

CHAPTER SIX

OPERATIONALISING LEGISLATION AND REGULATORY FRAMEWORK

6.1 INTRODUCTION

The second objective of this study was *to evaluate how the external control agencies have promoted the operationalisation and enforcement of legislations and regulatory framework pertaining to accountability in local government*. This chapter presents findings and discussions on how the IG and the OAG have executed their policy mandates towards enhancing accountability in local government, particularly, through the operationalisation and enforcement of legislation and regulatory framework relating to accountability.

The previous chapter (Chapter five) established that there is, indeed a conglomeration of enabling legislation and regulatory framework pertaining to promoting accountability in local government. The question, however, remains, as to whether these regulatory frameworks are enforced by the external control agencies and duly put into practice. And if so, what impact has it created on adherence to financial regulations; proper resource allocation and utilisation; discipline and adequacy of process in public offices; and if not, what are the factors responsible for the dysfunction? These issues set the pace for the rest of the discussion in the subsequent sections of this chapter.

6.2 OPERATIONALISING LEGISLATION AND REGULATIONS

There are various pieces of legislation and regulations that the IG and the OAG are mandated to operationalise and enforce, in a bid to enhance accountability in local government. The role of each one of the two agencies is analysed as follows.

6.2.1 Inspectorate of Government and operationalisation of legislation

The mandate to promote efficient and effective public management in public offices by the IG is derived from the Constitution of Uganda, 1995 (Art. 225[1]) and the IGA 2002 (s.8), which requires the IG:

- to promote and foster strict adherence to the rule of law and principles of natural justice in administration;
- to eliminate and foster the elimination of corruption, abuse of authority and of public office;
- to promote fair, efficient and good governance in public offices;
- to enforce the Leadership Code of Conduct;
- to investigate any act, omission, advice, decision, or recommendation by a public officer or any other authority to which this Article applies, taken, made, given or done in exercise of administrative functions;
- to investigate the conduct of any public officer which may be connected with or conducive to: abuse of office or authority, neglect of official duties, economic malpractices by the officer.

The research established that the IG has implemented legislation by the use of a two pronged approach in form of enforcement and preventive measures. The preventive measures reported include public awareness programmes, policy and systems studies, as well as surveys, monitoring and evaluation. Regarding enforcement mechanisms, the IG continues to carry out investigations into complaints of maladministration, corruption and abuse of office and authority, often raised by the public against the errant public officials. Where investigations reveal utter corrupt practices and abuse of office/authority the IG has often preferred arrest and prosecution of those implicated.

An analysis of complaints received against government departments/institutions over the years indicate that most complaints (over 40%) are against public officers in the local government administration sphere. These include district chairpersons, CAOs, district councillors, members of the DSC and head teachers, especially from primary schools. Table 6.1 below shows the distribution of complaints levelled against the different local government departments/units and category of officials.

Table 6.0.1: Local government units/ officials complained against from July 2006 – June 2007*

Unit/Category	No. Complaints July - December 2006	%age	No. Complaints January - June 2007	%age
District Administrators	177	46.3%	188	34.7%
Head teachers (Regional)	48	12.5%	120	22.1%
Municipal Town Councils	44	11.5%	79	14.6%
Local Councils	36	9.4%	57	10.5%
District Service Comm.	37	9.7%	25	4.6%
Sub-County Chiefs	13	3.4%	34	6.3%
Kampala City Council	8	2.1%	18	3.3%
Tender Boards (Regional)	9	2.4%	9	1.7%
District Educ. Officers	2	0.5%	8	1.5%
Parish Chiefs	7	1.8%	3	0.5%
District Engineers	1	0.3%	1	0.2%
Total	382	100%	542	100%

*Total complaints against all Government Departments. (Central and Local) was 875 and 1097 for Jul-Dec.06 and Jan-Jun.07, respectively

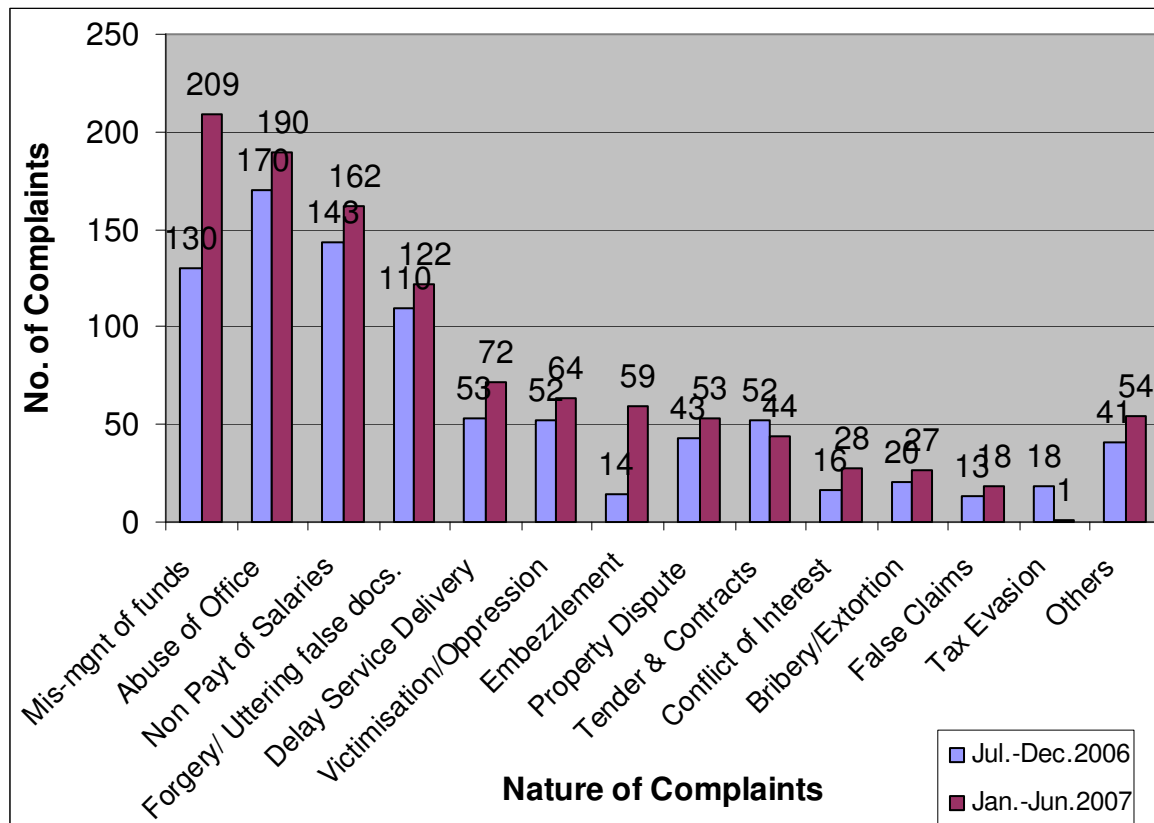
Adapted from: IG-Reports to Parliament, 2006 and 2007

If the total number of complaints against local government officials for the above two periods (382 and 542) are computed as percentages of the total complaints for all the government departments (875 and 1097), it shows that local governments accounted for 44% and 49%, respectively, of all the complaints investigated. This signifies serious lack of adherence to the law and established procedures, upon which, such complaints continue to be levelled against local government officials.

Complaints against district administrators rated the highest and mainly constituted non-payment of employee benefits, mismanagement and misappropriation of funds, abuse of office, influence peddling and interference in tender awards, victimisation and delay of service delivery. Complaints against primary school head teachers mainly included mismanagement and misappropriation of school funds, abuse of office, forgery and issuing of false documents. It was reported that the problems in

school management were due to poor supervision and monitoring of schools by school inspectors, poor bookkeeping and utterance of false papers. The figure below indicates the nature of complaints received during July 2006 – June 2007.

Figure 6.0.1: Nature of complaints received by the IG during July – December 2006 and January – June 2007*



* Total number of new complaints: July – December 2006 (875) and January – June (1097)

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

The above figure 6.1 indicates an increasing level of complaints associated with mismanagement and misappropriation of funds, abuse of office, non-payment of salaries and benefits, forgery and uttering of false documents, delays in public service delivery, victimisation, embezzlement of public funds and conflict of interest. In spite of the effort made by the external control agencies, this scenario depicts an increasing failure to adhere to financial regulations, lack of proper resource allocation and utilisation, and low impact on enforcing discipline and adequacy of process. This also demonstrates that, either the existing legislation and regulatory framework is not yet fully operationalised or perhaps, it has inherent weaknesses.

Other than the investigation of complaints, there was evidence to show that the IG undertakes to implement the legislation and regulations pertaining to promoting accountability in local government, by way of enforcing the Leadership Code of Conduct. As already noted, the Constitution, 1995 (Art. 225[d]) and the Leadership Code Act, 2002 mandates the IG to ensure that specified public officers from time to time declare their incomes, assets, and liabilities and show how they acquired or incurred them. The rationale is to ensure that leaders declare their wealth, to make them accountable and to establish that the acquisition of assets was not through corruption. It also ensures that leaders adhere to minimum standard behaviour and conduct while conducting official duties, since the Leadership Code of Conduct prohibits conduct that compromises public service values such as honesty, integrity, impartiality, and imposes penalties to those that breach it.

The study established that leaders from district local governments had largely complied with the declarations to the IG as required, and the process of identifying those who had failed to declare was still ongoing. It was reported however, that the systematic verification of declarations, especially for the district chairpersons, CAOs, town clerks, and heads of departments and other specified officers was terribly laborious, and would take very long to complete, owing to the limited human resource and financial capacities. Verification difficulties are also compounded by poor records-keeping in other government departments, especially the Land Registry and Registry of Companies.

