



USAID
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2009 NGO SUSTAINABILITY INDEX

for Sub-Saharan Africa

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Cover Photo: Members of *Ndethye Ngutethye* ("Help Me To Help You") Self Help Group from Yatta District in Kenya participate in a recordkeeping training with support from Pact Kenya under the Self Help Approach program. Photo Credit: Pact Kenya.

The 2009 NGO Sustainability Index for Sub-Saharan Africa

**Developed by:
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INTRODUCTION

USAID is proud to present the first edition of the *NGO Sustainability Index for Sub-Saharan Africa*. The *NGO Sustainability Index for Sub-Saharan Africa* reports on the strength and overall viability of NGO sectors in nineteen countries of sub-Saharan Africa, including countries in the subregions of East, West, and Southern Africa.

With a few region-specific modifications, the methodology of this Index replicates that of the USAID *NGO Sustainability Index for Central and Eastern Europe and Eurasia*, an established tool used by NGOs, governments, donors, academics and others to better understand the sustainability of the NGO sector in Europe and Eurasia. Comparing the NGO sectors of Africa and Europe and Eurasia will be useful to users of the two indices. The methodology relies on a panel of NGO practitioners and experts in each country who assesses the NGO sector in terms of seven interrelated dimensions: legal environment, organizational capacity, financial viability, advocacy, service provision, infrastructure, and public image. An editorial committee of technical and regional experts reviews each country panel's findings. Based on their scores, the 19 countries surveyed in the Index fall within three categories, or stages, of development: sustainability enhanced, sustainability evolving, and sustainability impeded. More detail about the methodology used to calculate scores is provided in Sections 1 through 3 (pages 8-16).

This is the inaugural publication of the USAID *NGO Sustainability Index for Sub-Saharan Africa*, and the scores in this volume serve as a baseline for future Indexes, allowing for comparisons across countries and subregions over time. The country reports highlight key factors affecting the sustainability of NGOs, providing context and a basis for subsequent reports to track advances and setbacks in sectoral development.

In addition to separate reports on nineteen countries, this year's Index includes two articles examining trends affecting NGO sustainability in Sub-Saharan Africa: the legal environment for NGOs, specifically restrictive NGO laws and mandatory self-regulation initiatives, and factors affecting the financial viability of NGOs. The 2009 Index includes at the beginning of each country report a statistical summary showing the scores for each dimension, plus the overall country score, as well as identification of the capital, population, and a summary of basic economic indicators.

A publication of this type would not be possible without the contributions of many. The Index was financially supported by the USAID Bureau for Democracy, Conflict, and Humanitarian Assistance, the USAID Bureau for Africa, and the Aga Khan Foundation. Specific acknowledgements of the NGO implementers responsible for the Index appear on the following page. We would further like to express our deepest gratitude to all of the local NGO experts, USAID partners in Washington and in Sub-Saharan Africa, and international donors who participated in the expert group discussions in each country. Their knowledge, perceptions, ideas, observations, and contributions are the foundation upon which this Index is based.

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EXECUTIVE SUMMARY

Whether they are responding to a cholera outbreak in Zimbabwe, generating public support for peace talks in Uganda, advocating for a law on access to information in Ghana, or addressing local communities' needs for improved housing and health care in Burundi, NGOs in countries across the sub-Saharan African region both respond to and reflect the challenges of their societies.¹ In a region characterized by some of the world's most severe economic, social, and political problems, NGOs provide vital services, reach out to marginalized groups, act as watchdogs to keep governments accountable, and raise public awareness of policy issues and social concerns. NGOs' levels of capacity and operating environments vary significantly between countries and even within countries, however. From countries such as Gabon, where NGOs operate in a legal vacuum and are at constant risk of being closed down, or Ethiopia, where a new law imposes restrictions on NGOs that receive foreign funding, to South Africa or Kenya, where NGOs play an active role in the policymaking process, vivid diversity, and shared challenges characterize the situation of NGO sustainability in Africa. This first-ever USAID *NGO Sustainability Index for Sub-Saharan Africa* provides an important baseline for tracking changes in the situation over time, starting from a point at which NGO sectors in some countries in sub-Saharan Africa have been active for nearly forty years.

Some of the issues confronted by African NGOs include restrictive laws, political interference, a lack of tax benefits such as tax exemptions on earned income, corruption, media censorship, and underdeveloped corporate philanthropy and public funding mechanisms. NGOs in some African countries operate amidst protracted armed conflicts; unreliable electricity and weak communications infrastructures are further impediments to NGOs' efforts. Nonetheless, the inaugural issue of the *NGO Sustainability Index for Sub-Saharan Africa* reflects numerous examples of NGOs managing to fulfill their missions despite myriad obstacles.

TRENDS IN THE REGION

From the more than 350,000 NGOs registered between 1997–2005 in Kenya to the mere 150 currently registered at the national level in Mozambique, NGO sectors in each of the nineteen countries surveyed in the Index are products of unique historical, geographic, economic and cultural factors. The region includes countries like Democratic Republic of Congo (DRC) and Nigeria with enormous populations and a multiplicity of ethnic and linguistic groups. Different historical contexts shaped the origins of NGO sectors in different countries; NGOs in Ethiopia began to emerge during the country's catastrophic famines in 1974 and 1984, for example. Some countries are still coping with the crippling effects of past wars or extended periods of military rule, factors which have affected the ability of NGOs to flourish. Political contexts vary as well; Ghana, Mali and South Africa are the only countries measured in the Index that are "free" according to the Freedom House Freedom in the World 2010 survey, while ten of the nineteen countries are "partly free" and six "not free."

Despite wide variation across the region, however, certain tendencies in NGO sector development are evident in multiple sub-Saharan African countries.

¹ The term "NGO" is sometimes applied to a relatively narrow group of officially registered organizations. In this publication, the use of the term "NGO" refers to nonprofit civil society organizations, whether registered or unregistered—including membership associations, advocacy organizations, community-based organizations (CBOs), service delivery organizations and faith-based organizations.

Legal hurdles: NGOs face some type of legal obstacle in the majority of the countries covered in the Index. A key obstacle is difficulty obtaining registration. In some countries the laws regarding NGOs are outdated and complex and the registration process highly centralized, creating difficulties for NGOs outside of the capital. In Angola, Ghana and Rwanda, NGOs must register at various administrative levels, which can lead to additional paperwork and delays. Another problem is NGO legislation that introduces unwelcome restrictions, as in Ethiopia, where NGOs that receive foreign funding are barred from working on issues considered politically sensitive. (The issue of restrictive legislation is examined in more detail in the essay on page 17.) Other countries' legal provisions limit NGOs' ability to sustain themselves financially. NGOs in Burundi, for example, do not benefit from tax exemptions; even in countries that do provide tax exemptions or other financial incentives to NGOs, such as DRC and Guinea, procedures are often so complicated that few NGOs are able to take advantage of them. In Sierra Leone, there are no fiscal incentives to encourage individual and corporate donors to donate to NGOs. Bureaucratic requirements in Mali disqualify NGOs from participating in some government tenders. In some countries, such as DRC and Senegal, NGOs have recognized the need for more supportive legislation and are undertaking initiatives to develop it, but for NGOs in other countries such as Nigeria this is not a top priority. In Ghana, NGOs have resisted a draft NGO law that they believe could constrain their development and activities.

Defining role of donors: Financial viability is the weakest dimension for NGOs across Africa, an issue discussed in greater depth in the essay on page 28. While resources are an issue for NGOs around the world, conditions in many African countries produce particularly challenging financial conditions for NGOs. Few African NGOs are able to generate significant income by pursuing economic activities, charging fees for services, or collecting membership dues, and individual and corporate philanthropy tends to be weak, although CBOs and faith-based organizations often benefit from remittances from abroad and individual donations. Government contracting of NGOs is very limited, and often impeded by bureaucracy and corruption. As a result, in most countries NGOs are primarily dependent on foreign donors for funding, and in many cases this has led to donors' dictation of NGOs' priorities. Donor dependence also leaves NGOs vulnerable when donors reduce funds or pull out of a country, as can be seen in Angola.

NGOs as development actors: Service provision is the best-scoring dimension, on average, among countries measured in the Index. In almost all countries covered, NGOs have been active for years in responding to humanitarian needs, providing basics such as food and water, medicine, housing, and education to needy and marginalized groups. A notable feature in many countries is the close connection between CBOs and local communities where they have had an impact. In Uganda, for example, NGOs make efforts to involve communities in the delivery of services and execution of projects. Both the private and public sectors in Ghana recognize CBOs' skills in gaining the trust and cooperation of local communities. In many countries of sub-Saharan Africa, NGOs are heavily engaged in helping those affected by HIV/AIDS and in preventing its transmission. Still, the services that NGOs provide, in Liberia for example, are often determined by donor priorities rather than community priorities or needs. In Sierra Leone, NGOs that provide services feel limited by their role as subcontractors for international NGOs. NGOs' capacity in service provision has earned them government recognition and even partnerships in several countries, but cases of governments contracting NGOs for services remain few. Such initiatives are still nascent in Kenya, and rare in Mozambique.

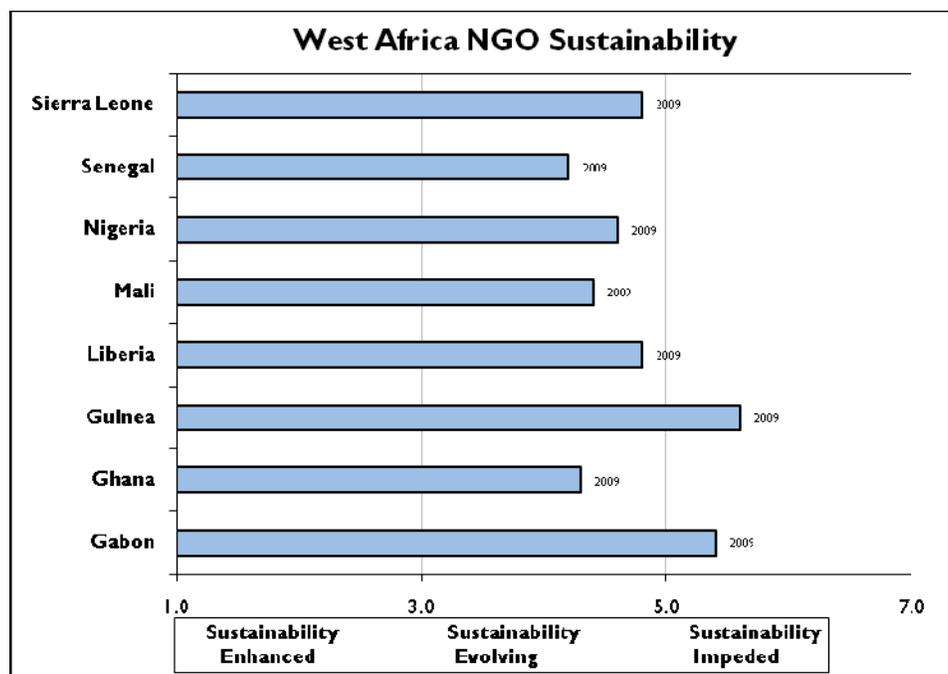
- *NGOs' evolving role in advocacy:* While many African governments tend to accept, and in some cases even embrace, NGOs' role in providing social services, they are more likely to be ambivalent or even hostile to NGOs that promote human rights issues or advocate on sensitive issues such as corruption. Socioeconomic development seems to be the area where policymakers are most likely to involve NGOs in decision making. NGOs in Rwanda participate in the Rwandan Economic and Social Council, for example. NGOs in several countries have found that

they can make a greater impact on policy and legislation through the formation of coalitions and networks, such as Mali’s Network of People Living with HIV/AIDS, Sierra Leone’s Campaign for Good Governance, Tanzania’s Education Network and Uganda’s Food Rights Alliance. Other areas where NGOs are able to target their advocacy efforts include sexual and gender-based violence, land rights, women’s rights, the environment, conflict resolution and transitional justice.

SUBREGIONAL AND COUNTRY TRENDS

The NGO sectors in the subregions of West, East and Southern Africa have similar overall average scores—with East and Southern Africa at the same level of NGO sustainability, while West Africa’s overall average score is slightly lower. These overall scores place the NGO sectors in all three subregions towards the lower end of the “sustainability evolving” stage. Geography does not seem to be a driving factor in NGO sustainability scores. Within each subregion there are countries with NGO sectors that scored relatively high within the “sustainability evolving” stage: Kenya in the East Africa region, Senegal in the West Africa region and South Africa in the Southern Africa region. Each subregion also has NGO sectors firmly within the “sustainability impeded” stage, such as Burundi in East Africa, Guinea in West Africa and Angola in Southern Africa. Between these two poles, the NGO sectors in countries of each subregion received scores along the spectrum of NGO sustainability. The result is that average overall scores for the subregions are similar.

West Africa



The Index covers eight countries in West Africa—Gabon, Ghana, Guinea, Liberia, Mali, Nigeria, Senegal and Sierra Leone. The NGO sectors in both Gabon and Guinea are characterized by low scores for sustainability (sustainability impeded). Guinea is the poorest-scoring of the West African countries, and among all countries in the Index only Angola scored equally low. Social and political instability have negatively affected Guinean NGOs’ ability to function and to achieve financial stability.²

² The Guinea expert panel was held and the country report drafted during the political crisis following the attempted assassination of the president and subsequent delays of the national elections, which were held in June 2010.

In Senegal, the best-scoring of the West African countries, NGOs are actively engaged in providing services as well as contributing to policy discussions. Ghana and Mali also offer relatively positive conditions for NGOs. Mali's legal environment for NGOs is one of the most supportive in Africa, with NGOs enjoying an easy registration process and freedom to express views on policy issues, although they face difficulties taking advantage of tax exemptions and participating in government tenders. In Ghana, NGOs have strong organizational capacity in relation to other countries in the region; many NGOs engage volunteers, for example. Ghanaian NGOs also provide services in a wide range of fields, though they continue to remain dependent on foreign donor funds.

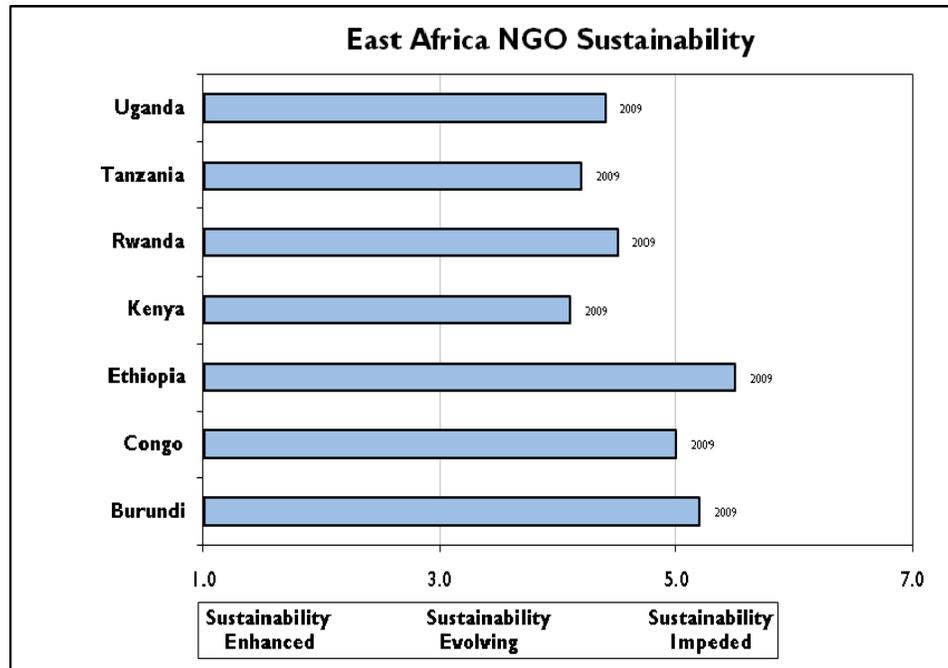
Gabon is the West African country with the most challenging legal environment for NGOs. NGO-government relations tend to be adversarial and NGOs experience harassment, including arrests of NGO representatives and the freezing of NGO bank accounts. Other aspects of NGO sustainability in Gabon are also impeded. The Gabonese government sometimes provides NGOs with grants or contracts, but political nepotism makes it hard for most NGOs to access such funds, and also leads to political figures creating NGOs for their own political and financial gain.

Liberia and Sierra Leone, which experienced protracted civil wars ending less than a decade ago, have identical overall average scores. In both countries, NGOs' activities and missions reflect the countries' transitions from post-conflict reconstruction to development. Defining the legal framework for NGOs remains a key challenge in both countries, as does the pursuit of funding sources besides foreign grants. As Africa's most populous country, Nigeria presents unique challenges and opportunities for its NGO sector. NGOs flourished with the influx of foreign funding that followed the country's return to democracy in 1999, and have been quite effective in engaging the government on key policy issues. They also benefit from a relatively positive public image. Despite the presence of vast natural resources, oil companies and the creation of some corporate foundations, Nigeria's NGOs share the same struggles for financial viability with NGOs in other West African countries.

East Africa

The Index surveys the following seven countries of East Africa: Burundi, the Democratic Republic of Congo, Ethiopia, Kenya, Rwanda, Tanzania and Uganda. Kenya has the best overall score within the subregion, and the strongest infrastructure for NGOs among all the countries in the Index. In addition to the steady development of intermediary support organizations and resource centers, Kenyan NGOs can benefit from institutionalized training programs and the grantmaking of local foundations. Tanzania's overall score is also relatively high, thanks in part to the particularly strong role of NGOs in service provision, for which they receive cooperation and support from local and central government bodies. In Uganda, the growing NGO sector is quite active in the provision of services, and strong NGO networks and umbrella organizations facilitate NGOs' success in advocacy. Ugandan NGOs' sustainability is inhibited, however, by a lack of diverse funding sources as well as a restrictive environment, including harassment of NGOs that attempt to work on politically sensitive issues.

The difficult situation facing NGOs in Ethiopia is reflected in the low score for legal environment—matching that of Zimbabwe. Negative aspects outweigh positive aspects of Ethiopia's new Charities and Societies Proclamation, adopted in early 2009, including a restriction on international funding for NGOs involved in human rights, gender, conflict resolution or justice sector reform. Ethiopia's scores in all dimensions except service provision fall in the sustainability impeded stage.

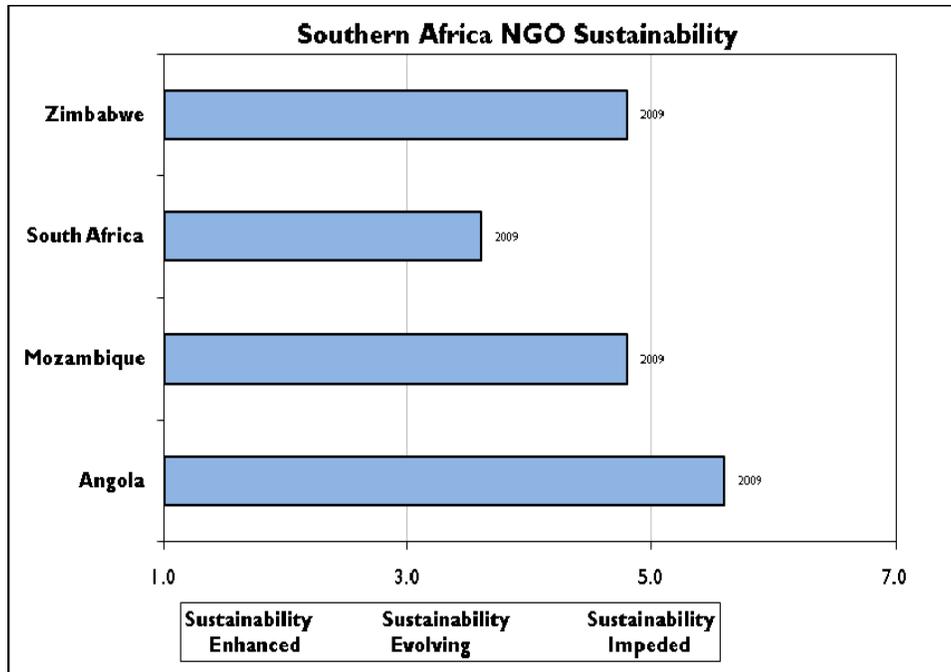


More than half of Burundi’s scores reflect the impeded stage. In particular, Burundian NGOs struggle with a near-total dependence on international donor funding and a restrictive legal environment. NGOs in neighboring Rwanda also have problems with financial sustainability and weak infrastructure, but have managed to gain some traction with advocacy related to the formulation of policies regarding socioeconomic development, improvement of NGO legislation, and monitoring of transitional justice mechanisms.

Southern Africa

Four Southern African countries are considered in the Index: Angola, Mozambique, South Africa and Zimbabwe. South Africa, with its vibrant NGO sector and trend toward the establishment of national funding mechanisms, has the best score in the entire Africa region, although a decline in donor funding, decreasing unity within the NGO sector, and brain drain to the private and public sectors have weakened NGOs in recent years. At the other end of the scale, Angola shares with Guinea the poorest score among the countries surveyed. Angolan NGOs suffer from weak organizational capacity, a lack of a supportive infrastructure and a complicated legal framework, among other problems. The country’s oil boom has increased the costs of operating in Angola, with the result that numerous donors have withdrawn or cut aid budgets. Oil companies and other corporations, meanwhile, provide only minimal support for a narrow range of NGO activities.

Mozambique and Zimbabwe share the same overall average score, though the conditions for NGOs in the two countries are quite different. NGOs in Zimbabwe operate in a volatile political environment, vulnerable to dissolution by the state. Despite this government hostility, Zimbabwean NGOs are among the most advanced in the region in terms of providing services in response to acute social and humanitarian needs. Mozambican NGOs are able to operate without harassment but struggle with particularly weak organizational capacity. Like their counterparts in Zimbabwe, they are quite effective in the provision of services at the local level. Notably, NGOs also manage to mobilize contributions and volunteers from local communities.



CONCLUSION

This year’s USAID *NGO Sustainability Index for Sub-Saharan Africa* lays an important foundation for further examination and assessment of the NGO sectors in nineteen countries, and provides an opportunity for countries and NGO sectors to learn from each other’s experiences. NGO activists and policymakers as well as the international community can draw upon the Index and the best practices of African NGOs when determining priorities and approaches—such as the improvement of legislation, the creation of tax incentives for philanthropy, or increasing NGOs’ access to the Internet. Among the issues users of the Index may track over time is whether the situation in countries with a relatively supportive environment for NGOs continues to improve while it tends to worsen in those with a difficult environment; whether more distinct differences gradually emerge between the West, East and Southern African subregions; and how trends in NGO sustainability affect or are affected by other development trends in Africa. As described in some of the country reports in this year’s Index, for example, in many cases African NGOs have been particularly active during times of increased conflict, during humanitarian emergencies, and even in situations of state failure, stepping in to address the concerns of needy populations and to serve as a link between international donors and local communities.

The thematic essays in the Index focus on two particularly troublesome issues for NGOs across the sub-Saharan African region—the lack of a supportive legal framework and the struggle to survive financially—as reflected in scores for the legal environment and financial viability dimensions, often the weakest for many countries. Relatively stronger scores, on average, in the service provision and advocacy dimensions point to NGOs’ important role in responding to basic social needs in Africa and to their growing capacity to make their voices heard through issue-based campaigns, coalition building and participation in policy forums. Often, however, NGOs that focus on advocacy related to human rights and governance issues find themselves at a disadvantage in terms of obtaining domestic sources of funding or gaining positive recognition compared to their service-providing counterparts.

As is evident in this year’s report, NGOs in sub-Saharan Africa both reflect and respond to conditions and trends in the countries in which they operate. As USAID and MSI note in their essay, the diverse range of NGOs in Africa—from faith-based organizations to professional associations to community-based

groups—is largely the result of the democratic movements of the 1990s in Africa, which opened up space for non-state actors. Regime changes, political developments, economic fluctuations and technological advances in the countries surveyed will no doubt be among the factors continuing to influence both positive and negative tendencies in NGO sector development, resulting in future shifts in scores. NGOs themselves will also likely drive change as they adapt and innovate in their own unique ways.

SECTION 1: DIMENSIONS OF NGO SUSTAINABILITY

Seven different dimensions of the NGO sector are analyzed in the *NGO Sustainability Index for Sub-Saharan Africa*: legal environment, organizational capacity, financial viability, advocacy, service provision, NGO infrastructure and public image. In the Index, each of these dimensions is examined with a focus on the following questions:

1. What has been accomplished?
2. What remains a problem?
3. Do local actors recognize the nature of outstanding challenges?
4. Do local actors have a strategy and the capacity to address these challenges?

A brief explanation of the criteria used to evaluate each dimension of sustainability follows:

LEGAL ENVIRONMENT

For an NGO sector to be sustainable, the legal and regulatory environment should support the needs of NGOs. It should facilitate new entrants, help prevent governmental interference, and give NGOs the necessary legal basis to engage in appropriate fundraising activities and legitimate income-producing ventures. The legal environment dimension of the Index analyzes the legal status of nongovernmental organizations. Factors shaping the legal environment include the ease of registration; legal rights and conditions regulating NGOs; and the degree to which laws and regulations regarding taxation, procurement, access to information and other issues benefit or deter NGOs' effectiveness and viability. The extent to which government officials, NGO representatives, and private lawyers have the legal knowledge and experience to work within and improve the legal and regulatory environment for NGOs is also examined.

Questions asked include: Is there a favorable law on NGO registration? In practice, are NGOs easily able to register and operate? Is the internal management, scope of permissible activities, financial reporting, and/or dissolution of NGOs well detailed in current legislation? Does clear legal terminology preclude unwanted state control over NGOs? Is the law implemented in accordance with its terms? Are NGOs protected from the possibility of the state dissolving an NGO for political/arbitrary reasons? Are NGOs and their representatives allowed to operate freely within the law? Are they free from harassment by the central government, local governments, and tax police? Can they freely address matters of public debate and express criticism? Are there local lawyers who are trained in and familiar with NGO law? Is legal advice available to NGOs in the capital city and in secondary cities? Do NGOs receive any sort of tax exemption or deduction on income from grants, endowments, fees, or economic activity? Do individual or corporate donors receive tax deductions? Does legislation exist that allows NGOs to earn income from the provision of goods and services? Are NGOs allowed legally to compete for government contracts/procurements at the local and central levels?

ORGANIZATIONAL CAPACITY

A sustainable NGO sector will contain a critical mass of NGOs that are transparently governed and publicly accountable, capably managed, and that exhibit essential organizational skills. The organizational capacity dimension of the Index addresses the operation of NGOs.

Questions evaluated include: Do NGOs clearly identify and actively seek to build local constituencies for their initiatives? Are they successful in these endeavors? Do NGOs have clearly defined missions to which they adhere? Do NGOs have clearly defined strategic plans and incorporate strategic planning techniques in their decision making processes? Is there a clearly defined management structure within NGOs, including a recognized division of responsibilities between the board of directors and staff members? Does the board actively engage in the governance of the NGO? Do the boards of directors operate in an open and transparent manner, allowing contributors and supporters to verify appropriate use of funds? Are NGOs able to maintain permanent, paid staff? Do NGOs have adequate human resources practices for staff, including contracts, job descriptions, payroll and personnel policies? Are potential volunteers sufficiently recruited and engaged? Do NGOs utilize professional services such as accountants, IT managers or lawyers? Do NGOs' resources generally allow for modernized basic office equipment (relatively new computers and software, cell phones, functional fax machines/scanners, Internet access, etc.)?

FINANCIAL VIABILITY

A critical mass of NGOs must be financially viable, and the economy must be robust enough to support NGO self-financing efforts and generate philanthropic donations from local sources. For many NGOs, financial viability may be equally dependent upon the availability of and their ability to compete for international donor support funds.

Factors influencing the financial viability of NGOs include the state of the economy, the extent to which philanthropy and volunteerism are being nurtured in the local culture, as well as the extent to which government procurement and commercial revenue raising opportunities are being developed. The sophistication and prevalence of fundraising and strong financial management skills are also considered.

Questions asked under this dimension include: Do NGOs raise a significant percentage of their funding from local sources? Are NGOs able to draw upon a core of volunteer and nonmonetary support from their communities and constituencies? Are there local sources of philanthropy? Do NGOs typically have multiple, diverse sources of funding? Do most NGOs have enough resources to remain viable for the short-term future? Are there sound financial management systems in place? Do NGOs typically operate in a transparent manner, including independent financial audits and the publication of annual reports with financial statements? Have many NGOs cultivated a loyal core of financial supporters? Do NGOs engage in any sort of membership outreach and philanthropy development programs? Do revenues from services, products, or rent from assets supplement the income of NGOs? Do government and/or local business contract with NGOs for services? Do membership-based organizations collect dues?

ADVOCACY

The political and advocacy environment must support the formation of coalitions and networks, and offer NGOs the means to communicate their messages through the media to the broader public, articulate their demands to government officials, and monitor government actions to ensure accountability. The advocacy dimension looks at NGOs' record in influencing public policy. The prevalence of advocacy in different sectors, at different levels of government, as well as with the private sector is analyzed. The extent to which coalitions of NGOs have been formed around issues is considered, as well as whether NGOs

monitor party platforms and government performance. This dimension does not measure the level of NGOs' engagement with political parties.

