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| **UGANDA**

DEMOCRACY AND GOVERNANCE ASSESSMENT: REPUBLIC OF UGANDA, 2005



01 NOVEMBER 2005

This publication was produced for review by the United States Agency for International Development. It was prepared by ARD, Inc.

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USAID Contract No. DFD-I-00-04-00227-00
Analytical Services II Indefinite Quantity Contract

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Map of Uganda



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ACRONYMS AND ABBREVIATIONS

CAO	Chief Accounting Officer
CP	Conservative Party
CRC	Constitutional Review Commission
CSO	Civil Society Organization
CSOPNU	Civil Society Organizations for Peace in Northern Uganda
DCHA/DG	USAID's Democracy and Governance Office in the Bureau of Democracy, Conflict, and Humanitarian Assistance
DDGG	Donor Democracy and Governance Group
DG	Democracy and Governance
DP	Democratic Party
DPP	Directorate of Public Prosecution
DRC	Democratic Republic of the Congo
FDC	Forum for Democratic Change
FSS	Fragile States Strategy
G6	Coalition of Six Ugandan Opposition Parties
HHC	Historical High Command
IDP	internally displaced person
ICC	International Criminal Court
IGG	Inspector General of Government
IMF	International Monetary Fund
JEMA	Justice Forum Party
KAP	Kalangala Action Plan
LC	Local Council
LG	Local Government
LRA	Lord's Resistance Army
MCC	Millennium Challenge Corporation
MP	Member of Parliament

NGO nongovernmental organization
NRA National Resistance Army
NRM Ugandan National Resistance Movement
NRMO National Resistance Movement Organization
OAG Office of the Attorney General
PGB Presidential Guard Brigade
PPDA Public Procurement and Disposal of Public Assets Authority
RC Resistance Council
SAF Strategic Assessment Framework
UDN Uganda Debt Network
UJCC Uganda Joint Christian Council
UPC Uganda People's Congress
UPDF Uganda People's Defense Force
UPE Universal Primary Education
USAID United States Agency for International Development

EXECUTIVE SUMMARY

Upon assuming power after two decades of chaos, violent civil conflict, and catastrophic economic and political governance, the Ugandan National Resistance Movement (NRM) faced multiple *stabilization* challenges, including the restoration of security, the reconstruction of a state bureaucracy, the restoration of a functioning economy, and the integration of deeply divided ethnic/regional constituencies into a single polity. Most observers agree that during the first decade of its rule, the NRM achieved significant results in addressing each of these challenges, though its record with regard to northern Uganda remains blemished. By 1996, security, rule of law, and respect for basic human rights had been largely reestablished in South, Central, and Western Uganda. Economic liberalization and the introduction of measures designed to ensure macro-economic stability had earned high marks from the IMF and the World Bank, resulting in massive commitments of resources by both multilateral and bilateral donors. Basic functions of government had been reestablished at national and sub-national levels, and a strategy of political inclusion through the creation of avenues of broad public participation in governance within the context of the NRM system had achieved broad public acceptance in much of the country. Economic liberalization was to a considerable degree accompanied by political liberalization, and the regime assured a variety of basic freedoms essential to democratic governance.

What remained to be addressed can be termed the challenge of democratic institutional *consolidation* or, as Barkan et al have termed it, the challenge of establishing “a legitimate, enduring, and stable political process via which all groups, regardless of region or ethnicity, would have a meaningful stake and be able to contest for power in the new system.”¹ *The failure of the Movement system (or the Museveni System, as it has increasingly become) to meet this challenge of democratization largely accounts for the progressively deepening negative political and economic trends that have been noted by observers over the past decade.* The NRM’s approach to post-conflict stabilization, reflected in the concept of the “movement system,” involved a trade-off between democratization and the efficiencies of centralized authoritarian structures. In delaying a decision on the eventual restoration of a multi-party political system, the NRM brought the time and political space that it saw to be essential to stabilization and development in a context where partisan politics had arguably resulted in state failure. But it did so at the cost of institutionalizing structures that could hold it accountable once stabilization had been achieved. While political liberalization occurred and citizen participation in governance at all levels increased significantly, the executive branch’s willingness to tolerate the consolidation of institutions or organizational structures (i.e., political parties) capable of effectively competing with, challenging, or constraining executive prerogative has been limited. As Barkan et al have noted, “the limits of reform, both economic and political, have been set by the commitment to stay in power.”²

The outcomes of liberalization—an assertive Sixth Parliament, an increasingly vibrant independent media, an independent upper judiciary, and a local council system that reflected and defended local interests—were embraced, to the extent that they operated within the Movement system, and posed no

¹ Joel Barkan, Saillie Kayunga, Njuguna Ng’ethe, and Jack Titsworth, “The political economy of Uganda (The art of managing a donor-financed neo-patrimonial state),” background paper commissioned by the World Bank in fulfillment of Purchase Order 7614742, Final Draft of July 6, 2004. p.iii.

² Ibid p. 18. A similar conclusion is reached by former US Ambassador to Uganda Johnnie Carson in “Uganda—An African Success Story Turning Sour,” speech at Woodrow Wilson International Center for Scholars, Washington DC, June 2, 2005 (<http://www.wilsoncenter.org/events/docs/Carsonspeech.doc>).

direct challenge either to the structure of the system or to the personal prerogatives of its leader. Challenges of both sorts have been met with concerted efforts to limit the scope of institutional authority and discipline the behavior of individuals through the manipulation of incentives and sanctions (formal and informal). The effect has been to reinforce the centralization of effective decision-making authority in the hands of the President and to produce widespread cynicism regarding the operation of the political system. As the regime has become increasingly dependent on the manipulation of incentives for legitimization purposes, the need to secure (or assign) resources for political ends has also increased, leading to an impressive expansion of corruption. Corruption should thus be seen as a political phenomenon, rather than one resulting (primarily) from regulatory failures or weak enforcement capacity. As with fragility, corruption can only be seriously addressed through the introduction of meaningful systems of political accountability.

Over the course of the last fifteen years, constitutional proscriptions on electoral competition have facilitated, if not promoted, the consolidation of a presidential authoritarianism that has increasingly acted to subvert and weaken alternative governance institutions. Equally important, NRM's effective ideological and organizational monopolies stymied creative debate on a wide array of national questions and constrained the ability of an alternative leadership cadre to establish the public persona essential to mounting an effective challenge to Museveni. Uganda's ongoing return to multiparty politics in the face of external and internal pressure is, thus, occurring against the backdrop of the entrenchment and narrowing of personal rule, profound political tensions, and the absence of social pluralism.

The current challenges hinge on checking the progressive deterioration in the democracy and governance (DG) arena in the context of a less coherent leadership, increasingly improvised and undefined transitional rules, and lukewarm steps towards resolving the perennial conflicts in the North. In the absence of progress in reversing this deterioration, long-term development objectives are in jeopardy. In the short-to-medium term, donors must scramble to recapture their credibility after missing the opportunity to influence the momentous constitutional changes that effectively nullified core objectives in the transition to political pluralism. Establishing credible leverage relative to democracy and governance issues entails the articulation of a strategy for engaging a wide spectrum of Uganda actors in ways that do not compromise future policy options. There is a clear need for donor interventions that support an expansion of political and electoral space, foster the capacity of formal institutions that have the greatest potential for autonomy, and build societal institutions for the articulation and circulation of new ideas. Establishing credible leverage also implies creating and maintaining a unity of purpose within a core group of significant bilateral and multilateral donors and a willingness to trade off short-term development objectives against the possibility of sustainable development over the longer term. In the absence of a fundamental turn-around on the present governance trajectory, the chances of the latter would appear slim indeed.

The last five years have seen the progressive consolidation of what has been termed a "neo-patrimonial" regime—one dominated by an individual leader whose personal authority is indistinguishable from that of the state and in which political power is "maintained through a combination of patronage and the selective use of intimidation and force."³ This trend was identified as a risk by the last DG assessment team, which, in 2000, noted "with apprehension that much of the democratic progress achieved by the current regime has been in place for several years now, and that *there appears to have been a loss of momentum on*

³ Joel Barkan, Saille Simba Kayunga, Njuguna Ng'ethe, and Jack Titsworth, "The political economy of Uganda (The art of managing a donor-financed neo-patrimonial state), background paper commissioned by the World Bank, final draft, July 6, 2004. p. iii-iv.

*solving the remaining issues of democratic consolidation.”*⁴ The 2000 assessment also drew attention to a tendency to manipulate democratic forms (e.g., the 2000 constitutional referendum) for purposes of regime legitimization and suggested that the regime’s behavior during the referendum campaign “exhibited many of the telltale signs of a drift towards the logic of a one-party state, with the active mobilization of the Movement and the intimidation of the opposition.”⁵ The present analysis reaffirms that view and suggests that, although serious issues of inclusion, governance, and fragility persist and have the potential to fuel future conflict, the predominant issues in Uganda relate to competition. Unless an element of meaningful competition is reintroduced, we would expect negative trends to continue and deepen as dissatisfaction deepens and the system becomes progressively less able to resolve inherent tensions.

Fragility in the Ugandan context is perhaps best viewed as a function of simultaneous crises of governance and legitimization, and above all as a result of a progressive marginalization of institutions with the capacity to promote credible, consensual and non-violent solutions to the deep social divisions that have accounted for the persistent social conflict that has characterized the country’s post-independence history. Seen from this perspective, fragility will likely increase in Uganda if the progressive centralization and personalization of power in the presidency is not reversed. However, there are also some key differences in the sources and nature of fragility in the north and the south. As a result, the potential consequences also show differences.

In the north, the state’s failure to deliver either effective security or basic services, has tended to deepen an already severe legitimacy deficit rooted in the deep north-south divisions that have characterized Uganda’s post independence history. As a consequence, in the north, but not in the south, both state capacity and legitimacy are in question. Northern Uganda thus manifests conditions to which the programming approaches suggested by the FSS and the Africa Bureau’s *Strategic Framework for Africa* appear to respond fairly well, and warrants specific programming intended to address the specificities of northern issues. In the south, the nature of fragility, to the extent that it may be said to exist, is quite different and stems from the progressive erosion of democratic institutions and processes, and the consolidation of military, economic and political power in the presidency. Together these have tended to sharpen political cleavages and to undermine the legitimacy of state institutions which, rather than being perceived as neutral structures of national governance, are increasingly viewed as the personal tools of an increasingly isolated and corrupt ruling clique. Fragility of this sort is best addressed within the context of a transformational development framework, analyzed from the perspective of the Strategic Assessment Framework. Although the nature of fragility differs significantly between North and South, the progressive erosion of democratic governance – never well consolidated in Uganda – at the national level clearly contributes to fragility in the North. In both regions, it is essential that governance concerns be mainstreamed throughout the Mission portfolio. Stabilization and reintegration, in the absence of attention to governance, are unlikely to result in durable solutions.

The identification of competition as the issue of overriding concern should not be taken to imply that all programming should focus on the competitive arena, but rather that a failure to address the increasing constriction of political space can be expected to undercut efforts to introduce or consolidate reforms across the board. *The fundamental logic of institutional behavior reflects the structure of political power.* This suggests that, although there remain significant capacity (institutional and human) and resource constraints that affect the ability of institutions to perform, efforts to address these without addressing deeper systemic issues will likely result in only marginal returns. It also suggests that, where efforts are made to work at this level, a consistent effort must be made to focus on developing capacity in areas

⁴ Nicholas van de Walle, et al., “Democracy, Governance, and Conflict Strategic Assessment for Uganda,” Management Systems International, December 15, 2000, p. 5 (emphasis in original).

⁵ Ibid.

which counter rather than reinforce the logic of the overarching neo-patrimonial regime. At a minimum, efforts should be made to avoid sending signals that suggest that present trends are acceptable

The analysis presented in this report leads to two sets of recommendations detailed in Section 4.0 and briefly summarized below: short-term (the next 3-6 Months) and medium-term (the next three to five years). It is also recommended that attention be devoted to the effective utilization of the diplomatic resources available to the international community.

Short-term Recommendations:

In the short term – from the present through the announcement of results following the 2006 presidential and parliamentary elections – there is little that the donor community can do programmatically to ensure that the playing field for multi-party electoral competition is effectively level. The international community must recognize the possibility that elections can be relatively free but not fair, and develop appropriate responses. However, there is much to be done during this period to ensure that deficiencies of electoral mechanics do not provide an easy cover for Movement efforts to manipulate the voting or counting processes. Seen from this perspective, continued programmatic support for the Electoral Commission is worthwhile. More importantly, the diplomatic community should engage quickly? loudly? Actively? and publicly in reaction to any observed attempt on the part of the Movement (state or NRMO) to use violence and intimidation during the campaign period. Further, the behavior of the military and other security forces should be closely monitored. In our view, given the fundamental distortion of the electoral enabling environment and the unparalleled ability of the NRMO to access state resources and facilities, any large scale international electoral observation effort would likely be counter-productive and serve to legitimate outcomes. Support for civil society-led electoral process monitoring and electoral observation, for the conduct of a parallel vote tabulation (PVT) exercise, or for media capacity building related to election monitoring could be contemplated without lending credibility to a problematic process.

Medium-Term Recommendations:

Absent a state seriously committed to democratic reform, three primary areas of thematic engagement are recommended for the next three to five years of USAID programming in Uganda. These are best characterized under the headings of **anticorruption, political process and fragility/conflict**. Each of these areas is best addressed through support to one or multiple institutions. Unless there are significant positive developments during the lead-up to the 2006 elections, the analysis outlined in this assessment suggests the desirability of a progressive disengagement from direct support to central government institutions in the DG sector (with the exception of Parliament, and several other minor exceptions discussed below), and an increased emphasis on support to civil society, the media and the operation of political parties in Parliament. Over the longer-term we are recommending a renewed emphasis on demand-side programming, and only a very limited and selective engagement on the supply side. On the demand-side, we emphasize the desirability of support to civil society, the media, and political parties (the latter with certain caveats), while on the supply side we emphasize selective engagement with *those state institutions that have significant formal authority* that can be used to resist the predations of executive interference. Parliament, Local Government and the Judiciary emerge as the only state institutions that presently have sufficient institutional autonomy to warrant direct support, though all three are under threat.

Anti-Corruption

The conclusion of the present assessment is that as long as the present political leadership remains in power, it is unlikely that there will be serious commitment to reform on the part of government, particularly without compelling pressure from outside the system. Institutions (and institutionalization)

are being progressively undercut by the personalization of presidential power. Consequently, basing an anticorruption strategy on state anticorruption agencies would be a mistake. This leads to two recommendations: First, work primarily on the demand-side of the anticorruption equation to strengthen civil society capacity in areas related to anti-corruption, transparency and advocacy; Second, limit work on the supply-side, largely (if not exclusively) *to those state institutions that have significant formal authority*, if not practical autonomy. We do not believe that efforts to support the panoply of existing government anti-corruption institutions would yield significant results, and consider that the provision of such support would lend legitimacy to institutions whose primary purpose is to give the appearance that the political leadership is serious about reducing corruption.

Political Process

Assistance must focus on the longer term development of the political conditions for competitive elections in 2011, but signals sent in the lead-up to the 2006 elections will be critical in determining whether or not change over the longer term is possible.

Election-related Assistance: In the first instance, during the lead up to the 2006 elections, the international community should articulate, and react publicly and quickly to any deviation from, a set of minimum standards of conduct for the Museveni regime. Among its most critical elements should be the requirement that government publicly and clearly articulate a commitment to leveling the playing field, to the separation of Movement and state, to transparent electoral administration, and to non-violence during the election period. If government proves unwilling to make such statements, the international community should publicly express its objections, refrain from further assistance to the electoral process, and ratchet down assistance overall; if government issues such statements, the international community should closely and attentively monitor government and Movement behavior, and publicly denounce deviations, remaining prepared to sanction poor performance. Support to the Election Commission should likely be conditional on clear and public government commitments to enforcing an equitable electoral environment. Whether or not a decision is made to field international observers, support for large scale observation by domestic observers—both party-based and non-partisan—is critical to ensuring minimum levels of transparency in the electoral process. Support for a parallel vote tabulation exercise should be strongly considered. This will imply significant support for CSO capacity building, logistical and direct financial assistance.

Political Party Development: Political party development is an inherently long-term task, and one which must be undertaken primarily by Ugandans. However, donor support at critical junctures can be useful. The most critical area of donor support relates to the establishment and policing of the legal/regulatory environment for the formation and operation of parties discussed above. At the same time, targeted technical/advisory assistance – made available across the board to all parties who meet transparent and pre-determined criteria – is also recommended. The precise configuration of assistance should be the subject of further analysis. However, we feel that at a minimum, a focus on strengthening the operation of parties in parliament, including caucus operation and issues-based coalition formation would be useful. Assistance related to techniques/approaches to grass-roots mobilization and the consolidation of internally democratic organizational procedures and cultures would also be useful.

Civil Society Strengthening: In the absence of a vibrant civil society, it is difficult to conceive of a functioning democratic system in Uganda. Civil society in Uganda is extensive, but at the same time relatively weak and poorly institutionalized. Organizational, human and financial capacity and resources are lacking at all levels, and efforts to strengthen civil society organizational capacity as well as to improve the enabling environment for civil society operation are needed. Although political parties are a primary vehicle for the expression of dissenting political visions, civil society can also play a significant role in providing fora for contention between opposing perspectives and should be encouraged to do so. As the mission considers future program design, the natural complementarities between anti-corruption and civil society strengthening activities should be explored. There is considerable scope for working

with civil society—both within the DG sector and across the sectors addressed by other USAID strategic objectives—both to increase awareness of the impact of governance failures on the daily lives of citizens and to increase citizen capacity to advocate successfully for change at local and national levels. Corruption can likely provide a focal point for civil society programming, since it is an issue which touches a broad spectrum of Ugandans, both rural and urban, and which affects service delivery across all sectors. The focus of civil society strengthening or anticorruption activities need not and should not be exclusively on self-described democracy or advocacy NGOs, and should include NGOs and CSOs organized around service delivery or advocacy goals in the health and education sectors. Principles of accountability and transparency in the use of public resources can be built into activities across the spectrum of USAID Strategic Objectives.

Fragility

Fragility in the Ugandan context reflects first and foremost a crisis of governance—the failure of successive Ugandan regimes to promote the institutionalization of participatory political institutions perceived as legitimate by a broad spectrum of the Ugandan populace, and capable of ensuring the equitable allocation of resources and the non-violent resolution of conflict. Fragility is thus an issue affecting the whole of Uganda, not a factor primarily governed by the persistence of conflict in one region. At the same time, however, the nature of fragility concerns, and thus of appropriate corrective actions, differs fundamentally between north and south. In the north, the state's failure to deliver either effective security or basic services has tended to deepen an already severe legitimacy deficit rooted in the deep north-south divisions that have characterized Uganda's post independence history. As a consequence, in the North, but not in the South, both state capacity and legitimacy are in question. Northern Uganda thus manifests conditions to which the programming approaches suggested by the FSS and USAID's *Strategic Framework for Africa* appear to respond fairly well, and warrants specific programming intended to address the specificities of northern issues. In the south, the nature of fragility, to the extent that it may be said to exist, is quite different and stems from the progressive erosion of democratic institutions and processes, and the consolidation of military, economic and political power in the presidency. Together these have tended to sharpen political cleavages and to undermine the legitimacy of state institutions which, rather than being perceived as neutral structures of national governance, are increasingly viewed as the personal tools of an increasingly isolated and corrupt ruling clique. Fragility of this sort is best addressed within the context of a transformational development framework, analyzed from the perspective of the SAF. In both the south and the north, it is essential that governance concerns be mainstreamed throughout the Mission portfolio. Stabilization and reintegration, in the absence of attention to governance, are unlikely to result in durable solutions.

Diplomacy and the Role of the International Community

Clear and consistent messaging from the USG and the international community more broadly is essential. In the absence of such pressure, we believe that the present negative trajectory will continue unabated with severely negative long term consequences for human development and political stability. The international community is not without resources that could be brought to bear. Donors collectively provide roughly 50 percent of the national budget. The international community must collectively set limits and stick to them. The USG can contribute to the realization of this goal by being willing to be publicly critical on key issues. During the lead up to the 2006 elections, the donor community should articulate, and react publicly and actively/timely to any deviation from a set of minimum standards of conduct for the current regime. Among the most critical elements of this should be the requirement that government publicly and clearly articulate a commitment to a leveling of the playing field, to the separation of Movement and state, to transparent electoral administration, and to non-violence during the election period. If Government proves unwilling to make such statements, the international community should publicly express its objections, refrain from further assistance to the electoral process, and ratchet

down assistance overall. If Government issues such statements, donors should closely and attentively monitor government and Movement behavior and publicly denounce deviations, remaining prepared to sanction poor performance. A proactive stance by the international community is critical.

1.0 INTRODUCTION

1.1 INSTITUTIONAL CONTEXT AND METHODOLOGY

This assessment of recent political dynamics in Uganda was conducted during a three-week period during August and September 2005, and it focuses primarily on the period from 1995 to the present. It was timed to provide an analytic foundation for the development of a new mission strategy in keeping with the recently adopted Strategic Framework for Africa and other United States Agency for International Development (USAID) and Bureau strategic guidance, particularly that which relates to transformational and fragile states. The team⁶ reviewed a wide range of documentary resources and conducted interviews in Kampala, Kitgum, Gulu, Tororo, and Mbarara, with a broad cross-section of Ugandan political actors and observers; civil society organizations; media; central, and District administrative and elected officials; as well as with the donor community and US country team. The assessment team also conducted a variety of interviews in Washington⁷.

In broad terms, the Strategic Assessment Framework (SAF) developed by USAID's Democracy and Governance Office in the Bureau of Democracy, Conflict, and Humanitarian Assistance (DCHA/DG) to guide the conduct of DG assessments informed the team's approach. The methodology is not intended to produce an exhaustive description of recent political history, but rather to enable small field teams to provide a political-economic "snapshot," intended to surface principal structural dilemmas, political dynamics and, to the extent possible, identify trends. It highlights five analytic elements (see Figure 1.1)—to which we have added a sixth (fragility) for reasons that will become apparent below—in examining the interests, objectives, and resources of key actors as they interact in at least four institutional arenas—competition, civil society, rule of law, and governance. This analysis is then filtered to generate strategic recommendations to assist USAID in defining the areas in which its interventions may have the greatest impact in supporting democratic transitions or in promoting the consolidation of democracy and good governance where they exist.

⁶ The present report was written by Stevens Tucker (ARD, Team Leader), Gilbert Khadiagala (ARD and JHU/SAIS), Nansozi Mwanga (ARD and Makerere University). The assessment team consisted of Stevens Tucker, Gilbert Khadiagala, Nansozi Mwanga, Mark Billera (DCHA/DG), Francis Luwangwa (USAID/Uganda), and Danielle Reiff (USAID/Uganda). In addition, Francis Wagaba supported the team during field visits to Tororo and Mbarara. Fieldwork in Uganda took place between 29 August and 17 September 2005.

⁷ See Appendix A for a list of persons consulted.

FIGURE 1.1 KEY ANALYTIC ELEMENTS

Consensus: To what extent is there consensus on the fundamental rules of the game, and to what extent is the political contest played according to those rules? To what extent is there consensus on national identity, citizenship, borders, and the appropriate definition of the political system?

Competition: To what extent does meaningful competition take place in the political system and in other arenas of society? To what extent are there elections, a competition of ideas, a free media, and a vibrant civil society? Are meaningful checks and balances present in government? Is competition allowed and institutionalized? Are competitive arenas accessible? In the competition fair? Is the political contest formalized, routine, and regulated by publicly accepted rules and norms?

Inclusion: Are there problems of inclusion and exclusion? To what extent are parts of the population formally/informally excluded and disenfranchised from meaningful political, social, or economic participation (include ethnic and religious minorities, regional divisions, women, etc.)?

Rule of Law: Is there ordered liberty? Are politics and life, liberty, and property bound by a rule of law? To what extent is there confidence in formal systems of dispute resolution? Are there alternative systems or impediments?

Governance: To what extent do social institutions (both in the public and private sectors) demonstrate a capacity to make and meet commitments, reliably deliver a minimum of social services, and be accountable for their performance? Are their systemic impediments, constraints to state institutions, or constraints affecting local government?

Fragility: To what extent is it likely that failures of governance (broadly defined to include the five core elements outlined above) will result in conflict or state failure? Along what lines of social cleavage is conflict most likely (i.e., regional, ethnic, religious, class, etc.)? What are potential flashpoints, i.e. issues or events that have the potential to result in significant violent conflict? To what extent are existing formal and/or informal mechanisms and institutions of conflict resolution capable of diffusing the potential for such conflict?

Because the forthcoming USAID/Uganda strategy must conform to the recently adopted *Strategic Framework for Africa*, we have attempted to frame the strategic recommendations flowing from the assessment in a manner consistent with the sectoral objectives outlined in the strategic framework. Since Uganda manifests characteristics of both the “transformational development” and “fragile” state categories, our recommendations address elements of both frameworks.

1.2 OVERVIEW

Prior to 1986, Uganda’s post-independence history was characterized by political instability and social and economic decay. These problems were largely blamed on bad governance and the lack of commitment to democratic practices and constitutional rule by leaders. The pathology of the succession of regimes from Obote I (1964–1971) through the Amin period (1971–1979), the restoration of Obote following the Tanzania invasion of 1979 (1980–1985), and the chaotic interregnum which immediately preceded the ascension to power by the National Resistance Movement (NRM) in 1986 has been well documented elsewhere⁸ and need not be described here.

⁸ See, inter alia, David Apter, *The Political Kingdom in Uganda* (Princeton University Press 1979); Mahmood Mamdani, *Politics and Class Formation in Uganda* (Monthly Review Press, 1976); and Nelson Kasfir, “State, Magendo, and Class Formation in Uganda,” *Journal of Commonwealth and Comparative Politics*, 21(3) 1983;

In the aftermath of the elections in 1980, the NRM waged a protracted bush war against the Obote II regime. After taking power in 1986, the NRM government renewed hopes and expectations for political change. Over the last nineteen years, supported by substantial and consistent assistance from donor agencies, the NRM government has attempted, with some measure of success, to implement a populist agenda of fundamental political, economic and social changes. Under the rubric of a “no party” political system popularly known as the *Movement System*, economic and institutional reforms, characterized by extensive privatization, market liberalization, and public sector restructuring, have resuscitated the economy and rationalized the public sector. In parallel, a political reform process, credited with having expanded political space and increased popular participation in decision-making at national and sub-national levels, was given legal definition by the 1995 Constitution and the 1997 Local Government Act. Most observers have been impressed by the social reforms, including the introduction of Universal Primary Education (UPE) and a political commitment to fight the HIV/AIDS pandemic. However, implicit in support from the international community for the Movement System of governance was the belief that, while the no party, broad-based political arrangement was not democratic by conventional standards, it was appropriate to Uganda’s political circumstances and would in time provide the basis for a democratic transition.

In the past five years, the democratic rhetoric of the early NRM days has been buried beneath a new dispensation characterized by a shrinking political arena, patronage politics, cronyism, and corruption, as well as by growing skepticism about the NRM’s brand of democracy. In the space of five years, there have been two contradictory referenda on the future of political system in the country. The first (2000) endorsed the Movement System as the only viable system of government, while the second (2005) provided an endorsement for the adoption of multiparty political arrangement. Taken in the context of legislative action to amend Article 105 (2) of the Constitution to abolish presidential term limits, the two referenda have done little to assuage critics’ fears about the Movement’s intention to entrench itself as a one party state. This has, in turn, intensified the succession debate.

