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A Political Economy Analysis

# **CIVIL SOCIETY INFLUENCE ON POLITICAL AND PUBLIC POLICY REFORM IN UGANDA**

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# ABBREVIATIONS AND ACRONYMS

<b>ACFODE</b>	Action for Development
<b>CA</b>	Constituent Assembly
<b>CSO</b>	Civil Society Organisation
<b>DGF</b>	Democratic Governance Facility
<b>DRB</b>	Domestic Relations Bill
<b>EU</b>	European Union
<b>FAD</b>	Foundation for African Development
<b>GLISS</b>	Great Lakes Institute for Strategic Studies
<b>ISO</b>	Internal Security Organisation
<b>KACITA</b>	Kampala City Traders Association
<b>MDAs</b>	Ministries, Departments and Agencies
<b>MoGLSD</b>	Ministry of Gender, Labour and Social Development
<b>MoU</b>	Memorandum of Understanding
<b>NAADS</b>	National Agricultural Advisory Services
<b>NDI</b>	National Democratic Institute
<b>NGO</b>	Non-Governmental Organisation
<b>NOCEEM</b>	National Organisation for Civic Education and Election Monitoring
<b>NRM</b>	National Resistance Movement
<b>NYC</b>	National Youth Council
<b>PEA</b>	Political Economic Analysis
<b>POMA</b>	Public Order Management Act
<b>PWDs</b>	Persons with Disabilities
<b>SACCOs</b>	Savings and Credit Cooperatives
<b>TDA</b>	The Democratic Alliance
<b>UCC</b>	Uganda Communications Commission
<b>UJCC</b>	Uganda Joint Christian Council
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNSA</b>	Uganda National Students Association
<b>URSB</b>	Uganda Registration Services Bureau
<b>USA</b>	United States of America
<b>WEF</b>	Women Entrepreneurship Fund
<b>YLP</b>	Youth Livelihood Programme

# Executive Summary

**This study examines the context and factors impacting on civil society influence on politics and public policy in Uganda and explores the entry points that can be leveraged to strengthen this influence.** Two typologies of civil society organisations are discussed – the ‘old’ and ‘new’ civil societies. The former refers to associations or groups based on acquaintances such as religion, cultural or economic identities. The latter refers to professional non-governmental organisations (NGOs).

**The paper argues that civil society impact is determined as much by the dynamics within civil society organisations (CSOs) themselves as it is influenced by the context within which CSOs operate.** The study, therefore, goes beyond the conventional focus of political economy analyses to focus on the context within which change is pursued to also consider the dynamics amongst the agents pursuing change – CSOs in this case. It is argued here that CSOs on their own are in part responsible for their level of influence on politics and public policy.

**The analytical framework focuses on three elements, namely the operative context, the reform process and actors, and tools and capacity amongst CSOs.** The *operative context* refers to the environment in which CSOs operate. The *reform process* concerns ongoing developments in the political or policy landscape, the drivers of these developments and the role and place of CSOs. *Tools and capacity* deals with the capacities of CSO actors seeking to influence public policies and the tools they leverage or fail to leverage to register influence.

**This report should be read as a political economy analysis.** Participants at the report’s preliminary presentation expressed the need for deeper analysis of CSO gains and failures in policy work. However, such analysis falls outside the scope and analytical framework for a Political Economy Analysis (PEA). Therefore, this report should not be construed as an evaluation of CSO policy engagement. Readers also need to note that this is a macro-level PEA. Specific policy engagement efforts at various levels may profit from micro-level PEAs.

**This study finds that civil society actors often set high-level and unrealistic targets for policy change, particularly in the political sphere.**

Expectations of *big bang* reforms are often unrealistic, given the complexity of reform, including the fact that powerholders have the capacity block major reforms. The 43 political reform proposals advanced in 2015, for example, would have required amending five pieces of legislation, including the constitution. It is argued here that incremental approaches to political change present a more realistic and feasible option and this must be considered as a potential pathway to the broader change aspired for. In addition, those analysing civil society impact need to consider the process gains, including the citizen empowerment effects of CSO initiatives.

**There is an overarching predisposition that meaningful political changes require a change in leadership at the level of the presidency.**

Like the political opposition, CSO actors argue that policy change can only follow, not precede, change in political leadership. As a result, the quest for political change has been typically personified to focus on President Museveni. The prevailing discourse frames President Museveni and his party, the National Resistance Movement (NRM), as targets, not partners, in the quest for reform. Moreover, CSOs have tended to ally with the opposition to challenge the NRM’s governance. There may be little surprise, therefore, that the NRM has branded CSOs as partisan and vetoed most reform proposals they (CSOs) have advanced.

**The political context is underlined by a dominant-party-dominant-leader political settlement.** The NRM and President Museveni have controlling power over policy change or no change. NRM agents are firmly anchored in all government departments and control policy processes. President Museveni’s power and control, underpinned by personal loyalty to him within the NRM, are largely unchallenged and his policy preferences get adopted with limited resistance, if any. The NRM enjoys more than a two-thirds parliamentary majority, hence any policy position adopted by the NRM is easily passed in Parliament. Therefore, reform proposals that fail to register buy-in from the NRM have limited to zero chances of being passed into law.

**The legal framework does not bar the activities of civil society outright; on the contrary, there are constitutional guarantees for civil society to exist and engage.** However, certain legal provisions in the NGO Act of 2016 and the 2013 POMA were reportedly exploited by the state to narrow the operating space for civic societies that work on politics and public policy. Major government actors are largely critical of advocacy-oriented CSOs, branding them as agents of the West. There are examples where state agents had, basing on questionable justification, stopped CSO activities. Several stakeholders interviewed for this PEA held the preeminent view that the space for advocacy-oriented CSOs was shrinking in Uganda.

**Uganda's institutions are bounded by high degrees of informality.** Often, the actual powerholders and influencers of government decisions tend to be different from the occupiers of specific offices. This demands that those seeking to influence policy need to 'know their way around' beyond the supposed decision-maker to the actual powerholder. Therefore, the formal presentation of petitions, for example to Parliament, as is often the case with civil society campaigns, tends to be less effective.

**Informality is linked to institutional duality where informal (traditional) rules operate side by side with formal laws and processes.** Cultural and religious rules and traditions have a strong bearing on the policy landscape, especially in the areas of human rights and gender equality. Traditional and religious leaders and values wield considerable influence over large sections of the population and influence the decision logics of formal decision-makers, including local council leaders, members of Parliament and the executive. Informal stakeholders are, however, less targeted in CSO policy engagement efforts.

**The political opposition is weak and fragmented.** The four opposition parties with parliamentary representation have a combined share of less than 15 per cent of the seats in Parliament. The opposition's political strategy is unmistakably preoccupied with ending Museveni's long reign and there is less focus on policy matters. Most of the opposition parties are fragmented and undermined by weak internal democracy, which underlines incessant bickering within the parties.

**The operative context is characterised by growing tendencies of increased state control of access to and use of 'coordination goods', particularly the media in the policy arena.** Constricting licensing conditions subject the print and broadcast media to self-censorship. Social media is also challenged: In the recent past, internet providers were directed to block social media platforms during periods of contentious political activity. In July 2018, the state imposed a daily tax on access to social media. The media was hitherto a critical tool for CSOs to mobilise citizens. However, study participants were sceptical regarding whether this role could be upheld in the face of the legal and fiscal constrictions.

**Geopolitical dynamics have a bearing especially on the extent to which international partners are willing to press the Ugandan government on reform.** Considerable efforts by CSO actors are targeted towards mobilising international partners to pressure the Ugandan government towards reform. Museveni plays important roles as a peacekeeper in the fragile Great Lakes Region and, under his leadership, Uganda has maintained the internationally appreciated open-door policy towards refugees. Therefore, efforts by CSOs to leverage international pressure to push President Museveni and the NRM towards reform could be in vain as regional and global security interests take precedence.

**About the reform process, the initial period of NRM's administration was characterised by several reforms.** Examples include the promulgation of the 1995 constitution and the 1997 decentralisation reform. Attention was paid to the inclusion of hitherto marginalised groups such as women, youth and persons with disabilities (PWDs). Institutions for accountability, such as the Inspectorate of Government, were set up whilst the expenditures of sensitive institutions, such as the military, became subjected to parliamentary scrutiny. The initial drive to reform came from within the NRM. At the time, there was less CSO policy engagement relative to the present period.

**At the level of top political leadership, the NRM maintains a no-change policy.** The party retains President Museveni as its leader and President of Uganda. To sustain the no-change policy, however, the NRM has had to change some critical provisions of the 1995 constitution. In 2005, the two-term limit on the office of president was removed and in 2017, the 75-year age-limit was eliminated. The changes, driven by agents from within President Museveni's inner circle, were observably

intended to enable him to maintain his reign as elected president.

**The status quo gives the NRM and President Museveni considerable advantage in political competition and this is less likely to change in the next polls.** The president appointed members of the election management bodies which presided over five successive election cycles where he was candidate and, in turn, victor in all of them; and he appointed new members in 2017. The NRM consistently vetoes proposals for a level playing field, including reforms relating to the appointment of election officials or the role of security agencies in the elections.

**TCSOs are acknowledged stakeholders in policy development but they are largely limited to the formalities of government consultations and public advocacy.** However, policy bargains in Uganda take place amongst a small class of influential elite, some of whom may not hold formal office. The National Development Plan (NDP) and the plans of specific sectors recognise the role of CSOs but the influence of CSOs on political and governance-oriented policies remains minimal.

**The pursuit for reform is highly personified.** Both the opposition and civil society have framed President Museveni as the main target for reform. It is argued that policy change can also proceed from, not precede, political change from Museveni's leadership. The personification of change, however, has denied reform agitators the possibility of working with the NRM to realise a shared vision in policy development.

**The CSO space is dominated by old and new civil societies, yet the two typologies of organisations have varying advantages and limitations in policy matters.** There are, however, limited efforts towards cooperation and partnership among the old and new civil societies. In certain instances, the old and new organisations have been in opposition to each other on policy matters, for example in the case of the botched Marriage and Divorce Bill, which was promoted by the new civil societies and opposed by the old.

**Civil society policy space is dominated by professional NGOs, but the NGOs face several limitations.** The key limitations include the following:

- **NGOs are predominantly socially rootless.** They lack a broad membership and are not accountable to the communities they seek to represent. As a result, NGOs fail to generate public ownership and support for their ideas.
- **Emergence of a civil society elite class which is exclusive, rather than inclusive.** A small successful class of NGO founders have dominated the civic space, thereby establishing another layer of hegemony in the public sphere.
- **Many NGOs emerge as anti-establishment organisations.** They are largely preoccupied with opposition to the state and fail to generate buy-in from the NRM for their policy proposals.
- **NGOs are not accountable especially to their beneficiaries.**

**Donor funding presents an opportunity that has attracted several NGOs into political and policy-related interventions.** Donor funding, however, faces several challenges and presents political economy implications for CSO effectiveness. Socio-political activities are increasingly projectized with risks of capture by potential civil society entrepreneurs. NGOs also pointed that the donors largely control programme content despite their having limited understanding of the local context. The donors tend to leverage their resources to dictate what NGOs can do or cannot do.

## RECOMMENDATIONS

This study recommends a revised approach to civil society policy engagement which focuses on building the demand side whilst mobilising buy-in from the supply side, the government. This approach requires the following:

- Leveraging the strength of old civil societies through more collaboration with new civil societies.
- Depersonalisation of the pursuit for change and shifting away from viewing the NRM and President Museveni as the targets of reform.
- Building a symbiotic relationship between the state and civil society: government is not only necessary in the pursuit for change; government is indispensable.
- Revisiting the model of civil society financing to allow for more flexibility and control by local stakeholders as well as to focus on downward accountability.
- Building a better understanding of stakeholders in reform processes as well as the extent and levels of their influence.
- Strengthening the social roots and accountability of NGOs

# Introduction

This paper examines the contextual factors impacting on civil society influence on politics and public policy reform in Uganda and explores the entry points that can be leveraged to strengthen this influence. Two typologies of organisations are considered: the 'old' and 'new' civil societies.<sup>3</sup> The 'old civil societies' have historically been part of Uganda's socio-economic and political processes and are active to date. In this paper, 'old civil societies' refer to those associations or groups that are based on acquaintances such as religious, cultural, professional or economic identities. Examples include, but are not limited to, the churches and the Islamic groups, co-operatives, trade unions, cultural groups<sup>4</sup> and community solidarity associations.<sup>5</sup> On the other hand, the term 'new civil societies' is applied here to mean the growing community of non-governmental organisations (NGOs) working in different sectors of development, including service delivery as well as advocacy for rights, public policy and political reform.

In terms of distinction, old civil societies typically involve the 'grievers' themselves or the people who are directly affected by or have a direct interest in an issue establishing themselves into an association to coordinate their interests. On the other hand, new civil societies may be formed by individuals who are concerned about a problem but are not necessarily affected by it directly. In addition, old civil societies are usually membership organisations, but this is not necessarily the case with new civil societies.

