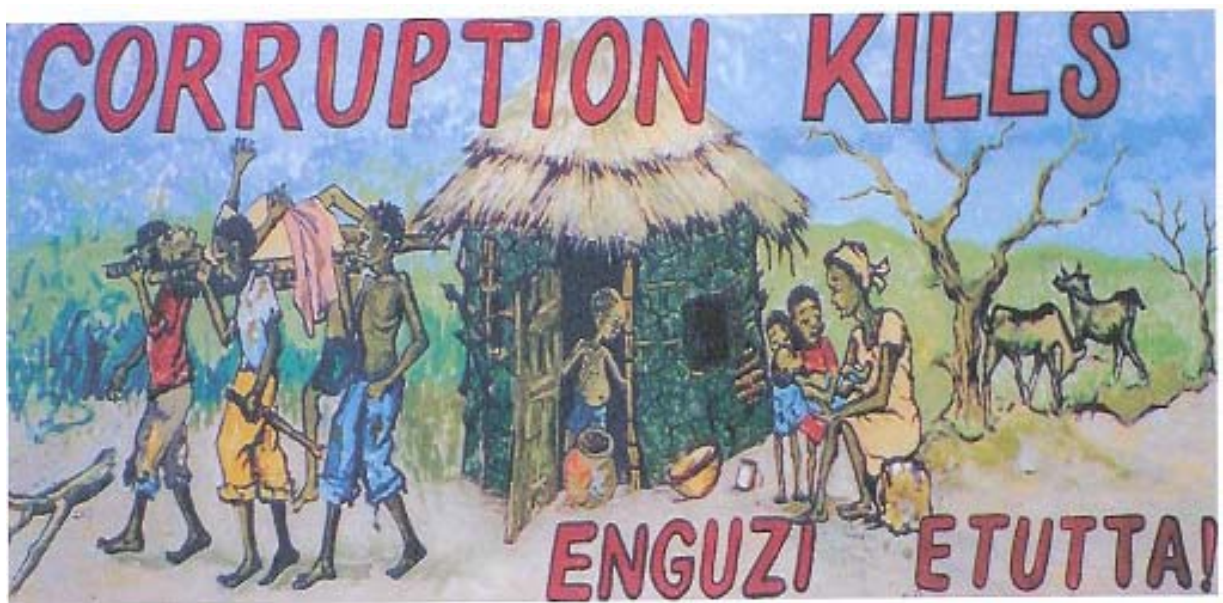


UGANDA: THE FIGHT AGAINST CORRUPTION

A case study on the prevalence of corruption in Uganda, specifically in Local Government, Education, Justice, Law & Order, and Procurement



Commissioned by the Royal Netherlands Embassy Kampala, Uganda
December 2003

PREFACE

This case study on the prevalence of corruption in Uganda is the result of a three-month internship at the Royal Netherlands Embassy in Kampala, which lasted from half September until half December 2003. The study maps the presence and resulting problems of corruption in three different sectors, namely Local Governments, Basic Education, and Justice, Law and Order. Attention has also been paid to corruption in crosscutting issues such as procurement. From this exposition several recommendations were drawn that have been presented to the Embassy. A plan of action will be developed by the Netherlands Embassy derived from these recommendations.

I would like to thank all individuals who were all very willing in providing me with their information and insights, especially my supervisor, Francesco Mascini, and also George Kalibbala, Charles Drazu, Harman Idema and Warner ten Kate.

Sandra Zwart
Kampala, December 2003

SUMMARY

At the Consultative Group Meeting in Kampala, in May 2003, it was claimed that at least 7.7% of Uganda's annual budget spending is absorbed by corruption and misuse of government funds. The Netherlands Embassy finds, therefore, that there is a need for an anti-corruption policy paper in order to get a more structured insight and understanding of the scope of corruption in Uganda.

The objective of the case study is to map corruption issues in Uganda, to define the Embassy's position in relation to anti-corruption undertakings in Uganda, and to come about an anti-corruption policy framework encompassing the Justice, Law and Order, Education and Local Government sectors, in order to reduce corruption in public and private life in Uganda.

Corruption is defined as the misuse of entrusted power for private gain. Several types, forms and manifestations of corruption can be mentioned, such as political versus bureaucratic corruption, bribery, extortion, favouritism, and embezzlement. All these types, forms and manifestations are present in Uganda, and they are applicable to the national as well as the local level. The main reasons for corruption occurring in Uganda are attitude, greed, a weak accounting system and a lack of effective monitoring and functioning institutions, human capacity, low remuneration and poverty, and donor money.

The Government of Uganda has implemented several plans of action to curb corruption, namely the Poverty Eradication Action Plan, and the Government Strategy and Plan of Action to build ethics and integrity in public office. However, an issue that needs to be addressed in relation to government's efforts to curb corruption is political will. Even though the government is signing and most probably ratifying the United Nations Convention against Corruption, there is still a serious lack of political will to fight corruption. This can be indicated by the proposals to amend the constitution, whereby most of the powers of the Inspectorate General of Government are taken away. Also public expenditure on oversight institutions is only 2%, and the government still wants to cut back in this amount.

There are seven government institutions that play a role in fighting corruption in Uganda, namely the Inspectorate General of Government, the Directorate of Ethics and Integrity, the Directorate of Public Prosecutions, the Criminal Investigations Department of the Police, the Auditor General, the Public Procurement and Disposal of Public Assets Authority, and the Public Accounts Committee of Parliament. It has to be kept in mind, that even though these institutions are in place to curb corruption, sometimes they cannot execute their tasks properly not only due to lack of capacity and infrastructure, but also due to corruption within some of the institutions. Currently however, more collaboration and co-operation is taking place within the several institutions through e.g. the Inter-Agency Forum, the Accountability Sector, and the African Parliamentarians Network against Corruption.

Civil Society forms a link between the government and the public. Civil Society Organisations can play a watchdog role, to monitor if government initiatives are followed-up. There are several Civil Society Organisations in Uganda, such as the Anti-Corruption Coalition Uganda, and umbrella organisation, Uganda Debt Network, MS Uganda, Transparency International, and Jubilee Plus-Uganda. However, Civil Society in Uganda is weak, and is not capable (yet) of bringing the government to account. According to the Government Strategy and Plan of Action Civil Society is not aggressive enough due to the past of political instability. Civil Society needs to be strengthened, and needs the opportunity to fulfil their jobs properly without threats etc.

The media play an important role in bringing awareness to the public, by publishing cases of corruption in the newspaper, and broadcasting them on the radio. The media in Uganda are relatively free.

Donors also play an important role in influencing the government to take actions against corruption. In 2003, at a Consultative Group Meeting, nine action areas were set out, namely law reform, public sector pay reform, adequate resourcing of anti-corruption agencies, commissions of inquiry, combating a culture of impunity, strengthening the accountability regime, court awards and compensation claims, addressing corruption in local government and semi-annual anti-corruption reviews. These action areas are the issues on which the donors and the Government of Uganda will focus in their continued fight against corruption. However, donors have to become more critical towards the Government of Uganda, especially since there is still a lack of political will in fighting corruption.

It can be read in the case study that corruption is present in every sector dealt with. A recurrent issue, a so-called crosscutting issue, is procurement. It has been stated that 90% of all corruption cases are procurement related. 65% of this percentage is, according to the IGG, corruption related cases in procurement of government services and works. Therefore corruption in procurement is handled separately as well as in the different sector specific chapters.

Local Governments: Cases of corruption in local governments can be brought back to procurement, financial management and human capacity. Corruption can thrive in local governments especially in relation to procurement and distribution of funds, due to lack of capacity and monitoring. Especially the Chief Administrative Officer plays a big role with regard to corruption issues. In theory every anti-corruption institution that is present at the central level, is present at the local level. The reason why it is stated “in theory” is because most of the institutions at a local level have even less capacity and infrastructure than at the central level.

The issues that need to be targeted within local government are, amongst others, public awareness raising in relation to transfer of recourses to the districts, capacity building with regard to several management committees and local government officials, and the system of appointing members to the Local Government Tender Board needs to be changed as soon as possible.

Basic Education: There are three stages in which corruption in basic education can take place. The first stage is when finances from the Central Government are transferred to the Local Governments. Corrupt tendencies are manifested in the following ways: misappropriation of funds, deliberate delays in release of funds to the final beneficiaries, short-changing by people in authority. The second stage is when resources from Local Governments are transferred to schools and teachers. Corrupt practices are manifested in the same ways as set out above, but also in procurement, and in the form of “ghost teachers”. The third stage involves the transfer from recourses from the teachers and schools to the students. Head teachers are usually responsible for malpractice; delay/non-payment of wages, misappropriation of UPE Capitation Grants and outright theft. Again procurement plays a big role here. The head teacher plays a key role in corrupt practices, and since he is considered to be a figure of authority, the public does not question him or her very often.

Target issues within the education sector are making the public aware what their rights and obligations are, and that they can question the head teacher. The public needs to be sensitised. School Management Committees and Parent Teachers Associations need to be strengthened. One important issue that needs to be looked into is the number of children that is attending school, since “ghost pupils” Since educational grants are provided on a par

capita basis, recourses are transferred on the amount of pupils, and if the number of children attending school is not known recourses will be lost.

Justice, Law and Order: Within the JLOS there are three institutions that play an important role in relation to eradicating corruption, namely the Judiciary, the Department of Public Prosecutions, and the Criminal Investigations Department of the Police.

Corruption within the Judiciary is mainly concentrated around court clerks, registrars and magistrates courts, and not so much amongst judicial officers. The main reason why the general public is not using courts is because of the high unofficial payments to be made to the Magistrates and the Court staff. Currently court awards is a very debated topic, because rumour has it that the level of corruption in court awards is nearly as high as the level of corruption in procurement. A Court award arises as a result of the government being sued and loses the case in a competent court.

The Directorate of Public Prosecutions is not known for corruption, and has a zero-tolerance policy towards corruption. There seems to be a lack of publicity and capacity though within this institution, but the problem of capacity is being tackled. End of November 2003, six officers of the Directorate were sent to South Africa for training.

According to the report of the Inspectorate General of Government the police is still considered to be the second most corrupt institution in Uganda. A reason for this is due to the fact that the police have the power to arrest and detain, which is the most direct interference with the individual freedoms. Most of the forms and manifestations of corruption, such as bribery and embezzlement that are present within the police are present within the Criminal Investigations Department. However, the traffic police are considered to be the most corrupt within the police force.

ACRONYMS

ACCU	Anti-Corruption Coalition Uganda
AG	Auditor General
APNAC	African Parliaments Network against Corruption
CADs	Citizen's Anti-Corruption Desks
CBG	Capacity Building Grant (in LGDP II)
CID	Criminal Investigations Department
CAO	Chief Administrative Officer
CFO	Chief Financial Officer
CPI	Corruption Perceptions Index
CSO	Civil Society Organisations
D2G2	Donor Democracy and Governance Group (also DDGG)
DANIDA	Danish International Development Agency
DEI	Directorate of Ethics and Integrity
DEO	District Education Officer
DfID	Department for International Development (United Kingdom)
DPP	Department of Public Prosecutions
DRC	Democratic Republic of Congo
DSC	District Service Commission
DTG	Donor Technical Group
EMIS	Educational Management Information System
ESIP	Education Strategic Investment Plan
FDS	Fiscal Development System
GoU	Government of Uganda
GSPOA	Government Strategy and Plan of Action
IFES	International Foundation for Election Systems
IGG	Inspectorate General of Government
IGP	Inspector General of Police
JLOS	Justice, Law and Order Sector
LDG	Local Development Grant (in LGDP II)
LG	Local Government
LGA	Local Government Act
LGDP	Local Government Development Plan
LGFC	Local Government Financial Commission
LGTB	Local Government Tender Board
MJCA	Ministry of Justice and Constitutional Affairs
MOES	Ministry of Education and Sports

MoFPED	Ministry of Finance, Planning and Economic Development
MoLG	Ministry of Local Governments
MoPS	Ministry of Public Service
MP	Member of Parliament
NIS	National Integrity Survey
NPT	The Netherlands Programme for the Institutional Strengthening of Post-Secondary Education and Training Capacity
NRM	National Resistance Movement
PAC	Public Accounts Committee of Parliament
PAF	Poverty Action Fund
PEAP	Poverty Eradication Action Plan
PPDA	Public Procurement and Disposal of Public Assets Authority
PRSC	Poverty Reduction Support Credit
PRSP	Poverty Reduction Strategy Plan
PS	Permanent Secretary
PSC	Public Service Commission
PTA	Parent Teachers Association
RDC	Resident District Commissioner
RNE	Royal Netherlands Embassy
SFG	School Facilities Grant
SMC	School Management Committee
SWIPCO	Swiss Procurement Company
TI	Transparency International
TMU	Timber Monitoring Unit
UDN	Uganda Debt Network
ULGA	Uganda Local Government Associations
UNDP	United Nations Development Programme
UPE	Universal Primary Education
UPF	Uganda Police Force
URA	Uganda Revenue Authority
USAID	United States Agency for International Development

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RECOMMENDATIONS

As long as the Government of Uganda shows a lack of political will in curbing corruption, anti-corruption initiatives by other actors, such as donors and Civil Society, will most probably remain fruitless.

- Curbing corruption is an issue, which does not have a significant place on the government's agenda. Therefore the Netherlands Embassy has to try to, together with other donors, influence the government in placing the issue of anti-corruption on the agenda with the same level of importance as poverty reduction and HIV/AIDS, and also stress that anti-corruption initiatives should be an integral part of these policies;
- Amongst the public, corruption is not considered to be such an important issue that the government has to tackle it immediately, partly because it is a phenomenon that has been accepted. Therefore the public has to be made aware/sensitised that anti-corruption is an issue of high importance and that it can be curbed;
- In the proposals to amend the constitution it has been proposed to take certain powers from the Inspectorate General of Government (IGG) that will reduce the strength of this institution enormously. And to place the Uganda Human Rights Commission under the mandate of the IGG, which will probably have the result that this organisation will only exist on paper. The Netherlands Embassy, and the other donors, will have to influence the government in not following through with these recommendations;
- The time frame for the publication of the URA Commission of Inquiry report has been repeatedly extended. The reasons why are not very clear, but what is known, is that when this report is published, it is more than likely that it will have serious repercussions for some top officials. The Netherlands Embassy, together with the donors, has to put more pressure on government with regard to the publication of this reports;
- Follow-up to the Porter Commission and the Helicopter report is going very slow, and mixed signals are brought forward. For instance with regard to the Porter Commission it was stated in October 2003 that the progress was "progressing steadily" according Hon. Mr. Tim Lwanga¹, but there has been no follow up. There seems to be a problem with evidence gathering and making this evidence stand in court. The Netherlands Embassy, together with the donors, need to pressure the government to disclose the status of the investigations, and set a time frame for the follow-up to be finalised;
- With regard to the Commissions of Inquiry reports that have been published, it is vague which recommendations have or have not been followed up. The follow-up to these reports has to be mapped.

Institutions

- There are seven anti-graft institutions, that is to say there are seven government institutions that have a mandate to fight corruption. Some might say that this amount is too much, which results in institutions passing the buck etc. However, seven institutions is not too much as long as they operate within their mandate. As has been stated in the case study there is more co-operation and collaboration between the institutions, but it is still not always clear to the public to which institutions they can or should go. To give the public a clearer picture of what which institution does, the Netherlands Embassy, can try to present this issue to the Inter-Agency Forum so that they can look into it;

¹ Mentioned at an Anti-Corruption Donor Sub-Group Meeting, 2 October 2003.

- The CID fraud squad remains largely ineffective as a result of inadequate staffing and equipment. Therefore, more research needs to be done on the problems and the needs of the CID. A spokesperson of the CID needs to be invited to one of the Anti-Corruption Donor Group Meetings to present these matters clearly. Following from this discussion the donors can determine whether or not they can be of any support, and if so, discuss donor co-ordination/collaboration.

Procurement

- The PPDA is at the moment developing a Harmonisation Law, which will take care of the weak rules and regulations that are present in Local Governments, and take away any discrepancies between the rules and regulations between local and central level. The Embassy should strongly monitor and be involved in the harmonisation process as corruption at the local levels seems to be rampant and needs to be stopped;
- The Embassy should put more focus on the compliance-side of the procurement reforms, such as getting involved in the procurement audits and their follow up, creating benchmarks for measuring compliance and corruption, but also the compliance and integrity of the PPDA itself (since they are a role model);
- The Embassy should try to measure the level of corruption within procurement after the e.g. the Harmonisation Law has been in place for a while (through surveys etc.). If the perceived level of corruption has not decreased, especially in local governments, the Embassy should:
 - Develop new and extra anti-corruption initiatives;
 - Define its position with regard to support public procurement in the future.

Awareness and accountability raising

- Public awareness raising is specifically a task that has to be done by Civil Society. Jubilee Plus Uganda is trying to initiate Citizens Anti-Corruption Desks. These desks will provide for information on allocation of funds from Central Government to the districts as well as educating the communities on what they can do, and where they can go with this information. The desks will be installed at nearly all levels of Local Governments; villages, counties, sub-counties, villages, parishes, and community centres. The Netherlands Embassy can support an organisation like Jubilee Plus-Uganda in awareness and accountability raising from the grassroots;
- Even though court awards were not a big topic in this study, further inquiry needs to be undertaken. As stated the level of corruption is approximately equal to the level of corruption in procurement. The Netherlands Embassy needs to take the lead in investigating into the issue of court awards, since they chair JLOS.

Capacity building and monitoring

- One of the major reasons behind corruption in education is not knowing the exact the number of children that are attending school. The Netherlands Embassy should initiate a study as to how many children are actually in school, find loopholes why still so many "ghost pupils" exist;
- Within local governments there are several management committees, such as the School Management Committees, the Health Management Committees etc. However, these Committees are fairly weak due to a lack of capacity etc. The Netherlands Embassy can

strengthen these management committees, e.g. with provision of management skills. Capacity building can also be introduced to Parent Teachers Associations. Currently head teachers are still seen as figures of authority and are not questioned very often. Therefore the public needs to be sensitised as well. Transparency International Uganda is also currently working on these issues.