Against the background of crosscutting political differences, even among NRM supporters, assessments of what was once portrayed as a uniquely Ugandan transition to democracy have become increasingly guarded. Looking forward to the 2006 presidential and parliamentary elections, two questions are at the forefront of political debates: 1) to what extent are recent political events a reflection of unresolved conflicts and a harbinger for political crisis; and 2) to what extent will the current political leadership allow the 2006 elections to serve as a genuine and transparent measure of support for the Movement’s rule? Answers to these questions will determine the shape of the competitive arena and the parameters of democratic governance in the foreseeable future. In the short- to medium-term horizon, Uganda’s political transition depends on whether there will be sufficient pluralism within the NRM to translate into acknowledgement of alternative groups and voices or whether the NRM resorts to authoritarian measures to manage differences within the Movement and Uganda society at large.

1.3 LONG-TERM TRENDS IN UGANDAN POLITICS

1.3.1 Authoritarianism as an Alternative to the Democratic Will, 1962–1986

Uganda’s post-independence experience with democratic governance has been checkered, at best. Even if we define Democracy narrowly as electoral competition, until 1986, there were only three general elections in Uganda’s history. During this period, Uganda’s post-independence leaders in showed little or

and Gilbert Khadiagala, “State Collapse and Reconstruction in Uganda,” in I. William Zarman (ed.) *Collapsed States – The Disintegration and Restoration of Legitimate Authority* (Lynne Rienner Publishers, 1995).

no commitment to a democratic ethos. During the two tenures of Obote, the leader justified greater state control for the political space on the basis of mediating competing demands to realize national goals. Using arguments popular in the 1970s, which gave precedence to maintaining order over the need for democracy, power was concentrated at the political center, and development was identified with the political system's capacity to control competing interests, rather than fostering popular participation. This was more evident in the post-independence political and constitutional arrangements.

The attempt by the Independence Constitution to balance the competing interests of the political, religious, and ethnic factions resulted in a document that combined unitary, federal, and semi-federal elements into a complex system of compromises. Subsequently, there emerged a gap between constitutional provisions based on a coalition of interests in charge of state power and political practices that played to particularistic interests.⁹

As a result, leadership arrangements based on coalitions under a multi-party arrangement between 1964 and 1966 were short-lived. In 1966, Prime Minister Obote used the military to overthrow the King of Buganda, Edward Mutesa (who was also President of Uganda). Obote proclaimed himself President and abrogated the Independence Constitution. The subsequent revisions to Uganda's Constitution in 1967 dismantled the quasi-federal arrangements under which Buganda had a special position in Uganda. The 1967 Unitary Constitution tried to reduce Buganda's political, social, and economic influence by providing a new legal framework for governing different groups and created the mechanisms for authoritarian control of political space. During this period, Obote created a de facto one-party state where alternative organizations and opposition groups were suppressed, banned, or co-opted.

By the time Idi Amin overthrew Obote in January 1971, there had been no direct elections for either President or Parliament. The Amin regime (1971–1979) was known for the persecution and expulsion of Uganda's Asian minority, the brutality of state-led violence, and economic mismanagement that left an indelible mark on Uganda's economy and politics. Following the overthrow of Amin in 1979 by a combined force of exiled Ugandans and the Tanzanian People's Defense Forces (TPDF), social strife and political disorder intensified.

There was a renewed period of conflict following the controversial 1980 presidential and parliamentary elections as different groups rejected the election outcomes. Yoweri Kaguta Museveni, as the leader of Uganda Patriotic Movement (UPM), took up arms against the Obote regime and waged a guerrilla war that eventually overthrew Obote and his immediate successor, General Tito Okello Lutwa. The NRM government enjoyed considerable popularity in the initial years, because it promised a new dispensation of political certainty, security, and economic prosperity.

Over time, however, neither the nature of the NRM's rule nor its political agenda have been transparent. There have been three distinct phases reflecting changes in the Movement System's operations. The first is the period from 1986 to 1995 when the NRM was committed to a broad-based and participatory political arrangement. The second period, 1996–2000, can be characterized as one of incremental shrinking of the political space, particularly following the endorsement of the Movement System in the 2000 referendum. The current and third phase began following the 2001 elections and reflects contradictory trends. On the one hand, there is growing opposition and political contestation. The 2005 referendum endorsed the return to party politics, suggesting a broadening of the political space. On the other hand, the Movement has become internally insecure and less participatory, creating conditions for the persistence of authoritarian practices in what is otherwise emerging as the era of political pluralism.

⁹ Low, Mamdani, Mutibwa, Kasfir

1.3.2 Redefining Governance: An Inclusive, Broad-based Movement System, 1986–1995

Article 70 (1) of the 1995 Constitution of Uganda defined the Movement System as a broad-based, inclusive and non-partisan system of governance that conformed to the principles of participatory democracy, accountability, and transparency. As a system of governance, the Movement System was ostensibly based on the principle of popular participation, with leaders to be chosen on “individual merit” to occupy positions of authority in the state. The NRM government’s experiment with no party politics gained immediate and widespread popular acceptance, largely because it was viewed as having brought more stability, peace, and development than any other form of governance since independence.¹⁰

In many respects, the Movement proved, albeit for a limited time, that there were alternative systems of governing that could legitimately uphold some basic principles of democracy through a well-organized structure—from the national to the village levels. In principle, the constituent organs of the Movement functioned democratically with decisions reached through consensus and, in its absence, by a majority vote of its members. The Movement System was the fusion of Movement organs and national political structures that effectively created a one party political state. The elements of fusion related to membership of the National Conference and the position of its leader. For example, members of Parliament, district executives, Local Council (LC) 3 executives, cabinet ministers, and representatives of civil society associations were supposed to belong to the National Conference. In addition, the head of the Movement was also the head of the National Conference, and the Movement Secretariat had a legal structure that entitled it to direct financial transfers from the state.

Between 1986 and 1994, the Movement’s form of government continued to change, and the 1994–1995 Constituent Assembly and the 1995 Constitution endorsed the Movement as the only viable system of government. To allow for future changes with regard to the Movement, Article 271(3) of the Constitution provided that a referendum would decide the preferred political system.

1.3.3 Redefining the Political Space: The NRM, 1996-2001

In recent years, despite fealty to democratic principles in the Movement, there emerged widespread discontent, particularly related to how power was organized in the Movement organs and the perception of growing erosion of broader democratic principles. The main areas of contestation relate to the relationships between the Movement system and political parties, the military, and the manipulation of constitutional provisions to constrain political competition.

The Movement System and Political Parties

As most African countries opted for multi- party politics in the 1990’s, the Ugandan regime remained committed to preserving the Movement system of governance, emphasizing the desirability of political participation based on individual merit as the basis for no party democracy. Although parties were not banned, the NRM prohibited most political party activities, including recruitment, political rallies, delegate conferences, and the establishment of country-wide party branches.¹¹ The suspension of political party activities in the name of national unity, reconciliation, stability, and reconstruction was justified by the NRM on the basis of a critique of political parties which suggested that parties generally organize

¹⁰ N. Kasfir, No Party Democracy

¹¹ Oloka and Mandani: 555

around divisive issues (such as religion and ethnicity) rather than on the basis of national issues and policies and portrayed them as dominated by small coterie of professional politicians whose primary objectives are to secure positions and privileges at the expense of the society. The NRM itself remained the sole political organization free to organize on a national level.

Despite the curtailment of party activities and the harassment of multi-party supporters, political parties continued to thrive, largely as an expression of opposition to the NRM. Party political affiliations were evident during Constitutional Assembly deliberations and the local and national elections in 1996 and 2001. In these elections, candidates identified as either “Multi-partyists” or “Movementists.” At the time of signing the Constitution, some delegates (branded as Multi-partyists) refused to sign the document, claiming that it did not reflect their interests. Similarly, during the 1996 presidential elections, Museveni was the Movement candidate, while Paul Kawanga Ssemogerere and Muhammed Kibirige represented Democratic Party (DP)/ Uganda People’s Congress (UPC) alliance and the Justice Forum Party (JEMA), respectively. Political parties have continued de facto to exist and influence the direction of debates on political succession. Paradoxically, but not surprisingly, ethnic consciousness has deepened during the last nineteen years despite the Movement’s attempts to suppress it. With the end of the initial Movement experiment on the eve of the constitutional changes in 1995, the ethnic and sectarian fault lines re-emerged as the basis for contestation, even though the Movement muted their political impact. Furthermore, as the Movement became identified with the southwest, opposition parties began to redefine themselves in regionalist and ethnic lines, some reflecting the post-independence alliance patterns.

The 2000 Referendum and 2001 Elections: Changes in Political Organization

Although proponents of the Movement System initially presented it as an interim mode of governance, the 2000 referendum on political systems gave it a permanent political presence. On 29 June 2000, despite wide-spread campaigns by advocates of multi-party politics, the referendum was held and, according to the electoral commission results, 51 percent of the 9.6 million registered voters turned out to vote. Of these, 91.3 percent voted for the Movement while 8.7 percent voted for a multi-party system. Through the referendum, the Movement claimed to have acquired the popular legitimacy to govern as the only recognized political system. Significantly, the 2000 referendum removed some of the checks and balances on the executive branch, raising questions about the Movement’s capacity as a vehicle for democratic transition.

The emergence of a political oligarchy was particularly evident in the March 2001 elections. For the first time, President Museveni was challenged by a presidential candidate from the NRM, Colonel Kizza Besigye. The challenge mounted by a Movementist against Museveni divided the Movement and precipitated a crisis that resuscitated ideological, ethnic, and religious schisms in and out of the NRM. Furthermore, this undermined the image of the NRM as a cohesive and monolithic organization. The 2001 elections were also significant for the increase in the number of contestants representing interests and alliances based on culture, religion, and ethnicity, reminiscent of the unresolved conflicts of the early independence years. For example, there was the resurgence of political divisions along the north-south axis, Buganda’s renewed quest for federal status, and conflicts between the Catholics and Protestants. In addition to the politicization of religion and ethnicity, the elections also politicized gender, as the NRM reminded women to remember who had empowered them and brought them significant achievements over the last decade.

More importantly, the 2001 election witnessed the widespread use of state orchestrated violence manifested in the arrest and brutal persecution of several opposition individuals, including Major Rabwoni, Hajji Ramadhan Muwonge, and Colenol Mande. Human rights violations by state agents such as the Presidential Protection Unit in Rukungiri district and Kakooza Mutale’s Kalangala Action Plan (KAP) in the east were clear indications that of the shrinking space for organized political opposition and the absence of a democratic culture in the Movement.

The Movement System and the Military

The NRM ascended to power as the result of a successful armed campaign carried out by the National Resistance Army (NRA), later renamed the Uganda People's Defense Force (UPDF). Chapter 12 of the 1995 Constitution outlines the defense and national security functions of the army. However, Article 208(i) subsection (2) clearly states that the UPDF shall be non-partisan, national in character, patriotic, professional, disciplined, and subordinate to the civilian authority as established under the Constitution. And Article 210 states that that "Parliament shall make laws regulating the UPDF, and in particular providing for its organs and structures, terms and conditions of service of members of the UPDF, and the deployment of troops outside Uganda."

Despite the constitutional provisions that require the UPDF to answer to Parliament and the people of Uganda, in practice the separation of military and Movement as political organization is ambiguous, and the top military command is drawn predominantly from the southwest. The role of the army is inextricably linked to the President who is the chairman of the Movement and the commander in chief of the armed forces. The army has become an integral part of politics, evidenced in the manner in which the Movement leadership has used it in different political interventions beyond Uganda's borders without Parliament's approval, such as the case of the Democratic Republic of the Congo (DRC). There is also evidence that the army and its various agencies have been called upon whenever the Movement faces internal challenges. In fact, the political position of several high ranking military officials on political issues, including their proclaimed unwillingness to serve under another commander in chief, has raised questions about the non-partisan position of the army in politics and its cohesion in the event of political change.

1.3.4 Political Succession and the Contradictions of the No Party Democracy, 2001–2005

Political succession in Uganda has always been controversial and, thus far, Uganda has never experienced a peaceful transfer of power from one regime—elected or unelected—to another. Coups, counter-coups, and armed conquest have been the norm, raising important questions about the current political transition process. The debate on term limits, the 2005 referendum on the return to a multi-party system, and the issue of succession structure the current political discourse to a much greater extent than other issues, including conflict in Northern Uganda or poverty alleviation.

The Pros and Cons of the Removal of Term Limits (*Kisanja*)

The debate on lifting term limits has dominated Ugandan politics since the last elections. Speculations about the lifting of term limits began as early as 2002, a year after Museveni started his second (and last) constitutionally-mandated term of office and they picked up in earnest in March 2003. At the Movement's National Conference, the President called for an amendment of Article 105 (2) that restricts an incumbent's presidency to two terms. The conference resolved and recommended to the Constitutional Review Commission (CRC) the removal of the presidential term limits. This proposal was subsequently integrated into the Cabinet's recommendations submitted to the CRC and tabled in Parliament. On 23 June 2004, the government signed a memorandum of understanding with twelve political organizations with the aim of outlining the common good.

As part of the process of change, the government published a white paper that contained the key constitutional revisions that it later presented to Parliament.¹² In Parliament, the government distributed 5 million shillings to each pro-Movement Member of Parliament (MP), an action that President Museveni defended as payment to enable MPs to consult their constituents on the white paper. The referendum held on 28 July 2005 approved the constitutional changes, even though the voter turnout was one of the lowest recorded in the country. Opposition parties boycotted the referendum, charging that it was unnecessary to vote on an issue that already had widespread support in Uganda.

The removal of term limits, or *kisanja* as it is popularly known, polarized society into two opposing camps. While Movementists in the legislature and executive branch dominated the group that favored the lifting of term limits, opposition groups in Parliament and civil society and donors were in the opposite camp. Both sides of the political divide traded accusations about the legality of the move. There were demonstrations for and against the third term. Equally, there were allegations in the media about the political persecution of members of the opposition and Movement members opposed to lifting the term limits. The decision of the government to force open voting in Parliament was viewed as move to intimidate and manipulate the voting process in favor of the third term.

The arguments for the removal of term limits centered on the need to maintain continuity and experienced leadership and consolidate the achievements of the Movement. Proponents of the third term, such as Prime Minister Apollo Nsubambi, argued that constitutional fetters or restrictions cannot prevent a dictatorship from emerging and, therefore, it was up to the people to decide.¹³ Nsubambi argued that as long as a president renews his term of office in free and fair elections every five years, term limits are irrelevant. Other supporters of the third term argued that the removal of term limits was democratic, since the people will be at liberty to choose their best leaders. Other proponents harped on Uganda's political history to highlight the dangers of a multi-party system without Museveni's strong leadership. There was also the contention that good leaders should not be barred from serving the people and that term limits provide for a weakened and shackled presidency, especially towards the end of the second term of office when focus shifts from the policies and legislative programs of the incumbent to campaign pledges and plans of presidential candidates vying for office. President Museveni's comments underscored this line of argument for lifting term limits: "Why should I sentence Uganda to suicide by handing over to (the) people we fought and defeated? It is dangerous, despite the fact that the constitution allows them to run against me."¹⁴

Term limits caused major rifts in the NRM-O as so-called "historicals", including Eria Kategaya, Mugisha Muntu, David Pulkol, and Bidandi Ssali, resigned charging that the Movement had departed from its initial vision. Opponents of lifting term limits included the major opposition political parties, such as the Forum for Democratic Change (FDC), DP, UPC, Conservative Party (CP), civil society groups, and the church through the Uganda Joint Christian Council (UJCC). Most of them contended that, while the government describes itself as a no party government it is quasi one party, functionally opposed to pluralism. They also saw the lifting of term limits as a measure that sought to pave the way for Museveni's life presidency and set a bad constitutional precedent. Opposition groups, which had been marginalized for two decades, perceived term limits to signal the end of the NRM's dictatorship. Some opponents to Museveni continued to stay in power, citing the war in the north waged first by Alice

¹² The memorandum emphasized common objectives, such as sovereignty of the people, security, fundamental human rights, constitutionalism, and the rule of law, fiscal and monetary discipline, and social and economic justice. Most observers regarded the memorandum as a deal in which the opposition would overlook the lifting of term limits in exchange for guarantees to a hastened transition to political pluralism.

¹³ Namutebi, J. and Musoke, C., "To Lift or Not to Lift Term Limits," Sunday Vision, June 26, 2005, 3.

¹⁴ The New Vision, Friday, August 13 2004. p. 5.

Lakwena's Holy Spirit Movement and currently by Joseph Kony Lord's Resistance Movement. They charged that the northern conflict will not be resolved under the current government because Museveni is singularly bent on a military solution to ending the war

Uganda's development partners weighed in on the third term debate, expressing their reservations about the retrogressive move that would destroy the accomplishments of the last two decades and potentially create circumstances for dictatorial rule. Donor reservations were summed up by Johnnie Carson, a former US Ambassador to Uganda, who said, "Museveni is regarded as one of the most influential leaders in Africa...His thirst for power and quest for a controversial third presidential term may return Uganda to its dictatorial past." British Prime Minister Tony Blair joined other European leaders in condemning the constitutional change, warning that Britain would withhold aid if Uganda strayed from constitutional governance. "Using the same standards that applied to Robert Mugabe, Britain would also oppose...Museveni's ambition to become a monarch..."¹⁵

According to the Constitutional Review Commission's report issued in December 2003, 59.5 percent of respondents were against the lifting of term limits. The constitutional amendment to Article 105, however, means that there are no longer presidential limits. To most observers when the fight mounted by the opposition and an array of donors failed to derail the *kisanja* project, it was clear that the remaining checks and balances against life presidency had been removed and the referendum on the political future would only validate what the NRM government wanted from the outset..

The 2005 Referendum

On 28 July 2005, the referendum question was "Do you agree to open up the political space to allow those who wish to join different organizations or parties to do so to compete for political power?" A coalition of six opposition parties, which came to be known as the G6, opposed the referendum which they contended was little more than a cynical ploy to entrench a life presidency, when taken in conjunction with the parallel move to eliminate presidential term limits. They also opposed the referendum on the basis of cost, arguing that it was constitutionally unnecessary. The referendum coincided with the militarization of politics as there was a rapid reinforcement of the KAP that reportedly had recruited nearly 200 MPs and several ministers in its ranks.¹⁶

A former MP challenged the referendum in court and decried it as baseless, because the Movement System did not exist; the Constitutional Court dismissed the petition.

Debates on the referendum also countered the legitimate rules of parliamentary procedure. After Parliament spent the entire month of April 2005 to debate the referendum motion, the motion failed to go due to a lack of quorum. There were only 147 votes in support of the motion and 17 against, leading to a postponement of the vote. However, the government moved to have the no vote overturned through "reconsideration," holding a fresh round of voting that garnered 230 movement supporters, including military MPs. MPs criticized the motion to reverse the resolution and rejected the referendum because the rule required a substantive motion.

The above discussion highlights political events in the last five years that have far-reaching implications for democratic governance in Uganda. Looming large on the horizon are the forthcoming 2006 presidential and parliamentary elections and the particular lessons that can be drawn from lifting term limits and endorsing competitive party politics, critical for democratic development: the electoral process;

¹⁵ tbc

the role and position of the military within any leadership arrangement; and the rules of the game and constitutionalism. Failure to place these issues within their proper historical and contemporary political context would distort social, political, and economic development projections.

1.4 RECENT POLITICAL CHANGES AND THEIR IMPLICATIONS

Since the completion of field work for the present assessment, there have been three significant political events with a direct bearing on earlier findings, and they serve to underscore the recommendations in Section 4.0. These events are:

1. The return and state burial of the late President Milton Obote;
2. The reshuffling of military and police personnel; and
3. The return and arrest of opposition leaders Retired Colonel Kiiza Besigye.

The Return and State Burial of the Late President Milton Obote

Contrary to expectations when Obote passed away in South Africa on 10 October 2005, the Cabinet convened and agreed to have his remains returned to Uganda for a state burial. Given the nature of the relationship between Museveni and Obote, this was an unexpected turn of events and it marked a watershed in Uganda's politics for several reasons. First, there was implicit in this gesture an acceptance of political difference, accentuated by the speech by the President and other senior political figures. Second, it demonstrated that the NRM government was no longer felt the need to appease the Baganda for whom Obote's return was tantamount to a pardon for his overthrow of the monarchy in 1966. Third, by giving Obote a state funeral, the government showed an unexpected tolerance and political maturity.

The debate in the newspapers prior to the return of Obote's body was whether this marked a new chapter in Uganda's politics or a matter of political expedience in light of the upcoming elections in 2006 and the need to make political in-roads into the north. Either way, it is important to note that critics and sympathizers alike agreed that President Museveni had indeed scored political points and managed to contain a situation that might have otherwise been exploited by the opposition.

The Reshuffling of Military and Police Personnel

The reshuffling of military and police personnel followed the burial of Obote and preceded the return of Colonel Besigye. For the most part, the change in military leadership appears to have been sectarian; the new police chief is an army officer who comes from the west, a point highlighted in the local press as indicative of the President's need to secure local police compliance. Following the 2001 election, there was a sense that the police were not fully supportive of the government, and the reshuffle prior to Besigye's return was seen by some as a move to neutralize perceived police support for the opposition.

The Return and Arrest of Opposition Leader Retired Colonel Kiiza Besigye

The return of Colonel Kiiza Besigye on the heels of the burial of late President Obote was widely reported as the ultimate test of the President's Museveni's new move towards political reconciliation. But as most people had expected, Besigye was arrested upon return and charged with a whole host of crimes from treason, possession of firearms, and rape. Besigye's return was occasioned by the need to register as a presidential candidate. At the FDC delegate's convention in November, Besigye was nominated as the presidential candidate. His subsequent arrest and the legal battle that ensued have convulsed the entire country, reinforcing the conclusions of this report that the era of political pluralism conceals the continuities in President Museveni's authoritarian leadership style. More worrying was the siege of the High Court by a paramilitary group to prevent the release of Besigye and his associates, a frontal assault on the judiciary in a manner reminiscent of the days of Idi Amin. The President's insistence that Besigye

be remanded for trial by a Military court martial rather than in the regular courts is also symbolic of official disregard for due process.

2.0 DIMENSIONS OF GOVERNANCE

2.1 CONSENSUS

Evaluating the degree of consensus regarding changes in the rules of the political game—the elimination of term limits and the return to a multi-party system—is complicated considerably by the clear intervention of the Movement first against multi-party politics (2000 referendum) and then in favor (2005 referendum). The use of state resources to support the Movement position in a context where opposing voices were both actively de-legitimized and denied active organizational support, coupled with uncertainties related to the extent of voter turn out makes the interpretation of electoral results difficult. It should also be noted that where it has been convenient, the Museveni regime has been willing and able to alter the rules of the game at will. This tendency is also reflected in the fact that, despite broad legal restrictions on the operation of political parties, the Movement-as-party has consistently taken aggressive partisan stances on key policy issues, including both the return to multi-party competition and the third term.

Consensus involves agreement about who is and is not a member of the society and about relations among the state, civil society, and individuals. The rules of the political game should be clear to and accepted by all parties. Elections offer an obvious test case of consensus: parties and individuals should be able to compete, confident that results of free and fair contests will be tallied correctly and transparently.

Whether or not there is a broad consensus relating to a preference for electoral democracy, there is clearly growing concern regarding the rules under which partisan electoral contestation will take place. Although parliament has passed some legal reforms necessary to the implementation of a competitive multi-party system, the NRMO remains the sole party with the effective capacity to function overtly on a national scale without fear of sanction. In marked contrast to the exhaustive public debate and consultation that accompanied the constitutional process, there has been limited debate or public discussion of the legal framework that will regulate the operation of political parties, campaign finance, or electoral administration,

2.2 INCLUSION

Uganda's record with regard to political inclusion is mixed with significant progress in certain areas (e.g., gender) undercut by a persistent inability to find lasting solutions responsive to the needs of key regional and ethnic constituencies. The failure to deal with the latter largely accounts for the persistence of conflict in northern Uganda and underlies growing concern about state fragility. During the first decade of its existence, Movement government was, in essence, a grand experiment in governance by a broad based coalition, in which most identifiable interests could find a place. The principle of "individual merit" allowed for the participation of a broad spectrum of Ugandans, while making difficult the articulation of strong ethnic or regional agendas. Similarly, local governance through the Revolutionary Council (RC) and later Local Council (LC) system

Political inclusion is critical: unless *all* citizens enjoy both formal and effective rights to participate in political processes, democracy will be a façade not a reality. Citizens enjoying formal guarantees of inclusion, but clearly apathy may signal a breakdown in inclusion.

provided a mechanism for vesting local communities with authority over an unprecedented range of decisions directly relevant to their day-to-day functioning. Significant efforts to ensure the effective participation of women were also made at both national and local levels, with the result that two decades after the initiation of Movement government there is an impressive cohort of articulate and powerful female leaders, both within government and in civil society. Ironically, even women leaders committed to the broadening of competitive space express concern that a move from Movement government toward multi-party politics may bring with it a reversal of progress made in the area of gender inclusiveness.

As the Movement has been given an increasingly partisan definition over time, and as power within this vehicle of presidential power has become progressively more centralized, its inclusiveness has by definition declined. A system which prided itself on empowering individuals to give voice to opinions in the interest of the common agenda has evolved into one in which an increasingly restricted set of voices is mobilized to support presidential decisions. As loyalty/fealty have gradually replaced merit as the basis for the assignment of political office, those whose opinions diverge from those the President's have been increasingly marginalized in a system which provides few avenues for the legitimate organization of dissent. With the establishment of a legal basis for political party operation beyond the confines of Kampala, this sense of marginalization may be to a degree reversed, but dissatisfaction over the articulation of the rules of the game, coupled with cynicism over their application by a government dominated by the NRMO, are likely to persist. The fact that the rules which will govern multi-party competition are being defined largely by the dominant party inspires little confidence that they will be governed by the intent of enabling fair competition.

By far the greatest failure of inclusion in Uganda relates to the effective political, economic, and social integration of northern Uganda into the body politic. The north (particularly the three Acholi districts, but also at times West Nile and Karamoja) has experienced either de facto martial law or a relative absence of effective state presence for much of the last two decades. The inclusion of the north is, in essence, a two-edged sword, since the failure to address northern grievances of political marginalization in national politics has been among the most salient factors driving persistent conflict in the Acholi districts and the presence of conflict in the north has provided a rationale or pretext for the maintenance of a state of emergency further marginalizing the region. The persistence of armed conflict in the north, and its attendant marginalization in national politics is a significant inclusive problem that impacts northern acceptance of the formal "rules of the political game," economic engagement, and service delivery. Under these conditions, the population feels alienated from broader rules governing civic participation, deepening perceptions of state illegitimacy.