Civil society in Uganda has experienced exponential growth over the last two decades, thanks to the plethora of new civil societies engaged in humanitarian and development programming. The National NGO Bureau reports more than 13,000 registered NGOs,<sup>6</sup> but this figure tends to exclude several groups at local level and the old civil societies that are not registered as NGOs. The precise number of CSOs working in Uganda is not known, given that the formal registration frameworks do not capture all organisations that can be clustered as civil society. Most of the registered organisations are engaged in charitable activities relating to the delivery of public goods and services in areas such as health, education and economic empowerment. However, several organisations have taken up advocacy for rights, public policy and political reform. This paper focuses on organisations engaged in activities targeted towards political or public policy reform.

The role of civil society in political reform is based on 'the idea of a positive, universalist view of the desirability of civil society as part of the political project of building and strengthening democracy around the world' (Lewis, 2001). In Uganda, increased international financing for governance and political reform blended with an appreciation of the role of civic actors in this process have been foremost factors in accelerating the advance of CSO work around politics and public policy.

However, civil society engagement with political affairs is not a new phenomenon in Uganda: the old civil societies, particularly the church and trade unions, are reported to have been influential power actors in the pre- and post-independence periods (Okuku, 2002). And to date, business associations such as Kampala City Traders Association (KACITA) remain key actors in negotiating trade and taxation policies, while cultural and religious groups have stood out on several matters relating to land and specific rights-related legislation such as the 2009-2015 campaign around the Marriage and Divorce Bill and the Anti-Homosexuality Act (2014).

Existing literature on political reform presents unlimited examples of civil society influence in political change processes around the world. Widely documented socio-political movements, such as the 1989 revolutions that brought an end to communism and ushered in pluralism in Eastern Europe, included a highly acknowledged role of civil society.<sup>7</sup> And so was the role of civil society in other liberation movements, such as the independence processes in Bangladesh (Lewis, 2001). The Arab Spring, which started in 2010 and led to the collapse of authoritarian regimes from Tunisia and Egypt to Yemen, have been defined as civil resistance (Abbott, 2018). These uprisings demonstrate the power of civic action in disrupting the existing political order. In Africa, voluntary and associational groups, such as the churches, organised labour, professional associations and grass-roots movements, are praised as being among the most vocal opponents of authoritarian regimes on the continent (Okuku, 2002).

In Uganda, state restrictions on the existence and operation of autonomous organisations that were not aligned with the party in power – then the Uganda People's Congress (UPC) – led to the rise of NGOs concerned

<sup>3</sup> The classification of old and new civil societies builds on Lewis (2004) in his reflections on NGOs, state and democracy in Bangladesh.

<sup>4</sup> Such as Buganda Nkoba Za Mbogo, a powerful association of the Baganda.

<sup>5</sup> Examples of solidarity associations include Muno Mukabi, where community members support one another in cases of sickness or loss of a dear one, burial associations etc.

<sup>6</sup> The figures as posted on the website of the webpage on the Uganda National NGO Bureau which states thus: "There are currently 13000 registered NGOs according to the register at the NGO Bureau". <http://www.mia.go.ug/content/ngo-bureau>. Accessed 20 April 2018. This figure does not include community-based organisations (CBOs) that only register at district level.

<sup>7</sup> See McDermott et al., 2015.

with civil and political liberties between 1981 and 1985 (ibid.). Although the 1986 ascension to power by the NRM brought about a modicum of respect for civil and political liberties, the NRM banned the activities of political parties until the 2005 referendum, when political space was opened. During the 20-year-long ban on political party activities, old civil societies and, later, new civil societies provided an alternative space where those opposed to President Museveni's leadership would organise and mobilise. Examples include the Foundation for African Development (FAD), which was established by the leaders of the Democratic Party (DP). This background laid a critical foundation for governance-oriented NGOs to emerge, typically as anti-establishment organisations. It also buttressed what would later appear to be a natural alliance between prominent civil society leaders and the political opposition against NRM's leadership.

As considerable donor funds for governance-oriented programming started to roll in, not only did initially apolitical civic organisations jump onto governance-related topics, but a professional approach to political activism was also quickly adopted. Civil society political engagement rapidly became projectized and started to be delivered through qualified project managers guided by sophisticated management tools such as the logical frameworks and project work plans, to mention but a few. This transition also led to a speedy increase in the number of actors involved in governance work and the eventual dominance of Uganda's civil society space by them – or the new civil societies, as they have been termed in this paper. It will be discussed in the later sections of the paper that this foundation continues to present significant political economy considerations for civil society engagement in politics and public policy, given that it has an overarching influence on the interests, incentives, approaches and the decision logic of civil society actors.

The NRM government initially opened channels for engaging civil society in the government's drive towards political development. Ahead of the 1995 constitution-making process, civil society actors, under the Uganda Joint Christian Council (UJCC) and the newly formed National Organisation for Civic Education and Election Monitoring (NOCEEM), were accredited partners in civic education and election observation. Most critically, they mobilised people to engage in the constitution-making process, including the election of delegates to the Constituent Assembly (CA). In the years that followed, emerging organisations, such as Action for Development (ACFODE), among others, worked closely with government decision-makers to successfully bargain for the

establishment of what came to be the Ministry of Gender, Labour and Social Development (MoGLSD). The Uganda National Students Association (UNSA) negotiated directly with President Museveni and achieved the establishment of the National Youth Council (NYC) and the provision of five seats for youth representatives in Parliament. As it appears, the initial bargains by civil society delivered dividends on how the current state structures emerged and their level of representativeness, especially for hitherto marginalised groups. It, however, remains difficult to determine causality since, one could argue, the then new government was still in reform mode. Nevertheless, several government development frameworks today, including Vision 2040, the second National Development Plan (NDP II) and other sector-specific plans, acknowledge the role of civil society in the development process.

There is, however, a growing feeling among several actors in the political and development communities that the impact of civil society on politics and public policy in Uganda is not commensurate with the existing level of advocacy.<sup>8</sup> Indeed, civil society impact on public policy has increasingly come under question internationally. A 2006 report by the Overseas Development Institute (ODI) concludes that 'CSOs are having a limited impact on policy and practice, and ultimately on the lives of poor people' (Mendizabal et. al., 2006). In Uganda, judgements of civil society influence often concentrate on questioning the impacts of widespread NGO projects around politics and public policy reform as well as the general tendency of pundits to assess policy impact through the lens of 'big bang' reforms.

The oft-cited examples of recent civil society engagement in the political or policy arena include the resistance against the lifting of presidential term limits from the constitution in 2005, the 2012-2015 'Black Monday' campaigns against corruption, the campaign for the enactment of the Marriage and Divorce Bill in 2009-2015, the quest for major political reforms for free and fair elections in 2016, the attempts to facilitate an opposition coalition (The Democratic Alliance or TDA) against the NRM in the 2016 general elections, and the 2017 resistance against the removal of the presidential age limit from the constitution. Other references include the CSO interventions in the enactment of the Public Order Management Act (POMA) of 2013 and the Non-Governmental Organisations Act (2016), among others.

Going by the above-mentioned examples, CSOs may not have attained their ultimate goals in policy influence. However, this paper argues that the process gains,

<sup>8</sup> This perception was expressed by several respondents in this study.

including the citizen empowerment effects of CSO initiatives, need not be discounted. Furthermore, it will be argued throughout this paper that the idea of perceiving political or policy impact from the ‘big bang’ reform perspective needs to be rethought in favour of appreciating the incremental steps that also count the process gains. This proposition should not be construed as a stamp of approval for civil society policy impact in Uganda today. On the contrary, this paper highlights several gaps in the existing civil society structures and approaches and argues for the need for civil society actors to adopt an interest-based incentive-compatible approach to political and policy work if they are to strengthen their influence.

This PEA was conceived to inform the establishment, structure and mandate of a civil society public policy platform proposed by the Public Policy Institute (PPI). This report is, however, also intended for all readers with an interest in deepening civil society influence on politics and public policy in Uganda. It is important to point out here that this study goes beyond the traditional concern of PEAs whose focus is on situating donor-led development interventions to examine local political economy processes. As McLoughlin (2012) observes, ‘political economy analysis can support more effective and politically feasible donor strategies.’ However, this PEA is premised on the need to think about political and policy change as not entirely dependent on, although not exclusive of, development assistance. The analysis is nonetheless to remain relevant to donor-driven civil society work on politics and public policy. Therefore, this report is also intended to bolster indigenous initiatives as much as it offers insights on development assistance-led initiatives targeted at progressive political and policy change processes.

## Objectives of the Paper

The central objective of this paper is to analyse the context and factors affecting civil society influence on politics and public policy change in Uganda and to identify entry points that can be leveraged to strengthen this influence. This paper deliberately encourages focusing on *political or policy change* as opposed to *political or policy reform*. The latter ‘refers to incremental shifts in existing structures, or new and innovative policies’<sup>9</sup> while the former ‘usually refers to a major policy change’ (Cerna, 2013). As discussed in the methodological part, major changes can be difficult to attain at a go, yet incremental shifts are relatively feasible and can, in the end, lead to the desired reforms. This PEA was undertaken to inform the design of a civil society public policy platform proposed by the PPI. However, this report is also intended to benefit other actors seeking to bolster civil society influence on politics and public policy in Uganda.

Conventional PEAs often focus on how to make development assistance more effective. Therefore, such studies and their recommendations focus on advising donors regarding where and how to direct funding or technical assistance. While the role of development assistance in civil society work and policy change is recognised, this study stresses the need to approach political and policy influence from the lens of home-grown, locally driven resources and styles that do not have to be entirely contingent on development assistance. Therefore, the paper attempts to identify locally available opportunities and resources that can be leveraged by CSOs to increase the impact on politics and public policy.

# Methodological Approach

The methodological approach of this PEA focuses on building an understanding of the factors that influence political and policy change and the place of CSOs in the interaction of these factors. It demands, as a first step, an appreciation of the process of policy change, the different factors that support or block change.

## The Process of Policy Change

Contrary to traditional stylised models which see policy-making as a wholly rational procedure, the process is often complex and messy (Wolmer et al., 2006). However, the current analysis of approaches used by civil society actors seeking to influence public policy in Uganda concludes that CSOs tend to view the policy processes as linear in which decision-makers go for rational choices based on technical facts.<sup>10</sup> Consequently, most civil society actors spend considerable efforts generating 'irrefutable evidence' and focus on the powerful articulation of this evidence with the view that this will persuade or force decision-makers towards reform in a desired policy direction. This approach, it is hereby observed, is out of sync with the complexity of policy or political change and may partially explain the widely expressed frustration over limited civil society impact on politics and public policies.<sup>11</sup> A plethora of literature summarised in a detailed World Bank study (Norton et al., 2013) articulates how the reform process is underlined by competing interests, incentives and power relations that always have to be considered.

A starting point to appreciating the complexity of policy reform is to refer to the literature on institutions, understood here as the formal and informal rules in a society,<sup>12</sup> in which there is a consensus that institutional reforms can be difficult to achieve for several reasons. Pierson's (2000) path dependence model argues that this difficulty emerges because institutions tend to stick around and that stakeholders are inclined to protect existing institutional models.<sup>13</sup> Acemoglu and Robinson (2012) talk of vicious cycles through which bad institutions (which they call

extractive institutions) tend to reproduce themselves. This explains why policy continuity is more likely to occur than policy change.<sup>14</sup> Brett (2009) avers that institutional change depends on capacities, values, dispositions, knowledge systems and endowments. This highlights the importance of context in any pursuit for institutional change. Most importantly, this proposition helps in understanding why promoting change without addressing questions around the capacities, values and dispositions of those responsible for effecting the change may be less likely to deliver desired results.

## Towards a Conceptual Framework

In deciphering a conceptual framework for civil society political and policy influence, this paper draws on two analytical pieces of literature – the 2013 World Bank Study on the political economy of policy reform (Norton et al., 2013) and the Space Will and Capacity Framework (SWCF) of the National Democratic Institute (NDI). The World Bank study points to three critical elements for diagnosing policy reform. First is the **reform context**, which refers to the country's socio-economic, political and economic characteristics. Second is the **reform process**, which refers to information flows and participative process such as debate, communication and interactions in the policy arena. Third is the **action framework**, which illustrates the operational implications and measures that practitioners – in this case civil society actors – can use to design and implement reforms and operations.

The NDI-SWCF was developed for the analysis of political party support, but it provides a useful tool that can be adapted for studying civil society policy influence. The SWC Framework focuses on: a) **political space**, defined as the environment within which parties operate and interact; b) **political will**, defined as the incentives that influence political parties and individual actors; and c) **capacity**, defined as the skills and resources needed by the political parties.

<sup>10</sup> We reach this conclusion based on interviews with civil society actors and a review of selected programme documents and the theories of change of CSOs.

<sup>11</sup> Wide frustration was expressed by most participants in the PEA, who repeatedly noted that civil society impact is far less in comparison to civil society investments.

<sup>12</sup> Defined according to North, 1990.

<sup>13</sup> Cited in Cerna, 2013.

<sup>14</sup> Ibid.

By blending specific elements in both the World Bank and NDI frameworks, this paper develops a tailored conceptual framework for analysing civil society policy influence.

This framework focuses on three elements: the operative context for CSOs seeking reform; the reform process; and tools and capacity. This framework is illustrated in Figure 1:



Figure 1: Conceptual framework for analysing CSO political or policy influence

Source: Authors' conceptualisation based on Norton et al., 2013 and the NDI SWCF.

