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Effectiveness of Anti-Corruption Agencies in East Africa:  
Kenya, Tanzania and Uganda

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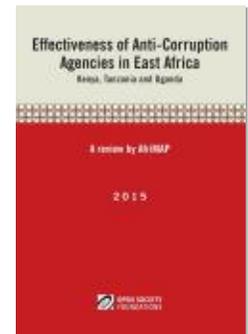
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## Uganda

### A. Executive summary

The elimination of corruption and abuse of office featured prominently in the ten-point programme formulated by the incumbent National Resistance Movement (NRM) during the five-year guerrilla war that eventually ushered the regime into power in 1986. Unfortunately, the fight against corruption is mostly confined to political speeches and, to some extent, statute books.

Uganda signed and ratified the United Nations Convention against Corruption (UNCAC) on 9 December 2003 and 9 September 2004, respectively. Uganda is also a state party to the African Union Convention on Preventing and Combating Corruption (AU Convention). The Constitution of the Republic of Uganda and the National Objectives and Directive Principles of State Policy (NODPSP) enjoin the state to adopt all lawful means to eradicate corruption and abuse of power. The Constitution also empowers the Inspectorate of Government (IG) to enforce the Leadership Code of Conduct and the Anti-Corruption Act of 2009. The 2002 Inspectorate of Government Act operationalises the constitutional provisions on the establishment of the IG. The law guarantees the independence of the IG in more specific terms under article 227 of the Constitution and section 10 of the Inspectorate of Government Act. The IG is required to submit a report to parliament every six months. Article 299 of the Constitution provides that the IG must have an independent budget appropriated by parliament and controlled by the inspectorate. This relative independence is, however, threatened by the conflicting responsibility of parliament for reappointing the inspector general of government (IGG) and deputy inspectors general (DIG), with parliament's responsibility for ensuring accountability among parliamentarians. The IGG, assisted by the DIG, is appointed by the

president but can only be removed by a tribunal on the recommendation of parliament, thus ensuring the relative independence of the IGG.

The IG has both investigative and prosecutorial powers. It can also seize assets found to have been corruptly acquired.

The IG has an independent budget appropriated by parliament that it controls, though the IG has deemed the current budgetary allocations to be inadequate.

The IG has been successful in creating an environment that reduces corruption. Its prosecution strategy appears to focus on junior- or mid-level civil servants. However, the tone of the president has been ambivalent, leading to the perception that the government uses the IG's office to serve political interests.

This report recommends expediting the proposed amendments to the 2009 Anti-Corruption Act that provide for mandatory confiscation of the property of persons convicted of corruption and its related offences. It also recommends that the investigative and prosecutorial roles of the IGG and director of public prosecutions (DPP) be streamlined under the law to avoid the current overlaps and duplication that strain limited resources.

The IG's focus on low- and mid-level civil servants seems to favour corrupt high-ranking civil servants and those with political clout. It is important that the IG treat all cases equally and expeditiously. This may be difficult considering Uganda's political reality.

## **B. Introduction**

The elimination of corruption and abuse of office featured prominently in the ten-point programme formulated by the incumbent National Resistance Movement (NRM) during the five-year guerrilla war that eventually ushered the regime into power in 1986. The inclusion of corruption on the list of urgent issues that the new government would tackle reflected a strong initial commitment on the part of the NRM to end corruption and to promote accountability. Indeed, this commitment flourished during the first few years of the NRM's rule. The new government, among other things, enacted anti-corruption legislation in the first two years after coming into power. Under the law, the Office of the Inspector General of Government (IGG) was established to investigate instances of corruption, which was an important step in the fight against corruption at the time.

Unfortunately, after a few years in power, the NRM's strong stance against corruption began to weaken and, at the time of writing, there is still lack of political will to tackle corruption decisively. The fight against corruption has, for the most part, been confined to political speeches and a number of statutes that, for a number of reasons explored in this chapter, have been rendered dysfunctional. This soft approach has caused corruption to thrive, and, consequently, Uganda has seen a tremendous increase in the number of corruption cases, including petty corruption, grand corruption, political corruption, bribery, nepotism, and abuse of office.

## C. State of corruption

Over the last decade, Uganda has been rocked by grand-corruption scandals involving the loss of staggering amounts of public funds. In 2007, for instance, substantial amounts of money were lost through the procurement of cars and other items required for the Commonwealth Heads of Government Meeting (CHOGM). At the end of 2006, in excess of USD37 million intended for the treatment of malaria, HIV/Aids and tuberculosis was confirmed unaccounted for. Earlier in the same year, over USD890 000 (UGX1.6 billion) in funds earmarked by the Global Alliance for Vaccines and Immunisation (GAVI) was lost. Three government ministers, including Jim Muhwezi, Mike Mukula and Dr Alex Kamugisha, were implicated in the scandal. In 2011, over USD1.7 million was lost in a botched purchase of 70 000 bicycles for members of local council committees across the country. In 2012, officials in the Office of the Prime Minister were alleged to have stolen close to EUR12 million intended for the reconstruction of war-ravaged areas in northern Uganda and some eastern parts of the country. In the same year, there occurred outright theft of USD65 million (UGX169 billion) in pension funds intended for the compensation of 1 018 former workers of the East African Community.

While the scale of theft of public resources illustrated above is worrisome, these cases represent only a small proportion of the grand-corruption cases that have come to light over the past decade. According to the Transparency International Corruption Perceptions Index (CPI), Uganda ranked 140 out of 177 countries in 2013 in terms of corruption. In 2012, the country ranked 130 out of 176 countries, while in 2011 it ranked 143 out of 183 countries. The 2012 East African Bribery index (EABI) ranked Uganda as the worst among the five East African countries in terms of bribery.

In 2012, a group of civil-society organisations declared a week of national mourning and launched several anti-corruption activities in protest against the levels of corruption and apparent government reluctance to decisively tackle it. Under the umbrella of the Black Monday Movement (BMM), civil-society groups demanded the immediate resignation of those implicated in corruption and urgent intervention by the government to end corruption. The activists donned black outfits as a sign of mourning the loss of public funds and accountability. The group also issued flyers to the public bearing anti-corruption messages.

In its response, the Ugandan government deployed armed police and anti-riot equipment and arrested a number of activists for distributing what was referred to as 'harmful propaganda'. To date, the BMM is not allowed to freely mobilise and distribute anti-corruption materials anywhere in the country.

Indeed, if the proposed legal framework for non-governmental organisations (NGOs) is implemented, there is a fear that anti-corruption efforts will be stifled further due to the restrictive operational environment that the law seeks to introduce. This, again, demonstrates the state's reluctance to join hands with anti-corruption activists to end corruption once and for all.

## The politics of corruption

The use of money to influence election processes and outcomes is a reality in Uganda. In the 2001 and 2006 elections, bribery of voters was cited through the myriad of election petitions brought before court, for example: (1) *Rtd. Col. Dr Kizza Besigye vs. President Yoweri Museveni and the Electoral Commission*, Presidential Election Petition No. 1 of 2006; (2) *Abdu Katuntu vs. Ali Kirunda Kivejinja and the Electoral Commission*, Electoral Petition No. 7 of 2006, High Court of Uganda; and (3) *James Garuga Musinguzi vs. Amama Mbabazi and the Electoral Commission*, Electoral Petition No. 5 of 2001, High Court of Uganda.

According to a 2010 report by Afrimap, the pervasive use of money to decide elections has become an entrenched norm in Uganda. Between November and December 2010, the DEM Group conducted research in 20 districts in all regions of Uganda which confirmed that vote-buying happens at all levels of elective political positions and in every region.

