

STRENGTHENING IMPLEMENTATION OF  
ANTI-CORRUPTION RECOMMENDATIONS  
AND SANCTIONS WILL BE KEY TO  
ADDRESSING ENDEMIC CORRUPTION  
AND IMPROVING SERVICE DELIVERY IN  
UGANDA



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# STRENGTHENING IMPLEMENTATION OF ANTI-CORRUPTION RECOMMENDATIONS AND SANCTIONS WILL BE KEY TO ADDRESSING ENDEMIC CORRUPTION AND IMPROVING SERVICE DELIVERY IN UGANDA

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# Strengthening Implementation of Anti-Corruption Recommendations and Sanctions Will Be Key to Addressing Endemic Corruption and Improving Service Delivery in Uganda



Annet Mbabazi

In the brief I argue that failure by responsible officers<sup>1</sup> to implement anti-corruption recommendations<sup>2</sup> and sanctions<sup>3</sup> arising from investigations and successful prosecutions by the Inspectorate of Government (IG) undermines anti-corruption efforts in Uganda. On the one hand, this shortcoming increases the vulnerability of key service delivery units to corruption since remedial measures are not implemented and impunity prevails as culprits do not suffer appropriate repercussions. On the other hand, poor implementation of the IG's recommendations affects the delivery of services as it sustains inefficiency and wastage of public resources. Weak follow-up mechanisms at the IG, limited accountability structures, distorted incentives for responsible officers to act, and ambiguities in the legislative and regulatory framework are identified as the underlying causes for poor implementation of anti-corruption recommendations and sanctions. As a policy remedy, this brief recommends building a robust follow-up mechanism at the IG, engaging broader accountability structures, including citizen interest groups, introducing strict liability measures for non-responsive and non-compliant responsible officers, and addressing ambiguities in the legislative and regulatory framework.

## 1. Introduction

Public sector corruption in Uganda is increasingly complex, highly syndicated and enlists sophisticated tools and technology that make it difficult to detect, investigate, prosecute and adjudicate. Nonetheless, investigation and prosecution agencies such as the IG, the Criminal Investigations Department (CID) of the Uganda Police and the Office of the Director of Public Prosecutions (ODPP) have taken steps to respond to the evolving nature of corruption. These institutions have improved their capacity to apply international best practices, including prosecution-led investigations (in use at the ODPP since 2008) and the utilisation of financial intelligence. At the IG, the Directorate of Special Investigations (DSI), which was set up in 2016 to specially investigate high-profile<sup>4</sup> corruption cases, completed 400% more cases in FY2017/2018 compared to the cases completed in FY 2016/2017.<sup>5</sup> Furthermore, the IG, CID and ODPP institutions are starting to draw on a developing asset recovery legal and regulatory framework to freeze, trace and recover ill-gotten assets. Furthermore, the establishment of the Anti-Corruption Division (ACD) of the High Court (henceforth referred to as the Anti-Corruption Court) in

2009 has contributed to prioritisation of anti-corruption in the judicial system. The Anti-Corruption Court has one of the highest clearance rates in the Justice, Law and Order Sector (JLOS), scoring 96% and 97% in FY 2016/2017 and FY 2017/2018, respectively.<sup>6</sup> While this study acknowledges that the CID and the ODPP also investigate and prosecute corruption, it focuses specifically on the IG, which is chiefly mandated to fight corruption, and which also holds a unique mandate to both investigate and prosecute corruption.

Despite the numerous positive developments, public perception in Uganda is that corruption is deeply entrenched in society. The Uganda National Governance Baseline Survey of 2014 revealed that 95% of the population felt that corruption was a problem in the country,<sup>7</sup> a perception which is evidenced by the relatively poor performance of Uganda's anti-corruption institutions. Even though the DSI has been lauded for improving case disposal between the last two FYs, significant efficiency gaps remain. The unit only managed to complete 20% of its high-profile investigations within the agreed time frame of a year.<sup>8</sup>

<sup>1</sup> For purposes of this paper, 'responsible officers' defines chief executives of any government entity. Responsible officers are often the Accounting Officers who are financially responsible for any specific financial year or budget but may also be any other government officers to whom IG recommendations are addressed and who are expected to act accordingly

<sup>2</sup> Anti-corruption recommendations consist of recommendations made by the IG in the course of investigating corruption allegations/cases

<sup>3</sup> Sanctions are issued in cases where IG prosecutions of corruption at the Anti-Corruption Court are successful and convictions are secured.