### a) The CSO operative context

The operative context refers to the overall environment within which CSOs seeking to impact on politics and public policy operate. It includes the political, economic and cultural context as an enabler of or constraint on civil society engagement. The operative context also includes the legal framework and the behaviours of agencies or individuals charged with the enforcement of existing laws and policies. It is emphasised here that

while all civic actors may operate under the same legal regime, the law may be applied differently regarding those actors who are engaged in human rights and political reform advocacy. For this reason, the interests, incentives and behaviours of agents charged with the implementation or enforcement of the legal framework becomes a critical part of the assessment. As several participants in interviews for this PEA expressed, 'sometimes the application of the law tends to be more important than the law itself.'

## b) The reform process and actors

This element examines whether there is an ongoing reform process and the place of civil society in that process. Key questions include who drives the process, what are their levels of influence and what mechanisms are employed to steer or block change in a certain direction. It is understood that different actors in the reform process have different levels of influence and may be relevant at different stages of the process. The analytical framework examines the interests and incentives of diverse actors in the reform process, including civil society actors themselves, as well as how these interests impact on the levels of influence for the diverse actors. For CSOs, the analysis of incentives is undertaken by conducting a deeper exploration of the nature of CSO actors, including what drives organisational formation as well as what determines their programmatic focus and sustenance.

## c) Tools and capacity

This element concerns the capacities of civil society actors seeking to influence public policies and the existing tools that they can leverage to bolster policy influence. The analysis goes beyond examining project cycle management tools and financial resources to instead focus on CSOs as organisations or networks that can be leveraged to coordinate policy influence. To do so, however, these organisations and the agents that run them need a better appreciation of the complexity of policy processes as well as the art of citizen-state bargaining. Therefore, capacity is as much about an organisation as it is about the agents who run the initiatives in the organisation.

## Data Collection

Data collection was conducted through qualitative methods, including participative workshops, key informant interviews and review of secondary literature. Qualitative research methods were applied as they provide a more realistic feel of the world that cannot be expressed in nu-

merical data and allows analysis of issues such as culture and personality traits (Roshan, 2009). The PEA assignment required getting a deeper understanding of the dynamics of policy-making and political bargains in Uganda, which could be better explored through qualitative enquiry. The qualitative research methods provide varied and in-depth information and are best suited for studying diversity and variety.

## Challenges and Limitations

Participants at the initial public presentation of this report expressed the need for a deeper analysis of the achievements and failures of civil society in Uganda. However, this report should be read as a political economy analysis and not an evaluation of the achievements or failures of civil society, which would require a different analytical framework.

The PEA presented in this report was conducted at the macro level based on time and resource constraints. Different policy interventions can be faced with varying political economy factors. Therefore, a micro-level PEA may be necessary to deal with specific initiatives and actions to influence policy.

The study team also experienced some challenges that had a bearing on the data accessed and, consequently, the depth of analysis that could be provided in this report. These include the following:

**Statistical problems:** There was limited to no quantitative data on civil society. This includes the number of CSOs in Uganda and those whose operations focus on political or policy issues, financial transfers to civil society actors, sources of funding, and expenditure trends. The CSO financial sector was shrouded by a considerable degree of information asymmetry.

**Determining causality:** Political or policy changes may occur. However, given the complexity of governance work, it can be difficult to attribute this change to specific interventions, including those of civil society actors.

# The CSO Operative Context

The space within which Ugandan civil societies operate and interact is characterised by an ambivalent legal framework and an equally ambivalent government attitude, particularly towards advocacy organisations.<sup>15</sup> The legal framework does not bar the activities of civil society outright; on the contrary, there are constitutional guarantees for civil society to exist and engage. However, certain legal provisions contained in the NGO Act of 2016 and the 2013 POMA were reported as being exploited by the state to narrow the operating space for civic actors. On the other hand, individual political actors in government have severally been critical of advocacy-oriented civil society, especially those engaged in the business of agitating for political reform.

Besides the formal rules enshrined in the constitution and other Acts of Parliament, Uganda represents a high degree of institutional duality where informal rules operate side by side with formal legislation, especially regarding rights and social relationships. This section examines the operating context for Ugandan civil society with a focus on the constraints and opportunities that exist therein.

## The Legal Framework

The dominant public debate tends to suggest that Uganda's legal framework constrict the space for civil society. On the contrary, existing laws do not bar the activities of civil society organisations outright. Civic organisations and their activities are instead buttressed by constitutional guarantees where the state is required to involve the people in the formulation and implementation of development plans and programmes. The 1995 constitution states that 'the state shall take all necessary actions to involve the people in the formulation and implementation of development plans and programmes which affect them.'<sup>16</sup> The constitution also recognises the role of civic organisations and provides that 'civic organisations shall retain their autonomy in pursuit of their declared objectives.'<sup>17</sup>

Further constitutional guarantees for civic activity are contained in Chapter 4 (Article 29), which provides safeguards for a diversity of mechanisms and tools which are often applied by civil society to influence politics or public policy. Article 29(1)(a) guarantees the 'freedom of speech and expression', which, according to the constitution, includes 'freedom of the press and other media.' Article 29(1) (d) provides for the freedom to assemble and to demonstrate, while Article 29(1)(e) provides for the freedom of association, which includes the freedom to form and join associations or unions, including

trade unions and political and other civic organisations.

However, despite the above-stated constitutional provisions, the study participants pointed to some ambivalence within specific enabling laws or the implementation of such laws. Specific reference was made to the Anti-Money Laundering Act (2013), the POMA (2013) and the 2016 NGO Act.

The 2016 NGO Act and the corresponding NGO Regulations (2017) strengthened the state's grip on the activities of civil society. Before the enactment of the 2016 law, NGOs could legally operate upon obtaining an incorporation certificate from the Registrar of Companies. Most participants in the CSO workshops observed that most civic and human rights advocacy organisations were registered and incorporated as companies limited by guarantee. This opportunity provided such NGOs with a degree of security from the risk of state-directed closure. This is because registration under the Companies Act cannot be revoked without a due court process. It was, for example, reported that in 2015, the Great Lakes Institute for Strategic Studies (GLISS), as one of the NGOs then engaged in critical political activism in the run-up to the 2016 elections, survived state-directed closure because it was operating as a company limited by guarantee. The government, it was suggested, could not easily invoke GLISS' registration without having to go through a (potentially lengthy) court process.

However, the registration and incorporation window under the Companies Act began to close as the 2016 NGO Act started to be implemented in 2017. According to the Act and the corresponding regulations, NGOs and other organisations engaged in charitable activities are required to obtain a permit from the National NGO Bureau for them to operate legally. However, an application for a permit can be declined or the permit itself can be revoked by the bureau under certain circumstances. Thus, according to the 2016 NGO Act, every NGO has a duty to follow the conditions set out in the permit, failure to do which can result in punishment of the organisation or its directors. The law is very explicit about the possibility of closure of an organisation or about suspension of the permit in case of failure to comply with defined conditions.

Given that the Board of Directors of the NGO Bureau is appointed by the Minister for Internal Affairs, and that the minister, as an appointee of the president, is expectedly a partisan political agent, study participants noted the risk that members of the board could also turn out to

<sup>15</sup> Rubongoya (2010) discusses the ambivalent government attitude towards advocacy organisations in his paper on civil society and counter-terrorism

<sup>16</sup> The Constitution of the Republic of Uganda (1995). National Objectives and Directives of State Policy.

<sup>17</sup> Ibid.

be potentially leaning towards the party in government. Moreover, the NGO Bureau also includes representatives from the Internal Security Organisation (ISO), a state agency which many civic actors consider covertly partisan. Thus, civil society actors expressed the general view that the NGO Bureau is susceptible to partisan influence, which may impact on how the bureau exercises its mandate. The NGO Act provides that CSOs shall nominate two representatives to the NGO Board. It was, however, reported that when CSOs elected their representatives to the board and forwarded the names to the minister, one representative was invited to the board and the other, who was perceived to be critical of the government, was not invited.

The NGO Act further obliges every organisation to sign a memorandum of understanding (MoU) with the district(s) where it operates. This provision was viewed as a constraint for some NGOs that independently operate countrywide as the process to acquire an MoU with a district administration can be cumbersome and requires endorsement from the district council and approval from the Solicitor General. Achieving district-level MoUs, it was reported, is also influenced by Resident District Commissioners (RDCs), who are often sceptical about advocacy-oriented NGOs and may, therefore, present some difficulty for such organisations to secure MoUs with the districts. On the positive side, however, this provision could be an opportunity in the sense that it encourages national-level NGOs to cooperate with district-based organisations that may have existing MoUs with the districts and, as such, expand grass-roots links for civil society actions.

Uganda has a history of making laws but then failing to appropriately implement them. Could this present some hope for civil society in the light of the 2016 NGO Act? Not really! At the time of conducting this PEA, the implementation of certain provisions of the 2016 NGO Act had started to take effect. While the state itself was yet to tighten up the enforcement of the law, donors, it appeared, had been leveraged as an entry point for stricter enforcement of certain provisions of the law. For example, a recent call for funding applications by the Democratic Governance Facility (DGF), which is arguably the largest CSO benefactor for democracy- and governance-related actions in Uganda, required all CSO applicants to be registered with the NGO Bureau as one of the eligibility criteria.<sup>18</sup>

Donor funding is the mainstay of Ugandan NGOs. Therefore, once donor funding becomes contingent on obtaining the permit from the bureau, securing this permit becomes no longer a matter of legal compliance only; it is as much a question of self-preservation. Therefore, study participants pointed to an eminent risk that NGOs may resort to self-censorship as a strategy for minimising the risk of failing to secure permits from the NGO Bureau or having an existing permit revoked. This emerging phenomenon has the potential to impact on how deep CSOs may be willing to dive into contentious politics. Such self-censorship was observed to be existing within the Ugandan press since the Uganda Communications Commission (UCC) became effective in implementing the 2013 Uganda Communications Act.

The 2013 POMA was also cited as one of the laws with implications for civil society political engagement. The POMA regulates public meetings, which, according to the Act, means ‘a gathering, assembly, procession or demonstration of at least three people in a public place or premises held for the purpose of discussing, acting upon, petitioning or expressing views on a matter of public interest.’<sup>19</sup> The POMA empowers the Inspector General of Police or ‘an authorised officer’ to regulate public meetings but does not provide details of how this regulation is conducted. While the Act only requires organisers of public meetings to notify the police, it also gives the police powers to stop or prevent the holding of a public meeting ‘which contravenes the law.’ Such a police decision, if made, can only be challenged in a court of law, which can be a lengthy process that may only be concluded after the value of the meeting has been overrun by time.

It is worth noting that public meetings are key tools typically employed by CSOs for advocacy on political and policy matters. Therefore, the regulation of such meetings has a central impact on the space for civil society to operate. The provisions of the POMA itself were not queried by study participants; however, its implementation was. Participants in the PEA indicted the Uganda police for often using the POMA to unreasonably prevent critical civil society from holding public meetings, particularly those concerned with political matters. For instance, in 2013, several women activists were arrested at the National Theatre in Kampala for protesting the delayed passing of the Marriage and Divorce Bill. Police considered it an ‘unauthorised’ procession. In October 2017, a civil society-led public rally against the then proposed

<sup>18</sup> Those NGOs that were not yet registered with the bureau had to demonstrate that the process was ongoing.

<sup>19</sup> POMA, Section 4.

amendment to scrap the age limit from the constitution was stopped at Muganzilwaza Hall in Kampala. The police denied permission for these activities because the organisers did not present written consent from the venue management.<sup>20</sup>

Several study participants expressed concern over law enforcement officials who, while charged with the implementation of the law, act overzealously and sometimes overstep legal boundaries to curtail civic activity. Reference was made to what was termed violent dispersal of public protests, especially by the security forces. Accordingly, in 2016, a group of private lawyers, using the Prohibition and Prevention of Torture Act (2012), attempted to have the then Inspector General of Police, Kale Kayihura, prosecuted for alleged torture of certain individuals during protests in Kampala. The attempted prosecution was highly controversial and unsuccessful. However, it pointed to the existence of legal frameworks that could be leveraged to rein in overzealous officers who may overstep their mandates while implementing the law.

Using the Anti-Money Laundering Act (2013), security operatives arrested several civil society activists, raided the offices of organisations<sup>21</sup> and ordered the Financial Intelligence Authority to freeze the bank accounts of GLISS and ActionAid as well as those of their employees in September 2017. The two organisations were investigated for illicit financial flows coincidentally at a time when they were frontrunners in the campaign against the removal of the presidential age limit from the constitution. The respondents for this study illuminated the GLISS and ActionAid examples as cases of the use of formal state institutions and existing legal frameworks to curtail the operations of the civil society actors deemed critical of the political leadership.

The analysis of the legal framework presented in this section should not be construed as an argument against the regulation of civil society or civil society activities. On the contrary, this paper agrees with the propositions of German philosopher G.W.F. Hegel (cited in Lewis, 2001, 2004) regarding the need for self-organised civil society to be balanced and ordered by the state to mitigate the risks of civil society becoming self-interested and failing to promote the common good. Moreover, the idea of a 'civil' society itself is embedded in the notion of the rule of law replacing chaos (or violence), as Mary Kaldor (2003)

argues. The argument presented here is in sync with the views of the study participants, who expressed concern about not only the substance of the law, but mostly its application.

