

CHAPTER FOUR

LOCAL GOVERNMENT STRUCTURE AND SYSTEMS IN UGANDA

4.1 INTRODUCTION

As the public sector character and attributes continue to evolve globally, in Uganda the systems and structures have been transformed to reflect the dire need for efficient and effective service delivery. The need to create safeguards and control systems has been given considerable priority in the management of several government institutions, including local governments (LGs). The role of the external control systems in respect of accountability in Uganda's LGs is to particularly achieve enhanced human resource (public servants) performance; foster civil society awareness and participation; improve adherence to regulations and to required standards; inspire proper resource allocation and utilisation; promote responsiveness to community needs, transparency, effective and efficient service delivery.

The subsequent sections present the key tenets of the local government structure and system in Uganda and analyses the role and rationale of the various control and accountability mechanisms that interface the local government sphere. First, a historical overview of the local government system since Uganda gained independence in 1962 is given, followed by an analysis of the current structure in terms of the statutory, personnel and financial arrangements which sustain accountability. The control and accountability mechanisms and the legislative framework that retains them in place are discussed, as well as their associated challenges, so as to explore the inherent implications of the local government system in Uganda.

4.2 HISTORICAL HIGHLIGHTS

As it was the case, elsewhere in the new independent states on the African continent, the severity of Uganda's political and economic crises for some two decades shortly after independence in 1962, was devastating. The independence Constitution of Uganda, 1962 under Chapter 1 concerning territories, gave significant

powers and autonomy to local authorities to manage development programmes, with the obligation of providing a wide range of services to the communities. LGs had statutory obligations to provide services such as primary education, feeder roads, medical and health care services. They performed relatively well with central government (CG) support and were moving on sound financial footing, with a sizeable tax base. From the local revenue sources for example, graduated tax contributed 70% of the total revenue (Mamdani Commission Report, 1989).

Only four years after independence, in 1966, there was a military coup and the office of the then president, Sir Edward Muteesa was overrun by an army, loyal to his executive prime minister, Apollo Milton Obote, and commanded by the then military chief, Idd Amin Dada. The 1962 Independence Constitution was abrogated and the largely autonomous local government arrangement abolished. The new Republican Constitution of 1967 was ushered in with a strict centralised arrangement that severely constrained the central-local relations. The subsequent Local Administration Act, 1967 did not only establish an administrative structure that was only answerable to the central government (CG), but also stifled local initiatives towards public accountability (Tukahebwa, 1998: 13). Following this Act for example, local government councils had very little, if any powers in their respective areas of jurisdiction where (Nsibambi, 1998: 1):

- the Minister of Local Government had to approve the budget and plan of local councils;
- the Minister of Local Government had to approve the local councils' bye-laws and had the powers to revoke the same;
- immediate accountability for transferred resources was to the Minister of Local Government and not to the local people;
- the Minister had powers to terminate the mandate of local councillors and to dissolve local government councils; and,
- local government councils had little if any powers over their employees, as even the lowest employee in a local government was appointed by the President either through the Public Service Commission or the Minister.

In 1971, Milton Obote was overthrown in a coup led by his military chief, Idd Amin. Amin's military junta suspended the 1966 Constitution and Parliament, dissolved district councils and went on to rule by decree (*c.f.* Tukahebwa, 1998:13-14). Local administration was reorganised into 10 provinces, led by military governors appointed by President Amin. The districts and lower administrative units were placed under the leadership of commissioners and paramilitary chiefs, respectively, and local administrations became avenues through which military directives could filter from the capital city to the villages (Tukahebwa, 1998: 14). Amin was overthrown in 1979 by a combined force of Ugandan dissidents and the Tanzanian army, but the subsequent regimes (including Milton Obote II, 1980-85) only tightened the grip on centralised control and did not make an effort to democratise local government with virtues that could embrace public accountability.

Thus, the two decades (1966 to 1986) in Uganda witnessed a fertile ground for a dictatorial dispensation with glaring gaps in public accountability, as local government units became mere appendages of the central government, with a reduced degree of staff responsiveness to the citizens' needs. When the National Resistance Movement (NRM) took over state power in 1986, it found a public sector characterised by institutional decay, managerial ineptitude, poor service delivery, and a local government system that did not owe allegiance to the citizenry (Mamdani Commission Report, 1989: 78-80).

The NRM government set up two important commissions of inquiry: the Commission of Inquiry into the Local Government System, chaired by Mahmood Mamdani (1987-1989); and the Public Service Review and Reorganisation Commission (PSRRC), in 1989. The Mamdani Commission identified the rigid centralised structure and the degenerating gap between the service providers and service beneficiaries as having inhibited effective management and service delivery at the local levels (Mamdani Commission Report, 1989: 78). Thus, upon the historical factors and the recommendations of the above two commissions, plans were set to reorganise the central and local government structures and to address matters of public sector efficiency and organisational effectiveness through: astute personnel and financial management systems; responsiveness; and generally proper accountability and service delivery.

Following the adoption and popularisation of the local council structures (also known as Resistance Councils during 1986-92) and the recommendations of the commissions of inquiry, the NRM government attempted to address these problems through directing its efforts at two main areas, namely macroeconomic policy reform and institutional reform to remove the political and structural weaknesses that devastated the country for almost two decades (Ministry of Public Service, 1994). Under the institutional reform, Uganda embraced a decentralisation policy and transfer of powers, functions and responsibilities to the LGs as a way of enhancing their accountability and responsiveness towards the community. Like other liberal reforms supported by the IMF and the World Bank, decentralisation was spearheaded under a common argument that “centralised structures were inherently incapable of being responsive to local needs, because rarely do incentives exist for central government ministries to perceive citizens as their clientele” (Lubanga, 1998: 70). Government has over time considered priorities in this policy shift with a view to attain in local governments, a strong economy and viable social foundations, and to restore trust and accountability in government.

4.3 LOCAL GOVERNMENT STRUCTURE AND SYSTEMS

The decentralisation policy in Uganda was launched in October 1992 with the first 13 pilot districts. The enactment of the Local Government Statute, 1993 was a way of broadening the space for citizen participation and accountability within the local council (LC) system (see Table 4.1, local councils 1-5). The promulgation and the coming into force of the Constitution of the Republic of Uganda, 1995 covered the policy for the whole country and empowered LGs as focal points in managing development and social service delivery (Nsibambi, 1998: 14). The Constitution of Uganda, 1995 in its national objectives and directive principles of state policy (number II [iii]), indicates that; “the state shall be guided by the principle of decentralisation and devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their affairs”.

