NATIONAL CONSULTATION ON THE CSO ENABLING ENVIRONMENT NATIONAL ASSESSMENT REPORT

SUMMARY OF PROCEEDINGS

17TH NOVEMEBR 2015

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Contents

1. Introduction

The enabling environment for civil society is informed not just by laws and regulations but by the entire framework of the economy, the people, their political ideology, their cultures, their religious beliefs, and their societal set ups. A sustainable civil society in Uganda, where individuals or groups of individuals or their organizations fully operate to their maximum potential, is the greatest aspiration of civil society actors at all levels. The need to create a better understanding of the environment in which CSOs operate has been and remains a key pre-occupation of various stakeholders in Uganda.

The Uganda National NGO Forum is a strategic partner in the implementation of the Enabling Environment National Assessment (EENA) in Uganda, in collaboration with CIVICUS (World Alliance for Citizen Participation) and ICNL (International Centre for non-profit Law). This assessment is part of the broader Civic Space Initiative (CSI) thataims to protect and expand civic space by fostering an enabling legal environment for civil society organizations; it focuses on civil society legal initiatives at the global, regional, and national levels.

During the EENA, five mandatory dimensions were assessed in relation to the legal regulatory and policy environment in Uganda; formation, operation, access to resources, freedom of expression and peaceful assembly. In accordance with the EENA guide two optional dimensions were added on to the mandatory ones, namely; government-CSO relations, and CSO cooperation and coalition.[1] The assessment methodology involved desk review of regulations, policy documents, news articles and other relevant documents, Interviews were conducted in 16 Districts of Uganda, 7 focus group discussions (FGD), constituted by CSO stakeholders, District Local Governments officials and individuals from the Northern, Western and Central regions of Uganda were contacted, 2 meetings held with the Expert Advisory Panel and informal discussions with key stakeholders in the NGO Registration Board, the Office of the Prime Minister (OPM) and CSO Leaders.

On 17th November 2014, the Uganda National NGO Forum (UNNGOF) organized a National Consultative Meeting to validate the CSO Enabling Environment National Assessment report. The meeting took place at Hotel Africana and was attended by over 30 participants including Civil Society Organizations representatives from national and sub-regional levels, Academia, representatives from the National NGO Board and the media among others.

From discussions that ensued, the Enabling Environment National Assessmentprocess, is a basis for dialogue among government, development partners and CSOs to work together to improve the enabling environment for CSOs and strengthen CSO-government relations.

This report presents an account of the proceedings from the meeting.

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[1]The EENA methodology, jointly developed by CIVICUS and ICNL, comprises ten dimensions essential to the legal, regulatory and policy environment. Five of these dimensions are mandatory (formation, operation, access to resources, freedom of expression and peaceful assembly). The methodology also comprises five optional dimensions which can be included in the national EENA, depending on the national context and needs (government-CSO relations, CSO cooperation and coalition, internet freedom, taxation and access to information).

1.1 Opening Remarks-Mr. Alfred Nuamanya, Head of Programmes, Uganda National NGO Forum

In his remarks, Mr. Nuamanya underscored the fact that CSOs in Uganda contribute immensely to the development of the country and therefore an environment that enables CSOs to thrive is critical for the social, economic and political development of Uganda.

Mr. Nuamanya noted that the Enabling Environment National Assessment Report is key in guiding several stakeholders in Uganda, especially civil society actors, to improve on circumstances that are vital to enable CSOs function properly. Further the assessment would energize local partners in and outside the sector to enhance their efforts to advocate for an enabling environment for CSOs in Uganda in respect of provisions enshrined in the various national and international legal instruments to which Uganda is a signatory.

Mr. Alfred Nuamanya –Head of Programmes, UNNGOF

2. Overview of the Enabling Environment National Assessment Report- Dr. Busingye Kabumba, Makerere University.

In his presentation, Dr. Kabumba commended the comprehensive assessment methodology of desk research, informant interviews, focus group discussions and review of media stories and interviews with citizens in different regions of Uganda, as a unique method and approach that gave the EENA findings credibility.

He informed participants that during the Enabling Environment National Assessment, seven dimensions were assessed in relation to the legal regulatory and policy environment in Uganda. These included; formation, operation, access to resources, freedom of expression, peaceful assembly, government-CSO relations and CSO

Dr. Busingye decries increased government interference in media operations

This section provides a brief on the research findings;

2.1 Formation

Plenary Session-Emerging Issues
CSO registration process is protracted as result groups that want to operate legally prefer to register as not-for-profit companies rather than apply to NGO Registration Board
Numerous laws and regulations applicable to NGOs beyond the NGO Registration Act, NGO Policy and NGO Regulations

In terms of statutory law, the 1997 Local Government Act and the 2006 NGO Registration Act establish rules for the formation of CSOs in Uganda. Under the NGO Registration Act, once registered, the non-governmental organisation becomes a body corporate with the same powers as a company registered under the Companies Act 1 of 2012. Under the Companies Act, CSOs can be registered as companies limited by guarantee[2].However, there is no fixed time period within which the NGO Board must review and decide upon registration for NGO applicants. The law also does not provide objective reasons on which an NGO application can be denied. Decisions are therefore subject to the discretion of the Board to accept or reject a registration application.

