



IS UGANDA ON TRACK WITH COMMITMENTS IN THE APRM PROCESS?

A UGMP Annual Governance Status Report for 2009

February 2010

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List of Acronyms

ACC	Anti Corruption Court
ALREP	Agricultural Livelihoods Recovery Programme
APRM	Africa Peer Review Mechanism
CAO	Chief Administrative Officer
CCEDU	Citizens' Coalition on Electoral Democracy in Uganda
CHOGM	Commonwealth Heads of Government Meeting
CRM	Country Review Mission
CRR	Country Review Report
CSOPNU	Civil Society Organizations for Peace in Northern Uganda
DFID	Department for International Development
EC	Electoral Commission
EITI	Extractive Industries Transparency Initiative
EU	European Union
FGM	Female Genital Mutilation
IAF	Inter Agency Forum
IDPs	Internally Displaced Persons
IPC	Inter-Party Cooperation
ISO	Internal Security Organisation
JLOS	Justice Law and Order Sector
KALIP	Karamoja Livelihoods Programme
KIDDP	Karamoja Integrated Disarmament and Development Programme
MDAs	Ministries Departments and Agencies
MGLSD	Ministry of Gender Labor and Social Development
MoJCA	Ministry of Justice and Constitutional Affairs
NFA	National Forestry Authority
NUREP	Northern Uganda Reconstruction Programme
OPM	Office of the Prime Minister
PAC	Public Accounts Committee
PDCs	Parish Development Committees
PMC	PRDP Monitoring Committee
POA	Programme of Action
PRDP	Peace, Recovery and Development Programme
PSA	Production Sharing Agreement
QuAM	NGO Quality Assurance Certification Mechanism
RDC	Resident District Commissioner

SDIP	Social Development Sector Investment Plan
UGMP	Uganda Governance Monitoring Platform
UHRC	Uganda Human Rights Commission
UHRC	Uganda Human Rights Commission
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UPF	Uganda Police Force
USAID	United States Agency for International Development
USE	Universal Secondary Education

1. Introduction

1.1 About UGMP and Governance Trends Monitoring in Uganda

Uganda Governance Monitoring Platform (UGMP) is a civil society governance monitoring and advocacy group united in the quest for better governance in Uganda. One of the agendas of UGMP is a sustained governance monitoring and reporting process which for the last 5 years has resulted in the platform releasing annual governance reports documenting key developments around 4 Broad Governance areas namely: the Democratization Process; the Human Rights Situation, Transparency and Accountability, and Conflict Resolution, each with specific indicators. These benchmarks were initially based on the Governance indicators in the PEAP Policy Matrix, but with the transition from PEAP to NDP, UGMP's reporting is based on 32 governance commitments derived from the APRM Programme of Action to which the Government of Uganda is committed.

1.2 A Short Statement on Methodology and Status at a Glance

Methodology

UGMP's approach and methodology is anchored around and dependent on individual members' commitments to tracking progress on selected commitments and indicators. UGMP members follow a guideline produced by the Focal Person which emphasizes a qualitative approach involving extensive review of available literature on the commitment from official government and other documents by civil society or independent analysts. The guide also emphasizes key informant interviews especially with the relevant authority per commitment being tracked. The draft reports from members are peer reviewed by other UGMP members as well as an external resource person. A validation process is then done after which the aggregate UGMP report is drafted.

Status at a Glance

In this UGMP Report, focus is on 28 of the 32 commitments selected by the platform

for tracking. Most of the commitments are derived from the Democracy and Political Governance section of the APRM National Programme of Action. The choice of these commitments is based on the history of focus areas of expertise and interest by various UGMP members and the traditional broad areas that UGMP has been tracking as listed above. This means that UGMP's report does not claim to cover all the commitments in the APRM POA, something that the APRM Governing Council attempts to do¹.

In the matrix below, we present a summary of our perspectives on the selected commitments. Overall, our assessment suggests a mixed picture, with the democratization process posting generally more positive gains especially outside the official state domain, the human rights situation showing negative trends from previous years and in particular the incessant attack on freedom of speech and media as well cases of intolerance in society. While corruption remains widespread, some positive public actions have been undertaken that suggests that some agencies of state are strengthening their resolve to fight graft. In the area of conflict resolution and post conflict reconstruction, lukewarm progress is discernable, but the demands for transformation greatly outstrip current interventions.

No.	Commitment in the APRM plan of Action	Highlights of Status	Remarks
1.	Review the constitutional amendment that removed the two term limits for the office of the President	<ul style="list-style-type: none"> No commendable progress was made on this commitment. 	<ul style="list-style-type: none"> Government committed to conduct National consultations on the issue. This was not done. CCEDU and the IPC in their electoral reform proposals to Parliament suggest a revert to 2 term limits.
2.	Strengthen the capacity of parliament to exercise its oversight function over the executive within a multiparty dispensation.	<ul style="list-style-type: none"> Some progress registered especially by committees in the house such as the PAC that unearthed major corruption in KCC and the CHOGM process. With 25 session and standing committees are in place, Parliament's capacity to oversee government was strengthened 	<ul style="list-style-type: none"> While some progress was registered, Parliament did not entirely free itself from external interference, with some institutions such as the IGG questioning its powers. As an institution, Parliament is perceived by many to be over populated with uncritical or compromised members.
3.	Ensure the independence of the judiciary by eliminating undue political influence and providing the courts of law requisite resources for the judiciary to carry out its mandate effectively.	<ul style="list-style-type: none"> In 2010, there were reports of the President calling for establishment of a parallel agency to 'audit' judgments that seem 'wrong/biased' Cases of interference from the leaders into judgments were evident. RDCs in some districts interfere with execution of court judgements. 	<ul style="list-style-type: none"> While new appointments were made to the bench, some of the appointees are perceived as part of the NRM 'cardreship' and thus questioning their autonomy. The judiciary however continues to be understaffed limiting its effectiveness.

4.	Enhance credibility of the electoral process and legitimacy of electoral outcomes.	<ul style="list-style-type: none"> • Increased Government funding for the Electoral Commission • Training curriculum for Electoral officials designed and implemented • JLOS and UHRC have been useful in carrying out civic education activities 	<ul style="list-style-type: none"> • A key issue for contention was the credibility of the EC. Both the ruling NRM and the opposition questioned its impartiality in 2009 and the public holds the EC in very low regard. • While there has been increased funding, it is still inadequate and disbursement also delays considerably and this affects the EC's performance. • The breadth and depth of civic education especially by 'official' agencies remains narrow, although 2009 saw a growing emphasis on this by the CSOs.
5.	Review the NGO Act with a view to enhancing NGOs, multiple roles in development	<ul style="list-style-type: none"> • No progress; the contentious NGO Regulations were passed, while the draft NGO Policy remains before cabinet. 	<ul style="list-style-type: none"> • Government remains adamant to reform in this area and NGOs have decided to challenge the constitutionality of the NGO Act in the Constitutional Court.
6.	Government to develop a strategy for capacity building of local communities for their effective participation in planning, implementation and M&E processes.	<ul style="list-style-type: none"> • Good frameworks and guidelines, but not enforced. • Many earthshole useful community structures remain docile for lack of funding 	<ul style="list-style-type: none"> • While the number of districts is escalating in a bid to actualise this commitment, it might be a challenge to realise value out of the exercise unless the community structures are operationalised fully.
7.	Embark on rationalization of the number of local districts in order to contain administrative costs within affordable limits	<ul style="list-style-type: none"> • No sound progress and new districts continue to be created without careful thought on financial implications 	<ul style="list-style-type: none"> • Independent studies suggest that the burgeoning district formation enterprise has little to do with strengthening decentralization and more to do with strengthening a patronage system
8.	Review the existing laws regarding press freedom and their implementation, with a view to removing contradictions and undue restrictions on the media.	<ul style="list-style-type: none"> • Five Radio stations were closed and only opened after serious sanctions from the state such as dismissal of "errant journalists". • One of the most critical radios CBS still remains closed and popular 'bimeezas' banned. 	<ul style="list-style-type: none"> • Despite pressures from Civil Society for Government to amend various media related laws, there hasn't been positive progress. • Instead the Government has introduced a proposed amendment to the Press and Journalist Act which aims to further tighten the noose on the media.

9.	Review current institutional mechanisms that promote and provide for the interests and welfare of vulnerable groups with a view to making them more effective and responsive	<ul style="list-style-type: none"> • A task force on Human Sacrifice established by Parliament • UCRNN introduced child protection policy and in a lobby drive for it adoption • Research commissioned by Parliament to establish root causes of child sacrifice 	<ul style="list-style-type: none"> • While it appears that a lot of effort was invested in protection of Child Rights, little effort was invested in protection of other vulnerable groups such as the Disabled. • It is also imperative to note that most of this effort was invested by CSOs and Parliament and not the mainstream government MDAs.
10.	Enact the domestic relations bill and sexual offences bill into enforceable law.	<ul style="list-style-type: none"> • Marriage & Divorce Bill tabled in parliament for the first reading, a separate law in the offing for the moslem sect • Domestic Violence Bill passed by parliament & awaiting assent by the president 	<ul style="list-style-type: none"> - These developments though long awaited, indicate progress in government's commitment to address domestic related issues. It's however important for wide consultation before the relevant laws are enacted.
11.	Review Land laws that contain clauses limiting the constitutional rights of citizens.	<ul style="list-style-type: none"> • The land Amendment Act was passed into law despite resistance from several cultural and political activists. • This was in the midst of continued illegal evictions and land grabbing in which state agents are accused. 	<ul style="list-style-type: none"> • While the APRM CRM recommended a review of existing land laws, its imperative to note that even the existing laws have not been followed especially during evictions and other land disputes management. • The Land Policy has been long overdue and so the law is considered narrow focused.
12.	Reform laws that promote gender equity such as the land act, registration of titles act, micro deposit taking institutions act as well as the Mortgage Act.	<ul style="list-style-type: none"> • The Marriage and Divorce Bill and Moslem personal property bill were in Parliament for discussion • The Succession and Divorce acts were also overruled as unconstitutional and Parliament to amend them. • A Land division created in the High Court in a bid to manage the escalating land conflicts 	<ul style="list-style-type: none"> • While laws such the land Act have been amended as required by the APRM CRM, there is indication that the concerns of some groups were not contextualized and as such critics have observed that it is not satisfactory. • The Land division created is a big step forward as it will facilitate swiftness and effectiveness in managing land disputes.
13.	Embark on institutional capacity building to ensure increased participation of women in central and local government is balanced with qualitative change in institutions to guarantee that women are adequately empowered to promote and protect their rights	<ul style="list-style-type: none"> • Marriage and Divorce bill tabled in Parliament for first reading and committed to the legal and parliamentary affairs committee for further consultations • Domestic Violence and Human trafficking bills passed into laws 	<ul style="list-style-type: none"> • While laws that are favourable to women were enacted, there was not commendable effort in the legal framework to ensure increase in their effective participation in local and central governance

14.	Step up the capacity of gender focal points in Sectoral Ministries with a view to mainstreaming gender in plans and the national budget	<ul style="list-style-type: none"> A Women's Democracy group, a coalition of women organizations was established to collectively advocate women concerns 	<ul style="list-style-type: none"> Not any noticeable effort by Government to take forward this commitment. However CSOs, in Particular Women's NGOs played a central role in advocating this throughout the year.
15.	Build and strengthen institutions that promote and protect children's rights as part of a civic education Programme	<ul style="list-style-type: none"> Ministry of Education announced a plan to upgrade over 220 UPE and USE schools, and 18 special schools for children with learning problems MGLSD increased its welfare, care and support to children in five institutions i.e. Kampiringisa, Naguru Remand Home, Naguru Reception Centre, Mbale Remand Home and Fort Portal Remand Home 	<ul style="list-style-type: none"> While government seems to have made some effort towards supporting the welfare and care for children, the aspect of civic education as enshrined in the APRM POA seems not to have been factored into Government's programming.
16.	Develop a policy and strategy for addressing the under and unemployment of people with disabilities	<ul style="list-style-type: none"> No commendable effort to achieve this 	<ul style="list-style-type: none"> While laws favouring employment of PWDs are in place, the absence of an employment policy for PWDs leaves gaps in their employment issues.
17.	Harmonize all the laws, policies and institutions established to fight against corruption within and outside the government.	<ul style="list-style-type: none"> Inter-agency Forum created but its functioning is still problematic; with infrequent meetings and failure to meet set expectations. 2008 Anticorruption Act assented to by the president The Whistle Blowers' Bill at committee stage after first reading in parliament. 	<ul style="list-style-type: none"> These developments project a bright future for the war on corruption. The only challenge that remains is on the operationalisation of the legislations put in place.
18.	Enhance the institutional capacity of the IGG and other relevant anti corruption institutions to carry out their mandate effectively.	<ul style="list-style-type: none"> More funding and technical assistance accorded to the office of the IGG 	<ul style="list-style-type: none"> The office of the IGG however still faces major capacity gaps
19.	Establish and capacitate anti corruption courts	<ul style="list-style-type: none"> The anti corruption court has been operationalised and its work has started rather commendably despite understaffing 	<ul style="list-style-type: none"> This is a positive development in the fight against corruption. However, many of those that were convicted have been released on bail. Farther, there have been public concerns that focus is on the "smaller fish", ignoring the major culprits.

