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YOUTH FOR POLICY PERSPECTIVES

COLLECTION OF BRIEFING PAPERS ON
KEY POLICY CHALLENGES IN UGANDA

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FOREWORD

Youth led advocacy has taken several forms in the recent past; from social media activism to street protests, from boardroom meetings to opinion contributions in the print and broadcast media. Obviously, Ugandan youth are keeping alive the common position that “there can be nothing for us without us.”

Uganda is one of the youngest countries in the world and continues to register a rapid population growth. Around 77 percent of Ugandans are below the age of 35. The greatest challenge for Uganda has been how to provide the large and growing youth population with economic opportunities and access to services. These demands emerge amidst rising unemployment and multifaceted socio-economic and political challenges that encumber the government’s ability to deliver social services in required quantities and quality.

For the young generation to be effectively represented, to be involved and to have confidence in the future, it is not enough to create separate platforms for young people and to support youth-focused funds and programmes. Much as such efforts are laudable, we need to move beyond that level of engagement and ensure that young people’s voices matter in mainstream political decision-making and policy design, rather than just in areas that are considered “youth affairs”.

In light of this, the youth for policy initiative was conceived to supplement existing efforts by young people to influence public policy. It is a joint initiative of the Konrad-Adenauer-Stiftung (KAS) and the Centre for Development Alternatives (CDA) aimed at empowering the next generation of Ugandan policy experts to meaningfully contribute to policy analysis and public debates.

Through a range of capacity building and mentorship measures, Youth4Policy serves as capacity development lab for young leaders from a diverse spectrum of backgrounds such as academia, civil society and public service with a motivation to research and analyse specific policy questions from a youth perspective.

This collection of policy briefs presents efforts by young people to argue for policy positions from a point of evidence underlined by an exploration of what can work in the Ugandan context.

It is our hope that this publication will contribute towards amplifying youth voices in the public policy debate.

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OVERVIEW

Public policy making is inherently a mandate of public officials either as part of public service bureaucracy or as elected representatives of national and sub-national governments. However, policy decision-makers do not operate in a vacuum. They are influenced by multiple stakeholders including international players like the International Financial Institutions (IFIs), influential lobby groups and civil society. The idea of Youth4Policy (Y4P) is to build capacities and facilitate a platform for young people to influence public policies in Uganda.

Uganda is struggling with a large youth population that has outmatched existing opportunities and the capacity of the state to provide essential services. Yet, existing public policies are failing to address the needs and aspirations of the young population. If young people are going to contribute towards a new way forward, they will need to be able to evaluate existing evidence scrupulously and recommend policy alternatives based on scientific analysis.

This publication presents a collection of policy briefing papers by young leaders under the Youth4Policy initiative. The authors attempt to address diverse topics and challenges affecting youth as well as the broader social, political and economic development of Uganda.

Annet Mbabazi tackles the challenge of endemic corruption in Uganda's public sector. She argues that the implementation of anticorruption sanctions and recommendations underlines impunity and undermines anticorruption efforts. For endemic corruption to be addressed, she contends, there is need to strengthen the implementation of sanctions through addressing ambiguities in the legislative framework, strengthening follow-up mechanisms at the Office of the Inspector General of Government, and building partnerships with citizens' groups.

Benjamin Rukwenje explores how retooling Uganda's education system can respond to the growing unemployment challenge, especially among youth. He argues that for graduates of the education system to be able to meet the demands of job creation and be competitive in a globalised economy, more attention needs to be paid towards soft skills such as critical thinking, questioning, problem solving, negotiation, people management, collaboration and communication.

Brian Sserunjogi takes a holistic review of the alcohol consumption dynamics in Uganda and calls for urgent policy intervention to combat excessive and harmful consumption of alcohol. His findings reveal that Uganda is East Africa's largest alcohol consumer which has also registered the largest alcohol related deaths in the region. The brief underscores the need for establishment of a national alcohol policy and strategy to effectively enforce measures to limit alcohol availability, advertising, marketing, and pricing of alcohol in Uganda.

Dorcas Okello makes insights into Uganda's response towards youth unemployment and underemployment. She stresses that youth groups are an integral element in delivery of youth employment support schemes. However, existing programmes particularly the Youth Livelihoods Programme (YLP) do not pay sufficient attention to the dynamics of group formation yet such dynamics impact on the success of the groups accessing support under the Youth Livelihood Programme (YLP). She argues for strengthening mechanisms of

determining the authenticity of the groups in terms of the group formation processes, members' interests, group cohesion and the track record of the group.

Hilda Namakula advances policy options for securing safety of Ugandans who seek employment abroad who are mostly youth. She observes that, many Ugandans who emigrate for employment have fallen victim to various types of abuse and exploitation by employment agencies. In the Gulf Cooperation Council (GCC) Countries where most Ugandans emigrate, the laws and policies leave migrant workers exposed to abuse and exploitation. She argues for strengthened sensitization, monitoring and support services for Ugandans working in the GCC Countries.

Jesse Mugero argues for the need to prioritise economic, social and cultural rights (ESCRs) violations or rather, to address economic violence as part of Uganda's transitional justice frameworks. Building on Uganda's long history of military conflicts which are underlined by high degrees of ESCRs violations, Jesse argues that ESCRs are often accorded a peripheral position in transitional justice mechanisms. This has meant that inadequate solutions are provided to deal with the violations committed during conflict. The brief argues for prioritisation, investigation, and accountability of ESCR violations.

Malcolm Mpamizo argues for policy action to ensure that victims of business-related human rights violations in Uganda have access to effective judicial remedies. He argues that increased investment, particularly in the oil and mining sectors, has seen a proliferation of cases of business related human rights violations in Uganda, while the concept of corporate accountability remains uncharted. The policy brief argues for the need to amend existing legal provisions to provide for the introduction of Human Rights Impact Assessments (HRIA) as a due diligence prerequisite to establishing businesses; and the need for government to subscribe to the Extractives Industry Transparency Index (EITI).

Winnie Watera explores promising policies for increasing female students' enrolment in Science, Technology, Engineering and Mathematics (STEM). Her paper is premised on the proposition that increasing female student enrolment in STEM can be a precursor to bolstering chances of employment and economic inclusion for women given that most new employment opportunities demand STEM related skills. She argues that while the factors responsible for limited female students' enrolment in STEM are social and technical, existing policy interventions have focused mainly on technical solutions with little or no regard to underlying social constraints. Her brief recommends educational policies that respond to the social factors such as negative gender stereotypes, a gender inclusive curriculum and prejudiced teacher attitudes.

YOUTH FOR POLICY PERSPECTIVES

COLLECTION OF BRIEFING PAPERS ON
KEY POLICY CHALLENGES IN UGANDA

Strengthening Implementation of Anti-Corruption Recommendations and Sanctions Will Be Key to Addressing Endemic Corruption and Improving Service Delivery in Uganda



Annet Mbabazi

This paper argues that failure by responsible officers¹ to implement anti-corruption recommendations² and sanctions³ arising from investigations and successful prosecutions by the Inspectorate of Government (IG) undermines the fight against corruption in Uganda. On the one hand, this failure increases the vulnerability of concerned Ministries, Departments and Agencies (MDAs) to corruption since remedial measures are not implemented and fosters impunity as culprits do not suffer appropriate repercussions. On the other hand, non-implementation of the IG recommendations affects the delivery of public services as it sustains inefficiency and loss of public resources. Ambiguities in the legislative and regulatory framework, weak follow-up mechanisms at the IG, distorted accountability and incentives for responsible officers are identified as the underlying causes for the ineffective implementation of anti-corruption recommendations. As a policy remedy, this brief recommends building a robust follow-up mechanism at the IG, engaging broader accountability structures, including citizen interest groups, introducing strict liability measures for non-responsive and non-compliant responsible officers, and addressing ambiguities in the legislative and regulatory framework.

1. Introduction

Public sector corruption in Uganda is increasingly complex, highly syndicated and enlists sophisticated tools and technology that make it difficult to detect, investigate, prosecute and adjudicate. Nonetheless, investigation and prosecution agencies such as the IG, the Criminal Investigations Department (CID) of the Uganda Police and the Office of the Director of Public Prosecutions (ODPP) have taken steps to respond to the evolving nature of corruption. These institutions have improved their capacity to apply international best practices, including prosecution-led investigations (in use at the ODPP since 2008) and the utilisation of financial intelligence. At the IG, the Directorate of Special Investigations (DSI), which was set up in 2016 to specially investigate high-profile⁴ corruption cases, completed 400% more cases in FY2017/2018 compared to the cases completed in FY 2016/2017.⁵ Furthermore, the IG, CID and ODPP institutions are starting to draw on a developing asset recovery legal and regulatory framework to freeze, trace and recover ill-gotten assets. Furthermore, the establishment of the Anti-Corruption Division (ACD) of the High Court (henceforth referred to as the Anti-Corruption Court) in

2009 has contributed to prioritisation of anti-corruption in the judicial system. The Anti-Corruption Court has one of the highest clearance rates in the Justice, Law and Order Sector (JLOS), scoring 96% and 97% in FY 2016/2017 and FY 2017/2018, respectively.⁶ While this study acknowledges that the CID and the ODPP also investigate and prosecute corruption, it focuses specifically on the IG, which is chiefly mandated to fight corruption, and which also holds a unique mandate to both investigate and prosecute corruption.

Despite the numerous positive developments, public perception in Uganda is that corruption is deeply entrenched in society. The Uganda National Governance Baseline Survey of 2014 revealed that 95% of the population felt that corruption was a problem in the country,⁷ a perception which is evidenced by the relatively poor performance of Uganda's anti-corruption institutions. Even though the DSI has been lauded for improving case disposal between the last two FYs, significant efficiency gaps remain. The unit only managed to complete 20% of its high-profile investigations within the agreed time frame of a year.⁸

¹ For purposes of this paper, 'responsible officers' defines chief executives of any government entity. Responsible officers are often the Accounting Officers who are financially responsible for any specific financial year or budget but may also be any other government officers to whom IG recommendations are addressed and who are expected to act accordingly

² Anti-corruption recommendations consist of recommendations made by the IG in the course of investigating corruption allegations/cases

³ Sanctions are issued in cases where IG prosecutions of corruption at the Anti-Corruption Court are successful and convictions are secured.

⁴ The IG describes high-profile cases as those in which the alleged sum of money at risk or involved is above UGX 1 billion, or cases that implicate high-level public officials or cases concerning national priority sectors that the government gives utmost emphasis, including transport and infrastructure, education and health, or cases that require specialised knowledge, skills and tools

⁵ Annual report of the IG 2018

⁶ Justice, Law and Order Sector (JLOS) Annual Performance Report (2018)

⁷ Uganda Bureau of Statistics (UBOS) Uganda National Governance Baseline Survey Report (2014)

⁸ Annual Report of the Inspectorate of Government FY 2017/2018 (2008)

Similarly, at the Anti-Corruption Court, the average time taken between the registration and conclusion of a case is almost two years and at the Court of Appeal (COA), where many corruption cases end up, the average length of time for completion of a corruption case was found to be over four years.⁹

To further compound the problem, even when investigations and prosecutions are successfully completed, the implementation rate for recommendations and sanctions made is low. On the implementation of recommendations, for example, the IG has in the last three years reported a downward trend: a paltry 23.5% in FY 2017/2018, down from 46.9% in FY 2016/2017, which was also less than the 50% registered in FY 2015/2016. It is generally difficult to find conclusive quantitative data on the implementation rate of IG

sanctions because the institution does not maintain an updated status log of sanctions issued. Nonetheless, interviews with the concerned IG staff revealed that while communication through the IGG's letters is done for corruption convictions, it is not systematic, and neither is follow-up on the implementation of those sanctions. In addition, feedback from responsible MDAs was not methodically sought by the IG, and subsequently 'rarely received' as confessed by a prosecutor interviewed in the course of writing this paper. In fact, a review of a list of cases tried at the Anti-Corruption Court between 2009 and 2017¹⁰ revealed at least 40 names of officials convicted during that period who were still marked as 'active' on the government payroll according to a November 2017 check by the Ministry of Public Service. Some of these officials had been prosecuted by the IG.

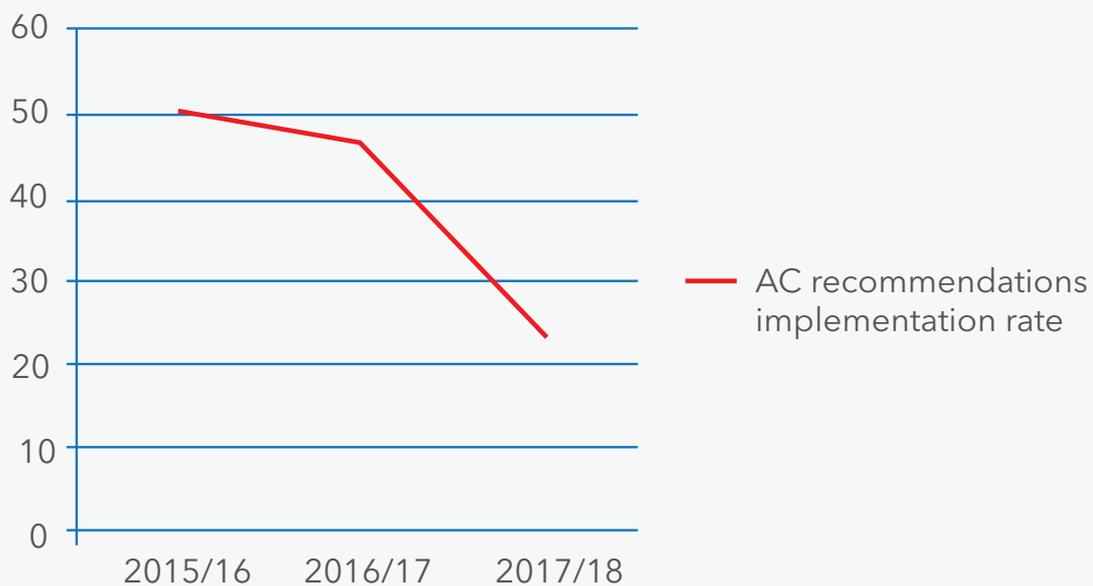


Figure 1: Implementation rate of IG anti-corruption recommendations

Source: Based on data from the IG annual reports

⁹ Data from the Court Case Administration System (CCAS)

¹⁰ The DFID and EU-funded programme, Strengthening Uganda's Anti-Corruption Response - Technical Advisory Facility (SUGAR TAF) supported the ODPP and IG to compile a list of convictions handed down by the Anti-Corruption Court between 2015 and 2017. In November 2017, this list was reviewed by the Ministry of Public Service to indicate the payroll status of public officials convicted of corruption



Figure 2: FY 2017/2018 IG anti-corruption recommendations

Source: Based on data from the IG annual report FY 2017/2018

This paper explains the underlying causes of poor implementation of the IG’s recommendations with a view to identifying corrective policy measures that would contribute towards strengthening Uganda’s anti-corruption regime. The study involved a desk review of Uganda’s anti-corruption legislative and regulatory framework, reports and publications of the IG, ODPP, Directorate of Ethics and Integrity (DEI) and several other publications relevant to the topic. This was further complemented by over 15 interviews with key stakeholders, mainly in government, and other actors in Uganda’s anti-corruption efforts, including Transparency International Uganda (TIU) and the Anti-Corruption Coalition of Uganda (ACCU).

The study was premised on the argument that poor implementation of anti-corruption recommendations and sanctions perpetuates impunity and contributes to inefficient and ineffective delivery of public goods and services. Findings of the study identified the constraints undermining the implementation of anti-corruption recommendations as: weak follow-up on

recommendations at the IG, ambiguities in the legal framework on administrative sanctions relating to corruption, distorted incentives for responsible officers to implement anti-corruption recommendations and sanctions, and limited accountability structures, including unclear repercussions for non-compliance or response, and weak citizen engagement on the issue. This paper, therefore, argues for a range of policy interventions and actions, including a robust follow-up mechanism at the IG, addressing ambiguities in the legislative framework, and the broadening of the accountability authorising environment for anti-corruption, including the engagement of different citizen interest groups.

The rest of this paper features Section 3 which presents the legislative, regulatory and institutional framework, and also discusses the tensions between the political and legislative contexts for anti-corruption in Uganda. Section 4 presents findings on the constraints on the implementation of recommendations and sanctions and, finally, Section 5 offers policy recommendations for the IG and other relevant stakeholders.

2. Context

2.1 Legislative, regulatory and institutional framework

Uganda has a comprehensive anti-corruption legal framework that is elaborately provided by the Anti-Corruption Act (2009), the Penal Code Act (Cap. 120), the Anti-Money Laundering (Amendment) Act (2017), the Inspectorate of Government Act (2002), the Public Finance Management Act (2015) and the Leadership Code Act (Cap. 168). As enshrined in these legal instruments, corruption is described to include several offences, including: abuse of office; bribery; causing financial loss; soliciting and/or receiving a gratification; diversion of public resources; embezzlement; fraudulent or false accounting; and illicit enrichment. The Leadership Code Act 2017¹¹ was amended in 2017 to cater for online declaration of assets and efforts are ongoing to develop a 'proceeds of crime' law, both of which support an enhanced asset recovery approach to Uganda's anti-corruption efforts.

Central to Uganda's institutional and regulatory framework is the IG, the agency legally mandated to eliminate corruption and the abuse of authority and public office. The IG is headed by the Inspector General of Government (IGG), who is appointed by the President with the approval of Parliament. The law empowers the IG with the mandate to investigate, prosecute, seize assets and make recommendations for administrative and disciplinary actions, and the recovery of ill-gotten and misappropriated funds and assets.¹²

In FY 2017/2018 the IG's office completed the investigation of 94 corruption cases, including 13 high-profile ones, and managed to recover UGX 578,836,039, the equivalent of USD 153,000. The office also prosecuted 47 corruption cases at the Anti-Corruption Court where it secured a conviction rate of 66%, a steady improvement from the 60% from the previous year. While the IG has made significant progress amidst budgetary and capacity constraints, there remains room for improvement. On investigations, for example,

the 94 cases investigated fell far below the annual target of 218. In addition, the absence of the Leadership Code Tribunal continues to undermine the IG's efforts in rolling out an online declaration system¹³ aimed at enhancing accountability in public office. To further complicate this, the IG has limited capacity to verify submitted declarations; out of 22,122 declarations submitted by leaders in FY 2016/2017, only 62 verifications were done.¹⁴ At the pivot of Uganda's sanction-based efforts to eliminate corruption is the Anti-Corruption Court which has, since its inception in 2009, concluded over 1,300 cases.¹⁵ The high-performing court scores one of the highest clearance rates in the JLOS, at 96% and 97% in FY 2016/2017 and FY 2017/2018.

The DEI, under the Office of the President, plays a key coordinative and leadership role in Uganda's anti-corruption efforts. The directorate chairs the Inter-Agency Forum (IAF), which convenes all institutions engaged in combating corruption, including the IG, the Office of the Auditor General (OAG), the Public Procurement and Disposal of Public Assets Authority (PPDA), the Accountant General, Service Commissions and the police. The Legal Task Force of the IAF is also mandated to develop and disseminate anti-corruption laws and policies, particularly to local governments and law enforcement agencies. However, according to respondents in this study, the IAF is not action-oriented and registers limited commitment from members, largely owing to the fact that the IAF does not have a legal mandate to enforce its existence. There is, hence, poor progress on action plans from the IAF. As a result, many anti-corruption agencies focus on their own institutional mandates, which risks duplicity of efforts and may create counter-productiveness. On a lighter note, an ongoing DEI-led performance review of the National Anti-Corruption Strategy (NACS) has highlighted this shortcoming and made recommendations for the IAF to work more effectively.

¹¹ Leadership Code (Amendment) Act (2017)

¹² Inspectorate of Government Act (2002)

¹³ The Asset Declaration System was developed to enable leaders to submit their declarations of income, assets and liabilities so as to streamline asset verification and recovery in Uganda, and subsequently enhance the fight against corruption. The online version was launched to ease this process

¹⁴ IG Annual Report (2007)

¹⁵ Data obtained from the ACD Court Case Administration System (CCAS)

2.2 Political context and legislative framework: Tensions

President Museveni has repeatedly voiced the government’s focus on the eradication of corruption and, in fact, outlined corruption as one of 11 key bottlenecks hindering effective socio-economic transformation of the African continent.¹⁶ Moreover, in acknowledging that corruption greatly hinders the attainment of Uganda’s goal to significantly reduce poverty, the Second National Development Plan (NDP II) places emphasis on accountability and anti-corruption and makes provisions as such.¹⁷ Also, in line with this, the government has developed a Zero Tolerance to Corruption Policy, 2018¹⁸ and a National Anti-Corruption Strategy, 2014,¹⁹ both of which incorporate sanction- and non-sanction-based approaches to anti-corruption work. Backed by a comprehensive anti-corruption legislative and regulatory framework, Uganda appears to have a semblance of political will to combat corruption. However, corruption persists, and many citizens perceive it to be endemic and entrenched in the core functioning of many systems in the country.

