective tenderer who submitted has given or promises to give, directly or indirectly to any current or former officer or employee of the PE or other governmental authority a gratuity in form, an employment or any other thing or service of value as an inducement with respect to an act or decision of, or procedure followed by, the PE in connection with the procurement proceedings”. The reasons and the rejection of the offer must be recorded and sent to both the bidder and CTB.

Weaknesses

No particular machinery exists for monitoring procurement officers, beyond compliance with the Leadership Code Act 2002’s requirement to declare assets. Regarding the weakness of the new procurement system as provided in the Procurement Regulations 2000, the AG observed that the internal control procedures in the system are lacking. The accounting officer is:

- Responsible for receipt of supplies;
- Responsible for recording of supplies;
- Responsible for the consumption of supplies; and
- The chairperson of the Procurement Entity Contracts Committee.

This has resulted in widespread abuse of public procurement procedures. The decentralisation to line ministries (PEs) might have decentralised corruption as well. Today, 75 percent of all government expenditure in Uganda is procurement related.⁸²

The decision to abolish the cadre of supplies officers with effect from March 2003 needs revising in the case of ministries that still operate stores in their up-country stations. Procurement units will take responsibility for procurement transactions at the ministries’ headquarters and cannot therefore be available for stores’ management at up-country stations.⁸³

Other contradictions in the current procurement regulations relate to post award review. Regulations require that PEs notify a successful bidder before expiry of the tender period that his or her tender has been accepted. Regulation 36(2) states that “the notification of the award shall constitute the formation of a contract between the parties....” Regulations 44–47 provide for administrative review of a decision even after a contract has been concluded. In the event that such post-award review leads to annulment of the award decision, the bidder formerly notified may pursue legal redress for breach of contract. It is

a serious concern, therefore, to what extent accounting officers are held responsible for “causing financial loss” in the event that the complainant is awarded damages or compensation.

Inspectorate General of Government (IGG)

Article 223 of the constitution establishes the office of the inspectorate of government. The powers, functions and procedures of the IGG are regulated by the IGG Act 2002 and the Leadership Code Act 2002. The IGG is structurally organised in one department, five directorates and one unit of information and internal inspection. The IGG (who is at the level of a full cabinet minister) is the head, assisted by two deputies (who are at the level of minister of state or a judge of the High Court). Currently there is only one deputy.

Appointment of the IGG and the deputy IGG is by the president, subject to approval of parliament. Either the IGG or the deputy IGG must be qualified to be appointed a judge of the High Court i.e. an advocate with at least 10 years’ of practicing law after admission to the bar.⁸⁴ A prospective IGG must possess considerable experience and demonstrated competence and must be of high calibre in the conduct of public affairs. The constitution forbids the person appointed as IGG to hold another office concurrently.

The IGG may be removed from office by the president for infirmity of body or mind, misconduct or incompetence.⁸⁵ However, the IGG enjoys the same security of tenure as a judge of the High Court: the president may dismiss the IGG only if a tribunal appointed by parliament so recommends.⁸⁶ No removal of the IGG has occurred in the past, although the president did not renew the contract of a deputy IGG, Waswa Lule, when it expired in 1998.

The constitution provides for a secretary to the IGG who is also appointed by the president upon recommendation by the Public Service Commission. The secretary must be a person qualified to be appointed a permanent secretary.⁸⁷ The secretary to the IGG is the accounting officer of the office and is therefore the head of the finance and administration department. The secretary is in charge of:

- Giving effect to IGG policy decisions, day-to-day administration and management of the affairs and control of staff of the IGG.
- Calling meetings and maintaining records of minutes of the meetings.

Staffing of the office of the IGG is the responsibility of the appointments board of the office of the IGG, established under Section 7 of the IGG Act 2002, and chaired by the IGG. The board comprises eight persons, namely:

- IGG as chairperson;
- two deputies;
- the secretary;
- chairperson of the Public Service Commission or a representative authorised by him in writing;
- permanent secretary, Ministry of Public Service;
- two persons appointed by the president, one of who must be a woman.

Currently the board has one vacant position, as the office of the IGG is lacking the second deputy. The board is responsible for the establishment of posts in the office of the IGG and enforcing regulations for the discipline of officers and other employees of the IGG. All employees of the IGG swear an oath of allegiance to the IGG upon assuming office. Having powers to hire and fire the staff grants the IGG reasonable independence as an institution.

The constitution provides that the IGG shall be independent in the performance of its functions and shall not be subject to the direction or control of any person or authority.⁸⁸ The IGG, his deputies and staff enjoy immunity against any civil or criminal court proceedings for anything done in good faith and in the course of the performance of their duties under the IGG Act 2002.⁸⁹ Section 21 of the IGG Act 2002 provides that proceedings, findings, recommendations, investigations or inquiries by the office of the IGG shall be held null and void by reason only of informality or irregularity in the

procedure, and shall not be liable to be challenged, reviewed, quashed or called into question in a court of law. However, this section was dishonoured when a court, hearing the allegations of soliciting and receiving a bribe by Magistrate Kisakye Charles, dismissed the case, saying the IGG failed to adduce incriminating evidence.

Another contradiction on the part of Section 21 arises when the findings of the IGG are passed on to the Criminal Investigations Department of police for further investigation. One such case occurred when some commissioners of the Electoral Commission were found guilty of embezzling public funds and gross abuse of office but were not prosecuted because the matter was referred to the police to investigate for the possibility of prosecution. The practice is odd because the IGG has powers to prosecute in court, and his findings are not supposed to be called into question; his/her reports are privileged just like the records and judgment of court proceedings.⁹⁰

Specifically, the office of the IGG is charged with responsibility to:

- Promote and foster strict adherence to the rule of law and principles of natural justice;
- Foster the elimination of corruption, abuse of authority and public office;
- Promote fair, efficient and good governance;
- Investigate any act, omission, advice, decision or recommendation by a public officer or authority given, taken, made or done in exercise for administrative functions;
- Stimulate public awareness about the values of constitutionalism;
- Inquire into the methods by which law enforcement agents and state security agencies execute their functions with the aim of finding out whether the execution upholds, encourages or interferes with the rule of law;
- Take measures to detect and prevent corruption in public offices;
- Investigate the conduct of public officers;
- Enforce the Leadership Code Act 2002.

The IGG's jurisdiction covers most public offices including any government department; statutory corporation or authority; the cabinet; parliament; courts of law; Uganda police forces; Uganda prison service; the army; local defence forces at the district and grassroots levels; local government councils; government-aided schools, colleges and institutions of learning; professional councils, boards or societies like the Uganda Law Society, the Uganda Medical Association, and the Uganda Teachers' Association; public commissions; ISOs and ESOs and any other office that administers public funds.

Special powers of the IGG

The IGG has powers of access to information and can search any person or authority at his/her discretion.⁹¹ The IGG has discretion in determining what cases to investigate and not to investigate, and he/she is not bound to give any reasons for any decisions taken.⁹²

The IGG Act 2002 gives the IGG powers to make rules for the procedure of investigations.⁹³ Any person or group of persons or organisations can lodge a complaint with the IGG either on their own or on behalf of others.

The IGG has powers to issue a warrant of arrest in the case of a witness refusing to cooperate in any matter in which the IGG believes that person has the required clues or information.⁹⁴ The IGG also can, upon his/her discretion, pay any witness an allowance to offset expenses incurred by the witness with regard to the role played in a case under investigation.⁹⁵

Informers to the IGG in any matter of corruption are protected only to the extent of not disclosing their identity. They are entitled to 5 percent of the money recovered as a result of their information to the IGG.⁹⁶

Limitations of the IGG

The IGG's powers to conduct investigations are limited regarding the following issues:

- Decision by a court of law;
- Decision of a tribunal established by law;
- In matters before a court of law at the commencement of the IGG's investigations;
- Any matter relating to the Presidential Prerogative of Mercy and any other matters that the president certifies as likely to:
 - Prejudice security, defence or international relations of Uganda;
 - Expose the secrets or confidential matters of the cabinet.

These limitations could explain why the IGG did not investigate the purchase of junk helicopters by army personnel and the granting of a Prerogative of Mercy to a former director at the Movement secretariat in charge of mobilisation, Major Birimumaso Mulindwa, who was committed to a jail term for abuse of office and embezzlement of public funds amounting to UGX 21 million.

The minister of state in charge of Ethics and Integrity is given powers to amend at his or her discretion the first schedule of the IGG Act, schedule specifies the jurisdiction of the IGG to public offices.⁹⁷ This is a serious flaw because the IGG does not report on any matter to the minister, but to parliament and the president directly. This provision has the potential to grossly impact the independence of the IGG because it puts the IGG's office under direct control of the executive.

Offences under the IGG Act

The following offences fall under the IGG Act.

- Disclosure of identity and/or victimisation of informers in any matter to the IGG draws a penalty of two years in prison or a fine of UGX 20 million or both upon conviction.
- Any unlawful disobedience, refusal to be examined, knowing provision of false information, publication of false scandalous libel, interruption of the proceedings of the IGG or obstruction of any person authorised by the IGG draws a penalty of three years' imprisonment or UGX 30 million or both.
- Impersonation of the IGG or any of his staff draws a penalty of 12 months in prison or a fine of UGX 10 million or both.
- Acting with intent to frustrate or obstruct the IGG is punishable by a fine of UGX 10 million or 12 months in prison.

Funding for the IGG's Office

The annual budget of the IGG has progressively been increasing over the years. For example the annual budget for FY 2001/02 (without donor funding) was UGX 54.9 billion compared to UGX 69.7 billion for FY 2002/03. The donor-funding budget for FY 2001/02 was UGX 64 billion as compared to UGX 76.3 billion for FY 2002/03. The approved recurrent expenditure budget of UGX 67.2 billion is UGX 21.04 billion below the budget estimates submitted to parliament for the FY 2002/2003 and therefore is inadequate.

The IGG is mandated to serve both as the ombudsman of government and as the government anti-corruption watchdog agency. Broadly the IGG performs four basic functions:

- Investigation of allegations of public corruption;
- Prosecutions of corruption;
- Enforcement of Leadership Code; and
- The ombudsman function.

Structure of the Institution of the IGG

The IGG is structured through departments that perform specific duties. The departments include the directorate of operations, the directorate of legal affairs, the directorate of education and prevention, the directorate of the Leadership Code, the directorate of regional offices and follow-ups and the information and internal inspection unit.

The Directorate of Operations

The directorate of operations is charged with carrying out all investigations of the IGG, arrests and monitoring and inspection of the Poverty Alleviation Fund (PAF). Investigation priority is given to high-profile corruption cases, which are categorised as those involving UGX 20 million and above or those involving elected/appointed leaders. The investigations' target is more than 900 cases per year according to the IGG's 1998/02 Plan (IGG Report, 2001b).