<sup>4</sup> The IG describes high-profile cases as those in which the alleged sum of money at risk or involved is above UGX 1 billion, or cases that implicate high-level public officials or cases concerning national priority sectors that the government gives utmost emphasis, including transport and infrastructure, education and health, or cases that require specialised knowledge, skills and tools

<sup>5</sup> Annual report of the IG 2018

<sup>6</sup> Justice, Law and Order Sector (JLOS) Annual Performance Report (2018)

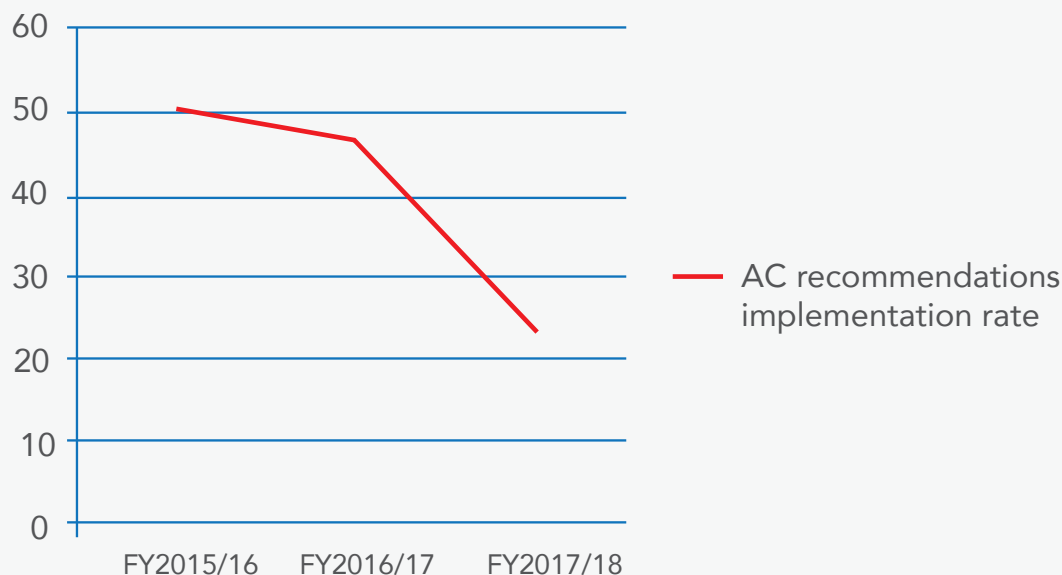
<sup>7</sup> Uganda Bureau of Statistics (UBOS) Uganda National Governance Baseline Survey Report (2014)

<sup>8</sup> Annual Report of the Inspectorate of Government FY 2017/2018 (2008)

Similarly, at the Anti-Corruption Court, the average time taken between the registration and conclusion of a case is almost two years and at the Court of Appeal (COA), where many corruption cases end up, the average length of time for completion of a corruption case was found to be over four years.<sup>9</sup>

To further compound the problem, even when investigations and prosecutions are successfully completed, the implementation rate for recommendations and sanctions made is low. On the implementation of recommendations, for example, the IG has in the last three years reported a downward trend: a paltry 23.5% in FY 2017/2018, down from 46.9% in FY 2016/2017, which was also less than the 50% registered in FY 2015/2016. It is generally difficult to find conclusive quantitative data on the implementation rate of IG

sanctions because the institution does not maintain an updated status log of sanctions issued. Nonetheless, interviews with the concerned IG staff revealed that while communication through the IGG's letters is done for corruption convictions, it is not systematic, and neither is follow-up on the implementation of those sanctions. In addition, feedback from responsible MDAs was not methodically sought by the IG, and subsequently 'rarely received' as confessed by a prosecutor interviewed in the course of writing this paper. In fact, a review of a list of cases tried at the Anti-Corruption Court between 2009 and 2017<sup>10</sup> revealed at least 40 names of officials convicted during that period who were still marked as 'active' on the government payroll according to a November 2017 check by the Ministry of Public Service. Some of these officials had been prosecuted by the IG.



**Figure 1: Implementation rate of IG anti-corruption recommendations**

Source: Based on data from the IG annual reports

<sup>9</sup> Data from the Court Case Administration System (CCAS)

<sup>10</sup> The DFID and EU-funded programme, Strengthening Uganda's Anti-Corruption Response - Technical Advisory Facility (SUGAR TAF) supported the ODPP and IG to compile a list of convictions handed down by the Anti-Corruption Court between 2009 and 2017. In November 2017, this list was reviewed by the Ministry of Public Service to indicate the payroll status of public officials convicted of corruption



**Figure 2: FY 2017/2018 IG anti-corruption recommendations**

Source: Based on data from the IG annual report FY 2017/2018

This paper explains the underlying causes of poor implementation of the IG's recommendations with a view to identifying corrective policy measures that would contribute towards strengthening Uganda's anti-corruption regime. The study involved a desk review of Uganda's anti-corruption legislative and regulatory framework, reports and publications of the IG, ODPP, Directorate of Ethics and Integrity (DEI) and several other publications relevant to the topic. This was further complemented by over 15 interviews with key stakeholders, mainly in government, and other actors in Uganda's anti-corruption efforts, including Transparency International Uganda (TIU) and the Anti-Corruption Coalition of Uganda (ACCU).

