

Local Philanthropy in Uganda: A Scan of the Regulatory Environment

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Finally, we are grateful to Robert Bosche Stiftung for providing the financial support for this work. We hope that the report ignites discussion on the legal and policy environment for philanthropy in Uganda, as well as contributes to the existing literature in the space.

Foreword

CivSource Africa is a philanthropy advisory firm that is committed to nurturing a more sustainable, effective and connected civil society, that advances the dignity and voice of all people. This is done through promoting reflective, responsive, and accountable philanthropic practice. As a philanthropy organization, CivSource Africa is mandated to build philanthropy infrastructure, and must therefore understand the landscape. It is for this reason that we commissioned this study.

As an organization committed to fostering and bolstering local philanthropy, we know that part of the scaffolding for such an enterprise, is to have a sound legal and policy framework. A study like this helps us to know what points of the philanthropy infrastructure need changing, overhauling or innovating.

Of course, we do not do this work alone. We are excited to bring this research to light and we hope it will be useful to the many people, organizations and institutions, that want to strengthen Uganda's capacity to build homegrown solutions for local development challenges, financed through local giving/philanthropy. For you, we are glad to present this report.

Jacqueline Asiimwe
CEO, CivSource Africa

Glossary

CAF	Charity Aids Foundation
CLG	Company Limited by Guarantee
CLS	Company Limited by Shares
CSOs	Civil Society Organizations
CSR	Corporate Social Responsibility
ICGU	Institute of Corporate Governance of Uganda
NDPIII	Third National Development Plan
NGOs	Non-Government Organizations
SDGs	Sustainable Development Goals
SEs	Social Enterprises
UCCSRI	Uganda Chapter for Corporate Social Responsibility Initiatives
UMA	Uganda Manufacturers Association
UN	United Nations
UNBS	Uganda National Bureau of Standards
URA	Uganda Revenue Authority
WB	World Bank

Executive Summary

This report is produced by CivSource – Africa as the first of two products from a research that was conducted to explore the landscape for philanthropy in Uganda through a case study of five districts, namely Kampala, Masaka, Mbarara, Gulu and Arua. It is a scan of the legal and policy environment for philanthropy in Uganda and addresses three objectives: Explore laws relevant to philanthropy in Uganda, as well as their implications; Describe the regulatory drivers of the constricted civil society space and; Identify experiences of local philanthropists with the regulatory environment.

African philanthropy is generally envisaged to be effective, sustainable, and central to developing long term solutions that benefit everyone, and subsequently contribute to development of the continent. If it is supported by an enabling regulatory environment, it could become the most reliable partner in alternative development financing; contribute to structural transformations; boost household incomes, savings and purchasing power; strengthen political stability; increase local economic development; improve societal wellness and strengthen social relationships, among others.

In this report, we define Ugandan philanthropy or local philanthropy in Uganda, as the practice of giving by Ugandans for Ugandans, characterised by traditional norms of solidarity, reciprocity and cooperation. We must emphasize that this is only part of the general “philanthropy in Uganda” which refers to philanthropic forms found in Uganda, including those from Western sources. Research on Ugandan philanthropy is only emerging and therefore the practice is still not well understood hence the predisposition for our research which includes this scan.

To understand the contextual issues such as regulatory frameworks, interpretations and experiences, we conducted a qualitative study which included document reviews, meetings with community members and key informant interviews with philanthropists. The documents that were reviewed were legal and policy

documents, online literatures sources on philanthropy in Uganda, and one unpublished report from CivSource Africa.

The key finding is that there is no explicit legislation on philanthropy in Uganda and like other findings from other countries, it is regulated through other laws. However, the National Development Plan (NDP) III, unlike its predecessor the NDP II mentions the approach as contribution to development finance in the country.

We consider this as progress, and an opportunity to sensitize legislators and policy makers. In addition, different philanthropy vehicles such as traditional institutions, social enterprises and corporate institutions are provided for in the normative framework as key players in development, but some are not well regulated, which may hinder optimization of benefits from their philanthropic practice.

While the likelihood of CSOs to augment government resources and efforts is clear, in many African countries, the space for civil society and philanthropy is constricted. The drivers for this shrinking space in Uganda include threats from government officials; inconsistent biased application of police and judicial power; restrictive laws; global laws on money-laundering; and attacks on donors and civic groups. In the districts where the broader research was conducted, the experiences with the regulatory environment were different. We found progressive use of the Local Government Act to promote formulation of bylaws by public sector philanthropists and efforts by the tax body to sensitize organizations about taxes. The challenges philanthropists face relate to lack of knowledge of laws, inadequate laws, and selective implementation of laws, among others.

We propose five recommendations to organizations committed to supporting the regulatory environment – education of legislators and policy makers; creating networking platforms; capacity strengthening; narrative shaping and continuous research.

Introduction

This report is produced by CivSource – Africa as the first of two products from a research that was conducted to explore the landscape for philanthropy in Uganda through a case study of five districts. The study had four objectives: a) To scan the legal and policy environment for philanthropy in Uganda; b) To identify local philanthropy initiatives in the five (5) districts of Kampala, Mbarara, Gulu, Arua and Masaka; c) To establish the factors that enhance and hinder local philanthropy; and d) To develop recommendations for strengthening local philanthropy in Uganda. This report addresses the first objective and it presents a scan of the regulatory environment for local philanthropy in Uganda.

Philanthropy - the private giving of time and valuable resources for public good (Barman, 2017), is increasing globally, including as one of the forms of income for civil society organizations (CSOs) (Moyo, 2011). As agents of society's voice, CSOs advocate for policy reforms, drive societal change, they have the ability to mobilize their constituencies and they keep governments and businesses in check. Their role is undisputable and hence the growing trend of philanthropy to facilitate their work (Johnson et al., 2004). In Africa, the weak economies and weak vertical philanthropic practice force CSOs to rely on foreign support (Musila, 2019).

While philanthropy has grown globally, legal and policy barriers have contributed major obstacles to its outflow and inflow (Moore and Rutzen, 2011). The obstacles on the former are mainly from donor countries and include but are not limited to government restrictions on foreign grant making or with sanctioned countries, limited tax incentives and bureaucratic process requirements for foreign grants. Similarly, recipient countries attach legal and policy hindrances on philanthropic inflows including restriction on who (persons and institutions) or what should receive philanthropy, taxation of philanthropic gifts and foreign exchange requirements, among others. Recipient countries can also deter inflow by attaching legal barriers to establishment or operation of eligible

non-profits. Bureaucratic registration processes, restrictions on mandate, overbearing supervisions and high minimum limits on members and/or assets, are some of such barriers (Moore and Rutzen, 2011).

Philanthropy in Africa is characterized as vertical or horizontal. The former, also known as **philanthropy for community**, refers to giving by the few High Net Worth Individuals (HNWIs) or those who are rich, to the poor. This kind of philanthropy is organized through private foundations, trusts, corporates, family trusts, community chests and community foundations mainly from the West (Moyo, 2011; Fowler 2016; Julien, 2018). Horizontal philanthropy (**philanthropy of community**) on the other hand is built on reciprocity, solidarity and cooperation. People in the community organize themselves to give to other poor people. Examples are burials, community saving groups, cooperatives and communal farming activities (Moyo, 2011). This is African Philanthropy.

Generally, African philanthropy has been increasing since the post-colonial era (Moyo, 2011; Anseh, 2018). The start of the 21st Century witnessed donor shifts to work that is more global and to fewer international non-profits. As such, there has been a dwindling of funds to local organizations, a reality that has motivated the quest for growing local resources (Johnson et al., 2004).

Local philanthropy in Uganda is practiced but it is under-reported and most of it is not towards CSOs (CAF, 2020) but to individuals. Another CivSource report exploring the practice of philanthropy expounds on the local understanding of the term and how it is practiced in the context. The report affirms the trickles of giving to CSOs, which largely complement government in the delivery of social services.

