

CHAPTER FIVE

INSTITUTIONAL CAPACITY OF EXTERNAL CONTROL AGENCIES

5.1 INTRODUCTION

Objective one of this study was to assess the institutional capacity of the external control agencies, which are charged with the duty of promoting accountability in Uganda's local government. As earlier noted, the research focussed mainly on two institutions of government, namely the Inspectorate of Government (IG) and the Office of the Auditor-General (OAG), whose capacities were evaluated in terms of particular aspects/analytical themes that have a bearing on the nature, character and institutional capabilities of these agencies. The following analytical themes were critical in evaluating how far the IG and OAG have successfully executed their statutory obligation of promoting accountability and effective performance in LGs.

- Structure and workload schedule;
- Human resource capacity;
- Finance and other material facilitation;
- Parent and enabling legislation;
- Support and collaboration from stakeholder agencies, and;
- Corporate planning.

The performance of a public agency and the ability to achieve preconceived objectives largely depends on the nature of its structural arrangements and the workload before it, against the strength of its institutional capacity elements, including human and financial resources, enabling legislation, planning capabilities, and the support at its disposal from different stakeholders. The need to attain adequate numbers of well qualified and facilitated human resources, operating under a focused policy framework and enabling environment, features prominently in the quest for effective external control systems to enhance accountability. Likewise, the ability to undertake meticulous corporate planning, mobilisation of sufficient financial resources, and managing collaboration with other stakeholders, are very critical to organisational success. These aspects form the basis of the presentation and discussion in the following sections.

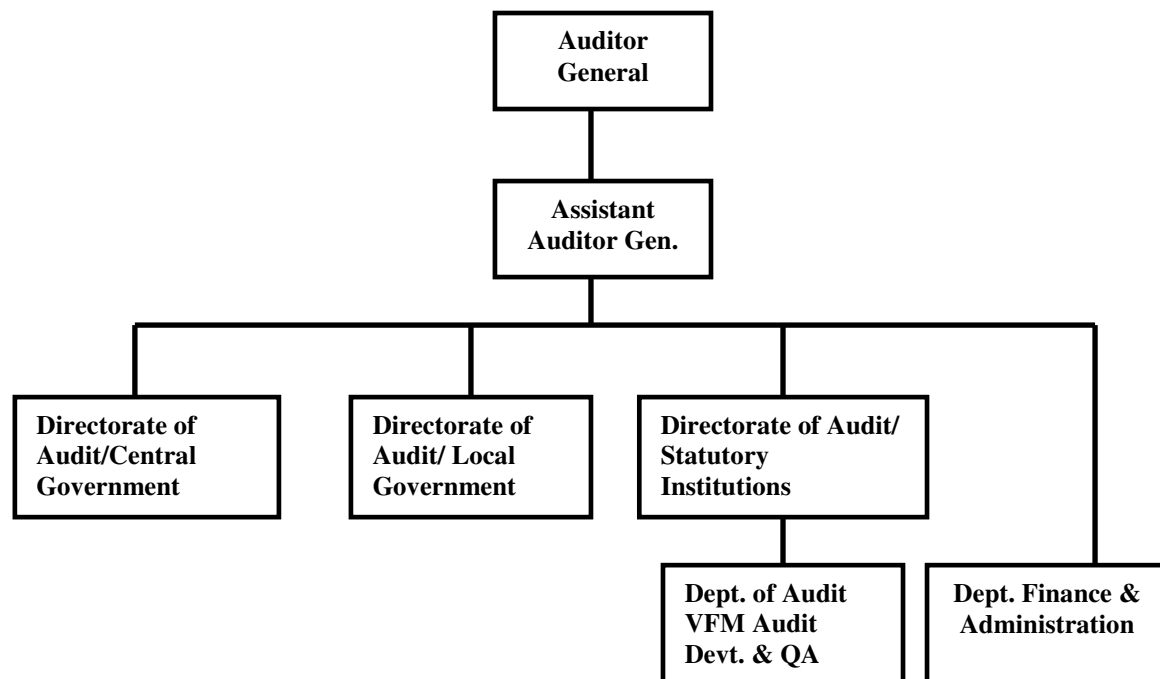
5.2 STRUCTURE AND WORKLOAD SCHEDULE

5.2.1 The Office of the Auditor-General (OAG)

The Office of the Auditor-General is charged with the cardinal duty of promoting accountability and good governance in public offices. In Uganda, it is the Supreme Audit Institution that is mandated to audit all public accounts and report to Parliament, to enable it to exercise its oversight role over the use of public resources (Constitution of Uganda, 1995: Art. 163 [3]). As such, the OAG has set its own *Vision* as “to be an effective and efficient Supreme Audit Institution in promoting effective public accountability”.

The Office of the Auditor-General is headed by the Auditor-General as its Chief Executive, assisted by the Assistant Auditor-General and an Under Secretary. The office is composed of three directorates and two departments. The directorates include central government, local government and statutory/divestiture. The departments include finance and administration, value-for-money audit, and audit development and quality assurance.

Figure 5.0.1: Macro-structure of the Office of the Auditor-General



Adapted from: OAG-Policy Statement, 2007

The Directorate of Local Government Audit was specifically established to supervise and coordinate the activities of various regional branches, which audit over 1000 accounts from different local government units. The OAG has established eight upcountry regional branches. The directorate undertakes to ensure thorough and timely audit of all local government units (LGUs) including districts, municipal and town councils, and sub-counties. The key tasks of the directorate identified, in relation to local government include:

- prompt conduct of audits and preparation of financial reports on local governments;
- issue of audit warrants (approval) of release of funds to spending departments from the consolidated fund of the local governments;
- verification of pension and gratuity papers of retired local government staff before payment is made;
- establishing that proper disbursement and accountability of funds have been done by local governments;
- identification of any misuse, fraudulent practices and breach of financial regulations;
- prompt review of audit reports of contracted audit firms on local governments, and;
- provision of technical guidance to the Public Accounts Committee during discussions with various district accounting officers on issues raised in the Auditor-General's report.

While the establishment of regional offices is a commendable step by the OAG, eight regional offices were found to be too few to cover vast territorial areas and be able to effectively scrutinise 1060 LGUs' accounts, which constitute 163 districts and municipal authorities, 897 LLGs in form of sub-counties and town councils. The Directorate of Local Audits was overwhelmed by the magnitude of local accounts, the majority of which could not be audited promptly in the specified time required by law, due to shortages of staff and financial facilitation of regional offices.¹² Similarly, the Department of Value for Money Audits is a recent creation, still understaffed and has not yet set in to evaluate the performance and net-worth of expenditures of

¹² Interview, Ewama Joseph, Director Local Audits Auditor-General's office, 25th October 2007

various projects undertaken at the local government sphere. This means that the structures in place to oversee local audits are currently unable to promptly audit and prepare financial reports on LGs; unable to adequately identify misuse of resources and breach of financial regulations; and unable to effectively establish whether proper disbursement and accountability of funds is done.

The workload schedule of the OAG outside the local government sphere is equally voluminous and was found to be overstretching their capacity. The OAG is required to conduct *financial* and *value-for-money* audits in respect of any income or expenditure involving public funds, across all the spheres of government. During 2006/2007 financial year, the OAG had the task of auditing 1,314 institutions including; 84 central government agencies, 1,060 local governments, 71 state corporations and divestiture accounts, 99 projects; to train 200 staff and carry out 30 audit inspections. This is summarised in the table below.