The study was premised on the argument that poor implementation of anti-corruption recommendations and sanctions perpetuates impunity and contributes to inefficient and ineffective delivery of public goods and services. Findings of the study identified the constraints undermining the implementation of anti-corruption recommendations as: weak follow-up on

recommendations at the IG, ambiguities in the legal framework on administrative sanctions relating to corruption, distorted incentives for responsible officers to implement anti-corruption recommendations and sanctions, and limited accountability structures, including unclear repercussions for non-compliance or response, and weak citizen engagement on the issue. This paper, therefore, argues for a range of policy interventions and actions, including a robust follow-up mechanism at the IG, addressing ambiguities in the legislative framework, and the broadening of the accountability authorising environment for anti-corruption, including the engagement of different citizen interest groups.

The rest of this paper features Section 3 which presents the legislative, regulatory and institutional framework, and also discusses the tensions between the political and legislative contexts for anti-corruption in Uganda. Section 4 presents findings on the constraints on the implementation of recommendations and sanctions and, finally, Section 5 offers policy recommendations for the IG and other relevant stakeholders.

## 2. Context

### 2.1 Legislative, regulatory and institutional framework

Uganda has a comprehensive anti-corruption legal framework that is elaborately provided by the Anti-Corruption Act (2009), the Penal Code Act (Cap. 120), the Anti-Money Laundering (Amendment) Act (2017), the Inspectorate of Government Act (2002), the Public Finance Management Act (2015) and the Leadership Code Act (Cap. 168). As enshrined in these legal instruments, corruption is described to include several offences, including: abuse of office; bribery; causing financial loss; soliciting and/or receiving a gratification; diversion of public resources; embezzlement; fraudulent or false accounting; and illicit enrichment. The Leadership Code Act 2017<sup>11</sup> was amended in 2017 to cater for online declaration of assets and efforts are ongoing to develop a 'proceeds of crime' law, both of which support an enhanced asset recovery approach to Uganda's anti-corruption efforts.

Central to Uganda's institutional and regulatory framework is the IG, the agency legally mandated to eliminate corruption and the abuse of authority and public office. The IG is headed by the Inspector General of Government (IGG), who is appointed by the President with the approval of Parliament. The law empowers the IG with the mandate to investigate, prosecute, seize assets and make recommendations for administrative and disciplinary actions, and the recovery of ill-gotten and misappropriated funds and assets.<sup>12</sup>

In FY 2017/2018 the IG's office completed the investigation of 94 corruption cases, including 13 high-profile ones, and managed to recover UGX 578,836,039, the equivalent of USD 153,000. The office also prosecuted 47 corruption cases at the Anti-Corruption Court where it secured a conviction rate of 66%, a steady improvement from the 60% from the previous year. While the IG has made significant progress amidst budgetary and capacity constraints, there remains room for improvement. On investigations, for example,

the 94 cases investigated fell far below the annual target of 218. In addition, the absence of the Leadership Code Tribunal continues to undermine the IG's efforts in rolling out an online declaration system<sup>13</sup> aimed at enhancing accountability in public office. To further complicate this, the IG has limited capacity to verify submitted declarations; out of 22,122 declarations submitted by leaders in FY 2016/2017, only 62 verifications were done.<sup>14</sup> At the pivot of Uganda's sanction-based efforts to eliminate corruption is the Anti-Corruption Court which has, since its inception in 2009, concluded over 1,300 cases.<sup>15</sup> The high-performing court scores one of the highest clearance rates in the JLOS, at 96% and 97% in FY 2016/2017 and FY 2017/2018.