It is important to derive some key conclusions regarding Uganda's legal framework with implications for civil society political and policy engagement. The following can be pointed out:

- (a) Uganda's legal framework provides for civil society legitimacy. The basis for civil society is enshrined in the 1995 constitution. The law, therefore, presents an opportunity for legitimate civic activism based on the spirit of constitutionalism. This can be leveraged to engage the state on guaranteeing a progressive operating environment for civil society.
- (b) However, although the legal framework does not bar CSOs or their activities outright, there are provisions within the NGO Act, Anti-Money Laundering Act and the POMA that can be subject to ambiguous interpretations and which can, therefore, be exploited to squeeze civil society space. On this premise, the agencies charged with the enforcement of the law and their behaviours are just as critical as the law itself.
- (c) Improving civil society space may not need to focus on legal reform alone but also on building constructive relations with the agencies and individuals charged with the implementation of the law. Some of the individuals can indeed be overzealous but there is need to find moderates who can provide useful entry points to relationship-building. Reforms may, however, still must be considered in the pursuit of more inclusive representation on enforcement bodies, such as the NGO Bureau, to mitigate the risks of such agencies acting partisan.
- (d) While CSOs need to consider building trust and relationships with those that are charged with the implementation of the law, they also ought to leverage existing sanctions against public officers abusing the law to unreasonably block legitimate civic action. The practice of prosecuting individuals, as was attempted with former Inspector General of Police Kale Kayihura, could further be pursued.

<sup>20</sup> Securing permission to use a given venue was noted to be a highly politicised issue. Most suitable venues are owned by government agencies such as KCCA or the management of the National Theatre in case of the women's protest. Civil society actors perceive the existence of an 'invisible hand', essentially referring to state operatives that pressure managers of public spaces not to grant permission to critical civil society to hold meetings.

<sup>21</sup> The Great Lakes Institute for Strategic Studies (GLISS) and ActionAid International Uganda had their offices ransacked by security operatives and the organisational as well as staff bank accounts frozen for months, thereby paralysing their operations.

## The Informal Rules

Ugandan society presents a high degree of institutional duality where informal rules and traditions operate hand in hand with formal legislation. In addition, power is held not just by those who occupy public offices, but at times by agents outside the formal functioning of the state. By implication, those seeking to influence public policies need 'to know their way around' and this is seldom straightforward. The institutional dualism also has structural implications for politics and public policy, particularly in the field of human rights. For example, efforts towards promoting gender equality – the equality of rights, voices and opportunities among diverse social groups – where CSOs have been frontrunners, tend to be affected by the strong role of cultural norms and traditions, so much so that at times the policies get to change but old practices persist.

In 2010, for example, Uganda enacted into law the Prohibition of Female Genital Mutilation Act (2010) following protracted and, at times, fierce debates with leaders from the communities engaged in the practice. Despite the legislative success, however, the challenge of female genital mutilation (FGM) remains prevalent as some communities still uphold the practice. This experience reinforces Brett's (2009) assertion that 'value dispositions matter in institutional change'. Therefore, civil society policy influence will always need to go beyond seeking policy change on paper to transforming community viewpoints and building the necessary conditions for implementing the change.

A related example of the impact of informal institutions was displayed around the repeated unsuccessful attempt to legislate on family relations. The corresponding bill, once named the Domestic Relations Bill (DRB) and later the Marriage and Divorce Bill had, at the time of writing, languished on the shelves of the Ugandan Parliament for close to 50 years.<sup>22</sup> In the period 2012/2013, women's civic organisations – backed by their financiers – put up a spirited, albeit unsuccessful, struggle to advocate the passing of the bill in Parliament. This PEA analysis concludes that the contest with existing traditional and religious views, values and institutions around issues of marriage, property ownership and the position of women and men in society presented significant hurdles which made politicians defect from supporting the bill even when several of them had appeared supportive in the initial stages.<sup>23</sup> One study participant remarked:

*...the Marriage and Divorce Bill would change the way marriage is seen in different lenses. For a Christian, it would break the sanctity of marriage by encouraging unions entered outside the church such as cohabitation... it also emphasises divorce which is not allowed in Christianity. ...for the Muslim it would tamper with the conditions of polygamy. ....and then you have these issues of property ownership where you bring in cohabitation... both the men and their wives are likely to say no to recognising cohabitation where property is concerned...*

No wonder, therefore, that as NGOs organised marches in Kampala in support of the bill, other groups, such as the Muslim community, also held counter-demonstrations in protest of the bill, while the churches and traditional leaders variously opposed the bill.

## The Political Context

Rubongoya (2010) observes that civil society in Uganda is affected by an ambivalent government attitude, particularly towards advocacy organisations. As such, many organisations concentrate on service delivery rather than on political or policy matters. A 2010 study by the Konrad-Adenauer-Stiftung established that several district-based CSOs were reluctant to engage in discussions of political topics which they found to be sensitive and feared that such engagement would put them at loggerheads with politicians. Participants in this PEA, however, noted that increased donor interest and funding towards democracy- and governance-related topics had incentivised many CSOs to engage with the hitherto feared political topics as the donor grants made engaging in political matters 'worth the risk'.

In terms of the existing political set-up, Uganda's political context is characterised by what can be termed as a dominant-party-dominant-leader political settlement. The ruling NRM enjoys unrivalled control of the legislature where it commands more than the two-thirds majority required to pass any law. The NRM, furthermore, enjoys control over most local councils (except for a few urban areas). Moreover, NRM party functionaries or sympathisers are deeply anchored in the state agencies responsible for the implementation and enforcement of the laws, e.g. the police, the RDCs and ISO, to mention but a few. In effect, the NRM has the numbers needed to pass any legislation in Parliament; it has the president to assent to

<sup>22</sup> According to a key informant, a version of the bill was first presented to Parliament in 1970.

<sup>23</sup> The politicians who reportedly defected from supporting the bill included the Hon. Anifa Kawooya, the Sembabule district Woman MP, for what she considered provisions against the Islamic Sharia Law.

the legislation; and it controls the tools of enforcement. Therefore, the legal route to political or policy change in Uganda is less likely to succeed without buy-in from the NRM. The experience with the unsuccessful civil society-led demand for political reforms for free and fair elections in 2016 supports this assertion.

President Museveni, as founding and still reigning head of the NRM, remains the ultimate powerholder in the party. The NRM constitution gives the chairperson – Museveni in this case – the powers to appoint leaders to influential positions within the party. And the Ugandan constitution gives Museveni, as president, powers to make appointments to influential positions in the state bureaucracy. The president appoints ministers, top military officials, permanent secretaries and commissioners in ministries as well as the heads of critical government agencies (e.g. the police, the Public Service Commission, the Uganda Communications Commission, the Clerk to Parliament and the Uganda Revenue Authority, to mention but a few). At district level, the president appoints RDCs who have an influential role in local-level political processes, including the enforcement of legislation concerning the space for civic activism and, broadly, CSO operations.

The prerogatives of the president give him considerable control over the decision logic of government officials who are, in effect, the decision-makers at national and local government levels. As rational actors, public officials have a proclivity to serve at the whim of the president as a way of safeguarding their positions. Thus, they are more likely to use their official powers to block actions of critical civil society through denying necessary permits or blocking specific events rather than facilitating activities which are likely to challenge the established order. Thus, any mapping of powerholders and influencers of policy in Uganda ought to consider the NRM and President Museveni as the stakeholders with the highest levels of influence.

Besides the formal mandate, President Museveni applies his charisma to dominate informal power. He maintains influential relations with significant power centres, such as the churches and the leadership of the Islamic faith, as well as with traditional kingdoms. Within the NRM party, the president maintains an influence on who gets to hold the NRM banner in the elections for Parliament and local councils. He enjoys the allegiance of influential associations, such as the veterans, women and youth

groups, to whom he continuously provides gifts and donations. President Museveni is, therefore, effectively the alpha and omega of both formal and informal power in Uganda, which makes him a key determinant of the country's political and policy direction. Yet most civil society initiatives towards political change have repeatedly framed Museveni or his closest allies as the targets, rather than potential partners, in the pursuit for change. It is argued here that this approach is akin to expecting Museveni to legislate himself out of power.

The political opposition in Uganda remains weak and fragmented. The traditional parties, such as the Democratic Party (DP) and the UPC, are still struggling to rebuild after the 20-year ban during which their structures and support base atrophied (Kiranda & Kitamirike, 2016). The parties are financially constrained: given the high poverty levels, they cannot register any considerable revenues from domestic sources yet under the governing law, the Political Parties and Organisations Act of 2010, they are barred from raising more than UGX 400 million (USD 106,000) a year from external sources. Many parties are also afflicted by internal bickering and the absence of internal democracy. Therefore, opposition parties, as challengers to the NRM's established power, remain literary absent.

There are four (out of 29 registered) opposition political parties with representation in Parliament.<sup>25</sup> All the opposition parties have a combined total of 64 representatives in a legislature of 466 seats. The opposition has often achieved unity among the parties in challenging major political changes intended to entrench the power of the NRM or President Museveni, such as the 2017 removal of the presidential age limit from the constitution. However, the dismal number of opposition members in Parliament has meant that their collaborative efforts yield no impact even when they win over a few independents and pro-reform agents from the NRM.

While there is apparent consensus among the opposition political parties on the need for unity if they are to present a formidable challenge to the NRM's dominance, incessant conflicts during elections undermine the prospects for sustained cooperation. These conflicts have left the opposition more fragmented than united. Given the office-seeking characteristics of political agents, opposition politicians often find themselves divided during competitions for parliamentary and local council elections as party agents compete against each other.

<sup>25</sup> The political parties include the Forum for Democratic Change (FDC) with 37 seats, the DP with 15 seats and the UPC with six seats. There is a total of 29 registered political parties, according to records from the Electoral Commission.

The differences which get sown during electoral contests spill over into intra- and inter-party relations going forward, which also affects the ability of the parties to strategize on influencing broader political reforms. All these factors compound to make the political opposition an actor with limited influence in Uganda's policy processes.

It is glaringly obvious that the opposition's political strategy is primarily targeted at dislodging President Museveni from power and many CSOs have been trapped in this strategy. The rhetoric from the opposition, which is often regurgitated by prominent CSO leaders, is that political change should mean a change of guard from President Museveni to another leader, and that meaningful policy change can only follow, not precede, such political change. This paper does not necessarily discuss the merits of this argument. However, it is observed that such an outlook has driven civic and political actors to give up on the possibility to attain policy impact and instead to concentrate their resources on mobilising against President Museveni and the NRM, which is an extremely challenging goal in view of the prevailing context. It is, hence, the considered opinion of this paper that reform agitators need to consider the NRM and President Museveni as potential partners, rather than framing them as the targets for political or policy change.

During the process of conducting interviews for this PEA, the authors repeatedly came across the conventional proposal that CSOs needed to partner with so-called pro-reform agents within the NRM as a way of manoeuvring through the complex NRM-dominated political context. This idea may sound logical and exciting but must be taken with caution for two reasons. First, the NRM has registered a reputation for castigating pro-reform agents in the party. At times, party members who challenge the positions of the top party leadership have been branded rebels<sup>26</sup> and got distanced from inner party bargains. In 2015, the Central Executive Committee of the party resolved to expel four members of Parliament – Theodore Ssekibubo, Wilfred Niwagaba, Muhammad Nseroko and Barnabas Tinkasimire – who had refused to endorse the sole candidature of President Museveni for the 2016 general elections. Pro-reform agents in the NRM are treated as internal opposition within the party, for which reason they may be less likely to provide channels for reaching out to influential decision-makers within the party. Second, civil society itself, as discussed later in this paper, is largely viewed as partisan and opposition-leaning. If NRM members who are contesting the positions

of powerholders in the party are seen to be in alliance with an 'opposition-learning' civil society actor, their alienation within the party may only increase. Indeed, hobnobbing with the opposition was one of the reasons cited by the NRM top leadership for expelling the above-mentioned members of Parliament from the party.

The key considerations in view of the political context include the following:

- a) President Museveni is the political actor with the highest level of influence both within the formal state bureaucracy and the informal power structures. Museveni's power is linked to the NRM, the dominant political group, which is under his firm control. The NRM and President Museveni have strong incentives to retain power and their reform agenda is glaringly headed in that direction.
- b) The political opposition as a counterforce to the NRM is weak and highly fragmented. With a political strategy focused on the uphill task of dislodging the NRM from power, the opposition appears not to constitute a strategic stakeholder in working towards policy change.
- c) Therefore, the fundamental challenge for civil society is how to package their reform proposals in such a way that they can enlist buy-in from the NRM and President Museveni. This is no easy task and has no straightforward formula. Moreover, it is a process which will require systematic bargains, trade-offs and, above all, revisiting the idea of thinking about reform from a 'big bang' perspective.

## The Geopolitical Dynamics

Uganda plays prominent roles in security in the porous Great Lakes Region. This gives President Museveni's leadership a good standing among international big players such as the USA, UK, EU and the UN system. For example, Uganda's expeditious deployments in conflict-ridden Somalia as well as its security functions in South Sudan, Burundi and the Democratic Republic of Congo (DRC) serve to increase the confidence of international actors in President Museveni as a partner for peace in what is clearly a fragile region.