The same report laments that incumbent candidates readily use their access to state resources to gain an unfair advantage when running for re-election. This includes cash payments from the state treasury, the use of state-owned property and vehicles, as well as the fulfilment of campaign pledges during the campaign period. Voters have given up on their elected officials fulfilling campaign promises and seek to extract as much benefit as they can around the campaign period.

## D. Civil society, donors and media engagement

The Inspectorate of Government (IG) maintains a healthy relationship with civil society and the media. For example, it has in the recent past signed a memorandum of understanding (MoU) with the Uganda Debt Network to implement the social-accountability and community-monitoring (SACM) activity of the transparency, accountability and anti-corruption component of the Second Northern Uganda Social Action Fund (NUSAF II). Under the MoU, the Uganda Debt Network is working with the IG to build the capacity of communities to monitor government-funded projects and thus enhance transparency and accountability. In May 2014, community monitors and regional managers from various community monitoring groups were trained in anti-corruption reporting mechanisms. In the same spirit, the IG and the media enjoy a cordial relationship that has resulted in coverage of the activities of the IG and in the reporting of abuses of office and corruption in the media. Recently, the media reported on corruption and abuses of office at the Uganda National Roads Authority, a case in which a contract to construct a road (the Mukono-Katosi road) was irregularly awarded to a non-existent entity. At the time of writing, this matter is being investigated by the IG.

The IG does not have prominent relationships with private-sector organisations. This may be attributed to the fact that the IG is interested in corruption and abuses of office in public bodies. This mandate is constraining, especially in cases where corrupt acts involve public officers conniving with private-sector actors.

## **E. Commitment to international conventions**

Uganda is party to a number of regional and international anti-corruption conventions, declarations and initiatives. The country signed and ratified the United Nations Convention against Corruption (UNCAC) on 9 December 2003 and 9 September 2004, respectively. Uganda is also a state party to the African Union Convention on Preventing and Combating Corruption (AU Convention). These two conventions reflect global and regional consensus on corruption and thus create a number of obligations for states parties like Uganda. States parties are required to develop anti-corruption prevention policies, practices, and bodies. In addition, states are obligated to establish codes of conduct for their public officials and to put in place appropriate systems for public procurement that promote, among other things, competition and transparency. These are critical in the fight against, and eventual defeat, of corruption. As stated above, regional and international legal frameworks greatly influence domestic legal frameworks, and this holds true for Uganda.

### **Domestication of international conventions**

Uganda has domesticated the UNCAC and AU Convention through various pieces of legislation and institutions elaborated on herein.

## **F. Legal framework for preventing and combating corruption**

### **The Constitution of the Republic of Uganda**

At national level, the commitment to end corruption is reflected in the 1995 Constitution of Uganda. According to principle XXVI of the National Objectives and Directive Principles of State Policy (NODPSP), the state is enjoined to adopt all lawful means to eradicate corruption and abuse of power. Initially, there was considerable debate as to whether the NODPSP should be enforced at the same level as other provisions of the Constitution. The 2005 constitutional amendment settled this question; hence the NODPSP is now enforceable as part of the Constitution. This means that principle XXVI is as binding on the state as if it had been contained in the main articles of the Constitution.

The duty to eliminate corruption and abuses of authority is also reflected in a number of other constitutional provisions, including those that establish the Office of the IG. Under chapter 13, the IG has several functions, key of which is the mandate to ‘eliminate and foster the elimination of corruption, abuse of authority and public office’. In order to fulfil this function, the IG is given special powers to investigate, arrest and prosecute in cases involving corruption and abuses of public office.

The Constitution empowers the IG to enforce the Leadership Code of Conduct, which is contained in the Leadership Code Act enacted by parliament in accordance with article 233 of the Constitution. Under the Leadership Code of Conduct, specified officers are obligated to declare their incomes, assets and liabilities. The code also prohibits certain conduct likely to encourage corruption and/or compromise values of honesty and impartiality.

The Constitution also confers an express duty on every citizen to combat corruption and the misuse or wastage of public property. It is worth noting that corruption in its most common form involves a public official granting favours in exchange for a reward, or rewards, from members of the public. Willingness on the part of the public is therefore essential for corruption to thrive. If citizens embrace their constitutional duty to combat corruption, this could go a long way towards ridding society of corruption.

### **The Anti-Corruption Act**

The principal piece of legislation dealing with preventing and combating corruption is the Anti-Corruption Act of 2009. This law sets out to, among other things, repeal and replace the Prevention of Corruption Act of 1970, prevent corruption in the public and private sectors, and amend the Penal Code Act and the Leadership Code Act. The Anti-Corruption Act consolidates corruption and all other related offences in one text. The Act also confers special powers on the IGG and the director of public prosecutions (DPP) to investigate and prosecute corruption cases. In essence, the IGG and the DPP enjoy equal powers in the investigation and prosecution of the offence of corruption and related offences. While this is seemingly positive, there are concerns that this equality may lead to conflict between the two offices and to possible acrimony when there is a failure to duly investigate and prosecute particular cases. The DPP and the IGG also operate with extremely limited resources, and the duplication of duties is therefore likely to lead to wastage of these already meagre resources.

The Anti-Corruption Act introduces a broader definition of corruption and expands on the scope of offences previously contained in the Prevention of Corruption Act and the Penal Code Act. It introduces new offences such as influence-peddling, conflict of interest, sectarianism, and nepotism, to mention but a few. All of these were not included in the Prevention of Corruption Act and the Penal Code Act. The offences of embezzlement, false accounting, abuse of office, and impersonation of public officials, which were previously contained in the Penal Code Act, have been retained. The only challenge as regards this law is that some of the offences – such as abuse of office and causing financial loss – are overly broadly defined, which makes it difficult for prosecutors to sustain charges. It is proposed that these offences be defined with more specificity, as is the case under international and regional treaties on combating corruption.

These reforms in the law should be taken together with current proposals to amend the Anti-Corruption Act in order to allow for confiscation of properties belonging to persons convicted of corruption and related offences.

### **The Leadership Code Act**

Besides the Anti-Corruption Act, there are several other laws that deal with corruption. The Leadership Code Act mentioned above is one of these. This law puts in place a code and enjoins specified officers to declare their assets every two years. Failure to comply with this provision amounts to a breach of the code and attracts a penalty. In 2005, the

Constitution was amended to provide for the establishment of a special tribunal that would be responsible for enforcement of the Leadership Code. To date, members of this tribunal have not been appointed, which is a clear demonstration of the lack of political will to decisively tackle corruption.

### **The Inspectorate of Government Act**

The Inspectorate of Government Act of 2002 operationalises the constitutional provisions on the establishment of the IG. It spells out the appointment procedures, as well as the constitution, powers, and functions of the inspectorate, and other related matters.

### **The Anti-Money Laundering Act**

The recently enacted Anti-Money Laundering Act is yet another piece of legislation that, when fully enforced, will help in the efforts to curb corruption. The Act makes it an offence to accumulate wealth through illegitimate means and imposes responsibilities and sanctions on institutions and persons likely to be used in the accumulation of such wealth. The Act also provides for the seizure, freezing and forfeiture of assets obtained through money laundering. In addition, the law provides for international cooperation in the investigation and prosecution of money-laundering activities.

Other laws that contain anti-corruption provisions include the Access to Information Act, 2005; the Whistle Blower Protection Act, 2010; and the Public Procurement and Disposal of Public Assets Act, 2013. Access to information, protection of whistle-blowers, and open procurement are key tenets in the fight against corruption to the extent that they promote transparency, which, in turn, promotes accountability.

