

APPRAISAL OF THE LEGAL REGIME FOR NON-GOVERNMENTAL
ORGANISATIONS IN UGANDA

BY

OKELLO STEPHEN

LLM/38817/123/DU

A

DISSERTATION

PRESENTED TO THE

COLLEGE OF HIGHER DEGREE AND RESEARCH

KAMPALA INTERNATIONAL UNIVERSITY

KAMPALA, UGANDA

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE AWARD OF DEGREE OF MASTER OF LAWS

IN

PUBLIC INTERNATIONAL LAW

NOVEMBER 2014

Supervisor



MR. TAJUDEEN SANNI

DECLARATION A

I, **OKELLO STEPHEN**, hereby declare that this dissertation is my original work and has never been presented or submitted to any Higher Institution of Learning or University for any form of Award.


Name of Student : Okello Stephen

Reg. No. : LLM/38817/123/DU

Signature.....Dated this..... day of*NOVEMBER*..... 2014.

APPROVAL

I confirm that the work reported in this thesis was conducted by the candidate under my supervision

Tajudeen Sanni 

Name and signature of the supervisor

8 - 11 - 19

Date

DEDICATION

I dedicate this Dissertation to; my parents, Mr. Oyukutu Valente and Mrs. Oyukutu Denis; my wife, Mrs. Aciko Jennifer; my three sons, Kayomirwoth Armstrong, Obedirwoth Gabriel and Akenda Ethan; my brothers and sisters; my Employers and Colleagues at the Ministry of Internal Affairs, more especially the Board members and staff of the National NGO Board; all my friends and relatives.

ACKNOWLEDGEMENT

I would like to thank and express my deepest appreciation to the following people who provided me with the possibility to complete this dissertation; my wife, Mrs. Aciko Jennifer, for her love, kindness and support she has shown me during these months it has taken me to finalize this dissertation; my parents for their endless love and support; Mr. TajudeenSanni, for his assistance, guidance and supervision with my paper; the Ministry of Internal Affairs, and more especially the National NGO Board, who availed me the environment and access to use all the required equipment and the necessary materials to complete this dissertation; Mr. Larok Arthur, from Action Aid Uganda, who availed me a lot of useful material on NGOs and the regulatory framework.

LIST OF STATUTES/ INSTRUMENTS

1st Protocol to the European Convention of 1952

African Charter on Human and Peoples' Rights of 1986

American Convention on Human Rights of 1969

Companies Act Cap, 2012

Constitution of the Republic of Uganda of 1995

Constitutional (Amendment) Act of 2006

Employment Act of 1977 and 2006

European convention on Human Rights of 1950

Income Tax Act, Cap 340 of 1997

International Covenant on Civil and Political Rights of 1966

Local Government Act of 1997

National NGO Policy of 2010

NGO Act, No. 24 of 2002, Tanzania

NGO Registration (Amendment) Act of 2006

NGO Registration Act Cap 113

NGO Registration Regulations of 1990

NGO Registration Regulations of 2009

Public Benefit Organizations Act, 2013 No. 18 of 2013 of the Republic of Kenya

Trustees Act Cap 164

Trustees Incorporation Act Cap 165

Universal Declaration of Human Rights of 1948

Value Added Tax Act, Chapter 349 (1997)

Value Added Tax (Amendment) Act (2005).

LIST OF CASES

Amnesty International Vs. Sudan, ACHPR Commn. No. 48/90

Amnesty International Vs. Zambia, ACHPR Commn. No. 212/98

COWE V. Attorney General, HCCS No. 194/ 2004

Freedom and Democracy Part (OZDEP) V. Turkey, 31, Eur. Ct. H.R. 27 (1999)

Human Rights Network, Anti Corruption Coalition Uganda, Advocates Coalition for Development Environment, DENIVA, NGO Forum, Uganda Women Network, Uganda Land Alliance and Environmental Alert V. Attorney General, Constitutional Petition No. 5 of 2009

Malawi African Association Vs. Mauritania, ACHPR Commn. No. 54/91

Sidiropoulos and others V. Greece, 4, Eur. Ct. H.R. 500 (1998)

Sir Dawda K. Jawara Vs. Gambia, ACHPR Commn. Nos. 145/95

World Organisation Against Torture & Others Vs Zaire, ACHPR Commn. Nos. 25/89, 47/90, 50/91 and 100/93

ABSTRACT

The dissertation gives a historical background of NGOs globally and in Uganda. It then identifies the regulatory framework of NGOs at the international, regional and local levels, indicates why NGOs need to be regulated. The dissertation then goes on to evaluate NGO laws and operations of NGOs in Uganda. It highlights the challenges and problems arising despite the NGO Registration Act being in place, and also examines the different aspects of NGO law in Uganda, and the gaps therein. The Dissertation then concludes and recommends on the legal regime of NGOs in Uganda.

LIST OF ACRONYMS AND ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights
CBO	Community Based Organisation
COWE	Caring for Orphans, Women and the Elderly
CSO	Civil Society Organisation
DENIVA	Development Network of indigenous Voluntary Associations
DNMC	District NGO Monitoring Committee
DTPC	District Technical Planning Committee
EAC	East African Community
FBO	Faith Based Organisation
ICCPR	International Covenant on Civil and Political Rights
INGO	International Non-Governmental Organisation
MFPED	Ministry of Finance, Planning and Economic Development
MIA	Ministry of Internal Affairs
NGO	Non-Governmental Organisation
OPM	Office of the Prime Minister
PEAP	Poverty Eradication Action Plan
QuAM	Quality Assurance Certification Mechanism
RDC	Resident District Commissioner
RENGO	Regional Non-Governmental Organisation
SNMC	Sub County NGO Monitoring Committee

UDHR Universal Declaration of Human Rights

URSB Uganda Registration Services Bureau

TABLE OF CONTENTS

	Page
PRELIMINARIES	
Declaration A	i
Declaration B	ii
Dedication	iii
Acknowledgement	iv
List of Statutes/ Instruments	v
List of Cases	vi
Abstract	vii
List of Acronyms and Abbreviations	viii
CHAPTER ONE	
General Introduction	1
Background of the Study	1-2
Statement of the Problem	2-4
Purpose/ Significance/ Rationale of the Study	5
Scope of the Study	5
Objectives of the Study	5-6
Research Questions	6
Assumptions	6

Limitations	6
Clarification of the Key Terms	7-8
Literature Review.....	8-16
Methodology.....	16

CHAPTER TWO

Regulatory Framework for NGOs in Uganda	17
Rationale for Regulation of NGOs	17
International and Regional Instruments on NGOs	17-19
Local Instruments	19-25
Institutional Framework	25-28
Procedure for registering NGOs	28-30
Transparency, Accountability and Self-regulation by NGOs	30-31

CHAPTER THREE

An Examination of the NGO Laws and operations of NGOs in Uganda	33-42
---	-------

CHAPTER FOUR

Conclusion	43
Recommendations	44-46

Bibliography 47-48

CHAPTER ONE

1.0 General Introduction

This chapter covers the background of the study, statement of the problem, purpose/ significance/ rationale of the study, scope of the study, objectives of the study, research questions, assumptions, limitations, clarifications of the key terms, literature review and the methodology.

1.1 Background of the Study

Civil society refers to a range of non-state and not-for-profit organisations.¹ A civic act is nothing but a group of people coming together to solve common problems, and civil society is one in which people are free to form groups to engage in civic actions.² An NGO is an example of a civil society organisation.

Over the past decades, NGOs have become major players in the field of international development. Since the mid-1970s, the NGO sector in both the developed and developing countries have experienced exponential growth. From 1970 to 1985, total development disbursed by NGOs internationally increased tenfold.³

In Uganda, most NGOs were originally charity-driven religious institutions. However, with the onset of the NRM Administration in Uganda (from 1986), there was an explosive growth in the number of NGOs, especially in the service delivery sectors, such as, health, education, microfinance, roads, water and sanitation, agriculture etc.⁴ Over the years, this expanded to include; advocacy in areas of human rights and civic rights; integrity and accountability in public offices; good governance and democracy; lobbying and research etc.

There was no specific law in Uganda regulating NGOs before 1989. NGOs intending to operate in Uganda, mainly international NGOs, registered either as

¹Michael Edwards, (2010) '(DIS) Enabling the Public Sphere: Civil Society Regulation in Africa [Volume 1]', page 226

²Reading material-ITEC Training Programme "Governance and management of NPOs/NGOs" at EDI India, pg. 3

³<http://www.globalissues.org/article/25/non-governmental-organizations-on-development-issues.html>

⁴<http://www.gprg.org/themes/t5-govrn-norms-outcms/inst-dev-ugan.html>

Companies limited by Guarantee⁵ or they just appointed their trustees and incorporated them⁶ so that they would act on behalf of the unregistered organisations.

However, after 1986, there was a steady increase and growth of the number of NGOs.⁷In the late 1980's, the Government of Uganda felt that there was a need to have a specific law to regulate NGOs, so as to harmonize and streamline their operations. The Government decided that all NGOs operating in Uganda should be registered with the Ministry of Internal Affairs. This policy decision to manage this fast-growing sector, through registration with a National NGO Board, was enacted into law in 1989.⁸ This law was amended in 2006.⁹

The total number of NGOs registered with the Ministry of Internal Affairs was about 3,500 in 2000/2001,¹⁰ much bigger than the number of registered Private Sector establishments (about 2500).¹¹There were 11,000 registered NGOs, according to the register at the National NGO Board Secretariat by the end of December 2013, though that number doesn't represent the operational ones.

1.2 Statement of the Problem

The main law regulating NGOs in Uganda is the NGO Registration Act Cap 113 of 1989. This Act, was enacted in 1989 without a widely consulted National Policy for NGOs being in place. Upon its enactment in 1989, it established an NGO Regulatory Body at the Ministry of Internal Affairs called the National NGO

⁵Section 3(2)(b) of the Companies, 2012

⁶Section 1(1) of the Trustees Incorporation Act Cap 165

⁷NannaThue, Apollo N. Makubya and Maureen Nakirunda (July 2002): 'Report of a study on the civil society in Uganda by the Royal Norwegian Embassy, Chpt. 5.