20.	NGOs undertake to improve their internal governance and public legitimacy through processes such as the QuAM, among others.	<ul style="list-style-type: none"> • 2009 recorded the most significant progress in the QuAM since its inception, but the roll out has been slow 	<ul style="list-style-type: none"> • QuAM has been widely embraced by NGOs. This indicates a bright future for NGO self regulation.
21.	Government to enhance transparency and meaningful management and utilization of the country's natural resources such as oil, the environment etc.	<ul style="list-style-type: none"> • Several complaints over forest land allocations and management concessions leading to the president suspending the exercise • Continued encroachment on forest reserves • Oils & gas related information still remains undisclosed to the public 	<ul style="list-style-type: none"> • The continued hiding of information on natural resources to the public depicts high levels of lack of transparency and accountability, which might lead to serious resource wastage
22.	Commitment to fully implement the PRDP of Northern Uganda in the next three years	<ul style="list-style-type: none"> • The PRDP has been rolled out in 40 districts, but concerns remain on ownership of the programme by 'beneficiaries' 	<ul style="list-style-type: none"> • Overall, the demands for reconstruction greatly outstrip the PRDP and its success can at best be modest • Need to extend its timeframe
23.	Government to support local initiatives aimed at institutionalizing an alternative justice system through the utilization of informal mechanisms for managing macro level conflicts as part of broader Programmes aimed at post conflict reconstruction and development.	<ul style="list-style-type: none"> • Studies underway by JLOS to find out how to mainstream traditional justice mechanisms into the modern system • A draft transitional justice law is in the offing as spearheaded by the Principal Judge • An increasing referral of cases under the formal justice system to the traditional justice system for arbitration • National Reconciliation Bill, 2009 aimed at establishing a National Reconciliation Forum is in the offing. 	<ul style="list-style-type: none"> • Generally there is noticeable recognition by Government of the need to support traditional justice mechanisms in a move to strengthen them. It is thus worth giving credit to Government for the progress registered • If these efforts are effectively built upon, Uganda's alternative justice system is bound to develop.

1.3 Overview and Structure of the Report

This report is divided into the four broad areas of UGMP's interest (the Democratization Process; the Human Rights Situation; Transparency and Accountability; and Conflict Resolution & Post Conflict Reconstruction. The first section on the Democratization Process contains reports on 8 commitments namely; the second section on the Human Rights Situation features 10 short reports on selected commitments. The Transparency and Accountability section contains short reports on 4 commitments and finally, the Conflict Resolution and Post Conflict Reconstruction section features 2 reports.

2. THE DEMOCRATIZATION PROCESS

Progress in the Democratization Process in Uganda remains modest. The main developments in the year include renewed focus on civic education by both official and civil society organisations, the maintenance of rule of law to a large extent in society, build up to internal democracy within political parties and signs of greater cooperation between political parties, especially those in the opposition. The year also saw the re-appointment of Commissioners of the Electoral Commission amidst public outcry against the EC which is considered compromised. Finally, a large scale democracy promotion fund - the Deepening Democracy Programme was launched with support to Political Parties, Civil Society, Parliament and the Media.

In the sub sections below, we report on the progress and status of the democratization process by looking at specific commitments on enhancing the credibility of the electoral process and outcomes; the question of restoration of term limits for the President; Separation of Powers and in particular the independence of Parliament and the Judiciary; the NGO Operating Environment; Community participation in the planning process and efforts towards rationalization of districts in Uganda.

2.1 Enhancing the Credibility of Electoral Process and Election Outcomes - By UJCC

The electoral system determines the extent to which people are able to participate in government and hold the government accountable through the choice of leaders. The way elections are held and their regularity is an important measure of the extent to which a society has been democratized. One test of a democratic society is the extent to which it enables its members to participate in the decisions affecting them. The political legitimacy that credible elections confer is essential for robust states and provides a crucial mandate if governments are to have the capacity to tackle a myriad of sustainable development challenges. In the “third wave” of democratization, many countries began to reform and refashion their electoral rules to more closely meet the goals of accountability, legitimacy, representation and sustainability (UNDP: 2004). Today, there are very few states in the world that do not conduct elections, although the meaning and quality of these vary enormously. However, despite the central role of elections in democratic governance, it is important to remember that elections

themselves are not synonymous with democracy. As the 2002 Human Development Report: Deepening Democracy in a Fragmented World made clear, democracy is ultimately about voices more than votes.

Historically, Uganda's experience of free and fair elections has been limited, and much effort for change will be needed if our electoral system is to operate truly in the interests of democracy. The country prepares for yet another important general election in 2011, but several outstanding issues need redress. Besigye sued Yoweri Kaguta Museveni in Supreme Court Presidential Petition No. 1/2001. Amongst the major complaints were: the failure to publish a full list of all polling stations in each constituency 14 days before nomination; creating new polling stations on the eve of polling day as a result of which the petitioner could not appoint polling agents for those new polling stations; multiple voting and voting by those without voters cards; intimidation of voters by soldiers and other para - military personnel during campaigns and at polling stations; failure to display voters registers/rolls to each parish or ward in a public place for a period not less than 21 days.

The issues that still need addressing include but are not limited to the following:

Electoral Reform: The year 2009 witnessed incessant calls for electoral reforms to even the political playing field for different political actors. The Inter Party Cooperation made extensive recommendations for electoral reform and civil society too made several proposals that in their view are crucial if the credibility of the electoral process is to be enhanced. By close of the year, Parliament was under pressure to debate these laws, but the executive was yet to submit the necessary bills to Parliament for the same. While the enactment of better electoral laws does not necessarily guarantee a free and fair election as exemplified in previous Court Judgments, fair electoral laws are an important ingredient for building trust in the electoral process. There are lingering questions of undue advantages of incumbency including 'use of facilities' that are ordinarily attached to his office. There is need to clarify in the law what is due to an incumbent so that incumbents don't over stretch their boundaries.

Equal Treatment of Political Parties and the Opposition: This should involve applying the same rules and the same guidelines to every political party and every candidate. In 2009, while there was evidently more space compared to previous years for political parties to canvas for support for their different programmes, there were still cases of harassment of political party leaders especially at district level. For instance the President of the Democratic Party was denied access to media in Hoima, Soroti and some districts in the northern Uganda with media proprietors claiming that they had instructions from above not to host the Opposition Leader. A few other political leaders in the opposition have occasionally been subjected to harassment by state security agencies as they went about their work especially in the communities or

constituencies, examples including MPs such as Hon Erias Lukwago and Hon Nabila Nagayi were allegedly arrested and tortured by state security agencies.

Independence of the Electoral Commission: In 2009 the President re-appointed all the Commissioners of the EC amidst public outcry especially after the indictment the EC has received in various court judgments in the past which have indicated that it is not impartial in conducting its affairs. It has also been pointed out that some Electoral Commission officials took sides and conducted themselves in a manner that is calculated to bring the commission into disrepute. The Electoral Commission must honestly address this concern.

Recommendations

- On the issue of Electoral Reforms, UGMP urges Parliament to be expeditious in discussing the proposed electoral reform areas as submitted to it by the EC, the IPC and various civil society organisations.
- Given the centrality of the Electoral Commission in the quest for a more credible electoral process and outcomes, it is important that to restore public trust in the EC, there is need for its overhaul and a process to re-institute it be discussed by actors across the political divide.

2.2 The Question of Term Limits - By UJCC

The presidency is the most powerful institution in the country, with the President being the Head of State and Commander in-Chief of the Armed Forces, and sometimes referred to as the Fountain of Honor as well as the Head of Government. Under the constitution of the Republic of Uganda, the President is given enormous powers including those to declare war where and when necessary and conclude treaties. The President also wields considerable power with regard to appointments to public offices or State institutions. He has the power to appoint judges of the High Court and Justices of the Court of Appeal (constitutional court) and the Supreme Court on the advice of the Judicial Service Commission. He also appoints ambassadors, High Commissioners, and Heads of Government MDAs.

Effective 1995, the occupancy of the office of the president was restricted to two five year terms, meaning that the extent to which he exercises the powers that be was limited to that period. In 2005 however there was a major constitutional amendment which saw the presidential Term limits removed, implying that the occupant of the office would stay in power for as long as he/she is voted. Critics have observed that this democratic reversal is intended to promote life presidency, which essentially is an abuse of democracy.

In the APRM POA Government committed to “Review the constitutional amendment that removed the two term limits for the office of the President”. This commitment was in a bid to address the concerns of voices calling for the reinstatement of the presidential term limits. Ideally, Government was supposed to initiate a process of consulting widely with the Citizenry on their views regarding these presidential term limits.

Developments in 2009

Throughout the year 2009, there were strong calls for reinstatement of the presidential term limits, as witnessed in dialogues conducted by Civil Society Organizations such as UJCC, and reports in the media. Civil Society Organizations under a new initiative, the Citizens’ Coalition on Electoral Democracy in Uganda (CCEDU) and opposition Political Parties through the joint Inter-Party Coalition (IPC) separately presented electoral reform proposals before parliament and amongst these, the reinstatement of presidential term limits emerged strongly. These were however not yet responded to by the end of the year under review.

While Government committed to widely consult with the citizens and while the calls for reinstatement of the term limits were strong through out the year, effort by Government towards addressing these calls and fulfilling its commitment was absent. In addition there were fears that the net commitment of Government towards addressing these concerns seemed to be limited. The continued ‘controversial’ appointments by the president to critical offices such as the Electoral Commission, which were strongly contested by some Members of Parliament and political protagonists, seem to justify these fears, to the extent that critics observed that such appointments were strategically made to consolidate power for the incumbent, especially in the run up to the 2011 General Elections.

Recommendation

In light of the above, UGMP strongly recommends that Parliament consolidates the electoral reform proposals suggested by CCEDU and the IPC in line with calls from the general citizenry, with a focus on among other issues, the reinstatement of the presidential term limits.

2.3 The Independence of Parliament to play its Oversight Role - by UJCC

Democratic governance requires a system of government which promotes the existence of checks and balances². This system of governance has been upheld by the constitution of the Republic of Uganda which endorsed the three arms of government

²Uganda Constitutionalism at Cross Roads - Peter Mukidi Walubiri pg 209

viz; the Executive, Legislature and the Judiciary. In this system of governance the Legislature commonly known as Parliament has the primary and general function of representing the people. In 2005, Uganda made a shift from the movement to a multiparty system of governance, whereby Political party space that was hitherto suffocated by individual merit system was opened up. Recently, Parliament has been able to effectively perform an oversight function over the Executive, widely through a system of Committees, which include the Standing Committees, Session Committees, Committee of the Whole House and Committee of Supply among others.

Developments in 2009

In 2009, the Public Accounts Committee (PAC) under the chairmanship of Hon. Nandala Mafabi, managed to call many Government and Local Government officials to account for Public funds placed under their control. In addition, PAC revealed the scam in Kampala City Council and started on a process of unpacking the abuse and misappropriations surrounding the monies disbursed to different agencies for the Commonwealth Heads of Government Meeting (CHOGM). The Appointment Committee of Parliament in vetting the new Cabinet ministers also turned down the appointment of Hon. Mbeiza on grounds that she was mentally incapacitated.

While the legislative proposals originate from the Executive, it's the duty of Parliament to examine, change and ultimately pass laws. In so doing Parliament has kept a check on the Executive, for instance The Regulation of Interception of Communication Bill, 2007 was returned to the Minister of defence following Public Outcry. Parliament also passed among other Bills, the Anti Corruption Bill 2008, a Bill that if enacted will go along way in addressing the problem of corruption in various government departments and bodies.

However Parliament still faces the challenge of attendance both in the Plenary and the Committees, having had to adjourn debates of contentious issues for lack of quorum on several occasions, and Committee meetings having to proceed with at times only three members present. This often has affected the performance of Parliament in that Committee assignments have stalled, leading to failure to report back to the Plenary in time, bills taking long to be disposed off and heavy back log of reports to be considered from the various government departments. Generally this trend has serious implications on Parliament's performance. The composition of Parliament has also had limitations to its effectiveness and independence, with majority of them (212) being subscribers to the ruling NRM government. Through out 2009, the issue of caucus decisions emerged to have strongly affected the debates in Parliament, whereby the majority MPs who are NRM have had to factor the position of their party in their debates. This generally has been observed to greatly undermine the performance of Parliament to the extent that the present Parliament has been referred to as a

'rubber stamp'. The fact that Members of Parliament double as Cabinet Ministers has also been found to undermine the independence of Parliament, with some analysts suggesting instituting mechanisms to deter MPs from holding Ministerial positions.

2.4 The Independence of the Judiciary in Uganda - by FHRI

The Constitution³ of the Republic of Uganda guarantees the independence of the Judiciary. This comprises two essential components; the independence and impartiality of judges, and the independence of the Judiciary from the Executive and Legislative arms of government. Independence of the Judiciary is ensured through the manner in which Judges are appointed, security of tenure, financial security, and the ability of the judges to make decisions free from influence⁴. This is because it is impossible to ensure the rule of law, upon which other human rights depend, without providing independent courts and tribunals to resolve competently, independently and impartially, disputes both of a criminal and civil character. In previous years, the independence of the judiciary was threatened by failure of government to honor court decisions and other overt threats like the siege on the High Court⁵. This trend has somewhat changed, although clearly there has not been a reoccurrence of circumstances that led to such a scenario.

Developments in the judiciary in 2009

In 2009, instances of executive interference with the Judiciary were recorded which are inconsistent with Government's commitment in the APRM POA: "...ensure the Independence of the Judiciary by eliminating undue political influence and providing the courts of law requisite resources for the judiciary to carry out its mandate effectively". *In January 2009, the President called for the establishment of an agency that would 'audit' judgments that seem 'wrong' and 'biased'. According to the President, such a proposal, if implemented, would boost the overall reputation of a judicial system that is increasingly perceived to be corrupt*⁶.

The judiciary is the supreme body for justice in Uganda and such a development is worrying especially when trying to locate the commitment by government to eliminate undue influence over the judiciary. The lower courts, especially those located in rural areas, are not unique as they also experience interference undue influence.