Recommendations that are not abstracted from the policy paper

- In February 2004, the Utstein Resource Centre will be starting another Anti-corruption Course on the Internet. Several members of the Embassy have taken this course and have found it very useful. It is advisable for everybody to follow this course, especially since it will give a good (further) understanding of the concept of corruption, it does not take up too much time and is not very difficult;
- DfID has initiated a study regarding ethical behaviour of British firms internationally, which also includes Uganda. The Netherlands Embassy can take up a similar study purely for Uganda;
- Take notice that the Netherlands Embassy has to abide by a Code of Conduct as well. Also, the Netherlands Embassy could develop an internal policy paper and plan of action on how to deal with corrupt issues within the Embassy.

INTRODUCTION

Definition of corruption

According to the Utstein Anti-Corruption Resource Centre corruption is a phenomenon that is many-faceted: it is diverse and complex in terms of actors, initiators, profiteers, causes and consequences. Currently there is no conformity on the exact definition of corruption. In this study the working definition of corruption will be the misuse of entrusted power for private gain.

Netherlands Ministry of Foreign Affairs: position on corruption

The Netherlands Ministry of Foreign Affairs has just published a new policy document called "A mutual obligation. Mutual interests, mutual responsibilities: Dutch development co-operation en route to 2015." This title implies that development co-operation is never without obligations, and it creates obligations for all that are involved: the Netherlands, donors, Civil Society Organisations, the public, multilateral organisations, and the developing countries themselves.² However, anti-corruption is not a specific topic in this document, even though it does state that corruption is considered an important issue, especially in relation to developing countries. The Netherlands places anti-corruption under the heading of good governance.

Within the Ministry of Foreign Affairs the Directorate Good Governance is developing a memorandum in which the issue of corruption is specifically being dealt with. The Directorate has just reached full capacity and is hoping to finish the memorandum beginning of 2004.

In relation to Africa, there is a Netherlands-Africa Policy. Anti-corruption issues are also part of this policy. The Netherlands government will, in this policy, focus on five central themes, namely:

- foster peace, security and stability through conflict control and prevention;
- foster good governance;
- investing in people, especially in relation to reproductive health;
- education and HIV/AIDS; and
- foster "*pro poor growth*" by supporting African business and sustainable development, especially the management of natural resources, the environment, and water.³

Especially theme two –foster good governance- is relevant. The Netherlands government will, in relation to good governance, focus on the strengthening of the state's regulating capacity in relation to determining and enforcing rules, and on supporting administrative and technical capacity. This to reach accountability, transparency, efficiency and effectiveness. Focus will be purely on a national level. Besides this, the Netherlands government will support, on a national and an international level, democratisation processes and the introduction of institutional checks and balances. The Policy focuses on countries that have shown a certain degree of political will, and have created a feasible policy, as well as the willingness to enter into dialogue with several national and international partners.⁴ The Netherlands government is aware that when creating conditions that will contribute to the improvement of governance, a Western approach is not always applicable. However several conditions have to be met, next to the conditions set out above. With regard to good governance the government has to serve the public interest, it has to be able to enforce law

² Kamerbrief aan de Eerste en Tweede Kamer over de notitie " Aan elkaar Verplicht" (2003), p. 1.

³ "Sterke mensen, zwakke staten. Het Nederlandse beleid ten aanzien van Afrika ten zuiden van de Sahara in meerjarig perspectief. (www.minbuza.nl; 13 oktober 2003).

⁴ "Sterke mensen, zwakke staten. Het Nederlandse beleid ten aanzien van Afrika ten zuiden van de Sahara in meerjarig perspectief."

and order, it has to be able to give effect to decisions, and it has to have the legitimacy of the people.⁵

In terms of support the Netherlands government will be spending 0.8% of the GNP on development co-operation next year. Concentration will be on several themes: education (15% of development assistance), environment and water (0.1% GNP), HIV/AIDS prevention and health. The Netherlands government uses a list of 36 partnership and 28 thematic countries in relation with the spending of aid. In 2002 assistance was strongly directed to the least developed countries, which made up for 40%, and towards low-income countries, 32%. Support for Uganda in 2003 is \$ 33.5 million.

Motive for an anti-corruption study

At the Consultative Group Meeting in Kampala, in May 2003, it was claimed that at least 7.7% of Uganda's annual budget spending is absorbed by corruption and misuse of government funds.⁶ This percentage however, is not a new estimate, but can give some indication nevertheless. The amount of public funds lost annually is estimated to be around \$ 100 million.⁷ Donor support accounts for more than 50%, which comes in the form of grants and loans. The Netherlands support for 2002 was \$ 42 million, which means that around \$ 3,3 million of Dutch taxpayer's money is lost due to corruption and financial mismanagement. In 2003 the Netherlands support was \$ 33.5 million. With an estimate of 7.7%, this means that still around \$ 2,6 million is lost. Obviously, this makes it very difficult for donors to justify their spending.

Even though no new figures are presented regarding the amount of money lost every year as a result of corruption, and even though the outcome of the CPI 2003 list of Transparency International shows a more positive picture (set-out in the next chapter), there is a growing awareness that corruption is becoming more detrimental in Uganda, and that corruption is still endemic in Uganda. The Netherlands Embassy finds, therefore, that there is a need for an anti-corruption study in order to:

- (a) Get a more structured insight and understanding of the scope of corruption in Uganda;
- (b) As a result to be able to act more effectively and efficiently with regard to the Netherlands Embassy's development co-operation policy.

Objective of the case study

The objective of the study is to map corruption issues in Uganda, to define the Embassy's position in relation to anti-corruption undertakings in Uganda, and to come about an anti-corruption policy framework encompassing the Justice, Law and Order, Education and Local Government sectors, in order to reduce corruption in public and private life in Uganda. Several reasons can be given why the Netherlands Embassy is focussing on these particular sectors.

Support: The Netherlands Embassy is specifically supporting these three sectors. Mention has to be made that the Embassy is also focusing on financial management and procurement related matters, so called cross cutting issues. These cross cutting issues will be dealt with as well.

Donor Policy Matrix: In the Donor Consultative Group meeting it was decided to develop a Donor Policy Matrix. Issues and sectors were divided, and it was agreed upon that the Netherlands Embassy would take these three sectors into account.

⁵ Ibidem.

⁶ "Country Report July 2003.", The Economist Intelligence Unit Limited (2003), p. 27.

⁷ "Country Report July 2003.", The Economist Intelligence Unit Limited, p. 27.

IGG Report July-December 2002: In the last IGG report it was stated that district administrators and head teachers are perceived to be more corrupt. The police are considered to be the second most corrupt institution. This gives another incentive to enquire into these sectors, and to bring along various measures that can be taken by the Netherlands Embassy regarding the reduction of corruption. Further elaboration on the results of this report will be done in the next chapter.

Composition of the case study

This anti-corruption case study can be divided into two parts, part one adheres more to a holistic approach, and the second part to a more targeted approach. The composition of the case study is as follows:

In the first two chapters background information will be given on Uganda. Focus is on the manifestation of corruption in Uganda, how corruption is perceived, and the different actors that are present at the anti-corruption level, such as government institutions, Civil Society and the media, and donors.

Before going into the sector specific chapters, the issue of procurement will be dealt with as a cross cutting issue. It has been stated that corruption in procurement makes up for 90% of all corruption cases. Also the Netherlands Embassy is the biggest donor in the area of procurement, and therefore it is important to take notice of this issue. After discussing corruption in procurement in chapter three, issues of corruption in the sector specific chapters will be set out.

The following three chapters will deal with local governments, basic education and justice, law and order respectively and a more targeted approach will be taken in account. It has been tried to make the set-up of the chapters similar to each other. Firstly, some background will be given on the specific sectors, after which the main corruption issues will be given. Thirdly a short overall conclusion will be given, and the actions that have been undertaken and can be undertaken are listed. Not all of the actions that can be undertaken are placed in the recommendations, only those who appear to be most important and feasible.

1. CORRUPTION IN UGANDA

1.1 Introduction

'Provided the beneficiaries of graft do not hoard too much of what they accumulate by means of the exploitation of the resources made available to them through their position, and provided they redistribute along lines that are judged to be socially desirable, their behaviour is deemed acceptable. Corruption is not, therefore, a matter of a few "rotten apples" or of a venal "class", even less an "evil" to be eradicated by means of vigorous or "ethical" campaigns. On the contrary, it is a habitual part of every day life, an expected element of every social transaction... We are not dealing with antiquated practices on their way to extinction but, much more realistically, with codes of conduct, which are at the heart of modern economic activities. Even those Africans who support wholeheartedly the principles of economic development and the reforms inspired by the Bretton Woods institutions are not in a position to operate outside such social rules and imperatives. Hence what we are inclined to label as corruption is in reality a complex of behavioural patterns which are key ingredients of the continent's modernity.'

Patrick Chabal and Jean-Pascal Dalozé, "Africa Works", (1999).

In this chapter the occurrence of corruption in Uganda will be discussed. Corruption is defined as the misuse of entrusted power for private gain. Firstly the public perception of corruption in Uganda will be considered. Paragraph 1.1 will be divided into the most relevant international surveys, and national surveys. In paragraph 2.1 the different typologies, forms and manifestations of corruption that are present in Uganda will be discussed, after which the causes and effects of corruption will be set out, respectively.

1.2 Public Perception of Corruption in Uganda

1.2.1 International Surveys

Human Development Index (UNDP): The UNDP has, in their Human Development Report 2002, published a 'Subjective Indicators of Governance' list, which contained a graft list. In this list, Uganda is placed on the 150th place of the 173 countries examined.⁸

Corruption Perceptions Index (TI): According to the Corruption Perceptions Index (CPI) 2003 Uganda ranked 17th most corrupt country out of 133 countries studied, with a score of 2.2. With regard to the year before, this means that Uganda has fared better on the list. In 2002 Uganda ranked 9th out of a 102 countries studied, with a score of 2.1. Does this really mean that Uganda has become less corrupt? According to TI a year-to-year change has little significance, contrary to a five-year trend. Table 1 shows Uganda's CPI score over a five-year period. It can be concluded that Uganda is perceived to be increasingly less corrupted since 2001.

Table 1: CPI over five years - Uganda

Year	Uganda's Rank	Rank from the bottom	CPI Score	Standard Deviation	Numbers of Surveys Used
1999	87/99	12 th	2.2	0.7	5
2000	80/90	10 th	2.3	0.6	4
2001	88/91	3 rd	1.9	0.6	3
2002	93/102	9 th	2.1	0.4	4
2003	113/133	20 th	2.2	0.7	6

It has been argued that this CPI list is subjective and not accurate due to the fact that not all countries are included. With regard to the subjectivity of this list, naturally it is subjective because it is based on perceptions. Even though the CPI list does not include all countries in

⁸ "Human Development Report 2002. Deepening democracy in a fragmented world", UNDP, p. 40.

the world, according to the Utstein Anti-Corruption Resource Centre, this list is probably the best existing statistical measure of perceptions of corruption. Surveys are held amongst business people, the general public and country analysts.⁹

1.2.2 National Surveys

IGG Report July-December 2002: The Inspectorate General of Government's Office (IGG) is handling approximately 6.000 cases. In the latest IGG the latest Report, July-December 2002, most complaints were filed against the Government Departments/Institutions, and especially (15,8%, out of 45,5%) against district administrators. These complaints mainly included misuse of district funds and facilities, mishandling of tenders and contract management, abuse of office, non-payment, and victimisation. The IGG recommends that more resources should be devoted to capacity building and public awareness programmes should also be intensified for both the leaders and the citizens. The police was considered the second most corrupt institution, and accounted for 10,3% of the total complaints received. Most complaints included the abuse of office, mismanagement and mishandling of cases, bribery and extortion, delay in service delivery, and non-payments of salaries and other benefits. The IGG recommends that the wages and the living conditions of the police should be improved. The public should be encouraged to report corrupt cases to the police. There was also an increase of complaints against head teachers of primary and secondary schools, resulting in 8,7% of total complaints received, and making them the third most perceived corrupt institution in Uganda. The nature of complaints consists of mismanagement of Universal Primary Education funds and other school resources, abuse of office, existence of "ghost teachers" on the payrolls and non-payment of salaries and other benefits. The district directors of education should provide for a system to check occurrences such as "ghost teachers", and revise its methods in relation to its operations both at the headquarters and at the district.

International Foundation for Election Systems (IFES), Afrobarometer: Even though the Government of Uganda seems to be faring better with respect to its handling of social services and crime, it takes a hit when it comes to curbing corruption and attacking several economic issues –e.g. reducing poverty, reducing the income gap. Corruption is thus still a big issue. Only 31% of the interviewees in the Afrobarometer gave the government a positive review for its efforts in fighting corruption. 60% feel that the government is more corrupt now, than ever before.¹⁰ However, corruption ranks relatively far low down Ugandans' list of "the most important problems facing this country that government should address". Poverty and health/AIDS are the key issues that government should address according to the interviewees.

National Integrity Survey: In the latest National Integrity Survey (NIS), which was published on the 5th of March 2003, it was stated that there is a marked reduction in bribery since the last NIS in 1998.¹¹

Table 2: Reduction of bribery in different institutions

Institution	% From	% To
Police	63	46

⁹ <http://partner.u4.no/services/courses/2003-08/part1.cfm> (10 October 2003), p. 19.

¹⁰ The Uganda Round 2 Afrobarometer Survey Report was designed as a nationally representative sample. Respondents are randomly selected. 2400 Individuals were interviewed, meaning this Afrobarometer Survey provides a margin of sampling error of plus or minus 2.0% with 95% confidence. There is one caveat in this survey. Due to the violent incidents in some of the northern provinces, it was not possible to safely conduct interviews there. The survey was presented on 31 January 2003.

¹¹ "Final Report. Second National Integrity Survey. Volume 1." Inspectorate of Government, (2003), p. 18.

URA	40	31
Magistrates Courts	50	29
Local Government	39	16

However there is still a lack of awareness that the act of bribery entails that not only the receiver is corrupt, but also that the giver is equally corrupt. Other findings were that there is a general satisfaction with improvement in specific services, such as health, education and agriculture, as also stated in the Afrobarometer. However, dissatisfaction was expressed in tendering procedures and contract managers, as well as the perception of levels of corruption in the private sector, and with all forms of taxation. There seems to be an apparent increased tolerance for corrupt practices. Also there seems to be an attitude of sympathy towards those who ask for small bribes, especially when they earn a meagre income. According to the interviewees the main cause of corruption is low salaries and delay in payments of salaries.¹²

According to the several surveys, Uganda can be considered a country that is still highly corrupted, even though it is faring better on the CPI 2003. Most complaints are directed towards the district administrators, the police and head masters, and most complaints are on the misappropriation of funds, abuse of office, non-payment of salaries, and the existence of “ghost” employees. These complaints will, amongst others, be handled in the sector specific chapters.

1.3 Typologies, forms and manifestations of corruption

According to Utstein Anti-Corruption Resource Centre there are two typologies of corruption, namely bureaucratic versus political corruption, and controlled versus uncontrolled corruption. Next to these typologies there are five forms and manifestations: bribery, embezzlement, fraud, extortion and favouritism.¹³ These typologies, forms and manifestations will be set out below, together with the presence of them in Uganda.

1.3.1 Typologies

Political Corruption versus Bureaucratic Corruption: One of the most important distinctions that can be made is political corruption versus bureaucratic corruption. Political corruption or grand corruption refers to when political decision-makers use their political powers in order of sustaining their own powers, wealth, and status. It takes place at the highest levels of the political system. Bureaucratic corruption, on the other hand, implies corruption in the public administration, and can also be labelled petty corruption (even though bureaucratic corruption can also be grand sometimes, depending on the amount of public officers or resources involved). However, to make a distinction between political and bureaucratic corruption is not easy and is rather vague, because it entails making a clear distinction between politics and administration, which in most political systems is unclear. When both political corruption and bureaucratic corruption are present, it is called systemic corruption. This is more than often the case in developing countries. Political corruption and bureaucratic corruption tend to enforce each other.

Both political and bureaucratic corruption is present in Uganda. An example of political corruption can be read in *The New Vision* that the Auditor General (AG) has brought to light that staff members of the Uganda Revenue Authority (URA) have lost billions of Shillings due to tax evasion and fraudulent dealings. The AG has found “ghost policemen” on the URA payroll.¹⁴ A case of bureaucratic corruption can be shown in the next example. In the district

¹²“Final Report. Second National Integrity Survey. Volume 1.” *Inspectorate of Government*, p. 19.

¹³ <http://partner.u4.no/services/courses/2003-08/part1.cfm> (8 October 2003), p. 6. All typologies are extracted from this web page.

¹⁴ *The New Vision*, 9 September 2003, p. 4.

of Hoima five local councillors are put under investigation for alleged misappropriation of Ush 350,000 each. The money was given to them as an allowance for a business trip. However they allegedly did not attend the trip and pocketed the money.¹⁵

Controlled versus Uncontrolled Corruption: When you are talking about controlled corruption, this means that the regime has complete control over processes and proceeds of corruption. In cases of controlled corruption, bureaucratic corruption is often kept to a minimum. Uncontrolled corruption means that, as opposed to controlled corruption, corruption is disorganised, meaning that for instance paying a bribe will not automatically guarantee that services will be rendered, and that paying one bribe will be enough.