Article 176 of the Constitution of Uganda, 1995 establishes the district as the highest level of local government, below which are other lower local governments (LLGs)

such as the municipalities, city divisions, town councils (in urban areas) and sub-counties (rural areas).

Table 4.0.1:Key features of Uganda’s decentralised local government structure

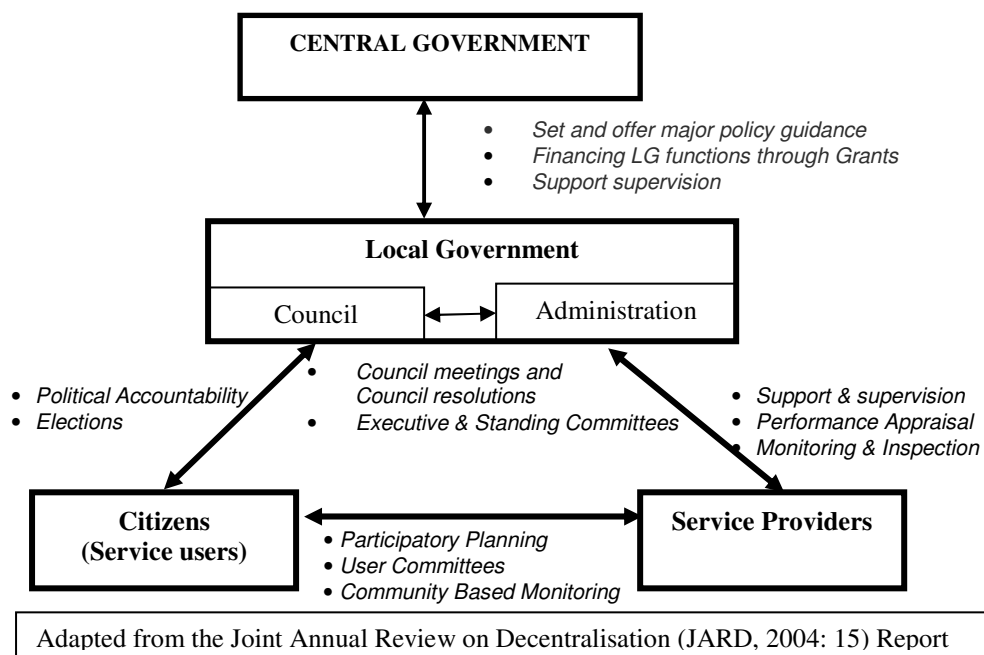
Local Council (LC) Level/Area	Status of LC	Political Head & Selection of Representatives	Administrative Head
District Council	Local Government (LC5)	District Chairperson, elected by universal adult suffrage (UAS). Councillors from sub-counties, women (1/3), youth, disabled	Chief Administrative officer (CAO)
Municipality (Urban) County (Rural area) Councils	Local Govt Administrative Unit (LC4)	Municipal Mayor; Council made up of all LC3 executives, who then elect LC4 executive and Chair	Town Clerk (Urban areas) Assistant CAO (Rural areas)
City Division/ Town Council (Urban area) Sub-County Council (Rural area)	Local Government (LC3)	Mayor (in urban areas) and Chairperson (in rural areas), elected by UAS. Councillors are elected from parish & women (1/3), youth delegates	Town Clerk (Urban areas) Sub-county Chief (Rural)
Parish Council	Administrative Unit (LC2)	Chairperson selected by all LC1 executive members who make up the council	Parish Chief
Village Council	Administrative Unit (LC1)	Chair elected by UAS, & all adults (18 years) are council members	

Adapted from: the Local Governments Act (LGA), 1997 as amended in 2001

The District Local Council (LC5) is the highest political organ and local government, with the District Chairperson as the political head, elected by universal adult suffrage (UAS) (LGA, 1997: sections 10-13). The Chief Administrative Officer (CAO) is the head of public servants in the district and the accounting officer, who is responsible for the implementation of district council and central government decisions (LGA, 1997: s65 [1]). The CAO is appointed by the central government’s PSC. Below the district are other lower local governments (LLGs) in both urban and rural areas. Urban areas have municipalities (LC4 level) and city divisions/ town councils (LC3 level), while rural areas have sub-counties (LC3 level). There are administrative units in form of county, parish and village councils, which supplement the local governments by performing such duties assigned to them by the respective LGs and advising them on any matter pertinent to the community. The urban LGs of municipalities, city divisions and town councils are autonomous from the districts in financial and planning matters, unlike sub-counties in rural areas. They have the powers enshrined in the Local Governments Act (LGA), 1997 to:

- make and implement development plans based on locally determined priorities;
- make, approve and execute their own budgets;
- raise and utilise resources according to their own priorities after making legally mandated disbursements;
- appoint statutory committees, boards and commissions;
- make ordinances and bye-laws which are consistent with the constitution and other existing laws;
- hire, manage and fire (middle and lower level personnel) as well as managing their own payrolls; and
- implement decentralised services, hitherto handled by the central government, as contained in the 2nd Schedule of the LGA, 1997.

Figure 4.0.1: Local Government Accountability Framework



The local government establishment is still largely centrally defined although the LGs are in charge of the human resources. The Joint Annual Review Meeting (JARD) on decentralisation in Uganda noted that the relationship between the CG and LGs was not reflected in a clear policy and legal framework that defines delegated functions from the CG, as well as the financing responsibilities and obligations. There was no

clear policy framework regarding CG support through support supervision, mentoring and policy guidance to local government (JARD, 2006: 12). Whereas the 2nd Schedule of the LGA, 1997 assigns LGs some responsibilities including education services, health, water, feeder roads, human resources, district planning, environment preservation, land surveying, probation and welfare, local trade, community development, and public works, in effect CG unilaterally determines the overall policy outlook and financial capacity of local governments through grants from CG, which account for over 90% of local budgets.

Despite the obligation that the councillors have in terms of political accountability to the electorate (as implied in Fig. 4.1), such democratic undertaking can only be meaningful if the LGs have adequate resources and capacity to use them effectively, which, unfortunately, is not the case. The cardinal goal of decentralisation seems to be elusive, whereby, there is less community grip on their roles in raising resources for local development, demanding accountability from their leaders, participating in planning and budgeting and taking charge of choice of their leaders without expecting monetary and other rewards at the time of elections (JARD, 2006: 11). Yet the expectation would be that the users or recipient communities elect their representatives to councils hoping that the services they need are clearly captured by the elected officials, who are then supposed to monitor the appointed officials.