The DEI, under the Office of the President, plays a key coordinative and leadership role in Uganda's anti-corruption efforts. The directorate chairs the Inter-Agency Forum (IAF), which convenes all institutions engaged in combating corruption, including the IG, the Office of the Auditor General (OAG), the Public Procurement and Disposal of Public Assets Authority (PPDA), the Accountant General, Service Commissions and the police. The Legal Task Force of the IAF is also mandated to develop and disseminate anti-corruption laws and policies, particularly to local governments and law enforcement agencies. However, according to respondents in this study, the IAF is not action-oriented and registers limited commitment from members, largely owing to the fact that the IAF does not have a legal mandate to enforce its existence. There is, hence, poor progress on action plans from the IAF. As a result, many anti-corruption agencies focus on their own institutional mandates, which risks duplicity of efforts and may create counter-productiveness. On a lighter note, an ongoing DEI-led performance review of the National Anti-Corruption Strategy (NACS) has highlighted this shortcoming and made recommendations for the IAF to work more effectively.

<sup>11</sup> Leadership Code (Amendment) Act (2017)

<sup>12</sup> Inspectorate of Government Act (2002)

<sup>13</sup> The Asset Declaration System was developed to enable leaders to submit their declarations of income, assets and liabilities so as to streamline asset verification and recovery in Uganda, and subsequently enhance the fight against corruption. The online version was launched to ease this process

<sup>14</sup> IG Annual Report (2007)

<sup>15</sup> Data obtained from the ACD Court Case Administration System (CCAS)

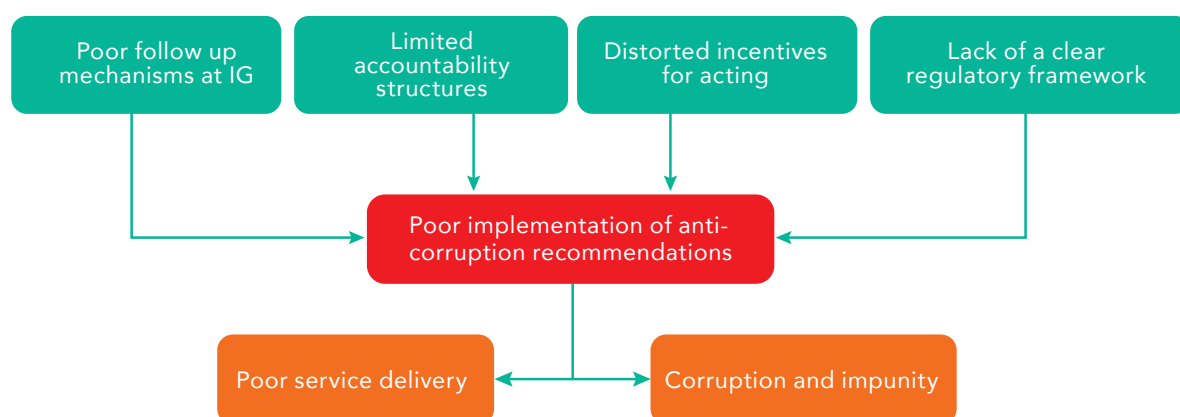
## 2.2 Political context and legislative framework

President Museveni has repeatedly voiced the government's focus on the eradication of corruption and, in fact, outlined corruption as one of 11 key bottlenecks hindering effective socio-economic transformation of the African continent.<sup>16</sup> Moreover, in acknowledging that corruption greatly hinders the attainment of Uganda's goal to significantly reduce poverty, the Second National Development Plan (NDP II) places emphasis on accountability and anti-corruption and makes provisions as such.<sup>17</sup> Also, in line with this, the government has developed a Zero Tolerance to Corruption Policy, 2018<sup>18</sup> and a National Anti-Corruption Strategy, 2014,<sup>19</sup> both of which incorporate sanction- and non-sanction-based approaches to anti-corruption work. Backed by a comprehensive anti-corruption legislative and regulatory framework, Uganda appears to have a semblance of political will to combat corruption. However, corruption persists, and many citizens perceive it to be endemic and entrenched in the core functioning of many systems in the country.

Between 2010 and 2016, Uganda's ranking in the Transparency International Corruption Perceptions Index (CPI)<sup>20</sup>, went from 127th to 151st position out of 180 countries measured. With a CPI of 26, Uganda's score compares poorly with others in the region, led by Rwanda with a score of 55, Tanzania 36 and Kenya 28.<sup>21</sup>

Resoundingly, Ugandans recognise that impunity oils the wheels of corruption and that the 'big fish'<sup>22</sup> phenomenon is integral to this status quo. By this notion, some individuals are considered too 'big' and closely guarded to be charged with corruption, prosecuted or convicted and, certainly, their ill-gotten wealth will not be recovered. Former head of the Anti-Corruption Court, Justice John Bosco Katutsi, in 2013 expressed a sentiment shared by many when he said: "This court is tired of trying tilapias when crocodiles are left swimming." He said this while issuing a conviction for an engineer implicated in the CHOGM scandal.<sup>23</sup>