2.3 COMPETITION

The competitive environment in Uganda is somewhat contradictory but increasingly constrained, and it constitutes the preeminent barrier to addressing serious deficiencies across the spectrum of issues addressed by the analytic framework (inclusion, governance, rule of law, consensus, fragility, etc.). Competition between institutions, although provided for in the formal division of powers between executive, judicial, and legislative branches of government, has been progressively eroded in practice by the expansion and entrenchment of formal and informal executive powers. Electoral competition has been distorted by the legal and practical dominance of the Movement, which has increasingly operated as a dominant single party, while the legal basis for effective political organization and mobilization has been denied parties of the opposition. Access (direct and indirect) to state resources for mobilization purposes, as well as the support of key presidential appointees at district level (Resident District Commissioner's, etc.), combine to give Movement candidates an overwhelming advantage in many areas of the country. Finally, the democratic impact of Uganda's transition from Movement politics to a multi-party electoral regime has been seriously undercut by the linkage of the return to multi-party politics to

the removal of presidential term limits. Enabling legislation permissive of effective organization by opposition parties has been slow to emerge following the referendum, creating an ambiguous legal context during the lead up to the 2006 elections.

While the competition of ideas in the media remain robust, the media's reach to the grass roots is limited, and state efforts to discipline or check media independence via the application of antiquated and likely unconstitutional law on sedition continue. Although the courts have thus far failed to uphold such prosecutions, the message is delivered nonetheless. Similarly, debate in Parliament over contentious policy issues, already constrained under the Seventh Parliament, has virtually ceased in the lead up to the 2006 elections, as the Movement majority increasingly vote *en bloc* for presidential initiatives. The growing capacity and autonomy of local government, which serves in many systems as an important proving ground for local level politicians and the expression of local voice, have also come under threat in the lead up to the 2006 elections, with the elimination of the principal source of own-source local revenue (G tax), the reintroduction of central appointment for key administrative positions, and the proliferation of new districts primarily as patronage resources.

The present analysis supports the findings of Barkan et al (2004) that the gradual consolidation of a neo-patrimonial regime under the direction of President Museveni has fundamentally undercut the democratic logic of earlier reforms and the capacity of institutional checks and balances to constrain the arbitrary use of predominant executive authority. Unchecked through the reintroduction of a viable competitive process, the operation of the present system will continue to undermine progress made to date across a wide spectrum of sectors as resources are redirected for political ends. In parallel, the integrity and effectiveness of donor-financed efforts to address problems related to consensus, inclusion, rule of law, governance and fragility, are likely to be undercut.

The extent of **competition** in a political system and, more broadly, in society reveals much about the degree of democracy in a society. Citizens must have both the right and effective capacity to choose leaders as well as influence policies and laws. An enduring balance of power should prevail within government, implying competition among the three branches as well as competition between central and local government actors. Vigorous, fair competition should characterize elections, flow and exchange of ideas in the media, and interactions among diverse groups in civil society. Market competition exists and consumers benefit if economic power is distributed broadly rather than concentrated in a small group that can restrict people's choices and extract monopoly prices.

2.4 GOVERNANCE AND THE RULE OF LAW

One of the NRM's exemplary achievements was to improve the rule of law, notably through the development of a constitutional framework that has sought to protect the rights of individuals, insure freedom of the press, and promote the ability of nongovernmental organizations (NGOs) to operate. Outside the North where the situation is complicated by the persistence of active conflict, respect for the basic human rights of citizens has improved exponentially in relation to the record of previous Ugandan regimes. There has equally been a significant degree of judicial independence and judges and courts have, for the most part, operated **without much interference**. But while respect for legal institutions has grown, Uganda remains a long way from constitutionalism, that is, the elimination of intervention by the executive and legislative branches in the administration of justice. Recent trends are not entirely positive however, and increasingly as higher courts have intervened in political contests surrounding the expansion of competition, they have been subjected to more pressure from the executive branch. A variety of high profile political cases have also been referred to military courts.

Although significant progress has been made in re-establishing the basis for coherent administration at both national and sub-national levels, and in re-instituting the rule of law after decades of institutional decay and civil conflict under the Amin and Obote II regimes, these are overshadowed by the progressive expansion and deepening of corruption as the regime has become increasingly based on a neo-patrimonial system of legitimization. This has brought with it an increasing threat to the autonomy and capacity of institutions with sources of legitimacy independent of the executive.

Institutions under threat include local government, which derives its legitimacy from its direct electoral mandate and responsiveness to local agendas and Parliament and the judiciary, constitutional bodies whose autonomy and capacity are essential to an effective separation of powers, and ultimately to accountable democratic governance. Over the last five years, but accelerating in the lead-up to the 2006 elections, executive influence in Parliament has been progressively expanded and, as the independence of Parliament has been compromised, the efficacy of a variety of oversight institutions responsible to it (including the Office of the Attorney General [OAG] and the Inspector General of Government [IGG]) has also declined. The increasingly docile Seventh Parliament has been used to force through changes that have rolled back progress on decentralization through the centralization of key local government appointments and by eliminating the most significant source of local government revenue not controlled by the center. It is highly ironic that the rollback of local authority and budgetary discretion is often justified at the center with reference to local corruption, at the same time that the proliferation of districts is being driven by the center, at least in part, as a means of creating additional patronage resources to shore up electoral support in anticipation of the forthcoming elections. Efforts to pack and influence the higher judiciary have been less successful, but the institution remains under pressure.

The net effect of trends over the last five years has been to greatly weaken institutional impediments to the exercise of neo-patrimonial authority, while preserving a façade of democratic accountability.

Performance of government institutions (**good governance**) should demonstrate capacity to make and meet commitments, reliably deliver a minimum of public services, and be held accountable for their performance. These same criteria should apply to civil society institutions.

Degree to which the **rule of law** is respected is very important. Respect for the individual and for human rights constitutes a major rule of law indicator. People should feel secure, in their persons, freedoms of expression, religion, association, and assembly. The country's security forces abide by general rules of the land, rather than operating in an extra-legal manner. The judiciary must be autonomous, impartial, well-versed in the laws of the land, and reasonable just in applying those rules to cases before them. Judges—not prosecutors, other state officials, or vigilante groups—must ultimately decide how to apply rules in specific cases including, in criminal cases, sentencing.

2.6 FRAGILITY

The SAF and Fragile States Strategy (FSS) are largely complementary and mutually reinforcing, although the former tends to focus attention on approaches to institutionalizing and limiting state power, while approaches to state fragility have tended to be more concerned with stabilizing and/or reestablishing state authority. From the perspective of the SAF, fragility tends to be viewed as the result of failures of democratic governance, while the FSS focuses attention more on issues of state capacity and legitimacy. In many cases, effective democratic governance may suggest the presence of state institutions, which are both effective and perceived to be legitimate, but the converse need not necessarily be the case. Indeed institutions that are largely capable of delivering stability and services may well be broadly perceived as legitimate, while falling considerably short of democratic norms. Over the longer term, such democratic failings will likely have consequences for long term stability as well.

Fragility in the Ugandan context is perhaps best viewed as a function of simultaneous crises of governance and legitimization and, above all, as a result of a progressive marginalization of institutions with the capacity to promote credible, consensual, and non-violent solutions to the deep social divisions

that have accounted for the persistent social conflict that has characterized the country's post-independence history. Seen from this perspective, fragility will likely increase in Uganda as a whole if the progressive centralization and personalization of power in the presidency is not reversed. However, there are also some key differences in the sources and nature of fragility in the north and the south. These differences have implications for programming targeting specific regions (discussed in Section 4.0).

Although the stabilization and liberalization reforms of the 1986–1996 promoted social inclusion and led to a reduction in social tension in Uganda outside the north, popular disaffection related to increasingly visible large scale corruption and perceived regional favoritism and to the Movement effort to tilt the political playing field in the lead-up to the first multi-party elections have the potential to significantly reverse these gains. Ironically, perhaps the greatest potential of election-related violence lies in western Uganda, which is the Movement's strong-hold and the region in which it has potentially the most to lose in the face of a serious challenge by former Movement insiders who can make credible claims to the mantle of the early Movement. A variety of those interviewed in the course of the present assessment suggested that, in the face of a serious challenge from the opposition in the west, the potential for a heavy handed reaction from Movement cadres and (elements of) the military intended to disrupt the campaign and intimidate opposition candidates and supporters alike, is relatively significant. Indications of such tactics were clearly seen during the 2001 campaign and are alleged to have taken place during the lead up to the 2005 referendum.

Ugandan opinion on likely military behavior in a hotly contested election appears somewhat divided, with one body of opinion suggesting that the military's behavior will reflect its broadly national character and another suggesting that, although perhaps the military as a whole is somewhat national in character, the expansion and increasing power of the Presidential Guard Brigade and other predominantly Ankole units controlled by Museveni's kin and close associates changes the equation. The latter position appears to us more credible. The fact that the overall numerical strength of Uganda's civilian police force is vastly inferior to the military (and to the so-called "Local Defense Units" (LDUs) or militias) suggests that any significant election-related social unrest will elicit the mobilization of military units or militias for policing functions, rather than or in addition to civilian police. Comparative experience would suggest that such deployments generally increase the risk of disproportionate responses. The recent re-organization of the security forces seems to suggest that the NRMO wants to use the military as a critical instrument in the forthcoming elections.

The role of the conflict in Northern Uganda as a factor conditioning fragility more generally is multifaceted. On one hand, for Museveni, the cost of protracted conflict in the north has not been particularly high, and the incentives for its resolution are ambiguous. Conflict in the north has had remarkably little salience as a political issue in the south, aside from periodic expressions of horror related to IDP living conditions and outrage related to corruption in military procurement. Although the cost to the Ugandan economy of waging a 19-year armed conflict (in terms both of direct expenditure and forgone productivity and revenue) has been substantial, the very persistence of the conflict has provided both a rationale for high levels of military expenditure and possibilities for the assignment of patronage resources (defense contracting, access to land and other resources, payroll fraud, etc.), useful for regime maintenance.

The protracted nature of the conflict does not appear to be attributed in the south to a failure of government in resolving the conflict (either through negotiation or military action), so the political costs of its low-level continuation are likely marginal. From a political perspective, the persistence of conflict and the attendant marginalization of the Acholi has also meant that the North does not constitute a constituency that would likely support the Movement and Museveni. Moreover, with the bulk of the population confined to camps under the control of the UPDF, the opposition's electoral advantage in the north is not particularly significant. Since Museveni has little hope of generating significant political support in the north, the incentives to invest heavily in the long-term measures essential to its stabilization

and integration are limited. Thus, whether or not the present conflict centering on the Lord's Resistance Army (LRA) is resolved militarily¹⁷, unresolved grievances among the Acholi population will very likely persist, and it appears unlikely that the present regime will be motivated to devote significant resources to resolving them, short of significant international pressure to do so. Unresolved, Acholi feelings of marginalization will have the potential to be expressed either in the form of new violent movements or, in the context of a return to multi-party politics, in the form of increasingly explicit ethnic political organization.

In the north, the state's failure to deliver either effective security or basic services has tended to deepen an already severe legitimacy deficit rooted in the deep north-south divisions characterizing Uganda's post independence history. As a consequence, in the north, both state capacity and legitimacy are in question. Northern Uganda thus manifests conditions to which the programming approaches suggested by the FSS and the *Strategic Framework for Africa* (SFA) appear to respond fairly well, and warrants specific programming intended to address the specificities of northern issues. In the south, the nature of fragility, to the extent that it may be said to exist, is quite different and stems from the progressive erosion of democratic institutions and processes and the consolidation of military, economic, and political power in the presidency. Together, these have tended to sharpen political cleavages and undermine the legitimacy of state institutions which, rather than being perceived as neutral structures of national governance, are increasingly viewed as the personal tools of an increasingly isolated and corrupt ruling clique. Fragility of this sort is best addressed within the context of the programming tools available within the SFA's transformational development framework, analyzed from the perspective of the SAF. In both the south and the north, it is essential that governance concerns be mainstreamed throughout the Mission portfolio. Stabilization and reintegration, in the absence of attention to governance, are unlikely to result in durable solutions.

2.7 THE PROBLEM DISTILLED

Upon assuming power after two decades of chaos, violent civil conflict, and catastrophic economic and political governance, the NRM faced multiple *stabilization* challenges, including the restoration of security, the reconstruction of a state bureaucracy, the restoration of a functioning economy, and the integration of deeply divided ethnic/regional constituencies into a single polity. Most observers agree that during the first decade of its rule, the Movement achieved significant results in addressing each of these challenges, though its record with regard to the last is uncertain with respect to northern Uganda.¹⁸ By 1996, security, rule of law, and respect for basic human rights had been largely reestablished in south, central and western Uganda; economic liberalization and the introduction of measures designed to ensure macro-economic stability had earned high marks from the IMF and the World Bank and resulted in massive commitments of resources by both multilateral and bilateral donors; basic functions of government had been reestablished at national and sub-national levels; and a strategy of political inclusion through the creation of avenues of broad public participation in governance within the context of the Movement system had achieved broad public acceptance in much of the country. Economic liberalization was to a considerable degree accompanied by political liberalization, and the regime assured a variety of basic freedoms essential to (though not sufficient to guarantee) democratic governance.

¹⁷ The issuance of warrants for the arrest of Kony and other top LRA leaders by the International Criminal Court in late September 2005 appears to effectively bring to a close the search for a negotiated settlement.

¹⁸ See, for example, Joel Barkan, Saillie Kayunga, Njuguna Ng'ethe, and Jack Titsworth, "The political economy of Uganda (The art of managing a donor-financed neo-patrimonial state)," background paper commissioned by the World Bank in fulfillment of Purchase Order 7614742, Final Draft of 6 July 2004; and Johnnie Carson, "Uganda – An African Success Story Turning Sour," speech at Woodrow Wilson International Center for Scholars, Washington DC, June 2, 2005 (<http://www.wilsoncenter.org/events/docs/Carsonspeech.doc>).

What remained to be addressed can be termed the challenge of democratic institutional *consolidation* or, as Barkan et al have termed it, the challenge of establishing “a legitimate, enduring, and stable political process via which all groups, regardless of region or ethnicity, would have a meaningful stake and be able to contest for power in the new system.”¹⁹ *The failure of the Movement system to meet this challenge of democratization largely accounts for the progressively deepening negative political and economic trends that have been noted by observers over the past decade.* The NRM’s approach to post-conflict stabilization, reflected in the concept of the Movement System, involved a trade-off between democratization and the efficiencies of centralized authoritarian structures. In delaying a decision on the eventual restoration of a multi-party political system, the NRM bought the time and political space it saw as essential to stabilization and development in a context where partisan politics had arguably resulted in state failure. But it did so at the cost of institutionalizing structures that could hold it accountable once stabilization had been achieved. While political liberalization occurred and citizen participation in governance at all levels increased significantly, the executive branch’s willingness to tolerate the consolidation of institutions or organizational structures (i.e., political parties or a strong and independent parliament) capable of effectively competing with, challenging, or constraining executive prerogative has been limited. As Barkan et al have cogently noted, “the limits of reform, both economic and political, have been set by the commitment to stay in power.”²⁰

The outcomes of liberalization—an assertive Sixth Parliament, an increasingly vibrant independent media, an independent upper judiciary, and a local council system that reflected and defended local interests—were embraced to the extent that they operated within the context of the Movement and posed no direct challenge either to the structure of the system or to the personal prerogatives of its leader. Challenges of both sorts have been met with concerted efforts to limit the scope of institutional authority and to discipline the behavior of individuals through the manipulation of incentives and sanctions (formal and informal). The effect has been to reinforce the centralization of effective decision-making authority in the hands of the President and to produce widespread cynicism regarding the operation of the political system. As the regime has become increasingly dependent on the manipulation of incentives for legitimization purposes, the need to secure (or assign) resources for political ends has also increased, leading to an impressive expansion of corruption. Corruption should thus be seen as a political phenomenon, rather than one resulting (primarily) from regulatory failures or weak enforcement capacity. As with fragility, corruption can only seriously be addressed through the introduction of meaningful systems of political accountability.

Over the course of the last fifteen years, constitutional proscriptions on electoral competition have facilitated, if not promoted, the consolidation of a presidential authoritarianism that has increasingly acted to subvert and weaken alternative governance institutions. Equally important, the Movement’s effective ideological and organizational monopolies stymied creative debate on a wide array of national questions and constrained the ability of an alternative leadership cadre to establish the public persona essential to mounting an effective challenge for the presidency. Uganda’s ongoing efforts to return to multiparty politics in the face of external and internal pressure are, thus, occurring against the backdrop of the entrenchment and narrowing of personal rule, profound political tensions, and the absence of social pluralism.

The current challenge for donors hinges on checking the progressive deterioration in democratic governance in the context of a progressively more centralized but less coherent leadership, increasingly improvised and undefined transitional rules, and lukewarm steps towards resolving the perennial conflicts in the north. In the short- to medium-term, donors must scramble to recapture their credibility after

¹⁹ Ibid, p.iii.

²⁰ Ibid p. 18.

missing the opportunity to influence the momentous constitutional changes that effectively nullified core objectives in the transition to political pluralism. Establishing credible leverage relative to DG issues entails the articulation of a strategy for engaging a wide spectrum of Uganda actors in ways that do not compromise future policy options. There is a clear need for donor interventions that expand the political and electoral space, foster the capacity of formal institutions that have the potential for autonomy, and build societal institutions for the articulation and circulation of new ideas. Establishing credible leverage also implies creating and maintaining a unity of purpose within a core group of significant bilateral and multilateral donors and a willingness to trade off short-term development objectives against the possibility of sustainable development over the longer term. In the absence of a fundamental turn-around on the present governance trajectory, the chances of the latter would appear slim indeed.

The last five years have seen the progressive consolidation of what Barkan et al have termed a “neo-patrimonial” regime—one dominated by an individual leader whose personal authority is indistinguishable from that of the state, in which political power is “maintained through a combination of patronage and the selective use of intimidation and force.”²¹ This trend was identified as a risk by the last DG assessment team, which noted in 2000 “with apprehension that much of the democratic progress achieved by the current regime has been in place for several years now, and that *there appears to have been a loss of momentum on solving the remaining issues of democratic consolidation.*”²² The 2000 assessment also drew attention to a tendency to manipulate democratic forms (e.g., the 2000 constitutional referendum) for purposes of regime legitimization and suggested that the regime’s behavior during the referendum campaign “exhibited many of the telltale signs of a drift towards the logic of a one-party state, with the active mobilization of the Movement and the intimidation of the opposition.”²³ The present analysis reaffirms that view and suggests that, although serious issues of inclusion, governance, and fragility persist and have the potential to fuel future conflict, the predominant issues in Uganda relate to competition. Unless an element of meaningful competition is reintroduced, we would expect negative trends to continue and deepen as dissatisfaction deepens and the system becomes progressively less able to resolve inherent tensions.

²¹ Joel Barkan, Saille Simba Kayunga, Njuguna Ng’ethe, and Jack Titsworth, “The political economy of Uganda (The art of managing a donor-financed neo-patrimonial state), background paper commissioned by the World Bank, final draft, 6 July 2004, p. iii-iv.

²² Nicholas van de Walle, et al., “Democracy, Governance, and Conflict Strategic Assessment for Uganda,” (Management Systems International, December 15, 2000), p. 5 (emphasis in original).

²³ Ibid.

3.0 ARENAS OF POLITICS: KEY ACTORS, INSTITUTIONS, AND POLICIES

3.1 PRESIDENTIAL AUTHORITY

3.1.1 Formal and Informal Roles

The role and power of the presidency in Uganda's politics have been largely shaped by President Museveni, and both reflect and reinforce his personal standing. Since the mid-1980s, Museveni has elevated the presidency to a position of predominance, using it to dispense patronage resources largely at the expense of other institutions and at the expense of institutionalization. A towering figure in Ugandan politics, with the pretensions of a philosopher-king, Museveni has projected the image of a father figure presiding over the tasks of national civic education, economic modernization, and political and social reconstruction. In shaping the presidency as a personal vehicle, Museveni has been aided by his preeminent position in the NRM, which lent him the clout and credibility to govern without the constraints of countervailing institutions. Over the years, the exercise of presidential authority has both contributed to and been reinforced by the gradual evolution of the NRM from a collective and collegial institution to a narrow instrument of personal rule.

There were few limits on presidential authority prior to the enactment of the 1995 Constitution, but the broad-based nature of the transitional institutions helped to curb its excesses. Between 1986 and 1995, the coalescence around the objectives of reconstruction helped to legitimate a strong presidency as Museveni appropriated the power and stature of his office to put a stamp on national institutions. In addition, the NRM's key founders, organized as the Historical High Command (HHC), played key roles in restraining presidential authority. Constituted as a system of informal power, the activism of the HHC coincided with the era of a vibrant and participatory NRM. The 1995 Constitution tried to place limits on and institutionalize presidential power. Although it provided for a strong executive president, it also limited the president to two terms of office, provided for judicial independence, and for parliamentary oversight. In practice, however, despite parliamentary checks, such as the approval

MUSEVENI THE MESSIAH?

Responding to growing criticisms of excessive concentration of power in Museveni's hands and reliance on ethnic cronies, First Lady Janet Museveni wrote an impassioned rebuttal in the government-owned daily, *New Vision*. Peppered with biblical quotes, it compared Museveni to a God-sent emissary in times of strife: "The truth is that humanity has triumphed over evil for centuries because, every once in a while, there comes about a man or woman who is willing to walk an extra mile to serve humanity. God uses such a man or woman to empower good to triumph over evil. Without such people in life, everything is doomed . . . God is always looking out for such people that He may use them for the benefit of their countries" (*New Vision*, May 5, 2005). Not too long after that, the Minister of Justice and Constitutional Affairs, Khiddu Makubuya, asserted that God had ordained Museveni to lead Uganda: "Sir, you are God's chosen child."

of presidential appointments, most of the core executive functions continued to rest primarily with the presidency, enshrining Museveni's unequalled leadership position under the new order.

Presidential authority has moved radically in the direction of autocracy since Kiiza Besigye defected from the Movement to challenge Museveni in the 2001 elections. Since then, the NRM has declined as an institution of competing forces and ideas, with consequences for the presidency and national decision-making. Faced with opposition from within the Movement, Museveni has relied less on Movement structures and become increasingly dependent on a progressively restricted inner circle of family and friends from Mbarara. With authority increasingly emanating from President Museveni, alternative institutions (already weakened by competing mandates and resource constraints) have become peripheral to national decision-making.²⁴ The dramatic purge of some of the important members of the HHC, notably Eriya Kategaya, Mugisha Muntu, and Bidandi Sssali, marked the end of the NRM's cohesiveness and exposed the increasingly pronounced personalization and centralization of power around Museveni. This centralization has been reflected in the evident decline of the Cabinet as a deliberative and decision-making body.

The decision to abolish presidential term limits signaled the heightened stakes Museveni attaches to the presidency. In reversing his proclaimed intention not to serve another term after the 2001 elections, Museveni's decision puzzled many who had thought that he had tried to differentiate himself from other African autocrats. Even though the government invested substantially in furnishing a modicum of legitimacy to the abolition of the term limits (and other constitutional revisions) by shepherding them through Parliament and a national referendum, the reversal on term limits underscored the growing trend toward centralization of presidential authority. Subsequently, Museveni's authority has steadily been redefined and endowed with a Messianic aura (see text box). With a number of the HHC depleted by death and defections, the old informal structure of power is narrowly centered on a few Museveni loyalists. More significant, in the changing power dynamics, a new informal structure based on the president's family is wielding more authority to contain the fissures wrought by the disintegration of previous institutions and the challenges of transition to pluralism.

3.1.2 Weak Separation of Powers and the Consolidation of Personal Rule

The principle of separation of powers embodied in the 1995 Constitution belies the reality of presidential authoritarianism in Uganda. More worrisome, however, has been the steady subversion of the formal institutions, in particular, Parliament and the higher levels of the judiciary that were slowly starting to find creative organizational space within the limits of the Movement system. Consequently, the transition to multi-party democracy is occurring against the backdrop of a feeble institutional base, where the priorities of revitalizing existing institutions are competing with the primary objectives of institutional separation. With most of the institutions captured by executive fiat, the room for institutional separation has become narrower.

As was the case in the broad range of African one-party states over the course of the last four decades, the Movement system provided fertile ground for the augmentation of personal rule through an admixture of organized consent and coercion. This consolidation occurred alongside the stultification of countervailing institutions, a trend that does not seem to have abated in the transition to multiparty democracy. While the 1995 Constitution established formal institutional checks on executive authority, Parliament, increasingly

²⁴ A variety of individuals interviewed suggested, for example, that the role of Parliament as a forum for debate on alternative policies has declined in favor of simple ratification of the executive's legislative agenda.

dominated by NRM stalwarts and presidential retainers, has largely acquiesced to presidential desires. With immense executive discretion, Museveni has been able to both ignore the Cabinet and overpower Parliament. The constitution allows MPs to introduce individual bills and vote according to their own judgment, but these smatterings of parliamentary autonomy were rarely exercised. In addition to the NRM's numerical dominance within Parliament, Parliament's capacity for independence is further constrained by presidential appointment of almost a quarter of MPs to ministerial positions. With the number of ministers reaching 76 out of a Parliament of 304, the executive has amassed considerable leverage. The principle of parliamentary autonomy was seriously compromised during debates leading to the changes in the constitution to abolish presidential term limits. In April 2005, the government and NRM majority in Parliament forced through procedural changes that abolished secret voting on the constitutional amendments. Although the government claimed that open voting is more transparent than secret ballot, opponents viewed this as a move by the executive to ensure that easily intimidated MP would vote for the government's proposal to remove presidential term limits and other controversial amendments. The opposition, civil society groups, and some donors have been critical of the move to open voting. The provision of facilitation fees worth 5 million shillings (US\$2,857) to NRM members of Parliament to generate support for Museveni's third term has also been criticized as executive interference and characteristic of the blurred line between "the Movement" as political system and the NRM as a partisan ruling party. After investing heavily to ensure the passage of the proposed constitutional changes, the executive also gave significant state resources to MPs to mobilize for passage of the referendum. A largely compromised and partisan Parliament is now in the process of spearheading constitutional revisions necessary to implement a multi-party political system. The degree to which these revisions will establish an environment in which opposition parties can compete with the NRM on a basis of equality remains to be seen.

Efforts by the executive to undermine the integrity of Parliament have been matched by similar attempts to rein the judiciary. Unlike Parliament, however, the NRM (with donor support) invested considerable resources in rebuilding an independent judiciary. Over the years, the judiciary, notably the higher courts, regained their stature in the administration of justice. But executive assault on the independence of the judiciary started when judges returned unfavorable verdicts in political cases brought by opposition groups. Following decisions that affected the legitimacy of Museveni's presidency and the Movement System, the government proposed a raft of constitutional amendments to make the courts subservient to the president. Although Parliament has postponed the passage of these proposals, Museveni has publicly questioned certain constitutional provisions that limit the power of the executive and threatened to appoint a commission to investigate the judiciary. He has also changed the composition of the boards that make appointments so that Movement cadres could be added to the ranks of the higher courts—all in an effort to attenuate the independence of the judiciary. Despite growing pressure, the higher judiciary remains one of the only real institutional checks in the face of growing presidential authoritarianism. However, executive pressure on the judiciary will likely be more and more effective if the upcoming elections result in a significant NRMO victory

3.1.3 The Military in Politics

The military is a key institution in Ugandan politics and indeed, under the terms of the 1995 Constitution, is represented in Parliament. As in previous periods of Ugandan history, the disproportionate role of the military in politics has stymied the development of independent civilian institutions. As a major constituency in the NRM's rise to power, the military has remained the essential arbiter of political conflicts, diminishing the growth of civilian institutions of representation and participation. Under Museveni's leadership, there was an attempt to create a professional national army that was informed by the ethos of respect for civilians and operated above ethnic and sectarian interests. Divisions in the Movement provoked by the increasing centralization and

personalization of power around Museveni appears to have been mirrored in the UPDF, which has seen the resignation (or arrest) of a variety of senior commanders. Although the UPDF as a whole has become increasingly professional and national in recent years, individuals close to the President have increasingly come to dominate the command structure, and there has been heavy investment in the expansion of the Presidential Guard Brigade (PGB), a praetorian institution composed of units composed predominantly of soldiers mainly from Ankole.