⁸ The NGO Registration Act Cap 113

⁹ The NGO Registration (Amendment) Act of 2006

¹⁰According to the 2000/2001 Register at the NGO Board Secretariat

¹¹According to the 2000/2001 Register at the Company Registry

Board.¹²The mandate of the Board was to register, regulate, coordinate and monitor all NGOs in the country¹³.

The Act provided the functions¹⁴ and powers¹⁵ of the Board and also established a secretariat for the NGO Board in the Ministry of Internal Affairs, headed by a Secretary to the Board.¹⁶No NGO was supposed to operate in Uganda unless it had been duly registered with the Board and with a valid permit to operate.¹⁷

The Act also gave NGOs which did not want to register under it, the freedom to register with Uganda Registration Services Bureau, under the Companies Act, as companies Limited by Guarantee, or with the Ministry of Land, Housing and urban Development, by appointing their trustees and incorporate them under the Trustees Incorporation Act.¹⁸

One would have expected that with such an Act now in place, establishing an NGO Regulatory Body¹⁹, with a clear mandate in place, the regulation of NGOs in the country would be more harmonized and streamlined.

However, NGOs have continued to challenge the NGO Registration Act that it is restrictive; does not provide a conducive and enabling environment for NGOs; does not promote and improve the capacity of NGOs; and does not promote dialogue and a mutual relationship between the NGO sector and Government.

¹² Section 4 of the NGO Registration Act

¹³Section 7 of the Act

¹⁴ Section 7 of the Act

¹⁵ Section 8 of the Act

¹⁶ Section 6 of the Act

¹⁷ Section 2(1) of the Act

¹⁸ Section 2(1a) of the Act

¹⁹ Section 4 of the Act

They allege that the Act focuses more on controlling the sector instead of working with it as partners in development and helping it grow.

In addition to that, the continued existence of multiple registration centres for NGOs under different laws like the Companies Act for Companies Ltd by Guarantee and the Trustees under the Trustees Incorporation Act, has also brought about a lot of confusion. This confusion has been exploited by some NGOs. For instance, Companies limited by guarantee refer to themselves as NGOs during their operations but each time they are being monitored or investigated for anything, they then hide under the shield of being companies limited by guarantee under the Companies Act. Under these laws, more focus is given to the issuance of incorporation certificates by their registration centres. Since the certificates of incorporation are issued only once, and are not renewable, these registration centres do not get to monitor or evaluate what these organisations are actually doing on the ground.

The sector is also beset by a number of incidences and problems due to their fast growth and unchecked increase, including: non-registration with the NGO Board (and/or districts) - the population picture is incomplete; existential uncertainties, including incidences of phantoms (non-existent NGOs), ghosts (non-performing or 'dead' NGOs), delinquencies (not performing according to declared mandates and objectives); data paucity; and poor policy framework; fake or shell NGOs; NGOs defrauding people; NGOs engaged in illegal activities; NGOs posing a security threat etc.

There are a number of downtrends to the NGO Sector which call for decisive and firm action, much as there is an Act in place and a National NGO Board, with a clear mandate. One can clearly see that there is a problem that needs a solution. The issue is whether the problem stems from the Act and the other NGO laws or their enforceability. Unless the problem is properly analyzed, and a solution found, the Act and the other NGO laws may fail to achieve their purpose.

In 2006, the act was amended²⁰ but that still did not solve the problem. In October 2010, the Cabinet approved the first National NGO Policy, that had been widely consulted amongst all the concerned stakeholders. However, one wonders whether that solves the problem as an everlasting solution, or there are other solutions needed.

1.3 Purpose/ Significance/ Rationale of the Study

The importance of this research was to assess the laws regulating NGOs in Uganda, specifically, the NGO Registration Act, whether the purpose for which they were enacted, had been achieved and whether they also cater for the interest of the sector they regulate. In case they have not achieved their intended purpose or catered for the interest of the sector, the research would identify the factors that had caused that, and then come up with a conclusion and recommendations on whether the laws need amendment or strengthening or their enforcement needs to be improved and how.

This research will help all the concerned stakeholders, who include the Government, the NGO Sector, Development partners, the media, private sector, research and academic institutions, and the people of Uganda etc, identify the problems and challenges that have continued to exist much as a specific Act for NGOs in Uganda exists. They will appreciate the fact that for Uganda to; create an enabling environment for its NGOs; and check the incidences arising out of the multiple NGO registration centres and the rapid increase of NGOs in the country, something needs to be done about the NGO laws, to be able to check, streamline and harmonize the operations all NGOs in Uganda. The research will come up with those recommendations that will help the laws achieve their purpose, either by curing the lacunas in them through amendments or improving their enforceability, so as to create an enabling environment for all the NGOs in the country.

²⁰ The NGO Registration (Amendment) Act of 2006

1.4 Scope of the Study

The geographical scope of the study was the Republic of Uganda, with a timeline of up to December 2013 and not later than that.

1.5 Objectives of the Study

1.5.1 General Objective

To study the Legal Regime for Non-Governmental Organisations in Uganda.

1.5.2 Specific Objectives

1. To determine the regulatory framework of NGOs in Uganda
2. To determine the level of the mandate of the NGO Laws
3. To determine the level of operations of NGOs vis-a-vis the NGO Laws
4. To determine whether the NGO laws have achieved their purpose

1.6 RESEARCH QUESTIONS

1. What is the regulatory framework for NGOs in Uganda?
2. What is the level of the mandate of the NGO laws?
3. What is the level of operations of NGOs?
4. Have the NGO laws achieved their purpose?

1.7 Assumptions

It is assumed that due to the lacunas in the NGO laws and failure to enforce the existing NGO laws, the multiple registration centres for NGOs in Uganda, lack of capacity of the National NGO Regulatory Body that was established by an Act of Parliament, the rapid increase of NGOs in Uganda and hence failure to check their operations and performance, has led to all the unfortunate incidences involving NGOs in the country of late.

It is assumed that when the casual factor is addressed, the effect will be solved and brought to an end.

1.8 Limitations

- i. A short time period of research and since the data collection procedure, is time consuming and takes a longer time, especially in critically analyzing the data, it will not allow the gathering of data beyond the stipulated time.
- ii. Personal biases and idiosyncrasies might influence the results.

1.9 Clarification of key terms

An **NGO** is an organization not belonging to or associated with any Government.²¹ NGOs are private organizations that pursue activities to relieve suffering, promote the interests of the poor, protect the environment, provide basic social services, or undertake community development.²² In wider usage, the term NGO can be applied to any non-profit organization which is independent from government. NGOs are typically value-based organizations which depend, in whole or in part, on charitable donations and voluntary service. Although the NGO sector has become increasingly professionalized over the last two decades, principles of altruism and voluntarism remain key defining characteristics²³.

In Uganda, an **NGO**, is any legally constituted private, voluntary grouping of individuals or associations involved in community work which augment Government work but clearly not for profit or commercial purposes.²⁴

²¹ Oxford Dictionary of English, Second Edition Revised

²² The World Bank Definition, in 'Working with NGOs, A Practical Guide to Operational Collaboration between the World Bank and Non Governmental Organisations, Operations Policy Department, World Bank, March 1995, Page 13

²³ The United Nations Economic Commission for Europe, 2006

²⁴ The National NGO Policy, 2010, Situational Analysis of the NGO Sector in Uganda, 2.3, Definitions, Pg 12

A Community Based Organisation means a non governmental organization operating at sub county level and below, whose objective is to promote and advance the well-being of its members or the community.²⁵

1.10 Literature Review

1.10.1 Introduction

It covers what the International, regional and local instruments provide on this particular study. It also covers what some Case laws have decided and what previous authors, experts and scholars have written on this subject. It states their concepts, opinions and ideas.

1.10.2 International, Regional and Local Instruments

International, Regional and Local Instruments, all provide for the fundamental freedom of association. Internationally, there is the Universal Declaration of Human Rights of 1948²⁶ and the International Covenant on Civil and Political Rights of 1966²⁷. Regionally, the African Charter on Human and Peoples' Rights of 1986²⁸. The Treaty of the East African Cooperation (EAC), which forms the East African Community, advocates for the promotion of an enabling environment for NGOs²⁹. Uganda, is part of the East African Community, which comprises of; Uganda, Kenya, Tanzania, Rwanda and Burundi. Locally, the Uganda Constitution of 1995³⁰. The Constitution also provides for the

²⁵ Section 7(3) of the NGO Registration Act Cap 113 and The National NGO Policy, 2010, Situational Analysis of the NGO Sector in Uganda, 2.3, Definitions, Pg 13

²⁶ Article 20

²⁷ Article 21 and 22

²⁸ Article 10

²⁹ Article 127

³⁰ Article 29(1)(e)

fundamental freedoms to Ugandan citizens to engage in peaceful activities aimed at influencing the policies of Government through civic organisations³¹. Uganda has also ratified those International Instruments.

Other laws that regulate NGOs in the country are; the NGO Registration Act Cap 113, the NGO Registration (Amendment) Act of 2006, the NGO Registration Regulations of 2009, the National NGO Policy of 2010, the Companies Act Cap 110, the Trustees Incorporation Act Cap 165, the Local Government Act Cap 243, the Income Tax Act Cap 340 etc.

1.10.3 Case Law

Case law also provides for freedom of association and identifies the key principles on the NGO laws.

Every individual shall have the right to free association provided that he abides by the law.³²In **World Organisation Against Torture and Others Vs Zaire**,³³Communications 47/90 and 100/93 detail the restriction by the government on the number of political parties, in effect permitting only supporters of the regime. These opposition parties were not permitted to meet in public or private and there was evidence that the government attempted to destabilize these groups by harassment. In addition, human rights groups were prevented from forming and establishing bodies in certain areas and were unable to hold education courses on human rights issues. For those reasons, the Commission held that the facts constituted serious or massive violations of the African Charter, namely article 10.1.