The accountability relationship is also determined in the way the elected leaders periodically feedback decisions and information from council meetings to the electorate, but this has not been the case. The JARD (2006: 11) noted that there was declining morale on the side of the councillors due to inadequate remuneration and facilitation. There was inadequate capacity building on leadership skills including political accountability, lack of appropriate guidelines on how to manage the multiparty political dispensation at the local level and this was partly responsible for the emerging conflicts in some LGs. The relationship between the councillors and public servants is not very amicable as was reported during the JARD regional workshops (JARD, 2004: 15). Councillors were reported to be very suspicious of the appointed officials and there were constant clashes due to failure of the councillors to stick to their defined roles and responsibilities. The relationships sometimes

culminated in disruption of services to users when appointed officials are suspended or interdicted on recommendations of councils (JARD, 2004: 16).

4.3.1 Personnel management arrangements

Uganda's local government personnel system is manifested largely in a *separate personnel* type, but also partly in an *integrated* one. Under the separate personnel system, persons in the service of local government are employed by the local government themselves. This currently applies to all the senior middle and lower civil servants in the districts (Constitution, 1995 as amended 2006: Article 176[2f]). While the power to appoint persons to hold and act in the office of a district or urban LG; the power to confirm appointments; to exercise disciplinary control and to remove those persons from office is vested in each one of the DSCs (Constitution, 1995: Art.200 [1]), the appointment and confirmation of the topmost civil service positions in LGs are, instead, done by the central government through the PSC in a typical integrated system. The integrated system is where officers are in the service of central government, but serve under LGs on secondment or are posted more or less like field administrative officers (Lubanga, 1998: 69). This is currently the case in Uganda with regard to the positions of the CAO, deputies (DCAO) in the districts and town clerks and their deputies in urban areas.

In 2005, the Constitution of Uganda, 1995 was amended to revoke the appointment of the top senior staff of LGs from the DSC. This policy shift has evoked public criticisms, as initially, the preference for the separate personnel system was intended to foster the objectives of devolution of powers and create opportunities for local councils to hold their appointed officials accountable in a decentralisation setting (Lubanga, 1998). It sought to promote smooth decision-making, responsiveness, bring accountability nearer to the people and redress organisational anomalies like division of allegiance – common with integrated personnel systems; thereby creating and strengthening management unification at the LG level. The other supporting point was that, centralised structures were inherently incapable of satisfying local needs since; rarely did incentives exist for central government officials to perceive citizens as their clientele (Lubanga, 1998: 70). The argument was that the staff appointed locally would give quicker feedback opportunity and articulation since

under the separate personnel system, they are servants of LGs, appointed to meet their employer's developmental needs, and the proximity would therefore; make them more responsive and accountable to their constituents through the elected local leadership. This is unlikely in an integrated personnel system, where the workers' allegiance is divided between the central and the local leaderships.

Central government's appointment of staff is now, arguably, making them subservient to the CG whims that may not necessarily represent the local priorities. The CG, in defence of its decision to reclaim the appointment of CAOs and town clerks, argued that these top public officials in the LG service had become increasingly complacent and too 'big' for the districts to handle, thereby, necessitating them to be 'whipped' from the top. As to whether the removal of such powers from the districts to appoint their top public officials was a sound decision, the justification can, ultimately, only be laid on how such a policy can enhance the officials' commitment to improved efficiency and accountability to the public interest.

Nonetheless, the separate personnel system also has the limitation of *localising* the civil servants and sealing their fate in a rather closed system where their career progress could easily be suffocated in one locality. In order to limit this perceived despotic tendencies of local authorities, the Constitution of Uganda, 1995 (Art. 166 {1} [d] and [e]), provides checks and balances which give the Public Service Commission the mandate to guide, coordinate and regulate the activities of the District Service Commissions. The provisions also allow the PSC to serve as an institution of appeal for parties aggrieved by the decisions of the DSC in view of the LGA, 1997(s60).

With regard to remuneration, the salary scales for LG staff are predetermined by the CG under the Ministry of Public Service. District authorities sometimes determine some other emoluments for staff, but this is done following the ministry's guidelines, and is often restricted owing to the districts' usually limited purse. Several investigations into the local government domain continue to express great dissatisfaction over the Public Service salaries, which are not commensurate with the magnitude of work and qualifications of office bearers. As in central government departments, the public servants' salaries remain so low and have not been adjusted

to take into account the rising cost of living, for over a period of time. For example, a Senior Personnel Officer on U3 salary scale earns about Shs. 720,000/= (US \$424) as a consolidated package per month, while the Principle Personnel Officer on U2 earns about Shs 860,000/= (US \$506) per month⁴. The situation is worse for the lower category of public servants, many of whom earn less than Shs. 200,000/= (US \$118) a month.

There is no doubt such meagre pay affects the LGs' capacity to effectively retain their human resources, with gross implications for employee motivation, performance and accountability. It is only when employees are motivated that they can use their skills, knowledge and ability to ensure better results. Matters are not improved by the limited resource base and funds available to local governments, which would otherwise, offer support to motivation programmes. While the proponents of Monistic/ Economic theory of motivation have been largely criticised for the belief that money is a major motivator and that people would work harder if paid more money, the financial incentives can, nonetheless, add a great deal to the efficiency of the personnel. Goel and Rajneesh (2002: 568) indicate that, "however, fascinating the individuals job assignment in a public agency or a private firm can be, the employee expects to be paid". His/her wage may (and it is generally assumed that it does) affect the way he/she works, and how much or how well one dispenses energies and resources at his/her disposal.

Similarly, there are concerns about career development which have equally important implications on employee performance and accountability. Career development relates to providing a conducive atmosphere for the development of individuals recruited in organisations such that they can achieve better performance and occupy higher positions in the organisation (Goel and Rajneesh, 2002: 249). Career development helps the staff to discover their potential and weigh their future progress in the organisation, which provides a sense of affiliation with the organisation and promotes greater opportunity for individual optimal returns.

⁴ Interview Twikirize Charles, Ag. CAO Mbale District, 31st October 2007, & Mukasa Fred, Principal Personnel Officer Luwero District, 7th November 2007

While there is always willingness on the part of the civil servants in local government, especially in the middle and lower management positions, to undertake further training to boost their skills and qualifications, districts seldom offer funding for long-term training. The district CAO of Luwero reiterated in an interview in 2003 that, “the bigger chunk of money they received from central government was conditional and directed to implement government programmes, of which paying for civil servants to attain higher qualifications is unfortunately not part” (Kakumba, 2003: 41). The strict staff numbers in the different local government departments also make it difficult for staff to be away for long periods to attend long-term courses and training. Nonetheless, local government staffs continue to benefit from several capacity building programmes in form of seminars, workshop and short skills development training packages financed by the central government and donors.

