



## Policy Brief on Uganda's NGO Policy, 2010

### 1.0 Executive Summary

This assessment was commissioned by the Centre for Constitutional Governance (CCG) with support from the GIZ Civil Society in Uganda Support Programme (CUSP II), co-financed by the European Union and the German Federal Ministry for Economic Cooperation and Development (BMZ) and implemented by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The study sought to provide an understanding of key constitutional and legal issues in Uganda's NGO Policy. This is aimed at creating consensus and an understanding of key issues in the policy that require reforms in the NGO sector generally. Specifically, the study sought to;

1. Assess the NGO Policy, highlighting key legal and constitutional issues as well as issues of concern.
2. Seek stakeholder understanding of the key issues in the NGO policy for meaningful engagement in the processes of reform.
3. Make recommendations for potential legal reform for the NGO Policy.

The study approach involved Focused Group Discussions (FGDs) and desk review using Interpretive Policy Analysis (IPA) to assess the policy. The study finds a number of gaps in the NGO Policy 2010 and these have not only affected its implementation but also put a major burden on the NGO operating environment, resulting in over-regulation of the NGO sector generally. Key among the findings include

1. There is a lack of clarity on what amounts to a Faith-Based Organization (FBO), this has resulted in confusion on which faith entity should be regulated under NGO Policy and which one should not.
2. The policy limits the operation of Community Based Organizations (CBOs) to sub county level and below and this tends to be too small an area of operation
3. Categorization of NGOs into Indigenous, foreign, regional, and international is potentially discriminatory and may be against the Constitution
4. The policy creates too many reporting entities for NGOs. This has limited the free operation of NGOs.
5. Limiting the definition of NGOs to voluntary associations may limit new trends such as social enterprises where NGOs now are involved in business
6. There is a lack of representation of CBOs at SNMC and DNMCs
7. It is not clear how NGO representatives at SNMCs and DNMCs are selected

and this can potentially be abused. There is no limit as to how long the representatives can serve.

8. The lack of guidelines for the conduct of DNMCs and SNMCs has affected their effectiveness
9. The Policy has not been revised to meet the standards proposed by the Finance Action Taskforce (FATF). Issues like self-regulation, risk-based regulation, etc. have not been incorporated in the policy despite previous national assessments highlighting them as issues of concern.

The study recommends the review of the NGO policy, specifically focusing on

1. Expand the geographical limit for CBOs for them to operate beyond a Sub-county as the practice is today
2. Improve the definition of NGOs to focus on aspects of social enterprise (business) that NGOs do
3. Have a proper definition of FBOs to ensure it is clear and all-inclusive
4. Provide for CBO representation at SNMC and DNMC levels.
5. Reduce the composition of DNMC and SNMC to enable these entities to be effective
6. Provide guidelines on meetings and other issues governing the management of DNMCs and SNMCs
7. Provide a term of office for members of the DNMCs and SNMCs, especially those representing NGOs.
8. Provide mechanisms through which NGOs can choose their representatives at the NGO Bureau, DNMCs, and SNMCs
9. Review self-regulation requirements to meet the standards set by the FATF and other international standards.

## **2.0 Problem Statement:**

The not-for-profit sector in Uganda has had tremendous growth over the last 40 years. The sector has grown from a few NGOs that mainly focused on relief and war rehabilitation to more than 5,000 NGOs registered by the NGO Bureau that focus on different things, from governance, policy advocacy, service provision, and relief, among others<sup>1</sup>. At the same time, there has been a growth in Community Based Organizations (CBOs) in Uganda. Due to the decentralized nature of their registration, the exact number of CBOs operating in Uganda is unknown.

The growth of the sector has come with needs for regulation and this saw the making of different laws and the NGO Policy 2010. However, since the making of the policy, new developments have happened that need review. There have also been a number of policy provisions that are no longer relevant, while at the same time, new reforms need to be added to the policy. This study looked at the gaps in the policy and makes necessary recommendations for reform.

---

<sup>1</sup> The NGO Bureau website shows there were 5,020 NGOs by 7<sup>th</sup> August 2023. See <https://ngobureau.go.ug/en/updated-national-ngo-register> however, we believe this figure could have gone up by the time this study was being conducted

### **3.0 Key Issues in the NGO Policy**

#### **3.1 Goal and Objectives of the NGO Policy**

The broad aim of the NGO Policy is to set out a framework that strengthens the relationship between the NGO sector and Government and enhances capacities and effectiveness in the areas of service delivery, advocacy, and community empowerment.<sup>2</sup> From the broad aim of the policy, it seems the focus was not on improving the NGO sector but rather on mending or strengthening the relationship between NGOs and the government. The policy needs to focus on not only improving NGO-government relations but also promoting a better not-for-profit sector in Uganda.

#### **3.2 Categorization of NGOs**

The policy categorized NGOs into National NGOs, Regional NGOs (RENGO), and International NGOs. At the same time, the categorization did not have much legal or policy effect except charging more fees for entities not considered Ugandan and not East African. The categorization above makes entities incorporated and owned by Uganda get categorized as foreign or regional NGOs even when such an entity has never operated outside Uganda's borders. This has the effect of alienating and denying NGOs their citizenship. For example, this provision conflicts with S. 251 of the Companies Act,<sup>3</sup> which provides that a foreign company is incorporated outside Uganda. In this case, Ugandan NGOs, despite being incorporated as companies Ltd by guarantee, are treated as foreign by the NGO policy.

The provisions of the policy on categorizing different Ugandan-run and Ugandan-founded NGOs differently are discriminatory and can be said to violate Article 21 of the Constitution of Uganda. Article 21 of the Constitution prohibits discrimination of persons on the grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion, or disability. The same act provides that discrimination means to give different treatment to different persons attributable only or mainly to their respective descriptions.