The other enforcement measure that implies the implementation of legislation by the IG is the prosecution of cases, involving corruption and abuse of authority in courts of law. As already noted (*c.f.* Figure 5.5), the IG from July, 2006 – June, 2007 was able to invoke its statutory powers, and caused the arrest and prosecution of at least fifty two (52) people for various corruption malpractices. Out of these 6 earned convictions, 5 acquittals, 1 dismissal, and 8 were awaiting judgment. Whereas the larger number of cases (40) remained pending in the courts due to cumbersome court process and other institutional deficiencies, it nevertheless, demonstrated the IG's resolute effort to promote accountability in public offices.

Another area of operationalising legislation and regulations by the IG is through the monitoring of the utilisation of PAF funds. While there was evidence to show that the IG's officers have continued to carry out PAF inspections in various districts and occasionally issues reports depicting severe cases of abuse, there are hardly any serious measures taken against the culprits. At best, the IG has often recommended sanctions against the officials implicated, to local government authorities or to the Police for further investigations and possible prosecution. This has not seemed to have yielded better results, as increased cases of impropriety and utter abuse of the fund continue to be reported in several agency and media reports, which shows that, probably, effective implementation of the existing laws and procedures is lacking. Matters are worsened by the lapses in the law that are often exploited by allowing convicted persons to pay small amounts of money as fines, which creates no deterrence to corruptive tendencies.

In a court case (**Uganda vs Balinda**) where the accused, an agent of Kampala City Council (KCC) was contracted to collect rates, he solicited and received a bribe of Shs 500,000/= corruptly. He was convicted and sentenced to one and a half years in prison or pay a fine of Shs 30,000/= (approx. US \$18). He paid the fine and walked home (IG-Report, 2007: 62). Another case (**Uganda vs Tabaruka James**) involved a public officer who was charged and convicted of corruption and abuse of office for soliciting and receiving a bribe of Shs 2,000,000/= in order to release a local purchasing order (LPO). However, the court sentenced him to either two years in prison or a fine of Shs. 300,000/= (Approx. US \$175) only. He paid the fine and was released (IG-Report, 2007: 62). Such weak consequences associated with poor sanctions and actions tend to condone misconduct. According to Pauw *et al.* (2002: 339), when the "perpetrators of corruption believe that, even if their misdeeds were discovered, the repercussions would not be strong, they can commit their unethical deeds with impunity".

Moreover, the aura of enabling legislation may simply be a definition of what appears in the books, rather than what actually happens in the peculiarities of executing the oversight job. While several enabling legislation oblige state institutions to offer support to the IG and the OAG, so as to ensure their independence, impartiality, dignity and effectiveness, many stakeholder agencies were reported to be less

vigilant in offering the required support. This reconciles with the observation of Gregory and Giddings (2000: 15) who maintain that “Ombudsman institutions remain predominantly dependant on bodies that appropriate their funds (executive or legislature) and other auxiliary agencies that they need to network with in the handling of public complaints”. These agencies, unfortunately, may not easily be compelled to comply swiftly, as required by watchdog agencies. This explains why, for example, when the IG refers cases to local government authorities to reprimand offenders or the DPP to spearhead court action, on some occasions these agencies have had to ‘take their time’ until such matters die out and are lost in oblivion.²⁴

Nonetheless, the IG investigations and recommendations against some defiant public officials have stood out to demonstrate the operationalisation of the existing legislation, especially where particular sections of the law are contravened. The following interpretations in view of the different cases of impropriety beg citation:

- The Chairman of Njeru Town, Mukono District was found to have misused his office for self-enrichment; was in conflict of interest and practiced favouritism and nepotism. He had interests in a company that was awarded a tender to supply assorted items; did not declare his interests in another family company in which he was a director, shareholder and signatory to the account, and was awarded a tender of refuse collection and disposal; all of which contravened the Leadership Code Act (2002: s.15 [1]; 8[1-2]; and 12[1]). The IG directed the chairman to vacate office, and was not eligible to hold any public office (elective or appointive) for a period of five years in accordance with the Constitution (2005: Art.235) and the Leadership Code Act (2002: s. 20[3]).
- The Town Clerk and Town Treasurer of Kabwohe, Bushenyi District were found by the IG to have flouted the LGFAR (1998: s.69, 86 and 113 [1]) for making irregular payments to contractors where the tender was not advertised; substandard work was done; payments were made in cash and not cheque as required by regulation; and there was no deduction of withholding tax before payment was made. The IG directed Bushenyi District authorities to submit the two officials to the DSC for dismissal for gross financial mismanagement and incompetence.

²⁴ Interview, Abon Muzamir, Director IG-Regional offices and Follow-up, 5th October 2007.

- The Chairperson Mukono DSC colluded with the acting district CAO to irregularly appoint a person in 2004 to the post of Assistant Secretary, with the DSC neither having advertised nor interviewed the person. The same person was irregularly promoted to Senior Assistant Secretary, before her confirmation in service, when she had only served one year and seven months of her probation period of two years. The IG recommended revocation of appointment, the dismissal and prosecution of the then acting CAO, and removal of the DSC chairperson for abuse of office and flouting regulations.
- An Engineering Assistant and Accounts Assistant with Ntungamo District owned a construction company which was awarded a tender to construct a health centre's maternity ward. The IG found both officers to have contravened the LGFAR (1998: s.79 [4]) which prohibits local government employees from conducting business, directly or indirectly with their employer. The IG directed the DSC to discipline the officers, and the construction company to be blacklisted by the district.
- The Chairman of Tororo Urban Tender Board participated in deliberations that awarded a tender to manage Tororo taxi/bus park to a company, while he was involved in its operations. This amounted to conflict of interest, contrary to Section 8(2) and failing to declare such interest contrary to Section 9 of the Leadership Code Act 2002. The IG found this as misconduct and recommended to Ministry of Local Government to ensure that the chairman is barred from holding any public office (elective or appointive) for a period of five (5) years, in accordance with section 20 (3) of the Leadership Code Act.

By invoking the relevant punitive measures to offenders, the IG makes a great effort to operationalise legislation pertaining to accountability in local government. Such measures go a long way to ensure discipline and adequacy of process, adherence to financial regulations, and proper resources allocation and utilisation.

6.2.2 Auditor-General and operationalisation of legislation

The cardinal objective of the OAG in Uganda is to essentially enhance the standard of financial accountability in the public sector realm. To execute this responsibility the

OAG must utilise, enforce and where necessary invoke the relevant legislation and regulations, as enumerated earlier in Chapter Five (*c.f.* section 5.5). In order, for the OAG to be effective in implementing the legislation relating to public accountability, it must be a strong and independent institution, and must derive strong support from the national Parliament and its standing committees relevant to accountability, which in principle, have to ensure implementation of the OAG’s recommendations.

The research established that the OAG has implemented legislation by reaching out to LGs, through its regional branch offices, where they carry out financial and VFM audits and prepare audit reports; issue audit warrants (approval) of release of funds from the consolidated fund; establish that proper disbursements and accountability of funds are done; verify pension and gratuity papers of retired LG staff; identify any misuse, fraudulent practices and breach of financial regulations; and make reports to Parliament, for which they provide guidance to the Public Accounts Committee during discussions with various District Accounting Officers on issues raised in the Auditor-General’s report. The undertaking of these has however, registered highs and lows. The summary provided in table 6.2 below shows the performance evaluation of the OAG’s activities in LGUs for 2005/2006 financial year.

Table 6.0.2: Performance evaluation of the OAG’s activities in local government for the financial Year 2005/2006

TARGET	PERFORMANCE	REMARKS
Prepare 1060 Audit Reports (56 Districts, 79 Urban and 897 Lower Local Governments) by 31 st March 2006	473 reports issued (73 Districts and Urban – HLG, and 400 LLG. 90 HLG and 479 LLG pending	Failure to meet targets due to: Late submission of accounts by Accounting Officers; delay of responses from Accounting Officers
112 Inspection reports/ interim management letters by 30 th June 2006	112 Inspection reports/ interim management letters issued	Inspections from interim audits were incorporated in annual management letters
672 Warrants issued by 30 th June 2006	All requested warrants issued	Some districts spend without warrants. There is lack of legal and procedural clarity regarding issuing of warrants to Municipal & Town Councils
To verify all files availed for pension verification	All files availed were verified	Accounting Officers are not prompt in submitting pension documents

Adapted from: OAG Policy Statement, 2007

The above performance evaluation indicates that a huge number of local government accounts (**569**) were not audited and completed within the statutory time limits, which contravenes the law. This implies lack of adherence to regulations. The OAG puts the blame on the delays of submission of accounts and responses by the accounting officers. The accounting officers also complain that the four-month period given is too short to prepare all final accounts properly from a huge number of local units and projects under their jurisdiction for submission to the OAG. It is also argued that sometimes there is late disbursement of funds from the central government, which in turn leads to late allocations and expending of the monies and the related late returns of accountability for the use of such funds.

Table 6.3 below provides a summary of status of compliance by the accounting officers in submitting accounts to the various OAG regional branch offices.