Questions include: Are there direct lines of communication between NGOs and policymakers? Do NGOs and government representatives work on any projects together? Have NGOs formed issue-based coalitions and conducted broad-based advocacy campaigns? Have these campaigns been effective at the local level and/or national level at increasing awareness or support for various causes? Are there mechanisms and relationships for NGOs to participate in the various levels of the government decision-making processes? Are NGOs comfortable with the concept of lobbying? Have there been any lobbying successes at the local or national level that led to the enactment or amendment of legislation? Is there awareness in the wider NGO community of how a favorable legal and regulatory framework can enhance NGO effectiveness and sustainability? Is there a local NGO advocacy effort to promote legal reforms that will benefit NGOs, local philanthropy, etc?

SERVICE PROVISION

Sectoral sustainability will require a critical mass of NGOs that can efficiently provide services that consistently meet the needs, priorities and expectations of their constituents.

The Index reviews questions such as: Do NGOs provide services in a variety of fields, including basic social services and other areas such as economic development, environmental protection, or governance and empowerment? Overall, is the sector's "product line" diversified? Do the goods and services that NGOs provide reflect the needs and priorities of their constituents and communities? Are those goods and services that go beyond basic social needs provided to a constituency broader than NGOs' own memberships? Are some products, such as publications, workshops or expert analysis, marketed to other NGOs, academia, churches or government? When NGOs provide goods and services, do they recover any of their costs by charging fees? Do they have knowledge of the market demand and the ability of distinct constituencies to pay for those products? Does the government, at the national and/or local level, recognize the value that NGOs can add in the provision and monitoring of basic social services? Do they provide grants or contracts to NGOs to enable them to provide such services?

INFRASTRUCTURE

A strong sectoral infrastructure is necessary that can provide NGOs with broad access to local NGO support services. Intermediary support organizations (ISOs) providing these services must be able to inform, train, and advise other NGOs; and provide access to NGO networks and coalitions that share information and pursue issues of common interest.

Questions include: Are there ISOs, NGO resource centers, or other means for NGOs to access relevant information, technology, training and technical assistance throughout the country? Do ISOs and NGO resource centers meet the needs of local NGOs? Do ISOs and resource centers earn some of their operating revenue from earned income (such as fees for service) and other locally generated sources? Do local community foundations and/or ISOs provide grants, from either locally raised funds or by re-granting international donor funds, to address locally identified needs and projects? Do NGOs share information with each other? Is there a network in place that facilitates such information sharing? Is there an organization or committee through which the sector promotes its interests? Are there capable local NGO management trainers? Is basic NGO management training available in the capital city and in secondary cities? Is more advanced specialized training available in areas such as strategic management, accounting, financial management, fundraising, volunteer management, and board development? Do trainings meet the needs of local NGOs? Are training materials available in local languages? Are there examples of NGOs working in partnership, either formally or informally, with local

business, government, and the media to achieve common objectives? Is there awareness among the various sectors of the possibilities for and advantages of such partnerships?

PUBLIC IMAGE

For the sector to be sustainable, government, the business sector, and communities should have a positive public image of NGOs, including a broad understanding and appreciation of the role that NGOs play in society. Public awareness and credibility directly affect NGOs' ability to recruit members and volunteers and encourage indigenous donors. The Index looks at the extent and nature of the media's coverage of NGOs, the awareness and willingness of government officials to engage NGOs, as well as the public's knowledge and perception of the sector as a whole.

Typical questions in this section include: Do NGOs enjoy positive media coverage at the local and national levels? Is a distinction made between public service announcements and corporate advertising? Do the media provide positive analysis of the role NGOs play in civil society? Does the general public have a positive perception of NGOs? Does the public understand the concept of an NGO? Is the public supportive of NGO activity overall? Do the business sector and local and central government officials have a positive perception of NGOs? Do they rely on NGOs as a community resource, or as a source of expertise and credible information? Do NGOs publicize their activities or promote their public image? Have NGOs developed relationships with journalists to encourage positive coverage? Have NGOs adopted a code of ethics or tried to demonstrate transparency in their operations? Do leading NGOs publish annual reports?

SECTION 2: RATINGS – GENERAL DEFINITIONS

The *NGO Sustainability Index for Sub-Saharan Africa* uses a seven-point scale, with 1 representing the highest and 7 the lowest level of sustainability. These scores are clustered into three general stages: Sustainability Enhanced (1 to 3), Sustainability Evolving (3.1 to 5), and Sustainability Impeded (5.1 to 7). The following broad guidelines can be used in determining scores for individual indicators and dimensions:

1. NGO sector's sustainability enhanced significantly by practices/policies in this area. While the needed reforms may not be complete, the local NGO community recognizes which reforms or developments are still needed, and has a plan and the ability to pursue them itself.
2. NGO sector's sustainability enhanced by practices/policies in this area. Local NGO community demonstrates a commitment to pursuing reforms and developing its professionalism in this area.
3. NGO sector's sustainability somewhat enhanced by practices/policies in this area or commitment to developing the aspect in question is significant.
4. NGO sector's sustainability minimally affected by practices/policies in this area. Progress may be hampered by a stagnant economy, a passive government, a disinterested media, or a community of good-willed but inexperienced activists.
5. NGO sector's sustainability somewhat impeded by practices/policies in this area. Progress may be hampered by a contracting economy, authoritarian leader and centralized government, controlled or reactionary media, or a low level of capacity, will or interest on the part of the NGO community.
6. NGO sector's sustainability impeded by practices/policies in this area. A hostile environment and low capacity and public support prevent the growth of the NGO sector.
7. NGO sector's sustainability significantly impeded by practices/policies in this area, generally as a result of an authoritarian government that aggressively opposes the development of independent NGOs.

SECTION 3: RATINGS – A CLOSER LOOK

The following sections go into greater depth about the characteristics in each of the seven dimensions of the sector's development. These characteristics and stages are drawn from empirical observations of the sector's development in the region, rather than a causal theory of development. Given the decentralized nature of NGO sectors, many contradictory developments may be taking place simultaneously. Therefore we do not attempt to break out the characteristics of the seven dimensions into seven distinct steps of development. Instead, these characteristics are clustered into three basic stages: Sustainability Enhanced, Sustainability Evolving, and Sustainability Impeded. The Sustainability Enhanced stage, the highest level of sustainability and development, corresponds to a score between 1 and 3 points; the Sustainability Evolving stage corresponds to a score between 3.1 and 5 points; and the lowest level of development, the Sustainability Impeded stage, corresponds to a score of 5.1 to 7 points on the scale.

LEGAL ENVIRONMENT

Sustainability Enhanced (1-3): The legislative and regulatory framework makes special provisions for the needs of NGOs or gives not-for-profit organizations special advantages such as: significant tax deductions for business or individual contributions, significant tax exemptions for NGOs, open competition among NGOs to provide government-funded services, etc. Legal reform efforts at this point are primarily a local NGO advocacy effort to reform or fine-tune taxation laws, procurement processes, etc. Local and comparative expertise on the NGO legal framework exists, and legal services and materials are available.

Sustainability Evolving (3.1-5): NGOs have little trouble registering and do not suffer from state harassment. They are permitted to engage in a broad range of activities, although taxation provisions, procurement procedures, etc. may inhibit NGO operations and development. Programs seek to reform or clarify existing NGO legislation, to allow NGOs to engage in revenue raising and commercial activities, to allow national or local governments to privatize the provision of selected government services, to address basic tax and fiscal issues for NGOs, etc. The local NGO community understands the need to coalesce and advocate for legal reforms benefiting the NGO sector as a whole. A core of local lawyers begins to specialize in NGO law by providing legal services to local NGOs, advising the NGO community on needed legal reforms, crafting draft legislation, etc.

Sustainability Impeded (5.1-7): The legal environment severely restricts the ability of NGOs to register and/or operate, either through the absence of legal provisions, the confusing or restrictive nature of legal provisions (and/or their implementation), or government hostility towards and harassment of NGOs.

ORGANIZATIONAL CAPACITY

Sustainability Enhanced (1-3): Several transparently governed and capably managed NGOs exist across a variety of sectors. A majority of organizations have clearly defined mission statements, and many NGOs utilize strategic planning techniques. Boards of directors exist, and there is a clear distinction between the responsibilities of board members and staff. NGOs have permanent well-trained staff, and volunteers are widely utilized. Most NGOs have relatively modern equipment that allows them to do their work efficiently. Leading NGOs have successfully developed strong local constituencies.

Sustainability Evolving (3.1-5): Individual NGOs demonstrate enhanced capacity to govern themselves and organize their work. Some individual NGOs maintain full-time staff members and boast an orderly division of labor between board members and staff. NGOs have access to basic office equipment,

including computers and fax machines. While these efforts may not have reached fruition yet, leading NGOs understand the need and are making an effort to develop local constituencies.

Sustainability Impeded (5.1-7): NGOs are essentially “one-man shows,” completely dependent upon the personality of one or two major figures. They often split apart due to personality clashes. NGOs lack a clearly defined sense of mission. At this stage, NGOs reflect little or no understanding of strategic planning or program formulation. Organizations rarely have a board of directors, by-laws, staff, or more than a handful of active members. NGOs have no understanding of the value or need of developing local constituencies for their work.

FINANCIAL VIABILITY

Sustainability Enhanced (1-3): A critical mass of NGOs have sound financial management systems in place, including independent audits and the publication of annual reports with financial statements, to win potential donors’ confidence. NGOs raise a significant percentage of their funding from local sources, including government, corporate and individual philanthropy, and earned income. Most NGOs have multiple sources of funding, which allow them to remain viable in the short term. A growing economy makes growth in domestic giving possible.

Sustainability Evolving (3.1-5): NGOs pioneer different approaches to financial independence and viability. While still largely dependent on foreign donors, individual NGOs experiment with raising revenues through providing services, winning contracts and grants from municipalities and ministries to provide services, or attempting to attract dues-paying members or domestic donors. However, a depressed local economy may hamper efforts to raise funds from local sources. Training programs address financial management issues and NGOs begin to understand the importance of transparency and accountability from a fundraising perspective, although they may be unable to fully implement transparency measures.

Sustainability Impeded (5.1-7): New NGOs survive from grant to grant and/or depend financially on one foreign sponsor. While many NGOs are created in the hopes of receiving funding, most are largely inactive after attempts to win foreign donor funding fail. Local sources of funding are virtually nonexistent, in part due to a depressed local economy. NGOs have no financial management systems and do not understand the need for financial transparency or accountability.

ADVOCACY

Sustainability Enhanced (1-3): The NGO sector demonstrates the ability and capacity to respond to changing needs, issues and interests of the community and country. As NGOs secure their institutional and political base, they begin to 1) form coalitions to pursue issues of common interest, including NGO legislation; 2) monitor and lobby political parties; and 3) monitor and lobby legislatures and executive bodies. NGOs demonstrate the ability to mobilize citizens and other organizations to respond to changing needs, issues, and interests. NGOs at this stage of development will review their strategies, and possess an ability to adapt and respond to challenges by sector. A prime motivator for cooperation is self-interest: NGOs may form alliances around shared issues confronting them as nonprofit, nongovernmental organizations.

Sustainability Evolving (3.1-5): Narrowly defined advocacy organizations emerge and become politically active in response to specific issues. Organizations at the evolving level of development may often present their concerns to inappropriate levels of government (local instead of national and vice versa). Weakness of the legislative branch might be revealed or incorrectly assumed, as activists choose to meet with executive branch officials instead (“where the power truly lies”). Beginnings of alternative

policy analysis are found at universities and think tanks. Information sharing and networking within the NGO sector to inform and advocate its needs within the government begins to develop.

Sustainability Impeded (5.1-7): Broad umbrella movements, composed of activists concerned with a variety of sectors, and united in their opposition to the Government fall apart or disappear. Some countries at this stage have not even experienced any initial burst of activism. Economic concerns are predominant for most citizens. Passivity, cynicism, or fear exist within the general public. NGO activists are afraid to engage in dialogue with the government, feel inadequate to offer their views and/or do not believe the government will listen to their recommendations. NGOs do not understand the role that they can play in public policy or do not understand the concept of public policy.

SERVICE PROVISION

Sustainability Enhanced (1-3): Many NGOs provide a wide range of goods and services, which reflect community and/or local donor priorities. Many NGOs deliver products beyond basic social services in such sectors as economic development, environmental protection or democratic governance. NGOs in several sectors have developed a sufficiently strong knowledge of the market demand for their services, the ability of government to contract for the delivery of such services or other sources of funding including private donations, grants and fees, where allowed by law. A number of NGOs find it possible to cross-subsidize those goods and services for which full cost recovery is not viable with income earned from more lucrative goods and services, or with funds raised from other sources. Government bodies, primarily at the local level, recognize the abilities of NGOs and provide grants or contracts to enable them to provide various services.

Sustainability Evolving (3.1-5): The contribution of NGOs to covering the gap in social services is recognized by government, although this is only rarely accompanied by funding in the form of grants or contracts. NGOs recognize the need to charge fees for services and other products—such as publications and workshops—but even where legally allowed, such fees seldom cover their costs. While NGO-provided goods and services respond to community needs, needs are generally identified by foreign donors, or by NGOs in an unsystematic manner. The constituency for NGO expertise, reports and documents begins to expand beyond their own members and the poor to include other NGOs, academia, churches, and government.

Sustainability Impeded (5.1-7): A limited number of NGOs are capable of providing basic social services—such as health, education, relief, or housing—although at a low level of sophistication. Those that do provide such services receive few if any government subsidies or contracts. NGOs that produce publications, technical services or research do so only for their own members or donors. There are rarely attempts to charge fees for goods and services.

INFRASTRUCTURE

Sustainability Enhanced (1-3): NGO intermediary support organizations (ISOs) and/or NGO resource centers are active in all areas of the country and provide advanced training, informational services, legal support and advice, and philanthropic development activities. Efforts are underway to establish and endow community foundations, indigenous grantmaking institutions, and/or organizations to coordinate local fundraising. A professional cadre of local experts, consultants and trainers in nonprofit management exists. NGOs recognize the value of training, although the lack of financial resources may remain a constraint to accessing locally provided training. Topics of available training cover: legal and tax issues for NGOs, accounting and bookkeeping, communication skills, volunteer management, media and public relations skills, sponsorship and fundraising. NGOs work together and share information through

networks and coalitions. NGOs are beginning to develop intersectoral partnerships with business, government, and the media to achieve common objectives.

Sustainability Evolving (3.1-5): ISOs and resource centers are active in major population centers, and provide services such as distributing grants, publishing newsletters, maintaining a membership database, running a library of NGO literature, and providing basic training and consulting services. Other umbrella organizations and networks are beginning to be formed to facilitate networking and coordinate activities of groups of NGOs. Local trainers have the capacity to provide basic organizational training. Donors' fora are formed to coordinate the financial support of international donors, and to develop local corporate philanthropic activities. The value of intersectoral partnerships has not yet been realized.

Sustainability Impeded (5.1-7): There are few, if any, active ISOs or resource centers, networks and umbrella organizations. Those that do operate work primarily in the capital city and provide limited services such as access to computer equipment, faxes, e-mail and meeting space. Local training and NGO development capacity is extremely limited and undeveloped. Primarily programs of international donors provide training and technical assistance. There is no coordinated effort to develop philanthropic traditions, improve fundraising or establish community foundations. NGO efforts to work together are limited by a perception of competition for foreign donor support and mistrust of other organizations.

PUBLIC IMAGE

Sustainability Enhanced (1-3): This stage is characterized by growing public knowledge of and trust in NGOs, and increased rates of volunteerism. NGOs coalesce to mount campaigns to increase public trust. Widespread examples of good working relationships between NGOs and national and local governments exist, and can result in public-private initiatives or NGO advisory committees for city councils and ministries. Media covers the work of NGOs, and NGOs approach media and public relations in a professional manner. Increased accountability, transparency, and self-regulation exist within the NGO sector, including existence of a generally accepted code of ethics or a code of conduct.

Sustainability Evolving (3.1-5): The media does not tend to cover NGOs because it considers them weak and ineffective, or irrelevant. Individual NGOs realize the need to educate the public, to become more transparent, and to seek out opportunities for media coverage, but do not have the skills to do so. As a result, the general population has little understanding of the role of NGOs in society. Individual local governments demonstrate strong working relationships with their local NGOs, as evidenced by their participation in advisory committees, consultations, public-private initiatives, and the funding of an occasional grant, but this is not yet widespread.

Sustainability Impeded (5.1-7): The public and/or government are uninformed or suspicious of NGOs as institutions. Most of the population does not understand the concept of "nongovernmental" or "nonprofit," including government officials, business leaders and journalists. Media coverage may be hostile, due to suspicion of a free but uninformed media, or due to the hostility of an authoritarian government-controlled media. Charges of treason may be issued against NGOs. Due to a hostile atmosphere caused by an authoritarian government, if individuals or businesses donate to NGOs at all, they do so anonymously.

SECTION 4: ARTICLES

LEGAL TRENDS IN SUB-SAHARAN AFRICA

David Moore

I. Introduction

Legal traditions within Sub-Saharan Africa are diverse and multi-layered. In any given country, the legal environment for civil society may be shaped by indigenous customary law, common law, civil law, and/or Islamic law. For example, the South African legal system has been shaped by both Dutch civil law and English common law traditions, while indigenous customary law remains a central part of the legal system.¹ Uganda's legal system is based on English common law and African customary law; customary law governs to the extent it does not contradict with the statutory laws.² In Senegal, by contrast, where the legal system is based on French civil law and Islamic law, any reference by the courts to customary laws is not permitted.³ Moreover, the national political systems in sub-Saharan Africa, which range widely from the relatively stable democracies of South Africa and Ghana to relatively less stable states such as Guinea and Zimbabwe,⁴ have a direct impact on the role that law plays in enabling or impeding civil society activity and the freedom of association.

Undeniably, civil society has a rich and diverse history in sub-Saharan Africa. A brief look reveals deeply embedded associational life in many countries, based on connections to tribe and clan. Civil society actors – including associations, faith-based organizations (or religious groups), and informal networks – played pivotal roles in the struggle against colonialism.⁵ In the post-independence period, advocacy, development and human rights organizations, typically referred to as NGOs, began to emerge across the continent.⁶ In addition, NGOs⁷ increasingly played a critical role as service providers. Indeed, some described their growth as an “explosion of associational life in Africa.”⁸

¹ Ricardo G. Wyngaard, South Africa Country Report, International Journal for Not-for-Profit Law, Vol.12, Issue 2 (February 2010), http://www.icnl.org/knowledge/ijnl/vol12iss2/special_7.htm.

² Livingstone Sewanyana, Uganda Country Report, International Journal for Not-for-Profit Law, Vol.12, Issue 2 (February 2010), http://www.icnl.org/knowledge/ijnl/vol12iss2/special_8.htm.

³ *Customary and Islamic law in Senegal*, published in Legalbrief Africa, 20 December 2004, Issue No: 110, <http://www.legalbrief.co.za/article.php?story=20041217123824607>.

⁴ See Freedom House, *Worst of the Worst: The World's Most Repressive Societies 2009*, <http://www.freedomhouse.org/uploads/WoW09/WOW%202009.pdf>; and Foreign Policy, *The Failed States Index 2010*, http://www.foreignpolicy.com/articles/2010/06/21/2010_failed_states_index_interactive_map_and_rankings

⁵ Bhekinkosi Moyo, *The Legislative Environment for Civil Society in Africa: A Synthesis Report*, Trust Africa, May 25, 2009, <http://www.trustafrica.org/documents/LegislativeEnvironment.pdf>.

⁶ Michael Edwards, *The Challenges of Civil Society in Africa*, Trust Africa, February 12, 2009, http://www.trustafrica.org/index.php?option=com_content&task=view&id=166&Itemid=51&lang=en.

⁷ While recognizing that the term “NGO” is not uncommonly a legal organizational form of civil society in the sub-Saharan African region, this paper will use the term “NGO” to embrace non-governmental, not-for-profit organizations, however defined a given legal system.

⁸ Michael Bratton, *Civil Society and Political Transition in Africa*, Institute for Development Research (IDR) Reports Vol. 11, No. 6 (1994), pg. 6, <http://www.worlded.org/docs/Publications/idr/pdf/11-6.pdf>. A more recent study assessing trends of democratic citizenship in 11 African countries from 1999-2008 found that civic participation (e.g., attendance at community meetings, joining others to raise issues, and going to a demonstration or protest) is trending upward, despite declines in engagement in civil society networks (e.g., active membership of both religious and voluntary associations). See Afrobarometer, *Are Democratic Citizens Emerging in Africa?*, Afrobarometer Briefing Paper No. 70, May 2009.

The explosion of associational life in Africa, which dovetailed with the “global associational revolution”⁹ described by Lester Salamon, has, perhaps inevitably, led to greater regulatory attention. A Ministry of Internal Affairs official in Uganda commented that “the mobilization capacity of civil society took government by surprise and their strength can no longer be taken for granted.”¹⁰ Indeed, two distinctive trends have arisen in recent years. First, states are drafting, enacting and applying laws to regulate civic space – and often to restrict or narrow civil society activity. Second, civil society organizations themselves are developing and implementing self-regulatory schemes to improve the governance of individual organizations and the sector as a whole, as well as to enhance the public perception of good governance.

This paper will explore each regulatory trend in turn. Section II examines the trend of restrictive state regulation. Section III focuses on the trend toward increased self-regulation.

II. Tightening Legal Space for Civil Society

The global trend of using law to narrow space for civil society has been referred to as the “regulatory backlash against civil society,”¹¹ the “associational counter-revolution,”¹² and most recently, the “steel vise in which governments around the world are slowly crushing civil society...”¹³ It is within the global context that the same trend is unfolding in sub-Saharan Africa. This section will explore recent restrictive regulatory measures – including laws, policies and regulations – that constrain civil society in the region; and various kinds of government harassment targeting civil society.

Restrictive Regulatory Measures

Since January 2009, we have witnessed the introduction of proposed or enacted regulatory restrictions in at least six countries and the application of restrictive rules in many other countries in sub-Saharan Africa. Perhaps even more striking than the numbers of countries exemplifying the regulatory trend is the severity of the restrictions: comprehensive new laws governing CSOs in Ethiopia and Zambia are particularly constraining. Indeed, the Ethiopian *Proclamation to Provide for the Registration and Regulation of Charities and Societies*, enacted in February 2009, has been called “among the worst in the world.”¹⁴

Most notably, the Ethiopian Proclamation restricts NGOs that receive more than 10% of their financing from foreign sources from working on the advancement of human rights, promoting the rights of children and the disabled, gender equality, nations and nationalities, good governance and conflict resolution, as well as the efficiency of the justice system. In other words, organizations with substantial foreign funding will not be able to monitor the government’s record on human rights, conflict resolution, and even children’s rights and the rights of the disabled. The result of the foreign funding restriction, especially in

⁹ Lester M. Salamon, Helmut K. Anheier, Regina List, Stefan Toepler, S. Wojciech Sokolowski et. al., *Global Civil Society: Dimensions of the Nonprofit Sector*, the Johns Hopkins Center for Civil Society Studies, 1999.

¹⁰ Bhekinkosi Mayo, *The Legislative Environment for Civil Society in Africa: A Synthesis Report*, Trust Africa, May 25, 2009, <http://www.trustafrica.org/documents/LegislativeEnvironment.pdf>.

¹¹ Jude Howell and Armine Ishkanian, *The backlash against civil society in the wake of the Long War on Terror*, *Development in Practice*, Volume 18, Issue 1 (2008), pages 82 – 93, <http://www.informaworld.com/smpp/content~db=all~content=a789773469~frm=abslink>.

¹² Doug Rutzen and Catherine Shea, *Associational Counter-Revolution*, *Alliance Magazine*, September 2006, <http://www.alliancemagazine.org/en/content/the-associational-counter-revolution>.

¹³ U.S. Secretary of State Hillary Clinton, *Civil Society: Supporting Democracy in the 21st Century*, Krakow, July 3, 2010.

¹⁴ Lotte Leicht, *EU should not tolerate Ethiopia’s repression*, *Ethiopian Review*, February 18, 2009, <http://www.ethiopianreview.com/forum/viewtopic.php?f=2&t=20560>.

light of the limited availability of indigenous funding, will likely be to starve organizations of resources. The bottom line for many Ethiopian organizations is to choose between giving up almost all of their funding, or giving up their work on human rights, gender equality, etc. “You are doomed either way,” says Kumlachew Dagne, a lawyer and executive member of the Ethiopian Bar Association.¹⁵

Just months after the Ethiopian law was enacted, an extremely restrictive law was proposed and adopted in Zambia. The draft NGO Act was made public in July 2009 and signed into law by the President in August 2009. The NGO Act criminalizes unregistered organizations; allows the State to impose limitations on an organization’s registration status; requires re-registration every five years; envisions a heavily bureaucratic regulatory body called the NGO Registration Board; grants the NGO Board dangerously broad regulatory powers; imposes constraints on the ability of NGOs to communicate and cooperate with counterparts both domestically and abroad; mandates membership in an umbrella organization; and threatens those who contravene the law’s provisions with harsh criminal sanctions, including imprisonment. Yet to be implemented one year after being signed into law, the Act looms ominously over civil society in Zambia.

In Sierra Leone, in November 2009, the Parliament enacted the *Revised NGO Policy Regulations*. The purport and impact of the Policy Regulations are controversial. Some civil society actors – as reflected by the NGOSI report for Sierra Leone in this compilation – generally welcomed the new rules and have described the Policy Regulations as creating a favorable environment for NGOs. Others disagree, arguing that the enactment of Policy Regulations, alongside the adoption of the National Revenue Authority Act and the Anti-Corruption Act, subjects NGOs to increased interference from the government and other state agencies. Certainly, the establishment and registration of NGOs are subject to demanding requirements, including the hiring of at least five full/part time staff, office space, a sign board visibly displayed, and an organizational bank account. NGO applicants may be required to attend an interview with the Ministry. Successful NGO applicants must sign an agreement with the Government before they can commence operations; in other words, every project implemented in Sierra Leone by NGOs must be approved by the sectoral ministry concerned and by the Ministry of Finance and Economic Development.

Civil society organizations in Uganda are governed by the NGO Registration Act (as amended in 2006) and the accompanying NGO Registration Regulation (2009), which contain a number of formidable obstacles relating to the registration and supervision of NGOs. As but one example, Regulation 13 provides that an organization shall not make any direct contact with the people in its area of operation in Uganda unless it has given seven days’ notice in writing of its intention to the local councils and Resident District Commissioners of the area. In the case of Uganda, however, civil society representatives report that while the laws as written are draconian, implementation and enforcement are selective: “NGOs engaged in advocacy or public policy activities, for example, are therefore vulnerable to governmental supervisory action. Moreover, the operating scope for NGOs remains subject to governmental discretion.”¹⁶

In other countries, governments have prepared or considered draft legislation that would narrow civic space. In Zimbabwe, for example, the Ministry of Labor and the Ministry of Justice issued the *Joint Memorandum re: Amendment to the PVO¹⁷ Act and the Deeds Registries Act*. The Memo proposed that

¹⁵ Geoffrey York, *New Ethiopian law cripples NGOs*, Ethio Quest News, November 20, 2009, http://www.ethioquestnews.com/Spotlight/Food_Security/Update-16.html.

¹⁶ Livingstone Sewanyana and Josephine Ndagire of the Foundation for Human Rights Initiative (FHRI), Uganda country report, 2010, ICNL’s NGO Law Monitor, <http://www.icnl.org/knowledge/ngolawmonitor/uganda.htm>.

¹⁷ The acronym “PVO” refers to private voluntary organization, which is one of the civil society organizational forms in Zimbabwe, and is defined as “any body or association of persons, corporate or unincorporate, or any institution, the objects of which include or are one or more of the following: [list of permissible purposes].” Private

trusts which are registered with the Deeds Registry and also fall within the definition of a PVO be explicitly obliged to register as a PVO before commencing activities. This would subject trusts to a burdensome two-tiered registration process, and to broad control by the Registrar and PVO Board. In light of the fact that many human rights and advocacy organizations in Zimbabwe are registered as trusts, the proposal was particularly troubling. In Angola, a draft NGO law, prepared without any consultation with NGOs, has been pending approval with the Council of Ministers since 2007. Reportedly, the new NGO law would introduce additional registration requirements for NGOs. In Burundi, a revision of the government decree governing non-profit associations has been prepared and was introduced in July 2009, but has not yet been analyzed by the Council of Ministers.

The legal constraints facing civil society are not rooted merely in restrictive NGO legislation or regulations. Laws relating to, among other issues, media freedom or Internet access, counter-terrorism or counter-extremism, while not necessarily targeting NGOs directly, may nevertheless be used to narrow the space for civic activity, and especially advocacy activity. For example, in June 2009, the Sudanese Parliament approved the draft press law, which was widely opposed by Sudanese civil society. According to the Committee to Protect Journalists, "The passage of this press law is a substantial step backward for press freedom in Sudan."¹⁸ Currently pending in Uganda is the Press and Journalist Amendment Bill, which has been criticized as being overly punitive in nature. The Bill reportedly contains wide-ranging and ill-defined powers enabling the authorities to revoke the license of a media organization if it publishes material deemed to be "prejudicial to national security, stability and unity," or which is "injurious to Ugandan relations with new neighbors or friendly countries;" causes "economic sabotage" or breaches any of the conditions imposed by the license."¹⁹ And in the wake of the Proclamation on Charities and Societies, Ethiopia adopted, in July 2009, a new Anti-Terrorism Law. Commenting on the draft bill (which turned out to be the version that was ultimately enacted into law), Human Rights Watch commented: "[T]his law could provide the Ethiopian government with a potent instrument to crack down on political dissent, including peaceful political demonstrations and public criticisms of government policy ... The draft Proclamation is even more alarming when placed in the context of concerns over political repression, suppression of free speech and independent civil society ..."²⁰

Government Harassment of CSOs

Beyond the enactment of new laws or the introduction of draft laws, governments in many other countries have created a hostile environment for civil society through the harassment of civic actors, whether through legal or extra-legal means. Governments often use inspections and requests for documentation – legitimate supervisory tools when applied appropriately – in such a way as to interfere and distract CSOs from their missions. More disturbingly, governments are increasingly confronting CSOs with activity suspensions, terminations and expulsions. Individual leaders and representatives of CSOs are also subjected to travel restrictions, forced expulsions, defamation and libel suits, and arrest. The targets of such government harassment are, most commonly, human rights and advocacy organizations, civic activists and journalists. For example, in Niger, in August 2009, the head of a civil society coalition was arrested for "undermining the security of the state" because of criticisms he made relating to the illegal extension of Niger's President's term of office; following his acquittal, he was immediately re-arrested

Voluntary Organizations Act, Section 2(1).