Table 11 Workload of the IGG for July–December 2001

	KI	Ra	St	Mb	Fp	Ar	GI	Ms	Total
July	123	28	21	27	10	30	12	17	268
August	139	26	23	22	9	34	15	26	294
September	107	17	22	19	15	61	21	14	276
October	146	23	14	21	16	41	14	25	300
November	137	38	21	19	25	22	10	31	303
December	84	20	9	13	15	17	9	10	177
Total	736	152	110	121	90	205	81	123	1618
percentage	45.5	9.4	6.8	7.5	5.6	12.7	5	7.6	100

Source IGG Report 2001b, p. 108.

Key Kampala (KI), Mbarara (Ra), Soroti (St), Mbale (Mb), Fort Portal (Fp), Arua (Ar), Gulu (GI), and Masaka (Ms). The total figure of 1,618 cases represents a 7.5 percent drop in the total number of cases compared with 1,676 cases in the previous period.

As seen in Table 11, the total IGG caseload for the period July to December 2001 was 2,942 cases (1,324 cases as brought forward plus 1,618 new cases). Only 1,573 cases (54 percent) were concluded (i.e. 571 referred to other institutions plus 1,002 cases investigated and completed). This means that about 46 percent (1,369 cases) were not fully investigated due to lack of adequate staff, equipment and supplies. The IGG report (2001b) also attributes the decrease in the total number of cases completed, from 1,288 in the period January to June 2001 to 1,002 in July to December 2001, to the fact that most of the investigators were undergoing training and hence most cases pending.

The need for greater awareness campaigns can be deduced from analysis of the complaints. The caseload of the IGG has been variable, but has consistently been highest in Kampala over the years, compared to other regional offices, either because of its central location or perhaps due to the fact that most government institutions are located in Kampala. The population around Kampala is also the most enlightened, being more informed about its rights and the IGG's functions, and therefore forwards more complaints. Conversely, the countryside is characterised by high levels of illiteracy and lack of corruption awareness and knowledge about the existence of the IGG services – hence the few complaints.

The Directorate of Legal Affairs

The directorate of legal affairs carries out prosecutions and advises other directorates and the entire inspectorate on legal matters. It also carries out the ombudsman function and handles investigations thereto. A total of 48 cases were prosecuted between July and December 2001 and only seven were finalised. Some of the cases prosecuted by the IGG include:

- Uganda vs. Nafuna Scola (A1) and Charles Kisakye (A2), before the Chief Magistrate Mengo Court (IG Ref: TS.150/2001-CRC947/2001). A1 was a state attorney in the Ministry of Justice and A2 was a principal magistrate grade I Buganda Road Court. They are alleged to have solicited and received UGX 1 million as an inducement to cancel an arrest warrant that had been issued against the complainant. They were charged with corruption. The two accused persons were acquitted but dismissed from the service.
- In another case (IG Ref: 268/96- Court Ref: CRC MS 15/2000), UGX 62 million was allegedly embezzled by the director and three other staff of the East African Civil Aviation Academy. The accused were prosecuted and acquitted of the charges and although the state appealed, no hearing date has been fixed. The culprits lost their employment but were not prevailed upon to refund the money.

The Directorate of Education and Prevention

The directorate of education and prevention is responsible for carrying out public awareness campaigns against corruption, including research into various policies and systems with a view to identifying areas prone to corruption. This directorate is also in charge of staff training and the production of reports to parliament. Awareness is raised through workshops, seminars, conferences, radio, television, newspapers, magazines, brochures and booklets.

The Directorate of the Leadership Code

The directorate of the leadership code is responsible for enforcing the Leadership Code of Conduct and handling investigations thereto. The mandate to enforce the Leadership Code of Conduct is derived from Article 233 of the constitution and Section 3(1) of the Leadership Code Act 2002. Jurisdiction of the IGG regarding enforcement of the code covers most government institutions and parastatals, local government, the army, Uganda police, Uganda prisons, etc.⁹⁸

Powers of the IGG under the Leadership Code are as follows:

- Section 30 of the act gives special powers to the IGG to inspect bank accounts, share accounts, purchase accounts, expense accounts or any other safe deposit book in a bank as and when deemed necessary.
- Section 22 empowers the IGG to freeze or place any restriction at his discretion on any bank account of a leader, or any person being investigated, for the prevention of dissipation of any money derived from or related to the violation of the code.
- Section 23 gives the IGG powers of the High Court of Uganda to issue summons, to administer oaths, affirmations or otherwise, to demand production and inspect documents, to force attendance of witnesses and to receive any additional information it considers relevant in the allegations before it.
- Section 5 empowers the IGG to request any public officer to clarify the assets and liabilities declared in case of an omission or any discrepancies in the declaration and information available to the IGG; the officer is obliged to comply.
- The IGG may confiscate any property of a leader proved to have obtained it through breach of the code and such confiscated property is forfeited by the leader involved, or the IGG may ask the leader to compensate the government or public body the monetary equivalent of the loss.
- The IGG is empowered to make rules regulating its procedure under the Leadership Code Act 2002 in consultation with the minister of justice and attorney general (Section 25 of the code).

The following conduct of leaders is prohibited:

- Leaders are prohibited from involving themselves in situations of conflict of interest. The Leadership Code requires leaders to disclose their interest in matters under deliberation by a board, council or committee of which they are members.⁹⁹ The erring leader upon conviction suffers immediate dismissal; in the case where a loss is incurred, the leader is asked to make good the loss.¹⁰⁰

- Failure of leaders to disclose their assets and liabilities three months after the commencement of the Leadership Code Act 2002 i.e. in July 2002, and thereafter every two years, and upon taking office, is an offence under the act. The declaration of assets is time bound and leaders may be given only 30 additional days upon the expiry of the three months with justifiable reasons.¹⁰¹ The penalty for total failure to declare or for unjustifiable delay is immediate dismissal from office. In the case of falsification of declared assets, the excess or undeclared property is confiscated and forfeited to the government.¹⁰²
- Leaders must not treat as personal those gifts or donations made to them during a public or ceremonial occasion, or commission paid to them on any transaction. However, leaders are allowed to receive gifts from a relative or personal friend to the extent or occasion recognised by custom or a souvenir or ornamental item not exceeding UGX 100,000 in value. Should the gifts received from any one source in 12 consecutive months exceed UGX 200,000, the leader is obliged to disclose the gift to the IGG.¹⁰³ As a result of non-compliance with the provisions, either the leader forfeits benefits/salary equivalent to the value of the gift or the leader is cautioned or dismissed from office.¹⁰⁴
- Leaders are prohibited from directly or indirectly accepting any property or gift that influences them to do a favour to any person (i.e. receiving a bribe). The penalty for soliciting or receiving a bribe is dismissal from office.
- It is prohibited for leaders or their spouse, agent, private company or public company or business enterprise in which the leader has controlling interest to seek, accept or hold any contract with the government, with a public body that the leader directly or indirectly controls or with any foreign company where conflict of interest is evident. This misconduct is punishable by dismissal from office.¹⁰⁵
- Leaders are prohibited from knowingly misusing or allowing public property entrusted to their care to be misused, abused or left unprotected. The penalty for non-compliance includes the leader making good the loss occasioned to property. The value of the property or the damage to the property constitutes a debt from the leader to government. In addition, the leader may be warned, demoted or dismissed from office.¹⁰⁶
- Leaders are prohibited from using information in their custody, directly or indirectly through persons over whom they have control, to further private interests, financial or otherwise; such action is considered misuse of information and punishable by warning, demotion, dismissal or vacation of office.¹⁰⁷
- The president, vice president, speaker and deputy speaker, chairperson and vice chairperson of the National Conference of the Movement Political System, attorney general, judges of the courts, IGG and deputy IGG, chancellor and vice chancellor of a university, IGP and deputy IGP, commissioner and deputy commissioner of prisons, commissioner of immigration, auditor general, chairperson of CTB, governor of the Bank of Uganda, directors of any public body, secretary to the treasury, solicitor general, commissioner general, deputy and commissioner of URA, presidential aide, director generals of ISO and ESO, army commander and deputy and army chief of staff, permanent secretaries, ambassadors/high commissioners, chairperson, secretary or commissioners on the Constitutional Review Commission, DPP, administrator general and registrar general are prohibited, except with prior approval of the IGG, from the following, at the risk of dismissal or vacation of office¹⁴³:
 - Holding the office of director or any office in a foreign business organisation.
 - Operating a business as a commission agent.
 - Accepting a gift, benefit or advantage from any company owned by foreign citizens.¹⁰⁸
- Leaders are forbidden to divert public funds for uses other than those specified in the approved budget of parliament or local council. Non-compliance with the provision is punishable by making good the loss, even if the leader has ceased to hold office.¹⁰⁹

- Upon vacation of office leaders are prohibited from offering advice or participating in negotiations to which the government or public body is party and where the former leader acted for or advised government. During the period of one year after ceasing to be a leader, a former leader is forbidden to give advice to his clients using information that is not publicly available concerning policies or programs of government or public body with which he/she had a relationship.¹¹⁰
- Leaders are prohibited to allow themselves be compromised in the performance of their official duties by plans or expectations for or offers for future employment.¹⁴⁶ Non-compliance breaches the code and is punishable by dismissal from office or vacation of the office.¹¹¹

The speaker of parliament is empowered to handle all cases of breach of the code involving MPs; in case the speaker breaches the code, the Parliamentary Committee on Privileges and Discipline is empowered to act on the matter.¹¹² The code also has supreme powers over Sections 15, 55(5), 94(3) and 95 of the Local Government Act 1997; thus when a chairperson of a district council, sub-county or municipality or a member of the District Tender Board or District Service Commission is found guilty of breach of this code, the provisions of the code prevail over the procedure laid down in those sections.¹¹³ However, in matters concerning the LC V chairperson, district speaker or deputy district speaker, breaches of the code are enforced by the district council; in the case of the sub-county level, the enforcement authority is the sub-county council. In the case of a municipality the enforcement authority for breach of the code is the municipality council.¹¹⁴

The Leadership Code also provides that the IGG and his deputies must declare their property to the speaker of parliament. It empowers parliament to enforce the breach of the code in case the IGG and deputy IGG fail to comply.

