

# **Parliamentary Oversight and Corruption in Uganda**

## **Policy Brief, Presenting Key Issues & Lessons Learned**

### **Introduction**

By measuring perceptions by significant players in Uganda's legislative arena, new research set out to determine how successfully Uganda's parliament is fulfilling its oversight function. Legislative oversight tools, potential, will, and a combination of external and internal factors for oversight were all considered in the analysis and data regarding keeping power excesses in check and ensuring developmental intentions met the optimum outcome for all citizens. The research data was collected by interviewer-led and self-administered questionnaires, completed by forty-seven respondents (13 MPs, 10 Parliamentary Staff, 12 CSO representatives, and 12 media representatives), as well as additional research on oversight and anti-corruption in Uganda.

### **The Ugandan Political Context**

Since independence in 1962, there have been three regimes in Uganda, each interrupted by coup d'états, civil wars, and the tribal struggle for power. The current republic is the longest, with Museveni serving as the president the entire time between 1996 to today. Elections are marred by electoral violence and foul play. During the 2016's election, the main opposition leader was held under house arrest before the election. Uganda's democratic credentials lag behind much of Sub-Saharan Africa, performing particularly poorly in government functioning and political participation. The electoral processes lack transparency and fall short of meeting some vital democratic benchmarks. Only 39% of Ugandans are somewhat satisfied with the democratic process. In contrast, 96% of Ugandans support a proposal to improve transparency in elections, especially in the tallying, transmission, and declaration of results, according to Uganda's Afrobarometer Report (2017).

Uganda's *multiparty* system was legalized in 2005 with subsequent attempts to strengthen its democracy. The Inter-Party Organization for Dialogue (IPOD) was created to facilitate a dialogue among electoral stakeholders to submit a common position on critical electoral issues to parliament as a joint effort to contribute to transparent and violent-free elections in Uganda.

In Uganda's presidential republic, the president is the head of state, government, and Commander-in-Chief of the military. The cabinet comprises the president, vice president, prime minister, and the ministers the president deems necessary in running the state. The president is the only person who can appoint and dismiss all the ministers (currently 31), and ministers of state (currently 49). Although parliament can censure

ministers, final approval must come from the presidency. Constitutionally, ministers may be selected from parliament or elsewhere, as deemed fit by the president. The prime minister is also appointed by the president to lead government business in parliament.

Parliament is a unicameral system, the only body mandated to make laws, and its members are elected to five-year terms. Out of the 426 members, 289 are directly elected, 112 are reserved for only women, and there are 25 special seats made up of representatives of the army, youth, workers, persons with disabilities and other groups and ex-officio Members (who cannot vote on issues before the House). There are eleven (11) standing committees and 15 sessional committees in the national assembly, and each member must belong to two committees: a standing committee and a sessional committee. The constitution supports the core functions of parliament (Legislation, Oversight, and representation), giving parliament the power to remove the president from office and censure culpable ministers.

However, Bills are often passed at the *insistence* of the executive through the cabinet. State institutions do not comply with committee recommendations, and committee work is slow. The legislature is accessible to the public through outreach programs. It has a good relationship with CSOs and related institutions, as well as a non-partisan media facility that supports information dissemination to the public.

Some state institutions that work with parliament in government oversight, including the Auditor General, the Inspector General of Government, the Human Rights Commission, and anti-corruption Courts, all form part of the anti-corruption framework for Uganda. In 2016, Uganda ranked 151 out of 176 countries on Transparency International's Corruption Perception Index.

## **Internal Oversight Tools & Mechanisms**

***Legislative-Executive Relations.*** Uganda's President exercises executive power, but the prime minister is in charge of government business within parliament. The hybrid Presidential system puts the executive as part of the legislature, with implications for checks and balances. When ministers can be appointed from parliament, MPs are likely to conduct themselves in a manner that endears them to the executive.

***Appointment of ministers.*** Almost all respondents believe parliament plays a role in cabinet formation. The Parliament of Uganda reviews appointments through the Appointments Committee and, in the case of the Prime Minister, the whole House. The proceedings are closed, though, and the committee's report is not subject to debate, according to the constitution. The Appointments Committee is, therefore, susceptible to influence.