Table 5.0.1: Distribution of accounts handled by Office of the Auditor-General during 2006/2007

Audit Area/ Sphere	Total	Audited	Work-in-progress/ Carried Forward
Local Governments	1060	473	587
Central Government	84	84	-
Statutory Corporations	71	50	21
Projects	99	98	1
Total	1314	705	609

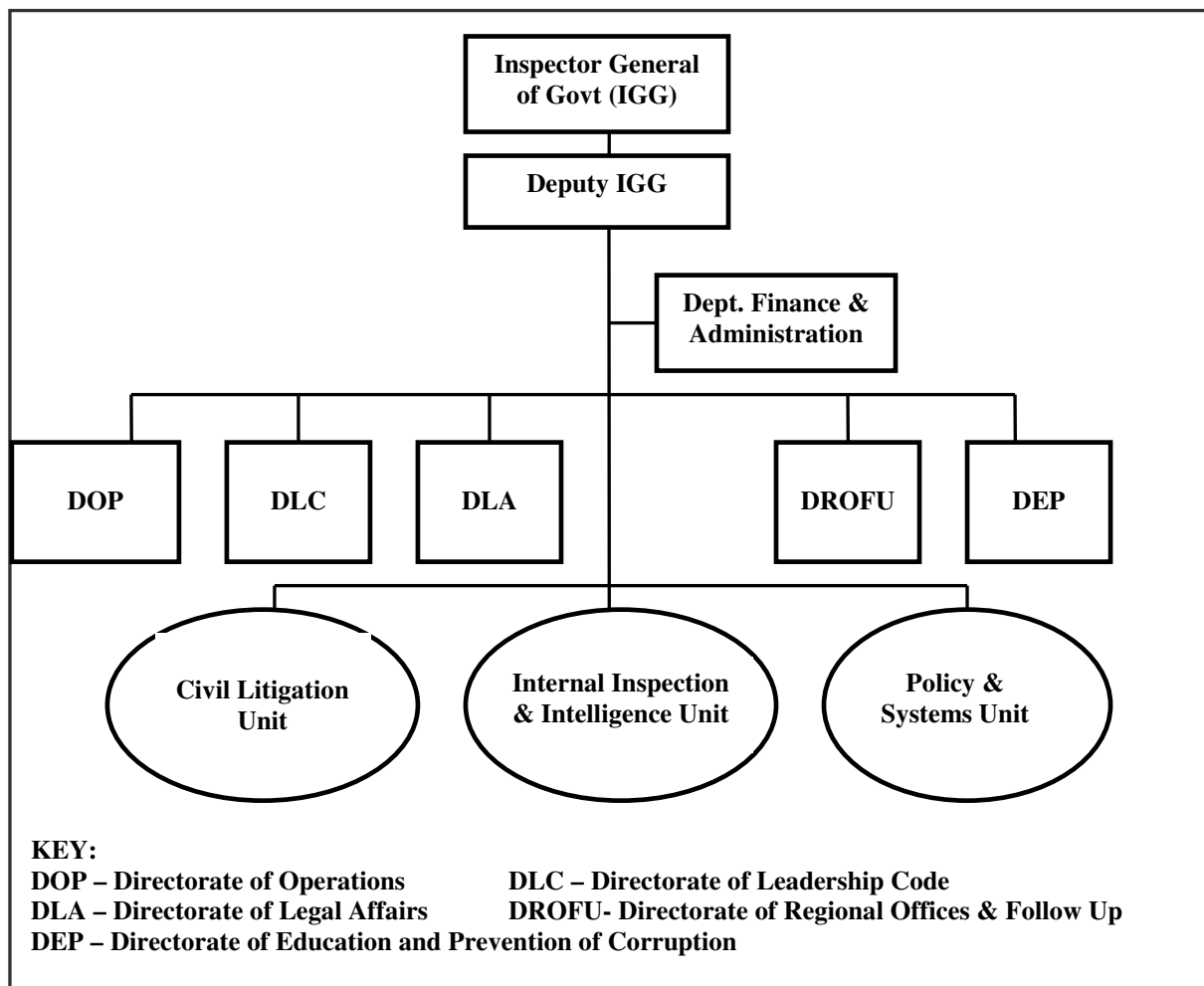
Source: Office of the Auditor General, Policy Statement, 2007

The table indicates the overwhelming number of local government accounts that were carried forward from the previous financial year (587). This suggests serious capacity shortfalls especially in human resources, financial support or internal systems drawbacks existing in the various LGs that are due for audit. These shortfalls are explored in detail when examining the human resource, financial and collaboration capacity aspects, elsewhere in the sections of this chapter.

5.2.2 The Inspectorate of Government (IG)

The IG is headed by the Inspector General of Government (IGG), deputised by the Deputy Inspector General of Government (DIGG). The Secretary to the Inspectorate (at level of Permanent Secretary) is the Accounting Officer and the head of Finance and Administration Department. This department implements policy, as well as managing and coordinating the financial and administrative matters of the IG. For purposes of implementing its functions and objectives, the IG is structured into five directorates, headed by directors, and three units headed by senior inspectorate officers. The macro structure of the IG is represented in the figure below.

Figure 5.0.2: Macro Structure of the Inspectorate of Government



Adapted from: IG-Report to Parliament, 2007

The relevance of the above structure is that at least all the directorates in one way or another operate on matters pertaining to accountability in local government. The

Directorate of Regional Offices & Follow-up (DROFU) oversees and coordinates the activities of the 10 established regional offices, which deal with complaints of people in various districts. The Directorate of Education and Prevention of Corruption (DEP) occasionally engages LGs and civil society over sensitisation on matters pertaining to promoting accountability, while the Directorate of Legal Affairs (DLA) often leads in prosecuting cases related to corruption and abuse of office.

Regarding the nature of the IG functions and responsibilities, the study established vast workload schedules that stretch across the central and local government spheres. The IG is obliged to undertake enforcement measures that are supposed to ensure the rule of law in public offices, accountability and integrity among public officials, and transparency in the exercise of administrative functions by public officials. In so doing, the IG carries out investigations in instances where there is alleged corruption and abuse of office or authority, breach of the Leadership Code of Conduct by leaders specified under the Leadership Code Act, 2002; and where administrative injustice and maladministration are reported in public offices.

Within the local government sphere particularly, the IG is mandated to monitor the utilisation of Poverty Alleviation Fund (PAF) and to probe suspected misuse and poor management of Universal Primary Education (UPE) funds, School Facility Grants (SFG), Functional Adult Literacy, Primary Health Care, Water and Sanitation, Feeder Roads Maintenance, Plan for Modernisation of Agriculture (PMA) and Local Government Development Programme (LGDP). Where corruption in relation to the above is found, the IG may prosecute or cause prosecution of culprits; and where there is mismanagement of the PAF, UPE funds and other rural development facility, varying degrees of disciplinary action may be taken (IG-Report, 2007: 10). These responsibilities demonstrate the huge magnitude of work, which was reported to be overwhelming the existing human and financial resources available to the IG.

The IG had during July - December 2006, 2,265 complaints brought forward from the previous period, and these were added to new complaints received totalling 875, making a total workload of 3,140. In the following period January - June 2007 2,235 complaints were brought forward and added to new complaints received 1,097, making a workload total of 3,332 for the period. Out of the total workload of

complaints 3,140 of July - December 2006 only 905 were concluded leaving a balance of 2,235, which was carried forward to the following period. Out of a total workload of 3,332 for January - June 2007, only 1,216 were concluded and leaving a balance of 2,116. This is summarised in the table below.