As far as we know there is no serious indication of largely controlled corruption in Uganda. The GoU does not have strict control of the processes and proceeds of corruption. As mentioned in the chapter on corruption in JLOS paying a bribe will not automatically guarantee that services will be rendered. The “price” of a bribe can, of course, become customary after a while, and as a result becomes commonly known. An example of a price of a bribe that has become customary is manifest in the Judiciary. Court officials ask money for transport costs. Mention has been made that Ush 1,000 must be paid in Court. In the report of a survey on integrity in Uganda’s Judicial System the official and unofficial amount of a bribe are indicated:¹⁶

Table 3: An approximate amount of a bribe in the Judicial System

Number	Category of Officer	Official Amount (Range) Ush (millions)	Un-official Amount (Range) Ush (millions)
1	Judge	3,000 – 800,000	3,000 – 2,000,000
2	Police	2,000 – 800,000	5,000 – 1,300,000
3	Court Clerk	2,000 – 1,480,000	2,500 – 1,200,000
4	Enforcement Officer	20,000 – 300,000	5,000 – 100,000

1.3.2 Forms and Manifestations

Bribery: Bribery is the act of offering someone money or other goods in order to persuade him or her to do something for you in return. Both giving a bribe and taking a bribe is considered to be corruption. Bribery is also known as kickbacks, baksheesh, sweeteners and grease money.

Taking and giving bribes in Uganda is very common, even though there is a perceived reduction in bribery, as stated in the National Integrity Survey. The Economist estimated in 2002 that bribes in Uganda increase a company’s costs with 8%. This has a negative impact on economic growth, because inflows of foreign investment are closely correlated with low levels of corruption, according to the Economist.

Embezzlement: Embezzlement is theft of public resources by public officials. As an effect of embezzlement misappropriation of public funds is taking place. However, from a strict legal point of view embezzlement is not corruption, because it does not involve a civilian (corruption normally involves a civilian agent and a state agent). Embezzlement can therefore considered to be theft.

Embezzlement is also a very common practice in Uganda, especially at the local government level. In the New Vision, for instance, it was stated that Ush 15 billion¹⁷ for classroom

¹⁵ *The Monitor*, 14 August 2003.

¹⁶ Barya, John-Jean B., and Simon Peter Rutabajuka, “Report of a survey on integrity in Uganda’s Judicial System”, (Kampala, 2003), p. 44.

¹⁷ 15 billion Shillings amounts approximately to 7,5 million US Dollars.

construction was unaccounted for in 28 districts. The funds allegedly have been misappropriated due to corruption and shoddy work.¹⁸

Fraud: Fraud covers both bribery and embezzlement. It is an economic crime that involves some kind of deceit. Individual enrichment is normally considered to be the case in relation to fraud, but it can also be collective. Collective fraud, of extractive corruption, is used by the ruling group to increase the benefits for the rulers.

Extortion: Extortion entails the use of force to extract money. It is very similar to bribery only the money is extracted with more violence.

Favouritism: Favouritism is also known as cronyism and entails to grant offices or benefits to friends and relatives, regardless of their abilities. Favouritism can be considered a corrupt act because it involves the abuse of power. A special form of favouritism is nepotism. Nepotism means that an office holder will favour his relatives and family members, and for instance nominate them to prominent positions. An example of favouritism is set out below.

Tender for management of the Taxi Park in Lyantonde.

The majority of the Town Council Tender Board decided to use their numbers to award the tender to M/s UTODA PUT SAFE in total disregard of the regulations in place, even when it was obvious that this firm had lost. The matter was referred to the (now former) Central Tender Board and it ruled that the tender had to be awarded to the winner in accordance with the regulations and the set terms. However, the majority of the Town Council Tender Board insisted that the tender would be awarded to their favourite firm.

A paper presented on types of cases the Inspectorate of Government has been handling in local governments, Jotham Tumwesigye IGG.

All typologies, forms and manifestations of corruption are present in Uganda, be it that some types are present in a greater degree than others, e.g. favouritism/nepotism is very common within public procurement. It needs to be mentioned that these typologies and the like are applicable to the whole society and are very embedded within society. Therefore corruption can be considered endemic.

1.4 Reasons for Corruption

Types of corruption mentioned above are applicable to the national as well as the local level, and throughout this policy they will be cited. Next to these types of corruption several reasons can be identified, which by it self are not corrupt practices, but are an incentive for corrupt practices. The main reasons are attitude, greed, a weak accounting system and a lack of effective monitoring and functioning institutions, human capacity, low remuneration and poverty, and donor money.

Attitude: During the ACCU Anti-Corruption Week, and the Poverty Eradication Action Plan Reviews in 2003 it has been stated over and over again that there needs to be an attitudinal change within the public. Most of the public looks up to those who have collected a lot of wealth, whether it is obtained by corrupt practices or not. People do not question those who have earned a tremendous amount of financial assets during a period which is clearly too short. Also the young generation will be keeping getting affected by corrupt conduct. If they grow up amongst these practices, they will develop cynicism and discouragement, and there will be nearly no incentive to take a different uncorrupted course.¹⁹ Therefore there needs to be an attitudinal change within the public. However this change can only be realised by awareness raising, and educating of the public. Also changing the attitude of the public is a

¹⁸ Utstein Anti-corruption Training Course Part 1 (2003), p. 3.

¹⁹ www.corisweb.org/article/articlestatic/299/1/297.

long-term process, and other measures, like the ones mentioned above, have to be taken first.

Greed: Greed is a factor that contributes to corruption enduring. However, it needs to be stated that greed is not a trademark that only Ugandans possess. Greed is a symptom that is embedded in human nature.

They're Corrupt because they're poor; dictators because they're not democrats

Corruption in Uganda has these same root causes with greedy government in most of Africa, where he (Zubeida Jaffer an anti-apartheid South African journalist) observes: "there is an obsession with becoming wealthy and living in excessive (but tasteless) comfort, something that comes with a late escape from poverty! The debates have become more and more shallow, parochial, cynical (what hard-line Movementists call pragmatic) and retrogressive."

The Monitor, October 15, 2003.

Weak Accounting System: According to Uganda Debt Network there is still a matter of a weak accounting system. A weak accounting system has often been used as an excuse for not being able to account for public funds. Very often taxes deducted from payments to contractors of government jobs are never remitted to the Uganda Revenue Authority.²⁰ The weaknesses in accounting does not only have consequences for the level of tax collection, but it also has implications for the execution of programmes in ministries, such as Education, Justice and Internal Affairs. According the Inspectorate General of Government a weak accounting system and the ability to manage public funds is due to the lack of human capacity.

Human Capacity: There is a serious lack of capacity. As can be read in the chapter on local governments for instance, local government councils are elected every four years, but most of the time, these officials are not competent and no training is provided for them in advance. Another example is the amount of training investigators of the Inspectorate General of Governments get. It has been said that after two weeks they are considered to be "competent" investigators. As a result, however, these officials are not up to the task of investigating properly and following up on more high profile cases.

Monitoring and functioning institutions: According to Uganda Debt Network (UDN) there is still a weak functioning accountability system, but it is improving, especially due to the half year reports of the IGG; more corrupt officials have been exposed. However, the functioning of the institutions is far from optimal. The IGG has problems with dealing with high profile cases. For instance, in May 2003 the IGG received a complaint that teachers were not given the freedom of choice with regard to the purchase of primary school text books and teachers' guides, and that they were being forced to purchase instructional materials only from Longman and Macmillan Publishers.²¹ The IGG acted immediately upon this complaint, but as can be read in their report only local individuals were interviewed and punished, while the multinational publishing companies were not questioned for their possible breach of integrity.

In the constitution it is stated that all persons placed in positions of leadership and responsibility shall, in their work, be answerable to the people.²² Therefore the public can monitor their political leaders. However, UDN found that the public does not hold their political leaders accountable, even though they have a right to do so. Therefore they have

²⁰ "Dossier. Corruption in Uganda", *Uganda Debt Network*, (2000), p. 18.

²¹ "Report on investigation into alleged mismanagement of the book selection stage in the procurement of primary school textbooks and teachers' guides under cycle 9 by Bugiri, Mubende and Tororo District Officials –TS 101.2003.", *IGG* (2003).

²² Preamble XXVI. Accountability, ii, p.8.

implemented an anti-corruption campaign at the grassroots level. The aim of this anti-corruption campaign is to mobilise individuals at the grassroots to participate actively in holding their public officials at both the central and local level accountable for their actions. As a result of this campaign people started mobilising and demanded the finances to be put to use.

Low Remuneration and poverty: As has been stated in the several reports, such as the National Integrity Survey and IGG, low remuneration is still considered one of the major incentives to become corrupt, especially in relation to the poor. Most Ugandans are becoming poorer, even though the economy is growing. It has been estimated that the proportion of Ugandans living under the absolute poverty line has increased from 34% in 1999 to 38% currently.²³ Next to poverty, and low remuneration, bad conditions and terms also play a role in corruption arising and subsisting.

Donor Money: It has been argued that the inflow of donor money in the form of budget aid makes sure that corruption subsists. The absorption capacity of government institutions is too limited due to an underdeveloped financial management system and therefore opportunities for misuse of public funds are abundant. Some donors do not seem to take the issue of accountability serious enough, which again creates an opportunity for the misuse of funds and grants.

1.5 Effects of Corruption

Economic Loss: Especially in developing countries corruption has detrimental effects, particularly in relation to economic development and poverty reduction. James Wolfensohn said at the Annual Meeting of the World Bank in 1996 that “corruption diverts resources from the poor to the rich, increases the costs of running businesses, distorts public expenditures, and deters foreign investors”.

Ethical Loss: When corruption is endemic there is the danger the young generation may emulate corrupt practices in believing it is the norm. Others, who are growing up in such an environment, but are unable, to partake in corruption will develop cynicism and discouragement. In all cases there will be no incentive to take a different uncorrupted course.²⁴ Therefore there needs to be an attitudinal change within the public. However this change can only be realised by awareness raising, and educating of the public and leaders.

1.6 Conclusion

Corruption in Uganda is considered to be endemic. All the various typologies, forms and manifestations of corruption are present in Uganda. Even though the perceived percentage of bribery has, for instance, decreased it is still very persistent in day-to-day life, especially in the police force. The public is very aware of the issue of corruption and have found that the district officials are most corrupt, followed by the police and head teachers. The reason why people become corrupt is, according to the public, low remuneration. There is even an attitude of sympathy towards those who earn a meagre income. However, other incentives can be mentioned, such as greed, and a weak accounting system. It is even claimed that donor money can be considered to be a reason why corruption is present. Given this information, donors must ask themselves whether or not development co-operation is still fruitful and outweighs the negative consequences and effects of persisting corruption.

²³ Uganda National Household Survey 2002/2003.

²⁴ www.corisweb.org/article/articlestatic/299/1/297.

2. ANTI-CORRUPTION INSTITUTIONS AND ACTORS

In this chapter the several anti-corruption institutions and actors in Uganda will be discussed. The chapter will be divided into three sections the central government institutions, the donors

and Civil Society and the media. Together with the actions the several actors and institutions can undertake, their shortcomings will also be discussed.

2.1 Government of Uganda

2.1.1 Plans of action

Poverty Eradication Action Plan (PEAP): The PEAP is also known as the Poverty Reduction Strategy Paper (PRSP). It is a medium-term development plan that steers government's policy and provides a framework for detailed sector and local government plans. The Government of Uganda revises the PEAP every three years, and the Ministry of Finance annually publishes a progress report. Both the PEAP and the progress report are presented to the World Bank.

In the PEAP corruption is placed under the heading of good governance. The PEAP is based on four pillars, which are in line with the Millennium Development Goals: (a) increasing the ability of the poor to raise their incomes, (b) increasing the quality of life of the poor, (c) creating an enabling environment for economic growth and structural transformation, and (d) ensuring good governance and security including improvement in public service delivery and decentralisation.²⁵

Poverty Reduction Support Credit (PRSC): Poverty Reduction Support Credit is based on the World Bank's Country Assistance Strategy and supports the implementation of Uganda's PEAP/PRSP, as set out above. So far the Government of Uganda has received three PRSCs of \$ 150 million in planned series of three.

Government Strategy and Plan of Action (GSPOA): The first government's strategy and plan of action to fight corruption and to build ethics and integrity in Public Office (GSPOA) was published in 2000. The aim of the plan was to build capacity, since a lack of capacity was targeted as the main problem for ongoing corruption. The next GSPOA will cover the period 2004-2007. The second GSPOA will be a good assessment of what the government institutions have accomplished, and if capacity building has had effect. Currently the Directorate of Ethics and Integrity is revising the GSPOA. Key issues are making the plan more strategic than the last, and to deal with the question of increasing co-ordination between independent government institutions, since autonomy still seems to be more important than co-operation and collaboration.

2.1.2 Political Will

An issue that needs to be addressed in relation to government's efforts to curb corruption is political will. Even though it may seem that the government is very willing to curb corruption, as can be concluded from the plans of action, the implementation of the Leadership Code Act, described below, and the signing of the UN Convention against Corruption in December 2003 there is a lack of political will within the Government of Uganda. According to a new PricewaterhouseCoopers Report, *Fighting corruption in Sub-Saharan Africa: Can we win the war?*, it is stated that the war on graft is lost. The key reason for this failure is the lack of political will. In the examples below this lack will be demonstrated.

Leadership Code Act: The Leadership Code Act came into effect on the 12th of July 2002. This act repealed the Leadership Code 1992. The object of this act is to provide for a minimum standard of behaviour and conduct for leaders, to require leaders to declare their incomes, assets and liabilities and to put in place an effective enforcement mechanism for

²⁵ "Second Local Development Programme. Operational Manual for LGs.", Ministry of Local Governments, (August 2003), p. 1.

ensuring compliance with its measure. The Leadership Code Act is designed to increase transparency and to prevent and curb corruption. The IGG has the functions of enforcing the Leadership Code. Approximately 16-17,000 leaders (including political leaders at all levels of Government and specified officers covering institutions related to all aspects of public life) are expected to comply with the Leadership Code.²⁶

In the *Sunday Vision* of 26th of October 2003 a summary of the outcome of the Leadership Code was given. It even states the declaration of the President. The Inspectorate of General, Mr. Jotham Tumwesigye, said on the 27th of October, during the launching of the ACCU Anti-Corruption Week that everyone was welcome to come to the Office of the IGG and request information on the outcome of the Leadership Code, and scrutinise their leaders. At the moment about 30 complaints have been registered and the IGG is taking up investigation of these complaints.

However, in September 2003, the GoU issued the Proposals of the Government of the Republic of Uganda for Amendment of the Constitution. The Netherlands Embassy, the rest of the donor community and the IGG, feel that several of these proposed amendments will have a counterproductive effect for the performance of the IGG, considered to be one of the best functioning anti-graft institutions. These are:

Uganda Human Rights Commission (UHRC): articles 51 to 58 are proposed to be abolished, therefore abolishing the Uganda Human Rights Commission, and to transfer its functions to the Inspectorate of Government as the Government Ombudsman. The rationale is the envisaged reduction in costs for the Government.

Functions of the Uganda Human Rights Commission cannot be transferred to the IGG. The IGG has not asked for this new task, and secondly the IGG has no capacity to take up this task. As a result the UHRC will only exist on paper. With regard to the rationale of reducing costs, the Government's expenditure on oversight institutions such as the IGG and the DEI is only 2%, as shown below.

Clarification of the functions of IGG: article 232(2), paragraph (a) is proposed to clarify the manner of performance and the functions of the IGG. In the new article the IGG shall not have the power to prosecute directly offences disclosed by the investigations by the IGG. IGG is obliged to use the services of the Department of Public Prosecutions. The IGG is not entitled to interfere with the decision making process of ministries, departments and other institutions. Nor can they revoke, alter, or reverse or otherwise stop the implementation of any decision made by the ministry or any other government institution.

If these proposals were to be amended it would mean the end of the Inspectorate General of Government. His powers would be nullified. From these proposals to amend the constitution it can be concluded that the Government shows a serious lack of political will here. The Inspector General himself has reacted angrily to the Cabinet proposals. He stated that "...if you have an institution fighting corruption, you have to give it power."²⁷

Commissions of Inquiry: Several Commissions of Inquiry have been installed by the President, such as the commission investigating corrupt practices in the police force, the purchase of the so called Junk Helicopters, the Porter Commission, which is investigating the looting of minerals from the Democratic Republic of Congo (DRC), and the Ssebutinde Commission on the Uganda Revenue Authority.

²⁶ "Anti-Corruption Programme in Uganda. Final Draft.", Danish Ministry of Foreign Affairs, (August 2003), p. 27.

²⁷ *The Monitor*, 26 September 2003, p. 3.

The outcome of these commissions has been mixed so far. The Inspector General of Police (IGP) and his deputy were fired after the publication of the Ssebutinde Report investigating corrupt practices in the police force and an anti-corruption policy has been implemented by the new IGP, Katumba Wamala. Regarding the URA report, it has been stated that this report will be published by the second week of November 2003 (after expecting publication more than a year ago). Therefore the report is due at the moment of writing this policy paper, however, it seems that no progress in publication has been made so far. Various rumours are spreading about why this report is still not published; e.g. that the commission is still debating on how to formulate the recommendations, or that Ssebutinde finds that she does not have enough recourses, and will therefore not publish. In relation to the other commissions of inquiry no progress has been made at all. It has been said that the Directorate of Public Prosecutions, who is handling these cases, is not up to the task of handling these two cases at the same time, due to a lack of capacity.

NGO Bill: Currently the government is developing an NGO Law. Uganda Debt Network finds that certain articles and paragraphs in this bill will diminish the striking power of all NGO's. Uganda Debt Network realises that a bill of this nature is necessary, and that it is a security mechanism, but if this law is enacted, the freedom of movement of all NGO's will be weakened. UDN asks all donors to plea to central government not to enact this bill in its current form. Amendments are needed first.

Expenditure on oversight institutions: The Government of Uganda spends only 2% of the annual budget on oversight institutions such as the DEI. In Tanzania for instance this percentage is 3 points higher. Bilateral donors feel that there is a need for the government to cut down on their expenses, but this does not imply the oversight institutions, but e.g. public administration.

United Nations Convention against Corruption: Mention has to be made that the Government of Uganda will sign and therefore most probably ratify the United Nations Convention against Corruption. The government has made no reservations so far, unlike e.g. the government of the United States of America. After 30 countries have ratified the Convention it will enter into force.²⁸ It is, however, difficult to predict when this will happen as well as it is to say how much time it will take for the Convention to be incorporated into national Ugandan law. Whether or not the Government of Uganda really shows political will with signing this Convention can only be measured after it has entered into force.