Between 2010 and 2016, Uganda’s ranking in the Transparency International Corruption Perceptions Index (CPI)²⁰, went from 127th to 151st position out of 180 countries measured. With a CPI of 26, Uganda’s score compares poorly with others in the region, led by Rwanda with a score of 55, Tanzania 36 and Kenya 28.²¹

Resoundingly, Ugandans recognise that impunity oils the wheels of corruption and that the ‘big fish²²’ phenomenon is integral to this status quo. By this notion, some individuals are considered too ‘big’ and closely guarded to be charged with corruption, prosecuted or convicted and, certainly, their ill-gotten wealth will not be recovered. Former head of the Anti-Corruption Court, Justice John Bosco Katutsi, in 2013 expressed a sentiment shared by many when he said: “This court is tired of trying tilapias when crocodiles are left swimming.” He said this while issuing a conviction for an engineer implicated in the CHOGM scandal.²³

3. Constraints the Implementation of Anti-Corruption Recommendations and Sanctions by the IG

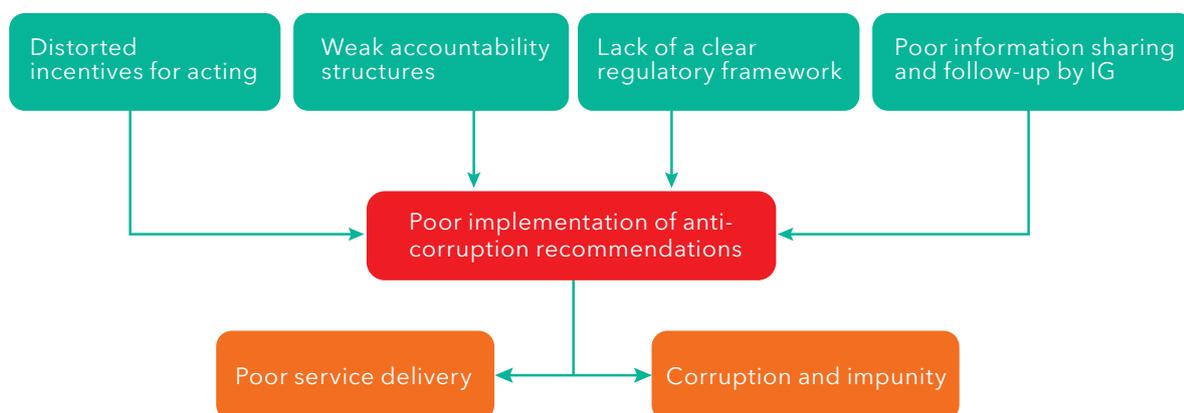


Figure 3: Study analytical framework

Source: Author’s own conceptualisation of the brief’s analytical framework

16 During the 23rd APR Forum in June 2015 in South Africa, President Museveni presented a statement on 11 bottlenecks hindering effective socio-economic transformation of the African continent

17 National Planning Authority (2015) Second National Development Plan

18 Directorate of Ethics and Integrity (2018) The Zero Tolerance to Corruption Policy

19 Directorate of Ethics and Integrity (2014) National Anti-Corruption Strategy (NACS)

20 The index ranks countries and territories by their perceived levels of public sector corruption according to experts and businesspeople. It uses a scale of 0 to 100, where 0 is highly corrupt and 100 is not corrupt.

21 Transparency International Corruption Perceptions Index (CPI) (2018)

22 ‘Big fish’ is a term that refers to high-ranking government officials who are implicated in grand corruption cases but are allegedly protected from recourse by the elites and highest authorities in a country

23 The CHOGM scandal involved the mismanagement of funds meant for the 2007 Commonwealth Heads of Government Meeting (CHOGM) hosted by Uganda

3.1 Poor follow-up mechanism at the IG

Until the early 2000s,²⁴ the IG had a follow-up unit under the Directorate of Regional Offices (DRO). The unit was mandated with follow-up on recommendations arising from investigations. Investigations conducted by the IG may, among others, make recommendations for: rectification of administrative breaches; recovery of funds; warning of public officials; review of appointments or dismissals; further investigations; fund reallocations; actions to save funds; demotion of public officers; advisory, caution and severe reprimand of public officers; and any other appropriate disciplinary actions.

The follow-up unit, which also carried the security registry, was responsible for safe custody of completed files, and was tasked with reviewing all closed investigation reports so as to extract recommendations to be communicated to respective responsible officers. "A grace period of three months would be allowed for implementation of recommendations, after which follow up would be done including field visits," one respondent at the IG explained. Progress reports would then be generated and shared with management, and non-compliant entities would once again be prompted to implement or respond to recommendations. It was difficult to obtain sequential data pertaining to the implementation of IG recommendations from 10 or more years ago as such information was not coherently captured within the IG reporting. However, anecdotal evidence obtained from different sources at the IG suggests that the implementation rate was higher during the era of the follow-up unit. In a bid to streamline follow-up, the independent unit was collapsed and the function integrated into the investigations and prosecution directorates. Some individuals consulted at the IG during the writing of this paper pointed to budgetary constraints as guiding the decision to phase out the unit.

Today, with the responsibility for follow-up being held by the respective directorates, performance on this indicator has been poor and steadily worsening in the last three years. One investigator shared that follow-up tasks are viewed as burdensome and only secondary to the chief

mandate of each directorate. According to respondents from two different directorates, officers have not been designated specific follow-up roles but, rather, it is expected that officers handle follow-up responsibilities once they complete cases. As a result, follow-up is not streamlined and has, admittedly, been overlooked.

Furthermore, investigators admitted that they were reluctant to follow up for fear of being viewed by culprits and suspects as being vindictive. "You have already investigated the person, and now also have to follow-up their removal from office; they may think it is personal," one investigator expressed. "We spend a lot of time on cases, so once it is closed, we are eager to move to the next," he added. Officials from both the DLA and DSI admitted that communication of recommendations was not consistently done, not to mention follow-up activities to check implementation progress.

This situation is further complicated by the fact that the Policy and Planning Unit (PPU) of the IG, which is responsible for progress monitoring and reporting, do not have a centralised system for tracking implementation status by the different directorates. Respondents in that unit confessed that, even though directorates report quarterly on the status of follow-up, it was haphazard, and verification of submissions was not being done. This gap in the internal monitoring and accountability structure has resulted in a lull in the follow-up on anti-corruption recommendations. Respondents also pointed to demotivation to communicate and follow-up because they rarely receive responses or feedback. This issue has been continuously reported in the organisation's semi-annual reports to Parliament. It is worth noting that the IG has started taking steps to improve the weak follow-up mechanism.

In FY 2018/2019, the IG incorporated follow-up on recommendations as a performance indicator for the different directorates and individuals. It is envisaged that this development will create an incentive for consistent follow-up on the implementation of recommendations.

²⁴ It was difficult to obtain specific data on dates for the dissolution of the follow-up unit; some interviewees described the process as having been gradual

3.2 Ambiguities in the anti-corruption legislative and regulatory framework

Section 46 of the Anti-Corruption Act (ACA) (2009) on disqualification provides that a person who is convicted of an offence under sections 2 to 25 (including corruption) shall be disqualified from holding public office for a period of 10 years from his or her conviction. In line with this law, on securing a conviction, the IGG writes to the relevant responsible officer informing him or her of the conviction of a corrupt official. Ideally, the responsible officer should then notify the responsible service commission, which must initiate the procedure for dismissal from the public service. On the other hand, the principles of natural justice, as provided for in the Public Service Act (2008), states that public officers shall not be dismissed or removed from office or reduced in rank or otherwise punished without just cause. Further, section 14 (2) of the same Act (2008) provides that public officers shall be disciplined and removed from the public service only in accordance with laid down regulations and procedures. In addition, the disciplinary procedures established under section F-R of the Public Service Standing Orders (2010) provide that the conviction of an officer on a criminal charge and his or her imprisonment does not automatically remove him/her from office which suggests that despite the conviction of a public officer under the Anti-Corruption Act, disciplinary processes under the Service Commission Regulations and Public Service Standing Orders within service commissions may still be required. Basing on this interpretation, it is not surprising, therefore, that service commissions and responsible officers have been reluctant to act accordingly. True to form, in three

IG bi-annual reports to Parliament submitted between 2015 and 2017,²⁵ the IGG outlined non-responsiveness, non-action and delayed action by responsible officers as a key challenge to the IG's anti-corruption efforts. Further, a review of a list of public officials convicted at the Anti-Corruption Court between 2009 and 2017 revealed that at least 40 names of convicted officials were still marked as 'active' on the government payroll, a startling revelation that demonstrates the extent of inaction on the anti-corruption sanctions.

A discussion facilitated by the anti-corruption programme SUGAR had representatives of the Public Service Commission (PSC), the Judicial Service Commission (JSC), the Health Service Commission (HSC), the Ministry of Public Service (MoPS), the Ministry of Justice and Constitutional Affairs (MoJCA), the IG and the ODPP, who illuminated the reluctance by responsible officers and some service commissions to act on the ACA provision. While some members favoured taking action on section 46 of the ACA, others pointed out that inaction by responsible officers was a pre-cautious approach, considering the fair hearing principles enshrined in articles 28 and 42 of the Constitution of Uganda²⁶ and the Public Service Standing Orders. Demonstratively, these differing interpretations of the legal and regulatory instruments present a significant obstacle to the implementation of disciplinary and administrative sanctions against officials convicted of corruption, not just by the IG but by the ODPP as well.

3.3 Limited accountability structures

Article 230(2) of the Constitution of Uganda on special powers of the IG provides that "the Inspector General of Government may, during the course of his or her duties or as a consequence of his or her findings, make such orders and give such direction as are necessary and appropriate in the circumstances". This law allows the IGG to act against non-compliance and response in some issues, including the arrest of suspects of corruption and the freezing of suspects' bank accounts.

The law is, however, silent on the extension of these powers to the implementation of anti-corruption recommendations. Without greater accountability incentives, including laws targeted at increasing the cost/risk of inaction to responsible officers, the IG's investment in investigating corruption continues to be compromised because affected MDAs continue to act contrary to or totally ignore the recommendations made.

²⁵ Random sampling was applied to select the IG bi-annual reports reviewed
²⁶ Constitution of Uganda 1995

Comparatively, at the Office of the Internal Auditor General (OIAG), non-compliance or non-response to audit recommendations is one of the criteria for non-reappointment, and may carry other administrative and legal sanctions, including facing Parliamentary Accountability Committees (PACs). Notably, at the OIAG, where this accountability structure exists, the audit recommendations implementation rate often ranges between 60 and 70% and was 68%²⁷ in FY 2016/2017, compared to the IG's 46.9% in the same financial year.

In addition, opportunities for the IG to co-opt parallel accountability avenues, including citizen groups, remain limited. Interviews with the executive directors of two key Civil Society Organisations (CSOs), Transparency International (TI) and the Anti-Corruption Coalition of

Uganda (ACCU), revealed that the actors had limited knowledge of or engagement on this specific challenge, and had thus far not explored options for providing support to the IG in this regard even though they are ably positioned to. Like many other accountability organisations working at the grass roots, ACCU, through its 10 regional chapters across Uganda, employs a 'community-based monitors' approach to improving the government's accountability to its citizens and, subsequently, service delivery. With this model, volunteers (community monitors) are enlisted to monitor service delivery/implementation of government programmes in their communities, identify issues and propel them to the necessary authorities for action. A similar approach is yet to be applied to the implementation of anti-corruption recommendations and sanctions.

3.4 Distorted incentives for responsible officers to act

Failure by responsible officers to act accordingly or in a timely manner is not necessarily unique to the implementation of anti-corruption recommendations and sanctions. This behaviour exists within a public service environment with a generally lacklustre attitude towards disciplining errant officers. While this study did not interview any non-compliant responsible officers, interviews with two long-serving government human resource professionals who have broad experiences with such officers highlighted some facets of this reluctance to take disciplinary action. Respondents revealed that it is common for officers who err (including those engaging in corruption) to be recommended for transfer to other duty stations instead of the responsible officers issuing the appropriate disciplinary sanctions. "Rather than pursue a protracted disciplinary process against an errant public official, it is easier to recommend their transfer to another department," she stated.

Article 17 (I) (i) of the Constitution²⁸ on duties of the citizen makes it the duty of every citizen to combat corruption, misuse or wastage of public resources. However, respondents pointed out that many public servants (who could potentially be in a position to act on anti-corruption recommendations) to an extent feel little duty to protect public resources because they do not view them as their own but, rather, the government's.

This study interviewed an assistant Chief Accounting Officer (CAO), who corroborated views of the Human Resource Officers (HROs) on the existence of a deep-seated sense of unity and empathy amongst public servants who find commonality in the government's poor pay structure. This sentiment leaves little impetus for one officer to punish another, especially if it risks the culprits' job and livelihood. Coupled with the absence of outlined repercussions for inaction, non-compliance on anti-corruption recommendations can only be further perpetuated. The respondent also confessed that responsible officers frequently do not take action because the culprits might be persons with whom they work closely, have been in the duty station much longer than them or persons with whom they have built personal relationships or, worse still, 'untouchables'²⁹, who are difficult to punish. In a separate interview, the Assistant Commissioner for Human Resources at the Ministry of Public Service noted that, although inaction by responsible officers may be contributed to by information asymmetry across government functions, responsible officers in their nonchalant attitude were more culpable in the matter. He, too, agreed with the other respondents that inaction was, however, not unique to anti-corruption recommendations or sanctions, but had been observed across a range of other requirements for responsible officers.

²⁸ Annual Report of the Office of the Internal Auditor General FY 2016/2017

²⁹ 'Untouchables' is commonly used to describe individuals (public servants) who are highly connected to the powers that be and would be difficult to sanction for fear of negative repercussions for the sanctioning officer

4. Policy Recommendations

This paper makes the following policy recommendations which, if implemented, are poised to respond to the underlying causes of poor implementation of anti-corruption recommendations by the IG.

4.1 Building a robust follow-Up mechanism at the IG

This paper has established that a loosely coordinated approach to follow up on recommendations and sanctions greatly undermines the IG's ability to fulfil its mandate to eliminate corruption as well as abuse of authority and of public office.³⁰ It is, therefore, imminent that the operational structures of both the investigation and prosecution directorates are realigned to ensure that tracking of progress and reporting on this parameter is given due importance. Borrowing from the rationale for the set-up of the Asset Recovery Unit in 2016, dedicated to initiating and following up on asset recovery provisions and recommendations at the IG, similar attention should be given to the implementation of other anti-corruption recommendations. The IG should consider designating the follow-up role to specific members in each directorate, who would work closely with the Policy and Planning Department that is charged with the organisation's progress monitoring and reporting.

At the Policy and Planning Unit of the IG, a monitoring and evaluation system should be built to capture data on all recommendations issued by the different directorates, subsequent follow-up actions, and the implementation status on those recommendations. The quarterly reporting template should be revised to allow for extensive data capture on this. The Policy and Planning Unit should also endeavour to validate the data received from the directorates, and conduct random spot checks with respective MDAs so as to triangulate findings on the implementation status of recommendations. To further centralise progress monitoring, the IG may incorporate the follow-up specification into the revamped Case Management System. Ultimately, a centralised hub of information on the status of issuance, follow-up and implementation of recommendations will provide valuable information to the IG to support operational and management decisions.

4.2 Engaging broader accountability structures, including civil society

To galvanise collective responsibility for action on anti-corruption recommendations, the IG should enlist greater social and public accountability mechanisms, both at the national and local levels. Many community-based organisations (CBOs) and other CSOs are already actively engaged with responsible officers across the country, and would be well-positioned to propel IG specific issues, including non-compliance or responsiveness to anti-corruption recommendations. These groups, including community-grown groupings, and the media, have a role to play in sensitisation,

supporting information dissemination, and active monitoring and reporting on progress being made in the implementation of anti-corruption sanctions and recommendations in their respective areas or regions of influence. Studies have found that if implemented inclusively, and embedded in other accountability mechanisms, social accountability approaches can be effective in fighting corruption.³¹ For the IG, such approaches and partnerships have the potential to stir appropriate action by the respective responsible officers.

4.3 Introducing strict liability measures for responsible officers on non-compliance or non-response to the IG's recommendations and sanctions

In the absence of strict accountability provisions, laxity on the part of responsible officers to act upon anti-corruption recommendations and to commence

enforcement of sanctions against convicted public officers may prevail. In light of this, the IG should initiate a regulatory and legislative review process aimed at

³⁰ www.igg.go.ug Accessed on 14 October 2018

³¹ Schatz, F. (2013). *Fighting corruption with social accountability: A comparative analysis of social accountability mechanisms' potential to reduce corruption in public administration*. *Public Administration and Development*, 33(3), 161-174.

introducing firm culpability measures for responsible officers for non-compliance or non-response to the IG's recommendations. It is plausible that with a personal or professional liability for not taking action, responsible officers can be incentivised to act accordingly. The DEI, which coordinates Uganda's anti-corruption efforts, the Accountability Sector to which the IG belongs

and the IAF should partner on this. In addition, the Secretary to the Treasury, the Ministry of Public Service and the service commissions, which are the authorities responsible for performance reviews and disciplining of responsible officers (including Accounting Officers), should be fully engaged in this pursuit.

4.4 Addressing ambiguities in the legislative and regulatory framework

The lack of a clear procedure, spelt out in the law, relating to the removal of convicted officers from the public service leaves room for selective interpretation of the law, discordance and inaction or uncoordinated action on the removal of convicted officials from the

public service. There is need, therefore, to address these uncertainties to ensure that the different laws and regulations which cater to the sanctioning of corrupt public officials are aligned and that procedures for action are clearly outlined.

Emphasise Soft Skills in Uganda's Education System to Respond to the Unemployment Challenge



Benjamin Rukwengye

This policy brief explores how retooling Uganda's education system can respond to the growing unemployment challenge, especially among youth. The dominant discourse on education and employment focuses on skills building through technical and vocational education and training. This paper argues that for graduates of the education system to be able to meet the demands of job creation and be competitive in a globalised economy, more attention needs to be paid towards soft skills such as critical thinking, questioning, problem solving, negotiation, people management, collaboration and communication.

1. Introduction

Uganda is grappling with the challenge of youth underemployment (27%) and unemployment (9.4%) (UBOS, 2018). Many young people who are considered to have jobs are only trapped in survivalist activities characterised by precarious work, poor pay and, consequently, high poverty rates. Considerable blame has been put on and attention paid to the education system for – as the dominant narratives go – producing job seekers not job makers and for churning out unemployable graduates. It follows, therefore, that diverse stakeholders have demanded educational reform to focus on skills development, especially in the areas of vocational and technical skills as well as entrepreneurship skills to foster job creation. .

A key aspect missing in Uganda's employment-education debate is the criticality of soft skills. Soft skills in the form of critical thinking, questioning, problem solving, negotiation, people management, collaboration and communication are important for increasing employment outcomes in many aspects. The development of soft skills not only enhances employability but is crucial for the development and success of entrepreneurship (Holmberg-Wright, 2016). This study was conducted through review of academic

literature, policy documents and media articles and reports on the subject of education and employment. The research process also involved interviews conducted with key informants who are experts in the fields of education, innovation and human capital development.

This paper agrees that for Uganda to answer the unemployment question, its education system must shift from the current model of teaching to test, and the emphasis on memorisation and certificates, and move to an education system that enables learners to participate, analyse and apply knowledge to create.¹ The education system must emphasise essential soft skills like critical thinking, problem solving, negotiation, people management and collaboration, all of which have been identified by the World Economic Forum as crucial for the enhancement of employment.

This study was conducted through review of academic literature, policy documents and media articles and reports on the subject of education and employment. The research process also involved interviews conducted with key informants who are experts in the fields of education, innovation and human capital development.

2. Contextualising Uganda's Formal Education System

The purpose of education

The purpose of colonial education was to produce low-level clerical staff, who could do some basic reading, writing and arithmetic, trained on the premise of morality and religion, to further the agenda of the British masters through the performance of routine, often predefined tasks.

This system also created the link between education and employment, because those who went to school qualified to join the privileged class of those who had access to assignments and benefits from the colonial government (Burama 2012).

¹ Forehead, M. Bloom's Taxonomy: From Emerging Perspectives on Learning, Teaching and Technology, University of Georgi

Content and curriculum

Most of the colonial content and the language of instruction were foreign and not relatable or applicable to the local context. The products of this education system were expected to be conformist and unquestioning, and without the skills and ability to solve problems. It is this same school system that was inherited by post-colonial governments, and has not been changed since. The objectives, outcomes, values and morals on which our school system is founded are foreign and outdated, which has not only created an ongoing contradiction and identity crisis regarding who we are but has also created educated people who are unable to think creatively and solve persistent problems.

Assessment and examination

To understand a country's education system, it is important to study how it assesses its learners (Rowntree, 1977, p.1).² Uganda's examination system is divorced from the kind that enhances soft skills analysis and application or creation and instead tests and rewards students on the ability to memorise facts and reproduce the content as is received from a teacher, through an approved question approach instead of analysis and application of knowledge. Learners spend up to three hours working alone and in silence when they should be testing skills like collaboration and communication, which are essential for employability.

Education experts categorise Memorisation as the lowest level of thinking and Creating as the highest. This is based on what is technically known as Bloom's taxonomy, which classifies educational goals and objectives. Too many students who are successful in school

Teaching methods

Uganda's teaching/instructional system is the same impractical one-way exchange as it was over 50 years ago. It is premised on the notion that the teacher knows everything and the learner is a passive participant with no input in the creation of knowledge. This learning imbalance in which the teacher is all-knowing and the learner is a passive participant is referred to as the banking system (Nshemerirwe, 2017).

Review of Existing Policy

Research shows that the "existence of adequate relevant skills as well as lifelong learning opportunities constitutes a pre-condition for sustainable economic growth, social transformation and national development."⁴

So whereas the population has increased and the government can no longer guarantee jobs to a huge educated class, the formal education system, curriculum and content have not been changed to reflect the employment realities of today and the future, leading to massive unemployment and underemployment. There is no emphasis on the soft skills or local realities or context that are necessary to create thinkers and problem solvers with applicable knowledge - who consequently turn into employable graduates and job creators.

do not learn enough of the skills and knowledge aligned with the current and future needs of employment and the further development of Uganda's economy; and public discourse about education focuses more on scores than on what is learnt and its alignment with the needs of individual and community success now and in the future (Reg, 2016)³

The practice of teaching-to-test and the emphasis on certificates, which is characterised by media glorification of success through school rankings, perpetuates competition in examinations and continues to perpetuate the focus on aspects that are not relevant to employability.