Breach of the code of conduct by the CAO and town clerk is enforced by the DSC upon receipt of the findings of the IGG stating the violation and preferred action. The IGG findings are enforced without regard for the procedure stipulated in Section 69 of the Local Government Act 1997.¹¹⁵

The following are weaknesses of the Leadership Code Act 2002:

- Persons aggrieved by the decisions of the IGG may appeal against such decisions to the High Court within 30 days after the notice of the findings has been brought to the attention of the person/s concerned.¹¹⁶ This is a serious contradiction of the code that might require clarification, as Section 23 gives the IGG powers of the High Court with the provision that the IGG office is not bound to give reasons for its decision. It is not practical for a case lost in the High Court to be appealed in a court with equal powers.
- A serious weakness of the Leadership Code Act 2002 is that it grants the legal opportunity, in the first instance, to any leader listed under the third schedule of the act to seek approval of the IGG to undertake or be involved in foreign deals on any matter. In addition, to grant any leader listed in the third schedule the ability to appeal, in a court of law, against the refusal of the IGG to grant the leader approval to operate as an agent or hold an office in a foreign business or accept a gift is to indirectly promote corruption among high-profile leaders. This provision needs to be repealed.
- Section 14 of the code further erodes the right of access to information provided in the constitution. Unless the IGG specifies the nature of information he/she thinks might be used to benefit private interests, financial or otherwise, public officers may constructively block access to otherwise public information under the pretext of misuse of official information that breaches the Leadership Code.
- The total number of IGG staff is 302, which is inadequate in view of the workload of the office. This lack of adequate staffing negatively impacts on the institution's capacity to handle the many cases of corruption.
- The declaration of assets exercise has so far been effectively enforced for those parliamentarians and leaders whose offices are situated in Kampala. This should be extended to all eligible offices countrywide. Moreover, although some verifications are made alongside investigations of allegations of breach of the code, physical

verifications of leaders' declarations is constrained by inadequate staff and vehicles (IGG Report, 2001b).

Out of a total of 5,761 leaders supplied with declaration forms (excluding leaders from new districts), only 1,752 leaders submitted their declarations by the stipulated dates of 31 December 2001 and 3 March 2002, representing only 30 percent of the total number of leaders over whom the IGG has jurisdiction (IGG Report, 2001b; 2002).

It is clear from Table 12 that the declaration of assets, incomes and liabilities by leaders is yet to become common practice in Uganda. The table also shows that the enforcement of the Leadership Code seems not to have received the kind of attention it deserves from the IGG. When contacted, however, the IGG said that enforcement has been generally constrained by lack of Leadership Code-specific regional desks, delayed examination of lodged submissions and Lack of a computerised leaders' declaration database, due to lack of funding.

The Directorate of Regional Offices and Follow-ups

The directorate of regional offices and follow-ups is responsible for coordinating the activities of the regional offices, currently totalling nine in number. The directorate is also responsible for ensuring that cases are handled expeditiously and that the relevant authorities implement the IGG recommendations.

The regional offices have authority to handle all corruption cases in their areas of jurisdiction without clearance from the headquarters except for the following:

- Cases/complaints involving UGX 20 million and above.
- Cases/complaints involving political leaders, for example LC V chairpersons, the mayors and the district council executives; statutory bodies like district land boards and district service commissions; high-level civil servants such as magistrates, the chief administrative officers, town clerks, heads of departments, regional police commanders and district directors of health; institutions like universities and national teachers colleges.
- Issuance of any report or public communication by regional offices, which is subject to the direction and approval by the IGG.

The Information and Internal Inspection Unit

The information and internal inspection unit is charged with receiving and handling complaints and information. It monitors and vets staff as well as carrying out open investigations. Given that about 68 percent of the total number of cases handled in 2001 related to the ombudsman function of the IGG, there is need for an ombudsman directorate to be established (IGG Report, 2001b).

Table 12 Assets Declaration of Leaders in Uganda as of 30 June 2002

	No. of Leaders	No. of Returns	Percentage of submission
President and Vice President	2	2	100
Ministers	65	65	100
Members of Parliament	237	26	10.9
Presidential Advisors	32	25	78
Judges	44	34	77
Permanent Secretaries	33	33	100
Registrars and Magistrates	273	62	23
Leaders in Public Bodies	140	36	26
Members of Commissions	73	23	32
District Chairpersons	56	9	16
Police (SSP above)	85	52	61
Prisons (SSP)	41	27	65
Universities/Higher Institutions	67	17	25
URA Staff	1021	16	2
Ambassadors	31	13	16
CAO	56	13	23
Head Teachers	277	178	64

Source IGG Reports, 2001b, p. 54; 2002 p. 51.

General Links with Other Pillars

In the day-to-day handling of cases the IGG referred in 2001 571 cases to other institutions (IGG Report, 2001b). Cases of a criminal nature are normally referred to the police CID department, but this has had little success. This is probably related to the fact that the police currently comprise the majority of public officers prosecuted by the IGG for soliciting/receiving bribes.

Cases that are administrative in nature are referred to the respective government departments/institutions for the attention of the heads of institutions. For example, if a teacher lodges a complaint with the IGG for non-payment of salary by a certain headmaster, the IGG refers the matter for redress to the District Education Officer (DEO) of the district where the complainant works. Many cases are referred to the auditor general, DPP, Public Service Commission, etc. This interagency communication is also two-way, such that other institutions also refer certain issues to the IGG for investigation.

However, in order to improve the efficiency and effectiveness of the operations of the IGG there is need to:

- Recruit more technical staff (accountants, valuers, systems analysts/computer experts, bankers, procurement specialists, experts in international fraud and money laundering).
- Establish special courts to handle corruption cases, as the present court system seems not to measure up to the challenge.
- Motivate staff by improving their welfare so as to increase chances of retaining as well as attracting highly trained and motivated staff.

Directorate of Ethics and Integrity

The Directorate of Ethics and Integrity (DEI) is not a ministry but a directorate founded under the office of the president to provide political coordination of the key government institutions on matters related to good governance and corruption. The key government institutions that the DEI coordinates form what is called the Inter-Agency Forum (IAF), comprising:

- permanent secretary, Ministry of Local Government;
- chairperson, Parliamentary Public Accounts Committee (PAC);
- IGG;
- Auditor General;
- director of public prosecutions;
- permanent secretary, Ministry of Finance;
- permanent secretary, Ministry of Justice and Constitutional Affairs; and
- chairperson, Anti-corruption Coalition Uganda (ACCU).

The head of the DEI, the minister of state for ethics and integrity, is the chairperson of the Inter-Agency Forum; meetings are convened on a monthly basis. The member organisations do not submit their activity reports to the DEI save on grounds of good public relations. For example when the IGG writes to, for example, the auditor general, he may as a matter of courtesy send a copy of the letter to the head of the DEI.

The DEI also gives political support and leadership to any corruption and good governance-related policy and bills tabled in parliament. For example, the IGG through the DEI laid before parliament the Leadership Code Bill 2001 as amended. The bill was debated and enacted as law by parliament in July 2002 and it became the Leadership Code Act 2002. The DEI never directly engages in the fight against corruption apart from organising stakeholders' workshops on anti-corruption policy and law formulation, review or analysis.

Media

The Press and Journalist Statute 1995 was enacted by the National Resistance Council to ensure the freedom of the press; to provide for a council responsible for the regulation of mass media; to establish an institute of journalists of Uganda; and to repeal the Newspaper and Publications Act and the Press Censorship and Correction Act (chapters 305 and 306 of the laws of Uganda of 1964). Meanwhile, the Electronic Media Statute 1996 regulates the operations of radio and television stations and provides for the functions of the broadcasting council and licensing of television sets. The Uganda constitution 1995 provides for press freedom, although there have been many incidences of attempts to thwart this freedom through restrictions, allegedly to check excesses. There is however wide liberalisation of broadcasting and expansion of private media.

A media council of 13 members is appointed by the minister of information and broadcasting. It consists of:

- A senior officer of the Ministry of Information and Broadcasting;
- Two mass communication scholars;
- One representative of the Proprietors of Newspapers and Editors;
- Two electronic media representatives;
- Two National Institute of Journalists of Uganda (NIJU) representatives;
- Two members of the public nominated by the minister;
- One person nominated by the Proprietors and Editors Association;
- One person nominated by journalists; and
- One distinguished lawyer nominated by the Uganda Law Society.

The major responsibility of the media council is the registration and award of licenses to both print and electronic media operators in Uganda. Other responsibilities include to:

- Regulate the conduct, promote standards and discipline journalists;
- Arbitrate disputes between the public and the media, and the state and the media;
- Exercise disciplinary control of journalists and publishers;
- Promote the flow of information;
- Censor films, videotapes, theatrical plays and other related apparatuses for public consumption etc.

A broadcasting council consists of:

- A chairman;
- Two television and radio operators' representatives;
- One representative of video and cinema operators;
- Two members of the public;
- One lawyer;
- A senior officer of the Ministry of Information and Broadcasting as secretary;
- An official from the culture ministry;
- An official from the communications ministry;
- An official from the education ministry and
- An official from the URA.

The minister of information and broadcasting appoints all members of the broadcasting council (Section 10 of the Electronic Media Statute 1996). The broadcasting council has the following functions:

- To coordinate and exercise control over radio and television broadcasting activities;
- To plan, allocate and manage the frequency spectrum dedicated to broadcasting;
- To coordinate international electronic communication;
- To receive and consider applications for frequency spectra for persons whom the media council has licensed (Section 11 of the Electronic Media Statute 1996).

Whereas the members of the media council mentioned above elect from among themselves a chairperson, the minister appoints the chairman of the broadcasting council. Members of both councils serve for a three-year term but are eligible for re-appointment indefinitely. For a member of the media council to resign, the resignation is addressed to the chairperson of the council. In case of the chairperson, the resignation is addressed to the minister (Section 9 of Press and Journalist Statute 1995). In contrast, members of the broadcasting council may be removed from office for inability to perform, misbehaviour, bankruptcy or insolvency or conviction for a criminal offence whose penalty exceeds six months.

The salaries of members of the media council and staff of the broadcasting council are determined by the minister to whom the councils are obliged to submit their annual reports.

There is a National Institute of Journalists of Uganda (NIJU) whose main objective is to establish and maintain professional journalism. The NIJU advises on journalism training courses and makes the bylaws of the institute (Sections 14 and 15 of the Press and Journalist Statute 1995). Two practical functions of the NIJU executive committee are maintaining and publishing the roll of members and publication of a journal of the institute (Sections 19 and 20 of the Press and Journalist Statute 1995).

Media Freedom

Press freedom and freedom of expression are fundamental rights. Article 20(1) provides that fundamental rights and freedoms of the individual are inherent and not granted by the

state. Article 29(a) confers upon every person the right to freedom of speech and expression, which includes the freedom of the press and other media. Article 44 of the constitution requires no derogation of the enjoyment of specified rights and freedoms. For instance it is everyone's right to publish a newspaper and/or undertake electronic broadcasting in Uganda, and it is forbidden for an authority to prevent the printing, publication and/or circulation among the public of a newspaper (Section 3(2) of the Press and Journalist Statute 1995; Section 8(1) of the Electronic Media Statute 1996).

Media Licensing

The motive for requiring registration of a newspaper in Uganda seems to be more to control than anything else. No one can operate a newspaper in Uganda unless he/she provides the particulars of its editor to the media council i.e. his name and address, certified copies of testimonials as proof of the qualifications and experience and the name and address of the newspaper (Section 6 of the Press and Journalist Statute 1995). Journalists are required to enrol with the media council in order to be entered on the register of journalists of Uganda (Section 27 of the Press and Journalist Statute 1995). Thereafter, journalists are required to pay for a practicing certificate that is valid for one year, subject to indefinite renewals. Section 28(3) provides that no person shall practice journalism unless in possession of a valid practicing certificate issued by the media council. Section 28(4) prescribes the penalty for non-compliance to be UGX 300,000 or three months' imprisonment.