Table 6.0.3: Status of compliance/submission of accounts by accounting officers as at 31st October 2007

BRANCH	NO OF UNITS	COMPLIANT		NON- COMPLIANT	
		NUMBER	%	NUMBER	%
Fort portal	20	15	75	5	25%
Masaka	19	8	40	22	60%
Mbarara	22	22	100	0	0
Jinja	18	14	80	4	20%
Mbale	20	10	50	10	50%
Arua	17	-	-	-	-
Soroti	17	12	70	5	30%
Gulu	12	11	98	1	2%
Kampala	18	14	80	4	20%
KCC	1	5(out of 6)	90	1	10%
TOTAL	164	111	68%	53	32%

Source: Directorate of Audit (Local Government Accounts) OAG

It can be observed from the table above that accounting officers from Higher Local Governments (HLG) who submitted accounts in compliance with the statutory time of 31st October 2007 had a total of 111 (68%) out of 164 units. Accounts from 53 (32%) HLG were not been submitted to the OAG for audit as per the statutory time,

implying a contravention of the law. The law requires LG accounting officers to submit final accounts to the OAG within four months after the closure of the financial year on the 30th day of June. The last day for submission therefore, falls on the 31st of October.

Besides, the OAG has not been able to audit the activities undertaken in districts relating to the use of poverty alleviation funds (PAF), to which it is mandated. The PAF was set up to provide one route of attaining the objectives of the Poverty Eradication Action Plan (PEAP). The Auditor-General acknowledged that his agency has not been able to adequately audit the PAF (OAG-Policy Statement, 2007).

Due to the large number of projects undertaken under PAF in all local governments, including sub-counties, Town Councils, Municipalities, Districts and Central Government Ministries and Departments, the OAG has found it difficult to satisfactorily cover all the areas due to inadequate resources.

This means that billions of Uganda shillings, which are invested into these projects every year, hardly, receive a critical evaluation of their value and net-worth in terms of service delivery. In this case, it becomes rather difficult to invoke the relevant provisions of the law, since the process of identifying financial impropriety cannot be fully informed and meticulously operationalised.

The three poor and rural districts of Kasese, Kabarole and Kyenjojo alone had failed to account for over shillings 10 billion from 2000/2001 to 2005/2006 financial years, according to an official from the OAG. Kasese district failed to account for Shs5.2 billion followed by Kabarole with Shs3.1 billion and Kyenjojo with Shs1.9 billion, which money included unaccounted for or un-recovered advances and other questionable expenditures (The Daily Monitor, 2007: 8). According to the OAG official, the figure would be higher if other financial irregularities like excess expenditure, diverted deposits, un-authorized transfers and under performance, were all to be considered. "If we go by this trend, over Shs. 300 billion would have been misused in the whole country," the OAG official said (The Daily Monitor, 2007: 8).

The analysis of local government audits made by the OAG reveals, on the one hand, serious breach of financial regulations by a good number of districts, and on the

other hand, it indicates an effort by the OAG to operationalise legislation, by uncovering a wide range of financial and unethical scams that contravene the law.

Table 6.0.4: Analysis of local government audit opinion issued by the OAG for financial year 2004/2005

Local Govt Unit	Opinion Type	Basis of Opinion
Kasese District	Qualified-Except for	<ul style="list-style-type: none"> Authenticity of the advances given out of Shs. 738,945,911 could not be verified due to lack of updated advances ledgers Vouchers for expenditure of Shs. 161,300,000 were not availed for audit to ascertain its genuineness. Fraudulent withdrawals of Shs. 15,200,000 were made on Management & Support Services Bank account & there was no follow up on the matter A total of Shs. 567,624,281 administrative advances remained unaccounted for by the time of audit.
Masaka District	Qualified-Except for	<ul style="list-style-type: none"> Expenditures of Shs. 248,684,956 had no accountability availed for audit purposes. Shs. 5,598,732 was paid to a local firm for construction of a pit latrine at Bulingo, but the work done was shoddy as evidenced by collapsing walls during physical inspection.
Sembabule District	Qualified-Except for	<ul style="list-style-type: none"> A total of Shs. 66,000,000 was lost through inflating contract price awards to various local contracts under School Facilitation Grant (SFG). District councillors were paid a total of Shs. 26,565,000 in form of sitting, transport & night allowances for council meetings which never took place. Shs. 20,696,017 released as conditional grant (PAF) from Central Govt. was diverted and used to purportedly settle outstanding fuel bills, contrarily to regulations, and fuel consumption documentation could not be produced. Shs. 24,888,390 was paid to providers, but details of services provided and the relevant supporting documents were lacking.
Mbarara District	Qualified-Except for	<ul style="list-style-type: none"> Loans/personal advances of Shs. 62,766,617 granted to various individuals were outstanding at year-end; were granted interest-free and not backed up by any securities.
Ntungamo	Qualified-	<ul style="list-style-type: none"> Contrary to the LGA, 1997, a total of Shs. 122,722,625 was spent in excess of the 20% of



District	Except for	<p>locally generated revenue allowed, to settle emoluments of Chairperson and Councillors.</p> <ul style="list-style-type: none"> Advances of 43,123,375 made to various officers were not retired during the financial year to which they relate, contrary to the LGFAR, 1998. Remittances of Shs. 39,994,727 to lower local governments as their share of local revenue collections had not been made by end of year, contrary to the LGA, 1997.
Mbale District	Adverse	<ul style="list-style-type: none"> A number of cheques worth Shs. 3,285,920,300 and deposits worth Shs. 892,724,195 had not been presented and credited, respectively, by the district's bankers. So the balance sheet reflected wrong figures. Shs. 92,225,957 advances appearing on the balance sheet represented most items that have been standing in accounts for years. Their values were overstated as their recovery or retirement was remote. Shs. 109,211,873 of the UPE grants were removed from UPE account to another account purportedly for purchase of school materials, but the transactions and accountability of the money had not been availed for audit.
Mukono District	Qualified-Except for	<ul style="list-style-type: none"> Control and management of personal advance to staff was poor as part of Shs. 27,369,228 was granted to persons who had not settled previous debts, contrary to regulations. The rate of recovery was only 37%. Shs. 6,900,000 was paid to an officer to monitor SFG activities but no monitoring reports were available for audit. Administrative advance of Shs. 45,342,718 given to Clerk to Council had not been accounted for, over six months well after the end of financial year.
Arua District	Qualified-Except for	<ul style="list-style-type: none"> The district retained Shs. 201,569,193= unused by end of year without permission from Ministry of Finance, contrary to PFAA. The district incurred expenditure of Shs. 311,561,216= in excess of approved budgetary provisions for various departments without the required authority. Shs. 34,858,650= administrative and imprest advances remained unaccounted.

Source: Directorate of Audit (Local Government Accounts) OAG, 2008

Despite the above opinions and reports from the OAG, there is continued flouting of the legislation and regulations by district LGUs. This continuous trend suggests that, either the law or the corresponding penalties are weak, or there is lack of serious commitment to apprehending culprits, all of which lead to deficiencies in enforcing legislation.

As far as establishment and review of legislation are concerned, the OAG has pushed for the enactment of the Audit Bill into an Act, which promises to provide stronger operational and financial independence of the OAG, which is necessary to strengthen its position as a supreme audit institution in Uganda. All along, the OAG has had to depend on the Ministry of Public Service for its staffing needs, and remuneration of staff has been based on the general public service salary scale, which is very low and does not take into consideration the highly sensitive and peculiar nature of the auditors' work. According to the Constitution of Uganda (Amendment Act, 2005: s.33) the Auditor General, in consultation with the PSC is permitted to recruit, promote and discipline his/her own staff. The enactment of the Audit Bill will help operationalise a better remuneration of staff; engagement of private sector auditors to assist the OAG in performing its functions; rights of access to classified expenditure; and the establishment of the Audit Board. This review process spearheaded by the OAG is critical for the implementation of legislation and the enhancement of accountability.

6.3 CHALLENGES OF OPERATIONALISING LEGISLATION

The greatest challenge, and indeed dilemma, in operationalising legislation is the feeling expressed by various senior local government officials who think that the IG and the OAG are often biased in their investigations, and that they go out to haunt public officials for any frivolity or trivial mistake they commit, for which stringent action is recommended against them. Hanekom and Thornhill (1986: 112) warn that, "the impression that the auditor focuses only on mistakes should not be created", otherwise the credibility of the control mechanism is put to serious questioning. The following statements captured from senior local government staff reflect this frustration.

For any small error of omission, commission, or inconsistency in procedure, can land you in jail or tarnishing your name when the IGG recommends. Sometimes you are not even consulted to give your side of the story.²⁵

The approach of IG officers is in many cases poor. Sometimes someone makes a wild allegation, and off they come. They waste a lot of time and resources on trivial matters, and cause a lot of stress to individuals. Some members of the IG collude, threaten and fight other people's wars. Sometimes they come to pursue cases when they are not abreast with the simple information on how the systems operate. Someone coming to investigate, but doesn't know the system and hasn't researched, and it is here that you tell him that, have you seen this circular or guidelines?²⁶

While I am satisfied with what the IG is doing so far, they need to increase on their vigilance, instead of being reactive – acting on complaints all the time, they should carry out periodic checks. Even the OAG, other than waiting to audit final accounts, they could periodically look at the books with the view of helping districts – not incriminating them.²⁷

People just believe that there is corruption in all local governments whereas it is in isolated cases. Audit queries are wrongly perceived as corruption and the media blows this out of proportion – misreporting. Sometimes these are cases of mis-auditing, but a wrong impression is created that money was embezzled when in actual fact it is not.²⁸

Indeed the annual reports from the IG and the OAG to Parliament, which were reviewed by the researcher, revealed continued castigation of local government officials for flouting the rules and procedures and being wasteful. It was apparent in the reports that the preoccupation of the IG and the OAG have been largely on how public officials adhere to rules and procedures, rather than on evaluating their performance targets, especially in view of the conditions and systems under which

²⁵ Interview, Kikaawa, Chief Finance Officer, Mukono District, 5th November 2007.

