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Establishing a supreme audit institution in Rwanda**

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Institution building with limited resources: Establishing a supreme audit institution in Rwanda

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Abstract: This study is about institution building with limited resources. Through a case study of the establishment of a supreme audit institution (SAI) in Rwanda, we examine the tensions between institutional first-best benchmarks and local operational constraints in a developing country institution-building process. More specifically, our aim is to investigate the potential tradeoffs between the programmatic ideal of SAI independence and operational constraints in terms of staff capacity in the development of a supreme audit oversight function in Rwanda. Drawing on data from document studies and key informant interviews, the empirical results suggest that capacity constraints – within the institution as well as among its major stakeholders – negatively affect important aspects of SAI functional independence, but also that there are arguments for compromising the programmatic ideal of SAI independence in order to effectively tackle operational constraints in terms of staff capacity.

JEL classification: D02, H83, O16, O55.

Keywords: Institution building, Capacity constraints, Supreme audit institution, Rwanda.

1 Introduction

Weak institutions are a severe development constraint that poor countries urgently need to address.¹ At the same time, these countries have limited resources available for institutional development. Does this call for alternative institutional solutions? While we know that ‘institutions matter’, we have little insight as to what can be done to build institutional capacity. In the present study, we try to understand the mechanisms of effective institution building in a developing country with great needs in terms of institution building but with limited resources available for this purpose. In particular, we are interested in the possible tensions between institutional first-best benchmarks, or ‘programmatic ideals’, and local operational constraints in the institution-building process.

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¹ See e.g. Acemoglu et al. (2001), Hall and Jones (1999), Kaufmann et al. (1999), and Knack and Keefer (1995).

Drawing on data from document studies and key informant interviews, our aim is to investigate the potential tradeoffs between the programmatic ideal of supreme audit institution (SAI) independence and operational constraints in terms of staff capacity in the development of a supreme audit oversight function in Rwanda. The empirical results suggest that capacity constraints – within the institution as well as among its major stakeholders – negatively impact important aspects of SAI functional independence, but also that there are arguments for compromising the programmatic ideal of SAI independence in order to effectively tackle operational constraints in terms of staff capacity. In more general terms, our findings highlight that institution building bounded by operational constraints requires careful sequencing of reform, an awareness of institutional interdependencies, and efforts in terms of translating the legal institutional framework into practice.

One can distinguish between the programmatic and operational elements of an institutional practice, the former relating to the ideas and concepts that shape the institutional mission and the latter to the tasks, routines and practicalities facing its practitioners (Power, 1997). An operational constraint could hinder the realisation of the programmatic ideal, or it may be necessary to compromise a programmatic ideal to address an operational constraint. The nature of binding constraints may vary across settings or change over time, meaning that different priorities may be required at different stages of the reform process. And focusing on non-contextual best-practice institutional solutions without consideration of local constraints may create distortions and lead reformers to overlook solutions that can achieve the desired ends at lower costs (Rodrik, 2008).

Tensions between programmatic ideals and operational constraints in the institution-building process are particularly pertinent in developing countries, where institutional needs are great but resources limited. Whether sought out by national governments or advocated by the donor community, the programmatic ideals will be manifest in advice on first-best institutional practices. At the same time, in the early stages of the institution-building process, developing countries are likely to face operational constraints in terms of funding, capacity, infrastructure etc., possibly calling for alternative priorities.

A number of recent studies emphasise the context specificity of institutions, and suggest that developing countries may require institutional arrangements that differ from those in rich countries. Djankov et al. (2003) argue that institutional design involves a trade-off between controlling ‘disorder’ (private infringements of property rights) and ‘dictatorship’ (state infringements of property rights), and stress that the appropriate balance between the two depends on country circumstances and thus that institutional reforms must be evaluated

relative to a country's 'own institutional opportunities, rather than some idealized benchmark' (Djankov et al., 2003, p. 615). Dixit (2004) suggests that given the large costs of setting up formal institutions, informal self-enforcing governance arrangements can be more efficient in the early stages of economic development.² Acemoglu et al. (2006) argue that countries at early stages of development, where the main economic challenge lies in stimulating investment rather than innovation, may benefit from institutions shielding incumbent firms from competition. Rodrik (2008), finally, proposes that dealing with institution building in developing economies requires a second-best mindset; focusing on first-best solutions is not necessarily ideal in a second-best environment. Still, however, we have little knowledge of the specific tradeoffs between first-best benchmarks and second-best solutions that face developing country institutions in their start-up phase.

The present case study of a developing country institution building process focuses on the establishment of an SAI in Rwanda.³ An SAI is a national agency responsible for overseeing the management of public funds and the quality and credibility of governments' reported financial data (World Bank, 2002). Being a mechanism for monitoring the government, and for information transmission to voters, it has an important role in promoting government transparency and accountability (see e.g. Ferraz and Finan, 2008, on the effects of publicly released audits on electoral outcomes in Brazil).⁴ Also, by acting as a deterrent to waste and abuse of public funds it promotes sound financial management, which in a developing country is an issue that ultimately has to do with whether public funds will reach the poor.

Being interested in the interplay between programmatic ideals and operational constraints in a developing country institution building process, it is interesting to study the development of an SAI, and to do so in the Rwandan context. A firmly established programmatic ideal of SAIs is that of independence (see Section 2.1), without which practitioners and theorists agree that it will not be able to perform its government oversight function effectively (Ahlbäck, 1999; Chowdhury and Innes, 1998; INTOSAI, 1998; World Bank, 2002). At the same time,

² For a study illustrating effective informal institutional arrangements, see Greif's (1993) paper on relational contracting among the 11th-century Maghribi traders.

³ North (1990) distinguishes between institutions and organisations, defining institutions as the overarching framework of rules and constraints – formal as well as informal – and organisations as groups of individuals that operate within the framework of institutions and implement the rules and norms of the institutions. Others, however, do not make a distinction between the two. Greif (2000, p. 257) defines institutions as 'a system of social factors – such as rules, beliefs, norms, and organizations – that guide, enable and constrain the actions of individuals'. According to North's definition, an SAI would be an organisation upholding public financial regulations. In the present paper, however, we think of institution building in the latter and wider sense, i.e. incorporating both developing the rules of the game and establishing the players upholding the rules of the game.

⁴For studies demonstrating the importance of monitoring and information transmission mechanisms, see also Besley and Burgess (2002), Nagin et al. (2002), Adserà et al. (2003), Di Tella and Schargrotsky (2003), and Olken (2007).

SAIs operating in developing countries face severe operational constraints, one of the most important being the lack of qualified staff (Dorotinsky and Floyd, 2004; Dye and Stapenhurst, 1998; Levy, 2007). In Rwanda, this is very much the case. After the genocide in 1994, which apart from being a human tragedy also led to vast destruction of economic and institutional infrastructure, Rwanda faced massive challenges in terms of institution building. Many government institutions, including their SAI, are now being developed simultaneously – basically from scratch – greatly straining human and financial resources. Do staff capacity constraints get in the way of achieving the programmatic ideal of SAI independence? Could compromising the independence ideal be necessary to handle operational constraints in terms of staff capacity? In short, is there a trade-off between the programmatic ideal of SAI independence and operational constraint in terms of staff capacity in the development of an effective SAI oversight function?

To our knowledge, this is the first study focusing explicitly on the interplay between a first-best institutional ideal and a local operational constraint for effective institution building in a developing country context. As such, it should add to our understanding of the tradeoffs facing developing country institutions in their start-up phase. Moreover, despite the important function of supreme audit institutions, the literature on the development of effective SAI oversight is very meagre, in particular for developing countries.

2 Programmatic ideals and operational constraints

In this section we discuss the role of SAIs and the concept of SAI independence, the implications of operational constraints in terms of capacity, and how these may relate to the independence ideal.