In the same vein, the decentralisation system of government in Uganda ties promotion to a rigid structure whereby the separate personnel system confines staff to local governments and one district. The Makerere Institute of Social Research’s (MISR, 2000) report indicates disillusionment among the local public servants. The report expressed concern upon lack of upward movement in their career development because of the current local government structure that limits promotion to one or two levels. Several respondents also stated that in the service of a local government it is not only the same position and level that you remain, but also the salary scale gets ‘stunted’ (*c.f.* MISR, 2000; Kakumba, 2003).

Lubanga (1998: 93) points out that the failure by LGs to develop a suitable career development programme is linked to the lack of a human resources management and development policy by the Public Service Commission (PSC) at the national level. While professional development would ordinarily fall within the ambits of the central government, at least for purposes of coherence and to capture national character and priorities, there hasn’t been a comprehensive framework for public service career development for a long time. Alleged cases of discrimination and selective recruitment continue to be reported, especially where the DSC agrees to conspire with the district council on the *right* people for the jobs (JARD, 2006; Kakumba, 2003; MISR, 2000; Lubanga, 1998). It is argued that, the creation and

sustenance of a merit-based recruitment system that is opposed to the corrupt tendencies of many LGs appointing ‘sons and daughters of the soil’ – recruitment that favours ‘homeboys and girls’, remains a major challenge of personnel decentralisation (Kakumba, 2003: 64; Lubanga, 1998: 79).

4.3.2 Financial management arrangements

The main source of revenue for local governments in Uganda remains the block grants from the central government that constitute about 90% of the local budgets. The Constitution, 1995 (Art.193 [1]) and the LGA, 1997 (s84 [6]), mandate financial transfers from the central government to the districts and urban councils to contribute to their expenditure upon functions devolved to them, in three ways:

Conditional grant: This consists of funds given to LGs to finance programmes determined by the central to be executed by the LGs. Funds are only expended for purposes they are meant for in accordance with the conditions laid down by the CG. LGs have no powers to reallocate funds to any other activity without the authority of the sector ministries of CG. It constitutes about 85% of all the grants from the CG.

Unconditional grant: This refers to the minimum grant that is paid to LGs to run decentralised services and is calculated in the manner specified in the seventh schedule of the Constitution. An unconditional grant is not earmarked and so it is a grant which a local government allocates in accordance with its own priorities but taking into account the national priority programme areas.

Equalisation grant: This refers to the money paid to local governments for giving subsidies or making special provisions for the least developed districts. The grant is based on the degree to which a local government unit is lagging behind the national average standard for a particular service.

LGs also receive support from donors, which include funding for projects on improved service delivery and capacity development. LGs are empowered to levy, charge, collect and appropriate fees and taxes within their area of jurisdiction (Constitution, 1995: Art.191). The levies charged by LGs include rents, rates,

loyalties, stamp duties, cess, fees on registration and licensing and other fees and taxes as parliament may prescribe.

It should be noted, that these local collections by LGs are very meagre, as in 2002 several districts could only collect an average 7% of their total annual budgets (Francis and James, 2003: 330). The central government continues to retain the buoyant sources of revenue and the districts continue to rely on them to finance over 90% of their local budgets. Over 85% of the central transfers come as conditional grants, which earmark support to specific national programmes at the local level. The unconditional grant is largely spent on staff salaries and general administration; and there is therefore, little, if any room for LGs to use it for other development priorities.

There have been concerns that local governments annually receive less than 30% of the national budget, which is seen to be disproportionate to the amount of devolved functions and responsibilities that they bear. It is arguable that inadequate finances pose responsiveness and accountability problems, since funds are spent on unfinished projects and substandard works such as roads and buildings, which collapse shortly. It is also notable that the block grants from central government are released with vertical reporting and accountability arrangements to the CG line ministries, but with very minimum, if any accountability, to the local people (councils). Given that over 90% of the funds for local programmes come from the central government, there is a growing concern that once the local public officials agree with the CG line ministry supervisors, then, they don't feel obliged to account to the local councils. This undermines the requirements of accountability to the public.

(a) Sharing of locally generated revenue

The sharing of locally generated revenue amongst the LGs and administrative units is provided for under the LGA, 1997. The local revenue is supposed to be collected by the lower local governments because of their proximity to the population. In rural areas the sub-counties collect local revenue and remit 35% to the district. Of the amount retained by a sub-county (65% of total collection), 25% is remitted to its respective village (LCI) councils and 5% to the parish (LCII) councils. With regard to urban areas, the municipality or city division remits 50% to the district. Out of the

50% retained by the municipal/city division, 25% is remitted to lower councils (LCI and LCII). See table 4.1 on the local council structures LCI-LC5.

Revenue sharing is important since each LG and administrative unit has some functions to undertake. However, there have been complaints about some LGs defaulting and failing to remit the funds to other levels. This is reported to have aggravated conflicts between LGs that are accused of frustrating the work of others⁵. The remittance of funds to lower councils is intended to encourage the people to pay taxes, but when there is failure to remit such funds, the lower councils, which mostly interface with the population, lose not only their sense of responsibility, but also the moral authority of convincing the public to meet their obligations.

(b) Planning and budgeting

With regard to planning and budgeting, the LGA, 1997(s36) makes a district local government as a planning authority, required to formulate, approve and execute its budgets and plans. The plans are supposed to be in form of an integrated development plan (IDP) which must incorporate plans of lower local councils. District plans are supposed to be developed using a bottom-up approach, with each village making its community action plan. The parish committees incorporate these into the parish plan, and then send them for integration into the sub-county or urban council plans. The sub-county plans are submitted to the district and the District Technical Planning Committee is supposed to produce an integrated plan for discussion by different stakeholders, before approval by the District Council. In principle, the district plans have to observe and make their plans in accordance with the priorities based on national priority programme areas (PPA).

Given that a budget provides an evaluation of the total government and public authority revenue and expenditures, it serves as a critical instrument of accountability and control over the management of financial matters. Departments initiate budget proposals, which are presented and discussed by the district sectoral committees such as finance committee, education committee, health and social services, production and works committees. The budgets are then recommended to

⁵ Interview, Kikaawa, Chief Finance Officer Mukono, 7th November 2007

the district council for approval or otherwise, and to be incorporated in the overall district budget. LGs are required to run balanced budgets, which have to reflect all the revenues and expenditure, and must take into account the approved three-year development plan of the local government, as well as the national priorities. The chairperson/mayor of a LG has to ensure that the budget estimates are presented to council not later than the 15th June every year, and the council has to approve the budget, which thereafter becomes a binding document that must be followed.