The UPDF inherited the NRA's superior organizational structures that allowed it to emerge as Museveni's core power base. The ease with which major NRM figures moved from the military to civilian institutions also blurred the civil-military distinctions, as active duty military officers have often concurrently served as MPs and Ministers. Under Museveni, military professionalism has advanced without reducing the meddlesome role of core military actors in the politics. Fundamentally, the military has continually harped on its unique ability to deter dictators from recapturing power and its much-vaunted success in supervising the transition from a pariah to a modern state. The military has adroitly delegitimated civilian institutions through its consistent claims that it is the sole guarantor of Uganda's economic prosperity and political stability, a factor that resonates with the wider population. Facing the dilemma of the military's centrality in politics, the 1995 Constitution prohibited the military from engaging in partisan political activity but at same time. Parliament carved out special seats for the military, most of which went to the founders of the NRM. This decision was justified ostensibly to enhance civilian-military dialogue and understanding.

During the latter half of 1990s, the intervention of the UPDF in the DRC and its role in the war in the north strengthened its political role, in a variety of respects. It is widely believed that the extraction of resources from eastern DRC served both to enrich senior commanders (prominent among the President's half-brother, Salim Saleh) as a source of movement finance and as a source of resources that could be devoted to the funding of ventures not easily accounted for in the official state budget (i.e., funding provided to the Sudan People's Liberation Army (SPLA). Gradually, however, evident corruption and malfeasance by top leadership has made an indelible dent in the image of the military.

Publicized reports of "ghost" soldiers' padding payrolls, purchases of junk helicopters, and engagement of senior military officers in plundering of resources in the DRC widened the chasm between the military high command and the rank and file, worsening morale problems and potentially sowing seeds of discontent. A Ugandan commission that investigated the involvement of senior military officers, including Salim Saleh, in the exploitation of Congolese resources concurred with findings of a previous United Nations security report. Significantly, however, no charges were filed after a judge determined that there was insufficient evidence to prove their involvement.

Key defectors from the NRM, notably Kiiza Besigye and Mugisha Muntu, made political capital of grievances related to the deterioration in military morale and the economic impoverishment of the lower ranks in campaigns that highlighted Museveni's departure from the initial ideals that characterized the NRM. In the face of criticisms that touch on the regime's core constituency, Museveni attempted changes in the military that have had mixed results. Demotions, redeployments, retirements, and court martials have been strategically used by Museveni to enforce political loyalty within the UPDF under the guise of enforcing military professionalism, but they have also elicited deep resentment from some factions of the military.

Though he retired from the military in preparation for contesting a third presidential term, Museveni still effectively controls the military in his capacity as commander in chief. The lead-up to the referendum demonstrated the difficulties of military representation in Parliament in a partisan context and underscoring unresolved issues in civil-military relations. Under the Movement System, military representatives in Parliament had fewer constraints on their action, but the vote on the third

term presaged the problems military members might face in choosing to vote their conscience in opposition to their commander in chief. The open voting method introduced in Parliament to guarantee passage of the constitutional amendments placed the army representatives in an awkward position, forcing them to choose between their constitutional obligation to remain non-partisan and their obligations to obey orders through the chain of command. During the parliamentary vote on the third term, UPDF representatives who strayed from the NRM line were hounded out of Parliament for indiscipline and insubordination. Brigadier Henry Tumukunde, the former Director General of Internal Security Organization, landed in a military court after he threatened not to vote with the government on abolishing presidential term limits. Colonel Fred Bogere, another army representative, abstained from the vote, charging that, as a member of the armed forces, he wanted to avoid partisanship. He was subsequently stripped of his seat and indicted in a military court for disobedience. The Army Commander, Lieutenant General Aronda Nyakairima reiterated that the army would not tolerate its representatives who vote against its decisions in Parliament, claiming that the army MPs do not have individual views but must present those of their electorate, the Army Council.

Possibly as a hedge against growing uncertainty in military support in the wake of the 2001 presidential election campaign, the government has boosted the capacity of the PGB (formerly the Presidential Protection Unit), an elite force headed by Museveni's son, Major Muhwezi Kainerugaba, that is composed of upwards of 7,000 soldiers mainly from Ankole. There have been complaints that the PGB is getting better weapons, training, and resources than the regular army. Some critics allege that Museveni seeks to strengthen the PGB to guarantee that the disaffected elements of the military will not mount a successful coup. Recently, opposition parties have put the issue of disbanding the PGB on top of their reform agenda, charging that its creation heightens instability. As it overshadows the regular army, the PGB represents the militarization of politics in ways that recall the traumatic periods in Uganda's post-independence history.

Given its links to Museveni and the NRM, there is considerable uncertainty regarding the future role of the military in politics during and after the transition from the Movement System to a multi-party system. A genuine democratic dispensation would imply clear civilian control of the military and its effective de-politicization and transformation into a non-partisan institution. However, the legacy of military involvement is deeply rooted in Ugandan politics. Moreover, non-partisanship is difficult to achieve without a cohesive military. The UPDF has pledged that the military will not hijack the transition to a multiparty order and has drawn up plans to train its officers on dealing with the transition, but the fragmentation of the armed forces reflected in the emergence of the PGB may not augur well for redressing the civil-military imbalance and may complicate efforts to allay growing skepticism about the role of the military in the transition. Although there are current efforts to revisit the question of special seats for the military and other constituencies, it is unlikely that the Movement will choose to forgo control of privileged seats that guarantee its continuing dominance in politics. It is therefore likely that the inconsistencies between a constitutionally non-partisan military and reality will worsen in a multi-party environment where the military will have to choose members and take seats in the new Parliament.

A further area of uncertainty relates to the potential role of the military in responding to election-related violence, before or during hotly contested elections or in the event of a contested electoral outcome. Since Ugandan civilian police structures have been consistently under-funded in favor of expenditures on the UPDF, the UPDF would likely be called on in the event of any significant civil unrest. Military commanders would be faced with largely the same choice that faces military MPs—whether to exercise their mandate to maintain security in a non-partisan manner or to enforce the directives of a command structure dominated by the NRMO. Since military and civilian policing functions are considerably different and require different tactics, a reliance on the military to respond to election-related civil unrest would greatly increase the probability of escalating violence.

The role of the UPDF in controlling opposition access to IDP camps in northern Uganda is also worthy of continuing scrutiny as elections approach.

3.1.4 Managing the Conflict in the North

Northern Uganda stretches from the West Nile on the DRC's border through the three Acholi districts to Karamoja districts on the Kenyan border. Geographically distant from the political heartland, the north shares common characteristics that stem largely from perceived social and economic marginalization and fragile ecosystems. As home to rebel movements and pastoralist groups, the north has also borne the brunt of militarization by the state. From the mid-1960s, most of Ugandan leaders such as Obote, Amin, and Okello came from the north. When the emergence of the NRM shifted power to the south, there was deep resentment that yielded rebellions that the NRM has managed through inclusion and incorporation, notably the Uganda National Rescue Front (UNRF) and West Nile West Nile Bank Front. The conflict with the LRA in Acholiland has, however, defied a political solution festering for most of the NRM's tenure. In the Karamoja region, the combination of resource conflicts, lawlessness, and the abundance of firearms has occasioned perennial conflicts between the UPDF and the Karimojong.

The LRA insurgency has been a major blight on Museveni's state- and nation-building credentials, dramatizing the military's incapacity to pacify a large part of the country. In scope and intensity, the conflict has exacted an enormous toll on the socioeconomic fabric, costing the lives of thousands of civilians and consigning an estimated 1.5 million population of IDPs in protected camps that have never been secure. By diminishing the capacity of the government to fulfill its development objectives, the war has fueled the perceptions of northern marginalization by the Museveni government and deepened the inequalities between the north and south. Efforts to manage the conflict have vacillated between the government's half-hearted political measures to engage the rebels and its equally ineffective use of military force.

After the NRM captured Kampala in January 1986, remnants of the defeated government army fled north either to Acholiland's three districts of Gulu, Kitgum, and Pader, or across the border into Sudan. In pursuit of these forces, the NRM launched a military campaign to stabilize Acholiland, stoking the grievances that subsequently drove the insurgency. Although the NRM incorporated some of the Acholi leaders into government structures, deep suspicions about the government's intentions wrought a militant millenarian movement led first by Alice Lakwena's Holy Spirit Movement, and, later, by her cousin, Joseph Kony's LRA. Throughout the insurgency, the LRA failed to provide a coherent political platform and increasingly relied on violent attacks on civilian targets and the forcible abductions of children into its ranks.²⁵ Starting in the mid-1990s, the conflict became a proxy war between Uganda and Sudan. In response to the Museveni government's support for the Sudan People's Liberation Army/Movement (SPLA/M), the Islamic government in Khartoum provided logistical and military support to the LRA, adding a complex regional layer to the conflict. Sudanese support declined appreciably from July 2002 after the government permitted Ugandan forces to attack rebel bases in Sudan, diminishing the capacity of the LRA. Increasingly deprived of most of its logistical capability in southern Sudan, the LRA has recently tried to relocate to the DRC.

²⁵ Kevin Ward, "'The Armies of the Lord': Christianity, Rebels, and the State in Northern Uganda, 1986–1999," *Journal of Religion in Africa*, 31, 2, 2001, pp. 187–221.

The UPDF's campaign against the rebellion has had mixed results. The core of its fighting force has lacked sufficient resources to be effective, a problem compounded by the reliance on untrained Local Defense Units. When Uganda intervened in the DRC in the mid-1990s, the military relegated the northern war to a secondary priority. Further contributing to the low morale of the military have been the widespread reports of corruption by senior military officers, particularly through illicit payments to ghost soldiers. More recently, some northerners have linked the continuation of the war to a purported strategy of land dispossession, with claims that the UPDF has been grabbing land belonging to people currently in IDP camps. Corruption, military inefficacy, and the deterioration in the conditions in IDP camps have contributed to the animosity between the Acholi and Langi and the Museveni government, more so since most of the northerners have consistently voted against the NRM.

The rapprochement between Uganda and Sudan government enabled the UPDF to somewhat regain the upper hand in meeting the rebel challenge, but the LRA's indiscriminate attacks demonstrated its resilience and raised doubts about the utility of a military solution. In Acholiland, the populations in the IDP camps increased dramatically from July 2002 after the retreating LRA mounted attacks against civilians.²⁶ Against what appeared to be an uneasy stalemate, donors pressured the government to negotiate with the LRA under the mediation of Betty Bigombe, a former minister of state in charge of northern rehabilitation, who had also previously mediated the conflict in the early 1990s. The Bigombe-led negotiations began in August 2004 with government participation at a ministerial level and against the backdrop of a limited ceasefire in the war zones. But they soon collapsed after the Museveni government rejected a memorandum of understanding that was supposed to form the gist of the negotiations. When the Bigombe talks collapsed in February 2005, the government's significant concessions had been the limited ceasefire that allowed key rebel commanders to surrender and take advantage of the long-standing government amnesty. While donors continued to press for the resumption of the talks, there was no incentive for the government to reengage the LRA, particularly as its core leadership was surrendering. Defections of LRA leaders convinced the government of its ability to contain the problem until the rebels buckled under military pressure. Dealing the final blow to the resumption of peace talks was the decision by the International Criminal Court (ICC) in October 2005 to indict Kony and his lieutenants for crimes against humanity. The majority of people in Acholiland had cautioned about the hastiness of the ICC indictments, noting that they would not resolve the primary problem of insecurity caused by small and mobile guerrilla units who owe their fanatical allegiance to Kony. Moreover, ICC indictments without a parallel political process that addresses unmet grievances in the north would only make the LRA much more ferocious and desperate in its attacks on civilians.

The northern conflict is a governance problem that is reflected in the absence of a broad-based national dialogue on ways to resolve it. Although the LRA has sought to exclusively appropriate Acholi grievances against the Museveni government, it is not the only voice in the north. In fact, the majority of the northerners who have been victimized by LRA attacks do not condone Kony's violent approaches to the conflict. Over the years, the Acholi Parliamentary Group (APG) has emerged as one of the core interlocutors with the central government, agitating for changes in government policies and programs toward the north. While most of the MPs were multipartyists and continue to play dominant roles in the emerging opposition parties, they have tried to reach out to the government in dealing with the diverse problems of the north. The APG has faced considerable obstacles in forging consensus about managing the conflict with the LRA, demonstrated in the detention and arrest of MPs such as Ronald Reagan Okumu and Michael Ocula, ostensibly for collaborating with the LRA. In addition, the APG was instrumental in forcing parliamentary debate in 2004 that sought to declare the north a disaster area, a decision that would have compelled the government to mobilize national resources to deal with the

²⁶ Justine Nannyonjo, "Conflicts, Poverty, and Human Development in Northern Uganda," *The Round Table*, Vol. 94, No. 381, September 2005, pp. 473–488.

enormous tasks of ending the war and preparing for post-conflict reconstruction. In response, the government used its parliamentary dominance to defeat the motion.

Civil society actors in the North have been equally visible in debates about finding a peaceful solution to the conflict as a preliminary step in the reintegration of the region into Uganda. For instance, religious organizations and traditional authorities have since 2001 coalesced as the Acholi Religious Leader's Peace Initiative (ARLPI) as an alternative avenue for peace-building and conflict resolution. Prior to 2001, some Acholi religious and cultural leaders lost their lives trying to negotiate peace with the LRA guerrillas. With a wide base of support in the mainstream religious movements in Uganda, the ARLPI has expanded its organizational reach but, like the parliamentarians, it has had limited success in generating movement on the peace front. The efforts by the ARLPI to build trust and bridge the gap between the government and the LRA have failed largely because of what its leaders describe as government indifference toward the north.²⁷ Despite these failures, the ARLPI has worked closely with local district authorities and other NGOs within the rubric of donor-funded District Reconciliation and Peace Teams to help with the reintegration and rehabilitation of returning rebels. Although these local initiatives and structures are important in enhancing dialogue among the core actors in the north, they do not produce a marked change in the lives of the population as long as the solutions to ending the conflict primarily lie in the hands of national actors.

Like everywhere else, the NRM has dominated debate about how to end the northern conflict, giving only limited space to alternative voices and actors. As a consequence, militarism has overshadowed other approaches to the insurgency, particularly as Museveni, convinced of military victory, perennially announces the dwindling numbers of LRA rebels. Equally germane, the north has remained a perpetual humanitarian crisis, permitting international actors to commit considerable relief and emergency assistance. Although the government, in collaboration with some donors, has, over the years, crafted economic programs for northern development, they have had no impact in the context of continued insurgency. Thus, as the war has persisted, humanitarian agencies have invariably become the sole providers of food and other basic services, leaving the government to marginally improvise in the security arena. The inordinate dependence on international humanitarian resources has, therefore, deprived local and central governments the ability to perform their essential governance roles. Although there is some local capacity in the north, the persistence of the war has deprived it of essential manpower, particularly in areas such as health and education. Few of the university graduates from the north return home to fill positions in government or NGO sectors. Weak local governments in the north are legacies of the war, and since decentralization elsewhere was beginning to strengthen local governance, the region will continue to lag behind the rest of Uganda.

In the arid and semi-arid agro-pastoralist Karamoja sub-region, deforestation has coincided with overgrazing among the pastoral communities to produce perennial droughts that fuel conflicts. Cattle raiding and water and pasture disputes among the pastoralists on both sides of the Uganda and Kenyan borders result in perennial population displacements and deaths. Since 1980s, Karamoja has been hit by drought every five years and suffers from the highest levels of malnutrition in Uganda. Although experts agree that the food security situation in the region could improve if the pastoralists abandoned their nomadic culture, there are few water holes and dams that would attract permanent settlements. The northeast region is also awash in small and light weapons driven by the absence of state institutions to protect the pastoralists from their neighbors and previous government provision of arms to the Karimojong to deal with anti-government rebels from Teso.

²⁷ See for instance, Rt. Reverend Macleord Baker Ocholla II, "Human Catastrophe and Emergency in Northern Uganda," Presentation of the Retired Anglican Bishop of Kitgum Diocese, at the Holy Family, Chapel Hill, NC, December 3, 2005.

There is a direct relationship between environmental fragility and insecurity in exacerbating armed conflicts in the northeast, but the government's focus has been primarily on disarmament of the Karimojong without provision of adequate security or alternative sources of livelihood.²⁸ In December 2001, President Museveni launched a disarmament program that the UPDF abandoned in February 2002 to deal with the challenge from the LRA. The government estimated that the first phase had recovered about 10,000 weapons, but the insecurity continued. In March 2005, amidst the worsening security situation wrought by cattle rustling, Museveni gave the UPDF commander two months to disarm the Karimojong warriors. The announcement coincided with a government promise to establish a permanent base in the region to confiscate all guns and establish law and order in the Karamoja districts. In the previous efforts, the main hurdle to successful disarmament was the lack of confidence among the local population that their security would be guaranteed. Although the government has collaborated with Kenyan authorities on joint disarmament programs across the borders, insecurity problems loom large in preventing effective durable solutions to the conflicts.

3.1.5 Approaches to Legitimization

Legitimization entails societal acceptance and trust in the actors, rules, institutions, and outcomes of the political process. Like most African countries, there is a mismatch in Uganda between how the public perceives political actors and the rules and institutions in which these actors operate. While the public typically does not bother about the nature of rules and are often apathetic about the parameters of institutional legitimacy, they accord significance to individuals who they associate with certain policy outcomes. As long as there are no significant departures from these policies, there is wider contentment within the wider public. The challenge in Uganda hinges on how the leadership and elites can transform the existing legitimacy into building durable institutions that the public can buy into.

President Museveni and the NRM retain widespread legitimacy in Uganda (outside the north), primarily because they are associated with a largely positive record of economic reform and regeneration, increased personal security, and political stability, consolidated during the 1986-1996 period. The ability of the regime to rally around core policy objectives, especially UPE, child immunization, the empowerment of women, and wealth creation, has solidified its reach and acceptance, particularly in rural Ugandan society. Equally significant to regime legitimization has been the weaknesses of political parties and civil society, which has allowed the state Movement to dominate political discourse, particularly at local levels, and to associate the delivery of basic public goods – often financed by the international community – with the performance of the Movement system, and the largesse of the President as an individual. Although opposition forces have rallied around the themes of corruption, abuse of power, and deterioration in livelihoods, they have not succeeded in greatly diminishing the President's stature in the eyes of the public, particularly in rural areas.

As a consequence, opinion polls conducted since 1993 consistently point to the popularity of Museveni, even in regions such as the north and east where the opposition has considerable support. In the more recent Afrobarometer survey, a plurality of Ugandans expressed the view that the Movement System is better than a multi-party system at providing good governance and securing of basic rights and freedoms, while at the same time, a majority of respondents favored a transition to multi-party politics. While those who support the continuation of the Movement System tend to strongly believe that the Movement will perform better, supporters of multiparty politics are much more measured in their expectations of their

²⁸ Ibid.

preferred system. There are also, understandably, stark distinctions between rural support for Museveni and the Movement and overwhelming support for the opposition in urban areas.²⁹

The legitimacy of the Movement began to decline somewhat after the opposition fought valiantly during the 2001 elections, but these gains have not translated into marked decline in Museveni's base of support, at least to the extent that it is accurately reflected in public opinion polling. Although the low voter turnout in the referendum is cited as an instance of Museveni's growing unpopularity, it may also be attributable to voter apathy and political inertia. Through centralization and ethnic exclusiveness the regime seems to be gradually creating the circumstances that may undo years of economic liberalization and political stability, but there is no groundswell of mass mobilization to reverse these dynamics. Short of sharp economic and political discontinuities, the structures of legitimacy are bound to remain the same, more so if Museveni runs for a third term.

Since the 1980s, the Ugandan political system has had the resilience to plod along primarily because it has not witnessed momentous events that radically changes the wider public perceptions about actors and institutions. In the absence of actors with a clear stake in enduring rules and institutions and the capacity to make themselves heard politically, it will take a long time for the public to associate problems of declining service delivery and economic growth to institutional decay and the performance of the political elite, either by commission or negligence. This is one of the reasons for growing disappointment with the course of recent political events among internal and external observers of Ugandan politics alike who believe that while the President has made significant contributions to Uganda and is still essentially popular, he has begun to squander this legitimacy through inchoate policies that recreate conditions for political instability in the long-term.³⁰ When faced with a choice between maintaining power and supporting the institutionalization of democratic processes and institutions, Museveni has invariably chosen the former.

3.2 THE COMPETITIVE ARENA

3.2.1 Elections, Referenda, and the Uncertain Meaning of Participation

Elections have played a prominent role in the consolidation of the Movement system in Uganda, alternately serving as modes of participation and contestation at national and local levels, and as a vehicle for the legitimization of the president's agenda. Particularly during the first decade of the Movement system, elections contested on the basis of individual merit provided an avenue for elite circulation and regeneration. As political space has been increasingly contested, however, Museveni has come to rely on the Gaullist strategy of using referenda to ensure the adoption of systemic changes in a way that allows him to claim a broad popular mandate.

As participatory tools, elections - particularly at the local government level—legitimized the Movement System by expanding people's input in decision-making, but perceptions of the role of elections are likely to change considerably with the onset of multiparty politics. Although the multiparty era promises to offer the electorate an arena for meaningful political choice, Uganda is still grappling with the definition and articulation of the basic rules that will guarantee the integrity of a transparent, fair and competitive

²⁹ Afrobarometer, "Ugandans Divided on Political Transition," Kampala, Afrobarometer Briefing Paper No. 15, July 2005.

³⁰ See, for instance the contributions of Johnnie Carson and Joel Barkan in "Challenges and Change in Uganda, The Woodrow Wilson International Center for Scholars, Africa Program," Washington, DC, October 2005.

political process. This process of rule-making is however taking place within the context of a subservient parliament and de facto occupation of political space at national and sub-national levels by the Movement cum NRM(O). The strong legacy of parties whose identities have been defined along ethnic, sectarian, and personal lines further complicates the institutional transition from a single party to a multiparty state.

Shifts in the meaning of political participation have corresponded with the NRM's ability to stabilize politics, with changes in the internal character of the Movement itself, and with the growth of opposition forces. In the initial triumphant phase of the NRM, participation was defined as the incorporation of a wide spectrum of political groups in government to facilitate political stabilization. The massive input of the people in the constitution-making process epitomized the high point of this phase. This era ended with Museveni's decision to entrench the Movement in the 1995 constitution, paving the way for a de-facto one-party and the elimination of any organized opposition outside the Movement. The 1996 election started to galvanize opposition groups affiliated to the traditional political parties who desired the opening up of political space. Paul Ssemogerere of the DP tried to rally opposition voices against what he perceived as the growing dictatorship of the Movement, but he could not compete with organizational muscle and legitimacy of the NRM anchored primarily on the Local Council (LC) structures.

The 1996 elections produced a vocal opposition in parliament that began to contest the extant rules governing participation. The NRM silenced these voices through the national referendum of 2000 that postponed the legalization of political parties. In the 2000 referendum, opposition parties alleged that the population responded to their calls for a boycott but the government inflated the results by mobilizing people to vote more than once. In boycotting the referendum, the opposition cited article 29 of the Constitution that guaranteed Ugandans unfettered freedom to associate. Although the referendum gave the Movement a new lease of life, its cohesiveness was ruptured by the defection of Kiiza Besigye who challenged Museveni under the rubric of a Reform Agenda. Besigye's defection threatened to erode the Movement's core support in Western Uganda and potentially make inroads in the UPDF, forcing the regime to use excessive force during the 2001 elections. The government's heavy-handedness, reflected in the violence unleashed on opposition candidates and supporters during the elections, confirmed a growing crisis within the NRM that was to have implications for changes toward multiparty democracy. After the 2001 elections, the government appointed a CRC to explore changes to the constitution, including the possibility of lifting the ban on political party competition. In early 2003, Museveni and the leadership of the NRM decided to accept multiparty pluralism, citing donor pressure for political reforms.

The constitutional changes to expand partisan competition have come with significant trade-offs, specifically the abolition of presidential term limits. With deepening internal divisions within the Movement, Museveni decided to allow the return of multiparty democracy essentially on the condition that parliament act to guarantee that he could continue to govern after March 2006 and beyond. In this respect, the Movement radically shifted the terms of political legitimization, claiming that the majority of rural voters would only accept the change to a multiparty political system if they were assured that Museveni would remain the Movement's candidate and lead them through the transition. Typical of the populism that has marked his governing style, the president orchestrated a national referendum in July 2005 that legitimized these changes. The opposition unanimously boycotted the referendum and the voter turnout was abysmally low, but it essentially reversed the result of the previous referendum. More critical, the dual nature of the recent constitutional changes cast a shadow on the political horizon, contributing to the uncertainties in the meaning of political participation. As Uganda attempts the difficult transition toward pluralism, some of the questions of institutional rules for participation are being resolved, but others are emerging, most notably whether political parties, given their history and modes of aggregation, are prepared to be effective vehicles for participation. Another element of the puzzle is how to reconcile strong leadership, which has

been at the root of much of the Movement's early success – with the construction of robust institutions and increased popular participation.

3.2.2 Legislative Power (Sixth and Seventh Parliaments)

The 1995 Constitution endowed the legislative branch with powers that were significant, but nonetheless dwarfed by presidential authority and prerogatives. In practice, the impact of the legislative branch as a source of countervailing institutional authority has been effectively limited by the president's ability both to appoint and discipline members and to control the electoral process, and through it the partisan composition of parliament.

The 1996 elections, conducted on the basis of individual merit, were openly contested, leading to the Sixth Parliament that was able to creatively work around the institutional constraints by making its voice felt across the political spectrum. Since the elections were conducted in a climate of relative competition without much interference from the Movement, they produced MPs with a sense of confidence and national purpose. Many were Movement loyalists, but others were not. Inspired by a newly found sense of freedom, MPs took their legislative roles seriously underscoring that individual legislators could make most of the political space to change the legislative and governance agendas. The Sixth Parliament demonstrated its political efficacy by passing two censure motions against Museveni's key allies, current Minister of Health Jim Muhwezi, and Minister of Foreign Affairs, Sam Kutesa. Both were censured for corruption, but reinstated almost immediately by Museveni. It further cracked down on corruption in the privatization of the public enterprises that had become the targets for predation by the president's close advisers and relatives.³¹

The Sixth Parliament made considerable progress in developing internal structures, procedures and capacity to facilitate executive oversight functions including parliamentary committees in key areas, notably parliamentary committees on foreign affairs, budget, legislative and parliamentary affairs, and legal and judicial affairs. Over the years, donors, including the USAID have devoted resources to boosting the administrative competence of these committees, which ideally will be key institutions for multiparty dialogue in future parliaments. Similarly, the Sixth Parliament supported the creation of most of the independent government agencies with oversight functions. Unfortunately, as parliamentary independence has waned, the effectiveness of these agencies has declined as well, since their functions are largely advisory, and they rely on parliament (or various executive agencies) to act on their recommendations.