This teaching method disempowers learners and promotes a lack of imagination. It does not create a culture of achievement because learners only see as far as the teacher shows them and its focus on the teacher rather than the learner. It thus negates the possibility of developing the skills required to solve simple and complex problems, which are essential for creating employment.

In Uganda, the existing policy on skilling in education is Technical and Vocational Education and Training (TVET), which was designed to address the skills shortage and respond to the unemployment challenge.

² Opolot-Okurut, C. *Towards an Improved Assessment and Examination System in Institutions of Higher Learning in Uganda* (2006)

³ Reg, A. et al. *Uganda's Assessment System: A Road-Map for Enhancing Assessment in Education* (2016)

⁴ Ministry of Education and Sports: *Skilling Uganda TVET Strategic Plan 2012/3 to 2021/2*

The 2012/3 to 2021/22 BTVET Strategic Plan notes that “[e]mployers in Uganda often complain about the shortage of appropriately skilled and qualified workers. Instead of educational certificates, the main purpose will be to create employable skills and competencies relevant in the labour market. Training contents will be aligned with skills requirements in the labour market. The new BTVET system will embrace all Ugandans in need of skills, not only school leavers.”⁵

However, the BTVET policy and strategic plans focus on technical skills, and not the soft skills which are necessary for global workmanship. Reviews of the policy have, in fact, pointed out that it “it still does not produce the appropriately skilled workforce that Uganda needs to increase incomes and employment, and to compete in the East African and international markets”, and that “fewer than 40% of large and medium firms consider courses offered by BTVET institutions to be relevant to their requirements.”⁶

This policy brief, therefore, concludes that the weaknesses surrounding soft skills in Uganda’s

education system are due to an old curriculum with content that does not serve the purpose of today’s needs, an examination model that de-emphasises global labour requirements, and teaching methods that do not reinforce learning outcomes that prepare students for employment. The following policy recommendations are, therefore, advanced to deal with the challenge:

- Reviewing the curriculum with emphasis on core soft skills like critical thinking, questioning, problem solving, negotiation, people management, collaboration and communication - and their application in the local context.
- There is need to change the teacher-training model to enhance the use of practical and participatory and learner-centred methods of teaching that boost the development of soft skills.
- Review of the examination system so that it prioritises the assessment of core learner competencies that are relevant for global workmanship and not memorisation.

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⁶ Ministry of Education and Sports: *Skilling Uganda BTVET Strategic Plan 2012/3 to 2021/2*

Alcohol Consumption among Youth in Uganda: Why Policy Intervention Is Necessary



Brian Sserunjogi

This brief undertook a holistic review of the alcohol consumption dynamics in Uganda. Based on document review and secondary data analysis, the brief calls for urgent policy intervention to combat excessive and harmful consumption of alcohol in Uganda. The findings reveal that Uganda is East Africa's largest alcohol consumer and has registered the largest alcohol-related deaths in the region. The brief underscores the need for the establishment of a national alcohol policy and strategy to effectively enforce measures to limit alcohol availability, advertising, marketing and pricing in Uganda. Moreover, the existing laws that regulate the manufacture and licensing of alcohol need to be amended to bring about any meaningful deterrents to excessive alcohol abuse.

1. Introduction

Alcohol is a psychoactive substance with dependence-producing properties. The substance has been used as a beverage by many cultures around the world for thousands of years (McGovern, 2009). Indeed, the global alcohol per capita consumption for persons aged 15 years or older increased from 6.2 litres in 2014 to 6.4 litres of pure alcohol consumed per year in 2016 (WHO, 2018). However, of the total global alcohol consumed, about 24.8 per cent is illegally produced or sold outside of government controls (ibid.). In addition, global alcohol consumption is anticipated to increase by 1.5 litres by 2025 on account of the high growth rate of the adolescent and adult population in China and India..

With a high population growth rate of 3.2 per cent per annum, high youth unemployment of 13.3 per cent and approximately 21 per cent of the population classified as youth (18-30 years) (UBOS, 2017), Uganda is the largest alcohol consumer in East Africa. With an alcohol per capita consumption of 9.5 litres of alcohol per year, Uganda consumes larger quantities of alcohol than Kenya (3.4 litres), Tanzania (9.4 litres), Rwanda (9 litres) and Burundi (7.5 litres).¹ Moreover, about 86 per cent of alcohol consumed in Uganda is unregulated, home -brewed and illegally sold (WHO, 2018).

According to the World Health Organisation (WHO), harmful use of alcohol resulted in three million deaths globally in 2016 (WHO, 2018). Moreover, global alcohol consumption-related mortality (5.3%) was higher than that related to tuberculosis (2.3%), HIV/AIDS (1.8%), diabetes (2.8%) and hypertension (1.6%) (ibid.). In Uganda, alcohol consumption within school environments has been reported to increase chances of school dropouts, absenteeism and poor academic performance (Kasirye, 2008). Similarly, a study by the Uganda Youth Development Link (2008) indicated that alcohol consumption decreased work productivity, increased road accidents, and increased the risk of unsafe sexual practices. Despite the large health, social and economic burden associated with harmful use of alcohol, regulation of harmful alcohol consumption has remained a relatively low priority in Uganda's public policy, including in public health policy. Against this background, this brief justifies why urgent policy intervention is required to prevent the negative effects of alcohol consumption by exploring Uganda's alcohol environment. We further present strategies that countries have implemented to control harmful alcohol consumption that Uganda could adopt. Below is an outlook on Uganda's alcohol environment.

¹ <http://apps.who.int/gho/data/node.main.A1036?lang=en>

2. Alcohol consumption among youth is appallingly high

Uganda's average consumption of alcohol is greater than the global and African averages. According to Table 1 below, Uganda's average total per capita consumption of pure alcohol per year is about 9.8 litres. This is over and above the global and African region averages of 6.4 and 6 litres of pure alcohol each year, respectively, for individuals aged 15 years and older (WHO, 2016). At the regional level, Uganda's youth (aged 15 years and above) consume larger quantities of alcohol per year than their counterparts in Kenya (4.3 litres per year), Burundi (9.3 litres per year) and Tanzania (7.7 litres per year). Moreover, projections (Table 1) indicate that Uganda will be East Africa's largest alcohol consumer by 2025. Given the high population growth

and large youth population, there is a need to institute effective measures to prevent exacerbation of the harmful use of alcohol. Uganda lacks a national policy and/national action plan to comprehensively reduce the harmful use of alcohol. As such, there exist no time and place restrictions in Uganda for the sale of alcohol, days of sale, places of sale and location as well as the number of alcohol outlets per geographical area. We envisage that if well implemented and enforced, the national alcohol policy will not only increase awareness about harmful alcohol consumption but will enable the government to dedicate a budget to dealing with alcohol research, prevention and treatment.

Table 1: Per capita pure alcohol consumption for ages 15 years and above, 2016

Country	Average per capita consumption (litres of pure alcohol per year)	Average daily intake (grams of pure alcohol per day) #	15-19 years old total alcohol per capita consumption (litres of pure alcohol per year)	Projections of total alcohol consumption per capita (litres)	
				2020	2025
Uganda	9.5	20.6	8.0	9.8	10.3
Kenya	3.4	7.37	6.2	2.7	3.1
Tanzania	9.4	20.3	6.2	9.6	9.9
Rwanda	9.0	19.5	7.3	8.4	7.6
Burundi	7.5	16.3	7.3	7.0	6.6
Africa	6.0	13.0	-	6.1	6.1
World	6.2	13.5	-	6.3	7.7

Source: Global Information System on Alcohol and Health database, 2018

Note: # this measure is used by countries that have guidelines for daily limits on alcohol consumption to minimise health risks.

3. Alcohol manufacture is highly informal

An analysis of alcohol consumption by type of alcoholic beverage (Figure 2) reveals that Uganda has one of the highest consumption of home-brewed and informally produced alcohol in the East African region. The most common informal alcoholic beverages consumed in Uganda include tonto, malwa, kwete, omuramba and Kasese waragi. Unlike Kenya and Burundi whose consumption of informal alcohol stands at 25 and 75 per cent, respectively, Uganda’s consumption is as high as 89 per cent. Home-brewed alcohol is cheaper than most factory-produced “branded” beverages,

which implies that they are heavily consumed by poorer segments of the society in both rural and urban areas. Beer consumption is still at a paltry 9 per cent while spirits and wine consumers make up a tiny margin of the total alcohol consumed within the country. The massive consumption of unregulated alcohol is a serious public health concern. Indeed, Tagwireyi et al. (2016) reported that about 89 people died in Uganda in 2010 alone due to methanol poisoning that resulted from the ingestion of alcohol packed in sachets.

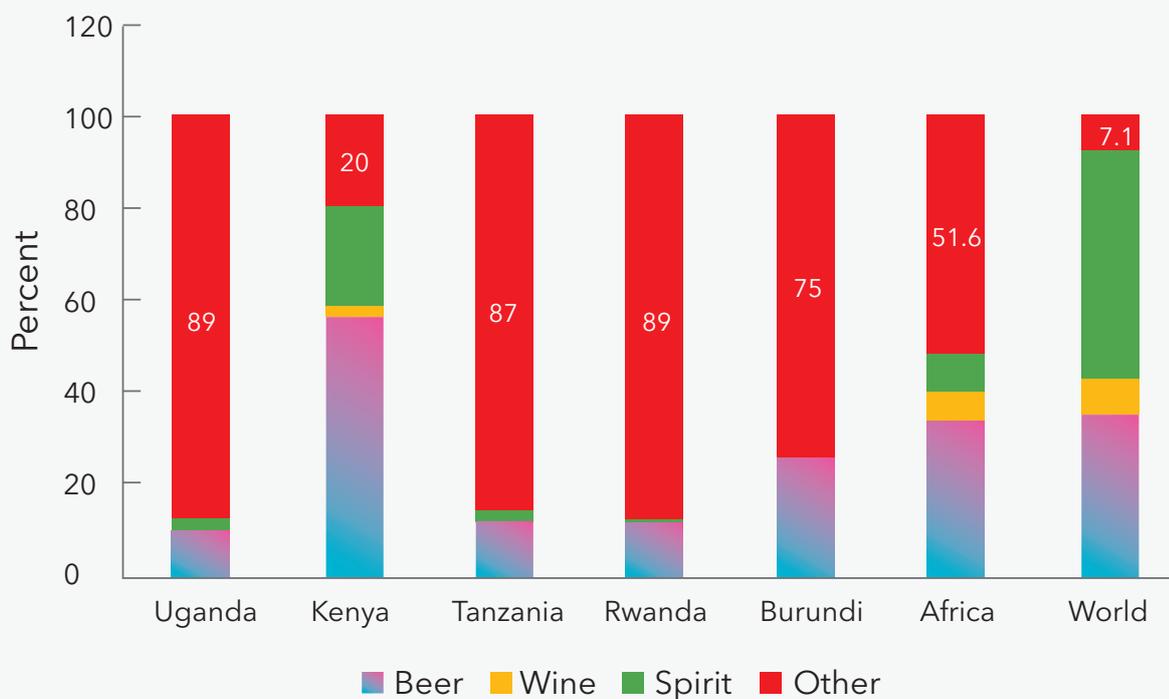


Figure 1: Per capita consumption by type of alcoholic beverage (15 years and above), 2016
 Source: Author’s construction based on WHO’s Global Health Observatory database, 2016

4. Alcohol-related harm is excessively large

Figure 2 reveals that alcohol consumption has serious disease burden across all East African countries. However, Uganda registered a higher burden. Specifically, the country recorded the highest number of deaths from alcohol-related liver disease and road traffic accidents. In 2016, Uganda registered a total of 118 deaths per 100,000 population from liver disease

linked to excessive consumption of alcohol. Moreover, the country registered the highest number of alcohol-related deaths from road accidents. The findings are validated by Serugo (2018)² who reported that a third of the patients at Butabika Hospital have mental disorders resulting from excessive use of alcohol.

² <http://eagle.co.ug/2018/05/28/alcohol-and-drug-abuse-lead-in-causing-mental-illness-butabika-boss.html>

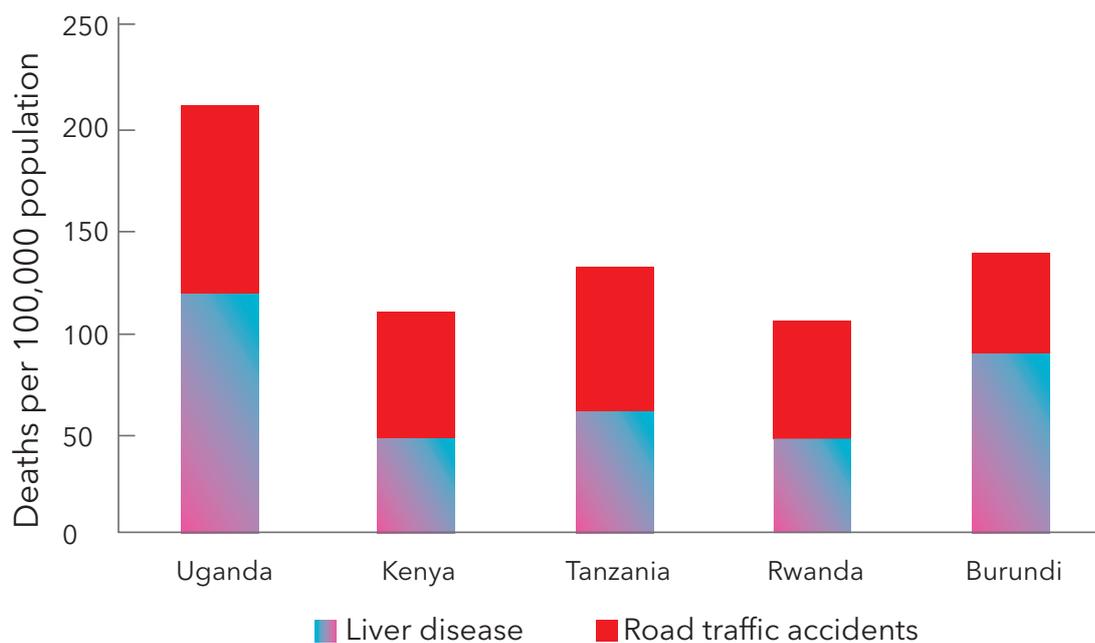


Figure 2: Alcohol-related death rates in the East Africa, 2016

Source: Author's construction based on WHO's Global Health Observatory database, 2016

5. Current alcohol legislation is outdated while enforcement measures remain weak

The regulatory environment and enforcement measures that control alcohol consumption in Uganda are outdated, weak and uncoordinated. Indeed, a review of Uganda's alcohol laws exhibits significant gaps. First of all, all alcohol laws, i.e. the Enguli Act (1966), the Liquor Act (1960) and the Potable Spirits Act (1965) were enacted during colonial times in the 1960s. As such, they are not able to provide the necessary safeguards to protect the population against the harmful use of alcohol in the current context. These laws specify penalties that are too light to prevent harmful alcohol consumption currently. For instance, the Enguli

Act Cap. 86 imposes a fine of up to US\$ 2,000 for any manufacturer of jaggery without a licence and authorisation from the minister. In addition, the Liquor Act Cap. 93 imposes a fine of up to US\$ 200 for making alcohol sales to anyone below 18 years. Furthermore, enforcement of the existing laws is weak as government the departments tasked with enforcement lack sufficient human and financial resources to investigate alcohol-related crimes. Therefore, it is important that the existing laws are reviewed to reflect the changing social and economic patterns. Finally, these three laws need to be consolidated into a single act for ease of reference.

6. Commitment to the global alcohol strategy still limited

A review of Uganda's performance against the indicators laid out in the global strategy to control the harmful use of alcohol reveals that the country has not yet implemented all policy interventions required to reduce excessive consumption of alcohol. While the first indicator of political commitment to a reduction in the harmful use of alcohol is the presence of a written

national alcohol policy, the evidence, presented in Table 2 below, reveals that Uganda has no national action plan to comprehensively reduce the harmful use of alcohol. And while the country has restrictions on the hours of selling alcohol under its laws (the Enguli and Liquor Acts), there exist no restrictions on the days, places and number of alcohol-selling outlets per geographical area.

The absence of these restrictions increases the availability of alcohol to youths. Furthermore, Uganda has not yet put in place legally binding regulations on alcohol advertising and sponsorships. As such, alcohol advertising is freely made on billboards, sometimes near

schools. Moreover, alcohol companies in Uganda freely sponsor large entertainment and sport events in Uganda. This encourages the youth to drink since they see their role models being associated with big alcohol brands.

Table 2: Alcohol policy and interventions in Uganda

Intervention	Existence
Written national policy (adopted/revised) / National action plan	No/-
Restrictions for on-/off-premise sales of alcoholic beverages:	
Hours, days/places, density	Yes/ No/ No, No
Specific events/ intoxicated persons/petrol stations	No/No/No
Legally binding regulations on alcohol advertising/product placement	No/No
Legally binding regulations on alcohol sponsorship/sales promotion	No/No
Legally required health warning labels on alcohol advertisements/containers	No/No
Legally binding regulations on alcohol advertising/product placement	Yes/Yes/No

Source: Global Information System on Alcohol and Health, 2018

7. Case studies on country best practices to combat harmful consumption of alcohol

Reducing harmful consumption of alcohol requires different strategies, according to the global strategy to reduce harmful consumption of alcohol. In the last decade, several countries have adopted various strategies, with

varying degrees of success. The country experiences presented in Box 1 could provide a benchmark for Uganda's efforts to reduce harmful alcohol consumption.

Box 1: Country strategies to reduce harmful consumption of alcohol

SOUTH AFRICA

In 2010, South Africa adopted a multi-ministry rather than an individual-ministry responsibility approach to reduce harmful use of alcohol. The country set up an inter-ministerial committee comprising 11 ministries (Health; Correctional Services; Basic and Higher Education; Science and Technology; Economic Development; Finance; Transport; Sports and Recreation; Trade and Industry; Justice and Constitutional Development; and the South African Police Service). (COMMENT: THESE SEEM TO BE ONLY 11 MINISTRIES) The rationale of this approach was to create synergies rather than assign individual responsibility to a single ministry to combat excess control of alcohol. The approach of involving different government ministries in a single structure has significantly improved coordination and implementation efforts in reducing alcohol-related harm. Uganda could adopt a similar multi-institution approach coordinated by the Minister of the Presidency instead of assigning responsibility to only the Ministry of Health and the Ministry of Trade, Industry and Cooperatives.

PERU

In a bid to regulate the availability of alcohol, Peru instituted a local ban on the sale of alcohol in the district municipality of La Victoria in Lima in 2007 and a similar ban in the city of Lima in 2011. The ban restricted the sale of alcohol up to midnight from Sunday to Wednesday. The instituted ban resulted in a decrease in the number of homicides, alcohol-related road accidents and violent deaths. The phased geographical restrictions on the days and hours of sale of alcohol depending on targeted geographical levels of consumptions is a feasible option.

FINLAND

In order to reduce the exposure of young people to alcohol advertisement, Finland has progressively restricted advertising of alcohol on both telecast and social media. In 2008, Finland limited the time and placement of alcohol advertisements by banning advertising on television from 07:00 to 19:00 and in cinemas. In 2015, Finland became one of the first countries to ban alcohol advertisements on social media. Owing to Finland's success, countries such as Lithuania, Estonia, Ireland and Sweden are considering similar measures.

Source: Global Status Report on Alcohol and Health, 2018

8. Conclusion and Policy Recommendations

This brief highlights the need for a policy intervention to curb excessive consumption of alcohol in Uganda. We recommend the following policy actions:

- There is a need to introduce a national alcohol policy to regulate manufacture, availability, advertising, distribution and marketing of alcohol in Uganda.
- The existing laws need to be amended and consolidated to introduce tougher penalties for offenders and introduce new provisions such as restrictions on the number of alcohol-selling outlets per area and the selling of sachet alcohol.

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Group Dynamics and Its Impact on the Initiatives Taken to Curb Youth Unemployment in Uganda – Policy Options for the Youth Livelihood Programme (YLP)



Dorcas Loga Okello

As Uganda struggles with the high rates of youth unemployment and underemployment, this brief explores policy options that can bolster the effectiveness of existing interventions. A key part of government's response to youth unemployment focuses on providing financial support to youth, notably through the Youth Livelihoods Programme (YLP). The YLP supports youth in groups of 10 to 15 members with funding targeted towards skills development and the establishment of income-generating activities – making group formation a key ingredient of the YLP framework. However, this study finds that most youth who apply for the YLP are motivated to form the groups only because this is a requirement for them to access government financing and then disintegrate immediately after receiving the funds. Consequently, the groups do not survive to realise their objectives. This policy brief agrees that working in groups is critical to the successful delivery of financial support schemes to youth. However, for a group-based funding model to be effective, there is need to consider the authenticity of the groups in terms of the group formation process, members' interests, group cohesion and the track record of the group.

1. Introduction

Globally, 43% of youth are either unemployed or working yet living in poverty (ILO, 2015). Throughout sub-Saharan African countries, the youth unemployment problem tends to be more serious than that of adults (Mago, 2014) and working poverty, vulnerability and underemployment remain widespread in most developing countries (Geest, 2010). The positive economic growth rates experienced in Africa over the past decade have not generated sufficient decent employment opportunities for the continent's youth (ADB, OECD, UNDP and UNECA, 2012). Research indicates that the difficulties faced by young people in most developing countries in finding work are attributed to limited expansion of employment opportunities, skills mismatches and limited or no work experience (ADB et al., 2012).