*When a judgment is passed, instead of appealing to a higher court, losing petitioners appeal to the RDC who interferes with execution of the judgment. Specifically cited were the RDC's of Kanungu and Mbarara*⁷.

³Article 128 of the 1995 Constitution of the Republic of Uganda as Amended 2006

⁴UN HRC General Comment No.13

⁵November 2005 and March 2007 when the High Court was besieged by the military and PRA suspects who had been granted bail re-arrested.

⁶The Daily Monitor of January 14, 2009

⁷FHRI Interview with Mr. Bahu Rwatooro Chief Magistrate, Mbarara chief Magistrates Court, Mr. Niwagera Richard Magistrate in charge of The Family and Children Court at Bushenyi Chief Magistrates Court, Mr. Charles Sserubuga, Chief Magistrate Kasese district.

Such scenarios have grossly affected the independence of the lower courts, mainly arising from the offices of the Resident District Commissioners (RDC). According to the APRM CRR of Uganda, the Executive also uses its control and disbursement of resources to the Judiciary and the Legislature as a veiled method of exerting influence. This has not changed though as the financing to the Judiciary still come through the MoJCA and not directly from the consolidated fund through Parliament as is supposed to be, leaving the executive with financial control over the judiciary.

In February 2008 and July 2009, several new appointments were made at all levels of the bench. However some of the appointees were persons alleged to be politically linked to the NRM Party '*movement cadres*.' While Judges are also free to have political leanings, there has been concern that these appointments were made in anticipation of the 2011 elections. The legitimacy of the judicial appointment process and the integrity of the Judicial Service Commission have also been seriously questioned by critics. The judiciary however continues to be understaffed; with only 30 magistrates to serve the entire population of over 30 million people, the implication of this being that there is one magistrate for every one million people. This continues to strain the judiciary, thus limiting its effectiveness.

Less Interference but Still an Alarming point of concern

Despite there being fewer recorded cases of judicial interference in 2009, generally there has been limited progress on this commitment. The judiciary remains dependent on the executive for financing and staffing, leaving a very big question as to whether an institution that is supported by another for functionality can be independent. It's thus highly recommended that:

- Funds for the judiciary should be drawn from the consolidated fund through the Parliament instead of going through MoJCA, it should be drawn from the Consolidated fund through parliament
- Government respects the presumption of innocence, on the basis that accused persons do not lose this right unless they plead guilty or are convicted by a court of competent jurisdiction.
- All arms of government respect the legitimate outcome of the Judiciary as a judicious institution and constitutional mechanisms of seeking justice explored rather than accusing the judiciary of impartiality

2.5 Safeguarding a progressive NGO Operating environment - By the National NGO Forum

Since 1999, the NGO sector has been engaged in processes to influence the legislation preferred for their operating environment. In the last 5 years, the National NGO Forum has, as its contribution to the annual UGMP Governance Reports, provided a status on the NGO operating environment with specific reference to the NGO Act and NGO Policy processes. By end of 2008, the status was as follows:

- The NGO Act was passed and assented to by the President in 2006 and the process to develop the NGO regulations was initiated by the Ministry for Internal Affairs in 2007 and this was not yet completed by the end of 2008.
- A draft NGO Policy was before cabinet for its consideration and possible approval.
- In light of the above NGOs were still effectively governed by the provisions in the 1989 NGO Statute and the 1990 Regulations.
- It has also been reported over the years that NGOs have been very active in all the processes above, but apart from the draft NGO policy in which a substantive part of NGO contributions were integrated, government has been less receptive of NGO perspectives to the others.

However as a result of sustained advocacy for a more enabling environment for NGO operations, the government is bound by a commitment in 2008 APRM Plan of Action, which commits government to “review the NGO Act with a view to enhancing NGOs’ multiple roles in development, including advocacy, service delivery, transparency and accountability of the public institutions”. This renewed commitment is the basis for this status paper and indeed future reporting on this matter. The status reports on this commitment will also feature general developments in the NGO sector relating especially to their experiences engaging with government at different levels in different policy processes. The highlights for 2009 are presented below:

The NGO Act

Early 2009, the NGO sector intensified its efforts to contest the NGO law, stating that it was overly constraining the operations of NGOs. This was epitomized by the NGO campaign week in which demonstrations were held throughout the country, a petition presented to the Constitutional Court and a briefing paper produced by the NGOs on the NGO law. In the petition, the NGOs requested that a declaration that the NGO Act is unconstitutional is made by the Constitutional court and that

an injunction is issued restraining Government from gazetting the NGO registration regulations of 2009 meant to make the Act operational. NGOs based their case on at least seven concerns in the present NGO legislation: a) the narrow definition and understanding of the NGO sector; b) its purpose and objectives; c) the application of the dual liability provision in the NGO Act; d) the constitution of the NGO Board - both composition and manner in which it is done as well as the inadequate financial and human resource support to it; e) excessive red tape and significant administrative discretion in the NGO registration process and the absence of an explicitly stated independent appeal mechanism; f) a provision in the NGO regulation that makes it conditional for NGOs to have contact with the population; and g) a misrepresentation in the NGO Regulations of an NGO developed NGO Quality Assurance Certification mechanism (QuAM).

In yet another development, the NGO regulations were laid before Parliament. However, by close of 2009 it remained unclear under which Law the Ministry of Internal Affairs and the NGO Board is using. Experiences from different NGOs suggest that it depends on who handles the file for any particular NGO. For instance NGO Forum's application for renewal of registration and Action Aid's application for the same were handled differently by the same NGO Board.

The NGO Policy

Still in draft form, the NGO policy was presented to cabinet by the ministry of Internal Affairs to which the Cabinet office gave comments that were meant for improvement. The main remark from the cabinet office was that the ministry of internal affairs gets a certificate of financial implications from the ministry of finance before approval by cabinet. However further research seems to indicate that there still is an impasse between the Ministry of Internal Affairs and cabinet Office about the NGO policy, an indication that its passage might further be delayed. The NGO sector views the NGO policy as a relatively more progressive framework for fostering mutually beneficial relations between NGOs and Government, and without its passage, it is highly unlikely that the operating space for NGOs shall get any better.

Analysis

Despite several engagements between NGOs and government, consensus hasn't been reached as to the purpose and substance of the current NGO Act and its attendant regulations. NGOs have expressed concern, both in writing and in meetings with government about several provisions in the NGO Act, 2006 and its attendant Regulations of 2009.

While recognition of NGOs as important development actors by government such as

being consulted for the NDP serves as a good opportunity for them to influence their operating space, the disconnect between the NGO law and several official Government documents and policies such as the NDP, and APRM POA leaves a quagmire regarding government's commitment to enhance better NGO operations. It is therefore imperative for government to positively harmonize their official documents and the NGO law to come up with one comprehensive law that clearly reflects government's commitment to supporting NGO operations.

Recommendations

- The Cabinet Office should put the draft NGO Policy before Cabinet so that it is passed with the progressive perspective as is at the moment.
- The Ministry of Internal Affairs should increase the annual budget for the NGO Registration Board so that the NGO Board can become more efficient and effective in servicing a growing NGO sector.

2.6 Building the Capacity of Local Communities for their effective participation in Planning, Implementation and Monitoring - by KRC

The participation of local communities is crucial for the development processes in Uganda as it contributes to ownership and sustainability of the development interventions. The government made commitments to develop a strategy for capacity building of local communities for their effective participation in planning, implementation and monitoring and evaluation processes (APRM report 2008). To realize the commitment, the government has pursued a major decentralization program since the late 1980s to transfer power, functions and services from Central Government to Local Councils to bring services nearer to the people and increase their participation in decision making. In effect, a number of districts have been created; development programs and resources channeled by central government in form of grants. To increase the oversight role of local communities to monitor and evaluate the development interventions, the ministry of local government made a communication guide and the harmonized participatory planning guide that provides for the flow of information regarding the roles of the structures and resources meant for the community development with an aim of promoting downward accountability and facilitating process community participation.

Government of Uganda has put in place frameworks, policies, structures and procedures that guide their implementation but with minimal resources to support them. An estimate of 98% of the sub county government structures and 100% of the districts organize budget conferences to determine village and parish priorities that are incorporated into the district development plans annually. For instance, Nkoma

Sub County Kamwenge District, in the 2008/9 financial year; budget key issues that came through the village meetings and parish review meetings witnessed their inclusion and allocation of funds for the roofing of classes for the six primary schools that were constructed by the parents with other classrooms for four primary schools considered for cementing. The sub county work plan budget to be submitted to the district reflects the consideration of the repair of the six non-functional boreholes with nine new ones requested to cover un-provided for areas. The Number of institutions using harmonized participatory planning guides is reflected in the annual assessment of Local Government

Analysis

In spite of the government's efforts to create structures, policies and frameworks for enhancing local communities' participation in the planning, implementation and monitoring and evaluation of the development interventions, the resource envelop (funding) to facilitate the functionality of the structures has been less. With the abolition of graduated tax system, the tax base for local governments as a major source of income has reduced and the compensation has been inadequate. The existing policies like the harmonized participatory planning guide and the communication guide have not been effectively implemented, creating an information gap as citizens still lack information on their roles and responsibilities; citizens' role in consultative planning meetings at village and parish levels have been diminishing and their oversight role for local ownership affected. It is evident that less than 20% of community participates in bottom up planning process as well as more than 40% access information on budgets, plans and programs from the government. Over 50% of the Parish Development committees are not functioning and many councilors' participation at the sub county and district levels is driven by facilitation allowance which is not always available. In districts that have received special funding through the ministry from donors or local development partners, a lot of strides have been taken to create awareness, mobilize the community and ensure structures are functioning. Some of such partners include BTC, UNICEF, and NGOs that strategically intervene to enable the functioning of local government structures.

Conclusion and Recommendation

The government has clear policies, structures and frameworks to increase the capacity of local communities to effectively participate in planning, implementation, monitoring and evaluation of the development interventions. However, resources and information that facilitate the process have not been given priority. Most structures especially village councils and Parish Development Committees (PDCs) are not effectively functioning, yet sub counties and districts are supposed to get input from them hence making many districts and sub counties to have plans and budgets without input from and

not known to the vast majority of the community members.

- Since there are difficulties for the government to fund various sectors appropriately due to limited resources, it is recommended that the government through strengthening the public partnership relations work closely with international organizations and NGOs to co-fund the mentioned exercise. Such cooperation will however require progressive NGO – Government cooperation.

2.7 Rationalization of Districts - by KRC

Article 179 of the 1995 constitution allows for the creation of new districts based on 'effective administration and the need to bring services closer to the people.' Creation of districts started with Kalangala District in 1990 which broke off from Masaka District, others followed in a similar nature. In 2009, 14 more districts were created raising the total number to 101 districts. The Crisis States Research Centre last year surveyed the reasons as to why districts were being created at a very fast rate in Uganda compared to other countries, and in its findings attributed the practice to patronage, job creation for a selected few, and electoral politics, as opposed to enhancing service delivery as suggested, a conclusion also re-echoed in an Issues Paper by the National NGO Forum in 2008⁸. The Ministry of Local Government presented bills for the creation of more districts in Uganda and more NRM protagonists claim that district creation and development have gone hand-in-hand in Uganda and that 'Uganda is more developed today than 25 years ago when it had only 39 districts. It is further argued that this has reduced the journeys people would have to travel; created jobs and increased women representation in parliament from 14% in 1996 to 25% in 2008.

Analysis

The creation of new districts creates as many logistical and administrative problems as it claims to solve. In following the principle that district headquarters are to be located in the geographical middle of a district, district offices are often located far away from any sizeable town or village, thus making district officials commute long distances over unpaved roads to their offices and thereby spend less time in their actual offices." The administrative costs have increased as each district will require a lot of money for paying civil servants' salaries, building a district headquarters, and allowances for politicians, let alone the cost of acquiring new vehicles, office equipment and other necessities. For instance local government expenditure increases by about 30% and an overall annual cost of paying district council and municipal executives, resident

⁸See Larok (2008): Deepening Decentralization or Regime Consolidation – What explains the unprecedented formation of districts in Uganda?

district commissioners, councils' sitting allowances, new MPs' salaries, new structures, vehicles, office equipment and salaries for the district bureaucrats which cannot be less than sh 50billion. At the launch of the Nakaseke district in 2005 President Museveni was quoted saying, "Although a new district takes a lot of money, this is the democracy we fought for People must ask for what they want and get". However, clearly there is no evidence that more districts mean better services. More seriously at the present level of development, the government cannot claim to have the financial and human capacity to adequately support new districts.

- Parliament should adopt a moratorium on the creation of new districts until government has presented and Parliament has adopted clear criteria for creating new districts. The political consideration should be more inclined to productivity, administrative efficiency and local government autonomy, among others.

3. THE HUMAN RIGHTS SITUATION

Chapter 4 of the Constitution of the Republic of Uganda, 1995, bestows various rights and freedoms on all Ugandans. However, a number of factors have over time led to the limitation and sometimes, the erosion of these rights and freedoms. It is thus important to assess the state of human rights from time to time.

In 2009, the main developments were; the long awaited appointment of Commissioners to the Equal Opportunities Commission (EOC) and new Commissioners to the Uganda Human Rights Commission (UHRC), the passage of the Domestic Violence Bill, and strong effort to dispose off the Marriage and Divorce bill in Parliament. On the other hand escalation in Human and child Sacrifice and increasing suffocation of space for media operations emerged among other developments as negative. The release of a report by the Human Rights Watch about involvement of state security agencies (JATT) in gross torture activities was another landmark that generated debate in the media and political circles.