In **Amnesty International Vs. Zambia**,³⁴the complainant alleged that in deporting the two men, the government of Zambia had denied them the exercise

³¹ Article 38(2)

³²Under article 10, of African [Banjul] Charter on Human and Peoples' Rights

³³ACHPR Commn. Nos. 25/89, 47/90, 56/91 and 100/93

³⁴ACHPR Commn. No. 212/98

of their freedom of association. This was so since they had been prevented from associating with their colleagues in the United National Independence Party and participating in their activities. For those reasons, the Commission **held** that there had been a violation of Article 10 of the African Charter.

In **Sir.dawda K. Jawara Vs. Gambia**,³⁵ the Commission found that the banning of political parties, was a violation of the complainants' rights to freedom of association guaranteed by Article 10(1) of the African Charter. In its decision on Communication 101/93, the Commission stated a general principle on this right, to the effect that "*Competent authorities should not enact provisions which limit the exercise of this freedom. The competent authorities should not override constitutional provisions or undermine fundamental rights guaranteed by the Constitution and International Human Rights Standards*". And more importantly, the Commission in its Resolution on the Right to Freedom of Association also reiterated that "The regulation of the exercise of the right to freedom of association should be consistent with States' obligations under the African Charter on Human and Peoples' Rights". This Principle does not apply to freedom of association alone, but to all other rights and freedoms enshrined in the Charter, including, the right to freedom of assembly.

In **Amnesty international Vs. Sudan**,³⁶ in Sudan, the Process and Transitional Powers Act of 1989, prohibited, in section 7, effecting, without special permission, any assembly for a political purpose in a public or private place. This general prohibition on the right to associate in all places was disproportionate to the Government to maintain public order, security and safety. The Commission held that there was violation of Article 10. It recommended strongly to the Government of Sudan to put an end to the violation in order to abide by its obligations under the African Charter on Human and Peoples' Rights.

In **Malawi African Association Vs. Mauritania**,³⁷ some presumed supporters of the Ba'ath Arab Socialist Party were imprisoned for belonging to a criminal association. The accused were charged with belonging to a secret movement. The government did not establish the criminal nature or character of these

³⁵ACHPR Commn. Nos. 145/95, 149/96

³⁶ACHPR Commn. No. 48/90

³⁷ACHPR Commn.No. 54/91

groups. The Commission was of the view that any law on associations should include an objective description that makes it possible to determine the criminal nature of a fact or organization. In the case under consideration, the Commission considered that none of those simply rational requirements was met and there was a violation of Article 10(2) of the African Charter.

In *Human Rights Network, Anti Corruption Coalition Uganda, Advocates Coalition for Development Environment, DENIVA, NGO Forum, Uganda Women Network, Uganda Land Alliance and Environmental Alert V. Attorney General*³⁸, the NGOs in Uganda petitioned the Constitutional Court challenging provisions of the Act that require all NGOs to register with the NGO Board³⁹.

Apart from the National NGO Board, there are other registration centres for NGOs in Uganda. The Act gives NGOs the freedom to elect either to register under it, or under the Companies Act or the Trustees Incorporation Act.⁴⁰ These multiple registration centres for NGOs have created a challenge when it comes to monitoring and keeping track of the activities of NGOs. Many NGOs have exploited that.

An example is of COWE, an NGO that had conned unsuspecting community members of considerable amounts of money all over the country, until when they were deregistered by the NGO Board, dragged the Government to Court asking for compensation of millions for being deregistered, in *COWE V. Attorney General*⁴¹. In the investigations into the conduct of COWE, there was overwhelming evidence and it was clear that the NGO not only committed the vice it was accused of but also was not transparent in the way it conducted its affairs. After being deregistered under the Act, COWE reregistered under the Companies Act as a Company Limited by Guarantee.

³⁸ Constitutional Petition No. 5 of 2009

³⁹ Section 2 of the Act

⁴⁰ Section 2(1a) of the Act

⁴¹ HCCS No. 194/ 2004

Another example is that, some of the over 15 NGOs implicated in the countrywide corruption scandal regarding the Global Fund for HIV/ AIDS, tuberculosis and malaria, were actually not registered with the NGO Board but as Companies Limited By Guarantee. Many NGOs know that they are not monitored under the Companies Act and they can easily acquire the incorporation certificate without being thoroughly vetted.

Currently, there is also an ongoing case in the High Court of Uganda, where NGOs are challenging the requirement that NGOs should submit annual returns⁴². They are advocating for freedom to operate without having to file returns.

1.10.4 Concepts, Opinions and ideas from authors or experts

1.10.4.1 LarokArthur,⁴³ states that the legal regime for NGO operations in Uganda looked at from the NGO Act, as amended in 2006 and connected regulations is restrictive is uncontested. However, the reason and explanations for this state of affairs is less clear, in part because predominant focus and analysis has been on the narrow confines of the law itself, rather than the wider political, social and economic context under which the NGO law is embedded. The unsurprising conclusion from several analyses has therefore been that Uganda's NGO Legal and regulatory regime, in comparison to 'international best practice' and 'generally acceptable standards' of NGO legislations elsewhere, is draconian and repressive.

Unlike previous analysis on this subject, in this paper, we place as a departure point, the need to locate the discourse on the legal operating environment for NGOs in the wider political and governance context because the former is a sub-

⁴² Regulation 16 of the NGO Registration Regulations of 2009

⁴³ Larok, Arthur (2010): Abstract of 'Protecting the tree or saving the forest – A political Analysis of the Legal environment for NGOs in Uganda and an agenda for the future' Pg. 6.

Michael Edwards, (2010) '(DIS) Enabling the Public Sphere: Civil Society Regulation in Africa [Volume 1]'

part of the latter. Adopting a historical perspective, we illustrate that the present hullabaloo about the legal operating environment for NGO operations in Uganda is a consequence of a history of colonial, post colonial and contemporary state formation anchored around the insatiable quest by the State to control society and actors within it – and NGO legislation is one way that the State expects to control the activities of NGOs to politically tolerable levels.

It therefore follows that the quest for a more enabling, legal, regulatory and policy environment for NGO operations must be sought for within the context of the bigger picture. Seeking to salvage the NGO operating space without a corresponding focus on reshaping larger governance and democracy trends is akin to ‘protecting a single tree while the forest is being devoured’.

1.10.4.2 The National NGO Forum and Deniva,⁴⁴ state that since Parliament passed the legislation, there have been mixed reactions and responses from both the proponents and opponents of the legislation. For some people in Government and other ordinary citizens, the legal and administrative restrictions on the operations of NGOs introduced by the NGO Amendment Act represents the long awaited missing link to “reign in” on NGOs that have hitherto been a threat to the security of the state of Uganda. On the other hand, other sections of the society especially within the legislated NGO Community consider April 7th, 2006, as a day to remember when the Parliament of Uganda legislated to roll back the democratic gains guaranteed under the 1995 Constitution. In addition, the legislation has the overall impact of narrowing down the operational space within which NGOs can mobilize to contribute to the development of Uganda including the promotion of a responsible and accountable government. Indeed, it is observed that the spirit of the Government, as evidenced by the nature of the debate in Parliament, in passing the NGO legislation, did not appreciate the role of civil society as a partner in development. Instead, the NGO Amendment Act, 2006 has been largely shaped by the apparent desire to control the bad elements

⁴⁴ National NGO Forum and Deniva (2006): Narrowing the Space for Civil Society Operations in Uganda – An Analysis of the Implications of the 2006 NGO Registration (Amendment) Act, pg 1-2, 9-10

within the NGO Sub sector. While it is important to appreciate that the civil society sector, like many others in the country, has been tainted by wrong elements, fictitious NGOs etc, this perception narrowed down the legislative objectives leading to the enactment of a legislation that will have far reaching consequences on the current partnership between NGOs and Government.

It is argued that in its totality, the Act falls far short of the fundamental legislative principles, such as partnership, mutual recognition and dialogue, which should inform civil society legislation. It is contended that the retrogressive nature of the NGO Registration (Amendment) Act, 2006 is inconsistent with the autonomy of civic organization and the constitutional guarantees of freedom and liberty embedded under the 1995 Constitution. It is also contended that the nature of the restrictions imposed by the Act are grossly inconsistent with Uganda's commitment under the Treaty Establishing the East African Community (EAC) and will as such impact negatively on the current efforts to fast track the East African Political Federation.

The NGO Registration (Amendment) Act, 2006 falls far short of the minimum standard for regulating civic organisations articulated in the Bill of Rights under the 1995 Constitution. For example, the National Objectives and Directives Principles of State Policy, inter alia, provide that "civic organisations shall retain their autonomy in pursuit of their declared objectives". Article 29 among other things, guarantees the fundamental freedoms of assembly, demonstration and the freedom of association including the freedom to form and join associations or unions, including trade unions, political and other civic organisations. In addition, civic organisations in particular NGOs, have provided the major platform for citizens to participate in the affairs of government as provided for under article 38. The nature of the constraints imposed on the formation, registration and operation of NGOs is a clear assault to these fundamental rights and freedoms embedded on the Constitution. It is contended that these restrictions go beyond what should be allowable and acceptable in constitutional democracy.

1.10.4.3 NGO Law Monitor: Uganda,⁴⁵ and the **Uganda: The International center for not-for-profit law,**⁴⁶ states that Civil society plays an active role in Uganda. For example, civil society spearheaded the reform of electoral laws ahead of the 2011 general elections through a coalition called Citizens' Coalition for Electoral Democracy in Uganda (CCEDU). Moreover, many civil society organizations in Uganda are dedicated to the protection of rights (e.g., African Centre for Torture Victims), which are rooted in international instruments or the Bill of Rights in Uganda's Constitution.