African philanthropy is generally envisaged to be effective, sustainable, and central to developing long term solutions that benefit everyone, and subsequently contribute to development of the continent (Moyo and

Sowa, 2015; Ansah, 2018). If it is supported by an enabling regulatory environment, it could become the most reliable partner in alternative development financing; contribute to structural transformations; boost household incomes, savings and purchasing power; strengthen political stability; increase local economic development; improve societal wellness and strengthen social relationships, among others (Moyo and Sowa, 2015; Mugisha et al., 2020).

A study conducted on seven African countries (Angola, Egypt, Ghana, Kenya, Nigeria, Senegal and South Africa) shows that a State's conceptualization of philanthropy influences how it is regulated. This reality brings to bear the front role of government to the health and survival

of philanthropy in a country (Moyo and Sowa, 2015). The report further highlights that none of the countries above has a specific regulation on philanthropy; instead, many statutes regulate philanthropy. In this research, specific to Uganda, we explored the use of the term in key legal and policy documents to frame any linkages between government and philanthropy; as well as other laws that may provide this linkage.

While the likelihood of CSOs to augment government resources and efforts is clear, in many African countries, the space for civil society and philanthropy is constricted. This report also includes findings from a civic spaces mapping in Uganda.

Global Development and Philanthropy

Globally, the 17 Sustainable Development Goals (SDGs) drive the agenda for sustainable development through 2030 (figure 1). While anchored on the maxim of "leaving no one behind", the SDGs are ambitious because they encompass the breadth of development, making connection of social, economic and environmental factors, as well as linking environmental threats with social justice and global prosperity (Callias et al., 2017). While governments carry the ultimate responsibility for achieving the Agenda 2030, philanthropy is one of those approaches that the UN advances in this effort. The role of philanthropy is explicit in paragraphs 41 and 45 in the text of the Agenda 2030. In paragraph 41, the UN acknowledges the role of the diverse private sector including microenterprises, cooperatives, multinationals, CSOs, and philanthropic organizations in the implementation of this agenda. Paragraph 45 obligates governments

and their agencies to collaborate with different institutions to deliver on this agenda, including local and regional authorities, sub regional institutions, international institutions, academia, philanthropic organizations and volunteer groups, among others (UN, 2015a).

The Addis Ababa Action Agenda on financing for the SDGs also makes mention of philanthropy in paragraphs 10 and 42. Paragraph 10 advances the role of governments especially in the developing regions, to strengthen collaborations with different stakeholders in the SDG agenda including philanthropists. Paragraph 42 is more expansive on recognition of both financial and non-financial philanthropy, the need for transparency and accountability in philanthropy, and a call to philanthropists to align with local interests, among others (UN, 2015b).

Figure 1: The 17 Sustainable Development Goals



Source: www.undp.org

Uganda is one of the 193 countries that have adopted the SDGs and the government should therefore engage with the provisions on philanthropy.

Ugandan Philanthropy (Local philanthropy in Uganda)

The literature on Uganda uses four terms to mean philanthropy – charity, generosity, giving and philanthropy (CAF, 2020; CSA, 2020). Fowler (2016), in his paper on ‘concepts and framework for teaching, research and outreach of African philanthropy’, argues about replacing the term giving with gifting, as the former may not be a pro-social act - imagine giving misinformation, disease or bad attitude. This report does not interrogate the different meanings but assumes similar ‘pro-social’ meaning – giving for public

good. As mentioned above, this report is a first product from a research to explore the landscape for the practice of philanthropy in Uganda. The second report on ‘exploring philanthropy’ attempts to investigate the local understanding of the general term ‘philanthropy’.

To describe Ugandan philanthropy, we need to understand the meaning of African philanthropy as an anchor for a local meaning. Bhekinosi Moyo describes African philanthropy as “philanthropic

action that is unique and specific to Africa” (Moyo 2010). This is featured by cohesion, self-help, mutual aid and actions of reciprocity, which are rooted in African tradition and traverse the lifespan (birth to death) of individuals (Moyo, 2010; Moyo and Ramsamy, 2014; Mati, 2016). This is called horizontal philanthropy and includes one or a combination of money, prayer, advice, voluntary time and connections to social networks among others (Fowler, 2016). The fusion of traditional values and relation building is synonymous with the Ugandan context (CAF, 2020), and therefore we adopt the same description for Ugandan philanthropy – the practice of giving by Ugandans for Ugandans, characterised by traditional norms of solidarity, reciprocity and cooperation. We must emphasize that this is only part of “philanthropy in Uganda” which refers to philanthropic forms found in Uganda, including those from Western sources.

Research on Ugandan philanthropy is only emerging and therefore the practice is still not well understood. A few studies have been conducted on philanthropy by business entities through corporate social responsibility (CSR) (Nkundabanyanga and Okwee, 2011; GIZ, 2012; Boos et.al, 2016). These studies highlight the obligations of businesses to society and affirm that many in Uganda practice philanthropy even though it is not formalized or institutionalized (Boos et.al, 2016).

A research by CAF (2020) in the East Africa region shows that philanthropy to individuals in Uganda is dominant compared to philanthropy to CSOs. Volunteerism is the most common form to these

entities, and it is expressed as time given by university students to a cause, or time extended by professionals such as doctors or lawyers to provide technical support (p 24). The report uses the term ‘problematic’ to refer to this practice (p 19) because it is not sustainable. Other forms of horizontal giving found in Uganda include in-kind gifts such as materials goods and clothes. Funding is mainly from foreign sources but local financial resourcing from government, individuals, membership fees, income generating activities and CSR is reported (p 21).

Like in other African countries, the report shows that the regulatory environment constricts the functionality of CSOs. This is through restrictive and punitive laws, which are mainly applied to organizations working on human rights issues. The constriction also includes inconsistent government support (both financial and in-kind), and these are likely to influence local philanthropy. In this report, we share our findings on regulatory drivers contributing to the constricted space and how these might influence philanthropy. Our findings complement and expound on those from the CAF research. We further share experiences of philanthropists from select districts with the law.

The objectives of this scan were three:

- a. Explore laws relevant to philanthropy in Uganda, as well as their implications
- b. Describe the regulatory drivers of the constricted civil society space
- c. Identify the experiences of local philanthropists with the regulatory environment

Research Approach

We used a qualitative approach to understand the contextual issues such as regulatory frameworks, interpretations and experiences.

To explore the laws on philanthropy, we scanned the key overarching national regulatory documents to identify any provisions on philanthropy. These included the 1995 national Constitution which is the supreme law; the vision 2040 which drives the overall national development agenda, until 2040; and the third national development plan which is currently driving national development from 2020/21 – 2024/25. We further explored three philanthropy vehicles (traditional institutions, social enterprises and corporate institutions) to get an insight of the regulatory framework in the local philanthropy space. This was done through a literature review.

To describe the regulatory factors that drive the constricted space, we extracted related findings from a mapping exercise that we conducted in 2019 (unpublished), on the constricted civic space in the country. In this exercise, we held 54 in person and telephone interviews with individuals working for private and public funders, leaders and employees of non-governmental organizations, community-based organizations and other civic groupings, as well as select leaders in Uganda. We also reviewed related literature from varied online sources.

Secondly, the exercise did not seek to unpack the different meanings of terms such as “civic space” or “civil society.” Generally, the resultant report used the term civic space as defined by CIVICUS as “the place, physical, virtual, and legal, where people exercise their rights to freedom of association, expression, and peaceful assembly. By forming associations, by speaking out on issues of public concern, by gathering in online and offline fora, and by participating in public

decision-making, individuals use civic space to solve problems and improve lives. A robust and protected civic space forms the cornerstone of accountable, responsive democratic governance and stable societies” (CIVICUS and ICNL (2014). Non-governmental organizations, community-based organizations and groupings constitute “civic space” for these purposes. “Civil society” or civil society organization (CSO) is used to refer to anyone or any entity deliberately participating in or seeking to participate in civic space. “Civic actor” or “activist” is anyone working in or participating in civic space to any significant extent.