2.1.3 Main Government institutions fighting corruption

There are seven government institutions that play a role in curbing corruption in Uganda. They will be set out below.

Inspectorate General of Government (IGG): The IGG's office was created in July 1986 by the National Resistance Movement (NRM) Government. It was given a mandate to (article 225 Const.1995) 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 subject to the provisions of the Constitution, to supervise the enforcement of the Leadership Code of Conduct, to investigate any act, omission, advice, decision of recommendation by a public officer of any other authority to which this article appeals, taken, made, given or done in exercise of administrative functions, and to stimulate public awareness about the values of constitutionalism in general and the activities of this office, in particular through the media and other means it considers appropriate. One of the special

²⁸ "Fact Sheet two. Convention against Corruption: Q & A.", High level political conference for the signature of the United Nations Convention against Corruption (9-11 December 2003, Mexico).

powers of the IGG is written down in article 230(1): the Inspectorate of Government shall have the power to investigate, cause investigation, arrest, cause arrest, prosecute or cause prosecution in respect of cases involving corruption, abuse of authority or of public office.

According to the latest results of the National Integrity Survey 70% of the Ugandans are aware of what the IGG is all about. IGG noted that 65,3% of the complaints came from regional offices. The Kampala district only accounted for 34,7% in the period July-December 2002. The amount of women who filed complaints was low. This is due to little awareness of the right to complain. However, within the IGG there are still quite a few restraints These include inadequate facilitation, especially in terms of transport to carry out investigations, verification of assets of leaders and prosecution is still a hindrance, inadequate staff, and low remuneration of staff; due to inadequate funding, the IGG cannot pay its professional staff, causes brain drain of lawyers and accountants. This affects the IGG's capacity in successful prosecution of some of the complex corruption cases.²⁹ Also the mandate of the IGG is too wide, which reduces the capacity to follow-up on alleged cases of corruption. The IGG's performance will be boosted if several of their activities is taken away, such as awareness raising, which can be done by Civil Society Organisations. However, if the proposals to amend the mandate of the IGG, it will be left a toothless institution.

Public Accounts Committee of Parliament (PAC): The Public Accounts Committee has the authority to interrogate public officers who are suspected of abusing public recourses. According to UDN this committee had produced good work during the 1990s, but today the PAC has a stigma to be toothless, and it under performs due to the lack of staff, and an overwhelming workload.³⁰

Auditor General (AG): The Auditor General shall (article 163 constitution 1995) audit and report on the public accounts of Uganda and of all public offices including the courts, the central and local government administrations, universities and public institutions of like nature, and any public corporation or other bodies of organisations established by an Act of Parliament. The AG will also conduct financial and value for money audits in respect of any project involving public funds. Specifically regarding Local Governments, the AG is required to audit the Local Governments, and submit audit reports to parliament, the ministers responsible for local governments and finance, the relevant local governments, Local Government Public Accounts Committees and the Local Government Financial Commissions.

Despite having these powerful responsibilities, the AG is largely ignored by the Executive. Funds used by public security organs are not audited. With respect to Local Governments, the Auditor General's office does not have enough capacity to audit every local government district thoroughly. For instance, in a small district there are already about 50 primary schools. In a district like Mbarara there are approximately 300 primary schools.

Directorate of Ethics and Integrity (DEI): The DEI was created in 1998. The establishment of this institution was supposed to lift the issue of corruption to a cabinet level, to co-ordinate government efforts in their fight against corruption, and to establish an integrity system that promotes good governance.

In the latest PEAP Review, held at the end of October 2003, the Minister of Ethics and Integrity, Mr. Tim Lwanga, stated that a hotline will be opened for the public to report cases of corruption. Currently the DEI is understaffed with only three positions. The DEI has said to be waiting for over two months for the President to sign the instrument, whereby the new Permanent Secretary (PS) will be appointed. However, new information indicates that there

²⁹ "Report to Parliament: July-December 2002.", *Inspectorate General of Government*, (August 2003) p. 11.

³⁰ "Dossier. Corruption in Uganda", *Uganda Debt Network*, (2000),p. 9-10.

is no new PS to be appointed, since there is no new candidate. The President even feels that instead of a new PS, a chief administrator should be appointed.

Criminal Investigation Department in Police (CID): The Criminal Investigations Department is one of the four departments in the Police Force. It deals with the prevention and detection of crime and the prosecution of these offenders. It has a special anti fraud unit, which receives approximately 35 cases a month.

The CID, however, faces problems as having to use obsolete equipment, such as manual typewriters. These problems contribute to a much less efficient and effective CID. Also the CID is constrained with attracting graduates with a legal or accounting background who can assist in investigation, due to the unattractive service conditions.

Directorate of Public Prosecution (DPP): The director of Public Prosecutions has been appointed by the President, on the recommendation of the Public Service Commission and with the approval of Parliament. The functions of the DPP are, as stated in the Constitution 1995 art. 120, subsection 3: to direct the police to investigate any information of a criminal nature and to report to him of her expeditiously; to institute criminal proceedings against any person of authority in any court with competent jurisdiction other than a court martial; to take over and continue criminal proceedings instituted by any other person or authority; to discontinue at any stage before judgement is delivered, any criminal proceedings to which this article relates, instituted by himself or herself or any other person or authority, except that the Director of Public Prosecutions shall not discontinue any proceedings commenced by another person or authority except with the consent of the court. Under the Prevention of Corruption Act (1970), the DPP is empowered to investigate and prosecute cases of corruption and bribery.

Due to this mandate, the DPP has to work closely with the CID and the Judiciary, especially in the investigation and prosecution of cases. However, the employees of the DPP lack adequate training. Courts due to poor prosecution have acquitted many embezzlers.

Public Procurement and Disposal of Public Assets Authority (PPDA): In 2003 the Public Procurement and Disposal of Public Assets Act was enacted, which created a new autonomous and independent procurement authority, better known as the PPDA. In general the PPDA advises the various departments of the government on procurement and disposal, but is also sets the standard, that is the rules and regulations for procurement, it monitors compliance, audits, evaluates performance, and it gives capacity building training. The PPDA has no jurisdiction over corruption issues, but it does deal with the area of ethics within the government. Since corruption within procurement is such a big issue, it is therefore important to discuss the various sanctions the PPDA can take in case of unethical behaviour. First of all, two Codes of Ethics were developed, for the providers and for the public officials. Also, there are various sanctions the PPDA can take: recommend suspension, replacement, disciplining, and temporary transfer of the procuring and disposal function.

Currently the PPDA is understaffed with only three people employed out of an expected 40. Recruitment is process, but it is going very slow. Therefore, the PPDA has not been able yet to investigate certain cases concerning corruption within their own, and other government, institutions.

There are seven anti-graft institutions that are trying to curb corruption in Uganda. One thing to keep in mind is that even though these institutions have a mandate to curb corruption, they themselves are not free from it. For instance the IGG, the main anti-corruption institutions, allegedly is taking bribes themselves, especially within the regional offices. Also if there need to be this many institutions at the central level alone, co-ordination and collaboration between them is very important. As mentioned above the will to collaborate and to co-ordinate is still

lacking, due to the fear of losing independence. And Uganda Debt Network feels that even though the several anti-graft institutions exist in name, they do not always discharge their tasks. This may be due to the fact that there is a bad infrastructure.³¹ But also due to the fact that it is not always clear to the public which institutions can or has to be used to report cases of corruption. For instance, if there is a problem within procurement, one should first go to the accounting officer instead of going straight to the IGG. Also, as can be read in the JLOS chapter, cases of corruption can also be brought to the DPP, but since this is not well known, individuals will most often go to the IGG.

However, the IGG and the DPP have co-operated in several areas. The DPP has, for instance, worked together with the IGG to develop prosecution capacity for the IGG. However, if the proposed amendments to change the Constitution are implemented the prosecution capacity will be taken away from the IGG. In particular the DEI and the IGG co-operate with other agencies, such as Civil Society Organisations, the media and the private sector, to promote anti-corruption initiatives. Other anti-corruption collaboration that has been realised through the so-called Inter-Agency Forum, the Accountability Sector, and APNAC.

Inter-Agency Forum: The Inter-Agency Forum is chaired by the Directorate of Ethics and Integrity. Besides DEI it comprises of other government agencies, such as the Directorate of Public Prosecutions (DPP), the Inspectorate of Government (IGG), the Criminal Investigation Department of Police (CID), the Auditor General (AG), the Inspectorate of Courts for the Judiciary, the ministry of Finance, Planning and Economic Development (MoFPED), the Ministry of Public Service (MoPS), the Ministry of Justice and Constitutional Affairs (MJCA), the Uganda Revenue Authority (URA), the Public Service Commission (PSC), the PPDA and the Ministry of Local Government. Actors within the Inter-Agency forum strive to co-ordinate government efforts in the fight against corruption. They meet once a month and discuss the various topics within corruption that are current. Currently the revised GSPOA is discussed.

Accountability Sector: The Accountability Sector is composed of the Ministry of Finance, Planning and Economic Development, Office of the Auditor General, Directorate of Ethics and Integrity, Inspectorate of Government, the PPDA, and the Local Government Inspectorate Department. Their overall goals are to make sure that public resources are not being misappropriated and embezzled. Those who are charged of such actions, and have the responsibility of handling Government Recourses are held fully accountable. The second goal is to achieve a well-trained, professional, ethical, and effective workforce.³²

APNAC: APNAC stands for African Parliamentarians Network against Corruption and was established in 1999 in Uganda. APNAC seeks to co-ordinate, involve and strengthen the capacity of African Parliamentarians to fight corruption and promote good governance. Their objectives are to get Members of Parliaments (MPs) to join APNAC, to build commitment and capacity of Members of Parliament, to educate MPs in how to curb corruption, to undertake projects to control corruption, and to co-operate with organisations in Civil Society with shared objectives. Civil Society can, amongst others, create public awareness, to monitor the districts, and mobilise the public.³³ However, this organisation is relatively new, and is not very well known. Nevertheless it is trying to get more publicity by giving speeches at conferences such as the ACCU Anti-Corruption Week 2003.

2.2 Civil Society Organisations and the Media

Next to prevention and law enforcement, education is the most crucial pillar in the fight against corruption, combining a reactive as well as a proactive approach. Anti-corruption

³¹ "Dossier, Corruption in Uganda.", Uganda Debt Network, p. 12.

³² "PEAP Revision Paper, Draft 2.", Accountability Sector, (2003) p. 1.

³³ ACCU Anti-Corruption Week, 28 October 2003, Kampala.

education is an effective tool to address different sectors where corruption may occur, as well as different groups of people who may be directly or indirectly involved in corruption –as initiators, victims or both.

www.corisweb.org/article/articlestatic/299/1/297.

The Civil Society forms a link between the government and the public. The tasks of Civil Society are to make the public aware of their rights and obligations, and to mobilise the public around key issues of concern. Also CSO can play a watchdog role, to monitor if government initiatives are followed-up. There are several Civil Society Organisations in Uganda. Those that will be mentioned here are ACCU, UDN, MS Uganda, TI Uganda, and Jubilee Plus-Uganda, because they can be considered most influential at the moment. The importance of the media will be discussed after.

Anti-Corruption Coalition Uganda (ACCU): The Anti-Corruption Coalition Uganda is an umbrella of non-governmental organisations that wants to curb corruption in Uganda. Annually the ACCU organises a National Anti-Corruption Week (every October), where it aims to mobilise Civil Society in the fight against corruption. Every year there is a different theme, which serves as a focus for all the activities that week and the rest of the year. The theme of 2003 was “Access to Information”. The several Civil Society Organisations, but also MPs talked and discussed about the importance of access to information, which will be an effective system of holding office-holders accountable. Article 41 of the Constitution, which established the right of access, needs, however, a supporting law to render this right enforceable in practice. According to the IGG, the Minister of Information has stated that the Access to Information Bill will be ready early next year. However, the Government will then decide what information can and cannot be made public. Therefore it is important that an independent Government body is created that decides which information is open to the public. With the implementation of the Access to Government Information, more transparency³⁴ will be realised.

Uganda Debt Network: UDN is one of the best-known Civil Society Organisations in Uganda. They are one of the founding members of ACCU, but have given up their membership recently to reasons unknown. UDN has recently implemented an anti-corruption campaign at the grassroots level. The aim of this anti-corruption campaign is to mobilise individuals at the grassroots to participate actively in holding their public officials at both the central as local level accountable for their actions. This campaign has done very well, especially in the East of Uganda, even though observers have to live under constant threats, because this campaign has widened the gap between the local governments and the community even more. In order to fill this gap, UDN wants to establish a working group for the local government and the community.

Jubilee Plus-Uganda: This organisation is a member organisation of ACCU, and is trying to initiate citizen’s anti-corruption desks (CADs). These desks will provide for information on allocation of funds from Central Government to the districts as well as educating the communities on what they can do, and where they can go with this information. The desks will be installed at nearly all levels of Local Governments; villages, counties, sub-counties, villages, parishes, and community centres.³⁵ Reason for these CADs is awareness raising and in the long run to mobilise the people to hold their political leaders accountable.

³⁴ Transparency means that institutions, processes, and decisions are made accessible to the public at large or to representatives of the public, so that processes and decisions can be monitored, reviewed, commented upon and influenced by the stakeholders. It is important to create transparency at the beginning. This means full public access to information. This will also bring about awareness. In: Wiehen, “Transparency in procurement”, in: The role of bilateral donors in fighting corruption, p. 86.

³⁵ *The Other Voice*, 31 August 2003, p. 6.

MS Uganda: MS Uganda is a Danish NGO and its main objectives are poverty reduction and good governance. In order to promote good governance, MS Uganda focuses on three issues namely democracy, transparency and accountability. MS Uganda is therefore not a pure anti-corruption organisation, but do have certain partnerships with anti-corruption organisations, such as ACCU. MS Uganda is planning to bring out a booklet in which corruption is addressed in a simplified way. The set up of the booklet will be similar to that of their democracy booklet. No time frame has been given on the publication.

Transparency International Uganda: Transparency International Uganda is also one of the founding members of ACCU, and undertakes advocacy work on anti-corruption laws, mobilising the masses against corruption through sensitisation workshops and awareness campaigns on radio, seminars and drama performances. Also TI has a pilot in the Kisoro district regarding Poverty Action Fund monitoring and good governance campaigns. The programme is intended to mobilise the grassroots to demand for accountability basing on basic information.³⁶

However, Civil Society is very weak still and not strong enough to bring the Government to account. According to the GSPOA Civil Society is not aggressive enough due to the past of political instability. According to the Inspectorate General, Mr. Jotham Tumwesigye, “we have an urgent need to strengthen Civil Society and to make Government accountable”.³⁷ In order to be able to do that, the CSOs will have to co-operate more than they are doing now. The ACCU Anti-Corruption Week is a good initiative, and very informative, but it is for instance not even clear, which organisations are a member, and it is not stated in the different leaflets. And not being able to co-operate in the long run undermines the ability to serve as a credible partner in the fight against corruption. UDN has, to the contrary, proliferated itself well, to the point that this organisation is the best-known organisation. As a result it seems as if more polarisation is taking place. Therefore, next to co-operation, some competition between UDN and other CSOs might provide a good alternative, as long as this competition does not result in self-destruction.

Media: The media can and have played a tremendous role in revealing the abuse and misuse of public office and recourse. The media in Uganda are relatively free. According to the *Reporters sans Frontières*, Uganda is ranked 52 amongst a 139 countries, with a score of 17, where 0 is absolutely free and 100 is absolutely not free.³⁸ The Freedom House Annual Survey of Press Freedom 2002 ranked Uganda second best in the region, as indicated in table 3.³⁹

Table 4: Freedom House survey of press freedom 1994-2002

	1994	1995	1996	1997	1998	1999	2000	2001	2002
Botswana	19	28	30	30	30	30	28	27	30
Uganda	84	38	38	38	40	40	40	40	42
Tanzania	60	49	49	49	48	51	49	49	49
Ethiopia	73	59	57	62	62	64	62	64	61
Kenya	60	52	62	59	63	70	70	70	67
Congo (DR)	88	85	84	84	84	90	90	83	86
Rwanda	63	NA	74	74	71	72	72	72	87
Sudan	88	76	80	85	85	86	85	85	87

Source: <http://www.freedomhouse.org/research/ratings/XLS>

Especially newspapers publish a lot of cases of corruption. However, in Uganda there is still a very poor reading culture, and therefore radio, especially, can be seen as an important awareness-raising instrument. Basically every rural homestead has a radio. The National

³⁶ Information on TI Uganda provided by Mr. Hassan Muloopa, Transparency International Uganda.

³⁷ Speech ACCU Anti-Corruption Week 2003.

³⁸ http://www.rsf.fr/article.php3?id_article=4116.

³⁹ Free = 0-30; partly free = 31-60; not free = 61-100; NA = not available.

Integrity Survey 2003 shows that nearly 60% of the interviewees heard about the IGG through the radio. In more urban areas the Internet is a medium on the rise. However, most cases of corruption exposed in the media have not been followed-up.

2.3 Donors

In 2002 the different donors have established the “Donor Democracy and Governance Group” (D2G2). This is a separate co-ordination mechanism, which entails high level dialogue attended by Ambassadors and Heads of Missions, the Members of the European Union, the Delegation of the European Commission, the United Nations, the United States of America, Japan and Norway. The Netherlands Embassy is currently chairing a Donor Technical Group (DTG), which provides information for D2G2 and discusses aspects of Democracy and Governance in more depth. DTG is again divided into several sub-groups. The sub-group on corruption is at present chaired by DfID.