As the product of the divisive 2001 elections, the current Seventh Parliament reflects the shrinking political space in Uganda. The deep divisions that besieged the NRM in the 2001 elections created a context in which the executive sought to increasingly control critical institutions that may potentially challenge its power, making parliament the immediate target. As a result, NRM members have had less latitude to depart from the policies promulgated by Cabinet and the executive. In fact, with parliamentary bills emanating largely from the presidency, parliament has become merely a rubberstamp of executive decisions. In addition, the Seventh Parliament has enacted little meaningful legislation, owing to the inability of MPs to present individual bills and chronic parliamentary absenteeism. Moreover, with NRM MPs increasingly looking over their shoulders not to antagonize the executive, the Seventh Parliament degenerated into an ineffective institution plagued by the contentious relations between NRM loyalists who did little more than the executive's bidding and those critical of the regime who were powerless to do

³¹ Anne Mugisha, "Change in Uganda: Museveni's Machinations," *Journal of Democracy*, Vol. 15, No. 2, April 2004, p. 141.

much more than complain. Under the watch of the Seventh Parliament, the executive pushed through significant constitutional revisions that were approved by a parliament whose Movement majority had been already compromised through financial inducements and the removal of voting by secret ballot. Perhaps as an indication of the quality of representation in the current parliament, Movement MPs, uncertain of reelection in the March 2006, are demanding guarantees for future jobs in government before they can campaign for Museveni and the Movement.

3.2.3 The Return to Multi-party Politics, Party Development, and Political Opposition

The return to multiparty politics stems from a combination of donor pressure, internal incoherence in the NRM, and sustained agitation by opposition groups. From March 2003 when the National Executive Committee of the NRM decided to re-introduce party competition, Museveni acknowledged the visible hand of donors, conceding that the NRM had to make a strategic shift in light of mounting donor demands.³² Subsequently, while denouncing pluralism by invoking threats to political stability, the NRM has reluctantly conceded to change, but Museveni describes decision as a pragmatic move to purge the NRM of political malcontents, and in none of his statements has he ever expressed a genuine belief in the merits of a multi-party governance.³³ With the parliamentary approval of indefinite presidential tenure, the NRM's misgivings about the wisdom of multiparty politics have waned considerably, allowing Museveni to parade as the magnanimous author of pluralism. As new demands have coalesced about creating rules that would level the political playing field for opposition parties, the NRM has responded very slowly, re-igniting fears that liberalization process is Museveni's strategy to reconsolidate political control. In this respect, NRM stalwarts have openly spoken of replicating the Tanzanian model where the ruling party, CCM, has retained state power in the era of political parties.

The opposition that emerged in the NRM's western stronghold since 2001 threatened to spread throughout the country (and probably the armed forces) by demonstrating the ability of the opposition movement to confront the erstwhile monolithic Movement. The excessive use of the military and paramilitary groups to preempt the opposition further dealt a blow to Museveni's stature. After the 2001 elections, the Movement could no longer claim its previous ideological and organizational cohesion. Moreover, with the consultative structures of the NRM increasingly giving way to the President's personal rule, more independent voices within the Movement found an opportune moment to join the opposition. It is in this narrow respect that the return to multiparty politics preempted the NRM's internal rifts from getting out of hand. Pluralism also served to soften the criticisms on the third term bid, allowing the Movement to kill two political birds with one stone.

Beyond the legalization of political parties, the landscape for political contestation is still very much uncertain both in terms of the organizations and operative rules. Throughout most of its independence period, Uganda has retained a strong sense of political party affiliation despite years of military rule and one-party dictatorships. It has some of Africa's oldest political parties, notably the UPC, the DP, and the CP. These parties were essentially formed on narrow sectarian bases- religion and ethnicity. With the freezing of political party activities under the NRM, these parties were effectively precluded from organizing or recruiting broadly on a national scale, and thus little opportunity to expand beyond their

³² Edward Kannyo, "Change in Uganda: A New Opening?" *Journal of Democracy*, Vol. 15, no. 2, April 2004, pp. 136-37.

³³ J. Oloka-Onyango, "The White Paper and Political Transition in Uganda: Assessing the Implications," Kampala, Report presented to the Donor Democracy and Governance Group (DDGG), undated.

historical bases of support, a factor that continues to undermine their credibility. More vital, these parties are hobbled by lack of internal democracy, demonstrated by internecine leadership struggles and succession battles. In October and November 2005, most of the political parties held conventions to choose leadership, but there is every indication that these conventions have done little to resolve serious intra-party disputes.

Before his recent death, Milton Obote held sway over the UPC, governing in absentia from exile in Lusaka. With the room for participation opened up to political parties, a major rift occurred in UPC precipitated by Obote's attempt to exert more control on wayward members. The conflict also rekindled the ethnic divide within UPC between factions identified with the northern Langi-Acholi groups and the non-northern groups. There was also a generational conflict, with some of the youth leaders attempting to wrest power from the old guard. Obote's allies finally prevailed, electing his widow, Miriam, as the UPC's presidential candidate, quashing any hopes for a significant change in the party. Similarly, the advent of the multiparty era provoked a leadership struggle in DP that pitted its retiring leader, Paul Ssemogerere, against a faction led by the former mayor of Kampala, Haji Nasser Sebagala. At the DP party convention, the Kampala mayor Ssebaana Kizito emerged as the compromise candidate, but factional wrangles have continued and contributed to massive defections from DP.

The lifting of the ban on political activities has led to a mushrooming of parties, with 33 registered by mid-2005, perhaps a majority of them fronted by the NRM to destabilize the opposition. Of the new parties, the one with the most promises is the FDC, a coalition of former NRM members dissatisfied with what they claim is Museveni's growing dictatorship and MPs seeking to carve a new direction from the traditional political parties. In building on the grievances and organization of the Reform Agenda, the FDC elected Kiiza Besigye as its presidential candidate. Previously exiled in South Africa, Besigye recently returned to Kampala to position the FDC as the main challenger to Museveni. But Besigye's future as a presidential candidate is in doubt after his arrest for treason, arms possession, and rape. The FDC's campaign platform seeks, among things, to uphold the two-term presidential limits; to guarantee the welfare, security and immunity of all retired presidents; build a strong, well-trained and strictly non-partisan, non-sectarian and professional armed forces; and remove militarism as the cornerstone for Uganda's foreign policy. Most of the political parties are preparing for party conventions and have yet to build a significant national base that would contest the NRM's dominance.

Pending the resolution of leadership issues, six mainstream opposition parties have formed a pressure group to lobby for fundamental reforms prior to the elections. The G6, comprising the UPC, the DP, the CP, the FDC, the JEEMA, and The Free Movement, mounted a legal challenge against the constitutionality of the referendum and mobilized for its boycott. Despite expectations that the G6 could evolve into an alliance that would field a single candidate to challenge Museveni, there are legal and organizational impediments to such a challenge. The law specifies that only duly registered parties, rather than coalitions, can field presidential candidates. Even more important is that the opposition parties appear too divided to contemplate any durable alliance beyond the G6. Nonetheless some of the opposition parties have started to contemplate innovative alliances that would result in strong regional voting blocs that would deprive the NRM of victory. By this scenario, if opposition parties with comparative ethnic advantages can field competitive candidates in different regions, particularly the North and West, they may be able to deny Museveni an absolute majority and force a run-off election in which they would front a single candidate against him.

In the larger democratization context, Ugandan opposition parties are in a similar position to where the Kenyan opposition parties were in 1991: operating on the periphery and margins of a political system that is slow to open up. Yet the opportunities for the opposition in the current democratization trend cannot be underestimated. Most of the organizational difficulties of the opposition reflect the inevitable teething problems of coming out of decades of authoritarian control. In fact, the relative ease with which parties have resurrected their structures underlines their ability to be meaningful players in the transition rather

than conceding the game to the Movement. With very little time to organize and with major reforms unlikely, opposition parties face the NRM state machinery that is well endowed with resources and organizational capacity, a public that makes few demands on politicians, and Museveni's long shadow that hovers over the political space. Although Museveni confronts the difficulty of supervising a transition that he has not entirely bought into, there is a growing confidence that opposition parties are unlikely to constitute a real threat to the gargantuan machine that the NRM has erected over the years. The opposition can only make political inroads in the future when there are changes in the structures of patronage and when they are groups mobilizing and demanding democratic values.

3.3 THE BROADER GOVERNANCE ARENA

3.3.1 Authority and Role of Institutions of Accountability

The findings of the present assessment are consistent with those of Barkan et al. who concluded in mid-2004 that:

“...A fundamental characteristic of Uganda's political system was, and remains, that President Museveni *is* the Movement and the Movement is Museveni. Political and administrative institutions established for the purpose of achieving horizontal and vertical accountability are weak except for the judiciary, and, to a lesser extent, Parliament. Most fundamentally, the Government of Uganda is a regime of personal or “neo-patrimonial” rule—a political system dominated by one individual who maintains his authority through a combination of patronage and the selected use of intimidation and force. Once touted as one of the “new leaders of Africa,” the President over the last eight years has increasingly resembled the old. During the same period, the Movement, which in theory includes all Ugandans, has increasingly resembled the single party systems that governed Africa from the late 1960s to the early 1990s.”³⁴

As the distribution of patronage has increased in importance as the basis for presidential power, the conditions of neo-patrimonial rule have undercut the leadership's desire for functioning institutions of accountability.

During the first decade after the NRMs accession to power, the creation and revitalization of participatory processes and institutions, including elections, parliament and local government was an integral element of the Movement's inclusive stabilization agenda. In effect, to guarantee security, stability and broad popular acceptance of the Movement system, broad popular participation in governance and the empowerment of institutions of accountability were seen as essential. Economic and political liberalization, considerable improvement in respect for individual human rights, and improvements in the delivery of social services (particularly health and education) served to generate a broad base of popular support for the Movement system..

In the heyday of economic liberalization, the NRM saw governance as the creation of institutions of accountability that would complement the regeneration of a functional parliament and the judiciary. In the

³⁴ Joel Barkan, Saillie Kayunga, Njuguna Ng'ethe, and Jack Titsworth, “The political economy of Uganda (The art of managing a donor-financed neo-patrimonial state),” background paper commissioned by the World Bank in fulfillment of Purchase Order 7614742, Final Draft of July 6, 2004; p. iii-iv.

context where most public institutions were dysfunctional, the NRM had a unique opportunity of building new state institutions that were more responsive, accountable, and efficient. The authority of accountability mechanisms has, however, been intimately tied to the changing balance of power between the executive, the legislature, and judiciary. When parliamentary and judicial checks were strong, accountability institutions had more latitude; but with the emergence of a hegemonic presidency, these institutions have struggled to hang onto their diminishing authority.

The government of Uganda includes a number of accountability institutions. The OAG, for one, can trace its roots as far back as 1900. The 1995 Constitution created another, the IGG, and endowed it with responsibilities to constrain the abuse of public authority. The IGG was specifically created to enable the public to report government officials implicated in corruption. Working alongside the Directorate of Public Prosecution (DPP), the Ministry of Finance, and other arms of the government, these institutions were at the forefront of anticorruption campaigns. The government also created a Ministry of State for Ethics and Integrity in 1998 to coordinate the activities of anticorruption agencies and provide leadership in the formulation of policies that would foster accountability.

The authority of these institutions, however, has been hampered from the outset by inchoate and overlapping mandates, small budgets, and, increasingly, executive interference. They have primarily advisory functions and lack the power to directly initiate criminal proceedings. Evidence collected during the course of anticorruption investigations is instead transmitted to the DPP, housed within the Ministry of Justice, for prosecution. An executive institution, the DPP has proven incapable or unwilling to act on the recommendations and evidence received.

For instance the IGG employs close to 400 officers to investigate cases of corruption countrywide while the Kampala Criminal Investigation Department has 6 investigators dealing with corruption cases. After a period in which it was run by an outspoken minister who tried to expose the list of corrupt politicians and government officials, the Ministry of Ethics was downgraded to a lower tier in 2001. Similarly, the former IGG questioned government's commitment to the IGG and resigned citing frustration in his crusade to arraign senior politicians and government officials involved in grand corruption. The OAG, for its part, is mandated to submit its findings and recommendations to parliament, but is powerless to compel that body to act on them. There is a growing gap between the submission of reports by the OAG and consideration by one of the three relevant committees in Parliament. These are supposed to consider submissions within six months of receipt, but they are between one and three years in arrears. The backlog has increased significantly under the Seventh Parliament. To compound matters, action on committee recommendations is ultimately the responsibility of the executive branch.

In addition to inadequate mandates and resources, the government has weakened the functional roles of accountability institutions through the appointment of judicial commissions to investigate allegations of corruption and abuse of office. These commissions have had little impact on enhancing the climate of government accountability primarily because there are no prosecutions of perpetrators implicated in commission findings. Most individuals in all accountability institutions cite inadequate evidence for the absence of prosecution of corruption culprits, a problem that has diminished the credibility of these institutions. Except for an Inquiry into the Police Force, there has been no implementation of the recommendation of the rest of commission reports. In another instance, the Constitutional Court challenged the recommendation of the IGG to the president to sack an official who had breached the leadership code, ruling that this would interfere with presidential prerogative. In an effort to pressure the government, some NGOs have recommended that the government make public the findings of all commissions of inquiry into corruption and prosecute all the culprits implicated in these commissions.

One indication of the shifts in priority with respect to accountable and transparent governance is the proposal in the Constitution (Amendment) Bill, 2005, for surgical reforms that would be tantamount

to the removal of the IGG. One clause in the bill seeks to grant the president the powers to fire the IGG. The bill also proposes amendments that would substantially erode the core role of the IGG such as the removal of duties such as promoting the rule of law and principles of natural justice in administration and promotion of good governance in public offices. Most of the provisions in the amendment bill emanated from a Cabinet White Paper, signaling the government's efforts to reverse the gains on accountability. Although the Eighth Parliament will make decisions on most of the amendment bill, there is no guarantee that it will be strong enough to restore the authority of the IGG.

3.3.2 Corruption

Despite the existence of elaborate institutional and policy frameworks for combating corruption, abuse of office and wastage of public property, corruption in Uganda is pervasive, institutionalized, and on the increase. More pernicious is the growth of grand corruption that had been less salient in the initial years of the NRM's campaigns for public probity.³⁵ As corruption has become increasingly associated with the President's family and inner circle of advisors and allies in government and the military, it has led to increasing popular cynicism with regard to government commitments to concepts of democratic accountability, transparency, and good governance.

Previously laudatory of Museveni's anticorruption campaigns, donors have recently called for urgent measures to improve governance and reduce corruption, warning that the momentum for transparency has dissipated. The upsurge of corruption is linked to the erosion of accountability institutions, but more fundamentally to the resurgence of the culture of impunity in which some of the leaders regard state institutions as their personal preserves. Equally germane, corruption has grown in tandem with coercion, raising the stakes of staying in power.

Despite years of public sector reforms and rhetorical commitment to anticorruption, Transparency International has continually ranked Uganda among the eight most corrupt countries in the world in its recent reports. Although one of the objectives of privatization was to reduce the public sector and minimize the sinecures for corruption, Uganda's public sector is gargantuan and still expanding. According to the 2001 Auditor General's report, over shillings 200 billion (US\$114.2 million) is lost through embezzlement, diversion and lack of accountability, misappropriation, fraud and outright theft. Furthermore, investigations and judicial commissions of inquiry have unearthed massive corruption by senior public officers and highly placed politicians, but the government has taken no action. For example, the commission of inquiry into the military's purchase of junk helicopters discovered that the government lost over \$7 million in the deal. Like the other accountability institutions, the Public Procurement and Disposal of Public Assets Authority (PPDA), established to check corruption in the tendering and procurement processes, has no teeth.

Museveni's modus operandi on corruption has been to blame some of the very institutions that he has entrusted to fight corruption. After a much-publicized campaign against the police, he launched his assault on the judiciary. More recently, with donors complaining about the lack of political will to fight corruption, Museveni charged that the real culprits were government accounting officers in ministries and districts. He has also pointed to the fact that privatization has cancelled out 50% of the corruption cases in government, even though critics have contended that corruption has merely shifted to new centers in

³⁵ Roger Tangri and Andrew Mwenda, "Corruption and Cronyism in Uganda's Privatization in the 1990s," *African Affairs*, Vol. 100, No. 398, 2001, pp. 117–33; and Rachel Flanary and D. Watt, "The State of Corruption: A Case Study of Uganda," *Third World Quarterly*, Vol. 20, No. 3, 1999, pp. 515–36.

government. Other critics have charged that Museveni's anticorruption efforts are half-hearted and selective, targeting primarily regime opponents. For instance while he quickly overhauled the police force on the basis of a commission of inquiry, he has been reluctant to act on reports that have implicated powerful individuals around him. In hastening the victimization of some while insulating others, the president has undermined the credibility of anticorruption efforts.

The Seventh Parliament amended the Constitution to create special tribunals to try corruption cases, even though most of the MPs saw no need for these courts. The opposition MPs argued that the creation of special tribunals would compete with the existing judicial structures and would only serve propaganda value for the government. Similarly, the Ministry of Ethics and Integrity unveiled the government's second anticorruption blueprint, "National Strategy to Fight Corruption and Build Ethics and Integrity in Public Office 2004–2007," replacing the previous 2001–2004 strategy contained the same objectives and was never fully implemented. Demonstrating the general skepticism toward this new strategy, even government-supported MPs noted that the problem of corruption was not lack of blueprints or institutions, but rather the failure of the government to provide human and financial resources to enable the various anticorruption institutions to perform their role effectively.

3.3.3 Rule of Law

One of the NRM's exemplary achievements, consolidated primarily during the 1986–2001 period, was to improve the rule of law, notably through the development of a constitutional framework that has sought to protect the rights of individuals, freedoms of the press, and promote the ability of NGOs to operate. There has equally been a remarkable measure of judicial independence where judges and courts have, for the most part, operated without much interference. But while respect for legal institutions has grown, Uganda remains a long way from constitutionalism, that is, the elimination of intervention by the executive and legislative branches in the administration of justice. Recent trends are not entirely positive however, and increasingly as higher courts have intervened in political contests surrounding the expansion of competition, they have been subjected to more pressure from the executive branch. A variety of high profile political cases have also been referred to military courts.

The Constitution provides for an independent judiciary that allows the courts, in exercising judicial power, to act without being subject to the control or direction of any person or authority. In enjoining all organs of state to cooperate with the courts to ensure their effectiveness, the constitution also insulates the courts against retribution as a consequence of decisions they make. Spurred on by donors, the government increased the number of magistrates and judges, raised their salaries, and instituted training programs in mediation and court administration. Although donors have injected funds in legal reforms, including rebuilding courthouses and paying magistrates, the Uganda government spends less than 1 per cent of its annual budgets in the judiciary. Under-investment has heavily affected the administration of justice at local levels: the areas most affected by lack of adequate funds are the courts run by Chief Magistrates down to Grade 3 Magistrates who have a higher interaction with the public than the higher courts. The majority of public complaints against the judiciary emanate from lower courts where corruption and incessant delays are most rampant.

Higher courts, particularly the Constitutional and Supreme Courts, remain the islands of professionalism and integrity in the judiciary, but they have come under attack from Museveni through his relentless attempts to undermine confidence in the actors and processes. He has painted a picture of rampant corruption in the judiciary and charged the legal process with being slow, expensive, and inaccessible. In addition, on some occasions, Museveni has criticized principles of law that provide for due process protection as remnants of Uganda's colonial past. As both the Supreme and Constitutional Courts have handed judgments that have embarrassed the government in the unfolding political transition, Museveni

has heightened the attacks on the judiciary. Following the government's loss of a landmark Constitutional Court case in June 2004, Museveni made vitriolic attacks on Uganda's indigenous judges. In November 2004, he threatened to appoint a judicial Commission of Inquiry comprised of neutral judges from Commonwealth countries to suggest comprehensive reforms of making the Ugandan judiciary more professional. Critics, however, contended that although the judiciary may have its problems, it does not warrant a blanket overhaul. Moreover, the president's proposal is unconstitutional since the law provides that the president in conjunction with the Judicial Service Commission can only investigate individual judges, not the entire judiciary.

Museveni's battles with the judiciary stems largely from his bid to tame the judiciary and undercut certain constitutional provisions that check the excesses of the executive. Some parts of the Constitutional (Amendment) Bill, 2005, contain radical proposals that would make the judiciary more responsive to executive fiat. For instance, it proposes shortening the time by which Supreme Court judges and High Court judges would have worked prior to their appointments. Although Museveni has stated that this change is intended to create a larger pool of recruits for these two offices, critics argue that this would give him chance to appoint sycophants. The most controversial proposal in the bill was that courts could not overturn a referendum decision, reinforcing Museveni's assertion that courts have no power to hijack decisions of the people. Parliament has not voted on these provisions, but they still hang as the Sword of Damocles on what was beginning to emerge as an independent judiciary.

3.3.4 Changing Patterns, Objectives, and Meaning of Decentralization

The present system and structures of decentralized governance in Uganda traces its roots to the network of Resistance Councils established in areas controlled by the NRM as the basis for mobilizing grassroots resistance during the guerilla war of the early 1980s. Following the assumption of power by the NRM in 1986, the RC structure was given formal legal status in the *Resistance Councils and Committees Statute of 1987* as the basis for local governance. The NRMs approach to decentralization reflected both a symbolic commitment to popular sovereignty as well as a core element of its strategy for post conflict stabilization and reintegration. The RC structure was subsequently revised with the adoption of the 1995 Constitution and the subsequent passage of the Local Governments Act of 1997. Under the revised legislation, the earlier emphasis on grassroots democracy at village level was somewhat attenuated by the growing influence of higher levels in the LC system which were increasingly assigned administrative functions and control of resources. Nevertheless, elected councils at district (LC5), sub-county (LC3) and Village (LC1) levels have provided a basis for regular citizen involvement in local level decision making, even if levels of effective citizen participation between elections has remained low for a variety of reasons, including high rates of rural illiteracy and the limited capacity of Ugandan civil society to provide structure to citizen involvement. More generally, decentralization provided a substantive expression the regime's commitment to broadly inclusive governance.

Although the rapidity of decentralization reforms occasioned some initial concern among donors and practitioners relating to the limited capacity of sub-national structures, to the limited availability of local resources and to the potential for conflicts over roles and responsibilities of various decentralized structures, over time the system has functioned with increasing efficiency as the capacity and understanding of actors at all levels has deepened. Substantial donor resources devoted to the sector since the adoption of the Local Governments Act in 1997 has contributed to the development of more effective decentralized systems as well as to the training of a cadre of local government technical staff that is increasingly capable of managing an increasingly wide range of governance and service delivery functions.

In its substantive form, decentralization entailed devolution of power to local elected structures, the local councils (LCs), spanning the village, parish, sub-county, county, and district levels. For the NRM, the existence of vibrant structures of local participation lessened the pressures for embracing political pluralism at the national level. Yet, over time, local structures have acquired a life of their own, as some districts gained sufficient autonomy and a sense of ownership that the NRM may not have anticipated. As divisions surfaced within the Movement and between the Movement and a resurgent political opposition, particularly after the divisive 2001 elections, the President's ability to count on LC structures as a basis for electoral mobilization has lessened. Thus, the current efforts to recentralize by eviscerating the financial base of local authorities and creation of new, unviable districts partly stem from the resistance of the NRM government at the center to the growing power of local institutions. Moreover, in the uncertain context of competitive politics, there are no guarantees that semi-autonomous or autonomous local authorities would continue to do the bidding of the central government.

The core objectives of decentralization - participation, accountability, and service delivery- have been lauded for having brought government closer to the people and increased its overall responsiveness. Local government structures have increasingly served as a conduit for resources in the government's poverty eradication and sectoral development programs. Despite variations across the country, decentralization has served to shift responsibilities for service delivery to local authorities, improving local democracy in the process. Donor interventions have contributed to the strengthening of local government capacity and autonomy through assistance that improved their ability to generate revenue, plan and budget. Decentralization has, however, been a double-edged sword. Although starting to enhance people's participation and democratic control in decision-making, in most regions, participation has been poor and provision of services remains very low. Local level institutions have also reportedly been plagued with corruption, generally involving the manipulation of tendering and procurement procedures, undercutting the work of district service commissions, or misusing public property. Hiring authority has also been used in some cases to reward friends and political supporters regardless of integrity and competence.

The government has focused on the most egregious flaws of local authorities as a means to legitimize the drive toward recentralization while minimizing their achievements. Central government apologists often cite corruption in the LG system as a prime justification for the reversal of decentralization reforms. This is highly ironic since it takes place at the same time that a proliferation of districts is being driven by the center at least in part as a means of creating additional patronage resources to shore up electoral support in anticipation of the forthcoming elections.

The most critical reversals to date relate to the reintroduction of central government appointment of local Chief Accounting Officers (CAOs) and the abolition of the Graduated Tax in June 2005 that constituted the dominant source of local revenues. The central government has also assumed the task of paying key local council officers directly from the center, severing an important link in the chain of accountability between citizens and elected officials. The changes in the appointment of CAOs have been occasioned by government claims that it wants to deal with errant and corrupt CAOs, because central government is "blamed for the deterioration of services" at the local level. Other central government officials suggest that because the majority of funds administered at the local level come in the form of central transfers, they should be controlled at the local level by individuals responsible to the center. This cuts at the very heart of the decentralization reform.

On suspending the Graduated Tax (G-Tax), the government promised to compensate local authorities for revenue shortfalls, but resources notionally earmarked to make up the shortfall have been allocated to the creation of new districts. Although an unpopular tax, the abolition of the G tax means that most local authorities have been effectively forced to suspend operations. This has implications not only for local democracy, but for the capacity of local governments to carry out procurement, accounting and audit functions essential to the delivery of services, including those financed through conditional sectoral

grants. It also has implications for local governments to meet co-financing thresholds essential to trigger the release of donor funds in critical sectors including health and education.

A recent assessment of the impact of recent changes conducted by the Local Government Finance Commission concluded that,

Local government activities and programs that are financed from local revenue have been drastically affected which is likely to affect service delivery. Local revenues used to fund activities and operational costs for council meetings, core activities in some departments like Finance and Planning, Administration, Internal Audit and other local government priority investments that are not funded through conditional grants. These functions are very important in supporting the provision of services funded by PAF funds. If these functions are not carried out, they affect the functioning of all other sectors as they rely on these areas to function fully. Construction of office buildings will no longer be possible, as this had been the major source. Bushenyi, Rukungiri, Wakiso, Mukono, Mbarara, and Sironko that had started their projects have reported that work has stalled for lack of funds. Even donor-funded projects at the local government level may find the implementation of activities seriously hampered.

In all the local governments visited, it was established that councils no longer meet leaving the executive to handle only their day-to-day functions. This is likely to bring about serious complications and contradictions with statutory requirements. Councils in sub-counties are most affected. Most of them have not been in position to meet to consider their plans and budgets as required by law.³⁶

Despite ongoing discussions about finding alternative sources of revenues both at the local and national levels, most of the local leadership has interpreted the abolition of the G Tax as the beginning of central control over their growing autonomy. Many critics of the abolition have asserted that central government revenue financing of districts is not a viable option in the context of diminishing resources and skewed budget priorities at the center. There is also widespread discontent that has arisen from the trend toward deconcentration, with most authorities complaining that the progress that had already been realized in strengthening local administrative capacity will disappear. As power shifts back to the center, districts that had trained local leaders to manage the wide array of local institutions are going to lose manpower to national institutions. In addition, there will be no incentive for people to participate in the local institutions because they will have neither the power nor resources to be meaningful actors.