Journalists in Uganda have resisted these particular sections to the extent that no single journalist has a practicing certificate to this date. The government has also been relaxed over the matter until recently. Some media houses have embarked on out-of-studio broadcasting (locally termed *ebimeeza*), wherein organised public debates are aired live. The minister of information, Basoga Nsadh, at one point banned the practice and threatened to start a more strict regime of enforcing the statute ("Government moves to vet journalists", *The Monitor*, 3 January 2003, p. 9). It was reported that the media council would bar non-qualified DJs from the studios and licenses of media houses involved in *Ebimeeza* would not to be renewed ("Government to enforce all Media laws soon", *The New Vision*, 3 January 2003. p. 3).

Sections 3 and 4 of the Electronic Media Statute 1996 require any person who wishes to operate a radio or television station to obtain a license. The media council issues the license upon payment of such fees as may be prescribed by it and after a mandatory inspection to certify that the person is a citizen of Uganda, a locally registered partnership or company or is a public corporation set up by an act of parliament. This law is currently enforced. However, the practice is that the media council only licenses editors and producers of media organisations and media houses, whilst the broadcasting council licenses the electronic media. The communications commission allocates the frequencies and operational licenses. No person therefore can broadcast without a broadcasting license issued by the council. The license is renewed annually.

Media Censorship and Libel Laws

No law permits censorship of the media. Section 10 of the Press and Media Statute 1995 gives powers to the media council to censor films, video etc. but not to censor the print media. No media has been censored, although the council has cautioned a number of media houses for publications related to morality and pornographic films and videos.

It is required that no person or group operate a newspaper, radio station or television station in Uganda unless they comply with other laws prohibiting the publication of pornography and obscene publications that offend or corrupt public morals, and the laws prohibiting any publication that improperly infringes on the privacy of an individual or that contains false information.

The laws of sedition and libel still exist on the books of Uganda. Journalists have been intimidated, jailed and or fined for criminal libel and sedition. The law of defamation has been used against journalists who publish corruption stories against public officials, and some journalists have appeared in court to defend themselves against politicians whose involvement in corruption scandals they have written about. The Penal Code (cap. 106)

criminalises all offences related to publication and prescribes prohibitively large fines or prison terms.

Media Ownership

Both government and private proprietors own media in Uganda. The electronic media currently comprises 10 television stations; only two – i.e. Uganda Television (UTV), which is state owned, and Wavamuno Broadcasting Service (WBS) – cover Ugandan issues. The rest of the television stations relay mainly foreign-generated content constituting largely entertainment and religious programs. There are more than 20 commercial, religious and community FM radio stations. Their coverage is limited to particular localities, except for a few such as Capital FM (91.3) Radio and Central Broadcasting (88.8 FM) Service (CBS), which have coverage beyond the central region of the country.

There are five state-owned newspapers; two dailies i.e. *The New Vision* and *Bukedde News Papers*; and three weeklies in local languages i.e. Orumuri (Runyankole for the western parts of the country), Rupiny (Luo-speaking community in northern Uganda), and Etop (Ateso for the Teso sub-region of eastern Uganda). There are at least six private newspapers including one daily, *The Monitor*, and many tabloids i.e. *The Weekly Message*, the *Red Pepper*, *The Sun Rise*, the *Uganda Confidential* and *The East African*.

Media Coverage of Corruption

The media has published many articles on corruption, a commendable and important step in dealing with the problem. Both public and private newspapers carry views critical of the government, for example:

- *The Monitor*, December 15, 2002, "URA Staff fail to explain Shs. 80 billion Wealth Flee to UK";
- *The East African*, December 17, 2002, "Panic at URA as Commission delays Report";
- *The New Vision*, December 10, 2002, "Witness Pins Mafabi, Gumisiriza over Bribery";
- *The New Vision*, December 10, 2002, "EC accountant charged over shs. 643 million financial fraud";
- *The New Vision*, December 8, 2002, "IGG to eject MPs Saleh, Ogwal" for failure to declare their wealth despite several reminders;
- *The New Vision*, December 7, 2002, "MPs under probe deny bribery";
- *The New Vision*, December 4, 2002, "URA staff riches shock Sebutinde";
- *The New Vision*, December 4, 2002; "Nakasongola officials pinned over shs. 274m";
- *The Monitor*, December 2, 2002, "IGG recommends sacking of headmaster over free Books";
- *The New Vision*, November 30, 2002; "Fraud in district un earthed";
- *The Monitor*, November 1, 2002, "IGG wants Mbale tender boss sacked";
- *The New Vision*, November 23, 2002, "Odoki cautions court bailiffs on corruption";
- *The New Vision*, November 23, 2002, "PAC queries finance on Shs.108bn";
- *The Monitor*, November 20, 2002; "Two head teachers fired over fraud";
- *The Monitor*, November 20, 2002, "Matembe tells CAOs to account for district money";
- *The New Vision*, November 5, 2002, "Nadduli implicated in Luwero money scam".

However, governmental electronic media hardly airs criticism of the government.

There has not been widespread physical harm to journalists investigating cases of corruption, only isolated incidences. For example, the officer in charge of Kawempe police

station beat a journalist for taking photographs of the police after they shot a student who had come to attend a political party gathering. However, journalists critical of the government have frequently been summoned to the CID headquarters for interrogation. A few journalists have been charged in courts of law for publishing false news, e.g. Miriam Matembe (the former minister of ethics and integrity) vs. Cheeye (editor, *Uganda Confidential*), and Editors of *the Monitor* (Wafula Oguttu, Onyango Obbo and David Balikowa) vs. the Government over nude photos that featured in the *Monitor* newspaper on 11 May 1999. This type of harassment is more psychological than physical.

Civil Society

The NGO Registration Statute 1989 provides the legal framework for the operation of non-governmental organisations (NGOs) and community-based organisations (CBOs) in Uganda. The statute establishes a national board for NGOs, commonly called the NGO board. All organisations are required to register with the NGO board before being incorporated or registering any document under the Companies Act or the Trustees Incorporation Act (Section 1(3) of the NGO Registration Statute 1989). In reality, however, there are a number of organisations that register directly under the Companies Act or Trustees Incorporation Act as companies by guarantee without share capital, without first registering with the NGO board.

Most of the NGOs operating in Uganda are registered with the NGO board, which issues them certificates of registration (Section 1 of the NGO Registration Statute 1989).

Initial registration with the NGO board is given for a one-year term, upon renewal for a three-year term, and then for five-year terms thereafter. Non-compliance with the registration requirements attracts a fine not exceeding UGX 200,000; in the case of default the chief executive officer of the organisation suffers imprisonment for 12 months.

The contentious issue with civil society organisations (CSOs) has been the composition of the board. The board consists of two members from the public and 12 other members, one from each of the following ministries: internal affairs; relief and social rehabilitation; justice; lands, water and environment; finance, planning and economic development; foreign affairs; local government; gender, labour and community development; office of the prime minister; ISO and ESO, all of whom are appointed by the minister of internal affairs.

Section 7 of the NGO Registration Statute empowers the board to approve or reject applications for registration and grant or revoke certificates of registration.

The NGO board requires prospective NGOs to seek written approval from the following government offices:

- the resident district commissioner (RDC) in the district where the NGO intends to operate. NGOs with national objectives and coverage such as Transparency International Uganda are required to obtain approval of at least three RDCs of three districts.
- local council I and III for those operating at the grassroots level. Organisations that have national coverage but are at the same time operating at the grassroots level are required to have six approvals i.e. one LC I from each of the districts the organisation operates from, and one LC III from each of the three districts where activities are to be undertaken.

The registration of an NGO usually takes about three months from the time all requirements are submitted to the NGO board. However, there have been cases in which NGOs have waited an entire year to be granted a certificate to operate.

Civil society plays various roles, including monitoring and protection of human rights, for example the Human Rights Network of Uganda (HURINET-U); fighting corruption, for example, Transparency Uganda, Uganda Debt Network, IATM, INFOC; monitoring government, for example Poverty Alleviation Programmes (PAP); monitoring consumer rights, for example UCPA, and so on. There is a modest coalition of CSOs against corruption known as the ACCU, made up of IATM, SAMAMU Group, HURINET-U, civil society anti-corruption advocacy organisations (UDN, Transparency-Uganda), and the IGG and the DEI in the president's office. There is an umbrella organisation of religious groups,

Inter-Faith Organisation Against Corruption (INFOC), that has been very active in the anti-corruption crusade in terms of awareness and integrity-building among the public.

The donor community and other international and national stakeholders have managed to place corruption on the political agenda for government, although implementation of the government's anti-corruption action plan is slow.

A modest beginning has been made by the Uganda Debt Network (UDN), whose successful pilot program monitors school facilitation grants under the Poverty Eradication Fund Programme. UDN utilises community-based PAF committees within the locality of the project to carry out physical monitoring. It hopes these people will be able to galvanise local CSOs and CBOs to participate over time. Transparency Uganda has been implementing a pilot anti-corruption campaigns programme in Kayunga, Wakiso, Bugiri and Iganga districts.

A major constraint on NGOs is that the NGO Registration Statute 1989 (Section 1) expressly prevents operation of any CSO without registration with the NGO board. The statute gives the board exclusive discretion to revoke any organisation's certificate of operation.

Local Government

Local authorities fall under the Ministry of Local Government. The head of this ministry is a full cabinet minister assisted by one minister of state. The departments are personnel, finance and administration, and the decentralisation secretariat. The permanent secretary heads the finance and administration department, in which there is a donor coordination unit. A director heads the decentralisation secretariat. Under him are three commissioners, for inspectorate, local councils and district and urban administration.

The donor coordination unit oversees all donor funds going to different districts, with a view to avoid over-capitalisation of certain programmes and waste of donor funds. The decentralisation secretariat provides advisory services and technical and institutional capacity building for newly decentralised districts.

Decentralisation Progress in Uganda

Decentralisation in Uganda is mainly concerned with the transfer of legal, administrative and political authority to make decisions and manage public functions from central government to semi-autonomous local governments at the district and lower levels. The policy aims at devolving power to the district and lower levels and the democratisation of decision-making. All the 55 administrative districts of Uganda are currently decentralised. Proponents argue that the policy has made it possible for decisions to be made easily by the people affected in their localities. They further argue that political, administrative and financial powerlessness at the district level has been addressed constitutionally. Articles 188 and 200 of the constitution empower the District Service Commission to hire and fire employees of the district, including the chief administrative officer who is the accounting officer of the district. Local authorities are now responsible for primary education; health centres; secondary education, trade, special education and technical education; hospitals other than those providing referral and medical training; and land administration (The Local Government Act 1997 Second Schedule Part 2).