2.1 SAI government oversight and the programmatic ideal of independence

Supreme audit institutions have a central role in promoting government transparency and accountability. Accountability requires information to hold policy makers answerable as well as incentives to encourage compliance (Highton, 2008). A credible threat of losing office in the next period should compel policy makers to respond to voter interests. However, for the electorate to be able to discipline incumbents, there have to be effective institutions for information transmission to voters (Persson and Tabellini, 2000; Besley and Burgess, 2002;

Adsèra et al 2003). Here the SAI has an important function, especially considering the complexity of the main object under scrutiny – the government financial accounts. The role of the SAI is to scrutinise state finances and detect potential mismanagement, but also to communicate its findings – to the parliament, to the media, and ultimately to the voters. Against this background, an effective SAI is an institution that offers a true and fair view on government financial conduct and that communicates this to concerned stakeholders.

As noted, theorists and practitioners agree on the centrality of independence for effective SAI oversight. The basic idea is simple; to be able to carry out oversight of the government, the SAI cannot be aligned with the same. It must be able to do its job without threat of retaliation. SAI independence can be defined as not having a relationship that could interfere with the exercise of independent judgement (Goodwin and Yeow Yeo, 2001), or more narrowly as the absence of unjustified subordination to, and direction and interference from, government (INTOSAI, 2001). SAI independence is closely linked to objectivity or impartiality, in turn necessary for the institution to be able to express a ‘true and fair view’.

A principal agent approach can help us understand the role of an SAI and considerations important for its independence. Principal agent theory depicts a relation between two actors where the authority is held by one part – the principal – and the informational advantage with the other – the agent (Hawkins et al., 2005).⁵ In a democracy, the ultimate principal is the electorate delegating authority to their agent – the government. Unfortunately, the electorate principal has both a significant informational disadvantage and problems in terms of collective action, a fact that can be exploited by a government agent wishing to pursue its own agenda or appropriate rents. The more precise information citizens have about adopted policies and their implementation, the more powerful the threat to the government of being voted out of office, leaving less room to divert resources or to push for their own agenda (Adsèra et al., 2003). The need for the informationally disadvantaged electorate principal to monitor its government agent creates a demand for an SAI (Power, 1997).

However, principal-agent relations are not clear-cut in practice. In the public sector there are several other relationships that could also be referred to in principal-agent terms, e.g. that between the electorate and the executive, but also that between the legislature and the executive and that between the executive and the bureaucracy (Streim, 1994). Moreover, in a developing country that relies heavily on foreign aid, one could argue that the government is held accountable to donors rather than the electorate, and thus that the donor community acts

⁵ For a discussion of principal-agent theory in the context of democratic governance, see e.g. Batley (2004), Hawkins et al. (2005) and Miller (2005).

as a second principal to the government agent. Acknowledging that there is a chain of sometimes overlapping agency relationships, when a principal hires an auditor to monitor its agent, one could of course claim that an additional agency relationship arises, where those wanting the audit service still constitute the principal and the *auditor* is the agent (Antle, 1984; Streim, 1994). A relevant question then becomes, what body constitutes the SAI's effective principal?

The electorate is not a well-defined group that can easily organise and act collectively as a principal. In reality, the SAI works closely with the parliament – i.e. the legislative branch of government, which depends on the audit reports for its government oversight. Government spending must be approved by parliament and through the audit reports the parliament can ensure that the executive has operated within the financial limits permitted by parliament (Funell, 1994). In practice, it may thus be more realistic to see the legislative branch of government as the principal demanding the monitoring service supplied by the SAI. The parliament is a political body, and as such it can exert a political influence on the audit process. However, in a democratic system a fully autonomous SAI without organisational ties to the elected bodies is arguably not feasible. Being tied to the legislative branch of government is then seen as the preferable alternative. With the electorate as the ultimate principal and the legislature as the acceptable effective principal, a clearly *unacceptable* principal to the SAI is the very object for audit, i.e. the executive branch of government.⁶

The executive may want to exert an illegitimate influence on the SAI for two reasons, one obvious and one somewhat more subtle. First, it may want to avoid possible misconduct coming to public attention – if a breach is discovered it might seek to create an incentive for the auditor not to report it. There are a variety of instruments (like making cuts in the SAI budget or firing 'uncooperative' auditors) that the executive, if in power to do so, could use to deter the SAI from revealing unpleasant information. The manipulations would have to be within certain confines, though, so as not to lose the appearance of having a well-functioning SAI. This brings us to the second point. The appearance of having a credible SAI is important for government organisational legitimacy. If the executive can induce the SAI not to be very confrontational, while still maintaining an image of it being a credible oversight institution,

⁶ Again, one could argue that in a developing country like Rwanda, the donor community could function as an additional principal to the SAI. Although interesting, the nature of this potential agency relationship will not be investigated further in the present paper.

the SAI could function as a label for government credibility (Power, 1997).⁷ To sum up, since the executive branch of government is the very focus of the audit process, it would be highly inappropriate for the SAI to be in an agent position of the same. This would imply a lack of independence from the audited entity – a capital offense in auditing.

In practice, SAI independence has to be judged in terms of degrees (Ahlbäck, 1999; Gendron and Cooper, 2001; Grasso and Sharkansky, 2001; Power, 1997). Since SAIs are part of the state apparatus, they can never be completely independent from government. Furthermore, a purely neutral audit process is difficult, if at all possible, to achieve considering that it is based on interaction and judgement and that the issues in focus are often politically sensitive. In line with this, INTOSAI (the International Organization of Supreme Audit Institutions) argues that SAIs shall have an *adequate degree* of independence from government and the functional and organisational independence *required to accomplish their tasks* (INTOSAI, 1995; INTOSAI, 1998).

Evaluating the degree of SAI independence empirically, it is useful to distinguish between organisational and functional independence (Grasso and Sharkansky, 2001; Power, 1997). Organisational independence has to do with the formal position of the SAI within the organisational framework and the institutional arrangements in place to insulate it from outside influence. As such, it deals with issues relating to the constitutional/statutory guarantees of independence in relation to the legislative and executive branches of government, funding arrangements, control over personnel, etc. Functional independence, on the other hand, relates to the audit process itself. Key issues include whether the SAI is allowed to access the required information and whether it can freely decide what to audit, what methods to use and what to base conclusions on. Evaluating an SAIs functional independence, one can in turn make a distinction between informational and epistemic independence (Power, 1997). Informational independence deals with the problem of information asymmetry between auditor and auditee. Auditors to some extent always have to trust internal sources of information about the auditee and can thus be said to be informationally dependent on the latter. Epistemic independence, next, deals with the extent to which there exist clear rules of auditee conduct and well-established techniques for determining compliance. Without clear standards and criteria for judging performance, there

⁷ Similarly, with independence needed for SAI credibility and legitimacy, it has been suggested that SAIs often seek to defend and reinforce their image of independence (Pearson, 1987; Funell, 1994; Gendron and Cooper, 2001; Sikka and Willmott, 1995).

is likely to be negotiation with the auditee with respect to what should count as a violation, something that would be problematic in terms of epistemic independence.

The research on SAI independence is meagre, but there are a few interesting studies in the field. Ahlbäck (1999) evaluates the degree of independence of the Swedish SAI and finds important deficiencies in terms of organisational independence. Grasso and Sharkansky (2001) investigate the independence of the U.S. and Israeli SAIs and find that although both are well equipped in terms of organisational independence, their work is still highly politicised. Gendron and Cooper (2001) investigate the independence of a state auditor in Canada and find that an increase in power and mandate of the audit office has had a negative effect on its independence. Finally, INTOSAI (2001) evaluates the independence of their member SAIs and conclude that many SAIs are not independent enough to properly fulfil their mandates in accordance with INTOSAI recommendations.

2.2 Operational constraints in terms of capacity and implications for independence

Auditing is costly, in terms of staff, production technology and other inputs, and is thus necessarily bounded by economic constraints. This means that the audit process must involve prioritising – the SAI cannot audit everything. The natural question thus becomes how much and what to audit, and at what level of detail. There is inevitably a trade-off between scope and depth; fewer areas, as well as fewer transactions within each area, can be tested if the testing process is more detailed.