¹⁸ Committee to Protect Journalists, *Repressive press law passed in Sudan*, June 11, 2009, <http://cpj.org/2009/06/repressive-press-law-passed-in-sudan.php>.

¹⁹ Livingstone Sewanyana and Josephine Ndagire of the Foundation for Human Rights Initiative (FHRI), Uganda country report (2010), ICNL's NGO Law Monitor, <http://www.icnl.org/knowledge/ngolawmonitor/uganda.htm>.

²⁰ Human Rights Watch, *Analysis of Ethiopia's Draft Anti-Terrorism Law*, June 30, 2009, <http://www.hrw.org/en/news/2009/06/30/analysis-ethiopia-s-draft-anti-terrorism-law>.

and charged with “illegally operating [the civil society coalition] without permit.”²¹ In February 2010, in Malawi, three members of the Malawian civil society organization, Eye for Development, were arrested on grounds of incitement to violence, after a press conference in which they criticized the statement of President Dr. Bingu wa Mutharika. In May 2010, the government in Burundi moved to expel a Human Rights Watch (HRW) Burundi researcher from the country in response to a HRW report on pre-election violence.

Notably, humanitarian organizations may also fall prey to government harassment. In March 2009, the Sudanese Government expelled 10 international aid groups – all engaged in humanitarian relief work – from Sudan. In addition, Sudanese authorities dissolved two local organizations – the Khartoum Center for Development and Environment and Amal Center for Rehabilitation of Violence Victims – on the grounds that the NGOs had violated their missions as humanitarian organizations. In most contexts, the hammer of harassment falls on human rights and advocacy organizations; it is therefore remarkable to witness humanitarian organizations being targeted in a country whose needs are as dire as in Sudan. Commenting on the expulsion of the 10 NGOs, Sudanese Vice President Ali Osman Taha indicated that “[w]henver an organization takes humanitarian aid as a cover to achieve a political agenda that affects the security of the county and its stability, measures are to be taken by law to protect the country and its interests.”²²

It is not uncommon for governments to send mixed messages toward civil society. Rwanda proves this point well. At the time of writing, three relatively enabling draft laws affecting local and international NGOs and religious communities, respectively, remain pending before the Rwandan Parliament, and hopes are high that the enactment of the laws will improve the legal operating environment for NGOs in Rwanda. In July 2010, however, the government vowed to crack down on all unregistered NGOs, or those engaged in illegal activities, claiming that its investigations suggested that most of them are involved in fleecing donors of their money under the guise of engaging in development activities.

Indeed, the threat of government action, accusations leveled against CSOs, and the censorious words of politicians and government officials can create, or certainly reinforce, a hostile environment for civil society. President Omar al-Bashir of Sudan has labeled NGOs as “a front of the western intelligence.”²³ In a particularly striking example from the Gambia, President Yahya Jammeh reportedly said in a TV broadcast: “If you think you can collaborate with so-called human rights defenders, and get away with it, you must be living in a dream world. I will kill you, and nothing will come out of it.”²⁴ And President Robert Mugabe of Zimbabwe, arguing that NGOs had “exceeded their terms of reference,” threatened in 2009 to ban NGOs in the country, a threat made credible by the fact that Mugabe had previously banned all NGO operations in June 2008, a few weeks before the presidential run-off election.²⁵

Indeed, despite the formation of the Government of National Unity of 2009, Zimbabwe continues to prove an especially difficult and often dangerous environment for independent NGOs and NGO activists. In October 2009, two officials from the National Association of Non-Governmental Organizations (NANGO) were arrested for allegedly holding a “political meeting.” In March 2010, the director of the

²¹ Prof. Kwame Karikari, *Niger Alert: Civil society activist held for criticising President Tandja*, August 13, 2009, http://www.mediafound.org/index.php?option=com_content&task=view&id=419.

²² *Sudan expels 10 aid NGOs and dissolves 2 local groups*, Sudan Tribune, March 5, 2009, <http://www.sudantribune.com/spip.php?article30382>.

²³ *Sudanese president rules out retreat from expulsion of foreign NGOs*, April 2, 2009, http://en.youth.cn/news/news/200911/t20091111_1077039.htm.

²⁴ *Gambia: Jammeh Threatens to Kill Human Rights Defenders – Report*, September 24, 2009, <http://allafrica.com/stories/200909240481.html>.

²⁵ *Zimbabwe: Mugabe Threatens to Ban NGOs Again*, July 29, 2009, <http://allafrica.com/stories/200907300584.html>.

Zimbabwe Human Rights Association was arrested for organizing an “unapproved” photo exhibition. In April 2010, four female activists were arrested and kept in custody for five days following a peaceful demonstration. According to a representative of NANGO, “The climate of fear, suspicion and mistrust persists unabated, which is negatively affecting the constitution making and national healing processes.”

III. Increasing Self-Regulation within Civil Society

Questions of accountability and transparency are central to debates surrounding legal reform in sub-Saharan Africa. Governments often seek to justify increased levels of state regulation through calls for greater accountability of civil society. NGOs themselves in many countries seek to improve the public image of the sector or sub-sector through the adoption of common standards or voluntary codes of conduct, through certification schemes, and through other self-regulatory initiatives. The motivating rationale for self-regulation may lie in the desire to improve internal governance and outward accountability; to strengthen NGO capacity and coalition building; to pre-empt government regulatory intervention; and/or to improve credibility among constituents, donors and the general public. In sum, whether due to external or internal pressures, CSOs are increasingly striving to demonstrate their accountability, legitimacy and effectiveness.

Self-regulation embraces a wide variety of mechanisms, strategies and structures that share the common goal of enhancing the accountability of those regulated through the voluntary initiative of the organizations themselves. Voluntary codes of conduct are standards governing conduct agreed upon by organizations. Accreditation and certification programs measure compliance of participating organizations using an established set of norms. Watchdog or ratings agencies measure the performance of other organizations, without the participation of rated organizations. Information agencies provide information to users (including constituents, donors, the general public, as well as the organizations themselves) without any rating or interpretation.

According to One World Trust, which maintains a database of civil society self-regulatory initiatives (<http://www.oneworldtrust.org/csoproject/>), there are 37 CSO self-regulation initiatives in 20 of the 47 countries of sub-Saharan Africa.²⁶ While several of the self-regulatory schemes are well-established, many are nascent, emerging initiatives. Indeed, sub-Saharan Africa is a region “where CSOs are increasingly recognizing the need to set minimum standards of practice and developing initiatives to support this.”²⁷

Codes of Conduct

Inarguably, the most common approach to self-regulation is through the development of codes of conduct or ethics. We find such codes in Botswana, Cameroon, Ethiopia, Kenya, Mali, Namibia, Nigeria, Senegal, Somalia, South Africa, Tanzania, Uganda, and Zimbabwe. In many cases, the codes are linked with and supported by a national coalition or umbrella group of NGOs. For example, the Nigeria Network of NGOs (NNNGO) is a voluntary umbrella group for NGOs in Nigeria.²⁸ Established in 1992, NNNGO represents over 800 organizations ranging from small groups working at the local level, to larger networks working at the national level. To become a member, NGO applicants must subscribe to the NNNGO Code of Conduct for NGOs. The Code of Conduct includes 33 principles, addressing issues such as democratic governance, sustainability, accountability and transparency, independence and conflict of interest, and tolerance.

²⁶ Shana Warren, Robert Lloyd and Jeannet Lingan, *The growth of CSO self-regulation*, December 1, 2009, <http://www.alliancemagazine.org/node/3100>.

²⁷ *Id.*

²⁸ NNNGO’s website: <http://www.nnngo.org/>.

Among the greatest challenges in relation to codes of conduct is, of course, ensuring compliance. In Botswana, Cameroon, Ethiopia and Somalia, for example, compliance is sought through complaints procedures.²⁹ The Botswana Council of Non-Governmental Organisations (BOCONGO), the national umbrella body for NGOs in Botswana, requires all members to comply the NGO Code of Conduct.³⁰ The Code creates and assigns the NGO Task Force with responsibility to monitor and evaluate the implementation process; receive and hear complaints from NGOs; and recommend action to be taken by the complainant and the NGO itself. In Cameroon, the North West Association of Development Organisations (NWADO) launched a Code of Ethics for CSOs, which envisioned an ethics committee to enforce the code through complaints procedures and redress. In Ethiopia, the Code of Conduct for NGOs was developed in 1998 and endorsed by nearly all NGOs active in the country.³¹ The Code creates the Code Observance Committee, which is responsible for receiving and entertaining any complaints and/or suggestions concerning the observance of the Code by the signatories. The Code of Conduct for Somali NGO Networks has established a Regulatory Committee to handle complaints.³²

Certification Schemes

Accreditation and certification schemes are substantially fewer in number. In Uganda, NGOs developed the *NGO Quality Assurance Mechanism* (QuAM), which was formally approved in 2006.³³ The QuAM seeks to promote NGO adherence to generally accepted ethical standards and operational norms, and thereby to promote good governance and protect NGO credibility. NGOs that meet requirements laid down by the National Certification Council are issued an “NGO Quality Assurance Certificate.” There are three certification levels: provisional, full and advanced. Once issued, the provisions of the Certificate are binding on the NGO. The National Certification Council is a body jointly appointed by national NGO networks, but operating independently from them. By adhering to the principles contained in the QuAM, NGOs are able to improve on their work and become more truly accountable.

In the reaction of the Government of Uganda to the development of QuAM, we find one of the potential benefits of self-regulation. The draft National NGO Policy – a government strategy document – states as follows:

*Government believes that self-regulation, if effectively applied by all NGOs is the most cost-effective means of fostering discipline and benchmarking quality assurance by sector stakeholders. Such success minimizes the need and extra costs of implementing a government-driven policing regime.*³⁴

That said, in light of the regulatory challenges confronting civil society in Uganda, it is reasonable to ask how effective self-regulation has been in warding off the heavy hand of the State.

An emerging initiative in Ghana is the *Ghana NGO/CSO Standards Project*, which seeks to promote self-regulation among NGOs and CSOs operating in Ghana.³⁵ The project has constituted a 15-member Standards Commission comprising the heads of local and international NGOs all over the country, with

²⁹ What is unclear, however, is how effective these complaint procedures have proven to be in ensuring compliance.

³⁰ BOCONGO website: <http://www.bocongo.org.bw/>.

³¹ After more than 10 years, however, the Code of Conduct remains relatively unknown within the NGO sector.

³² Jeannet Ligan, Amy Cavender, Thomas Palmer, and Beris Gwynne, *Responding to development effectiveness in the global South*, One World Trust / World Vision Briefing Paper Number 126 (June 2010).

³³ See *NGOs regulating themselves: the NGO Quality Assurance Mechanism*, http://www.deniva.or.ug/files/programme-governance_QUAM%20leaflet_policies.pdf.

³⁴ National NGO Policy of Uganda, draft version, February 2008, section 7, p.19.

³⁵ See *The Ghana CSO/NGO Standards for Excellence Project*, the Pan African Organizations for Sustainable Development (POSDEV), http://www.posdev.org/standards/ghana_csongo_update.html.

the responsibility of ensuring a peer review process for the award of seals/certificates to peers in compliance with the 35 Standards. The first stage of the project introduced the concept to approximately 200 NGOs/CSOs from all regions of the country. In the second stage, eight workshops were held to present the Standards and Assessment tools to some 150 NGOs/CSOs. The pilot testing phase of the project is underway, with 26 CSOs having volunteered for the process. The next stages will see the communication strategy of project launched and the start of the application process for certification of organizations.

Information Services

To highlight a third self-regulatory approach, information services in several African countries provide data and information on CSOs to donors, beneficiaries and members of the public more broadly. The Malian CSO Forum hosts a database of Malian CSOs. There is a national directory of NGOs in Nigeria. In Chad, the NGO Information and Networking Centre is in the process of developing an NGO directory. SANGONet makes available a database of South African NGOs.

In addition, *GreaterGood South Africa* is an information service that seeks to bring charities and committed givers together.³⁶ Launched in 2004, *GreaterGood SA* has registered over 1,900 organizations on its website, raised 35 million rand for good causes, generated 140,000 hours of volunteer skills and time, and facilitated the distribution of 7.3 million second-hand or surplus goods. The database provides contact details, needs, activity and program summaries, mission and goals, and achievements for various CSOs in other causes in South Africa. *GreaterGood SA* has recently introduced a rating system to highlight key aspects of each registered organization.

Government Involvement in “Self-Regulation”

It is well recognized that government may play a collaborative role in self-regulatory initiatives. An example of such government involvement would be where “power is partially delegated to an umbrella organization or other association representing CSOs to regulate behavior or set standards for the sector.”³⁷ Kenya offers such an example.

Indeed, Kenya was among the first countries in Africa to wrestle with self-regulation.³⁸ The 1990 NGO Coordination Act does not establish mandatory rules or standards of internal governance, but rather defers to the self-regulatory mechanisms envisioned by the Act, which include the NGO Code of Conduct, the Regulatory Committee and the General Assembly of the NGO Council. The NGO Council was conceived as a national umbrella body for NGOs; the NGO Coordination Act provides for automatic membership of an NGO to the NGO Council, upon registration.³⁹ Mandatory participation in the Council and the Code has been called an advantage of the Kenyan approach.⁴⁰ The Council was supposed to represent the interests of its members and provide them with essential services.

Despite its promise, however, the NGO Council and the entire self-regulatory system have not lived up to expectations; the Council is essentially inoperative today. The role, and even existence, of the NGO

³⁶ *GreaterGood South Africa* website: http://www.myggsa.co.za/about_us/.

³⁷ Shana Warren, Robert Lloyd and Jeannet Lingan, *The growth of CSO self-regulation*, December 1, 2009, www.alliancemagazine.org.

³⁸ M.K. Gugerty (2008), *The effectiveness of NGO self-regulation: theory and evidence from Africa*, Public Administration and Development, 28: 105-118, doi: 10.1002/pad.490.

³⁹ Section 23 (1) of the NGO Coordination Act presumes automatic membership of NGOs upon registration. It provides: “There shall be established a Council to be known as the Non-Governmental Organisations Council which shall serve, as a collective forum of all Non-Governmental Organizations registered under this Act.”

⁴⁰ Gugerty (2008), *The effectiveness of NGO self-regulation: theory and evidence from Africa*.

Council is the single most contentious issue in the current reform discussions. Among other issues, reformers are seeking to resolve the appropriate balance between statutory regulation and self-regulation, and the relationship among separate laws governing various forms of organizations.

CSOs participating in the reform discussion have published a statement of principles for the new legislation (which would replace the 1990 Act), which includes the following:

CSOs should be permitted and encouraged to set high standards of conduct and performance through voluntary self-regulation. For self-regulation of the sector,

- a) *The law should permit existing regional or sector-based umbrella organizations to adopt and enforce clear standards of conduct and promote self-regulatory goals.*
- b) *The law should not require membership in any specific umbrella organization.*
- c) *The self-regulation roles of the CSO umbrella bodies will need to be clearly defined by the law and supported by the NGO Registration Agency.*
- d) *The law should provide for the establishment of an independent mechanism of complaint and redress (Complaints Board).⁴¹*

Thus, following disappointments with the explicit delegation of regulatory powers by government to a designated NGO umbrella body, Kenyan CSOs are now wary of replicating this approach in the newly emerging legislation. The preference instead seems to be for greater CSO choice and reduced government involvement. Of course, it remains to be seen how the tension between the State and civil society with respect to self-regulation will ultimately be resolved in Kenya.

A Troublesome Trend?

In some other countries, however, the line between government regulation and voluntary self-regulation has become blurred. Governments have demonstrated a willingness to co-opt a self-regulatory measure and impose it as a binding legal requirement on the civic sector. The end result is a kind of “mandatory self-regulation.”

For example, in Sierra Leone, organizations registered as “NGOs” under the Revised NGO Policy Regulations of 2009 are currently required to re-register every two years. The re-registration process requires the submission of numerous documents, including proof of membership in the Sierra Leone Association of Non Governmental Organisations (SLANGO), an umbrella organization of NGOs, both domestic and international.⁴² As part of the reporting process, the Ministry of Finance and Economic Development (MoFED) requires an independent assessment of the performance of NGOs; to satisfy this assessment, MOFED requires a number of documents, including, among others, “proof of paid membership in SLANGO.”⁴³ In other words, SLANGO is singled out by the law to serve as the State’s agent for establishing the bona fides of registered NGOs.

In Zambia, Part V of the 2009 NGO Act is entitled “Self-Regulation by Non-Governmental Organisations.” Article 29 envisions the establishment of a Zambia Congress of NGOs as a “collective forum of all organizations registered under this Act.” Article 30 mandates the formation of a “Council of Non-Governmental Organisations,” which is responsible for the management and control of the affairs of the Congress; the Council consists of 12 NGO representatives. Article 31 spells out the functions of the

⁴¹ Excerpt from *civil society statement of principles*, received by ICNL in July 2010.

⁴² SLANGO website: <http://www.slango.org/default.asp?iId=HILHG>.

⁴³ Emmanuel Abdulai, *Country report on Sierra Leone*, International Journal for Not-for-Profit Law, Vol. 12, Issue 2, February 2010 (http://www.icnl.org/knowledge/ijnl/vol12iss2/special_6.htm).

Council to include developing a code of conduct for NGOs, coordinating the work of NGOs in Zambia, and performing other functions as the Congress may determine. Article 32 then addresses the preparation of a Code of Conduct which would be binding upon NGOs “as obligations under this Act.” The International Federation for Human Rights expressed serious concerns with the Zambian NGO Bill in a letter drafted on 30 July 2009 and argued that the Bill envisioned forced self-regulation: “This so-called self-regulatory framework may again seriously curb the autonomy and ability of NGOs to formulate positions on matters affecting human rights.”⁴⁴

In Tanzania, the 2002 NGO Act required that an NGO umbrella body, known as the National Council for NGOs, be formed that would serve as “a collective forum on Non-Governmental Organizations for the purpose of coordination and networking of all Non-Governmental Organizations operating on the Mainland Tanzania.”⁴⁵ The Tanzania National Council of NGOs (NACONGO) has prepared a Code of Ethics, which addresses issues such as governance, relationships with stakeholders and financial transparency. Severe infractions of the Code may be punishable by law. In the years since its enactment, however, little progress has been made toward meaningful implementation, and controversies have arisen regarding governmental interference in the election of the members of the Council; NGOs argued that “the members of the council were handpicked by the government so that they can serve the purpose of government.”⁴⁶ The allegation of government meddling has been aggravated by the perception on the part of NGOs that the current Council “has done literally nothing in support of the NGOs.”⁴⁷ Indeed, even the Code of Ethics has been dismissed as ineffective on the grounds that “the Council has not publicized the code because it has very high demands which even the Council itself is failing to meet.”⁴⁸

Fueling the tendency to mandate self-regulation (and specifically, to require membership in national umbrella groups or councils), is the desire by governments in sub-Saharan Africa to enhance ‘coordination’ and ‘harmonization’ of civil society activity. The legislative goals of coordination and harmonization may sound appealing, even laudable, but they are often used to mask restrictive measures aimed at increased government control. Indeed, the end result of such regulatory requirements may be to compel or mandate coordination with governmental goals and priorities.

For example, in Sierra Leone, according to the Revised NGO Policy Regulations, NGOs must conform their missions to the development policies of the Government of Sierra Leone (GoSL) to promote the well-being and welfare of Sierra Leoneans. At the time of registration, NGOs must conclude an agreement with the GoSL before activities can commence.⁴⁹ In short, an NGO must register and must agree to serve the state pursuant to a specific signed agreement.

Similarly, the NGO Registration Board envisioned by the Zambian NGO Act of 2009 is tasked with (1) approving “the area of work” of NGOs in Zambia; (2) providing policy guidelines for “harmonizing [NGO] activities to the national development plan” for Zambia; and (3) advising on strategies for efficient

⁴⁴ International Federation of Human Rights, *Zambia: Freedom of association again in jeopardy*, July 30, 2009, <http://www.fidh.org/Freedom-of-association-again-in-jeopardy-The>.

⁴⁵ Article 25, Tanzania NGO Act (2002).

⁴⁶ Tanzania Association of Non-Governmental Organizations, *Semezana*, Vol. 3 (2008), http://mail.thefoundation-tz.org/pipermail/foundationmailinglist_thefoundation-tz.org/attachments/20090216/4633ebc6/attachment-0001.pdf.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ The stated purpose of the Revised NGO Policy Regulations in Sierra Leone is to accomplish “the effective coordination and monitoring of the activities of both National and International NGOs in order to enhance their cooperation and collaboration with the Government of Sierra Leone (GOSL) and ensure maximum benefits to the people of Sierra Leone.” Section 1.1.7, NGO Policy Regulations.

planning and co-ordination of NGO activities.⁵⁰ And the Tanzania National Council of NGOs is defined in the NGO Act of 2002 as having the goal “of coordination and networking” of all NGOs in Tanzania.

Regardless of government motivations, however, self-regulation has become, in each of the countries cited in this section, a legal requirement.⁵¹ It can therefore be argued that these “self-regulatory” initiatives have impermissibly crossed a line into state regulation. “The common thread to all forms of CSO self-regulation is that they are not subject of legal requirement.”⁵² More disturbingly, such mandatory self-regulatory schemes, to the extent that they require membership in umbrella organizations or bodies, may violate international norms relating to freedom of association, and in particular, the freedom not to belong to an association.⁵³

IV. Conclusion

From the diversity of legal approaches toward civil society in sub-Saharan Africa, two distinct regulatory trends have emerged: increased state regulation and increased self-regulation. Using the enactment and implementation of law as a tool, states are seeking to bring greater regulatory control over civic space in ways that often constrain and threaten legitimate civil society activity. At the same time, NGOs themselves are seeking to address governance and accountability concerns on a voluntary basis, sometimes in response to regulatory threats from governments, through enhanced self-regulatory schemes.

This article is not the first to comment on these two regulatory trends. And it is likely that both trends will continue for some time. Interestingly, however, legal initiatives are underway in Kenya and Rwanda, both of which could lead to improved legal environments for civil society. The outcome of each initiative remains uncertain. If they result in more enabling legal environments, then they could represent a first step toward weakening the former trend and strengthening the latter.

⁵⁰ Article 7 of the NGO Act, 2009.

⁵¹ Most recently, in Mozambique, ICNL has learned that the Government of Mozambique is interested in developing a code of conduct for human rights NGOs. If the initiative is governmental, can the result be truly self-regulatory?

⁵² Shana Warren, Robert Lloyd and Jeannet Ligan, *The growth of CSO self-regulation*, December 1, 2009, www.alliancemagazine.org.

⁵³ According to Article 10(2) of the African Charter on Human and People’s Rights, “[S]ubject to the obligation of solidarity provided for in Article 29 ... no one may be compelled to join an association.”

NGO FINANCIAL VIABILITY¹

Management Systems International and United States Agency for International Development

Executive Summary

In this baseline year for the *NGO Sustainability Index for Sub-Saharan Africa*, a number of positive elements are evident in the country reports. NGOs' ability to provide life-saving service delivery to under-served populations was the highest score in all 19 countries. While service delivery appears to be a strength, financial viability is a weakness. Across all country reports, the scores for financial viability ranked the lowest among the seven indicators. A common issue for many NGOs is reliance on a single, external source for funding. In this situation, if international funding were to disappear, many of the NGOs would collapse. While this financial weakness may reflect the overall economic situation in many countries which are themselves heavily dependent on international aid, there are several examples from various reports where NGOs and donors are exploring innovative approaches to supporting NGOs. Across the 19 country reports, the narrative section on financial viability consistently delivered the message that many NGOs depend on international donors with limited availability of support from local sources such as government and individual and corporate philanthropy. This description could just as easily have been written in 2000 or 1990.

These narrative discussions are supplemented by the data generated from the analysis and scoring of each country by the Expert Panels who jointly determine the NGO sector's rating on the financial viability dimension² of the *NGO Sustainability Index for Sub-Saharan Africa* (NGOSI). Some of the highlights and findings from this data review include:

- Of the 19 countries studied, five, (e.g., Kenya, Tanzania, South Africa, Mozambique and Senegal), were in the second of three stages of financial viability, "sustainability evolving"; the remaining 14 were in the "sustainability impeded" stage; and no country met the criteria for "sustainability enhanced", the first stage.³ What do the five countries that scored highest in financial viability have in common? Except for Mozambique, each of the other four countries has well established NGO sectors, among the oldest on the continent with mature and diverse NGOs. All five countries except Rwanda rate relatively high on a democracy index with freedoms of association, assembly and speech largely respected by concerned governments.⁴ In relative terms, these countries would be considered to have economies that surpass the norm in the region and thus make local resource mobilization more likely although not enough to achieve the highest stage of financial viability.
- South Africa with the best overall score is also the country with the greatest diversification of its resource base and with the highest percentage of funding coming from government. This is an indication that government values NGO participation in national development and those NGOs have strong capabilities to bid on and win government contracts and grants.

¹ USAID and MSI would like to thank the independent consultant, Leslie Fox, for collecting the case studies in this report and for providing extensive input into the development of this paper.

² There are five *financial viability indicators* used by Expert Panels in each participating country to evaluate NGOs along this sustainability dimension: local support, diversification, financial management systems, fundraising and earned income.

³ Characteristics for each sustainability dimension are described in the methodology section of this report.

⁴ The Freedom House "*Freedom in the World Index for 2010*" rates 3 of the 5 highest scoring countries on financial viability as partly free, one as not free and 1 as free, while three of the five lowest scoring countries on financial viability rate as Not Free while two are rated partly free.

- Conversely, the five countries with the lowest scores, i.e., Gabon, Zimbabwe, Angola, Guinea and Burundi, tend to have either relatively young NGO sectors or public policies and legal frameworks that have not favored the development of civil society. All five countries rank at or near the bottom in most social and economic indicators of the United Nations Development Program's Human Development Index despite, in the case of Angola and Gabon, immense mineral wealth.
- Conflict and post-conflict countries such as the Democratic Republic of Congo (DRC), Sierra Leone, Liberia, Zimbabwe, and Guinea scored nearly as low as the five countries at the bottom of the rankings. However, in the case of both Liberia and Sierra Leone, there appears to be a positive movement as the two countries consolidate more democratic systems of governance and provide NGOs with a relatively more sound enabling environment.

While the reports offer some encouraging news about NGO funding, including new and innovative resource mobilization strategies and approaches,⁵ it is also clear that NGO financial viability still has far to go. As this is the base-line year for the NGOSI, it is important to examine case studies of higher levels of financial viability for NGOs. The NGOSI is based upon the premise that the NGO sector develops along a continuum. Therefore, this paper will explore many approaches to financial viability, and try to learn from and apply examples of good practice as well as significant innovations in this field.

NGO Funding and Development in Africa

There are several major historical markers that have helped to define the way in which the NGO sector in the 19 countries covered by this Index has evolved and developed into what it is today, including its ability to sustain itself financially. The first such historical marker was the prolonged drought of the early 1970s, which devastated the Sahel and the Horn of Africa, Ethiopia in particular. This drought was important because it brought the first wave of so-called Northern NGOs to Africa, funded primarily by Northern governments and private citizens. These organizations responded to the humanitarian crisis at that time, and many remain today. Some might argue that the local NGOs which emerged were essentially created in the image of their Northern NGOs counterparts.

The second major influence on the development of the NGO sector in many countries in the region was the structural adjustment programs (SAPs), imposed by international financial institutions and implemented by governments during the 1980s. SAPs essentially forced governments to withdraw from the provision of public services (e.g., education, health) or suffer the consequences: primarily a halt to western loans and credits for economies already on the brink following years of corruption and mismanagement. At the same time, SAPs created space for new, indigenous and secular NGOs to address social and economic problems that had been growing in the years following independence. This space was further opened by donors who wanted to replace government-as-the-engine-of-economic-growth with the private sector. As the decade progressed NGOs took over from government the delivery of public services, to a considerable degree in some countries. This period saw an introduction of a new funding mechanism for African NGOs: the Private Voluntary Organization (PVO) Umbrella Support Mechanism.

⁵ Throughout this paper are examples of successful NGO resource mobilization strategies that provide the reader with several good practices.