However, the process of registering an NGO is highly bureaucratic, frustrating, time consuming and insome respects even unnecessary - it has served to create a big disincentive for registration through the NGO Registration Board. The Discretionary powers of the NGO Board and other government agencies were also noted as challenges facing CSOs in Uganda.

2.2 Operation
This dimension captures scenarios where some NGOs in different parts of the country were subjected to un lawful submissions in form of operational memorandums, illegal fees to seek

Plenary Session-Emerging Issues
The Public Order Management Act is being used selectively on CSOs
Government perception of CSOs as agents of foreign interest that breeds mistrust between the two parties

permission to operate in some Districts, threats of closure that were not based on law, intimidations of some NGOs staff, and general fear created especially by Resident District Commissioners, Internal security officers and police officers that do not have a comprehensive understanding of the law related CSO operation.

Furthermore, the oversight function of the NGO Board and other registration agencies is weak rendering the CSOs vulnerable to district officials such as Resident District Commissioners, District Internal Security Officers to intervene in CSO work and activities. However there are also inherent weaknesses of CSOs that render them susceptible to criticism by government officials and in some instances interfere with CSO operations. These include;

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[2] See section 4 (2) (c) of the Companies Act 1 of 2012

Failure to submit reports to the relevant agencies and refusal to share information with registration bodies.

In May 2014, the Cabinet considered the Non-governmental Organizations (NGOs) Registration (Amendment) Bill, which could bar NGOs from engaging in political work and expand government powers to monitor NGOs. The Minister of Information and National Guidance also said that the Bill would provide a way of "shielding Uganda from undocumented inflow and outflow of funds for NGOs" that could be used for "fanning instability[3]." Another law that curtails the operation of CSOs is the Public Order Management Act of 2013 requires CSOs to notify police of any meeting of more than three people[4] which fails to take into account impromptu meetings that may need to be held by CSOs in the course of their operations.

The research also pointed to increased CSO office break-ins witnessed by over 16 CSOs in 2014. Though these cases have been reported to polices, there has not been any conclusive investigations.

2.3 Access to resources

The Financial health of CSOs in Uganda remains weak. The sector is highly dependent on external resources for its programming and this proposes a risk to both its independence and sustainability of programmes. Local philanthropy in Uganda remains underdeveloped due to low incomes, the country's weak economy, and the inability of CSOs to attract support. Faith-based CSOs are an important exception in that they regularly receive donations from their members. Several corporate companies are engaged in Corporate Social Responsibility though they fund one off activities instead of CSO interventions.

Currently, there is no legal limitation that prohibits CSOs in Uganda from accessing donor funding nevertheless the Financial Institutions Anti-Laundering Regulations 2010 creates regulations that hinders freedom of CSOs to access financial support from external resources making unofficial donations difficult to transact through existing financial institutions with ease by requiring documentation of funding for NGOs and their source of funds and enhancing tracking mechanisms of their activities. The regulations also create impediments for movement of funds from external donors which is a hindrance to access of funds and resources.

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[3]**NGO Law Monitor Update:** In May 2014, the Cabinet approved the *Non-governmental Organizations (NGOs) Registration (Amendment) Bill,* which could bar NGOs from engaging in political work and expand government powers to monitor NGOs. The Minister of Information and National Guidance also said that the Bill would provide a way of "shielding Uganda from undocumented inflow and outflow of funds for NGOs" that could be used for "fanning instability." In February 2014, President Yoweri Museveni also assented to the *Anti-Homosexuality Act*. Under the provision of "Promotion of Homosexuality," anyone who "funds or sponsors homosexuality or other related activities" [the phrase "other related activities" is left entirely undefined]... or who acts as an accomplice or attempts to promote or in any way abets homosexuality and related practices" is subject to criminal sanction. This could be interpreted broadly enough that advocating gay rights could be considered a "related practice" which promotes or abets homosexuality

[4] Section 8 of the Public Order Management Act, 2013.

2.4 Freedom of Expression

Plenary Session-Emerging Issues
The reporting of CSO work in media remains weak and most of CSO activities do not get published in the media

There are inadequate mechanisms to protect journalists and their sources

It was noted that while CSOs have emerged as important actors providing essential social services and attract the support of government, many that focus on advocacy work have been targeted and criminalized for being critical to government and purged through the use of laws such as the Public Order Management Act, libel, Interception of Communications Act and the Police Act among others. As a result many CSO actors are self-censored in fear of being arrested or prosecuted in courts of law using trumped up charges such as "in breach of peace, annoying the person of the president, inciting violence"

While the Government of Uganda does not appear to control the content of some written and verbal expressions in the media by citizens and CSOs, there has been growing fear that certain conduct of Government in interfering with media content in the pretext of national security remains a "hood" to hide the intent of Government to stifle free expression. Further more On the other hand, media independence is questionable and the Ugandan Government also reserves the rights to instruct media houses on the broadcast and telecast time for Radios and TVs. In 2014, the government issued a notice instructing all Radio stations to reserve 2 hours weekly for Government programs. This was seen as an imposition of Government on the media houses yet they are meant to be independent broadcasters.