²⁶ Interview, Ssegawa, Chief Finance Officer, Luwero District, 7th November 2007.

²⁷ Interview, Kirenda Nelson, Chief Administrative Officer Luwero District, 7th November 2007.

²⁸ Interview, Waibi, Chief Finance Officer, Mbale District, 31st October 2007.

the public officers operate. Yet as Daly (1987: 119) argues, “strict adherence to the rules and better reporting procedures do not automatically lead to performance”. Ultimately, accountability is not just a technical issue, such as better reporting systems. It is the content of the reports and the performance which accrues – that is critical. The focus of accountability should thus, be the need for continuous improvement in performance, not simply procedures.

Aucoin and Heintzman (2000: 53) blame this on too great a focus on accountability as a *control* or *assurance*, which undermines the third purpose of accountability – of *continuous improvement*. The authors observe that this scenario arises out of the overzealousness with the oversight agencies to search for any evidence of mal-administration to justify their own importance; or the practice of the mass media to sensationalise and exaggerate some public service deficiencies in order to promote their houses. Most challenges faced in implementing laws and regulations arise out of institutional capacity deficiencies facing external control agencies that were, generally discussed earlier in Chapter five. The following deficiencies, however, deserve emphasis.

6.3.1 Lack of support from stakeholder agencies

Some institutions and agencies that are supposed to partner with the IG and the OAG deliberately or inadvertently ignore to pursue further, the cases investigated and recommended to them. The cardinal institution that ordinarily bears the wherewithal is the legislature – the people’s representatives – under whose authority, all government executive agencies are supposed to subscribe, on behalf of the people. While the reports and recommendations from these agencies are regularly laid before Parliament, the Parliament has on many occasions exhibited a rather, lukewarm enthusiasm in securing their implementation, which renders the laws ineffective, demoralises the reporting institutions, and squanders opportunity to better public sector governance. The need to consider reports timely and exhaustively by the relevant authorities is underscored by Hanekom and Thornhill (1986: 115) who argue that “if the compilers of reports know that they are to be analysed in detail, they are often encouraged to provide a faithful review of their activities”.

Other agencies that sometimes renege on giving support to the IG and the OAG include the Police's CID and the DPP – which sometimes foil further investigation and prosecution of seemingly clear cases of criminal nature; the courts – where problems of delays and hostile witnesses are encountered; and local government authorities – who often take unnecessarily long to respond to queries, to provide the required information and delay or ignore to implement recommendations.

6.3.2 Financial and human resources limitations

It can be emphasised once more, that the inadequate funding of the IG and the OAG, in lieu of their respective workload schedules and cost of operations, as described in Chapter Five (section 5.1), militates against the successful implementation of the legislation and regulations pertaining to promoting accountability in local government. Matters are worsened by the understaffing levels, especially at the regional branch offices, caused by the recent creation of new districts, which has led to high officer/workload ratio and the ever-increasing backlog of cases/work. The high turnover of staff, especially lawyers and experienced prosecutors at the IG, and loss of trained staff who complete professional accounting programmes at the OAG, owing to insufficient remuneration, spells out the inability to effectively implement legislation.

6.3.3 Resentment by “powerful” government officials

The other challenge has to do with resentment of the external control agencies by, especially the politically “well-connected” government officials, which culminates into conflicts and confrontation that weakens the watchdog institutions. Several top government officials, including cabinet ministers and district chairpersons have been embroiled in bitter exchange of words accusing these agencies of being petty and incompetent. One case in point is the Minister of Local Government, Major General, Kahinda Otafiire, who accused the IGG that “she could have taken a glass too many before writing a report that implicated the minister for meddling in a tendering process” (The Daily Monitor, 2006: 2). There have also been law suits that constantly challenge the powers and jurisdiction of the IGG where, ironically, the

challengers are supported by top government officials. President Museveni and the Attorney-General once swore an affidavit in support of an individual public official (Kakooza-Mutale) in a court case against the verdict of the IGG. Whereas there is nothing bad per se to challenge the decisions of any watchdog institution, the scathing hostility exhibited leaves a lot of bruises in form of contempt and animosity against the watchdog agencies.

6.3.4 Jurisdictional limitations

Jurisdictional limitations provide another challenge. The agencies of the IG and the OAG are established and bound by law, which prescribes their mandates, powers, specific functions, relationship with other agencies, and independence, which are laid down in their parent statutes. While they can investigate, audit, query and pass verdict on the performance of any public entity, they often have no powers to overturn the results of poor administration and managerial malfeasance. Bernt and Owen (2000: 138) indicate that, even in highly acclaimed Western democracies like Canada, the provincial ombudsmen can only afford a wide range of remedial recommendations, but with relatively weak mechanisms to enforce them. At best, they can only forward reports to higher authorities within the governmental jurisdiction. This means that the enforcement of IG and OAG recommendations sometimes lay on the voluntary will of other government bodies, such that if they chose to ignore them, they may as well be of no consequence.

6.3.5 Weak/unenforceable legislation

Some laws and regulations have been found to be wanting or unenforceable, requiring review to either strengthen them or to repeal them. As earlier noted, the law is apparently lenient when it comes to sentencing convicts, as the option of paying paltry fines is always exploited, thereby creating no deterrence to corruption and abuse of office. This situation is in harmony with the view of Pauw *et al.* (2002: 339), who state that “weak consequences cause would-be perpetrators of corruption to believe that they are not likely to be found out”, and that, “even if their misdeeds were to be discovered, the repercussions would not be strong”. In Uganda’s case, weak consequences are associated with the weak law that allows poor sanction and

action against misconduct. In this case, the existing control and preventive mechanisms to unethical behaviour may not pose much threat to the perpetrators.

There is a problem with the law (LGA, 1997: 1st schedule s4) which restricts LGs to using no more than 20% of the locally generated revenue to settle emoluments and allowances of the district executives and councillors. District CAOs interviewed complained about the local revenue base that remains too small since the central government retained all the buoyant sources of revenue. Matters were worsened by the abolition of graduated tax (poll tax) and the new local service tax faces stiff resentment and administration challenges. The totals of what is collected locally by districts remains too low, and curving out a paltry 20% to remunerate the local executives does not only frustrate their effort to enforce accountability on others, but actually makes them fall prey to engaging in corruptive tendencies.

One other area of the law that is largely flouted and not easy to enforce, is the Leadership Code Act 2002 (s.10 [1-4]), which requires leaders to declare a gift or donation received on any public or ceremonial occasion or commission on any transaction to the IG. Several respondents from LGs interviewed, could not remember having declared such gifts or donations, yet they recalled presiding over several ceremonies where such *souvenirs* were given. For the whole of 2006 and 2007, only two public officials countrywide (the IGG herself and a URA officer) had declared such gifts (IG-Report, 2007: 55). Furthermore, the Leadership Code Act 2002 has not yet been simplified to enable its proper understanding by the various categories of public officials affected by it. Its rationale, motives and operation have not yet been articulated by the IG, especially to LGs. It was established that the existing operations manual of the Leadership Code of Conduct is not well elaborated, updated and not easily accessible.

The meeting of JARD (2006) noted that a number of laws predate the present era of decentralisation, and even though they may not be in contradiction, they are not entirely supportive to the process of downward accountability. It was acknowledged that although the LGA, 1997 had been largely effective, it contains a number of weaknesses that need addressing. These include the overemphasis on political

issues as compared to administrative issues; the absence of alternative dispute resolution mechanisms in cases of conflicts (e.g. within the council, or between political and administrative arms); the absence of guidance on how line ministries can reprimand LG staff on failure to implement national policies and laws; over emphasis on rural councils as compared with urban councils; and the absence of definitions regarding operational relationships between HLGs and LLGs, especially with regard to the link between the district and town councils (JARD, 2006).

It was noted that the effective implementation of the LGA, 1997 required the development of regulations that would provide further guidelines for the implementation of the various services and functions entrusted to LGs. Whereas the LGA, 1997 sets out functions and services, it does not, for example, give details on the nature and extent of services to be provided, guidance on implementation, and the role of LLGs in implementing delegated functions (JARD, 2004: 18). Although local governments have legislative powers, the formulation of ordinances and by-laws to assist in the local enforcement of national laws and policies has been very minimal.

6.3.6 Weak internal systems and processes

The systems and processes within the local governments have also been found to be feeble and incapable of pulling forth support to the external control institution's implementation of the laws and regulations before them, in the enhancement of accountability. Other than having serious lapses in financial control and human resource management, monitoring and evaluation of resource utilisation, the districts' employment and organisational systems have, recently been associated with:²⁹

- reshuffles, transfer and exit of top administrators, which have caused non-implementation of IG and OAG recommendations, as incoming officials claim not to have the necessary information about the matters in question;
- lack of strong legal background personnel in local governments to interpret and advise on the implications of various acts of omission and commission, let alone defending them in cases arising from IG and OAG recommendations;

²⁹ Interview, IG and OAG officials on the limitations they face while trying to enforce legislation in districts, October – November 2007.

- action authorities/officers in LGs still take some forms of corruption and abuse of office lightly, and as a result, they modify the IG and the OAG recommendations into very light punishments to offenders;
- insufficient knowledge, low appreciation, and misinterpretation by local governments on the functions of the IG and the OAG, and the relevant laws and procedure applicable in implementing their recommendations.