Through this D2G2 a Consultative Group Statement of Uganda’s development partners on governance and anti-corruption was established in 2003. Nine action areas –law reform, public sector pay reform, adequate resourcing of anti-corruption agencies, commissions of inquiry, combating a culture of impunity, strengthening the accountability regime, court awards and compensation claims, addressing corruption in local government and semi-annual anti-corruption reviews- were formulated on which the donors and the Government of Uganda will focus in their continued fight against corruption. Even though some of the areas are more specific than others, they are well chosen, and most of the areas will be dealt with in the policy paper, especially corruption in local governments, and strengthening accountability regime, and law reform.⁴⁰ Nevertheless, these anti-corruption initiatives can only bring about real change when there is full competence and will from the different government institutions.

2.3.1 Possible Gaps

Obviously a donor group has more influence than the different donors have separately. Co-ordination and regular dialogue between the donors is therefore essential. The bilateral donor group in Uganda meets once a month to channel and further discuss development and possible disparities. At the moment co-operation between the donors is going quite well, but it has to be taken in account that current and future changes, such as a probable third term of Museveni, can influence the strength of the donor group.

Most donors do not have a sanction mechanism. Do they need one? The Netherlands Embassy does not think so, at least not sanctions that are based on strict conditionality. However, the Netherlands Embassy feels that being critical towards the Government of Uganda is not necessarily harmful in their relationship. The World Bank on the other hand takes a less critical approach in account, which might result in their evaluations giving a more positive picture of how the institutions of Uganda are performing than they really are. Also, as shown earlier in this chapter, political will to fight corruption is still lacking within the government. Donors need to enforce the issue of anti-corruption on the agenda, to become as an important issue as e.g. poverty reduction and HIV/AIDS. Next to enforcing the issue anti-corruption on the agenda, the donors have to make clear that an anti-corruption initiative is more effective if it is an integral part of e.g. a poverty reduction policy. Therefore they have to incorporate anti-corruption initiatives within their other policies.

2.4 Conclusion

⁴⁰ *The Monitor*, 19 November 2001. N.B. SWIPCO itself does not have a reputation of high integrity.

⁴⁰ *The Monitor*, 16 October 2003, p. 6.

The anti-corruption institutions in Uganda are in place. Their main problem however, is the performance of their tasks. As can be read most institutions do not only struggle with incompetent or too little staff, but also with corruption within their own organisation. Also a very important question is currently present, namely the proposals to amend the constitution concerning the tasks of the Inspectorate General of Government. If these proposed amendments are implemented the powers of the IGG will be nullified, and it will be left toothless. The donor group has realised the danger of this issue and has tried to convince the different institutions such as the DEI that these proposed amendments should not be implemented. However, other issues such as the different Commissions of Inquiry must not be forgotten. It has become aware that no progress at all is made regarding the Porter Commission and the Commission inquiring into the so-called Junk Helicopters. The URA report is not published yet. The publication of these inquiries is very important, because this will result in exposing corrupt officials and individuals. The lack of political will in the government is a serious issue that needs to be addressed. With no political will anti-corruption initiatives will not be successful in the end. The issue of anti-corruption needs to become as an important agenda point as poverty eradication and HIV/AIDS, and it needs to be incorporated within these policies.

The donors and the Civil Society and the media are the main actors that can influence the government and the public. Civil Society is still weak and needs to be strengthened. However, a question that arises is whether or not certain Civil Society organisations are willing to work together. In October 2003 the Anti-Corruption Week was organised with "Access to Information" as a theme. Uganda Debt Network, one of the founding members of ACCU and one of the most important CSO in Uganda, was not present due to the fact that they have ended their membership because of reasons that are not known. At the moment it even seems as if polarisation of the different CSOs is taking place. The media in Uganda, on the other hand, are stronger and should keep exposing corrupt cases in newspapers, on the radio, and on the Internet. However, most cases that have been exposed in the media have not been followed up. Due to this lack no confidence will be created from the public in their government and the government institutions that have to fight corruption with regard to the connection of being corrupt and getting punished for it.

3. CROSS CUTTING ISSUES

Two cross cutting issues can be identified that are of high relevance to the Netherlands Embassy in Uganda, namely procurement issues and financial management issues. Solid procurement and financial management systems are important factors in ruling out corruption. If good systems are in place, it becomes harder to go around them. However, only procurement-related issues will be set out, due to the fact that 90% of all corruption cases are procurement related as stated below. This is not to say that there is no corruption in financial management, but also due to lack of time this cross cutting issue will not be handled separately (in local governments).

3.1 Public Procurement

Procurement is a major danger zone. In all sectors, whether it is in education, local government or the private sector, corruption in procurement is rampant. One of the managers of the former Swiss Procurement Company (SWIPCO) has said that 30% of the annual budget meant for purchase of goods and services is wasted in the hands of corrupt and incompetent government officials.⁴¹ He said that politicians exert undue influence in the process of awarding tenders. He also blamed members of the tender boards for peddling illegal influence on the technical evaluation committee, which lead to the award of tenders to incompetent contractors.

Sometimes consultants are awarded without any public notification in the newspaper. A consultant is offered the job directly by the Government agency under the condition that the civil servant receives a share of the payment. To make the bidding process appear competitive, the consultant is asked to produce to other, false 'Expressions of Interest'.

Anonymous information

⁴¹ *The Monitor*, 19 November 2001. N.B. SWIPCO itself did not have a reputation of high integrity.

In the government plan of action to fight corruption it is estimated that 90% of all the corruption cases are procurement related. 65% of this percentage is, according to the IGG, corruption related cases in procurement of government services and works.⁴² The plan says that procurement procedures are not adhered to mainly because of poor planning skills and the refusal to follow guidelines. Criminal prosecutions for corrupt acts are rare because of underreporting, poor investigative capacity, corruption and susceptibility to political inference.

3.1.1 Linkage corruption and public procurement

Public procurement entails the process of acquisition of public goods and services. Within every step of the procurement process, corrupt acts can take place. Especially favouritism is a frequent form of corruption. For instance, at the beginning of the procurement process, the User Department of a ministry has to prepare a work plan. In this work plan the needs are defined. Corruption can occur within the drafting of this work plan, namely the needs are made so specific that only one provider will be able to provide the goods or services. However, the real problems occur within the Evaluation and Contract Committees. The Evaluation Committee evaluates the bids. This committee has to make sure that the different criteria stated in the solicitation documents are met. After evaluation the Evaluation Committee sends its recommendations to who should be awarded the contract to the Contracts Committee. In every bid document a mistake can be found, and obviously if there is one provider that is supposed to get the contract awarded, it is unproblematic to state that the remainder of the providers did not meet the requirements. Also bid documents are not locked up properly, and therefore can easily be tampered with.

An often forgotten part of procurement concerns contract enforcement. This part of the procurement is also very open to corruption, as can be seen in for example the School Facilities Grant: building of schools is contracted out on certain quality standards, but are built with much lower quality standards (thus reducing costs) and those involved in overseeing the works are bribed into keeping this quiet.

3.1.2 Public Procurement Reform

As of March 2003 the Reformed Central Tender Board, which fell under the responsibility of the Ministry of Finance, Planning and Economic Development, became an independent and autonomous institution known as the Public Procurement and Disposal of Public Assets Authority (PPDA). The main outcome of the enactment of the Public Procurement and Disposal of Public Assets Act no 1 is that the procurement process has been decentralised to the various line ministries and government departments. The objectives of the Act are non-discrimination, to promote transparency, accountability and fairness, secure economy and efficiency procurement, that is to achieve value for the money used, to keep confidentiality until successful bidder is notified of award, to follow the existing Code of Ethical Behaviour in business, to use open competitive bidding as the preferred method of procurement, to award the best evaluated bidder, and to increase public accessibility.⁴³

Even though a new act and authority are in place, which are supposed to deal with the various caveats that are present in procurement, it must be said, that within the new act there are still opportunities for corrupt practices as stated above, from the beginning of the process up until the end. However, these loopholes will remain present, because for one it is impossible to make an act in which no corruption can prevail, and secondly the act will become too rigid. The current Procurement Act is generally seen as a good quality law, which provided enough of a framework to implement the procurement reforms.

⁴² *The Monitor*, 16 October 2003, p. 6.

⁴³ "Module 1: The New Procurement Framework.", PPDA, (September 2003), p. 4.

Since corruption can still take place in every step of the procurement process, it is important that monitoring and sanctioning mechanisms exist and work effectively. Therefore the PPDA will have to function well, with regard to the (monitoring) role they are supposed to play and comply with their own objectives. So far, the auditing side of the PPDA-role has not been picked up very adequately yet. In January DANIDA will start supporting the auditing division of the PPDA, which should give a big impulse to the monitoring tasks of the PPDA.

Three main areas can be addressed with regards of the way forward: capacity building, compliance and harmonisation.

1. Capacity: First of all there is a serious problem within the procurement principles is the lack of procurement professionals in Uganda. Therefore the PPDA is engaged in capacity building in both private and government organs. Procurement officials are trained and will get line support. Also, through the development of the NPT-programme, the Netherlands Embassy is currently preparing a capacity building programme on procurement, which will support two universities to build up procurement curricula and teacher capacity in their programs.

Another issue is the capacity of the PPDA itself. Currently only 3 full time staff work at the PPDA. Even though recruitment is in process, the procedures have been going very slow. Especially the recruitment of a Director has been a big problem. This is due to the fact that in Uganda finding a director that has a reputation of integrity is difficult and those that do have this reputation are not eager to take this position up due to the extra strain it will give. In order to be able to perform well, this issue has to be taken care of first. It is now expected that the senior staff will be starting in January 2004 and junior staff a few months later

2. Harmonisation: Both the Procurement Act and the Matrix of the Poverty Reduction Support Credit (PRSC) oblige the Government to harmonise procurement matters. This means that procurement policies and practices in local governments are supposed to be in line with the standards being set at the central government level. Harmonisation of the law between the central and the local governments needs to be established as soon as possible. The rules and regulations within the local government procurement framework are currently very weak and which is one of the reasons why corruption at the local government level can still be thriving. The level of corruption in the local governments will most likely decline, when procurement related matters are well taken care of at the central level. When the top is rotten, this will trickle down to the bottom.

3. Compliance: Bad procurement is partly due to lack of capacity and partly due to greed and attitude. That is why attention should both go to building capacity and supervising procurement and taking follow up on bad procurements. At the moment there is not sufficient attention at all for compliance and so those involved in procurement feel they are not being watched and can do what they want. Only if there are clear checks and audits in the process and sanctions are being taken, this may change.

One of the issues involved is that there is still a lack of standard bidding documentation, and standard contracts. The PPDA is developing these at the moment, and will become effective after the Solicitor General has approved the drafts. Every government department must file a procurement report every month. However, compliance in reporting is still very low and very weak. Mr. Edgar Agaba, the acting Executive Director to the PPDA, emphasised at a recent PriceWaterhouseCoopers procurement meeting that reporting is necessary to be able to manage government finances in an effective and efficient way. Also record keeping within the different government departments is appalling, especially in the public service. Since there are no records, and no contracts, there is no evidence of where and how the money

they received was spent. There is a Code of Ethics within the PPDA, and the law even states that it has to be signed, but there is no follow-up. Again since the PPDA is still understaffed no effective measures can be taken to ensure follow up. The PPDA has four directorates, but the audit and investigation directorate has not been properly constructed yet.

The first two issues will have to be taken care of as soon as possible. Especially job recruitment has to be taken care of immediately, because this stalls the capacity building programme, and eventually the drafting of the Harmonisation Law. Also the PPDA is hiding behind the fact that they cannot undertake any actions due to the fact that they have a lack of capacity.

3.2 Possible actions

- The Embassy should put more focus on the compliance-side of the procurement reforms, such as getting involved in the procurement audits and their follow up, creating benchmarks for measuring compliance and corruption, but also the compliance and integrity of the PPDA itself (since they are a role model);
- The Embassy should strongly monitor and be involved in the harmonisation process as corruption at the local levels seems to be rampant and needs to be stopped;
- Try to measure the level of corruption after a period of time, through e.g. surveys;
- If the perceived level of corruption has not decreased in public procurement, especially in the local governments, the Netherlands Embassy should reflect on:
 - o Implementing extra anti-corruption initiatives;
 - o Defining its positions with regard to support to public procurement in the future.

4. LOCAL GOVERNMENTS

4.1 Introduction

Decentralisation tends to be successful when the Central Government is stable, solvent and committed to transferring both responsibilities as well as resources to the Local level. Also, local authorities have to be able to assume these responsibilities and resources. Participation from the people at the grassroots, as well as from Civil Society organisations is necessary. The relationship between these three levels is crucial.

"Millennium Development Goals: A compact among nations to end human poverty.", Human Development Report (2003), p. 137.

On 24th March 1997, the Local Governments Act (LGA 1997) became effective. It was intended to streamline the laws to fit the 1995 Constitution. Uganda's decentralisation policy

is based on devolution of power to popularly elected local governments. There are six types of Local Governments comprising, in 2002, of 56 Districts (including Kampala), 63 Town Councils, 851 Rural Counties, 13 Municipal Councils, 34 Municipal Divisions, and 5 City Councils.

The system of Local Government is based on the district, as the unit under which there are lower Local Governments and Administrative Units.⁴⁴ A city is equivalent to a district and City Council exercises all functions and powers conferred upon a district council. Local Governments are required to provide a broad range of services, in addition to any lawful others they may wish to undertake for the development of their respective areas. Local Governments must abide by the Constitution, the LGA 1997, and the Local Governments Financial and Accounting Regulations 1998.⁴⁵

The rationale behind decentralisation was to bring decision-making and service delivery closer to the public, in order to create more transparency. It was envisaged that decentralisation could contribute to a greater opening of opportunities to voice concerns by the public thereby making administrators more accountable to the citizens.

The Chief Administrative Officer (CAO) plays a key role in the districts. The District Service Commission (DSC) appoints and disciplines the CAO. The CAO is the head of the administration of the District Council and is the Accounting Officer of the District, and is a person of high moral character and proven moral integrity. Other functions of the CAO are responsibility on the implementation of all lawful decisions taken by the District Council, give guidance to the Local Government Councils and their departments in the application of the relevant laws and policies, supervise, monitor, and co-ordinate the activities of the District and lower Council's employees and departments, ensure accountability and transparency in the management of Council's services, and have custody of all documents and records of the Local Government Council.⁴⁶

In this chapter corruption in local governments will be discussed. As can be read in the box at the top of the chapter it is important that there is a good working relationship amongst the government institutions, the public, and Civil Society. Local governments must also be able to take up the same tasks and responsibilities as the central government. These requirements are needed to ensure that decentralisation will be successful. In this chapter an overview of corruption will be given in the next paragraph, after which the specific plans and actors that are present in local governments to fight corruption are set out. In conclusion several options for actions are indicated from which recommendations to the Netherlands Embassy will be drawn.

4.2 Overview of corruption in Local Governments

One of the nine action areas of D2G2 is to try and curb corruption in Local Governments, it may therefore be useful to go into detail with regard to the specific issues of corruption in this sector. However, because the problems with corruption in local governments are so vast, it has been decided to focus on three areas, namely human capacity, financial management, and public procurement.

4.2.1 Human Capacity

As stated in the second chapter, on actors and institutions fighting corruption in Uganda, there is a serious lack of capacity. This lack is also present in local governments, and even

⁴⁴ Local Government Act 1997, Section 4 and 46.

⁴⁵ Local Governance for poverty reduction: Uganda's experience 1993-2002, [Country paper for the fifth Africa Governance Forum: AGF-V \(Maputo, Mozambique 2002\)](#).

⁴⁶ Local Governments Act 1997, article 64 and 65.

though it is not corruption per se, it can be a cause for corruption. An example of this lack of capacity is exemplified in the circulation of local governments. There is also lack of capacity within procurement, but that issue will be handled under the topic of public procurement.

Circulation of Local Government: In article 181(4) Constitution it is stated that all local government councils shall be elected every four years. According to UDN the outcome of the last elections was that 70% of the newly elected local politicians hardly know anything about local governing. Of course incompetence does not immediately mean that a newly elected officer is corrupt. But incompetence that is for instance not being aware of your precise responsibilities, the rules and regulations, etc. can contribute to corruption.

4.2.2 Financial Management

For the booking of a workshop of a hotel etc., it is a common malpractice that the bills are inflated. The real price of the service is lower than the price appearing on the receipt. The price difference is received directly by the person who booked the service.

Anonymous Information

There are still several problems that have to be addressed within financial management, because they seem to persist. Especially the misuse of funds and facilities is a big problem. Another factor is the Chief Administrative Officer (CAO) who seems to be the main actor with regard to the diversion of funds meant for the district.

Misuse of district funds and facilities: The Minister of Local Government, Prof. Tarsis Kabwegyere, said at the second UPE conference on the 13th and 14th of August 2003, that he suspected, that “money comes from the centre to the districts and finds its way back to the centre again”. He promised to carry out an investigation, but had given no time frame, and up till now there has been no follow up. The Netherlands Embassy has formally requested for the minister’s findings.

Chief Administrative Officer: In the chapter on corruption in education it is shown that the CAO is the main cause for diversion of teachers’ salaries. An example of this is the CAO of Kabale, Charles Katelwanga. He said that he had “borrowed” Ush 95 m for the renovation of his house. This money was actually reserved for teachers’ salaries.⁴⁷ More of such cases can be brought back to the CAO, and it is a very persistent problem.

The New Vision, July 15, 2003, reported: “Kitgum District Council has suspended their Chief Office Administrator Ochen Lalur for failure to account for Ush 467m meant for Universal Primary Education and construction of Health Centres.”

As has been stated in the introduction, the CAO plays a key role in the Districts, and has a very large mandate. Even though the CAO needs to be a person with proven moral integrity and high moral character these characteristics have never been clearly defined. What does integrity mean? What kind of qualities does this function entail? These characteristics have to be clearly identified and defined. The Government of Uganda has not attempted to define integrity but it has proposed constitutional amendments, in order to decrease the powers and mandate of the CAO somewhat.

In the Proposals of the Government of the Republic of Uganda for Amendment of the Constitution, it is proposed to repeal article 188 –Chief Administrative Officer. The rationale for this repeal is that the District Public Service Officer Commissions have been quite incapable to keep the Chief Administrative Officers under their control and supervision. This creates a dangerous situation, especially when it comes to public funds, as stated above.