In Uganda, youth unemployment and underemployment present a major economic and political challenge. Despite the official youth unemployment rate being relatively low at 13.3% (UNHS, 2016/17), the majority of Uganda's youth (7.7 million) are trapped in precarious self-employment characterised by low pay, lack of social security and work which falls outside the frame of legal protection. It comes with little surprise, therefore, that the national poverty rates at 21.4 % are way above the unemployment rate. The labour force in Uganda grows at an annual rate of 3.4 % resulting in 1,000,000 new job seekers (MFPED, 2015) and yet only 52,000 jobs are being

created each year (UBOS, 2018). Despite impressive GDP growth rates that reached averages of 5.4 % between 2009 and 2016, the pace of creating new employment opportunities has lagged behind labour force growth.

Entrepreneurship development funds in many African countries have been introduced as a key priority strategy for promoting youth livelihoods and employment (Schoof, 2006). In response to the youth unemployment and underemployment challenge, the Government of Uganda has mostly focused on provision of capital for income-generating activities. As such, the government initiated the YLP. The purpose of the YLP is to empower youth in Uganda to harness their socioeconomic potential, and to increase self-employment opportunities and income levels (MGLSD, 2013). A key strategy in delivering the YLP was that youth should be organised in groups in order to access the funds, and by July 2018, a total of 16,169 groups had benefited from UGX 123,970,260,586.

This study was conducted to review the current policy on the youth group model in the implementation of the YLP, and how the policy has affected its performance. The review involved analysis of documents such as the implementation guidelines, reports on the performance of the YLP to date, Key Informant Interviews (KIIs) and focus group discussions (FGDs) with stakeholders.

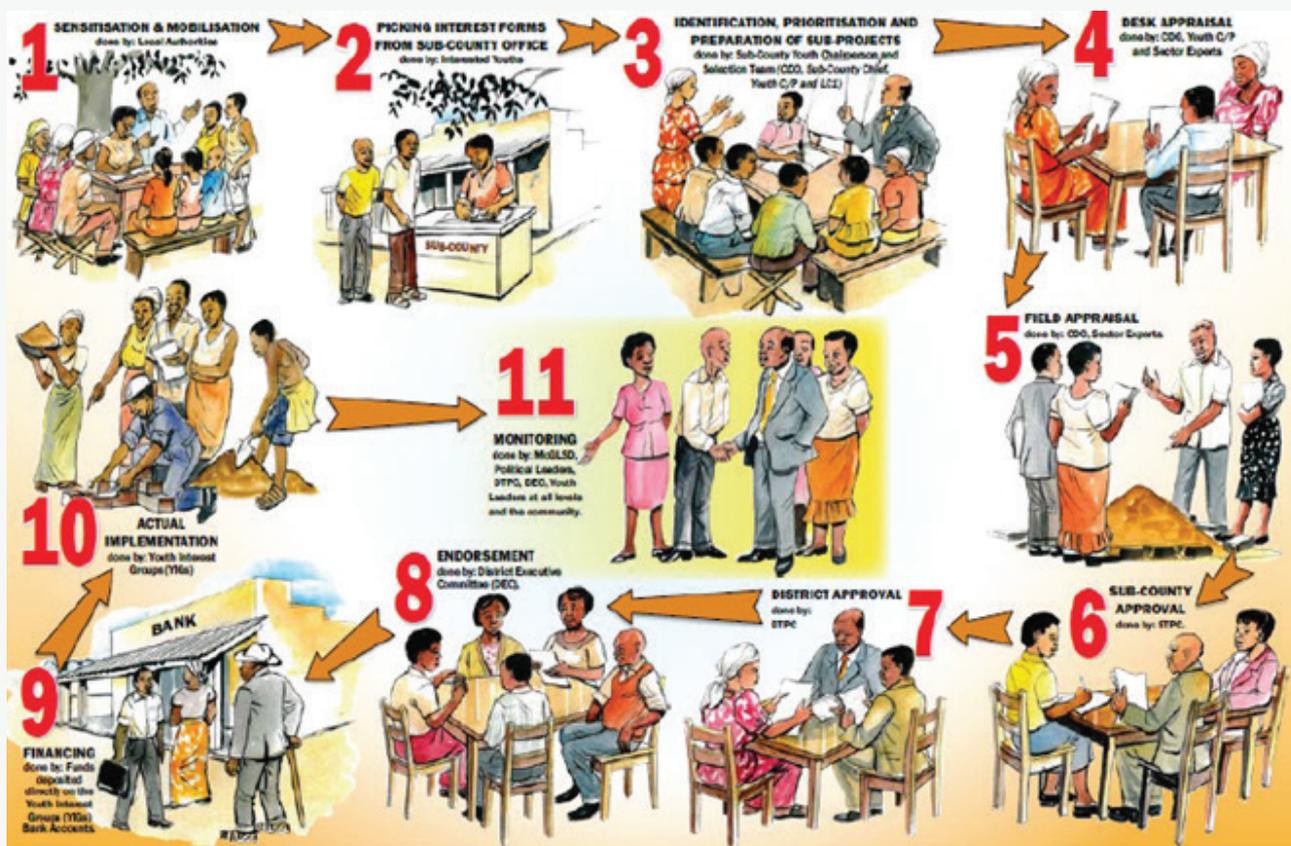
¹ <http://apps.who.int/gho/data/node.main.A1036?lang=en>

2. Implementation of the Youth Livelihood Programme (YLP)

The YLP commenced in the FY 2013/14 and was conducted in a phased manner. Phase I of the programme, covering 27 districts commenced in the FY 2013-14, while phase II, covering the remaining 85 districts commenced in the FY 2014-15. In the FY 2016-17, the programme was extended to cover the newly created districts. The Ministry of Gender, Labour and Social Development (MGLSD), working through the local governments are implementing the programme. The local governments (district and sub-county) are the main implementation centres of the programme and are responsible for mobilisation and sensitisation of the youth, generation and approval of youth projects, as well as monitoring and supervision. On the other hand, the MGLSD is responsible for providing technical guidance and support, capacity building, financing

and overall coordination (YLP programme handbook). The YLP targets unemployed and poor youth aged 18-30 years, and specifically makes an effort to increase the participation of vulnerable youth. The following categories of youth are specifically encouraged to participate: dropouts from schools and training institutions; youth living in slums, city streets, high risk and impoverished communities; youth who have not had the opportunity to attend formal education; Single-parent youth, youth with disability; youth living with HIV/AIDS, and youth who have completed secondary school or tertiary institutions (Including university) but remain unemployed. The criterion for accessing funds is long and bureaucratic. Figure 1 shows this criterion from the point of sensitisation and mobilisation to the point of monitoring of the funds by the MGLSD.

Fig. 1 YLP Funds Access Criteria/Project Cycle



Source: YLP policy document

Several requirements have to be fulfilled before funds are accessed by the youth. These requirements include: willingness to work in a group of 10-15 members; being unemployed or poor youth (person of 18-30 years), must be a bona fide resident of the area where the

application is made from/intended project location; must be a Ugandan National; and only one beneficiary per household can be selected in a single group for purposes of ensuring equity in the allocation of resources.

3. The Group Model within the YLP

As clearly stipulated in the requirements, youth have to be organised in groups for them to get financial support/loans from the YLP. Consequently, the policy on group formation states that the youth group members should: be from the same location; constitute at least 30% women; have a constitution; and should be registered with the Community Development Office (CDO) at the district. When these requirements are fulfilled, the group can get a loan.

However, group dynamics (how groups form, their structure and process, and how they function) are not taken into consideration when forming YLP groups. According to Tuckman, any group - youth groups inclusive - has to go through the following stages before it can be effective:

Forming:

Forming: In this stage, members first get together, and individually consider questions like: "What am I here for?", "Who else is here?" and "Who am I comfortable with?" It is important for members to get involved with each other, including introducing themselves to each other. During this stage, clear and strong leadership is required from the team leader to ensure that the group members feel the clarity and comfort required to evolve to the next stage. In the YLP group formation process, however, the youth leader simply rallies youth who do not ask the key questions stated above, but the anticipation of financial support is majorly what brings them together.

Storming:

During this stage, members begin to voice their individual differences and join with others who share the same beliefs. One observes that members will align themselves with allies according to shared values and what is in their best interests. Different group members find ways to stick together, and this increases conflict. At this stage, most youth start to question the interests of the team leaders. Therefore, it is important for members to continue to be highly involved with each other, including to voicing any concerns in order to feel

represented and understood. The team leader ought to help members to air their views, and to achieve consensus (or commonality of views) about their purpose and priorities. It is at this stage that most YLP groups disburse.

Norming:

In this stage, members begin to share a common commitment to the purpose of the group, including to its overall goals and how each of the goals can be achieved. At this point, the members who did not agree to the group objectives have disbursed and the remaining members are committed to the group activities. The team leader should focus on continuing to clarify the roles of each member, and a clear and workable structure and process for the group to achieve its goals.

Performing:

During this stage, the team works effectively and efficiently towards achieving its goals. The style of leadership becomes more indirect as members take on stronger participation and involvement in the group activities. Ideally, the leadership style includes helping members to reflect on their experiences and to learn from them. Only 4.2% (218) of the YLP groups have been able to reach this stage.

In addition, little information exists to explain the basis on which groups are formed, whether the interests of the members are similar, and whether there is cohesion among the group members, which are key factors in group performance. Olson's theory of groups states that individuals are more likely to work better in groups if there is a tangible benefit obtained, and if the opportunity cost of working in a group is higher than that of working as an individual (Olson, 2002). If not synchronized at the very beginning, the group members' interests can lead to low group performance - loan recovery, since group dynamics will definitely come to play when the group starts working together. Group interests and cohesion are the two key binding factors that keep the group together even through the storming stage of group formation.

4. Performance of the YLP

The YLP has registered moderate performance to date. According to the YLP Success Stories (MoGLSD, 2018)

statistics, a total of 116,169 youth projects in groups have been financed, with 197,728 youth benefiting, of whom 46% are female. The projects financed are in various sectors, including Agriculture (35%), Trade (29%), Services (19%) and Industry (5%) among others. Various vulnerable categories of youth have been reached including school dropouts (34.6%), single-parent youth (11.8%), and youth with disabilities (2.8%), among others. Different amounts of money

are disbursed each financial year to support the YLP. These are listed in Table 1. the group together even through the storming stage of group formation. In conclusion, group dynamics play an important role in the performance of groups. The YLP ought to take into consideration the group formation process and the interest of the group members since they determine cohesiveness. Aristotle sums this best when he says: " The whole is greater than the sum of its parts" and a good group can accomplish so much when they have the right group dynamic.

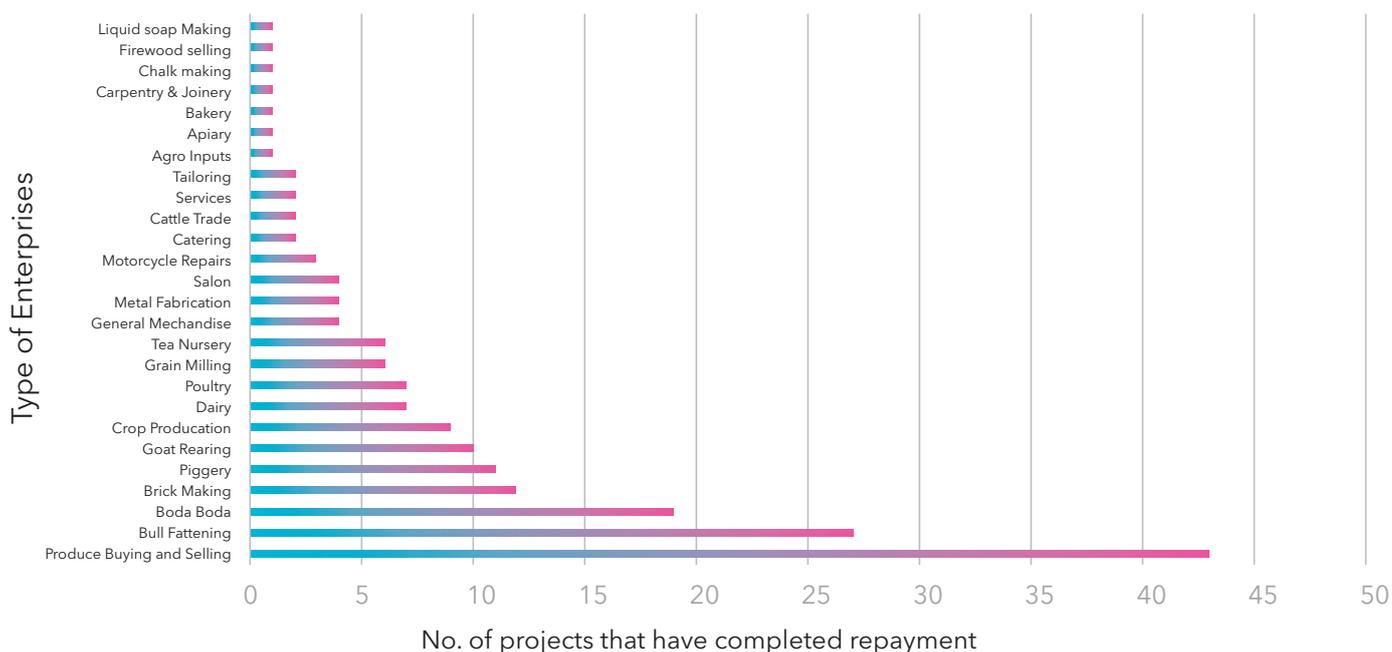
Table 1 Disbursement per financial year

FINANCIAL YEAR	NO OF PROJECTS	AMOUNT DISBURSED	MALE	FEMALE	TOTAL
2013 - 14	1,564	11,447,997,118	11,241	8,966	20,207
2014 - 15	3,941	27,445,818,370	28,477	23,162	51,639
2015 - 16	2,705	19,624,977,607	18,190	15,601	33,791
2016 - 17	3,283	26,096,618,019	20,819	17,658	38,477
2017 - 18	4,486	37,751,483,472	27,850	23,680	51,530
2018 - 19	191	1,583,240,000	1,147	948	2,095
TOTAL DISBURSEMENT	16,169	123,970,260,586	107,717	90,011	197,728

To date, UGX 123,970,260,586 has been given to youth in 16,169 groups. Out of the total number of youth groups that benefited, 1.3% (218 youth groups) have been able to refund 100% of the capital given to them. Most of the groups that have been able to

refund the loans in full are in produce buying and selling, and bull fattening - see Figure 2. The low recovery rate can be attributed to groups' formation, which is not given emphasis in the project cycle.

Figure 2 Analysis of projects that have completed loan repayment



Source: MoGLSD - YLP success stories document

5. Recommendation

It has been established that the group is a critical aspect of the distribution of finances under the YLP. However, for a group to be effective, group dynamics have to be taken into consideration. This paper, therefore, recommends reforms in the group selection policies of the YLP where the following are particularly taken into account:

The group formation process: Ideally, the group should have worked together for at least one year before funds are given to them. This period will give a group time to

go through the various stages of the group formation process (Forming, Storming, Norming and Performing).

The track record of the group: This includes the period of existence, demonstrated interest of the group members in the particular line of enterprise in which they propose to engage, frequency of contact of the group members; and records of the group's meetings, activities and finances could also be considered.

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Ensuring Safety in Search of Opportunity: Policy Options for Confronting Unsafe Labour Migrations among Ugandan Youth

Based on an assessment of migrations to the Gulf Cooperation Council countries



Hilda Namakula

Uganda is currently experiencing a high wave of young people going across borders to seek job opportunities in the face of the high domestic underemployment and unemployment. However, many of those who emigrate have fallen victim to various types of abuse, notwithstanding the exploitative employment agencies. The GCC countries' laws and policies leave migrant workers exposed to abuse and exploitation, yet there are no clear holistic laws that protect Ugandans working in the diaspora. This policy paper seeks to evaluate the Ugandan policies and institutional mandate to further contribute to how opportunities can be created to protect Ugandans living and working in the GCC.¹

1. Introduction

Many youths in Uganda have left the country to seek jobs owing to the high rates of unemployment and underemployment (Mbogo, 2015). Uganda is one of the countries with the highest unemployment rates (ActionAid, 2012). The country also has the second largest population of young people in the whole world, with a median age of 15.9 years (Myers, 2016). The high youth unemployment has been referred to as Uganda's ticking time bomb (Mbogo, 2015). This situation means that a lot of youths are left without anything constructive to do within the country, therefore they resort to moving to other countries (Ayres, 2013).

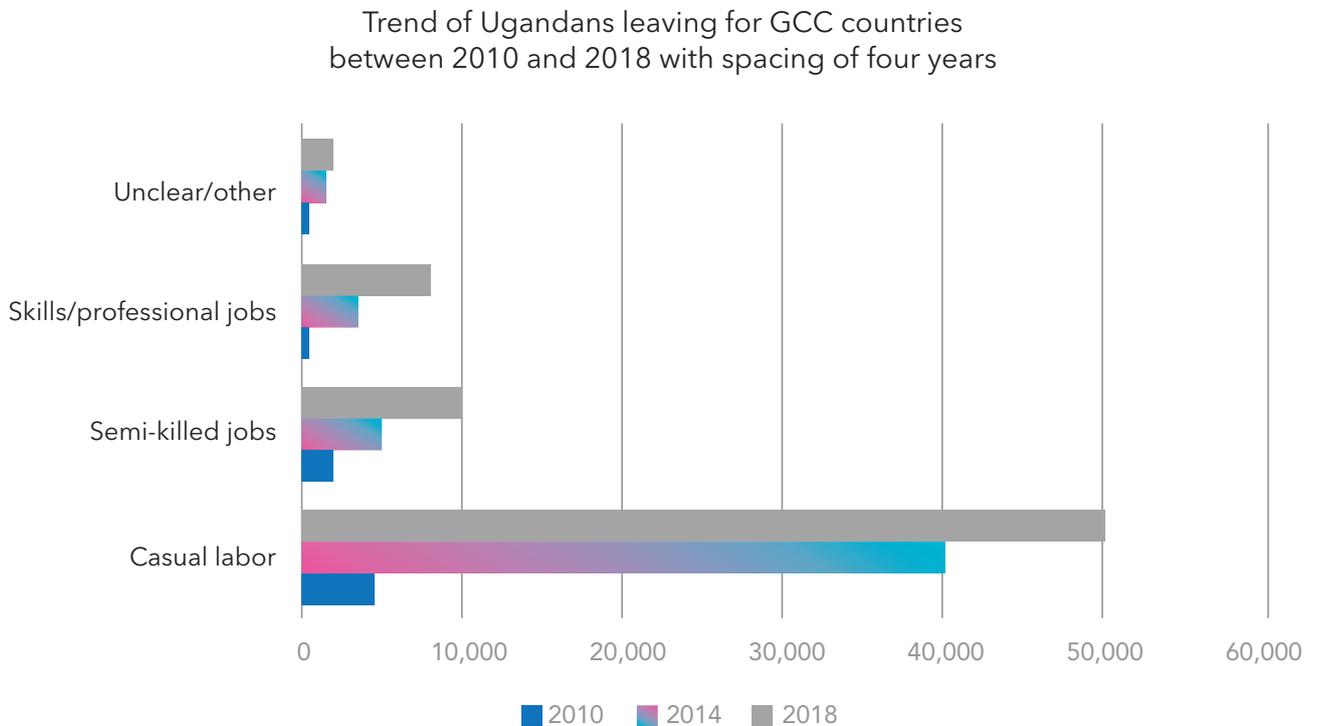
Youth unemployment reached 13.1 per cent in 2016, up from 12.9 per cent in 2015, which has been at about the same levels or lower since the 1990s, according to the Uganda Bureau of Statistics (UBOS) School-to-Work Transition Survey (STWS, 2016). This serves as an explanation as to why it is a common trend for Ugandan youth to leave for countries like the United Arab Emirates (UAE), Saudi Arabia, Kuwait and Qatar, not because they want to but because of the economic situation they find themselves in (Tchiapep and Froilan, 2014).

Uganda has over 94 international employment agencies as of May 2018, according to the Ministry of Gender, Labour and Social Development (MoGLSD). These agencies receive their highest labour demand from the GCC. These agencies look out for countries like Uganda where they can easily get cheap labour and still earn highly from it (Tchiapep and Froilan, 2014). The registered agencies solicit between US\$. 2.5 million and US\$. 6 million from whoever intends to go and work in the GCC countries. At the same time, they receive money from the people that are looking for cheap labour. In essence, they are broker agencies and sometimes share a given percentage of the money they receive from the people for whom they find employment in the UAE, which is untaxed.

There are limited studies on labour migrations in Uganda; therefore, there are significant data limitations. Nonetheless, as of May 2018, the External Employment Unit (EEU) of MoGLSD reported that over 70,000 Ugandans had left the country for GCC countries to take on jobs as casual labourers, semi-skilled labourers, skilled labourers/professionals and that some had left for unclear reasons amidst all the cracks in labour export. The trend keeps growing annually, as visualised in Figure 1 below.

¹ Gulf Cooperation Council

The trend keeps growing annually, as visualised in Figure 1 below.



Source: Ministry of Gender, Labour and Social Development

It should be noted that the available statistics only cover those that emigrate through registered agencies but leave out several others that leave outside the arrangements of the registered companies, for example, through human trafficking. According to the 2015 Trafficking in Persons (TIP) report,² the US Department of State found that Ugandan officials were complicit in cases of human trafficking. This report shows that in 2012, a total of 45 reports of transnational incidents of trafficking in persons (TIP) were registered while 29 similar reports were registered between January and April 2013. Over 90 persons were registered as victims of transnational TIP incidents in 2012, while over 38 persons were registered as victims of TIP during the January-April 2013 period (TIP Report, 2013). Most of the victims are taken out of Uganda or brought to Uganda through fraud, deception or debt bondage in search of employment. The most common route taken is through Nairobi, where the covert human

trafficking rackets transport the victims in buses, process their visas and passports in Nairobi, and board them on planes. The identities of people claiming to export labour are always hidden; they operate under fake names and fake identification documents without any known physical address or location. So, for the victims, most of the communication with these unscrupulous individuals occurs online or via phone.