## **G. The Inspectorate of Government**

The IG is established under chapter 13 of the Constitution of the Republic of Uganda. The IG is constituted by the IGG and a number of DIG as parliament may legally prescribe. In 2002, parliament enacted the Inspectorate of Government Act which, among other things, prescribed the number of DIG as two. The main objective of the Act is to give effect to provisions of the Constitution pertaining to the IG. The law in effect reiterates the constitutional provisions on the establishment of the IG and expands on the scope of the IG's functions. In terms of jurisdiction, the IG covers officers and leaders employed in the public service and other such institutions, organisations and enterprises as parliament may by law prescribe. The categories of individuals and institutions over whom the IG exercises jurisdiction are included in the Inspectorate of Government Act.

### **Independence**

The law guarantees the independence of the IG in more specific terms in article 227 of the Constitution and section 10 of the Inspectorate of Government Act. In terms of these

provisions, the IG is not subject to the direction or control of any person or authority in the performance of its functions and is only responsible to parliament.

As part of its responsibilities, the IG is required to submit a report to parliament every six months. The report must outline its performance and make necessary recommendations. The report must also contain any other information that parliament may require. On receipt of the report, the speaker of parliament is required to place the report before parliament within 30 days. Parliament may then take any action as it deems appropriate. An additional copy of the report is required to be forwarded to the president and to a local government authority to which any of the matters in the report relate.

Article 299 of the Constitution provides that the IG must have an independent budget appropriated by parliament and controlled by the inspectorate. This provision is restated in section 31(1) of the Inspectorate of Government Act. The secretary of the IG is required to prepare and submit the IG's annual budget to parliament. Once approved, the requested monies are charged to the consolidated fund.

The IGG and the DIG are appointed by the president, but may only be removed from office on recommendation of a special tribunal formed by parliament. Therefore, they enjoy relative security of tenure. Further guarantees of independence are contained in provisions pertaining to the appointment and removal of the IGG and the DIG.

This relative independence is, however, threatened by conflict between parliament's responsibility to reappoint the IGG and the DIG, on the one hand, and the IGG's responsibility for ensuring accountability among parliamentarians, on the other. Members of parliament (MPs) are among the public officers required by the Leadership Code Act to declare their wealth and assets. In 2006, the IGG successfully petitioned for the removal of an MP representing Lubaga North on account of his failure to declare his wealth and assets as per the law. However, the same MP made it back to parliament in 2011. A number of ministers have also been investigated and prosecuted by the IGG over the past few years. It is difficult for parliamentarians who have been investigated and prosecuted to exercise objectivity and impartiality in relation to the reappointment of the IGG and his or her deputies. For this reason, it is proposed that the IGG only be appointed for one non-renewable term of office. In this way, the IGG would exercise the mandate of the office without having to be concerned, at the time of reappointment, about having to face the same officials he or she investigated in the past.

### *Stability of the inspectorate*

The IG has not experienced any major destabilisation since its inception.

### **IG staff**

As mentioned above, the IG is headed by the IGG and is assisted by two DIG, all of whom are appointed by the president of the Republic of Uganda, and at least one of whom must be qualified for appointment as a judge of the high court of Uganda.

Article 223 of the 1995 Constitution of the Republic of Uganda and section 3 of the

2002 Inspectorate of Government Act set out the appointment procedures. All three presidential appointees are, with the approval of parliament, granted terms of four years and are eligible for reappointment only once. While appointed, they cannot hold any other office of emolument in the public service.

To be eligible for these offices, a person must be a Ugandan citizen of high moral character and proven integrity, must have considerable experience, and must have demonstrated competence. To ensure that the appointed person meets these required standards, thorough investigations are conducted into his or her background, character and previous work track record before parliament approves the presidential appointment. In addition, any member of the public who has information relevant to the appointee's character, experience or integrity is allowed to submit this to the Parliamentary Appointments Committee for its consideration as part of the approval process.

If the IGG or a DIG is an MP, a member of a local-government council, or a member of the executive of a political party or organisation, he or she will be required to resign from such office before assuming his or her duties. Moreover, he or she must take, and subscribe to, an oath administered by the president of the Republic of Uganda.

The current IGG is a judge and she is assisted by the two DIG.

The IG has a secretary, who is also the accounting officer appointed by the president on the advice of the Public Service Commission and who heads the Department of Finance and Administration. The secretary holds office on such terms and conditions as are applicable to a permanent secretary and must be a person qualified to be appointed to the Office of Permanent Secretary.

For purposes of carrying out its functions and realising its objectives, the IG is structured as a department, six directorates and two divisions.

All members of the IG, with the exception of the secretary, are appointed by an Appointments Board established in terms of section 7 of the 2002 Inspectorate of Government Act, and on such terms and conditions as the board determines.

The board consists of: the IGG as its chairperson; the two DIG; the secretary of the IG; the chairperson of the Public Service Commission, or a member of that commission authorised by the chairperson in writing; the permanent secretary of the ministry responsible for the public service; and two other members appointed by the president, one of whom must be a woman.

The IG staff are appointed on the basis of their integrity and competence and are usually appointed in terms of a four-year renewable contract, although some may serve a shorter term, depending on the decision of the Appointments Board. The IG can likewise engage the services of, or work in consultation with, professional or technical experts to enhance its performance. The IG is free to recruit based on its identified needs. Vacancies are advertised in the press for the available staff positions. Interviews are held by the Appointments Board responsible for recruitment.

Termination of a contract of appointment usually follows investigation and an opportunity to be heard by the Appointments Board. In addition, there is a human resource

manual that applies to all members of the IG, and which incorporates ethical standards and regulations that control conflicts of interest. This manual is provided for under the law, which tends to improve its enforcement. In order to ensure that the manual keeps up to date with the needs of the inspectorate, it is periodically reviewed by a crosscutting team.

The law guarantees members of the IG immunity against civil and criminal proceedings in respect of acts undertaken in the course of their duties and in good faith. Similarly, such officers cannot be compelled to testify before any court or tribunal regarding any information received by them in the course of exercising their assigned functions.

The law does not provide for an acting IGG in the event of the suspension, dismissal, resignation, retirement or death of the incumbent. However, the Ugandan Constitutional Court has previously ruled that a DIG, acting as the IGG, derives the mandate to run the IG from his or her substantive appointment as DIGG, and that the designation IGG is only administrative. Consequently, procedures for the recruitment and termination of staff of the IG are generally transparent.

The Directorate of Education is responsible for the training of staff, and plans for such training. A training plan for staff is drawn up each year and attendees are chosen through their line directorates or units. The head of the directorate concerned is required to exercise fairness in nomination which staff members will attend training, and must take into consideration the needs of the various members.

The IG has an independent budget appropriated by parliament and controlled by the inspectorate. The budget covers, among other things, the salaries and allowances of the secretary and other IG staff. The budget is prepared annually by the secretary and, on approval by the IG, is submitted to parliament for its approval under article 229 of the Constitution.

### *Security of tenure*

Under article 224 of the Constitution of the Republic of Uganda and section 5 of the Inspectorate of Government Act, 2002, the IGG or DIG can only be removed from office by the president on the recommendation of a special tribunal constituted by parliament. The basis for removal includes:

- The inability to perform the functions of his or her office arising from infirmity of body or mind;
- Misconduct, misbehaviour, or conduct unbecoming of the holder of the office; and
- Incompetence.

The special tribunal consists of a justice of the supreme court as its chairperson and two other persons appointed by parliament.

### *Capacity*

The IG currently has staff located in the head office in Kampala, and in 16 regional offices strategically spread out across all the regions of the country.

IG staff members are trained by way of relevant training programmes and study tours, both at individual and group level, in order to equip them with the knowledge, skills and attitudes to optimise their performance. These programmes are mainly undertaken in-country owing to resource considerations, although, on occasion staff, have participated in training programmes abroad. The range of training has included:

- Report-writing (for senior staff);
- Practical and technical issues relating to whistle-blowing and witness protection;
- Harmonisation of laws governing anti-corruption authorities;
- Asset recovery;
- Development of web applications using open-source tools;
- Prosecution of corruption and related crime; and
- Illicit financial flows.