To explore knowledge and experiences of philanthropists and communities with the law, we conducted 5 district level meetings with districts officers and community representatives from different sectors including faith based institutions, CSOs, district leaders, market leaders, and health, Education, Agriculture, Culture, and opinion formers. The discussion on philanthropy included questions on their knowledge and experiences with laws that influence them to give for public good. From the district consultative meetings, the participants identified six top givers from the district, who we followed up for interviews on their knowledge and experience with the law. The select districts included Kampala, Masaka, Mbarara, Arua, and Gulu.

The wider research on exploring the landscape for the practice of philanthropy in Uganda was cleared for ethical completeness by the Research Ethics Committee at the Makerere University School of Social Sciences (Ref MAKSS REC 2.20.387); and approved by the Uganda National Council for Science and Technology (RefSS471ES).

Limitations

This scan is not rigorous and therefore findings are not exhaustive. For example, we did not investigate statements that were made about people that were not participants in the study. Considering that it is the first locally conducted study on philanthropy, we aimed to get insights

that will inform further research.

The study was conducted in only 5 districts in Uganda and therefore cannot be generalized to the country.

Findings

Regulatory Framework for Philanthropy in Uganda

a. The normative framework for philanthropy in Uganda

The 1995 Constitution of Uganda

The Constitution is the supreme law of the land and takes precedence over all other laws. While philanthropy is not mentioned explicitly in the text of the 1995 Constitution of the Republic of Uganda, it contains provisions that advance human dignity as well as development. Chapter 4 of the Constitution covers a bill of rights that the citizenry should enjoy, and these drive the agenda of philanthropy. In the amended Constitution of 2005, Article 8A requires the State to be guided by National Objectives and Directive Principles of State Policy (NODPSP) in applying or interpreting it or other laws. Some of these principles are relevant to creating an atmosphere favorable for the growth of philanthropy:

- Directive Principle II (iv) provides - civic organizations shall retain their autonomy in pursuit of their declared objectives.
- Directive Principle II (vi) – provides for respect

and protection of civic organizations in pursuit of their lawful objectives. This may be interpreted to include lawful mobilization or dispensation of resources locally for public benefit.

- Directive Principle IV (ii) - the State and citizens of Uganda shall endeavor to build national strength in economic and social spheres to avoid undue dependence on other countries and institutions. This may include creating an enabling environment for local philanthropy including tax incentives and progressive laws for the practice
- Directive Principle V(ii) - the state shall guarantee and respect the independence of non-governmental organizations which protect and promote human rights.
- Directive Principle IX - the State shall encourage private initiative and self-reliance in order to facilitate rapid and equitable development.

Uganda Vision 2040

The Constitution provides for three branches of government - the executive, the legislature, and

the judiciary, each with a clear mandate (RoU, 1995a). The executive is the administrative arm that formulates policy for implementation alongside the Constitution and other statutory laws (Articles 98 and 99; Articles 111 -114). The legislature is mandated to make laws (Article 79; Article 77); and the judiciary interprets the law with an objective to resolve conflicts (Article 126; Article 128) (RoU, 1995a).

The Uganda Vision 2040 guides the actions of the executive. It is, **“A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years”**. (NPA, 2013). This vision is reliant on public good, which is also the goal of philanthropy. While the term, “philanthropy” is not used anywhere in the text, there is recognition of the weak private sector, as well as its potential to be an engine of growth in the country (pg 24). A recent research of giving in East Africa shows that the private sector is a key vehicle for local philanthropy, although it has not been harnessed in Uganda (CAF, 2020 pg 29). In the Vision 2040, there is also projection of decline of donor funds from the current 27% of GDP to under 5% by 2040 (pg 37) and deliberate intention to strengthen the private sector in order to accelerate social-economic growth. Local philanthropists can read into this trend of development to guide their entry or scale in the development space, as well as advocacy for recognition of the approach in regulatory documents, and infrastructure.

There are additional provisions, the language for which can be interpreted as supporting local philanthropy. For example, paragraph 345 commits to ensuring that every Ugandan understands and supports the achievement of the vision. Translation into local language and integration into curricular are some of the strategies. While this text can justify the practice

of local philanthropy, introducing the approach into the education system is provided for (pg 115). Additionally, civil society organizations are highlighted as key to realization of the vision through dissemination and popularization; as well as resource mobilization and fundraising for interventions (pgs 115, 355).

The Vision is implemented through five-year National Development Plans (NDPs) with the third (NDPIII) currently in force (NPA, 2020). It is guided by key regional and global development priorities including the Africa Agenda 2063, EAC 2050 and the SDGs (NPA, 2020). The text of the NDPIII includes the term “philanthropy” as existent in the private sector and acknowledges the role of this practice in the development space. Considering that the plan is progressive on developing the private sector, we can assume that this includes local philanthropy, although it is not explicit on the term (local philanthropy). Additionally, the general term, “philanthropy”, is only used in association with finances (pgs 18 and 208), which is an indication that the framers are not aware of the different forms of philanthropy (time, treasure, talent¹) or their likely contribution to development. In paragraph 105, there is a disclaimer that the plan excludes civil society interventions and resources (pg 46) which we can interpret as some awareness of local philanthropy.

Never-the-less, the mention of the term and acknowledgement of its importance can be considered as progress from the predecessor, the NDPII (NPA, 2015), and an opportunity for sensitization and dialogue on the approach, as well as advocacy for progressive regulation to optimize its potential.

¹<https://philanthropyforum.org/conference/african-philanthropy-forum/>

Conclusions on the normative framework

The term philanthropy is not explicit in the Constitution but there are implicit provisions in texts relating to development and human rights. This implicitly is also observable in the vision 2040, the policy framework that drives national development until 2040. In the scan, the text that we interpreted as representing local philanthropy relates to the private sector, although the provision that commits every Ugandan to achieving this vision can be interpreted as inclusive of individuals both in the private and public sectors. The Vision 2040 is currently being implemented through a third NDP III and for the first time, philanthropy is mentioned in the normative text although it is only used to refer to financial resources.

We opine that philanthropy actors are intentionally or unintentionally informed by this overarching doctrine. The implicit provisions in the Constitution and explicit mention in the NDP III are opportunities for sensitization and dialogue on the approach, as well as advocacy. In the next section, we explore mechanisms for local philanthropy and their regulatory underpinnings provided by the Constitution or statutory laws and policies.

Mechanisms for Philanthropy

Traditional Institutions

The 1995 Constitution makes proclamations specific to traditional institutions that have implications on philanthropy. First, Article 246(1) provides for the existence of traditional or cultural Institutions in any area in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies. Article 246 of the Constitution is operationalized by the Institution of Traditional or Cultural Leaders Act of 2011.

Section 9 of the Act allows traditional or cultural leaders to promote the development, preservation and enrichment of all the people in the community in which he or she is recognized (RoU, 2011). The literature presents several initiatives by these institutions to illustrate the implementation of this provision. For example, the Buganda Kingdom established the Buganda Cultural and Development Foundation (BUCADEF) as a Non-Governmental Organization in 1994 to spearhead and direct social economic development in communities². It purposes to sustainably improve living standards and welfare of the people through capacity building. Their website details 13 completed, 3 ongoing, and 3 upcoming projects. Other examples are the Kabaka³ (King) and Nabagereka⁴ (Queen) Foundations which are chaired by the King and Queen of Buganda, respectively. The later clearly reflects their philanthropic approach in their statement of mission.

“We give our time, our minds, and our hearts to leverage culture in a novel effort to address critical and complex development challenges. We aspire to have a society that has embraced Obuntubulamu (Ubuntu/ humanity) as a human capital asset” – Nabagereka Foundation Website. In the Western region, the Kingdom of Bunyoro Kitara has an annual Empango (coronation) anniversary marathon run, the proceeds of which are used for public good. For example, in 2018, proceeds were used to purchase a 3D Ultrasound Fetal Doppler machine for Buliisa health center IV in Buliisa district; while in 2019, they were used

to purchase a human blood analyzer machine for Kiryandongo district hospital. The Kingdom of Bunyoro Kitara organizes this marathon in honor of their King who flags it off from a specific venue every year (Atuhairwe, 2019).