⁴⁷ *The New Vision*, 1 October 2003.

If the proposal for repeal is adopted and implemented the CAO will still be elected through the District Service Commission, but the DSC can hold the CAO accountable, and exercise disciplinary control and their removal from office. Another alteration will be that Parliament shall by law establish the qualifications and functions of the Chief Administrative Officer.

4.2.3 Local Government Public Procurement

At the local governments' level, matters of procurement are conducted through the Local Government Tender Board (LGTB). Lack of sound and strong procurement principles and lack of compliance are the overall challenges within public procurement, but corruption within procurement happens throughout the whole process, as showed in the chapter on cross cutting issues. Other more local government specific issues are the following:

Lack of capacity: There is even less procurement expertise on local level than on a central level. A lack in expertise creates incentives for corrupt practices, and more often than not, corrupt acts occur from this lack, namely:

False accounting for advanced funds: In many districts, advances are made to particularly District Engineers to execute work even when it is against the regulations (where the amount of funds involved are more than what is authorised to be used without tendering the job). These officials who receive the advance do not do all the work that should result from the advanced money. The balance, which remains, is pocketed.

Management of tenders: IGG has noticed that the management of tenders in districts remains a problem as well. Many tenders are being mishandled to the detriment of the public interest and benefit for the crooked interested individuals.

Poor preparation and poor execution: Bid documents are not well prepared, bid closing/opening dates and times are arbitrarily changed, and evaluation of bids is not properly executed. Many contracts are poorly executed with the knowledge and consent of the LG authorities. Some contracts are concluded with very unfavourable terms to the districts and sometimes this leads to loss when the contractor decides to take advantage of this.⁴⁸ Substandard goods/substandard works are approved and paid for. There is also poor supervision and monitoring of the execution of contracts.

System of appointing: According to the IGG Report 2002 July-December the current system of appointing local government tender boards is not producing independent and competent boards that handle procurement issues with integrity.⁴⁹ In LGA 1997 section 92 & 95 the manner of nominating board members is in compliance with the Decentralisation Policy. However, this manner is still considered to be prone to abuse and indeed it has been abused, according to the IGG. Nepotism/favouritism is very common, and is in many cases difficult to detect.

Abuse of the law: Local Government Tender Boards ignore all the provisions in the laws, regulations and instructions to bidders and they proceed to award tenders contrary to these.⁵⁰ There are many cases where those responsible certify and pay for works that has not been executed.⁵¹ The reason why LGTB are still able to abuse the law is because at a

⁴⁸ A paper presented on types of cases the inspectorate of government has been handling in local governments by Jotham Tumwesigye, p.3.

⁴⁹ "Report to Parliament: July-December 2002, IGG, p. 20.

⁵⁰ A paper presented on types of cases the inspectorate of government has been handling in local governments by Jotham Tumwesigye, p. 2.

⁵¹ Ibidem.

local government level the law is still weak. The PPDA is currently drafting a new legal framework for local governments, in order to harmonise procurement legislation between central and local levels.

The problems set out above are being tackled with the implementation of the local government's public procurement law, which is being developed by the PPDA. Whether or not this harmonisation law will be effective can only be measured after it has been put in place.

4.3 Local Government plans and actors

Now that the main problems with corruption within local governments have been written down, it is important to take a look at the different plans and actors that have a mandate curb corruption and to build ethics.

Local Governments to fight corruption, says Kabwegyere

Following complaints by the public about corruption in local governments, stringent measures are to put in place to fight corruption, the Minister of Local Government, Prof. Tarsis Kabwegyere, has said. In a statement he made recently, Kabwegyere said the local government's financial and accounting regulations of 1998 were being reviewed and severe sanctions and penalties will be introduced for non-compliance. "In addition to what has been done, the ministry is strategically planning to put several measures in place to improve financial management and fight corruption in local governments," said Kabwegyere. He said the internal audit function of the local governments is to be strengthened to ensure its independence and that some structures were being revised.

The New Vision, 30 July 2003.

In theory every anti-corruption institution that is present at the central level, is present at the local level. With "in theory" it is meant that even though anti-corruption institutions are present at the local level they may not be as effective as one has hoped. For instance, the IGG has regional offices, but not in every district. Slowly they are increasing the number of offices, which will most likely bring about higher efficiency in the future.

The parliamentary local governments accounts committee has ordered officials from Nakasongola district to pay over Ush. 14m they admitted had failed to recover by December this year. Appearing before the committee chaired by Yeri Ofwono, the chief administrative officer, Christestom Kayise and the chief finance officer, Jean-Jimmy Aupal said the allowances totalling to Ush. 14,751, 200 could not be recovered because the officials concerned could not be traced.

The New Vision, Wednesday, October 8 2003

In relation to the plans of action of the government to curb corruption, two programmes can be selected in which corruption is being tackled. These are the Local Development Programme and the Uganda Local Government Associations.

Local Government Development Programme: In August 2003 the Second Local Government Development Programme (LGDP) was introduced. It is a three-year programme, and its main objective is to "improve Local Government institutional performance for sustainable, decentralised service delivery". Its goals are to elaborate on the first LGDP with regard to financial management issues and the implementation of a well-developed Fiscal Decentralisation Strategy (FDS). LGDP II has two investment mechanisms: the Local Development Grant (LDG) and the Capacity Building Grant (CBG). These mechanisms are put in place in order to get the local governments to abide by the law. Local governments that do not abide by the law will get fined (see Ministry of Finance below). Obviously this

programme (LGDP I and II) is a good initiative, but the real test will come in 2006, to see whether or not it has had effect.

Uganda Local Government Associations (ULGA): The ULGA are comprised of the Uganda Local Authorities Association (ULAA), Urban Authorities Association of Uganda (UAAU), Association of Local Government Administrative Officers of Uganda (ALGAOU), Uganda District Speakers Association (UDICOSA), Associations of Town Clerks, Associations of Sub-County Local Governments, Association of Urban Speakers, etc..

The vision of the UGLA is “United, Efficient and Effective Local Governments in Uganda”. In April 2003 they launched a Charter on Accountability and Ethical Code of Conduct, which will guard against misuse of resources by ensuring accountability, integrity and transparency. The charter entails the roles of the different stakeholders, sanctions for breach of the provisions in the charter, and empowers the Associations (above) to publicise unethical conduct or other instances of mismanagement of Local Government officials.⁵² The follow-up to this Charter needs to be evaluated in the coming future.

4.3.1 Relationship between Central and Local Governments

Decentralisation in Uganda has come a long way. Nevertheless local governments are not completely independent in their decision-making, as shown below. Also several functions of local governments will be re-centralised as has been showed by the proposed repeal of the Chief Administrative Officer article. The Local Government Public Accounts Committee, and the Local Government Tender Boards will be funded by the Central Government.

The Ministry of Local Government: The Ministry of Local Government is mandated to coordinate and advocate for Local Governments. Line ministries inspect, monitor, supervise and where necessary offer technical advice and training to Local Governments. The Central Government cannot interfere, when a Local Government is acting within its mandate, but does however, have a certain amount of influence regarding:

1. Grants to Local Governments;
2. Controls on Local Governments budgets;
3. Borrowing powers;
4. Local Government Tender Boards (LGTB);
5. Legislative control;
6. Judicial control, and;
7. Protection of Public Officers.⁵³

For instance, the LGTB need to abide by the rules and regulations set out by the Central Tender Board, the PPDA. The LGTB is required to publish reports quarterly. As can be read LGTB to not abide by the law, especially since there is still no harmonisation of public procurement law.

Ministry of Finance (MoFPED): The Ministry of Finance, Planning and Economic Development is authorised to fine Local Governments 20% when they do not account, or are withholding resources. However, if a district does comply they will receive extra resources up to the same percentage. This money will then, most likely, put in programmes in order to enhance them.

Local Governments Finance Commission (LGFC): According to article 194 Constitution, the LGFC has an independent legal status to advise the President on the distribution of revenue between the Central and Local Governments. If a Local Governments budget significantly

⁵²“Charter on accountability and ethical code of conduct.”, The Uganda Local Government Associations, (April 2003).

⁵³ “Decentralisation in Uganda.”, Trainer’s Manual (April 2002), p. 30.

detracts from Priority Programme Areas (PPA), the LGFC is required to inform the Council and the President through the ministry of Local Government for appropriate action.

Resident District Commissioners (RDCs): RDCs represent the President in the districts, monitor and supervise the implementation of central government programmes and are empowered to draw the attention of integrity bodies (e.g. AG, IGG, etc.) to any anomalies they may detect.

4.4 Civil Society and the public in Local Governments

The CSOs that play a significant role in Uganda were set out in chapter two. Of course these are not the only CSOs in Uganda, but other organisations, which might be more at the grassroots level do not proliferate themselves. Therefore, the only two well known projects done by Civil Society in relation to curbing corruption at local government level is done by Uganda Debt Network concerning strengthening the public at the grassroots, as stated in chapter one. The other project is by Jubilee Plus Uganda who is trying to initiate Citizen Anti-Corruption Desks.

It seems that most of the public is not quite aware of what is going on within their local governments and what their rights are, even though improvement has been made in for instance transparency in relation to the amount of funds which are being distributed to the districts. The Public needs to become aware that it does have say in what is going on in their community, through mechanisms such as the service committees i.e. School Management Committee, Parent Teacher Associations, and Health Unit Management Committee. However, these mechanisms are at the moment very weak and not many people are participating actively. UDN has made a start in creating awareness, but these mechanisms and the public participation in these mechanisms needs to be strengthened as well.

4.5 Conclusion

Due to a lack of capacity and monitoring corruption can thrive in local governments, especially in relation to procurement and distribution of funds. Anti-corruption institutions at local government level are present in theory, which means that they do exist but are not functioning as well as they should be. The central government still has certain measures it can take if a local government does not abide the law, such as fining a district when it does not comply and rewarding it when it does, but whether or not this has real impact is not known. There are two other initiatives that can be mentioned the LGDP II and the charter of UGLA. It has to be evaluated in the future whether or not these initiatives had any impact. Especially a follow-up of the charter is interesting, since it can indicate an increase of political will at the local government's level.

4.6 Possible Actions

Several actions can be undertaken in regard to curbing corruption in local governments. They are subdivided into three headings, awareness and accountability, law reform, institutions, and evaluations.

4.6.1 Awareness and accountability

Public awareness raising: With regard to local governments the public should be made further aware of the finances transferred to the districts, and with what purpose. Also the several committees need to be strengthened. In relation to public awareness raising the

Netherlands Embassy feels that this is a specific task of Civil Society. In contrast, strengthening the committees is a task that the Netherlands Embassy can take up, in order to make the public a more active actor within their own community.

Capacity Building: In relation to the circulation of Local Governments and the incompetence of most of these new officials, it has to be considered if these officials need to be trained prior to being instated. However, as seen above, the Local Government Development Programme is supposed to provide for capacity building. With regard to procurement professionals the PPDA has initiated a capacity building programme that also involves the training at local government level. The Netherlands Embassy can closely monitor the improvements made in capacity building.

Accountability: Once the Access to Information Bill is implemented and the public is made well aware of their obligations and their right, they will have more means to hold their public officials accountable. The Netherlands Embassy will have to keep pushing for the presentation and implementation of this bill even though this issue has been taken into account in the PRSCs.

4.6.2 Law Reform

Procurement: Legislation on central level has been adapted. A new Public Procurement and Disposal of Public Assets Regulation 2003 has come into effect. However, LGTB are still operating on the old system. The Harmonisation Law needs to come in effect as soon as possible.

The system of appointing members to the LGTB has to be changed as soon as possible. If LGTB abide the rules and regulations, and show exemplary behaviour, this will bring about trust from society. This means to adhere to Code of Conduct, no expectation of material rewards, and that leaders should show a high sense of responsibility. If a politician is corrupt, he/she should be punished in the same way as the "ordinary" man. In addition, members of LGTB should be educated in a way that they understand the rules and regulations they have to abide (see above).

5. BASIC EDUCATION

5.1 Introduction

The Universal Primary Education (UPE) is the most important educational initiative within Uganda's Education Strategic Investment Plan (ESIP). Launched in 1996 UPE has been guided by four underlying goals, namely expanding access, increasing equity, enhancing quality and enhancing efficiency in resource utilisation. Its main objective was to broaden access and equity to quality primary schooling, by reducing the costs of schooling to households UPE is implemented through the decentralised structure in the local governments. This objective was to be realised by eliminating school fees in public primary schools (four children per household). The Central Government provides support, policies, guidelines and monitors performance.

In order to operationalise the "fee-free" education in 1997 the GoU introduced the following measures:

- UPE Capitation Grant: This grant provides children who are in their first three years of primary education with \$ 4 per child per year and \$ 6 per child per year for children who are in their last four years of primary education;⁵⁴
- School Facilities Grant: Aimed at improving learning environment through the provision of an adequate number of classrooms, toilets, teachers, accommodation etc.;
- Instructional Material Grant: Aimed at providing adequate quantities of good quality instructional materials to support the curriculum;
- GoU took full responsibility for the payment of teachers' remuneration and eliminated Parent Teachers Association (PTA) charges.

⁵⁴<http://www1.worldbank.org/education/globaleducationreform/06.GovernanceReform/06.03SSBQ&A/Q&ASBB.html>

An immediate outcome of the introduction of UPE was that the number of children going to primary school almost doubled in 1997. In 2001 87% of primary-school-age children (6-12 years) were attending primary school.⁵⁵ The attendance rates are highest in the central and western regions, and lowest in the northern regions. Several reasons can be given why the other 13% never attended school, and the most important were the distance from home to school, the monetary cost of schooling, and the need of the child to work in the household. The monetary cost of schooling (e.g. school uniform, stationary, food) will remain an obstacle for the children who never attend school, even with the money from the government under the Universal Primary Education scheme.⁵⁶

However, due to the fact that the number of children almost doubled in 1997 there was a need for more school facilities (classrooms, toilets etc.).⁵⁷ The School Facilities Grant (SFG) was introduced in 1999, to bring together the disparate construction programmes under the umbrella of ESIP but also as a policy requirement of the GoU under the Local Governments Act 1997. The overall objective of the SFG is to support communities' efforts to improve the access and quality of primary school education. It is a national programme, covers all 56 districts, and is one of the programmes under the Poverty Action Fund (PAF).⁵⁸

Education grants in Uganda are calculated centrally and then released as conditional, non-conditional or equalisation grants to the districts. The Ministry of Education and Sports is responsible for providing the par capita data used by the Ministry of Finance to transfer financial allocations to the districts, setting restrictions, and monitoring and supporting the overall process. The data is collected annually by the Ministry of Education and Sports through the Educational Management Information System (EMIS).

Districts are responsible for the project implementation, financial accountability and reporting progress back to the central government. They promote the programmes, select the beneficiary schools, assist the schools in selecting local contractors, provide the quality control oversight for works, release the payments to schools, provide the quality control the works, and co-ordinate and monitor the programme. The schools, which are working closely with their School Management Committees, are responsible for the appliance of the funds, contracting a suitable contractor for whole work, supervising the works, paying the contractors, and ensuring the maintenance of services delivered.⁵⁹

5.2 Corruption in Education

Even though hard evidence of specific corruption cases in the education sector is not readily available, there is a lot of anecdotal information provided by the media. Corruption issues in education can be divided into three stages:

1. The first stage is when finances from the Central Government are transferred to the Local Governments. Corrupt tendencies are manifested in the following ways: misappropriation of funds, deliberate delays in release of funds to the final beneficiaries, short-changing by people in authority.
2. The second stage is when resources from Local Governments are transferred to schools and teachers. Corrupt practices are manifested in the same ways as set out above, but also in procurement, and in the form of "ghost teachers".

⁵⁵ Education Data for Decision-making, Uganda DHS EdData Survey 2001, xv.

⁵⁶ Education Data for Decision-making, Uganda DHS EdData Survey 2001, xv.

⁵⁷ Classroom Construction had been going on before 1999 but under the project modality by agencies such as the World Bank, USAID, DfID, RNE etc.

⁵⁸ "SFG Programme: Value for Money Audit". PKF Consulting Limited. Government of Uganda, Draft Report (August 2003), p. 17.

⁵⁹ "SFG Evaluation. Final Report.", Ministry of Education and Sports, (March 2001), p.47.

3. The third stage involves the transfer from recourses from the teachers and schools to the students. Head teachers are usually responsible for malpractice; delay/non-payment of wages, misappropriation of UPE Capitation Grants and outright theft.

Other common practices that are not characterised in the above include absenteeism of teachers, taking bribes, favouritism etc. Also a big problem that has to be mentioned is “ghost pupils”. Since educational grants are provided on a per capita basis, recourses are transferred on the amount of pupils. A common method is to inflate the number of pupils in order to receive more funds. The reason why this practice can continue is because correct data is not available. “Ghost pupils” can be considered to be a national problem, and was therefore mentioned here. Below the three stages will be set out.

5.2.1 Transfer of recourses from Central to Local Governments

Leakage of funds: It has been stated that in general it is possible to assess the level of corruption in the education sector. Budget tracking studies have identified leakage of the funds allocated by GoU to primary schools. In the period 1991-1995 only 13% of the public non-wage expenditure reached the schools. In 2000 this percentage had increased to 90% reaching the schools.⁶⁰ However, still 10% of the money is misappropriated or diverted. In the FY 2000/2001 the total of approved budget was Ush 458.42 bn. Nevertheless this example shows that leakage of funds has decreased. The Government succeeded in doing this, by publishing monthly transfers of public funds in national newspapers and enforcing the public display of all central releases made at district and school notice boards.