### *Remuneration*

The remuneration of staff has recently been increased, although IG employees opined that their salary levels should at least be on the same levels as those of employees in the Office of the Auditor General.

## **Investigative and prosecutorial powers**

The inspectorate is constitutionally mandated to eliminate corruption, promote and foster the rule of law and principles of natural justice in public offices, and enforce the Leadership Code. The IG is also mandated to sensitise and educate the public on the values of constitutionalism and civic responsibility. This function is implemented through the Directorate of Education and the Directorate of Prevention of Corruption.

Under article 230, the Constitution confers on the IG the power ‘to investigate, cause investigation, arrest, cause arrest, prosecute or cause prosecution in respect of cases involving corruption, abuse of authority or of public office’. Further, the IG does not require the consent or approval of any person or authority to prosecute, or to discontinue proceedings instituted by it.

Under section 24 of the Act, a complaint or allegation made to the IG may be made by an individual or by any body of persons, whether corporate or not, must be treated with strict confidentiality, and must be addressed to the IG. If a prisoner or an employee in a public office makes an allegation or complaint to the IG, such allegation or complaint must not be made through, or subject to the scrutiny of, prison officials or the immediate supervisor or employer, as the case may be.

A complaint or allegation made to the inspectorate is made in writing by the complainant, or by his or her legal representative, and is addressed to the IG, except where the complainant cannot write, in which case the inspectorate is required to translate the oral complaint into writing and to ensure that it is signed by the complainant or bears his or her thumbprint.

In all cases prosecuted by the IGG, he or she must afford the same rights of appeal as afforded by the director of public prosecutions.

The IGG or DIG must sanction any complaint before it is investigated. Generally, the guiding principles for making such a decision include: whether the IG has jurisdiction; whether alternative remedies have been explored, or if there is justification for referring the matter to the IG; and whether another competent authority is already handling the matter.

In the implementation of the anti-corruption function, the inspectorate carries out investigations where the commission of any offence under the 2009 Anti-Corruption Act or the Leadership Code Act is alleged. Where the subject of an investigation is found to have committed an offence, he or she may be arrested and prosecuted. Disciplinary action varies from warnings, to dismissal, to recovery of monies lost or embezzled. The IG may also confiscate the assets of a public officer where investigations establish them to have been acquired through corrupt means.

The inspectorate does not, however, have the power to question or review:

- The decision of any court of law or of any judicial officer in the exercise of his or her judicial functions;
- The decision of any tribunal established by law in the exercise of its functions;
- Any civil matter that is before court at the commencement of the inspectorate's investigations; or
- Any matter relating to the exercise of the prerogative of mercy or review or investigation that has been certified by the president as likely to either be prejudicial to the security, defence or international relations of Uganda or to involve the disclosure of proceedings and deliberations of the cabinet, or a committee of cabinet, relating to matters of a secret or confidential nature that would be injurious to the public interest.

Article 232 of the Constitution of the Republic of Uganda mandates parliament to make laws to give effect to the provisions in the Constitution regarding the IG. The major law in this respect has been the Inspectorate of Government Act. Parliament also introduced a Leadership Code of Conduct which requires specified officers to declare their incomes, assets and liabilities from time to time, as well as how they acquired or incurred them. The IG has, however, complained of loopholes in the existing legal framework, such as the absence of a leadership code tribunal as prescribed under chapter 14 of the Constitution, and the absence of regulations to establish rules of procedure under the Inspectorate of Government Act and the 2002 Leadership Code Act. Such gaps affect the enforcement of the IG's recommendations in respect of leaders who are found to be in breach of the Leadership Code of Conduct. Without a leadership code tribunal, the IG cannot effectively implement its mandate of enforcing the Leadership Code of Conduct. According to the IG report to parliament for July to December 2013, leaders must declare their assets and liabilities as required by law, but, because of the absence of a tribunal, it is difficult for the IG to take any action against those who fail to comply with this requirement, or who underreport their wealth.

Under article 231 of the Constitution, the IG is required to submit a report to parliament

at least once every six months on the performance of its functions, and which further makes recommendations that the office considers necessary for the efficient performance of public institutions. The report is also meant to provide any other information that parliament may require.

The speaker of parliament must place before parliament any report within 30 days after it has been submitted, if parliament is in session, or within 30 days after the commencement of its next session, if it is not in session. On receipt of a report, parliament may take, or cause to be taken, such action as it may consider appropriate.

Article 231(5) of the Constitution provides for parliament to debate IG reports and make recommendations on the issues raised. However, at the time of writing of this report, the IG had allegedly not received any feedback from parliament and the executive on the reports issued, which feedback it requires for improved performance.

The police can investigate cases of corruption or fraud. The IG further collaborates with the police when necessary in order to recover assets acquired by public officers by corrupt means.

The dilemma is that the Ugandan police force is one of the most corrupt public institutions in the country according to the IG's report to parliament for July to December 2013. This specific report states that complaints against the Ugandan police constituted 7.7% of the total complaints received for the period. The nature of complaints against the police include mishandling of cases, bribery, abuse of office, and delays in service delivery. The Ugandan police force is thus the most bribery-prone of the country's institutions, largely because bribery is either demanded by police officers or is offered by people seeking services from them. The IG has recommended regularly transferring police officers, in addition to capacity building of the Uganda Police Professional Standards Unit, in order to curb corruption within the force. Despite this trend, investigation of corrupt practices has remained a responsibility shared by the IG and the police. Because corruption involves criminal acts, the police force has an anti-corruption department that investigates corruption cases involving public officials. According to the IG's Fourth Annual Report on Tracking Corruption Trends in Uganda: Using the Data Tracking Mechanism,<sup>94</sup> the number of corruption cases reported to the police increased from 46 in 2008 and 95 in 2009 to 413 in 2013, and the police have played an important role in working hand in hand with the IG to curb corruption among public officials.

As a policy, the DPP, the IGG and the High Court of Uganda (Anti-Corruption Division) dispose of cases within four months of their opening. However, appeals, constitutional petitions or references, and applications filed in both the Constitutional Court and the Supreme Court often lead to the delayed conclusion of cases. Owing to these delays, the IG was only able to conclude 32 out of 145 prosecutions in 2013 (a decrease from 86 out of 168 cases in 2012) according to the December 2013 report to parliament.

There are other institutions, such as the auditor general, whose functions relate to detecting financial irregularities or malpractices. Another example is the DPP, who can

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94 See <http://www.igg.go.ug/publications/>.

prosecute any criminal cases, including those related to corruption. When article 230 of the Constitution provides that the inspectorate has the power to cause investigation, or to cause prosecution, of cases involving corruption, it has all these institutions in mind for collaborative purposes.

Articles 226 and 227 of the Constitution accord the IG areas of authority and independence. The jurisdiction of the inspectorate covers officers or leaders, whether employed in the public service or not, and also such institutions, organisations or enterprises as parliament may prescribe by law. These include the cabinet, parliament itself, courts of law, central and local governments, and statutory corporations, among others.

The office is independent in the performance of its functions and is only responsible to parliament and the president. The IG reports to parliament by submitting biannual reports detailing its activities and performance of mandated functions, as well as making recommendations on how it can be assisted to be more efficient in carrying out its duties. The IG is also required to send a copy of the report to the president.

The inspectorate has the power to call for and carry out investigations. It can also enter and inspect the premises or property of any department of government, person or authority, and, when necessary, examine and retain any document or item found on the premises in connection with the case being investigated.