While the Constitution is progressive on development initiatives by traditional leaders, it prohibits them from joining or participating in politics. It further bars traditional leaders from exercising any administrative, legislative or executive power of Government or local government. This provision was applied in Paul Kafeero versus the Attorney General (Uganda Constitutional Court, 2008). The chairperson of Electoral Commission declined to register a political party named Kabaka Yekka (KY) on grounds that the public may interpret it as the Kabaka of Buganda indulging in partisan politics contrary to the Constitution. Paul Kafero, the petitioner brought a petition to court claiming that the refusal to register that political party contravened Article 72 that provides for a right to form a political party and Article 29(3) of the constitution that provides for freedom of association. The court agreed with the decision of the Electoral Commission not to register Kabaka Yekka basing on the prohibitive provision in the Constitution (Uganda Constitutional Court, 2008).

This means that cultural institutions or traditional leaders cannot involve themselves in philanthropic activities with any political connotations. The Constitution also prohibits anyone from being compelled to contribute to the cost of maintaining the traditional or cultural institution. The purpose of these limitations is to ensure that the institutions are voluntary for those who believe in them. It also helps to ensure that the cultural leader does not compromise his office by practicing partisan politics, which could bring conflict between the institution and government.

The Institution of Traditional or Cultural Leaders Act further restricts traditional or cultural institutions from dealing with foreign governments except with the concurrence of the government (RoU, 2011).

²<http://bucadef.org/ug/about-bucadef/>

³<http://www.buganda.com/kabakafd.htm>

⁴<https://www.nnabagereka.org/>

Social Enterprises (SEs)

SEs are privately owned businesses that contribute to social improvements. Enterprising philanthropists deliberately use business ventures to promote public good with the goal to end poverty (Dees, 2008).

A recent research in Uganda shows that there is an increase in the number of SEs, meaning that Ugandans are intent on addressing their communities' problems (Capital solutions, 2020). They are either non-profit, for-profit or a fusion of the two; they work within communities and as such have a good understanding of the local context (World Bank, 2017).

In Uganda like many African countries, SEs are pro-development but lack an enabling environment - policy and regulation; financing solutions; infrastructure and human capital; and information and networks. The term "social enterprise(s)" is not in the 1995 Constitution, the Uganda Vision 2040 or the NDPIII. The supreme law however provides for laws that regulate business organizations (Article 193), as well as leaders of government and non-government entities (Article 226) (RoU, 1995a).

SE is a new term in the country and has no guiding policy or strategy (World Bank, 2017 ; Capital solutions, 2020). Despite the absence of such policy, the government is cognizant of the roles of SEs as private sector actors in national development. As such, it has developed policy and initiatives for the private sector which are supportive of SEs (World Bank, 2017). Generally, strengthening of the private sector is an objective of the Uganda Vision 2040 which is currently being implemented through the NDPIII. Providing a supportive regulatory environment is a key strategy in the current NDPIII and its predecessor, the NDPII (NPA, 2013 ; NPA, 2020).

In addition to the absence of policy on SE, the report by Capital solutions further shows that 54.7% of the social entrepreneurs have inadequate financial resources, lack awareness on where to access cheap sources of finance, and experience high bank interest rates (Capital

Solutions, 2020). Any policy conversations would have to consider such concerns.

Further on the regulatory environment, some non-profit SEs operate as NGOs and live in fear of the controlling power of government under the NGO law of 2016 which was drafted to curb involvement of NGOs in political activism (World Bank, 2017; Kelly, 2019). While the law has demerits as shown in the next section on the narrowing of civic space, failure to register under this law denies an organization the tax benefits accorded to non-profits such as income tax exemptions (World Bank, 2017; Kelly, 2019).

The Act defines an organization as a "legally constituted NGO which may be a private voluntary grouping of individuals or associations established to provide voluntary services to the community or any part, but not for profit or commercial purposes" (RoU, 2016). Some SEs have taken advantage of this definition and registered as NGOs because it does not define the meaning of "voluntary services to the community..." NGOs have used this grey area to register as such, yet they are actually businesses in all but name (World Bank, 2017). Examples include faith-based institutions and donor aided schools (World Bank, 2017).

SEs in Uganda may also register as limited liability companies (World Bank, 2017 p13). Limitation of liability puts any debt burden on the company and not on the owners. This is because a company exists as a separate legal person from the owners or stakeholders. As a separate legal person, and like a real person, the company can own bank accounts and property that should enable it to shoulder its debts⁵.

There are two possible forms of SEs in Uganda, defined by the Companies Act – Company Limited by Guarantee (CLG) and a Company Limited by Shares (CLS) (RoU, 2012). The former does not pay out dividends or take profits out of their businesses. In some instances, a non-profit can set up a profit-making arm as a CLG. This makes it easier to operate business models alongside charity/ philanthropic models. An example is The Uganda Red Cross Society, an NGO that runs a

company called Musalaba Mwekundu, which mobilizes resources for it (World Bank, 2017). Some rent out rooms in their office space and some sell goods, among many others (CAF, 2020). A CLS confers ownership of a company through shares. The shareholders pay the company for the shares and in turn the company gives the individual ownership in form of shares. The proportion the individual owns is directly proportional to the number of shares they own in the company. Considering that there are no incentives expected by such a company, it might be a less suitable option for philanthropic activities.

Under the Companies' Act, the word "Limited" or "Ltd" is required to be displayed by companies⁶. Section 41 of the Act empowers the Registrar of Companies to license a limited liability company to be registered without the word "limited" to its name. This special license is available to charitable organizations, which prohibit the payment of any dividend to its members. This provision is recognition that a company registered with the word 'limited' creates a presumption that it is intended to carry on a trade or business. The implication is that philanthropic SEs can take advantage of this provision and carry out their philanthropic activities without the burden of having to prove to the public that they are not trading companies.

Corporate Social Responsibility (CSR)

Businesses, by virtue of operating in society are considered as social units, just like individuals that comprise that society. Like the individuals therefore, businesses or corporate companies have obligations to operate in a socially responsible manner in order to thrive in society (Hossain and Diah, 2015). While the primary aim of social enterprises is to maximize social outcomes such as realizing social inclusion and employment, that of corporates/ business entities is to maximize profits for shareholders, but includes goals on social good (Szegedi et al., 2016).

In developing economies like Uganda, CSR is, "the

formal and informal ways in which a business contributes to improving the governance, social, ethical, labour and environmental conditions of a country's economy, while remaining sensitive to religious, historical and cultural contexts" (Bos et al., 2016). In other words, while companies have responsibilities to make profits for their investors, they also have moral, ethical and philanthropic responsibilities, in the confines of the law (Nkundabanyanga and Okwee, 2011; Szegedi et al., 2016). Businesses and corporations are obligated to do no harm to society through their activities; and contribute to the welfare and development of society, as complements to government efforts (Adrian et al., 2013; Hossain and Diah, 2015). In Uganda, like most of Africa, corporates are more focused on the philanthropic responsibilities than the ethical and legal aspects (GIZ, 2012; Hamidu et al., 2016).

The explanation may be that there is no direct law that regulates CSR and the term does not exist in the overarching normative frameworks. It is therefore not formalized or institutionalized to fit global standards (Bos et al., 2016; Hamidu et al., 2016). This makes progressive regulatory commitments on PPP mentioned under SEs above difficult to implement, especially with glaring corruption tendencies in the public sector, where resources meant for public good maybe diverted for private benefit by public sector actors (Bos et al., 2016). For those corporations that harness the PPP to complement government efforts, the reasons are skewed towards gaining preferential treatment from government, and building their image through attracting media attention, rather than stakeholder engagement and management (Hamidu et al., 2016).

From the definition, there are three key pillars of CSR which are indirectly regulated. They include the labor force and their rights; the environment; and the profits for investors. These are regulated through different labour laws, environmental laws, and laws that enforce compliance to corporate governance (see table 1).