Further diminishing the gains of decentralization has been the creation of 20 new districts (see map, next page) by the President in the lead-up to the referendum that approved the constitutional revisions. The creation of the districts did not follow any established parameters, neither was the process informed by administrative necessity or economic rationale. Instead, the President announced their creation via presidential decrees, often to reward politicians threatening to withdraw support for the NRM, or to punish those who had.. The outcome of these populist moves is that the economic burdens on the central government are going to multiply while whittling down the power of local authorities. Most critics have argued that the government could have devoted more resources in strengthening the administrative capacity of sub-counties rather than creating what are essentially unviable ethnic and sub-ethnic enclaves.

There are also uncertainties about the effect of more districts on the parallel process of creating regional tiers, the new government structures parliament approved in the recent constitutional amendments. Meant

³⁶ “The Challenges of Abolition of Graduated Tax Revenues: Preliminary Analysis,” Local Government Finance Commission, October 2005, p.3.

to undercut the clamor for federal powers by the Baganda, the government has allowed districts the possibility of forming regional assemblies and regional governments. Some suggest that if implemented this may lead over the longer run to the strengthening of divisive regionalist tendencies, but more immediate concerns relate to the creation of an additional level of government in a context where existing local government political and administrative structures—which had begun to be effective—are starved for resources.

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3.4 LINKAGE INSTITUTIONS

3.4.1 Media

The media has flourished as a reflection of the broader liberalization in Ugandan society. Witnessed in the dramatic proliferation of radio stations throughout the country, the media has been one of the most robust and critical institutions in democratizing political discourse and pushing the envelope on the accountability of public institutions. More critically, under the Movement system, the independent media became a core voice for opposition leaders and NGOs, providing them a useful platform to articulate their interests and grievances. But as Uganda reverts to a multi-party system, the NRM has tried to introduce new forms of state control by quashing criticisms and reducing the number of free outlets through which the legal opposition can air their views.

Following the liberalization of the broadcast media, private FM radio stations grew countrywide. This is in contrast to the 12 radio stations and 5 television stations that were mainly found in Kampala in the mid-1990s. FM stations are the only major source of information for the majority of Ugandans, hence their popularity as a forum for debate on political issues. Most of the FM stations have talk shows that are frequently carried live, uncensored, and host government officials, opposition figures, and journalists. Likewise, there has been an increase in community radio FM stations that offer programs in music, education, regional and international news.

Two major English-language papers, *The New Vision* (government-owned) and *The Monitor* (independent), dominate print media; there also are newspapers that publish in local languages. *The Monitor* enjoys a reputation for its reporting and encouraging open public discourse on governance and democratization issues. Its frontal focus on political issues has often invited the ire of the government that has arrested and prosecuted its editors. For example, in 2002, police raided the offices of *The Monitor* and charged its editors with publishing information prejudicial to national security, but after protracted legal battles, the courts threw out the charges. Similarly, in November 2003, the government filed a court injunction against *The Monitor* to prevent the newspaper from publishing a ‘leaked’ version of the report of the Constitutional Review Commission. More recently Andrew Mwenda, a journalist with *The Monitor*, was hounded before the courts for sedition after accusing Museveni of complicity in the helicopter crash of the Southern Sudanese leader, John Garang in August 2005.

The government has tolerated independent media as a tangible symbol of openness even though legislation that limits press freedoms remains on the books and has enabled the government to arrest and harass journalists whenever it feels like. The sedition law, for instance, exists to clampdown on journalists who hold views at variance with the government. Although the Ugandan media has criticized the sedition laws, contending that countries that respect press freedoms should not have them on the books, none of the journalists accused for sedition have ended up in jail. Critical print media is also tolerated because it has no wider reach beyond Kampala. In contrast, given the availability of FM radios nationally, the government has closely monitored the broadcasts of FM stations particularly in sensitive regions such as the North and West. FM stations have given meaning to the vibrancy of public expression, provoking government intervention to limit their ability to broadcast. Over the past three years, the government closed down three FM stations. In addition, the government has threatened to close stations that criticize Museveni. In what independent media interpreted as a threat to the legal regime, the minister of information warned in December 2004 that freedom of speech did not include disrespect to the country’s chief executive. Under the 2002 Suppression of Terrorism Act, the government can close radio stations if they host exiled political dissidents on their talk shows.

In the transition to multiparty democracy, the government has invoked the arguments that media freedoms are not absolute, that the media have a social responsibility, and they should not abuse their freedoms. This posture has coincided with complaints from government officials about the bias by independent media in reporting on government programs and criticisms about the escalation of high-level corruption. In its 2004/2005 report, Amnesty International declared Uganda as a country where the freedom of the press is under “serious attack,” signaling the deterioration in the media environment. Despite the growing threats to the independent media, however, its relative professionalism and diversity will always guarantee that the media will have the capacity to maneuver in Uganda. Intimidation and threats to the independent media may continue in subtle forms and within the confines of the law but without fundamentally reversing the gains that have been realized over the years. To its credit, the government suggested and parliament passed a Bill on the Right of Access to Information that furnished the press with information that is in possession of the state or any other organ or agency of the state.

3.4.2 Civil Society Organization

Civil society organizations (CSOs) in Uganda exhibit conflicting tendencies: large in numerical terms, but weak organizationally; Kampala-based, with tenuous links to the countryside; and have mandates that are more attuned to service delivery than advocacy. These ambivalent roles stem from the fact that while the NRM promoted the CSOs as part of the steady liberalization of the social space, state legislation imposed many restrictions and controls on the evolution of autonomous civic associations particularly co-operatives dealing with peasants, trade unions agitating the rights of workers, and professional associations advancing the rights of the middle class. An equally important trend was the ability of the state to capture CSOs that dealt with women, a critical constituency. By the same token, there was a marked tolerance for urban-based CSOs that would not challenge the dense institutional network that the Movement had developed for rural mobilization through the LC system.

Functional CSOs have multiplied around the imperatives of HIV/AIDS, micro-enterprise financing, and rural development. But as donors have injected substantial resources in these areas, there has been a tremendous increase in the number of NGOs purporting to be engaged in service delivery. There is intense competition for donor resources in service delivery, leading some critics to contend that the proliferation of organizations has impeded the achievement of development objectives by making it increasingly difficult to distinguish organizations with viable constituencies and organizational capacity from those established primarily as vehicles for rent-seeking. More worrying is that most NGOs in the business of service provision tend to have weak organizations whose leaderships are motivated more by crass entrepreneurship than social welfare.

Women-based NGOs have taken advantage of the NRM’s progressive record on gender questions to organize and mobilize women around legislative changes regarding issues of inheritance and property rights, domestic violence, rape, female genital mutilation, and the rights of disabled women. But long regarded as having the potential for autonomy, women’s NGOs such as Forum for Women in Development and the International Federation of Women’s Lawyers have been unable to wrest control of women’s issues from the NRM and state-supported NGOs. The stark failure of women NGOs to mobilize for parliamentary passage of the Domestic Relations Bill underscores the obstacles they have had in agitating for fundamental change. Yet these problems are not unique to women organizations, rather they characterize most urban-based advocacy groups that have existed largely on the margins of politics.

Although coalitions of rights-based civic organizations have begun to have a mark on shifting the contours of political debate, they still confront enormous obstacles in articulating alternative voices and ideas in society. Undoubtedly, civil liberties have flourished because of the stubborn assertiveness of local and international NGOs devoted to human rights issues. The Human Rights Network of Uganda, a

consortium of twenty-five human rights NGOs, has been instrumental in forcing the issues of respect for civil liberties even when the state was uncomfortable with such appeals. Similarly, the Civil Society Organizations for Peace in Northern Uganda (CSOPNU), made up of forty national and international NGOs, has been active in advocating for the rights of the IDPs and pushed for a peaceful end to the conflict.

But the constriction of political dialogue has led to the increasing clampdown on groups and individuals that agitate in favor of what the government perceives as an anti-regime agenda. As the “Movement” has been transformed from a broadly inclusive system for structuring political participation into an increasingly narrowly-based political party bent on legitimizing and perpetuating the President’s rule, the climate for civil liberties and NGO activism has declined. A variety of NGOs report acts of intimidation, and others have been subject to (often successful) attempts to co-opt their leadership. In the north, CSOPNU’s relentless activism has not made much of difference in the government’s approach to the war against the LRA. A potentially influential NGO is the Uganda Debt Network (UDN), an umbrella organization that has coalesced around the fight against corruption. Apart from embracing the accountability agenda, UDN has broadened its work with other NGOs to focus on constitutional issues that have implications for democracy and governance.

The larger weaknesses in CSOs are attributable to ethnic and political fragmentation, weaknesses that competition over local and international resources has exacerbated. Furthermore, the confluence of the NRM’s ideology and mobilization structures has reduced the efficacy of competing organizations. As Uganda transits to multiparty order, it is as yet uncertain as to whether CSOs will take the lead in providing forums for information, education, and debate around the key questions of the present and future.

3.4.3 Donors and the Impact of Foreign Assistance (Do No Harm)?

Donors are universally regarded in Uganda as constituting the most solid opposition movement with the ability to affect the behavior of the current government. Although donor leverage is oftentimes exaggerated in the domestic context, their power accrues primarily from the enormous resources they have provided to support development and humanitarian programs. With 50 per cent of the budget financed with donor resources, increasingly in the form of direct budget support (with the notable exception, among bilateral donors, of USAID), there is a perception that President Museveni must listen attentively to the international community. The central challenge to donors has been how to translate their resource leverage into meaningful political change, particularly since most of them have been instrumental in underwriting the President’s agenda since the early 1990s. Nonetheless, despite enormous problems of coordinating policies for political change, there is a discernible movement toward a consensus on some of the democratic benchmarks and parameters.

The influence of donors in the democracy and governance arena has been partly compromised by Museveni’s adept reading of the changing moods of the international community. Sensing the mounting donor displeasure with the Movement system, Museveni convinced the NRM’s National Executive Council to lift the ban on political parties in March 2003. This decision mollified donors while affording the government the opportunity to reorganize its strategy for constitutional change. Similarly, the government has undercut donor complaints about high-level corruption by the forming judicial and investigatory commissions, most of which buy time and ultimately deflect the pressure elsewhere. For instance, following the recent decision by the Geneva-based Global Fund to Fight Aids, Tuberculosis and Malaria to withhold US\$210 million of its grants to Uganda because of corruption and serious mismanagement, the government promptly appointed a commission that was essentially going to revisit

the findings contained in the audit report commissioned by the Global Fund. No sooner had the commission released its findings than the Global Fund resumed funding to Uganda.

There is, however, widespread cynicism among Kampala-based anti-corruption advocates regarding the likelihood of meaningful follow-up to the commission's report.

Donors were largely unprepared for the Machiavellian political maneuvering which resulted in the abolition of presidential term limits, a discourse that overshadowed the constitutional revision process. More important, for most of the debate, Museveni's decision to run again was left as an open question even as his supporters rallied around it. Against the backdrop of Museveni's reneging on a meaningful transition, the United Kingdom took the unprecedented step of cancelling £5m (US\$10m) of funding to Uganda, citing insufficient political will to establish fair multi-party politics. What started as a lone move by Britain to withhold aid over the pace and direction of Uganda's political transition became a wave rallying other major donors who singly and jointly issued ultimatums to the government over the management of the country's political transformation. The Irish government followed the British decision, announcing the withholding of Euros 2 million in aid because of the lack of any guarantee that Museveni would not seek another term in office and the intimidation of political parties. Further suspensions of assistance (notably by the United Kingdom and Sweden) took place in late 2005, in the wake of the arrest and detention of opposition leader Kizza Besigye.

The donor's punitive measures marked a significant departure from previous stances toward Museveni, but they were essentially inadequate in stopping the train of constitutional revisions that have ensured Museveni's political survival. The limited aid stoppage was too little and came too late to have an effect on changing Museveni's calculus. Convinced that he would weather donor opprobrium in the long run, Museveni started to invoke self-reliance and reduced donor dependence as a medium term strategy. Threats of return to dirigiste policies of the mid-1980s dominated the political debates with donors. But when the donor-government relationships appeared to be worsening, critical meetings between government officials and donors organized as the Donor Democracy and Governance Group (DDGG) helped to ease the tensions. With donors standing firm that Uganda should not take aid for granted and government acknowledgement that it would not live without donor support, Museveni was forced to tone down the rhetoric about self-reliance and donor interference in Uganda's domestic affairs.

Donors have attempted to reclaim their sagging leverage by jointly establishing benchmarks that define their relationship with the government. In a letter to the prime minister in June 2005, the DDGG called on the government to address seven core concerns: broaden pluralism; reduce the growth of foreign debt; reduce poverty and inequality; curb corruption, avoid supplementary budget expenditures; rein in paramilitary groups, particularly the KAP; and find a peaceful solution to the conflict in the North. More pertinent for the transition, the DDGG has been advocating for fundamental legal and administrative reforms prior to the February 2006 elections because donors see them as the last chance to influence the course of institutional change. Exhortations for a well-managed transition to multi-party politics proceed from the assumption that there is need to restore credibility to a process that has been micro-managed from State House through the manipulation of state institutions and parliament.

Recent shifts in the almost 20 years of development partnership between Uganda and the international community have implications for the promotion of governance and democracy. Poignant criticisms and threats of aid cut-offs have not dissuaded Museveni from doing what he wants, but they have signaled the search by donors for a measure of policy consistency amidst the decline of the governance climate. Thus while donors confront major challenges in the face of half-hearted democratization, the collapse of the previous blanket aid regime for Uganda offers an opportunity for donors to engage with a wider range of actors. The international community has been reticent to offer forceful criticisms of the present government, given the significant early economic and political achievements under the Movement system, but the advent of the multiparty era provides an opportunity to rethink the international community's approach to governance issues.

3.5 THE CONSOLIDATION OF NEO-PATRIMONIAL RULE

Debates abound about whether the patterns of neo-patrimonial rule in Uganda have been in the making since the late 1980s or whether they are of recent vintage. Proponents of the former view claim that the spectacular record of economic growth and political recovery furnished the basis for Museveni to consolidate his power. Starting from a weak political base, Museveni was forced to, at first, depend on a broad ruling coalition exemplified by the era of the more inclusive and participatory NRM. In the current trajectory, presidential authoritarianism and the destruction of the broader NRM coalition have become logical bids to manage the political and social forces unleashed by two decades of peace and stability. By the same logic, as the self-proclaimed architect of the Ugandan miracle, the President now desires to begin a new phase of “developmental authoritarianism,” in which he can, as he has variously stated, complete the objectives of transforming Uganda into a modern state.

Others, however, claim that the structures of the neo-patrimonial state have resulted from the contemporary capture of state institutions by the President’s family and friends. As this group has accumulated enormous wealth through corruption and other illicit means, it perceives its future inextricably linked to Museveni’s continued stay in power. Furthermore, while in the previous phase, popular support and wider legitimacy helped to keep the governing coalition together, at present, the excessive concentration of economic power has alienated large segments of the coalition, hence the resort to coercion and corruption. From this view, the third term decision that reversed Museveni’s 2001 pledge to leave power at the end of his second presidential term, reflects the triumph of the new predatory coalition that now surrounds him. Coercion is necessary to sustain patrimonial plunder, but inevitably, it leads to instability as state institutions are weakened and rendered vulnerable. Despite differences in perspectives, the consolidation of the neo-patrimonial state in Uganda is reminiscent of patterns of regime consolidation in such diverse African contexts as Mobutu Sese Seko’s Zaire, Daniel Arap Moi’s Kenya, and Robert Mugabe’s Zimbabwe. Common to these patrimonial regimes was the progressive concentration of economic and political power, coinciding with the gradual decimation of formal state institutions. Once consolidated, neo-patrimonial rule is difficult to undo unless the leader changes direction or momentous events occur. As Johnnie Carson, former U.S. ambassador to Uganda has observed:

“How President Museveni deals with [the] issues of presidential term limits, the expansion of multiparty politics, and the LRA violence in the north will depend on what type of legacy he wants to leave behind for himself and for Uganda: one in which economic growth, democratic progress, and political stability prevail or a nation that is faced with a new round of destabilizing political challenges and continued civil conflict in the north. Many will suggest that these are national decisions, when in reality the decision is his despite the fact that the outcome will affect all Ugandans and perhaps others as well.”³⁷

³⁷ Johnnie Carson, “A Legacy in Danger,” in *Challenges and Change in Uganda*. Washington DC: The Woodrow Wilson Center for International Scholars, Africa Program, October 2005, p. 7.

4.0 IMPLICATIONS FOR STRATEGY DEVELOPMENT AND PROGRAM RECOMMENDATIONS

In framing the recommendations that follow from the analysis outlined above to ensure maximum utility to the Mission, we have sought to take into consideration a variety of factors

First, because the forthcoming USAID/Uganda strategy must conform to the *Strategic Framework for Africa*, we have attempted to frame the strategic recommendations flowing from the assessment in a manner consistent with the sectoral objectives outlined in the strategic framework. Since Uganda manifests characteristics of both the “transformational development” and “fragile” state categories, our recommendations address elements of both frameworks.

FIGURE 4.1 KEY OBJECTIVES OF AFR STRATEGIC FRAMEWORK FOR AFRICA

<u>Transformational Development Framework</u>	
Sectoral Objectives: (3-5 year planning horizon)	
1.	Reduce corruption and strengthen the anticorruption environment;
2.	Increase civil society's effectiveness in advancing reforms;
3.	Strengthen institutions of democratic governance and the rule of law;
4.	Increase participation of marginalized groups in decision-making;
5.	Increase the fairness of the political process;
<u>Fragile States Framework</u>	
Goal 1 – Avert and Resolve Conflict	
Objective 1.1 Reinforce peace process;	
Objective 1.2 Enhance protection of individuals from physical violence;	
Objective 1.3 Reinforce African conflict-mitigation capacity;	
Goal 2 – Manage Crisis and Promote Recovery, Stabilization and Democratic Reform	
Objective 2.1 Reintegrate persons affected by crises;	
Objective 2.2 Increase access to essential services provided by local and national institutions;	
Objective 2.3 Advance inclusive governance;	
Objective 2.4 Maintain/restore basic community activity and livelihoods.	

Second, we have sought to differentiate between activities that relate to the immediate term, and longer-term program options which are, to a degree, path-dependant and subject to developments over the next six to eight months. Finally, recognizing that resource constraints are likely to exist for the foreseeable

future, we have given greater priority to recommendations that can be addressed within a roughly flat resource envelope.

The symptoms of poor governance are relatively easy to identify; approaches to their solution must however address root causes if they are to have a chance of success. Recommendations must therefore flow from the nature of the problem identified. The discussion in Section 2.0 indicates that the predominant issues in Uganda at present relate to competition. The last five years have seen the progressive consolidation of a “neo-patrimonial” regime – one dominated by an individual leader whose personal authority is indistinguishable from that of the state, in which political power is “maintained through a combination of patronage and the selective use of intimidation and force.”³⁸ This trend was identified as a risk by the last DG Assessment team which in 2000 noted “with apprehension that much of the democratic progress achieved by the current regime has been in place for several years now, and that *there appears to have been a loss of momentum on solving the remaining issues of democratic consolidation.*”³⁹ The 2000 Assessment also drew attention to a tendency to manipulate democratic forms (e.g. the 2000 constitutional referendum) for purposes of regime legitimation, and suggested that the regime’s behavior during the referendum campaign “exhibited many of the telltale signs of a drift towards the logic of a one-party state, with the active mobilization of the Movement and the intimidation of the opposition.”⁴⁰

The identification of competition as issues of overriding concern should not be taken to imply that all programming should focus on the competitive arena, but rather that a failure to address the increasing constriction of political space can be expected to undercut efforts to introduce or consolidate reforms across the board. *The fundamental logic of institutional behavior reflects the structure of political power.* This suggests that although there remain significant capacity (institutional and human) and resource constraints which affect the ability of institutions to perform, efforts to address these without addressing deeper political issues will likely result in only marginal returns. It also suggests that where efforts are made to work at this level, a consistent effort must be made to focus on developing capacity in areas *which are not subject to the logic of the overarching neo-patrimonial regime, and have a meaningful chance of resisting it.* At a minimum, efforts should be made to avoid sending signals that suggest that present trends are acceptable.

Absent a state seriously committed to democratic reform, three primary areas of thematic engagement are recommended for the next three to five years of USAID programming in Uganda. These are best characterized under the headings of **anticorruption**, **political process**, and **fragility/conflict**.

4.1 SHORT-TERM (PRE-ELECTION) RECOMMENDATIONS

In the short term – from the present through the announcement of results following the 2006 presidential and parliamentary elections – there is little that the donor community can do programmatically to ensure that the playing field for multi-party electoral competition is effectively level. The international community must recognize the possibility that elections can be free but not fair, and develop appropriate responses. However, there is much to be done during this period to ensure that deficiencies of electoral

³⁸ Joel Barkan, Saille Simba Kayunga, Njuguna Ng’ethe, and Jack Titsworth, “The political economy of Uganda (The art of managing a donor-financed neo-patrimonial state),” background paper commissioned by the World Bank, final draft, 6 July 2004. p. iii-iv.

³⁹ Nicholas van de Walle, et al., “Democracy, Governance, and Conflict Strategic Assessment for Uganda,” (Management Systems International, December 15, 2000), p. 5 (emphasis in original.)

⁴⁰ Ibid.

mechanics do not provide an easy cover for Movement efforts to manipulate the voting or counting processes. Seen from this perspective, continued programmatic support for the Electoral Commission is worthwhile. More importantly, the diplomatic community should engage quickly? loudly? Actively? and publicly in reaction to any observed attempt on the part of the Movement (state or NRMO) to use violence and intimidation during the campaign period. Further, the behavior of the military and other security forces should be closely monitored. In our view, given the fundamental distortion of the electoral enabling environment and the unparalleled ability of the NRMO to access state resources and facilities, any large scale international electoral observation effort would likely be counter-productive and serve to legitimate outcomes. Support for civil society-led electoral process monitoring and electoral observation, for the conduct of a parallel vote tabulation (PVT) exercise, or for media capacity building related to election monitoring could be contemplated without lending credibility to a problematic process.

4.2 USAID PROGRAMMATIC ENGAGEMENT

Absent a state seriously committed to democratic reform, three primary areas of thematic engagement are recommended for the next three to five years of USAID programming in Uganda. These are best characterized under the headings of anticorruption, political process and fragility/conflict. Each of these areas is best addressed through support to one or multiple institutions. Unless there are significant positive developments during the lead-up to the 2006 elections, the analysis outlined in this assessment suggests the desirability of a progressive disengagement from direct support to central government institutions in the DG sector (with the exception of Parliament, and several other minor exceptions discussed below), and an increased emphasis on support to civil society, the media and the operation of political parties in Parliament.

Over the longer-term we are recommending a renewed emphasis on demand-side programming, and only a very limited and selective engagement on the supply side. On the demand-side, we emphasize the desirability of support to civil society, the media, and political parties (the latter with certain caveats), while on the supply side we emphasize selective engagement with *those state institutions that have significant formal authority* that can be used to resist the predations of executive interference.

4.2.1 Anticorruption

The conclusion of the present assessment is that as long as the present political leadership remains in power, it is unlikely that there will be serious commitment to reform on the part of government, particularly without compelling pressure from outside the system. Institutions (and institutionalization) are being progressively undercut by the personalization of presidential power. Consequently, basing an anticorruption strategy on state anticorruption agencies would be a mistake. This leads to two recommendations: First, work primarily on the demand-side of the anticorruption equation; Second, limit work on the supply-side, largely (if not exclusively) to *those state institutions that have significant formal authority*, if not practical autonomy. These recommendations are discussed below.

Work primarily on the demand-side of the anticorruption equation.

Corruption is perhaps the most likely issue around which significant societal pressure for improved governance could be generated and sustained; it is one issue which can be demonstrated to affect virtually every group in Ugandan society, and therefore the one issue around which there might develop a unity of purpose. Although a variety of governmental structures have been created, ostensibly to address corruption issues, the conclusion of the present analysis is that these have limited formal powers and are largely devoid of functional autonomy from the very institutions (and individuals) they are designed to investigate. We believe that direct engagement with these bodies would do little to address corruption and would, to the contrary, lend credibility to institutions intended to exist but not function. Consequently we

recommend approaching corruption from the so-called “demand” side, through the strengthening of non-governmental bodies that can bring to bear societal attention and pressure for change.

Such an approach to reducing corruption is consistent with, and indeed a critical strategic element of, more *generalized support for the development and strengthening of civil society* recommended below. Such an approach would imply that USAID:

- Mainstream anticorruption activities across all aspects of the USAID program (e.g., in the health, economic growth, and education sectors); since most donor funds are allocated to and absorbed by these sectors, donors have considerable leverage to require the application of more rigorous financial controls and procurement procedures, as well as greater transparency. Efforts to ensure the effective integration of two basic precepts of democratic governance—transparency and active citizen participation/review—across all USAID programs should be strongly encouraged.
- Within the DG portfolio, emphasize transparency, accountability and anticorruption across program components (e.g. in work with civil society, political parties, and the media, as well as in work with state institutions at national and sub-national levels);
- Identify and work with a small number of effective (and effectively autonomous) CSOs to improve citizen awareness of the linkages between corruption and their daily lives (e.g. access to and quality of services, including education, health, security, etc.); to advocate for greater transparency, expose misuse of public resources, and promote regulatory and procedural reform to limit opportunities for corruption; to develop the capacity of non-Kampala-based CSOs and CSO networks to do same at lower levels;
- Work with media to improve capacity for effective investigatory reporting and coverage of corruption-related issues (procurement, budget process, separation of Movement and state resources, etc.)

Limit work on the supply-side, largely (if not exclusively) *to those state institutions that have significant formal authority*, if not practical autonomy. Figure 4.2 below provides a rough plotting of a limited number of state institutions according to their degree of formal authority and degree of effective institutional autonomy from executive interference or control. Those institutions which are positive on both dimensions appear to offer the most fertile ground for assistance. Those institutions which are negative along both dimensions should, in our opinion, offer little prospect of meaningful impact and should be avoided. Apparent trends, in Figure 4.2, are indicated by solid black arrows.

A focus on developing the capacity of institutions that have limited authority (and limited political will) to promote effective public accountability is not likely to produce results and runs the risk of legitimating regime-sponsored inactivity. Seen from this perspective, Parliament is more worthwhile as a focus of effort and resources than are the panoply of so-called institutions of accountability (IGG, Ministry of State Ethics and Integrity, etc.), the OAG slightly less so, etc. Work with the judiciary on issues directly related to the hearing of corruption cases might be considered, but the impact would likely be limited by deficiencies in the area of investigation and prosecution which remain under the purview of less autonomous (or capable) executive institutions. It is worth remembering that few cases of significance have made it to court.