## 3. Constraints to the Implementation of Anti-Corruption Recommendations and Sanctions by the IG



**Figure 3: Study analytical framework**

Source: Author's own conceptualisation of the brief's analytical framework

<sup>16</sup> During the 23rd APR Forum in June 2015 in South Africa, President Museveni presented a statement on 11 bottlenecks hindering effective socio-economic transformation of the African continent

<sup>17</sup> National Planning Authority (2015) Second National Development Plan

<sup>18</sup> Directorate of Ethics and Integrity (2018) The Zero Tolerance to Corruption Policy

<sup>19</sup> Directorate of Ethics and Integrity (2014) National Anti-Corruption Strategy (NACS)

<sup>20</sup> The index ranks countries and territories by their perceived levels of public sector corruption according to experts and businesspeople. It uses a scale of 0 to 100, where 0 is highly corrupt and 100 is not corrupt.

<sup>21</sup> Transparency International Corruption Perceptions Index (CPI) (2018)

<sup>22</sup> 'Big fish' is a term that refers to high-ranking government officials who are implicated in grand corruption cases but are allegedly protected from recourse by the elites and highest authorities in a country

<sup>23</sup> The CHOGM scandal involved the mismanagement of funds meant for the 2007 Commonwealth Heads of Government Meeting (CHOGM) hosted by Uganda



### 3.1 Poor follow-up mechanism at the IG

Until the early 2000s,<sup>24</sup> the IG had a follow-up unit under the Directorate of Regional Offices (DRO). The unit was mandated with follow-up on recommendations arising from investigations. Investigations conducted by the IG may, among others, make recommendations for: rectification of administrative breeches; recovery of funds; warning of public officials; review of appointments or dismissals; further investigations; fund reallocations; actions to save funds; demotion of public officers; advisory, caution and severe reprimand of public officers; and any other appropriate disciplinary actions.

The follow-up unit, which also carried the security registry, was responsible for safe custody of completed files, and was tasked with reviewing all closed investigation reports so as to extract recommendations to be communicated to respective responsible officers. "A grace period of three months would be allowed for implementation of recommendations, after which follow up would be done including field visits," one respondent at the IG explained. Progress reports would then be generated and shared with management, and non-compliant entities would once again be prompted to implement or respond to recommendations. It was difficult to obtain sequential data pertaining to the implementation of IG recommendations from 10 or more years ago as such information was not coherently captured within the IG reporting. However, anecdotal evidence obtained from different sources at the IG suggests that the implementation rate was higher during the era of the follow-up unit. In a bid to streamline follow-up, the independent unit was collapsed and the function integrated into the investigations and prosecution directorates. Some individuals consulted at the IG during the writing of this paper pointed to budgetary constraints as guiding the decision to phase out the unit.

Today, with the responsibility for follow-up being held by the respective directorates, performance on this indicator has been poor and steadily worsening in the last three years. One investigator shared that follow-up tasks are viewed as burdensome and only secondary to the chief

mandate of each directorate. According to respondents from two different directorates, officers have not been designated specific follow-up roles but, rather, it is expected that officers handle follow-up responsibilities once they complete cases. As a result, follow-up is not streamlined and has, admittedly, been overlooked.

Furthermore, investigators admitted that they were reluctant to follow up for fear of being viewed by culprits and suspects as being vindictive. "You have already investigated the person, and now also have to follow-up their removal from office; they may think it is personal," one investigator expressed. "We spend a lot of time on cases, so once it is closed, we are eager to move to the next," he added. Officials from both the DLA and DSI admitted that communication of recommendations was not consistently done, not to mention follow-up activities to check implementation progress.

This situation is further complicated by the fact that the Policy and Planning Unit (PPU) of the IG, which is responsible for progress monitoring and reporting, do not have a centralised system for tracking implementation status by the different directorates. Respondents in that unit confessed that, even though directorates report quarterly on the status of follow-up, it was haphazard, and verification of submissions was not being done. This gap in the internal monitoring and accountability structure has resulted in a lull in the follow-up on anti-corruption recommendations. Respondents also pointed to demotivation to communicate and follow-up because they rarely receive responses or feedback. This issue has been continuously reported in the organisation's semi-annual reports to Parliament. It is worth noting that the IG has started taking steps to improve the weak follow-up mechanism.

In FY 2018/2019, the IG incorporated follow-up on recommendations as a performance indicator for the different directorates and individuals. It is envisaged that this development will create an incentive for consistent follow-up on the implementation of recommendations.