Table 5.0.2: Workload for the Inspectorate of Government for the periods July - December 2006 and January - June 2007

	Jul. – Dec. 2006	Jan. – Jun. 2007
Complaints Brought Forward (a)	2,265	2,235
New Complaints Received (b)	875	1,097
Total Workload (c) = a + b	3,140	3,332
Investigated and Completed (d)	759	909
Referred to other Institutions (e)	146	307
Total Complaints Concluded (f) = d + e	905	1,216
Carried Forward (g) = c - f	2,235	2,116

Adapted from: IG-Reports to Parliament – 2006 & 2007

The above table reveals that a large number of complaints are not concluded within the specified reporting period of six months and thus, they are carried forward, thereby creating a big backlog of cases. This implies that the workload for the IG is rather too high for the existing institutional capacity, suggesting serious deficits in the human resources, financial capacity or collaboration and supporting gaps existing between the IG and the other stakeholder agencies.

Information received from the different IG regional offices established to handle a variety of cases from upcountry districts indicate the overwhelming workload for the staff at the branch offices. The available figures from the IG also indicate a rising trend of cases received at the regional offices. Table 5.3 shows a comparison between cases received from the different regional branches and the headquarters in Kampala.

Table 5.0.3: Distribution of cases received by level of district – regional offices of the Inspectorate of Government

REGION	Cases Received July-Dec.2006	%	Cases Received Jan.-June 2007	%
Kampala	380	43%	450	41%
Arua	46	5.3%	82	7.5%
Fort Portal	69	7.9%	88	8.0%
Gulu	25	2.9%	60	5.5%
Jinja	47	5.4%	57	5.2%
Hoima	29	3.3%	30	2.7%
Kabale	83	9.5%	119	10.8%
Masaka	39	4.5%	67	6.1%
Mbale	51	5.8%	40	3.6%
Mbarara	71	8.1%	66	6.0%
Soroti	35	4.0%	38	3.5%
TOTAL	875	100%	1097	100%

Adapted from: IG-Reports to Parliament 2006 & 2007

Of the total number of complaints received by the IG during July - December 2006, 495 (57.0%) were registered at the regional offices while 380 (43%) were registered at headquarters in Kampala. The subsequent period, January - June 2007 saw increased cases registered at the regions 647 (59%) compared with Kampala's 450 (41%). This shows that the workload at the regional offices, which mostly handle LGs' matters, is becoming increasingly overwhelming on the existing capacity.

5.3 HUMAN RESOURCES CAPACITY

The high levels of workload described (Section 5.2) above point to the fact that the IG and the OAG require appropriate numbers of a well-motivated and facilitated human resource if they are to undertake the tasks before them. The research noted that, the ever increasing pattern of roles and responsibilities, associated with the increasing number of local authorities in form of new districts created in recent years, has not been met with the staffing levels at the regional offices. In only a span of two years, 2005 – 2007, over 30 new districts were created in Uganda by curving out and putting together sub-county territories of existing districts. It was observed that:

*the creation of new districts and many more lower local governments has placed a strain on the resources of the OAG to the point where the majority of audits in local government, especially at sub-county level are not audited and backlogs are growing.*¹³

Moreover, accounts of lower local governments (LLGs) of 2003/2004 were not audited by the close of the financial year 2006/2007, three years after the statutory period. These together with almost 50 percent of the audits of Statutory Corporations were later audited by private sector firms contracted by the Auditor-General, partly because the OAG lacked adequate human resources (OAG-Policy Statement, 2007). Indeed, the existing staff shortages were visible against the overwhelming workload, both at the regional offices of Mbale, Jinja, Masaka and Mbarara visited by the researcher, and elsewhere in the structure. The table below shows this.

Table 5.0.4: OAG's staffing situation as at 30th June 2007

Directorate/ Department	Approved	Filled	Vacant	Wage Bill
AG's office	4	4	0	77,438,088
Central Government Accounts	88	78	10	566,304,180
Local Government Accounts	145	136	9	811,625,760
Statutory Authorities	50	39	11	374,903,400
Value-for-Money Audit	20	7	13	185,517,324
Finance & Administration	38	15	23	151,968,060
Support Staff	49	42	7	55,654,980
Total	394	321	73	2,223,411,792

Source: Office of the Auditor-General

The table indicates that the OAG had 73 vacant positions in the various units. However, this does not necessarily represent the actual staff shortfalls, because the approved figure of 394 is only a staff ceiling set by the Ministry of Public Service, which is lower than the appropriate staffing levels required to deal with the

¹³ Interview, Ewama Joseph, Director Local Audits Auditor-General's office, 25th October 2007

magnitude of workload schedule. It is disheartening to note that the very critical and highly technical unit of value-for-money audit, had only 7 vacancies filled, yet its work determines the real performance worth of the public monies expended. It is this unit that can help assess the real net-worth of service delivery in local government, against the colossal sums of monies often spent on questionable activities.

In the same vein, the IG deals with the implementation of the Leadership Code of Conduct, with a huge workload that involves investigation and verification of declarations of incomes, assets and liabilities from over 19,000 leaders; processing and managing of data, all of which require expertise and a good number of well-motivated human resources. Yet only 18 technical officers were available for these activities. It was reported that insufficient staff numbers have led to a high officer/workload ratio, which explains the existing high backlog of cases especially at the regional offices.¹⁴

The IG continues to be affected by the rate of employee turnover especially in the high skills area. The worst-hit section is the legal/technical area where lawyers are increasingly leaving the Inspectorate for better employment conditions elsewhere. In spite of the reported improved salary increase, the remuneration of staff remains generally insufficient, and this has led to inability by the IG to attract and retain experienced prosecutors (IG-Report, 2007: 82). The loss of experienced prosecutors continues to adversely affect the prosecution, especially with regard to complex corruption cases. It is noted that the rate of recruitment and training cannot easily match the level of exit. District officials reiterated the deplorable human resources capacity of the IG and the OAG staff, which aptly describes the poor situation:

There is a big problem with the IG's staff turnover. These days they have very young and fresh graduates. In Iganga I had the experience of teaching them how local governments function, and yet these are the people supposed to monitor and evaluate what was going on. I found them very "green" about many issues. I think the IG needs better qualified staff in accounting to probe financial accountability and engineers to make proper value for audit on buildings and roads.¹⁵

¹⁴ Interview, Baku Raphael, Deputy Inspector General of Government, 5th October 2007.

¹⁵ Interview, Kirenda Nelson, Chief Administrative Officer Luwero District, 7th November 2007.

You are coming to investigate a CAO and you send a junior officer. We have a team-leader for the OAG here; we have worked with her for sometime, but we were all surprised that she was graduating for the first degree recently.¹⁶

Despite the scarce resources and poor remuneration often existing in the public sector, public officials are expected to have vast knowledge and skills to enable them to adequately tackle the complex challenges of intergovernmental relations and various demands of service delivery. The rising pressure on public servants is set in place by the wave of increased advocacy for public institutional reform towards efficiency, effectiveness, transparency and accountability. These have been magnified, so much so that, public servants must keep abreast with the knowledge, skills, and behavioural conduct so as to become ‘vanguards’ of improved service delivery. In human resources terms, this requires training and development.