In choosing the appropriate program areas, USAID should seek to identify areas that have the potential to constrain the operation of the prevailing neo-patrimonial system; areas where overt resistance to reforms and/or procedural change will be difficult for government, but where incremental progress will either reduce opportunities for corruption, change incentive structures or facilitate prosecution (e.g., work on procurement reform and the development of automated procurement systems via PPDA has the potential

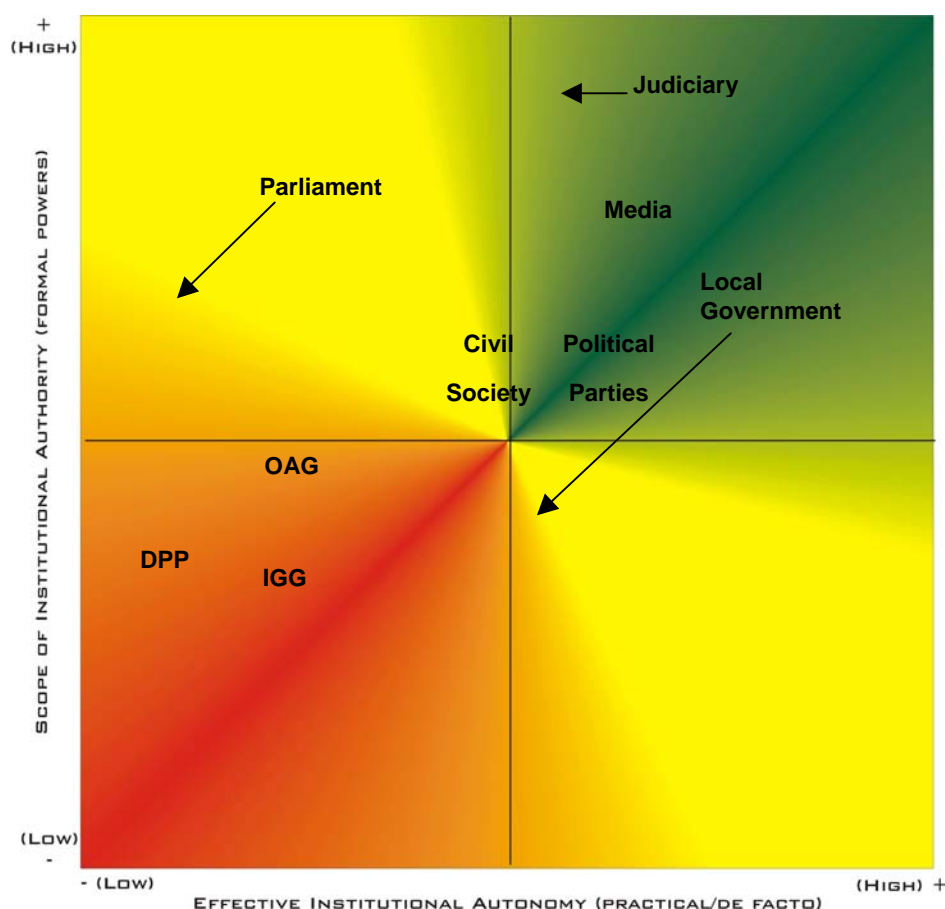
to greatly complicate the process of individual accumulation by limiting the ability of actors at multiple levels to hide the misallocation of funds.)

4.2.2 The MCC as Opportunity and Constraint

Constraint

The designation of Uganda as a country eligible for threshold funding through the Millennium Challenge Corporation (MCC) sends a signal to the Ugandan government that it does not have to worry seriously about US pressure relative to its performance on governance, and will likely reinforce the perception—shared by Museveni as well as the opposition—that the international community will be largely unable to maintain a united front in pressuring for political liberalization, or to impose meaningful sanctions for poor democratic performance as issues of democratic process take a backseat to other issues of bilateral importance (war on terror, abstinence). Furthermore, the MCC decision underscores a lack of consistency and policy coherence on the part of the USG as a whole, providing an opportunity for Museveni to play different agendas against each other to his own advantage.

FIGURE 4.2 INSTITUTIONAL VIABILITY



Opportunity

It would appear that USAID has little to gain in the long run by agreeing to a threshold program that focuses assistance on institutions with little potential to address the fundamental corruption issues. It is

also unlikely that the threshold program per se is of sufficient importance to the government that conditioning access to these resources would provide much leverage. An extremely optimistic interpretation of Uganda's eligibility would suggest that the desire to access the full envelope of compact resources would, in the best case, stimulate an interest on the part of the Government of Uganda to undertake more than cosmetic reforms, or at least put the government in a position where the cost of blocking meaningful anticorruption programming appears higher. In this case, USAID would be in a position to pursue a demand-side anticorruption strategy, and to avoid (or severely limit) working with formal anticorruption institutions whose purpose remains suspect and whose formal powers are limited. To the extent that MCC threshold program funds can be directed to support a broad civil society-based anticorruption program the likelihood of a positive impact is increased.

4.2.3 Political Process

With regard to political process three principal problem areas appear most pressing. These relate to actors, institutions and environment.

Political/Electoral Enabling Environment & Regulatory Institutions

It does not appear likely that conditions supportive of a free and transparent electoral process will be in place by the time presidential and parliamentary elections are held in early 2006. We believe that the outcome of the presidential race in 2006 is a foregone conclusion, now that the "constitutional" possibility of a third (and successive) term has been conceded. Ugandan actors at all levels have read the signals sent with the fusion of the debates on the return to multi-party politics and the third term, and appear to conclude both that a third term is inevitable and, more importantly, that Museveni's continued control of State House will enable him to exercise significant control over the Parliament, including after the elections. Assistance must focus on the longer term development of the political conditions for competitive elections in 2011, but signals sent in the lead-up to the 2006 elections will be critical in determining whether or not change over the longer term is possible.

In the first instance, during the lead up to the 2006 elections, the international community should articulate, and react publicly and quickly to any deviation from, a set of minimum standards of conduct for the Museveni regime. Among its most critical elements should be the requirement that government publicly and clearly articulate a commitment to leveling the playing field, to the separation of Movement and state, to transparent electoral administration, and to non-violence during the election period. If government proves unwilling to make such statements, the international community should publicly express its objections, refrain from further assistance to the electoral process, and ratchet down assistance overall; if government issues such statements, the international community should closely and attentively monitor government and Movement behavior, and publicly denounce deviations, remaining prepared to sanction poor performance. Given the deliberately slow pace at which the package of enabling legislation associated with the return to multi-party politics is being addressed by Parliament, it is unlikely that the formal/legal outlines of the electoral regime will be clear sufficiently in advance of elections to be of use to political parties in leveling the playing field. A proactive stance by the international community is critical.

Support to the Election Commission should likely be conditional on clear and public government commitments to enforcing an equitable electoral environment.

Domestic Election and Political Process Monitoring

Given the probability that conditions preceding and under which the 2006 elections will take place will not permit unfettered competition and will therefore be contested, a decision on whether or not to support international election monitoring should be approached with extreme caution. To the extent that

international monitoring is seen as essential to mitigate the potential for electoral violence, a monitoring effort using local diplomatic personnel should be considered. An emphasis on political process rather than election-day observation by both domestic and international monitors should also be encouraged. Our feeling is that an international observer presence will serve to legitimate a process that is likely to be fundamentally flawed. If government proves willing to take the steps advocated above to commit itself publicly to enforcing an open and non-violent campaign process, this calculation might change.

Whether or not a decision is made to field international observers, support for large scale observation by domestic observers—both party-based and non-partisan—is critical to ensuring minimum levels of transparency in the electoral process. Support for a parallel vote tabulation exercise should be strongly considered. This will imply significant support for CSO capacity building, logistical and direct financial assistance.

Political Party Development

Political parties in Uganda—the NRM included—remain underdeveloped organizationally and continue to be viewed with considerable suspicion if not antipathy by a broad cross-section of Ugandans, although a majority of respondents surveyed in a recent Afrobarometer survey favored a return to a multi-party system. The negative image enjoyed by political parties is reinforced by the conscious manipulation of Ugandan history in official political discourse, a task facilitated by the personalization of authority within key opposition parties, and their failure to address issues of internal succession or grass roots party development. Although the freedom of the opposition to address issues of political organization and the mobilization of political support has heretofore been inherently limited by the provisions of the 1995 constitution, these issues must be addressed if viable opposition parties are to emerge.

Political party development is an inherently long-term task, and one that must be undertaken primarily by Ugandans. However, donor support at critical junctures can be useful. The most critical area of donor support relates to the establishment and policing of the legal/regulatory environment for the formation and operation of parties discussed above. At the same time, targeted technical/advisory assistance – made available across the board to all parties who meet transparent and pre-determined criteria – is also recommended. The precise configuration of assistance should be the subject of further analysis. However, we feel that at a minimum, a focus on strengthening the operation of parties in parliament, including caucus operation and issues-based coalition formation would be useful. Assistance related to techniques/approaches to grass-roots mobilization and the consolidation of internally democratic organizational procedures and cultures would also be useful.

4.2.4 Civil Society

In the absence of a vibrant civil society, it is difficult to conceive of a functioning democratic system. In most political systems, change is the result of pressure, and civil society organizations constitute an important vehicle for the aggregation and articulation of citizen interests and demands, both proactive and reactive. Citizen vigilance—expressed via partisan and non-partisan organizations—ultimately provides the basis for accountable government. This is no less true in Uganda than in the United States. Civil society in Uganda is extensive, but at the same time relatively weak and poorly institutionalized. Few organizations have national reach. Many of those that do tend to be donor driven and remain subject to cooptation by the state. Organizational, human and financial capacity and resources are lacking at all levels, and efforts to strengthen civil society organizational capacity as well as to improve the enabling environment for civil society operation are needed.

There should also be support for public debate and other opportunities to demonstrate that disagreement, public questioning and criticism of those in positions of authority are legitimate, and indeed essential,

elements of a democratic process. To date, Museveni and the Movement have been effective in portraying the questioning of government policy or the exercise of presidential authority as unpatriotic and anti-Ugandan. Efforts to reverse this association are sorely needed. Although political parties are a primary vehicle for the expression of dissenting political visions, civil society can also play a significant role in providing fora for contention between opposing perspectives and should be encouraged to do so.

As the mission considers future program design, the natural complementarities between anti-corruption and civil society strengthening activities should be explored. There is considerable scope for working with civil society—both within the DG sector and across the sectors addressed by other USAID strategic objectives—both to increase awareness of the impact of governance failures on the daily lives of citizens and to increase citizen capacity to advocate successfully for change at local and national levels.

Corruption can likely provide a focal point for civil society programming, since it is an issue that touches a broad spectrum of Ugandans, both rural and urban, and which affects service delivery across all sectors. The focus of civil society strengthening or anticorruption activities need not and should not be exclusively on self-described democracy or advocacy NGOs, and should include NGOs and CSOs organized around service delivery or advocacy goals in the health and education sectors. Principles of accountability and transparency in the use of public resources can be built into activities across the spectrum of USAID Strategic Objectives.

Media

The reach of print and broadcast media in Uganda remains inherently limited, but the media sector stands out as a key enabling factor for democratic change. Amid the atrophy of autonomous institutions, the Ugandan media continues to demonstrate a capacity and willingness to give voice to dissenting opinions, as well as to report on issues of government non-performance.

The importance of sustaining a vibrant free media cannot be over emphasized. In its absence, successful efforts to address issues of corruption, public accountability, party development, and a range of other critical issues are virtually inconceivable. Support for the media—whether in the context of a broader effort to support the development and consolidation of civil society, or in the context of an anticorruption focused program, or as a stand-alone effort—should be seriously considered.

4.2.4 Fragility

Fragility in the Ugandan context reflects first and foremost a crisis of governance—the failure of successive Ugandan regimes to promote the institutionalization of participatory political institutions perceived as legitimate by a broad spectrum of the Ugandan populace, and capable of ensuring the equitable allocation of resources and the non-violent resolution of conflict. The Movement system in its first decade went further in this direction than any previous Ugandan regime, but failed to extend the benefits of the system to the north. In the last decade progress has stagnated, not only in the north where violent conflict persists with noxious consequences for vast segments of the population who remain displaced, but also in the south, as the regime has proven unwilling to countenance the implications of institutionalizing a democratic multi-party system. Fragility is thus an issue affecting the whole of Uganda, not a factor primarily governed by the persistence of conflict in one region.

That said, the nature of fragility concerns, and thus of appropriate corrective actions, differs fundamentally between north and south. In the north, the state's failure to deliver either effective security or basic services has tended to deepen an already severe legitimacy deficit rooted in the deep north-south divisions that have characterized Uganda's post independence history. As a consequence, in the north, but not in the south, both state capacity and legitimacy are in question. Northern Uganda thus manifests conditions to which the programming approaches suggested by the FSS and USAID's *Strategic*

Framework for Africa appear to respond fairly well, and warrants specific programming intended to address the specificities of northern issues. In the south, the nature of fragility, to the extent that it may be said to exist, is quite different and stems from the progressive erosion of democratic institutions and processes, and the consolidation of military, economic and political power in the presidency. Together these have tended to sharpen political cleavages and to undermine the legitimacy of state institutions which, rather than being perceived as neutral structures of national governance, are increasingly viewed as the personal tools of an increasingly isolated and corrupt ruling clique. Fragility of this sort is best addressed within the context of a transformational development framework, analyzed from the perspective of the SAF. In both the south and the north, it is essential that governance concerns be mainstreamed throughout the Mission portfolio. Stabilization and reintegration, in the absence of attention to governance, are unlikely to result in durable solutions.

A. Improve Integration of the North into the National Political (and Economic) Configuration

Conflict in the north is driven by a sense of political, economic, social, and cultural marginalization. Although it is possible that the particularly virulent violence associated with Joseph Kony and the LRA will be brought to a close with the progressive restriction of his access to and support from Sudan, and Ugandan military action, it would appear unlikely that the elimination of the LRA will result in long-term stability in the north in the absence of significant efforts to better integrate the North into Uganda. Northern Uganda has been ruled as an occupied territory, and only by reversing this tendency will the potential for further conflict along ethno-regional lines be mitigated. Seen from this perspective, efforts to promote broad-based development in the North, in addition to the promotion of the north's political integration with the rest of Uganda, are critical both to resolving the current conflict and to mitigating the potential for its future resurgence. Donors (USAID in particular) can contribute to this in a variety of ways. We suggest two principal avenues:

- Ensure that the north receives the same attention devoted to the South across the full range of Mission sectoral programs.
- Specific programming to address issues particular to the north:

First, redress political marginalization in the Acholi districts by emphasizing political and social reintegration of the region into the country. There should be more attention on programs that anticipate the return of IDPs rather than reinforcing the permanency of existing camps. For instance, the Mission could promote the rebuilding of social and economic infrastructure in core sub-counties as a way to help the return of IDPs rather than focusing primarily on areas around the camps. Any programs that help to legitimize the existence of camps even while reflecting the current reality of insecurity merely postpone the long run objective of forcing the government to deal with the emergency crisis in the North.

Second, the civil war has decimated any semblance of functional local institutions for service delivery. There is need to put more resources in reviving government institutions in the three districts as a way to prepare for the transition to peace.

a) Acholi districts In the short-term there is need to redress the political marginalization of the Acholi districts) *inter alia* by ensuring the effective ability of the Acholi population—both within IDP camps and outside—to organize freely and to vote in the context of the 2006 elections;

- i. Over the medium-term, USAID should work to ensure rapid and effective IDP return and reintegration. Local governments, international organizations, donors, and NGOs are beginning to plan for the return and reintegration of IDPs. It would be appropriate for USAID to tap into these multi-faceted initiatives with the objective of forcing a return to normalcy in Acholiland.

Effective reintegration implies ensuring that security, basic services and viable livelihoods are available to returning IDPs. It also implies that governance institutions capable of managing both service delivery and dispute resolution functions in a participatory and transparent manner are created and supported.

Programs that promote reconciliation and peaceful approaches to conflict resolution that draw from the structures of authority replicated in camps such as traditional elders and women's groups. Since currently reconciliation programs in the IDP camps are inadequate, more resources could be devoted to them;

Boost education programs focused on former child soldiers to ease the transition from IDP camps to normal life. Currently, there are vocational training programs to address the needs of former child soldiers, but they are uncoordinated and inadequate. Idleness, hopelessness, and alcoholism are pressing problems in IDP camps that can be partly alleviated through a significant injection of resources in training and education.

Strengthen the capacity of local authorities to deliver services, particularly in Pader and Kitgum districts. Although the problem of lack of administrative capacity stems from the absence of trained personnel willing to serve in these districts, it is also attributable to the fact that they have not received that much attention in donor programs geared toward decentralization in Uganda. An injection of donor resources in helping local authorities (LCs and other structures) to build basic administrative capacity in health, education, infrastructure, and social services may redress this deficit..

ii. Promote economic reengagement of the Acholi districts through support for job-creation enterprises in trade, services, and farming. Current programs to support farming and informal sector enterprises around IDP camps reflect the realities of micro-economies that have flourished around these camps, but a more medium-term engagement would be to broaden support for economic activities in sub-counties in anticipation for the eventual return of the residents

iii. Guarantee security, protection, human rights; (effective military/police presence)

b) Karamoja

Law and order remain essential to the problems in Karamoja. Support for innovative programs that build on local structures of policing would help in meeting the real problems of inadequate state presence. Community policing programs in Karamoja could be expanded to specifically target youth groups that often engage in cattle rustling. In addition, there is need for programs that incorporate the UPDF, local authorities, and communities in routine confidence-building measures to reduce the gulf between the army and these communities. Funds could be availed to NGOs in this region that incorporate peace-building into other functional and cross-cutting areas. Equally significant would be conflict resolution and peace-building programs that recognize and deal more directly with the problems of ethnic diversity in Karamoja.

B. Address governance problems that underpin fragility that are not limited to North

- Political and economic marginalization of the North. Economic marginalization will be partially addressed by ensuring that North is equitably served by development initiatives undertaken in the rest of Uganda. Previous donor-driven initiatives for the North have not had a marked impact on reducing the economic and cultural gap between the North and South. There is need for more proactive economic and social development programs that seek the full integration of the North into Uganda's political process. Support for new programs such as the Northern Uganda Recovery and Development Programme may be necessary if donors could guarantee that they are not captured by predatory elites from Kampala. Elsewhere, the economic reconstruction of the last two decades has greatly undermined the platform of

violent rebellion. For the North, renewed donor pressure and support for government programs that go beyond the humanitarian logic would be a critical beginning in reintegrating the region into the rest of the country.

- Constriction of (and failure to expand) political space. Pluralism across the Ugandan political landscape has additive value for the North to the extent that it promotes wider dialogue on the crisis occasioned by the rebellion and ways out of it. Since the constriction of national political space has hampered the articulation of alternative viewpoints about ending the war, donor support for programs that deepen democracy in general would be helpful in the reengagement of the North. It may be necessary, for instance, for USAID to support a National Dialogue on the North, to reduce the North-South political and cultural gulf.
- Corruption and perceptions of inequitable access to resources. Northern perceptions of land expropriation by the military and southern elites forms a major part of the ongoing conflict. In Acholiland, there are fears that the population is perpetually kept in IDP camps to further the land expropriation strategy. Linked to the growth of grand corruption, these accusations could be allayed by support for investigations by existing anti-corruption institutions, but there is need for comprehensive programs such as support for resolution of complex of issues surrounding land resulting from two decades of conflict and population displacement; variety of natural resource management issues; access issues; production and use issues (e.g. sedentary v. pastoral, peasant v. commercial agriculture); need to mitigate conflict potential related to eventual return of IDPs; need to mitigate potential for large-scale land alienation for commercial agriculture by political elite/military; Human rights and corruption issues will be critical;
- Support for resolution of complex of issues surrounding land resulting from two decades of conflict and population displacement; variety of natural resource management issues; access issues; production and use issues (e.g. sedentary v. pastoral, peasant v. commercial agriculture); need to mitigate conflict potential related to eventual return of IDPs; need to mitigate potential for large-scale land alienation for commercial agriculture by political elite/military; Human rights and corruption issues will be critical. Land-related assistance might take a variety of forms including cadastral surveys, titling, support for dispute resolution mechanisms (via traditional systems, more formal alternative dispute resolution (ADR) processes, or formal administrative or judicial mechanisms – with the caveat that the latter are perhaps more subject to manipulation by the powerful); issues differ between Acholi districts and Karamoja;

C. Directly address conflict triggers

Elections are a potential conflict trigger. Closer monitoring of elections will be important particularly given the role of the military and movement-aligned militias. In the North and East, government paramilitary groups initially meant to meet the LRA challenge could be deployed for electoral purposes to boost the Movement's fortunes, particularly given the inadequacy of the police forces.

4.3 AREAS OF INSTITUTIONAL ENGAGEMENT

As noted above, we recommend three primary areas of thematic engagement over the next three to five years. These relate to anticorruption, political process and fragility/conflict. Each of these areas implies a focus on multiple institutions, raising a strategic question of whether activities are best organized around institutions or themes. Our general feeling is that a thematic organization of programming would probably make more sense. If this approach is taken, the mission might wish to conceive of an anticorruption cluster, which would include generalized support for transparency and participation-related aspects of

civil society development across USAID program areas, elements of procurement process reform and other dedicated AC interventions, as well as elements of media capacity development; a political process cluster, which would include support aimed at leveling the political playing field, party development and elements of parliamentary assistance related to the formation and operation of party caucuses and issue-based coalitions; and a fragility cluster, which would include much of what is presently covered by NUPI, as well as local government capacity development in the North.

As noted above, we are recommending a renewed emphasis on demand-side programming, and only a very limited and selective engagement on the supply-side. On the supply side, we emphasize selective engagement with *those state institutions that have significant formal authority* that can be used to resist the predations of executive interference.

4.3.1 Parliament

Parliamentary support would shift from a primary emphasis on institutional capacity building to work with parties in parliament and the operation of Caucuses, as an element of a wider strategy of supporting the strengthening of alternative centers of political and social organization; At the same time there should continue to be a secondary emphasis on strengthening certain areas of institutional capacity—in particular budget analysis and audit functions—critical to parliamentary oversight in the long-term. Given likely budgetary constraints, the latter would be necessarily limited.

4.3.2 Local Government

The irony of local government is that having made considerable strides toward decentralization as a reflection of its commitment both to improved service delivery and to effective popular participation in governance, the Movement is now undercutting the authority of local government structures at least partly because they provide an avenue for the articulation of alternative approaches, and a venue for the development of local leadership with the potential for autonomy. It is tempting to view the process of creating new districts, increased central appointment of key LG officials and the elimination of the principal source of LG own-source revenue (the graduated tax) as driven primarily if not exclusively by the immediate monetary and political demands of the Movement's patronage and sanctions-based electoral strategy. Nonetheless, the long term effects on the role and composition of local government should not be underestimated. Each of these moves will tend to (and are intended to) reduce the autonomy both of local governments as units of governance and of individual political leaders at the sub-national level, making them increasingly beholden to central power structures for resources and job security.

Despite recent efforts to claw back devolved authorities, *local government remains a critical element in the deepening of democratic practice in Uganda*. Elected structures at the village (LC1), sub-county (LC3) and district (LC5) levels are critical to the development of effective political parties over the long term, and constitute the most visible, tangible and immediate point of interaction between citizens and government. It is at the LC level that efforts to mobilize citizens to participate more actively in governance, and citizen efforts to hold public officials accountable are likely to gain the most traction. Effective support for the development of local level civil society advocacy implies inter alia the development of linkages with and entry to the LC system. *At this level, working only one side of the demand-supply equation is unlikely to render the best results.*

In the immediate term, there is an urgent need for a clear and forceful effort by the international community to prevent further claw-back of decentralization (i.e. increased central appointment of local

government (LG) officials, and increased conditionality of LG finance, etc.), and to ensure the provision of compensatory resources to allow for the continued functioning of LGs and Lower Local Governments (LLGs). This is clearly in the interest of the broadest spectrum of development programs since, at a minimum, a failure of LGs to meet co-funding requirements will imperil progress on a wide range of sectoral programs, including large programs in the areas of health and education, and since the absence of funding for core audit and financial oversight functions will imperil service delivery generally and the basic operations of many sectoral programs at LG and LLG levels.

Local government is potentially one of the most important areas of assistance, particularly in the East and North where Movement control is less assured. LG has in these areas has considerable potential as a proving ground for opposition political leadership, and as a spring board for local party development. One approach would be to focus LG assistance entirely on the north in the short to medium term, and periodically reassess the sector over time. In the North, such a focus rejoins the imperatives of a robust post-conflict stabilization and reintegration program, for which the existence of functioning local government structures will be essential.

A definitive decision on how and where to focus LG assistance should likely be made only after the 2006 elections, although it is clear that an emphasis on developing the capacity of local governance structures in the Northern districts, at the very, least is essential.

4.3.3 Judiciary

For USAID, engagement with the judiciary and rule of law issues more generally would entail taking on an almost entirely new set of government institutions, and, depending on the approach taken, would entail potentially massive expenditures if a meaningful impact were to be achieved. At the same time, the higher judiciary is, for the moment at least, the government institution most capable of rendering autonomous decisions. At a minimum, the international community should clearly articulate its collective opposition to claw back of the independence of the judiciary through court stacking and other mechanisms. A rule of law assessment should also be contemplated, perhaps in conjunction with an exploration of options in the area of anticorruption. One approach to engagement with the rule of law sector would be to focus initially on a) supporting the protection/expansion of judicial independence through multi-donor policy dialogue and advocacy, while b) providing limited but effectively targeted support to the higher judiciary in areas related to the hearing of cases related to corruption.

4.4 DIPLOMACY AND ROLE OF THE INTERNATIONAL COMMUNITY

Clear and consistent messaging from the USG and the international community more broadly is essential. Uganda may not have reached the point of no return, and Museveni may still be responsive to concerted pressure, but we believe the window is closing. In the absence of such pressure, we believe that the present negative trajectory will continue unabated with severely negative long term consequences for human development and political stability. The international community must collectively set limits and stick to them. The USG can contribute to the realization of this goal by being willing to be publicly critical on key issues.

The international community is not without resources that could be brought to bear. Donors collectively provide roughly 50 percent of the national budget. USG assistance is perhaps more easily conditioned than is the direct budget support provided by other significant bilateral (predominantly European) donors,

but even budget support donors have at their disposal a variety of mechanisms for sanctioning poor performance.⁴¹

In the first instance, during the lead up to the 2006 elections, the donor community should articulate, and react publicly and actively/timely to any deviation from a set of minimum standards of conduct for the current regime. Among the most critical elements of this should be the requirement that government publicly and clearly articulate a commitment to a leveling of the playing field, to the separation of Movement and state, to transparent electoral administration, and to non-violence during the election period. If government proves unwilling to make such statements, the international community should publicly express its objections, refrain from further assistance to the electoral process, and ratchet down assistance overall; if government issues such statements, donors should closely and attentively monitor government and Movement behavior and publicly denounce deviations, remaining prepared to sanction poor performance.. A proactive stance by the international community is critical.