Whereas planning is required to be participatory, the limited capacity and inexperience of officials at rural sub-county level and lower parish and village units, only seem to act to the advantage of the local elite. Secondly, these district plans rarely incorporate priorities of lower local councils; and when they do, the plans are not necessarily adhered to, as the top politicians in their council committees at the district level often create new 'hot' priorities and 'urgent' projects which have to be financed from time to time (Francis and James, 2003; Kakumba, 2003).

While discussing the two contrasting forms of local government and development in Uganda, relating to the *technocratic* and *patronage* modes, Francis and James (2003: 326) insist that the latter only draws on the language of participatory planning, while in actual sense the performance is ritualised with little citizen involvement, owing to lack of resources and capture by local elite. The more the local council structures have gained legal recognition and political clout, the more they became less of the people's institutions and more of state bureaucratic institutions (Makara, 1998: 43-44). This makes participatory planning a hoax and contravenes the principles of public accountability, which emphasise genuine citizen participation and empowerment.

(c) Financial management control

Effective financial management control is crucial, given the often limited financial capacity of public sector institutions in the developing world. The frugal and careful utilisation of financial resources require sound control mechanisms, which include strategic planning, budgeting, monitoring and evaluation, regular audits, quarterly reports, budget workshops, as well as external controls. The statutory requirements provide that the funds are released on requisition under specific approved budget

outlays, backed by authorised approvals. The CAO/ Town Clerk and the Chief Finance Officer are the principle signatories to all the accounts of LGs. Heads of departments are the third signatories to their respective accounts. The CAO/town clerk are the overall accounting officers in LGs, but individual public officers are personally accountable for any funds allocated to them for use from the council's coffers.

The internal and external audit functions are required to be in place to reinforce proper financial management at all levels of local government. The local councils are obliged to enact bye-laws and regulations to strengthen financial management and accountability. All LGs and administrative units are required to keep proper books of accounts and to prepare annual financial statements for auditing. To ensure efficiency and effectiveness, the financial regulations require all local councils to set up statutory organs such as contract committees, which award tenders for provision of goods and services; and the Local Government Public Accounts Committee (LGPAC), which scrutinises reports from internal audit units and addresses issues raised by the Auditor-General's reports. Nonetheless, these financial management controls face quite a number of limitations and weaknesses. These are discussed in detail later in this chapter (section 4.5) on the implications of the LG structure and system.

(d) Monitoring and evaluation

Monitoring and evaluation is a critical function, which intends to ensure that the resources and efforts are effectively utilised, and that progressive achievements of set objectives are attained. Monitoring and evaluation becomes necessary because of the uncertainty in perfect achievement of preconceived goals. The requirement of monitoring and evaluation continues to rekindle the practice of transparency and accountability within the public servant ranks in the districts. The districts have established units of management support services to specifically enhance monitoring and evaluation. Officials such as the Deputy CAO the Assistant CAO in charge of counties, the Principal Personnel Officer and a line of similar middle managers do routine work in this regard. This activity is being supported by the grant from the central government, dubbed the "Monitoring and Accountability Grant", which is remitted under the vote of Poverty Alleviation Fund (PAF) to the districts. The district

council is also required to supervise and ensure that council work is done well. Besides, the five officials on the District Executive Committee in charge of the portfolios of finance, education and sports, health, works, production have permanent offices at their respective sector units and they directly interface with the public servants to monitor and evaluate performance of activities in those sectors.

Nevertheless, the above control arrangements continue to face a multitude of limitations and factors that impede the successful attainment of the objectives of accountability, effective and efficient performance of LGs. The effects and implications of the above financial arrangements are discussed later in section 4.5, after presenting the control institutions and the associated legislative framework.

4.4 CONTROL INSTITUTIONS AND LEGISLATIVE FRAMEWORK

In its national objectives and directive principles of national policy, the Constitution of Uganda, 1995 (Objective: XXVI) enshrines “accountability as a cardinal rule upon which public offices must be held in trust for the people; where all persons placed in positions of leadership and responsibility must, in their work, be answerable to the people, and; all lawful measures have to be undertaken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices”.

Accordingly, the Constitution, 1995 and the LGA, 1997 sought, as a safeguard against the likely abuse of power and delegated authority, to establish external and internal control systems to enhance accountability, in order to improve upon efficient and effective service delivery at the local levels. This daunting task was entrusted to an array of institutions and structures, both at central government level (external controls) and at local level, within the districts (internal controls).

4.4.1 Internal control structures

Internal audit units are established in LGs under the provisions of the LGA, 1997 (s91). They have to approve day-to-day financial operations and to prepare quarterly audit reports for submission to the local government council, the LGPAC and to the

Auditor-General. These three structures that receive direct reports of internal audit are intended to offer institutional protection to the audit function at the district. The internal audit unit is supposed to enjoy a high degree of independence from the direction of any officials in the exercise of its professional duties. It is also supposed to follow up adverse practices related to performance of work, uneconomic use of assets, overstaffing in relation to work done and wasteful use of resources.

Internal auditors, however, have often been accused of facilitating financial leakages. While internal audit units are important in creating internal control mechanisms to ensure that public money is expended efficiently and effectively, they have been found to be very weak and unable to check financial impropriety (Tukahebwa, 1998: 17). Research undertaken in 1998 indicated that internal audit units were starved of resources and were not properly facilitated to audit sub-counties, which duty they were required to do under the law. In addition, collusions were rife between the auditors and the sub-counties to engage in fraudulent acts, as incidents were cited when the Auditor-General and the Judicial Commission of Inquiry uncovered financial impropriety in several districts (Tukahebwa, 1998: 18-20).

Established under the provisions of the LGA, 1997 (s89), the LGPAC is duty-bound to examine the reports of the Auditor-General, the Chief Internal Auditor and any reports of commissions of inquiry. The committee submits its reports to the relevant council and the Minister of Local Government who, in turn, lays the report before the PAC of Parliament. Each district has an LGPAC that has powers to summon any officer to answer audit queries.

One criticism levelled against the LGPAC is that it largely operates as a post-mortem structure with very little, if any capacity to detect and prevent reoccurrence of organised fraud⁶. Membership on the LGPAC is not based on any qualification or experience requirements, and effectively, anybody can become a member as long as he/she is nominated by the district executives and approved by council. The LGPACs are poorly facilitated; their emoluments are based on the local council allocations from the meagre local collections; and their reports to Parliament through the Minister of Local Government are hardly given due consideration and thorough

⁶ Interview, Deputy Chief Finance Officer Iganga District, 30th October 2007.

scrutiny by the PAC (JARD, 2004). Some critics in the seminars on capacity building for decentralisation have labelled the LGPAC structure a *paper tiger*.