With respect to what areas to audit, the standard today is to rely on risk-based sampling. Focusing on high-risk areas, where the need to produce assurance is high, rather than aiming for a representative sample of transactions is a strategy to increase the cost effectiveness of auditing. However, how to identify high-risk areas is not obvious,⁸ and the process involves a considerable degree of judgement on part of the auditor. Another issue is what type of audits to conduct – whether to stick to financial and compliance audits or move into performance/value-for-money (VFM) auditing. In financial auditing, the auditor verifies the accuracy of financial statements by comparing achieved results with planned results and by checking samples of transactions and balances. In compliance auditing, the auditor asks whether the government has collected or spent no more than the authorised amount of money

⁸ One approach is to focus on government departments seen as risky; another is to do across-the-board evaluations of programmes (say, road construction, irrespective of the departments involved) that are seen as prone to abuse (Kellner, 2000).

and for the purposes intended by the government. Finally, performance auditing, which is the focus of many Western SAIs today, considers the implementation of government policy and evaluates whether taxpayers get value for their money (Dye and Stapenhurst, 1998).

The cost constraints, and the prioritisations they call for, are of course even more pertinent in a developing country where the needs in terms of institution building are great but the means available are limited. In the present paper we focus on operational constraints in terms of staff capacity, referring to the number, training and experience of staff. Auditing is demanding in terms of staff capacity; auditors need skills in accounting, statistics, and evaluation techniques, but also knowledge of specific fields or industries (Power, 1997). Dorotinsky and Floyd (2004) point to severe capacity constraints in African SAIs. In a 1998 survey covering 25 African SAIs, 11 had no qualified personnel and 9 were unsure about the qualifications of their staff.

What more is, given the importance of institutional interdependence – the SAI works in close connection with other institutions – it is not enough to consider capacity constraints only within the SAI (Dorotinsky and Floyd, 2004; Dye and Stapenhurst, 1998; Levy, 2007). The impact of the SAI depends on what happens after it has produced its annual report, i.e. on the reception it gets from stakeholders. The parliament is in a position to put pressure on the executive to act on SAI recommendations. Hence, capacity constraints within the parliament will have negative consequences for SAI follow-up. Moreover, capacity constraints within the executive will affect the material that the SAI has to work with. In many developing countries, the financial accounts produced by the ministries are often inaccurate and only available after long delays (Levy, 2007), making auditing difficult and time consuming.

How do operational constraints in terms of capacity relate to the programmatic ideal of SAI independence? Capacity constraints within the SAI mean that the audit process will have to involve tight prioritisation. A central dimension of functional independence is to what extent the SAI is open to influence in the choice of audit object. If open to such influence, the more selective the SAI has to be in choosing what to audit, the greater the threat to its functional independence. Another dimension relates to informational dependence. With capacity constraints within the SAI, the institution is likely to become more dependent on informational sources within the audited entity. Also, a lack of experience and training should make it more difficult for the auditor to critically evaluate the information obtained from the auditee, why it should pose a threat to informational independence. Moreover, if the auditor lacks the training and experience to be aware of, and interpret, existing performance criteria, he or she should face a greater risk of ending up in negotiation with the auditee with respect to

what should count as good conduct, which is problematic in terms of epistemic independence. With respect to the implications of capacity constraints in the institutions closely linked to the SAI, one concern is whether the quality of accounts obtained from the audited entities affects the choice of audit object. If the quality of record keeping in a unit is very poor, it could be seen as unauditible and thus potentially hide fraud. Another concern is that capacity constraints in the parliament and audited entities induce the SAI to take on an advisory role, and thereby lead to relationships that could jeopardise independent judgement. In the next section we will discuss how to evaluate these issues empirically.

3 Method and data

The mission of the SAI of Rwanda, the Office of the Auditor General (OAG), is to promote accountability, transparency and good governance, guided by values of integrity, objectivity and independence (Republic of Rwanda OAG, 2006b). As such, it has highly set ideals. At the same time, however, the institution is very young – it was established in 1998, became operative in 2000 and was formally appointed the SAI of Rwanda in 2003 – and operates within a public financial management (PFM) system that is also very much in its infancy. Following the events of 1994, the Government of Rwanda had to effectively re-build the PFM system from scratch, with very limited resources (Mapsec, 2006; Republic of Rwanda, 2007c). The aim of the present study is to investigate the potential tradeoffs between the programmatic ideal of SAI independence and operational constraints in terms of staff capacity in the development of a supreme audit oversight function in Rwanda.

To this end, we use a process tracing approach, which involves exploring relationships with reference to multiple features of individual cases and examining intervening processes that link the variables hypothesised to have a causal relationship (Bennett and George, 1997; Checkel, 2005; Tansey, 2007). This approach has two central features. First, it focuses on examining causal mechanisms – i.e. on questions of how and why – as opposed to causal effects. Second, it emphasises careful data triangulation – i.e. cross-checking multiple data sources against each other. In our case, the ultimate outcome variable is the quality of SAI oversight. Our focus variables, which are often suggested to individually affect the quality of SAI oversight, are the level of SAI independence and staff capacity constraints within the SAI and in institutions linked to the SAI. We want to investigate whether, on top of their individual influence, there are mechanisms through which these variables interact to affect our

outcome variable. For this purpose, we need to assess the degree of independence of the OAG, if there are binding operational constraints in terms of staff capacity, and the potential interface between the two in terms of influence on the quality of the OAG oversight function.

3.1 Data

We draw on data from document studies and key informant interviews. The former data source has the advantage that it is unobtrusive – the data has not been constructed for the purpose of the study – and that it provides official accounts of events (Tansey, 2007; Yin, 2003). The interview material, on the other hand, helps shed light on information not revealed in the formal reports and has the great advantage that it allows us to get direct accounts from important first-hand participants of the institution building process under investigation.

We consult the following documents: (1) legal documents establishing the mandate of the OAG, i.e. Rwanda's constitution and organic budget law (Republic of Rwanda, 2003 and 2006), (2) OAG strategic documents, namely its financial audit manual, strategic plan, and code of ethics (Republic of Rwanda OAG, 2004, 2006b and 2007), and finally (3) OAG audit output, i.e. its annual reports (Republic of Rwanda OAG, 2003, 2004b, 2005, 2006, 2008, 2009, 2009b). While the legal and strategic documents offer insight into the formal organisational structures and objectives of the OAG, the audit output provides information on the institutional practice. For the full list of documents analysed, see Appendix A1.

Interviews were conducted during a field trip to Rwanda in 2008. Interview subjects were chosen based on occupational position as known important actors in the concerned organisations and according to the extent to which they were deemed influential in the area by their peers. As with any data based on subjective reporting, lapses of memory, slanted accounts etc. may lead to misrepresentation of the case under study. In order to get a balanced account, and considering the interconnectedness between the OAG and its major stakeholders, we interviewed representatives from the OAG as well as from a wide range of related government and non-government organisations. At the OAG we interviewed the Auditor General, the Deputy Auditor General and representatives at the director level. In the executive branch of government, *on* which the OAG reports, we interviewed the Chief Internal Auditor, the Accountant General and representatives of the ministry of finance committee on public finance management. In the legislative branch of government, *to* which the OAG reports, we interviewed the Chair of the budget committee of the parliament. Moreover, we interviewed representatives from Sida and the Swedish national audit office (the latter conducted in

Sweden), who have provided direct assistance in the development of the OAG. We also interviewed representatives of governance and PFM sections of influential donors and financial institutions in Rwanda (the World Bank, the IMF, Dfid and the EC). Finally, to get a picture of the framework of oversight institutions in which the OAG operates, we interviewed representatives from other important oversight bodies in Rwanda (the Office of the Ombudsman, the National Tender Board and Transparency Rwanda). Appendix A2 shows the full list of interview subjects.⁹

Given the complexity of the subject matter and the different backgrounds of our interviewed key informants, we used a non-standardised interview framework allowing us to adapt the questions to the specific competences of each subject. Still, each interview focused on the same broad topics – the institutional role, development, audit scope and process, constraints, reception and impact of the OAG. The interview material, which was transcribed in immediate connection to the interviews, has helped us get a general understanding of the issue at hand as well as to answer the specific questions raised in the following section.

3.2 Coding framework

The interview transcripts and the listed documents are coded using directed content analysis.¹⁰ How flexible we are in the coding process – i.e. the extent to which we classify the data into theoretically predetermined categories or try to build theory from recurrent ideas and themes in the data – varies depending on the data source and the existing knowledge of the question at hand.