On training and skills development, the research established that there was some deliberate effort by the institutions of the IG and the OAG to build capacity through training of human resources to improve performance. A number of training programmes such as induction courses for newly recruited staff, refresher training and skills development are commonly held. Staff members from the OAG have had training in the following capacity building initiatives (OAG-Policy Statement, 2007):

- detection of fraud and irregularities, where 20 staff were trained;
- value-for-money audit, where 25 staff were awaiting to undergo a year-long training under the ADB funding;
- the financial audit manual and the application of computer Assisted Auditing Techniques (CAATS), 84 staff undertook this training that is specifically designed to enable auditors to perform in a less paper, but automated electronic systems required by the newly introduced Integrated Financial Management System (IFMS);
- the use of teammate audit management software that is expected to improve and standardise audit methodology, bring about efficiency in audit planning, fieldwork, review and archiving processes, as well as improving

¹⁶ Interview, Ssegawa, Chief Finance Officer Luwero District, 7th November 2007

- documentation and management of audit generally, and;
- basic IT training where 120 staff members were trained.

Likewise, the IG has benefited from skills training in surveillance and investigation techniques, transparency and fraud detection, combating corruption in the delivery of infrastructure services, leadership and change management, and result-oriented management. There have been a number of training workshops within the country and abroad. Such programmes expose participants to special aspects of organisational culture, norms and practices; stimulate the spirit of teamwork and networking in conducting government business; promote employee motivation and commitment to organisational goals; all of which are critical for organisational effectiveness.

The problem noted, was that most of the capacity building and training programmes were donor-funded, and yet donors often, and almost unilaterally withdraw or switch funding to other 'priority' areas, which makes capacity building rather, sporadic. Similarly, many donors prefer specific sectoral financing and are often reluctant to channel their resources to particular capacity building areas, which may be of more benefit and of priority to the recipient institutions. Besides, most of the training programmes offered to these institutions were found to be *spin-offs* from other general development programmes – conducted for a few days – less than a week, and they rarely address the serious institutional human resources capacity needs.

It was also reported, that despite the willingness on the part of some public servants, especially in the middle and lower management positions, to undertake further training to boost their qualifications, the IG and the OAG do not offer funding for long-term training.¹⁷ For example, several staffs from the OAG who have undertaken internationally accredited chartered accountant courses and master's degree have had to fend for themselves, sometimes without the knowledge of their bosses¹⁸. This limits opportunity for skills development, employee-institutional attachment and motivation, all of which undermine institutional capacity to pursue accountability.

¹⁷ Interview, Abon Muzamir, Director IG-Regional offices and Follow-up, 5th October 2007.

¹⁸ Interview, Ogentho Paul, OAG Senior Principle Auditor, 25th October 2007.

5.4 FINANCE AND MATERIAL FACILITATION

In an effort to enhance accountability and transparency in service delivery for improved governance, Uganda, like many developing countries, has had donors and international development partners as major driving forces behind the financial and technical assistance. The OAG's implementation of the IT strategic plan continues to receive support from the Irish Aid, Norway, ADB, and the World Bank. This has involved the introduction of the new risk based financial audit methodology, along with the teammate audit management software, and several training programmes (OAG-Policy Statement, 2007). The implementation of the OAG Corporate Plan (2006-2011) receives full support from donor agencies.

The donors that previously financed the IG include: the Commonwealth Secretariat, Norway, SIDA, CIDA and the Fredrich Ebert Foundation (IG-Report, 2007). Continued financial support is being received from DANIDA, UNDP, ADB, DFID, among others. The World Bank has offered to strengthen capacity to fight corruption through the Millennium Challenge Account Threshold Programme. Similarly, the implementation of the IG Corporate and Development Plan (CADP) (2004-2009) receives great support from international donors.

Nevertheless, heavy reliance on development partners' support has on many occasions affected the performance of these local institutions, especially when expected assistance does not materialise on time or at all. Secondly, donors often times change their funding priorities, and indeed in some instances have had to prescribe programmes that overshadow indigenous preferences. Indeed, Kakumba and Kuye (2006: 813) indicate that, there is a considerable blame on donors and multilateral agencies for domestic policy failure in Africa, given that "nation-states have been subjected to several try-and-error frameworks, beyond their socio-economic stature and policies that are inconsistent with their developmental needs".

While the offices of the IG and the OAG receive Government and donor financial support, they continue to face several operational problems emanating from inadequate financial resources. For instance, the IG's funding provision under the

ceiling set by the Ministry of Finance is evidently insufficient compared to the workload the agency handles and the operational costs of investigations, prosecutions, verification of declarations, publicity and public awareness. The table below shows part of this variance.

Table 5.0.5: Variances and funding gaps in finance and administration of the Inspectorate of Government

	Activity	Corporate Plan Budget	Ministry of Finance Budget Provision	Shortfall
1	Recruitment of 10 staff to improve on service delivery	8,379,600	-	8,379,600
2	Training 100 staff in various speciality/skills	709,024,150	419,550,000	309,474,150
3	Procure of works skills and services	3,154,593,994	2,652,534,000	502,059,994
4	Facilitation of travel	138,792,000	121,752,000	17,040,000
	Total			836,953,744

Source: Inspectorate of Government Corporate and Development Plan (IG-CADP, 2004-2009)

As already noted, the IG and the OAG have regional offices which continue to be overwhelmed by an increasing number of LGUs that multiply with the creation of new districts. All these regional offices operate in rented premises, which do not only constrain the limited budget outlay, but also render it cost-ineffective in the long run. The four regional offices of the IG visited by the researcher were visibly ill-equipped; each having a single old vehicle that often breaks down, inadequate office equipment such as computers, photocopiers, and fax machines. There were limited reference materials and the record storage facilities were in a despicable state. The table below indicates the material facilitation shortfalls faced by the IG's Directorate of Operations which totalled Shs186, 600,000/= (US \$109,764).

Table 5.0.6: Logistical gaps in the Inspectorate Government's Directorate of operations

	Item	Required	Available	Short-fall	Cost of shortfall
1.	Double Cabin pick-ups – 4 WD	9	6	3	180,000,000
2.	Video Cameras	2	0	2	3,000,000
3.	Photo Cameras	4	0	4	800,000
4.	Tape Recorders	6	2	4	800,000
5.	TV Screens	2	0	2	2,000,000
Total					186,600,000