4.4.2 External control institutions

From the central government, the external control institutions with relevance to accountability in local government include the Parliamentary Public Accounts Committee (PAC), Office of the Auditor-General (OAG), the Inspectorate of Government (IG) and the various line ministries of central government responsible for local government, finance and economic planning, public service, agriculture, health, education and works. These combine to determine the socio-economic and political 'heartbeat' of intergovernmental relations between the two spheres of government and ultimately, affect the 'rhythm' of accountability in local government.

(a) The Public Accounts Committee (PAC)

The PAC is a constitutional parliamentary standing committee established under the provisions of the Constitution of Uganda, 1995 (Art. 90). It is charged with the responsibility of monitoring and supervising the resource utilisation of all government departments. The PAC scrutinises annual reports submitted by the Auditor-General and in the exercise of its functions it is empowered to enforce the attendance of witnesses and examining them on oath, affirmation or otherwise; and compel the production of documents to justify the utilisation of public resources. On many occasions, the districts CAOs, who are the accounting officers of their respective districts, do appear before the PAC to answer queries reflected in the Auditor-General's reports. Several reasons are given ranging from missing vouchers, negligence, and collusion by public officials. The CAOs are made to answer queries arising out of offences committed by the public servants below them.

One problem is that the PAC has often been unable to timeously and aptly deal with a number of reports and recommendations, especially from the OAG and the IG over a multitude of cases concerning corruption and abuse of office, despite the their being required by law to discuss and take appropriate action within six months on receipt of such reports (UDN, 2001: 15). A number of excuses are given ranging from overwhelming workload to lack of resources, but there is no justification for

allowing errant public officials to go scot-free after misusing billions of taxpayers' money. The Uganda Debt Network (UDN) indicated in 2001 that the PAC, particularly "has a stigma to be toothless, and it underperforms due to the lack of staff, and an overwhelming workload"; it is constrained by time and resources; it seldom holds public hearings; lacks technical and research support, and funds to enable them supervise and monitor LGs on a regular basis (UDN, 2001: 15-16).

(b) The Inspectorate of Government (IG)

Article 223 of the Constitution of Uganda, 1995 establishes the Inspectorate of Government, headed by an Inspector General of Government (IGG) and two Deputies, (DIGG). Apart from having duties at central government level and all agencies of the state, the IG's jurisdiction extends to the local government where he is duty-bound to: foster strict adherence to the rule of law and principles of nature justice in administration; eliminate and foster the elimination of corruption, abuse of authority and of public office; promote fair, efficient and good governance in public offices; and supervise the enforcement of the leadership code of conduct (Constitution, 1995: Art. 225 [1]).

It is clear that the above duties of the IG are intended to enhance accountability and guard against the abuse of power and public authority. The IG has established branches at regional level to boost capacity and watch over the operations of local government units. On several occasions, the IG is reported to have put to task a number of CAOs to explain cases of corruption and abuse of public authority. Innumerable reports from the IG have continued to castigate LGs for gross abuse of powers, incompetence and misappropriation of billions of shillings every year (Rugambwa, 2004: 41). Rugambwa (2004: 42) points out that it is ironical to learn that chairpersons and councillors on whom the anti-graft institutions would rely on to fight graft are, instead, the master-minders of corruption in LGs.

The major manifestations of the increasing corruption in the districts in Uganda include (The Daily Monitor, 2004: 14-15):

- district officials colluding to divert money meant for capacity building and other development projects for personal gain;

- district tender boards colluding with district executives to award themselves projects under bogus companies or relatives, and;
- intimidation of lower officials by district bosses in cases of the former hesitating to sign completion certificates for substandard or incomplete work.

The IG continues to complain about limited human resources and financial capacity; and often cites frustrations such as overwhelming workload against limited staff, low pay of staff, and consistent failure by government organs to implement the IG's recommendations (IG-Reports 2006: 129 and 2007: 82). While the IG has been recommending the dismissal of CAOs, a number of them have been reinstated after protracted court battles, with huge costs to the affected districts in terms of general and special damages for wrongful termination of services (The New Vision, 2004: 10). This has posed constraints to the implementation of the IG's recommendations as several district councils decided to ignore them in fear of having to pay heavily in case of lost court battles. It is distressing to note that the magistrates' courts and Police, which would ordinarily help to operationalise the IG investigations and apprehend/ prosecute offenders, are highly rated as the most corrupt local institutions (NIS, 2003: 52). It will have to be seen if the amendment of the Constitution of Uganda, 1995 (Art. 188) in 2005 to revoke the powers of appointing and dismissal of CAOs, DCAOs and town clerks from the districts to the central government, will be sustained to promote accountability.

(c) Office of Auditor-General (OAG)

Established under the provisions of Article 163 of the Constitution, 1995 the Auditor-General's office is supposed to audit and report to Parliament, the public accounts of Uganda and of all public offices, including the courts, the central and local government administrations, universities and public institutions accounts. The OAG, for that matter has to conduct financial and value- for-money audits in respect of any project involving public funds (Constitution, 1995: Art.163 [3]). The OAG is obliged to submit to parliament annually a report of the accounts audited by his office (including those of local government) for the financial year immediately preceding. Besides, the OAG is mandated to offer guidance and enhance technical capacity in the internal systems of local government. The OAG has external auditors attached to various

government departments including LGs. Through external audits, the OAG every year discovers several cases of abuse of office and misuse of public funds, in spite of the several control mechanisms in place.

The OAG, however, faces impediments ranging from poor financial and human resource capacities to overwhelming audit responsibilities. The increasing number of local government units, arising out of creation of new districts in recent years, has not been met with the staffing levels at the regional offices (OAG-Policy Statement, 2007). According to the Auditor-General's report, accounts of lower local governments of 2003/2004 were not audited by the close of financial year 2006/2007, three years after the statutory period, owing to capacity limitations (OAG-Report, 2006). There have been allegations in media reports that the external auditors sent to districts collude with district officials to cover-up financial improprieties. Other allegations against the OAG concern its overzealousness in searching for any possible wrong and its exaggeration of some public service deficiencies in order to justify their indispensability.⁷ In this case, some public officials complain that the OAG is often biased in its investigations, and that they go it goes out to haunt them for any frivolity or trivial mistake they commit, upon which the OAG recommends stringent actions.⁸ All these accounts threaten the OAG's effort to enhance accountability in local government.