The IGG, the DIG or any other officer or person authorised by the IG or DIG may, in the performance of their functions, search any person and retain any document or item in connection with the matter being investigated. Additionally, they have access to all books, returns, reports and other documents relating to the work in any public office, and, at any time, they have access to, and are able to search, the premises of any public office, or of any vessel, aircraft or other vehicles, if there is reason to suspect that property corruptly or otherwise unlawfully acquired has been placed, deposited or concealed in it.

For the purpose of exercising his or her powers of access and search, the IGG, the DIG or any other officer or person authorised for the purpose may use such reasonable force as may be necessary in the circumstances and may be accompanied or assisted by such other law enforcement officers as he or she considers necessary to assist him or her to enter into or upon the premises, vessel, aircraft or vehicle, as the case may be.

Under section 14, either the IGG or the DIG may sign an order authorising an officer of the inspectorate – or any other competent person under the control of the inspectorate – to investigate any bank account, purchase account, share account, expense account or any other account, any safe or deposit box in a bank, or any transaction for the purposes of the Act. Such order may direct the suspension of all operations in respect of the account against the holder of the account or any other person, or the stopping of any transaction subject to such conditions as the IGG or DIGG may specify. According to the Fourth Annual Report on Tracking Corruption Trends in Uganda: Using the Data Tracking Mechanism, the IG recovered over UGX1.1 billion out of nearly 5.5 billion recommended for recovery in 2013.

The IG does not investigate the private sector, as the Constitution only mandates it to investigate public office and authorities. The police force has an economic crimes

department that investigates corruption practices involving private persons and companies, and collects data on these practices.

### **Public-feedback mechanism and witness protection**

The inspectorate is required to protect the identity of any person who provides information. Further, an informant may be rewarded for their information and paid an amount of 5% of the money recovered consequent to revealing his or her information to the inspectorate. Anyone who unlawfully discloses the identity of an informer or victimises a person for giving information to, or assisting, the inspectorate can be imprisoned for up to two years or fined up to one hundred currency points, or both.

The mechanism by which complainants receive feedback depends on the nature of the complaint. In complaints of an ombudsman/maladministration nature, the complainants are given a number through which they can track the complaint. They also receive feedback orally and in writing at the closing of the complaint, and upon the action taken after a report is issued.

If a complaint is deemed to be corruption-related, the feedback is more guarded, given that it calls for a full-scale investigation. However, at the close of the complaint, the complainant will receive feedback in writing regarding the findings and the action taken. It is worth noting that not all corruption-related complaints involve feedback. This is because each case depends on how the matter has been concluded, and on the discretion of the IGG or DIG.

### **Financial resources**

Planning in respect of the IG's financial resources is undertaken by the secretary to the inspectorate, who is responsible for the annual budget. On approval by the inspectorate, the budget is submitted to parliament. Under the Constitution of the Republic of Uganda, the inspectorate controls an independent budget appropriated by parliament. Often, the financial resources allocated are insufficient to support the requirements of the IG. For example, it was difficult to obtain a budgetary increment for the financial year 2014/2015, despite growing resource needs. For the financial year 2014/2015, statutory salaries had a possible funding variance of over UGX1.5 billion, equivalent to USD596 766.

The budget of Uganda for the financial year 2014/2015 was approximately USD5 billion, equivalent to roughly UGX15 000 billion. The Ministry of Finance, Planning and Economic Development allocated the IG approximately USD11 481 300, thereby creating a funding variance of about USD1 701 538. By contrast, the auditor general's report alone was allocated USD12 443 572 to be paid to contractors in 2013.

Cognisant of financing challenges, the law permits the IG's office to receive grants and donations to help it perform its duties. Bilateral donor support from countries like Denmark (Danida) and the United Kingdom (DFID), and from the World Bank, have supported the IG's office in Uganda and have involved both technical and financial support. Although donor support was suspended in the recent past, donor support has now resumed, albeit in

a diminished amount. In 2011, external funding amounted to USD756 923, while, in 2013, it fell to USD719 230. The decline in funding may be attributed to the general aid cuts that have been effected due to the corruption scandals in Uganda.

Table 4.1: Budget summary for allocated budget, government allocation, and donor (external) allocation for the period 2011–2014.

Allocation	Category of allocation	FY 2011/2012		FY 2012/2013		FY 2013/2014 (July–December)	
		Approved budget	Outturn	Approved budget	Outturn	Approved budget	Outturn
Recurrent	Wage	9.899 USD3 807 307	9.899 USD3 807 307	13.18 USD5 069 230	12.1 USD4 653 846	15.18 USD5 838 461	7.628 USD2 933 846
	Non-wage	12.161 USD4 677 307	13.049 USD5 018 846	12.16 USD4 676 923	12.17 USD4 680 769	15.448 USD5 941 538	8.845 USD3 401 923
Development	Ugandan government	1.96 USD753 846	1.891 USD727 307	2.96 USD1 138 461	2.39 USD919 230	2.931 USD1 127 307	1.821 USD700 384
	External financing	1.968 USD756 923	1.968 USD756 923	1.784 USD686 153	1.784 USD686 153	1.87 USD719 230	0.935 USD359 615
<b>Total</b>		<b>25.988</b> USD9 995 384	<b>26.807</b> USD10 310 384	<b>30.084</b> USD11 570 769	<b>28.444</b> USD10 940 000	<b>35.429</b> USD13 626 538	<b>19.229</b> USD7 395 769

The funds allocated to the IG are available to the entity in good time; thus, the challenge is not the period within which funds are disbursed to the entity but rather the amount that is allocated, as discussed above. Once the funds have been allocated, the inspectorate enjoys managerial autonomy through an elaborate governance structure. The funds and the budget are effectively managed by the secretary to the inspectorate. The absorption

capacity of the IG varies each financial year and is, in many cases, informed by the programmes and work plan proposed for a particular financial year. That said, it appears that the absorption capacity of the IG is good, as most of the funds allocated are spent. In some cases, the inspectorate has received more funds from donors than anticipated; such funds have then been used to meet the funding gap. No cases of overexpenditure have been reported.

Rules of financial transparency are prepared and applied within the inspectorate to prevent mismanagement of funds and abuse of power. These rules are informed by the IG's values, which include integrity. Members of staff at the IG's office are expected to be transparent in all actions and to be accountable to all stakeholders. In addition to the above values, the inspectorate has internal safeguards to protect its resources. The senior principal inspectorate officer, who reports directly to the IG, ensures transparency and accountability among staff of the inspectorate. This is done through investigating, detecting and curtailing corruption. The senior principal inspectorate officer also vets new recruits. Further, such officer works under the information and internal inspection unit. The external checks are performed by the Office of the Auditor General and, where appropriate, sanctions are imposed. These procedures highlight the independence of the inspectorate, as it is audited like all other independent government bodies.