NGO Funding Mechanisms: The PVO/NGO Umbrella Project

In 1982, USAID launched an innovative procurement instrument in Senegal known as a PVO/NGO umbrella project. The purpose of this mechanism was to maintain support to the increasing number of Senegalese NGOs that had demonstrated the capacity to make a difference during and particularly after the Sahelian drought as humanitarian assistance gave way to developmental assistance. A U.S.-based PVO that served as the intermediary organization, or “umbrella” was competitively selected to manage a combination of grants, technical assistance and training to a variety of NGOs working in targeted sectors. An added element was the requirement that both the umbrella and the local NGOs provide counterpart contributions in order to ensure their ownership of the project.

The umbrella project evolved over time, and in the 1990s, it focused more on a range of organizations including advocacy NGOs, chambers of commerce, bar associations, NGO apex organizations and networks. In many cases, USAID’s grantees’ local partners supported community-based organizations in order to increase their capacity to deliver services and promote good governance. NGOs in Mali and Senegal were in the forefront of such third generation umbrella projects, promoting democratic governance at the decentralized level of administration and serving as a model for others.

Prepared by Leslie Fox

The PVO umbrella structure is still used today and helps to provide more support to smaller, indigenous NGOs. While the need to supplement government service provision was obvious and a great incentive for NGO growth during these years, without donor funding, provided in large part indirectly through Northern NGOs, this growth would have been significantly less. The 1980s were for the NGO sector in Sub-Saharan Africa, the beginning of an extended period of growth and heightened visibility. A much wider range of NGOs emerged that went beyond the churches, the older charities and humanitarian organizations (e.g., local branches of the Red Cross/Crescent, CARITAS, etc) to women’s, environmental conservation and micro-enterprise organizations. On the negative side, the widespread support of African NGOs to provide social service delivery funded by foreign donors created and/or exacerbated tensions with concerned governments, still much in evidence today.

Several umbrella programs wherein a major national NGO sub-grants to local organizations have boosted the involvement of NGOs in rural service delivery programs
– Mozambique country report

The third event that had a major impact on the NGO sector’s financial viability was the democratization movement that began in the early 1990s. Benin’s Sovereign National Conference, which took place in February 1990, is often viewed as the beginning of the many national democratic transitions that marked the decade and that were characterized by the participation of civil society organizations. After 1990, there was an explosion of autonomous, voluntary associations representing their citizen-members’ interests and aspirations. Organizations that may have been little more than appendages of the government or a political party (e.g., chambers of commerce, women’s and youth leagues, cooperatives, bar associations) became independent and capable of more effectively representing their members’ and constituents’ interests. Some of these organizations adopted democratic governance structures, with broad-based membership. There were some that created federated bodies to engage with government at all levels, thereby extending members’ and constituents’ voices to the centers of power where public policy decisions were made.

The implications of this development for civil society in terms of financing are several-fold:

- First, a far greater and more diverse group of organizations was now competing for funding, much of it from external donors, including international NGOs, and their respective governments;
- Second, new areas of programmatic intervention were added post-1990 and principally the democracy and governance sector, which included such areas as human rights promotion, conflict management, accountability, transparency, and advocacy;
- Third, more funding from donors was committed to the support of civil society, particularly to strengthen organizational capacity; and
- Finally, community-based organizations figured into many civil society strategies in light of their legitimacy and potential ability to self-finance their activities. Traditional associations, such as Tontines, and natural resource users groups, and more modern social and economic groups, such as the *groupes d'interet economique*, cooperatives, and parent-teacher associations, gained increased scrutiny by donors and local research institutions.

NGO Approaches to Financial Viability

When measuring the financial viability of a country's NGO sector, more attention may be given to the larger (national-level) NGOs, at the expense of other smaller NGOs. For instance, despite relatively low levels of volunteerism and local philanthropy in many urban centers, mutual aid societies and traditional self-help groups are thriving at the community level as they have historically. These groups tend to have more socio-economic aims, are increasingly more formal in nature and continue to attract a relatively high level of volunteerism and member contributions. The resource mobilization strategies of community-based organizations are often overlooked or underemphasized, yet they have proven to be similarly valuable as individual or corporate giving appeals. In many cases, a decentralized approach has been instrumental in ensuring in-kind contribution and ownership from civil society organizations and the community. The following case study of Health Mutuelles in Rwanda explores the effective use of volunteers through nationally-supported and decentralized health schemes.

Innovative NGO Financial Support

- ❖ *A relatively new development has been the creation of basket funds, usually made available by consortia of donors for specific purposes- Uganda report*
- ❖ *The government's decision to make public-private partnership its official policy in the delivery of public services strengthened the service delivery role of NGOs-Tanzania report*
- ❖ *The majority of large corporations working in Kenya have established foundations through which they support community initiatives as part of their corporate social responsibility (CSR) strategies – Kenya report*
- ❖ *... there are trends towards establishing national funding mechanisms such as the National Development Agency, the Lotto Fund, the Nelson Mandela Foundation and the Southern African Trust - South Africa report*

Universal Health Care in Rwanda: The Case of Health “Mutuelles” and Community Health Workers (CHW)

Rwanda has developed a community-based health insurance (CBHI) system that is the centerpiece of the country's National Community Health Policy. Two types of organizations comprise the key components of this universal and mandatory program:

- Health “Mutuelles”: are member-based mutual aid associations organized at the “sector” level (416 country-wide) that mobilize member contributions, oversee the use of these contributions in

the sector health centers and responds to member concerns about health center functioning. “Mutuelles” are also represented at the “district” level, the highest level of sub-national administration. They oversee a percentage the local membership contributions used in reference hospitals. In order to cover its costs, each *mutuelle* uses a small percentage of member contributions to pay the salaries of two accountants that work in the health centers and hospitals. The *Mutuelles*’ overall costs are modest and benefit from volunteer management and leadership.

- **CHW Cooperatives:** provide primary health services to all of Rwanda’s 15,000 villages. The Community Health Workers volunteers are chosen by their communities based on their interest and ability to serve. Recently, the government encouraged CHWs to form cooperatives in order to take advantage of the performance-based financing (PBF) merit payments for all eligible health workers. The cooperatives, which are member-owned, reinvest the PBF merit payments into income-generating activities in order to provide CHWs with some degree of financial compensation.

Although the Rwandan health system depends on donor support, health care would not be available universally without the organizations described above. Their costs of operations are modest and largely covered by member contributions of time and money. Both organizations still require significant of capacity building assistance. The Rwandan Government and donors are beginning to recognize the importance of strengthening the capacity of the “Mutuelles” and CHW Cooperatives’ ability to jointly plan, manage and oversee the country’s health services.

Prepared by Leslie Fox

Two additional cases studies from DRC and Mali highlight similar instances where environmental protection legislation help to develop diversified funding for civil society initiatives.

CSO Natural Resource Management Support through Legislation¹

Gestion de Terroirs: The Case of Land and Water Co-Management in Mali

The situation in Mali provides a good example of how *Gestion de Terroirs* (land management) is carried out at the national and community level. Following a change in leadership in 1991, the government undertook a decentralization program and four years later invited local communities to participate in a review of land and water management legislation in Mali (Ogier *et al.*, 2001). In 1999, a government decree solidified this decentralization policy and contained the following significant articles: (a) Article 11–local governments are responsible for managing, developing and conserving their estates, as well as for protecting the ecological balance of their land; and (b) Article 14–local governments may delegate power to village authorities, interest groups and neighborhoods that have an established rural management structure (Article 14) (Ogier *et al.*, 2001).

Although management authority and decision-making are devolved to local authorities and villages through this process, the land is still legally the property of the state, and thus the new system should be described as one of *co-management*. The Pastoral Charter of 2001 also recognizes the role of local village institutions in conflict resolution (Winter, 2000). For power to be legally devolved to villages, local authorities are required to produce a management and development plan which must be approved by government and implemented through *management contracts* with the local council and the village organization. This is an area where government or donor support for villages is in great need for the system to succeed. Fortunately, there are a number of projects operating in Mali (both government- and NGO-led) which aim to support village institutions in the decentralization process and feedback on their progress has generally been positive.

Community Conserved Areas in the DRC: CBOs and their Federations in Forest Management

In the DRC, the 2002 *forestry code* recognizes the rights of local communities to manage their traditional forests, through application to the relevant authorities. Under this legislation, a number of community conservation areas (CCAs) have been established (Mehlman, 2006) such as the **Tayna Reserve**. The Tayna reserve places restrictions on bush meat hunting, and monitors resource-use within the park. The reserve was officially recognized by the government in 2002, and now serves as a model for the creation of other community-based reserves. On the back of this success, eight community-based NGOs from the region formed a federation called the Union of Associations for Gorilla Conservation and Community Development in eastern DRC (UGADEC), to organize further conservation activities modeled on the Tayna Reserve. This area is called the Itombwe Massif Community Conserved Zone (IMCCZ). Logistical support for the IMCCZ is provided by Conservation International, with funding from Central African Regional Program for the Environment (CARPE) which has created a *Sustainable Financing Plan* for the Landscape, including a \$4 million trust fund, and have provided health care, family planning, education and development micro-projects for communities involved in the project.

¹ See: Community management of natural resources in Africa: Impacts, experiences and future directions. Edited by Dilys Roe, Fred Nelson and Chris Sandbrook, The IIED (UK) in 2009

Prepared by Leslie Fox

An important aspect of NGO financial viability concerns the role of constituencies, specifically the way they are included in an NGO's governance structure. It is helpful to distinguish between broad-based membership organizations, which often federate upwards from the community level, and those with more limited governance structures. An NGO's constituency may be comprised of members who receive benefits and/or services from the NGO, or they may have clients targeted as the beneficiary of a good or service which the NGO was created to provide. NGOs may also represent, promote or defend the interests of its clients or members, acting as elected representatives serving particular constituencies. Such an example is highlighted in the following case study on Parent-Teacher Associations in Benin.

Parent—Teacher Associations in Benin: Natural Evolution of PTAs into Federations as a Sustainable Model

While the role of Parent Teacher Associations, or "APEs" in Francophone Africa, was previously limited to providing financial support to schools and teachers, their role has expanded over time. With the aim of transforming APEs into more dynamic local CSOs that represent and advocate for their school parent members, USAID/Benin worked with the U.S. private voluntary organization, World Education Incorporated (WEI) to increase their capacity. With WEI's technical support, APEs began to obtain their own statutes, by-laws, and bank accounts, and the government recognized their importance by passing laws defining their role in primary education governance and giving them a place alongside teachers and principals in the management of schools.

In 1993, at the request of an interested donor a national federation of APEs, called "FENAPEB", was formed to represent the interests of parents on the national policy level. However, FENAPEB was created by 23 parent leaders chosen by the donor, and due to its undemocratic origins, community-level APEs considered it illegitimate and it lost their support. FENEPEB is trying to resuscitate itself through a variety of actions, including elections, with mixed results. Yet, APEs at the community level, continued to work alongside local governments and school administrators. A partnership of WEI, development

NGOs, and local governments encouraged APEs across the country, to begin federating themselves into commune-level associations (CAPEs) so that they could work more closely and on an equal footing with commune-level governments to address broader issues.

The APE movement, including CAPEs, is universally recognized throughout Benin and within the African sub-region as an important civil society actor that demonstrates the ability of community-based associations to participate in important national governance functions. Consequently, APEs receive both local and national government support to upgrade their schools as well as support from a growing number of donors, including USAID, JICA and several Northern NGOs. The APEs cover their modest costs largely through member contributions. Because the CAPEs are directly elected by and advocate for APEs, member APEs—numbering in the thousands—set aside a portion of their membership dues for the CAPEs to be able to cover their costs.

Prepared by Al Miller, Director, World Education/Benin, Parakou

While some of these federated systems rely on donors, they enjoy a diversity of funding and public support that aids significantly in their overall financial viability. This is because broad-based community organizations such as parent-teacher associations and credit unions, with hundreds or even thousands of actively participating members may be more willing to contribute time and/or money to initiatives which directly impact their daily lives. It may, therefore, be more useful to the financial viability analysis to think in terms of member-based and client-based organizations, because the former may attract more support than the latter. Also, member-based organizations have the potential to be more democratically governed than traditional development NGOs, further reinforcing ownership of projects and resources. Another example of this community-driven approach to resource mobilization is the federation of small farmers' associations in Senegal, FONGS.

Federation of NGOs in Senegal (FONGS)

FONGS is a 30-year-old federation of independent small-farmer associations across Senegal. Its continued success is attributable to its commitment to the principle that strength lies in numbers as well as its good organization, coordination and cooperation at all levels. It is represented at the grassroots level by approximately 31 independent, local small-farmer associations and at the national level by the National Council for Consultation and Cooperation among Farmers (CNCR) comprised of all professional producers' organizations in Senegal, and at the regional level by the network of Farmers' and Agricultural Producers' Organizations in West Africa (ROPPA).

FONGS' fundraising strategy aims at maximizing the diversity of its funding sources, and receives funding from approximately four sources. The first source is its own funding, mostly in the form of rural financing. The thirty-plus member farmer associations at the grassroots level each have a savings and credit fund; of these, one-third have received accreditation, or official recognition from the government of Senegal (they can access public funds where such funds exist); at the national level, member associations make contributions to FONGS' budget. FONGS also raises funds from Senegalese public institutions. The bulk of FONGS' funding comes from foreign donors, who provide about 70 percent of its budget. The final source of funding is through knowledge-sharing activities. FONGS has positioned itself as capable organization, hence other farmer organizations invite FONGS to share its experiences and provide training and mentoring on topics such as institution building, rural financing, social organization and mobilization.

With respect to its strategic planning and accountability, FONGS' partners meet every two years to review past activities, identify new goals, elaborate strategic directions and set priorities. In addition, FONGS's donor partner consortium retains an accounting firm to conduct an annual financial audit.

While FONGS still relies heavily on donor funding, the earnings raised from service delivery would be sufficient to achieve sustainability in the future as long as the base of such earnings expands. FONGS is working closely with other like-minded groups across East, Central and Southern Africa to launch a continental platform of producer organizations in October, 2010.

Prepared by Leslie Fox

The NGOSI country reports reflect the important roles of public-private partnerships (PPP) and Corporate Social Responsibility (CSR), particularly in Nigeria, Angola and Liberia, where financial resources from the countries' extractive industries present both opportunities and challenges. NGOs must depend on traditional forms of fundraising and outreach, such as researching the local CSR environment and preparing proposals as opportunities arise. While CSR offers a potential source for NGO funding, the following case study underscores some of its limitations, notably the practice of strategic giving to targeted interests or communities.

Under the model mineral development agreement initiated with Arcelor-Mittal, a yearly fund allocation of \$3 million is set aside for area-specific development in communities hosting its mining operations - Liberia country report

Corporate Social Responsibility: Potential and Limitations

By the late 1990s, many multinational corporations began to reconsider their public relations strategies. This new perspective came to be known as corporate social responsibility (CSR). It operated on the assumption that companies could do *well* in terms of their financial bottom lines by doing *good*—socially and environmentally—in the eyes of the communities and countries where they operated. The practice of simply donating sports equipment to a community as part of a public relations campaign gave way to carefully planned CSR strategies that sometimes involved community members in project planning and management.

A distinction must be made between two types of companies, as the nature of the company strongly influences its CSR strategy. Extractive industries (such as timber, mining, oil and gas) leave visible and often destructive footprints, while other types of companies—such as telecommunications companies, banks, drug companies, beer and soft drink companies—do not necessarily have a restricted geographical footprint and may understand their “community” as being comprised of a country’s entire population. Extractive industries’ operations are localized, hence their CSR initiatives are designed to benefit the nearby communities from which many of their employees are hired and live. For companies with less localized operations, CSR strategies tend to involve establishing a foundation or endowment. The MTN Foundation in Nigeria is one example of a cell phone company that views the community as the entire country. Typically, such foundations focus on one or two specific issues (e.g., girls’ education, HIV/AIDS, environmental conservation), and they issue grants on a competitive basis. In 2008, Chevron established the Center for Development Partnerships in Angola to support Angolan civil society organizations and promote public-private partnerships with the government and donors. This type of “legacy” organization is an increasingly popular option for both companies and donors who either want to continue their support once their operations have ended or who prefer to avoid the responsibilities associated with managing a development NGO.

Prepared by Leslie Fox

The NGOSI country analyses also point to the use of remittances to support social development initiatives and community-based organizations. In countries with large Diaspora populations, such as Senegal, Ghana and Nigeria, economists are studying the potential economic impact of remittances. Tapping the support of Diaspora communities through outreach and cooperation is increasingly viewed as a practical approach to NGO resource mobilization. The following case study of the New Nigeria Foundation (NNF) illustrates how multilateral, individual and corporate funds have been combined to form an innovative public-private partnership.

The New Nigeria Foundation: A New Development Paradigm

The New Nigeria Foundation (NNF) was incorporated in November 2000 as a not-for-profit, non-governmental organization by a group of distinguished national leaders and international friends of Nigeria. Initially financed by the United Nations Foundation (UNF) and UNDP, it was intended to represent a new institutional paradigm that provided a platform for mobilizing non-traditional resources through promotion of Public Private Partnerships (PPPs). NNF's mission is to provide a mechanism for strategic private and public sector collaboration, aimed at promoting and funding sustainable social and economic development activities in communities. The organization targeted the Niger Delta Region in part because of the potential for non-traditional resource mobilization.

NNF focuses on and catalyzes PPPs with communities, local governments and Nigerian and multinational companies. Once formed, the PPP develops concrete programs and projects based on shared objectives. NNF then mobilizes resources from its partners and uses these resources to leverage support from external donors. For instance, NNF mobilized \$8 million from UNF, UNDP, the Gates and Packard Foundations, and Mobil Producing Nigeria, Ltd., together with local governments. It then used the funds to implement a three-year program to improve the health status of some 45 communities in all nine oil-producing States in the Niger Delta and three northern states. NNF's projects emphasize an approach based on the principles of co-management and co-financing of community development projects as well as demand-driven identification and prioritization of community-based interventions.

Over the past several years, NNF has diversified into development management consulting for international development assistance, UN agencies, and Nigerian private and public institutions. To ensure sustainability of its operations, NNF promotes CSR among Nigeria's private sector in the hope of mobilizing resources for its development activities. Such long term relationships have been secured with UNDP, Mobil Producing Unlimited, Chevron Nigeria Limited). The principal strategies that NNF has used to sustain its activities include: diversifying its resource base and thus ensuring multiple streams of fund; relying on the broad networks of its board members to keep it connected and aware of new opportunities; anticipating the market trends and developing new areas of expertise accordingly (e.g., CSR); and, focusing on providing high quality services to clients.

Prepared by Professor Femi Ajibola, Executive Director, NNF, Lagos

Continued Challenges to Financial Viability

Many NGOs in Sub-Saharan Africa continue to struggle with the effects of donor funding decisions on their structure and direction. Another major challenge is the reluctance of many governments to accept NGOs as full partners in development and democratic governance. At this point in the history of international development, most Sub-Saharan African governments depend on donor funding for significant portions of their national budgets. To give an extreme example, approximately 80 percent of Rwanda's health budget is funded by its development partners.⁶

⁶ Gellar, Sheldon, et. al, December, 2008, Corruption Assessment Of Rwandan Health Sector, MSI, for USAID/Rwanda

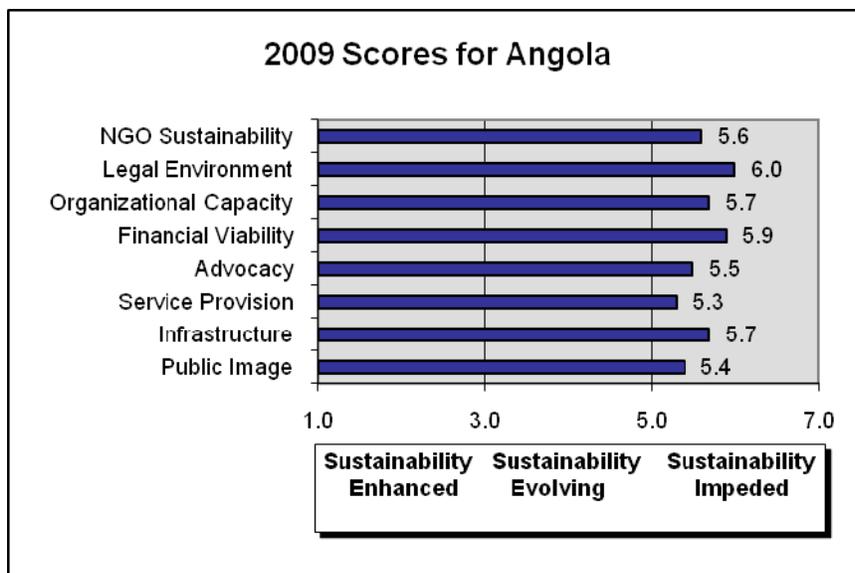
Several of the countries reviewed by the NGOSI are not only low-income but are emerging from violent conflict (e.g., Liberia, Sierra Leone, Rwanda); have ongoing conflict (e.g., DRC, Uganda); or, they have the potential for violent conflict to reignite (Zimbabwe, Guinea). Few beneficiaries, NGOs or donors are inclined to focus on the financial viability of NGOs factors when they are preoccupied by short-term humanitarian needs and vulnerable populations. This point was clearly brought out in the country reports on Sierra Leone, Zimbabwe and DRC, among others, where NGOs have been heavily relied upon to provide emergency relief services.

Donors are an important part of this discussion of NGO financial viability, and they should consider how their activities and beneficiaries could have significant and often unintended consequences for civil society. As discussed earlier, donor choices made during the 1980s and 1990s had a major impact on the structure, differentiation and capacity of NGOs in Sub-Saharan Africa. The country reports note many examples of successful NGO resource mobilization yet many challenges remain. For example, many governments view NGOs with distrust, illustrated by the fact that few country reports cited NGO access or success in competing for government contracts. It would be useful to examine the sources of this distrust in greater depth in order to understand how this key issue can be resolved in different country contexts.

This paper has provided some insights into NGO financial viability, offering relevant examples of good practices and strategies for resource mobilization. Significantly, there exists a broad array of organizations representing the diversity of associational life found in many Sub-Saharan African countries today. Despite the manifold challenges confronting them, many of these organizations have proven resilient and dynamic in periods of great financial hardship. As they pursue funding sources, it is important that they seek diverse and sustainable sources, both local and external, to the maximum extent possible. The NGO Sustainability Index is a new resource to aid in the sharing of information, experiences and lessons among development stakeholders, promoting NGO financial sustainability in Sub-Saharan Africa and in other regions of the world.

SECTION 5: COUNTRY REPORTS

ANGOLA



Capital: Luanda

Polity:
Republic

Population:*
13,068,161 (July 2010 est.)

GDP per capita (PPP):
\$8,900 (2009 est.)

NGO SUSTAINABILITY: 5.6

Civil society is inherently weak in Angola, and the political and societal space for civil society is limited. Angolan authorities have not fully accepted civil society's voice or watchdog and control functions, and the legal framework is restrictive. Most organizations are careful in their approach to and in their contact with the government. There is a tangible fear of backlash based on previous negative experiences. NGOs that work directly on issues of governance, transparency and democracy, including public finance management, are all very small, have limited membership bases, and are dependent on foreign funding.

According to a recent directory of NGOs compiled by the government's coordinating body of NGO activities, Unidade Técnica de Coordenação da Ajuda Humanitária (UTCAH), there are 127 international NGOs, up to 464 national NGOs, twenty-five church organizations and nineteen foundations. Eighty percent of these organizations have not completed the registration process. Although the estimate is in the thousands, there are no reliable numbers on how many CBOs exist.



* Population, GDP figures, and maps in all reports are drawn from the Central Intelligence Agency, The World Factbook, available online at <https://www.cia.gov/library/publications/the-world-factbook/>.

LEGAL ENVIRONMENT: 6.0

NGO registration is a complicated and cumbersome process that is lacking in transparency. There is no clear institutional directive from UTCAH or from ministries about the chain of entities responsible for registration. Several different government agencies regulate the registration process and apply inconsistent criteria, often leading to confusion and redundancy. The process for an NGO to register at the national level, which is required for it to operate legally at the national level, is centralized and is all done in Luanda. Strong and vibrant community associations in the provinces have not been able to register as NGOs because it is too costly to travel to Luanda over and over again.

The first step in registration is at the local level, but it is not clear whether an NGO is required to register first with the municipal administration and secondly with the provincial UTCAH or vice versa. Once an organization registers at the local level (which allows it to work legally at the provincial level), the process moves up to the national level. A number of government ministries, including the Ministry of Justice and Ministry of Social Services, are responsible for the registration process at the national level. According to the Law of Associations (14/91) and the subsequent decree (84/02), once the registration process is completed at the local level an NGO should go directly to the Ministry of Justice to issue the certificate. Before issuing the certificate, the Ministry of Justice may require the NGO to first take the process to the national-level UTCAH for their authorization. UTCAH may first request the authorization of the Ministry of Justice and another line ministry before approving the application. This process of going back and forth between ministries can go on for a number of years.

The lack of infrastructure at all levels to facilitate communication within the NGO sector and between NGOs and other sectors exacerbates the problems with the registration process. In many instances, the relevant ministries demand documents that are not required by law.

Within government, different entities interpret the legal instruments differently according to their own interests. For example, a police commander declared the Association for Justice, Peace, and Democracy (AJPD) illegal because its advocacy activities had crossed his path, when in fact it is up to the Ministry of Justice to declare an NGO illegal. When the NGO Omunga tried to hold a march against the Benguela provincial government's illegal demolitions, the provincial police commander, who falls under the Ministry of Interior, implied in a press statement that Omunga was "illegal" in spite of the fact that it is registered at the provincial level.

NGOs involved in advocacy and human rights encounter more difficulties in the registration process than social service providers because the government sees them as opposition forces. Advocacy and human rights NGOs such as the AJPD, Human Rights Coordination Council, SOS-Habitat, Maos Livres, and Omunga, which were established between 2000 and 2006, remain without certificates from the Ministry of Justice to complete the registration process.

Many NGOs have to wait over five years to receive their certification. Even after receiving certification from the Ministry of Justice, an NGO has to publish its bylaws in the *Diário de República* in order to be fully registered, which is expensive for most NGOs and sometimes involves corruption. The majority of NGOs cannot afford this and as a result many are not registered. Delays in publishing bylaws can last one or more years.

A new NGO law has been drafted in a very nontransparent manner. NGOs pushed to have input but never received a copy of the final draft that has been with the Council of Ministers since 2007 for approval. The new NGO law is especially worrisome because of the introduction of new requirements that NGOs will have to meet before registering.

ORGANIZATIONAL CAPACITY: 5.7

More than 80 percent of local NGOs do not employ internal systems or tools to ensure accountability, clarity of goals, vision, strategic framework, plans for resource mobilization, monitoring and evaluation systems or internal management structure.¹ In addition, these NGOs lack the capacity to prepare and articulate sound proposals that can attract and meet the requirements of available funding sources. For example, only six Angolan NGOs responded to the USAID Development Grants Program in January 2010, while in neighboring countries such grant competitions are usually very competitive and oversubscribed. Funding, especially for national NGOs, does not cover overhead costs that would allow NGOs to improve on these critical aspects or support salaries to attract the appropriate technical staff. NGOs lack sustainable staff retention plans and depend on short-term grants for year-to-year funding. About 20 percent of national NGOs have visible activities, offices, staff and at least one vehicle. The other 80 percent exist only on paper and have no connection with their constituencies and stakeholders. In the whole country only one national NGO, Acção para o Desenvolvimento Rural e Ambiente (ADRA), has grown and has a physical presence in four provinces. A World Learning study showed that out of the 20 percent of functional NGOs, the majority have annual operating budgets of under \$100,000, and only about 2 percent have the capacity to manage \$1 million annually. Only ADRA has the capacity to manage over \$1 million annually.

In a country like Angola where volunteerism does not exist, if a powerful figure remains attached to an NGO he or she expects that there should be something in it for him or her. Often an individual's desire to control an organization can result in a one-man show and the use of tactics that erupt in internal conflicts. Separation of powers between boards and executive bodies is nonexistent in over 90 percent of NGOs. These NGOs cannot maintain boards as they are voluntary in nature and board members expect to be paid to participate in meetings. Since unemployment and poverty are high, many community members do not like the prospect of volunteering in an NGO, especially if they are not benefitting from available funds. Without functioning governing boards, NGOs lack internal checks and balances and practice accountability only to donors.

Over 95 percent of CBOs lack the necessary equipment, leadership skills, human resources, financial resources, governance, financial management systems, and technical skills and knowledge to implement successful projects. Further, CBOs have a more informal organizational structure than NGOs, relying entirely on volunteer labor, and do not have office space and equipment. Over 95 percent of CBOs lack stability for various reasons. Many CBOs run a variety of activities and do not have a particular focus. All CBOs struggle to mobilize resources for their activities. The active life span of community organizations is generally only a few years. These groups may also cease to exist when the initiatives they undertake (building a school, obtaining land title, and so on) are partially or fully implemented.

FINANCIAL VIABILITY: 5.9

Angola's wealth and the cost of operating in Angola have scared donors from the country. For example, rents are usually 10–15 times higher compared to other African countries. Concern, Trocaire and Cordaid are among the many donors that have left the country and others like IBIS plan to close their operations in Angola as of January 2011. Other donors, such as the Dutch, Japanese, British and Spanish embassies have drastically slashed their aid budgets.

NGOs are heavily dependent on external financial aid that has been drastically shrinking in the last two years. Without the support of outside donors, NGO services might cease. Studies by the World Bank and PAANE (the Non-State Actors Program in Angola supported by the European Union) have found that NGOs are largely dependent on foreign funding, with many reporting that 100 percent of their budgets

originate from foreign donors. In the electricity and water sectors, some communities are paying for NGO services, but this is an exception. The government does not provide grants to NGOs for service delivery projects, nor does it award tenders.