The legal framework for civil society, however, in Uganda is supportive only to the extent that the sphere of civil society activity is politically convenient to the Government. Civil society organizational forms include non-governmental organizations (NGOs) and community-based organizations (CBOs). The primary regulatory instruments are the *Non Governmental Organizations (Amendment) Act 2006 and the NGO Registration Regulations, SI 113-1, 1990*. Notably, the definition of NGOs under Article 1 of the NGO Act is narrow and limits available activity areas for NGOs. NGOs engaged in advocacy or public policy activities, for example, are therefore vulnerable to governmental supervisory action. Moreover, the operating scope for NGOs remains subject to governmental discretion.

Uganda's legal system is based on English common law and African customary law. Customary law governs to the extent it does not contradict the statutory laws, although the 1995 Constitution is the supreme law of the land.

1.10.4.4 The Winsor Consult, in their report,⁴⁷ stated that Uganda depends heavily on aid to fund public investment activities. Donor support comes in the form of general budget support, earmarked Poverty Action Fund (PAF) or sector budget support, donor projects support, technical assistance (short term and long

⁴⁵<http://www.icnl.org/research/monitor/uganda.html>

⁴⁶ http://www.icnl.org/research/journal/vol12iss2/special_8.html

⁴⁷The Winsor Consult, (September 2009) Report on Data Collection on Donor Support in Local Government and Development of a Toll for Tracking Donor support at Micro levels), Page 6-36, which was a result of a study instituted by the Ministry of Finance, Planning and Economic Development, carried out by Winsor Consult, a Consultancy Firm, and funded by the Belgian Technical Cooperation

term), humanitarian or emergency supplies especially in the war torn areas. Some donor support comes in kind. Most of this support, especially funding through budget support and project support to vote holding government institutions is reported in the Medium Term Expenditure Framework (MTEF) and the national budget, however there remains substantial amounts of donor funds that go unreported or are spent off-budget.

1.11 Methodology

The Research study was qualitative in nature, so I used armchair research. I preferred this method because I was providing new developments in a field that does not involve the collection of new data but rather, a careful analysis and synthesis of existent data.

The advantage of armchair research was that it saved a lot of effort, expenses, time and disappointment.

CHAPTER TWO

2.0 Regulatory Framework for NGOs in Uganda

2.1 Introduction

This chapter will cover the rationale for regulations of NGOs; the international, regional and local instruments in the regulation of NGOs; institutional framework from the national to grass-root levels for regulation of NGOs in Uganda; the procedure for registering NGOs in Uganda; and transparency, accountability and self-regulation by NGOs.

2.2 Rationale for Regulation of NGOs

International, regional and local instruments provide for freedom of association. In the enjoyment of that right and freedom, no person should prejudice the fundamental or other human rights and freedoms of others or the public interest.⁴⁸ In addition to that, NGOs still need to be regulated so as to; make it a legal entity that is recognized by all stakeholders; protect beneficiaries and particularly vulnerable beneficiaries; ensure that NGOs carry out lawful activities; get rid of briefcase NGOs set up for illegal purposes; ensure compliance by NGOs; act as a check on NGOs so as to instill public trust and confidence; curb possible threats to national security, like NGOs being used to promote terrorism, money laundering etc; protect public safety, order, health or morals; to protect the rights and freedoms of others etc.

These laws are supposed also be for the benefit of the sector. There are many reasons why a country should want to have laws that assure the existence of a strong, vigorous and independent civic sector. The most important of these is to protect the internationally recognized freedoms of expression, association and peaceful assembly. These freedoms are enshrined in international and regional

⁴⁸ Article 43(1) of the 1995, Uganda Constitution

agreements that bind most countries. In addition, the constitutions and the laws of many countries protect these fundamental freedoms.⁴⁹

2.3 International and Regional Instruments on NGOs

International, Regional and Local Instruments, provide for the fundamental freedom of association. Internationally, there is the Universal Declaration of Human Rights of 1948⁵⁰ and the International Covenant on Civil and Political Rights of 1966⁵¹. Regionally, the American Convention on Human Rights,⁵² the European Convention on Human Rights of 1950,⁵³ the 1st Protocol to the European Convention of 1952,⁵⁴ and the African Charter on Human and Peoples' Rights of 1986⁵⁵. The Treaty of the East African Cooperation (EAC), which forms the East African Community, advocates for the promotion of an enabling environment for NGOs⁵⁶. Uganda, is part of the East African Community, which comprises of; Uganda, Kenya, Tanzania, Rwanda and Burundi.

In **Sidiropoulous and Others V. Greece**⁵⁷, the European Court of Human Rights unanimously held that the refusal by Greek courts to establish a

⁴⁹Guidelines for Laws Affecting Civic Organisations (2004), Second Edition, Revised and Enlarged, Prepared for the Open Society Institute in cooperation with the International Center for Not-for-profit law by Leon E. Irish, Robert Kushen and Karla W. Simon, Pg. 13

⁵⁰ Article 20

⁵¹ Article 21 and 22

⁵² Article 16

⁵³ Article 19

⁵⁴ Article 11

⁵⁵ Article 10

⁵⁶ Article 127

⁵⁷ 4, Eur. Ct. H.R. 500 (1998)

Macedonian Cultural association was an interference with the applicants' exercise of their freedom of association. The court unequivocally stated that "the right to form an association is an inherent part" of the right to freedom of association. The court went on to say, "that citizens should be able to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association, without which the right would be deprived of any meaning".

The decision in **Freedom and democracy Party (OZDEP) V. Turkey**⁵⁸, further clarifies the importance of freedom of association, linking it specifically to freedom of expression in Article 10 of the European Convention.

2.4 Local Instruments

Locally, the Uganda Constitution of 1995⁵⁹, provides for the fundamental freedoms to Ugandan citizens to engage in peaceful activities aimed at influencing the policies of Government through civic organisations⁶⁰. Uganda has also ratified those International Instruments.

In addition to the Uganda Constitution, the other laws that regulate NGOs in the country are; the NGO Registration Act Cap 113, which primarily governs the NGOs in Uganda; the NGO Registration (Amendment) Act of 2006; the NGO Registration Regulations of 2009; the National NGO Policy of 2010; the Companies Act Cap 110; the Trustees Incorporation Act Cap 165; the Local Government Act Cap 243; the Income Tax Act Cap 340, Value Added Tax Act, Chapter 349 (1997), Value Added Tax (Amendment) Act (2005) etc.

2.4.1 The NGO Registration Act Cap 113 of 1989

The NGO Registration Act Cap 113 was enacted in 1989 without a thoroughly and widely consulted Policy being in place. The Act established the National

⁵⁸ 31 Eur. Ct. H.R. 27 (1999)

⁵⁹ Article 29(1)(e)

⁶⁰ Article 38(2)

NGO Board for the purpose of registration of NGOs in the country and for other matters connected therewith. The Act was operationalised by the NGO Registration Regulations of 1990.

The NGO Registration Act defines an “organization” as “a nongovernmental organization established to provide voluntary services, including religious, education, literary, scientific, social or charitable services, to the community or any part of it”.⁶¹ It does not distinguish between membership and non-membership organizations.

2.4.2 The NGO Registration (Amendment) Act of 2006

After enactment of the 1989, NGO Registration Act, and its operationalisation by the NGO Registration Regulations of 1990, a number of challenges arose due to the lacunas in the Act. In 2001, an Amendment Bill was developed and the Ugandan Parliament passed the NGO Registration (Amendment) Act in 2006. The President assented to the Act in May 2006, and it came into operation in August 2007. The new NGO Regulations, cited as 'Non-Governmental Organisations Registration Regulations, 2009,' which implement the Act were gazetted on March 29, 2009 and are in force. Thus, the NGO Registration Regulations SI 113-1, 1990 are null and void (Regulation 20 of the NGO Registration Regulations, 2009).

The Amendment Act; gave the National NGO Board the powers to incorporate NGOs and not only register them,⁶² issue NGOs with permits to operate,⁶³ guide and monitor NGOs,⁶⁴ develop policy guidelines for CBOs,⁶⁵ gave NGOs the freedom to elect whether to register under the NGO Registration Act, the

⁶¹ Section 1(d) of the NGO Registration Act

⁶² Section 2(3) of the Act

⁶³ Section 2(1) of the Act

⁶⁴ Section 7(1)(c) of the Act

⁶⁵ Section 7(1)(cc) of the Act

Companies Act or the Trustees Incorporation Act;⁶⁶ required NGOs to first reserve their names with the Registrar of Companies before being registered by the NGO Board;⁶⁷ introduced offences and penalties for both NGOs and its directors and officers;⁶⁸ gave the Minister of Internal Affairs the powers to issue exemption certificates to NGOs in emergency situations;⁶⁹ defined a CBO and provided for its registration⁷⁰etc

2.4.3 The NGO Registration Regulations of 2009

The NGO Registration Regulations of 2009, operationalised the NGO Registration (Amendment) Act of 2006, and also revoked the NGO Registration Regulations of 1990.

The NGO Registration Regulations, 2009,⁷¹ requires organizations to comply with the following requirements in carrying out their operations; Organizations shall "not make any direct contact with the people in their area of Uganda" without providing seven days notice in writing of its intention to do so to the local councils and Resident Direct Commissioners; Organizations shall cooperate with the local government councils and district committees in the area; Organizations are prevented from engaging in any act which is "prejudicial to the security of Uganda or any part of it."; Organizations shall restrict their operations to the area of Uganda in respect of which it is permitted to operate; Organizations shall hold themselves responsible for all actions of their members and employees done in the course of their employment; Organizations shall obtain the approval of the Board for any goods for which they seek exemptions; Organizations shall not engage in any act which is prejudicial to the interests of Uganda and the dignity of the people of Uganda.