Figure 4.1: Comparison of the proportion of government funding versus external funding of the IG

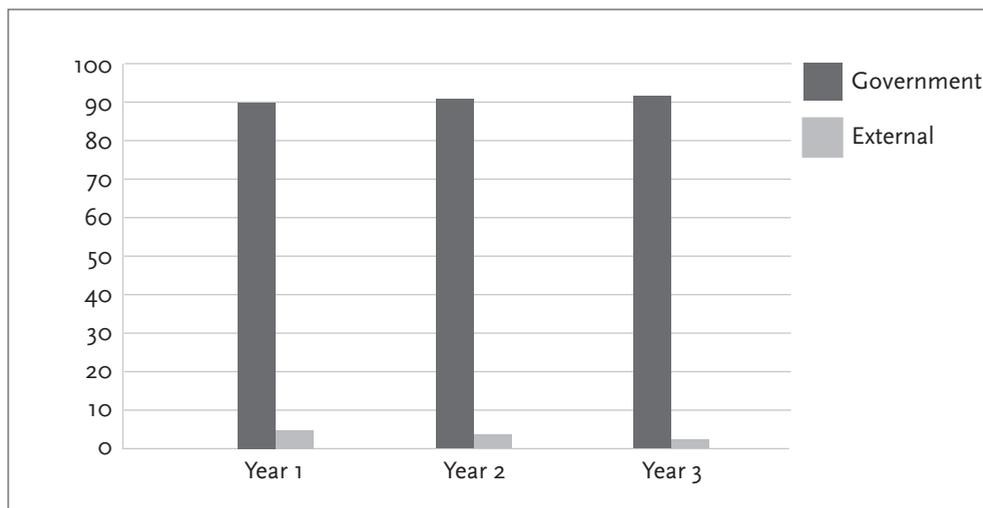


Table 4.2 Budget allocation and line items showing detailed budget administrative costs and operations costs for the financial year 2014/2015.<sup>95</sup>

Item codes	Line items	Proposed budget estimates (optimal level)	Proposed allocation based on mtef <sup>95</sup>	Variance (funding gap)
<b>A</b>	<b>Wage</b>			
211104	Statutory salaries	6 434 813	5 838 048	596 766
<b>Subtotal</b>		<b>6 434 813</b>	<b>5 838 048</b>	<b>596 766</b>
<b>B</b>	<b>Non-wage</b>			
211103	Allowances	1 238 697	1 101 040	137 657
212101	Social security contributions (NSSF)	740 261	671 288	68 974
212201	Social security contributions (gratuity)	1 751 299	1 581 659	169 640
213001	Medical expenses (to employee)	2 539	2 539	–
213002	Death and funeral expenses	13 462	6 539	6 923
221001	Advertising and public relations	13 842	9 310	4 532
221002	Workshops and seminars	–	–	–
221003	Staff training	3 011	2 942	69
221004	Recruitment expenses	3 077	–	3 077
221006	Committee, council and board expenses	46 708	46 708	–
221007	Books, periodicals, and newspapers	54 906	44 140	10 766
221008	Computer supplies and IT services	65 538	37 427	28 111
221009	Welfare and entertainment	58 454	58 034	419
221010	Special meals and drinks	4 915	4 915	–
221011	Printing, stationery, photo and binding	59 093	41 315	17 778
221012	Small office equipment	4 333	1 308	3 025

95 This table does not indicate results for the required 3–5 year period, for which information was not available. See Mulyagonja I 'Budget framework paper and medium term expenditure for the fiscal year 2014-2015 to 2016-2017 presentation to legal and parliamentary affairs committee'. Available at: <http://www.igg.go.ug/updates/news/IG-presents-budget-framework-paper-and-medium-term-expenditure-framework-for-the-fy-201415-201617/> [accessed: 20 June 2014]. The figures are indicated in US dollars at a rate of USD 1=UGX 2 600.

96 MTEF refers to the medium-term expenditure framework. It provides an ex-ante framework to align resources with program priorities. See Devan D L (2001) The budget and medium-term expenditure framework in Uganda. *Africa Region Working Paper Series No. 24 (1)*. Washington, DC: World Bank.

Item codes	Line items	Proposed budget estimates (optimal level)	Proposed allocation based on mtef <sup>95</sup>	Variance (funding gap)
221014	Bank charges	–	–	–
221017	Subscriptions	20 502	20 502	–
222001	Telecommunications	148 077	148 077	–
222002	Postage and courier	5 169	5 169	–
222003	Information communication technology	26 455	26 455	–
223001	Property expenses	539	539	–
223003	Rent-produced assets	718 028	718 028	–
223004	Guard and security services	8 962	8 962	–
223005	Electricity	43 385	43 385	–
223006	Water expenses	5 908	5 908	–
223007	Other utilities	960	960	–
224002	General supplies of goods and services			–
224003	Classified expenditure (information fund)	55 846	55 846	–
225001	Consultancy services (short term)	5 769	5 769	–
227001	Domestic travel	1 424 256	913 905	510 351
227002	International travel	78 219	59 194	19 025
227004	Fuel, lubricants and oils	226 868	164 326	62 541
228001	Maintenance (civil)	17 700	16 496	1 404
228002	Maintenance (vehicles)	150 078	104 493	45 585
228003	Maintenance (machinery, equipment and furniture)	29 662	14 716	14 946
262201	Contribution to international organisation	15 385	15 385	–
263104	Grants to central ministries (PAF)	–	–	–
282101	Donations	4 323	4 323	–
415001	Trade creditors	–	–	–
<b>Subtotal</b>		<b>7 046 422</b>	<b>5 956 985</b>	<b>1 104 822</b>
<b>Total (wage + non-wage)</b>		<b>13 481 236</b>	<b>11 779 647</b>	<b>1 701 588</b>

Item codes	Line items	Proposed budget estimates (optimal level)	Proposed allocation based on mtef <sup>95</sup>	Variance (funding gap)
<b>C</b>	<b>Development: Government of Uganda</b>			
211103	Allowances	76 923	76 923	–
227001	Domestic travel	82 098	82 098	–
227004	Fuel, lubricants and oils	38 462	38 462	–
228002	Maintenance (vehicles)	19 231	19 231	–
231004	Transport (equipment)	273 077	273 077	–
231005	Machinery and equipment	48 846	48 846	–
231006	Furniture and fixtures	11 785	11 785	–
311101	Land	576 923	576 923	–
312206	Gross taxes	250 000	250 000	–
<b>Sub-Total</b>		<b>1 377 344</b>	<b>1 377 344</b>	<b>–</b>
<b>D</b>	<b>Development: Danida</b>			
221001	Advertising and public relations (radio and TV)	44 231	44 231	–
221002	Workshops and seminar A-C week & ex. prog.	57 327	57 327	–
221003	Staff training	94 707	94 707	–
221011	Printing, stationery, etc.	16 924	16 924	-
222007	Telephones and other utilities	15 854	15 854	–
227001	Travel inland (investigations and prosecution)	401 322	401 322	–
312201	Machinery, furniture and vehicles	57 692	57 692	–
312202	Computers, fax Machine, filing Cabinets	54 636	54 636	–
<b>Subtotal</b>		<b>742 692</b>	<b>742 692</b>	<b>–</b>

## Relationship with the public and other stakeholders

The inspectorate has mechanisms in place to engage with the judiciary, parliament and the executive. With regard to the judiciary, several matters that are prosecuted by the IG's office are heard before a specialised anti-corruption division of the high court. The inspectorate also collaborates with parliament in various ways. However, the highlight of this relationship is the work of the Public Accounts Committee (PAC) of parliament, which complements the mandate of the IG in fighting corruption. The PAC, in 2012, detected

various irregularities in the management of public funds in the prime minister's office and directed the inspectorate to investigate further, and to prosecute the responsible parties. With regard to the executive, the IG advises the executive on various matters, especially those involving abuse of office and corruption.

The inspectorate maintains a healthy relationship with civil society and the media. For example, as mentioned above, the IGG signed an MoU with the Uganda Debt Network to implement the SACM activity of the transparency, accountability and anti-corruption component of the NUSAF II. In terms of the MoU, the Uganda Debt Network is working with the inspectorate to build the capacity of communities to monitor government-funded projects in order to enhance transparency and accountability. In May 2014, community monitors and regional managers from various community monitoring groups were trained in anti-corruption reporting mechanisms. In the same spirit, the inspectorate and the media enjoy a cordial relationship, which has resulted in media coverage of the activities of the inspectorate and in media reports on abuse of office and corruption. As mentioned above, the media reported on corruption and abuse of office in relation to the Uganda National Roads Authority contract to construct the Mukono-Katosi road, a contract that was irregularly awarded to a non-existent entity. At the time of writing, the matter is being investigated by the inspectorate.