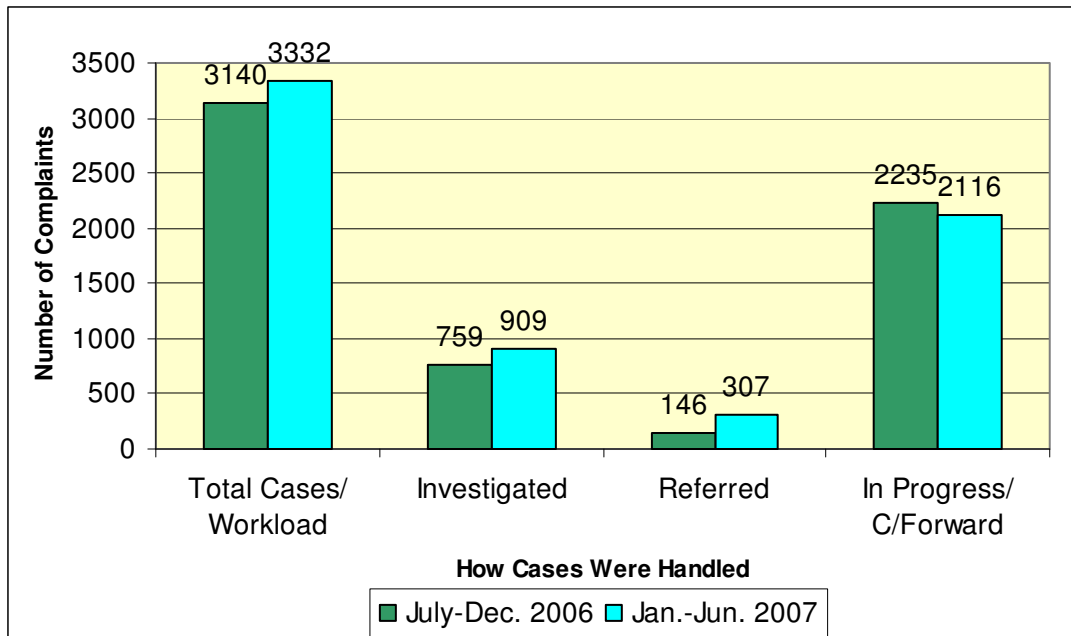
Source: Inspectorate of Government Corporate and Development Plan (IG-CADP, 2004-2009)

Regarding the office of the Auditor-General, while the agency proposed a total expenditure of Shs. 9,470,000,000/= (US \$5,570,558) for the financial year 2007/2008, which would be seen as a bare minimum to audit 1,314 institutions including; 84 central government ministries, 1,060 local governments, 71 State corporations, 103 projects; and to train staff and carry out 30 audit inspections, only Shs.7,740,000,000/= (US \$4,552,941) was provided as per the ceiling set by the Ministry of Finance, Planning and Economic Development (MoFPED) (OAG-Policy Statement, 2007). Even to the most frugal of public spenders, it can be very difficult to rationalise resource use to absorb a shortfall of Shs. 1,730,000,000/= created by funding deficits from government. It is not surprising that the OAG only completed 705 audits out of the overall total of 1,314 during 2006/2007 (as indicated in Table 5.1). The local government (which is a focus area of this study) had only 473 audits completed, leaving the bigger 587 audits still-in-progress by the close of the financial year.

It was noted that a bulk of cases are carried forward to the subsequent periods, is because of capacity problems, emanating from financial, human resource and collaboration inadequacies. Records from the OAG indicate that staff salaries were not spared either by the budgetary cuts from central government. While the OAG required Shs. 2,300,000,000/= to pay salaries of 394 staff members, only Shs. 2,010,000,000/ was provided by the MoFPED, thereby creating a funding gap of Shs. 290,000,000/ (OAG-Policy Statement, 2007). A quick look at how the

investigation cases before the IG during the two periods of July-December 2006 and January-June 2007 were handled reveals serious capacity gaps to both institutions.

Figure 5.0.3: How cases before the Inspectorate of Government were handled: July - December 2006 & January - June 2007



Adapted from: IG-Reports to Parliament, 2006 and 2007

It is evident from the above that a large number of cases, namely 2,235 (71%) and 2,116 (64%) of the total investigation cases 3,140 and 3,332 available during July - December 2006 and January - June 2007, respectively, could not be concluded owing to capacity limitations, emanating from finance, human resources and collaboration inadequacies. Only 759 (24%) and 909 (27%) for the two periods, respectively, were investigated and concluded. Such backlogs and the related capacity deficiencies limits the enhancement of accountability in LGs, as elaborately discussed in Chapters Six, Seven and Eight of this thesis.

5.5 PARENT AND ENABLING LEGISLATION

Conventionally, all institutions, public or private, are miniature replicas of the laws and regulations that create them. The major jurisdictional boundaries of any public institution, its functions, powers, privileges, relationships, and such resources allocations that enable it to undertake its duties are often contained in particular

legislative instruments referred to as parent or enabling legislation. Such laws and regulations, henceforth, become major tools in analysing the institutional and functional capacity of any agency.

One standard characteristic of any watchdog or control institution to be effective is the requirement for one and the office to be *independent*. The aura of independence and objectivity becomes a standard requirement for the IG and the OAG because, just like in the principles of jurisprudence, the exercise of justice must not only be done but, must be seen to be done. Indeed the legislations reviewed indicate the spirit to protect the independence of the OAG by providing that, “in performing his or her functions, the Auditor-General shall not be under the direction or control of any person or authority” (Constitution, 1995: Art. 163[6]; PFAA, 2003: s33 [2]). Similarly, the IG is required to be independent in performance of its functions, and it is not supposed to be subject to the direction or control of any person or authority; as it is only responsible to parliament (Constitution, 1995: Art. 227; IGA, 2002: s10). With regard to resources, the IG enjoys a special privilege, where it is accorded an independent budget, appropriated by Parliament and controlled by the Inspectorate itself (Constitution, 1995: Art. 229). However, as will be discussed later (Chapter six), the attainment of complete independence is held up by some legislative and organisational discrepancies, as well as the political orientations of the nation-state.

The following provides the major enabling legislative and regulatory framework for the agencies of the IG and OAG in respect of their external control functions to local government units in Uganda.

- The Constitution of Uganda, 1995
- The Inspectorate of Government Act (IGA), 2002
- The Public Finance and Accountability Act (PFAA), 2003
- The local Governments Act (LGA), 1997
- The Local Government Finance and Accounting Regulations(LGFAR), 1998
- The Leadership Code Act, 2002
- The Public Procurement and Disposal of Assets Act (PPDAA), 2003
- The Prevention of Corruption Act, 1972 (as amended in 1989)
- Public Service Standing Orders, 1988

The IG and OAG are institutions both established by the Constitution, 1995 under the provisions of article 223 and Article 163, respectively. Chapter 13 of the Ugandan Constitution, 1995 is purposely named *Inspectorate of Government* and it stipulates various provisions pertaining to the powers, functions, jurisdiction and independence of the Inspectorate. The subsequent Chapter 14 is entitled *Leadership Code of Conduct*, and it is dedicated to promoting astute practices in public affairs; with its enforcement entrusted to the IG. However, the parent legislation that provides elaborate powers, functions, jurisdiction and other forms of legal and administrative latitude to the IG, remains the *Inspectorate of Government Act, 2002*.

The IG is mandated to enforce the Leadership Code of Conduct, which requires that specified leaders (once in every two years) declare to the IG their incomes, assets, liabilities, and how they acquired or incurred them; and upon which the IG can verify the authenticity of such declarations. In relation to the *Leadership Code Act, 2002* the IG has to ensure minimum standard of behaviour and code, restrain acts that might otherwise compromise the honesty, impartiality and integrity of leaders or lead to corruption in public offices.

In the context of the IG Act, 2002 (s2) *corruption* means “the abuse of public office for private gain, and includes but is not limited to embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss and false accounting in public affairs”. Where the subject of an investigation is found to have committed a criminal offence, the IG may prosecute or cause prosecution. And where the offender is found to have breached the Leadership Code of Conduct or is involved in administrative malpractice, a disciplinary action can be taken in varying measures from warning to dismissal.