It was argued that President Museveni's role as a regional peacekeeper means that international players could be willing to 'look the other way' on matters relating to political and policy change in Uganda. Moreover, Uganda's open-

<sup>26</sup> As was, for example, coined to describe the members of Parliament Theodore Ssekibubo, Wilfred Niwagaba, Muhammad Nseroko and Barnabas Tinkasimire

door policy towards refugees has won the country international acclaim, further building the confidence of external partners in the existing leadership. Supporting domestic policy reforms is not the only thing international partners are concerned with. Perhaps, more importantly, they are concerned with stability, peace and security domestically as well as in the region. President Museveni comes off as the best bet in this regard. Therefore, efforts by CSOs to leverage international pressure – or rather the boomerang effect – to push President Museveni and the NRM towards ‘big bang’ political and policy reforms could be in vain as regional and global security interests take precedence over attention to domestic political matters.

# The Reform Process and Actors

The reform arena in Uganda is a spectacle of two competing protagonists. On the one hand is the NRM with an interest in maintaining the status quo to hold on to power. On the other hand, is the political opposition's agitation for change, which is driven by the need to get the NRM out of power and to then occupy that space. Facilitating this contest is a myriad of civil society actors and development partners that are typically embedded in the international good governance agenda. While CSOs are expected to be non-partisan, there is a general perception, as discussed in the later sections of this paper, that they are in most cases opposition-leaning.

Political settlement literature illuminates that the distribution of power among diverse groups in a society is 'partly based on income and wealth but also on historically rooted capacities of different groups to organise' (Khan, 2010). From the beginning of its leadership in 1986, the NRM enjoyed 20 years of uncontested organisation when the activities of opposition political parties had been banned. Given that the Ugandan economy was near collapse at the time the NRM took power in 1986, most domestic capitalists and the wealthy class that has emerged over the last three decades have close ties with the NRM. Therefore, the opposition lacks the backing of those holding wealth in Uganda.

In terms of civil society, although the new civil societies demonstrate a high level of organisation and professionalism in their undertakings, the old civil societies are better organised in terms of aggregating the interests of their networks and basing on these interests to engage in policy debates. However, influential civil societies such as the churches and the Muslim groups have established themselves more as mediators of power bargains rather than as seeking to challenge power. Some of these bargains have at times been focused on lobbying for members of a given community to secure influential positions in government. This tends to increase the leverage of the governing elite over religious groups whilst weakening the ability of these groups to challenge established power.

There is a vibrant, lively and at times sensational debate within Parliament and the public concerning political and policy reform in Uganda. The state generally allows this debate with minimal controls. Civil society actors play a prominent role both as facilitators<sup>27</sup> as well as key protagonists in the debate. The challenge – as observed by several participants in this PEA – is that the debate, although powerful, has little influence on key political matters. The debate on the floor of Parliament has limited

influence on policy to the extent that, at one point, the president was reported to have stated that 'Parliament is for noisemakers.' Instead, many of the important decisions are taken in the NRM parliamentary caucus. The caucus meets outside Parliament and is firmly controlled by President Museveni. Given the more than two-thirds majority enjoyed by the NRM in Parliament, the resolutions of its caucus are guaranteed to easily pass into law when laid on the floor of Parliament.

## A Brief History of Reform

Uganda witnessed robust reforms during the early years of President Museveni and the NRM leadership, which climaxed in the promulgation of a new constitution in 1995. Then there was evident focus by the new government on building the frameworks for democratic governance, such as Parliament, as well as the introduction of the decentralisation policy in 1997. Institutions for accountability, such as the Inspectorate of Government, were established, just as the expenditures of sensitive agencies, such as the army, became subject to parliamentary scrutiny. The 1995 constitution and other laws paid considerable attention to gender equality and the empowerment of women. During its initial period, the NRM demonstrated a high proclivity to reform even when there was not much organised civil society demand for the changes.

However, with the NRM's long hold on government, 'either the party's reform agenda became exhausted, or the NRM regime became more focused on retaining political power, which could be threatened by further political reforms'.<sup>28</sup> Therefore, the momentum for progressive reform started to weaken while, to some study participants, the democratic gains made by the country were obviously being rolled back. In 2005, Uganda experienced the first major rollback in its political development when the return to multiparty democracy was traded for the removal of presidential term limits from the constitution, effectively allowing President Museveni to run for a third term of office – and he would stay on to run for a fourth term in 2011 and a fifth in 2016.

President Museveni's long hold on to power, coupled with the onset of economic hardships – particularly rising prices that hit the country around 2011 – led to an increase in sporadic incidents of dissent against the government, marked by the 'walk-to-work' protests in the same year. At the same time, NGOs were mounting increasing pressure, demanding accountability and respect for human rights. In return, state agencies, such as the police and the

<sup>27</sup> Based on their roles in the organisation of public dialogue on political or policy matters.

<sup>28</sup> Expression by one of the participants in the interviews.

army, became more forceful in quelling citizen dissent, a trend which continued until the most recent elections in 2016. Policy changes that occurred in previous years had already set in motion the process of narrowing the space for political activism. The 2013 Communications Act had put in place major controls on communication through the media; the POMA, which was passed the same year, also imposed restrictions on public meetings. Meanwhile, the 2016 NGO Act opened a window for the state to further pry into the activities of charitable organisations. According to most respondents, Uganda has registered a considerable rollback in the democratisation gains that had been achieved in the early days of the NRM administration. Furthermore, the role of civil society as an influencer of public policy is continuously being relegated to the periphery.

### **The Removal of the Age Limit on the Office of the President and Its Implications for Political and Policy Change**

Those who see progressive political change only in a transition of power from President Museveni would have been too early to celebrate his ineligibility to run for office in the next elections. At the end of 2017, Parliament, following a dramatic legislative debate, passed the controversial Constitutional Amendment Act 2017, which removed the 75-year age limit beyond which one could not contest for president. Pundits argue that the controversial reform was intended to benefit President Museveni, who will be 77 years at the time of the next polls expected in 2021. The successful removal of the age limit from the constitution against widespread resistance reasserts the comfortable

position of President Museveni and the NRM in being able to unilaterally change major policies. It also enfeebls the perception of CSOs as formidable actors in political bargains.

Participants in the PEA projected increasing intolerance by the government towards advocacy for reform should President Museveni run for a sixth term as president. Relatedly, the opposition is also expected to continue with the anti-Museveni strategy, thereby strengthening the personification of politics and political competition. Conversely, the possibility of having a constructive dialogue on necessary political and policy changes could potentially get lost in the personified politicking.

It can be concluded that the NRM and President Museveni maintain a strong position as key shapers of political and policy change or no change in Uganda. The NRM controls a comfortable majority in all policy-making spaces while the party agents are highly influenced by President Museveni. President Museveni's political strategy involves keeping a firm grip on the NRM and government agencies whilst maintaining influential linkages with informal power structures such as the 'old' civil society organisations. However, civil society actors still fall short on building a constructive dialogue with the NRM or President Museveni on policy change. Instead, the NRM and President Museveni are framed as targets in the civil society-driven pursuit for change. This approach has meant that reform efforts not only fail to get the support of the NRM but also, at times, attract counter-measures as Museveni's leadership remains sceptical of the proposals.

# Tools and Capacity

In this section, the paper focuses on the tools and capacities of civil society actors to influence public policy. The first tool to be considered is the 'organisation'. Indeed, organisations have been defined as the '...tools that individuals use to seek and create human contact and relationships, to coordinate the actions of many individuals and groups, and to dominate and coerce others' (North et al., 2009). Therefore, to discuss the tools and capacities of civil society actors seeking to influence politics and public policy, a considerable part of the discussion focuses on CSOs where attention is paid to their structures and capacities as well as the incentives that drive CSO agents.

The idea of civil society assumes a public arena in which 'different values, ideas, and political visions are debated, contended and struggled over' (Howell & Lind, 2010). Relatedly, civil society has been seen 'as the population of groups formed for collective purposes primarily outside the state and the marketplace' (van Rooy, 1998 cited in Lewis, 2001). This paper has presented two dichotomies of organisations populating the public sphere in Uganda – the 'old' and 'new' civil societies.

## The Two Dichotomies of Civil Society and Dominance by Donor-Driven NGOs

The civil society space in Uganda is mostly dominated by new civil societies in the form of professional NGOs despite the existence of a comprehensive ecosystem of more influential 'old' civic actors in the form of trade unions, co-operatives, business associations and religious groups. According to study participants, NGO dominance is attributed to donor influence. The availability of financing was observed to be a major incentive for civil society engagement in political and policy matters. During the study, donor support to all the major civil society actions around governance and public policy matters reviewed was underlined.

Financial support from donors is itself an opportunity for civil society to undertake activities around policy research and to mobilise citizen engagement on political matters. However, this opportunity comes with two challenges. First, political activism has become commercialised as much as it has been projectized. The idea that any form of civic engagement needs to be accompanied by a budget is widespread, so much so that some pundits have hinted on the emergence of 'civil society entrepreneurs', defined here as individuals or groups who engage in civic activism because they see in it an opportunity to profit financially. Such a debate will be the subject of another paper.

However, the race for donor funds, it is observed, has

meant that historical mechanisms for socio-political mobilisation that may not be easily presented as fundable projects are ignored in preference for new approaches and tools that capture the attention of donors. For example, it was argued that many civic organisations focus on visibility through corporate branding and registering high presence on social media platforms such as Facebook, Twitter and YouTube. These platforms can be followed by benefactors in their offices in Kampala and abroad, but they still have limited reach in Uganda. This observation should not be construed as an assessment of social media-based activism.

The second challenge related to donor funding, as observed by one study respondent, was that 'it brings about the question of who does civil society work for?' There was a general feeling that donors drive the agenda of civil society based on a widely held view that 'one who pays the piper calls the tune.' Because of reliance on donor financing, NGOs do not have the incentive to establish strong linkages with the communities unless the donors demand it as a requirement for funding. In fact, community members are only perceived as beneficiaries of the charitable activities of NGOs as opposed to being influencers of NGO agendas. This, in turn, explains why NGOs are 'socially rootless', as discussed in the later sections of this paper. It also, in part, explains why NGOs not only fail in generating reform proposals which are based on clearly defined community interests but also, at times, advance ideas that are contested by communities. One participant observed that some of the policy options promoted by civil society lack the backing of the community or are, in fact, opposed by community members. The Marriage and Divorce Bill and the Anti-Female Genital Mutilation Bill were often cited as examples.

Employees of donor organisations consulted as part of this PEA emphasised that collaboration with local NGOs are primarily based on mutually agreed goals where the strategic plans of local organisations are considered. But local CSO actors indicated that the reality tends to be different and that local organisations are largely at 'the receiving end of the relationship.' It was, for example, observed that the power relations between local NGO staff and the staff of donor organisations is tilted in favour of the one 'sitting to the side with the chequebook' or, rather, the donor. During project negotiations, study participants observed, the staff of local organisations tend to easily buy into the ideas advanced by the staff from the donor's side since 'challenging the donor may make project negotiations unnecessarily lengthy, could result in budget cuts or even prevent cooperation from taking off.' And for most project management staff, the track record in fundraising – i.e. how much one generates from donors

over a certain period – is a key factor in appraisal as staff. Therefore, as one project manager put it, ‘Any concession can be made to secure the grant.’ Moreover, most calls for proposals launched by donors have become stricter on the objectives, activities and outputs that can be funded. In return, NGOs adjust their plans so that they are eligible for available funding. In this adjustment, it was noted, what the donor demands is more important than what the community wants to the extent that local NGOs have found themselves having to tell their beneficiaries that ‘our donor does not fund this or that’.

The dominance of civil society by donor-driven NGOs has also been questioned in scientific literature. Ishkanian (2007) applies the term ‘genetically engineered civil society’ to describe NGOs that are propped up by donor support. Such organisations, she argues, have experienced rapid growth, which they would otherwise not have achieved without donor funding. Ishkanian, furthermore, posits that these CSOs not only eat up indigenous civic organisations, but also tend to imitate the perspectives of their donors and model western values and institutions.

It was noted that transnational actors often mirror their home-based institutions and ideas, which they perceive as the yardstick for what can be considered progressive change. Consequently, the possibility for an NGO to continue receiving funding from donors is often linked to the willingness and ability of that NGO to promote so-called international “best practices”. The challenge is that some, if not most, of the perceived best practices may not be feasible in the local context (see Brett, 2009). Donors, it was argued, stretch civil society actors to set high targets for change. In most cases, change is expected the ‘big-bang’ way rather than as an incremental process. In the build-up to the 2016 elections, there was apparent consensus that political change was to be manifest through a transition from the Museveni leadership to, potentially, a new president and that the opposition would increase its numbers in Parliament. This line of thinking has, in effect, politicised civil society reform agitators and found CSO actors trapped on the opposition side in a polity where the NRM commands considerable influence over policy-making and political change.

The foreign influence label on CSOs has also negatively impacted on how Ugandan civil society is perceived or how their ideas are received: Politicians from the government have repeatedly branded advocacy-oriented NGOs as ‘agents of the West or promoters of western

values.’ By labelling CSOs as agents of the West, political leaders tend to succeed in invoking nationalistic sentiments to undermine the possibility of generating considerable public momentum in support of CSO initiatives. President Museveni has, for example, repeatedly based himself on the arguments of foreign influence to dismiss CSO advocacy in critical areas such as human rights or on issues relating to the environment, economic matters and oil and gas.<sup>29</sup> Civil society has unfortunately not organised itself to empirically counter such political arguments. One major challenge for NGOs remains how to present themselves as indigenous organisations championing local interests and, at the same time, comply with the strict requirements for donor funding.