<sup>24</sup> It was difficult to obtain specific data on dates for the dissolution of the follow-up unit; some interviewees described the process as having been gradual

### 3.2 Limited accountability structures

Article 230(2) of the Constitution of Uganda on special powers of the IG provides that “the Inspector General of Government may, during the course of his or her duties or as a consequence of his or her findings, make such orders and give such direction as are necessary and appropriate in the circumstances”. This law allows the IGG to act against non-compliance and response in some issues, including the arrest of suspects of corruption and the freezing of suspects’ bank accounts. The law is, however, silent on the extension of these powers to the implementation of anti-corruption recommendations. Without greater accountability incentives, including laws targeted at increasing the cost/risk of inaction to responsible officers, the IG’s investment in investigating corruption continues to be compromised because affected MDAs continue to act contrary to or totally ignore the recommendations made.

Comparatively, at the Office of the Internal Auditor General (OIAG), non-compliance or non-response to audit recommendations is one of the criteria for non-reappointment, and may carry other administrative and legal sanctions, including facing Parliamentary Accountability Committees (PACs). Notably, at the OIAG, where this accountability structure exists, the audit

recommendations implementation rate often ranges between 60 and 70% and was 68%<sup>25</sup> in FY 2016/2017, compared to the IG’s 46.9% in the same financial year.

In addition, opportunities for the IG to co-opt parallel accountability avenues, including citizen groups, remain limited. Interviews with the executive directors of two key Civil Society Organisations (CSOs), Transparency International (TI) and the Anti-Corruption Coalition of Uganda (ACCU), revealed that the actors had limited knowledge of or engagement on this specific challenge, and had thus far not explored options for providing support to the IG in this regard even though they are ably positioned to. Like many other accountability organisations working at the grass roots, ACCU, through its 10 regional chapters across Uganda, employs a ‘community-based monitors’ approach to improving the government’s accountability to its citizens and, subsequently, service delivery. With this model, volunteers (community monitors) are enlisted to monitor service delivery/implementation of government programmes in their communities, identify issues and propel them to the necessary authorities for action. A similar approach is yet to be applied to the implementation of anti-corruption recommendations and sanctions.

### 3.3 Distorted incentives for responsible officers to act

Failure by responsible officers to act accordingly or in a timely manner is not necessarily unique to the implementation of anti-corruption recommendations and sanctions. This behaviour exists within a public service environment with a generally lacklustre attitude towards disciplining errant officers. While this study did not interview any non-compliant responsible officers, interviews with two long-serving government human resource professionals who have broad experiences with such officers highlighted some facets of this reluctance to take disciplinary action. Respondents revealed that it is common for officers who err (including those engaging in corruption) to be recommended for transfer to other duty stations instead of the responsible officers issuing the appropriate disciplinary sanctions. “Rather than pursue a protracted disciplinary process

against an errant public official, it is easier to recommend their transfer to another department,” she stated.

Article 17 (1) (i) of the Constitution<sup>26</sup> on duties of the citizen makes it the duty of every citizen to combat corruption, misuse or wastage of public resources. However, respondents pointed out that many public servants (who could potentially be in a position to act on anti-corruption recommendations) to an extent feel little duty to protect public resources because they do not view them as their own but, rather, the government’s. This study interviewed an assistant Chief Accounting Officer (CAO), who corroborated views of the Human Resource Officers (HROs) on the existence of a deep-seated sense of unity and empathy amongst public servants who find commonality in the government’s

<sup>25</sup> Annual Report of the Office of the Internal Auditor General FY 2016/2017  
<sup>26</sup> Constitution of the Republic of Uganda (1995)

poor pay structure. This sentiment leaves little impetus for one officer to punish another, especially if it risks the culprits' job and livelihood. Coupled with the absence of outlined repercussions for inaction, non-compliance on anti-corruption recommendations can only be further perpetuated. The respondent also confessed that responsible officers frequently do not take action because the culprits might be persons with whom they work closely, have been in the duty station much longer than them or persons with whom they have built personal relationships or, worse still, 'untouchables'<sup>27</sup>,

who are difficult to punish. In a separate interview, the Assistant Commissioner for Human Resources at the Ministry of Public Service noted that, although inaction by responsible officers may be contributed to by information asymmetry across government functions, responsible officers in their nonchalant attitude were more culpable in the matter. He, too, agreed with the other respondents that inaction was, however, not unique to anti-corruption recommendations or sanctions, but had been observed across a range of other requirements for responsible officers.