***Censure and Impeachment.*** Parliament's power to dismiss, censure or impeach Ministers or the president is well known, and respondents have witnessed, albeit rarely, the censuring of a Minister. A Ugandan President has never been impeached. One-third

of Members must sign a notice for impeachment to pass. An attempt in 2012 failed to raise the required number of signatures. The NRM enjoys a super-majority, which makes it nearly impossible for presidential impeachment from that party.

***Budget-Making.*** The legislature negotiates much of the budget since the 2001 Budget Act empowered the parliament to play a more active role and made the process more open and consultative with the executive. Respondents believe parliament has the power to amend the budget, with government negotiation occurring if the ceiling needs to be raised, and that 40-59% of the total budget is amended by parliament. Parliament has demonstrated its ability to use these powers, for example, by delaying the passing of the 2012/2013 budget because of an argument for a higher health budget. The Budget Act and Budget Office Uganda serve as a model in Africa. Attempts by the executive to repeal the Budget Act 2001 was fiercely resisted by parliament. 2015's Public Finance Management Act consolidated and amended provisions of the Budget Act 2001 and repealed the Public Finance and Accountability Act 2003. Parliament's role in the budget process is seen to be very strong. Parliamentary budget-making powers present an excellent opportunity for the legislature to exercise control over revenue generation, resource allocation, and expenditure.

***Veto of legislation.*** A Private Member's Bill requires a certificate of financial implications from the Ministry of Finance and must be presented and carried through a motion to succeed. Opposition members and back-bench government legislators can introduce legislation. Several Private Member Bills have passed in Uganda, some crucial to fighting corruption and strengthening legislative oversight. The Budget Act of 2001 increased parliament's role in the budget process and enhanced executive oversight, the Anti-Corruption Bill 2013, sought to strengthen the law against corruption in Uganda by expanding the category of persons liable for money-related offenses and the geographical coverage of assets that can be confiscated when people are found guilty. The President can veto Bills by refusing assent, but the legislature can override this veto. *Not* all respondents were familiar with this, and most believe the President has a veto right over legislation. Some do not think the legislature has ever overridden a presidential veto. Parliamentary override can be used to pass legislation *benefiting* citizens, but it can also serve political interests to the *detriment* of citizens.

***Political Parties.*** Political party cohesion is mediocre, though cohesion within the ruling party is stronger than in opposition parties. Grassroots structures and people do not trust the ruling party. The NRM has the state advantage, but there are internal disputes that threaten cohesion, which appears stronger within parties during an election. Parliamentary floor crossing is not permitted. People who attempt it lose their seats. This is one way of exacting loyalty from party members and maintaining party discipline. Currently, however, opposition members are seen to serve the government without consequence. Party loyalty is rewarded with appointments to ministerial positions, cabinet positions, committee leadership, statutory boards, and representations abroad for the NRM.

In contrast, in the opposition, appointments into the shadow cabinet are rewarded to party loyalists. Party leadership appointments receive open praise, help consolidate

constituency support, and receive funding for campaigns. The move to make the income of MPs tax-free is also a reward. Parties rely on internal disciplinary procedures and the whip system for sanctions in the form of suspension, demotion, depriving MPs of opportunities, and sometimes court actions. Sometimes MPs are expelled from parties without losing their seats.

## **External Oversight Tools & Mechanisms**

**Auditor General.** The Auditor General (AG) is not *appointed* by parliament but reports directly to it. The majority of respondents believe the AG independently staffs and budgets and does not have the security of tenure. The AG is somewhat effective in uncovering fraud and corruption. Its work should lead to prosecution, imprisonment, refunds of monies, warning, interdiction, and removal from office. Parliament's Public Accounts Committee considers the AG's reports, runs hearing, and determines actions, and so the AG's effectiveness is closely linked to the PAC's effectiveness. The PAC requires timely and high-quality reports, while the AG needs an effective PAC to ensure that the government takes audit outcomes seriously. Parliamentary action has occasionally led to financial recovery in Uganda, but the process is ineffective since it rarely results in prosecution, with the guilty party pardoned. This occurs when there is intimidation by the accountability committee by well-connected people, and when fraud and corruption are uncovered after the event occurs, with auditing taking place 3-4 years after.