Assessing the degree of OAG independence, we distinguish between organisational and functional independence. With respect to the former, i.e. the formal organisational structures insulating SAIs from outside influences, the literature provides good guidance on what criteria to consider, allowing us to rely on predefined coding categories (see Table 1). To address these questions we rely primarily on the legal documents establishing its mandate (the constitution and the organic budget law) and the strategic documents relevant for its development (the strategic plan, code of ethics and financial audit manual).

⁹ We do not disclose the identity of respondents behind individual responses, i.e. who said what. However, for the reader to be able to follow the sequence of responses given by different respondents, each interview subject is given a pseudonym, here a number between 1 and 27.

¹⁰ Coding is a way to organise qualitative data into categories – by explicit topic and by more abstract analytical themes (see e.g. Auberbach and Silverstein, 2003; Hsieh and Shannon, 2005; Richards, 2005).

Table 1: Coding frame to assess the organisational independence of the OAG

- A. Constitutional position of the OAG:
 - a. Mandate: clarity, scope, established in the constitution?
 - b. Accountable to the legislature or the executive?
- B. Financial independence:
 - a. Guaranteed funds to carry out its work effectively?
 - b. Budget established in the constitution, approved by legislature or executive?
- C. Administrative independence:
 - a. In charge of internal structures such as job descriptions and recruitment and dismissal of personnel?

With respect to A, the constitutional position of the SAI, independence can be strengthened if the mandate of the SAI, which needs to be clear and sufficiently broad for it to be able to carry out its work effectively, is established in the constitution. In particular, the SAI should be devoid of accountability to, and pressures from, the main object for audit, i.e. the executive. With respect to B, the financial autonomy of the SAI, the SAI should be guaranteed funds to carry out its work effectively, and to avoid a problem of not daring to bite the hand that feeds it, its budget should not be controlled by the executive. Finally, with respect to C, dealing with administrative autonomy, the executive should not be in control of incentive structures within the SAI, and the SAI staff should not be affected by a concern to remain in office when deciding what to audit and what to present to the public.

Assessing the OAG’s degree of functional independence, relating to the independence from influence during the actual audit process, we want to reveal influence of a more informal nature and thus need to go beyond the formal accounts and also consult the interview material and the audit output. Table 2 provides a guide to what issues to consider.

Table 2: Coding frame to assess the functional independence of the OAG

- A. The choice of audit projects: Can it choose freely what to audit and what audit methods to use?
- B. The distribution of results: Can it publish and disseminate findings without interference?
- C. Informational dependence: Can it access information freely and does it have the internal competence necessary to interpret the information?
- D. Epistemic independence: Are audit judgements based on clear performance criteria?

We have the least prior knowledge regarding the potential interaction between operational constraints in terms of staff capacity and the programmatic ideal of SAI independence. Hence, we cannot to the same extent rely on theoretically predetermined categories when coding the

data with respect to this issue. We have stressed the institutional interdependence of the SAI and its major stakeholders, in particular the legislative and executive branches of government. Hence, we want to understand the extent and nature of capacity constraints within the OAG as well as within these closely connected government institutions. What are the implications of these capacity constraints for the independence of the OAG? And does striving for independence affect the ability to handle operational constraints in terms of capacity? These rough guidelines are summarised in Table 3.

Table 3: Coding frame to assess the links between capacity constraints and independence

A. Capacity constraints within the OAG + implications for OAG independence
B. Capacity constraints among the OAG’s major stakeholders (parliament + audited entities) + implications for OAG independence
C. Consequences of the independence ideal for handling capacity constraints (a) within the OAG, and (b) among the OAG’s major stakeholders (the parliament + the audited entities)

4 Results

Drawing on data from document studies and key informant interviews, in this section we will first assess the organisational and functional independence of the OAG. We will then discuss how constraints in terms of staff capacity – within the OAG as well as among its major stakeholders – affect OAG independence, and potential tradeoffs between independence and capacity constraints affecting the OAG’s ability to effectively carry out the supreme audit oversight function.

4.1 OAG independence

4.1.1 Organisational independence

Assessing the organisational independence of the OAG, i.e. the institutional arrangements in place to insulate it from outside influence, we take as a point of departure the coding frame in Table 1. With respect to the constitutional/statutory position of the OAG (point A in Table 1), we can note that since 2003, the OAG’s mandate has been formally established in the constitution. According to Article 183 (as amended to date, see Republic of Rwanda OAG, 2003), the responsibilities of the OAG include auditing revenues and expenditures of the

state, local government agencies, public enterprises, parastatal organisations, and government projects, making sure that they are in accordance with the laws and regulations in force and in conformity with prescribed justifications. The OAG mandate is also established in the recently adopted Organic Budget Law (Republic of Rwanda, 2006), which in addition instructs the concerned public bodies to prepare accounts for submission to the Auditor General and to respect the instructions of the same. Furthermore, and as appropriate, the constitution (Article 184) makes clear that the OAG shall report to the legislative rather than the executive branch of government.

Based on Articles 183-184 in Rwanda's 2003 constitution, it seems fair to argue that the OAG has a sufficiently broad mandate to be able to carry out its work to promote accountability and transparency in government. In effect, the OAG argues that its mandate is *too* wide in view of the financial and human resource constraints facing the institution; it is far from being able to audit all the entities covered in its mandate as stated in the constitution (Republic of Rwanda OAG, 2006b).¹¹ The work of the OAG is thus seemingly not restricted by a too narrow mandate, but rather by a lack of resources to fulfil this mandate.

With respect to the financial and administrative autonomy of the OAG (points B and C in Table 1), again the constitutional guarantees are relatively well established. Article 183 in the constitution explicitly states that the OAG is an 'independent national institution' and that it shall have 'financial and administrative autonomy'. Moreover, it is established that the OAG shall be 'headed by the Auditor General assisted by a Deputy Auditor General and other necessary personnel', which seems to suggest that the OAG is free to hire the personnel required for its purposes, and that no one is 'permitted to interfere in the functioning of the Office or to give instructions to its personnel or to cause them to change their methods of work'. Furthermore, the constitution (Article 88) specifies that the parliament shall approve the appointment of the Auditor General. On the other hand, however, it does not contain any provisions for parliamentary involvement in a possible termination of the Auditor General's contract (see the discussion in Lienert, 2004). While the same person – Evelyn Kamagaju Rutagwenda – has had the position of Auditor General since 2004, organisational independence would be stronger if there were constitutional guarantees restricting the executive from unilaterally suspending her. Moreover, to avoid a problem of not daring to bite the hand that feeds you, the OAG budget should be approved by the legislative rather than the

¹¹ In fact, the mandate has recently been narrowed down in order to make full coverage more realistic; since 2005, audits of privatised state enterprises and joint enterprises in which the state is participating have been removed and are instead sub-contracted to private audit firms (Republic of Rwanda OAG, 2006).

executive branch of government. While the constitution is silent on this point, the OAG Financial Audit Manual states that the legislature should provide the institution ‘with sufficient resources, for which the institution is accountable, as well as for the effective exercise of its mandate’ (Republic of Rwanda OAG, 2004, p.35).

Turning from the legal framework to the institutional practice, however, the OAG argues that full coverage of its mandate cannot be achieved until the Office obtains adequate financial and human resource capacity (Republic of Rwanda OAG, 2008, 2009, 2009b), and similarly, that insufficient flexibility to handle human resource concerns independently, especially wage setting, contributes to high staff turnover (Republic of Rwanda OAG, 2006b, p. 4). When it comes to job descriptions, however, it is our impression that the OAG in fact has a strong sense of ownership. Developing its strategic documents – the Strategic Plan, Code of Ethics, and Audit Manual – the OAG has followed international (INTOSAI) auditing guidelines and received technical support from donors, yet there are no indications that the Government has been involved in this process. Moreover, and in line with the constitutional guidelines, the interview material contains no reports of government obstructions of OAG’s work. Rather, several respondents (no. 1, 2, 5, 9, 11, 12, 17, 18, 19) – both within the OAG and in government and non-government institutions surveyed – suggest that the OAG is met with positive attitudes and that there is political will for reform and to work against corruption.