As noted, the OAG is the *supreme audit institution* of Uganda with the statutory responsibility to scrutinise, verify and report to Parliament on the propriety and regularity of the manner in which public funds are used. The Constitution, 1995 (Art.163 [3]) empowers the Auditor-General to:

- audit and report on the public accounts of Uganda and of all public offices including the courts, the central and local government administrations,

universities and public institutions of like nature, and any public corporation or other bodies or organisations established by an Act of Parliament; and

- conduct financial and value-for-money audits in respect of any project involving public funds.

Similarly, the Public Finance and Accountability Act, 2003 (s33) authorises the Auditor-General to satisfy himself/herself that:

- the accounts conform to the requirements of the Act and regulations that govern them;
- the expenditure and receipts shown in the accounts have been dealt with in accordance with proper authority and, in particular, that all expenditure conforms to the authority that governs it;
- the financial affairs of the entities audited and all revenues received and public money under their control have been handled and conducted with regularity and propriety by the accounting officer or any other public officer responsible, and that;
- all precautions have been taken to safeguard the receipts, custody, issue and proper use of government resources and property, and that any regulations and instructions relating to them have been duly observed.

Despite the proven existence of various forms of legislation and regulatory framework, the legal regime does not seem to offer an environment that helps in deterring offenders. According to the Deputy IGG, “the law is apparently very lenient and it does not provide deterrent sentences to perpetrators of white-collar crime that the Inspectorate prosecutes”.¹⁹ It was indicated that the law affords the magistrates a wide discretion to determine sentences, and more often, the option of a fine is exploited. The convicted persons are thus, made to pay small amounts of money as fines, which creates no deterrence to corruptive tendencies. There is also a problem with the criminal justice process that puts *the burden of proof* to the prosecution. Yet, the IG prosecution is often weak compared with the defence, due to the fact that the government suffers a big problem of low staffing levels, poor remuneration and

¹⁹ Interview, Baku Raphael, Deputy Inspector General of Government, 5th October 2007.

facilitation of prosecutors.²⁰

How the IG and the OAG have operationalised and enforced legislation, and the corresponding challenges are elaborately discussed in Chapter Six of this thesis. What is important to note here is that, there is a wide array of enabling legislations that allows the IG and the OAG to make inquests into the operations of public entities, and thus can invoke a number of sanctions. This demonstrates a good level of institutional capacity, which is expected to strengthen their role of enhancing accountability and performance in local governments.

5.6 SUPPORT FROM OTHER AGENCIES/STAKEHOLDERS

It should be noted that the battle against the ills of public sector ineptness, corruption and abuse of office can only be won through collaboration and support from other stakeholders both at the national and international levels. The offices of the IG and the OAG by virtue of their constitutional mandates and nature of functions must, inevitably operate in liaison and support from other governmental agencies and stakeholders. The effectiveness in terms of compliance, support and collaboration received from other agencies thus, plays a fundamental role in determining the functional capacity and success of these external control agencies that are mandated to enhance accountability. Prominent among the institutions that the IG and the OAG need to collaborate with include, the presidency, Parliament, Judiciary, Police Force, Directorate of Public Prosecutions (DPP), Uganda Human Rights Commission, local government authorities, and civil society.

The research established that there was a great effort by the agencies of the IG and the OAG to engage local and international agencies to enhance public institutional capacity, effective performance and good governance. The leading collaboration and support received by IG and the OAG are from donor and international development agencies. Perhaps the most pervasive is the Institutional Support Project for Good Governance (ISPGG) that earmarks mechanisms to enhance accountability and good governance, implemented by the OAG, IG, the Ministries of Local Government (MoLG), MoFPED, and the office of the Prime Minister. Under this project, the

²⁰ Interview, Kirenda Nelson, Chief Administrative Officer Luwero District, 7th November 2007.

African Development Fund (ADF) agreed to provide a grant amounting to 9 million Units of Account (UA 9,000,000) to finance the entire foreign currency cost and part of the local currency cost for the project (OAG-Policy Statement, 2007). The project intends to build institutional and human resources capability in order to improve public service delivery through cross-cutting reforms in governance. Particular aspects of the project's capacity building include training, use of technical assistance, provision of equipment and to instil novel skills in the beneficiaries for sustainable, efficient and cost-effective service delivery to the public.

Furthermore, the IG has developed international cooperation and exchange relations with the Egyptian Administrative Control Authority, the Chinese Ministry of Supervision, and the ombudsman office of Malawi. Other areas of engagement include organised conferences, workshops, and exchange programmes to foster organisational learning. The IG, as already noted, continues to receive financial and technical support from several Development Partners including; the World Bank, DANIDA, UNDP, ADB, DFID and the Irish Republic (IG-Report, 2007). Similarly, the OAG continues to receive support for its major projects such as the Financial Management and Accountability Project (FINMAP 2005/06 – 2009/10) financed by the DFID, European Commission, International Development Association, the governments of Ireland, Netherlands, Norway, Sweden, and the embassy of Japan; and the VFM audit strategic plan (VFM Project) by the Government of Norway and ADB (OAG-Policy Statement, 2007: 74).

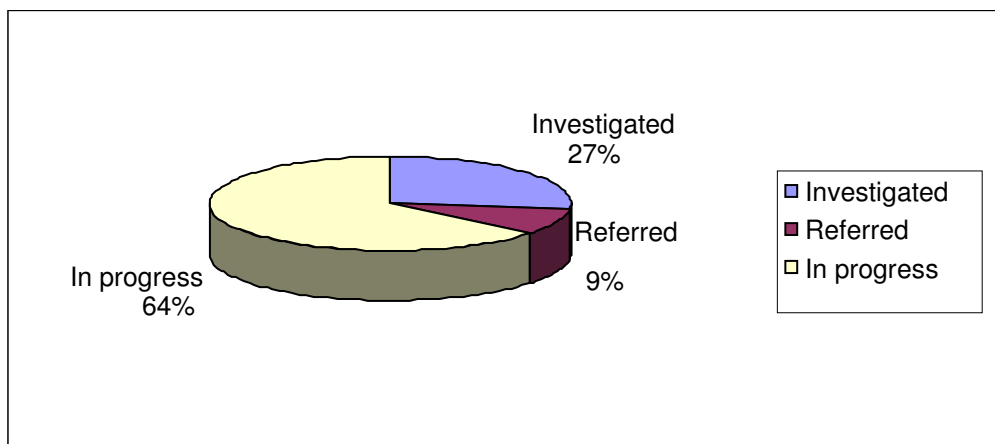
One major challenge that the agencies of the IG and the OAG face, is that some institutions that are supposed to be partners in fostering accountability delay or completely ignore the IG's and the OAG's recommendations. The IG is required by the Constitution of Uganda, 1995 (Art. 231) to submit to Parliament at least once in every six months, a report on the performance of its functions, make recommendations considered necessary for the efficient performance of public institutions; and to provide such information as Parliament may require. The IG also forwards part of its report to local government authorities, where any matter contained in the report concerns the administration of any local government. In principle, Parliament and such authorities are supposed to discuss these reports and implement their recommendations in order to promote accountability and better

performance. This is sometimes not done.

The dilemma is that the IG reports are at mostly, only laid before Parliament and Parliament hardly discusses such reports let alone following on the recommendations contained.²¹ This rather lukewarm enthusiasm towards the IG reports on the part of the Parliament does not only serve to demoralise the effort of such watchdog institutions, but also squanders the opportunity to better public sector governance.