Government made a number of commitments in line with the promotion and protection of human rights in Uganda in the APRM POA and it has indeed taken steps to implement these commitments. This year (2009), UGMP evaluates the progress of these steps in short analytical papers in a bid to highlight the strengths, weaknesses and other challenges in the area of human rights in Uganda, The first paper is on Media freedoms by the Foundation for Human Rights Initiative; the second, third and fourth are by Uganda Society for Disabled Children and are on interests and welfare of vulnerable groups, Building and strengthening institutions that promote and protect children's rights, and employment issues for PWDs respectively. What follows is a detailed human Rights appraisal of land Laws by the Human Rights Network. The sixth paper is on Domestic Relations and is drafted by Action Aid Uganda, followed by two papers by the Uganda Women's Network on Gender Transformation and Women Participation in Governance. The last paper under this section is by Facilitation for Peace and Development on regulation of ritual-murders, child sacrifice and other evil acts by traditional healers.

3.1 Instituting a more enabling environment for Media operations

Freedom of expression is guaranteed under Article 29 of the Constitution of Uganda 1995⁹. This encompasses the “right to hold opinions without interference”. Legal restrictions on the exercise of freedom of expression must not put the right itself in jeopardy, and they must be necessary for the protection of national security and for respect of the rights or reputation of others. Citizens have a right to be fully informed on the performance of their representatives and only a free press can guarantee that the truth is freely disseminated.

Developments in Media and Press Freedoms

The year 2009 witnessed some of the most restrictive measures yet to be imposed against the media by the government. Perhaps because of their extensive reach, the electronic media operators continue to bear the brunt of these measures- every district in Uganda receives FM Radio signals and research shows that between 80-90% of all households in Uganda own a radio¹⁰. Following the riots in the central region in September 2009, five radio stations were closed; Radio Sapientia was re-opened after management agreed to dismiss the “errant” journalists and stick to religious matters, while Radio Two (Akaboozi) and Ssubi FM were re-opened in November 2009 and January 2010 respectively with several conditions. However both CBS FM stations (Buganda and Busoga) remain closed.

All the stations that were closed were neither warned nor given an opportunity to be heard. According to CBS, the Broadcasting Council broke into the station’s transmission system with the aid of the Uganda People’s Defence Forces. Ssuubi FM was closed down in a similar manner and the Broadcasting Council wrote to the station two days after the closure, explaining the same. According to one media practitioner, this is unjustifiable. “Whatever the presenters said, there are ways of dealing with it within the law without using such arbitrary methods as closing stations down.”¹¹

Several journalists were dismissed from their jobs over the coverage of the riots; some of them were charged with sedition and terrorism, among other offences¹². At least six regular callers into political talk shows were tracked down and arrested, and public debates/forums popularly called ‘Bimeeza’ were banned and all radio stations were ordered to stick to matters of ‘social relevance,’ thereby shutting down two major avenues for political debate in the country. In a further stride to tighten its grip on the media, the government embarked on enacting stringent laws and stinging legislations

⁹Also reflected in ICCPR Article 19

¹⁰Studies by Steadman Research Services and ILO 2004

¹¹October 2, 2009 Integrated Regional Information Networks (IRIN)

¹²Al-Mahdi Ssenkibirwa & Gerald Bareebe ‘UBC boss sacked over riot pictures’ The Daily Monitor, 2nd October 2009; Kalundi Serumaga from Radio One was arrested and charged with sedition

including; the Interception of Communications Bill, 2007 which will compel journalists or media houses to reveal their secret sources of information. It also proposed the extension of the pre-trial detention period from 48 hours to 90 days which could leave journalists who are critical of Government to languish in prison for three months before being tried¹³.

On a positive note, in September 2009, court dismissed the charges of inciting violence and defamation against five panelists and a moderator from Fort Portal's Life FM¹⁴. In January 2008, the Regional Police Commander, Western Region, arrested the moderator and five panelists from Life FM's "Tweraneho" ("Let's Fight for Ourselves") and "Enshonga Ha Nshonga" ("Reason Upon Reason") programs. Both programs were ordered off the air. A High Court ruling allowed the programs to resume, however the panelists were charged with inciting violence and defamation. After the dismissal of the suit, they brought a suit against the Attorney General for wrongful arrest¹⁵.

More serious implications for Democratization and Public Discourse

Media freedom remains a challenge since the laws in place have not been amended to favor the operation of the media, and a lot is expected to happen in 2010 as the 2011 general elections draw closer. The crackdown on the media and the ban on 'bimeeza' have stunted public debate and discussions and also led to self-censorship among journalists and media practitioners. This has greatly limited public discourse on governance and development issues.

On the whole, the space for the exercise of media freedom and the expression of independent thought is continually shrinking. Of great concern is the fact that in dealing with the media, the government has shown disregard for established media regulation institutions and has instead dealt arbitrarily with private media practitioners and outlets. This trend is quite worrying and is not representative of good democracy. We thus recommend that Government uses the established regulatory bodies and channels to settle its disputes with the media, rather than making effort to clamp down their freedom.

3.2 Enhancing an Institutionalized Mechanism to Promote More Responsive and Effective "Vulnerable Groups"

The vulnerable groups that are inclusive of children with disabilities, children who are HIV positive and orphans have been neglected, abandoned, and abused. These groups have been subjected to lots of violations and their lives put at risk. 2009 registered a

¹³Human Rights Network for Journalists. Press freedom index for 2009

¹⁴Joram Bitamanya, Prosper Busingye, Gerald Kankya, William Gonza, Dan Rubomobora and Steven Rwagweri

¹⁵Felix Basiime, 'Radio Panelists sue state for imprisonment' The Daily Monitor, 25th October 2009

lot of cases of gross acts like human sacrifice and ritual murder, increasingly putting the lives of the vulnerable in jeopardy. In Masaka district, a case was reported of a one and a half year old baby who was found tied up in a sack; still alive but with cuts on her stomach; teeth plucked out and with wounds in the head. The suspect, a man called Waswa who is also believed to have engaged in other acts of such a nature was arrested and is now in police custody in Rakai district. Several other cases of that nature were reported throughout last year.

In a bid to protect the interests of vulnerable children, the Uganda Child Rights NGO Network introduced a child protection policy and has been mobilizing other NGOs dealing with children to support this initiative. NGOs have also established Child Rights clubs to enable children learn their rights and be able to advocate for their own cause. This is accompanied by the Child Rights Manual that can be used by peer educators to sensitize vulnerable children on their rights. The National Council for Children also printed a memorandum that was presented by the children during a forum about their interests and welfare.

Parliament has also played a commendable role in promotion of Children's rights and Child Protection; an anti-child sacrifice task force was set up aimed at curbing the vice and research conducted to establish the root causes of the vice but also to reflect on how the rise can be mitigated. Parliament also committed to implementing the laws related to child protection and pointed out that although many governments have enacted children rights laws and policies, many of them were never implemented and that one cause of discontentment was the fact that some parliaments had not prioritized the well-being of children by limiting their access to services such as education and health".

3.3 Building and strengthening institutions that promote and protect children's rights

In a bid to build and strengthen the institutional capacity for the promotion and protection of the rights of children as committed by Government in the APRM POA, the National Council for Children together with Uganda Child Rights NGO Network conducted a study on three different thematic areas regarding children's rights and identified gaps. These thematic areas include; Children with Disabilities, Children in Conflict areas and Street Children. The capacity gaps that were identified were lack of parental care, lack of moral, emotional and financial support as well as knowledge about children's rights and responsibilities. In terms of education, the curriculum was found unsuitable for children with special needs, thus making inclusive education impossible. For instance, deaf children of school going age did not have sign language manuals in the school to facilitate their learning.

On a positive note, the Minister of Education announced that a total of 220 schools would have their facilities upgraded and new buildings constructed in first phase of a 150,000,000 dollars funding beginning in January 2010, and that the schools participating in the Universal Secondary Education will get new classrooms, libraries, teachers' houses, multi-purpose science rooms, as well as water and sanitation facilities, text books, and science equipment. In addition, their teachers will undergo training. Government is also planning to build 18 schools for people with learning problems caused by various forms of disabilities, in a bid to promote affirmative action. These schools, it is expected, will promote special needs education and enable people with disabilities to better their lives and enhance their contribution to their families and communities".

The efforts above, if actualized, will strengthen and build institutional capacities in terms of education. It is however important to step up effort in sensitizing children about their rights. Their representation in the children's parliament and the importance of airing out their views needs to be contextualized in the sensitization programme. During the civic education programme, leadership and livelihood skills should be imparted to these children.

3.4 Enhancing a policy framework to address employment challenges of PWDs

In an effort to address challenges faced by special interest groups, the Ministry of Gender, Labor and Social Development developed policies that guide their efforts regarding the various groups covered by the ministry. These include: the National Policy on Disability in Uganda, 2006; the National Orphans and Other Vulnerable Children Policy, 2004; the National Youth Policy, 2004; National Equal Opportunities Policy, 2006 and the Uganda Gender Policy, 2007

Despite the fact that the Ministry of Gender has endeavored to develop the above policies, the National Policy on Employment of Persons with Disabilities is still lacking. Important to note is that there are relevant legislations in favor of employment of persons with disabilities, but without the policy, implementation of this may be hard to achieve. In addition, though some institutions do employ PWDs and put in place facilities that can support them, a large number of people with disabilities stays with limited access to employment. Article 40 of the Constitution provides that "Parliament shall enact laws to provide for the rights of persons to work under satisfactory, safe and healthy conditions, to ensure equal payment for equal work without discrimination, inter-alia; that every person in Uganda has a right to practice his or her profession and undertake any lawful occupation, trade or business. It is imperative to note that persons with disabilities are accorded the same rights as stipulated above. UGMP therefore recommends that:

- The Ministry of Gender should develop a national employment policy to cater for persons with disabilities together with employment regulations that are implementable.
- Civil society organizations should develop projects that will empower people with disabilities with skills in microfinance management, marketing, and project planning.
- Build and strengthen vocational centers in terms of facilities and funding by government in order to equip people with disabilities with the relevant skills.

3.5 Land Laws in Uganda: A Human Rights Appraisal

The booming land market in Uganda in the past 15 years has come with unprecedented implications, both negative and positive. Whereas it has contributed to and indeed it is a sign of economic growth, it has had a negative impact on the human rights of citizens. Consequently, different laws have either been amended or enacted with the aim to curb the enormous excesses that have come with this land market boom. Some of these laws have been vehemently opposed from different sectors of the public for among other reasons, encroaching on the constitutionally guaranteed rights of citizens. This paper is an appraisal of the different land laws in Uganda today and their impact on human rights. The paper also provides an overview of reforms that promote gender equity.

Institutional property rights provisions¹⁶

The 1995 Constitution ushered in land reforms after decades of civil war characterized by human rights violations. The Constitution thus entails provisions that guarantee property (land rights) in Uganda. Among them are; Articles 26 (1), (2)¹⁷, and 237¹⁸. The following land laws are therefore tested against the constitutional guarantees of property rights to identify the various limitations that they entail, if any. The other vital notions that were spelt out in the Constitution were operationalised by the Land Act, 1998 and the Land Acquisition Act as discussed below.

The Land Acquisition Act, Cap 226, 1965

This law activates Articles 26(2) and 237(2) of the Constitution which give power to the government to compulsorily deprive one of his or her property (including land) for public interest and in defense of public order and safety. Before this acquisition can

¹⁶For the purposes of this article, property is used to include land.

¹⁷The Article provides for the right to property. In addition, it provides for compulsory acquisition of a person's property where it's needed for public use.

¹⁸Article 237 provides for land ownership noting expressly that land in Uganda is vested in the people in accordance with the constitutionally mandated land tenures namely customary, freehold, mailo and leasehold.

take place, there should be in existence a law empowering the State to do so as well as prompt payment of fair and adequate compensation made to the owner prior to the acquisition. In many of the land evictions that have gripped the country in 2008 and 2009, the legal procedures laid in the above law to protect land rights of the populace have not been followed¹⁹. Consequently, this law has been used to limit and in extreme cases, erode the property rights of citizens guaranteed under Article 26 and 237 of the Constitution²⁰.

The Land Act (as amended)

Uganda recognizes four different land tenure systems, each with its own rules, and each giving owners, holder's different rights and responsibilities. This means that the situation for women's rights is quite different for each tenure system. For example, under mailo and freehold systems, a person whose names are on the certificate of title is the owner of the land in perpetuity. This means the rights of spouses who are not registered on the land are limited to occupation and use. Mailo tenure system, on the other hand, provides for tenancy on the land, the rights of a tenant are transferable and can be inherited. However, use of the land under this tenure is subject to the rights of the owner of the land.

Leasehold provides for contractual ownership of land. The rights of the parties are only limited to the extent of the contract; third parties like spouses are not recognized except in matters of succession. Customary tenure covers family land whose rights are determined by the cultures and customs of each individual society. Section 27 provides that cultural practices which have an effect of denying women and the disabled the right to use land are unlawful. The effect of this is that even if culture may deny women the right to access land, the legal framework outlaws such practices.

Reform Laws that Promote Gender Equity

There are various Constitutional and other subsidiary legislations that promote gender equity. To begin with, Article 33 of the Constitution provides that women shall be accorded equal treatment and affirmative action to redress historical, traditional and custom-related imbalances. Article 31 (1) provides for equal rights for both men and women in marriage, during and at dissolution of marriage. Implicitly, this means equality in decision making over property such as land.

However, despite the constitutional requirement for parliament to make laws providing

¹⁹For example the negative application of the Land Acquisition Act in Mubende district where the Kaweri Coffee Plantation Ltd was granted land by the government where over 400 families were evicted in contravention of the article 26 and 237 using the above law. See Foundation for Human Rights Initiative, 'Land Rights: The Ugandan Experience' January–June 2008 at 20-24.