The fact that the constitutional guarantees of independence are relatively well established presumably has to do with that the OAG, just as Rwanda’s constitution and budget law, was established very recently. As one interview respondent (no. 8) put it, building the legal framework basically from scratch, one could adopt international best-practice standards without having to worry about an ‘institutional legacy’.¹² As seen above, however, it is not evident that legal provisions translate into practice, and several interview respondents (no. 3, 10, 12, 17, 20) suggest a disconnect between the two. In the next section we will explore independence as experienced in OAG’s institutional practice.

¹² Rothstein (2010) argues that systemic corruption is best countered by ‘big-bang’ institutional change, allowing the economy to escape a collective action trap and reach a new equilibrium. In light of this argument, Rwanda is an extremely interesting case; emerging from civil war and genocide the country is now in the process of establishing a wide range of state institutions simultaneously, basically from scratch.

4.1.2 Functional independence

Turning to the OAG's functional independence, i.e. the effective independence from influence during the actual audit process, the OAG has highly set objectives. Its Code of Ethics establishes that the OAG stakeholders 'should be fully assured of the fairness and impartiality of all OAG's work', and describes independence from the audited entity and other outside interest groups as 'indispensable' (Republic of Rwanda OAG, 2007, Articles 9 and 14). Before every new assignment each auditor is required to sign an 'individual team member independence confirmation', with instructions to avoid threats to independence, such as taking part in audits of entities where the auditor has been employed or where personal or financial involvement might cause conflicts of interest, accepting payment or gifts, or having any type of relationships with managers and staff in the audited entity (Republic of Rwanda OAG, 2007, Articles 17-28). The Financial Audit Manual contains recommendations to the same effect: 'The audit institution should discharge its mandate freely and impartially, taking management views into consideration in forming audit opinions, conclusions and recommendations, but owing no responsibility to the management of the audited entity for the scope or nature of the audits undertaken' (Republic of Rwanda OAG 2004, p. 36).

It is important to note, however, that the OAG strategic documents formulate objectives – and highlight the institution's awareness of the programmatic ideal – rather than describe the realities of the institutional practice. Given the difficulty of balancing the expressed objectives, such as relying on information from the audited entity while not being influenced by the same, the audit process involves threats to independence that are difficult to get around by legislating. In line with this, the OAG Strategic Plan argues that the institution does not have sufficient 'real independence' (Republic of Rwanda OAG, 2006b). To explore this further, we need to complement the information in the OAG strategic documents with accounts of the actual audit process.

With respect to the choice of audit object (point A in Table 2), there are no reports – neither in the interview material nor in the documents consulted – of the government pressuring the OAG in its decision of what audit projects to take on or of what methods to use. According to an interview respondent with experience of working for the OAG (no. 11), the government can sometimes ask the OAG to look into certain projects, yet the OAG can always choose to neglect the invitation. On the other hand, the OAG choice of audit projects is seemingly affected by factors of a more subtle nature. First of all, a serious concern is that many audited entities fail to keep accounts, resulting in an incomplete audit trail for the OAG

to follow. With no accounts to audit, the OAG will have a hard time detecting fraud, and we cannot rule out the possibility that poor, or non-existent, recordkeeping is used to mask abuse of funds (we will get back to this issue in Section 4.2.2). Second, it seems likely that the extent to which there exist clear performance criteria in a field could affect the OAG choice of whether to conduct audits in the same (we will return to this below).

Turning to the distribution of results (point B in Table 2), again there are no reports of the government interfering with the publication and dissemination of OAG findings. Rather, the OAG claims that it has good support from its major stakeholders (Republic of Rwanda OAG, 2006b), and as noted, several interview respondents (no. 1, 2, 5, 9, 11, 12, 17, 18, 19) point to a political will for reform and for working against corruption. In fact, OAG's findings are widely distributed. When the yearly report is presented to the parliament, the media and donors are invited and tend to show up in great numbers (respondent no. 5, 11, 12, 15, 19, 20). Moreover, the audit reports are publicly available on the OAG website (see Republic of Rwanda OAG, 2010). What is pointed out as a problem is rather how weak capacity among stakeholders – the media and the parliament – hinders effective follow up of OAG findings (respondent no. 2, 3, 11, 12, 18, 19).

With respect to the informational independence of the OAG (point C in Table 2), there are two central questions to ask: 1) can the OAG access information freely, and 2) does the OAG have the internal competence required to interpret the information acquired? With respect to the first question, whereas there are no reports of the OAG having trouble accessing existing material available for audit, all audit reports (see Appendix A1.3) as well as several interview respondents (no. 1, 2, 5, 8, 11, 15, 16, 17) suggest that a serious problem lies in getting the audited institutions to actually keep accounts. Given the risk that poor, or non-existent, record keeping is used to mask abuse of funds, this could be seen as a serious threat to OAG's informational independence (see Section 4.2.2). Regarding the second question, the auditor faces a difficult balancing act – while depending on information from the audited entity, the auditor's judgement should not be affected by it. Consider Article 21 in the OAG Code of Ethics (Republic of Rwanda OAG, 2007, p. 6): 'Auditors should make use of information brought forward by the audited entity and other parties. This information is to be taken into account in the opinions expressed by the auditors in an impartial way. The auditor should also gather information about the views of the audited entity and other parties. However, the auditor's own conclusions should not be affected by such views.' An ability to critically judge the obtained information in an impartial manner is clearly demanding in terms

of staff capacity. As will be further discussed in Section 4.2.1, given the capacity constraints facing the OAG this is likely to be a problem.

Finally, judging the epistemic independence of the OAG (point D in Table 2), we are interested in the extent to which audit judgements are based on clear performance criteria. It is our impression that when clear performance criteria exist, the OAG applies them. The later audit reports in particular include many formulations such as ‘law XX stipulates that [...]. Contrary to law XX the audited entity [...]’. Pointing to specific law breaches in this way is of course ideal in terms of epistemic independence, since it allows little room for negotiation with the auditee on what should count as good conduct. It does, however, require a well established legal framework. In this respect, the implementation of the Organic Budget Law (Republic of Rwanda, 2006) has been important; the later OAG reports frequently refer to direct violations of the sort ‘Contrary to Article 46 of Organic law no. 37/2006 of 12 September 2006 which assigns responsibility for execution of the budget to the Chief Budget Manager, there were cases where contracts with suppliers were wrongfully signed by individuals who were not Chief Budget Managers’ (Republic of Rwanda OAG, 2009b). Furthermore, the fact that the OAG follows international (INTOSAI) auditing standards (Republic of Rwanda OAG, 2005) should be helpful in terms of epistemic independence.

That said, clear performance criteria appear to be lacking in many areas, and in the audit reports the OAG repeatedly calls for improved guidelines. To mention a few examples, the OAG points to ‘a need for the government to come up with clear policy on transport’ with ‘clear guidelines on cost limits’ (Republic of Rwanda OAG, 2008), and similarly suggests that ‘there is no clear guidance to budget agencies on end of year closing procedures’ (Republic of Rwanda OAG, 2009). Unclear guidelines of this type are of course problematic in terms of epistemic independence.

With performance criteria varying across fields and projects, it seems plausible that this could affect the choice of audit object; presumably, it is easier to focus audits in areas with well-defined rules. Two areas that receive considerable attention in the audit reports are procurement – where the OAG often points to direct regulations and clear non-compliance e.g. awarding tenders without approval by the National Tender Board and to suppliers whose bids were more expensive (see e.g. Republic of Rwanda OAG, 2005, 2008) – and non-compliance with contractual terms, where the OAG notes cases where construction works have exceeded contract durations and/or have works have not been completed as per agreement (see e.g. Republic of Rwanda OAG, 2006). Both areas could be seen as high risk,

and thus in great need of audit, but they also have in common that the performance criteria are relatively clear.

The clarity of performance criteria also varies with type of audit. The OAG clearly enjoys stronger epistemic independence in the field of financial audits than with respect to performance (VFM) audits. For the former, the OAG has developed its own Financial Audit Manual (Republic of Rwanda OAG, 2004), with audit procedure guidelines in line with INTOSAI standards. For performance audits, on the other hand, it has yet to produce an audit manual. Moreover, whereas financial audits depend on compliance with financial regulations, performance audits should evaluate project implementation and thus depend on the clarity of objectives in the audited entities. According to the OAG, the majority of projects and development programmes lack specific and quantified objectives, thus making it difficult to conduct performance evaluation (Republic of Rwanda OAG, 2006b). Adding to the problem, the OAG auditors have limited skills in performance auditing, and the Office stresses the need for a performance audit manual as well as training and technical assistance in the field (Republic of Rwanda OAG, 2006b).