⁶⁶ Section 2(1a) of the Act

⁶⁷ Section 2(1b) of the Act

⁶⁸ Section 2(5) of the NGO Registration Act

⁶⁹ Section 3(3) of the Act

⁷⁰ Section 7(2)(2) and (3) of the Act

⁷¹ NGO Registration Regulations 13

An organization at the time of registration shall comply with certain staffing regulations,⁷² particularly specifying; an organization shall submit to the Board a chart showing its organizational structure as stipulated in its constitution accompanied by a statement specifying its foreign staff requirements where necessary, indicating requirements of the Ugandan counterparts of foreign employees; and indicating the period for replacement of its foreign employees with qualified Ugandans; an organization shall not employ a person who is not a citizen of Uganda unless that person has, before proceeding to Uganda for employment, submitted a diplomatic mission in his/her country of origin for transmission to the Government of Uganda for consideration for his suitability for employment.

2.4.4 The National NGO Policy of 2010

The Office of the Prime Minister (OPM) embarked on the formulation of a National NGO Policy within the framework of Article 108 of the 1995 Constitution of Uganda that mandates the Prime Minister to be responsible for coordinating the implementation of government policies across ministries, departments, and other public institutions. Various stakeholders including government agencies, NGOs and donor representatives were consulted to provide input into the NGO Policy. The Policy was approved by the Cabinet in October 2010 and is now in force.

The Policy however, does not cover non-profit organisations like; Faith Based Organisations; Trade Unions; Microfinance Organisations; and Professional membership organisations etc.

The key things the Policy introduced were; a clear definition of what an NGO is; the different types of NGOs; a new structure for the NGO Board; the different stakeholders, at the National, District and lower levels, and their responsibilities too etc.

The Policy impacts Section 4 of the Principal Act, which provides for the establishment and composition of the NGO Board. The NGO Board's composition is decentralized. At the district level, the Board is represented by the

⁷² Regulation 14(a) and (c) of the Regulations

District NGO Monitoring Committee, which is composed of the Chief Administrative Officer, Community Development Officer, District Internal Security Officer, District Director of Health services, District Education Officer, and the representative of NGOs. At the sub-county level, the Board is represented by the sub-county NGO monitoring Committee, which is composed of the Assistant Chief Administrative Officer, Assistant Community Development Officer, Gombolola (sub-county) Internal Security Officers, sub-county health inspector, and a representative of NGOs.

The Policy also impacts Section 7 of the Principal Act. Under the new Policy the Board shall in addition to the functions provided under the Act be responsible for; Conducting background checks and scrutinizing the credentials and status of all international NGOs seeking to register and operate in Uganda; Consider applications for the renewal of NGO permits; Monitor compliance by all registered NGOs with the terms and conditions of their certificates of registration/incorporation and their constitutions; Provide appropriate guidelines for the operationalization of the NGO Policy at line ministry and lower levels of the district administration consistent with the principles of the Policy; In liaison with designated officers in line ministries and local government authorities, monitor district relations with NGOs to ensure compliance with set guidelines; Coordinate government engagement with the NGO sector; Coordinate government engagement with other stakeholders to establish a reliable database and information system on the NGO sector; and in consultation with the lead Ministry and NGO umbrella organizations, prepare periodic reports on the status, contribution and impact of the NGO sector on national development.

2.4.5 Companies Act Cap, 2012

Under the Companies Act, non-profit organisations, without share capital, can decide to register or incorporate as companies limited by guarantee. These are also organisations with charitable objectives like NGOs.

2.4.6 Trustees Incorporation Act Cap

Trusts may be established by anybody or association for any "religious, educational, literary, scientific, social or charitable purpose".⁷³ Trusts and foundations are established to provide grants, and in some cases loan financing

⁷³ Section 1(1) of the Trustees Incorporation Act

at a more affordable rate to NGOs, community-based organizations, and private organizations in support of their goals and objectives.

Trusts and Foundations can decide to remain unregistered or unincorporated but appoint trustees, who are then incorporated under the Trustees Incorporation Act, to Act on their behalf. However, in case they decide to get registered, Trusts and Foundations are registered either under the NGO Registration Act or as Companies limited by Guarantee. Their appointed trustees are then incorporated under the Trustees Incorporation Act, 165. The trustees are also covered by the Trustees Act.

2.4.7 Income Tax Act Cap 340

Uganda's Income Tax Act establishes a category of exempt organizations which includes organizations that are of a religious, charitable, educational, or public character. Qualifying organizations are exempt from tax on almost all categories of income. Individuals and legal entities are eligible for tax deductions for charitable contributions. Ugandan law subjects certain sales of goods and services to VAT, with a fairly broad range of exempt activities. Foreign grants are exempt from VAT.

Uganda's Income Tax Act provides that an organization is exempt from paying income tax if it falls within the definition of "exempt organization"⁷⁴ and has been issued a formal ruling from the Tax Commissioner qualifying it as an exempt organization. The Income Tax Act defines an exempt organization as a company, institution, or irrevocable trust that is; an amateur sporting association; a religious, charitable, or educational institution of a public character; or a trade union, employees' association, an association of employers registered under any law of Uganda, or an association established for the purpose of promoting farming, mining, tourism, manufacturing, or commerce and industry in Uganda.

All income of an exempt organization is free from income tax, with the exception of property income received. Rental income of immovable property, however, may be exempt if it is used by the lessee exclusively for the activities of the organization specified in the Act. In addition, business income received by an

⁷⁴ Section 2(bb) of the Income Tax Act

NGO that is not related to the function constituting the basis of the organization's existence is subject to tax.⁷⁵

Charitable organizations established under the Companies Act do not benefit from any tax exemptions.

Individuals and legal entities are eligible for tax deductions for charitable contributions to a tax exempt organization.⁷⁶ An individual may claim as a deduction up to 5% of that individual's taxable income for the year in which the gift is made.

2.5 Institutional Framework

There is considerable variety among legal systems in the choice of the responsible state agency that is empowered to establish civic organisations. In some countries, civic organisations must seek establishment with the Ministry responsible for the subject matter of their proposed activity.⁷⁷ Some countries vest establishment in the courts.⁷⁸ In some countries, a single Ministry is in charge of establishing and supervising civic organisations.⁷⁹ In some countries,

⁷⁵ Section 21(f) of the Income Tax Act

⁷⁶ Listed in Section 2(bb) (a) and (b) of the Income Tax Act

⁷⁷ In Japan, special types of legal persons (e.g., "Public Interest Legal Persons" such as associations and foundations, social welfare corporations, educational corporations, religious corporations and medical corporations) are all permitted to be established under different laws and by different Ministries. The creation of the new "special nonprofit activities legal persons" created in 1998 simply added another category and another responsible state agency (the Economic Planning Agency) to this already complex system. Thus, choice of form is a very important issue in Japan. See Robert Pekkanen & Karla Simon. "The Legal Framework for Voluntary and Not-for-profit sector in Japan," in the Voluntary and Non-profit sector in Japan (Stephen Osborn, ed.) (2003)

⁷⁸ Greece is an example. See the Greek Civil Code, C. Civ., ch. 4,/79/81. Albania is another. See law on the Registration of Not-for-profit organizations, no. 8789, ch. 2, art. 5 (May 7, 2001)

⁷⁹ In South Africa, the Ministry of Social Welfare or its equivalent is the place where civic organisations are established. See Non Profit Organisations Act of the Republic of South Africa.

the local branches of a single Ministry perform the principal establishment functions.⁸⁰ There are advantages and disadvantages to each system.

In Uganda, the Institutional Framework regulating NGOs in Uganda include:-

i. Office of the Prime Minister

Office of the Prime Minister (OPM) is responsible for the coordination and implementation of Government policies across ministries, departments and other public institutions.⁸¹ OPM is supposed to work closely with the lead ministry responsible for monitoring and overseeing the NGO sector.⁸² OPM is also represented on the NGO Board.⁸³

ii. Ministry of Internal Affairs

Ministry of Internal Affairs is the lead agency for monitoring and overseeing the operations of NGOs in Uganda, and it hosts the National NGO Board.⁸⁴ The Ministry is represented on the NGO Board.⁸⁵

iii. The National NGO Board and its Secretariat

The National NGO Board was established in 1989⁸⁶ to register and monitor the activities of all NGOs in the country.⁸⁷ The Board has its

⁸⁰ The Regulations on the Registration of Social Organisations of the Peoples' Republic of China state that the registration may occur at the national level or at local branches of the Ministry of Civil Affairs.

⁸¹ Article 108(A) of the 1995 Uganda Constitution as amended in 2005

⁸² National NGO Policy, National level coordination mechanism, 5.2, pg. 24

⁸³ Section 4(2)(c) of the NGO Registration Act Cap 113

⁸⁴ National NGO Policy, National level coordination mechanism, 5.2, pg. 24

⁸⁵ Section 4(2)(b)(i) of the NGO Registration Act Cap 113

Secretariat in the Ministry of Internal Affairs and is headed by a Secretary.⁸⁸

iv. Line Ministries, Departments and Agencies;

There are several Line ministries, departments and agencies with direct involvement in the NGO sector. NGOs are supposed to sign a memorandum of understanding with ministries and departments covering the terms and conditions of their partnership. The Ministry of Internal Affairs is supposed to provide these line ministries, departments and agencies with guidelines to facilitate harmonization of Government engagement with the NGO actors.⁸⁹

v. Districts

The activities of NGOs in the districts are overseen by the Local Government District Council⁹⁰; the District Executive Committee⁹¹; the District Technical Planning Committee⁹²; the Resident District Commissioner⁹³; the District NGO Monitoring Committee⁹⁴; the Sub

⁸⁶ Section 4(1) of the NGO Registration Act Cap 113

⁸⁷ Long title of the Act

⁸⁸ Section 6(1) of the Act

⁸⁹ The National NGO Policy, National level coordination mechanism, 5.2, pg. 27

⁹⁰ Section 9(1) of the Local Government Act of 1997

⁹¹ Section 17(b) of the Local Government Act of 1997

⁹² Section 36 of the Local Government Act of 1997

⁹³ The National NGO Policy, pg. 44

⁹⁴ The National NGO Policy, pg. 45

County NGO Monitoring Committee⁹⁵; Community leaders⁹⁶; and others include District NGO Umbrella bodies etc.⁹⁷

2.6 Procedure for registering NGOs

In Uganda, NGOs can apply for registration either as a national, regional or international NGOs.⁹⁸ A national NGO is one that is wholly controlled by Ugandans, registered exclusively within Uganda and with authority to operate within or across two or more districts. A regional NGO is one that had its original incorporation with one of the states of the East African Community and partially or wholly controlled by citizens of one or more partner states in East Africa but operating in Uganda under a certificate of registration. An international NGO is one that had its incorporation in and partially or wholly controlled by citizens of one or more countries other than the partner states forming the East African Community, but operating in Uganda under a certificate of registration.