Furthermore, proponents note that local authorities have large budgets, which reach UGX 12 billion. A sub-county shall retain 65 percent of the amount of revenue collected, out of which it distributes 5 percent to county councils, 5 percent amongst parishes and 25 percent among the village councils (5th Schedule, part IV, Section 15 of the Local Government Act 1997). Retention of this money at the lower levels is intended to enable them to plan, in a predictable manner, credible methods of eradicating poverty in their areas. However, the theory is sound but the reality is yet to be registered.

The Local Government Councils

Local governments are established under Article 176 of the constitution, and the Local Government Act of 1997 regulates their functions and operations. The system of local governments is based on the district as a unit, under which there are lower local governments and administrative units. In 1995 Uganda had only 39 districts, but Article 5 of the constitution allows for the establishment of more districts in accordance with the constitution. Based on this article, parliament has established 16 more districts, bringing the total number to 55 as of July 2002.

The Local Government Act Section 7 provides that local governments are corporate bodies with perpetual succession and common seal, and are capable of suing or being sued in their corporate names. There are basically two types of local governments:

1. Local government of a district in a rural area made up of:
 - The district council, also known as local council five (LC V)
 - The municipal council, also known as local council four (LC IV)
 - The municipal division council, also known as local council three (LC III Urban). The town council, also known as local council three (LC III Urban)
 - The sub-county councils, also known as local council three (LC III Rural)
2. Local government in a city made up of:
 - The city council that was construed to equate to a full district under the Local Government Act 1997 (LC V)
 - The city division councils equated to a sub-county council under the Local Government Act 1997 (LC III)

All local governments lower than LC V have a maximum of 9 members on the council. The LC V council has a variable number of members depending on the size of the locality constituting the council.

The key organs of local governments include the district council (local government equivalent of parliament), the district executive council (the cabinet or executive equivalent for local governments), the councillors (local government equivalent of MPs), the DSC (the equivalent of the public service), the local government public accounts committee (the equivalent of parliamentary PAC) and the DTB (the equivalent of Contracts Committee of Procurement Entities).

The district council is the highest political authority of a local government within the area of its jurisdiction and has legislative and executive powers.¹¹⁷ Membership in local government councils is a privilege of citizens of Uganda only.

The district councils¹¹⁸ comprise a chairperson; councillors elected to represent electoral areas of the district; two youth councillors, one of whom must be female; and two councillors representing persons with disabilities, one of whom must be female. Women councillors form one-third of the council. There is a speaker and deputy speaker of district council elected by the council from among its members by secret ballot.¹¹⁹ The speaker of a district council performs functions similar to the speaker of parliament and his election is presided over by a chief magistrate.

The Executive Powers of a Local Government

The chairperson of a district council is the political head of the district. He chairs the district executive council and is elected by universal adult suffrage.

The district executive committee consists of seven persons, namely:¹²⁰

- The chairperson, who is also the chairperson of the district council
- The vice chairperson, appointed by the chairperson from among members of the district council and subject to the approval of the council
- Five secretaries, one of whom must be female.

The district executive council is therefore responsible for policy formulation subject to approval by the council; monitoring and supervision of implementation of the council's policies and programmes; coordination of NGOs in the district and nomination of persons to be appointed to the DSC, Local Government Accounts Committee, DTB, District Land Board and any other boards/commissions that may be created. The executive council is also charged with resolving disputes of lower local government councils and conducts annual evaluations of council programmes. Members of the district executive council are prohibited from holding any other office of profit likely to compromise their office.¹²¹

The chairperson may remove from office any member of the DEC at his discretion.¹²² The DEC members can also be removed from office by censure supported by more than half of all members of the council. The procedure is similar to that of parliamentary censure.¹²³

A district executive council has powers to appoint at most five standing committees as necessary for the efficient performance of its functions (Section 23 of the Local Government Act). The day-to-day affairs of the councils are managed by clerks to council, or town clerks in the case of municipalities and cities, appointed by the DSC and other support staff who are also appointed by the DSC (Section 23 of the Local Government Act). The district council may offer guidance to lower councils within its jurisdiction. The district council is mandated to be the planning authority of a district, whereof it prepares a comprehensive plan incorporating the plans of lower-level local governments, including those of lower councils in its area of jurisdiction, for eventual submission to the National Planning Authority (Section 36[3]). However, typically a district technical planning committee (DTPC) performs the planning exercise on behalf of the council.

The DTPC is chaired by the CAO and consists of heads of departments of that district and any technical person co-opted by the CAO. The district economic planning department, which is its secretariat, hosts the DTPC. A council is also empowered to create or abolish offices in the public service of a district or urban council.

Section 55 of the Local Government Act establishes a district service commission. The DSC has powers to appoint persons to hold offices, confirm appointments, exercise disciplinary control and remove persons from office. Members of the DSC are appointed by the district council only if they have 10 years' experience in a responsible position and have high moral character and proven integrity (Section 57 of the Local Government Act). Persons aggrieved by the DSC can apply to the Public Service Commission; this appeal is final. The DSC has the mandate to make staff regulations prescribing control and management of district personnel.

The district authorities have powers to make bylaws by passing local bills into ordinances, subject to assent by the chairperson and approval by the attorney general.¹²⁴ Ordinances may create sanctions for breach and penalties of a fine not exceeding UGX 40,000 or a term not exceeding 6 months or both. However Section 45 of the Local Government Act forbids local government from passing any law relating to the establishment or administration of courts or to the exercise of judicial powers.

The Local Government Budget

Section 78 of the Local Government Act grants local governments the right and obligation to formulate, approve and execute their own budgets and plans provided the budgets are balanced according to the National Priority Programme Areas' budget outlays. It is illegal for local governments to appropriate funds of the council without a budget approved by the council (Section 83 (1) of the Local Government Act). Withdrawal of any funds by a given council is only possible upon approval of the AG or his representative (So 83(2), who is currently the chief internal auditor established under Section 91 of the Local Government Act).

A chief administrative officer (CAO) is the district electoral returning officer representing the EC at the district level. He or she is a senior public officer appointed by the DSC.

Chief Administrative Officers

CAOs are the chiefs/heads of the administrative arm of the district, responsible to the local government district council, subject to the direction of the chairperson. Their functions include serving as:

- The accounting officers of their districts;
- Coordinators of various delegated service departments; and
- Chief monitors of the implementation of district projects.

Resident District Commissioners

Resident District Commissioners are appointed by the president. Their roles include:

- Coordinating the administration of government non-delegated services to the district;
- Advising the district chairpersons on matters of a nature that may affect the district;
- Being answerable to the president of the Republic of Uganda.

Transparency and Accountability

The IGG Act 2002 and the Leadership Code Act 2002 have unlimited jurisdiction over all local governments in Uganda. IGG operations apply to all leaders, including the local district administration. However, enforcement of the IGG Act 2002 and the Leadership Code Act 2002 at the level of district Local governments is still in its formative stages. Out of a total of 56 district leaders supposed to declare their assets, only 9 declared their assets by 30 June 2002 (IGG Report, 2002). These laws do have adequate provisions on conflict of interest rules, disclosure of public officials' assets and post-employment of public officials. It is hoped they will be used to stem corruption in local governments.

The third schedule of the Local Government Act gives powers to the council speaker or chairperson to determine the place for the meetings. It adds that in case of discussing matters of a confidential nature, the speaker can order the council to meet in camera. Such confidential matters are not defined and their determination is left to the discretion of the speaker and/or the chairperson of the council. Cases of abuse are already on record in many districts. For example, in Iganga District in 2000, Chairperson Bageya Patrick blocked a journalist from covering a council session at the time when his speaker, Baite Munobwa, had sued him in court.

The Local Government Act also has provisions for conflict of interest. For example, the local government ministers and members of parliament are forbidden, while they still assume those offices, to hold the local government political offices of chairperson, vice chairperson or secretary or councillor at a local government unit. It is prohibited to hold a political office or a full-time office in more than one local government.¹²⁵ Also, Section 4 of the third schedule provides that a councillor of the district, sub-county or urban council or any committee who has pecuniary interest in a proposed contract and is present at the meeting at which that contract is the subject of consideration shall disclose that interest and shall not take part in any consideration relating to that contract. Non-compliance with the provision is punishable by imprisonment ranging between six months and three years without any option of a fine.

Section 89 of the Local Government Act establishes a Local Government Public Accounts Committee (LG-PAC). Its secretariat is the office of the clerk to council and consists of five persons, four of whom are appointed by the district council upon recommendation by the DEC and one appointed from the urban council. In order to avoid conflict of interest, members of the Local Government Council are prohibited from being appointed to the LG-PAC. The LG-PAC's functions include, among other things, to:

- Examine reports of the chief internal auditor
- Examine reports of the AG

- Report to the council and minister of local governments, who lays the report before parliament.

Section 91 of the Local Government Act requires all district, city, municipal and town councils to have an internal audit department. The head of the internal audit department prepares and submits quarterly audit reports to the council and the LG-PAC.¹²⁶

The LC V chairperson and the CAO are responsible for implementing LG-PAC recommendations. The AG's office has jurisdiction over local governments in matters of public expenditure. However, in practice the AG presently only covers central government and a few government agencies/parastatals. The AG activities at the local government level need to be strengthened. Critics of the decentralisation policy observe that it is running ahead of implementation capacity, with large amounts of money and attendant delivery responsibilities being channelled to district administrations that lack the capacity and systems to manage them.¹²⁷

Some district administrations, like that of Adjumani, have systems and capacity to handle the program. But it is individuals currently employed in other administrations who fail the policy. Adjumani started from scratch but has, over the years, been able to build up the district administration buildings, a hospital and an airstrip plus many other developments.

Powers of the Executive over Councils

The president appoints district officers directly or indirectly through his large number of appointees at the national level. The president directly appoints the resident district commissioner, a senior civil servant giving central government representation at the district level. The president directly appoints the district internal security officer. The district police commander (DPC) is appointed by the inspector general of police, who is himself directly appointed by the president.

The minister of local government is empowered to make a statutory instrument regulating the local government financial and accounting measures (Section 79 of the Local Government Act).

The minister of local government has powers to extend the term of office of a local government councillor during a state of war, emergency or disturbed area upon prior approval by the cabinet (5.11 of the third schedule of the Local Government Act).

Line ministries inspect, monitor and offer technical advice, support, supervision and training within their respective sectors for purposes of ensuring implementation of national policies and adherence to performance standards. The purpose of line ministries' inspection is to promote adherence to the rule of law, principles of natural justice and good governance, and to foster elimination of corruption and abuse of office (5.99 of the Local Government Act).

The president may, with approval of two-thirds of all parliamentarians, assume the executive powers of any district where a council so requests, where a state of emergency is declared in the district or where it is extremely difficult for the district council to function (Section 101 of the Local Government Act).

The borrowing powers of the local government council are subject to approval by the minister (Section 20 fifth schedule of the Local Government Act 1997).