6.4 CONCLUSIONS

The presentation and discussion in Chapter Six have testified that indeed the IG and the OAG have exhibited great effort in enhancing accountability in local government through their operationalisation and enforcement of legislation and regulatory framework pertaining to accountability. The greatest dilemma in their efforts was identified as their overzealousness in searching for any possible wrong or evidence of maladministration to justify their own importance and to exaggerate some public service deficiencies in order to promote their indispensability. This is attributed to too great a focus on accountability as a *control* or *assurance* which undermines the third purpose of accountability – of *continuous improvement*. Other impediments to IG's and the OAG's operationalisation of legislation include lack of support from stakeholder agencies; financial and human resource limitations; resentment by some government officials; jurisdictional limitations; weak and unenforceable legislations and weak systems and processes within local government.

It should be noted that the IG and the OAG are partly to blame for the missing link, between themselves and the LGs with regard to lack of awareness in LGs concerning various legal implications of matters pertaining to accountability, the proper procedures to undertake, the appropriate standards of ensuring effective resources management and utilisation, and generally, the lack of knowledge on the rationale and functions of external control agencies. It is for this reason that the researcher sought *to examine how the external control agencies of the IG and the OAG have enhanced local government systems and processes towards accountability*, as enshrined in the third objective of this research.

CHAPTER SEVEN

ENHANCING LOCAL GOVERNMENT SYSTEMS AND PROCESSES

7.1 INTRODUCTION

The control function and the associated control systems and processes in administration were generally described in Chapter Two (*c.f.* section 2.7) of this thesis. Similarly, the structure and nature of the local government system in Uganda and the associated control mechanisms were discussed, elsewhere in Chapter Four. This chapter presents the findings and discussion of the third objective of this study, which sought to *examine how the external control agencies of the IG and OAG have enhanced local government systems and processes towards accountability.*

This chapter first provides highlights on the different dimensions of systems and processes within the framework of organisation theory and management. It then, reviews the systemic weaknesses prevalent in local government units in Uganda, which provides the basis for evaluating the significance of the external control agencies' interventions.

7.2 HIGHLIGHTS ON SYSTEMS AND PROCESSES

It can be emphasised that weak systems and processes are a harbinger for poor accountability and public institutional decadence. Weak systems tend to be associated with organisational structures that do not offer clear description of responsibilities and do not spell out clear lines of authority, communication and accountability (Pauw *et al.*, 2002: 338-339). Similarly, the employment systems tend to be associated not only with poor working conditions, but also with appointments based on irregular considerations like nepotism and political allegiance, as opposed to merit and professional competence. This renders public institutions rather weak and incapable of pulling forth accountability and other ethical virtues.

The systems of “pro-ethics and accountability” regimes include: *employment and organisational systems* on the one hand; and the *financial management system* on the other hand. Preventing the development of weak systems and the process of

enhancing control systems, therefore, requires a multifaceted approach to tackle matters of human resources and financial management. These include (Pauw *et al.*, 2002: 343):

- *employment systems* (human resources management) – involves procedures which employ only individuals with requisite job qualifications, establishing clear job descriptions, work standards and suitable conditions of employment, codes of conduct, training and development;
- *organisational systems* – which involves the establishment of an efficient and effective organisational structure with allocation of clear lines of authority, responsibility, communication and accountability, and;
- *financial management systems* – which involves building formidable sub-systems and processes of accounting, budgeting, cash flow, stock control, procurement, auditing, and reporting.

Thus, the nature and character of the organisational, employment and financial management systems are critical in evaluating the performance and accountability rhythms of any institutional establishment.

7.3 SYSTEMIC WEAKNESSES IN LOCAL GOVERNMENT UNITS

The challenges in implementing the decentralisation policy in Uganda's local government were identified to include coordination and supervision mechanism; harmonisation of guidelines; local revenue generation; citizen participation; relations between implementers and policy-makers; lack of adequate capacities; inadequate accountability; institutional collaboration; service delivery; budgeting and planning process; fiscal decentralisation; reporting; and statistical data management (JARD, 2006: 18). All these aspects or lack thereof are associated with weak systems and processes, and have a bearing on the successful implementation of control mechanisms to enhance accountability in local government.

Continued reports from the IG and the OAG relentlessly castigate the local government internal systems and processes of being weak and propagating grounds for corruption and lack of accountability. Various inspections and investigations into

the activities of different districts in Uganda have revealed the existence of the following (IG-Report, 2007; OAG, 2007; NIS, 2003):

- endemic mismanagement and misappropriation of funds, especially funds relating to poverty alleviation (PAF);
- poor monitoring and supervision of projects;
- substandard work done by some contractors who compromise quality of work and timely completion. This normally occurs when a contractor shares money with the councillors or civil servants; or where the local government official is disguisedly the contractor/supplier and therefore, supervisor/ supervisee;
- inadequate human resources skills in financial management and other technical areas like engineering, surveying, human and veterinary medicine, agricultural production, planning, accounting, and law;
- irregular recruitment and appointment of staff based on sectarian and political/ ideological considerations;
- forging of documents by applicants for jobs, especially by teachers and tenderers for works, goods and services;
- perpetuation of irregular award of tenders and contracts; and,
- delay of service delivery.

Other vices associated with the above include: sheer fraud, conflict of interest and abuse of office, victimisation and non-payment of salaries and other benefits. It should be noted that these weaknesses are part and parcel of the inherent organisational, human resources and financial management systems. Following below is the presentation and discussion of these facets, as established by this research study, and in relation to the notion of accountability in Uganda's local government sphere.

7.3.1 Organisational systems

The research established a number of specific inconsistencies within the local government organisational system, which create a fertile ground for defective accountability and poor service delivery orientations. Whereas the prime political motive for the decentralisation policy in Uganda was to reorient democratic

governance in sharing power and popular participation, the economic arguments of increased effectiveness and efficiency resulting from this policy in local government have so far received less explicit attention (JARD, 2004: 3). The creation of new districts, many of which are not economically viable has increased administrative costs for running the local governments. Crook (2003: 13) contends that, the clamour for new districts in Uganda “is used by the presidency as a device of manipulating rival ethnic groups to consolidate political power position, under the guise of trying to assuage ethnic nationalism”. Whether the new districts’ agitation represents a genuine need to extend the sharing of the ‘national cake’, and to take services ‘nearer’ to the people, in a situation of underfinanced and ineffective local authorities, the concern remains that it is simply a matter “spreading the jam too thinly” (Crook, 2003: 10), which only serves to undermine effective service delivery and accountability.

There has been consensus during the national forums for the Joint Annual Review on Decentralisation (JARD) in Uganda on the fact that the principles and objectives of decentralisation are still insufficiently understood by many actors within the local government sphere. Some people even subscribe to a misguided interpretation that decentralisation is about creating fully independent, autonomous units, as “states within a state”, an attitude further reinforced by the observed trend to employ within local governments “sons and daughters of the soil” (JARD, 2004: 13). For example, different structures and relationships between the elected members (politicians) and appointed officials (public servants) have degenerated into a scramble for local influence and local power, personal ego-building and building of small *client networks*, at the expense of national unity and accountability cohesion.

There is a problem in the coordination of local government supervision, mentoring and inspection on the basis of set policies for service delivery and quality standards. Apparently, there are too many levels of control with vast accountability requirements and modes of quality standards, which include elected political executives, and legislators, line ministries, local supervisors, central government inspectors, external auditing agencies, co-workers, and the general public. Some central government line ministries for example, have gone beyond supervision and standard setting to

establishing administrative staff structures at the local government level (JARD, 2004: 17), which are not only in conflict with the existing structures in local government, but also confuse the accountability relations. Despite the existence of multiple accountability structures within local government in Uganda, administrative, political, and financial malfunctions alluding to poor accountability have continued to exist, suggesting, deficiencies in organisational-structural arrangements. Commenting on the multiple accountability requirements, Romzek (2000: 22) avers that it can constitute a big problem to public officials, as sometimes “it is unclear which of the focal points or sources of expectations constitutes the most legitimate source of authority for a given situation”.

Other discrepancies that were found to affect accountability relationships within the local government sector practices include:

- *Education sector* – where the central government has continued to centralise management of secondary education contrary to the LGA, 1997; it still engages in procurement of instructional materials in districts, and centrally recruits engineering assistants who certify works for LGUs, which undermines the role of the district CAO as accounting officers.
- *Health sector* – where health sub-districts are established, commonly at county level, which is an administrative unit and does not directly report to an established council of a local government.
- *Roads sector* – where staff that work through technical support units, are engaged in the execution of district road works contrary to the mandates given to local governments in the LGA, 1997.
- *Water sector* – where for urban water supply, the sector reforms empower the central government Ministry of Water to appoint a water authority, which is not necessarily the Urban Council, and hence, has the potential of compromising the service delivery mandates of urban councils.

Several senior public servants interviewed by the researcher deplored the over-emphasis on political issues such as electioneering and representation during the policy-making process, as compared with setting sound administrative and managerial processes to improve local government organisation. It was reported that

the operational relationships between HLGs and LLGs, especially with regard to the link between the district and town councils, are not well defined, which causes several intergovernmental frictions and gaps to accountability.³⁰ The absence of alternative dispute resolution mechanisms in case of conflicts (for example, within the council, or between political and administrative organs) was also reported by the district public servants.

Some sector departments till recently were more pre-occupied with communication to the respective line ministries at the centre rather than the relevant organs within the local government. Besides, reporting between the different communication lines within some local governments was reported to be poor, and in many cases when it happens, it mainly focuses on inputs (amounts of resources used) rather than outputs and outcomes (realisations) (JARD, 2006). In addition, due to the limited literacy levels of some of the elected officials, especially at lower local council levels, the packaging of information does not favour easy internalisation and leads to the question as to the value of the contribution of these officials to the whole local government process (JARD, 2004: 10). This affects the reporting and communication mechanisms of horizontal accountability within local government.