²⁰The 1995 Constitution guarantees such rights in the form of security of tenure to tenants on registered land falling within the categories of 'lawful' or 'bonafide' occupants as espoused under Article 237 (8) (9) and section 31 (1) of the 1998 Land Act. Section 64 (2) of the Registration of Titles Act Cap 205 as well entrenches security of occupancy.

for equality between men and women, during and at the dissolution of marriage, the reform of domestic relation laws has been slow. The Marriage and Divorce Bill and the Muslim Personal Law Bill²¹ are yet to be debated and passed by parliament. The *Succession*²² and the Divorce Acts were also ruled to be against gender equality and unconstitutional. Parliament is yet to amend the provisions ruled unconstitutional by the constitutional court in the two laws.

The Land Act, 1998 (as amended 2007) on the other hand guarantees every spouse access to land and habitation on family land under Section 38A²³. Though progressive, this provision only ensures rights of occupation and use to the spouses on the family land but not co-ownership rights. In essence spouses (married women) in Uganda have only a right to occupy and use the land and nothing more. Such a right is only limited to land on which the family relies for subsistence or occupies as a residential home. Consequently, where family land is not used for subsistence, then the spouse has no rights over that land. Whereas Section 39 of the Land Act guarantees the notion of dual consent in relation to disposition of land, it may not have an effect on a mortgagee or a buyer who has already paid. The law provides for cancellation of transactions made without the consent of the spouse²⁴; however, the option available to the buyer is a civil action to recover the monies. Often times, such action results in attachment and sale of the same land the law intended to protect.

Even the progressive land rights provisions above continue to be elusive for various reasons among which is lack of political will from the government to effectively implement this law. The traditional practices, especially in the rural areas, that inhibit women's property rights continue and as thus the law remains redundant. The women who these laws aim to protect are illiterate and most are ignorant of such provisions. So, the historical marginalization that they have faced over time continues unabated. The laws would have had more effect if they were enacted in a presumption manner. For example, it is suggested that section 40 of the Land Act should have contained a presumption of co-ownership of matrimonial homes or land²⁵.

Other equally progressive laws include the Micro-Finance Deposit Taking Institutions Act, 2003. This law provides for licensing, regulation and supervision of the micro-finance business in Uganda. It is one of the laws that is gender sensitive and aims at gender equity. It interprets the term 'associate' to mean among others, the spouse of any person. It further provides for the interpretation of 'close relative' to mean among others, one's spouse. This is under section 2 (a) of the Act. In the same vein, the Mortgage Act Cap 229 adopts a gender sensitive law in its entirety implicitly noting

²¹Formerly the Domestic Relations Bill

²²Section 27 of the Succession Act on distribution on the death of a male intestate and Section 4 of the Divorce Act which provides for separate grounds for divorce for men and women were ruled unconstitutional and court ordered that there must be a progressive interpretation of the section.

²³This was a 2004 amendment of the Land Act 1998.

²⁴This only applies to "family land" or land on which a family relies for subsistence

²⁵See footnote 4 at 67.

that even the women can be mortgagees if and when they have land.

Institutional and Legal Reforms for Protection of Land Rights in 2009

In bid to control the number of land conflicts in Uganda, the Principal Judge created a Land Division of the High Court. The division has three judges and a full registry. The division has jurisdiction to entertain all actions arising out of or connected with any land transaction, including but not limited to: sale, purchase and transfer of real property; leasing and rental of real property; hypothecation and securitization of land, destruction or degradation of land; matters of compensation paid for the compulsory acquisition of land, among others. Much as the Land Division has been instrumental in expeditious handling of land issues in Uganda, it is limited in terms of human resource and is only located in Kampala, thus leaving out the rest of the country.

In early 2009, the President of Uganda ordered the Inspector General of Police to start a Police Anti-Land Title Fraud Squad; the Land Unit in police was created to investigate crimes resulting from land conflicts. However, the division was given powers that usurp the powers of court. For example, before an eviction, a person gets permission from police. This is done whether the eviction is based on a court order or not. The challenge here is the court order remains redundant in cases where police refuses to grant permission! Generally there is increasing disrespect for the rule of law and enforcement of court orders – a fact that is likely to lead to increased land conflicts. This needs urgent intervention for ultimately, the constitutionally granted land rights of the citizens are likely to be eroded.

Conclusion

In conclusion, there should be a nationwide land reform process aimed not only at looking at the law but also other factors that are central to property/land rights. Indeed, a comprehensive national land policy vital in directing the land legislation has been long overdue. It is needed to synchronize land ownership and use especially considering the various land tenures that are prevalent in Uganda. The plight of most women can only be rectified by reforming the land law to include a co-ownership clause. This remains pending.

The land administration machinery also needs revamping. From the land registry (marred with corruption and fraud), to the failure of land tribunals, among other administrative institutions, one notes that the problem of land rights in Uganda cannot be solved only through the law. Rather there is need for a holistic approach which is not politicized in nature but legitimate in operation to complement the law. The debate and accompanying advocacy should be taken higher than just a gender-sensitive Constitution and legislation to real tangible implementation. Equally

important is the need to reform the provisions on co-ownership under the Land Act to protect an overwhelming number of young urban and rural women who are in co-habitation relationships but are left out by the protection accorded to married women.

3.6 Managing Domestic Relations and Sexual Offences

2009 was a historic year for the Women's Movement in Uganda; many of the laws that answer some of the concerns of women in Uganda were drafted and some introduced in parliament. It is also the year that Government responded to the famous Domestic Relations Bill and enacted other gender-related legislations. The 2008 Police Crime report showed defilement as the leading sex crime with approximately 8,635 cases and rape at 599 cases. Despite a reduction in these cases from the previous years, 110,000 cases are currently pending in the courts of law due to shortage of staff and limited facilitation of the judiciary²⁶. In a Gender and Productivity Study 2009 it was revealed that 50% of ever married women had experienced some form of violence with current or former partners compared to men at 23%. In a related report by the Uganda Law Reform Commission, approximately 75-80% of women and girls in South-West Uganda suffer violence, 70% in the East, 80% in the North and 30% in the South²⁷. This situation did not change much in 2009.

The Domestic Violence Act 2009

The Domestic Violence Act was passed in 2009 and intends to provide for protection and relief to victims of domestic violence, to provide for punishment of perpetrators of domestic violence, provide for the procedure and guidelines to be followed by the court in relation to protection and compensation of victims of domestic violence, provide for jurisdiction of courts, and to provide for the handling of domestic violence cases by the Family and Children Court. The Act protects rights to life, equality in the family, liberty and security of person in a domestic setting, equal protection under the law, freedom from discrimination, torture, cruel, inhuman and degrading treatment or punishment.

The Female Genital Mutilation (FGM) Act 2009

This Act was also passed in 2009 and is intended to prohibit Female Genital Mutilation; provide for legislation necessary for criminalizing female Genital Mutilation and related acts, provide for the prosecution of offenders and provide for the protection of victims of Female Genital Mutilation. The Act creates an offence of Female Genital Mutilation and defines what amounts to FGM. It provides for the remedies for the

²⁶Legal and Parliamentary Affairs Committee July 23rd 2009

²⁷Uganda Law Reform Commission, 2007; A Study on Domestic Violence, Kampala Uganda

victims, which include compensation. It has external territorial jurisdiction where the victim is an ordinarily resident of Uganda. It further creates a duty to report for those persons who have knowledge of the committing and the intention to commit an offence. Much as this Bill was highly welcomed by the women movement in Uganda a section of the Sabinu community was not happy with the developments and as such demonstrated against the government interfering in their cultural practices.

The Marriage and Divorce Bill 2009

The Bill was tabled in Parliament in December 2009 and intends to regulate the marriage institution. The Bill seeks to reform the law relating to marriage, separation and divorce. It also provides for the types of recognized marriages in Uganda, marital rights and duties. It recognizes cohabitation in relation to property rights. The Bill also provides one ground for divorce, that is, the irreparable breakdown of marriage and sets out the rights of parties on dissolution of marriage.

This Bill deals with only Civil, Christian, Bahai, and Customary and Hindu marriages. The Bill is currently before Legal and Parliamentary Affairs Committee. This is one of the Bills that take a bigger part of the proposals in the famous Domestic Relations Bill except those proposed sections that concern the Marriage of Muslims, which are taken care of in the Muslim Personal Law Bill whose study was conducted by the Uganda Law Reform Commission in 2008 and is yet to be tabled before parliament.

The HIV/AIDS Prevention and Control Bill:

A motion was moved and accepted in parliament to have the HIV/AIDS Prevention and Control Bill introduced as a private member's Bill. A document was developed which was shared with the Uganda Law Reform Commission who conducted national consultations on the provisions of this Bill. By close of the year the Commission had concluded its consultative report on the Bill and was drafting the Bill to be forwarded to Parliament.

The Sexual Offences (Miscellaneous Amendments) Bill 2000:

This Bill was first drafted in 1999, intending to amend the provisions of various enactments on sexual offences and evidential requirements during trial of sexual offences and for other related matters. Many of its proposals have been overtaken by events hence making the Bill redundant. Its proposals have been seen in the following Acts and Bill;

- The Penal Code (Amendment) Act , The Domestic Violence Act 2009, The Prevention and Control of HIV/AIDS Bill 2009, The Children Act (Amendment) Bill, The Marriage and Divorce Bill 2009

During the period under review some of the proposed sections of the SOB had been placed in the Penal Code (Amendment) Act, which made provisions for rape and defilement and incorporated the gender neutrality of the offences of rape and defilement, and in the Domestic Violence Act which made provision for violence that happens in a domestic setting.

Most of the provisions of the Sexual Offences Bill were incorporated in the Marriage and Divorce Bill, among others. For instance, a wide range of remedies are contained in the act including compensation of victims of assault which was one of the proposals of the SOB. Certain proposed sections of the SOB, especially around Marital Sexual Assault have been considered in the Marriage and Divorce Bill 2009.

The Amendment of the Children's Act, among others, will define child marriages as an offence. This was one of the other proposals of the SOB and the Domestic Violence Act. For the proposals on the unnatural offences, the Anti Homosexuality Bill 2009 contains detailed sections to address such offences.

All in all, most of the incorporations are still at a draft level and thus are not yet law in Uganda and as such, if they happened, the Penal Code Act applies if it has the specific provisions and if it does, then the law is silent on the remedial procedure to be taken.

3.7 Gender Transformation and Empowerment

Uganda has made considerable progress in the creation of an enabling environment for gender responsive development. This commitment includes inter alia: i) ratification of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW); ii) a gender sensitive Constitution (1995) that affirms equality of all persons and prohibits discrimination based on, amongst other things, sex; iii) a Ministry of Gender, Labour and Social Development (MoGLSD) established in 1988 as the national machinery for the advancement of women and promotion of gender equality and equity; iv) a national gender policy (1997) whose overall objective is mainstreaming gender in the national development process in order to improve the social, legal/civic, political, economic and cultural conditions of the people, in particular women; v) a national action plan on women (1999), developed as a follow-up to the Beijing World Conference on Women, designed to provide equal opportunities for women and men to participate in and benefit from social, economic and political development; and vi) the Social Development Sector Strategic Investment Plan (SDIP 2003-2008) that is built around a twin-track strategy: mainstreaming social development concerns (including gender) through working and supporting policy and programme development across and within sectors and direct/targeted interventions to provide services to specific

socio-economic groups, including women.

This commitment to gender responsive development has, however, been constrained by inadequate political commitment and absence of gender specific legislations such as the Marriage and Divorce Bill which is yet to be passed.

Why the Marriage and Divorce Bill:

1. The plural legal system with different laws regulating the same institution has culminated in the current confused state of affairs where it is difficult to figure out, for example, the essential requirements for marriage, its celebration or who can marry under the different systems of marriage currently existing in the country.
2. The existing laws, enacted between 1906 and 1916 during the colonial era discriminate on the basis of religion and race. Non-African Christians may only contract a marriage under the Marriage Act, an African Christian couple may only contract a monogamous marriage under the Marriage of Africans Act and Muslims, even if they may wish, may not contract a civil marriage under the Marriage Act.
3. Multiple marriage ceremonies: There are many instances where, through ignorance, a couple goes through a customary marriage and subsequently contracts a Christian marriage.
4. The lack of a uniform age of marriage. The various pieces of legislation provide for different marriage ages for girls and boys.
5. The current laws do not spell out any of the rights and duties accruing to married people and such rights and duties may differ depending on the marriage one has contracted.

Key developments in 2009 around the indicator and commitment;

- Analyzed, simplified and printed 4000 copies of the Domestic Violence Bill and the Marriage and Divorce Bill into information packs for advocacy purposes at national and regional level.
- Analyzed and printed 500 copies of the media indexed stories on VAW with policy implications related to domestic violence in Uganda.
- Organized one national and four regional feed-backs and consensus building advocacy dialogues on the Marriage and Divorce Bill and The Domestic Violence Bill with legislators, women activists, women local councilors and representatives of CSOs.

- MDB tabled for the first reading in Parliament and committed to the Legal and Parliamentary Affairs Committee for further consultation.
- Domestic Violence Bill, Trafficking in Persons Bill and the FGM Bill were enacted by Parliament.
- The Speaker of Parliament signed the UN petition “SAY NO TO VIOLENCE”.
- The Speaker made a commitment to have the MDB enacted by Parliament before the end of the 8th Parliament.
- A petition urging the Government and Parliament to enact the Marriage and Divorce Bill was presented to the Speaker of Parliament.

UGMP recommends that:

- Civil Society Organizations increase collaboration with grassroots communities to further advocacy on the Bill.
- CSOs Work with traditional and religious leaders to increase awareness on the Bill.