Diversion of Poverty Action Fund (PAF) monitoring funds: The PAF is the main government tool to reduce poverty, by means of building schools, roads, health clinics etc. Government puts funds for several Local Government authorities to monitor PAF projects and activities. There have been clear guidelines for accessing, accounting for, and monitoring of Poverty Action Fund projects, but it has been found that districts often divert the money to other activities. Even if the money is spent on monitoring, in most cases, there are no reports on it. Also only 12% of all households surveyed by the Ministry of Finance, Planning and Economic Development said that they had benefited from the programme.⁶¹

5.2.2 Transfer of recourses from Local Governments to schools and teachers

Diversion in teachers' salaries: Teachers who state there is an arrears in salary payments is 41,7% (all districts combined). These arrears of salaries can be due to diversion of finances. It is claimed that the Chief Administrative Officer is the main cause of diversion of salaries.⁶²

Table 5: Diversion of teacher salaries

Cause of diversion of teachers salaries	All Districts (%)
CAO	31.3
DEO	5.5
CFO	9.9
Head teacher	2.8
Other	6.2

Misappropriation of UPE Capitation Funds: Either the head teachers who handle it make false accountabilities for it or they simply pocket the money. Sometimes, the District Headquarters Officials who get part of the misappropriated money promote this.

⁶⁰ Ritva Reinikka and Jakob Svensson, “Explaining leakage of public funds”, (2001), p. 2.

⁶¹ Andrew Lentz, “Assessing the impact of Uganda’s Poverty Action Fund: A participatory rural appraisal in Kamuli district.”, p. 3.

⁶² “A report on tracking study on primary school teachers’ recruitment, deployment and payroll management.”, Ministry of Public Service (May 2003), Annex 3a.

Payments to 'ghost' employees: In September 2003 the District Service Commission Secretary of Kiboga was remanded for putting "ghost teachers" on the payroll, however, the prosecution found that inquiries into the case were incomplete. The problem of "ghost teachers" occurs especially in primary education, and can be attributed to poor monitoring and school inspection.

Procurement in the education sector entails the building of classrooms, infrastructure and other school services. As stated in the chapter on local governments, procurement guidelines should be strict, fully transparent and competitive. In relation to procurement matters the main source of corruption falls under the SFG.

School Facility Grant (SFG): The Classroom Construction Programme falls under the Schools Facility Grant. The Minister of Education and Sports approves plans for the districts. In each district the Ministry of Education and Sports appoints a district assistant engineer who, together with the district engineer, monitor and supervise the classroom construction programme. The district assistant engineer reports directly to the Ministry of Education and Sports.

Gulu UPE cheques intercepted in Arua

Cheques for over Ush 66 million meant for classroom construction in Gulu have been intercepted in Arua, just moments before being cashed at the Stanbic Bank branch there....Francis Lubanga, the Permanent Secretary Ministry of Education, admitted that Gulu had problems accounting for its School Facilities Grant (SFG) fund. The district is yet to account for Ush 918 million advanced for SFG between 1998 and the last year. The amount excludes the Ush 238 million on which Chief Administrative Officer, Achiel Owor, is being questioned...

The New Vision, 23 August 2003, p. 3.

In 2001 an SFG evaluation was done. Different construction elements were monitored for their quality, such as doors and roofs. The outcome of the quality evaluation showed that out of 35 classroom projects only 14 showed no shortcomings.⁶³ Attention needs to be paid to the mixing of the wall plaster, and the quality of the doors. Nevertheless the overall outcome is that classroom construction is fair to good. The Auditor General is supposed to check the districts, but it does not have enough means to audit thoroughly. E.g. in one small district there are about 50 primary schools. In a district like Mbarara there are about 300 primary schools.

Due to widespread concern about the quality of SFG, the 8th Education Sector Review in October 2002 recommended that an independent auditor undertake a value for money audit of the programme. A report was submitted in October 2003. The report raised the concern that the government and the donors are not getting value for money. Loss in value is estimated between Ush 75 – Ush 125 bn out of a total expenditure of Ush 240 bn in 2003. It is stated in an overall evaluation of the procurement process in SFG that delays in the programme implementation were caused by failure in administering guidelines.⁶⁴

On September 3, 2003, it was stated in a Special Audit Report from the Auditor General's office, that out of Ush 238m remitted to the Gulu district for the Schools Facilitation Grant, only Ush 17,2m was put to use. Ush 39,710,480 was unaccounted for, another 178,5m was reimbursed to the Ministry of Finance, and Ush 3.1m was spent on bank charges.

New vision, 1 October 2003

⁶³ "SFG Evaluation. Final Report.", Ministry of Education and Sports, p.16.

⁶⁴ "SFG Programme: Value for Money Audit". PKF Consulting Limited. Government of Uganda, Draft Report (August 2003), p. 17.

It is stated in the Post UPE Conference report that there is not enough money to monitor SFG funds. However, the Netherlands Embassy believes that there are sufficient resources, but a serious lack of efficiency.

5.2.3 Transfer of recourses from schools and teachers to students

Head teachers 'eating' salaries: The head teacher plays a very important role concerning responsibilities they have in respect to the implementation of the UPE. They are the accounting officer, which means that they should be able to account for funds, and are concerned with UPE Capitation grants, inconsistencies, and dilapidation of infrastructure, quality, access, equity, quality and the relevance of education provided for the students. Especially the financial aspect of head teachers' responsibility is important. However, corrupt practices occur often in relation to head teachers. A very common complaint is that head teachers are "eating" salaries.⁶⁵ In Gulu, for example, part of the Ush 2.6 bn meant for primary teacher's salaries was diverted in the financial year 1998-1999, and another part was embezzled. The Auditor General Report indicated that Ush 10 m was paid to other persons without the teachers' consent and Ush 2.2 m unclaimed salaries was never returned. The report also claimed that a head teacher, Tonny Latigo, embezzled Ush 1.5 m meant for one of his teachers who was not paid for 15 months. It was suggested that (head) teachers who divert teacher's money should be handed over to the CID.⁶⁶ The reason why head teachers can get away with eating salaries, or non-payment of wages is due to the fact that a lot of teachers do not have the means to complain; no access to a telephone, no access to local authorities etc.

Also, in the Report on a tracking study on primary teachers' recruitment, deployment and payroll management of May 2003, it is stated that head teachers have an extremely poor record of compliance with finance and accounting regulations. They have no salary records, no signed payment vouchers, the balances of salaries that are retained are 12,9% or they are diverted, 1.8%.⁶⁷

Bribery: Teachers will accept material gifts or rewards in exchange for positive grades, assessments, selection to specialised programs of granting a place in school (of course those who give the bribes are equally corrupt). Another example of bribery is adopting inadequate educational material because of a manufacture's gifts or other incentives.

IGG arrests college boss over bribery

The principal of Moroto Core Primary Teachers College has been arrested for allegedly attempting to bribe officials from the Inspector General of Government to suppress a case. Mr. John A. Owillis and the bursar, Mr. Amos Lukoko, attempted to bribe the officials with one million shillings. The duo was summoned by the IGG for several other allegations, concerning mismanagement of college funds and failure to allowances to their tutors.

Sunday Monitor, October 12, 2003, p. 4.

Favouritism: Teachers will assign biased grades to a student which has a more favourable race, culture, social class etc..

⁶⁵ In the newspapers head teacher are often seen as one of the main reasons why there is a diversion of salaries. However, in the report on a tracking study on primary school teachers etc. it is estimated that head teachers only make up for 2.8%.

⁶⁶ *The Monitor*, 6 November 2002.

⁶⁷ "Report on a tracking study on primary teachers' recruitment, deployment and payroll management.", Ministry of Public Service (May 2003), p. xiv.

Extortion: Within the form of extortion, teachers usually force their students to purchase materials to which he or she has copyrights. Teachers also penalise students who do not attend private tutoring.

5.4 Conclusion

The transfer of resources from the central government level to the school level identifies corruption in the education sector. Especially the leakage and misappropriation of funds seem to be important problems that are present in all three stages, and need to be addressed. The CAO can be considered to be the main actor in diversion of teachers' salaries, but the head master plays a significant role as well, also in relation to eating teachers' salaries. The main problem why the head teachers can continue with this abuse of office is that teachers do not have the means to complain. Also there is an attitude of admiration towards the head teachers from society, which results in hardly any complaints being made. In relation to procurement improvement has been made in instructional materials, as indicated below. Classroom construction falls under the School Facilities Grant. In 2003 a School Facilities Grant value for money audit was done. The report raised concern that the government and the donors were not getting value for money.

5.5 Possible actions and actions undertaken

5.5.1 Actions undertaken

Within UPE one major intervention has been undertaken, namely in the Instructional Materials.

Instructional Materials: Under instructional materials is understood to mean textbooks, teachers guides etc. Primary textbook procurement used to be a very controversial topic until 1999 when International Book Development of the UK was contracted to rationalise the system. As a result of this streamlining there is more transparency and up to 50% savings are made. The MOES has however been reluctant to apply the lessons learned to secondary and tertiary levels of education. A 2002 report on secondary school instructional materials procurement indicates great inefficiencies in the system. Also recently the function of Head of Instructional Materials was given to somebody that is considered to be a more "understanding and accommodating individual". This of course jeopardises the established reforms made in instructional materials.

Curriculum: The Netherlands Embassy is currently supporting the education sector, in making a new curriculum. Emphasis will be on a competence-based curriculum, and not a subject based curriculum. Perhaps it is helpful to introduce a subject on ethical behaviour in the curriculum. The current curriculum does not entail a subject of this sort.

Delivery of Furniture: The Ministry of Sports and Education has, in collaboration with the Netherlands Embassy, drafted bidding documents for supply and delivery of furniture for primary schools in September 2003.

5.5.2 Awareness and Accountability

Public Awareness Raising: The public has to get aware about the relationship between corruption and the result of inadequate provision and quality of education. Some initiatives have been realised already, such as the making public of funds that were transferred to the districts and schools.

There are several issues that can be addressed in relation to public awareness raising. First of all, teachers, parents and student have to be educated on their rights and their obligations.

School Management Committees: Although a role for the School Management Committees has been identified by the GoU in the efficient management of school activities these committees are very weak. For the committees to become efficient they need to be given adequate sensitisation and equipped with essential skills e.g. basic financial training if they are to monitor the use of school funds by head teachers. Also the head teacher creates these committees and is the secretary as well. The community feels that the head teacher is a figure of authority and is therefore not very active in speaking up. The community needs to be sensitised.

Parent Teachers Association: Key player within the Association is the community. The community should demand for better service delivery in relation to education. However, as stated above in most up country schools the community feels inferior towards the head master, and as a result corrupt cases are not reported, and no attempt is made to bring these cases public.

Public awareness raising can be done by Civil Society. However, strengthening the SMC and the PTA is a task that can be fulfilled by the Netherlands Embassy. Members of these committees and associations need to be equipped with management skills etc.

Accountability structures: As stated above, the system of holding public officials accountable will be strengthened once the Access to Information Bill has been implemented, and the public and Civil Society have a right to obtain Government information. In relation to teachers that need to be held accountable, it has to be tried to reduce the option of corruption by increasing the risk of getting caught. Parents can hold teachers accountable, and so can students. This can again be brought back to sensitising the community/public.

5.5.3 Institutions

Procurement reform: Obviously corruption in procurement leads to a financial loss. As has been shown procurement plays an important role in education as well, especially in relation to the SFG. SFG is responsible for the supervision of the grants that are transferred to the districts. As stated in the chapter on Local Governments one of the problems within procurement is that the process is not transparent. Also bid documents are not well prepared, bid closing/opening dates and time are arbitrarily changed, and evaluation of bids is not properly executed.

Number of Pupils: A big problem within basic education is the number of pupils that is actually attending school. Those who do know the exact numbers are keeping quiet due to possible personal gain from the inflated number of children attending school. Monitoring the number of children should be improved.

6. JUSTICE, LAW AND ORDER

6.1 Introduction

The vision of the Justice, Law and Order Sector (JLOS) is “To enable all Ugandans to live in a safe and just society”.⁶⁸ Within the JLOS there are three institutions that play an important role in relation to eradicating corruption, namely the Judiciary, the Department of Public Prosecutions, and the Criminal Investigations Department of the Police. The DPP and the CID have been set out in the first chapter, but will be discussed again and elaborated on, due to their distinct role. This chapter will have a different set up than the other two sector specific chapters, due to the many institutions that play a role. Therefore the three actors, the Judiciary, the DPP and the CID will be handled separately as well as the issues of corruption.

6.2 The Judiciary

The Judiciary is an independent institution of the Government that deals with judicial authority. Independence of the Judiciary is guaranteed by the Constitution and by the absence of any influence by the Executive or the Legislature in judicial decisions. The main objective of the Judiciary is to provide administration and timely delivery to all people of Uganda. In order to achieve this mission, the Judiciary is mandated to establish and facilitate effective and efficient machinery capable of functioning as an adjudicating authority and of quickly administrating and delivering justice and related services.⁶⁹

⁶⁸ “Fighting corruption in the Justice, Law and Order Sector reform context.”, A paper presented by the Directorate of Public Prosecutions (6th June 2003), p.1.

⁶⁹ <http://www.judicature.go.ug/mission/php> (22 October 2003).

Formal Judicial System: The Courts of the Judicature in Uganda are formed in a hierarchical way:

- (a) The Supreme Court of Uganda;
- (b) The Court of Appeal of Uganda;
- (c) The High Court of Uganda;
- (d) Subordinate Courts established by law (through Parliament).⁷⁰

Ad. (c) Within the High Court there are four divisions, the Commercial Court Division, the Family Division, the Criminal Division, and the Civil Division. The Commercial Court is semiautonomous and is part of the Commercial Justice Reform Programme. It deals with cases concerning recovery of debts and company matters.

Ad. (d) The Subordinate Courts consist of a Chief Magistrates' Court, Magistrate Grade I and Magistrate Grade II. The Chief Magistrates' Court and the Magistrate Grade I contain professionals, with law degrees and diplomas in legal practice, the Magistrate Grade II holds laymen and women, who only hold a diploma in law. The Magistrate Courts hold limited, criminal, geographical and monetary jurisdiction,⁷¹ but they can try both civil and criminal matters.

The Registrars: Within the Judiciary there is an Office of the Chief Registrar. The Chief Registrar carries out management tasks for the Judiciary, and heads the Registrars. The Registrar High Court has the administrative responsibility of the four divisions of the High Court. Deputy Registrars and Assistant Registrars assist the Registrar High Court. They both have some judicial power within their areas of jurisdiction. They have for instance the powers to take all preliminary steps before trial and hear all interlocutory applications.

Inspectorate of Courts: The Inspectorate of Courts evaluates the performance of the Magistrates. Inspection is done by routinely and independently.

6.2.1 Corruption in the Judiciary

The judiciary in fight against graft

...Corruption is a greater threat to the independence of the judiciary than any other force. The corruption that is threatening the judiciary is not state-inspired, but is being fuelled by private parties to suits.

The New Vision, October 16, 2003, p. 20.

Report on Judicial Integrity: In November 2002 the Centre for Basic Research published an inquiry into the integrity in the Judiciary. The main aim of this inquiry was to accumulate as much information as possible on the causes, the extent and nature of corruption in the Judiciary, evaluate this information, and provide for reform suggestions in order to strengthen and reduce corruption in the judicial system of Uganda.⁷² The main outcome of this report is that corrupt practices occur primarily among court staff and the police, and not so much amongst judicial officers.

Law Development Centre: Cases of corruption amongst the judges are not very common. In a report presented by John Mary Mugisha, a principal lecturer at the Law Development Centre, it was stated that court clerks and other support staff are the most corrupt employees in the judiciary system. This report also showed that corruption has not yet spread through out the whole judiciary system, but that is was rampant among the clerical staff. Therefore, most emphasis will be on the administrative staff, such as court clerks and bailiffs.

⁷⁰ Chapter 8, article 129, Constitution 1995.

⁷¹ "Final Draft Report on Judicial Integrity in Uganda.", Centre for Basic Research (November 2002), p. 2.

⁷² "Final Draft Report on Judicial Integrity in Uganda", Centre for Basic Research, p. i.

Corruption in the Judiciary is most common amongst the Magistrates Courts, and the Registrars. It has to be kept in mind that the outcome of the surveys (in %) is based on perceptions. Court users are exposed to Registrars from the beginning of the process. They have a direct interference with the public. As will be shown below, corrupt acts deter the usage of the courts.

Table 6: Reasons for not using the courts

Order of Obstacle	Nature of Obstacle	Proportion of Respondents (%)
1	Unofficial payments to Magistrates and Court staff are too high	22.0
2	The process is too long	15.9
3	The procedure is too complex	14.5
4	Official payment to the Court is too high	14.5
5	Courts are situated too far away	8.8
6	Court decisions are influenced by bribes	7.6
7	Legal representation is too expensive	6.5
8	Court decisions influenced by personal connections	2.4
9	Others	3.7
10	Did not answer	2.7
	Total	100

Unofficial Payments: The main reason why the general public is not using courts is because of the high unofficial payments to be made to the Magistrates and the Court staff.⁷³ Court Officials have been charged with asking money for transport costs. Mention has been made that Ush 1,000 must be paid in Court as transport fees. Those who cannot afford to pay these costs are obviously put in a position whereby they have less access to justice.

Commercial Courts: 70% of businesses in Uganda perceived the commercial justice system to be expensive, slow, and corrupt. Therefore the commercial courts system needs to be improved. There are various issues that need attention. For one, the court procedures are too complex to be understood by a layman. The language used is too difficult and creates uncertainty for the poor. As a result a customer service is established. Secondly, administrative corruption needs to be tackled. In commercial courts this form of corruption has been straightforward.

Bribery: Giving bribes is also a form of corruption that is apparent in the judiciary. The main reasons why bribes are given are for the dismissal of a case, of grant of bail, for the destruction of evidence, for fair treatment, no to produce witness, or to release a prisoner. However, of the 32 people who paid a bribe, only 7 were satisfied with the services requested.⁷⁴ From this information it can be concluded that paying a bribe does not necessarily mean that the specific request is granted.

An example of this is the case concerning the "Contribution for Soda Money". On the 8th of October 2003, Justice James Ogoola, the head of the Commercial Court criticised Mohammed Majyambere, a Kampala businessman, for giving him an envelope at the funeral service of his mother-in-law, containing a condolence message, and a smaller envelope with the text "contribution for soda money" written on it. The Justice refused to open the smaller envelope, because he believed it was against his conscience and code of conduct. The "contribution for soda money" was given to Ogoola as a bribe. Justice Ogoola was handling three cases against Mr. Majyambere at that time.