The point of concern regarding the above issues is that, the external control agencies of the IG and the OAG often ignore the organisational-structural complexities of local government systems when making a review of LGs' performance. Yet, in actual sense, these organisational structure deficiencies make the pursuit of accountability difficult. Thus, the emerging challenges associated with the inability to maintain coherence and effectiveness in the established local government structures, coupled with the inadequate guidance on service delivery standards, makes the role of external control agencies, rather, superfluous in the enhancement of accountability.

³⁰ Interview, Ssegawa, Chief Finance Officer, Luwero District 7th November 2007

7.3.2 Human Resource management systems

Aspects of the Human Resource management systems studied and discussed in this section include recruitment and promotion, remuneration and emoluments, performance evaluation, training and capacity building, and the disciplinary process.

7.3.2.1 Recruitment and promotion

Recruitment and promotion in the public sector are often alleged to be infested with influence peddling, especially from the political-clientele orientations. Owing to the fact that the constituencies of public organisations tend to be political, efficient and professional management styles, especially in poor countries, are often compromised for political expediency. Referring to the institutional dilemmas of poor nations, Kakumba and Kuye (2006: 813) aver that “it is no exaggeration that several managerial, technical and proficiently demanding appointments are made in the interest of enlarging the political base for the wielders of state power”. The National Integrity Survey (NIS) conducted in Uganda in 2003, indicated that only 53% of the respondents in the public sector, definitely, said that neither political officials nor their appointees had an influence in their appointment or promotion. This means that 15% of the respondents who admitted that there was some influence, and 32% who claimed not to know, were on the basis of informal discussions, in fact “yes” responses (NIS, 2003: 96).

The separate personnel system of decentralisation in Uganda has meant that district public servants can no longer have the option of transfer to another district or promotion to headquarters or line ministries³¹. It has been noted over the years that district civil servants are exposed to pressures from district political cliques, and are often cautious not to annoy or embarrass council members, who repeatedly wield a lot of influence in their appointment and promotion.

Political influence over the DSCs, which results in discriminatory and corrupt recruitment practices has been rife, as nepotism in the district civil service appointment and promotion – of ‘sons and daughters’ of the soil – is questioned

³¹ The exception to this are the positions of the District CAO, Deputy CAO, and Town Clerks, who after amendment of the Constitution (Article 188) are no longer appointed by the DSC, but the PSC and the line Ministry of Local Government can transfer or interdict them.

against the possibility of attaining a quality of personnel that can pull forth accountability requirements (JARD, 2006; Kakumba, 2003; MISR, 2000; Lubanga, 1998). The DSC is appointed by the District Council on recommendation of the District Executive with the approval of the PSC. Despite the high expectations of integrity and high moral character in the DSC, the appointment arrangement makes the DSC vulnerable to the whims of local politicians who appoints it, and it is therefore, practically difficult to detach it from unwarranted local pressure. This has culminated into influence peddling and constant lobbying, which evades the autonomy of the DSC. When the civil servants were asked as to how far true is the allegation that the DSC is externally influenced in recruitment and appointment of civil servants, at least 65.6% admitted that external influence exists. only 6.3% were emphatic it does not exist, while 28.1% were evasive and did not want to commit themselves (Kakumba, 2003: 63).

While the law was later amended to have the top district civil servants appointed by the central government, the questions on accountability remain largely unanswered. The JARD conferences, for example, have noted that the recentralisation of the appointment, transfer and retirement of district CAOs, DCAOs, and town clerks continues to generate concerns regarding the extent to which they can be responsible and accountable to the district councils – who cannot easily reprimand them since they no longer hire them (JARD, 2006: 12). Besides, career development in the local government service continues to disillusion public servants, with concerns over the lack of upward movement in their career development, because of the current local government structure that limits promotion to one or two levels.³² Several respondents voiced concern that in the service of a local government it is not only the same position and level, but also the salary scale gets ‘stunted’.

The point of concern is that the reports of external control agencies of the IG and the OAG hardly evaluate these systemic anomalies vis-à-vis the accountability situation in local government. Their concentration is, rather on the symptoms than the causes of the problem.

³² Interview, Mukasa Fred, Principle Personnel Officer, Luwero District, 7th November 2007.

7.3.2.2 Remuneration and emoluments

The gap between the actual wage bill and the funds available to local governments remains a pertinent issue undermining the effective human resources retention, employee performance and commitment to fostering accountability. This issue has remained unresolved over the years, despite having been raised at different forums, and in spite of the fact that, the wage component currently consumes almost all the monies sent to districts under the vote of unconditional grant (JARD, 2006: 11).

The salaries for local government staff are oriented towards the central governments' public service spine scales. Although, district authorities determine some other emoluments for staff, these are largely restricted by the limited financial resources available to local authorities. Like in central government departments, the local public servants' salaries remain low and have not been adjusted for a long time to take into account the rising inflation and cost of living. District chairpersons and CAOs interviewed by the researcher, expressed great dissatisfaction over the public service salaries, which are not commensurate with the unique local conditions and magnitude of work in different localities. For example, a Senior Personnel Officer in U3 salary scale earns about Shs. 720,000/= (US \$424) as a consolidated package per month, while the Principal Personnel Officer in U2 earns about 860,000/= (US \$506) per month³³. The situation is worse for the lower category of public servants, many of whom earn less than Shs. 200,000/- a month. The low salaries and the poor motivation no doubt continues to affect the districts' capacity to retain and effectively utilise the existing human resources.

On the side of elected officials, the emolument of district executives and councillors is not supposed to exceed 20% of the district's locally generated revenue. This in absolute terms represents a small amount of money, given the limited local revenue base, accentuated by widespread poverty and low productive capacity, especially in rural districts. Matters have been worsened by the abolition of graduated tax (which averaged over 70% of local revenue), and the fact that the central government retained all the lucrative sources of revenue. Analysis of the budgets of several

³³ Interview Twikirize Charles, Ag. CAO Mbale District, 31st October 2007 & Mukasa Fred, Principal Personnel Officer Luwero District, 7th November 2007.

districts in 2002 revealed that they could only collect an average of 7% locally, to finance their budgets (Francis and James, 2003: 330). The four district chairpersons interviewed by the researcher, deplored the current state local revenue that could not enable meaningful motivation and facilitation of district officials to effectively undertake their mandated duties. The Chairman, Mbale District reiterated this position very well:

There is declining morale due to inadequate remuneration and facilitation. Government must review the 20% limitation on remuneration of councillors; otherwise, the devolved political responsibilities do not match with the accompanying resources. And it is causing a lot of audit queries from the Auditor-General and unnecessary conflict between the councils and the district staff.³⁴

The poor remuneration of district councillors (who are people's representatives) has a possible impact on their continued loss of vigilance on monitoring the progress of local projects and enforcing accountability from the technical staff. This could also be the reason why councillors in almost all districts have previously been involved in tender controversies, where they influenced the award of such tenders to their relatives and proxy companies where they had pecuniary interests.

7.3.2.3 Performance evaluation

A system of performance evaluation is another critical element in human resource management. It seeks to establish how well individuals and groups in an organisation utilise the resources at their disposal to achieve predetermined goals and objectives. Performance evaluation provides the basis for future planning, promotion, and organisational development in form of implementing in-service training and support programmes. But above all, it is a tool for extracting accountability from those entrusted with the organisation's authority and resources.

The research established that performance evaluation is done annually, but with some districts, at times it is done once in two or so years. Until 2003, it was based on

³⁴ Interview, Mujasi, Chairman Mbale District Local Government, 1st November 2007.

annual confidential reports prepared by immediate senior officers or supervisors, where the employees being evaluated did not participate. The new participatory system has the potential to encourage transparency and accountability, and to avoid the possibility of victimisation that normally arises when employees have no access to allegations against them contained in confidential reports.

Whereas evaluations are done in the presence of the employee and the supervisor with the opportunity for self-evaluation, it was noted, however, that full information on the outcome of the assessments is still concealed by the supervisors. Other than ticking and filling particular aspects on the evaluation schedule, and perhaps letting the employee know the totals awarded, employees rarely get to discuss with their evaluators a feedback on their strengths and weaknesses, and the ways to ameliorate them. Yet the requirements for effective accountability emphasises timely feedback and responsiveness, which should be reciprocal between the individuals and the organisation. Hence the inability to provide full feedback and to have some elaborate discussion on the strengths and weaknesses of employees do not only inhibit the extent to which they may strive to improve on their performance, but also curtails the response on the fulfilment of full accountability requirements.

7.3.2.4 Training and capacity building

Training and capacity building for the various categories of local government staff and stakeholders are critical if the objective of enhancing accountability is to be realised in the districts. Although there have been a wide range of training and capacity building sessions for LGs over the years, the programmes are rarely coordinated in terms of common strategic themes, and the course contents are hardly evaluated to determine their continued practical relevance. The different central government sector ministries and local government associations are yet to come up with *human resources management and HR development policies* earmarked for local government, which are currently inexistent. Apparently there is lack of a capacity building framework to benchmark on, while trying to track the performance of local government political and technical leaders. Despite several resolutions and calls from the conferences of the JARD, which underscored the need to formulate a national skills development strategy coordinated by the Ministry of

Local Government in conjunction with the National Planning Authority, the ministries of Public Service, Labour, Gender and Social Development, none has come up as yet (JARD, 2006: 12).