This paper is divided into four sections. The first section shows the context of Uganda’s labour migration to the UAE; the second analyses the country’s labour migration framework and institutional mandate; the third section explores labour migration as a co-responsibility of Uganda and the GCC countries, sharing the lived experiences of Ugandan migrant workers in the GCC countries; and the final section broadly shares actionable recommendations on how best the policy can create opportunities and at the same time protect migrants.

² USA government, which keeps track of trafficking victims, shares the protection strategies undertaken by different countries across the world and gives recommendations to fight trafficking from an informed perspective.

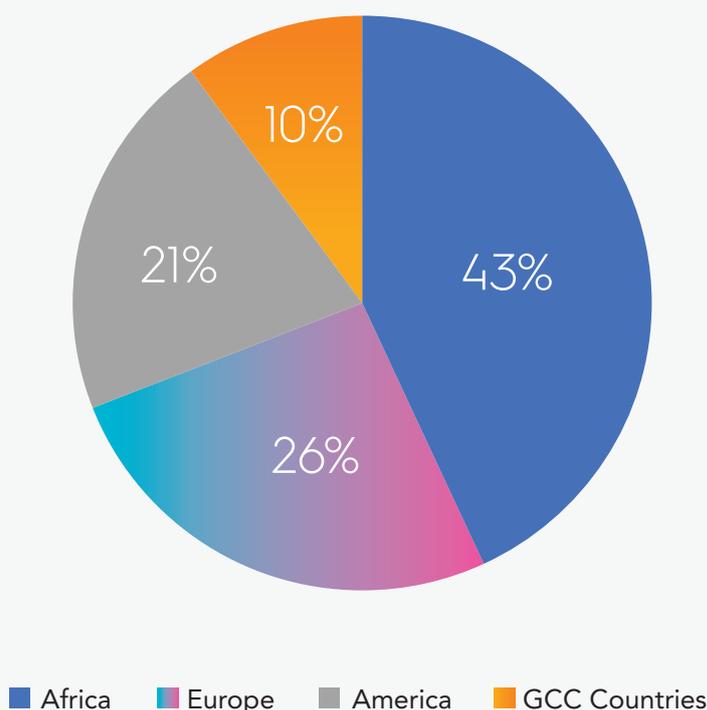
2. The Context of Uganda's Labour Migration to GCC Countries

Ugandan labour migration has always been an integral part of the country's economic development, historically codified in its legal regulations. At the national level, the Ugandan constitution recognises in Article 20 that fundamental rights and freedoms are inherent and not granted by the state. In particular, Article 29 (2) (b) states that every citizen shall have the right to leave and return to Uganda, and (c) that every Ugandan has the right to a passport or other travel document. While the Ugandan government does not explicitly prohibit labour migration, the country's political history highlights the ambivalent relationship between the state and citizens, whereby migration is used as a tool to maximise economic and national development.

There is no accurate data on Ugandan labour migration to the UAE, but as of March 2018 70,000 Ugandans are reported to be occupying the low- and semi-skilled sectors of the labour market (e.g. cleaners, security guards, waiters, salespersons etc.) and other related

service-based industries and engaged in sex work. Ugandan labour migration to the GCC, the Middle East and North Africa has increasingly become an important ingredient of the national economic development discourse, particularly regarding the role of remittances. The Bank of Uganda reported that Ugandan migrants in the diaspora transferred US\$ 109 million in 1995/1996, which rose up to US\$ 685 million (about US\$ 1.2 trillion) in 2004/2005 (Mulumba and Olema, 2009). Remittances, in fact, continued to grow to US\$ 910 million in 2012, a 14 per cent increase, which influenced the Ugandan government to declare labour migration "a noble trade". The government report also noted that 5.6 per cent of the total amount of remittances came from the Middle East and North Africa (MENA) regions. However, this excludes unofficial channels (i.e. channels unknown to the Ugandan government), which are likely to increase as Ugandan labour migration to the MENA region expands over time.

Sources of remittances in Uganda (2012)



Source: Adapted from Mulumba and Olema, 2009

Owing to the growing Ugandan labour migration to the GCC countries, policy and institutional capacity-building is vital to maximising economic benefits. By extending more protection to its citizens abroad, especially in the Middle East, the Ugandan government would effectively help increase remittance inflow and stimulate the national economy.

Ugandan Migration Framework: Policies and Institutions
Over the years, the Ugandan migration policy framework has shifted focus between emigration and immigration policies (Mulumba and Olema, 2009). The Ugandan government has restricted emigration of its high-skilled populations to prevent brain drain by imposing foreign exchange restrictions and obligatory travel clearances (IOM, 2013). However, in the 1990s, owing to the increased civil unrest in the neighbouring African countries, Uganda received a huge influx of refugees, which prompted the government to focus on its immigration policy in order to protect refugees and

other internally displaced persons (IDPs). Eventually, by the early 2000s, the Ugandan government switched its focus to engage more with its diaspora in national development (Mulumba and Olema, 2009). These particular policy developments demonstrate the shifting and often conflicting policy priorities of the Ugandan government as well as the lack of coherent long-term regulation of international labour migration. Despite these particular constraints found in the frameworks, the government has increasingly exerted efforts to close the existing policy gaps. In 2007, for example, the president of Uganda issued a directive to the Ministry of Foreign Affairs (MOFA) to develop strategies to strengthen its capacity to manage Uganda’s diaspora. With support from the UNDP, the MOFA drafted a diaspora policy that was later launched in 2013. The following tables summarise various national policies and institutions that govern Ugandan labour migration.

Table 1: Existing Ugandan government policy framework for migration

Policy	Objectives
The National Diaspora Policy Draft (2013)	<ul style="list-style-type: none"> To unbind the constraints that affect the dignity and full participation of Ugandans in national development To improve the services Ugandan consulates, extend them to its migrants in host countries
The Ugandan Vision 2040	<ul style="list-style-type: none"> To collaborate with neighbouring countries to develop sustainable local and regional migration institutional frameworks for easy movement to other countries To provide legal assistance to Ugandan migrants through legal and institutional frameworks by signing MOUs with other countries
The National Migration (NM) Policy Draft	<ul style="list-style-type: none"> To enhance economic development through the regulation of migration patterns in Uganda To facilitate emigration for Ugandans To improve inter-government agency (i.e. ministry) collaboration at national, regional and international levels

Source: IOM, 2013

Table 2: Existing institutional framework on migration

Institution	Mandate
Ministry of Internal Affairs (Department of Citizenship and Immigration Control)	<ul style="list-style-type: none"> To facilitate orderly and legal migration of Ugandans by issuing passports and important travel documents To enforce national, regional and international migration
Ministry of Foreign Affairs (Diaspora Department)	<ul style="list-style-type: none"> To create a database with all Ugandans living in the diaspora To implement the National Diaspora Policy
Ministry of Gender, Labour and Social Development (External Employment Unit)	<ul style="list-style-type: none"> To license and regulate employment agencies that protect the rights of Ugandan migrants

Source: IOM, 2013

These particular policy additions have guided the current institutional and policy framework of the Ugandan government in managing its labour migration globally.

3. Policy strengths

As more Ugandans seek employment via recruitment agencies for jobs in the West and Middle East, the government has responded by establishing the External Employment Unit (EEU), an agency under MoGLSD (see Table 2), to license and regulate these agencies. Their primary role is to educate the job-seekers about the opportunities in the labour market outside Uganda. An inherent benefit of the labour migration policy is that it effectively organises and regulates labour migration, while at the same time reducing the high unemployment rate in Uganda.

Another positive benefit of the stated policies and institutional frameworks is that they optimise economic contribution of the diaspora to the country's development. For example, the overall objective of the National Diaspora Policy (NDP), as noted in Table 1, is

to facilitate the safe and reliable remittance of funds to increase Ugandan migrants' full participation in national development. When migrant citizens transfer funds back home to their families, the money is invested in small businesses, education and health care-related needs.

Furthermore, while the previous migration regulations primarily focused on restricting the emigration of highly skilled professionals, they, to a large extent, failed to adequately address irregular emigration of low-skilled Ugandans, who often end up being exploited (Papademetriou and Somerville, 2014). Therefore, Uganda is now developing policies (Tables 1 and 2) that emphasise the legal migration of its citizens. The monitoring of Ugandan migration flows does not only address issue of the emigration of low-skilled workers but also helps build an efficient migration database. The proposed legislative framework will help develop migration policies and engage the Ugandan diaspora in host countries.

4. Policy limitations

The Ugandan labour migration policies, however, also have their own shortcomings. The first limitation is that the policies do not emphasise the labour protection of Ugandan migrants in the host countries. The protection of the rights of a country's citizens abroad

has a long-term effect on their contribution to their home countries. It has been irrefutably proven that migrating from low-income to high-income countries brings great benefit to immigrants, their families, and their communities through remittances (Ruhs, 2010).

In contrast, the fewer rights an immigrant has, the more likely he/she is to face exploitative working conditions and low wages in the host country (Julia and Douglas, 1999). Ugandan migration policies have not addressed these concerns as destination countries lack implementation policies to enforce migrants' labour rights, particularly those of low-skilled labour workers. Most labour-receiving countries in the West provide comprehensive rights to immigrant workers (i.e. a path to citizenship), while others, such as the GCC countries (including the UAE), provide minimal rights to their temporary migrants (Fargues, 2011). The Kafala system of employment in the GCC often restricts labour migrants' ability to switch employment owing to their contractual agreement with employers, which directly limits their capacity to earn better wages and remit money to their home countries. Thus, lack of protection policies for migrant workers abroad could, to a large extent, hinder national economic development.

Another limitation of the Ugandan policies and institutional frameworks for migration is that it shifts the responsibility for protecting migrant workers' rights from the government to recruitment companies. Uganda's Vision 2040 policy, for instance, emphasises that the government must provide legal assistance to its labour migrants by signing "cooperation agreements" (or memoranda of understanding [MOUs]) with the host-country governments. Yet the External Employment Unit (EEU) of MoGLSD (see Table 2) is mandated to "license and regulate recruitment companies who are intended to protect the rights of migrant workers abroad."

Granting recruitment agencies the legal responsibility to protect the rights of migrants (i.e. contractual violations) critically poses challenges, given their lack of full legal and institutional capacity to negotiate for and protect their labour rights, thereby leaving the labourers vulnerable to the host country's legal system. This shortcoming in legal protection negatively affects the migrant workers' contribution to national development.

The policy and institutional frameworks also fail to capitalise on the potential gains of "social remittances" (including the transfer of values, norms, knowledge or skills)", which has always been beneficial to both sending and receiving countries (Dvizimbo, 2003). The economic and infrastructural development of migrant-receiving countries, such as the GCC countries, has occurred as a result of the imported skills of migrant workers; on the other hand, labour-sending countries like Uganda have benefited from the financial investment of their migrant workers. The Ugandan NDP policy (Table 1) omits mentioning that, if properly managed, the return of Ugandan emigrants could lead to further development through skill transfers. Thus, failing to define efficient strategies and programmes to fully harness the skills of Ugandan migrant returnees limits the government's capacity to maximise "social remittances" as a national development strategy. As a result, Ugandan workers transfer their knowledge and skills better to the host GCC countries than when they return to their home country, thus not contributing to their country's economic growth and economic development, given the kind of jobs they have back in the GCC.

5. The Context of the Ugandan Government in the UAE Development

The incoherent nature of the Ugandan government's policy and institutional frameworks in the home country, particularly labour protection for migrants in the diaspora, directly limits the capacities of its foreign diplomatic institutions, such as embassies and consulates, abroad. The limited institutional and legal capacity of the Ugandan embassy in the UAE

demonstrates this problem. Of the 54 sub-Saharan African countries, the Government of Uganda is one of the 30 African countries that have established a diplomatic mission in the UAE.⁴ With the growth of Ugandan labour migration to the UAE and the GCC, the Ugandan government has increasingly developed emigration policies to engage its diasporas.

⁴ African countries with diplomatic missions (embassy and/or consulate) in the UAE include: Angola, Algeria, Benin, Chad, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Ivory Coast, Kenya, Libya, Maldives, Mali, Mauritania, Morocco, Mozambique, Nigeria, Niger, South Africa, Senegal, Seychelles, Somalia, Sudan, Tanzania, Tunisia, Uganda and Zimbabwe.

However, the lack of coherence in the Ugandan government's migration policies and institutional framework has greatly constrained their consulates and diplomatic missions from protecting migrants. For example, the UAE-based Ugandan embassy states that its objective is to "develop a business understanding of the UAE and to manage the cross-cultural insights that support a problem-solving team, which aspires to deliver an efficient service" (Consular Services, 2013). Its three primary services include certification of documents/testimonials, notification of next of kin in case of accidents, illness or death, and visa issuance.

5. Legal redress

The UAE-based Ugandan embassy's lack of legal assistance results in migrant workers being subjected to the UAE's Kafala sponsorship system, a legal system that binds each migrant worker to a particular sponsor/job, thereby restricting his mobility (Babar, 2013). In fact, some companies exploit this particular system by confiscating labour migrants' passports and this act violates the Ugandan government's policy. Tomson⁶, a Ugandan security guard in the UAE, laments, "When I arrived to the UAE, the company I was supposed to work for took away my passport from me. My manager told me the passports will be taken to the immigration for the residence permit. After a few weeks, my colleagues and I requested our passports, but we were told that our passport would be given to us only after we finished our contract with the company or pay AED 3,500 (952 USD) before we collect our passports" (Tomson, male, 28). Another Ugandan, Andrew, a janitor in the UAE, adds, "In addition to keeping my passport, my company asked me to sign a document stating that I grant them the right to keep my passport or else I wouldn't be given the job. Holding my passport is not included in my contract, so I knew it was illegal for them to keep my travelling documents. But I gave them it because I needed the job as I spent a lot to come to the UAE" (Andrew, male, 24).

The interviews confirmed that the vast majority of semi- and low-skilled Ugandan migrant workers, particularly newcomers, face labour rights violation, including delayed/non-payment of wages, overcrowded

While these particular core services support Ugandan labour migrants, the embassy has no specific labour grievance mechanisms to provide legal assistance to maltreated or abused migrant workers, a critical issue that serves to exacerbate tension between the Ugandan labour diasporas and the government. Based on extensive interviews with labour migrants, the following critical labour issues have been identified: legal redress, limited MOUs on migration, exploitation by recruitment agencies and improper dissemination of information on the labour market.

accommodation, passport confiscation, physical abuse, and immediate deportation for minor faults. Owing to lack of legal redress, Clarkson, a Ugandan cleaner, highlighted, "We were promised good comfortable accommodations, but when we arrived, eight of us were put in one room. The toilets are very dirty and unhygienic. When we complained to the management of the company, we were told we came to Dubai to work and not to live comfortable lives, which I find ridiculous."

While some Ugandan labour migrants have attempted to file complaints, they often lose in the UAE courts owing to lack of financial resources and inability to communicate in Arabic. The Ugandan embassy in Abu Dhabi explicitly states it has no capacity to provide legal assistance, court intervention or additional services to Ugandan nationals in custody, employment and hospitals. The inability of the Ugandan embassy to provide legal assistance to Ugandan migrants in the UAE reflects the low priority the government gives to addressing labour rights protection in the host country. Furthermore, the embassy is also understaffed and, specifically, lacks a labour department that would oversee migrant labourer's issues in the UAE. Despite the growing Ugandan labour migration, the Ugandan government has not yet adequately resolved labour grievances against offending UAE companies or sponsors. Thus, low-skilled Ugandan labour migrants are vulnerable to labour exploitation and this impacts on their capacity to contribute to the national development of Uganda.

⁶ <http://www.monitor.co.ug>

6. Limited MOUs

Over the past decade, many labour-sending countries have used various legal instruments like the MOUs to protect migrants' labour rights. Unlike Uganda, some Asian countries, such as the Philippines and India, have signed MOUs with the UAE government, setting a minimum wage and standardised labour contracts for domestic workers (Malit Jr. and Safa, 2014). The Pakistani embassy, in particular, has also set a minimum wage of not less than AED 800 (about US\$ 817,000) for its labour migrants in the UAE. The Ethiopian embassy further increased labour protection for its domestic workers by imposing a minimum wage of AED 1, 200 (about US\$ 1,226,000) and

demanding better working conditions (Preeti, 2013).

However, while the Ugandan government has forged a strong bilateral agreement with the UAE in trade and business, it has not focused on labour migration issues between the two countries. For example, in December 2014, a delegation of ministers from the UAE came to sign an MOU for cooperation between the two countries in the areas of energy, infrastructural development, agro and food processing, especially fruits, grain and coffee for the export market, and international cooperation (Stephen, 2014).⁶ However, labour migration issues were not discussed despite its increasing relevance in the UAE.

7. Exploitation by recruitment agencies

The Ugandan government's lack of capacity to monitor recruitment agencies usually makes migrant workers vulnerable. In 2005, the government passed the Rules and Regulations Governing the Recruitment and Employment of Ugandan Migrant Workers Abroad, Regulations No. 62 (popularly known in Uganda as "Nkuba Kyeyo") (ILO, 2005). These regulations control the recruitment of Ugandan workers for the foreign labour market by MoGLSD through the External Employment Unit (EEU), the lead agency responsible for implementing and enforcing the migration laws. Since the creation of this government unit, there has been a structured pattern in the migration of Ugandan labour migrants. As such, the EEU has licensed 10 recruitment agencies that assist interested citizens in securing employment in other countries. Recruitment agencies are required to follow, among others, the following procedures; to ensure that migrant workers are provided with orientation on recruitment and

terms and conditions of work; guarantee that contracts of employment align with standard employment contracts and other laws, regulations, and collective bargaining agreements; ensure that migrant workers examine their contracts before they sign them and receive copies; guarantee compliance with labour and social legislation of Uganda, of the country of employment, and international labour bodies such as ILO. These state-mandated requirements reflect the government's interest in protecting migrant workers.

However, despite these available institutional policies and mechanisms, many Ugandan migrants still face exploitation in the process. Our in-depth interviews reveal that Ugandan labour migrants were charged exorbitantly high travelling fees (between US\$ 2.5 million and US\$ 6 million, depending on the kind of job and its location) by these recruitment agencies prior to securing employment in the UAE.

8. Improper dissemination of information on labour market

Improper dissemination of information on foreign job opportunities has greatly led to labour market vulnerabilities for Ugandan migrants in the host country. For instance, adequate pre-departure and post-arrival training programmes are almost non-existent, in some cases leaving the recruitment agencies in Uganda to provide such information rather

than the UAE-based Ugandan embassy. However, the information disseminated by these agencies is often misleading, and scarcely reflects the reality in the host country. These particular challenges in information dissemination range from high visa fees in their home countries to being exploited by employers in the UAE.

The respondents noted that the UAE-based Ugandan embassy should provide basic information about the UAE labour market and living conditions prior to travel, a mechanism that could decrease labour exploitation.

9. Policy Recommendations

Recommendations	Rationale
<p>The Ugandan government needs to properly monitor and regulate the enforcement and operation capacities of recruiting agencies</p>	<p>To improve the dissemination of information on external labour opportunities and prevent recruitment agencies from exploiting potential migrant workers</p>
<p>The Ugandan government should enhance the registration procedure for its migrant workers in the UAE and other migrant host countries, especially illegal migrants and Ugandan returnees</p>	<p>To reduce the human trafficking reports but also protect those working legally</p>
<p>Having a service centre number that is toll-free for calls in case one needs help from the country's service centre. This brief is not dictating the laws but there is a possibility of using this as a pilot and the money facilitating it should be collected from the agencies because they make lots of money as indicated in this paper</p>	<p>To promote the protection of Ugandans and also bring to light the exploiters and violators of the law that usually go unreported. In this way, even the oppressive employers will learn to respect Ugandan employees. According to existing records, this is yet to happen in the UAE, even in the case of countries with good policies like Ethiopia. A pilot can be run with a view to seeing how it will unfold. An easy-to-dial number like 555 that is toll-free and that is facilitated by these exploitative labour agencies can be introduced</p>
<p>Companies should contribute to the sensitisation of the people they are taking abroad. However, an independent company should conduct the sensitisation because most Ugandans are exploited because they are not aware of their rights</p>	<p>To facilitate pre-departure and post arrival training</p>

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From Periphery to the Foreground: A Case for Economic, Social and Cultural Rights in Uganda's Transitional Justice Policy Framework^{1*}



Jesse Mugero

This policy brief argues for the need to prioritise economic, social and cultural rights (ESCRs) violations or address economic violence in transitional justice frameworks in Uganda. Uganda has a long history of military conflicts which are underlined by high degrees of ESCRs violations. This research finds that while ESCRs enjoy the same status with civil and political rights (CPRs) under international law, the former is often accorded a peripheral position in transitional justice mechanisms. This has meant that inadequate solutions are provided to deal with the violations committed during conflict.

1. Introduction

Uganda's history of military conflicts is underlined by massive human rights violations that are registered in times of conflict. During the 20-year insurgency by the Lord's Resistance Army (LRA) alone, more than 1.3 million people are estimated to have been displaced from their homes alongside corresponding loss of property and livelihoods. The social cost of losing loved ones, trauma etc. is not to be underestimated. At least 56% of families in northern Uganda lost a family member or relative owing to the conflict.²

According to successive figures from the Uganda Bureau of Statistics (UBOS), poverty levels in northern Uganda were among the highest in the country, which can be attributed to the insurgency.³ For example, the number of poor people in northern Uganda increased from 2.9 million in 2002/03 to 3.3 million in 2005/06, and only decreased to 2.9 million in 2009/10. Between 2013/14 and 2015/16, 24% of the poorest Ugandans were found in northern Uganda.⁴

In a report submitted to the United Nations General Assembly pursuant to General Assembly resolution 48/141, the United Nations High Commissioner for

Human Rights considered the protection of economic, social and cultural rights (ESCRs) in situations of armed conflict.⁵ The report found that during conflict, ESCRs are very much violated because access to education, work, health care and other services necessary for livelihood is greatly undermined. The report further argued that even during conflict, a state's duty to ensure that its citizens enjoy ESCRs remains.