⁶<https://www.communitycompanies.co.uk/limited-by-shares-or-guarantee>
Sections 36 and 117 of the Companies Act, 2012

Table 1: Laws that regulate CSR	
Labour laws	Environmental laws
Minimum Wages Act 2000	Environmental management is the National Environment Act, 153
Labour Union Arbitration and Settlement Act 2006	The Water Act
Workers Compensation Act 2000	Land Act
Occupational Safety Act 2006	Investment Code Act
Employment Act 2006	Wildlife Act
	National Forestry & Tree Planting Act
Environmental policies	The Mining Act
National Environment Management Policy 1994	The Burning of Grass Act
National Policy for Conservation and Management of Wetland Resources 1995	Local Government Act
National Forestry Policy 2001	
Water Policy 1999	Laws on corporate governance
Environment Health Policy 2001	Companies Act 2012
National Environment Management Policy 1994	Capital Markets Authorities Act 1996
National Policy for Conservation and Management of Wetland Resources 1995	Financial Institutions Act
Climate Change Policy 2014	

Bos et al., 2016

While the laws are in place, limited and selective implementation is a norm. Under the Companies Act for example, public companies should adhere to a code of corporate governance, but this does not apply to private companies. Additionally, corruption, high taxes, limited access to finance, inadequate supply of infrastructure, are threats to sustainable business and hence CSR (GIZ, 2012; Bos et al., 2016). Never-the-less, there are institutions in place to guide philanthropic practice by corporates. These include the Uganda Chapter for Corporate Social Responsibility Initiatives Ltd

(UCCSRI), The institute of Corporate Governance of Uganda (ICGU), Uganda National Bureau of Standards (UNBS), Uganda Manufacturers Association (UMA), National Environment Management Authority (NEMA), and others (GIZ, 2012; Bos et al., 2016). These are in position to provide support to corporates on adherence to the regulatory frameworks. The functionality of these institutions as regards advocating for explicit regulatory frameworks or guiding CSR is unknown and needs to be explored further.

Conclusions

While this is not an exhaustive list of vehicles for philanthropy, it provides insight on the vacuum in regulatory environment for philanthropy in a growing private sector. Poor regulation of the private sector is risky for the recipients of philanthropy because violation of their rights may go without notice or it may be ignored.

These findings are consistent with Moyo and Sowa, 2015 on the linkage between a State's conceptualization of philanthropy and how it is regulated. They found that the countries that did not have provisions for philanthropy in their normative frameworks, applied statutory laws. Never-the-less, the multitude of laws can be leveraged to grow and propel local philanthropy with appropriate engagement of relevant stakeholders and systems development both at organization (e.g. policy development) and national level (e.g. review and implementation of laws).

Considering that most businesses are more philanthropic than legal or ethical, civil society also influences the quality and quantity of CSR. A report on growing giving in Uganda (March 2020) shows that local businesses rarely give to CSOs but CSOs are also not intentional in raising resources from local philanthropists including corporate institutions (CAF 2020a). However, CSOs as recipients or givers of philanthropy are challenged due to continued oppressive operational environments (Moore and Rutzen, 2011; Civicus and ICNL, 2014). In the next section, we look closely at the drivers for the closing civic space and specific implications for philanthropy.

Regulatory Drivers of the Closing Civic Space in Uganda

The regulatory environment is tolerant to civil society to varying degrees depending on how socially and politically acceptable they are to government (CAF, 2020). The space for civil society to thrive is therefore not guaranteed. This is reflected by extensive violation of rights of those institutions and individuals who oppose government, or advance human rights. This violation include shutdown of CSO operations, media shaming and violent attacks. In this section, we expound on some of the regulatory drivers of the closing civic space for civil society and how these might affect philanthropy.

a. Threats from government officials and their proxies

In recent years, civic actors and organizations have faced a range of direct attacks from government actors or their proxies. Police have forcefully prevented and/ or dispersed meetings and assemblies convened by those critiquing government and/or its actions. They (government) have deterred access to media outlets for some activists or warned media houses not to engage in some sensitive topics and issued a range of direct and indirect threats of violence and reputational damage to civic activists (CEHURD, 2018).

Interviewees in the mapping exercise pointed out that it was often unclear what actions were orchestrated by whom among government and ruling party actors, who rely on the often-repeated phrase of “orders from above”. Sometimes, State House officials or security leadership can order a lower official or security operative who may be dressed in plain clothes to threaten someone or raid an event. The high-level officials later argue nobody gave anybody such orders, disassociating the government from violence or threats. This disguise and difficulty to identify the origin of abuse is common in Kampala.

For groups working outside Kampala, the individual actors making threats, or causing other problems to civic work could be more identifiable given that people are more familiar

with one another in smaller town centers or rural areas, and that there are usually fewer actors proceeding on behalf of the state compared to the capital (Kampala). Unfortunately, these activists feel like those in Kampala do not show any response in solidarity. The reason for this may be that the Kampala based activists do not receive the information because there are no documents or reports on such incidents. One example shared by a respondent was of a district education officer who was ordered to discontinue a public-school teacher from his post and end his salary allocation because the teacher questioned the actions of the army in the district. By the time of the interview, the teacher had been jobless for three years.

“..... the education officer told the teacher why he was being ordered to cut him from the salary role and apologized to him .. for the loss of income but ... he was “acting on orders from above.” The activist (teacher) did not seek help from any human rights defender organizations when he lost his job, but when he later faced numerous interrogations from police and the army and some of his research notebooks were stolen from his home, he reached out for assistance. In the end, he received a small grant to cover staying outside his home area for a month” – interview with CSO leader

Civic work in Uganda is considered as risky such that even some embassies are afraid to associate with activists or CSOs that challenge government actions. As one governance advisor noted,

“...to put ourselves out there, to support civil society work in Uganda,is an immense risk for us as staff, and we don't always push for risky work because of that” – Interview with Embassy staff.

Implications – People give their time and expertise to advance social justice, however with such threats and violations, such people will be discouraged from practicing philanthropy. Additionally, perpetrators are not brought to book

because of the power they have. In the example above, the teacher gave his time to document and voice atrocities by the army. He was silenced by a direct infringement on his source of income and there is no indication of anyone holding the government accountable. There is a sense of fear of agitating the power holders, even by person's representing foreign governments.

b. Inconsistent, Biased Application of Police and Judicial Power

The application of police and judicial power to civic work in Uganda is inconsistent. For example, police raided the offices of three CSOs in September 2017, expending significant financial and personnel resources to search premises, interrogate employees and freeze bank accounts (Kakaire, 2017). The same police have done nothing to investigate the many burglaries of NGO offices, including two killings of guards in recent years (HRW, 2016). This means not only that the police are a threat to civic space but that if and when civic organizations are victimized by anyone – state or non-state actors – they have virtually no way of holding any perpetrator accountable.

At the same time, the targeted attacks are sometimes also seen as a way to build solidarity and as a sign of efficacy in the sector, despite the tremendous personal toll on staff. Following the raid on the three CSOs mentioned above, a letter that was written by the Executive Director of Action Aid showed support to the work that was being done by the organizations and encouragement for continuous support from global actors (Clarke, 2017).

“Our work with social movements and many other civil society organizations ... must be working. We expect this to be just the first of a much broader attempt to shrink the space for civic engagement in Uganda. ActionAid and GLISS might have been the first, but we are not likely to be the last, unless a wave of active solidarity rises up from across the world — shining a spotlight on Uganda and all countries to demand that the right to be civically engaged is respected” – ED of AAI

Activists in the mapping exercise also noted the increasing use of harassing criminal charges against local civic actors to silence them, in some ways similar to what has happened to opposition politicians in Uganda for several years. Local and community-based land activists said that they feared charges of being “rogue and vagabond” in

their district as that would lead to some nights in a local administration prison while charges were pending before the magistrate. They highlighted that this could likely also lead to forced labour on behalf of the prison administration. Another group raised concerns that in one instance, people mobilizing on behalf of land rights had been wrongfully charged with capital crimes to silence them and prevent community mobilization.

While some foreign allies dissociate from activist work, there is an opportunity with those that support local philanthropy. With their advocacy, the global community can raise their voice and deter such attacks by government.

c. Restrictive Laws

Compliance with numerous laws remains a challenge for civic space. Many times, these laws are also ambiguously worded.

