

Civil Society Statement on Uganda's implementation of the United Nations Convention against Corruption¹

The Ugandan civil society welcomes the initiative of the United Nations Office on Drugs and Crime (UNODC) to combat corruption and its adverse effects on peoples well being. In particular, we welcome the introduction and use of the United Nations Convention against Corruption Self Assessment Checklist, an innovative approach to gather information on the implementation of the Convention.

We also appreciate the fact that Uganda has accepted to be assessed and peer reviewed as a step towards ensuring compliance with the United Nations Convention against Corruption and most importantly, to prevent and combat its adverse effects on the Ugandan population. We have reviewed Uganda's self assessment and generally note that while an attempt has been made to highlight progress made, there are gaps as to the actual status and analysis that should be strengthened to reflect key issues affecting implementation of the UNCAC in Uganda. In particular, we would like to make the following comments and observations.

Policy and Legal Framework

Government of Uganda has demonstrated great ability in adopting legal and policy frameworks against corruption some of which have been rated among the best in the world. As noted in the assessment report, (Paragraph 1 of article 6 . page 6) summed up in the National Anti Corruption Strategy 2009-2013 (which is still draft).

While these laws are in place, however, the assessment is weak on their implementation and enforcement. Civil society organizations in Uganda are concerned, that the implementation gap remains quite high with majority of the laws and policies unenforced. The Global Integrity Report 2009 noted that while Uganda has a strong legal and policy framework to address corruption, rated at 90%; it also has the largest implementation gap in the world at 54%. These findings were echoed in a recent study by the Inspectorate of Government- the Corruption Data Tracking Mechanism, October 2010, which found a high level of poor implementation and enforcement of existing policies and laws at national and sub national levels. Furthermore, inquiries carried out by Parliament and the Auditor General reveal that Government comes out to defend its own with complete disregard for the law and principles of the UNCAC. The following examples are highlighted: Parliamentary Inquiry of alleged Corruption in the Temangalo scandal; Inspector General of Government Inquiry of alleged corruption and abuse of office in the Naguru/Nakawa housing project; Parliamentary inquiry into misuse of funds in the CHOGM².

The problem of poor implementation is largely attributable to lack of political will/ interest, political interference and weakened independence and mandates of Anti

¹ See annex for list of CSOs that are party to this statement

² Commonwealth Heads of Government Meeting 2007

Corruption Agencies. Lack of political will has been exhibited in the selective enforcement of the laws with opposition supporters and lower cadre staff targeted for trial to demonstrate commitment whereas Government clearly does not show enthusiasm in cases involving senior members of the ruling party (NRM) contrary to responses in par 2 of article 6, responsible citizens' efforts are frustrated by determined Government officials and officers thwart the course of justice by compromising evidence or through bail applications and continuous Constitutional Court appeals as with the Global Fund (GFTAM) cases.

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In addition, the existing policy and legal framework faces constant challenges that seek to undermine its effectiveness. For instance, the Leadership Code recently faced a setback in two cases where the mandate and role of the IG to investigate, prosecute and adjudicate the cases brought under the Leadership Code was questioned and declared ultra vires. These two decisions, while pending appeal by the IGG, have potential to greatly weaken the operations of the IG and effectiveness of the Leadership Code Act. The delayed establishment of the Leadership Code Tribunal has contributed to this state of affairs.

In addition, the Anti Corruption Act is facing a Constitutional challenge as to its scope and limitation- i.e. whether it should apply to corruption cases committed prior to its enactment before 2009. Owing to a possible lapse in the transitional mechanisms from the use of the Prevention of Corruption Act 1970 to the enactment of the Anti Corruption Act 2009, there is likely to be a lacuna that could be exploited to limit the operations of the exiting Act. Should the ACA be deemed not to apply, this would render the Law inapplicable to corruption offences committed prior to 2009 and this includes a wide range of cases such as the CHOGM 2007 related offences.

The nonexistence of mechanisms/ regulations to operationalise the Access to Information Act 2005; absence of prescribed forms and methodology to access asset declaration of leaders, absence of witness protection mechanisms and lack of confidence-building measures continue to undermine citizens' use of important frameworks such as the Whistle Blowers Act 2010.

A. Institutional arrangements to implement Anticorruption measures

According to the Self Assessment Report at Paragraph 1 of article page 5, Uganda has put in place several institutional and coordination mechanisms to implement policy and legislation in respect to corruption. As rightly highlighted in the report, institutions such as the Inspectorate of Government, Auditor General, Public Prosecutions, Anticorruption Division of Police, among others have been established and provided with, at least on paper, sufficient autonomy in their operation.