**Ombudsman.** Uganda has a President-appointed Ombudsman known as the Inspector General of Government (IGG). Respondents were unclear whether the Ombudsman reports to the legislature directly. Most believe it has an independent budget and staff, and that he/she can not be removed from office without reference to parliament. The IGG is considered *somewhat effective* in uncovering fraud and corruption, with the Directorate of Public Prosecution prosecuting the uncovered corruption. The IGGs work is a post-mortem, unlike the work of the AG; however, the guilty are usually not prosecuted.

**Anti-Corruption Agencies.** Uganda does not have an anti-corruption agency. Uganda adopts the multi-agency model of Anti-corruption commission, and several institutions make the anti-corruption set-up in the country, including the IGG, Parliament, AG, police, and the anti-corruption court. Each of these agencies must deliver on their mandates and coordinate together to effectively curb corruption.

**Media and Access to Information.** Uganda has only marginally successful Access to Information laws. Many respondents believe there are government restrictions over the media, and government-owned and private media exercise self-censorship. Journalists have been imprisoned for writing things that shame the government and media houses have been closed for reporting on sensitive issues, including petroleum exploration.

The 2016 and 2017 Freedom of the Press report<sup>1</sup> called Uganda's press "Partly Free." This is due to the lack of professionalism in the media, making it easy for the government to influence the media. Journalists are bribed for favorable campaign coverage. The media is free to cover the executive, but its oversight is not considered especially effective. Some journalists have been arrested for speaking against the government, and media coverage of the executive does not result in any change of behavior or tangible outcomes. The media's oversight of the legislature, however, is effective. There is a parliamentary press corps, but when parliament has closed sittings, public scrutiny or media discussion is impaired. In 2013 the Parliamentary Commission sought to stop several journalists from covering parliament, but the outcry from MPs and the public ended this initiative.

**Civil Society Organizations.** Civil Society Organizations (CSOs) in Uganda are only somewhat effective in executive and legislative oversight and investigating and reporting incidences of corruption. The lead group for corruption, the Anti-Corruption Coalition of Uganda (ACCU), is only effective in bringing cases to the public with very few instances in which they have forced the executive to action. CSOs very vocally opposed the Amendment of Income Tax Bill 2015 and educated the public on what the Act sought to do. CSOs, such as ACODE, Global Rights Alert, and Anti-Corruption Coalition Uganda, have collaborated with parliament on oversight issues and in publicizing the Production Sharing Agreement on Oil. CSOs can influence the budget, trade deals, and some legislations.

### **Internal Oversight Tools & Mechanisms**

**Committee System.** The Public Accounts Committee (PAC), Committee on Commissions, Statutory Authorities and State Enterprises (COSASE) and the Committee on Local Government Accounts are all considered Parliamentary accountability committees. They believe the reports and audits of ministries of the state, state enterprises, and local governments respectively and make recommendations to the whole House. In Uganda, 15-30 members are allowed per committee. The accountability committees are chaired by the Opposition and members from both sides of the House. However, intense partisanship within the committee due to the ratio of majority to minority MPs can hinder committee work and effective oversight and anti-corruption efforts. Oversight committees are considered somewhat effective in uncovering fraud and corruption. Committees receive adequate technical staff support (4-7 staff per committee) to carry out their functions, and committees can hold regular meetings. Special committees of inquiry are set up to look into specific issues when the need arises. Special legislative committees are only somewhat effective in uncovering fraud and corruption. Their actions may lead to Ministerial resignations or

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<sup>1</sup> <https://freedomhouse.org/report/freedom-press/2016/uganda>, accessed 28/082017

impeachments, police investigations, and prosecutions, but reports may also just be shelved without debate.