- **Computer Misuse Act of 2011:** This was introduced to regulate computer use. This happened during the walk to work campaign, which was mainly mobilized through social media (Mwesigire et al., 2019). The campaign was spearheaded by opposition leaders as a peaceful protest against the misappropriation of public funds by government (CEHURD, 2018). Communities in different towns in Uganda invested time and energy to participate because the issues that were raised such as the hiking of food, fuel and transport costs; directly affected them. The campaign did not survive after government declared it unlawful and used the police to disperse the crowds with unwarranted excessive force (CEHURD, 2018). The police actually uses such force under the Public Order Management Act to prevent, obstruct or break up private and public meetings, protests and marches. Ironically, Uganda, as a multiparty state, legalized participation in opposition politics and related organizing (CIPESA, 2015).

The government has also used the same Act to deter efforts by Dr. Stella Nyanzi, a renown researcher and political activist. Nyanzi is famous for relentlessly and vehemently critiquing the ruling government for its failures, often mentioning the President as the leader, and his wife who is a Minister of Education. She uses her Facebook page to gather followers who share her sentiments. In retaliation, government has invoked the Computer Misuse Act (sections 24 and 25) to hold her liable for “cyber harassment” and “offensive communication” towards the president and his wife (Nyamishana, 2017). Nyanzi has gone

beyond just critiquing government and also used the same social media platforms to seek support for a pad campaign which aimed to subsidize sanitary pads for women and girls who could not afford them. The campaign was frustrated and consequently banned by the police, who questioned her registration status (Nyamishana, 2017). Nyanzi's practice of philanthropy has attracted a global and local community to stand with her in solidarity (Mwesigire et al., 2019).

There have been other individuals who have been silenced under this law for being critical of government through social media (CIPESA, 2015). In their 6th ICT policy briefing series of 2015, CIPESA highlight that this law, along with Electronic Signatures Act, 2011, the Regulation of Interception of Communications Act 2010 and the Communications Commission Act 2013 contain contradictory provisions, and that the terminologies used are broad (CIPESA, 2015).

- **NGO Act of 2016:** This regulates all NGOs and CBOs in the Country and CSOs have presented it as both progressive and draconian. The law establishes the National Bureau for NGOs (NGO Bureau) under the Ministry of Internal Affairs and gives it the mandate to register, regulate, coordinate, inspect, monitor and oversee all NGO operations in the country⁷. According to a 2019 special report by the Freedom House, this law is one of those in Africa that require mandatory registration of organizations. As such, it does not allow for organic growth of organizations and defies the right to freedom of association (Musila, 2019). This could be the basis to why the police questioned the registration status Dr. Nyanzi during the pad campaign. On the contrary, the law is important to weed out elements that may manipulate the system to the detriment of citizens (Musila, 2019) and therefore discussions on philanthropy will have to argue both sides - regulation and organic growth.

Additionally, the registration process is burdensome, with layers at the National and local government levels (Musila, 2019). For example, at local government level, the law requires organizations to have approval from a District Non-Governmental Monitoring Committee (DNMC). This approval is a pre-requisite for registration by the bureau (RoU, 2016). The law further requires NGOs to declare

both local and foreign sources of resources. These requirements may deter the citizenry from starting up NGOs or CBOs or provide resources to support them especially on politically fragile issues. Yet, the power that the law gives to the Bureau may suffocate and silence organizations. One organization in the mapping exercise shared that people are afraid of holding government officials accountable. He gave an example of a Chief Administrative officer who was involved in a corruption scandal, but organizations could not hold him accountable because of the power he has over their survival. In his words...

“.....there was a corruption scandal in which the Chief Administrative Officer (CAO) was a culprit. By law, the CAO is the head of public service in the district and every project or intervention is endorsed by this person. CSOs therefore could not hold this person accountable because if a relationship is bad then the organization suffers. Donors also visit that office to ask about the relationship with the CSO to inform their funding decisions” – CSO leader

d. Global Efforts to Address Money-Laundering and Risks of Terrorism Financing

The Financial Action Task Force (FATF) is an intergovernmental policymaking body mandated to set global standards to address money laundering and terrorism financing around the world. Its mandate includes generating political will to advance related legislative and regulatory reforms (FATF, undated). FATF has 40 recommendations and the recommendation Number 8 specifically calls on countries to “review the adequacy of laws and regulations that relate to non-profit organizations, which the country has identified as being vulnerable to terrorist financing abuse”. Over 140 governments have passed anti-terrorism legislation since 9/11 and used this recommendation to frame civil society as a threat to terrorist financing. This has affected the landscape for civic space, in many countries (Ross and Kalwinski, 2017). In 2016, after significant advocacy from civic groups around the world, FATF revised the recommendation, which had stated that the non-profit sector was “particularly vulnerable” to terrorism financing and now recommends a “focused and proportionate” “risk-based approach⁸.

In Uganda, the Financial Intelligence Authority (FIA) is a government agency that was established by the Anti-Money Laundering Act, 2013 (AMLA) to monitor, investigate, and prevent money laundering in the country. It is also responsible for the enforcement of Uganda's anti-money laundering laws and the monitoring of all financial transactions inside the country's borders⁹.

Civil Society Actors that participated in the mapping opined that government can apply these laws as and when it suits them. For example, in 2017, just before one MP was going to table a private members' bill seeking to scrap the constitutional age limits, three organizations (The Alternative Movement, Action Aid International–Uganda, and Great Lakes Institute for Strategic Studies), that the police suspected to be involved in planning demonstrations against this move were raided. The leaders of these organizations were questioned about treason and subversive activities, and the accounts of their organizations frozen (Kakaire, 2017). Action Aid-International sought clarification about the charges from the Finance Intelligence Authority (FIA) but was never implicated by the body (Kakaire, 2017).

e. Rhetorical Attacks on Donors and Civic Groups

The government and CSOs work well together on service delivery, including on health and education, among others. Unfortunately, those CSOs or civic groups whose mandate is to advance human rights, build citizen capacities on rights, monitor elections and/ or challenge government do not enjoy as good a relationship. Such organizations

informed the drafting of the NGO Bill. They are funded by foreign donors whose agenda is suspect according to government (Kansiime, 2019). As one interviewee noted, “for this government of Uganda, any discussion of human rights ... including civic space..... makes you an outsider, and foreigner, a ‘Westerner.’ It's like they think we, as Ugandans, cannot have any opinions contrary to the government without being unpatriotic, offensive, and infected with foreign thinking.”

In the past, the President has accused the philanthropist George Soros of influencing Uganda's oil industry and opening numerous NGOs to push this agenda (HRW, 2012). Similar accusations were made by government and religious entities in 2016, on the comprehensive sexuality education curriculum that was being implemented by a CSO and funded by Netherlands based organizations. The curriculum was reported to propagate immoral acts of homosexuality and masturbation that are foreign to the Ugandan norms and therefore unacceptable. (Ahimbisibwe, 2016). This curriculum was later banned by the Minister of Gender, Labour and Social Development (MGLSD). We do not know how such constructs affect foreign philanthropists or donors but an exploration of their impacts may inform local philanthropies which may wish to invest in sensitive spaces especially considering that, the risk to their institutional survival is more apparent due to their close geographical proximity to government and civil society.

Conclusions

The potential of scaling local philanthropy to Civil Society, especially those promoting and defending rights, has not been explored. A public discussion with selected philanthropists on the enhancers and barriers to this practice would be relevant. Additionally, the needs of local civil society actors on their asks from local philanthropy would help to develop a roadmap for local philanthropy in the existing environment. The implications of the shrinking civic space for local philanthropy is only an implication. In the next section, we explore experiences of local philanthropists with the law.