ESCRs enjoy the same status as civil and political rights (CPRs) under international law. In a world conference on human rights held in Vienna in 1993, the Vienna Declaration on the Indivisibility of Human Rights was adopted emphasising that all human rights are indivisible, interdependent and interrelated. It sought to end the division between ESCRs and CPRs.⁶ However, in reality the CPRs enjoy more prominence in several countries and are, in most cases, expressly provided for in the constitutions. In Uganda, CPRs are comprehensively provided for in the 1995 Constitution. On the other hand, crucial ESCRs, such as the right to health, are not emphasised in the constitution relative to the emphasis of CPRs.⁷

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² Justice and Reconciliation Project 'UG Reconciliation Barometer; a 2012 Transitional Justice Monitoring Survey' (2012). Available at http://justiceandreconciliation.com/wp-content/uploads/2012/11/UG_Barometer_Report_Final-2012-11-16.pdf (Accessed on 4 September 2018).

³ Uganda Bureau of Statistics (UBOS), *Uganda National Household Survey, The Socio-Economic Module (2003, 2006 and 2010)*.

⁴ Government of Uganda, *Statistical Abstract (2017)*.

⁵ United Nations High Commissioner for Human Rights, *Protection of Economic, Social and Cultural Rights in Conflict (2015)*.

⁶ Office of the High Commissioner for Human Rights (OHCHR) *Vienna Convention on the Indivisibility of Rights (1993)*.

⁷ Despite the silence of the Constitution of Uganda on ESCRs, progressive jurisprudence has helped in having ESCRs realised. For example, on the right to health, the 2011 constitutional petition filed by the Centre for Health, Human Rights and Development (CEHURD), which sought the court's interpretation of the constitution regarding government responsibility to ensure that maternal deaths in public facilities do not occur owing to preventable causes. *CEHURD v Attorney General, Constitutional Petition 16 of 2011*.

The dichotomy in the view of CPRs and ESCRs has prevented a more complete account in narratives about conflict. Violations of ESCRs are often ignored because it is an indivisible part of crimes committed during conflict yet violations of CPRs usually constitute violations of ESCRs.⁸ It is, therefore, unfortunate that mechanisms are usually proposed that deal majorly with CPRs violations. As a result, a host of transitional justice mechanisms implemented after conflict have focused on addressing violations of CPRs and left issues of ESCRs at the periphery.⁹ As a result, the measures proposed in the draft National Transitional Justice are as a result of incomplete information, leading to insufficient remedies in the implementation of transitional justice measures. In the case of *The Prosecutor v Dominic Ongwen*, which at the time of writing was ongoing before the

International Criminal Court, the Feinstein International Centre presented evidence in the court in a report entitled *The Effect of the Lord's Resistance Army's Violence on Victims from Northern Uganda*. In the report, several economic violations in the areas of Abok, Lokodi and Odek in northern Uganda were identified, such as the loss of asset wealth, food insecurity, limited access to school and potable water, and limited access to livelihoods and social protection services. The report found that 89% of the population in that area had their property looted and destroyed. In its conclusion, the report found that the most pressing justice need for the victims and survivors of conflict was reparations and improvement of their livelihoods.¹⁰

2. Overview of the Transitional Justice Process in Uganda

After the end of the over two-decade-long conflict between the Government of the Republic of Uganda and the Lord's Resistance Army (LRA) and several other armed groups in northern Uganda, there was massive infringement on ESCRs.¹¹ Traditionally, much attention and research have been devoted to showing the violations of CPRs and physical violence such as torture, abduction, forced recruitment, slavery and forced marriage, mutilation and war injuries, and crimes of sexual violence, to mention but a few. However, less or little attention has been paid to economic violence (majorly violations of ESCRs) such as pillaging, looting, destruction of property and land seizures in the context of the conflict. This policy brief will partly fill that gap.

At the Juba peace talks, the parties agreed to a set of transitional justice (TJ) measures that would enhance redress to victims and survivors of the conflict, lay the foundation for reconciliation and foster sustainable peace. One of the key outcomes was the development of a transitional justice working group under the

Justice, Law and Order Sector (JLOS). This working group has developed a transitional justice policy which, if adopted, would lead to a series of legislation aimed at dealing with the effects of the conflict.¹² This policy brief assesses how the transitional justice measures envisaged under the policy can adequately respond to violations of ESCRs that occurred during the conflict.

This paper is divided into three parts. The first part will assess the patterns of violations of ESCRs that happened during the conflict as well as their long-term impact. The second part will analyse the importance of dealing with violations of ESCRs in the transitional justice policy and discourse within Uganda as a means of guaranteeing the non-recurrence of the conflict. The third part will suggest recommendations on how violations of ESCRs can be dealt with within the policy design in Uganda basing on comparative analyses of relevant case studies of post-conflict contexts in which ESCRs have been addressed as part of the TJ process.

⁸ Duthie R *Transitional justice, development and economic violence in Justice and Economic Violence in Transition* (2014) D Sharp (ed.).

⁹ Carranza R *Plunder and pain: Should transitional justice engage with corruption and economic crimes?* *International Journal of Transitional Justice* (2008).

¹⁰ Feinstein International Centre, *The effect of the Lord's Resistance Army's violence on victims from northern Uganda, in the Prosecutor v Dominic Ongwen* (2018).

¹¹ Some of the armed groups include the Uganda National Liberation Army, the Uganda People's Democratic Movement, the insurgencies by the Cilil splinter group, the Cel-ibong splinter group, the Agoyo Ayaro splinter group, the Karimojong/NRA raids, Trinity wars, the Holy Spirit mobile forces and the Lord's Resistance Army.

¹² The Government of Uganda, Justice, Law and Order Sector, The National Transitional Justice Working Group, *The Transitional Justice Policy (Final Draft, September 2014)*.

3. The Violations

During the over two-decade-long conflict in northern Uganda, at least 1.3 million people were displaced from their homes and forced into the camps for internally displaced persons (IDPs).¹³ Living in the camps for decades led to the erosion of cultural values, and because there were hardly any opportunities for advancement in education, many of the inhabitants engaged in heavy drinking and this, coupled with poor health facilities, also led to massive spread of sexually transmitted infections and diseases like HIV/AIDs, gonorrhoea etc. The living conditions in the camps actually led to deaths similar to those caused by direct violence.¹⁵

A joint report by the Uganda Human Rights Commission (UHRC) and the United Nations Human Rights High Commissioner revealed that personal and commercial goods were looted during the conflict, and these included key assets and livestock. According to the same report, the victims suspected that the looting was committed by the LRA, the Uganda People's Defence Forces (UPDF) and other armed militia.¹⁶ There were incidents reported of the LRA destroying homes, burning granaries and cutting down fruit and shea nut trees, thereby destroying the livelihood of people and worsening the already difficult economic situation of most families. Aerial bombardments by the UPDF also destroyed homes.¹⁷

At the community level, critical infrastructure such as hospitals, medical clinics, schools and roads was destroyed by both the LRA and the UPDF. The insecurity and direct targeting of schools led to massive dropouts from school, hence depriving the young of opportunities to advance in formal knowledge and education. The situation also led to early marriages, especially for girls.¹⁸ There were land seizures by the state for the purpose

of setting up internally displaced persons' (IDP) camps and military barracks. Unfortunately, almost all this land has not been returned to the original owners and some of it is damaged and no longer viable for agriculture or housing as per the findings of the report. Most of the victims have never been compensated for the use of their land and the land has never been returned to others, especially land on which a military barracks was set up.¹⁹

Traditional and cultural values were eroded during the conflict and the time spent in the IDP camps. For example, the traditional kin-based systems were unable to support the vulnerable populations because family members in the camps were destitute. Respect for elders waned owing to the extremely destitute conditions in the camps. The quality of life in the camps, such as curfews, limited opportunities for storytelling to pass on values and traditions partly explains why today most of the cultural values, such as caring for the old, have greatly reduced.²⁰

Spiritual harm was also experienced by many people who had witnessed the horrors and destitution resulting from the conflict.²¹ The people complain of being haunted by spirits of the dead and being subjected to their attacks. This has greatly impacted the development of young children who get so overwhelmed by these flashbacks that they become unable to participate in normal life. They, therefore, fail to perform well in school and resort to substance abuse.²² Further, some of the spiritual harm could arise from the way the dead had been treated. For example, if one was not properly buried but just thrown into a bush or into a mass grave or, as it happened sometimes, when people were forced to just put the dead bodies together in a pile.²³

¹³ Esuruku S R *The Peace, Recovery and Development Plan for Northern Uganda 151 in Where Law Meets Reality, Forging African Transitional Justice* Okello C M, Dolan C, Whande U, Mncwabe N, Onegi L and Oola S (eds.) (2012).

¹⁴ This time period is usually referred to as the lost generation of the Acholi.

¹⁵ Ibid.

¹⁶ Uganda Human Rights Commission and United Nations High Commissioner for Human Rights, *The Dust has not yet settled Victims' views on the right to remedy and reparation A report from the Greater North of Uganda* 52 (2011).

¹⁷ Uganda Human Rights Commission and United Nations High Commissioner for Human Rights, *The Dust has not yet settled Victims' views on the right to remedy and reparation A report from the Greater North of Uganda* 53 (2011).

¹⁸ Ibid.

¹⁹ Uganda Human Rights Commission and United Nations High Commissioner for Human Rights, *The Dust has not yet settled Victims' views on the right to remedy and reparation A report from the Greater North of Uganda* 54 (2011).

²⁰ Ibid.

²¹ Uganda Human Rights Commission and United Nations High Commissioner for Human Rights, *The Dust has not yet settled Victims' views on the right to remedy and reparation A report from the Greater North of Uganda* 55 (2011).

²² Ibid.

²³ Feinstein International Centre, *The effect of the Lord's resistance Army's violence on victims from northern Uganda in the Prosecutor v Dominic Ongwen* (2018).

To further understand the impact the conflict had on the development of northern Uganda, the extent to which pre-primary education opportunities are available is another indicator. Early childhood education and care are critical to a child's development.

4. Policy Critique

The Transitional Justice Policy 2014 of Uganda is a sign of commitment by the Government of Uganda to ensure that there is healing from conflict to lead to peace and to foster economic development. It is also a fulfilment of the state's obligation to provide an effective remedy to victims of human rights violations.²⁶ It is an ambitious project that intends to use intra-linkages and interlinkages between transitional mechanisms, such as formal justice and traditional justice, and to make use of reintegration, provide reparations and enable truth-telling.

According to the Office of the United Nations High Commissioner for Human Rights, ESCRs are defined as human rights relating to the workplace, social security, family life, participating in cultural life, access to housing, food, water, health care and education.²⁷ A critique of the Transitional Justice Policy 2014 of Uganda will be based on the extent to which it responds to addressing ESCRs violations (economic violence) after the conflict in northern Uganda. The violations included loss of lives, loss of property such as land, loss of education opportunities, loss of livelihood and degradation of culture, among others.

From the policy, it can be observed that the government intends to ensure that the victims' right to know what happened during the conflict is established. This will be through trials in courts of law and possibly a truth commission. Further, it can also be noted that reconciliation among formerly warring parties and restoration of respect to traditional leaders is promoted. This would be through the use of amnesty and giving formal recognition to the mandate of local leaders in conflict resolution. As a result of the formal trials, reparations may be awarded and, in addition, the government intends to have a special fund set aside for reparation purposes. These attempts to deal with ESCRs violations through the Transitional Justice Policy 2014 of Uganda are explained below.

An examination of the education statistical abstracts from the Ministry of Education and Sports from 2009 to 2015 reveals that there are very few opportunities for pre-primary education in northern Uganda compared to the rest of the country.²⁵

Within the Transitional Justice Policy 2014, the government intends to use the formal justice system. Some legislation has already been established to this end, such as the International Criminal Court Act of 2010 and the Amnesty Act of 2000. These are in line with the outcomes of the discussions during the Juba peace talks. However, there are challenges to prosecution, such as the grant of a blanket amnesty that currently makes it difficult to try those alleged to have committed international crimes, and the fear that formal justice mechanisms do not promote reconciliation. Formal justice mechanisms have an advantage of helping to establish a historical record of what happened and this also helps to fulfil the victims' right to know what happened during the conflict. It is commendable that the government has established some legislation to enable victim participation in the proceedings, such as the International Crimes Division (ICD) Rules of Procedure 2016. However, there still remains a big lacuna in legislation to provide for witness protection. It is also imperative that funds are provided to the lawyers representing the victims in the cases before the ICD. Currently, although they are entitled to it under the law, the practice has been that it is not given to them and this further delays the trials.²⁸

The government, through the Transitional Justice Policy 2014, intends to also use and promote the usage of traditional justice mechanisms. This is because they are easily accessible by community members and are cost-effective in comparison to the formal courts. However, there are some challenges. Traditional justice mechanisms lack formal recognition and this makes it difficult for them to be regulated. They also often ignore women's views and opinions since they are mainly male-dominated. As a result, they miss out on valuable information. The traditional justice mechanisms hardly observe the human rights principles enshrined in much of the international legislation to which Uganda is a signatory.

²⁴ This is encouraged in the Universal Declaration of Human Rights, the Convention on the Rights of the Child, and the Dakar Framework for Action.

²⁵ Government of the Republic of Uganda, Ministry of Education and Sports, *The Education Statistical Abstract (2009, 2010, 2011, 2012, 2013, 2014, 2015)*.

²⁶ The Government of Uganda, Justice, Law and Order Sector, *The National Transitional Justice Working Group, The Transitional Justice Policy (Final Draft, September 2014)*.

²⁷ United Nations High Commissioner for Human Rights, *Frequently Asked Questions on Economic, Social and Cultural Rights (2008)*.

²⁸ Interview with Kilama Komakech, victims' lawyer in the Kwoyelo case at ICD on 22 July 2018.

This the government intends to cure by formally recognising the importance of traditional justice mechanisms, making them complementary to other transitional justice measures and training them in how to apply human rights principles, such as equality of all persons before the law. It is hoped that this will be addressed soon because the transitional justice policy aspires to be victim-centred. Also, the majority of victims and low-level perpetrators and alleged perpetrators are found at the grass-roots level where the traditional justice mechanisms might be their only hope for justice.

The government, through the Transitional Justice Policy 2014, also intends to use truth-telling mechanisms. The major challenge here is the legacy of the previous truth commissions established in 1971 and 1986, whose reports have never been made public. As a result, many Ugandans are unaware that the first truth commission in the world was set up in Uganda. There is also a challenge that the truth commission will limit its search to certain violations and ignore economic violations. It is, therefore, proposed that the previous reports be made publicly available and the National Reconciliation Bill, which also proposed the establishment of a truth commission, be compared with the potential Transitional Justice Bill before one is adopted. It is recommended that the time limit for the truth commission's work be narrowed down to one that is reasonable. It is also recommended that this be set up soon as most of the victims of the conflict are likely to die of old age or loss of memory so that they would be unable to testify effectively before such bodies.

The government, through the Transitional Justice Policy 2014, acknowledges that reparations are an integral part of the efforts to reintegrate victims and survivors of conflict into society. The government intends to have a reparations programme that will help victims, such as those who were abducted, children born while their mothers were in captivity and children whose parents are unknown, to overcome the trauma and stigma faced in their society. Through reparation programmes, the policy intends to further achieve three things, namely: to mainstream the participation of beneficiaries in the reparations programmes specifically tailored for them; to deal with unaddressed medical, physical and psychological problems resulting from the conflict; and to deal with land injustices which are currently a major contributor to conflict in northern Uganda.

A major obstacle to the successful and impactful implementation of reparation programmes is that

they are often confused with development aid. Government efforts to have specific development programmes aimed at northern Uganda are commendable. Examples are the Northern Uganda Social Action Fund (NUSAF) and Peace, Recovery and Development Plan for Uganda (PRDP). However, the aim of these development programmes is to improve the welfare of many citizens generally. On the other hand, reparations arise from a legal entitlement based on an obligation to repair harm.²⁹ Reparations also involve an element of recognition of wrongdoing as well as harm, and of atonement. Reparations address individual harm whereas development aid is targeted at all citizens in a particular geographical location.

The government, through the Transitional Justice Policy 2014, intends to carry out mapping exercises to identify the various types of violations and work with civil society organisations (CSOs) to identify how to help the victims of the conflict. The funds for reparations will be drawn from the consolidated fund. While this is laudable, it is also recommended that relationships with leadership and anti-corruption agencies be improved to ensure that there lower chances of loss of funds.

The government, through the Transitional Justice Policy 2014, also intends to make use of amnesty with conditions that the person amnestied should be encouraged to participate in truth-telling and other transitional justice processes. However, the current challenges with the amnesty legislation is that it is more focused on the needs of the perpetrator and has largely ignored the victims of conflict as well as the special needs of women and children in the reintegration process. In granting amnesty, no consideration was given to the nature of crimes committed by the perpetrators, and the perpetrators were not required to confess, admit or apologise for their actions. It has also not been aligned with the transitional justice process and this makes it an impediment to communal reconciliation.

The government, through the Transitional Justice Policy 2014, intends to cure these defects by using amnesty as an accountability tool. This will be done through ensuring that there is no blanket amnesty. Currently, the amnesty law is still in the same state and has been extended until May 2019.³⁰ It is recommended that the conditional amnesty be implemented as soon as possible in order to reduce the impunity gap that had already been created by the blanket amnesty.

²⁹ International Centre for Transitional Justice (ICTJ) *Reparations for Northern Uganda, Addressing the Needs of Victims and Affected Communities* (2012).

³⁰ Government of the Republic of Uganda *The Amnesty Act (Extension of Expiry Period) Instrument* (2017).

5. Conclusion

The transitional justice field developed primarily as a toolbox for victims to seek redress in the wake of conflict. However, because of the dichotomy in CPRs and ESCRs, most states have given more attention to CPRs violations and largely ignored the ESCRs violations. From the transitional justice mechanisms implemented in Uganda, such as the criminal trial of Thomas Kwoyelo, and the granting of amnesty, it can be observed that there is a preference for addressing physical violations (CPRs) over economic violations (ESCRs) since no mechanism has been put in place for the restitution of lost property, such as land, as a result of the conflict. A survey of victims' justice needs in northern Uganda shows that the victims and survivors are more interested in economic livelihoods, property

rights and education opportunities as justice to them.

It is worth noting that one of the causes of the conflict in northern Uganda was the massive socio-economic inequalities between the people in northern Uganda and the rest of the country. It is, therefore, of utmost importance that the transitional justice policy and discourse include redress for economic violence (violations of ESCRs) and move them from the periphery to the foreground. This will give a fuller account of causes of the conflict and a more accurate account of how to propose wholesome solutions in the transitional justice measures that will prevent possibilities of recurrence.

6. Recommendations

ESCRs violations (economic violence) should be addressed as a matter of priority. Findings of a survey done in the aftermath of the conflict revealed that the immediate needs of the victims of the conflict in northern Uganda were peace and food. This shows the importance of putting ESCRs at the forefront and moving them from the background.³¹

Peace and justice are both desired by the victims and survivors of the conflict.³² The peace referred to is not only the absence of war (negative peace) but a peace which allows economic activity to thrive and social life to be improved (positive peace).

Violations of CPRs and ESCRs should be thoroughly investigated. Should Uganda ever set up a truth-seeking body, as envisaged under the Transitional Justice Policy 2014, its mandate should broadly examine violations of CPRs and ESCRs. The truth commission should examine the causes, impact and consequences of the harm endured by victims. Lessons on how to do this could be drawn from the experiences of the

Sierra Leone, East Timor and Peru truth commissions.

Reparations should be made available in both the short term and the long term. Currently, it can be observed that there are many survivors and victims of conflict who have been suffering the aftermath of the conflict such as physical wounds or destroyed livelihoods since the end of the war in 2006. Many fear that they will die before they receive any reparations. It is, therefore, further recommended that documentation of victims of the conflict be sped up and that reparations address the full spectrum of harm suffered by the victims of the human rights violations, including the consequences of the harm. Currently, all efforts have been directed towards retributive justice in the Dominic Ongwen case at the ICC and that of Thomas Kwoyelo at the ICD. However, steps are yet to be taken towards delivering restorative justice to victims who continue to live with untreated physical and psychosocial wounds and the social, economic consequences of the violations they suffered.

³¹ ICTJ and Human Rights Centre, University of California Berkeley *Forgotten Voices, A Population Based Survey on Attitudes about Peace and Justice in Northern Uganda (2005)*.

³² *Ibid*

All parties that committed crimes should be held accountable.

Regarding the formal justice mechanisms, the victims and survivors of conflict desire that all sides be held accountable for their actions.³³ It is encouraged that investigations be effectively and efficiently carried out in order to have those suspected tried in the courts. Also, the legislative provisions allowing victims to participate in trials at the ICD should be actualised to make it a reality. This can be done through making available more resources and support to the judiciary for it to facilitate victim participation in the trials and establish a reparations fund.

There is need to reform the existing amnesty law.

The amnesty law should be reformed to be conditional in order to make it more just.³⁴ Since 2005, victims and survivors of conflict have complained about the blanket amnesty because it has been more supportive of perpetrators and largely ignored the victims.

The traditional justice mechanisms require formal recognition from the government and regulation in order to be more effective.