7.3.2.5 Disciplinary process

A fair and objective system of instituting disciplinary procedures is a core element of human resource management. Respondents to the NIS in 2003 reported that disciplinary measures were more formalised in the public sector, with 70% stating that dismissal could only come after a verbal warning, followed by a written warning (NIS, 2003: 103). While the DSC has been recognised as a prime structure for instituting discipline in districts, its generic flaws and associated allegations that it is a mechanism of *local political cliques* undermine its position and ability to administer an effective disciplinary process. It was reported that several cases referred to the DSC, especially arising from the reports of the IG and the OAG are often mismanaged, with persons implicated in serious offences of financial mismanagement and abuse of office only walking away with written warnings.³⁵

Some cases thus, end up in courts, which have processes that are rather cumbersome and elaborate. While courts are good avenues in the administration of justice, they are time-consuming, expensive and unreliable means of obtaining discipline to errant public officials. Courts have often set free individuals, especially in circumstances where incriminating evidence may not easily be adduced against them, but when there are substantive indicators and compelling reasons to show their gross impropriety in public offices.³⁶

7.3.3 Financial management systems

Perhaps the worst anomalies affecting financial management in LGs have had something to do with the procurement processes and tendering of supply of goods and services, upon which colossal sums of money are reported to be squandered. Indirect awarding of tenders to councillors, relatives, tender board members, civil

³⁵ Interview, Baku Raphael, Deputy IGG and Abon Muzamir, Director IG-Regional offices, 5th October 2007.

³⁶ Interview, Baku Raphael, Deputy IGG and Abon Muzamir, Director IG-Regional offices, 5th October 2007.

servants through proxy companies and influence peddling has been rife and has often been reported to be punctuated with inflated bills of quantities by technocrats (engineers) who seek to get kickbacks in return. These have led to substandard work and loss of value for money (IG-Report, 2006; OAG, 2006). A new legislative amendment to the LGA, 1997 (section 92) was passed in 2006 by Parliament, which abolished the district tender boards and replaced them with contract committees composed of five appointed officials (civil servants). This is opposed to the earlier arrangement, where the District Council (politicians) appointed seven members of the Tender Board, allegedly basing on unprofessional considerations such as political and business acquaintances. It remains to be seen how the new arrangement will enhance accountability and proper resource utilisation.

Nonetheless, there is a concern among local government public officials that the external control institutions of the IG and the OAG are obsessed with fault-finding, which sometimes overshadows their objective analysis and reporting, and it rather, obstructs their positive contribution to strengthening financial management systems in local government. One official exclaimed about the IG's and the OAG's reports:

Sometimes their investigations and reports are contradictory on a similar case. You get the supervisors from line ministry saying, work good; the OAG saying, work good; IG saying, no work! Sometimes they make false conclusions because they don't coordinate with each other, they don't know clear guidelines, and we are at a loss to know which is which.³⁷

A critical standard of ombudsman and watchdog institutions is that, such agencies must have credibility and exhibit objectivity in the eyes of the public and to the administrators (who are often affected by ombudsman decisions), if they are to function successfully (Gregory and Giddings, 2000). The aura of independence and objectivity becomes a standard requirement for the ombudsman and watchdog agencies because, just like in the principles of jurisprudence, the exercise of justice must not only be done, but must be seen to be done. The requirement in this regard is for the office to strive to be above reproach and be understood to the public if it is to advance its capacity building role towards public systems and processes.

³⁷ Interview, Ssegawa, Chief Finance Officer, Luwero District 7th November 2007

Having presented and discussed the above facets of Uganda's local government systems and processes, it is imperative to look at the different interventions that the external control agencies of the IG and the OAG have made in helping to alleviate the different systemic problems that thwart the achievement of effective accountability.

7.4 INTERVENTION BY EXTERNAL CONTROL AGENCIES IN LOCAL GOVERNMENT SYSTEMS AND PROCESSES

The Inspectorate of Government Act, 2002 (s8 [1]) specifically mandates the IG to take necessary measures for detection and prevention of corruption in public offices, but in particular;

- to examine the practice and procedures of those offices in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work procedures, which, in the opinion of the IG, may be conducive to corrupt practices; and,
- to advise those offices on ways and means of preventing corrupt practices and on methods of work procedures conducive to effective performance of their duties and which, in the opinion of the IG, would reduce the incidence of corruption.

In essence, the external control agency of the IG is supposed to procure measures to strengthen systems and processes in public offices, including the local government sphere. However, the various annual reports from the IG and OAG reviewed by the researcher, hardly made any mention of the highlighted systemic and process anomalies associated with local governments, let alone, articulating their relative impact on the poor intergovernmental and intra-governmental relations that cause a multitude of accountability and service delivery problems. Whereas the above highlighted anomalies could largely be policy issues that are well beyond the powers and jurisdiction of the IG and the OAG, there have been very little, if any, advocacy from the two institutions to spearhead improvement in these organisational deficiencies of LGs. Their annual reports to parliament, over the years, concentrate on a *blame-spree* exercise that enumerates and exposes cases of corruption and

abuse of office, instead of identifying the organisational-structural deficiencies and possible systemic cure to alleviate their proliferation. Yet parliament would ordinarily be the right forum to address specific policy and system measures tailored for local government.

In some instances, however, the agencies of the IG and the OAG have undertaken some actions and measures that can be depicted as bearing the potential of building local government systems and processes. Experiences from the *new* patterns of decision-making associated with devolved management, attests to the fact that preventive measures are more effective than enforcement methods in combating corruption and promoting efficient and effective public sector performance (Keen and Scase, 1998: 117). While most of the activities of the two institutions are post-facto there are some instances where they have carried out some preventive and proactive measures. The following activities deserve mention.

7.4.1 Policy and systems study

In cognisance of the fact that institution building is a key measure in promoting fair, efficient and good governance in public offices, and pursuant to the mandate given by the Constitution of Uganda, 1995 (Art 225[c]), the IG has carried out research into the operations, policies, systems, procedures and legislation of various government departments and institutions with a view to identifying some weak areas that may be conducive to corruptive tendencies, and to make such recommendations for remedial action. The IG has so far done policy and system studies on three central government institutions including, the National Social Security Fund, Uganda National Examinations Board and the Land Registry (IG-Report, 2007: 69).

The local government sphere has not yet benefited from this policy and system studies arrangement, which, perhaps explains why there is continued low compliance to the requirements of accountability, a matter that is linked to the persistent contradictions in the local government systems and processes. It is hoped that when such a study is undertaken, it will probably be the greatest contribution of external control institutions towards the enhancement of accountability in local government.

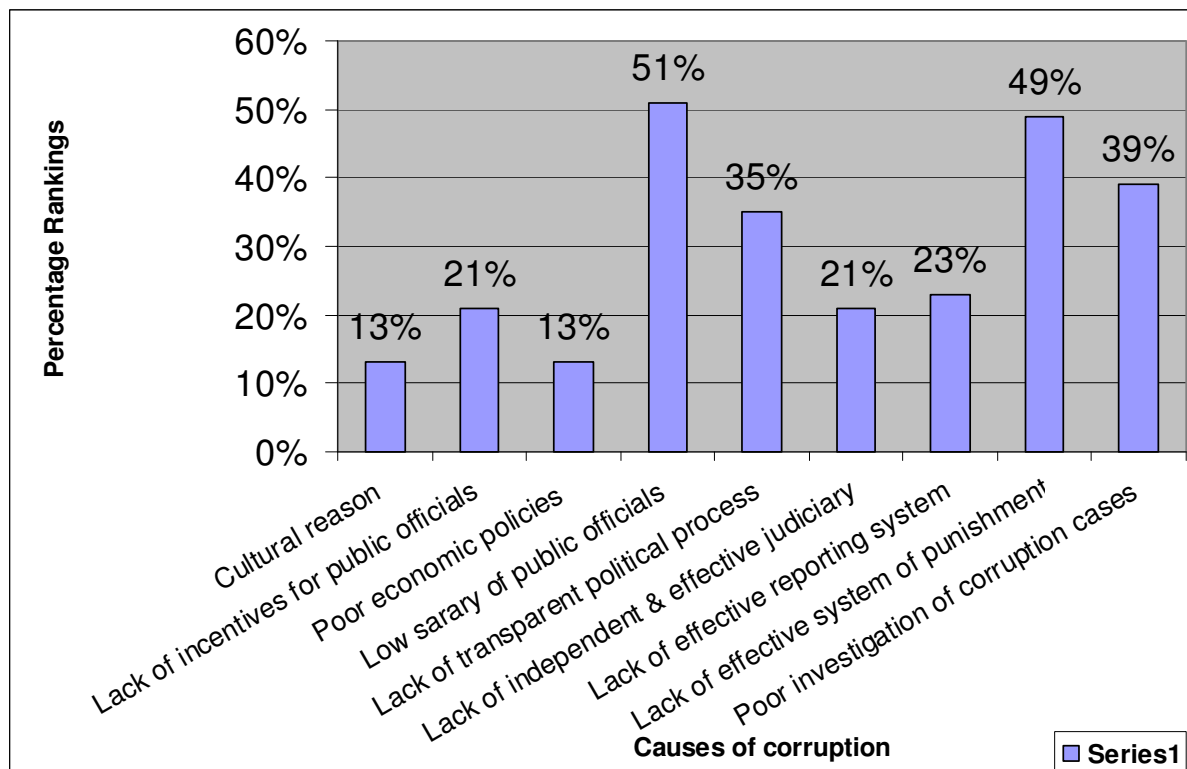
7.4.2 National integrity surveys (NIS)

The IG from time to time commissions national integrity surveys, which undertake to study and develop empirical information that can be used by government bodies, civil society and the private sector to formulate and implement policies and programmes that can reduce corrupt practices, improve transparency, accountability and governance. The survey generates information on household and institutional perceptions and experiences on corruption-related practices, analyses it and draws conclusions and recommendations for possible improvement. The previous surveys were done in 1998, 2003, and the third was due for 2008.