***Processes within the Chamber.*** Question periods in Uganda mostly used to follow up on service delivery or government assurances, are *neither effective nor ineffective* in uncovering fraud and corruption. Corruption cases are usually raised through a motion, and when question time discovers fraud, the additional investigation is done by a relevant committee, or *nothing* is done. One of Uganda's most significant parliamentary oversight challenges remains the government's refusal or unwillingness to act on parliamentary recommendations to uncovered fraud or corruption. Opposition and Majority MPs are given equal opportunities to ask questions. Opposition parties make the point that necessary chamber rights and responsibilities ensure balanced debate and opinion in the House, keep the government from hijacking parliamentary processes, and ensures checks on the executive. At the 12 annual Plenary sessions, 40-59% of MPs typically attend. When MPs are absent, parliament's business of uncovering fraud and corruption is delayed.

***Mandate and Independence.*** Uganda's parliament *autonomously* establishes its administrative procedures and budget and has qualified staff to fulfill its oversight functions. The executive, however, releases funds to parliament, requiring a well-managed relationship between the two for parliament to function effectively.

***Information Resources.*** In 1999 Uganda's Parliament began Library and Research Services —upgraded to full departments in 2012— ensuring information support to MPs, something that is crucial for effective oversight. MPs and staff do rely on library services, often an oversight. MPs also have access to electronic information with tablets, and some respondents thought more digital library access should be made available. MPs have access to external information sources, including experts, consultants, think tanks, and CSOs, and can commission research, court academia, and use the tablets provided to all MPs to assist with online research.

***Informal Structures.*** Forums like the Parliamentary Forum on Climate Change, Youth Affairs, and Uganda Women Parliamentary Association can secure external funding and carry out field visits and research. They can impact bills and influence the debate on the floor. The Ugandan chapter of the African Parliamentarians Network Against Corruption (APNAC) exposes executive corruption. These structures, partnered with external groups, uncover corruption. The Oil and Gas Forum gave information about corruption in production licenses. However, these informal networks have no reporting structure, so tracking their performance is difficult.

## **Conclusion & Recommendations**

There is much else that could be done to make audit outcomes and PAC recommendations binding on the executive. The executive could do a better job of implicating those found guilty of corrupt practices. On most of the internal and external

factors of parliamentary oversight that were explored in this study, the Parliament of Uganda's performance hovered around the mid-point of two extremes. Parliamentary Oversight conditions, factors, and tools are well-established in Uganda. However, parliament is not using these tools to their full extent, and the ineffectiveness of parliament does not help Uganda's worsening systemic corruption. While Uganda's legal framework is robust, the actual implementation is quite weak. With greater use and implementation of oversight mechanisms, endemic corruption can be thwarted.

To change the status quo and arrest the rise in corruption, policy interventions will have to focus on making corruption a high-risk venture and make the pursuit and conduct of oversight attractive and rewarding.

Investing in strategies that streamline the operations of all accountability institutions within the state is recommended for keeping a handle on the roles of the various anti-corruption players.

The Audit Act and the IGG Act need to be harmonized, with their relationship to the PAC clearly defined. Creating synergy within the accountability and anti-corruption framework will ensure that these institutions' efforts will not be duplicated. Actions required should be taken within the shortest time possible.

Parliament needs to invest in building the capacity of accountability institutions continuously. When the AG's department produces value-for-money reports, parliament may not have the ability to consider these reports as quickly as they are produced. Capacity building initiatives should link up to all of the arms of the anti-corruption architecture.

Collaborations with civil society and the media positively impact oversight and the fight against corruption, as CSOs feed grassroots information. Civil society advocacy bolsters parliament's resolve on contentious issues, boosting parliamentary oversight, and both should report better on oversight actions, advocacy campaigns, and corruption cases to ensure that it gets the necessary prominence and attention required. Civil society needs operational improvements in its engagement with parliament and should be sure to make sure all information shared is of *quality*. Meanwhile, parliament needs to safeguard media rights while ensuring that there are regulations to make media houses responsible and accountable.

Parliament must develop strategies to better accommodate and manage political *party* interests vis-à-vis the *national* interest. The rebel MP concept poses a threat to Uganda's democracy when it means MPs will shy away from taking a stand they believe to be in the interest of citizens for fear of being labeled. As an institution, it is vital to provide an environment where all opinions can be proffered without any risk to members.

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