Weakness of Decentralised Local Governments

There has been a general outcry that local governments have failed to perform the functions assigned to them under the Local Government Act. They have failed to satisfactorily maintain health standards, provide clean and safe water, collect garbage, provide street lighting, enforce planning laws to repair roads, run markets, provide public parks, control street vending, deal with issues of city flooding in Kampala, ensure proper drainage of run-off by clearing natural water channels like Nakivubo channel etc. Such realities have been attributed to inefficiency and corruption in the local government system. A number of issues are responsible for the seemingly poor performance of the local governments:

- The development budget that the central government is supposed to fund has not yet been worked out in practical terms, as is provided for in Section 84 of the Local Government Act 1997.
- Article 193 of the constitution of Uganda 1995 provides for an Equalisation grant that is given to a local government lagging behind the national development average. Unfortunately the equalisation grants have not been given to any local government in fulfilment of this provision.
- There has been a delay in decentralising the development budget so as to put into account both development and recurrent budgets when assessing the financial status of a local authority.
- The assessment of each district's resources in order to determine to what extent they are disadvantaged has not been made. Little money trickles down to local governments for development programs.
- The unconditional grants given to local governments have a few problems. For a given fiscal year the grant is equal to the amount paid to local governments in the preceding fiscal year for the same items, adjusted for general price changes plus or minus the budget cost of running added or subtracted services (seventh schedule of the constitution). Whereas this provision aims at ensuring that what is given to local authorities does not depend on the whims of the government, the base year on which it is calculated had historical imbalances, resulting in some local governments unfairly receiving more money than others.
- Lucrative sources of revenue for local governments are still monopolised by the central government. The local government revenues include graduated tax, fees and fines on licenses and permits in respect of any services rendered, interest on investment, common produce, fishing licenses, parking fees and rents from lease of property owned by local government etc.

Anti-Corruption Activities

Government Anti-corruption Initiatives

The government has a comprehensive three-year strategy or plan to combat corruption for the FY 2000/2001 to 2002/2003. The plan proposes a number of time-bound actions by government institutions, namely the DPP, IGG, CID, AG, the judiciary and Ministry of Justice, Ministry of Finance, Planning and Economic Development and the DEI, Ministry of Internal Affairs, Ministry of Local Government, Ministry of Public Service and the Uganda Revenue Authority (URA). The strategy focuses on strengthening the legal framework, technical capacity and monitoring and supervision of the anti-corruption institutions.

In brief, the government anti-corruption strategy targets the following:

- Implementation of procurement reforms, including blacklisting of corrupt companies and anti-bribery (integrity pact) clauses in procurement documents.
- Tabling the amended leadership code and IGG 2001 bills before parliament.
- Expediting discharge of corruption cases in the judiciary.
- Appointment of an external auditor to audit the AG.
- Development and enforcement of codes of conduct for URA, DPP and the civil service.
- Publication of manuals on local government financial regulations.
- Revision of the local government financial accounting regulations and Local Government Act.
- Training, awareness and sensitisation of the public, civil servants, the judiciary and local governments in order to build voluntary compliance.
- Tabling a bill to grant autonomy to the AG.
- Timely response to the Ssebutinde Commission.
- Strengthening supervision and monitoring in the judiciary, DPP, CID and IGG.
- Increasing staffing of the AG.
- Opening of resident state attorney and prosecutors' offices at the district level.

Specific Activities

The government has undertaken a number of activities, as summarised below.

Commissions of Inquiry

The government has been instituting a number of commissions of inquiry to establish the root causes of corruption and seek recommendations on how to redress the vice. Some of these commissions are:

- The Sebutinde Commission, which investigated the army with particular focus on purchase of inadequate food, junk helicopters, unfit army uniforms and other procurement malpractices in the army, set up in 2001.
- The Porter Commission, which investigated the role of the army and its officers in plundering Congolese wealth and involvement in the war in the Democratic Republic of Congo.
- The Sebutinde Commission, which investigated corruption in the Uganda Revenue Authority (URA).
- The Sebutinde Commission, which investigated the police force on matters relating to its operations and corruption.

The major shortcoming of the commissions of inquiry is that most of their reports are not made public. Even for the few that are made public, little action is taken to implement them save for vacation or transfer of some of the officers implicated.

Courts of Law

In a bid to reduce the case backlog in courts of law the government has set up a centre for arbitration. Aggrieved persons may go there for expeditious settlement of matters of a civil nature without having to go through the regular long court proceedings. The outcomes of the arbitration carry the same weight as the rulings of the High Court. Also, to avoid the crowding of courts with cases of a commercial nature, a commercial court, at the level of the High Court, was set up to handle exclusively commercial business-related matters. The government has also embarked on piloting a community service program for those convicted of minor offences. In 2001 and 2002 the government made strides towards increasing the capacity of the office of the DPP by recruiting a total of 30 prosecutors and dispersing them to various districts.

Surveys

Another major government action is the First National Integrity Survey 1998, conducted by the office of the IGG through a consultant, CIET. The survey gave significant insight into people's perceptions about corruption, the level of corruption suffered and so on. With funding from the UK Department for International Development (DFID) and the European Union, the IGG conducted the Second National Survey in 2002. Its objectives were to:

- Collect detailed information on the experiences and perceptions of corruption in the public service;
- Obtain evidence of the trends, extent and forms of corruption in Uganda;
- Obtain key inputs into the effort to build integrity in the public service and society;
- Give insight into what interventions might be required to help to combat corruption, its causes and the way forward for achieving a society free of corruption.

The results of the study have not yet been published.

Law Enforcement

There have been efforts to strengthen the capacity for law enforcement, better investigation, prosecution and judgment, particularly of corruption cases. The government has recruited and posted resident district state attorneys in most districts, which has enhanced the speedy discharge of cases. By abolishing the grade III magistrates and undertaking refresher workshops for magistrates, the government has ensured that the bench is professionalised. Overall, the capacity building of staff in the CID, the DPP and the IGG is on course, although slowly.

Coordination

The Anti-Corruption Agencies Forum, chaired by the DEI, sits monthly with the aim of ensuring effective coordination of agencies on corruption issues. It is yet to be effective and all-embracing for government and CSOs. The major constraints of the DEI include lack of staff, financial resources and a legal framework. Currently, CSOs' anti-corruption activities are partly coordinated through a loosely formed body called the ACCU.

Corruption Prevention, Awareness and Education

The IGG has a 30-week program on seven radio stations to disseminate information on its activities, including those under the Poverty Action Fund. The radio programs include specific issues identified in specific sector areas and provide information on actions that the public can take to ensure that the funds targeted for poverty reduction services are not diverted, embezzled or misused.

The IGG, in conjunction with CSOs, conducts an Anti-Corruption Awareness Week in the month of October of every year. This annual event is the climax of all anti-corruption activities in the country within the year. The week involves a peaceful procession where participants carry placards communicating several messages such as, "don't give it and don't receive it", "we are tired of corruption" etc. Other events include art exhibitions, open drama performances on corruption, letter-writing competitions, church/mosque sermons, and radio and television talk shows on corruption.

Notable Achievements of the Government Action Plan

The government, through the DEI, was able to meet its commitment in the action plan by passing the IGG Statute 2001 as amended and the Leadership Code 2001 as amended ahead of the stipulated deadline of July 2000. The laws i.e. the IGG Act 2002 and the Leadership Code Act 2002 came into force in July 2002.

The government committed itself to organising stakeholders' legal forums comprising the law society and the bench. Thereafter, the government organised a stakeholders' meeting in December 2000. No other such meetings have been convened since.

The government also committed itself to training 60 prosecutors for the DPP to replace the police CID public prosecutors by the end of December 2003. It was able to recruit about 30 DPP prosecutors who were posted countrywide (Ministry of Justice Policy Report to the Parliament, June 2001).

Finally, the Public Finance (Procurement) Regulations 2000 were adopted under the current action plan of the government.

Notable Failures of the Government Action Plan

In terms of reviewing and strengthening the system for enforcement of codes of conduct, the URA code was developed; its implementation is in its initial stages. Overall, little has been achieved, as the DPP, CID and public service codes have no enforcement mechanisms in place. The general public service code of conduct has been written, but has not been adequately circulated. No one is charged with its implementation.

Strengthening local government financial accountability has remained largely untouched. The IGG Report 2001 indicates that local governments are the most corrupt at the moment.

The government has made no progress at all on nurturing and enabling a strong civil society. The restrictive NGO Registration Statute is still being enforced. Apart from the contributions of some NGOs such as Transparency International Uganda, UDN and IATM, the government has not undertaken any deliberate efforts to sensitise or create awareness about the effects of corruption among the citizenry. The government has not provided funds to the Human Rights Commission to carry out its role of civic education to sensitise the public on their rights. The NGO Statute makes the registration of CSOs bureaucratic; they are required to go through an elaborate procedure of recommendations from LC I to approval by district resident commissioners. There is a lot of government scepticism with regard to the role of CSOs; this is especially pronounced when CSOs engage in civic and voter education during the time of elections.

For the CID of the police, the government proposed to build technical capacity in the National Fraud Squad by recruiting and training 20 graduates (7 accountants, 7 auditors and 6 banking/finance) as audit and forensic investigator specialists by 30 June 2001. The government also proposed to provide the National Fraud Squad with transport facilities, computer workstations and other office and technical equipment, also by 30 June 2001. No progress has been made on this proposition, as is indicated in the Ministry of Internal Affairs budget estimates and policy statement to parliament for the FY 2001/2002.

The government proposed through the DEI to monitor corruption efforts and disseminate information by publishing quarterly reports of the progress on implementation of the action plan starting in September 2000. This has not materialised. The government also failed to meet its commitment to ensure legal reforms for the purpose of reducing corruption and assuring sanctions. The following have not taken place:

- Tabling key legislation to parliament, for example the bill for the autonomy of the AG, for which the government set March 2001 as the deadline.
- Initiating legislation for Qui tam actions and development of recommendations for civil litigation against corrupt actors, for which the deadline was July 2002. This law has neither been drafted nor tabled for discussion by the cabinet.

Donor Anti-Corruption Initiatives

Several bilateral and multilateral donor agencies and embassies are based in Uganda and give financial support to governments institutions, NGOs and CBOs for anti-corruption initiatives. They include the following:

- The European Union (EU) is spearheading a civic education programme on human rights and good governance targeted at all local governments.¹²⁸
- The World Bank, Danish International Development Agency (DANIDA), Ireland Aid, Netherlands Embassy and DFID have cooperated to support procurement reforms and capacity building in the Ministry of Finance and Procurement Entities.¹²⁹
- Donors have cooperated to fund the Poverty Alleviation Fund (PAF) through a basket funding system. At the moment they have plans to initiate an anti-corruption monitoring programme to run concurrently with implementation of the PAF in all districts countrywide.
- The World Bank and IMF have variously sponsored the public service reforms and restructuring, the privatisation and liberalisation policy and implementation of the decentralisation policy. The World Bank approved USD 150 million for the Second Local Government Development Programme (LGDP) under the Poverty Reduction Service Credit (PRSC). The IMF approved a USD 11 million programme under its new policy called the Poverty Reduction Service Facility (PRSF), as adopted and modified from the government's own Poverty Eradication Action Plan. The programme addresses 4 strategic pillars: sustainable economic growth and structural transformation; good governance and security; raising incomes of the poor and improving the quality of life of the poor.
- The IGG has received support variously from DFID, DANIDA, Fredrick Ebert Foundation and the UNDP, for example to conduct the first National Integrity Survey 1998 baseline and to conduct corruption awareness workshops in the districts and on radio.
- USAID has given support to the DEI, National Consultation Workshop on Coalition Building for Anti-corruption 2000 and for good practice procurement sensitisation within local governments.
- DANIDA has supported the strengthening of the judiciary since 1995 and has helped rehabilitate court buildings in Masaka, Mbarara, Jinja, Luwero, Iganga, Nakawa and Makindye.