There are also laws that are inimical to freedom of expression by the media such as the Press and Journalist Act and the Press and Journalist (Amendment) Bill, 2010 of Uganda establishes the Media Council with oversight powers over journalists, editors and newspapers, yet it is very clear that international guarantees of freedom of expression, which apply to 'everyone', do not permit limitations to be imposed on persons who may practice journalism. Furthermore the Press and Journalist Act focuses on the notion of "protecting national security" which is an ambiguous statement and too vague to be legitimate as a restriction on freedom of expression.

2.5 Peaceful Assembly

Since the enactment of the Public Order Management Act, 2013, police interference and unlawful obstruction of public gatherings has become a significant problem, often accompanied by arrests and detentions of organizers and participants. The Public Order Management Act, 2013[5]requires notifications to and permission from the Police for staging peaceful demonstrations. Individuals or Civil Society Organizations planning a demonstration are thus required to seek permission or notify the Police in advance and be granted permission and protection.

> **Plenary Session-Emerging Issues**
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> The Contention on the value of CSOs to Uganda's Development and mixed messages in various government strategies and policies about the role of Civil Society
>
> Insufficient opportunities for dialogue between government and CSOs to provide meaningful feedback

Lastly, the government has consistently used hostile rhetoric and an array of tactics to intimidate and obstruct the work of Non-Governmental Organizations, including assemblies to discuss sensitive issues such as governance, human rights, land, oil, and the rights of LGBT people. Tactics include closing meetings, forcing NGO representatives to issue apologies, occasional physical violence, threats, harassment, and heavy-handed bureaucratic interference in NGO registration and operations.

2.6 Government-CSO Relations

Government-CSO relations vary significantly depending on the nature of the civil society organization, its constituents and location, the type of work it carries out (i.e. advocacy or service delivery). The nature of relations also varies depending on the level of government with which the civil society organization is engaged. CSOs engaged in service delivery in sectors such as health, agricultural development, humanitarian responses and education generally have better relationships with the government. CSOs promoting democracy and human rights tend to have greater difficulty establishing a common ground and mutual understanding with government.

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[5] See Sections 8 and 9

Further relations between CSOs and government tends to be much stronger and more effective at District and community level, where service delivery is acknowledged, but weaker at national level, where CSOs engage more in advocacy work. The relations of CSOs and Government are further worsened by failure of District and local officials of Government to understand laws and regulations that govern the functioning of CSOs in Uganda.

> **Plenary Session-Emerging Issues**
> Lack of respect for rule of law in investigative processes into authorities involved in excessive use of force against participants of peaceful assembly

Civil society actors in Uganda express the desire to contribute to public policy processes relating to Uganda's development process. At the moment, mechanisms for consulting and securing input into the National Development Plan and Vision 2014 exists. CSOs are represented on the National Planning Authority Board and also on the National Sub-committee on Evaluation in the Office of Prime Minister, the Uganda Bureau of Statistics population census and other technical working groups which meet periodically, to provide input on national policy processes. However, capacity in some instances capacity constraints among CSOs impedes them to utilize the invited spaces especially at local government levels. This is exacerbated by late invites to key strategic meetings as a result CSOs have limited time to prepare for comprehensive interventions.

2.7 CSO Coalition Building and Cooperation

CSOs in Uganda have over the years established fora and networks such as the Uganda National NGO Forum, the Foundation for Human Rights Initiatives, the Uganda Women's Network, among other coalitions working on different issues ranging from the environment, oil transparency to the youth. Some of the coalitions are loose and less binding while others have metamorphosed into organizations.

The extent of cooperation varies considerably by sector – some sectors enjoy high levels of networking and cooperation, such as the Uganda Water and Sanitation NGO Network, the Human Rights Network, the Uganda Women Lawyers Associations, the National Association of Women Organizations of Uganda. A particularly notable instance of civil society cooperation is represented by the 'Black Monday Movement' a nationwide protest against corruption in Uganda, initiated in 2012 by several CSOs, which demonstrated the potential for effective citizen engagement through concerted civil society effort and partnership.[6]

> **Plenary Session-Emerging Issues**
> Persistent Weaknesses in coalitions due to variance in programmes and agendas of CSOs
>
> Funding remains a challenge to ensure sustainability of coalitions

3. Conclusion

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[6] See http://observer.ug/index.php?option=com_content&view=article&id=23735:black-monday-movement-puts-citizen-at-the-centre

The promotion of an enabling environment remains a fundamental challenge, which requires shared responsibility among a broad range of actors: CSOs, Governments, Development Partners and the Private sector. The meeting was a great opportunity for civil society and other development actors to reflect upon the challenges of CSO Enabling Environment and develop an advocacy plan to enhance the operating environment of CSOs in Uganda.