## A Socially Rootless ‘Political’ Civil Society

Linked to the aspect of donor dependence is the question of social rootedness of Ugandan civil society, especially the NGOs. Civil society in theory means people and civil society policy influence should also be construed as the influence people have on policy outcomes. It is argued in this paper that if CSOs are to play a representative role for the people, it is critical that they are embedded within society. This might be through the organisations drawing a considerable number of their members from society or having an elaborate mechanism through which society defines the organisations’ agenda and holds the leaders of the organisations to account. In this way, the organisations become facilitators in the pursuit of people’s collective aspirations rather than the CSO being the one that defines the development agenda for the people.

Social rootedness is important in influencing policy because the rationality of decision-makers is often anchored in specific social systems and the emancipatory aspirations of society (see Palermo & Ponzini, 2010). If, in theory, the people are expected to influence public policies through civil society, then there should be clear mechanisms through which the people influence civil society ideas. What was established from the interviews, however, is that the relationship is inverse to this expectation. Rather than the people influencing civil society ideas and initiatives, it is civil society that attempts to influence people’s thinking and gets them to buy into civil society ideas. A study participant expressed the view that what is often termed as consultative meetings are typically ‘information events’ where NGOs seek to mobilise people towards a certain perspective of the policy based on the pre-existing position of the NGOs. Examples that

<sup>29</sup> The president strongly labelled environment CSOs led by the National Association of Professional Environmentalists (NAPE), that challenged the construction of the hydroelectric power dam at Bujagali in 2005, as working for the West. He repeated this accusation to CSOs that challenged the degazetting of a part of Mabira Forest for sugar cane growing in 2007 and in 2013 when CSOs opposed the enactment of the Anti-Homosexuality Act (2014).

were cited in this regard include the stalled DRB that later changed to the Marriage and Divorce Bill, and the free and fair elections campaign. The observations were as follows:

*Those who go to consult the citizens already have a side, so the entire consultation is about educating people about how this is good and how that is bad. The people may give their views, but these are immediately challenged by the organisers of the consultations who already have sides. So, what comes out of these meetings are not actually the views of the people but the positions of the organisers of the meetings.*

This research found evidence that the Ugandan government often pays immediate attention to issues with strong community interest such as matters of cultural or religious concern, land and traditional kingdom affairs, to mention but a few. Existing literature also shows that socially embedded CSOs, such as trade unions, co-operatives and the churches, played major roles in the pre- and post-independence political bargains.

However, a key concern raised by participants in this PEA is that the active CSOs in Uganda are typically formations of a small class of the so-called 'civil society elite'. This civil society elite, it was argued, is exclusive rather than inclusive. Thus, the notion of civil society as the public sphere or the space where all people engage and where, according to Lind and Howell (2010), all ideas and views are contented and struggled over, is lost. Instead, a hegemonic group of the 'civil society elite' emerges and redefines the public sphere. They determine who is civil society and who is not, or which ideas are right and which ideas are wrong. Respondents in the study with a leaning to the ruling party, for example, indicated that they find challenges in engaging in civil society discourse as most CSOs are openly supportive of or sympathetic to the opposition, and that the meetings are often intolerant of views which are different from those of their 'selected' audiences. In this way, civil society tends to become partisan and fails to mobilise support from citizens with diverse ideologies. CSOs, in other words, become too comfortable 'preaching to the choir'.

It was further observed that most of the prominent organisations engaged in political and policy work lack a broad membership base and their agenda is barely influenced by society. Instead, NGO agendas are often defined by what is trending within development financing. Community members, it was noted, are only involved in 'superficial' needs assessments and project-related surveys. It was argued that, rather than being participative

organisations, NGOs create alternative layers of hegemony akin to the state. This phenomenon raises questions as to the legitimacy of NGOs, which, as already noted, are advanced by decision-makers to dismiss the advocacy agendas driven by them.

It was noted that over the last decade or so, donors started to demand that partner NGOs show evidence that they are inclusive and that they have links at the grass roots. Because this was increasingly becoming a requirement for funding, NGOs were bound to comply or, at least, to find ways of getting around the condition – and they mostly did the latter. The requirement for grass-roots links fitted into the idea of network organisations or CSO forums and coalitions. The idea of a network organisation, forum or coalition is that a group of independent entities or subsidiaries come together to form one larger entity where they leverage their diversity of competencies, contacts, resources and outreach to register a larger and more inclusive impact. In practice, many national NGOs rushed to establish links with district-based NGOs and, at times, facilitated the formation of such organisations. What this philosophy missed is the fact that by simply bringing together several organisations, the challenge of social rootedness is not addressed if the coalescing or networking organisations are, as individual entities, socially rootless. Moreover, previous experiences with the operations of network organisations reveals that a large membership is only used to demonstrate the reach of the organisation but does not necessarily mean that all organisations in the coalition influence the decisions of the network. In fact, the staff in the coordinating office of the network instead become more powerful, creating another layer or hegemony where network members are positioned on the receiving side of the relationship.

Notwithstanding the above, evidence from this study further reveals that there are multitudes of social and economic-focused CSOs. This category of actors is, however, preoccupied with the propagation of social norms, cultural and religious activities as well as livelihoods. The majority of these civil society actors are grass-roots-based and are informally established under a common aspiration. These institutions include local trade associations, cultural groups associated with traditional kingdoms, religious-affiliated formations and Savings and Credit Cooperatives (SACCOs). In some instances, some government-led development initiatives, such as the National Agricultural Advisory Services (NAADS), Youth Livelihoods Programme (YLP) and Uganda Women's Entrepreneurship Programme (UWEP), have incentivised citizens to coalesce into groups to benefit from the

attendant opportunities and services. This is a critical section of civil society with roots in society and a clear, shared vision among the members and, if reached, could potentially have influence over policy and political matters, given their representativeness.

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## The Trap in the NRM/Opposition Spectacle

The current regime of advocacy-oriented CSOs and personalities historically emerged after 1986, which period includes 20 years when the activities of political parties were banned by the NRM government. Without the possibility to engage through political parties, some political actors operated under the umbrella of NGOs to critique and mobilise against the NRM government. For example, the Foundation for African Development (FAD), which is one of the oldest NGOs in Uganda, is a think-tank linked to the DP. Several policy-oriented NGOs that emerged during the period continued to occupy the vacuum created by the absence of a formal opposition, while some of them were led by people ideologically opposed to the NRM.

With the return to multiparty democracy in 2006, there was conspicuously a natural alliance between the now new formal opposition and CSOs. The greatest manifestation of this alliance was to be noticed in the build-up to the 2016 elections, where CSOs joined with opposition political parties in demanding political and electoral reforms, to which the NRM was opposed. The reform proposals were presented as necessary to create a level playing field and give a fair chance to all competitors in the polls. This was

later followed by the unsuccessful attempts by prominent CSO leaders to facilitate a coalition of the political opposition – dubbed The Democratic Alliance (TDA) – with a view to defeating the NRM in the elections. Many of the leading CSO actors in Uganda are also strong critics of the NRM and well-known sympathisers or outright supporters of the opposition.

Therefore, many leading CSO actors are seen by powerholders and decision-makers within the ruling NRM as part and parcel of the opposition. This perception undermines the willingness of the NRM to engage with civil society in a cordial process of citizen-state bargaining. Moreover, politically charged civil society actors seldom employ cordial bargaining tactics while engaging government agents on reform. It was, for example, reported that some CSO actors are cautious about having cordial engagements with NRM leaders for fear that this may lead them to being branded as 'sell-outs'. One respondent observed that Ugandan CSOs are one-sided in critiquing the state. This has been construed as a sign that CSOs have a political agenda to dislodge the NRM from power and not simply a goal to influence political processes and public policies that serve the public good.

The above perception about CSOs tends to be risky for impacting on policy. The 2006 ODI study notes that acting on their own in opposition to the state is one of the factors limiting policy influence by CSOs (Mendizabal et. al., 2006). In Uganda, this is a critical challenge because the NRM commands overwhelming influence across the entire policy-making chain– i.e. in all organs of government and the state bureaucracy. As CSOs continue to be perceived as agents of the political opposition, the possibility to build trust and relationships with the NRM remains less likely. Without relationship-building, it may not be expected that CSOs can nudge the NRM towards embracing reform. It might be helpful that CSOs draw a lesson from the conclusion of the 2006 ODI study that 'policy engagement can often have a greater impact than contestation' (ibid.).

## Civil Society Capacity

The major issue related to civil society capacity is the general understanding of government policy processes and an appreciation of powerholders and influencers of public policy as well as skills in citizen-state bargaining. Following successive support schemes from international benefactors, CSOs have gained considerable capacities for project cycle management as well as the ability to propose and present notable policy alternatives. There have been some positives, especially where CSOs have designed and collectively engaged in specific political and policy issues.

In the last decade, local civil society actors, including think-tanks and NGOs, have deeply engaged in public policy work that has given rise to considerable empirical evidence that has informed a series of policy debates and public discourses. The ACODE policy research series, the Situation Room Debate Policy Papers and the Economic Policy Research Centre have been at the forefront of developing and publishing specific, policy-relevant information on public service delivery in Uganda. In addition, civil society actors have initiated and sustained several monitoring interventions<sup>30</sup> and public forums<sup>31</sup> to increase citizen engagement and influence on public policies in the country. According to one key informant for this study, 'the emerging challenge has resonated around the capacity to sustainably engage policymakers to use the evidence generated from policy research to inform public policy frameworks and consequently hold policymakers accountable.'

Following media reports of some of the worst corruption scandals<sup>32</sup> to have hit the country, civic actors in 2012 launched a campaign dubbed 'Black Monday' with a collective intent to mobilise citizen action against corruption in the public sector. The campaign, which brought together a multiplicity of CSOs, presented one of the most visible initiatives beyond the confines of 'workshop-based' advocacy, out to the public with a rallying call for citizens to wear black clothes every Monday as a sign of their individual resolve to shun corruption. The campaign further called upon Ugandans to boycott all businesses and enterprises of the corrupt and mobilised citizens to demand political action from the state against those stealing public funds. The Black Monday newsletter published every month was the banner of the campaign and saw CSOs distribute free copies highlighting the extent of corruption in figures as well as a rallying call for both citizens and the state. Several commentators have linked the Black Monday campaign to some notable developments around government response to corruption and improving probity in the management of public resources, such as the prosecution and eventual conviction of the Principal Accountant in the Office of the Prime Minister, Mr Geoffrey Kazinda. In 2013, the Permanent Secretary of the ministry came up with a proposal to partner with the Black Monday campaign to monitor and educate the public about the national budget, public accountability and governance.<sup>33</sup>

The Black Monday campaign espoused some approaches

that may explain its apparent gains. First, it was a collective initiative of multiple civic and anti-corruption actors, which enabled the campaign to transcend the dominance of logos and egos of CSOs and their respective leaders. Participating organisations utilised their collective resources, energies and technical capacities to drive the initiative. According to a key informant, 'the campaign demystified the idea of corruption by labelling it as *theft* and then clearly messaging the link between the *theft* of public resources and the quality of service delivery'. Second, the campaign identified and leveraged several influential activists to provide leadership. For example, religious leaders, such as the Muslim cleric Kasozi Idd Imam, the Catholic priest, Father Gaetano Batanyenda, and the Anglican Bishop MacLeod Ochola spread the message within their religious communities. Third, the campaign involved an issue of concern to the international development community, given that some of the public resources involved in the corruption scandals had been donated to Uganda as aid. According to one key informant, 'the loudness of the Black Monday campaign and the action taken by some development partners, such as the Irish Government, to suspend aid are partly responsible for pushing the Ugandan government to fast-track some of the reforms in public finance management.'

The capacity-related challenges encountered by CSOs in policy work tend to rotate around: (i) the capacity to look beyond logos and egos; (ii) the capacity to constructively engage bureaucrats; and (iii) the capacity to enlist buy-in from political actors in the ruling party. Further details of CSOs' capacity gaps are enumerated below:

- a) CSO competition, exemplified by what is referred to as the 'tradition of logos and egos', undermines CSOs'<sup>34</sup> capacity to work in harmony and sustain promising pro-reform initiatives such as Black Monday. It was observed by participants in the CSO consultative workshops that 'CSOs are competing for visibility and funding in the overly flooded CSO space, which results in CSOs leading different policy efforts to address the same issue, thus duplication and limited impact.'
- b) CSOs' capacity to proactively engage government bureaucrats and politicians was highlighted as inadequate. Government representatives in the PEA consultative workshops indicated that they typically learn of CSO policy proposals from the press, given that 'most of the CSO ideas are tabled in press conferences or in

<sup>30</sup> CSBAG and Uganda Debt Network budget monitors are examples.

<sup>31</sup> The State of the Nation, the People's Parliament and the Situation Room debates suffice as cases in point.

<sup>32</sup> Global Fund (2007) – US\$ 37 million; the purchase of 414 hectares of land by the then Prime Minister of Uganda at UGX 11 billion; the National Identity Scandal (2010) that resulted in a loss of UGX 19 billion; the compensations to businessman Bassajabalaba in 2011 worth UGX 169 billion and the Pension Scandal (2012) that resulted in government losing UGX 169 billion.