This situation is even more critical for NGOs working on good governance and human rights issues. The private sector, including oil companies, does not support projects in these sectors. Meanwhile, donors who in the past supported these activities have left Angola or have decreased their budgets to less than half. For example, during the revision of the Angolan constitution during the period April 2009 to January 2010, NGOs that lacked external funding were not able to influence this process, demonstrating the total dependence of NGOs on donor funding.

Angola does not have a strong, defined local donor base to support the NGO sector. While a few oil companies engage in philanthropic activities and support some service delivery activities, the number of projects they support is very small and the funding available is very limited. Moreover, oil companies are restricted in the geographic areas and sectors they can support. The approval process of selecting projects has to comply with Sonangol (the state-owned oil company) regulations, an onerous process that can take years or never come to fruition. The only oil company that periodically puts out a countrywide request for proposals is Exxon Mobil. No other oil companies or other corporations have explicit grantmaking strategies and practices. Companies in the construction sector, another major part of the economy, do not have a culture of supporting social responsibility projects; in isolated cases some support the purchase of pencils, books, and other related materials.

In some cases individuals establish NGOs based on a desire for personal enrichment. This makes NGO funds vulnerable to abuse as financial authority is solely vested in the NGO leader, and installing sound financial systems is usually not in the interests of the key leadership. In cases where interest exists, organizations lack qualified and skilled personnel to develop feasible financial plans and fundraising strategies. With a very competitive oil sector, it is very difficult for NGOs to attract and maintain good finance people, because most go to work for the oil firms.

ADVOCACY: 5.5

While mechanisms and platforms for advocacy exist, capacity for advocacy is weak. Angola has one large national organization, ADRA, while the rest are small and fight for survival. An NGO that engages in advocacy and lobbying activities can find its survival imperiled. The government can sideline an NGO that is critical of the government, ensuring that the NGO never gets necessary media coverage or access to key state institutions such as schools and hospitals. Secondly, the government can brand an NGO as opposition, which can affect the NGO's funding. Most organizations do not engage the government in confrontational ways.

During the recent constitutional reform process, the government did not provide space or necessary conditions, such as constructive dialogue with civil society actors and communities, civic education, or print materials for civil society engagement. Among NGOs, networking is weak; not a single effort was made to confront the government in the constitutional reform process. Lone voices emerged but were not sufficient to influence the outcome.

The government has managed to instill fear in activists. Well-known figures and journalists have been rendered jobless and powerless. Less than a handful of organizations have dared to take the government to court for illegal imprisonment of human rights activists and journalists and for illegal land evictions; their cases are still pending.

A political culture of administrative secrecy, clientelism and favoritism further weakens lobbying and advocacy efforts. This includes practices such as the buying off of political rivals, including leading members of NGOs; deliberately ambiguous rules and regulations and the ensuing bureaucratic hurdles, such as the excessive time it takes the Ministry of Social Affairs to register a new NGO; and various government agencies' general distrust of NGOs.

At the same time, isolated advocacy actions have been fruitful. As part of its advocacy campaign "Stop the Demolitions," OMUNGA organized a demonstration that filled the streets of Benguela with approximately 400 angry people prepared to march against the government's plan to continue demolishing homes and forcibly removing people from their land. The provincial government prohibited the march on weak legal grounds and surrounded the city with over 800 armed police and military. Although the people of Benguela did not march, it is still significant in the Angolan political context that 400 people were ready to march against the government's "illegal" evictions.

SERVICE PROVISION: 5.3

Provision of services by NGOs is visible but remains weak. Local NGOs face challenges such as the failure to attract skilled and qualified personnel, or sustainable funding that allows long-term programming. Both NGOs and communities have little experience working together, and it requires time to achieve results and competently measure the quality of service provision. Still, NGOs make efforts to provide services in many areas, including informal education, community-based health, HIV/AIDS, community organizing, agricultural production, urban micro-enterprise assistance, day care services, literacy programs for youth and women, and water supply and sanitation rehabilitation.

The government does not have a policy on NGO service provision and does not attempt to actively and strategically engage with civil society to develop technical services or research in the national interest. Moreover, the government does not fund the limited number of NGOs with possibilities and capacity to carry out service delivery. Neither external donors nor the government provide funds for research. Most of the services provided by NGOs are subsidized by donors. In the electricity and water sectors, some communities are paying for NGO services, but this is an exception.

INFRASTRUCTURE: 5.7

Infrastructure for the NGO sector is dire. Resource centers are virtually nonexistent and coordination of activities is weak. NGOs have assumed responsibility for information sharing and also have isolated trainings. While a USAID civil society support program is arguably one of the most visible bases for NGO support, it reaches out to just fifty of the over 500 NGOs that need this type of support. Communication is very expensive; fax and land telephone services are rare even in Luanda, Internet is slow and expensive to install, and most areas outside Luanda have limited communication facilities, making it very difficult for NGOs to stay in touch and build networks. Local facilitators and trainers are few and expensive, and there is no accessible database of them.

In a recent study on the capacity of networks carried out by PAANE, it was estimated that only 22 percent of the networks actually implement activities. Approximately 47 percent of the networks are based in the capital city of Luanda. The umbrella NGO organization, FONGA, has been inactive since 2008.

Political parties such as the MPLA have positioned themselves in key NGO networks such as the Women's Network, Land Network, and ANASO, an umbrella organization for NGOs working to combat HIV/AIDS. The parties use NGO networks to their advantage and sometimes undermine their work. For example, members of the Land Network who are from the MPLA refused to support OMUNGA in its

press statement protesting against the illegal evictions of vulnerable groups from their land and homes. ANASO's president is a high-ranking MPLA member who has never allowed ANASO to request accountability from the government on how its HIV/AIDS funds (\$40 million) have been spent. Many organizations that have different views are excluded from activities, while some just shy away. Several NGO leaders are increasingly becoming aware of the need to establish coalitions and networks around specific issues, but seem to be far from agreeing on sustainable ways of working together.

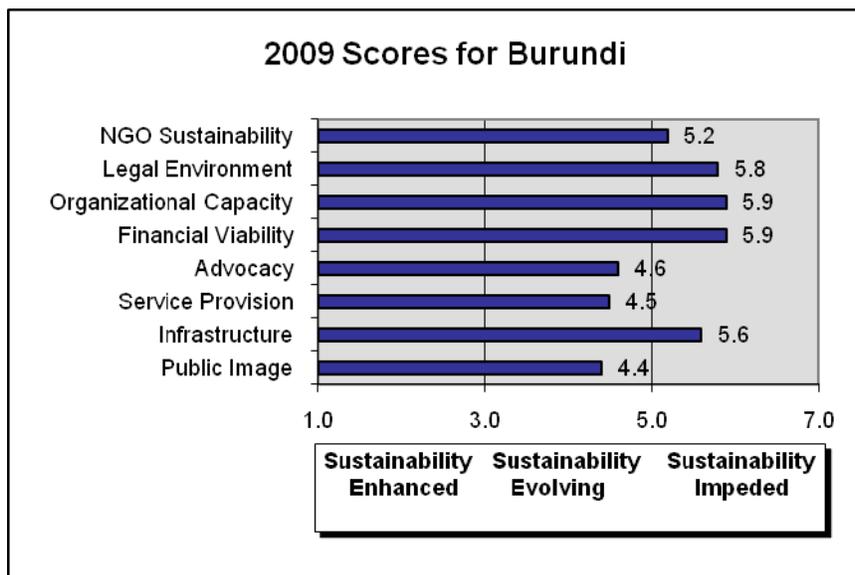
PUBLIC IMAGE: 5.4

The majority (88 percent) of NGOs lack the well-planned programming and documentation needed to build a brand and positive public image. NGOs' failure to attract qualified and skilled personnel constitutes a vicious circle in which, absent staff capacity, image deteriorates, making the sector less attractive to qualified workers. NGOs receive media coverage when a case of financial mismanagement is unearthed; the development efforts of NGOs are not considered news.

Most NGOs do not have a culture of documenting and publicizing their activities. Even those that do fail to circulate this information to key stakeholders, including government. At present few NGOs disseminate their annual financial and programmatic reports or maintain professional and independent boards of directors that can help ensure greater stewardship of their funds. At most, NGOs report to their donor agencies, but these are generally in Europe and can thus only carry out limited monitoring.

Communication with stakeholders is in many cases minimal. Most vulnerable communities do not understand the role of NGOs, which points to poor communication strategies. In one case an NGO assessment revealed a community's gross ignorance of the activities, objectives and programming scope of an NGO that was working in the community. Acção Humana, a leading national NGO, was turned away by community leaders in Luanda on the claims that the organization wanted to benefit from their case. Efforts to improve public image and branding are not priorities for NGOs at this stage. The government also must be seen to be cooperating with NGOs and portraying them as institutions necessary for the empowerment of communities.

BURUNDI



Capital: Bujumbura

Polity:
Republic

Population:
9,863,117 (July 2010 est.)

GDP per capita (PPP):
\$300 (2009 est.)

NGO SUSTAINABILITY: 5.2

At the end of 2009, nearly 4,000 NGOs were registered with the Ministry of Home Affairs. Only about 5 percent, however, have permanent staff and offices. Most NGOs function poorly and lack democratic governance and professionalism among permanent staff.

NGOs still depend heavily on foreign donors. Local resources and membership contributions are insufficient for NGOs' sustainability. The government is not involved in funding NGOs. Because of low capacity to mobilize funds and a lack of mobilization strategies at the local level, many organizations are unable to obtain funding.

Networking is a regular practice for some organizations. NGOs share information and have begun to work together in order to undertake organized advocacy on specific issues. Some of these efforts achieved results during 2009.

The government acknowledges the contribution of NGOs in service delivery. NGOs' actions are oriented towards communities and NGOs have made significant contributions in areas such as education, health, assistance to orphans and other vulnerable children, income-generating activities for poor families, housing for vulnerable people, water supply systems, environmental protection, food security, and combating HIV/AIDS. People increasingly understand the roles and missions of NGOs and participate in planning and implementing NGO activities.

The government's perception of NGOs sometimes changes according to its interests and the areas in which NGOs operate. Sometimes the government reacts defensively when facing criticism, even when the



criticism is constructive, and tends to consider some organizations, especially those working in the areas of governance and human rights, as opposition political parties.

LEGAL ENVIRONMENT: 5.8

Article 32 of the Constitution of the Republic of Burundi provides for freedom of assembly and association, as well as the right to form associations or organizations in accordance with the law. The government decree creating the framework in which nonprofit associations work has become obsolete; a draft revision of the decree was introduced in July 2009 but has not yet been analyzed by the Council of Ministers.

The conditions required for an association to be registered are clear but they are not yet translated into the national language, Kirundi, nor are they disseminated broadly. In addition, many local associations have great difficulties registering because of the long distance separating the Ministry of Home Affairs and their location. Moreover, the documents required for registration are numerous and costly when one considers the extreme poverty in which people live. Some of the required documents are issued only in Bujumbura, the capital city. These include the police record, which is a prerequisite for obtaining a certificate of good conduct, character and moral standards issued by the provincial governor or the mayor of the city of Bujumbura.

NGOs are allowed to undertake activities, but a new Ministry of Home Affairs directive requires NGOs to seek authorization for those activities which cover the national territory. NGOs may raise funds both inside and outside of the country, but tax exemptions are granted to international NGOs only.

Even when networks, working groups or coalitions exist, there are no specific legal provisions which govern their functioning. The Forum des Organizations des Producteurs Agricoles du Burundi (Forum of Agricultural Producers' Organizations of Burundi) is a collective of farmers' organizations growing coffee, tea, rice, cotton and palm oil. Established in 2009, it has been waiting for registration for more than six months. On November 23, 2009, the Minister of Home Affairs canceled the ministerial ruling approving the registration of the Forum pour le Renforcement de la Société Civile (Forum for the Strengthening of Civil Society) because some of its member associations—in particular, trade unions, the Burundi Bar Association, and the Burundi Chamber of Commerce—were registered by other ministerial departments.

The ruling party tends to consider NGOs as political parties and, for that reason, establishes associations in parallel to certain existing civil society organizations in order to limit their effectiveness. Some NGO leaders who are considered to be too critical of the government are victims of blackmail and harassment.

ORGANIZATIONAL CAPACITY: 5.9

Only about 5 percent of the 4,000 registered NGOs in Burundi function more or less adequately. Very few associations have national coverage or even regional coverage, or have offices, equipment and staff. Most NGOs would like to build constituencies, but face obstacles in decentralizing their activities.

Some organizations practice transparent management. They have written documents that govern their functioning, such as statutes, rules of procedure, administrative and financial procedure manuals, strategic plans and operational plans. They produce narrative and financial reports regularly and conduct financial audits.

In addition, some leading organizations are gradually establishing local support groups and networks that contribute to building their members' capacity. Such organizations include the Forum pour le Renforcement de la Société Civile (Forum for the Strengthening of Civil Society), Collectif des Associations et des ONGs Féminines du Burundi (Union of Women's Associations and NGOs of Burundi), the Collectif des Associations des Jeunes (Union of Youth Associations), and the Observatoire de l'Action Gouvernementale (Government Activity Watchdog).

In most cases, there is still much to be done to improve organizational capacity. Numerous NGOs have neither permanent staff nor offices and function poorly, sometimes without democratic management.

Professionalism among NGOs' permanent staff is limited and there are no financial resources to ensure adequate capacity building. The resources of most NGOs do not allow them to modernize office equipment. Some NGOs working in large urban centers where there is electricity or an alternative energy supply would like to improve their access to the Internet. NGOs working in areas where there is no electricity or alternative energy supply have no access to the Internet.

FINANCIAL VIABILITY: 5.9

Striking disparities exist among NGOs. Some organizations have financial resources and others have none. Those that have funds still depend heavily on foreign donors. Local resources and membership contributions are insufficient to provide sustainability. The government is not involved in funding NGOs.

NGOs are making efforts to develop projects and submit financial requests to donors, yet many organizations fail to obtain funding because of low capacity and a lack of community mobilization strategies.

There is still no culture of philanthropy and some organizations disappear because of a lack of funding, or change their direction or mission in accordance with the will of the donor. People are poor and cannot make significant financial contributions, but are willing to contribute in-kind in order to build schools and health centers.

Increasingly, the government is appealing to NGOs to participate in the implementation of certain activities, notably projects financed by the World Bank, the Global Fund to Fight AIDS, Tuberculosis, and Malaria (GFATM), and the European Union. Programs exist to build NGO capacity in financial management. Donors follow closely the management of funding to ensure transparency, including requiring regular annual audits.

ADVOCACY: 4.6

Organizations are active in advocacy for issues such as human rights, governance, fighting against corruption and economic mismanagement, gender balance in decision-making bodies, the right to inheritance for women, and the right to education for all. Professional organizations such as trade unions and journalists' associations, and organizations fighting against AIDS, are very active.

NGOs interested in monitoring and analysis of government policies are beginning to emerge. These include the Observatoire de l'Action Gouvernementale (Government Activity Watchdog), the Institut de Développement Economique du Burundi (Burundi Economic Development Institute), and the Centre National d'Alerte et de Prévention des Conflits (National Center for Warning and Conflict Prevention).

NGOs share information and have begun to work together in order to carry out advocacy on specific issues. Some results were achieved during 2009 related to advocacy for agricultural funding, establishment of transitional justice mechanisms, fighting against corruption and economic and financial mismanagement, and adoption of amendments to the Electoral Code and the Code of Criminal Procedure.

NGOs' ability to carry out sustained advocacy is weak, however, and the results they achieve are still mixed because they have not mastered advocacy techniques, have difficulties reacting on time, or experience political and cultural barriers to reform. The low level of government commitment to the cause of NGOs is a serious barrier to advocacy.

Because of conditions imposed by donors, the government involves NGOs in steering committees such as those that monitor HIPC (Heavily Indebted Poor Countries) Initiative funds, and in national consultations on issues such as transitional justice, procurement, labor and social security. The government is largely fulfilling donor demands, however, rather than acting out of a genuine commitment to NGO involvement.

SERVICE PROVISION: 4.5

Many NGOs are working in the areas of health, education, housing for vulnerable people, water supply systems, environmental protection, and food security, including development of wetlands and agricultural and livestock inputs. Beneficiaries participate in formulating programs, determining priorities, and sharing results, primarily through the media. Networks and working groups are beginning to be established.

Goods and services that NGOs provide reflect the needs and priorities of constituents and communities. Given the context of widespread poverty worsened by the world financial crisis, people's needs for services are so numerous that NGOs are unable to meet them. There are also areas, such as the energy sector, where very few NGOs are involved because of limited financial resources. Some NGOs help a very limited number of vulnerable people, such as orphans, child-headed households, widows, or AIDS patients. Limited funding means that the number of people helped is much smaller than the actual number in need.

The government values NGOs' contributions to the provision and monitoring of basic social services. The government does not provide grants to NGOs, but sometimes contracts NGOs to provide services.

Some NGOs charge for their products and services such as publications, workshops, or expert analyses, and are able to recover some costs. Other NGOs provide such products and services free of charge, however.

INFRASTRUCTURE: 5.6

Certain intermediary support organizations help strengthen the capacity of their members through training programs and workshops. These organizations are beginning to become more structured and some of them have websites and newsletters, but they cannot generate income from their work (such as by charging fees) and depend largely on resources provided by foreign donors. There are local trainers in NGO management. Basic training in NGO management is available in the capital city, and training workshops are organized from time to time in other areas of the country. More advanced and specialized training sessions in areas such as strategic management, accounting, financial management, fundraising, and management of volunteer and development work meet the needs of NGOs and training material is available in the local language.

There has been an increase in NGOs forming networks. There are active platforms and networks of NGOs, but the latter tend to be located in Bujumbura. These networks contribute to capacity building for members through training and workshops. The need to work in synergy around sensitive issues is reinforced at critical moments, such as the campaign for legal action in response to the April 2009 murder of leading anti-corruption activist Ernest Manirumva. Coalitions of NGOs regularly share information in their respective fields, but there is no umbrella organization with centralized information for NGOs.

There are no local community foundations in Burundi, but there are organizations which provide grants they have received from foreign donors for local community projects. This happens in agriculture and livestock activities where some groups of farmers or breeders receive seeds, agricultural inputs, pesticides, goats or cows purchased with foreign donor funds. NGOs fighting against HIV/AIDS also purchase drugs and other products with donor funds granted to NGOs that have national coverage.

NGOs work in some intersectoral partnerships, mainly with the media.

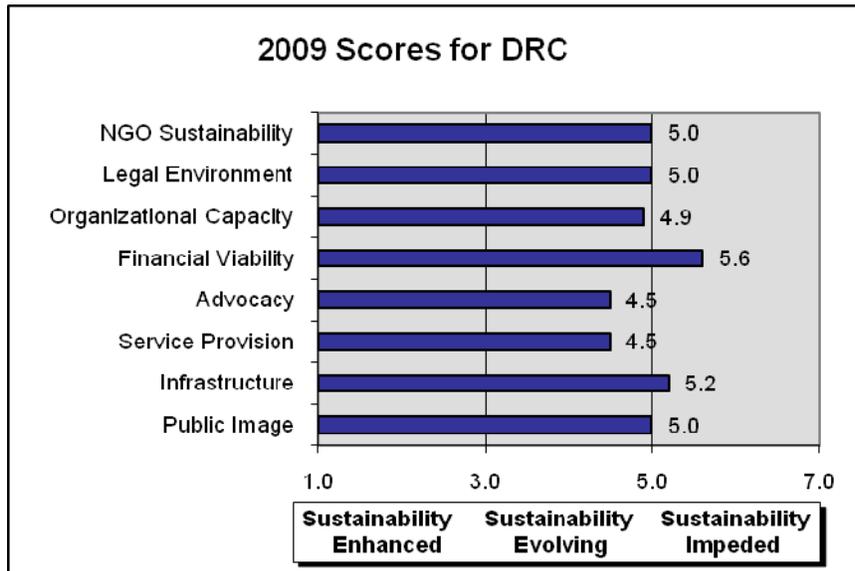
PUBLIC IMAGE: 4.4

NGOs and the media have significant interaction and close collaboration. The media cover most NGOs' activities voluntarily. Sometimes media outlets work in synergy amongst themselves and with NGOs to address specific issues relevant to the life of the nation. NGOs regularly organize forums bringing together both government and private radio stations on issues like education, health, environment, elections, and governance. People increasingly understand the roles and missions of NGOs and participate in activities organized by NGOs.

The government's perception of civil society changes in accordance with its interests and with the services NGOs provide. The government tends to consider some organizations, especially those working in the areas of governance and promotion of human rights, as opposition political parties.

Some NGOs have independent codes of conduct but there is still no code of conduct for the sector as a whole. The Forum for the Strengthening of Civil Society, one of the most representative NGO platforms, is finalizing a draft code of conduct.

DEMOCRATIC REPUBLIC OF THE CONGO



Capital: Kinshasa

Polity:
Republic

Population:
70,916,439 (July 2010 est.)

GDP per capita (PPP):
\$300 (2009 est.)

NGO SUSTAINABILITY: 5.0

The Democratic Republic of the Congo is the third largest country in Africa by area and has a population of approximately 68 million, with as many as 250 different ethnic groups. In DRC, the NGO sector is very diverse, vibrant and dynamic. Recent studies carried out by the Ministry of Planning, the National Council of Development NGOs (CNONGD), and the United Nations Mission in the DRC (MONUC) have not captured their exact number, because NGOs are created almost every day. Figures vary from 5,000 to 6,000 NGOs in the country, with the highest concentrations in the provinces of Kinshasa, Bas Congo, North Kivu and South Kivu. Different government bodies give official recognition to NGOs at the local and national levels. Only the Ministry of Justice provides the final registration document, however.



NGOs are widely recognized as institutionally and socio-politically independent groups, different from trade unions, professional corporations or media. NGOs are governed by the Law No. 004/2001 of 2001, whereas other nonprofit organizations are governed by this law as well as other laws. NGOs are recognized as having social responsibilities towards the population, especially the poor. They largely rely on foreign funding for their projects.

By focusing on communities, NGOs develop projects on crucial issues related to economic and social development. Their main fields of action are human rights, health, education, agriculture and food security, environment, peace and conflict resolution, and rural development. Insufficient financial resources are the main constraint to NGOs' efficiency and visibility. The financial crisis of 2008 weakened their situation even more and most of them are experiencing hard times. The degradation of

transport infrastructure in the country has also reduced operating capacities of NGOs and other institutions in DRC.

In general, the legal environment is rather good for NGOs, although problems remain in regard to tax exemption for imported goods. National forums and meetings, such as the 2009 Civil Society Symposium, have legitimized NGOs vis-à-vis the government. Bilateral and multilateral donors advocate for the full participation of NGOs in the implementation of social programs. On the other hand, international organizations that open offices in the country recruit the best staff from local NGOs, weakening the sector.

LEGAL ENVIRONMENT: 5.0

In DRC, NGOs fall under the category of nonprofit organizations. The revised law that governs them, which was promulgated in 2001, covers all nonprofit organizations with a specific section on NGOs. The law was developed with the active participation of NGO sector representatives. But in practice, certain problems arise. For example, people are free to create NGOs and to start operations immediately, but they must also start the process of registration with local, provincial and national authorities, where they are obliged to pay various unanticipated registration and administrative fees.

The law recommends that legal personality is acquired six months after registration, but the law does not provide for issuance of a specific type of formal written proof of legal personality. This puts NGOs in a tricky situation in certain contexts, such as when it is compulsory to provide a declaration of legal personality for administrative purposes.

The law states that NGOs are exempted from certain taxes on donations and subsidies received from donors, but very few take advantage of these privileges because of the burdensome administrative procedures. The majority of NGOs are unaware of the main laws and regulations which apply to them. While there is no taxation of funds received for relief or development projects, NGOs pay taxes on wages and rents. For donations, and particularly imported goods, problems arise during customs procedures because of harassment by corrupt officials. For international NGOs, the issue of tax exemption is contained in the cooperation contract they sign with the government through the Ministry of Planning.

The law allows NGOs to generate income through delivery of goods and services without taxation. NGOs can participate in public tenders for state social services at the local and central levels, although in practice, government tenders are rare. NGOs have access to projects launched by multilateral or bilateral donors.

The law does not restrict NGOs' or their leaders' freedom of action, but human rights NGOs are still often harassed for political reasons. Government decisions to dissolve NGOs are very rare, however. NGOs participate in some formal structures and are allowed to take part in public debates on national issues and to express their views and recommendations, but they have to be careful with the language they use. To have their voices heard by the government and the parliament at provincial and national levels, NGOs speak through their umbrella organizations such as the National Council of NGOs (CNONGD) or the Federation of NGOs with an Economic Vocation (FOLECO).

Legal consultations are available for NGOs in any law firm, but fees are often very expensive.

ORGANIZATIONAL CAPACITY: 4.9

The implementation of development projects in the field requires active collaboration of local community organizations and their leaders, as well as supporters such as NGO coalitions or members of parliament. But in practice, not all NGOs are keen to set up support networks for their initiatives.

In general, NGOs' missions are well defined in their legal documents, but they may shift to other sectors when financial opportunities are available. The NGO sector is gradually becoming more and more aware of the need for strategic planning, but the majority of NGOs still lack well written strategic plans. Even when there is one, it is not strictly observed because the NGO still has to conform to the decisions and priorities of its donors.

NGOs have rather clearly defined management structures on paper, but in practice conflicts of interest, in particular between the executive body and board, are common. Among technical staff, responsibilities are not always clearly defined or well distributed. Many NGOs are not run in an open manner. In general, financial management is closed to concerned bodies or limited to a few people. NGOs' annual reports are almost never published in national newspapers.

In general, NGOs do not have sufficient financial resources to enable them to regularly modernize their office equipment such as computers and software. The majority of NGOs can only afford secondhand materials and resort to cybercafés for Internet access.

Local NGOs have permanent staff, but payment is generally insufficient and sometimes uncertain, although better than government salaries. In the context of mass unemployment, the NGO sector has appeared in recent years as a new, interesting sector. It is not unusual to see people working on a voluntary basis while waiting for external funding which may result in paid employment.

FINANCIAL VIABILITY: 5.6

Very few NGOs have access to and are able to run entirely with local funds. Local potential for fundraising exists; for instance, religious and sports activities are funded with resources mobilized from participants and local sponsors, but Congolese development NGOs have not acquired skills and capacity to mobilize funding locally on a larger scale. For local village projects, NGOs succeed in collecting nonfinancial contributions from CBOs when necessary, such as unskilled labor or local construction materials.

The number of NGOs which have access to multiple sources of funding is low. Financial management systems are still not highly professional, but there is gradual improvement. NGOs are not obliged to publish their annual reports or their financial statements. Independent financial audits are usually undertaken when they are required by donors, and NGOs cooperate in order not to compromise their chances of further funding.

The majority of NGOs do not have independent sources of financing for long-term viability. Very few have members or supporters they can rely on for internal funding. NGOs have few communications skills to encourage philanthropy, and local income is usually low in comparison to foreign funding. Governments and local companies rarely call upon NGOs' competence, except in cases of CBOs' awareness-raising activities.

NGOs place little importance on members' dues or contributions. Few projects aim at self-sustaining efforts and long-term sustainability. One reason for this is that external donors do not seem concerned

with financing projects aimed at building the financial autonomy of NGOs. Secondly, NGOs have low capacities to plan and implement income-generating projects.

ADVOCACY: 4.5

NGOs and government representatives collaborate more and more in the implementation of various projects in the economic and social sectors throughout the country, although some communication problems occur here and there. Mechanisms and venues exist that allow NGOs to participate in the process of planning development policy. For example, under the Ministry of Planning, fifteen thematic NGO working groups were created; their meetings are open to government and donor representatives. The ministry is in the process of putting in place collaborative mechanisms for greater involvement of NGOs, including the implementation of a strategy paper for growth and poverty reduction.

NGOs actively participate in different themed committees and working groups put in place by the government, especially in the following areas: development aid effectiveness within the context of the Cotonou Accord, review of mining contracts, the conversion of logging titles in concession contracts, the Extractive Industries Transparency Initiative, and the fight against HIV/AIDS and malaria.

Since the Sovereign National Conference (la Conférence nationale souveraine) of 1990, public institutions have acknowledged the importance of involving civil society in the development of democratization policies. Later in the inter-Congolese dialogue, space was reserved for NGOs to express their constituencies' aspirations. NGOs preside over organizations like the High Media Authority (la haute autorité des medias), the Observatory of Human Rights (l'observatoire des droits de l'homme), the Truth and Reconciliation Authority (la commission vérité et réconciliation), and the Commission on Truth and the Fight Against Corruption (la commission d'éthique et lutte contre la corruption). Many NGO representatives actively participated as delegates and experts, with the support of many international partners, like USAID.

During the two last decades, several advocacy campaigns were organized in various fields at the local and national levels. These included women's advocacy campaigns for increased political participation in 2001 and 2002 and NGOs' campaign for civil society participation in Congolese peace dialogues between 1999 and 2002. In 2009, NGOs engaged in advocacy on violence against women, transparency of extractive industries, human rights and the security of human rights defenders, sustainable forest management and local community rights, and climate change.

There have been cases of successful campaigns and lobbying which concluded with the adoption of laws or legal decisions; for example, the law on violence against women, integration of civil society representatives within the independent electoral commission, and the inclusion of gender parity in the constitution. In 2009, NGO advocacy on children's rights resulted in passage of the Law on the Rights of Congolese Children. An NGO campaign against corruption led to the adoption of the Law on Corruption.