No NGO is supposed to operate in Uganda unless it has duly registered with the National NGO Board and has a valid permit issued by the Board.⁹⁹ An NGO intending to register with the Board has to first reserve its proposed name with the Registrar of Companies.¹⁰⁰

2.6.1 Application for Registration

An organisation should apply to the Secretary to the Board and the application should be accompanied with the prescribed fees, Form A, a constitution and

⁹⁵ The National NGO policy, pg. 46

⁹⁶ The National NGO Policy, pg. 47

⁹⁷ National NGO Policy, pg. 46-47

⁹⁸ The National NGO Policy, Definitions, 2.3, pg. 12

⁹⁹ Section 2(1) of the NGO Registration Act Cap 113

¹⁰⁰ Section 2(1b) of the Act

other documents.¹⁰¹ Some of the other documents include a work plan and budget; a chart showing the organizational structure of the organisation; and a covering letter clearly stating its intended area of operation and field of operation.¹⁰² The Board sits at least once a month to consider those applications.¹⁰³

2.6.2 Issuance of exemption certificates

The Minister may in an emergency situation, exempt an organisation from meeting all the requirements and waiting for the Board to first meet and then consider its application. This exemption does not include payment of the prescribed fees.¹⁰⁴ The Minister can issue them with an exemption certificate that is valid for one year.

2.6.3 Renewal of an NGO certificate

Upon expiry of a permit, an organisation should within three months apply to the Board for its renewal.¹⁰⁵ An organisation that fails to apply for renewal within the specified period of time is supposed to pay a fine of twenty currency points for every month of default.¹⁰⁶

¹⁰¹ Section 3 of the Act

¹⁰² Regulation 5 of the NGO Registration Regulations of 2009

¹⁰³ Section 11(1) of the Act

¹⁰⁴ Section 3(3) and (4) of the Act

¹⁰⁵ Regulation 8(1) of the NGO registration Regulations of 2009

¹⁰⁶ Regulation 8(3) of the NGO Registration Regulations of 2009

2.6.4 Rejection of an NGO application, revocation of a permit and the available remedies

The Board has got the powers to grant or reject an application.¹⁰⁷ An organisation shall not be registered with the Board if its objectives are in contravention of the law.¹⁰⁸

Even after issuing a certificate of registration or a permit, the Board still has the powers to revoke it.¹⁰⁹ The grounds for revocation of a certificate arise if an organisation does not operate in accordance to its constitution; contravenes any of the conditions or directions inserted in its certificate; or if in the opinion of the Board, it is in the public interest to do so.¹¹⁰

A person aggrieved by the decision of the Board may within three months of the date he or she is notified of the decision appeal to the Minister.¹¹¹

2.7 Transparency, accountability and Self-regulation by NGOs

The growing number and diversity of NGOs in the country present a great challenge in terms of ensuring that all NGO actors exercise responsible and accountable behavior that protects the basic interests of the different NGO sector stakeholders, especially the vulnerable segments of society. In seeking to promote and institutionalize best practices in the NGO sector development and operations, Government recognizes and welcomes efforts by some sections of the NGO community to develop mechanism for self-regulation.

These efforts aim at promoting the adherence by civil society organisations to generally accepted ethical standards and operational norms. Government is of

¹⁰⁷ Section 8(a) of the Act

¹⁰⁸ Section 2(4) of the Act

¹⁰⁹ Section 8(b) of the Act

¹¹⁰ Section 10 of the Act

¹¹¹ Section 9 of the Act

the view that self-regulation, if effectively applied by all NGOs is the most cost effective means of fostering discipline and benchmarking quality assurance by sector stakeholders. Such success minimizes the need and extra costs of implementing a Government-driven policing regime.¹¹²

2.7.1 Self-regulatory bodies

Two or more organisations may form a self-regulating body. A self-regulating body should be registered with the NGO Board. The application to the NGO Board should be accompanied by a resolution from each of the organisations forming the body that they are willing to be a part of the self-regulating body, a code of conduct and such other information required. The self-regulating body adopts its own structure, rules and procedures for efficient administration of their activities. The Board may call upon such a body to help it in executing its mandate.¹¹³

2.7.2 NGO Quality Assurance Certification Mechanism (QUAM)

NGOs working in Uganda launched a self-regulating instrument, the NGO Quality Assurance Mechanism (QUAM) in September 2006. It was designed to promote adherence by civil society organisations to generally acceptable ethical standards and operational norms. It sets principles and standards of behavior for responsible practice, to protect the credibility and integrity of certified NGOs and their networks in Uganda.¹¹⁴

2.8 Conclusion

The chapter showed that much as everyone has got the freedom of association according to the international, regional and local instruments, the organisations they form should be regulated. The institutional framework in the country, ensure

¹¹² The National NGO policy, Transparency, Accountability and Self-Regulation, 5.4, pg. 30-31

¹¹³ Regulation 19 of the NGO Registration Regulations of 2009

¹¹⁴ Our Code of Honour: The NGO Quality Assurance Certification Mechanism (QUAM), Part 2: The QUAM standards, Background, pg. 3

that the NGO laws are enforced and complied with. The registration procedure also tries to ensure that NGOs only register for lawful activities and fulfill some requirements. It also takes care of organisations applying for registration during emergency situations.

Applications for NGO registration can be rejected if they do not meet the requirements and also NGOs operating can have their certificates revoked if they fail to comply and operate in accordance to the law. NGOs are supposed to renew their certificates as a monitoring mechanism.

NGOs amongst themselves can also regulate themselves by promoting transparency and accountability through forming self-regulation bodies. These bodies come up with a quality assurance mechanism.

CHAPTER THREE

3.0 An examination of the NGO laws and operations of NGOs in Uganda

3.1 Introduction

This chapter analyses the enforcement of the different laws and operations of the NGOs in Uganda. It shows the issues that have emerged regarding NGOs operating in the country.

3.2 Emerging issues regarding the NGO laws and operations of NGOs

In Uganda, a number of issues have arisen in relation to the operations and regulation of NGOs. These include: -

1. NGOs challenging the NGO Act as restrictive and not providing a conducive and enabling environment

A critical analysis of the legal operating environment for NGOs in Uganda shows the level of the quality of the regulatory framework for NGOs in Uganda. The quality of Civil Society's legal operating environment is important for its effective functioning. This quality is inherently linked to the overall governance situation of a country (...) [therefore]: any legal reform has to be seen as an integral part of a larger institutional question of democratic governance ...¹¹⁵

Everyone has the right to freedom of association.¹¹⁶ According to the 1995 Uganda Constitution, in the enjoyment of the rights and freedoms prescribed in its Chapter, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest.¹¹⁷

¹¹⁵ Joseph Patrick Henrich, et al, Vol. 312 23 (2006), *Costly Punishment Across Human Societies*, Department of Anthropology, Emory University, 1557 Drive, Atlanta, GA 30322, USA / WWW.sciencemag.org

¹¹⁶ Article 29(1)(e) of the 1995 Uganda Constitution

¹¹⁷ Article 43

However, the NGOs have on a number of occasions dragged the Government to Court challenging the Act that it was restrictive and did not provide a conducive and enabling environment for them to operate in.

In 2009, some NGOs on behalf of the NGO sector, filed a petition in the Constitutional Court, *Human Rights Network, Anti Corruption Coalition Uganda, Advocates Coalition for Development Environment, DENIVA, NGO Forum, Uganda Women Network, Uganda Land Alliance and Environmental Alert V. Attorney General*¹¹⁸, challenging provisions of the Act.

Currently, there is also an ongoing case in the High Court, where NGOs are challenging the requirement that NGOs should submit annual returns¹¹⁹. They are advocating for freedom to operate without having to file annual returns.

2. Multiple NGO Registration Centres

Apart from the National NGO Board, there are other registration centres for NGOs in Uganda. The Act gives NGOs the freedom to elect either to register under it, or under the Companies Act or the Trustees Incorporation Act.¹²⁰ These multiple registration centres for NGOs has created a challenge when it comes to monitoring and keeping track of the activities of NGOs. Many NGOs have exploited that.

An example is of COWE, an NGO that had conned unsuspecting community members of considerable amounts of money all over the country, until when they were deregistered by the NGO Board, dragged the Government to Court asking for compensation of millions for being deregistered, in *COWE V. Attorney General*¹²¹. In the investigations into the conduct of COWE, there was overwhelming evidence and it was clear that the NGO not only committed the

¹¹⁸ Constitutional Petition No. 5 of 2009

¹¹⁹ Regulation 16 of the NGO Registration Regulations of 2009

¹²⁰ Section 2(1a) of the Act

¹²¹ HCCS No. 194/ 2004

vice it was accused of but also was not transparent in the way it conducted its affairs. After being deregistered under the Act, COWE reregistered under the Companies Act as a Company Limited by Guarantee.

Another example is that, some of the over 15 NGOs implicated in the nationwide corruption scandal regarding the Global Fund for HIV/ AIDS, tuberculosis and malaria, were actually not registered with the NGO Board but as Companies Limited By Guarantee. Many NGOs know that they are not monitored under the Companies Act and they can easily acquire the incorporation certificate without being thoroughly vetted.

3. Uncoordinated Registration and Regulation of CBOs

The uncoordinated and unharmonized registration and regulation of Community Based organisations (CBOs) in Uganda, has also created a problem. CBOs are NGOs operating at a sub county level and below, whose objective is to promote and advance the well-being of its members or the community¹²². CBOs are not incorporated under the Act but register with the District administration of the area they operate in.¹²³ CBOs are not directly under the NGO Board as per the Act, and districts do not have a harmonized or streamlined way of registering and handling CBOs.