#### **3.3 Limitations on operations of CBOs**

The policy defines a Community-Based Organization (CBO) as an organization wholly controlled by Ugandans, operating at the sub-county level and below, that is involved in NGO-type activities that work for not-for-profit or commercial purposes<sup>4</sup>. This limit has tended to make CBOs only a Ugandan citizen-started and ran entity. This has been problematic since several residents start community benefit work, such as missionaries and others. There are also refugees who are unable to start community help entities because of this restriction.

Another challenge with the provision is limiting CBOs to operate at sub county level and below. This tends to be a very small area and yet sometimes the issues to be address cut across the community which may be bigger than a Sub-county.

---

<sup>2</sup> See Goal and Objectives of the Policy. National NGO Policy, 2010 at page 21

<sup>3</sup> Act 1 of 2012

<sup>4</sup> Part 2.3 of the NGO Policy, at page 13

### **3.4 Lack of clarity on Faith-Based Organizations**

NGO policy 2010 does not define FBOs, though it provides that the policy shall not apply to FBOs, except where the FBO is engaged in NGO-type activities as defined by the policy, the FBO shall be required to comply with the provisions governing the activities of NGOs in Uganda. Since NGO type activities are not defined, a number of FBOs find themselves being asked to meet obligations under the policy even when they ordinarily fall outside the regulation.

### **3.5 Challenges on the definition of NGOs**

The policy defines an NGO as any legally constituted private, voluntary grouping of individuals or associations involved in community work that complements government work but not for profit or commercial purposes<sup>5</sup>.

The above definition tends to make NGO work as voluntary work and limits it to not-for-profit. However, NGOs have evolved to focus on social enterprises, which are business entities run by NGOs. NGOs have also evolved to provide nonvoluntary services. The definition needs to cover these aspects.

### **3.6 Implementation Strategy**

The Policy provides for different agencies that are responsible for its implementation. The policy aims to have an effective and less costly implementation strategy. At the top of the implementation strategy is the Office of the Prime Minister (OPM), the OPM is an overseer of the policy, though the role of the OPM is similar to the role of the Ministry of Internal Affairs (MIA). Below the MIA is the NGO Board, which is in charge of day-to-day operational issues.

At the local government level are the office of the Resident District Commissioner (RDC), the Chief Administrative Officer, the District NGO Monitoring Committee (DNMC), and the Sub-County NGO Monitoring Committee. The many bodies often have overlapping roles, and many have not been operational because of a lack of clarity in roles and funding.

### **3.7 Lack of Proper Representation of NGOs and CBOs at the national and district level**

The policy is silent on the composition of the NGO Bureau and the NGO representative at that level; however, at the district level, it provides that there should be a representative of NGOs at every DNMC and SNMC. FGDs were concerned that only NGOs are represented at this level, and CBOs are not included at SNMC and DNMC and yet CBOs only report to SNMC and DNMC. There was concern that CBOs should be represented at this level.

The policy is also not clear on how representatives of NGOs can be selected and for how long they have to serve. This needs to be addressed to ensure effective representation.

---

<sup>5</sup> See Ministry of Internal Affairs (2010) NGO Policy

### **3.8 Failure to meet the Financial Action Task Force (FATF) standards**

The FATF is an international body that sets standards for Anti Money Laundering (AML) and Counter Terror Financing (CTF) across the world. FATF has made different recommendations on the work of Not-for-Profit (NPO) generally. FATF requires countries to promote self-regulation for NGOs/NPOs and to use a risk-based approach in their regulation. The policy does not incorporate these standards and needs to be reviewed to update it with the FATF standards.

### **4.0 Recommendations for policy review**

1. The policy should adopt less restrictive definitions, for example, the definition of CBOs by allowing CBOs to work at the district level or more, and by allowing noncitizens to operate CBOs
2. The definition of NGOs should focus on the services provided and the fact that NGOs can be for-profit through social enterprises and do not necessarily have to be voluntary
3. Abandon the categorization of NGOs alongside the citizenship of their members or directors. The policy should promote the professional running of NGOs, and this should allow citizens of other countries. Besides, the categorization of RENGO, INGO, etc., does not have any impact other than charging different fees.
4. There is a need for a clear definition of FBOs, focusing on the type of FBOs that should be under the policy and those that can be regulated under different laws and policies.
5. The policy should provide clear definitions for several words and phrases, such as NGO-type activities and community work, among others. This will provide clarity on what is regulated under the policy.
6. Reduce the multiple control and regulatory agencies, such as OPM, SNMC, and RDC, since there are already alternative entities doing the same work. For example, MIA is doing the work of OPM, and DNMCs are doing what RDCs and SNMCs are doing; this will save state as well as NGO resources and also help avoid conflict in roles.
7. Remove the requirement for MOUs for NGOs in every district since this undermines the nationally issued permit. In practice, the powers of the NGO Bureau are undermined by the MOU, where a district refuses to issue an MOU despite the Bureau having issued a permit for an entity to work countrywide.
8. The policy should be clear on how representatives of NGOs are selected. An elective method would be better to ensure transparency and participation of all. This should also include representation of CBO representatives at DNMC and SNMC levels.
9. The policy should introduce a time limit as to how long a person should serve on the DNMC and SNMC. This will help ensure other members of NGOs and CBOs on the district serve. We propose that representatives of NGOs and CBOs at the DNMC and SNMC level serve for a term of 3 years, renewable only once. The maximum time someone can serve to 6 years. This will give others a chance to serve.
10. The Policy should be aligned to the requirements of FATF to ensure harmony with international standards but also prevent constant listing of Uganda among countries that have failed to meet FATF obligations.