NGOs do not systematically set up support groups in order to reach their objectives. They count on individual contacts which their leaders are able to make within political circles. The manner in which NGOs organize and strategize in carrying out advocacy work demonstrates little knowledge of advocacy concepts. NGOs sometimes organize protests and dialogue meetings with the government, which they consider to be lobbying actions. Campaign activities do not follow rules and are carried out in an ad-hoc way. Basic problems as well as suggestions of alternative solutions are not deeply analyzed.

NGOs are aware that a more supportive legal framework is necessary to improve their efficiency and sustainability. There is currently no group that promotes legal reforms for NGOs and philanthropy. The

European Union is supporting a project aimed at promoting non-state actors and strengthening their capacities, including proposing that NGOs request a revision of the law on nonprofit organizations.

SERVICE PROVISION: 4.5

Congolese NGOs are largely dependent on international donors for support; by themselves they have almost no capacity to address the needs and priorities of their target groups. The priorities of donors influence their decisions in the choice of goods and services to provide.

In general, basic social services that NGOs provide are aimed at larger beneficiary groups beyond their own members. Publications and reports of workshops or expert studies are not shared sufficiently with other NGOs, universities, churches or the government, however.

The prices of goods and services provided by NGOs to target populations are generally lower than market costs. Demand is determined on the basis of NGOs' assessment of social demand rather than economic surveys or market studies.

Government officials at the local and national levels are more and more aware of NGOs' positive contributions to basic social services delivery. The government does not normally allocate funds to NGOs to provide such services except within the framework of projects supported by bilateral or multilateral donors, such as the World Bank-supported BCECO (Bureau Central de Coordination), which coordinates community programs.

INFRASTRUCTURE: 5.2

There is no intermediary support organization or NGO resource center because of a lack of financial resources. These types of interventions require long-term financing, whereas most funding is short term and sporadic. Those organizations that initially tried to generate funding to operate as ISOs and resource centers were obliged to readjust their missions and readapt their strategies according to financial opportunities. They organize training sessions for NGOs and other stakeholders as part of funded projects.

Qualified trainers in NGO management can be found in the capital city and in bigger towns, where they provide training modules on NGO organization, strategic planning, project evaluation, accounting, financial management, fundraising, and personnel management. The majority of NGOs cannot afford to pay for specialized and advanced training facilities. Training materials are not available in the local languages.

A number of international donors have set up offices in Kinshasa. In addition to granting financial resources, some of them have started providing support services to local NGOs, such as websites for information exchange, databases, libraries, radio stations, and Internet access. Often these international NGOs recruit their staff from local NGOs. This may be seen as weakening local NGOs by reducing their professional capacities without making new investments in human resources training.

Community-based organizations have opportunities to engage in grantmaking. Normally funding received from international donors is supplemented with resources collected locally to cover the needs of specific projects. Income-generating projects, for instance in the agricultural and small business sectors, can also produce such resources.

In the last two decades, NGOs have developed umbrella structures such as the Provincial Council of Development NGOs (CRONGD) and the National Council of Development NGOs (CNONGD), as well

as thematic networks in order to consolidate their position vis-à-vis the government and donor community or to be better heard. Their information sharing strategies are still poor, however.

PUBLIC IMAGE: 5.0

The media covers activities organized by NGOs at the national and local levels, but media outlets often request financial contributions. The media does not clearly differentiate between prices charged for public service and commercial advertisements. The national media is generally aware of the positive role played by NGOs in civil society.

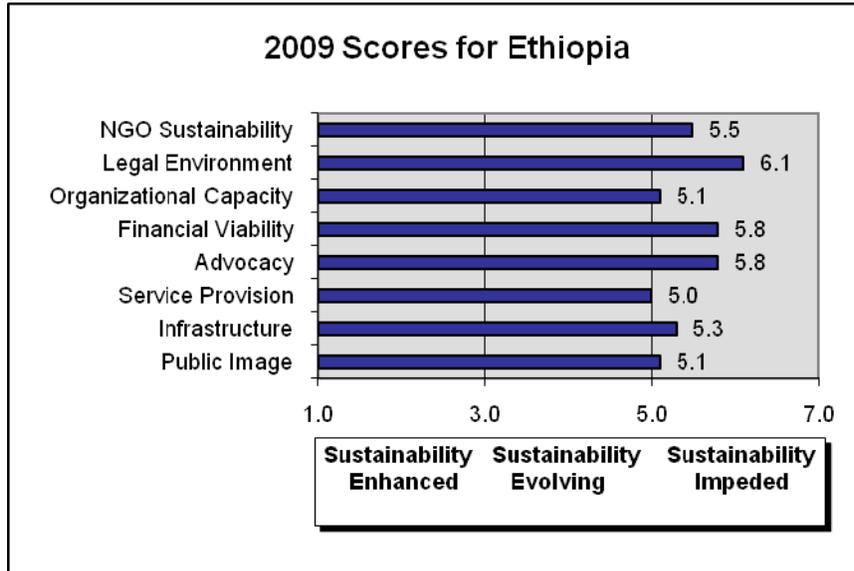
The public perception of NGOs is ambiguous. In places where NGOs have mushroomed, public opinion is in favor of them, despite criticism about NGOs taking advantage of foreign funding. In political circles, NGOs are perceived as groups of people living on foreign money, leading to beneficiaries developing dependency rather than a self-supporting mentality.

The private sector and government agencies tend to have a negative perception of NGOs. While the private sector considers NGOs as people preventing them from making sufficient profits, the government considers NGOs as agents of foreign powers, as competitors for foreign donors' resources, or as puppets of political opponents. Paradoxically, NGOs are still considered to be the most credible interface with local communities.

NGOs have good relationships with journalists and media organizations, but many NGOs do not care much about increasing their public image. There are very rare cases of systematic NGO efforts to publicize community development activities in the media.

Rwandan, Burundian and DRC NGOs jointly adopted a code of conduct, but very few NGOs are aware of it. There have been suggestions to review the code. Some bigger NGOs publish their annual reports in their news bulletins.

ETHIOPIA



Capital: Addis Ababa

Polity:
Republic

Population:
88,013,491 (July 2010 est.)

GDP per capita (PPP):
\$900 (2009 est.)

NGO SUSTAINABILITY: 5.5

NGOs, both national and international, began to appear in Ethiopia in 1960 following the growing demands of the population for the fulfilment of various societal needs.² Most NGOs trace their roots in Ethiopia to the catastrophic famines in 1974 and 1984. NGOs during the Derg regime of Mengistu Haile Mariam focused on relief operations and were largely foreign entities. Domestic NGOs in Ethiopia remain underdeveloped and somewhat misunderstood by the government, and the sector has been struggling for operating space and enhanced institutional capacity. After 1991, NGOs made remarkable progress in their number and diversity as well as in addressing the country's complex development agenda.

Article 31 of the constitution guarantees freedom of association to everyone for any cause or purpose. The current government, however, is not necessarily any more supportive of the role and responsibilities of NGOs than its predecessors. The government at best tolerates NGOs as gap-fillers and not as development partners. The government does not really see NGOs, especially international NGOs, as needed in the country and NGOs are at risk of being replaced with local, party-controlled organizations, which would be friendly and nonthreatening.³



Until recently there was no special subsidiary legislation enacted to deal with the administration of NGOs in Ethiopia. Outdated laws proclaimed during Emperor Haile Selassie's regime, as well as subsequent administrative directives, regulated the sector.⁴ Before the adoption of the new Charities and Societies Proclamation in 2009, the nonprofit sector in Ethiopia was broadly divided into four categories: development organizations, advocacy organizations, professional associations and religious organizations.

Most NGOs were registered as development/service delivery and religious organizations. The number of NGOs working on policy and human rights advocacy has remained very small.

At the end of 2009, there were about 3,800 NGOs registered by the Ministry of Justice, although this number decreased to 1,850 in February 2010 after the re-registration process was instituted according to the new Charities and Societies Proclamation.

LEGAL ENVIRONMENT: 6.1

The need for an updated law outlining NGOs' rights and responsibilities and a more streamlined regulatory framework in which they can operate has long been one of the critical issues for the development of NGOs in Ethiopia. Since 2000 the government has made sporadic attempts, sometimes together and in consultation with NGOs, to enact a special NGO law. In 1995 the Ministry of Justice issued a Guideline for NGO Operations, which outlines the major classifications for the sector (development, advocacy, professional associations, and religious organizations), defines areas for programmatic activities, and sets requirements for registration of national and international NGOs. Because of the outdated and narrow nature of the previous legislative framework, NGOs were mostly governed by administrative practices and directives which usually contradicted provisions of the constitution, the Civil Code and international treaties the country has ratified.

Pushed by these and other political factors, the government adopted the infamous Charities and Societies Proclamation in early 2009. This law strongly affects the operation of NGOs, particularly those working on rights issues. To begin with its positive aspects, the law has established a special agency for the administration of NGOs, and recognizes establishment of consortia and engagement in income generating activities, areas where NGOs previously experienced difficulties. NGOs are not required to pay tax on grants they receive, but just like business organizations they are liable to pay tax on revenue from economic activities.

Nevertheless, the new legislation contains provisions which negatively affect freedom of association and the operation of NGOs. Contrary to Article 31 of the constitution, the proclamation recognizes freedom of association not as a human right but as a democratic right, guaranteed only for Ethiopian citizens. According to the law, local and international NGOs which receive more than 10 percent of their funding from abroad may not work on advancement of human rights, promotion of gender equality, the rights of children and disabled persons, conflict resolution or the efficiency of the justice sector. These organizations also do not have the right to judicial recourse or appeal against any administrative decisions, including a decision to dissolve the NGO. The law accords unwarranted and subjective powers to the administrative bodies, which can affect the independence and operation of NGOs.

Starting in September 2009, the government began implementing the new law and finalized the re-registration process. During this process, major concerns have arisen; in particular, active rights advocacy organizations were subjected to severe scrutiny and prolonged bureaucratic requirements. The number of NGOs registered as rights advocacy NGOs dropped significantly, as most of these NGOs opted to be registered as service delivery NGOs so that they can access foreign funding. By their very nature, CBOs are regionally based and are governed by regional states' laws, and thus they are out of the scope of the new NGO law.

ORGANIZATIONAL CAPACITY: 5.1

Limited access to resources, including funds and physical assets as well as competent staff, is a major constraint on Ethiopian NGOs. NGOs cannot rely on local philanthropy and instead are heavily dependent

on foreign donors for financial and other assistance. For this reason, most NGOs in Ethiopia work on a short-term project basis rather than according to long-term strategies.

The regulatory body requires all NGOs' bylaws (constitutions) to have objectives, but due to funding constraints and competition, organizations sometimes have difficulties adhering to their stated objectives. It is mandatory for NGO bylaws to specify a formal management structure with division of responsibilities. The bylaw has to provide for the powers and responsibilities of the general assembly, executive committee (board of directors) and auditor. Real and practical power, however, usually lies in the hands of the executive director, who is generally the mastermind of the organization. General assemblies and board members in most cases lack commitment and are merely symbolic. Most NGOs depend on the personality of the executive director and lack internal democracy in the administration of their staff.

Constituency building has remained one of the major challenges for Ethiopian NGOs. Apart from requesting individuals to be members of general assemblies and boards of directors—mandatory requirements for establishing NGOs—the sector generally lacks strategies on how to build constituencies. Only a few organizations make use of volunteers from abroad, and domestic volunteerism is minimal. NGOs lack clearly defined strategies on how to mobilize and use volunteers.

New NGOs have difficulties obtaining capital resources for their technical advancement. Most donors are not interested in extending support for capital goods such as computers, cars, and furniture.

FINANCIAL VIABILITY: 5.8

All local NGOs are heavily dependent on foreign aid for the implementation of their program activities because of various reasons, including the poor economy and the weakness of NGOs in local resource mobilization, constituency building and diversification of their resource bases. Few organizations are engaged in local fundraising activities or public collections. Significant numbers of NGOs lack sound and transparent financial management systems. Almost all CBOs, except Idir—one of the traditional associations which can be considered as a community-based organization—lack a strong financial base due to the limited capacity of their members or the community to make financial contributions.

The new Charities and Societies Proclamation severely affects the capacity of rights advocacy NGOs to access foreign aid. The law requires these organizations not to have foreign resources make up more than 10 percent of their total budgets. The law defines a foreign resource as “a donation or delivery or transfer made from foreign source of any article, currency or security. Foreign sources include the government agency or company of any foreign country; international agency or any person in a foreign country.” The law considers even the financial support of Ethiopians who are living outside the country as a foreign source. NGOs which are established as Ethiopian Residents or Foreign Charities have full access to foreign sources. Since humanitarian organizations are usually established either as Ethiopian Residents or Foreign Charities, they may not be affected by the financial restrictions.

NGOs are required to submit to the regulatory body annual activity and financial reports, or otherwise face administrative measures. Nevertheless, they have problems in making these reports accessible to the public and target beneficiaries. Most local NGOs work on a project and short-term basis because of a lack of core program support. A few donors have an initiative to form a consortium and coordinate their support towards a few selected organizations.

The new Charities and Societies Proclamation provides for the rights of NGOs to engage in income-generating activities, but at the same time it provides no special treatment for NGOs and stipulates unreasonable preconditions, such as the need to obtain permission from the NGO agency and a

requirement that the work be incidental to the achievement of the NGO's purposes. The law also fails to provide special treatment for NGOs in areas of licensing, registration and taxation of economic activities.

ADVOCACY: 5.8

The number of advocacy organizations is small compared to the number of service-providing and development organizations. Advocacy is a recent development in the history of Ethiopian NGOs. In addition to their small number, the majority of existing advocacy NGOs have little or no experience in the area, and are vulnerable to government scrutiny. Because of the nature of their work, their relationship with the government is based on suspicion and mistrust. The government perceives human rights organizations and watchdogs as conduits for civil and political discontent that focus on the government's faults. This situation became worse after the 2005 national election when advocacy organizations took an active role in voter education and election monitoring.

The new Charities and Societies Proclamation severely restricts the activities of rights advocacy organizations in various ways, such as denying them access to foreign funds and defining their activities as political activities, which are permitted only for citizens who can mobilize money from local sources. The law does not restrict all forms of advocacy; the stated restriction is only on organizations which are working on the advancement of human and democratic rights, gender equality, the rights of children and the disabled, the promotion of conflict resolution and reconciliation, and the promotion of the efficiency of the justice sector.

It is difficult to measure the influence of rights and policy advocacy NGOs on public policy and the democratic process. Nevertheless, there is some concrete evidence of the achievements of NGOs in the spheres of rights and policy advocacy. In some cases government institutions invite advocacy NGOs to take part in policy discussions. Advocacy NGOs in the past played a crucial role in the revision of the Family Law and Criminal Code, and in reforming the administration of the juvenile justice system and improving child protection. The contribution of NGOs to the preparation of the five-year Poverty Reduction Strategic Plan (PRSP) and Plan for Accelerated and Sustained Development to End Poverty (PASDEP) was also decisive.

SERVICE PROVISION: 5.0

Although to a lesser degree than with rights advocacy organizations, the government used to consider service-providing NGOs as a loose and unregulated power center that steered valuable resources into activities either contradictory or irrelevant to the government's long-term development strategies. Further, the government saw a number of NGO activities as fostering dependence, although this perception has improved over time.

The NGO community was dominated by relief-type activities until the late 1990s. It is a recent development for NGOs to focus on long-term development activities such as education, health, food security, credit and saving, environmental protection, and child welfare. Nevertheless, in a short period of time, NGOs have made remarkable achievements in the development and service areas. In 1996, 5 percent of the aid the country received from international sources was provided through NGOs.⁵ According to a recent study by the Civil Society Organization Taskforce established to work on the new NGO legislation, between 2004 and the first half of 2008, the total amount of money transferred to NGOs from foreign sources amounted to \$1.78 billion, and in 2008 alone, NGOs implemented 2,020 development projects throughout the country.

INFRASTRUCTURE: 5.3

There are neither intermediary support organizations (ISOs) nor NGO resource centers established at the national or local levels. One of the major challenges for Ethiopian NGOs is the scarcity of local resources to address locally identified needs and projects. Most donors are not interested in supporting infrastructure needs of local NGOs such as training, exposure to national and international experiences, technical assistance, equipment, or construction or purchase of buildings.

Organizations like Pact Ethiopia and Christian Relief Development Association (CRDA) have played an important role in building the capacity of their partners and member NGOs through training and technical assistance. Various consultancy firms provide trainings on NGO management, strategic planning, accounting, and financial management.

As the NGO sector grows in size and strength, the need to work together and advance a common agenda has been expanding. Although there is no national umbrella organization for NGOs in Ethiopia, a significant number of NGO networks, alliances, forums and coalitions are established formally and informally. The majority of these networks are established based on thematic issues such as poverty, gender, environment, health, HIV/AIDS, and religion. Although previously there was no restriction in the law preventing the establishment of networks, officials in the Ministry of Justice used to reject the establishment of such organizations. The new Charities and Societies Proclamation, however, recognizes the rights of organizations to establish consortia.

PUBLIC IMAGE: 5.1

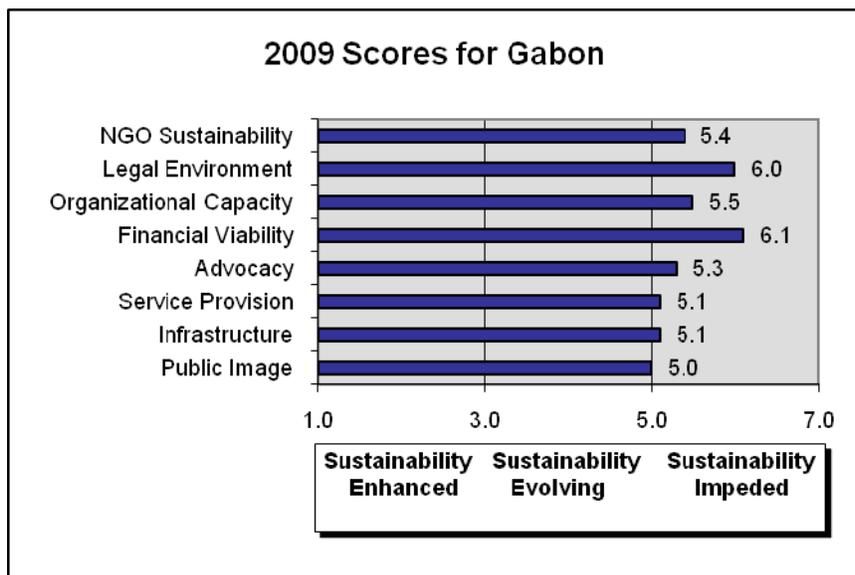
The lack of adequate media to inform the public of NGOs' activities remains one of the sector's challenges. In Ethiopia there are two media groups: the private and government media. Government priorities highly influence the latter, while lack of experience, professional staff and budget characterize the former. At times the government media engage in attacking and antagonizing NGOs. On the other hand, the private media is much more concerned with current politics and sensational issues. The government and the ruling party own the electronic media, which have national coverage. This makes it virtually impossible for NGOs to reach the poor and illiterate, who do not have the ability to read and cannot afford to buy newspapers.

The NGO sector has not made a concerted effort to use the media for the purposes of promoting the role of NGOs and educating and mobilizing the public. Few organizations have the culture of publishing their annual reports. Consequently, the public has little or no knowledge about the role of the NGO sector as a whole, although they may appreciate the work of an individual NGO that is working in their community. Compared to other NGOs, relief organizations are better known by the communities they are working with, and the public has a positive perception of these organizations.

Except for a handful of businessmen, the private sector has not yet extended its support to the activities of NGOs. Through the Chamber of Commerce, the private sector is also competing with NGOs for funds to advance the interests of the business community and engage on other social issues.

A group of NGOs adopted a code of conduct in March 1999. More than ten years after its adoption, the majority of Ethiopian NGOs know little about its existence. Apart from members of CRDA, an umbrella organization which is supporting and hosting the secretariat of the code observance committee, the majority of Ethiopian NGOs are not signatories to this code, and the sector has not made an effort to revitalize the self-regulation system.

GABON



Capital: Libreville

Polity:
Republic

Population:
1,545,255 (July 2010 est.)

GDP per capita (PPP):
\$13,900 (2009 est.)

NGO SUSTAINABILITY: 5.4

The NGO sector in Gabon is characterized by a legal vacuum. There is no specific law on NGOs; the law which NGOs abide by is Act No. 35/62 of 1962, regarding all associations. As of 2009, the government officially recognized 516 NGOs, but this number is not reliable due to the lack of a clearly defined legal framework for NGOs.

Legal provisions concerning NGOs are restrictive and ambiguous. Even though it is quite easy to register for three-month provisional legal status, the law does not specify what happens after the three months expire and NGOs have still not received a final verdict on their status. For example, the NGO Brainforest received its provisional legal document in 2000, but the final status document has not been issued yet.



Even if NGOs are allowed to gather and conduct activities, they still run the risk of being banned whenever they disagree with government policy. NGOs' rules and regulations clearly define their management bodies, but some NGO leaders' lack of professionalism leads to the infringement of those provisions.

The very few professional NGOs still depend on international donors for 90 percent of their funding. As for advocacy, apart from some environmental NGOs' activism, there is little advocacy activity in other fields.

Almost all NGOs lack access to the media. Access to the media, even the public media, depends on whether NGOs provide financial compensation for press coverage.

LEGAL ENVIRONMENT: 6.0

The legal framework for NGOs in Gabon is not clearly defined. Only Act No. 35/62 of 1962, dealing with associations, regulates NGOs. This act is out of date and does not fit the current priorities of NGO management. NGOs define the aspects of internal management through their rules and regulations. From the legal point of view, NGOs and their representatives can work freely, but they sometimes fall victim to government harassment. In 2008, five Gabonese NGO representatives were arrested and placed in custody without any legal assistance. The bank accounts of some NGOs were frozen. The same year, twenty-two NGOs were banned under the pretext that they violated the rules stated in their regulations and interfered in politics. The impact of these incidents of harassment continued to be felt in 2009; some NGOs scaled back activities and kept a low profile.

It is rare to find lawyers dealing with laws regarding NGOs. Legal consultations are available only for NGOs which request such assistance, and they have to pay consultation fees to lawyers.

Apart from international NGOs with a formal agreement with the government to work in Gabon, national NGOs which benefit from tax relief are the ones which apply for registration at the Ministry of Finance. Most of the time, these NGOs are in collusion with the public administration. As procedures are long, painful and complex, many NGOs do not complete them. NGOs are exempt from tax payments on gifts and subsidies. Unfortunately, these legal provisions are not very explicit in various legal texts.

There is no law specifying whether NGOs are allowed to generate income from their goods and services, but NGOs provide consultations, advice and expertise to institutions and international organizations, such as analyzing impact studies. NGOs work with organizations such as the World Wildlife Federation (WWF), Wildlife Conservation Society (WCS), and the National Agency for National Parks (NANP).

ORGANIZATIONAL CAPACITY: 5.5

The overall dynamic of NGOs is not very visible. NGOs work disparately while working for the same purpose: the welfare of the people. Although there is increasing coordination between NGOs in some fields such as ecology, some NGOs are still working on their own. One result of the cooperation between NGOs was the elaboration of the National Environment Framework.

NGOs rarely have strategic plans because many of them are created directly or indirectly by political leaders. The management bodies of NGOs are clearly defined in their rules and regulations, but the lack of professionalism of some NGO leaders results in the infringement of these legal provisions. Administrative boards of NGOs carry out management functions in a democratic fashion in some NGOs, but in the majority of NGOs, boards of directors lack transparency or are absent.

Except for some well-structured NGOs, most Gabonese NGOs do not have permanent staff. NGOs often recruit seasonal volunteers according to available project funds. Lacking funding, NGOs often do not have physical premises, contributing to their lack of professionalism.

FINANCIAL VIABILITY: 6.1

The majority of NGOs count on funding from international institutions and embassies which finance various projects. Very few of them are able to generate revenues from services and products.

Some companies and ministries have started to contract NGOs to supply services, but much still needs to be done in this field. The working relationship between NGOs and governmental departments is still in the beginning stages.

NGOs' rules and regulations often mention the payment of dues by NGO members, but very few members pay their fees. NGOs do not have solid systems of financial management because of a lack of training.

ADVOCACY: 5.3

No public body provides for direct communication between NGOs and decision makers. NGOs often struggle in order to establish this communication on issues such as the environment and transparency of oil revenues. National NGOs and the government collaborate in numerous fields, such as the struggle against AIDS.

NGOs have set up coalitions and have launched advocacy campaigns on some issues. These campaigns have been effective in raising public awareness on HIV/AIDS, the use of mosquito nets, logging activities on Rougier Gabon's site 32,⁶ and the extraction of iron in Bélinga.

There is no mechanism allowing NGOs to take part in the policy process except in some fields such as the struggle against AIDS.

NGOs are not always aware that they should not work outside the framework of their assigned activities. This can prevent their work from being visible and acknowledged. In general, except for the environmental advocacy on revision of the treaty on iron mining in Bélinga, the impact of NGOs is still insignificant. Most NGOs are not well equipped to stand against actions and policies which violate principles of good governance.

In general, NGOs are aware that a favorable legal framework can contribute to their effectiveness and long-term existence. They have been active in the revision of some legal texts, such as the law related to the creation of associations and NGOs. PROGREANE (Programme for the Reinforcement of Non Governmental Actors) is a local movement for the defense of NGOs that fights for the promotion of legal reforms which would benefit NGOs.

SERVICE PROVISION: 5.1

Although NGOs' missions are clearly defined in their rules and regulations, there is a certain disorder in their activities. NGOs provide products and services in various domains such as ecology, health, and education. These areas reflect the needs of their constituency groups. NGOs' service provision is not very extensive. They do not always cover their costs, with the exception of consultations. Most of the time, NGOs receive funds from donors for specific service provision work.

The government acknowledges the value of NGOs depending on the work they have completed and the sector of their activities, and primarily when the government supervises their work. The government often gives grants or contracts to supply services in certain sectors, such as the environment and HIV/AIDS. There is, however, a high degree of political nepotism involved in awarding grants or contracts.

One positive tendency is that NGOs are making more efforts to adhere to their action plans in order to be more efficient.

INFRASTRUCTURE: 5.1

Intermediary support organizations, NGO resource centers, or other means of access to information, technology, training and technical assistance on the national level are not widely known. Even those centers that do exist, such as PROGREANE, CENAF (a support center for women's organizations), and MGBEF (Gabonese Movement of Family Wellbeing) are not well known and NGOs do not take advantage of their services.

Some NGOs exchange information while others do not because they are often in competition and are not complementary to one another. In the environmental sector, a platform attempts to promote the sector and its interests to the public. This is not always the case for other sectors.

PROGREANE tries to play the training role with regard to NGO management, but it has a few limits. Its training sessions in NGO management often take place in the capital city and rarely in smaller cities. The trainings are not recurrent and are not given in local languages but only in French, which is still the dominant language.

Many NGOs work in formal or informal partnership with local companies, the government or media in order to achieve common goals. For example, Nyanga Tour works with the local radio station of Nyanga Province on a public awareness campaign on forest and environmental issues. Once or twice a year the NGO Aventure Sans Frontiere, on behalf of Total Gabon, carries out a study on the impact of oil production on marine fauna.

PUBLIC IMAGE: 5.0

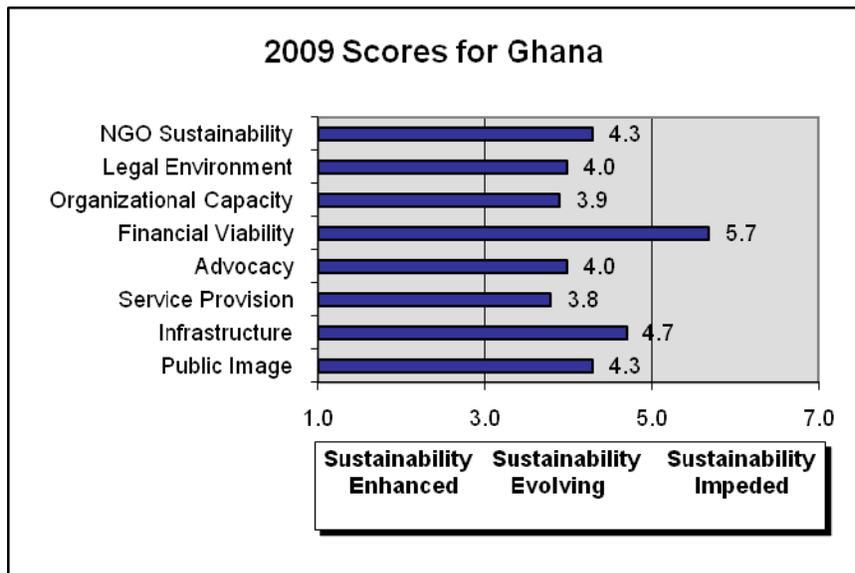
NGOs benefit from media coverage as long as their activities do not deal with political issues. Sometimes, to receive positive media coverage of their activities, NGOs have to pay fees, even for public media. The public media often lack knowledge about the role of NGOs, and media coverage of NGOs' activities and their role in civil society is very rare. There are a few partnerships between NGOs and the media, but since the media primarily works in the capital city, the partnerships are not always productive.

The population in general has a positive opinion about NGOs, depending on the type of their work in the field. However, there is still a need to conduct educational and civic work at the grassroots level to raise public awareness, even though people support NGOs in theory.