4.4.3 Legislation and regulations

Fourie (2006: 435) points out that, a clear separation of what is public and what is private is required as a way of ensuring that public resources are only utilised for public ends. Thus, a legal framework must be enacted with institutional mechanisms to regulate behaviour and enforce compliance of public officials. In Uganda's case, various pieces of legislation and regulations were put in place with the intention of guiding human behaviour towards good conduct. Regulations require that public officials follow guidelines and conduct themselves in a responsible and accountable manner when dealing with public resources. Most notable among these are: the LGA, 1997; the Public Finance and Accountability Act (PFAA), 2003; the Public

⁷ Interview with CAOs and CFOs from Iganga, Mukono, Mbale, Masaka, Luwero Districts, September-November 2007

⁸ Interview CAOs and CFOs from different Districts, September-November 2007.

Service Regulations; the Leadership Code Act, 2002; the Public Procurement and Disposal of Assets Act (PPDAA), 2003 and the Local Government Finance and Accounting Regulations (LGFAR), 1998.

The Leadership Code of Conduct requires specified officers to declare their incomes, assets and liabilities from time to time and how they acquired or incurred them as the case may be. It also prohibits conduct likely to compromise the honesty, impartiality and integrity of specified officers; conduct that is likely to lead to corruption in public affairs; or which is detrimental to public good or welfare or good governance (Constitution, 1995: Art. 233 [2]). The Leadership Code, currently enforced by the IG, is intended to guard against public officials amassing wealth in rather unordinary or anomalous fashions. While a number of officers at a certain level in central and local government have indeed declared their wealth, there remain allegations that a number of them have amassed wealth at 'skyrocketing' speed compared with their official remuneration.⁹ Given that some people may declare their wealth falsely or in the names of their relatives and kin, it is awaited to be seen when one will be reprimanded for contravening the Leadership Code of Conduct.

Whereas the regulatory systems and processes can indeed enforce transparency and accountability, they rarely indicate, whether the appropriations made by state departments and agencies have actually addressed national priorities or have provided value for money output (Fourie, 2006: 439). This difficulty, among other things, is caused by the usually, poor technical competence of oversight institutions, which makes it difficult for them to fully understand the highly technical plans and costing procedure, which in the end, makes Parliament, parliamentary committees and other agencies unable to fully appreciate the manner in which public funds are managed. The operationalisation and enforcement of legislation and regulatory framework pertaining to accountability in local government is the 2nd objective of this study, and therefore, the rest of the discussion and evaluation is done in Chapter Six of this thesis.

⁹ Interview Kirenda, CAO Luwero District, 7th November 2007.

4.5 IMPLICATIONS OF LOCAL GOVERNMENT STRUCTURE/SYSTEM TO ACCOUNTABILITY

The doctrine of public accountability is acknowledged as a pivot around which good government rotates. Gildenhuys (1997: 59) points out the necessity to exert public control over public officials to be accountable, otherwise, “the danger of government becoming non-representative may arise”. In spite of the elaborate and apparently, well structured systems of local government in Uganda, as discussed above, there are a number of drawbacks to accountability.

4.5.1 Leadership-citizen detachment

Accountability to the public requires the citizens to access information, transparent procedures, effective consultation and publicity on the side of the government machinery, but this is hardly the case with LGs. While the citizens can regularly elect their own local leaders into office, these executives remain effectively detached from the electorate once they are in office. Research done in several districts of Uganda on how often the electorate interacted with their district councillors, revealed that: 20.6% of the respondents did not meet them at all; 16.5% only met them when elections were around the corner; 3.1% saw them during local fundraising; while 30.9% met them very rarely; and 2.1% could only meet them in bars (Tukahebwa, 1998: 27). Where 70% cannot easily interact with their community leaders, accountability becomes endangered. This is attributed to failure by local authorities to mobilise the people, poor information flow and civic competence.

Matters are worsened by the failure to remit the mandatory 25% of the local revenue to the majority of the village councils (LCI), and in a few instances where it is remitted, the local residents rarely receive commensurate benefits (Rugambwa, 2004: 40). Moreover, the village executive committees feel neglected and unmotivated by the absence of any kind of reward, especially in relation to other levels of local government that have official emoluments. Thus, the lower communities remain largely detached from the top leadership of the LGs, and this does not offer momentum for public accountability.

4.5.2 Political patronage

There have been concerns that the central government has not given political commitment towards effective devolution of powers, which is evident in the continued influence and interference in the functioning of LGs. The growing political culture is that of polarisation, where top central government politicians, do not only stop at interfering in local elections, but also work hard to frustrate the local individuals that do not seem to subscribe to the ruling party (Olum, 2004: 4). Even during the *movement system* where local leaders were by law supposed to be non-partisan and elected on *individual merit*,¹⁰ the central government officials openly campaigned for some candidates, seen as sympathisers to the regime. Olowu (2003: 46) offers a typical note when he reiterates that, “central governments often use their wide powers of control over local governments, including using them to settle political scores or victimise councils controlled by opposition parties”.

Whereas the Constitution of Uganda, 1995 (Art.180 [1]) designates the District Council the highest political authority in its area of jurisdiction and the council chairperson as its political head (Art. 183 [1]), on many occasions, officials from the President’s office have rescinded district council decisions. For example, during 2004 and 2005 the payment of fees and levies to Kampala City Council (KCC) by the roadside motorists (popularly known as *Boda-Boda*) and market vendors were stopped by presidential aides.¹¹ A major development plan passed by KCC to modernise *Naguru* estates in 2003 was halted. Top politicians also continue to be cited in local tender controversies (Francis and James, 2003; Olum, 2004). Such trends of intergovernmental (central-local) relations, only work to divert the focus of accountability and allegiance to the central government’s senior officials, rather than to the local electorate, on whose behalf the institutions of local government are principally meant to serve.

¹⁰ Relates to the non-party system of governance in Uganda (1986-2005) where all people were assumed to belong to a “movement system”, and standing for any political office was supposed to be an individual effort

¹¹ The Daily Monitor and The Weekly Observer Newspapers, quoted on CBS Radio Programme, “Kkiriza oba gaana”, September, 2007.

4.5.3 Local elite

While the *local elite* is required for the success of local government systems in terms of bringing resources, knowledge, influence and networks, they must not be allowed to exclude the communities, lest, serious problems of equity, responsiveness and corruption are bound to occur (Olowu, 2003: 46). LGs have councillors, public servants and some influential members of the civil society who become powerful by exploiting the system of local governance for their private interests, through making decisions relating to, planning, allocation of resources, awarding of tenders and contracts for projects. Such local officials and a few well-to-do members of society have become the local elite who manipulate the system while precluding the rest of the society's interests. It is not uncommon for some members of the public to offer sponsoring campaigns for local government officials, in anticipation of returns, in form of preferential treatment. In rural areas, local councillors are increasingly being drawn from the well-to-do households, who give inducements to the poor in form of sugar and soap in order to be elected (Francis and James, 2003; Olum, 2004).