In conclusion, the Marriage and Divorce Bill is definitely a step in the right direction especially in as far as it seeks to give effect to the Constitutional right of equality at and during marriage and at its dissolution. Also, as is pointed out in section XIX of the Constitution, the family is the natural and basic unit of society and is entitled to protection by society and the State. Part of this protection is through the enactment of laws that recognize and enhance the rights, duties and responsibilities of husbands and wives. When we protect the family, we protect society and by so doing, we protect our nation.

3.8 Increasing Participation of Women in Decision Making Bodies

Women have taken leading roles in Ugandan politics during the last 20 years, and now constitute over 31% of the Ugandan Parliament. Yet democracy is a system through which all citizens have a right to participate in their governance not just at the national level but right down to the smallest nucleus of the state, which is the family. In a democratic state the participation of women is crucial for its development and the realization of women’s rights. Although Uganda’s Constitution is gender-sensitive and encourages the rights of women, the Parliament has yet to develop mechanisms for ensuring that laws are gender-sensitive.

The environment in which men and women operate has played a big role in giving preference to men instead of women in terms of education, political office and power relations in the home which allow different treatment between males and females. However, society sees nothing wrong with the current gender imbalance and since the social constructs continue to define women as weak and submissive while males do not need to be validated by society, women consciously and unconsciously accept the prejudices and attitudes. These gaps have meant that Uganda continues to lag behind countries in Southern and Eastern Africa that have made significant progress in passing legislation that addresses these concerns. Young Women face the added challenge of working within the confines of political parties and party caucuses that may be extremely patriarchal and insensitive to gender concerns. It is therefore imperative to empower young women leaders in the social structures to acquire leadership skills through mentoring and empowerment.

Developments in 2009:

- UWONET launched a Local activism project in northern Uganda with the aim of creating/ facilitating grassroot activism to strengthen national level advocacy for a strengthened, vibrant women's movement.
- A women's democracy group was formed by a coalition of women organizations namely FOWODE, CEWIGO, NAWOU, ACFODE, FIDA and TERREWODE.
- Together with IRI held Women's democracy fairs in Arua and Tororo with the objective of creating a policy platform to enable government, political parties and civil society organizations to address and support legal frameworks which empower women in leadership.
- Kick started the process of developing of candidates training manuals to be used in the training of women in the run up to the 2011 elections.

Conclusion and Recommendation

The Government of Uganda has through the principle of affirmative action made progress in ensuring that women participate in decision making. This has been realized through the Constitution which provides for affirmative action in political leadership of 30% at all levels, through the Electoral laws passed in 2005 and the Local Government electoral laws, Act and Policy. Progress in women's participation in decision making has mainly been made in politics and governance. However, incentives to ensure that women actually participate by addressing issues of limited resources, stereotypes and prejudices against women, negative cultural beliefs that hinder women's participation have not been addressed. Most of the political parties

through which women become flag-bearers and eventually elected officials do not have quotas and resources to enable women to participate. Those parties that have quotas do not have mechanisms for enforcement.

- There is a need to put in place enabling mechanisms for the effective participation of women in decision-making bodies. This requires the removal of structural discrimination which tends to infiltrate the existing institutions in which women are participating. For instance, cultural biases should be discouraged through extensive continuous sensitization drives by the Ministry of Gender and other stakeholders in women's rights.

3.9 Improving the Legislative and Policy Framework to Regulate the Practices of Witch Doctors and Eliminating Ritual Murders

Despite Government's commitment to mainstream the rights of vulnerable groups in peace building initiatives and post-conflict reconstruction and development programmes, in 2009 the Human Rights situation in Uganda was riddled with reports of numerous incidences of child sacrifice and ritual murders, mostly targeting children. The practice, initially manifesting in Central Uganda, gradually spread out to the rest of the country in 2009. The magnitude of the practice is, however, inestimable due to the nature of the crime and the poor reporting from most rural communities. In January 2009, the Uganda government appointed a special police taskforce on human sacrifice and announced that 2,000 officers were to receive specialist training in tackling child trafficking with the support of the US government. Since the taskforce was set up there were 15 more murders linked to human sacrifice and another 200 reported disappearances, mainly of children and young adults were under investigation. Civil society organizations from Northern Uganda and West Nile region have decried the lack of reporting of numerous incidences that take place there and the inability of the task force to reach out.

Investigative and intelligence efforts by the taskforce have increasingly linked the practice to ritual ceremonies to guarantee wealth and prosperity linked to a new wave of commercial witch-doctors who use mass media to market their services and demand large sums of money to sacrifice humans and animals for people who believe blood brings great prosperity. In December 2009, the taskforce acknowledged existence of the 'boss' involved in one of five or six witch-doctor protection rackets operating a pyramidal nationwide network, in which the senior ones extort money from lower people. Increased unemployment and poverty have also been blamed, with poor people sometimes even knowingly surrendering their own children in exchange for money.

Uganda needs to make a deliberate effort in form of legislative and policy reforms to

put an end to the practices.

Key Developments

In January 2009, the government established a five-person Anti-Trafficking Police unit within the Uganda Police Force's (UPF) Child and Family Protection Unit (CFPU). This was followed by the passage by Parliament of the Anti-Trafficking in Persons Act of 2008, which prescribes penalties of 15 years to life imprisonment in April, 2009. It has yet to be approved by the President.

The creation of the Anti-Trafficking Unit has raised awareness on the issue of trafficking and sacrifice, but as a country-wide problem, more still needs to be done. Human sacrifice is treated as murder and anyone found guilty of ritual killing is charged with murder and the maximum sentence is death. Legal loopholes, however, have left those who kidnap and traffic with much lesser punishment. Since victims of ritual murders begin their journey by being transported from one location to another, the Anti-Trafficking in Persons Act, if approved by the President, will provide an essential ingredient for preventing incidences before they occur, by discouraging traffickers with a hefty sentence.

UGMP therefore recommends that:

- Government urgently reviews the 1958 Witchcraft Act to regulate activities of traditional healers.
- The Special Police Task Force on Human Sacrifice and Trafficking needs to be strengthened with skills and equipment to effectively act for the prevention and management of the practice.
- Against emerging information that numerous witch doctors perpetuating ritual murders would prefer to remain underground and continue their vice, Government should explore alternatives that would retroactively exempt perpetrators from criminal liability for such crimes to encourage unconditional exit by practicing witch doctors.
- Government and Civil Society Organizations need to carry out mass education to encourage prevention and support proper management of occurrences. Sensitization of the general public on crime prevention tips and good management of criminal information would facilitate quick and easier police investigations.
- Government and Civil Society should facilitate legal needs of victim families to uncover suspected perpetrators and facilitate the due process of justice for the

victim families before the courts of law. This will also help check impunity and act as a deterrent to other would-be perpetrators.

- Government and Civil Society strengthen grassroots structures of child protection: A functional basic package of child protection in each sub-county that in principle comprises of the community development functionaries that are government extension workers primarily responsible for child protection, police at the out posts, local council and the child protection committees. This should be complemented by household level protection strategies that would ensure reduction in child neglect, which is currently rampant and leading children into the hands of perpetrators, which sometimes turn out to be deadly reality including human sacrifice.

4. TRANSPARENCY AND ACCOUNTABILITY

Transparency and accountability are important features of the good governance agenda. UGMP has continuously monitored trends in government's commitment towards improving the situation of good governance. This year, under this area, we focus on the legal framework for the institutional based fight against corruption by the Anti Corruption Coalition (ACCU); progress towards strengthening the institutional capacity of anti corruption agencies, also by ACCU; transparency and accountability in the environment and natural resource management area by ACODE and finally progress in the implementation of the NGO internal self governance instrument, the QuAM by DENIVA. The last commitment is not expressly stated in the APRM POA, but UGMP considers it important in the quest for the NGO sector to practice what it preaches.

4.1 Strengthening collective effort in the struggle against corruption in Uganda

In an effort to enhance the fight against corruption, Government in the APRM POA committed to "harmonize all the laws, policies and institutions established to fight against corruption within and outside the government, with a view to ensuring coordination, collaboration and consultation among them." The key developments are presented below:

Operationalization of the Inter Agency Forum

The Inter Agency Forum against corruption was established in 2008 and became operational in 2009, including various Government Ministries, Departments and Agencies (MDAs) like Directorate of Public Prosecutions (DPP), the Criminal Investigations Department (CID), the Auditor General (AG), IGG and PPDA. One important development was the CSOs representation that raised accountability issues regarding government assets procurement. The first APRM Annual Progress Report indicates that "the inter-agency forum held quarterly meetings to design and implement a joint action plan including how to execute national level as well as district level anticorruption activities"²⁸. However, interviews with some members who sit on

²⁸1st annual Progress report on the implementation of APRM National Programme of Action 2008/9, page 69

the IAF revealed that in 2009 the forum met only once instead of quarterly. Senior officials from anti corruption MDAs that constitute the Inter Agency Forum might be too busy or otherwise and unable to accord the forum the priority it deserves. Members therefore suggested that senior officers should delegate and stick to the agreed quarterly schedules. Alternatively meetings should be convened and resolutions circulated in case they are being frustrated by other agencies.

UGMP notes that failure to meet will defeat IAFs initial purpose, to support processes of originating new legislation on witness protection and realizations of proceeds of crime.

The 2008 Anti-corruption Act (Enacted and implemented)

The anti corruption bill was passed into law in 2008, and assented to by the president in August 2009. It has since then been in operation²⁹. The erstwhile Director for Economic monitoring with the *Internal Security Organization* (ISO), Teddy Seezi Cheeye, was the second suspect to be charged before the anti-corruption court, convicted of forgery and embezzlement and sentenced to 10 years in jail³⁰. Earlier the Ogoola commission had found that Cheeye spent \$33,000 of Global Fund money on a private trip to China while working as chief of Uganda Centre for Accountability, an NGO implementing Global fund related activities³¹ in selected districts of western Uganda. Cheeye's case followed conviction of Fred Kavuma, a former television producer, who was the first person to be convicted of misuse of Global fund money and sentenced to five years in prison for obtaining \$19,000 under false pretence and ordered to refund the money. Some donors had made indication that they would halt aid to Uganda, but with such actions Uganda's international public image was restored. Global Fund director of communications, Jon Liden, lauded the above cases as a sign that Uganda "is a country based on the rule of law."

The Whistle Blowers' Bill

Tabled before parliament in 2009, the Whistle Blower's Bill has had its first reading and is still awaiting consideration by the relevant parliamentary committee³². The pace at which this is being managed is however worrying bearing in mind that the need for a law for whistle - blowers is urgent. Failure to expedite the process of passing the bill will continue to frustrate efforts of whistle blowers and expose them to harm from perpetrators. Several whistle blowers, members of the civil society inclusive are harassed and persecuted and have no reliable recourse³³. In November 2009, staff of

²⁹Interview with Mr. John Eudes Ketirima, Deputy Registrar, Anti Corruption Division, High Court of Uganda

³⁰He appealed to the Court of Appeal and later was granted bail in July 2009

³¹That is Global fund to fight Aids TB and Malaria.

³²Interview with Mr. Arinaitwe, an official in parliament

³³ACCU, 2009 Needs Assessment Report in 8 Regional Anti corruption Coalitions (Unpub)

Masindi NGO Forum blew the whistle over corrupt officials in Masindi District Local Government and they, along with their families were witch hunted and threatened with death. This issue was taken up by UGMP through the media and other channels including Local Government Public Accounts Committee in parliament, the Inspector General of Police, IGG and minister of internal affairs. The staff could only resume their duties peacefully after intervention by the Police. With an effective whistle blowers law, such scenarios would be easier to manage.

4.2 Strengthening the Institutional Capacity of Anti corruption institutions

In the APRM POA, Government committed to “Enhance the institutional capacity of the IGG (and other relevant anti corruption institutions) to carry out their mandate effectively”. 2009 saw some success as the Government was able to increase the IGGs funding and as such the staff were trained and given incentives. During the period of review the IGG had 67 ongoing cases of which 10 were newly registered and 57 carried forward from 2008. 22 ombudsman complaints were *successfully completed*³⁴ and one acquittal was appealed against by the IGG.

- There was a decrease of 19% on the cases registered against police from the previous period.
- The total number of complaints which were investigated and completed reduced from 603 complaints during the period July-December 2008 and 288 during the period January – June 2009. The complaints that were processed and referred to other institutions also reduced from 230 to 73. March 2009 received the highest number of complaints (166) while the highest number of complaints investigated and completed was 71 in the month of June 2009³⁵.
- A total of 300,000,000 shillings was recovered which was paid on the inspectorate of Government Asset Recovery Account.

Performance in the Period under Review

The 1st APRM Progress report points out that as part of follow-up processes based on the Commissions of inquiry recommendations some actions were referred to the IGG for investigation while others were referred to police and line ministries³⁶. At a public presentation of the above report, Mr. Joel Omara Aliro³⁷, observed that the recommendations that government tries to follow up are not necessarily the most pressing, so the 18% alleged follow up is on the peripheral ones³⁸.

³⁴IGG January – June 2009 report to parliament.

³⁵ibid

³⁶APRM Report

³⁷ Member of the APRM national commission

³⁸ Verbal submission by Mr. Omara Aliro, former Human rights commissioner and current member of APRM committee

Though a lot of money has been invested to facilitate various commissions of inquiry and reports produced, they have not been seen to be acted upon. An interview with Parliament officials however revealed that though a number of probe commission reports have been tabled before parliament, none of them has ever been debated. Development partners were as concerned as citizen and hence European Union went ahead to provide funds to facilitate parliament to study and debate some PAC reports but up until the end of the period under review, none of the reports had been discussed.