However, Civil Society Organisations note that in practice, most Anti Corruption and Oversight Agencies remain weak with limited financial resourcing and capacity to effectively implement their mandates and enforce anti corruption measures. The independence and autonomy of ACAs continues to be undermined through limited funding and resourcing and in some cases, direct political interference in their operations. For instance, the Inspectorate of Government continues to be led by an Acting Inspector General, two years after the substantive IG's contract was not renewed.

In other instances, the coordination and functionality of inter agency coordination mechanisms such as the Inter Agency Forum and the Accountability Sector continues to be weakened through lack of political will exhibited through infrequent meetings and absence of concrete joint activities at the implementation level. .

B. Citizen and Civil Society Engagement

Uganda has experienced phenomenal growth and expansion of NGOs and civil society organizations. There are about ten thousand registered NGOs in Uganda (NGO forum records). This has been partly thanks to government's desire to work with NGOs to address challenges created by long years of crises in areas such as AIDS in Rakai, conflicts in the Luwero Triangle, Bundibugyo, northern and Eastern Uganda. With the end of these conflicts and increasing governance challenges as constantly reported by the Inspectorate of Government³, attitude towards civil society is changing.

We take note of government's recognition of the role played by CSOs in addressing corruption⁴. We also note as positive government's effort in registering thousands of NGOs and civil society groups to promote development in Uganda. We observe, however, that NGOs and civil society organizations are under constant threat of de-registration or denial of renewal. These actions compromise the government's ability to promote the active participation of individuals and groups outside the public sector in fighting corruption as stipulated in subparagraph 1(a) of article 13 of the Convention. Furthermore, the involvement of security agencies in reviewing and registering NGOs constitutes a major source of intimidation for the third sector. What comes to mind in this regard are such cases as limitations on associated with NGO Act, the Anti Terrorism Act, the Telephone Tapping law etc all putting in place an environment that is not conducive to the work done by NGOs fighting corruption- that is highly sensitive and likely to ruffle feathers of highly placed officials

The draft Public Order Management Bill and the draft Press and Journalists Bill are some of the tools that are likely to obstruct civil society from becoming an effective partner in combating corruption in Uganda.

Also note that while the assessment report mentions the existence of frameworks for engagement/ coordination between Government and CSOs these frameworks are largely non operational and there is limited space/ opportunity for CSOs engagement in influencing policy and programmatic processes in Government.

³ Paragraph 1 of article 6

⁴ Ibid

C. Capacity to Enforce Legal Provisions and Combat Corruption

The assessment report notes in paragraph 1 of article 5 that Uganda has capacity-technical, financial and logistical- to evaluate legal frameworks and strategies as well as enforcing the law. Our experience and the current status however suggests the contrary. In several instances, the low capacity of the ACAs has been brought to the fore. The Inspector General of Police and other senior government leaders have been on record that trial of serious corruption cases involving senior leaders has not taken place because of the level of sophistication, poor handling of files and cases, lack of skills and the suspects skill in destroying the chain of evidence and thwarting the course of justice.

Indeed in the case of Uganda Vs Samson Bagonza, the trial judge expressed the judiciary's frustration with lack of prosecution of senior leaders who steal public resources with impunity. **"This court is tired of trying tilapias when crocodiles are left swimming,"** Justice Katutsi admitted.

In this regard, convictions in cases cited under paragraph 1 of article 16 (page 38) involving such sums of money as UGX 80,000/- are more of window dressing than an effective fight corruption.

In the light of the above, Uganda civil society organizations urge the Government of Uganda to demonstrate to its citizens as well as the Review willingness to take action on the following priorities:

1. Government should go ahead and implementing the laws . political will demonstrated by taking action
2. Ensure the passage of the amendment of the Public Procurement and Disposal of Public Assets Act 2003 which is currently in parliament;
3. Enact a law on Money Laundering;
4. Request assistance to implement capacity building initiatives for staff in anti corruption bodies in the country;
5. Request assistance to conduct thorough assessments of existing anti corruption policies in the country (see report where answers on need for assistance were negative)
6. Take practical measures to implement the Access to Information Act, 2005 (eg adopting regulations for its implementation, like designating information officers in ministries)
7. Ratify instruments such as The African Charter on democracy, election and governance
8. Remove provisions of the law that are unfavorable to the freedom of civil society activity in Uganda.
9. Operationalisation of IAF, and GoU/ CSO frameworks/ platforms for engagement
10. Establishment of institutions e.g. the Leadership Code Tribunal