Companies and central government representatives are very skeptical about NGOs, even though they acknowledge the importance of NGOs and rely on them with regard to some problems. Due to a lack of professionalism and communication strategies, NGOs fail to publicize their activities in order to improve their image.

There is no code of ethics which regulates the work of NGOs. Some NGOs, in order to become professional and make their activities more transparent, abide by the principles of good governance outlined in their rules and regulations and publish annual reports of their activities.

GHANA



Capital: Accra

Polity:
Democracy

Population:
24,339,838 (July 2010 est.)

GDP per capita (PPP):
\$1,500 (2009 est.)

NGO SUSTAINABILITY: 4.3

According to statistics from the Department of Social Welfare, 4,463 NGOs are currently registered in Ghana. An increasing number of new NGOs are registered every year in this rapidly developing sector. Among the areas in which Ghanaian NGOs are active are water and sanitation, education and training, health, agriculture and food security, and energy. There are also a number of relief organizations, most of which are faith-based. Research and advocacy NGOs focus on issues such as human rights, child rights, gender, environment, governance and legal rights. NGOs can be found in all ten regions of Ghana, though the greatest concentration is found among the poorer regions of the North, Upper East and Upper West. NGOs tend to be urban based, with many having their headquarters in the capital. There are many community-based organizations (CBOs) located mainly in rural areas.



Registration of NGOs is relatively easy as there are practically no legal impediments. As no specific law on NGOs exists, however, NGOs have to register under the Companies Code. They are also required to register with the Department of Social Welfare, which is under the Ministry of Employment and Social Welfare. Additionally, NGOs operating in rural communities are expected to register with district assemblies at the local government level.

The proposed Trust Bill, designed to govern NGO activities as well as the relations between NGOs, the government and the donor community, remains a bone of contention between NGOs, which are dissatisfied with its contents, and the government. Meanwhile, NGOs have attempted to improve their performance by setting up an independent body called the Standards Commission to review NGO standards.

The majority of NGOs tend to be small and underfunded. Apart from the relatively few larger NGOs, most boards of directors of NGOs tend to be nonfunctional. Internet access is skewed in favor of the capital and other urban centers. The result is that most NGOs rely on Internet cafes that do not always enjoy reliable connectivity. There is a dearth of local funding for NGOs in Ghana. Even the larger ones depend almost exclusively on external sources of funding. The government does not make funds directly available to NGOs. Only those that implement government contracts receive government project funds. Local NGO coalitions engage the government on a number of social issues. National laws on issues such as disability and domestic violence are largely due to the effective campaigns waged by these coalitions. The public image of NGOs may be improving, but NGOs have to do more to win the media to their side. NGOs perceive that they can only be guaranteed coverage if they pay for it.

LEGAL ENVIRONMENT: 4.0

The legal regime for NGO registration in Ghana is favorable. The 1992 constitution guarantees freedom of association, but an NGO must be registered as an entity limited by guarantee under the Companies Code in order to gain access to benefits such as tax exemptions and consideration for inclusion in government projects. The Companies Code details issues such as internal management, scope of activities, and dissolution of entities. Administrative and human limitations sometimes lead to frustrating delays for NGOs in obtaining the necessary registration documents. At the local government level, the issuance of a certificate and subsequent permission to operate as a legal entity are sometimes delayed due to inefficient processes. This is due more to a lack of capacity of personnel than a deliberate government policy. Generally, however, NGOs have the freedom to operate freely and are not subject to government harassment. The constitution guarantees freedom from unnecessary interference by the state except according to the laws of the country.

A specific law for NGOs is absent, though there have been discussions between government and NGOs at the national level on the draft Trust Bill which, among other things, is meant to establish the parameters within which NGOs are legally permitted to operate. It will also define the relationship between government and NGOs as well as other development stakeholders. NGOs have resisted the Trust Bill, as many of its provisions could stifle the development and operation of NGOs.

No specialized legal entities focus on NGO law. NGOs have access to general legal advice like all other organizations and companies. While NGOs usually take advantage of available tax exemptions, the current procedures sometimes inhibit full utilization of such incentives. There are no legal restrictions on NGOs earning income and they can compete for government contracts at the local or national levels.

ORGANIZATIONAL CAPACITY: 3.9

Usually it is larger, better endowed NGOs that pay attention to strategic planning. Many smaller organizations do not include strategic planning in their internal management processes. While virtually all NGOs have boards of directors as stipulated in the Companies Code, it is usually the larger ones that have boards that play an important role in their governance. The majority of NGOs tend to be smaller and underfunded. Their boards of directors tend to be nonfunctional and are not engaged in governing or management.

Many NGOs employ their staff on a permanent basis, though the number of staff varies from one or two to over ten depending on the resources available to the NGO. Better endowed NGOs tend to adopt adequate human resource practices and provide their employees with contracts and clear job descriptions. NGOs that engage professionals such as accountants tend to be larger and urban based. Instead of IT

managers, they occasionally engage the services of private IT specialists. The use of lawyers by NGOs is not common. Many NGOs engage volunteers.

The use of modern equipment such as computers and cell phones is becoming more widespread among NGOs. While equipment acquired may be relatively new, it is seldom replaced when it becomes old or obsolete. Most NGOs, except the larger ones, tend to rely on commercial communication centers for the use of scanners and fax machines. Though Internet access is increasing in the country, it is more readily available in urban areas. Most NGOs rely on Internet cafes that do not always enjoy reliable connectivity. In towns closer to the rural areas, Internet services tend to be poor.

FINANCIAL VIABILITY: 5.7

NGOs in Ghana, including the larger ones, depend largely on foreign sources of funding. Local sources of funding are few and far between and constitute only a small fraction of NGOs' funding. The government does not make funds directly available to NGOs. Only those that are engaged to implement government contracts receive project funds. Generally, NGOs are able to draw on their constituents for volunteer and nonmonetary support, though community-based organizations are better placed to benefit from these resources.

While local sources of corporate philanthropy exist, they are usually foreign-owned companies such as banks and mining companies that engage in infrequent gestures of corporate social responsibility. Other sources of funding come in the form of a limited number of grants made available either by foreign embassies, international NGOs or organizations such as the World Bank. Local foundations from which NGOs can access financial support cannot be found in Ghana.

In some cases individuals make donations of educational or medical equipment, such as wheelchairs, to NGOs to distribute to selected institutions or communities. These individuals are usually persons living abroad, either Ghanaians or foreigners who have worked in or visited Ghana. Instances of Ghanaian individuals residing in Ghana making charitable donations are quite rare.

Despite the fact that a few larger NGOs have multiple sources of funding, usually from foreign sources, this is not typical of most NGOs. Instead most NGOs lead a precarious existence, submitting project proposals to foreign sources in the hope of attracting funding. In many instances, NGOs go where funds are available—for HIV/AIDS, climate change or other issues that are fashionable among donors. This has led to a lack of specialization among NGOs where they either change their areas of focus or simply add on, based on areas of available funding. Many do not succeed and as a result either fold up or resort to commercial activities to stay afloat. While there are no bureaucratic obstacles to fundraising, most NGOs lack the technical capacity to raise funds successfully.

Unregistered NGOs are the most likely to rely on individual members and engage in membership outreach, though some registered NGOs also do so. Any dues they may collect form an insignificant part of their income. Only a few NGOs, usually larger and urban based, are able to earn extra income from the provision of services or receipt of rent from properties they own. Most rely solely on external funds, government or donor projects, or grants.

Large NGOs tend to have good financial management systems while smaller ones do not. NGOs are all required to do annual audits and submit annual reports and financial statements to the Registrar General's Department and the Internal Revenue Service, but many do not comply. Donors also request evidence of annual audits from NGOs before considering requests for funding.

ADVOCACY: 4.0

Though direct communication between government and NGOs remains limited, it is improving. NGO coalitions are able to gain the attention of policymakers on a number of issues. NGOs have successfully formed coalitions that continue to engage the government on issues such as water privatization, oil and gas, and the right to information. The Right to Information Bill, for example, is currently at an advanced stage of consideration by the country's parliament due to the activism of the Right to Information Coalition that is mainly made up of NGOs.

Other NGO platforms such as those on poverty reduction, anti-corruption, health and education are also active and able to lobby government. One factor that helps is that some members of the government, when they were in the opposition, used to be members of some of these coalitions and can now be considered important allies. There are, however, no identifiable mechanisms to facilitate the participation of NGOs in decision-making processes. Rather it is usually under pressure from the donor community that the government occasionally accepts NGO input in decision making. Despite advances made in this area, the relationship between the government and NGOs is still characterized by mistrust.

NGOs have made a longstanding effort to engage the government on a comprehensive legal and regulatory framework that would be favorable to all NGOs in Ghana. Those leading this effort are national and advocacy NGOs that anticipate that such legislation will clarify the relationships and roles of not only NGOs but other stakeholders, including government, in the development process.

SERVICE PROVISION: 3.8

Ghanaian NGOs can be found in many fields such as health, education, agriculture, relief, oil and gas, and water and sanitation. They are also engaged in poverty reduction, environmental protection and governance, and issues such as gender and child rights. These areas basically reflect the needs of the communities NGOs serve and services are usually not confined to NGOs' own memberships. The government and international development agencies rely on NGOs to mobilize rural communities to support project implementation. The government recognizes the value NGOs can bring to the provision of basic social services, and better endowed NGOs do occasionally win government contracts. Despite this fact, the government does not support NGOs materially, and in a carryover from the period before democracy became entrenched, continues to view them with suspicion.

INFRASTRUCTURE: 4.7

While a number of intermediary support organizations and resource centers exist in Accra and a few regional capitals, they are not widespread. The few that exist normally do not charge service fees, as that would make their services even more inaccessible. The UNDP Civil Society Resource Center and the World Bank's Public Information Center are popular with NGOs in Ghana but are based in the capital, Accra. Other resource centers that can be found in other major cities such as Kumasi and Tamale are usually operated by larger NGOs and stock various publications for research and offer Internet services. Databases of NGOs and other related information are also usually available. Generally, however, information is shared among sectoral networks.

While a national umbrella organization for NGOs does not exist in Ghana, many networks have been formed based on sectors of activity and regions of the country. The largest umbrella organization is the Ghana Association of Private Voluntary Organizations in Development (GAPVOD), but not all NGOs are members. Other umbrella organizations include the Ghana Anti-Corruption Coalition, the Right to Information Coalition, and the Ghana National Education Coalition. The practice of establishing networks

is a growing phenomenon. These umbrella organizations and networks form strong lobby groups to pursue interests. For instance, the Northern Ghana Network for Development, which brings together several NGOs working in the three most deprived regions of Ghana, has become a vital mouthpiece of the citizens living in these areas.

Intersectoral partnerships are not yet developed. Partnerships between the government and NGOs, and the media and NGOs, are more common than those between business entities and NGOs.

Workshops are a common tool for training and for disseminating information among various stakeholders. Workshop reports are usually disseminated to NGO networks, the donor community and occasionally to government. Some NGOs such as the SEND Foundation and Integrated Social Development Centre (ISODEC) periodically disseminate their newsletters and annual reports to a wide group of stakeholders. Although there are a few local NGO management trainers, training in advanced, specialized areas is normally offered by private consulting firms.

Grantmaking by local organizations is virtually nonexistent. Some re-granting of international donor funds occurs, but very rarely.

PUBLIC IMAGE: 4.3

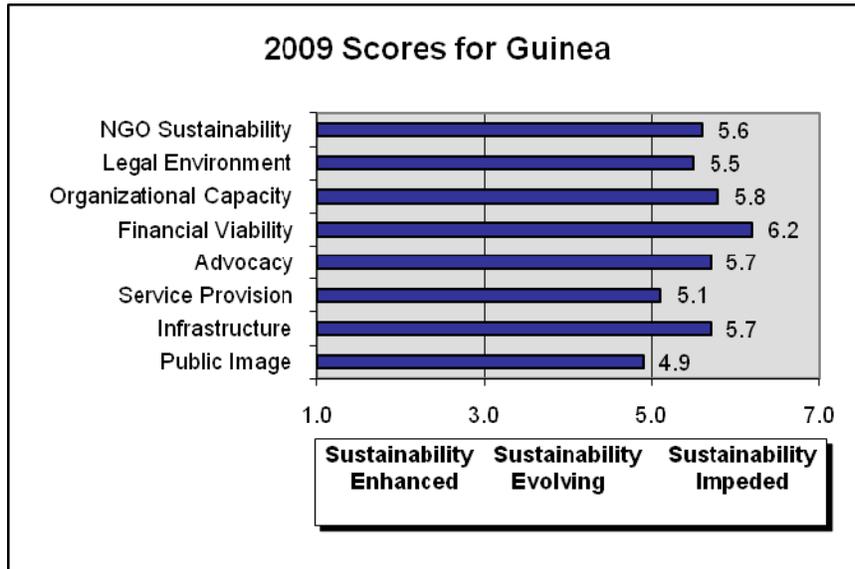
By and large, NGOs receive positive coverage in the national and local print and electronic media. However, they do not feature prominently in the news except when the news is negative. There is a general perception among NGOs that they can only be guaranteed coverage if they pay for it. Only one newspaper, Public Agenda, owned by a national NGO, regularly publishes extensive news on NGO activities.

Rural residents often confuse NGOs with the government, an indication of the media's failure to inform rural communities sufficiently. This is not the case in the urban areas where people have better access to the media.

Neither the government nor the business community has a positive perception of NGOs, and both tend to view them with a significant level of distrust. The expatriate business sector has a more positive view. All recognize the capacity of local NGOs, particularly CBOs, in community entry techniques (when an NGO enters a new community and gains its trust and cooperation).

Ghanaian NGOs have not yet adopted a code of ethics in the absence of a national NGO law, despite recent attempts to develop standards for themselves. Leading NGOs publish annual reports and generally demonstrate transparency in their operations.

GUINEA



Capital: Conakry

Polity:
Republic

Population:
10,324,025 (July 2010 est.)

GDP per capita (PPP):
\$1,000 (2009 est.)

NGO SUSTAINABILITY: 5.6

Sociopolitical factors have undoubtedly influenced current levels of NGO development in Guinea. The creation of the first Guinean NGOs coincided with the regime change in 1984. This radical change in political orientation, which was clearly outlined in President Lansana Conté's December 22, 1985 speech, paved the way for economic liberalization and decentralization in order to stimulate private initiatives, as well as the participation of NGOs and communities in the development process.

Unlike in other countries in the West African subregion, the first Guinean NGOs were created in 1985–1986. From that time until now, the National Service for Assistance to Cooperatives and NGOs Coordination (SACCO) has registered many NGOs. Registration in the SACCO books may be recorded at the prefect, regional or national levels.

Because of this, SACCO is unable to provide centralized data on NGOs, but has registered 125 international NGOs, 555 national NGOs, and 1,257 coalitions. Among these, less than 30 percent are truly operational.

Today, in spite of the fact that legal texts define the general aspects of NGOs' operation, a number of points remain unclear. Problems include poor governance at all levels and in all sectors, the applicability of existing laws, a lack of financial resources, and a low level of capacity. These factors contribute to NGOs' weak evolution and growth.

According to many studies, the NGO sector, instead of having developed and shared a common vision, has allowed itself to become scattered, based on narrow interests rather than the development challenges NGOs are hoping to address. The government in power has maintained and supported this tendency as an



instrument of manipulation. In the last several years, however, NGOs have contributed to the democracy movement in Guinea, leading to the country's first free and fair presidential elections in June 2010.

LEGAL ENVIRONMENT: 5.5

Before 2005, legal texts regulating the existence and promotion of NGOs in the Republic of Guinea were ambiguous and confusing when it came to the differences between associations, NGOs, networks and cooperatives. Four orders (ordonnances) dating from 1986 to 1988 on the status of NGOs and cooperative organizations governed the legal existence of NGOs in Guinea. These texts did not address the legal nature of coalitions, including forums, networks, federations and unions. In 2005, the government undertook the democratization of political life through the adoption of two laws: Law L2005/013/AN on associations, and Law L 2005/014/AN on economic groups with a cooperative character, nonprofit associations, and coalitions.

Although the passage of this legislation was a significant step in the legal environment of NGOs, the legislation is not fully operational because the government has not elaborated and adopted the regulations that would ensure their application. For example, the law is silent on some issues such as registration fees. This gives authorities the opportunity to fix arbitrary registration fees, which are then used for personal purposes.

The legislation is particularly flexible on the administrative procedures of issuing an association agreement. Some NGOs are created by civil servants, however, leading to a certain level of unfair competition.

Since the departure of its Italian partners after 1997, SACCO—the office in charge of registration, support, capacity building, follow-up and evaluation of NGOs—failed due to grandstanding and mismanagement of funds and goods. SACCO no longer has the trust of the NGO sector and is now facing a serious crisis.

Registered NGOs benefit from privileges and benefits, especially in fiscal terms. However, NGOs have difficulty taking advantage of these fiscal privileges due to a combination of administrative harassment and the centralized concentration in Conakry of the most important services in charge of exemptions.

Legal support services and law firms are concentrated in Conakry and lack interest in national NGOs given their low income.

ORGANIZATIONAL CAPACITY: 5.8

Guinean NGOs usually define their objectives when they establish their legal status. Then their missions evolve with time in order to adapt to the political and social changes in the country. The majority of NGOs do not respect the organizational provisions contained in their statutes and internal regulations. In most cases, the board of directors does not fulfil its role in defining the orientation of the NGO. Generally, the board's role is confused with operational personnel.

Qualified human resources are a priority for most NGOs, but in practice are neglected. A high unemployment rate forces many people to resort to survival tactics such as employment in the informal sector, including in associations. Despite the availability of good quality employees, NGOs cannot afford their services because of high wage rates. In addition, the lack of motivation and weak capacity in mobilizing funds does not help mobilize competent staff, nor does it help retain competent personnel over the long term. The extreme poverty in Guinea considerably weakens the practice of volunteering.

Due to the low commitment of funding partners in addressing institutional support as a means to strengthen NGOs, many NGOs lack the necessary elements to continue activities, such as offices, computer equipment, and Internet connections, which limits their sustainability. Acute electricity shortages contribute to the reduction of technological capacity, limiting the usage of software tools and effective means of communication.

FINANCIAL VIABILITY: 6.2

In Guinea, even though various donors financially support NGOs in diverse intervention areas, it is difficult for the majority of NGOs that have not yet received donor funding to identify a funding partner. A small number of NGOs know how to access funds, keeping a monopoly on the information so as to prevent other NGOs from receiving funding. The majority of NGOs have neither resources nor a fundraising strategy.

The lack of transparency in project management is a real obstacle to the evolution of the majority of NGOs. This situation has been aggravated by the absence of procedural manuals or the practice of internal and external audits.

ADVOCACY: 5.7

The National Council of Organizations of Guinean Civil Society (CNOSCG) supported actions initiated by key labor coalitions to advocate for more democratic governance in Guinea starting in 2006–2007, when the situation in the country was characterized by a crisis of trust between the governed and the government due to the government's lack of capacity to meet the population's most basic needs. The labor coalitions used a series of strikes and other mass demonstrations to protest the way the country had been governed since its independence in 1958. Strongly supported by CNOSCG, these actions accomplished a dynamic political transition without precedent, ultimately leading to the holding of the first free and fair presidential elections on June 27, 2010.

NGOs and the government have initiated and implemented some joint projects in sectors such as education, health, environment, and the promotion of democracy. However, the political visions of NGOs and government often remain opposed. Some effort has been made at the central level to address these differences whereas in the interior regions of the country, NGOs are not as interested in advocacy, either because of their ignorance of the issue or because government representatives refuse to communicate with them.

A European Union program seeks to strengthen the partnership between the state and civil society in the forestry sector. The Concerted Program of Civil Society and Guinean Youth Strengthening (PROJEG) aims to develop NGOs' capacity in advocacy and lobbying for public policies by setting up networks and consultation platforms at the local level, as well as facilitating youth participation in responding to the challenges of socioeconomic and political development of Guinea.

SERVICE PROVISION: 5.1

Even if the range of services offered by NGOs in Guinea is well supplied and diverse because it reaches the main sectors of national life, particularly in health care, the environment, education, and democracy, services do not always reflect needs, nor the demands of concerned populations. This is due, to some extent, to the constant dependence of most local NGOs on international NGOs.

In many cases, NGO activities fill the gap in services offered by the government. In fact, poor governance has led to donors' increased attention to civil society, which results in the government having few resources, and being incapable to fully play its role. In the mining sector, more and more NGOs are associated with the implementation of community-based development programs, including the building of local infrastructure such as health centers, community wells, and schools.

In Guinea, NGOs tend not to take into account results or lessons learned, or engage in information exchange. This is not necessarily due to the bad faith of NGOs, but rather to a lack of organization and know-how.

INFRASTRUCTURE: 5.7

In light of political and social instability in the last five years in Guinea, the international community suspended its development interventions in most sectors. As a result there is limited international financial support for NGO infrastructure. NGOs have training needs in many areas, such as strategic planning, project design, fundraising, IT management, monitoring and evaluation, and advocacy. Despite NGO leaders' efforts to address these needs, they remain confronted by enormous difficulties and lack of technical capacity to reach their objectives. There is an unmet need for resource centers for NGOs and NGO networks. Competent resource people are available to train NGOs, but demand honoraria that NGOs cannot afford.

Many NGO networks have been created in different sectors, such as health, the fight against HIV/AIDS, education and literacy, promotion of women and young girls, youth civic participation, and conflict management and prevention. The majority of these NGO networks, however, eventually disappear because of a lack of support in terms of both human and financial resources.

CNOSCG, the umbrella organization of Guinean NGOs, is the main venue for communication and exchange between NGOs and the government on the one hand, and NGOs and donors on the other hand. The CNOSG is made up of numerous sector-based coalitions that benefit from its training activities. Generally, it is this body that acts as a monitoring actor with bilateral and multilateral partners and the government, communicating political positions. In some cases, however, the CNOSG seems to be used as a platform for opportunists with political aspirations. This reflects a lack of energy invested in adequately preparing future generations to take the lead. Another aspect of the problem is that some CNOSCG members have been appointed to political positions but have not resigned from CNOSCG.

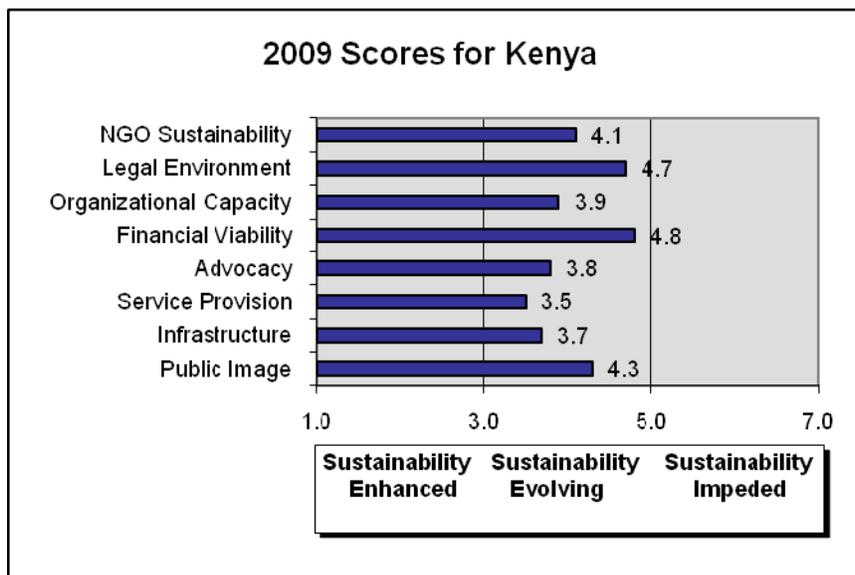
PUBLIC IMAGE: 4.9

The media help some NGOs to disseminate information about their activities, but this access is only available to a tiny minority of NGOs which have special relationships with some journalists. Other than some informal exceptions, the under-resourced media do not cover NGOs' events without asking them to pay fees, which are usually excessive. Numerous local FM radio stations, however, cover the activities of NGOs at lower cost. Formally there is not any difference between public-interest media coverage and commercial advertisements.

The government and the public generally have a positive perception of the functioning of NGOs in Guinea and approve of what they have accomplished, although there are sometimes misunderstandings about democracy and governance matters. NGOs still need to establish good relationships with the political-administrative authorities in the areas where they work and provide services.

Very few NGOs, mainly emerging NGOs, publish and disseminate their activity and financial reports.

KENYA



Capital: Nairobi

Polity:
Republic

Population:
40,046,566 (July 2010 est.)

GDP per capita (PPP):
\$1,600 (2009 est.)

NGO SUSTAINABILITY: 4.1

The NGO sector in Kenya comprises a very diverse grouping of organizations ranging from small welfare and community-based organizations to large national organizations. NGOs in Kenya may be registered in one of five different legal forms. In the last two decades, the number of NGOs and the amount of resources they control have grown tremendously. A study conducted by Karuti Kanyingi and Winnie Mitullah in 2006 found that a total of 350,000 nonprofit organizations were registered in Kenya in the period 1997–2005. This number includes all organizations registered under the different forms of registration, working in different sectors and operating at different levels, from the community to the national level. Given the favorable political environment, the current number of NGOs is likely to be higher. Although actual figures are difficult to obtain, it is estimated that NGOs in Kenya have an annual development expenditure of about \$270 million, contribute 2.5 percent of the gross domestic product (GDP) and provide 42.6 percent of all public employment.



LEGAL ENVIRONMENT: 4.7

There are five different legal forms for registering NGOs in Kenya. These include self-help groups, registered at the Department of Social Services under the Ministry of Gender and Youth at the district level; NGOs, registered by the NGO Coordination Board under the NGO Coordination Act 1990; company limited by guarantee (a nonprofit company) registered by the Registrar of Companies under the Companies Act 1959; societies, registered by the Registrar of Societies under the Societies Act 1968; and trusts, registered by the Ministry of Lands under the Trustees (Perpetual Succession) Act 1982. These

regimes all have strengths and weaknesses, but the variety of choice accords those wishing to register some latitude.

Registering a self-help group is the cheapest and easiest type of registration. Registering an NGO can take three months or more depending on the type of proposed objectives and activities and the perceived political inclination of the NGO. Applicants are subjected to a vetting process involving the National Security Intelligence Service. Advocacy NGOs involved in policy, human rights and social justice find it more difficult to register due to their perceived anti-government stance. Registration of societies involves a long and tedious bureaucratic vetting process, complicated by the fact that political parties are registered under the same law. Registration of an NGO and company limited by guarantee tends to be more expensive. For trusts, approval of a trust deed and board of trustees takes a few months, and it can take several years to secure a registration certificate.

The various registration regimes give guidelines on internal management, scope of permissible activities, financial reporting, and dissolution, but are weak in their emphasis on good governance and management. The dissolution clause in the laws governing the various registration types addresses distribution of assets, but does not address other aspects of closing an NGO.

While NGOs have made recent gains in promoting the freedoms of assembly and expression, a general lack of rule of law has resulted in cases of intimidation and harassment of NGO leaders. The state at times interferes with people's rights to peaceful assembly despite clear provisions in the Public Order Act about categories of gatherings that do not require permits.

There is a fairly active bar, and legal expertise is well distributed across the country. However, this expertise is not easily accessible, especially in secondary cities, because lawyers' services tend to be unaffordable for a number of NGOs, especially at the community level.

NGOs can apply for charitable status, which is normally given by the Kenya Revenue Authority (KRA). Successful applicants are issued a tax exemption certificate renewable every three years. NGOs registered as charities enjoy a range of tax exemptions including on income, customs and, to a limited extent, value added tax (VAT). A key hindrance is that few NGOs are aware of these facilities, how they work and how to apply. The NGO Act and the Income Tax Act do not limit NGOs from generating their own income from the sale of goods and services, but there are no clear criteria for determining which NGO can earn income. NGOs can compete for government contracts, but they are not always successful, especially if they are not favorably perceived by the government.

ORGANIZATIONAL CAPACITY: 3.9

A lack of legitimacy is perhaps the greatest weakness among NGOs, especially those operating at the national level. NGOs operating at the grassroots level, by their very nature, actively seek to build constituencies. Many national-level NGOs tend to take a funding-driven approach in addressing community issues and give no regard to constituency building.

Many NGOs, especially at the national level, are largely mission-driven and understand and apply strategic planning fairly well. Community-based organizations may lack concrete strategies, but have very clear missions and visions. The common problem for both large and small NGOs is translating strategic plans into action. This is mainly attributed to a lack of funds and lack of capacity. In most cases strategic planning processes are donor-driven and usually written by consultants without the participation of NGO stakeholders. A growing number of NGOs have internally driven strategies, but still struggle when it comes to implementing them.

Most NGOs lack a clear separation of the governance and management functions of the organization. In addition, most boards are dysfunctional and rarely available to serve their oversight role. In a few other cases executive directors, especially those who are the organizations' founders, are more powerful than the boards, often having handpicked the board members. In other cases, the board lacks a mechanism for re-election. A growing number of organizations, however, are professionally governed and managed. This can be attributed to heavy investment in capacity building and leadership development of the NGO sector, mainly by donor programs.

NGOs of all sizes have unreliable income and can only employ staff on short-term contracts. The situation is worse for small grassroots NGOs that rely on membership fees as a primary source of income. The culture of volunteerism is not very well developed in Kenya. Few NGOs have developed adequate systems and policies to engage and manage volunteers and interns. Opportunities exist to engage volunteers through international volunteer organizations such as VSO, Peace Corps, and Skill Share, as well as local institutions of higher learning, but only a few NGOs are aware of these opportunities. With limited income, human resources management practices are highly compromised, resulting in low staff motivation and high turnover.