Under objective 3.5 “To fight corruption in public administration and money laundering”, of the POA, government committed itself to “Establish and capacitate separate anti corruption courts”. The anti corruption court was established in 2008 as a division of Uganda’s High Court. During the period under review, two judges out of the recommended five were appointed. Some resources were allocated to capacitate it, and some development partners like USAID have supplemented what government allocated³⁹. In an interview with Mr. Keitirima⁴⁰, it was revealed that the Anti Corruption Court (ACC) has not been devolved to the districts upcountry, but rather judicial personnel travel there from Kampala to handle cases when they arise. He indicated that in addition to the two judges so far appointed, six magistrates have been appointed. The efficacy of the anticorruption court has been commendable, with almost 100% convictions. However, due to under-resourcing and understaffing, only few cases have been handled. The number of judges and magistrates to handle these cases is way too low compared to the pending cases, which are ever increasing. The rate of disposal is disproportionate to the expanding case backlog.

4.3 Transparency and Accountability in Natural Resource Management and Utilization

Uganda`s economy largely depends on the environment and natural resources (ENR). This implies that poverty eradication and prosperity for all initiatives must integrate environment and natural resource management in their design and implementation. There is inadequate data to quantify the overall contribution of ENR to Gross Domestic Product (GDP) but estimates put this contribution at 54%⁴¹. The key natural resources include land, fisheries, forestry, wetlands, wild life and minerals. The discovery of commercially viable oil wells and gas provides Uganda with new natural resources with the potential of generating colossal financial resources required for social and economic transformation. However, without transparent and accountable systems of management and utilization, all the revenues will be wasted and will not translate into meaningful development. Indeed it is for this reason that the Constitution of the

³⁹1st APRM report, pg 68

⁴⁰Opcit

⁴¹The Environment and Natural Resources Sector Investment Plan, 2007

Republic of Uganda and the majority of the policies that govern natural resources emphasize transparency and accountability as some of the key guiding principles. This section of the report therefore provides an assessment of the progress made to implement transparency and accountability principles provided for in the policies and action commitments in the African Peer Review Mechanism Report, 2009. For purposes of this assessment, the forestry, oil and gas sub-sectors have been considered.

Relevancy of Transparency and accountability

Transparency and accountability are canons of good governance. These principles are critical for efficient functioning for any modern economy and for fostering social and economic stability. Since in most cases power is delegated to public authorities, mechanisms must be put in place to account so that the power is not only effective but it is also not abused. Transparency ensures that accurate information is available that can be used to measure authorities performance and to guard against any possible misuse of powers. Without transparency and accountability, trust will be eroded between government and those it governs resulting into political unrest, social instability and volatile environment for economic growth. With the discovery of commercially viable oil wells and gas, the twin concepts of accountability and transparency have become even more relevant. Oil wealth generates huge and very sudden revenue in flows that creates significant challenge for the country, especially because of the inadequate and in some areas corruption chocked administrative systems.

Transparency and accountability in forestry, oil and gas sub sectors

In the forestry sector a number of issues continued to be expressed that undermine good governance in the sub sector. These include: lack of transparency and accountability in land allocation in forest reserves, award and management of concessions, and management of encroachment on protected areas. The National Forestry Authority has been hailed for putting in place guidelines for the allocation of land in the forest reserves for afforestation. The guidelines for land allocation in the forest reserves provide that 5-10% of the land will be allocated to the communities adjacent to the reserve. This is consistent with the Forestry policy objective that seeks to ensure that communities benefit from the forestry and forest related activities. However, during the year under review, NFA continued to ignore this commitment resulting into complaints that attracted the attention of the President compelling him to issue a directive suspending land allocations⁴².

The award and management of forest concession has been another area of concern. During the year 2009, complaints continued to arise regarding the manner in which

⁴²Museveni stops sale of forests Sunday Vision, 23, November 2010.

concessions were being awarded and managed. There were reported instances of hidden violation of rules-violating the rules of communication and information leading to limited spread of tender invitations⁴³. Even in cases where concessions were properly awarded, there were cases of violation of concessions terms through collusion of officials engaged in monitoring of the operations leading to misrepresentation of volumes logged, girdling and barking to kill trees so that they can be legally logged, logging of protected species and extracting more timber than authorized⁴⁴. All this has had effect on the value for money from concessions. This affects government revenue and its ability to provide public goods.

Government's failure to resolve the problem of encroachment: The issue of encroachment continued to be politically controversial and it now constitutes a major threat to forestry governance in the country. The inconsistent political statements from both the president and high profile politicians regarding evictions have continued to affect the ability of the national forest body to protect the forest estate from encroachment⁴⁵.

In the oil sector, there is a set of benchmarks for good governance contained in the APRM report and the National Oil and Gas Policy. The APRM commitments include enactment of laws on oil and gas, joining the Extractive Industries and Transparency Initiative (EITI), reviewing exiting policies, strategies to take care of the emerging oil sector, establishing annual corporate responsibility awards for oil companies and strengthening local governments to develop and implement local legislation among other commitments. The National Oil and Gas policy are instructive on transparency and accountability. The guiding principles emphasize that openness and access to information are fundamental rights in oil activities that will indeed impact on individuals, communities and states. A commitment is made that information will be availed to stakeholders to access information to evaluate how their interests are being affected. A commitment is also made to promote high standards of transparency and accountability in licensing, procurement, exploration, development and production operations as well as management of revenues. The policy strategies also emphasize publication of revenues from oil and gas activities regularly and government participation in the process of Extractive Industries and Transparency Initiative (EITI)⁴⁶.

However, information available indicates that signature bonuses have been paid to government but this income has not been published⁴⁷. Government has also not yet taken the required initial steps towards joining EITI. By the close of the year 2009,

⁴³See ACODE petition to the Chair person Natural Resources Committee of Parliament.

⁴⁴Trouble in Forests: A review of the evidence and issues. ACODE position paper (unpublished).

⁴⁵In 2006, President Museveni ordered for a halt on the eviction of forest encroachers.

⁴⁶See Objective 6 and the strategies described there under.

⁴⁷Civil Society Coalition on Oil, Platform (2006). Contracts Curse: Uganda's Oil Agreements place profit before people.

the communication strategy that is intended to provide a mechanism for information dissemination remained incomplete and there is no information to indicate that civil society is involved in the process. The existing laws and policies have not been reviewed. The oil Production Sharing Agreements (PSAs) have remained confidential notwithstanding the access to information legislation. Court cases have been filed in court under the access to information legislation for court to declare the PSAs public documents⁴⁸. All these actions are inconsistent with the policy commitment to avail all the necessary information to the public in order to hold government accountable and effectively participate in oil activities.

Recommended actions

- The concession and land allocation systems system should be made more open to public scrutiny. The Forest body (NFA) should adopt a more transparent manner of managing concessions and allocating land by publishing all the necessary information regarding the criteria behind the award, tender participants, prices, royalties, conditions, concession period and area to allow many stakeholders to monitor compliance with the laws and concession conditions and land allocation guidelines.
- The national Forestry authority should operationalise the consultative forum that was envisaged to allow the public, international partners and all interested parties to contribute to the regular debate on the forest sector and inform national priorities.
- The National Forestry Authority should expeditiously handle the boundary demarcation and reopening and recruit an adequate and well trained and equipped Forest encroachment squad that is able to strengthen law enforcement.
- The Ministry of Energy and Mineral Development must on an annual basis evaluate the progress on implementation of the National Oil and Gas Policy and widely publish the report. Timeframes should be set and provided to stakeholders within whom certain activities are to be executed to enable public participation and monitoring. For example there are no known timeframes within which the communication strategy is to be concluded and the measurable steps towards IETI implementation.
- The Ministry of Energy and Mineral Development in liaison with other relevant agencies including National Environment Management Authority, Uganda Wildlife

⁴⁸One of the cases was filed by the Monitor Journalist.

Authority should plan periodic consultative forums with members of civil society and private sector to share information on the new developments in the sector and inform sector priorities.

4.4 Self Regulation for Better Servicing of NGO sector constituencies

The NGO Quality Assurance Certification Mechanism (QuAM) is a voluntary internal self-regulation mechanism initiated to uphold generally accepted standards and ethical conduct. It was developed for and by NGOs working in Uganda through a very participatory and elaborate process with wide consultations throughout the sector at national and regional levels. The QuAM aims at enhancing NGO legitimacy, credibility, accountability, autonomy and more importantly promoting learning and constant improvement. The rationale for QuAM is for NGOs to 'live and walk the talk' so that they can have the moral high ground to demand accountability from other actors. The QuAM initiative so far has established 17 district QuAM committees, which are evenly distributed in all regions across the country and it is through such structures that NGOs will embrace and adapt to QuAM principles. The ideal behind the initiative is to roll it out to the whole NGO sector so that most NGOs across the country can access the required services.

As part of their monitoring process of Government's commitments in the APRM POA, UGMP found it very useful to provide an update on performance of NGOs and in particular focusing on quality standards and roll out of the Quality Assurance Certification Mechanism (QuAM)

Developments since QuAM Inception

So far there are 17 NGOs that have registered to undergo the certification process and acquire certificates. Out of those, three which include; Uganda National NGO Forum, Plan Uganda, and Kalangala NGO Forum have already been vetted and are only waiting to receive their certificates. By the fact that these NGOs have undergone the certification process, they are bound to transact their business in the manner that does not contradict QuAM principles hence improved credibility.

The other category within the 17 are four NGOs that did self assessment in 2009 and will be vetted when they are ready include; Forum for Women in Democracy (FOWODE), DENIVA, VOSA, and Anti-Corruption Coalition Uganda (ACCU). There are twelve (12) more organizations that have registered and picked the application forms, and the secretariat hopes that they will complete the process. In addition to those that have picked forms from the secretariat, there are some district based NGOs that may be registering from any of the 17 district QuAM committees.

Trends of behavioral change

The QuAM initiative is not a legally imposed and does not legally bind NGOs to adapt to it, but if an NGO complies with its standards by being vetted and certified, then it is bound to its control measures. Since March, 2009 when a call was made for NGOs to apply for Quality Assurance Certificate, a good number of them are striving to be certified. Though not many have been vetted to acquire a certificate, there is already remarkable improvement in credibility among NGOs that have started on the certification process.

We thought we were a well managed NGO until we went through the QuAM process. Several inadequacies were revealed from the assessment and now we have embarked on a QuAM action plan to improve identified areas of weakness. We are glad that something like this is happening in the NGO sector. No doubt organisations that go through this process will be more effective and sustainable

Testimony by one of the organisations that has gone through the QuAM process

Although an in depth research is required to assess behavioral change of NGOs towards compliance of the QuAM, sharing in different forums have proved that the NGO sector is working to improve its internal governance. NGOs that have started the certification process and even those that thought if, call the secretariat for guidance on how to be QuAM compliant. Many have come to the secretariat to request for written QuAM standards so that they improve their internal governance even when they may not be eligible for the certificates. More evidence is seen through NGOs and district CBOs that are requesting their networks to train them on how best they can be eligible to acquire QuAM certificates. Seven CSOs in West Nile sub Region which are CARE Associates have specifically requested the QuAM secretariat through DENIVA to enhance their capacities on internal governance based on QuAM principles.

Where behavioral change is evident among NGOs that are in the process of getting their certificates, even CBOs have often and again requested to be trained and facilitated so that they can register as NGOs and become eligible to QuAM. In places where the QuAM coordinator has visited and sensitized NGOs about QuAM, it is followed up by requests to upgrade their capacities so that they able to get Quality

Assurance Certificates. District that have been physically visited and sensitized about QuAM include; Kayunga, Kabale, Nebbi, Moyo, Adjumam, Tororo, Pader, Kitgum, Kabarole, and Gulu.

Recommendations

- Despite a lot of enthusiasm and talk about the QuAM, the number of NGOs that have gone through remains disproportionately low. UGMP recommends massive sensitization and awareness creation on a multi dimensional approach where every CSO is responsible to popularize QUAM especially organizations or networks that are member based.

5. CONFLICT RESOLUTION AND POST CONFLICT RECONSTRUCTION

One of the most profound scars in Uganda's governance trajectory has been the incessant conflicts which for extended periods have dogged progress in several parts of the country, most notably Northern Uganda, West Nile and North Eastern Uganda in the Karamoja region. The last 4 years have however seen some of the most remarkable gains and progress in overcoming the conflict curse. The LRA rebellion in Northern Uganda was squelched through a combination of both peace talks with the LRA and through a regional military confrontation and international pressure and support. In the Karamoja region, some progress has been registered in the disarmament process, while in other parts of the country large scale violent and armed conflict are almost non-existent. However given the scale of destruction of decades on conflict, there was always going to be a lot of resource needs to reconstruct and rehabilitate the affected systems in the affected areas. In this section we feature reports on two commitments in the APRM POA. The first by Caritas Uganda assesses progress towards consolidating peace through the Peace, Recovery and Development Plan for Northern Uganda (PRDP); and the second report by the Advocates for Public International Law in Uganda (APILU) looks at institutionalizing an alternative justice system for Northern Uganda in the wake of discussions about the role of the ICC and traditional justice mechanisms.

5.1 Consolidating Peace, Recovery, and Security in the war Affected Areas

As a result of over 20 years of insecurity in Northern Uganda caused by civil strife, armed conflict and cattle rustling, the socio-economic indicators of the region sharply deteriorated compared to the rest of the country. Some 1.6 million people of Northern Uganda were internally displaced and forced to live in camps⁴⁹, with spill over to neighboring Districts. There were severe disruptions of services and development opportunities, the consequences of which have left Northern Uganda lagging behind in the quality of life of the people. Income poverty remains significantly high, literacy rates are low and among others access to basic services is poor.