At the NGO level donors have undertaken the following initiatives:

- GTZ has sponsored Transparency International Uganda's anti-corruption awareness campaign programme.
- USAID sponsored Transparency International Uganda's anti-corruption awareness drama performances.
- SIDA has initiated a Humans Rights Fund under HURINET.
- MS-Uganda co-sponsors anti-corruption activities of 34 partner NGOs including IATM, UCPA, ACCU, Human Rights Concern (HURICO), UDN, Diocese of Northern Uganda and HURINET-U, as the groups focused on human rights and corruption.

The impact of donor initiatives on anti-corruption may have had mixed results on the NIS institutions, but it has been very significant in terms of enhancing institutional capacities for transparency and accountability more generally. Reforms against corruption by government would not have taken big strides without donor funding. The growth in the number of NGOs to 3,000 in the year 2000 is a further sign of the effect of donor funding.

The bulk of donor funding is channelled directly through government ministries and district local governments.

The key issues requiring immediate attention include:

- Lack of a comprehensive procurement law to ensure uniformity of procedures among the line ministry, procurement entities and district tender boards. Civil society should push for the inclusion of integrity pacts in all procurement agreements. Parliament needs to enact the draft Procurement and Disposal of Public Assets Regulations Bill.
- Lack of money-laundering legislation, which is a serious deficiency in the formal framework of the Uganda NIS.
- Lack of coordination among the various anti-corruption institutions. As a result of this, there is little follow up on both the IGG and AG reports. The DEI must play its envisaged role of coordination through the inter-agency meetings. It is crucial to initiate legislation providing for the operations of the DEI and the Inter-Agency Committee (IAC).
- Lack of a legal framework providing for the independence of the AG and general lack of genuine independence of the DPP and the police in the fight against corruption.
- Lack of operational codes of conduct for civil servants and local government staff and councillors.
- The various institutions involved in the fight against corruption lack sufficient capacity to perform their functions effectively. They are seriously under-staffed and their staff are not sufficiently motivated.
- Lack of a vibrant civil society capable of holding leaders accountable. There is an urgent need to strengthen the ongoing anti-corruption awareness drive countrywide.
- Lack of an enabling law on access to government information. Amendment of the Official Secrets Act is also crucial, since it restrains freedom of the media.
- Lack of a law that provides for regulation of corruption in the private sector.

Anti-Corruption Legislation

The Constitution of Uganda 1995

The 1995 constitution provides that “all Public offices shall be held in trust for the people”, that “all persons placed in positions of leadership and responsibility shall in their work be answerable to the people” and that “all lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices”. The latter constitutional provision on corruption is the first of its kind in the history of Uganda. The 1967 constitution did not have any provisions on corruption.

The Prevention of Corruption Act 1970 (Act no. 8 of 1970)

The Prevention of Corruption Act was the first law on corruption in Uganda. It empowers the DPP with the job of investigating and prosecuting cases of corruption. It also empowers the DPP to search, seize, arrest and interrogate suspects. The law has had little impact on the incidences of corruption because there has been no seriousness to use it. It has therefore been redundant for more than 30 years, even though it has been open to the IGG and the police to use it to prosecute corruption cases.

The Penal Code Act 1964

The Penal Code Act has been amended several times in order to make it a more effective tool in fighting corruption. The Penal Code Act 1964 and the Penal Code (Amendment) Act

1987 establish a range of criminal offences relating to corruption such as forgery, fraudulent or false accounting, conspiracy to fraud, embezzlement, causing financial loss and so on. The act prescribes deterrent punishments for a wide range of offences. It is criticised for not being strong enough to tackle corruption. It also does not prescribe appropriate punishments to fit the corruption crimes. The act does not prescribe mandatory minimum sentences, asset tracing and forfeiture or disqualification from holding public office.

The Inspectorate of Government Act 2002

The Inspectorate of Government Act establishes the institution of the Inspectorate of Government (IGG) in line with chapter thirteen of the constitution. In particular it gives effect to the provisions of that chapter as required by articles 225, 226 and 232 of the constitution, and also provides for other matters. The act charges the IGG with the responsibility to promote adherence to the rule of law and natural justice in administration; eliminate corruption, abuse of public office or authority; promote good governance; enforce the Leadership Code; investigate conduct of public officials; promote constitutionalism and anti-corruption public awareness among the peoples of Uganda and take measures necessary for detection, prevention and prosecution of corruption. The act prescribes deterrent penalties for people convicted under the act. The act became effective on 1 July 2002 and has a wide application to all the public offices established by the constitution or an act of parliament.

The Leadership Code Act 2002

This law repealed the Leadership Code 1995. It came into force on 1 July 2002. Its effectiveness is still a matter of speculation. The law is seen as stronger compared to its predecessor in that it prescribes deterrent penalties for breaching it. The law is enforced by the office of the IGG and was enacted to provide a minimum standard of behaviour and conduct for leaders; to require leaders to declare their incomes, assets and liabilities; to put in place an effective enforcement mechanism and to provide for other related matters. The law prescribes mandatory minimum sentences, asset tracing and forfeiture or disqualification from holding a public office.

The Public Finance (Procurement) Regulations 2000

The Public Finance (Procurement) Regulations came into force in March 2001. They were intended to promote economy and efficiency in procurement on behalf of the government while ensuring that public procurement procedures are conducted in a fair, transparent and non-discriminatory manner. This would contribute to the creation of a sound business climate in Uganda. The regulations repealed the Public Finance (Tender Boards) Regulations of 1977 and abolished the centralised procurement system in favour of a decentralised system recognising line ministries as autonomous and separate procurement entities, each with its own contracts committee and procurement secretariat. The role of the CTB was changed to supervisory and advisory. The law has been criticised for having weak internal controls and for not being comprehensive. The above concerns have resulted in the drafting of a more comprehensive law soon to be tabled in parliament, called the Public Procurement and Disposal of Public Assets Regulations.

Discussion of Key Issues

The NIS

The Uganda National Integrity System has not operated well to date, hence the rampant corruption countrywide. The following are some of the issues manifest in the operation of the system presently.

Practice and Trends

Parliamentarians continue to be pushed into taking positions favourable to the presidency, at times even against their better judgment, as in the case of the censored ministers Muhwezi and Kutesa. Consequently, the role of parliament as a credible check and balance of the executive is increasingly called into question. There is evidence that corruption has mutated and become more sophisticated with the rising level of sophistication in society.

Disguised Political Will

The government has set up institutions to fight corruption, developed a good anti-corruption strategy or action plan, enacted key anti-corruption laws like the IGG Act 2002 and the Leadership Code Act 2002 and instituted commissions of inquiry to investigate corruption in various government departments like the police, URA, army, UCBL sale and so on. In fact the anti-corruption laws in Uganda may be the best on the African continent. What lacks is the political will to go the extra mile to do what is required to have a zero tolerance for corruption. Corruption has not been depicted as a risky venture. Nor has the government given sufficient funding to build the capacity and effectiveness of the anti-corruption institutions, or been keen to punish those implicated in the numerous reports of the IGG, the AG, the press and the Public Accounts Committee of parliament. There is high-level collusion and cronyism among the current office holders.

Inadequate Capacity of Key Anti-Corruption Institutions

Government institutions set up to fight corruption have inadequacies that have seriously affected their operations. The inadequacies revolve around lack of specialised staff, lack of equipment, lack of adequate manpower, poor salaries and remuneration, personal greed and poor funding. The low level of funding might be indicative of the low priority accorded to the fight against corruption by the executive branch as compared to military matters, to which a very big percentage of the national budget is annually allocated.

Owing to inadequate funding, the anti-corruption institutions do not offer competitive conditions of service to attract qualified manpower. They also have a high rate of staff turnover. It is imperative for the government to fund these institutions adequately if the fight against corruption is to be won.

Moreover, there is little formal co-ordination among the different institutions fighting corruption. Although they do refer clients to each other there are no follow-ups and no systematic co-ordination of their responsibilities. The establishment of the DEI in the president's office to undertake this responsibility through the inter-agency forum has not borne fruit. There is a need for the inter-agency collaboration to be anchored in appropriate legislation, which currently does not exist.

Inadequate Legal Framework

Although the general legal framework for fighting corruption does exist, it has serious deficiencies that must be attended to urgently. For example, there is need for comprehensive legislation to protect whistle-blowers. The provisions in the IGG Act and Leadership Code are generally superficial. There is also a need to regulate the Movement political system secretariat funding, and the expenditure on elections. The legislation

relating to the institution of the IGG needs to be reconciled such that the IGG Act 2002 and the Leadership Code 2002 are under the control of one minister, rather than two as is currently the case. Under the IGG Act 2002, the minister of ethics and integrity has discretion to review the schedule specifying IGG jurisdiction, while in the Leadership Code Act the schedules specifying the IGG jurisdiction are subject to review by the minister of justice. In addition, the legislation providing for the autonomy of the AG should be expedited.

Although the Leadership Code Act 2002 prohibits public officials from accepting gifts beyond a set value, there is as yet no monitoring mechanism to ensure that the rules are complied with. The rules on conflict of interest in the Leadership Code Act need strengthening by removing Section 15 clause 3 that allows the leaders specified in the third schedule to appeal against the decision of the IGG in the event that the IGG refuses to allow them to run businesses with foreign companies. Political leaders and public officials should not be allowed to run businesses or practice their professions while still in office. They should place their business interests in blind trusts. But for this to work, the remuneration package for such officials needs to be substantially increased to obviate the need for them to find alternative sources of income to sustain themselves. It may be prudent if the Leadership Code Act is given jurisdiction over all senior private managers and private business executives.

Insufficient Autonomy of Institutions

All institutions involved in combating corruption lack meaningful autonomy, despite the fact that in most cases the law says they are independent. This is because the excessive powers vested in the presidency have undermined their independence. The president controls the entire government machinery, not only in terms of appointments of key personnel but also in terms of the control of funds. Under the current monolithic system of governance, the government ministries', local councils', law enforcement agencies' and statutory bodies' budgets are often cut to allow more funds for the defence ministry. Unfortunately, defence ministry expenditure is not subject to audit by the AG because its accounts are deemed classified.