### 3.4 Ambiguities in the anti-corruption legislative and regulatory framework

Section 46 of the Anti-Corruption Act (ACA) (2009) on disqualification provides that a person who is convicted of an offence under sections 2 to 25 (including corruption) shall be disqualified from holding public office for a period of 10 years from his or her conviction. In line with this law, on securing a conviction, the IGG writes to the relevant responsible officer informing him or her of the conviction of a corrupt official. Ideally, the responsible officer should then notify the responsible service commission, which must initiate the procedure for dismissal from the public service. On the other hand, the principles of natural justice, as provided for in the Public Service Act (2008), states that public officers shall not be dismissed or removed from office or reduced in rank or otherwise punished without just cause. Further, section 14 (2) of the same Act (2008) provides that public officers shall be disciplined and removed from the public service only in accordance with laid down regulations and procedures. In addition, the disciplinary procedures established under section F-R of the Public Service Standing Orders (2010) provide that the conviction of an officer on a criminal charge and his or her imprisonment does not automatically remove him/her from office which suggests that despite the conviction of a public officer under the Anti-Corruption Act, disciplinary processes under the Service Commission Regulations and Public Service Standing Orders within service commissions may still be required. Basing on this interpretation, it is not surprising, therefore, that service commissions and responsible officers have been reluctant to act accordingly. True to form, in three

IG bi-annual reports to Parliament submitted between 2015 and 2017,<sup>28</sup> the IGG outlined non-responsiveness, non-action and delayed action by responsible officers as a key challenge to the IG's anti-corruption efforts. Further, a review of a list of public officials convicted at the Anti-Corruption Court between 2009 and 2017 revealed that at least 40 names of convicted officials were still marked as 'active' on the government payroll, a startling revelation that demonstrates the extent of inaction on the anti-corruption sanctions.

A discussion facilitated by the anti-corruption programme SUGAR had representatives of the Public Service Commission (PSC), the Judicial Service Commission (JSC), the Health Service Commission (HSC), the Ministry of Public Service (MoPS), the Ministry of Justice and Constitutional Affairs (MoJCA), the IG and the ODPP, who illuminated the reluctance by responsible officers and some service commissions to act on the ACA provision. While some members favoured taking action on section 46 of the ACA, others pointed out that inaction by responsible officers was a pre-cautious approach, considering the fair hearing principles enshrined in articles 28 and 42 of the Constitution of Uganda<sup>29</sup> and the Public Service Standing Orders. Demonstratively, these differing interpretations of the legal and regulatory instruments present a significant obstacle to the implementation of disciplinary and administrative sanctions against officials convicted of corruption, not just by the IG but by the ODPP as well.

<sup>27</sup> 'Untouchables' is commonly used to describe individuals (public servants) who are highly connected to the powers that be and would be difficult to sanction for fear of negative repercussions for the sanctioning officer

<sup>28</sup> Random sampling was applied to select the IG bi-annual reports reviewed

<sup>29</sup> Constitution of Uganda 1995

## 4. Policy Recommendations

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This paper makes the following policy recommendations which, if implemented, are poised to respond to the underlying causes of poor implementation of anti-corruption recommendations by the IG.

### 4.1 Building a robust follow-Up mechanism at the IG

This paper has established that a loosely coordinated approach to follow up on recommendations and sanctions greatly undermines the IG's ability to fulfil its mandate to eliminate corruption as well as abuse of authority and of public office.<sup>30</sup> It is, therefore, imminent that the operational structures of both the investigation and prosecution directorates are realigned to ensure that tracking of progress and reporting on this parameter is given due importance. Borrowing from the rationale for the set-up of the Asset Recovery Unit in 2016, dedicated to initiating and following up on asset recovery provisions and recommendations at the IG, similar attention should be given to the implementation of other anti-corruption recommendations. The IG should consider designating the follow-up role to specific members in each directorate, who would work closely with the Policy and Planning Department that is charged with the organisation's progress monitoring and reporting.

At the Policy and Planning Unit of the IG, a monitoring and evaluation system should be built to capture data on all recommendations issued by the different directorates, subsequent follow-up actions, and the implementation status on those recommendations. The quarterly reporting template should be revised to allow for extensive data capture on this. The Policy and Planning Unit should also endeavour to validate the data received from the directorates, and conduct random spot checks with respective MDAs so as to triangulate findings on the implementation status of recommendations. To further centralise progress monitoring, the IG may incorporate the follow-up specification into the revamped Case Management System. Ultimately, a centralised hub of information on the status of issuance, follow-up and implementation of recommendations will provide valuable information to the IG to support operational and management decisions.