⁷³ Ibidem, p. 48.

⁷⁴ Integrity justice opzoeken

Speed of the Judicial System: According to the Report on Judicial Integrity the general public finds that the system is never quick, 51%. Prosecutions of corruption cases are very lengthy and are often adjourned by the court.⁷⁵ IGG suggests to establish a special court which handles corruption cases to enable the expeditious disposal of corruption cases.

Court Awards: Court awards arise as a result of the government being sued and loses the case in a competent court. Currently court awards is a very hotly debated topic, because rumour has it that the level of corruption in court awards is nearly as high as the level of corruption in procurement. There are two reasons that can indicate why this rumour has arisen; firstly, because the government seems to be unable to win a case, which results in rewarding the plaintiff, and secondly the apparent amount of money that is lost due to errors made during the process is very high. A common act of corruption can be indicated through the cases of two companies that were registered in Yugoslavia. Allegedly government lawyers were sharing information with the plaintiff lawyers, so that the government would lose the case, and the lawyers could divide amongst them the money received from the court award.⁷⁶ Even though court awards is an issue that recently got more attention, e.g. the JLOS donor group is looking into it, more investigation needs to be done on the opportunities for corruption, and the amount of money is being lost etc.

6.3 Department of Public Prosecutions

To recapitulate the functions of the DPP set out in chapter one: The DPP is (a) to direct the police to investigate any information of a criminal nature and to report to him or her expeditiously, (b) to institute criminal proceedings against any person of authority in any court with competent jurisdiction other than a court martial, (c) to take over and continue criminal proceedings instituted by any other person or authority, (d) to discontinue at any stage before judgement is delivered, any criminal proceedings instituted by himself or herself or any other person or authority, except that the Director of Public Prosecutions shall not discontinue any proceedings commenced by another person or authority except with the consent of the court.

The DPP can initiate investigation even though it is very rare. An example of an investigation initiated by the DPP is the Commission of Inquiry on Junk Helicopters. The DPP is not known for corruption, and has a zero-tolerance policy towards corruption. In order to cope with the public demand to fight corruption, the DPP initiated an anti-fraud unit within the office of the DPP. In November 2003 six people were sent to and trained by the Scorpions in South Africa, and on their return in December several objectives were formulated, which tackle the problems the DPP is facing currently.

Firstly, there needs to be focus on only certain cases. The DPP does not have the capacity to take any case on, which creates an enormous backlog in the long run (which is present already). Also, the DPP is dependent on the police for cases and it seems that there is a lack of information flow on suspected corrupt cases. Contact between the DPP and the CID is frequent. The DPP and the CID meet monthly at the Inter Agency Forum, and at staff level they meet a co-ordination committee, which meets quarterly. And there are annual workshops. Even though the CID and the DPP meet at least once every month to exchange information the issue of lack of information is still present. Therefore the DPP needs to keep in close contact with the police when they are investigating and preparing a case. Thirdly the DPP does not have a wide expertise, as opposed to for instance the IGG. They especially lack know-how on financial related matters. There should be an emphasis on (financial) management skills. And fourthly, the DPP needs to promote itself and it needs to build confidence from the public. It is namely not general knowledge that corrupt issues can be

⁷⁵ "Report to Parliament: July-December 2002.", IGG, p. 12.

⁷⁶ *The Monitor*, 25 September 2003, p.3.

raised directly at the office of the DPP. Also the DPP has to show the public that it can deliver, meaning that it can conclude cases of corruption. In order to realise this, cases have to be screened on forehand to be sure that it will most definitely lead to a conviction, and in relation to that the media have to report on these successes (as well as the losses), so that the public will get aware that this is an institution that works.

6.4 Criminal Investigations Department

The Police Force has four directorates, namely the Directorate of Administration, the Directorate of Operations and Support Services, the Directorate of Criminal Investigations (CID) and Special Branch. The head of each directorate is known as a Director, and is responsible for a number of departments. A department is headed by an Assistant Commissioner of Police (ACP) and is comprised by several desks (squads in the case of the CID).

The main functions of the CID are (a) the inquiry and observation work relation to crime, including inquiry work for other forces, (b) circulation of information and systematic watching and handling of information received from other forces, (c) maintenance of criminal records, (d) Technical work, including fingerprints, photography and laboratory work, and (e) training and instruction of personnel. The CID has countrywide offices and one of the biggest challenges for the CID is to co-ordinate activities throughout the country. The Head of the Department of the CID is directly responsible to the IGP.

The CID is just as the DPP facing many problems, which can be generalised into one, namely lack of capacity. Within the CID there is a fraud squad, however, the number of people working there are not able to cope with the workload. Around 30 to 40 cases come in every month, and there are about 30 people working in the squad. Ideally an investigator concludes 12 cases a year. As a result there is an enormous backlog in cases. Mention has to be made that the CID is already screening cases on forehand, meaning they do not accept cases under Ush 10 m (approx. \$ 5000). Next to the lack of people working in the fraud squad, there are only three people working as experts, one ballistic expert and two handwriting experts. Also these experts have to work with obsolete materials. There is for instance not a real laboratory, and only two microscopes to work with. This, of course, does not contribute to the efficiency of the CID.

6.4.1 Corruption in the Police Force and the CID

IGG Report July-December 2002: In the IGG Report it is stated that the police is still considered to be the second most corrupt institution in Uganda. The police accounted for 10,3% of the total complaints received. Most complaints included the abuse of office, mismanagement and mishandling of cases, bribery and extortion, delay in service delivery, and non-payments of salaries and other benefits. According to the IGG, corruption still occurs due to low salaries and non-payment of wages. However, low salaries in the Police Force are not the only cause of corruption. Low salaries do provide an incentive, but the grounds for being corrupt is also embedded in the attitude of people.

National Integrity Survey: In the Second National Integrity Survey it was stated that 46% of de interviewees, who had come often in contact with the police, paid unofficial payments to them. 38% have made unofficial payments to the traffic police. Besides bribes paid to the Veterinary Department, 35%, the police and the traffic police have the highest percentage of bribes being paid to.

Table 7: Who Suggest Bribes?

No.	Proposed	Respondents who reported
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		(%)
1	Policeman	10.4
2	O.C. Police	3.9
3	Magistrate	3.9
4	Friend	3.9
5	Prosecutor	2.6
6	Lawyer	2.6
7	Registrar	1.3
8	Relatives	1.3
9	Prison Guard	1.3
10	L.C. III	1.3
11	No Proposal	67.5

"Final Draft Report on Judicial Integrity in Uganda", Centre for Basic Research (November 2002), p. 54.

With regard to the traffic police, the interviewees' perception, 16%, is that the extent of nepotism is high. The only area where the perception of nepotism percentage is higher is in the health unit, 19%. The third area is in the Magistrates Court. Below is stated that mention of corrupt cases in the Magistrates Courts are not as common, but the perceived extent of nepotism is high, 12,7% of the interviewees.

Lubaga LC official took bribe, court told

Ssalongo James Sekidde is charged with demanding money with menace, escaping from lawful custody and giving false information to security officials. The LC III councillor demanded a Ush 50 m bribe from a local investor. The LC III councillor threatened to ruin the investor by giving out damaging information to all the radio stations, if the bribe was not paid. It is alleged that he took a cheque worth Ush 7 m.

The Monitor, 1 September 2003.

Report on the Uganda Police Force: In May 2000 a report was issued from the judicial commission which inquired into corruption in the Uganda Police Force (UPF). In this report the whole police force was investigated. Several recommendations were made, but according to the National Integrity Survey and the IGG report, the police is still considered to be the most, or second most, corrupt institution. A reason for this is due to the fact that the police have the power to arrest and detain, which is the most direct interference with the individual freedoms.⁷⁷

Misallocation of training resources: Each year the Government earmarks a certain amount of money of the police force for training recruits. According to the IGP training is a very important aspect, and one of the top priorities of the Police Force. However, money is often misallocated and diverted into other needs. This has, of course, a direct effect on the standard of training facilities.

Negligence in adhering to the Code of Conduct: Especially amongst the top managers of the Ugandan Police Force, the Disciplinary Code of Conduct is not adhered to. This Code of Conduct is often applied in order to victimise lower officers, instead of promoting discipline.

⁷⁷ National Integrity Survey 2003, p. 50 and p. 65.

Low Remuneration: As stated already in the IGG report, remuneration of officers is low. In order to “make ends meet” corruption is a survival tactic. In the time the Commission has written their report the salary of a constable was Ush 75,591 per month. Currently a constable is paid Ush 106,355 a month.

Mismanagement of the Payroll: There have been a number of complaints about mismanagement of the payroll, delays in payments of salaries, and “ghost workers”.

In the report of the Judicial Commission the Criminal Investigations Department was investigated as well.⁷⁸ Most of the forms and manifestations of corruption, such as bribery, embezzlement and “ghost”-employees were present within the CID. As can be read above, the CID is facing many problems, which do not contribute to an efficient and effective system. These problems need to be tackled. However, not much research has done regarding the CID, and it may be useful to first assess the different problems and different needs of the CID, before taking possible action.

6.5 Conclusion

Corruption within the Judiciary is mainly concentrated around court clerks, registrars and magistrates courts. The main reasons why cases of corruption are so frequent in these three areas of the Judiciary are because, for one, the public encounters them first, and they have a certain amount of power. Also their living conditions are bad, and remuneration is low. Together with this power, a great incentive for being corrupt is created. This does not mean that corruption at higher levels of the Judiciary does not occur.

Actually no cases of corruption have been published in relation to the DPP. However, the DPP is facing several problems, such as the lack of information, and the lack of capacity. Six officials from the DPP anti-fraud unit have been in South Africa for a training course. This anti-fraud unit will hopefully result in a higher quality of prosecutions, and will quicken the investigation time.

Most problems that are present in the police force are also present in the CID. In 2000 a Commission of Inquiry investigated the whole police force. Many recommendations were made, and some were openly implemented. However, with regard to the CID there are many other problems that need to be tackled as well, such as the lack of capacity and the lack of specialised materials, since they may contribute to corruption.

6.6 Possible actions and actions undertaken

6.6.1 Actions that have been undertaken

Plan of Action: In May 2002 the Judicial Integrity Committee presented the Plan of Action for Strengthening Judicial Integrity. Corruption within the Judiciary was one of the six areas of concern, and was addressed in the plan of action. Proposed measures and actions were based on a preventive strategy. The Strengthening the Judiciary Project (DANIDA) is supporting several proposals.

Code of Judicial Conduct: On the 28th of October 2003 the Uganda Judiciary launched the Code of Judicial Conduct and Plan of Action for Strengthening Judicial Integrity, which is a revision of the 1989 Code of Conduct for Judges, Magistrates, and other Judicial Officers. The new Code comprises of principles and rules that will provide guidance for regulating judicial conduct for all judicial officers.⁷⁹

⁷⁸ “Report of the Judicial Commission of Inquiry into corruption in the Uganda Police Force.”, Government of Uganda, (May 2000), p. 334.

⁷⁹ The Monitor, 27 October 2003, p. 26.

Preliminary work of the Code started in 2000. In May 2002 the plan of action addressed the following matters, namely judicial conduct, corruption within the Judiciary, delay in disposal of cases, execution of court orders and decrees, and administration of estates. Within the Code there are six principles that need to be adhered to. The principles are independence, impartiality, integrity, propriety, equality, and competence and diligence enforcement.

The Judicial Integrity Committee, Peer Committees and the Judiciary do awareness raising. Peer Committees are committees that form a mechanism to monitor standards of integrity in the judiciary at all levels of the country.

Netherlands Embassy and the DPP: In May 1998 the Netherlands-Uganda Support to Public Prosecutions Project was launched. The duration of the project was six years, and was implemented in two phases. The first phase was implemented by both the Netherlands Embassy and the DPP, and the second phase (July 2001-2003) was implemented by the DPP. The objective of this project was to promote the efficiency and effectiveness of the DPP, and to promote the rule of law and increase public confidence in the criminal justice system.

6.6.2 Awareness and Accountability

Court Awards: Even though court awards was not a big topic in this study it is nevertheless a very important issue to inquire into. As stated the level of corruption is approximately equal to the level of corruption in procurement. The Netherlands Embassy needs to take the lead in investigating into the issue of court awards, since they chair JLOS.

6.6.3 Institutions

Follow-up Commission of Inquiry: Find out which recommendations of the Commission of Inquiry have been implemented and which ones have not. From there more specific actions can be drawn.

CID: The CID fraud squad e.g. remains largely ineffective as a result of inadequate staffing and equipment. Therefore, more research needs to be done on the problems and the needs of the CID. A spokesperson of the CID can come to one of the Anti-Corruption Donor Group Meetings to present these matters, and discuss whether or not the Donor Group can be of support.

CONCLUSION

In this case study the prevalence of corruption in Uganda has been set out, specifically for the sectors Local Government, Education, Justice, Law and Order and Procurement. As an overall conclusion it can be stated that corruption in Uganda is endemic, and present throughout the whole of society. In the first chapter different types, forms and manifestations of corruption were discussed, such as bureaucratic and political corruption, bribery, embezzlement, fraud, extortion and favouritism. Even though some are more common than others are, all of these forms are present in Uganda.

The Corruption Perceptions Index from Transparency International gave Uganda in 2003 a better rating than the year before. However, in order to be able to draw any conclusions from this list, one needs to look over a five-year period. It seems that Uganda is indeed perceived to be less corrupt. Also in the National Integrity Survey the occurrence of the act of bribery is perceived to be reduced. Nevertheless the public seems to be unaware of what corrupt acts entail, such as that the bribe giver is equally corrupt as the bribe taker. This indicates that the public needs to be made aware and sensitised on the issue of corruption. If they do not have a full understanding of what it entails, they will not hold their peers or officials accountable.

Corruption in Uganda can be curbed, but in order to be able to do that there needs to be an amount of political will. In Uganda this will is seriously lacking. Even amongst the institutions that were initiated to fight corruption, corrupt acts are not uncommon. The IGG, for instance, is known to take bribes, and the (traffic) police is notorious for corruption. Corruption in the Government obviously does not send out a committed signal to the public. It is important to stress again that without political will anti-corruption policies are most likely to remain unsuccessful.

In this case study the only cross cutting sector that was dealt with was procurement, due to the fact that most of the corruption cases are procurement related. This is not to say that the other cross cutting issue, financial management, is not important or that corruption does not

occur there. With regard to procurement it has been mentioned that even though a new procurement law is enacted there are still opportunities for corrupt act. These opportunities will always remain, but the attitude of individuals to take advantage of these loopholes needs to be changed.

Together with this attitude, other factors also play a role that makes corruption subsist, such as greed, poverty and low remuneration, lack of human capacity, a weak accounting system, and lack of human capacity. Greed, for instance, is a problem that is embedded not only in Ugandan society, but also in human nature, regardless of the amount of resources an individual has. Another issue that is important to quote as an example for corruption subsisting is having power and authority. This makes that the public is not always willing to question an individual's actions, as shown in the chapters on Education regarding the headmaster, and Justice, Law and Order, regarding the registrars, the magistrates, and the police officers, partly due to the fear of getting victimised.

There needs to be an attitudinal change, which can be considered as a long-term process. However, as long as individuals are still able to benefit from corrupt acts, especially top Government officials, they are unlikely to change this attitude. The top officials in the government have to demonstrate that they are serious about curbing corruption, meaning not only petty corruption but also political corruption. This will create trust from society, and may be an incentive to take a different course as well.

In conclusion there needs to be a top-down approach, and a bottom-up approach to fight corruption. With the bottom-up approach is meant that attention is being paid to the public; that they are made aware, strengthened and that they are sensitised. Civil Society and the media can play an important role in this and as a result in the fight against corruption.

Civil Society forms a link between the government and the public. The tasks of Civil Society are to make the public aware of their rights and obligations, and to mobilise the public around key issues of concern. Civil Society has to lobby with the government with following-up on corrupt cases, and to monitor if government initiatives are followed-up, the so-called watch dog role. However, Civil Society in Uganda is fairly weak. They are able to sensitise and to make the public aware, as stated in the awareness programs initiated by Uganda Debt Network, but they are not able to hold the government accountable. Therefore, Civil Society Organisations themselves need to be strengthened as well.

The media are important in relation to publicising corrupt cases. In Uganda the media are relatively free, and newspapers for instance have been printing a lot of corruption cases. However, there is still a very poor reading culture in Uganda, and therefore the radio is an important medium for the distribution of information. The Internet is on the rise, but is only easily accessible in larger cities such as Kampala.

The top-down approach means that the institutions of the Government, and officials in the Government need to be influenced in taking a corrupt free course, thus political will needs to be built. As mentioned above Civil Society can influence the Government and hold it accountable, but influencing the Government is also a task that can be done by donors.

The fight against corruption is of great importance to most of the donors in Uganda, especially since it has been argued that around 7.7% of the amount of donor money is being lost through corruption. However, it has also been argued that donor money for development co-operation has also been a cause for the presence of corruption, because the absorption capacity of the institutions is too limited. Nevertheless donors can play an influential role with regard to the government, especially when they are organised in a well co-ordinated and collaborating anti-corruption donor group, as is the case in Uganda. However, the donor group needs to remain critical towards the government, and also towards themselves and

each other. Especially in the long run if the level of corruption is not decreasing the donors truly have to assess for them selves whether or not supporting Uganda is still fruitful, since this phenomenon undermines a successful outcome of development activities.

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- The Other Voice

Interviews and meetings

Interviews and meetings with various individuals from the Department of Public Prosecutions, the Department of Ethics and Integrity, the Public Procurement and Disposal of Assets Authority, the Criminal Investigations Department, the Judiciary, the Inspectorate General of Government, Uganda Debt Network, Transparency International Uganda, Anti-Corruption Donor Group, and Utstein Resource Centre.