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³³ Ibid.

³⁴ Ibid.

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Victims of Business-Related Human Rights Violations Need Effective Policy Considerations to Access Effective Remedies – A Case of the Oil and Mining Sectors in Uganda

Malcolm Mpamizo



This policy brief argues for policy action to ensure that victims of business-related human rights violations in Uganda have access to effective judicial remedies. The state duty to ensure access to effective judicial remedy is sine qua non for the realisation of the right of access to judicial remedy. Increased investment in Uganda, particularly in the oil and mining sectors, has seen a proliferation of cases of business-related human rights violations while the concept of corporate accountability remains uncharted in the Ugandan context. In the oil-rich Albertine graben region where oil exploration and production have started, in the Karamoja sub-region and Mityana where minerals such as marble and gold are being unearthed and extracted, and in Mukono where businesses are engaged in stone quarrying investments, there is evidence of increased business-related human rights violations. These victims do not always access effective remedy owing to lack of access to information and the laborious and expensive judicial system. This policy brief postulates the need to amend legal provisions to provide for the introduction of Human Rights Impact Assessments (HRIA) as a due diligence prerequisite to establishing businesses; and the need for government to subscribe to the Extractives Industry Transparency Index (EITI).

1. Introduction

Recent years have brought a boom in investment to Eastern Africa fuelled, in large part, by oil and other mineral discoveries, and the demands for biofuels and other agricultural products. There is potential for these investments to help fulfil economic and social rights by contributing much needed revenue to finance improvements in health, education and standards of living.

The United Nations Conference on Trade and Development (UNCTAD) revealed in its 2013 World Trade Investment Report that Uganda received the most foreign direct investment in 2012 in East Africa, which rose from \$894 million in 2011 to \$1.7 billion in 2012.¹ This rise was largely attributed to the oil discovery in Uganda's Western Albertine Rift. The discovery of oil in Uganda has raised much expectation and anticipation that the country will be able to free itself from the poverty stranglehold. However, there is equally apprehension and trepidation that poor governance of oil resources and their revenue will leave the oil boom as a curse rather than a blessing.

Combined with the increase in mining interests for gold and other high-value minerals, Uganda has attracted various multinational corporations (MNCs) to invest in the country. However, this continues to raise eyebrows over the state's ability to hold MNCs accountable. One cause of such trepidation is the increase in the complaints about the violation of human rights and the right of access to effective justice and remedy for the victims of such business-related human rights abuses in this era of hyper-globalised economies and liberalisation of trade and investment. While patterns of corporate human rights malfeasance existed long before the ascendancy of globalisation and may not necessarily be blamed on increased globalisation, it is difficult to overlook the extent and severity of the human rights violations occasioned by unregulated or under-regulated MNCs in the era of liberalised international trade and investment.²

¹ UNCTAD 2013 report.

² Steven Bittle and Laureen Snider, 'Examining the Ruggie Report: Can voluntary guidelines tame global capitalism?' (2013) 21 *Critical Criminology*, 177 – 192 at 179; see also John Douglas Bishop, 'The limits of corporate human rights obligations and the rights of for-profit corporations' (2012) 22 *Business Ethics Quarterly*.

In Uganda, since work on a refinery, exploration and other steps to exploit the country's oil have begun in earnest, there has been a five-fold increase in complaints about the industry's local impacts, including challenges associated with accessing effective remedy for human rights abuses.³ The impact of abuses of human rights in this context has been widespread in terms of its nature and it ranges from violations of the right to life, property, security, housing and clean food and water, to rape, torture, beatings, extrajudicial killings and other egregious abuses.

MNCs have become powerful and influential global actors and many developing countries, such as Uganda, lack the resources or political will to control them and their activities. This makes reliance on the state obligation to protect human rights a major challenge, with some countries actually granting

corporations de facto control over certain territories and limited interference from the government.⁴ This challenge also applies to the right of access to effective remedy for victims of human rights abuses.

The right to an effective remedy for business-related human rights harm is well established in international law and is the third pillar of the United Nations Guiding Principles on Business and Human Rights, which confirms that victims must have access to an effective remedy, and that the state has a duty to ensure that an effective judicial remedy is available.⁵

The purpose of this policy brief is to explore the binding constraints that prevent the enjoyment of the right of access to effective remedy with specific reference to victims of business-related human rights abuses in Uganda, focusing majorly on the mining and oil industries.

2. The right of access to effective remedy in the context of business and human rights in Uganda

Governments are obliged to protect their citizens from human rights abuses, including those connected with business activity. In real terms, a government's obligation to protect human rights in the context of business activity "requires taking appropriate steps to prevent, investigate and redress such abuse through effective policies, legislation, regulation and adjudication".⁶ Governments are also obliged to effectively enforce that legal framework once it is in place, to prevent abuse, and to ensure accountability and redress where abuses do occur.⁷

Many developing states like Uganda have, in general, faltered in their duty to protect human rights by failing to ensure that victims have access to effective remedies, including judicial remedies, particularly for business-related human rights abuses. The resulting lack of access to judicial remedies has a considerable impact on the effective exercise of human rights.⁸ The abuses of human rights in the context of business and human rights have been pervasive, particularly in the oil and mining sectors, and include

extrajudicial killings and the violation of the right to life, illegal and compulsory acquisition of property with inadequate or no compensation⁹ violating the right to property, threats to personal safety and security, deprivation of housing for individuals and communities, and contamination of the environment, thus affecting the right to clean food and water.¹⁰ The United Nations Guiding Principles on Business and Human Rights (UNGPs), developed in response to global concern over businesses' impact on human rights and adopted by the United Nations in 2011, rest on three pillars: the state duty to protect human rights; the corporate responsibility to respect human rights; and access to remedy for those whose rights have been violated. Guiding Principle 25 identifies that

As part of their duty to protect against business-related human rights abuse, states must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within the territory and/or jurisdiction those affected have access to remedy.¹¹

3 *Steep Rise in Allegations of Human Rights Abuse as Boom in Investment Brings Hope of Prosperity Business and Human Rights in Eastern Africa: A Regional Briefing Paper April 2014*.

4 Steven Ratner, 'Corporations and human rights: A theory of legal responsibility' (2001) (3) 111 *The Yale Law Journal* p. 446

5 Skinner, McCorquodale and De Shutter, *International Corporate Accountability Roundtable, 'The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Businesses'* (2013).

6 UN Commission on Human Rights, "Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, Annex, I.A.1," A/HRC/17/31, March 2011.

7 "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect, and Remedy' Framework," New York, 2011, B.3.

8 Skinner, McCorquodale and De Shutter, *International Corporate Accountability Roundtable, 'The Third Pillar: Access to Judicial Remedies for Human Rights Violations by Transnational Businesses'* (2013)

9 See *Baleke Kayira & 4 Ors v Attorney General & 2 Ors*. [2002] UGHC 52, Civil Suit No. 179, where Ugandan soldiers allegedly beat up and killed villagers and destroyed their possessions, homesteads and food as they carried out an illegal eviction.

10 See *Uganda Human Rights Commission, 'Oil in Uganda. Emerging Human Rights Issues' December 2013*, which comprehensively reviews various allegations of property damage and expropriation without adequate compensation and water resource contamination in areas of Nebbi, Hoima and Buliisa districts.

11 *The Guiding Principles on Business and Human Rights refer to the responsibility of "business enterprises" to respect human rights. Special Representative on Business and Human Rights, United Nations Guiding Principles on*

The UNGPs support the implementation of the 'Protect', 'Respect' and 'Remedy' trichotomy that provide for states to protect human rights as well as for businesses and corporations to respect human rights, put emphasis on appropriate and effective remedies to match rights and obligations, and is anchored in the international human rights law tripartite typology of securing human rights obligations, with states having the primary obligation to respect, protect and fulfil human rights.¹²

Uganda is currently a host state to numerous MNCs, and several of these companies are involved in the mining and oil sectors, which are the sectors receiving the highest amount of FDI. Many of the legal and regulatory frameworks limiting and regulating corporate activity are state-based. However, several states in the developing world have derisory labour, environmental and general human rights records, and businesses have free rein to carry out business in what they determine is the most "efficient" possible way. The existing international human rights law framework, coupled with an effective national legislative, policy and institutional framework, can play a very instrumental role

3. Legal and policy frameworks for access to effective remedy

As happens in many developing countries, Uganda's issues with access to effective remedy mainly lie, not in the content of their laws, but in the enforcement of law, access to justice and implementation of judicial decisions.

The Ugandan Constitution provides that any "person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress".¹⁶ The rights for which access to remedy is guaranteed by the constitution range from civil and political rights to economic, social and cultural rights. The constitution further guarantees the independence of the judiciary and the existence of an appeals process, all of which are tenets of an effective state-based judicial mechanism.

There have been landmark cases which have been brought against businesses and other corporate actors, including a 2013 case against Kaweeri Coffee Plantation, a subsidiary of Neumann Kaffee Gruppe, in

in ensuring that Uganda meets its obligation to protect the rights of its citizens. Where human rights harm does occur, victims should have access to remedy. This can take place through state-based judicial or non-judicial mechanisms and non-state grievance mechanisms, at the operational or community-based levels. Across these paths of remedy, the Ugandan state has a responsibility to ensure authenticity and effectiveness.¹³

Although governments have a primary responsibility to ensure respect for human rights, corporations also have a number of responsibilities, as increasingly recognised by international law and other norms. These norms reflect an expectation that corporations should have policies and procedures in place that ensure human rights abuses do not occur and that they undertake adequate due diligence to identify and effectively mitigate human rights problems.¹⁴ The UN Guiding Principles describe many of the basic steps that companies should take to respect human rights, avoid complicity in abuses, and help ensure an adequate remedy for them if they occur.¹⁵

which the respondent was ordered to pay €11 million in compensation and damages for illegal land evictions;¹⁷ and the case where an NGO, Sexual Minorities Uganda, received a permanent injunction against the newspaper Rolling Stone in Uganda which had sought to publish names, home addresses and other personal details of gay rights activist, leading to the death of one of the activists, David Kato, who was murdered at his home.¹⁸

It is also noteworthy that under the new Companies Act of 2012 in Uganda, individuals within a company can be prosecuted for criminal activity by lifting the corporate veil.¹⁹ Courts are increasingly becoming a forum for those aggrieved by corporate conduct to seek redress, though legal and structural obstacles remain in a region where most people have limited understanding of the courts and their rights, and little or no access to legal services.²⁰ However, despite these few successes, there continue to exist various legal and practical barriers to accessing effective remedy for victims of business-related human rights violations.

¹² Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran, *International Human Rights Law* (1st edn, Oxford University Press 2014), p. 101.

¹³ Gabriella Wass and Chris Musiime, 'Protect and Remedy: Implementing State Duties under the UN Framework on Business and Human Rights' (ActionAid International and IPIS 2013), p. 21.

¹⁴ Human Rights Watch, 'How can we survive here?' *The Impact of mining on human rights in Karamoja*, 2014

¹⁵ UNGPs

¹⁶ Republic of Uganda (1) (1995), *The Uganda Constitution*, Article 50(1).

¹⁷ Baleke Kayira & 4 Ors v Attorney General & 2 Ors. [2002] UGHC 52, Civil Suit No 179.

¹⁸ Business and Human Rights Resource Centre, *Annual Briefing: Corporate Accountability*, June 2012,

¹⁹ The Republic of Uganda (10), *The Companies Act*, 2012.

²⁰ Steep Rise in Allegations of Human Rights Abuse as Boom in Investment Brings Hope of Prosperity Business and Human Rights in Eastern Africa: A Regional Briefing Paper April 2014

The rosy picture painted by the existence of legal provisions promoting access to effective remedy is quickly smudged by the practical barriers to justice. In the first instance, the length of time that matters take to be heard and concluded within the judicial system remains prohibitive. Street Law Uganda, an NGO, notes that it takes years to hear and conclude a matter in a court of law and the mobbing and plethora of cases in courts make the judicial system distasteful and vexing.²¹ This is exacerbated by the inability of courts to follow up and ensure that their orders, especially relating to compensation, are being implemented in a timely fashion. Even where compensation is paid, local people have not been adequately prepared for receiving the funds and, as a result, squander them rather than using the revenues to develop their communities.²²

Closely related to this is the cost of litigation, which is prohibitive too. Corporate and other business entities can afford to tie up complaints in lengthy litigation procedures for which they can afford to pay the best lawyers that money can get them. Conversely, the most affected victims of corporate human rights abuses within the mining and oil sectors are the poorest and most marginalised people in Uganda, namely the Karimojong in Karamoja and locals in the small towns of Kabaale, Kaiso, Tonya and other oil-producing areas of Bunyoro. These victims are unable to afford legal assistance and, thus, find themselves unable to claim their right to an effective remedy, even when they are aggrieved.

Uganda's 2013 National Land Policy contains very progressive language regarding the rights for minorities and, more specifically, for customary landowners, and it calls on the government to protect the rights to the ancestral lands of ethnic minority groups and give them prompt, adequate and fair compensation for displacement by government action.²³ However, some farmers in oil-rich regions state that they are being inadequately compensated for the destruction

of their crops during oil exploration and displacement for petroleum operations, with dissatisfaction about compensation stemming from government and company secrecy about planned oil drilling.²⁴ Displacement of residents and destruction of cultural sites have been reported and it has been alleged that force has been used against residents who attempted to lay claim to land rights and that claims for effective remedy for land rights have gone unanswered.

Uganda's constitution and the African Charter on Human and Peoples' Rights (Banjul Charter) guarantee every person the right to a clean and healthy environment. The government is mandated to enact laws that protect and preserve the environment from degradation and to hold natural assets in trust for the people of Uganda.²⁵

Mining activities in Uganda are controlled under the 2003 Mining Act and the 2004 Mining Regulations and these do not require any form of consent or consultation with local communities prior to the application or acquisition of an exploration licence. While they do require a mining lease applicant to negotiate a surface rights agreement prior to the granting of a mining lease, they do not require this for an exploration licence application and, ultimately, the law falls well short of protecting free, prior and informed consent rights.²⁶

Research undertaken by Human Rights Watch indicates that mining companies in Karamoja did not receive, or even seek, the permission or consent of the indigenous landowners prior to undertaking exploration on their land. When gardens were damaged by excavators or due to trenching, landowners received some compensation. However, when sampling uprooted just a few crops, there was no compensation.²⁷ The inability of government structures to enforce the law on the books continues to dog the promotion of human rights and the ability of victims of abuse to access effective remedy.

²¹ *Street Law Uganda: Street Law (Uganda) is a non-profit making organisation established in Uganda in 2000 engaged in, among other projects, human rights education at national and local levels.* <http://streetlawuganda.org>

²² *Steep Rise in Allegations of Human Rights Abuse as Boom in Investment Brings Hope of Prosperity Business and Human Rights in Eastern Africa: A Regional Briefing Paper April 2014*

²³ *Ministry of Lands, Housing and Urban Development, "Uganda National Land Policy", Final Draft, February 2013, art. 57*

²⁴ *Steep Rise in Allegations of Human Rights Abuse as Boom in Investment Brings Hope of Prosperity Business and Human Rights in Eastern Africa: A Regional Briefing Paper April 2014.*

²⁵ *The Constitution of the Republic of Uganda, 1995, chapter 27.*

²⁶ *The Mining Regulations, arts. 38-42.*

²⁷ *Human Rights Watch, 'How can we survive here? The Impact of mining on human rights in Karamoja', 2014.*

4. Recommendations

In the context of potentially harmful industries such as oil exploration and mining, both the government and companies need to assess the potential human rights impacts of proposed new operations before allowing them to go forward.²⁸ The UNGPs describe many of the basic steps that companies can take to respect human rights, avoid complicity in human rights abuses, and help ensure access to an adequate remedy for them if they occur.²⁹ They also reflect an understanding that

firms, especially in risk-prone rural environments like Karamoja, Mubende and Bunyoro, need to develop effective policies to prevent, detect and respond to human rights abuses – not just deal with problems if they occur.³⁰

Below are some key recommendations on addressing the binding constraints preventing the fulfilment of the right to an effective remedy in the context of corporate human rights abuses.

5. Conducting human rights impact assessments

Ugandan laws do not require any social or Human Rights Impact Assessments (HRIAs), though this is an important aspect of ensuring protection and should be remedied. Such valuations and due diligence assessments should be required before any exploration work is scheduled to begin and involve meaningful and sustained engagement with the communities. Most likely, HRIAs could be accomplished by amending the Mining Act to make provision for these as well as the oil laws and regulations. The Uganda Human Rights Commission (UHRC) should take the lead in preparing guidelines and regulations for these due diligence obligations, pre-qualify a list of independent experts to support corporates and set up a tribunal to evaluate the HRIAs in much the same way that the National

Environmental Management Authority (NEMA) carries out Environmental Impact Assessments (EIAs). These assessments would go a long way in ensuring minimal effects of mining and oil exploration activities on the human rights of the communities and also make provision for robust mechanisms for accessing effective remedy should abuses occur. In the alternative, the integration of social and environmental risks into the current due diligence processes carried out by mining and oil companies before extraction would be enabling, especially if these are in line with international best practice for comprehensive and transparent social and environmental impact assessments that overtly address human rights concerns.

6. Subscribing to the Extractives Industry Transparency Index (EITI) to foster transparency and access to information

An improved environment for transparency and accountability would be a remarkable step towards addressing human rights violations within the extractives industry and, specifically, in oil extraction and mining. Uganda needs to join and subscribe to the Extractives Industry Transparency Index (EITI). The EITI is a multi-stakeholder coalition initiative of governments, companies, civil society groups,

investors and international organisations that aims to ensure openness and strengthen governance on financial transactions in the extractive industry.³¹ Imperatively, the National Oil and Gas Policy enjoins the state to participate in and implement principles of the Extractive Industries Transparency Index (EITI), having regard to transparency and accountability as its guiding principles.³² This is in tandem with various

²⁸ The Guiding Principles note that companies should possess "a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights."

²⁹ UNGPs

³⁰ The Guiding Principles on Business and Human Rights, pp. 13-25.

³¹ See www.eiti.org

³² Republic of Uganda, National Oil and Gas Policy, 2008 at page 48; the EITI is a coalition initiative of governments, companies, civil society groups, investors and international organisations that aims to ensure openness on financial transactions in the extractive industry. See www.eiti.org (Last accessed 22 August 2017)

recommendations, including the recommendations by the Institute for Human Rights and Business (IHRB) in its submission to the United Nations Human Rights Council for the Universal Periodic Review Session for Uganda in March 2011.³³ However, the laws that implement this policy remain silent on EITI membership and Uganda has shown no interest in participating in EITI standardisation, which is seen as an industry best practice to promote transparency and accountability for oil corporations.³⁴ The realisation that such mismanagement is made all the more possible when the amount and use of natural resource revenues are hidden from the public has spurred a focus on transparency as a tool to help combat corruption and improve governance. Important areas for transparency in resource-rich countries include revenues, contracts, spending and public access to information.³⁵ Ugandan government officials, including President Museveni, have stated a willingness to join EITI³⁶ and in October 2011 Uganda's Parliament passed

a resolution affirming the need to join. Several years later, Uganda is not yet a candidate. Moreover, there is no concrete timeline for when Uganda will begin to take steps to join, representing a missed opportunity, particularly as the EITI rules require participating countries to publish contracts and company ownership information, not only revenue information. Increased access to contracts and other relevant information would be vital for victims of human rights abuses to access effective remedy. Uganda has also not sought to join the international Open Government Partnership, an initiative that aims to secure concrete commitments from governments to enhance openness about government activities, encourage citizen participation, and draw on technology as means to combat corruption and strengthen governance.³⁷ There is need to concretise these intentions by government in a bid to improve the promotion and protection of the rights of Ugandans affected by oil exploration and mining.

7. Conclusion

Commercial globalisation poses substantial challenges to the 'Westphalian paradigm of human rights protection' provided for under constitutional and international law, allocating obligations to protect, respect and fulfil human rights within and between states. However, there is evidence of development in the business and human rights arena with a focus not only on the protection of human rights by states and corporations but also on ensuring that adequate remedy is available for victims of human rights abuses to access justice. An evaluation of the domestic legal, policy and other regulatory frameworks in Uganda on the provision, protection and adequacy of the right of access to effective judicial remedy denotes the existence of a rather deficient and imperfect framework that provides trifling avenues for sufficient corporate accountability, not least in the oil and mining sectors. It is correspondingly manifest, therefore, that there

is great room for improvement through integrating human rights-based approaches into the regulatory framework. This, alongside promoting the enforcement of the existing law in the books, makes the role of domestic jurisdictions in ensuring adequate access to effective judicial remedy for victims of business-related human rights abuses not only perfunctory but also paramount. It is imperative; however, that access to the available remedies for victims of corporate human rights violations is propped up through the introduction of HRIAs as mandatory components of due diligence obligations for MNCs before they can proceed with an investment. There is also need for the state to implement the EITI standards as expressed in the National Oil and Gas Policy. These cannot be overemphasised, bearing in mind that transparency plays a pivotal role in ensuring adequate corporate accountability and justice for victims of business-related human rights abuse.

³³ Institute for Human Rights and Business, *Submission to the United Nations Human Rights Council Universal Periodic Review: Uganda, March 2011*, page 6. Available at https://www.ihrb.org/pdf/Uganda_UPR_14March2011-IHRB-FINAL.pdf (Last accessed 22 August 2017)

³⁴ Gabriella Wass and Chris Musiime at 23.

³⁵ Human Rights Watch, 'How can we survive here?' *The Impact of mining on human rights in Karamoja*, 2014.