The research findings also indicate that a great number of cases investigated by the IG and the OAG are normally referred to other institutions like the Police Criminal Investigations Department (CID), the DPP, Public Procurement and Disposal of Assets Authority (PPDA), the Judiciary and local government authorities for further action. The distribution of cases handled by the IG over the years indicate that no less than 9% are handled through correspondences or are referred to other agencies/institutions for proper handling. The figure 5.4 illustrates this scenario.

Figure 5.0.4: Distribution of complaints at the IG during January - June 2007



Adapted from IG-Report to Parliament, 2007

The bulk of cases still-in-progress (64%) also partly demonstrates that support from other agencies/institutions is required to conclude them. This means that the success of the IG and the OAG in fostering accountability and effective public management heavily relies on the support and activities of other agencies, many of

²¹ Interview, Baku Raphael, Deputy Inspector General of Government, 5th October 2007

whom, unfortunately, often fail to comply with the requirements.

Senior officers interviewed from the offices of the IG and the OAG variously revealed that, negative attitude, corruption and intransigency in the institutions that are supposed to be partners in fighting public sector ills frustrate the zeal to promoting accountability. It was pointed out that some institutions/officials take unnecessarily long time or just ignore to respond to queries raised by the IG and the OAG, or are reluctant to take action against those implicated.²² In the local government service where many civil servants have been implicated in criminal acts of forgery, impersonation and issuance of false qualification/academic documents, the best thing local authorities have done is to suspend or relieve such officers from duty, implying that they can as well, present the same fake papers elsewhere for job interviews.²³ It was reported that the CID and DPP hardly follow up to prosecute a great number of cases of criminal nature, even when the IG and the OAG have preliminarily unearthed substantial evidence against offenders. Yet the human resources and financial capacity limitations of the IG cannot allow it to ubiquitously investigate and prosecute such numerous cases.

Likewise, other stakeholder institutions constrain the work of the IG and the OAG with their poor records-keeping. It was reported, for example, that lack of computerised information systems in many government departments like the Land Registry and the Registrar of Companies delays retrieval of vital information required for investigation and verification of the property declarations made by specified public officers as required by the Leadership Code Act, 2003.

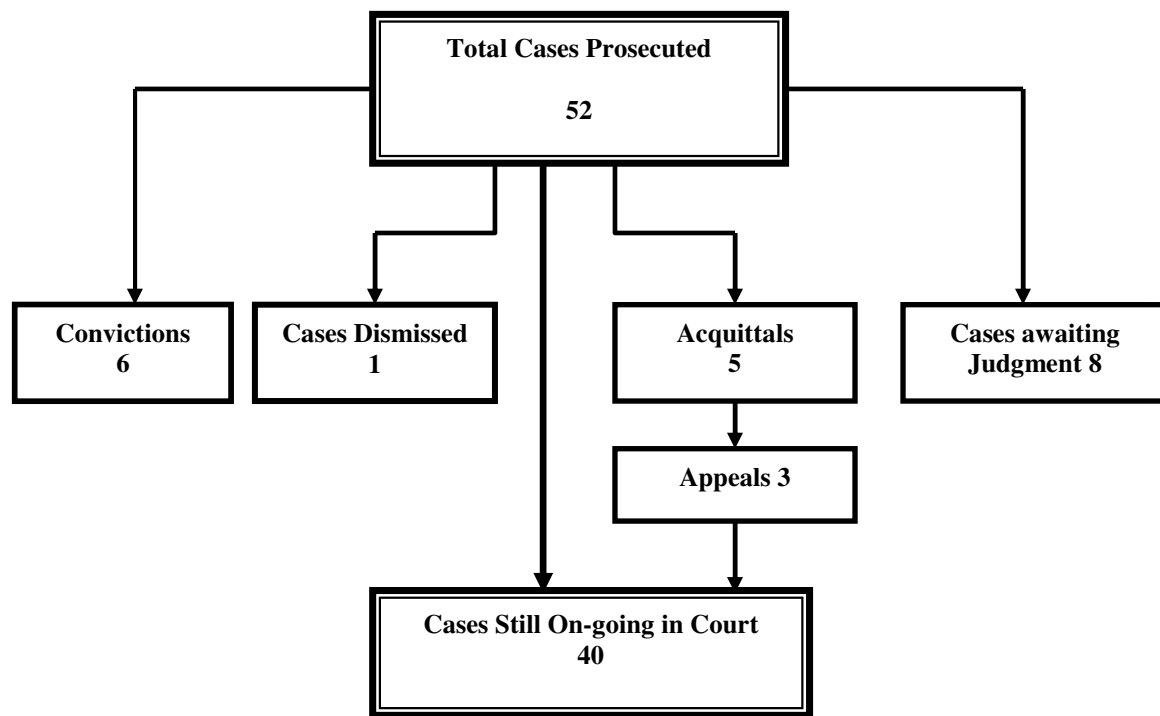
Another area that points to deficiencies in institutional collaboration arises with the court process, during the prosecution of cases. Many cases in the courts take long to be disposed of and this adversely affects the prosecution as witnesses get overtired, lose interest in cases, face intimidation, and others even die before ruling is delivered. Sometimes exhibits are lost from the courts and witnesses may often not testify freely as most often they are accomplices (IG-Report, 2007: xvii). The delays are also said to be extended to the court of appeal. In the appellate process

²² Interview, Baku, Deputy IGG and Abon Muzamir, Director IG-Regional offices, 5th October 2007

²³ Interview, Abon Muzamir, Director IG-Regional offices and Follow-up, 5th October 2007

“copies of typed records of proceedings from trial courts and judgment take long to be availed to the IG to formulate grounds of appeal and prosecute the appeal” (IG-Report, 2007: 63). Where appeals have been argued, there is a concern that judgement also takes unnecessarily long to be delivered. The figure 5.5 illustrates these court dilemmas.

Figure 5.0.5: Progress of prosecution cases handled by the IG from July 2006 – June 2007*



*Cases did not necessarily commence in this period. Each case might have more than one charge

Adapted from: IG-Reports to Parliament, 2006 and 2007

The above figure reveals that for over a period exceeding one year, out of a total of 52 cases prosecuted by the IG, only 12 had been concluded (in form of convictions, dismissals and acquittals), and 8 cases awaited judgment in the courts. A whole lot of 40 cases were still on-going, which largely points to the existing deficiencies in offering support to the IG, from the courts and other stakeholders.

5.7 CORPORATE PLANNING

Contemporary management practice stresses the need for organisations to periodically examine their operating environment so as to respond timely and appropriately to the needs of their clientele. This calls for planning, which is a basic factor in determining the organisation's capacity for future survival and sustainability of its programmes. According to Thornhill and Hanekom (1995: 100), "planning is aimed *inter alia* at influencing the behaviour of individuals and groups in an attempt to achieve a situation that is more satisfactory than the present one". With planning, the organisation exhibits the capacity to forecast and influence the course of future events. Planning thus, constitutes a fundamental tool when analysing the institutional capacity of any one organisation.

Planning is the ability to define the organisation's future goals in the short, medium and long terms, set targets to achieve, and lay mechanisms for achieving them. Corporate or strategic planning allows the organisation to forecast, normally in the long term and pursue the achievement of such set goals in a multidimensional and comprehensive way. A corporate plan is also a performance instrument that normally arises out of an evaluation of the successes and constraints of an organisation over a period of time. It takes stock of the past experiences and builds upon them to aspire for better outcomes in the future. An elaborate sound and viable corporate plan, therefore, becomes a major indicator to show that the organisation has the capabilities to effectively tackle the challenges of its internal and external environment.