This has created a gap that a number of CBOs and districts have exploited. Some CBOs operate at district level and others even in more than one district and yet their operations are supposed to stop at a Sub county level. Districts have also exploited this by dealing with CBOs the way they want. They have varied fees charged and set their own terms and conditions since they have the discretion. This unchecked and uncontrolled discretion has led many districts to issue NGO registration certificates to organisations and yet that is the mandate of the NGO Board.

The Local Governments under whose jurisdiction the CBOs are supposed to be, do not have provisions in the Local Governments Act, Cap 243 that deal with the

¹²² Section 7(3)

¹²³ Section 7(2)

registration and monitoring of CBOs. This has resulted created a vacuum since the NGO Board does not have direct control over CBOs in the districts.

4. Name reservation

The NGO Registration Act provides that “No organisation shall be registered by the Board without prior application having been made to the Registrar of Companies to have its proposed name reserved and approved for registration”.¹²⁴ Much as the Companies Act provides that “Company names shall be reserved for a period of 30 days or for such a longer period of time not exceeding 60 days”,¹²⁵ the problem with the Act is that it is silent on the validity period for reservation of names yet this is pertinent for the expeditious registration of NGOs.

Another issue under name reservation is of NGOs ending up with the same or similar names. This has partly been due to a lack of coordination between the Uganda Registration Services Bureau and the NGO Board. Another cause of this has been that much as the Companies Act and the NGO Act provide that Companies and NGOs should reserve their names, the Trustees Incorporation Act, Cap.165 does not provide for reservation of names of Trustees being incorporated. CBOs and other types of organizations are also not required by any law to reserve their names.

This has resulted into organisations having the same or similar names, since some organisations are not required by law to reserve their names. All this creates a lot of confusion to the beneficiaries and all the different stakeholders. It also creates a ground for some NGOs to exploit and defraud those who are unsuspecting.

5. Incorporation of NGOs

The NGO Registration Act gives the Board the powers to incorporate NGOs.¹²⁶ This was introduced in the Amendment of the Act in 2006. Before the

¹²⁴ Section 2(1b)

¹²⁵ Section 18(1) of the Companies Act, 2012

¹²⁶ Section 2(3) of the Act

amendment, NGOs that registered with the NGO Board and wanted to incorporate, were required by the Act to incorporate either under the Companies Act as companies limited by Guarantee or appoint their Trustees and have them incorporated under the Trustees incorporation Act.

However, the NGO Board being given powers to incorporate all NGOs that register with it,¹²⁷ has created a challenge too. This means that all organisations that were already incorporated before proceeding to the NGO Board, for instance international NGOs and companies limited by guarantee, end up with double incorporation.

6. Registration of Faith Based Organisations (FBOs) under the Act.

Originally, the traditional churches in Uganda only registered their trustees¹²⁸ did not register their organisations anywhere. The Government recognized their existence and operations. These included; the Catholics; Muslims; Protestants etc. However, with the emergence of numerous FBOs in Uganda, they are required to register. This was mainly because many of the FBOs do not only stop at carrying out religious and spiritual activities but also have NGO-type activities. Some FBOs have challenged their registration, claiming that they are not NGOs and should be treated and recognized like the other traditional churches.

The issue of registration of FBOs under the Act, has partly been solved by the National NGO Policy that was approved by Cabinet in October 2010. The Policy provides that *"Faith Based Organisations (FBOs) which until now have been obliged to register as NGOs, shall not fall within the ambit of the NGO policy. However, where an FBO is engaged in NGO-type activities as defined herein, the FBO shall be required to comply with the provisions governing the activities of the NGOs in Uganda. Until Government takes measures to provide an appropriate separate framework for promoting coordination of the spiritual activities of FBOs in the country, the existing arrangement shall obtain"*.¹²⁹ The

¹²⁷ Section 2(3)

¹²⁸ Trustees Incorporation Act

¹²⁹ NGO Policy

policy clearly tries to separate FBOs from NGOs, however, it stresses the fact that FBOs engaged in NGO type activities, must fall under the Act. It is now upon the Government to expeditiously come up with an appropriate separate framework for coordinating their activities. However, as long that is not addressed, it still remains a challenge.

7. Lack of Capacity of the NGO Board

Much as the NGO Board was established by the Act¹³⁰ to register, regulate, coordinate and monitor activities of the NGOs in the country, the Board lacks the human and financial capacity to carry out its mandate. This has created a huge challenge in that the NGO Board is weaker than the NGOs they are supposed to regulate and monitor. That lack of capacity of the Board has created a huge gap between the Board and the NGOs. This has enabled NGOs to operate the way they like without the knowledge of the Board. The NGO Board is only allocated 200 million for every financial year. Looking at the amount the NGO Board is allocated and taking into account, the number of 11,000 registered NGOs spread all over the country, the problem and challenge is visible. Due to lack of funds, the Board cannot sit more than once a month. The lack of funds has also frustrated the Board's ability to monitor NGOs. The Board relies more on isolated incidences of reports on particular NGOs reported to it, rather than having the ability to check the operations of the NGOs.

8. Mistrust between the NGOs and Government

For many years now, there has existed a strong mistrust¹³¹ between the NGOs and the Government. The NGOs consider the Act as a controlling mechanism by Government and posing major constraints to their operations. The Government on the other hand is fully aware of how dangerous NGOs can be if not regulated. It is also concerned about the alleged corruption tendencies by some NGOs, lack of transparency and accountability particularly to the beneficiaries and Local Government Authorities.¹³¹ Some NGOs have been involved in subversive activities.

¹³⁰ Section 4

¹³¹ NGO Forum, 2007

The involvement of some NGOs in the misuse of Global Fund for HIV/AIDS, TB and Malaria, the conduct of and allegations against COWE, and currently accusations between the NGOs and Government on issues regarding the oil exploration in Uganda, have all worked to increase this mistrust.

9. Failure by Government to track donor funds being received directly by NGOs

The Government has not been able to track or know exactly how much donor funds are being received directly by the NGOs.¹³² On the part of the NGO Board that is supposed to be regulating and monitoring NGOs, this is partly due to the lack of capacity stated above but also due to lack of provisions in the Act to help in tracking of donor funds. This poses a great challenge for the Government if it cannot track or know how much cash inflows are being brought into the country by the NGOs and for what purpose.

10. Lengthy registration process at the NGO Board

Lengthy registration process and requirements for NGOs¹³³ at the National NGO Board has compelled NGOs to instead opt for registration under the Companies Act at URSB or incorporate their Trustees under the Trustees Incorporation Act at the Ministry of Lands, Housing and Urban Development, yet their intention was to register as NGOs at the National NGO Board.

11. Foreign influence on NGOs as a result of donor dependence.

The NGO Sector in Uganda is highly donor dependent.¹³⁴ Most NGOs in Uganda access funds from external donors either directly or through international NGOs (INGOs) with operations in the country. High donor dependence highlights the fragility of the local NGO sector and weak sustainability of its program activities. It then creates room for foreigners to dictate terms and conditions on the NGOs. This has given the foreigners room to promote any interest they have through the donor dependent and vulnerable NGOs.

¹³² Winsor Report

¹³³ Section 3(2)

¹³⁴ NGO Policy

12. Lack of sustainability and weak NGO Sector

The majority of NGOs in Uganda are small, fragmented and community based operators.¹³⁵ The sector also tends to be characterized by independent, vibrant and flexible easy entry-easy exit often with limited and selected ownership, funding, scope of operations and target beneficiaries. So, while the small CBOs have the potential to grow into large and international organisations, the NGOs often have to rely on the smaller more flexible NGOs and CBOs in order to have an impact.

13. Failure to create employment opportunities for Ugandans.

The international and local NGOs have employment opportunities but prefer to use volunteers instead of salaried employees. This has created a challenge because getting Ugandan volunteers is difficult and it gives an avenue for foreigners to fill in the volunteering opportunities. The problem here is that apart from foreigners filling up those vacancies, differentiating between genuine volunteers and masqueraders is also hard.

14. Failure to operationalize the National NGO Policy

The National NGO Policy was approved by Cabinet in 2010, but up to now, it has not been operationalised. An example here is of the non operational new NGO Board structure introduced. The new NGO Board structure should have; the National NGO Board, situated at the Ministry of Internal Affairs; the District NGO Monitoring Committees at the District level; and the Sub County NGO Monitoring Committees at the Sub County level. These have not been instituted up to now and hence failure to address the purpose for which they were established. Another example is of the need for the different stakeholders which the policy identifies and calls upon them to work together. That too is not yet operational.

The fast increasing number of NGOs, and the few incidences mentioned above, raises a concern. If there can be a law in place, with a well mandated National NGO Board established, but such unfortunate incidences still continue to occur because they are unchecked, this clearly shows that there is a big problem that

¹³⁵National NGO Policy

needs some solutions, especially with the fast growing number of NGOs. There appears to be a lacuna which the NGO sector is exploiting in order to engage in the incidences mentioned above. If such a situation goes on unchecked, it can endanger the whole country in terms of failing to protect the would-be beneficiaries, Ugandans, and also security threat to the country. The question is, whether the problem is with the law or there are other factors.

15. NGOs engaging in political activities

NGOs are supposed to be nonpartisan. It is also true that civic organisations have an important role to play in a democratic society by enhancing public debate on the issues of the day.¹³⁶ Common law countries exclude some organisations from receiving “charity” status, i.e., from being considered as a public benefit organisation, if their intended purposes include some forms of campaigning for or against specific legislation or endorsing or opposing candidates for political office.¹³⁷ There are separate laws governing political parties, political fundraising, elections, and political campaigning, and it is intended to insure the integrity of such laws.¹³⁸

However, in Uganda, there have been incidences of NGOs secretly supporting political parties. During the Presidential elections of 2001 and 2006, some NGOs on the eve of the elections day, were found distributing blue soap with a key symbol on it, as a way of campaigning for a political party represented by those symbols. As a result of such actions, the candidate for the party performed so well in those areas, especially in northern Uganda and part of eastern.