The 2003 NIS in Uganda ranked the local governments in fourth position among the leading public institutions in proliferating corruption and abuse office, just behind the Uganda Police, Uganda Revenue Authority, and Magistrate's Courts. According to the survey findings, low salaries and delay in their payment were the main causes of corruption, coupled with the need for politicians to recoup election expenses when they get into power, and profiteering by some from situations of confusion. The survey also established a prevailing climate of tolerance towards corruption, reinforced by an attitude of sympathy towards those who augment meagre wages with small bribes, and those who see misuse of official resources such as vehicles for private purposes as a norm rather than a breach of regulations (NIS, 2003: 19).

Combating public sector malfunction requires that plans and strategies take cognisance of the relative root causes. The institutional responses to the causes of corruption for example (*c.f.* figure 7.1), could provide a basis for reorganising systems and processes as a strategy for enhancing accountability and efficient resource utilisation. In this case, the IG intervention through the institutional perception survey can be regarded as a mechanism of enhancing systems and processes.

Figure 7.0.1: Causes of corruption ranked as very important



Source: National Integrity Survey (NIS, 2003)

The survey findings by the IG therefore, provide good interventions that could spearhead improvement towards public institutional systems and processes. However, the local government sphere requires a specific and more elaborate institutional survey that can desegregate findings by level of political and socio-economic arrangements, employment and financial management systems within the districts. This has not yet been done.

7.4.3 Sensitisation programmes

Sensitisation workshops were conducted by the IG, for example, during 2007 to educate district leaders in Kabale and Fort Portal on the virtues of *enhancing good governance through accountability and transparency*. In the previous year, 2006, the IG had conducted similar workshops in the districts of Mityana, Mubende, Mpigi, Wakiso, Jinja, Iganga, Mukono, Masaka, Kamuli, Mbale, Sironko, Mayuge, Bugiri and Kampala. The OAG in a similar way has held regional workshops to district staff to emphasise the significance of effective financial management and accountability.

However, some local government staff members interviewed echoed their displeasure that some workshops restrict participation to only the top district leadership, leaving out the majority of the rank and file. Certainly this is a drawback on building local institutional capacity, since all employees are part of the entire local government system, and since corruption does not segregate rank or level.

7.4.4 Field inspections, monitoring and evaluation

Inspection is a critical control management tool that involves monitoring on the progress of agency and individual activities to ensure that they are in line with the preconceived objectives of the organisation. Through the monitoring and inspection of PAF-related activities such as feeder roads maintenance, primary health care, water and sanitation and LGDP, the IG and OAG have been able to uncover loopholes in the local government monitoring and evaluation formation. For example, the mismanagement of PAF projects in districts has been attributed to inadequate monitoring and supervision by mandated officers due to lack of technical capacity; poor coordination; or sheer fraud where payment is made for substandard or no work done. The IG in particular found out that the funds made for monitoring and supervision were used for purchase and servicing of computers, purchase of tires, purchase of office furniture, and others were diverted to cater for day to day office operations in total disregard of PAF guidelines (IG-Report, 2007: 11).

The IG and the OAG have, thus recommended sanctions against those officers, who were implicated in the mismanagement of PAF projects, but in addition, it stipulated a variety of vital mechanisms to improve the monitoring and evaluation processes in the districts. Recent reports from the districts indicate that PAF utilisation has improved tremendously as a result of these IG interventions.

7.4.5 Financial management reforms

Financial management reforms have been undertaken in some districts, arising out of the OAG audit reports that stimulate improved systems and processes. Through auditing of final accounts of LGUs, the OAG often issues a *management letter* to each respective district CAOs, which offers details on the opinion regarding the

accounting standards of a particular district. “The management letters offer an assessment on whether the district has improved from the previous year or not, and help to identify the gaps, for example in ledgers or procurement. This information has helped to strengthen internal controls and it’s often referred to in redirecting proper financial management.”³⁸

The OAG has made some input to the nation-wide financial management reforms, with the potential of improving local government systems and processes. The various VFM audits undertaken by the OAG and the associated recommendations have strongly enriched government’s Financial Management and Accountability Project (FINMAP), which aims to deepen and consolidate public financial management so as to maximise the impact towards the Poverty Eradication Action Plan (PEAP). Among other things, the FINMAP particularly targets improved local government financial management systems to enhance the capacity of local projects in agriculture and production, health care, water and education to contribute significantly towards poverty reduction.

The OAG’s central role in auditing the integrated financial management system (IFMS), which was rolled out in 2005 to almost all accounting units in central and local government, provides another intervention to strengthen systems and processes. The IFMS system records all government financial transactions and is managed at the Treasury in the Ministry of Finance. It is an electronic system that replaced payment across the state bureaucracy by cheque. The IFMS has improved the disbursements of funds to districts, which are now said to be quicker and enables better tracking of resource expenditures than the old system.

7.4.6 Action-triggered improvements

In some instances, the IG and the OAG actions and recommendations to various local authorities have been implemented, especially, regarding the disciplining of officials who defy regulations, and where else in making *right* the different *wrongs* committed, in form of corrective action. Such actions have helped to improve local government systems and processes in view of, employment and organisation

³⁸ Interview, Iga-Mukasa, Chief Administrative Officer, Iganga District, 30th October 2007.

systems and financial management systems. The summary below (table 7.1) shows some specific cases affecting different districts where the IG recommendations and remedial action have triggered improvement.

Table 7.0.1: Some IG action-triggered improvement to systems and processes in District Local Governments

Nature case/ Findings	IG Recommendations	Action taken
Causing financial loss & flawed procurements in Mukono District	District to recover Shs.91,083,893 from Stanbic Bank, dismiss the Ag. CAO, and recover Shs.10 million lost in payment for a boat from DCAO, CFO, Internal Auditor, Asst Engineer.	The money was offset from PAYE owed to URA, the Ag. CAO retired and money was being recovered.
Abuse of office, causing financial loss and forgery in Mbale Municipality	The Mayor and Senior Town Clerk to be prosecuted, with a view to also recover the monies.	The Mayor was kept out of office, the Town Clerk interdicted and both prosecuted.
Mismanagement, corruption & tender irregularities in Kabwohe Bushenyi	Dismiss the Town Clerk, Town Treasurer, discipline Health Inspector, recruit a competent Engineer.	Recommendations fully implemented.
Misuse & diversion of funds by CAO & Chairperson of Kamuli District	Disciplinary action against the CAO.	The CAO was retired by the PSC on 15 th November 2006.
Forgery & uttering of false documents by Deputy CAO Mukono District	To dismiss the officer for using forged academic documents.	The officer was retired from public service.
Irregular recruitment of staff in Mukono, Mpigi, Rakai Districts	Top district officials in interfered in recruitment exercises. Districts were to cancel the appointments & re-do the exercise.	Officials involved were warned, & positions re-advertised.
Mismanagement & existence of ghost pupils/teachers at Bukwanga, Iganga	Shs.1,390,122 be recovered from Headmaster, submit him to the DSC for demotion to a classroom teacher.	Implemented, the CAO instructed the CFO to deduct the monies from the H/M's salary.
Holding of two jobs and misappropriation of drugs by a doctor	The doctor contravened the government standing orders and was to be reprimanded.	Doctor was asked to defend herself, but the defence wasn't satisfactory & was

in Wakiso district		interdicted
Irregular award of tenders & contracts	Tender awards in districts of Masaka, Mbale, Mbarara, Mayuge, Kabale, flouted. Districts were to reprimand implicated officials and re-do the tendering exercise.	Tender awards were revoked, some companies blacklisted & officials reprimanded.
Forgery, uttering of false documents & impersonation by Teachers	Teachers from the districts of Jinja, Iganga, Masaka, Mbarara, Mbale, Kabale, Ntungamo, Tororo, Luwero, Sembabule were to be dismissed.	A number of teachers from those districts have been dismissed by the respective DSCs.

Source: Adapted fro IG-Reports, 2006 and 2007

Such cases and their related actions as presented above continue to send strong signals to local government authorities to improve on their methods of operation, lest they face the wrath of punitive measures. It can thus be inferred that, such interventions by external control agencies can enhance local government systems and processes.

What should be emphasised, though, is that the institutional capacity limitations of external control institutions (as discussed in Chapter Five), militate against the effort of the IG and the OAG to fight corruption and enforce integrity systems in LGs. The agencies are generally not well facilitated to carry out their mandated responsibilities, have human resource capacity limitations and lack vital support, sometimes from other stakeholder agencies like the Police CID, DPP and local governments themselves.

7.5 CONCLUSION

The chapter has demonstrated that local government systemic problems are complex and diverse. The mere crackdown on those who abuse public authority and misuse public resources does not necessarily improve accountability and public sector effectiveness. It appears that the accountability deficiency is more ingrained in the inherently weak systems and processes in LGs, yet the external control agencies appear to put much focus on uncovering offences and having the culprits reprimanded. This is evident by their annual reports to parliament, which concentrate on a *blame-spre* exercise that enumerates and exposes cases of corruption and

abuse of office, instead of identifying the organisational-structural deficiencies and possible system cure to alleviate the problem.

While the punitive and uncompromising measures should be aligned against corrupt tendencies, those who inspect, audit and review public service management should be able to recognise the above highlighted challenges, and also appreciate the circumstances and constraints under which public servants operate, or where they have little or no control. Commitment should thus, be put to undertaking system studies geared at improving systems and processes rather than mere inspections and monitoring exercises that encourage 'administrative tourism'.