The lack of autonomy of anti-corruption institutions manifests itself in various ways. Most prominently, they have no control over their budget or the release of the funds approved in the national budget. Although they make budget proposals, these are often ignored by the executive branch, which sets a "budget ceiling" for every ministry and department. Parliament has no real control over the budget. There is a need for these institutions to be self-accounting and to be permitted to submit their budgets directly to parliament. The law must compel the Ministry of Finance, Planning and Economic Development's treasury to release the approved funds in full and in a timely manner.

The institution of the AG does not have control over most of its personnel. The personnel of this office are part of the civil service, which is controlled by the cabinet office. There is a need to detach the AG personnel from the civil service and place them directly under the institution concerned in order to enhance accountability, discipline and the autonomy of the institution.

Low Remuneration in the Public Service

Conditions in the public service, including the law enforcement institutions, are unacceptably low. This is a fertile ground for corruption. Moreover, the public service is invariably unable to recruit and retain highly qualified personnel who can contribute to more efficient government, uphold the rule of law and improve service delivery. Any serious reforms undertaken to combat corruption must not ignore the poor conditions under which public service workers operate.

Need for an Independent Prosecution Service

The office of DPP, which is charged with criminal prosecutions, first and foremost should not be an appendage of the Ministry of Justice and Constitutional Affairs. The DPP must

have organisational and financial autonomy. The DPP should be able to draw up its own budget and receive funds directly, not through the ministry.

In addition, the office should recruit its own lawyers and be responsible for determining their conditions of service and discipline. It should have enough lawyers so that it can stop relying on police prosecutors who are inadequately trained. State prosecutors must also be exposed to further training to equip them with specialised skills to enable them to prosecute complex cases.

Finally, the attorney general should not have authority to give instructions to the DPP, as this is the conduit through which politicians interfere with prosecutions.

Need for a Professional Police Service

The Uganda police force lacks professionalism. The office of IGP has been subject to political manipulation. In order to insulate the IGP from political pressure, he should enjoy security of tenure equivalent to that of judges of the Supreme Court of Uganda. It is also important that the police be trained in specialised skills to increase their capacity to detect and investigate acts of corruption. To reduce the endemic corruption among the police there is a need for their salaries and conditions of service to be raised to levels commensurate with the economic realities of survival in Uganda.

Need for Greater Parliamentary Involvement in the Budgeting Process

The Uganda parliament has little control or influence over the budget. Not only do MPs have no role in formulating the budget, but they also have no power to ensure that funds are expended in accordance with the Appropriation Act. There is simply no fiscal discipline in government. A study of the reports of the AG reveals that budget releases are not always in accordance with the allocations in the Appropriation Act. In fact some government departments retain unutilised appropriation-in-aid funds in excess of their submitted expenditures. For example, in the FY 1999/2000 a total of UGX 649,157,670 remained unused by the close of the year; the ministries did not indicate the money as revenue due to the Consolidated Fund Account, meaning that the money was held in commercial banks. In another incident the ministries spent in excess of their budgetary allocations; instead of the executive preparing a supplementary budget at the end of the year, it simply withdrew the money from the consolidated fund without supplementary approval by parliament. In FY 1999/2000 a sum of UGX 1,581,248,000 was withdrawn without supplementary approval and the money was not reflected in the Supplementary Appropriation Act 2000. MPs should be given latitude to have a say on such issues.

Need for Genuine Decentralisation of Power to Local Authorities

Although the Local Government Act 1997 gives local authorities numerous responsibilities, there have not been sufficient financial and technical resources for doing what is required to make the decentralisation policy meet its intended objectives. The councils are answerable to the minister of local government rather than to the electorate within the respective districts. Political interference in the running of local councils by political leaders from the centre coupled with minister's excessive regulatory powers on the councils' purse strings seriously impacts on the work of local authorities.

The need for reform to rejuvenate local authorities, to make them more accountable to the people and to improve their capacity to deliver basic services cannot therefore be overemphasised. The reforms must ensure that the devolution of powers to lower organs entails the transfer of formal powers to local organs that make decisions on the use of resources and other local matters, with administrative staff being accountable to the locally elected political leadership. The constitution must guarantee revenue for local authorities and must improve on the current, non-responsive revenue-sharing formula between the central government and local government. Councils must be allowed to collect revenue from some of the buoyant tax revenue sources.

Effectiveness of Government and Donor Activities

As indicated elsewhere in this study, the government has a comprehensive strategy or action plan for fighting corruption. The anti-corruption policy is not only focused on prosecution or punishment of offenders, but also on preventive measures. However, progress on the plan has been notably slow due to financial constraints.

Donor support has been crucial to both civil society and government institutions. The donor programmes have had notable impact on capacity building of the judiciary, DPP and the IGG. The IGG has opened another regional office at Jinja, for example, and has recruited more staff over the year. The DPP recruited more than 30 lawyers in the years 2001 and 2002. The judiciary has made a number of improvements ranging from construction of court premises, recruitment of more magistrates, initiation of community service programmes for minor offences, the centre for arbitration, the commercial court and so on.

Civil society has been sensitising the public on the evils of corruption and conducting research. It has also engaged in donor-supported capacity building, although this is on a small scale. It should be noted, however, that donor assistance may not have had a major impact because such help was neutralised by other factors: lack of training in the use of the equipment; inadequate operational funds from government; poor conditions of service for staff leading to a high turnover; political interference in the operation of the institutions; lack of genuine autonomy etc.

Petty corruption in the public service sectors is likely to continue as long as the government fails to pay a living wage to public servants.¹³⁰ Grand corruption is very complex to fight,¹³¹ but it could be drastically reduced if the various reforms and the existing formal framework of the institutions such as police, DPP and IGG were to be implemented very aggressively by the government. Lack of commitment to a collective effort to fight corruption, especially from the political leadership, remains a major limiting factor to an effective fight against corruption at all levels.

There are high hopes that grand corruption would be greatly reduced if the government demonstrated commitment to the principle of zero-tolerance to corruption and demonstrated such zeal by dealing effectively with those implicated through the various commissions of inquiry it has instituted. As Andrew Mwenda, one of the top journalists in Uganda, said, "The Government is the source of corruption. It is a lie to say that government wants to eradicate corruption. How can you remove your own eye because it led you into sin!" The implication here is simply that whereas the Movement as a system would benefit from eradicating corruption, most of its cadres would lose office if corruption were to be eradicated. This gives all the more reason why they lack the personal will to fight corruption.

Priorities and Recommendations

1. Given the magnitude of the problem of corruption in Uganda it is recommended that priority should be given to prevention mechanisms for fighting corruption. This should involve:

- *Anti-corruption awareness campaigns.* A massive awareness drive by the CSOs in the areas of their jurisdiction properly coordinated and in collaboration with the government anti-corruption strategy would ensure accountability and transparency, especially within the local governments. This is possible if there is collaboration among donors, CSOs and government anti-corruption agencies. The current inter-agency forum (IGG, DEI DPP, ACCU and local government) would serve this purpose if it were improved and strengthened. Donors need to support CSOs to undertake countrywide anti-corruption awareness campaigns. In addition, intensified public education about the evils of corruption enhances a culture of non-tolerance of corrupt leaders, public officials and businessmen.
- *Enhanced collaboration among civil society, the private sector, professional bodies and the Inter-Agency Committee chaired by the minister of ethics and integrity.* Examples of private sector bodies include the Uganda Manufacturers Association.

The private sector plays a key role in public service delivery and therefore is a key player in both fuelling and curbing corruption.

- *Sensitisation of councillors at various levels of local governments about the challenges posed by their positions and the functions of their office.* This would advance anti-corruption planning.
- *Surveys of people's perceptions of corruption to monitor institutional corruption.* These can be conducted biennially to focus on key institutions such as the DPP, the police force, the judiciary, the AG, and the IGG to establish the actual and perceived level and forms of corruption in each institution. Surveys of this nature would discourage corruption drastically. The routine survey methodology could be based on the Report Card Anti-corruption Toolkit of Transparency International.
- *A code of conduct for public officials and the private sector.* This will promote ethical behaviour and foster a culture of rejection of corruption through respect for public honesty, the proper exercise of responsibilities and the development of integrity among public officials. The code should set standards of conduct for correct, honourable performance of public functions, with the aim of preventing conflicts of interest and promoting the proper conservation and use of resources entrusted to public officials in the performance of their functions. The code should also contain disciplinary measures for public officials who violate those standards.
- *Training programmes on ethics and integrity.* These should be mainstreamed into the educational curriculum of public officials to nurture ethical behaviour in public office.
- *Conflict of interest disclosure.* Public officials should be obliged to make declarations to the appropriate authorities regarding:
 - Employment or investment that may constitute a conflict of interest with respect to their functions as public officials.
 - Gifts or benefits obtained in the course of their duties and functions as public officials.

2. Anti-graft institutions such as the IGG, DPP, police CID, and the auditor general should be strengthened by increasing budgetary allocations, salaries and manpower to enhance their capacity to be effective anti-corruption fighters. This should be coupled with a clearly demonstrated political will to implement some of the findings and recommendations of the institutions regardless of who they are implicating. Tailor-made programmes in investigations, prosecution and anti-corruption strategies should be extended to staff to boost their capacity to perform their duties.

3. Constitutional and legislative reforms should be designed to:

- Strengthen the operational and organisational independence of the anti-corruption institutions.
- Reduce the vast executive powers in order to strengthen checks and balances.
- Repeal laws that inhibit media freedom and support the enactment of a freedom of information act.
- Regulate political parties' funding.
- Correct the imperfections of the electoral system in order to guarantee the free expression of the electorate's will. In particular, an effective mechanism for enforcement of the electoral law must be devised. Sanctions for violations of this law need to be implemented without fear or favour.
- Strengthen the guidelines for public procurement by requiring:
 - Public dissemination of information for both tenders and awarded contracts;
 - Harmonisation of the procedure for review of tender awards by PEs and local government DTBs;
 - Blacklisting of companies or individuals who are involved in corruption;
 - Strict rules limiting sole sourcing.
- Protect whistle-blowers and promote Qui Tam actions.

- Provide for the implementation of the AG and the IGG's reports, among others.
 - Provide for transparent and fair procedures for fixing remuneration and ensuring stability of tenure for the entire judiciary, including magistrates' courts.
 - Make corruption an extraditable offence.
4. Civil society and government anti-graft institutions need to be supported to conduct research and reviews in:
- Anti-corruption laws and economic policies to identify policies that create undue opportunity or incentive for corruption
 - The role of the private sector/service providers in both fuelling and curbing corruption
 - Public procurement
 - The impact of presidential powers on the work of governance institutions
 - The concept of separation of powers and its effectiveness
 - How declaration of wealth and income by public officials can be monitored effectively under the decentralisation framework
 - How anti-corruption institutions can be strengthened
 - The role of the media in anti-corruption

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