4.5.4 Inadequate financial capacity

The weak financial position of LGs does not only reduce their capacity to integrate the community in development projects, but affect responsiveness to community needs. Matters are worsened by the low tax base and the continuous control of buoyant sources of revenue by the central government. Analysis of the budgets of several districts in 2002 revealed that they could only collect locally, an average of 7% to finance their budgets (Francis and James, 2003: 330). Districts continue to rely on the central government resources, which are not only insufficient, but also come as conditional grants. Conditional funding accounts for over 85% of the CG transfers and it earmarks support to specific national programmes. The unconditional grant is largely spent on salaries and administration, and there is, little, if any room for LGs to use these resources for their own development priorities. Unconditional grants are arbitrarily cut and funds withdrawn from certain services, and abrupt changes made in modalities of fiscal transfers to LGs (Kakumba, 2003: 43).

The poor financial state of LGs makes them inclined to rather cumbersome conditions and requirements from the donors and central government. In the end,

they become agents of these higher-level structures, rather than agents of the local citizenry. While the high level of central transfers to the districts may not necessarily mean lack of local autonomy, but the conditions usually attached to these transfers can undermine genuine local priorities and accountability to the citizens.

4.5.5 Local conflicts

Conflicts between various levels of local administration have been identified. There is resentment by the villages and parishes against the sub-counties on the one hand and on the other hand against the districts, over the failure by the latter to include them in decision-making processes and failure to remit part of the revenue collections to which the villages and parishes are entitled (Francis and James, 2003; Rugambwa, 2004). The interface between politicians and civil servants has also exhibited conflicts of roles and interests, factionalism, confrontation, intimidation and power struggles (Makara, 1998: 39). In many instances, conflict arises out of differences in policy approaches. For example, while the politicians would seek to please their constituents at all cost just to keep political support; the public servants are concerned about adequacy of process and frugality of resource use. There are reported cases where politicians harass local public servants over alleged frustration of their (politicians) development projects (Kakumba, 2003: 93). There is acrimony arising out of the fact that civil servants are better educated than the political leaders in the districts, yet their emoluments are considerably very low. For example, a graduate assistant CAO earns about Shs. 210,000 per month, while a non-graduate chairperson earns Shs. 1,300,000 (Francis and James, 2003: 333). Such episodes preoccupy the local officials and obstruct them from engaging the public service provision.

4.5.6 Weak socio-economic structure

The weak socio-economic positions of the rural people obstruct them from meaningful participation and enforcing accountability from LGUs. In addition to being poor, disguisedly unemployed, the rural population is associated with low levels of education, high illiteracy rates, poor infrastructure and communication means that obstructs their civic competence. Although the number of NGOs has increased in

almost every rural district, they are increasingly being accused of collusion with the local officials to represent the *elitist* preferences (DENIVA, 2006: 49). The weak internal structure of most NGOs and lack of a broader representation of the *people's voice* makes them rather superficial. While reflecting upon their internal weaknesses, Rugambwa (2004: 43) notes the following about NGOs:

- a significant number of NGOs lack clear accountability channels;
- there is limited shared values and lack of a common ideology;
- have limited capacity to document and demonstrate impact to the wider society; and
- their relationship with LGs is still characterised by mistrust, conflicts, poor communication and information sharing, and lack of transparency.

4.5.7 Capacity of institutions

Aligning a cross-section of external control agencies and regulations could instil discipline, frugality, responsibility, as well as accountability in public offices. Nonetheless, media reports have tended to echo the public outcry that the persistent graft and abuse of office at local government level have to do with weak capacity of external control institutions. In Uganda's case, anti-graft institutions are constrained by inadequacies arising from lack of adequate staff, logistical support, funding and weak political will (UDN, 2001; OAG-Report, 2006; IG-Report, 2007).

Uganda's external control and watchdog agencies operate in a politically active environment and, therefore, may not be insulated from unwarranted political influence. Hence, they need to be weighed against the above criteria to see if they pass the 'litmus' test. Whereas the Constitution of Uganda, 1995 established clauses to protect the independence of the watchdog agencies in the exercising of their statutory duties, they have on several occasions been accused of 'bending the rules' and ignoring complaints, especially when it comes to cases involving individuals who are 'well-connected' to the ruling political establishment. Such cases affect the effectiveness of control systems and pose a challenge to accountability.

At a broader level, the new multi-party system in Uganda poses another challenge to parliamentary-led accountability. Owing to what Muthien (2000) calls "appeals to

comradely support”, there is fear that the NRM party members in Uganda’s Parliament, are bent on defending the interests of the executive (on account of their majority vote) and thus, parliamentary decision may reflect the interests of the ruling party, which may not necessarily be the larger public interest. One would imagine that ordinarily, a robust opposition in the legislature would put checks and balances and increase government scrutiny, but recent episodes in Uganda do not seem to suggest so. Certainly, this may not sound fertile ground for enhancing accountability.

4.6 CONCLUSION

The above articulation indicated deficiencies, pertaining to accountability in Uganda’s local government system. While a conglomeration of internal and external control mechanisms, actually exist, and there is quite supportive legislative framework, there is hardly a detailed evaluation of their efficacy and appropriateness, especially when it comes to the external control systems. Similarly, it does not seem possible to evaluate with much certainty the real benefits of external control systems in local authorities, given that the criteria for assessing effectiveness has mostly been applied to internal controls, which are often lambasted as being weak. While there should be the contingent ‘fit’ between the organisation and its environment (Keen and Scase, 1998: 20), the extended control from central government remains to be measured in terms of its functional capacity and how far it has created viable mechanisms for enhancing accountability at the local government sphere in Uganda.

It appears that the available literature on accountability and control systems is too general, not disaggregated in terms of functional capacities and limitations, and it is mostly published by government agencies, in form of annual reports – ‘self evaluation’ reports. These reports normally arise out of post-facto investigations with a common view of finding defiant cases. They rarely evaluate the role and capacity of control systems, given that their preoccupation is to find out non-compliance in respect of accountability. Where in-depth reports and evaluation are made, there have been, perhaps overemphasis and, rather, too much unwarranted blame on the *internal systems* of local government at the expense of the *external* ones. This study ought to bridge this gap by assessing the *institutional capacity of the external control agencies of the IG and OAG* that follows in the next chapter.