Summing up, we can note that whereas the organisational independence of the OAG – the institutional arrangements in place to insulate it from outside influence – is relatively well established, the institution is not functionally independent to the same extent. The interview material as well as the OAG audit reports and strategic documents suggest deficiencies with respect to informational and epistemic independence and in the choice of audit object. Are these threats to independence linked to capacity constraints within the OAG and among its major stakeholders? In the next section we will discuss the relation between the independence ideal and operational constraints in terms of staff capacity.

4.2 The independence ideal and operational constraint in terms of capacity

4.2.1 OAG capacity constraints and their implications for independence

The OAG clearly faces very high demands in terms of staff capacity; the task at hand is significant, both in terms of scope and skill requirements. On top of skills in terms of accounting and evaluation techniques, the OAG needs detailed knowledge about the specific fields or industries in which the audited entities operate. According to the Financial Audit Manual (Republic of Rwanda OAG 2004, p. 8): 'The audit team should obtain knowledge of the entity's business/ operations sufficient to enable them to identify and understand the

events, transactions and practices that, in their judgment, may have a significant effect on the financial statements and on the audit report. The team should obtain a general knowledge of the environment (legal, political, economic and social) and the industry within which the entity operates. The audit team should obtain in particular knowledge of how the entity operates. In understanding the operations of an entity, the audit team should in addition consider goals, objectives, strategies and business processes put in place by management to attain the entity's goals and objectives.'

Against this background it is not surprising that the documents consulted, as well as nearly all interview respondents, point to capacity as a binding constraint facing the OAG. It is suggested that full coverage of the OAG's mandate, and timely reports, cannot be achieved until 'adequate financial and human resource capacity at the Office of the Auditor General' is achieved (Republic of Rwanda OAG, 2008, 2009, 2009b). There is an acute shortage of accountants, not only within the OAG but in the country as a whole, and with accountants being very sought after the OAG has problems retaining staff. High staff turnover is cited as a key constraint restricting the OAG in its work and draining the office of extensive experience (Republic of Rwanda OAG, 2006b, 2009, 2009b). Hence, the OAG stresses the need for training and technical assistance, but also the necessity of reducing staff turnover in order to ensure sustainability of capacity building efforts (Republic of Rwanda OAG, 2004b, 2006b, 2009b). While the OAG staff is relatively well-paid for being public sector employees (respondent no. 5, 17), donor funded institutions such as the World Bank still pay significantly more, why interview respondents from both within and outside the OAG (no. 4, 5, 13, 15) point to low wages as an explanation for the staff retention problem. Other reasons put forward are a heavy workload and a stressful working environment (respondent no. 4, 15, 20).

Turning to the implications of OAG capacity constraints for independence, a first concern lies in that with capacity restricting coverage (Republic of Rwanda OAG, 2008, 2009, 2009b), the audit process will have to involve tight prioritisation. If open to influence in the choice of audit object – and as already touched upon, factors like the quality of accounts and the clarity of rules in different fields might well affect this choice – the more selective the OAG has to be in choosing what to audit, the greater the threat to functional independence. Moreover, the fact that the OAG does not have enough resources to pay wages that keep their staff from leaving is not only problematic in terms of the staff capacity constraints it generates; by hindering the institution from effectively fulfilling its mandate, it is also problematic in terms of financial independence. Although we have no reason to assume that this is the case here,

restricting the funds of an SAI could be a conscious strategy adopted by government to limit its influence.

Yet another concern lies in the implications of OAG capacity constraints for its informational independence. With restricted capacity, the OAG is likely to become more dependent on informational sources within the audited entity and less able to critically evaluate the information obtained. In the Financial Audit Manual (Republic of Rwanda OAG, 2004), the OAG stresses the importance of capacity for safeguarding independence, pointing to the educational, training and experience requirements for entry into the OAG, and to compliance with professional standards and implementation of monitoring and disciplinary processes. Similarly, in its Code of Ethics, the OAG explicitly states that ‘Auditors must not undertake work they are not competent to perform’ (Republic of Rwanda OAG 2007, Articles 31). Hence, the OAG is clearly aware of the concern that capacity constraints could have a negative effect on independent judgement. At the same time, however, given the emphasis placed on the OAG being restricted by capacity constraints, and the calls for training and technical assistance, it is clear that the institutional practice has yet to meet these highly set standards.

A related issue concerns the implications of OAG capacity constraints for its epistemic independence. If the auditor lacks the training and experience to be fully aware of existing performance criteria, he or she faces a greater risk of ending up in negotiation with the auditee with respect to what should count as good conduct. In its Code of Ethics, the OAG states that auditors ‘must possess a good understanding of the constitutional, legal and institutional principles and standards governing the operations of the audited entity’ (Republic of Rwanda OAG 2007, Articles 32). This clearly requires significant competence on part of the auditor. Moreover, and as we have seen, the performance criteria are not very clear in some areas. In particular in performance auditing, lack of training and established performance criteria seem to pose a threat to OAG epistemic independence.

4.2.2 Capacity constraints among OAG stakeholders – implications for independence

Turning to the OAG major stakeholders, the parliament and the audited entities – to and on which the OAG reports – the interview material and the consulted documents again point to severe capacity constraints. The OAG reports to parliament, whose role is to scrutinise the material and ensure follow up of audit recommendations. However, several interview respondents (no. 11, 12, 17, 18, 19) point to weak capacity negatively impacting the

parliament's oversight function, and the OAG argues for strengthening of the parliament's oversight role to ensure better follow-up of audit recommendations (Republic of Rwanda OAG, 2009b). Most focus, however, is on the capacity constraints in the audited entities – on which the OAG reports. Many interview respondents (no. 1, 2, 3, 4, 5, 8, 9, 11, 15, 16, 17, 18) stress the lack of an accounting tradition and the acute shortage of professional accountants in Rwanda, and the OAG points to an undeveloped public financial management and auditing environment as a key constraint facing the office (Republic of Rwanda OAG, 2006b).

The earlier OAG reports suggest that most of the audited entities do not have internal audit functions, and where they are in place their work is described as 'neither effective nor reliable' (Republic of Rwanda OAG, 2005, 2006). Later reports point to some improvements, suggesting that most of the audited entities now have internal audit functions, but their work is still referred to as ineffective and unreliable (Republic of Rwanda OAG, 2008, 2009, 2009b). Hence, although there are signs of progress over the years covered in the OAG audit reports, the picture revealed in the reports is one of incomplete – in many cases non-existent – financial reporting. Many of the audited entities do not keep basic books of accounts, and not until the financial year 2006 (the audit of which was completed in 2008) was there a state-consolidated financial statement available for audit. In the most recent audit report considered here, the majority of auditees still did not submit financial statements to the OAG, and very few did so on time (Republic of Rwanda OAG, 2009b).

Turning to the implications of capacity constraints in these institutions for OAG independence, a first concern lies in that working with incomplete, delayed and poor quality financial records takes time, and thus negatively affects OAG coverage and contributes to delays in submission of OAG reports (Republic of Rwanda OAG, 2008, 2009, 2009b). The lack of proper documentation means that the OAG has to increase its extent of testing in order to produce assurance (Republic of Rwanda OAG, 2004b). Considering the trade-off between scope and depth in the audit process, this means that they can take on fewer audits. If open to influence in the choice of audit object, the more selective the OAG has to be in choosing what to audit, the greater the threat to its functional independence.

One pressing concern in this respect is that the quality of accounts obtained from the audited entities affects the choice of audit object. If the quality of record keeping in a unit is very poor, it could be seen as unauditably. And, of course, if no records are produced, there is no audit trail to follow. An incomplete audit trail – possibly hiding fraud – could have far-reaching consequences. As simply stated in the OAG Strategic Plan: 'In a poor economy like Rwanda, no entity should access public funds unless the use of such money can be audited.'