<sup>33</sup> See the Daily Monitor of 15 January 2014. <http://www.monitor.co.ug/News/National/Government-partners-with-Black-Monday-Movement/688334-2146354-g575mq/index.html>

<sup>34</sup> Refer to Larok, 2017.

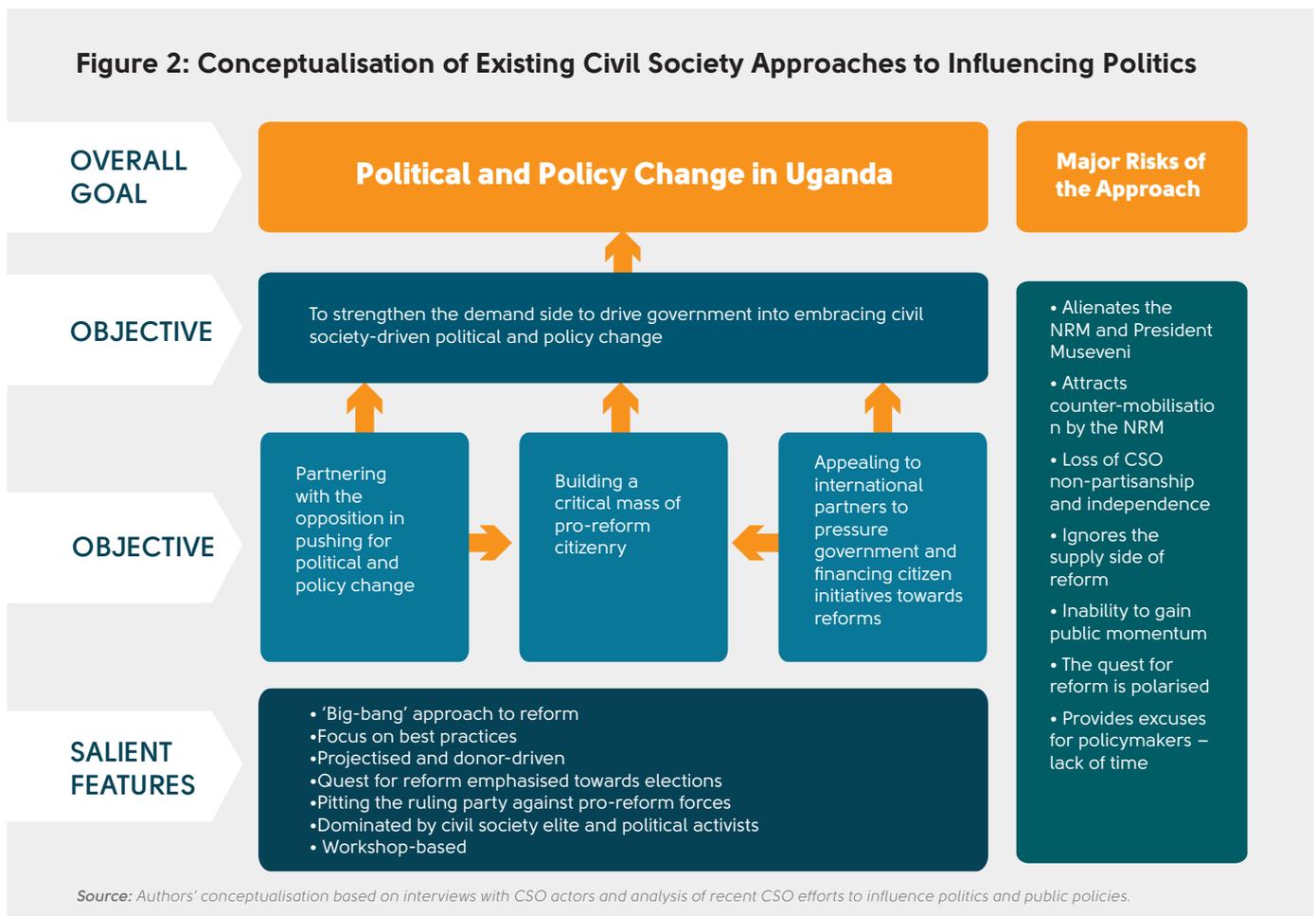
dialogues held among CSOs themselves with limited government participation.’ It was further argued that CSOs are mostly reactionary and only engage on policy issues after they have been tabled for discussion, particularly in Parliament or Cabinet. At this stage, it was argued, the government side would have already taken strong positions on a policy issue, making it more challenging to mobilise for change. The reactionary approach was contrasted with the untapped opportunity for CSOs to engage during earlier stages of policy development when the proposals are still emerging within the respective Ministries, Departments and Agencies (MDAs) of government.

- c) It was also noted that CSOs portray a limited appreciation of the formal and informal processes of government policy-making. It was, for example, pointed out that CSOs seem not to appreciate that politicians are largely influenced by the aspiration to retain office as well as the widely acknowledged existence of rent-seeking behaviour. Consequently, the decision logic of politicians is influenced by calculations of who has the power to influence their re-election as well as speculations of where the rents are likely to come from. On the contrary, CSOs focused on claiming the ‘moral high ground’, often accusing political leaders of ‘being self-seekers and corrupt’. This constrained the willingness of political leaders to engage with CSOs in policy work.
- d) CSOs lack a nuanced approach to critiquing government policies and legislation and often take a one-sided, offensive stand. In the words of one workshop participant, ‘it is often government versus civil society’. Government representatives argued for a cordial engagement with civil society, recognising the added value of CSOs such as generating evidence through policy research.
- e) CSOs often exhibit limited appreciation of the constraints under which government policymakers operate. This ranges from financial limitations to the interests of powerholders and the obligations under international agreements. CSOs were seen to be mooted best practice policy scenarios even where these were inapplicable to local contexts. In many instances, government officials questioned the feasibility of CSO recommendations.

# Conceptualisation of Existing Civil Society Approaches to Political and Policy Influence

This PEA provides an analysis of the intervention logic and approaches currently applied by civil society actors seeking to influence politics and public policies in Uganda. Based on interviews with civil society actors and the scrutiny of some of the recent civil society efforts to influence political and policy change, this PEA has been able to conceptualise existing civil society approaches, as illustrated in Figure 2. This paper then draws out the

major risks or challenges of the existing approaches which undermine CSOs' ability to influence politics and public policies. Through evaluating the limitations and a prudent reflection on the circumstances prevailing in Uganda, the paper then suggests an interest-based, incentive-compatible approach for civil society engagement in politics and public policy affairs.



Based on the above framework, recent reform initiatives by civil society actors have adopted a 'big-bang' approach focused on synergising with the opposition political parties to build the demand side of democratic reforms through civic empowerment of citizens. The grand idea is that, when a critical mass of pro-reform citizens is realised, EITHER the demand for reform will gain considerable public momentum that could no longer be ignored by the

government, OR civically competent citizens would vote out a non-responsive government. This approach was arguably used in 2015 when CSOs led a campaign for political reforms to engender free and fair elections and later in 2016 when they attempted to facilitate a coalition of the opposition political parties to put up a joint challenge to the NRM in the general elections. This paper problematises this approach in several ways.

<sup>35</sup> Kiranda, Y & Kitamirike, E (2016). *Uganda's Political Outlook Post the 2016 Elections: A Review of the Process and Implications for the Future of Multiparty Democracy. The Situation Room Uganda Debate Briefing Papers*, No 11 of 2016. IRI, UYONET, NTV, Kampala.

<sup>36</sup> See more at: <http://www.independent.co.ug/column/insight/10485-electoral-reforms#sthash.rCLs9wel.dpuf>

Using the campaign for free and fair elections and the resultant framework, dubbed the Citizens' Compact on Free and Fair Elections as an example, it is hereby noted that the CSO partnership with the opposition was problematic. It was viewed by the ruling party – the party holding the legislative majority in Parliament – as a strategy to 'increase the possibility of the opposition to effectively challenge the NRM'.<sup>35</sup> The NRM also viewed the CSO-opposition partnership as a ploy to incite citizens against the state and a deliberate manoeuvre to push the NRM to 'legislate itself out of power'.

As critical observers of the free and fair elections reform campaign, the authors noted its lack of inclusivity and the high level of intolerance, to the extent that the campaign's spokeswoman took to her social media page to celebrate the booing of an NRM representative by participants at the national conference held in Kampala to endorse the reform proposals. The NRM representative was attempting to argue against excluding President Museveni from the envisaged post-reform period as had been stated in the CSO-opposition proposals. The NRM representative, it was reported by the spokeswoman, had to leave the meeting, to the excitement of the participants. No wonder, therefore, that the ensuing reform proposals were torpedoed by the NRM once they were presented in Parliament, the space where the NRM was in charge, given that it enjoyed a comfortable majority. By booing NRM agents, CSO actors may have achieved the moral satisfaction of embarrassing those they consider to be on the wrong side of the reform aspirations but, in the process, they undermined the chances of achieving the goal of influencing reform.

There are several other limitations discernible from the free and fair election campaign which are also characteristic of other civil society efforts to influence public policy. The fact that the proposals were pushed for shortly towards elections meant that the reform agitators were to be confronted with an already polarised environment. This also gave the government an easy scapegoat. This was clearly articulated by the then chairperson of the Legal and Parliamentary Affairs Committee of Parliament, the Hon. Stephen Tashobya, who argued that 'there was no time to consider all the proposals that the committee received – suggesting that the amendments be handled by the next Parliament'.<sup>36</sup>

Further limitations related to the omnibus way in which the reform proposals were advanced as opposed to adopting an incremental approach. Citizen engagement was mainly through workshop-based sessions across the

14 sub-regions of the country. This was less likely to result in a critical mass of political reform-oriented grass-roots advocates that are required of a promising demand-driven approach to reform. In addition, there were limitations with the quality of messaging. The campaign failed to correlate how the proposed changes in electoral laws would translate into improved livelihoods for Ugandans, who were more concerned with 'bread and butter' issues and access to social services.

The unsuccessful bid by CSOs to influence the enactment of political reforms ahead of the 2016 polls was followed by a frantic attempt to facilitate a coalition of the opposition parties to jointly challenge the NRM in the polls under the umbrella of TDA. These efforts, too, were futile as the expected opposition coalition did not materialise. CSOs lost on three fronts: first, the NRM sustained its perception of a partisan civil society; second, the opposition started to lose confidence in civil society as a moderator of opposition efforts, as some opposition groups viewed the CSO representatives in TDA as favouring other opposition groups against them; and third, the position of civil society as a non-partisan actor was enfeebled further as they were now formally proved to be opposition-leaning.

This reality underlines the limited appreciation of the political economy of reform among contemporary civil society actors. In the end, the current processes have greatly undermined CSO-state relationship and stands to strongly curtail future CSO-led engagements for policy and political reforms. Any future CSO-led process would stand better chances if it focused on winning back the trust of the ruling NRM as well as deviating from the 'big-bang' approach. It should, instead, appreciate the need to pursue incremental change.

Scholars have argued that reform packages succeed or fail not simply because they are good or bad but rather by how powerholders and decision-makers assess the changes against their own interests (see North et al., 2009). This suggests that it would be no more than wishful thinking to design a reform package and promote it as a direct challenge to the NRM in a context where the party has a controlling majority in the legislature and where NRM decision-making is significantly controlled by the president.

In the next section, this paper attempts to propose an alternative approach to CSO policy engagement, one which considers the need to address both demand and supply conditions as well as to view the NRM and President Museveni as potential partners – not targets – in the pursuit for political or policy change.

<sup>35</sup> Kiranda, Y & Kitamirike, E (2016). *Uganda's Political Outlook Post the 2016 Elections: A Review of the Process and Implications for the Future of Multiparty Democracy. The Situation Room Uganda Debate Briefing Papers, No 11 of 2016.* IRI, UYONET, NTV, Kampala.

<sup>36</sup> See more at: <http://www.independent.co.ug/column/insight/10485-electoral-reforms#sthash.rCLs9wel.dpuf>

# Leveraging Opportunities: Rooms for Manoeuvre for CSOs Seeking to Influence Politics and Public Policies in Uganda

## Leveraging the Strength of the Old Civil Societies

This paper has referred to a comprehensive ecosystem of old civil societies with demonstrable policy influence, notably trade unions, co-operatives, business associations, cultural groups and religious groups. Caution is taken not to recommend outright donor funding for these types of organisations. Rather, the paper argues that it might be wise to allow these actors to maintain their current independence and systems of sustenance, which could possibly be a central factor in their influence.

Nevertheless, there can be considerable opportunities for new civil societies in the form of NGOs to build mutual relations with the old civic actors. These relationships need to be based on a clear understanding of the interests and incentives of the diverse actors. For example, business associations can play a strong role in bargains on trade-related policies while cultural groups have a strong influence on land matters. Building linkages with such CSO actors could additionally provide an entry point to mobilising citizen buy-in regarding certain policy reforms that they would otherwise be opposed to, for example the churches and the Marriage and Divorce Bill. Old civil societies tend to be socially rooted and have a stronger influence in communities.

It is, however, important to be aware that the old civil societies represent well-defined interests and, therefore, relationships with them should be based on the idea of building win-win scenarios as opposed to pushing through so-called international best practices.

## Drawing Distinctions between Citizen Consultations and Citizen Sensitisation

Consultation and sensitisation may be related but they are different processes: The former involves seeking people's viewpoints, while the latter concerns informing or educating people about something where they lack information or are assumed to do so.