⁴⁹Daily Monitor 5th December 2008

Proportion of People Living Below the Poverty Line

Region	1992/3	2002/3	2005/6	2015 (MDG)
National	56.4	38.8	31.1	28.0
Central	45.6	22.3	16.4	
Eastern	58.8	46.0	35.9	
Northern	73.5	63.0	60.7	
Western	52.7	32.9	20.7	

Source: UBOS – Uganda National Household Survey 2005/06

In order to address the deplorable living conditions of the people of Northern Uganda and the disparity in socio-economic indicators between Northern Uganda and the rest of the country, the Government prepared and published a Peace, Recovery and Development Programme (PRDP) whose goal is to consolidate peace and security and lay foundation for recovery and development in Northern Uganda by dealing with some of the fundamental structural and historical root causes of the conflict in that region.

Developments since its (PRDP) inception

PRDP is a coordination, mobilization, advocacy and monitoring framework with 4 strategic objectives, including: a) Consolidating state authority; b) Rebuilding and empowering communities; c) Revitalizing the economy; and d) Promoting peace building and reconciliation. While these are worthwhile and necessary objectives, it has been observed that there is little coordination between them as each objective appears to have been developed in isolation from the other, other than from the PRDP Monitoring Committee (PMC). (CSOPNU Simplified Version of the PRDP in Luo and English 2008-2010). PRDP still covers 40 Districts despite the fact that the number of Districts has now increased with the recent creation of more Districts countrywide. PRDP was finalized in September 2007, passed by Cabinet and launched by the President on 15th October 2007. It has a lifespan of three years up to 2010. It was inaugurated by the President on 11th February 2008, with implementation scheduled to start in July 2008. This was however postponed to July 2009. It is estimated that the PRDP will cost the country US\$ 607 million over the three year period in a ratio of 30% and 70% as Government development partners contribution respectively.

Progress on PRDP Implementation

The PMC, the highest policy monitoring organ of the PRDP implementation, is chaired by the Prime Minister and attended by Ambassadors and High Commissioners, UN Agencies, Ministers, MPs from PRDP regions, District Chairpersons, CAOs and District Planners from PRDP Local Governments, Private Sector, NGOs and CSOs representatives.

The PMC reports to the President and the Cabinet on PRDP performance. It is very much top-down. The first meeting of the PMC took place on 29 June 2009 and the second on 7 December 2009. Reports of PMC meetings are sent to PMC members for onward distribution in their respective constituencies. These reports were however not available for this report which covers the first six months of 2009/2010, considered the official start of PRDP implementation due to the one year delay.

The PRDP implementation entails two main actions on the part of Government: 1) Mobilize funds for implementing the PRDP and 2) Build and strengthen the capacity of the PMC and Local Governments to ensure effective coordination of all relevant institutions in implementing the PRDP.

Since the official launch of the PRDP in October 2007, considerable peace and stability has been brought to the region. Internally Displaced Persons (IDPs) continue to return to their former villages. By September 2009, 77% of all former IDPs in Acholi, Lango, Teso and Bunyoro sub-regions had returned to their former villages, with only 577,000 people still remaining in IDP camps or transit sites⁵⁰. There has been some progress in the mobilization and allocation of funds for implementing the PRDP and related development Programmes. For 2009/2010, GOU allocated UGX 100bn distributed as follows:

Sectors/Agencies	Amount UGX
Uganda Police Force	6,256,783,390
Uganda Prisons Services	1,602,609,735
Amnesty Commission	1,200,000,000
Ministry of Justice and Constitutional Affairs	3,189,110,470
Districts	76,369,153,000
Municipalities	3,601,000,000
OPM institutional Support and KIDDP	7,781,343,405
Grand Total	100,000,000,000

Source: Northern Uganda Data Centre at OPM

By December 2009, work plans covering the allocations had been finalized except for the Ministry of Justice and Constitutional Affairs. Funds for the last two quarters have been disbursed on the basis of approved work plans. Many of the interventions are for quantifiable outputs - courts, police posts and stations, prisons, boreholes and shallow wells, health centers II - IV and hospitals. Sixty (60) hydra form machines were procured in the period 2008/2009 and 2009/2010 and given to the 40 PRDP Districts for making bricks for building houses for education and health staff houses, and health centers for improved service delivery. Fifteen (15) tractors were given to

⁵⁰Office of the Prime Minister Supplements New Vision December 7th 2009

Karamoja, Teso, Lango and Acholi sub-regions for hire to farmers for opening large agricultural land. The interventions are to fill the gaps identified in the District supply and demand analysis and assessment of functionality of existing facilities through baseline surveys. The Northern Uganda Data Centre keeps stakeholders data bases and publishes District Development Atlases and harmonized work plans.

Funding from Development Partners was reported as follows:

- DFID US\$ 100m over 5 years
- EU Euros > 35m including Karamoja Programmes (KALIP, ALREP and NUREP)
- Sweden and Norway US\$ 7.5m on-budget Basket Fund
- UN Organizations and other bilateral development partners (Austria, Danida, Germany, Ireland, Italy, the Netherlands and USAID) – undisclosed contributions
- A number of NGOs and humanitarian agencies also have programmes in the region the contributions of which were not available.

OPM however expressed difficulty in getting information on the funding by Development Partners. Their funding amounts for 2009/2010 could not therefore be determined, let alone by sector/agencies.

Major Observations from the Reported Progress on PRDP

In the 2009/2010 budget there was an under-provision of UGX 20bn in additional GOU funding for PRDP. GOU is expected to provide UGX 120bn annually over three years but was able to provide UGX 100bn. The use of this money to finance mainly “hardware” raises serious concerns, given the high level of corruption in this country. How can value for money be assured? The evidence on the ground shows that Government focus is on infrastructure reconstruction and input provision, implemented through award of contracts which unfortunately are prone to corruption!

A visit to Karamoja, Acholi and West Nile sub-regions revealed that PRDP is not understood well by key stakeholders like NGOs and CSOs including Faith Based Organizations (FBOs) despite their representation on the PMC and otherwise direct involvement in PRDP implementation. Yet local community and civil society participation in how the PRDP is planned, managed, monitored and accounted for is crucial for the success of the PRDP. In order to be effective, the PRDP must be seen by the local communities to be responsive to their needs and to be focused on empowering them to take part in their own recovery and development, and in peace building and

reconciliation. It is important that people ruined by conflict and civil war rebuild unity and start living in harmony. Reconciliation restores dignity to such people so that they can once again start living in harmony; but unfortunately this seems to be receiving little attention.

It is important to recognize the dignity and contributions of women most of whom were deprived of their rights, unjustly and violently treated and suffered most during the conflict. This calls for creation of “shelters” for abused girls and women to find refuge and receive counseling. The youth were also particularly vulnerable during the conflict. With deep concern for their plight, resources and centres such as the Gulu Youth Centre should be provided to teach entrepreneurial skills and job creation, provide career counseling and professional skills. The children affected by broken families require special attention to remain the hope of their families and society. Other problems of the region which are of great concern but have not received emphasis in the PRDP include HIV/AIDS prevalence which is second highest (8.3%) to Central region (8.6%); malaria, the worst killer contributing enormously to poverty aggravation; and alcoholism which is rampant and leads to many problems: loss of productive labour, break-up of families, health deterioration, mis-spending of scarce resources, conflicts and accelerated spread of HIV/AIDS. The environment has also been destroyed as a result of the conflict.

Conclusions

- PRDP is not living to its expectations and is considered in its current format to be insufficient to catalyze recovery and create the desired changes in Northern Uganda.
- PRDP framework is not well understood by key stakeholders. There is lack of information amongst stakeholders about PRDP. There are no guidelines for people returning to their villages to resume productive lives which should start with mending relations within families and communities. There is lack of supervision and monitoring and as a result people have developed wrong attitudes and indiscipline which have undermined the participation and contributions of the local people. It should be remembered that the population of Northern Uganda is quite young and without proper up-bringing.
- There is too much emphasis on “hardware” at the expense of “software”, thus creating fertile grounds for corruption.

Suggested Actions

These actions are targeted at the OPM, PRDP sub regions and Districts and CSOs

operating in Northern Uganda and at national level.

1. Create effective consultation, coordination and monitoring mechanisms at sub regional and District levels that can ensure participation and involvement of all key stakeholders in the PRDP implementation. A good starting point would be the establishment of PRDP Stakeholders Forums in all the eight sub regions of PRDP as has been done in Acholi sub region to monitor the performance of PRDP work plans and evaluate their impact on service delivery.
2. Adequate measures should be taken to remedy poverty in the region and to develop policies to ensure quality service delivery and self-sufficiency in food production and educational programmes which are production-oriented. This calls for empowerment of the poor and the marginalized through initiatives such as micro-finance which are within their means to handle. All these efforts should be inspired and governed by the promotion of integral human development and authentic human values.
3. Resource mapping and planning should be done in all PRDP Districts and results disseminated to stakeholders.
4. PRDP implementation should be extended by at least two years to catch up with lost time when the official start was postponed.

5.2 Institutionalizing an Alternative Justice System in Uganda

Uganda's formal justice system is almost entirely retributive, with cases resolved after a full trial before a court of law. It has been observed that this system presents various limitations to access to justice. Nationally, over 10 per cent of the population claim to have no access to a justice or law and order institution⁵¹. Several, alternative justice mechanisms, (justice mechanisms not currently administered in the formal courts established under the Constitution of the Republic of Uganda, 1995),⁵² have been devised to combat such limitations.

Development of an Alternative justice system in Uganda

As one of the pioneer countries that acceded to the African Peer Review Mechanism (APRM) at its inception, Uganda made a commitment to support local initiatives aimed at institutionalizing an alternative justice system through the utilization of informal mechanisms for managing macro level conflicts as part of broader Programmes aimed

⁵¹JLOS (Justice Law and Order Sector) 2007, Progress Report, presented to the Twelfth Joint GoU/Donor Review, June 2007, Available online at <http://www.jlos.go.ug/page2.php?1=reports&&2=%20Reports> (accessed on 15th November, 2009)

⁵² Agreement reached the Uganda Government and the Lord's Resistance Army/Movement, accessed at <http://tj-forum.org/archives/002573.html> on 4th December, 2009.

at post conflict reconstruction and development.

There are a number of appropriate laws in place aimed at institutionalizing an alternative justice system in Uganda. For instance, the Arbitration and Conciliation Act cap.4, which was amended to provide for funding for the Centre for Arbitration and Dispute Resolution (CADER) by Government and to provide for other matters related thereto. CADER plays an important role in offering alternative dispute resolution and reducing the growing case backlog. Further, the National Reconciliation Bill, 2009 is aimed at establishing a National Reconciliation Forum to facilitate reconciliation through investigations, hearings and reporting of the causes of conflicts. This Bill, once passed will serve to strengthen alternative justice systems in Uganda.

Following the ICC's insistence that the warrants issued against the LRA high command would hold unless a satisfactory, tangible justice system is put in place locally,⁵³ there arose a need for such a system. The Government had earlier enacted the Amnesty Act cap. 294,⁵⁴ and had established the Amnesty Commission, indicating Government support for the institutionalizing of an alternative justice system in Uganda. There have also been suggestions to amend the Penal Code to provide for the Mato Oput system practised by the Acholi community of northern Uganda. Under this system, the parties commit themselves to ensuring accountability and reconciliation⁵⁵. The changes to the Penal Code have, however, not yet been made.

Government support to local initiatives was highlighted by its welcoming of the views of the people on the current Amnesty Act, which was largely based on a draft by the Acholi Religious Leaders' Peace Initiative (ARLPI), wherein they strongly advocated for the adoption of a general amnesty. Under civil law, due to the escalating land conflicts in Uganda, the Uganda Land Alliance (ULA) conducted an action research study on linking the formal justice delivery systems with the informal justice delivery systems. The project is premised on the 1998 Land Act, which allows the use of traditional systems in resolving land disputes⁵⁶. This too illustrates the institutionalizing of an alternative justice system in Uganda.

With regard to the number of cases resolved through informal mechanisms, it is noteworthy that over the past decade there have been attempts to institute a series of alternative dispute resolution reforms. More young lawyers are being trained in negotiation and mediation skills. The mandatory mediation in the Commercial Court ensured that some of the 1,742 cases before it in 2009 were settled before consuming trial time. 117 of 418 cases referred to mediation, were settled i.e. 28% settlement

⁵³Julian Amutuhaire; "Uganda: ICC urged to support local justice to promote peace" available at http://www.communicatingjustice.org/en/stories/23042008_uganda_icc_urged_support_local_justice_promote_peace, retrieved on 13th November, 2009.

⁵⁴The Amnesty Act, 2000, cap. 294 was passed in an effort to end the northern Uganda conflict. It offers blanket amnesty to any LRA member who agrees to surrender and renounce involvement with the rebellion.

⁵⁵Uganda: Penal Code to incorporate traditional justice system" available at <http://www.irinnews.org/Report.aspx?ReportId=73089>

⁵⁶Uganda: ULA Launches Traditional Land Justice Systems in Northern and Eastern Uganda." accessed at <http://www.ngonewsafrika.org/2009/10/uganda-ula-launches-traditional-land.html> on 7th December, 2009.

rate⁵⁷. This has also been relied on in other courts⁵⁸.

Conclusion and Recommendations

It is clear that the Government has made effort to empower and support local initiatives in institutionalizing an alternative justice system in Uganda. If these efforts are effectively built upon, Uganda's alternative justice system is bound to develop.

- The Ministry of Justice and Constitutional Affairs, the Justice Law and Order Sector and all stakeholders should focus on documenting the existing alternative justice mechanisms in Uganda and sensitizing local communities about them so as to increase their use and in turn test and enhance their effectiveness.

⁵⁷JLOS Annual Progress Report FY 2008-2009, Page 34.

⁵⁸Order 12 of the Civil Procedure Rules cap. 71 Laws of Uganda, 2000 creates a requirement for a mandatory scheduling conference in civil cases, whereby alternative dispute resolution mechanisms are explored before resorting to trial in court.

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