¹³⁶ United Communist Party of Turkey and Others V. Turkey, 4 Eur. Ct. H.R. 1 (1998)

¹³⁷ In some common law countries, a public benefit organisation is not permitted to have lobbying as its purpose or objective, but may engage in lobbying as an activity that advances its otherwise permissible purposes.

Furthermore, even where lobbying is not permitted, public benefit organisations may be permitted to engage in “defensive lobbying” – lobbying necessary to preserve the status and benefits of the organisation.

¹³⁸ Some countries have clear restrictions on public policy activities that are like those of political parties. Article 9 of the Lithuania’s law on Charity and Sponsorship funds prohibits funds “from participating in political activities, sponsoring political parties and political organisations.”

(16) Lack of adequate information on the NGO sector in Uganda

There is limited information on the NGO sector in Uganda. Lack of research into the history and operations of NGOs in Uganda has also affected the ability to effectively regulate the sector. There is no readily available data on the sector. The country has numerous reports by different members of NGOs regarding different issues but not consolidated for easy reference.

3.3 Conclusion

The emerging issues identified above need to be urgently addressed. The lacunas in the laws, lack of capacity by the regulator, failure to enforce provisions of the law, huge sums of money entering the country but not being tracked and other issues, need to be resolved.

CHAPTER FOUR

5.0 Conclusion and Recommendations

5.1 Conclusion

In conclusion, much as the international, regional and local instruments provide for freedom of association, the study has clearly shown why NGOs need to be regulated. Regulation of NGOs is beneficial to all the stakeholders involved. These include the NGOs themselves, their beneficiaries, the entire State, donors, the general public etc.

The study also showed that, much as the instruments to regulate the NGOs, are in place, they can still fail if there are lacunas in them or they are not effectively enforced. Some NGOs always exploit any lacunas existing in the laws and take advantage of the laxity in enforcing them.

Effective regulation is not limited to regulatory action taken by the state. There are four essential components of effective regulation each of which are equally important in enabling NGOs to carry out their vital work effectively. These are: the Legal Framework, Regulation, Government/Sector Dialogue, and Sector Capacity. The different stakeholders need to work together in order to contribute to healthy, independent and accountable NGO sectors.

NGOs and Government are partners in development. Perceptions and attitudes, at times affect this partnership. Lack of communication and coordination in the NGO sector has bred confusion and promoted misconceptions of otherwise good will of both government and the NGOs towards serving Ugandans.

The quality of the civil society's legal operating environment should be improved. This will help create an enabling environment for NGOs so to improve on their operations and performance. It will also reduce on the mistrust and improve the relationship between the State and the NGOs.

5.2 Recommendations

- (1) The NGO Registration Act Cap 113 should be amended to improve on its quality. The provisions of the Act currently focus more on control of the NGO sector, hence creating a mistrust between Government and the NGO Sector. Much as regulation of NGOs is necessary, the Act should also focus on providing a conducive and an enabling environment to NGOs in the country.
- (2). The Act should also be amended to cure the lacunas in it. Taking into account that the NGO Registration Act was enacted without an NGO Policy being in place, its important that the Act is amended in order to harmonize its provisions with the National NGO Policy that was approved by Cabinet in 2010. The amendment process should involve wide consultations with stakeholders and benchmarking from countries that have got known best practices. This amendment will help improve and strengthen the capacity of the National NGO Board in carrying out its mandate, improve on the communication and coordination between the different stakeholders, help in creating an enabling environment for the NGO Sector etc.
- (3). All the laws regulating NGOs should be harmonized. This will help in streamlining the registration, regulation, coordination and monitoring of NGOs in the country. Failure to harmonize and streamline these laws has created gaps and difficulty in effectively regulating and monitoring them.
- (4). Enforcement of the NGO Laws should be improved so as to make them more effective. This will involve a multi sectoral approach, where all stakeholders are made to participate at all levels.
- (5). The registration, regulation and monitoring of activities of CBOs should be clearly streamlined. The mandate is either given to the Ministry of Local Government or to the NGO Board, under the Ministry of Internal Affairs. Either the Local Government Act or the NGO Registration Act, could be amended to include provisions for name reservation, registration, monitoring and issuing guidelines for CBOs, since there is no clear law for CBOs. CBOs have already caused enough confusion and need to be properly regulated.

- (6). The NGO Laws, Policies and Regulations, should be widely disseminated and all the stakeholders sensitized on them. Many stakeholders are ignorant about them and that will help a lot. They should be made aware and familiar with the NGO laws and in addition to that, their capacity to enforce these laws should also be improved. The only way the regulatory framework can be strengthened is through effective dissemination and sensitization of the NGO laws.
- (7). A mechanism for information sharing amongst the different stakeholders should be developed. Monitoring the activities of NGOs can only be simplified and made effective if information is shared amongst the different stakeholders. Ignorance and information gap between the different stakeholders has been greatly exploited by some NGOs and hence the fake, briefcase, illegal, fraudulent, subversive NGOs etc.
- (8). Enforcement of the NGO laws can only be achieved if regulation, monitoring and evaluation of the activities and operations of NGOs is increased. This involves improve the capacity and equipping the stakeholders involved. It will help check on the briefcase NGOs, errant, ghost and non performing NGOs. It will also improve on their transparency and accountability.
- (9). A new entity, with its governing board and management component that runs up to the grassroots should be established to replace the NGO Board.
- (10). The National NGO Board should reduce and improve on its lengthy registration process and requirements. This has driven NGOs intending to register with the Board to either register with other registration bodies like URSB as Companies Limited by Guarantee under the Companies Act, that have shorter registration timeframe and fewer registration requirements. This creates a difficulty in monitoring them and having a check on their operations.
- (11). The capacity of the National NGO Board should be improved by increasing its human and financial resources. Otherwise, enforcement is difficult if a regulator is weaker than those they regulate. The Government

should avail more funds to the NGO Board, increase its human resource and equipments.

- (12). The Government should device a mechanism of tracking all donor funds to NGOs. NGOs receive a lot of donor funds that are unchecked. Donors now prefer to channel funds directly to the NGOs instead of the Government. These donor funds should be checked, otherwise that gap will be exploited, hence a security threat. NGOs can be used as a conduit for money laundering and funding of terrorist activities.
- (13). The short term solution for the Faith Based Organisations of Uganda, is that they should continue to register under the current laws providing for them, like the NGO Registration Act, the Companies Act and the Trustees Incorporation Act, until when the Government comes up with the long term solution for them, which is developing a separate legal framework to them, just as the National NGO Policy provides.
- (14). The National NGO Policy should be operationalised. The new NGO Board structures introduced by the Policy, like the District NGO Monitoring Committees and the Sub County NGO Monitoring Committees, should be operationalised. The different stakeholders should also devise mechanisms for working together. Unless the Policy is operationalised, it will frustrate the well intentioned purpose for which it was developed.
- (15). The Ministry of Internal Affairs, through the NGO Board carry out more research on the NGO sector in Uganda and have such information well documented. Such information include; the history of NGOs in Uganda, their operations and contributions and such information deemed.

Bibliography

<http://www.guides.library.duke.edu/ngo-guide>

<http://www.hurights.or.jp>

http://www.icnl.org/research/journal/vol12iss2/special_8.html

<http://www.icnl.org/research/monitor/uganda.html>

<http://www.ngohandbook.org/index.php?>

<http://www.usig.org/countryinfo/uganda.asp>

<http://www.web-wds.worldbank.org>

<http://www.wnd.org/documents/DCS/Uganda09.pdf>

Guidelines for Laws Affecting Civic Organisations (2004), Second Edition, Revised and Enlarged, Prepared for the Open Society Institute in cooperation with the International Center for Not-for-profit law by Leon E. Irish, Robert Kushen and Karla W. Simon.

Joseph Patrick Henrich, et al, Vol. 312 23 (2006), Costly Punishment Across Human Societies, Department of Anthropology, Emory University, 1557 Drive, Atlanta, GA 30322, USA / WWW.sciencemag.org

Larok, Arthur (2010): Abstract of 'Protecting the tree or saving the forest – A political Analysis of the Legal environment for NGOs in Uganda and an agenda for the future'

Michael Edwards, (2010) '(DIS) Enabling the Public Sphere: Civil Society Regulation in Africa [Volume 1]'

Michael Edwards, (2010) '(DIS) Enabling the Public Sphere: Civil Society Regulation in Africa [Volume 1]'

NannaThue, Apollo N. Makubya and Maureen Nakirunda (July 2002): 'Report of a study on the civil society in Uganda by the Royal Norwegian Embassy, Chpt. 5.

National NGO Forum and Deniva (2006): Narrowing the Space for Civil Society Operations in Uganda – An Analysis of the Implications of the 2006 NGO Registration (Amendment) Act

Oxford Dictionary of English, Second Edition Revised

Reading material-ITEC Training Programme (2012), "Governance and management of NPOs/NGOs" at Entrepreneurship Development Institute of India

The NGO QuAm Working Group (2006), 'Our Code of Honour : The NGO Quality Assurance Certification Mechanism, Part 2: The QuAM Standards

The United Nations Economic Commission for Europe, (2006)

The Winsor Consult, (September 2009) Report on Data Collection on Donor Support in Local Government and Development of a Toll for Tracking Donor support at Micro levels), Page 6-36, which was a result of a study instituted by the Ministry of Finance, Planning and Economic Development, carried out by Winsor Consult, a Consultancy Firm, and funded by the Belgian Technical Cooperation

The World Bank Definition, in 'Working with NGOs, A Practical Guide to Operational Collaboration between the World Bank and Non-Governmental Organisations, Operations Policy Department, World Bank, March 1995.

Winsor Consult, (September 2009) 'Report on Data Collection on Donor Support in Local Government and Development of a Toll for Tracking Donor support at Micro levels)