⁷<https://www.mia.go.ug/content/about-national-bureau-ngos>

⁸<https://fatfplatform.org/>

⁹<https://www.fia.go.ug/background>

Knowledge and Experiences of Local Philanthropists With the Law

Our exploration of the landscape for philanthropy began with district consultative meetings, which were attended by an average of 25 participants (per district in the 5 districts) representing different sectors as mentioned in the methodology. These 25 would then identify the six top local givers in the district with intentional focus on time, talent, and treasure. While these categories are not mutually exclusive for some individuals/ institutions, there was representation for all categories. In each district therefore, we identified two givers of time, two of treasure and two of talent. Of the two, one was an individual and the other was an institution. One additional foreign giver was added to this list to get some insight on their experience with the law. All these categories of respondents were questioned on their knowledge and experiences with the law as it relates to giving and this section represents their feedback.

a. Legal enhancers to Local Philanthropy

Proximity to regulators

One organization lead in Arua providing integrated child services shared that they have not been taxed at all. They are a group of technocrats that came together to support government on issues of child protection, the skills for which are limited in the district. They do not pay any taxes because they are not receiving any donations or paying any salaries. Their office is in close proximity with the local Uganda Revenue Authority (URA) office and they constantly consult about their tax obligations. When asked about whether that office has advised them on how to apply for tax exemption status, they responded negatively.

“...I think the laws are . friendly because they (URA) know we are a charity organization ... we do consult them on our obligations to pay taxes. We are just giving, and we are not on pay roll. So there is no need for us to be taxed....we are in touch with the URA office here..... No we have never applied for tax exemption...” – local giving CSO representative.

Another representative of Comboni Samaritans in Gulu commended the URA for conducting occasional trainings for organizations on their tax obligations. They noted that they have had to pay

taxes on several imports they use for charity such as vehicles and other equipment. While they have been advised on tax exemption, they mentioned that the requirements for this process are many and the process is long.

Laws that authorize local action

Under the local government act, the district council has power to makes laws (called ordinances) that are in line with the constitution or any other law made by parliament (RoU, 1997). This council is the highest political authority in a district and has been used in Gulu to avert unproductivity, poor health and in some cases deaths that arose (post war) from drinking illegitimate alcohol, commonly known as sachet waragi.

By way of background, as narrated by the district LC5 chairperson, Gulu was left hopeless after a long history of war perpetuated by a rebel faction – the Lord’s Resistance Army (LRA). The lamentations, dependency and lack of direction drove the people, mostly the men, to cheap yet strong and dangerous spirits sold in sachets. About 31 people died from drinking this illicit alcohol and many were unproductive because they were drunk most of the time. Those who went to the gardens, carried sachets in their pockets and they could only work for 30-40 minutes. When he became LC5 chairperson in 2011, Mr Martin Mapenduzi commissioned a study to identify the brands of this sachet waragi, how it was manufactured, the chemicals therein and the economic impact on the community (Laing and Laing, 2015). The district was losing over one billion shillings to this health hazard. This evidence and more enabled the district council to invoke the local government act to develop an ordinance that would ban all sachet alcohol from the district.

The council collected over 10,000 signatures from concerned citizens in the district to show support for the ban and this application was approved by the Attorney General. The chairperson further reinforced this approval by securing a court order to impound and destroy the products. The Minister of Trade and the manufacturers, as well as the traders for the sachets attempted to frustrate the operationalization of the ordinance but they were advised by the Solicitor General that such

an Ordinance can only be reversed by the district council or constitutional court order. The Ordinance went into force in October 2016.

“....Acholi sub region was losing close to 4.5 billion every year to....,but Gulu alone was losing over a billion shillings from spending on the sachet.... so we started a fight through a legal process to develop an ordinance” – LC5 chairperson Gulu

Progressive local procedure that may be undocumented

In Arua, we learnt that there are rules that guide financial giving in order to control fraudsters from taking advantage of people. The participants at the consultative meeting shared that before anyone collects money from the community, say for medical bills or other purpose, that person should get written permission from the District Police Commander (DPC) or from the Resident District Commissioner (RDC). They were not sure what kind of law this was or if it had a name, but they know that making such collections without the letter is illegal. It is unclear the extent to which such rules work considering that money can be moved via mobile transactions and other gifts can be exchanged privately. Nevertheless, the rule is protective and can only be strengthened if need be.

In Gulu, the Prime Minister of the Acholi Kingdom was selected for his efforts in operationalizing traditional courts as platforms for alternative dispute resolutions. Most cases are land disputes and many times the courts refer the cases that they have failed to resolve to this structure, and they are resolved at no cost.

“.....We use our traditional structures to promote justice and keep order. When the two clans have failed to agree or find the truth at family and clan level, the matter is then referred to the Kingdom Council to handle it. At all these levels, the committees are formed by the elders and the chiefs to mediate the issues ... Everyone involved in this process is giving time and skills to handle the disputes at no cost” – PM, Acholi Kingdom

b. Legal Challenges to Local Philanthropy

Limited knowledge of laws and legal process
There was a general lack of awareness of tax laws among all the participants in the study. Some

members of the community questioned the manner of taxing, while others had no idea about tax exemptions. Multiple taxing arose as a concern and a reason why small business enterprises are not motivated to give. The significance for one entity having to pay licenses, withholding tax and value added tax for example is not clear.

“.....I do not understand Uganda’s tax laws. One business has to pay several taxes ...we .. pay annual licenses6% withholding tax to the same government and then VAT. This is where somebody’s willingness to give to others is affected” – District Consultative Meeting participant, Arua

Some of the participants we spoke to thought that they are exempt from import taxes just by their registration status as non-profits. In Arua, one NGO and one church learnt about the requirement to apply for tax exemption while they were importing vitamins and parish vehicles respectively. The church had raised money from Christians in the district to support pastoral projects, but the Bishop was shocked to learn that as a church which is obviously doing charity work, they had to pay import tax.

“.....we received donations of vitamins from so, when they told us to go and collect them, we knew that we are .. an NGO and there is no law that can bar us from receiving gifts. But it is from this process that we learnt that we were supposed to have applied for tax exemption” - CSO leader, Arua

Another school of thought was that tax exemptions or refunds are only theoretical. Some participants opined that while there are provisions to apply for a tax exemption ruling on the URA website, the reality is that the representatives of the body will even lock your door until you pay what they want.

“My husband sent musical instruments, but we had a big struggle with URA until we paid 1.5 million.... as import tax” - Foreign giver, Masaka)

“Taxation is a challenge. At one time we had received a donation of clothes and other good things for the children but they told us that we have to pay” – Local giver, Mbarara

Inadequate/ weak laws

Some philanthropists we spoke with mentioned that

the country has many laws but some are inadequate to support philanthropists especially those who are positioned to invest time to use the law for public benefit. The Gulu chairperson gave an example of the colonial Enguli Act of 1966, which is still in force. This law prohibits manufacture, sale, etc. of enguli without license. It is a colonial law with weak punitive provisions. For example, it prescribes a fine not exceeding three thousand shillings (less than 1 US dollar) or to imprisonment for a term not exceeding six months or to both such fine and imprisonment (RoU, 1966) for those that contravene the law. The chairperson mentioned that the functionality of such laws can be overwhelming.

“...we still have the Enguli Act... an old law (with soft punishments). This gives room for alcohol abuse ... there are so many policies and such laws that you find inadequate. They do not address the challenges you are facing and sometimes you get overwhelmed” – Local giver, Gulu

Selective implementation of laws

The selective application of laws also arose from our analysis. In Gulu for example, the district chairperson started a drive to avert environmental degradation by starting advocacy against charcoal burning. He and the council also attempted to use the National Environmental Act to impound all charcoal that was being transported to Kampala from Gulu and arrest perpetrators. Unfortunately, they realized that they were arresting the wrong people because the business owners are well connected persons in government who are ‘untouchable’.

“...the fight to protect the environment has also been very challenging partly because the people involved are aggressive and some of them are highly placed so they end up using the security agencies like the army and the police to harass our enforcement team.” – Local giver, Gulu

On experiencing difficulty in stopping the burning of charcoal, the council partnered with the University of Gulu to explore planting fast-growing trees that can be used for charcoal, and preserve indigenous trees. They also made a proposal that has not been implemented, to promote compulsory growing of trees since every homestead has enough land to grow trees.

Another example is the Children (Amendment) Act of 2015 which puts the mandate of providing education

services for children with special needs on the Ministry of Education & Sports under the department of special needs and inclusive education. However, given the limited government presence in the communities to provide services to these children, individuals have stepped up to provide these services. Fortunately, the two institutions we found providing services for special children have not been deterred but have not been supported by government either. The risk is that government can apply the law to stop these organizations if it suits them.