³⁶ Museveni, Donors discuss electoral reform, *New Vision*, May 7, 2013, <http://www.newvision.co.ug/news/642406-museveni-donors-discuss-electoral-reform.html> (accessed December 31, 2013);

³⁷ Bernard Sabiti, 'Why Uganda has not joined the Open Government Partnership,' *Open Government Blog*, March 11, 2013, <http://blog.opengovpartnership.org/2013/03/why-uganda-has-not-joined-the-open-government-partnership/>

Improving Female Students' Enrolment in STEM Demands Policies That Align the Social and Technical Aspects of the Problem



Winnie Watera

This brief explores promising policy alternatives for increasing female students' enrolment in science, technology, engineering and mathematics (STEM). Increasing female student enrolment in STEM is poised to be a precursor to bolstering the chances of employment and economic inclusion for women, as most new employment opportunities demand STEM-related skills. Therefore, this policy brief was conceived from a context of gender equality and women's empowerment. The study finds that limited female students' enrolment in STEM is attributed to social factors as much as it can be explained by the technical limitations in the education system. Despite this reality, existing policy interventions have focused mainly on the technical attributes, for example, improved funding, increase in recruitment of science teachers, enhancing school science infrastructure etc.¹ However, little or no regard is paid to underlying social constraints that limit female students' enrolment in STEM. This brief recommends that educational policies should prioritise a response to the social factors such as negative gender stereotypes, a gender-inclusive curriculum and prejudiced teacher attitudes that hold girls away from enrolment in STEM disciplines.

1. Introduction

Female students continue to be disproportionately represented in science, technology, engineering and maths (STEM) disciplines in Uganda despite the overall improvement in STEM enrolment. This problem is acknowledged in government documents like the Gender in Education Policy, 2016. The policy notes that while there is an almost equal number of males and females enrolled in computing, economics, the arts, management and the social sciences, there continues to be a strong male bias in agriculture (81%), forestry (72%), science (69%), veterinary medicine (82%) and education (75%) in tertiary and higher learning institutions.² The Visitation Committee on Makerere University (Uganda's largest and oldest public university)³ in 2017 reported a 9.2% (3,412) enrolment rate of female students in STEM.⁴ Generally, enrolment of female students

in non-STEM disciplines was four times more than the enrolment in STEM disciplines at the university.

This notwithstanding, the 2018 Busitema University⁵ provisional admission list features only 402 (31%) female students out of the 1,267 students admitted for STEM courses at degree and diploma levels. The STEM disparity in educational enrolment manifests at the professional level through the corresponding female professional registration numbers, as at June 2018, with the Uganda Medical and Dental Practitioners Council (29%), the Uganda Institution of Professional Engineers (16%), the Pharmaceutical Society of Uganda (31%) and the Registered and Practising Architects (24%), among others.

¹ Gender in Education policy, 2016

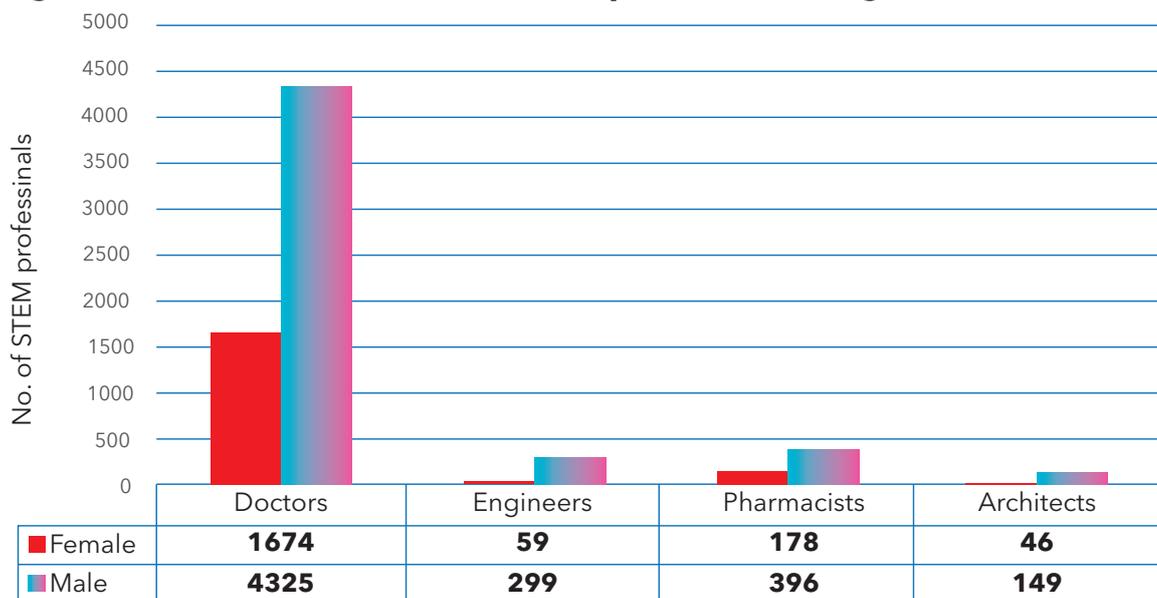
² Ibid.

³ Best universities in Africa

⁴ Out of 37,059 (17,434 [47%] female and 19,625 [53%] male), only 3,412 (20%) of females were enrolled in STEM compared to the 8,408 (43%) males

⁵ Busitema University has as its focus Science Education with emphasis on instruction in the agricultural sciences, agricultural mechanisation and agribusiness

Figure 1: Gender differentials in STEM professions in Uganda



Source: Respective professional registration records in 2018

It is important to note that most professionals in Uganda are not formally registered, mainly owing to lack of minimum requirements for registration. In this case, far fewer women get registered.

Various government plans, policies and strategies, including the National Science, Technology and Innovation Policy, 2009, the National Science, Technology and Innovation Plan, 2012/2013- 2017/2018, and the Ministry of Education and Sports (MoES) National Strategy for Girls' Education (NSGE) in Uganda (2014-2019) acknowledge the challenge of limited

female students in STEM. However, the interventions proposed and implemented according to these plans address STEM education from the general point of view and without factoring in gender dynamics.

While interventions to increase general STEM education enrolment focus on technical aspects such as increased funding, increased numbers of science teachers and enhanced science school infrastructure, increasing female students' enrolment in STEM education demands interventions in the social aspects of the problem.

2. Rationale for Increasing Female Enrolment in STEM

Enrolment in STEM disciplines has been linked to improved chances of employment, considering that most emerging jobs are in the science and technical sectors such as information technology (IT), construction, mining, medicine, energy and geological explorations, to mention but a few. At the macro level, higher labour force participation by women offsets the shrinking workforce in general, including STEM sectors.⁶ Moreover, increased labour participation can contribute to increases in GDP and to reduced poverty.⁷ At the micro level, it can lead to increased household income and a corresponding improvement in social status.⁸ This notwithstanding, principles of equity in education must be upheld.⁹

Uganda has prioritised energy, infrastructure development, industrialisation, as well as oil exploration as major development strategies. The existing and planned infrastructural projects are expected to create several job opportunities both directly and indirectly, particularly in the science and technical disciplines. Blended with the existing efforts to promote local content, more Ugandans are expected to access job opportunities in these sectors. However, if women are to have an equal chance of accessing the emerging opportunities, increasing their enrolment in STEM is necessary.

⁶ Kinoshita and Kochhar (2016). *She is the answer*. International Monetary Fund: Finance & Development, Vol. 53(1)

⁷ Huth, L. (8 March 2018). *Women: The catalyst for economic growth: Women around the world still face obstacles to fully participating in the workforce, limiting a country's potential growth*.

⁸ McGinn, K. L. & Oh, E. *Gender, social class and women's employment*. *Current Opinion in Psychology* Vol. 18, pp. 84-88

⁹ Wilson, C., Taylor, J., Kowalski, S., and Carlson, J. (2010). *The relative effects and equity of inquiry-based and commonplace science teaching on students' knowledge, reasoning, and argumentation*. *Journal of Research in Science Teaching*, 47(3), 276-301

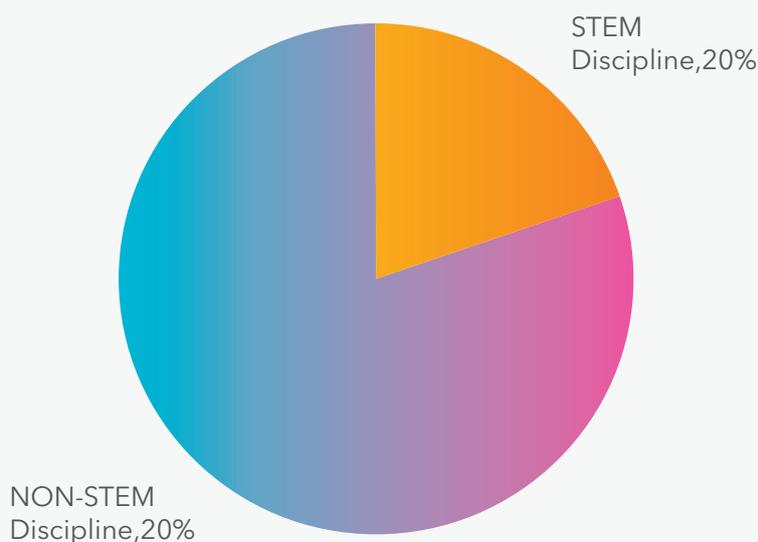
3. Explanations for Limited Female Students' Enrolment in STEM

The dominant argument suggests that females choose not to pursue STEM careers because of a sheer lack of interest. This assertion holds true only to the extent that the lack of interest in STEM by female students is a symptom of a larger social issue. There is overwhelming evidence that women are socialised away from STEM disciplines and this is linked to gender roles and gender division of labour (generally the work, tasks and responsibilities that are assigned to women and men in their daily lives). In Uganda, like in most countries, house chores like cleaning, cooking, washing

clothes and everything that relates to sustaining the household like fetching water or wood fuel as well as small-scale agriculture for self-sustainment, are typically female tasks even when the woman has a paid job outside the home. On the other hand, more technical house tasks, like dealing with electrical or mechanical equipment, is traditionally considered a male job. The social constructs at household level tend to manifest in the labour market as well as in education and training, where undertaking different disciplines is heavily segregated along gender lines.¹⁰

Figure 2: Female student enrolment by discipline

Female Students in Makerere in 2016



Source: Visiting Committee to Makerere University, report, 2017

There is no dispute that female students are underrepresented in STEM disciplines in Uganda. However, it must also be emphasised that constraints on female students' enrolment in STEM are largely social. Yet social aspects like negative gender stereotypes, prejudiced teacher attitudes and a gender-biased curriculum, among others, have not attracted due attention among policy makers to warrant expedient policy interventions.

Several policy interventions initiated by both state and non-state actors address technical aspects in STEM education. A lot of effort has been exerted towards addressing issues like limited funding to science disciplines, shortage of science teachers, lack of teacher pedagogical skills and lack of school science infrastructure, among others. Examples include the SESEMAT programme which began in 2005 to improve the teaching ability of science and mathematics teachers at secondary level and improve performance in the subjects and which has trained over 6,000 teachers, and the compulsory science policy in Ugandan schools.

¹⁰ International Institute for Labor Studies (2008). *The gender division of labor*. Torres R. (Eds.), *World of Work Report: Income Inequalities in the Age of Financial Globalization*.

4. Social Aspects Affecting Female Students' Enrolment in STEM

A host of research studies on female students in STEM expound greatly on the effect of negative gender stereotypes. Stereotypes such as women are not bright, women do not do or excel in science subjects, sciences are for boys, women lack interest in science, women are weak, STEM is nerdy, boring and dirty etc., can influence how the female students are treated and, in turn, elicit behaviours from the female students that are consistent with those stereotypes. In addition, stereotype threats where female students' performance or actions are viewed through the lens of a negative stereotype also reinforces the stereotype. Generally, stereotypes tend to exert a direct influence on the behaviour and thought process of the stereotype holder.¹¹ Negative stereotypes, therefore, can transfer to girls and play a critical role in girls' development of STEM attitudes and interests.¹² It may be for this reason that female students in an all-girls learning environment thrive in what has been traditionally regarded as male-dominated subjects, free from gender bias or social pressure from boys.¹³

The other eminent and yet often overlooked social problem for female students' enrolment in STEM education are prejudiced teachers. Prejudiced teachers, informed by stereotypical and patriarchal notions of the abilities of female students as a social grouping in sciences, exacerbate the already fragile situation.¹⁴ There are many stereotypes of how girls and boys are raised and treated, at home, at school, and in the professional world. This likewise translates into how they are taught in the classroom, where teachers traditionally have lower expectations of and biases against female

students.¹⁵ In some instances, the strategies used by science teachers, especially in co-educational schools in the teaching-learning process, tends to empower the boys much more than the girls, thus creating different experiences for the two groups of students. Uganda being a patriarchal society, teachers' perceptions of males and females become crucial for their relations with students, and consequently for students' academic outcome.¹⁶ The prevailing tendency of teachers to respond unfavourably to female students in STEM education largely impacts their attitudes, interests, persistence and, ultimately, achievement in STEM.¹⁷

Research has proved that better student-teacher relations increase student academic performance and enrolment.¹⁸

The education curriculum and textbooks used to teach students continue to reinforce gender biases amongst students and teachers who interact with it. Research in gender and education shows much evidence that within schools, textbooks play a significant role in the gender socialisation of children.¹⁹ According to the Gender in Education Statistics Profile by the Uganda Bureau of Statistics (UBOS), the Uganda National Curriculum Development Centre (UNCDC) has been revising the primary education curriculum since 1992 to make it more gender-responsive as part of the primary education reform. However, these efforts are yet to materialise. Misconceptions that gender is synonymous with girls and that gender-sensitive pedagogy is time-consuming are common in education.

11 National Research Council (US) Committee on Aging Frontiers in Social Psychology, Personality, and Adult Developmental Psychology. (2006). *Opportunities lost: The impact of stereotypes on self and others*. Carstensen, L. L. and Hartel, C.R. (Eds.). When I'm 64 (80-91)

12 Shapiro, J. R., and Williams, A. M. (2011). The role of stereotype threats in undermining girls' and women's performance and interest in STEM fields. *Sex Roles*, 66(3-4), 175-183

13 Park, H., Behrman, J. R. and Choi, J. (2018). Do single-sex schools enhance students' STEM (science, technology, engineering, and mathematics) outcomes? *Economics of Education Review* Vol 62, pp. 35-47

14 Denith, A. (2008). Smart girls, hard-working girls but not yet self-assured girls: The limits of gender equity politics. *Canadian Journal of Education*, 31(1), 145-166

15 Nabbuye, H. (24 July 2018). Gender assumptions that challenge a quality education for girls in Uganda. *Gender Plus Development*

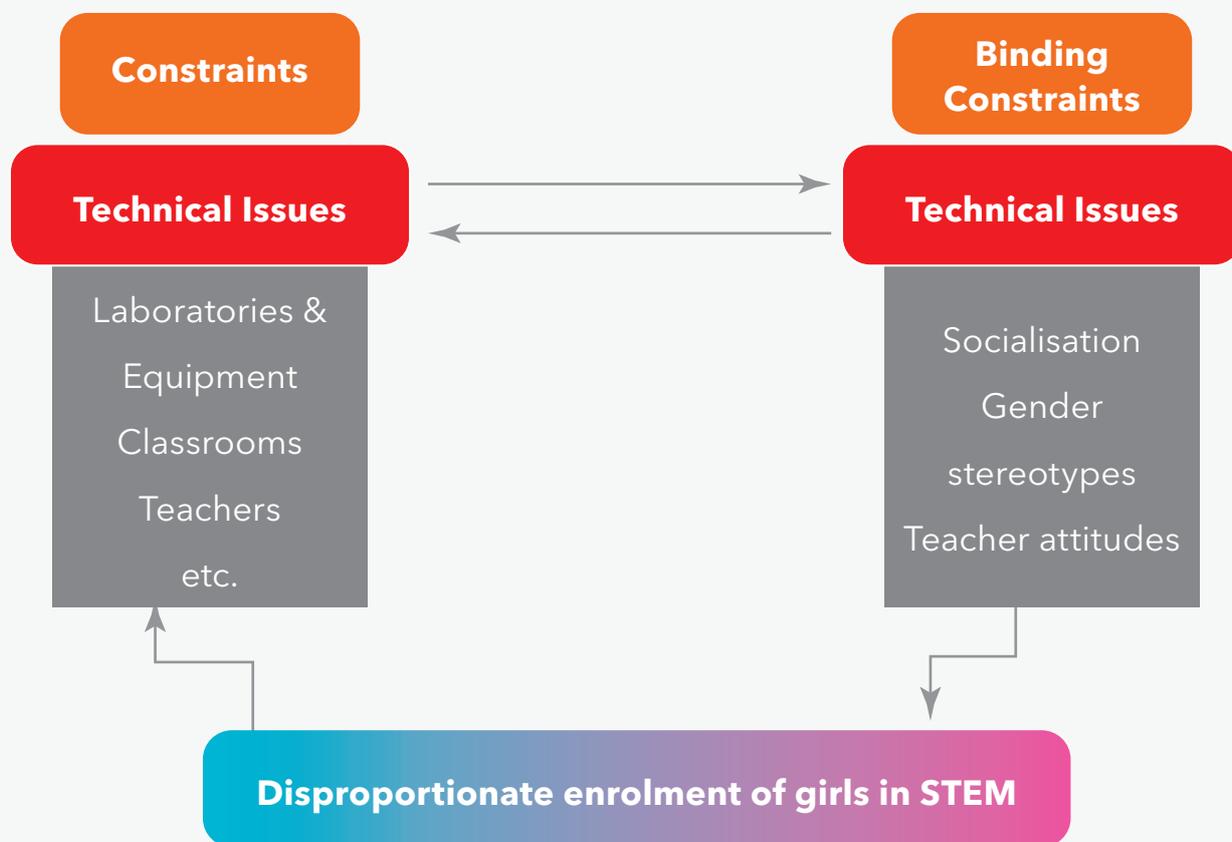
16 Assimwe, J. A. (2013). *Compulsory science policy: Enhancing gender equality in education? A case study of academic achievement in Uganda*. *MIER Journal of Educational Studies, Trends & Practice*, Vol. 3(2), pp. 183-194

17 Friedrich, A., Flunger, B., Nagengast, B., Jonkmann, K., and Trautwein, U. (2015). Pygmalion effects in the classroom: Teacher expectancy effects on students' math achievement. *Contemporary Educational Psychology*, Vol. 41, pp. 1- 12

18 Marzano, R. J., Pickering, D., and Pollock, J. E. (2001). *Classroom instruction that works: Research-based strategies for increasing student achievement*. Alexandria, VA: Association for Supervision and Curriculum Development (ASCD).

19 Barton, A., and Sakwa, L. N. (2012). The representation of gender in English textbooks in Uganda. *Pedagogy, Culture & Society*, Vol. 20(2), pp. 173-190

Figure 3: Conceptual framework for limited female students' enrolment in STEM



Source: Author's own conceptualisation

5. Assessing Existing Policy Interventions

STEM policies, plans and strategies, such as the National Science, Technology and Innovation Policy, 2009, the National Science, Technology and Innovation Plan, 2012/2013- 2017/2018, and the Ministry of Education and Sports (MoES) National Strategy for Girls Education (NSGE) in Uganda (2014-2019) have attempted to address the technical aspects like infrastructure and science teacher numbers. However, girls' enrolment in STEM, which is mainly a social issue, is often left unaddressed. For instance, the policy interventions have put a lot of emphasis on human resource development and capacity-building with little or no emphasis on gender-responsive pedagogy. Gender-responsive pedagogy is important because gender-responsive teachers understand and respond to the specific needs of girls and boys in the teaching-learning process.

On the technical side, there is a general lack of collection and generation of STEM statistics and indicators to show the status of STEM in the country, the trends of STEM activities and the STEM gender dynamics and their impact on socio-economic development. Thus, the information to inform STEM policy formulation and implementation and monitoring of programmes is generally lacking. This form of programming, planning and budgeting ultimately perpetuates gender imbalances in STEM. On the other hand, the indicators could also promote awareness legitimisation of the STEM problem by politicians, policymakers and the public. The debate on female students in STEM would benefit from the availability of aggregated data.

6. Policy Recommendations

- i. Gender-responsive training for the teachers should be a priority in teacher training courses and programmes. It is important to equip teachers with knowledge, skills and attitudes to empower them to respond adequately to the learning needs of girls and boys through using gender-aware classroom processes and practices. Eliminating gender-biased tendencies perpetuated by teachers in classrooms presents the opportunity to develop female students' attitudes and interests in STEM.
- ii. A purposive shift from the current curriculum that reinforces gender stereotypes in general life and portrays females as socially different and inferior to malesto a gender-inclusive curriculum. Mathematics and science textbooks and other learning materials that convey gender biases should be deliberately removed from among students' learning materials. A curriculum that does not postulate socialised gender roles as normal, emphasises women role models as much as male ones and promotes gender parity should be adopted.
- iii. Integration of more female teachers into science teaching goes a long way in promoting the persistence of female students in STEM. There is a low percentage of female teachers (23.6%) at the secondary school level and of female lecturers (30%) in public universities in Uganda,²⁰ which further disadvantages girls by creating gaps of role models, counsellors and advocates. The benefit of seeing same-sex experts is driven by greater subjective identification and connectedness, which, in turn, predicts enhances self-efficacy, domain identification, and commitment to pursue STEM careers. More importantly, females' own self-concept and self-esteem benefit from contact with female experts.²¹

²⁰ Gender in Education Sector Policy 2016

²¹ Stout J. G., Dasgupta N., Hunsinger M., and McManus M. A. (2011). *STEMing the tide: Using ingroup experts to inoculate women's self-concept in science, technology, engineering, and mathematics (STEM)*. *Journal of Personality and Social Psychology*, 100(2), 255-270.

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