But the money cannot be audited without an audit trail. If there is no accounting, there is no audit trail and possibly no money for the poor' (Republic of Rwanda OAG, 2006b, p. 7). When scrutinising the OAG reports, it is clear that an incomplete audit trail does affect the choice of audit object. As formulated in one of the reports: 'Most of the public entities audited did not maintain proper books of account or prepare financial statements for the year ended 2004. In the absence of books of account and financial statements, the audits covered only a review of bank statements and supporting documentation. To address this problem in the future, I propose that only public entities with financial statements will be audited' (Republic of Rwanda OAG, 2005). Similarly, the Auditor General declares that 'For [XX], I was unable to carry out a full scope audit because of the poor state of books of account and supporting records' (Republic of Rwanda OAG, 2009). Given the risk that poor record keeping is used to mask abuse of funds, this threat to OAG functional independence is a serious concern.

Another worry is whether by taking on an advisory role vis-à-vis the parliament and the audited entities, the OAG develops relationships that could jeopardise its independence. The parliament and the OAG are meant to work together; in effect, the parliament depends on the OAG to be able to carry out its government oversight effectively. Still, the parliament is a political body, why one might be concerned that if the two organisations become very closely involved with one another, the parliament could exert a political influence on the OAG. What is arguably more problematic from an independence perspective, however, is if the OAG becomes closely involved with the very object for audit – i.e. the spending units in the ministries. Nevertheless, faced with an incomplete audit trail possibly hiding fraud, and a parliament unable to enforce the recommendations put forward in the audit reports, the OAG might feel a need to lend a helping hand.

In line with this, several of the interview respondents (no. 5, 8, 11, 15, 19, 20) pointed to the educational role of the OAG, arguing that it works closely with parliament and the spending units in the ministries. In its Code of Ethics (Republic of Rwanda OAG, 2007, Article 22) the OAG stresses the importance of remaining impartial when providing advice to the audited entity: 'When auditors are permitted to provide advice or services other than audit to an audited entity, care should be taken that these services do not lead to a conflict of interest.' Similarly, the Financial Audit Manual establishes that: 'When advising the executive in such matters as accounting standards and policies and the form of financial statements, the institution must ensure that it avoids any explicit or implied commitment that would impair the independent exercise of its audit mandate' (Republic of Rwanda OAG, 2004, p. 35). In another passage of the manual, however, the message is that the OAG should

refrain from an advisory role with respect to the audited entity: ‘Audit personnel should not become involved in instructing personnel of an audited entity as to their duties’ (p. 36). Evidently, the extent to which the OAG can and should take on an advisory role is not a clear-cut matter. If functioning as a helping hand leads to close relationships that compromise OAG’s role as a whistleblower, this could surely pose a threat to its functional independence.

A closely related matter is the possibility that capacity constraints in the audited entities affect the nature of OAG judgements. Given the in many cases incomplete audit trail, the OAG is often forced to comment on the incompleteness rather than the content of records. Arguably, reports of ‘non preparation’ of financial statements (see e.g. Republic of Rwanda OAG, 2005) are, although clear, not as confrontational as reports pinpointing specific units or individuals abusing funds. Similarly, the OAG often explains failures to meet standards by referring to capacity constraints in the audited entity. For example, commenting on a failure of embassies to follow public tendering procedures: ‘due to lack of sufficient staff embassies were not able to meet this requirement’ (Republic of Rwanda OAG, 2008). And similarly, identifying errors in accounts, it proposes that this ‘could be an indicator that budget agencies may not have competent staff for the accounting function’ (Republic of Rwanda OAG, 2009b). Likewise, the OAG sometimes stresses the need for training rather than reprimands when audited entities fail to implement audit recommendations: ‘Continuous failure to implement audit recommendations should necessitate action by supervising authorities, such as training’ (Republic of Rwanda OAG, 2008). Although in most cases probably fair – a number of interview respondents who do not themselves represent audited organisations (no. 1, 3, 4, 5) argue to the same effect – pointing to capacity constraints and honest mistakes rather than possible fraud is not very confrontational. Again, we cannot rule out abuse of funds masked behind poor record keeping. That said, when having access to the necessary documentation to back up its claims, the OAG seemingly does not shy away from identifying cases of outright fraud, pinpointing the specific institutions and individuals involved.¹³

Summing up, we can note that to the extent that the organisational independence of the OAG is legally established, capacity constraints – both within the OAG and among its major stakeholders – mainly affect its functional independence. Key issues involve the impact of capacity constraints on informational and epistemic independence, on choice of audit object, and on the relationship between the auditor and auditee.

¹³ For example: ‘In Nyaruguru District, some tax collectors deposited revenue collections in a fraudulent bank account opened by the former tax officer (Mr. [XX]) in the name of the District at Kivu Banque Populaire. A follow up of this issue by management after the audit identified that Frw 12,562,485 had been withdrawn from this account by Mr. [XX]’ (Republic of Rwanda OAG, 2009).

4.2.3 Striving for independence while tackling capacity constraints – tradeoffs

We have seen that capacity constraints – within the OAG as well as among its major stakeholders – negatively affect its functional independence. Correspondingly, could striving for independence have implications for the ability to effectively handle capacity constraints? Aiming for the programmatic ideal of independence, while struggling with operational constraints in terms of capacity, important trade-offs concern to what extent the OAG should be self-reliant or bring in outside help, how to sequence the institution building process, and the degree to which the OAG should take on an advisory role in relation to its stakeholders.

To avoid a scenario where the OAG is informationally dependent on the auditee it might be justified to bring in outside help. The lack of accountants in Rwanda limits the possibility to outsource audits to private firms (Republic of Rwanda OAG, 2006b), yet the OAG has on several occasions brought in international consultants. The OAG Financial Audit Manual explicitly states that ‘in cases where appropriate skills are lacking, use of outside experts should be considered’ (Republic of Rwanda OAG, 2004, p. 7). Hence, rather than basing judgements on insufficient knowledge, the OAG should rely on external support. In a way, this could be seen as trading informational dependence on the auditee for informational dependence on an external expert. From an SAI independence perspective, the latter is clearly preferable to the former. Importantly, however, and as the OAG itself emphasises when commenting on the use of external consultants in the audited entities (Republic of Rwanda OAG, 2008, 2009, 2009b), bringing in external assistance without mechanisms for proper skill transfer is not sustainable. To build institutional capacity, and not remain informationally dependent on external support, one must ensure knowledge transfer from the external consultants to the OAG staff.

Another consideration, also relating to the capacity constraints within the OAG, concerns the sequencing of institutional reform. A key question in this respect is to what extent the OAG should move into performance auditing. Performance audits are the focus of many Western SAIs today, and can provide powerful tools for evaluating how effectively the government implements policy. At the same time, however, moving into performance auditing involves a risk of becoming increasingly politicised (Grasso and Sharkansky, 2001; Power, 1997). Financial and performance audits are based on different evaluation techniques; while the former is rooted in accounting procedures, the latter is based on social scientific enquiry (Power, 1997). Performance audits are supposed to comment on the implementation of government policies, not their content. The boundary between policy objectives and policy

implementation is not necessarily clear-cut, however. And reasonably, evaluating policy implementation without over-stepping this line should be particularly difficult for an auditor lacking experience and training.

At the time of writing, there is only one publicly available OAG performance audit report (see Republic of Rwanda OAG, 2007b).¹⁴ More performance audits are underway, though, and while the goal at this stage is to undertake one per year, the longer-term ambition is to increasingly focus on this form of evaluation (respondent no. 5, 19). As we have seen, however, the OAG reports to have limited skills in performance auditing and stresses its need for training and technical assistance in the field (Republic of Rwanda OAG, 2006b). Moreover, the fact that the OAG has yet to produce a performance audit manual, coupled with reports of unclear project objectives in the audited entities, means that the OAG has limited access to established performance indicators in the field. Hence, it seems that at this stage, carrying out performance audits could be problematic in terms of informational and epistemic independence, with the auditor risking to become dependent on informational sources within the audited entity and to end up negotiating with the same about what should count as good conduct. At the least, it is clear that the OAG is in need of training in the field before further expanding its activity in the area.