“When I look at the Children’s Act, there is an article which says that if children with special needs cannot go to ordinary schools, the government will make provisions for those children. I am happy to inform you that the district recognizes my effort and it has held two meetings here (in our school). Church of Uganda also brought another district team here (to our school) to see what is taking place and try to plan for this institution but that was the end. I said, “You guys please provide us with something”. In response, the district gave us a one-off special grant for persons with disabilities and a sewing machine. That is the only help we have got from government” – Institutional giver, Masaka)

Interference From Local Authorities

Some respondents highlighted the constant interference from local authorities in their giving activities. In Arua for example, one giver mentioned that security organs have accused him of recruiting rebels because he employs many people and has a large community following. He is popular in the community because of the numerous giving activities including subsidizing building costs and encouraging people to use bricks instead of grass thatch, and promoting the growing of trees in the area. Government security officers keep hovering over him, even without evidence and this is a problem for him.

“...To the government it looks like you are rallying some support to do something other than what they know. This is the biggest challenge I have faced because of my relationship with the community. An allegation comes that am recruiting rebels, just because I give work to so many people at my farm. I sometimes recruit more than 50 people to do work and from Monday to Monday, people must be in my home The security circles do not look at this positively – Local giver, Arua

Two local philanthropists in the Acholi region and in Kampala respectively mentioned that their activities are with by local politicians who want to gain political clout. These leaders require that the local giver hands over the gifts to them so they can gift the recipients directly. They (givers) are always blamed if they do not do this and they are discouraged for this reason.

“.....we went to xxxx school (name withheld) and we donated some materials those who are in need.... The next day the political leader who was at that function addressed the press that the government donated that school. So there is a problem of opportunists by different leaders who want cheap publicity” – Local giver, Kampala.

Restrictive laws

During a consultative meeting in Gulu, participants highlighted the law regulating the development of national and local government roads as restrictive. It confers the responsibilities for related activity to the Uganda National Roads Authority (UNRA) and Local Governments. Communities are only allowed to rehabilitate community roads and if a central government road is impassable, residents must wait for government, as the quote below shows:

“Last year, our organizationwanted to help fix some roads that had broken down here in Arua. We mobilized people to give fuel so that we could go to UNRA to ask for the machines but UNRA told us, “This is not your responsibility. Take back people’s money.” We took the money back. Those policies that restrict giving should be revised” - (District Consultative Meeting, Arua)

The Land Amendment Act of 2010 was raised in two districts, Masaka and Gulu, as a restrictive law. Section 69 of the Act requires consent from a spouse and children of adult age in his/her household before s/he can dispose a piece of land either through sale or gifting or otherwise. While this Act aims to protect family property, it can also be restrictive when family members don’t agree to on giving property for public good. With this

amendment Act now in place, the process for giving land for public good has become consultative, cautious and slow to avoid conflict and or legal battles. Additionally, participants mentioned that the law requires one to compensate squatters on his/her land and this has discouraged them from giving away their land for public good.

Over the top tax (OTT) also emerged as being restrictive to giving. OTT, also called social media tax was introduced in Uganda in July 2018 for social media services such as WhatsApp, Facebook and Twitter (Akumu, 2018). In order to access these platforms, social media users have to pay 200 Uganda shillings (0.05USD) per day. A lot of mobilization happens on these social media platforms especially on Facebook and WhatsApp. Funds have been mobilized for initiatives for public good such as construction of a Stadium and Swimming pool in Gulu; and a church in Arua. Other items and support for initiatives can be mobilized on these platforms. Participants mentioned that social media platforms for financial contributions work hand in hand with mobile money platforms managed by telecom companies – the mobilization is done on social media and those willing to give send their contributions to a particular number via a mobile money application. Those who are not on the platforms therefore cannot participate in such giving. Notably though, the concern for OTT only arose in one district and this may mean that it is a concern for some people but not most.

Bureaucracies

Many respondents said that the processes for tax exemption are bureaucratic. In addition, participants cited long registration processes as deterring the formation of NGOs and individuals from giving. CBOs also require annual renewal of their certificates and they too experience lengthy processes. Unfortunately, such processes are further impeded by corrupt tendencies where officials in particular offices require kickbacks.

Conclusions from experiences of philanthropists

Laws differently affect philanthropy: The different pieces of literature highlight sectors that are supported, for example health, education and Arts, among others. However, we conclude that considering that philanthropists can support initiatives that are as broad as the SDGs, therefore different laws may influence philanthropy negatively or positively. Additionally, none of the philanthropists we interacted with supported initiatives that are “unpleasant for government”. We can conclude therefore that laws may affect philanthropists that prefer to support those projects that challenge government or hold it accountable differently, compared to those that support service delivery.

Existing gaps with tax laws: The tax laws seem to mainly affect those who are also recipients of external philanthropy. There is limited knowledge on who is eligible for tax exemptions and how they acquire such status. However, the evidence also shows that there is some effort by the URA to educate different institutions on taxes. The gaps in knowledge show that the tax body has more work to do. Additionally, philanthropy infrastructure institutions can convene networking events for philanthropists and host URA officials to sensitize them on taxes. Philanthropy infrastructure institutions can further gain related expertise and guide philanthropists on processes to apply for tax exemption or link them to appropriate offices at URA.

There is limited evidence from this scan to show that individual philanthropic transactions are burdened by tax obligations except for OTT which may be a problem for some sections of society. Additional research on the regulatory environment should explore this further in more districts. Generally, individual giving can increase if the tax regime is enabling especially with the increase in the formation of foundations (Moyo, 2010).

Development of regulation by Public officers is philanthropic: The normative framework directly or indirectly in the Vision 2020 fits philanthropy in the private sector. The NDP for example specifically uses the term to refer to financial input into the development process by private sector actors and civil society. However, our findings confirm that public sector actors can use their public offices for philanthropic reasons. While one may argue that it is their role, we have found no evidence that a local leader has been held accountable for not developing bylaws or local rules for public good. We opine that it comes from a place of love and by being intentional, such leaders influence those that they lead to join their philanthropic efforts.

The power of local government leaders to invoke the Local Government Act to enact regulations is an opportunity or best practice that can be used by others. The leaders have to be intentional on local development, as reflected by actions of the LCV chairperson in Gulu.

Recommendations

Considering that local philanthropy is an emerging phenomenon in the development space in Uganda, we propose the recommendations below for the organizations which are committed to supporting the growth of philanthropy and the improvement of the regulatory environment.

- Education and sensitization of legislators/ policy makers – The implicitness of the term philanthropy reflects that the State has not conceptualized philanthropy. However, the mention of philanthropy in the NDP III reflects progression and the growth of the private sector may influence necessary reforms for growth. Educating legislators on the benefits of local philanthropy, as well as the current operational environment may contribute to understanding and willingness to develop or review existing policies and laws to advance the approach.
- Organizations that have committed to growing philanthropy should organize networking events for philanthropists and ensure robust discussion on the regulatory environment.
- These organizations should continually build their own capacities to understand the regulatory frameworks to enable them provide necessary support to philanthropists or create linkages with appropriate expertise, such as on tax laws or registration laws, so that they can refer the philanthropists appropriately. These organizations can partner with URA, for example to provide quarterly support to entities that need it.
- The stories of public servants who have the mandate to develop bylaws at subnational level can be used to influence other such public servants to emulate them for public good. Organizations should be cautious to share these stories with consent. Similarly, such philanthropists can be invited to share their experiences and motivations at gathering of philanthropists.
- Finally, these organizations should conduct continuous research on the regulatory environment. For example, research using bigger samples on experiences by say corporates or religious institutions, etc. They should also explore how to promote local philanthropy to the broad civil society even in the shrinking space.

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Get in in touch

Plot 18, Balikuddembe Road, Naguru
Kampala, Uganda P.O Box 4310
T. +256 393 224 056
W. civsourceafrica.com
E. info@civsourceafrica.com



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