As an element of a strategy for building and sustaining coherent messaging , the USG should promote collective pressure for the speedy resolution of the issue of IDP camps though the return and reintegration of displaced populations in their areas of origin. Although this is a complicated issue, it is one on which there appears to be an emerging consensus around which a unity of purpose might be constructed

41 As Mark Robinson noted in a paper produced for the Department for International Development in June 2004, “Options for budget support donors include a progressive range of measures that could be employed in response to the various transition scenarios. These could be conceived as five steps in response to a deteriorating political environment, agreed among the key donors and discussed with the Government of Uganda:

- Slower increases in the share of general budget support as a proportion of total aid commitments
- Reduction in the overall amount of budget support
- Increased use of ‘notional earmarking’ based on evidence of progress in governance and the social sectors
- Switch to earmarked budget support for the social sectors, PAF and/or governance reforms
- Delay or cancellation of tranches of scheduled budget support

(“Pro-poor Change in Uganda: Drivers, Impediments, and Opportunities for Engagement,” Institute of Development Studies, Sussex, June 2004, p.12)

APPENDIX A

Persons Consulted

KAMPALA

Margot Ellis	Mission Director, USAID/Uganda
Elzadia Washington-Danaux	Deputy Director, USAID/Uganda
Liz Kiingi	Program Officer, USAID/Uganda
Randolph Harris	Deputy Team Leader for Democracy, Governance & Conflict Programs, USAID/Uganda
Susan Cowley	Parliamentary Affairs and Pluralism Advisor, USAID/Uganda
Lyvia Kakonge	Conflict and Reintegration Advisor, USAID
Nathan Holt	Head of Political Section, U.S. Embassy, Kampala
Andrew Mwenda	Host, Andrew Mwenda Live & Publisher, <u>The Monitor</u>
Kevin Curnow	Chief of Party, Strengthening Decentralization in Uganda Phase II (SDU II), ARD, Inc.
Bradley Austin	Senior Programme Officer/Development Director Eastern & Southern Africa, International Foundation for Election Systems (IFES)
Alexious Butler	Resident Representative, National Democratic Institute (NDI)
Jerry Henderson	Chief of Party, Legislative Support Activity, Development Associates (DA)
Robina Namusisi	Grant Coordinator, International Republican Institute
Timothy Bishop	Chief of Party, Community Resilience & Dialogue Activity, International Rescue Committee (IRC)
Sasha Lezhnev	Program Officer, Northern Uganda Peace Initiative, PADCO
Lina Zedriga,	Program Officer, NUPI
Paul Crawford	SO 7 Team Leader, USAD/Uganda
Edgar Agaba	Executive Director, Public Procurement and Disposal of Public Assets Authority, Government of Uganda
Julius Mulera	Director, Procurement Audit, Inspection & Investigations, Public Procurement and Disposal of Public Assets Authority, Government of Uganda
Rev. Canon Grace Kaiso	Exec. Dir. Uganda Joint Christian Council (UJCC)
Justice Faith E. K. Mwondha,	Inspector General of Government, Republic of Uganda

Apollo Nsimbabi	Prime Minister
George Bashaija Sabiiti	Principal Assistant Secretary, Office of the Prime Minister
Baku Raphael Obudra	Deputy Inspector General of Government, Republic of Uganda
Betty Kamya	Forum for Democratic Change (FDC)
Bidandi Ssali	Former member of NRM; former Minister of Local Government
William Pike	Managing Director/Editor in Chief, <u>New Vision</u>
Robert Kabushenga	Company Secretary, <u>New Vision</u>
Jens-Peter Dyrbak	Senior Decentralization Advisor, DANIDA
Manuel Pinto	Coordinator, Planning Development and Coordination Office (PDCO), Parliament of Uganda;
Dison Okumu	Director, Planning Development and Coordination Office (PDCO), Parliament of Uganda;
Ashaba Aheebwa	Director, Directorate of Ethics and Integrity, Office of the President
Tim Lwanga Mutekanga	MP, Minister of State, Ethics and Integrity, Office of the President
Lilian Muyomba	Training and Advocacy Officer, Anti Corruption Coalition of Uganda
Allen Ruhangataremwa Barugahare	Senior Program Officer, Uganda Debt Network
Henry Muguzi	Information and Communications Officer, Anti Corruption Coalition of Uganda
Dr. Badru Kiggundu	Chairman, Electoral Commission
Sam Rwakoojo	Secretary, Electoral Commission
Johnson Bitarabebo	Chairperson, Local Government Finance Commission
Ndifuna Ziria Aliza	Vice Chairperson, Local Government Finance Commission
Lawrence Banyoya	Commission Secretary, Local Government Finance Commission
Lucas Omara Obong	Deputy Commission Secretary, Local Government Finance Commission
Ogwang Bernard Okuta	Commissioner Central Grants and Local Revenue, Local Government Finance Commission
Simon Osborn	Programme Manager, Partners for Democratic Governance Election Support Unit
Frans Mikael Jansen	Head of Programmes, Human Rights and Good Governance, DANIDA
John F.S.Muwanga	Auditor General, Republic of Uganda

Aloysius Mayanja	Director of Audit, Office of the Auditor General
Edward Akol	Senior Principal Auditor, Office of the Auditor General
Patrick Mutabwire	Commissioner, Local Councils Development, Ministry of Local Government
Allen K. Kagina	Commissioner General, Uganda Revenue Authority
Donald Rukare	Governance/Legal Advisor, Development Cooperation of Ireland, Embassy of Ireland
Warner ten Kate	First Secretary, Macroeconomist, Royal Netherlands Embassy
Jacqueline Asiimwe-Mwesige	Deputy Programme Manager, 9 th Civil Society Capacity Building Programme (EU)
Raphael Magyezi	Secretary General, Uganda Local Governments Association
Jerome Mbura-Muhindo	Uganda Local Government Association
Techeste Ahderom	Senior Technical Advisor, Transition Recovery Programme, UNDP
Lars Erik Skansaar,	Humanitarian Access Adviser, United Nations Resident Coordinator's Office
Jeremy Liebowitz	Country Representative, International Republican Institute
Kintu Nyago	Executive Director, Forum for Promoting Democratic Constitutionalism
Ronald Reagan Okumu	Member of Parliament
Eriya Kategaya	Former Member of Parliament
Miria Matembe	Member of Parliament
Betty Bigombe	Mediator, Northern Uganda Conflict
MBARARA	
Emma Boona	District Vice Chairperson and Secretary for Production & Development, Mbarara District Local Council (LC5)
Group of LC5 administrative staff	Mbarara District Local Council (LC5)
Group of Members	Mbarara District Civil Society Organisations Forum (MBADICSOF)
Emmanuel Kashaija	District Chairman, Democratic Party (DP), Mbarara District
Dr. Tumwesigye	District Chairman, Uganda Peoples Congress (UPC), Mbarara District
TORORO	
Jack Ogollo	Mayor, Tororo Municipality
Noah Owora	District Chairperson, Tororo District Local Government (LC5)

Nyaketcho Keziah Ochwo	Secretary for Health, Gender & Community Service, Tororo District Local Government (LC5), and Chairperson, Women Together for Development (WOTODEV)
Wanjala Yonah	Executive Director
Grace Freddie Kasirye	Regional Coordinator, Strengthening Decentralization in Uganda II (SDU II)
Irene Okuna	Chief Administrative Officer (CAO), Tororo District Local Government (LC5)
Steven Kasirye	Chief Finance Officer (CFO), Tororo District Local Government (LC5)
Emmanuel Ofumbi	Chairperson, Tororo civil Society Network (TOCINET)
Stella Obel	Coordinator, TOCINET
J. Othienoburu	Board Member, TOCINET
James Ochopa	Board Member, TOCINET
Grace Anyuparu	Board Member, TOCINET
Monica Olweny	Board Member, TOCINET
Obbo Ojwani	District chairperson, Uganda Peoples Congress (UPC), Tororo District
Enoch Ochieng	UPC member, Tororo District
Okelo	UPC member, Tororo District
Oluput	UPC member, Tororo District
Owino	UPC member, Tororo District
District Chairperson,	FDC
KITGUM	
Father Joseph Garner	Kitgum Catholic Diocese
Robert Decker	World Food Program, Kitgum
Albert Yobo	Senior Resettlement Officer, Amnesty Commission, Kitgum
Nahaman Ojwee	LC5, Kitgum
George Okot	RDC Office, Kitgum
Otirene Marino	Lubu IDP camp
Ben Ochan	Assistant Superintended of Police, Kitgum
Bishop Ochola	
C.C. Filippo	Deputy Team Leader, AVSI, Kitgum
Roger Horton-Sway	Counselor, IDPs, Kitgum

GULU

Michael Tewolde	Northern Area Manager, Catholic Relief Services (CRS)
Cornelius E. Williams	Project Officer, United Nations Children's Fund (UNICEF)
Father Carlos Rodriguez Soto	Executive Secretary, Justice and Peace Commission
Archbishop John Baptist Odama	Chairman, Acholi Religious Leader's Peace Initiative
John Oketch	<u>Monitor</u> , Gulu
Steven Arthur Lamony	Human Rights Focus, Gulu
Tony Komach	Human Rights Focus, Gulu
Dr. John Otim	Gulu Hospital Medical Superintendent
Walter Ochora	LC5, Gulu

WASHINGTON D.C.

Amb. Jimmie Kolker	US Ambassador to Uganda
Amb. Michael Southwick	Former US Ambassador to Uganda
Amb. Johnnie Carson	Senior Vice President, National Defense University; former US Ambassador to Uganda

APPENDIX B

Report of External Peer Reviewer

Constitutionalism in Uganda after the 2005 Compromise

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This USAID report on Uganda, *Democracy and Governance Assessment: Republic of Uganda, 2005* (hereafter, *D & G Assessment*), is invaluable for its rich description and persuasive analysis of political issues and trends in contemporary Uganda. This highly accessible document should be regarded as the indispensable baseline for any follow-on studies, especially those intended to furnish policy recommendations for the donor community. Its concluding assessment – that Uganda today may be in a state of democratic retrenchment, rather than democratic progress – is wholly consistent with those of other highly informed observers of the Ugandan political scene and, therefore, merits the most serious attention from all of those who participate in the process of formulating donor policy toward Uganda. This brief comment is intended as an add-on that will raise the possibility of a less bleak outlook though, in the end, this author concurs that political events in Uganda today are not encouraging.

Background

It is worthwhile to begin by recalling Uganda's deeply troubled political history. Upon independence in October 1962, Uganda's political arena featured a thriving multi-party political system that operated within a quasi-federal constitution designed to provide special prerogatives for one of the southern ethnic kingdoms. A robust democracy existed as elections for the fledgling institutions of presidency and national assembly were both intensely competed and, in the eyes of most observers at the time, relatively free and fair. The post-independence process was dominated by a predominantly northern political party, the Uganda People's Congress (UPC) whose leader, Milton Obote, claimed political legitimacy based on his status as one of Africa's pioneer nationalists.

The benign post-independence state of affairs deteriorated quickly as the Obote Government increasingly resorted to authoritarian methods as a means of attaining its major socio-economic objective, the redistribution of wealth and opportunity from the relatively well off southern regions of the country to the less developed north, where he had his principal political base. As the politico-economic confrontation between north and south deepened, the Obote government appeared to become more and more repressive and, as a result, more and more dependent upon military support to remain in power. After a military assault on the institutions of Baganda federal state in the spring of 1966, the UPC's hold on political power was especially precarious. The military coup of early 1971, led by Idi Amin, ended whatever remained of a democratic process: Uganda's first effort at democratic governance had lasted less than 10 years.

The fifteen year period that followed was horrific by any standard. It was marked by political repression and ethnic violence that included aspects of genocidal conduct by the government. It also featured a sharp downward spiral of the country's formerly dynamic and growing economy. The period of military rule under General Amin became notorious in modern African history as an example of unrestrained political brutality. Even after Amin was overthrown by a military force composed of the Tanzanian army and

Ugandan exiles, Uganda remained a political wasteland. Obote, briefly installed again in power by the invading army, was unable to restore even a semblance of political order or economic well-being. His brief interregnum, sometimes referred to as Obote II, was marked by an even further deepening of political repression and the systematic looting of state resources by a now hopelessly corrupt, inept and isolated leadership. There was also a growing civil war as the Obote II was challenged by Yoweri Museveni's National Resistance Movement (NRM). Museveni, a Ugandan academic who had taught briefly at the University of Dar es Salaam seemed an unlikely candidate for the role of liberation leader. But by 1986 he had defeated the Obote II regime and driven Obote into a second exile. Museveni has now been head of state since that time and is presently nearing his 20th year in that role.

The Museveni Movement, which at first sought to govern as an all-inclusive grouping, allowed the resumption of electoral politics about 10 years after first assuming power. However, this was to occur under conditions tightly proscribed by Movement leadership. Fearful that a resumption of party politics might bring about a recurrence of the violence, ethnic conflicts and instability of the 1970s and early 1980s, Movement leaders chose not to allow political parties to contest elections openly. A major part of their reasoning was that their Movement was itself an all-inclusive organization dedicated to the political and economic rebuilding of the country. In their view, open partisanship was premature until that task had been more fully completed. Under these tightly controlled conditions, Museveni was elected President in 1996 and again in 2001.

Virtually every analysis of contemporary Uganda rightly begins by describing the striking contrast between Uganda today and the Uganda inherited by the Museveni movement. Suffice it to say here that Uganda in the mid-1980s was a country in political and economic tatters. Years of political and economic repression followed years of warfare that included an invasion by the Tanzanian army. The combined effects of war, civil strife, corruption and pure ineptitude were devastating: once prosperous southern regions of the country were in virtual ruins. To make matters worse, the Obote II government had been utterly unable to extend its writ of governance through the northern regions of the country, leaving a political vacuum that was filled by a variety of out-of-control political forces, including a millennial religious group that called itself the Lord's Resistance Army. Under such conditions, the mere restoration of political order was a daunting challenge.

This *D & G Assessment* provides a comprehensive record of the background of the Museveni movement and of its early accomplishments. In a nutshell, the Movement restored political order and set the stage for wide popular acceptance and legitimization of the national government. It also laid the basis for economic recovery by introducing and implementing a set of sound, growth-oriented economic policies. Uganda's principal southern cities, Kampala-Entebbe, Jinja, Masaka and Mbarara regained an ambience of prosperity unknown since the early 1960s. But by far the government's most important achievement for the vast majority of ordinary citizens was that it returned a quality of normalcy to every day life: after years of terror and impoverishment. For the first time in many years, citizens throughout much of the country could go about their daily lives without an all-consuming fear of agents of the state.

The stated political goal of the Museveni Movement has been the restoration and institutionalization of Ugandan democracy. The country's progress toward this goal, especially in recent years, has evoked expressions of concern among informed observers. The epicenter of this concern is the country's linked decisions, in the spring and summer of 2005, to remove the constitutional limitation on presidential terms of office and to allow the resumption of open multi-party competition in the electoral arena. Scholars and policy analysts of Uganda, even those who do not disagree in their factual understanding of Uganda's recent political history, have varied in the way they interpret these events.

The Political Compromise of 2005

The *D & G Assessment* provides a meticulous and detailed record of the political process that preceded the removal of presidential term limits and the removal of the ban on open competition. Suffice it to say

here, there were two opposed points of view. The first, identified with President Museveni and his close supporters in the NRM, called for a removal of the constitutional provision that limited the Uganda president to two terms of office. Since Museveni had been elected President in 1996 and again in 2001, this ban, if it remained in place, would have prevented him from running again in the forthcoming election of 2006. Those who favored a removal of the ban, including Uganda's articulate Prime Minister Apollo Nsibambi who argued essentially that the decision about Museveni's term of office should be left to the voters. This viewpoint is referred to as "Movementist" because it is identified with the top leadership of the NRM, including Museveni himself. In this viewpoint, elections are themselves a form of term limit and it would be less than wholly democratic to deprive the electorate of the opportunity to decide how long a political figure should remain in power. Implicit in this position is the view that Uganda's political and economic reconstruction is still a work-in-progress and that it would be premature to remove a popular and effective president, particularly one who has made such major contributions, while the work of reconstruction is still underway.

A parallel dialogue had to do with whether the Government of Uganda should allow the resumption of open, multi-party politics. For much of the Museveni period, political parties, though tacitly allowed to form themselves and organize politically, had not been permitted to enter the political arena openly to contest elections. The official reason for this proscription was that party politics had not served Uganda well in the past, under Obote I, and that an openly partisan environment might simply re-ignite the destabilizing cleavages that had preceded and then brought about the military coup of 1971. The arguments of those opposed to party politics have a familiar resonance, echoing the concept of "tutelary democracy" put forward by a number of prominent leaders of developing countries during the 1960s. According to this concept, party politics should not take place until the appropriate socio-economic, cultural and institutional foundations had been created. The "Multi-Partyist" group argued strenuously that Uganda was ready for this transition. The "Movementist" group disagreed.

What emerged, after three years of public dialogue, was a political compromise. The limitation on presidential terms of office would be removed, permitting Museveni to stand for office in 2006. And the ban on political parties openly contesting for public office would also be removed, enabling opposition parties to field presidential candidates of their own. This compromise or, more specifically, that portion of the compromise that removed presidential term limits has been sharply criticized by some of the most knowledgeable and authoritative Uganda observers in our country. Foremost among these is Ambassador Johnnie Carson, who is currently Senior Vice President, National Defense University. At a June 2005 conference at the Woodrow Wilson International Center for Scholars, Ambassador Carson made the following observations:

Uganda's march toward full democracy is on the threshold of becoming unglued as President Museveni and those around him seek to alter the country's constitution to allow him to run for a third or perhaps a fourth presidential term ... If President Museveni succeeds in altering his country's constitution, and remains in office, it could spark a political unrest among the opposition, a slowdown in the economy, and a loss of confidence on the part of donors. It could also lead to charges that Uganda's Movement-style democracy only works if President Museveni is in charge.⁴²

Ambassador Carson's remarks at the Wilson Center were powerfully reinforced by the observations of Professor Joel Barkan, one of this country's leading academic experts on Uganda. Barkan's presentation at the Woodrow Wilson Center offers a compelling warning that Uganda in recent years has begun to slide backward on critical development issues including human rights, the growth of corruption and

⁴² Johnnie Carson, "A Legacy in Danger," a presentation made at the Woodrow Wilson International Center for Scholars, June 2, 2005.

economic growth. He sees a very real danger that the momentum toward economic development and full democracy of the early Museveni years will be lost if Museveni is allowed to remain in power. According to Barkan, the recent years of Museveni rule in Uganda have been characterized by increasing tendencies toward political repression, the retrenchment of the once widely inclusive Movement into a narrower and narrower group of ethnic cronies of the President, the poisonous spread of corrupt practices, a slowing of economic growth and a corresponding widening of the politico-economic divide between southern and northern Uganda. Using the concept of “neo-patrimonial authority,” Barkan warns of a “president who now risks squandering this legacy of his nation.”⁴³

The *D & G Assessment* presents the Carson-Barkan viewpoint as one that merits the most serious and respectful attention within the American policy-making community. Nothing less would be consistent with their stature in diplomatic and academic circles, the sheer empirical weight of evidence they present,⁴⁴ and their long standing personal record as Americans concerned to promote democracy in Africa. In sifting through the available evidence, the *D & G Assessment* aligns itself, though less stridently, with the pessimistic conclusions of the Carson and Barkan analyses. Against the background of the scholarly quality of these analyses, it imperative to give the most serious weight to the possibility that contemporary Uganda is indeed at serious risk of sliding back toward the political disarray of the late 1960s, or the even worse conditions that prevailed during the 1970s and early 1980s.

Constitutionalism in Uganda

The historical narrative set forth in the *D & G Assessment*, is wholly consistent with other studies of contemporary Uganda. Its record of recent events is broadly accepted by other scholar-observers of the Ugandan political scene and its conclusion resonates powerfully with those of Ambassador Carson and Professor Barkan. This conclusion is fundamentally critical of the constitutional compromise of 2005. There is a powerful consensus that the removal of presidential term limits is an unfortunate step because it sets the stage for continued rule by President Museveni whose recent administration has been characterized by increasing tendencies toward unchecked executive dominance and the heightened use of political repression. In Barkan’s view, for example, Uganda will be allowed to democratize only up to the point where this process does not threaten either the pre-eminence of Museveni himself or the dominance of the Museveni Movement. If this conclusion is correct, it is deeply regrettable. It means that Uganda’s once promising development scenario is in now jeopardy of failure.

To deal with the deteriorating Ugandan environment, the *D & G Assessment* suggests that the donor community should exert its energy and resources in the direction of shoring up those institutions in Uganda that represent an alternative to executive dominance. These include, most prominently, the legislature and the institutions of civil society such as voluntary associations and the media.

Submit Uganda to the “reasonable person” test and no other conclusion seems possible.

The reasonable person, presented with this set of facts and the authoritative opinions of so many diverse observers, would reach exactly the same conclusion. Against the background of such a strong analytic

⁴³ Joel D. Barkan, “An African Success Past its Prime,” Woodrow Wilson Center, June 2, 2005.

⁴⁴ Barkan was also team leader and principal author of a major 2004 World Bank study, The Political Economy of Uganda.

consensus not to mention more recent events that appear to further corroborate that judgment,⁴⁵ it is problematic as to whether a less bleak interpretation merits consideration. The challenging issue that arises in a brief comment such as this is whether it is even remotely possible to interpret this same set of facts in a different manner

This observer, however, would like to suggest one possible alternative. The most promising point of departure for a somewhat less bleak viewpoint is to recall that the compromise of 2005 was precisely that, a compromise. What came about after several years of political dialogue was not simply the removal of the 2-term limitation on the president, but the removal of the ban on open party competition in national elections. The national elections of 2006 will be different than those of 1996 and 2001 in the respect that political parties will be allowed to compete openly. At the very least, any conclusion about the state of Uganda's democratic transition would appear to be premature until that election has been held and close observers have registered their judgments as to whether parties opposed to the Movement have been allowed to campaign freely and whether the final results have been fairly rendered.

But there is a deeper issue than this; that is, the very nature of constitutional and democratic transitions. Put most bluntly, constitutional transitions are not uni-linear or uni-dimensional. The process of building a consensually validated and legitimate constitutional system can involve endless compromise, as well as a frustrating process of give and take. During a democratic transition, elements of democratic practice may well co-exist with less than democratic political practices and arrangements. Hear the voice of Richard Sklar:

With regard to democracy, all existing political systems are mixtures of democracy and its opposite, oligarchy. Similarly, rulers everywhere are tempted to disregard the rule of law in the name of national security or public emergency. In countries that have new and relatively weak systems of constitutional government, the dangers of arbitrary and despotic rule are never far removed from the surface of political life. But this does not mean that constitutional thought and practice in those countries lack either vitality or genuine promise. As in the case of democracy, the 'fragments' of constitutional government coexist with their antitheses.⁴⁶

A broad historical perspective is helpful. The process of developing constitutional legitimacy is one of painfully slow sedimentation in which democratic institutions are built up gradually over long periods of time. The institutions that eventually take on the quality of being sacrosanct through legitimization must first be shaped by painful compromise, and then put in place for fragile experimentation before they can take on the quality of popular ownership we call legitimacy. It is worthwhile here to recall that the American constitution was the outcome of an almost endless set of such compromises. It was the product of a compromise between large and small states (the House of Representatives and the Senate), between populists and elitists (direct election of House and indirect election of Senate and President) and between free states and slave-holding states (African populations to be counted as 3/5ths for electoral purposes). None of these compromises was without its vocal proponents and its equally strong detractors and the shape of virtually all the institutions that emerged has changed dramatically over time as circumstances and social practices evolved.

⁴⁵ One particularly disturbing event is the arrest and imprisonment of Dr. Kizza Besigye, a major opposition figure, likely presidential candidate and leader of a party called Forum for Democratic Change. See BBC News: World Edition, Tuesday, November 15, 2005.

⁴⁶ Richard L. Sklar, "On the Study of Constitutional Government in Africa," Chapter 3 of Okon Akiba, editor, *Constitutionalism and Society in Africa* (Ashgate Publishing, 2004), p. 43.

The operational idea here is the concept of honorable compromise. An honorable compromise may not produce an entirely satisfactory democratic arrangement. It may, as Sklar anticipates, produce a transitional arrangement that permits oligarchy to coexist with democracy. It may even permit elements of authoritarian rule to coexist with the trace roots of institutions that provide popular choice. However unattractive the product of such an honorable compromise may be, its appeal is quite simple: it is more attractive than the most likely alternative. It is difficult to avoid the conclusion that for Uganda, the most likely alternative to the compromise of 2005 may well have been personal rule without any possibility of party politics.

This relates directly to the concept of neo-patrimonial rule as an analytic device to help us better understand the nature of the Museveni government. As the *D & G Assessment* points out, this term refers to governments whose leaders use their power and position to appropriate state resources for their private use and, through corruption, as a vehicle to remain in power. Carson and Barkan characterize Museveni's government as a neo-patrimonial regime and the authors of the *D & G Assessment* concur, though in less outspoken terms. Again, the empirical evidence that informs the *D & G* analysis is so strong and so fully consistent with others' observations that the conclusion is well supported.

Although the idea of neo-patrimonial authority has great analytic value in capturing the inner reality of governments whose principal characteristic is that their leaders use corruption as a vehicle to remain in power, the idea also has important limitations. One is that it does not offer us much ability to discriminate between degrees of corruption. The concept of neo-patrimonial authority first entered the analytic vocabulary of Africanist political science through the work of Thomas M. Callaghy, who used it to describe the government of Joseph Mobutu in Zaire.⁴⁷ For Callaghy, Mobutu's Zaire could best be likened to 17th and 18th century France under the reign of the three Louis, XIV, XV and XVI. Between the mid-17th and late 18th century, the private appropriation of public wealth attained such great proportions that the institutions of government became hopelessly shriveled. For much of the country and, indeed, for Paris itself, government all but ceased to function as the revenue stream from taxes was diverted from public use to private wealth. The consumption excesses of the aristocracy replaced even the most elemental of public services. Not surprisingly, monarchical state collapsed with almost astonishing ease under the assault of the Jacobin-inspired revolution of 1789.

The *D & G Assessment* does not suggest that Museveni's Uganda even remotely sustains that extreme comparison. Indeed, during the approximately twenty years of Movement rule, there has been a remarkable restoration of public institutions including medical and educational services; physical infrastructure has been rehabilitated through much of the country and, except for the war zone in the north, the Uganda Government has been able to assure the physical safety of most citizens. If anything, the concept of neo-patrimonial authority as Callaghy devised it seems more applicable to the regime of Obote II where the level of predation was so great that the state seemed to collapse in on itself.

If the growth of corruption is unchecked, it is entirely possible that Museveni's Movement regime may follow that path. The truly difficult question is whether neo-patrimonial corruption in Uganda has taken on a dynamic leads irreversibly in the direction of Mobutu's Zaire or Louis XVI France. No less authorities on Uganda than Ambassador Carson and Professor Barkan appear to believe that this is so. But the alternative viewpoint is that it is simply too early to reach this conclusion.

The most instructive comparison country for modern Uganda is France at the end of World War II. The pattern of relevant events has almost eerie similarities: the collapse of the Third Republic was followed by a period of fascist rule during which the country suffered shattering physical, political, economic and

⁴⁷ Thomas M. Callaghy, *The State-Society Struggle: Zaire in Comparative Perspective*. (New York: Columbia University Press, 1984).

psychological devastation. Toward the very end of the war, the Gaullist resistance movement initiated a constitutional process to determine the shape and form of the Fourth Republic constitution. Many historians of modern France believe that De Gaulle's great mistake during that constitutional process was to allow the resistance movement to break up into its component political parties so that open party contestation could take place as soon as possible. The results were tragic: The party system that emerged was characterized by extended periods of immobilism and paralysis: several of the major parties opposed the very idea of constitutional rule. De Gaulle, who might have provided the French with a unifying figure, became marginalized from the political process and was unable to provide a corrective balance to extreme partisan pluralism. The constitution that emerged was an utter failure. It lasted only 12 years, and was wholly unable to provide France with stable political governance.

Neither Museveni nor his followers cite the Gaullist experience to justify a continuing role for Museveni himself or to substantiate their doubts about the timing of the full resumption of open party politics. But were they to do so, it would be difficult to counter the force of their argument.

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