The inspectorate does not have prominent relationships with private-sector organisations beyond those mentioned above. This may be attributed to the fact that the IG is interested in corruption and abuse of office in public bodies. This mandate is constraining, especially in cases where corrupt acts involve public officers conniving with private-sector actors.

The inspectorate works closely with development partners. Denmark has been very active in supporting the work of the IG in combating corruption in Uganda. In 2012, when Denmark suspended aid as a result of corruption scandals in the Office of the Prime Minister, support for the inspectorate was not affected. Similarly, the inspectorate works closely with other countries' national agencies having a similar mandate. The current IGG, Irene Mulyagonja, is the outgoing chairperson of the East African Association of Anti-Corruption Authorities (EAAACA). Uganda's membership of the EAAACA has yet to provide substantive benefits. However, the EAAACA is being used to conduct joint training of staff from the member associations and has also encouraged information sharing to combat corruption. Uganda is also a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). Membership of the ESAAMLG is resulting in substantial gains in eliminating corruption. The 2013 Anti-Money Laundering Act was enacted and is being implemented. The financial intelligence authority which is charged with implementing the act is now being set up. Sydney Asubo, the former director of legal services in the inspectorate is the interim executive director.

As discussed previously, the Constitution of the Republic of Uganda enjoins the inspectorate to report to parliament at least biannually on its performance and functions. These reports are discussed by parliament and can be an indirect platform for objective public perception of the inspectorate's mandate and activities.

Finally, the activities of the inspectorate are decentralised. This has helped investigations and monitoring at the local-government level. The Constitution and the Inspectorate of Governance Act provide for the establishment of branch offices at district and other administrative levels.

## Reporting mechanism and public perception

The inspectorate is not under any duty to report findings of its investigations to the public. Information arising from these inquiries is treated as privileged information and is protected by law. Section 23 of the Inspectorate of Government Act provides that proceedings of inspectorate investigations are to be treated as if the investigations were proceedings in a court of law. This privilege is subject to laws that permit disclosure of such information, such as section 17(2) of the 2008 National Audit Act, which provides for the auditing of accounts of public entities, and section 5 of the 2005 Access to Information Act, which provides for the right to request information held by government or a public body. The latter law has yet to bear fruit, as requests for information and subsequent litigation have largely been unsuccessful. For example, in *Charles Mwanguhya Mpagi and Izama Angelo vs. Attorney General* (Miscellaneous Case No. 751 of 2009), a request for information on petroleum production sharing agreements (PSAs) signed by the government was denied. A number of similar requests have been denied, and, to date, the government has not released information on PSAs. Outside the petroleum sector, a number of citizen requests for information brought under the ATI law continue to be refused. This may be attributed to government officials being ignorant of the requirements of the law, as well as fear of political persecution in cases where the information may be perceived to be anti-government. The ATI law therefore remains largely unimplemented and citizens have, for the most part, had to seek recourse in courts of law, with considerable success.

## H. The IG's performance

The reasons for the establishment of the inspectorate can be disaggregated into political issues and governance consolidation. With regard to the political narrative, the government sought to create a system that would nip corruption in the bud by exercising an oversight mandate over the conduct of government officials. It is worth noting that point seven of the ten-point programme, which was the governance vision of the National Resistance Army/Movement (NRA/M), was the elimination of corruption and abuse of power.<sup>97</sup> In 1998, the Inspectorate of Government Statute was enacted.<sup>98</sup> At this time, the then young NRA/M

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97 See A Ruzindana (1997) 'The importance of leadership in fighting corruption in Uganda.' In: KA Elliot (ed.) *Corruption and the Global Economy*. Washington, DC: Institute for International Economics. Available at: [http://www.petersoninstitute.org/publications/chapters\\_preview/12/7iie2334.pdf](http://www.petersoninstitute.org/publications/chapters_preview/12/7iie2334.pdf) [accessed: 11 July 2014].

98 Literature indicates that the IGC's office was established in 1986, but the Act was only passed in 1988. See M Martini (2013) *Uganda: Overview of Corruption and Anti-Corruption*. U4 Anti-Corruption Resource Centre, CMI, Bergen, Norway [U4 Expert Answer 379].

government was seeking to build credibility, especially within the international community. For example, in the same period, the Uganda Truth Commission was established. It has been argued that this was part of the broader strategy to cleanse Uganda’s image abroad.<sup>99</sup> This reason, though superseded by the Constitution, continues to play an important role, especially in harnessing credibility with development partners and the broader international community. After 1995, the Constitution (chapter 13) was enacted and, subsequently, the 2002 Inspectorate of Government Act was passed into law. These pieces of legislation were mainly enacted to consolidate the governance structure and the position of the IGG established under the earlier Inspectorate of Government Statute.

The IG has been successful in creating an environment that reduces corruption. The mere existence of the IG’s office discourages corruption, at least in the lower echelons of the public service. A considerable number of public servants are afraid of the negative press reports and of the prosecutions that come with corruption. That said, the IG has, in large part, been unsuccessful in instilling fear among senior civil servants and members of the cabinet.<sup>100</sup> This is also reflected in its prosecution strategy, which appears to focus on junior- or mid-level civil servants. The support of the head of government can at best be described as ambivalent.<sup>101</sup> It also appears that the government has used the IG’s office to achieve political interests.<sup>102</sup> This has been the problem with some investigations involving political figures, such as Uganda’s former vice president, Gilbert Bukenya, whose case is discussed below.

*Table 4.2: Cases prosecuted by the IG*

<b>Uganda vs. Prof. Gilbert Bukenya CR.SC</b>	<b>Uganda vs. Geoffrey Kazinda HCT-00-SC-0138-2012</b>
Formerly vice president of Uganda and MP.	Formerly principal accountant in the Ministry of Finance serving in the Office of the Prime Minister.
It was alleged that, between 2006 and 2007, and while chairing the Commonwealth Heads of Government Meeting (CHOGM) cabinet subcommittee, Bukenya directed the awarding of a contract for the supply of 80 BMW vehicles and outrider motorcycles to Motorcare Uganda Limited in total disregard of procurement procedures.	Kazinda diverted project money for his own benefit. This case is only one of a litany of cases. For example, Kazinda currently stands accused before the anti-corruption court of diverting public funds for personal gain by misappropriating nearly USD7 692 307 (equivalent to about UGX20 billion).
In a sudden turn of events, the president announced that he had been advised that Bukenya was innocent. Subsequently, the IG withdrew all charges.	Kazinda was convicted of abuse of office, among other charges, and is currently serving a term in prison.

99 See United States Institute of Peace (n.d.) Truth Commission: Uganda 86. Available at: <http://www.usip.org/publications/truth-commission-uganda-86> [accessed: 11 July 2014].

100 K Allard. Lowenstein International Human Rights Clinic, Yale Law School and Human Rights Watch (2013) ‘Letting the Big Fish swim’: Failures to prosecute high-level corruption in Uganda.

101 Ibid.

102 Ibid.

It is important to further highlight the performance of the IG through analysing cases that have been investigated and prosecuted by the IG. The methodology adopted for this analysis is a review of one successful prosecution and another that was unsuccessful. In this regard, success is measured in terms of securing a conviction. Of course, this standard may not necessarily portray the performance of the IG. However, given the fact that prosecution is highly influenced by political interference, securing a conviction is an acceptable measure of good performance. The cases highlighted clearly indicate the approach taken when the accused persons have political influence as opposed to cases when the accused are merely junior- or mid-level civil servants.

The cases demonstrate the approach of government to cases involving high-ranking political figures. The decisions of the courts in both cases are in the public domain. In the case of Bukenya, the charges were dropped. In the case of Kazinda (a mid-level civil servant), several cases are ongoing. It is too early to determine the outcome of them all, though, as indicated above, Kazinda was convicted of abuse of office and sentenced.