With respect to capacity constraints among the OAG stakeholders, above we put forward the concern that by taking on an advisory role vis-à-vis the parliament and the audited entities, the OAG might develop relationships that jeopardise its independence. We also noted, however, that in spite of being potentially problematic from an independence perspective, to what extent the OAG should take on an advisory role is not a clear-cut matter. The role of the OAG (according to our definition of effective SAI oversight, see Section 2.1) is to offer a true and fair view on government financial conduct and communicate this to the concerned stakeholders – the parliament, the media, and ultimately the voters. Importantly, however, the OAG can live up to these criteria without exerting much influence on political outcomes; the *impact* of the OAG depends on how its stakeholders use the information obtained. Arguably, one should thus take a wider approach when evaluating the establishment of an effective oversight function – not only considering to what extent the OAG honours its part of the agreement, but also the reception it gets from stakeholders and to what extent it helps contribute to conditions enabling future oversight.

¹⁴ With such little input, we are ill-suited to evaluate OAG's activity in the field. However, we can note that the report – which focuses on the effectiveness of maternal health care delivery – points to a lack of performance indicators in the area (Republic of Rwanda OAG, 2007b).

If, as suggested above, the parliament lacks the capacity to scrutinise the OAG reports, this will have a negative effect on the extent to which OAG recommendations are followed up, in turn presumably impacting negatively on the status of the OAG. Moreover, if failing to address the capacity constraints in the audited entities, there is a risk that the OAG will continue to face an incomplete audit trail possibly hiding fraud. Against this background, it seems that at this stage in the institution-building process the educational role of the OAG is important, and in a longer term perspective working in favour of effective government oversight. Still, a valid question is whether the OAG is the appropriate institution to help alleviate capacity constraints among its stakeholders; presumably, just as the OAG could bring in external consultants, so could the parliament and the audited entities. Again, however, a limiting factor is the acute shortage of accountants in Rwanda (Republic of Rwanda OAG, 2006b), coupled with reports of low quality of consultant services and limited knowledge transfers from the external consultants to the local staff (Republic of Rwanda OAG, 2008, 2009, 2009b). Given these concerns, OAG guidance could play an important part in helping to improve the audit trail as well as follow up of audit recommendations.

In fact, several interview respondents (no. 3, 4, 5, 9, 11, 14, 15, 16, 18, 19) – from the OAG and the audited entities, as well as from donors and other government oversight institutions – point to significant improvements in terms of financial reporting in the audited entities, and suggest that the OAG has contributed to this development. Comparing the yearly OAG reports over time points in the same direction – while there are clearly still serious deficiencies in terms of accounting procedures, it is now more common among the audited entities to actually keep books of accounts. Moreover, the number of OAG reports of outright fraud has increased over the years. While we cannot rule out the possibility that there has in fact been an increase in the number of fraudulent cases, it seems reasonable that part of this development could be due to a more effectively working OAG, and an improved audit trail increasing the chances of detecting abuse of funds. Perhaps what we are observing is a trend where the OAG goes from having to focus almost exclusively on the incompleteness of records to actually having records to audit and therefore being able to detect fraud. If so, this would suggest significant developments in Rwandan public financial management. Given the severe capacity constraints among OAG stakeholders, temporarily taking on an advisory role is, although potentially compromising independence, arguably necessary for the OAG to be able to exercise effective oversight in the future.

5 Conclusions

Developing countries tend to have great needs in terms of institution building but limited resources available for building institutional capacity. Does this call for alternative institutional solutions? Several recent studies in fact suggest that institution building in developing countries requires a ‘second-best mind-set’. Yet, we have little knowledge of the specific tradeoffs between first-best benchmarks and second-best solutions facing developing country institutions in their start-up phase.

The present study considers the establishment of a supreme audit institution (SAI) in Rwanda. The government oversight role of an SAI is arguably particularly important in a developing country, where it ultimately helps to ensure that public funds reach the poor rather than end up in corrupt pockets. However, while operating with highly set ideals, developing country SAIs also tend to face severe operational constraints. We investigate the interplay between the programmatic ideal of SAI independence and operational constraints in terms of staff capacity in the development of a supreme audit oversight function in Rwanda. Doing so, we hope to shed light on institution building with limited resources, highlighting potential trade-offs between best-practice institutional benchmarks and local operational constraints in a developing country institution-building process.

Drawing on data from document studies and key informant interviews, the results of the empirical analysis suggest that while the organisational independence of the OAG (Rwanda’s SAI) is relatively well established, the institution is not functionally independent to the same extent. Threats to OAG’s functional independence originate in severe capacity constraints, within the OAG as well as among its major stakeholders. Capacity constraints within the OAG threatens informational and epistemic independence, making the auditor more dependent on informational sources within the audited entity, as well as more likely to end up negotiating with the same about what should count as good conduct. With respect to capacity constraints among OAG stakeholders, one concern is that by taking on an advisory role, the OAG may develop relationships that could jeopardise its independent judgment. An equally pressing concern is that the poor quality of accounts obtained from the audited entities renders some fields unauditible and thereby affects the choice of audit object – potentially masking fraud behind poor record keeping. While capacity constraints negatively impact the functional independence of the OAG, our results also imply that striving for independence could have corresponding implications for the ability to effectively handle capacity constraints. Important

trade-offs exist in to what extent the OAG should be self-reliant or bring in external assistance, how to sequence the institutional reform, and the degree to which the OAG should take on an advisory role in relation to its stakeholders. In order to effectively tackle operational constraints in terms of capacity, there are seemingly good arguments for temporarily compromising the programmatic ideal of SAI independence.

So what lessons can we draw from this? The present study considers the development of a specific institution in a specific country. Nevertheless, we believe that our findings shed light on circumstances and considerations relevant for many developing countries in need of significant institutional development but with very limited means available for institution building. In general terms, our findings highlight the importance of being aware of how operational constraints in the institutional practice affect the chances of achieving first-best institutional benchmarks, and the need for sometimes compromising the ideal in order to efficiently tackle operational constraints. In addition, however, our findings illustrate that institution building bounded by operational constraints requires careful sequencing of institutional reform – not taking on too much too fast. They also point to the importance of being aware of institutional interdependencies, i.e. ways in which different institutions interact and how they can reinforce each other. In particular, in areas where there are severe capacity constraints and staff retention problems (like in Rwandan public financial management), it is not enough to focus capacity building efforts to individual institutions (like the OAG); there is a need for nation-wide capacity building initiatives. Furthermore, and as illustrated by OAG’s relatively well defined organisational independence but sometimes lacking functional independence, while having the appropriate legal framework in place might well be necessary, it is not sufficient to ensure a well functioning institutional practice. Our results indicate that effort needs to be put into translating the legal framework into practice – implementation needs further attention.

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Appendix: Data sources

A1. Documents

A1.1 Legal documents

Republic of Rwanda (2003) “The constitution of the republic of Rwanda”, Kigali.

Republic of Rwanda (2006) “Organic law on state finances and property”, Official Gazette of the Republic of Rwanda, September 2006, Kigali.

A1.2 OAG strategic documents

Republic of Rwanda Office of the Auditor General of State Finances (2004) “Financial Audit Manual”, Kigali.

Republic of Rwanda Office of the Auditor General of State Finances (2006b) “Strategic Plan: 2006-2009”, Kigali.

Republic of Rwanda Office of the Auditor General of State Finances (2007) “Code of Ethics”, Kigali.

A1.3 OAG audit output

Republic of Rwanda Office of the Auditor General of State Finances (2003) “Report of the Auditor General on the financial year ended 31 December 2002”, Kigali.

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A2. Interviews

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Mr. De Boer, V., Economic Advisor, Delegation of the European Commission in Rwanda, Kigali.

Mr. Emasu, S., PEFA Advisor, Ministry of Finance and Economic Planning (MINECOFIN), Kigali.

Mr. Engström, L., Resident Representative, International Monetary Fund (IMF), Kigali.

Ms. Ericsson, M., Second Secretary, Embassy of Sweden, Development Cooperation Section, Kigali.

Mr. Gatabazi, T., Accountant General, Ministry of Finance and Economic Planning (MINECOFIN), Kigali.

Ms. Gårdmark, J., Deputy Project Director, The Swedish National Audit Office, Stockholm.

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