Civil society consultations need to shift away from being mere information events to instead providing a platform

where citizens feel that they influence the emerging policy proposals even if what the people suggest may not be in sync with what CSOs or their benefactors consider progressive. It is stressed here that there ought to be no superior or inferior knowledge in policy dialogue. Knowledge should be a conversation where all ideas matter. Studies (e.g. Bernergie & Duflo, 2011) have established that poor people indeed know what they want and that indigenous communities have considerable ideas about what works and what does not work based on their long-term experiences in dealing with diverse challenges. Imposing ideas on people seldom works.

## Depersonalisation of the Pursuit for Change

It has been observed that the quest for political change in Uganda has been framed around the need to shift away from President Museveni (and probably NRM's) leadership to another president or party. This paper finds no merit in assumptions that leadership change will automatically deliver the political and policy change aspired for. The evidence from Uganda instead shows that successive leaders have ended up making the same mistakes given the perverse institutional context.

Secondly, the removal of President Museveni from power appears to be a tall order, given that Museveni and the NRM are deeply anchored in the policy-making framework and effectively control political shifts in Uganda. Therefore, rather than framing Museveni and the NRM as the targets of reform proposals, these influential actors could be mobilised as potential partners in the pursuit for change. This approach may not be as exciting, because, as it is expected, President Museveni and the NRM will have an interest in retaining power and, therefore, maintain the status quo. This fact, however, should not be construed as the absence of opportunities for engagement. There can be areas of mutual interest. If CSOs engage both the demand and supply sides of reform, the NRM could be persuaded to consider, in a gradual manner, political and policy changes. It is the considered opinion of this paper that reform packages that are framed outright as attempts to get the NRM out of power be discouraged, given the operative context.

## Building a Symbiotic Relationship between

## the State and Civil Society

Government is not merely an important stakeholder in any policy process; government is indispensable in public policy. While the role of civil society in challenging the state is appreciated and ought not to be compromised, policy influence can hardly be achieved without registering buy-in from government actors. It is, therefore, crucial that CSO actors establish ways of building a symbiotic relationship with government and the state bureaucracy as a way of harnessing the uptake of civil society research and policy proposals.

However, caution must be observed to ensure that relationship-building does not result in co-optation of civil society or that civil society gets perceived to be losing its independence. Therefore, a balancing act between mutual bargains and 'hard advocacy' needs to be considered. One idea that can be leveraged in this regard is to free advocacy and activism from, as Arthur Larok<sup>37</sup> (2017) argues, logos and egos, and let individual activists champion specific demands. CSOs can then play a critical role as interlocutors between the activists and the state on necessary reforms.

## Revisiting the Model of Civil Society Training

It has been observed that conventional civil society capacity-building initiatives focus on providing the hardware (office rent, computers, vehicles etc.). Furthermore, training missions for CSO actors are often based on short-term workshops mostly focused around project management. However, political and policy influence is a more complex and messy process that requires gradual learning based on experience-sharing and empirical learning from those at the heart of policy-making and policy influence.

This paper suggests strengthening the model of civil society training measures to embrace practical approaches such as fellowships and exchanges among diverse civic actors. Fellowship and exchange programmes can be between and among southern organisations as well as between and among northern and southern actors. It is also encouraged that the possibilities of fellowships with government entities be explored. The idea is to provide an opportunity for civic actors to learn first-hand how diverse actors engage in the complex business of policy influence whilst reflecting on whether certain approaches can fit the local contexts or how they can be adapted. Fellowships provide an opportunity for individuals to explore a topic in detail and go through a process of self-discovery regarding how to translate policy ideas into policy influence. Fellowship with government agencies can expose CSO

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actors to the complexity of public management.

## Building a Better Understanding of Stakeholders in the Reform Process

Human rights-based approaches emphasise the need to give all stakeholders an opportunity to contribute to the reform debate and to consider the voices of all. However, there is need to appreciate the reality of policy change where different stakeholders have different levels of influence. There are those who can make good suggestions for reform; there are also those with the capacity to push through a reform proposal; then there are those with the capacity to block it.

For example, this paper has attempted to articulate the influence of the NRM and President Museveni and their ability to veto reform proposals they do not agree with. Therefore, civil society actors seeking to impact on policy change need to develop sophisticated ways of dealing with these kinds of stakeholders. This may involve making trade-offs that could potentially displease other stakeholders, such as the political opposition. It is stressed here that it is not enough to engage lower-level NRM leaders or opinion leaders and assume the NRM has, thus, been involved, as was the case with the free and fair elections campaign. This paper has demonstrated that the NRM's power is centred at the top, and therefore it is important to engage the NRM from the top.

## Reconsidering the Approach to Civil Society Financing

It has been argued in this paper that the existing model of civil society financing is premised on contributing to pre-defined goals, interventions and outputs that are largely determined by the donors. Projects by CSO actors are basically sub-interventions of donors' master projects or programmes, which essentially define the goals, the types of actions that can be supported, and the outputs the projects must contribute to. Some donors have narrowed the space even further by demanding that partners contribute to specific indicators and 'do not even allow the partners to revise these indicators. This approach tends to kill innovation and creativity and limits the capacity of CSOs to deal with local priorities. In a way, civic actors have transformed themselves into third-party contractors who only present bids to assist donors in delivering on the goals that have been pre-defined by the donors. As a result, CSOs promote several political and policy proposals or approaches which are out of sync with local contexts, some of which are not feasible.

There is no need to be oblivious of the fact that aid cannot be free of the interests of the donor. William Easterly makes a clear articulation of this fact in his 2014 book, *The Tyranny of Experts*. However, there must be genuine flexibility to enable local actors to influence the direction of the interventions and the change aspired for. Civil society support should be based on a process of eye-level bargaining between the donors and the benefactors.

## Social Rootedness and Accountability of CSOs

There is urgent need to revisit the model of NGO-led civil society growth. The professional approach employed by NGOs is itself value addition to civic activism and, as Okuku (2002) notes, they increase pluralism within civil society. However, without social roots, NGOs become no better than third-party contractors for donor programmes. In this way, principal-agent problems emerge as NGOs occupy a privileged position where they define to the donors what community interests are and to the citizens what donors can fund or not fund. The information asymmetries associated with this kind of relationship spawns a powerful class of civil society elite – and has the potential risk to prop up ‘civil society entrepreneurs’ who tend to be unaccountable to their assumed beneficiaries.

Social rootedness would require that NGOs develop frameworks where communities can influence not just their programmes but also their management. And NGOs need to be accountable to communities.

Donors, who are currently the mainstay of NGOs, can play a role in building the incentives for stronger NGO accountability to communities. One lever which donors can employ is that of increasing transparency around financial transfers to NGO partners. The benefits of disclosing the amount of funds that have been made available for an intervention can be high despite some potential risks. These approaches have been employed in government donor-funded programmes such as Universal Primary Education (UPE) and they are noted to have improved accountability in these programmes. According to Bernerjje and Duflo (2011), initially 15 per cent of UPE funds were reaching schools, this figure increased to 83 per cent once the finance ministry started to publish the releases for every school in the newspapers.

During the first public presentation of this report CSO actors argued that they make financial returns to government in accordance with the law, and that government bears the duty of reporting to the citizens. The authors argue that the direct publication of financial transfers to NGOs can only help to address the challenges of information asymmetries, improve transparency and

enable beneficiaries to monitor NGO investments from an informed position. It is also stressed here that once NGOs receive public funds in the form of donor grants, they NGOs become duty bearers with a responsibility to account to the Ugandan people for whom donor funding is ultimately intended.

## Towards a Revised Conceptual Approach to Civil Society Political and Policy Engagement

CSO and political actors ought to appreciate that advocating political and policy reforms in a hybrid political setting like Uganda requires viewing the demand and supply of change as two sides of the same coin. While it is important to mobilise public demand for political and policy change, it is just as important that influential decision-makers are mobilised in the same measure to appreciate the value of the proposed changes as well as to answer the question: What is in it for them? Reforms produce winners and losers and potential losers are likely to block the reform, especially where they have the power to do so. In Uganda, President Museveni and the NRM have the power to block change. Yet this report finds that there are limited efforts made by CSOs to engage or negotiate with the president or his allies on the need for change.

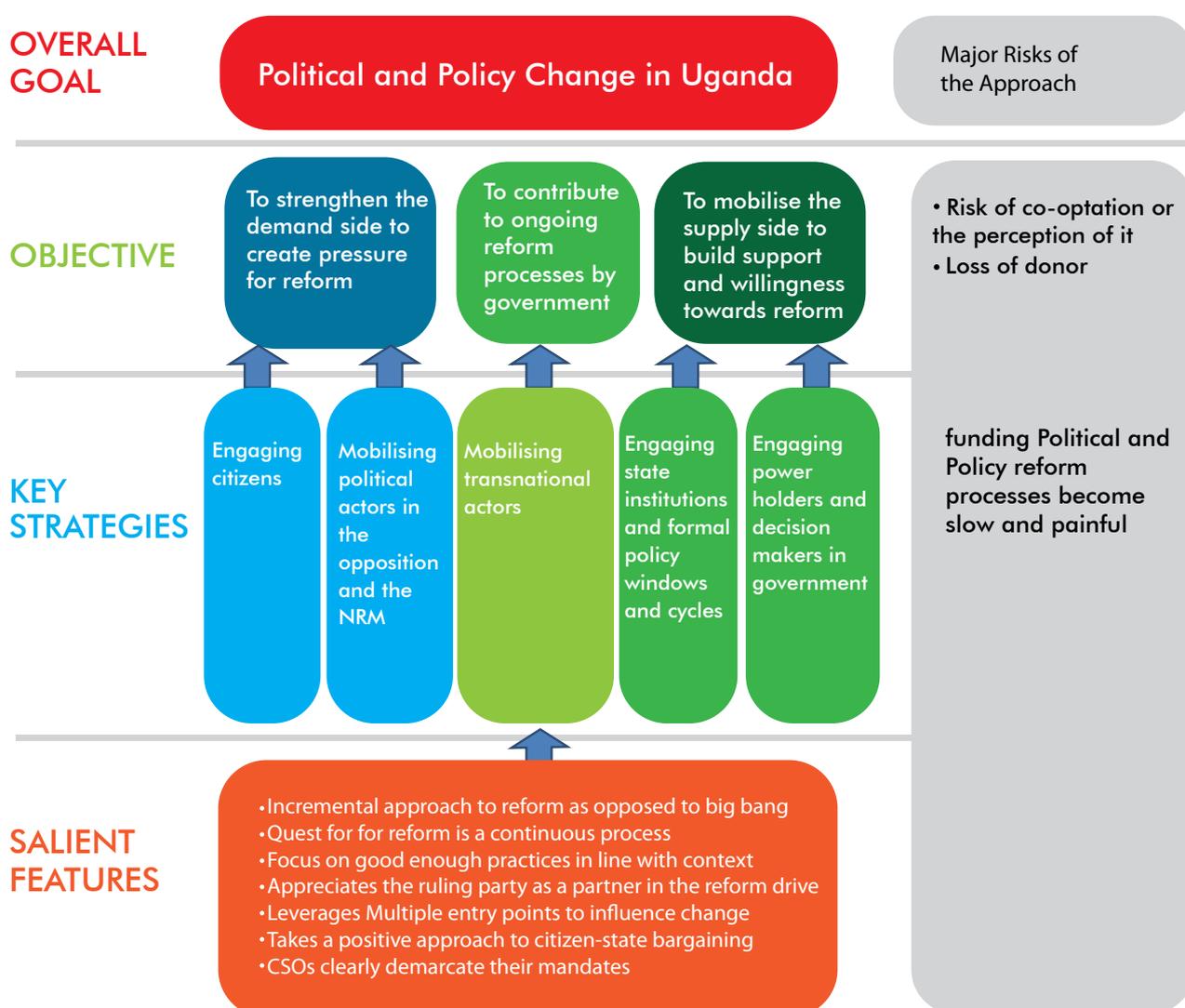
Second, the demand-driven approach to reform is good but only works if there are structured mechanisms to build and facilitate pro-reform advocates across the country through which knowledge trickledown will happen. Thus, CSO efforts for political and policy reform must go beyond organising workshops for a few representatives of communities at sub-national or district level to coming up with a structured process that ensures that reform messaging resonates with the challenges and aspirations of the ordinary citizens. The assumptions that all people coming to attend a workshop have the same motivation and commitment to trickle down the information gained is an over-simplification as some participants’ incentives may be shaped by different expectations from the workshops, such as allowances and networking opportunities.

Third, there is a need to shift away from approaches where interventions are ‘projectized’ and only implemented towards elections. During such periods citizens and decision-makers tend to be polarised. Therefore, reform proposals are hardly construed as non-partisan endeavours that seek to foster the common good.

Last, but not least, CSOs often discount the capacity of the NRM to counter the agitation for change. The NRM often deploys its patronage system and de-campaigns CSOs and, as such, undermines the possibility of generating public support for CSO-led proposals for reform.

Going by this analysis, this paper proposes a revised theory of change for CSO actors seeking to influence politics and public policy, one which would look like the illustration in Figure 3.

**Figure 3: The Demand and Supply-Driven CSo Approach to Political and Policy Influence**



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