Table 4.3: Complaints and matters handled from July to December 2013<sup>103</sup>

Complaints	Agency	Investigated	Agency	Tried	Agency	Convictions	Agency
1 513	IG	254	Police/IG	82	IG	3	IG/Court

## I. Conclusion

Corruption in Uganda remains a significant challenge. The elimination of corruption was one of the pledges that featured prominently on the ruling NRM's agenda before it came to power in 1986. Indeed, true to its promise, the new government embarked on a process of setting up structures to fight corruption by, among others means, enacting a law that established the office of the IG. This spirit of setting up structures to fight corruption was maintained during the constitution-making process of 1995 and eventually the enactment of the 2002 Inspectorate of Government Act. In addition to this, a number of anti-corruption laws have been passed over the last 19 years. For the most part, these criminalise corruption and other related offences. Others establish a number of safeguards against corruption, such as asset declaration, access to information, and the protection of whistle-blowers. These furthermore promote accountability and enable a corruption-free environment. Enforcement of these laws is vested in a number of institutions, including the IG, the DPP, the Office of the Auditor General, and the Leadership Code Tribunal, which is yet to be appointed. In 2009, a separate court was set up to try corruption and related offences in a

103 The timeline for handling complaints is not available. We are in the process of obtaining the average time taken. These figures are computed from figures and tables in the IG's report to parliament for the period July to December 2013. See IGG Inspectorate of Government Report to Parliament July–December 2013. Available at: [http://www.igg.go.ug/static/files/publications/IGG\\_REPORT\\_DEC\\_2013\\_2.pdf](http://www.igg.go.ug/static/files/publications/IGG_REPORT_DEC_2013_2.pdf) [accessed: 11 July 2014].

bid to streamline the prosecution of corruption-related offences and bypass case backlogs in the mainstream judiciary

The above steps are some of the most important in the fight against corruption, and, on the face of it, Uganda has one of the best anti-corruption systems in the region. The dilemma, then, remains the fact that the country is still ranked among the most corrupt in the region. This study has established that this mismatch is largely the result of utter lack of political will to end corruption by the leadership. The absence of political will has manifested itself in a number of ways, including interference with the work of anti-corruption institutions, selective prosecution, poor funding of anti-corruption initiatives and institutions like the IGG, failure to constitute a Leadership Code Tribunal, and the protracted delays in the appointment of a substantive IGG and DIG. The inspectorate was only fully constituted 18 years after its establishment. These acts and omissions greatly frustrate the effective investigation and punishment of the corrupt.

For this reason, a significant number of Ugandans have lost hope in the law and have learnt to accept corruption as a way of life. This is especially true where those implicated are politically well connected to the ruling regime. Although a number of these individuals have been charged and tried, there has only been one conviction, and that involved a former state minister for health. Even then, his conviction was quashed on appeal. The president is known to have come out openly and undertaken to cover all costs of the appeal.

It is this prevailing situation that has encouraged the growing tides of corruption in the country. Over the last five years, the country has witnessed a significant increase in cases of grand corruption involving theft and huge losses of public funds. According to the World Bank, the country loses an estimated USD300 million to corruption every year.<sup>104</sup> Political corruption and patronage are equally rampant.

Corruption greatly restricts the delivery of public goods and services, especially to those who cannot ordinarily afford these services. The culture of rampant corruption and perpetuated impunity serves as a recipe for civil strife and political unrest. It is therefore important that graft, and misappropriation and mismanagement of public funds are decisively confronted. This will take the complete reinstatement of political will, urgent legislative reforms and strict enforcement of the newly enacted laws that combat corruption.

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<sup>104</sup> See: [http://www.aprm-au.org/admin/pdfFiles/Progress\\_Report\\_No1-Uganda\\_NPoA\\_30-06-2009\\_EN.pdf](http://www.aprm-au.org/admin/pdfFiles/Progress_Report_No1-Uganda_NPoA_30-06-2009_EN.pdf).

## J. Recommendations

In order to address some of these challenges, the report makes the following recommendations:

### 1. Strengthen the overall legal framework for combating corruption

- Uganda has ratified the AU Convention. It should therefore enact the prescribed articles of the continental convention.
- The recently proposed amendments to the 2009 Anti-Corruption Act that provide for mandatory confiscation of property of persons convicted of corruption and related offences should be urgently and expeditiously adopted and enacted.
- The offence of causing financial loss and that of abuse of office should be clearly and specifically defined in line with international and regional norms and standards. The current definitions are overly broad and vague, which makes it difficult for the prosecution to sustain charges related to the two offences.
- The present scope of officers to which the code under the Leadership Code Act applies should be extended to include presidential appointees.
- The proposed Non-Governmental Organisations (NGO) Act (Amendment Bill), which imposes a number of stringent restrictions on mobilisation and interactions with communities by NGOs, should be dispensed with in order to create an enabling environment for NGOs to promote awareness of corruption.
- Investigative and prosecutorial roles of the IGG and DPP should be streamlined under the law to avoid the present overlaps and the duplication of the already constrained resources.
- Parliament should expeditiously put in place a legal framework for establishing a Leadership Code Tribunal, as prescribed under chapter 14 of the Constitution, so as to enable the full implementation of the Leadership Code of Conduct.

### 2. Strengthen agency status (legal framework, appointment, tenure and removal procedures, external oversight, autonomy and independence)

- The Leadership Code Tribunal should be constituted as a matter of urgency. In particular, parliament should embrace its constitutional mandate and by law establish the composition, jurisdiction and functions of this tribunal in the enforcement of the Leadership Code Act.
- The tenure of the IGG should be extended beyond the current four years to a non-renewable term of at least seven years. This will enhance the IGG's security of tenure and boost the independence of the inspectorate as a whole.

### **3. Strengthen the mandate and interagency collaboration of the IG with state and non-state actors, and with regional/continental networks**

- The office of the IG and the attendant legal framework do not encourage interaction between the IG and the private sector. This, in many ways, constrains the work of the IG. It is important that the legal framework and the mandate of the IG be expanded so that this inspectorate can undertake investigations in the private sector when it is suspected that government officials have illegally influenced certain decisions, or that public funds have been illegally invested in private entities.
- The ongoing reform of the police and the judiciary should be enhanced and expedited if the work of the inspectorate is to be effective. As long as these institutions remain weak or ridden with corruption, the IG will be severely limited in its capacity to successfully bring officials implicated in corrupt practices to book.
- The role of the Public Accounts Committee of parliament should be supported, since it complements the role of the inspectorate. This may be done through strengthening the capacity of members by way of relevant training.

### **4. Improve agency financing, independence and sustainability**

There is a need for the executive to demonstrate its commitment to fighting corruption. This can only be done if the IG is provided with sufficient financial resources. The current insufficient budget allocation is an indication of the executive's perception of the role of the IG. It is possible that the IG is only considered to be a means of averting donor fears and is not intended to actively tackle corruption. It is important that the funding variance of about USD1 701 538 is provided in order for the IG to function effectively.

### **5. Strengthen administration, staff capacity and infrastructure**

The remuneration of the staff of the IG should be increased so as to reduce their vulnerability to manipulation and bribery. Although it is difficult to arrive at specific figures in this respect, one way of achieving equitable remuneration might be through a comprehensive review of the salaries of all public servants by a salaries commission established for the purpose.

The IG has, until recently, focused on the prosecution of low- and mid-level civil servants. This prosecution strategy directly protects high-ranking civil servants and those with political clout. It is important that the IG treat all cases equally and expeditiously. This may be difficult considering Uganda's political reality. Securing the tenure of the IG and other officers in the entity may give the IG more independence to prosecute all public servants regardless of seniority, status or influence.