### 4.2 Engaging broader accountability structures, including civil society

To galvanise collective responsibility for action on anti-corruption recommendations, the IG should enlist greater social and public accountability mechanisms, both at the national and local levels. Many community-based organisations (CBOs) and other CSOs are already actively engaged with responsible officers across the country, and would be well-positioned to propel IG specific issues, including non-compliance or responsiveness to anti-corruption recommendations. These groups, including community-grown groupings, and the media, have a role to play in sensitisation,

supporting information dissemination, and active monitoring and reporting on progress being made in the implementation of anti-corruption sanctions and recommendations in their respective areas or regions of influence. Studies have found that if implemented inclusively, and embedded in other accountability mechanisms, social accountability approaches can be effective in fighting corruption.<sup>31</sup> For the IG, such approaches and partnerships have the potential to stir appropriate action by the respective responsible officers.

### 4.3 Introducing strict liability measures for responsible officers on non-compliance or non-response to the IG's recommendations and sanctions

In the absence of strict accountability provisions, laxity on the part of responsible officers to act upon anti-corruption recommendations and to commence

enforcement of sanctions against convicted public officers may prevail. In light of this, the IG should initiate a regulatory and legislative review process aimed at

<sup>30</sup> [www.igg.go.ug](http://www.igg.go.ug) Accessed on 14 October 2018

<sup>31</sup> Schatz, F. (2013). *Fighting corruption with social accountability: A comparative analysis of social accountability mechanisms' potential to reduce corruption in public administration*. Public Administration and Development, 33(3), 161-174.

introducing firm culpability measures for responsible officers for non-compliance or non-response to the IG's recommendations. It is plausible that with a personal or professional liability for not taking action, responsible officers can be incentivised to act accordingly. The DEI, which coordinates Uganda's anti-corruption efforts, the Accountability Sector to which the IG belongs

and the IAF should partner on this. In addition, the Secretary to the Treasury, the Ministry of Public Service and the service commissions, which are the authorities responsible for performance reviews and disciplining of responsible officers (including Accounting Officers), should be fully engaged in this pursuit.

#### 4.4 Addressing ambiguities in the legislative and regulatory framework

The lack of a clear procedure, spelt out in the law, relating to the removal of convicted officers from the public service leaves room for selective interpretation of the law, discordance and inaction or uncoordinated action on the removal of convicted officials from the

public service. There is need, therefore, to address these uncertainties to ensure that the different laws and regulations which cater to the sanctioning of corrupt public officials are aligned and that procedures for action are clearly outlined.

## List of Abbreviations and Acronyms

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|                  |   |
|------------------|---|
| <b>ACA</b>       | Anti-Corruption Act   |
| <b>ACCU</b>      | Anti-Corruption Coalition of Uganda   |
| <b>ACD</b>       | Anti-Corruption Division (of the High Court)                                  |
| <b>ACA</b>       | Anti-Corruption Act   |
| <b>CHOGM</b>     | Commonwealth Heads of Government Meeting                                      |
| <b>CID</b>       | Criminal Investigations Department (of the Uganda Police)                     |
| <b>COA</b>       | Court of Appeal   |
| <b>DEI</b>       | Directorate of Ethics and Integrity   |
| <b>DFID</b>      | Department for International Development                                      |
| <b>DSI</b>       | Directorate of Special Investigations   |
| <b>EU</b>        | European Union  |
| <b>FY</b>        | Financial Year  |
| <b>HSC</b>       | Health Service Commission   |
| <b>IAF</b>       | Inter-Agency Forum (of the Government of Uganda)                              |
| <b>IG</b>        | Inspectorate of Government  |
| <b>IGG</b>       | Inspector-General of Government   |
| <b>JLOS</b>      | Justice, Law and Order Sector   |
| <b>JSC</b>       | Judicial Service Commission   |
| <b>MDAs</b>      | Ministries, Departments and Agencies (of the Government of Uganda)            |
| <b>MoPS</b>      | Ministry of Public Service  |
| <b>MoJCA</b>     | Ministry of Justice and Constitutional Affairs                                |
| <b>NACS</b>      | National Anti-Corruption Strategy   |
| <b>OAG</b>       | Office of the Auditor General   |
| <b>ODPP</b>      | Office of the Director of Public Prosecutions                                 |
| <b>OIAG</b>      | Office of the Internal Auditor General  |
| <b>PAC</b>       | Parliamentary Accountability Committees                                       |
| <b>PPDA</b>      | Public Procurement and Disposal of Public Assets Authority                    |
| <b>PPU</b>       | Policy and Planning Unit  |
| <b>PS-ST</b>     | Permanent Secretary - Secretary to the Treasury                               |
| <b>PSC</b>       | Public Service Commission   |
| <b>SUGAR TAF</b> | Strengthening Uganda's Anti-Corruption Response - Technical Advisory Facility |
| <b>TIU</b>       | Transparency International  |
| <b>USD</b>       | United States dollars   |

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