The research established that both the IG and the OAG have engaged in some form of corporate planning, an element that shows future prospects in undertaking their cardinal objective of enhancing accountability and effective public management. An insight into the OAG's corporate plan 2006 – 2011 reveals the following highlights:

- to transform the structures and role of the OAG to reconcile with the increased mandate provided by the new constitutional amendment (Article 163) that has strengthened the statutory position of the Auditor General, with more powers over staffing and financial matters;
- to review and oversee the enactment of the Audit Bill into law, sensitise all

stakeholders with regard to the Bill, obtain sufficient funding, construct own office premises, so as to secure the financial and operational independence of the OAG;

- to establish a Committee on budget reviewing, put in place a new budget system, review existing arrangements, so as to improve the quality of budget preparation and monitoring processes, as well as management information systems;
- to prioritise the FINMAP proposals, allocate funds to priority areas, establish a modern management development programmes, determine HR requirements, undertake review of staff pay and grading, determine appropriate salary and rewards, analyse training needs, so as to create an environment that enables the OAG to operate efficiently and recruit, retain and motivate suitable staff;
- to obtain development funding, train staff in financial audit, revenue audit and value-for-money audit, in the next two years, so as to develop capacity in handling the large numbers of financial, revenue, and VFM audits caused by the creation of more districts, the increased number of local revenue collecting units, and the increased demand by the public for VFM audits, respectively;
- to establish a dedicated unit for research, development and quality assurance, so as to improve on the quality of audit reports and ensure their reliability and usefulness for the purposes of effective decision and policy-making;
- to establish intranet and train staff on its use, consider production of an electronic staff bulletin, examine ways in which the OAG can focus on issues related to improved public service management, so as to improve on the internal and external communication and to raise the profile of the OAG.

The above highlights show a proactive approach to strategically improve the OAG institutional capacity required to deal with the challenges that face the execution of its statutory duties. However, the focus of the OAG's corporate plan hardly took care of the need to build and rejuvenate supplementary collaborative relations with other agencies and stakeholders. Yet the need to streamline cooperation and relations with non-governmental organisations, private sector organisations and civil society is crucial in ensuring their support, without which, the rather good plans can be rendered useless. Thornhill and Hanekom (1995: 100) underscore the need for

planning actions to continuously take steps to counter any opposition so as to ensure that goals are achieved and better results to society gained. This calls for the effort to convince community and other stakeholders on the advantages of a plan so as to enlist their support.

In Uganda's case, the importance of stakeholder agencies in supporting the accountability effort is exemplified by the role they play in service delivery. For example, private entities provide services to the public sector through contracting-out service delivery or through public-private partnerships. Oftentimes, private sector agencies are culpable in conniving with public officials to flout tendering regulations, give dismal services to the public, and generally fleece the public. The NGOs can also play a supplementary role in monitoring and evaluation, and can offer justification for the quality of service offered by public authorities, which in the process can give support and credence to VFM audits conducted by the OAG. Thus, the failure to enlist them in corporate planning is a serious omission.

The Inspectorate of Government also has a Corporate and Development Plan (2004 – 2009), which indicates support for its future institutional capacity. The following highlights can be enumerated:

- to restructure and streamline IG operations and systems, develop clear job descriptions, a clear and timely reporting function, make training needs assessment and train staff, so as to strengthen and build the capacity of the IG to meet its statutory mandate;
- to mobilise financial resources, review AG reports, expand and strengthen IG regional presence, make abrupt inspections of the budgeting process, procurements, as well as all revenue collections, so as to effectively monitor the utilisation of public funds in all central and local government departments;
- to sensitise and educate the public through the media and workshops, make periodic integrity surveys, and carry out system studies, so as to increase civic awareness, enlist public support, and strengthen weak systems and processes in government; and,
- to enhance the image of IG, undertake socio-audits and baseline studies, strengthen coordination and collaborative arrangements with agencies of

similar objectives and civil society, so as to promote and foster strategic partnerships to fight corruption, abuse of office and administrative malpractices.

One observation about the IG Corporate Plan is that it was desegregated in level of departments, which enables quicker and clear focus on responsibility and expectation of each participating unit. It is also indicated that the plan arose out of a participatory and consultative process that enlisted a variety of stakeholders, which is important in giving support for implementation. The drawback, however, is that while it lays down its cardinal objectives, performance indicators and targets, it hardly offers clear detail on the particularity of the activities and tasks to be undertaken, as well as their corresponding specific time frames. It is also apparent that, the IG plan's successful implementation heavily relies on the outside partners and donors, whose compliance, especially with funding of activities is often sporadic.

Nonetheless, the research noted that both Corporate Plans from the IG and the OAG somehow have a link with the national development policies and priorities enshrined in the PEAP; in particular pillar two (2) which deals with *Good Governance and Security*. For example, both plans seek to develop capacity to strengthen their monitoring and ensure utilisation of PAF funds, especially in the local government sphere, which supports the PEAP and reconciles with national objectives. The premising of such plans on the sector-wide approach offers a vantage position for other partner support in their implementation.

5.8 CONCLUSION

The presentation and discussion of research findings in this chapter demonstrates that the external control agencies of the IG and the OAG exhibit mixed fortunes of institutional capacity. Despite the continued donor support and the high-stake of expectations of better outcomes from these two cardinal institutions in pursuit of enhanced accountability and effective public management, these agencies continue to be encumbered by a torrent of financial, human and material resources limitations, as well as deficiencies in the enabling legislation and support from various stakeholders. This creates a backlog of cases every year, a further strain on the

already existing meagre resources, a recipe for encouraging public malfunction, and a future threat to losing public confidence.

The battle against the ills of public sector ineptness can only be won through collaboration and support from different stakeholders. Whereas there was a great effort by the agencies of the IG and the OAG to engage local and international agencies to enhance institutional capacity, some institutions that are supposed to be partners in fostering accountability delay or completely ignore the IG and the OAG's recommendations. The courts, for example, take long to dispose of cases referred to them, and this adversely affects the effort of the IG.

The corporate plans of the IG and the OAG show a proactive approach to strategically improve future prospects in undertaking the cardinal objective of enhancing accountability and effective public management. However, the focus of the OAG corporate plan hardly takes care of the need to build and rejuvenate supplementary collaborative relations with other agencies and stakeholders. Given the sophistication of the means to obscure fraud and corruption, the IG and the OAG staff must be equipped with advanced and specialised investigative training to keep ahead of fraudulent practices. This calls for improved support from Parliament, the DPP, local authorities and the courts of law to augment the IG's and the OAG's capacity. It can be hoped that the establishment of a special anti-corruption court could help reduce the delays and provide appropriate corrective measures in support of accountability.

The institutional capacity limitations have a bearing on the IG's and the OAG's capabilities in fostering accountability in local government. Whereas this chapter has described the various aspects of institutional capacity, it remains to be discussed how the IG and the OAG *have operationalised and enforced legislation; how they have enhanced local government systems and processes; and how they have helped to facilitate the civil society* towards the enhancement of accountability in local government. These issues form the basis of the subsequent presentation and discussion in Chapters Six, Seven and Eight, respectively.