Most NGOs can only afford to invest in basic office equipment such as phones and a few computers. Other than technology and equipment acquired through donor funding, most NGOs rarely have money to invest in technological advancement. The rapidly developing information and communications technologies (ICT) industry has resulted in a considerable reduction in costs and is opening up opportunities for NGOs, including those in rural and remote areas.

FINANCIAL VIABILITY: 4.8

Financial viability is one of the key challenges to NGO sustainability. Most national NGOs rely on a single funding source, which makes them very vulnerable. A few large NGOs have developed more long-term funding relationships with one or two donors. Grassroots NGOs rely more on membership fees and in-kind contributions from members and well-wishers. While the scale of support from these sources is low, it is more assured and sustainable than donor funding.

Midsized and large NGOs and particularly faith-based organizations generate significant levels of their own income from property rental, trading, consulting and the sale of services. NGOs that have their own offices rent out extra space to other NGOs. Almost all major churches operating in Kenya have set up nonprofit companies through which they have invested in hotels, guest houses, conference centers, hospitals, schools and colleges. A number of other NGOs have also invested in real estate and service and hospitality-oriented businesses; these include Family Health Options Kenya (FHOK), Undugu Society of Kenya, the Kenya Red Cross, and the Africa Network of Animal Welfare (ANAW). A number of NGOs also provide consultancies in their respective areas of specialization in addition to providing mission-driven services. A good example is African Medical and Research Foundation (AMREF) which runs community health oriented trainings at a fee throughout the year.

Local philanthropy is also rapidly picking up. There are a number of community, family and corporate trusts and foundations registered and operating in Kenya. A number of these trusts and foundations from Kenya, Uganda and Tanzania have come together to form the East Africa Association of Grantmakers (EAAG). The majority of large corporations working in Kenya have established foundations through which they support community initiatives as part of their corporate social responsibility (CSR) strategies. A number of prominent Kenyans, including past presidents and businessmen, have also established foundations.

There is a significant difference in financial management capacity between grassroots organizations that rely more on paper-based bookkeeping systems, kept by staff with basic financial management skills, and mid-sized and large NGOs that have computerized systems managed by professional finance staff. Various laws require NGOs to conduct audits and file periodic reports with the regulating authorities. Donors have also placed a huge emphasis on financial accountability, making NGOs take financial management practices more seriously.

ADVOCACY: 3.8

Kenyan NGOs are generally good in advocacy but poor in lobbying, mainly due to inadequate capacity and the lack of a government mechanism to support lobbying. Many NGOs now use advocacy as one of their development methodologies either singly or in coalitions. The rate of success is varied, however. There have been notable successes in policy advocacy across all sectors, but public involvement and participation in advocacy is generally low. Media support of advocacy initiatives is low but on the rise. One key challenge is that NGOs do not have adequate mechanisms to ensure that the laws and policies developed are implemented and that they produce the desired results. For example, NGOs have been unable to advocate for implementation of the Sexual Offences Act 2006 and the Forest Act 2005.

In Kenya there is a growing recognition of the need for government and NGOs to work together. Collaborative initiatives between the government and NGOs have been noted across most sectors including health, HIV/AIDS, environment, education, agriculture, and peace building, both at the national and local levels. Examples of national-level government/NGO collaborations include the Ministry of Lands and the Kenya Land Alliance collaboration to undertake comprehensive land reforms in the country. Out of this initiative, the government developed and adopted a national land policy. There is also the Governance, Justice, Law and Order Sector (GJLOS) program that involves thirty-two government agencies and a number of non-state actors including NGOs, the private sector and international development partners. There is also collaboration between the Kenya Red Cross Society, the government and NGOs in addressing the effects of the 2007 post-elections violence in Kenya. A national steering committee on peace building and conflict management involves both government and NGOs. Although collaboration has improved, there is still animosity between government and NGOs, especially with NGOs working on human rights and social justice advocacy.

Lobbying infrastructure and mechanisms do not exist in government, and NGOs are generally much less comfortable and competent in lobbying than in advocacy. The selection of NGO representatives for participation in government decision-making processes is usually influenced by individuals, and those chosen may not necessarily be representative of the sector. Lobbying is a longer-term effort and most NGOs lack funds to sustain it. Past examples of successful lobbying initiatives include the passage of the Persons with Disabilities Act 2003 and the Sexual Offences Act 2006.

There is a high level of awareness but low interest within the NGO sector regarding the importance of establishing a favorable regulatory framework. Most NGOs are more reactive than proactive regarding legislative changes that affect them. Currently there is a countrywide effort to raise awareness on the NGO Act, but the interest among NGOs is still very low. The process of developing a new NGO law began in 2006 but was derailed by leadership wrangles at the NGO Council, an umbrella body for all NGOs provided for in the NGO Act. Most NGOs are currently focused on the constitutional review process and other reforms on land, the judiciary, elections, and the Truth, Justice and Reconciliation process that gained momentum following the 2007 post-election violence.

SERVICE PROVISION: 3.5

The goods and services provided by NGOs are highly diversified. NGOs are virtually everywhere in the country and work in almost every sector including relief, water, agriculture, education, health, HIV/AIDS, microenterprise and microcredit, environment, wildlife, forestry, peace building and conflict management, marine conservation, human rights, and empowerment of disadvantaged and marginalized groups. NGOs are innovative and drive the introduction of new models and approaches such as result-based management and participatory mechanisms, especially in programs that involve the community and support the development of strategies for citizens' self-sustainability. Given the high levels of poverty, it can be argued that nearly all the goods and services reflect the needs of communities, but most NGO interventions do not reflect community priorities and are often delivered in a manner that is not empowering to communities.

Most community-based organizations are "self-help" in nature, with their goods and services being limited to members only. Larger NGOs provide goods and services to a larger constituency in the areas in which they operate. For more advanced NGOs, goods and services are restricted to specific interest groups or networks as opposed to being shared with society as a whole. A growing number of informational materials are available for sharing, but due to financial constraints not many NGOs have invested in knowledge development, documentation and sharing.

Cost recovery is rarely practiced in the NGO sector, although a study by the Institute of Development Studies found that most nonprofits charge a fee for their services. Membership NGOs are more cost recovery oriented, while others are more charity oriented in offering goods and services.

In December 2008, a Working Group on Government and Civil Society Collaboration was constituted to steer the process of developing an appropriate framework for government and civil society collaboration. Though aware of NGOs' contribution to development, the government rarely acknowledges this in public. More appreciation and recognition of the role of NGOs occurs among local governments as opposed to the national government. The practice of the government giving grants to NGOs to deliver services on its behalf is only just beginning to emerge. A few examples of beneficiaries of government grants include the Red Cross in relief supplies, the Wildlife Clubs of Kenya in the environment, and Pact Kenya in tourism and community development projects.

INFRASTRUCTURE: 3.7

There is a steady increase in the development of intermediary support organizations (ISOs) and NGO resource centers. Poverty Eradication Network, Pact Kenya, International Institute of Rural Reconstruction, MS Training Center for Development Cooperation, and East African Center for Organizational Learning are examples of ISOs that provide quality technical assistance. Private sector consultants, firms and service companies also provide services in a wide range of areas. The main challenge is access to services, as the majority of NGOs cannot afford services unless funded by a donor. Others find it difficult to free staff time to attend, and a good number are too busy providing a service to others and give little priority to their own development.

Kenya has one of the most vibrant NGO training programs. A number of local and international universities and colleges have established professional training centers in Nairobi City and other towns across the country. Highly qualified and experienced trainers are in most areas of NGO management but less so in good governance, volunteer management and resource mobilization. There is also a lack of mechanisms for post-training support and mentorship to ensure that knowledge and skills acquired are applied. Access and affordability of the trainings are also issues for most NGOs. Training materials are

mainly produced in English and rarely in Kiswahili and local languages, although readership of materials prepared in Kiswahili and local languages is poor.

Although not widespread, a number of NGOs work in coalitions and networks, which are either sector- or issue-based. NGOs have not developed a strong culture for learning and sharing experiences and lessons. Some of the networks that have been established also serve as resource centers for network members. The NGO Council that is supposed to serve as a national network for information sharing and representation is currently not functional due to leadership wrangles and politicization.

About eighty local grantmaking foundations in East Africa have come together under the name of the East African Association of Grantmakers (EAAG). Only about eleven of these are active. The Ford Foundation and the Dutch government have tried to introduce the concept of community foundations but with limited success. The Kenya Community Development Foundation (KCDF), whose development was financed by Ford Foundation and the Aga Khan Foundation, is an emerging success. KCDF has developed an endowment fund and makes capacity development grants to grassroots organizations across Kenya. However, currently the biggest grantmakers are international NGOs including Pact, Inc., CARE International, Plan International, OXFAM, AMREF, World Vision and Action Aid.

Generally NGOs and local businesses do not work well together, but there is an upward trend in intersectoral partnerships. As indicated in the advocacy section, a number of NGOs are partnering with government and the private sector to provide services in sectors such as education, health, and agriculture. The government and a number of international NGOs are also working together on relief efforts. Ufadhili Trust and Allavida are examples of NGOs currently involved in initiatives aimed at enhancing intersectoral partnerships.

PUBLIC IMAGE: 4.3

The public perception of NGOs varies from sector to sector. The millions of people who are beneficiaries of goods and services from NGOs generally appreciate them and have a positive perception of NGOs. A study by Synovate Research (previously Steadman Group) in 2009 indicated that the public trusts NGOs more than the executive branch of government. In some localities, especially remote areas, people recognize the NGOs providing them with essential services more than the government itself.

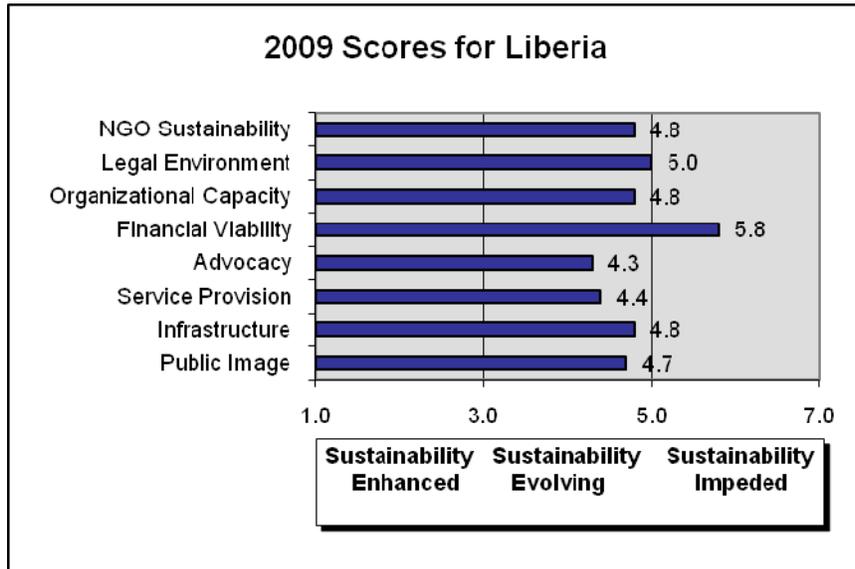
Local government has a more positive perception of NGOs than the central government. The business sector has a very negative perception of NGOs that is mainly based on misinformation about what NGOs do and how they are funded.

The media perception of NGOs is also poor. To the media, NGOs are self-serving and poverty-perpetuating agents whose huge administrative budget expenditures have little impact in addressing community needs. On some occasions, the local media, especially radio, does highlight the good work of NGOs, but national level NGOs tend to make news when there is a scandal or when they have paid for coverage. NGOs have not taken adequate measures to correct the poor perception by the media and the business sector. Only advanced NGOs and those that generate income are keen to develop their profiles and enhance their public image. Others either do not see the need or do not have resources for such an investment.

Self-regulation has been a major challenge for NGOs. The NGO Council has a code of conduct for organizations registered as NGOs, but the regulatory mechanism collapsed with the demise of the NGO Council. Other registration regimes do not have their own codes of conduct and are not bound by the NGO Council code. A number of more advanced NGOs publish and circulate their annual reports. Small grassroots organizations are by nature more transparent and publicly accountable at the local level even if

they do not publish annual reports. Currently there is an effort to develop a self-regulatory mechanism for all civil society organizations under an NGO-led initiative called Viwango Kenya.

LIBERIA



Capital: Monrovia

Polity:
Republic

Population:
3,441,790 (July 2010 est.)

GDP per capita (PPP):
\$400 (2009 est.)

NGO SUSTAINABILITY: 4.8

Overall, the NGO sector in Liberia is evolving. More efforts are required to consolidate the gains realized over the years, to overcome the unfolding challenges, and to make the sector more effective in communities and at the national level.

No specific laws regulate NGO operations in Liberia. The sector remains subject to legislation that was promulgated for the business sector. Registration is highly centralized. The NGO Coordination Unit at the Ministry of Planning and Economic Affairs is the functional arm of government for NGO matters. The unit has responsibility for registration of NGOs and performs this function from its office in Monrovia. The unit does not have branch offices elsewhere in the country and has not designated other institutions to register NGOs on its behalf. It is also not

clear which agency has the lead responsibility for accreditation of NGOs. The NGO Coordination Unit as well as line ministries accredit NGOs. The current management of the unit recognizes this deficiency in the process and has plans to restructure and streamline registration as well as accreditation. The database of the NGO Coordination Unit currently lists 573 local NGOs and ninety-five international NGOs.

Constituency building is still lacking among most NGOs, especially at the national level. As the national rebuilding agenda transitions from emergency to development, an emerging trend is that NGOs are now seen as responding to issues rather than to the availability of funding. The permanency of staffing is a problem because recruitment is based on the demands of projects and NGOs have difficulties retaining qualified staff.



The chances for obtaining funding from local sources are not encouraging. The spirit of philanthropy is low and most people regard themselves as receivers and not givers. Volunteerism has also not caught on in most communities.

Though advocacy is new to Liberia's political milieu, a number of issue-based coalitions exist. These coalitions have helped to reduce the view once held in government that NGOs are confrontational, and have improved perceptions about NGOs.

NGOs provide diverse services and are prime service providers in some fields. Services have an impact beyond the immediate beneficiaries. Partnerships, especially with the public sector, are growing.

LEGAL ENVIRONMENT: 5.0

Liberia has not yet reformed the basic legal framework governing NGOs. The sector remains subject to legislation which is outdated and not specific to NGOs. NGOs are registered under the General Business Act of 1976 promulgated for the incorporation and registration of organizations. This law requires that organizations wishing to operate in Liberia are required to file articles of incorporation with the Ministry of Foreign Affairs and then register with the Ministry of Commerce. They pay a fee commensurate with the nature and ownership structure of the organization to the Ministry of Finance.

The level of harassment of NGOs has declined significantly, even in rural areas, and NGOs generally operate free from harassment. Now it is more common for local leaders to expect NGOs to address the myriad problems in their communities.

The NGO Coordination Unit at the Ministry of Planning and Economic Affairs serves as the most authoritative unit for NGOs. It registers organizations and accredits them to carry out specific activities and programs over a period of time and often in a designated area of the country. Overall, registration is highly centralized. The unit operates from its main office in Monrovia and does not have branch offices elsewhere in the country. Local NGOs, PVOs and CBOs based in rural areas encounter difficulties in registering. The umbrella NGO organization NARDA (New Africa Research and Development Agency) facilitates the registration of member organizations through its regional offices.

The NGO Coordination Unit at the Ministry of Planning has adopted a plan to restructure and improve the registration process. Online registration is expected to begin in 2010. Other umbrella NGOs like NARDA will also be allowed to register member organizations.

In addition to the accreditation provided by the NGO Coordination Unit, line ministries—such as health, education and agriculture—insist on accrediting NGOs engaged in their sectors. As a result, NGOs engaged in several sectors are required to have several accreditations in order to operate in Liberia. Further, the terms and conditions of accreditation vary from one agency to another.

NGOs are generally tax exempt. They are permitted to bid on and subcontract projects sponsored by international organizations or the government, and income from such activities is not taxed. When NGOs engage in commercial activities, however, such as providing a public minibus service, this income is considered taxable.

The few law firms that support NGOs in the registration process are based in Monrovia and do not have offices in the counties.

ORGANIZATIONAL CAPACITY: 4.8

Constituency building is still lacking in most NGOs, especially those operating at the national level. Local NGOs and CBOs have made some efforts to actively seek and involve communities in their endeavors. Specifically, Action Aid Liberia has noted that communities in Gbarpolu are more familiar with Action Aid's local implementing partners, LIURD (Liberia-United for Reconstruction & Development) and ADEN (African Development Network), than with Action Aid.

NGOs are now seen as responding to issues and not to the availability of funding. As the country makes the transition from emergency to development, a number of NGOs are settling down to define their missions and adhere to them.

Governance has been a problem in most NGOs. Most organizations do not have governance structures; where these structures exist, there are difficulties in distinguishing boards from management. An underlining factor is that some NGOs are organized by individuals and as a result, tend to be centered around those individuals.

In recent years, NGOs have received assistance to improve their internal organizational capacity. The U.S.-based Africa Development Foundation, in collaboration with a local consulting firm, planned and implemented a governance training program for NGOs and small businesses that qualified for grant assistance. Trust Africa organized a four-month program with ten NGOs to support them in strategic planning. UMCOR, the relief and development arm of the Methodist Church, has in the past year initiated good governance training for its health board and institutions.

Staffing is a problem for most NGOs. In Liberia's post-conflict environment, there is a stark shortage of trained manpower. A significant number of professionals left the country on account of the conflict and have not returned. Other professionals in the country are few and often are in need of retraining. Recruitment is usually based on the demands of a current or upcoming project and most organizations have difficulties retaining qualified staff after completion of a project.

NGOs, especially in the rural areas, are disadvantaged in terms of technology. Most do not have basic modern office equipment such as computers, printers, and copiers. Those with minimal equipment encounter problems resulting from a lack of electricity and the lack of spare parts, supplies and the know-how to meet basic maintenance needs.

FINANCIAL VIABILITY: 5.8

The prospects for cultivating local sources of funding are not promising. Following two decades of misrule and a devastating armed conflict, poverty is pervasive throughout the country and is more severe in rural communities. Further, the spirit of philanthropy is low and most people see themselves on the receiving side rather than giving to NGOs. The provision of nonmonetary support and volunteerism has not caught on in most communities.

Sources of funding are not diverse. NGOs typically operate from one grant-funded project to another and at times stand the risk of closure following the termination of a project. Several organizations that prominently participated in the National Disarmament, Demobilization, Rehabilitation and Resettlement Program have faded away since the closure of the program.

Characteristically, funding to NGOs is sourced from international development agencies and UN organizations. The private sector, including the mining sector which has been a key driver to the Liberian

economy, has not provided any notable assistance to NGOs. Under the model mineral development agreement (MDA) now initiated with Arcelor-Mittal, however, a yearly fund allocation of \$3 million is set aside for area-specific development in communities hosting Mittal mining operations. While the mechanics for spending this fund have not been finalized, it is hoped that local NGOs, CBOs and PVOs currently engaged in the targeted communities will benefit from the funds.

There have been some efforts at promoting financial management and internal control practices. Under a capacity building program with TrustAfrica, five national NGOs were targeted in an intensive program to introduce basic financial management systems. Follow-up assessments have been planned to determine the effectiveness of the training. Based on outcomes, the program could be replicated by other NGOs.

ADVOCACY: 4.3

On the whole, advocacy is new to Liberia's political milieu. Advocacy by NGOs has helped to provide more clarity to issues and reduce the view once held that NGOs are confrontational.

There are discernible lines of communication between the government and NGOs. The restructuring of the NGO Coordination Unit at the Ministry of Planning is supporting coordination between the sectors. Also, the units involved with NGOs at the Ministries of Health and Internal Affairs have improved the level of understanding and cooperation.

A number of issue-based coalitions exist. In response to troubling instances of gender-based violence, coalitions such as Women Won't Wait, led by the Association of Female Lawyers of Liberia (AFELL), have played an active role in prosecuting cases of rape. Typically, the AFELL-led coalitions are prominent in raising public awareness, such as in the Angel Tokpah case where a couple is standing trial for sexual assault and murder of a young girl. The Poverty Reduction Strategy Tracking Network and Publish What You Pay are examples of coalitions which have been assisting the government in explaining policies.

SERVICE PROVISION: 4.4

The range of services offered by NGOs is diversified and covers health, education, agriculture, livelihood and food security, governance, human rights, the environment and nature conservation. In sectors like health, NGOs are lead service providers. Services do not necessarily reflect the priorities of constituents, however, and can be driven by the availability of donor funding. The quality of services remains low and could improve if the government were more involved in supporting provision of vital services to people in underserved areas of the country.

The impact of services goes beyond the beneficiaries to the basic needs of a broader constituency. For example, messages by coalitions against gender-based violence not only target victims and perpetrators, but are also meant for the public.

The National Drug Service is one of the few NGOs that have seriously attempted cost recovery. With backing from the Ministry of Health, the organization instituted a cost sharing scheme under which patients were required to pay a minimum amount as a contribution towards recouping the cost of drugs. Drugs were subsidized and provided to participating health facilities in the context of a program supporting the rational use of drugs at these facilities.

Government recognition and support to NGOs fluctuates. Support is at times difficult to predict and complicates planning in most organizations. For instance, Phebe Hospital and School of Nursing, a

private referral hospital in rural Liberia, had its subsidy from the national budget reduced at a time when its costs were increasing.

INFRASTRUCTURE: 4.8

There are a limited number of resource centers for NGOs to access information, but under collaborative arrangements like LIAP (Liberia Integrated Agricultural Program), NGOs share information with a view to helping each other and to promote their interests. As a means of supporting its members and other NGOs to access information, NARDA established three resource centers throughout the country. These centers were initially operated by NARDA but have now changed in structure to allow a network of local NGOs to own and manage them.

Training services and facilities are available locally for the advancement of general management and specialist training. The Liberia Institute of Public Administration, with support from DfID and USAID, has been offering management training to organizations in all sectors of the economy. Management consultancies provide additional training services on demand. One limitation to these services, however, is that they are offered mainly in Monrovia and not in the counties.

Partnerships between NGOs and the business community are new, informal and encouraging. The Liberia Chamber of Commerce adopted a program with NGOs to sensitize the public and the active labor force to the threat of HIV/AIDS. NARDA and its membership are working with UNDP and the government's Governance Commission on a program to promote decentralization of governance. The partnership has provided training to local communities, towns, districts and counties in constituting development committees as a forum for communities to have input on the identification and planning of development activities in their respective communities.

PUBLIC IMAGE: 4.7

Media coverage of the NGO sector does not recognize the sector's role in civil society. Rather, the media tends to treat NGOs on the same basis as businesses. NGOs have to pay for ads as corporations do, with no discount.

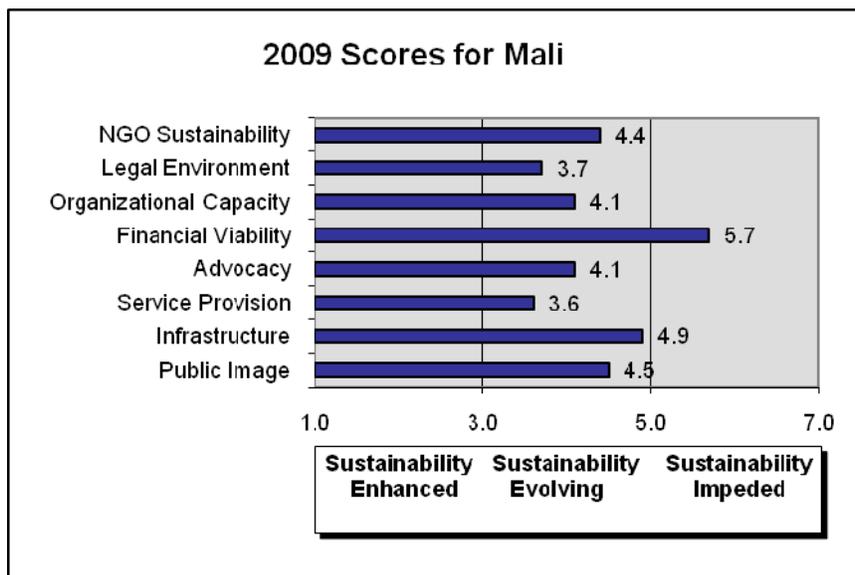
On a positive note, community radio stations and women's groups have forged partnerships. Journalists are being trained on women's rights. Further, a network of radio stations broadcast a press conference about gender issues and the results of a research program that mapped the absent voices of women.

The public perception about NGOs has not been entirely positive. There is a general sense that NGOs are the creation of donors that do not want to engage government directly and have therefore established NGOs as a conduit for circumventing government. Further, the public perception is that NGOs with their traditionally high overhead costs are a way of creating jobs for flunkies and inefficient workers from donor countries. Unfortunately, recent press stories on the misallocation of funds and the loss of consignments of relief items have not improved the negative public perception of the sector.

Individual town, clan and district authorities demonstrate strong desires for working relationships with local NGOs. Authorities and opinion leaders in communities regard positively the resourcefulness of NGOs; development committees are gaining recognition from the government and donors as the ideal structures for directing area-specific development.

NGOs have not succeeded much in the field of self-regulation, even though one of the objectives of establishing NGO coalitions was to promote transparency and ethics in the sector. The level of disclosure by NGOs in terms of publication of annual reports is generally lacking.

MALI



Capital: Bamako

Polity:
Republic

Population:
13,796,354 (July 2010 est.)

GDP per capita (PPP):
\$1,200 (2009 est.)

NGO SUSTAINABILITY: 4.4

The NGO sector in Mali is governed by Law No. 04-038 of 2004 relating to associations. According to Article 37 of this law, an NGO is considered to be any standard declared association with three years of existence and a signed agreement with the state. On December 31, 2009, an estimated 1,125 NGOs were registered, according to the Cellule d'Appui au Développement à la Base (CADB), a division of the Ministry of the Territorial Administration and Local Communities that is focused on grassroots development. Registered NGOs number more than 10,000. Of these, 1,125 NGOs had signed an agreement with the government as of December 2009, with a special focus placed on the formal status of their existence.



NGOs function freely according to their statutes and the state has never dissolved an NGO. NGOs are dependent on foreign funds for 90 percent of their funding and for the realization of their activities, which are diversified across the country. Their organizational capacities are somewhat limited because of the insufficiency of funds and a lack of expertise and creativity in terms of fundraising. The state and the territorial administrations very much appreciate the services of NGOs because of NGOs' participative approach, their varied expertise and their knowledge of the terrain and local communities. Private foundations such as Aga Khan Foundation and Qatar Charity provide support to NGOs. There is limited support of NGOs by local companies.

Various communication avenues, legislative frameworks, and other favorable conditions for lobbying exist at the national and local levels, but NGOs' lack of capacity in advocacy limits their effectiveness. Still, certain coalitions and groups of NGOs have achieved impressive results.

Formal and permanent partnerships between NGOs and the media do not exist. NGOs are viewed positively in the media, in communities and by the government, but public support for NGO activities is based on the degree to which NGOs take into account citizens' concerns.

LEGAL ENVIRONMENT: 3.7

The legal environment is favorable for the registration of NGOs and is done according to Law No. 04-038 of 2004. The registration of thirty new NGOs and foundations during 2009 reflects the lack of administrative obstacles to their creation. NGOs function on the basis of their statutes and in accordance with the contents of their signed agreements with the state. CADB carries out follow-up monitoring of NGOs.

NGOs and coalitions of NGOs are free to express their opinions on key national issues. There are no lawyers or structures specialized in the legal framework governing NGOs. NGOs receive customs and tax exemptions, but in practice obtaining them is complex and difficult. Individual donations to NGOs are rare, but private foundations such as Orange Foundation and Mine d'or de Morila are beginning to make tax-deductible donations.

Legally, NGOs are not restricted from participating in tenders of the government or the territorial administrations. NGOs lead certain governmental development programs such as the Agricultural and Farmers' Support Program (PASAOP), the National Local Investment Program (PNIR), and the National Program to Combat HIV/AIDS (PNLS). In practice, however, NGOs are unable to participate in certain tenders because of requirements such as the supply of a certificate of no bankruptcy or license. The statutory texts are not very clear regarding the categorization of the markets to which NGOs have access, which is often a source of tension between NGOs and research organizations.

ORGANIZATIONAL CAPACITY: 4.1

Generally, the mission of an NGO is defined at the time of its creation and is registered in the agreement signed with the government. The race to access funds and the requirements of donors cause NGOs to lose sight of their initial missions and constituencies. Community groups, however, become involved voluntarily in the realization of the activities of some NGOs.

Strategic planning is not an institutionalized practice among NGOs. Because of insufficient financial and human resources, the daily management of the activities of NGOs generally takes priority over strategic management. Certain NGOs and coalitions of NGOs, such as the Organization of Community Self-Development Support (AADeC), the Coordinating Committee of NGO Actions (CCA/NGO), and the Coordinating Secretariat of NGOs (SECO/ONG), integrate strategic planning into their decision-making processes, while others practice it in response to donor requirements. Umbrella organizations and certain funders support their members or partners in the adoption of strategic planning. Even at this level, strategic planning is quickly abandoned once funds are finished.

The structures of NGO management such as the general assembly, board of directors, and management are clearly defined in the basic texts, but in practice the roles of various bodies are confused. Often the entities are not even renewed from year to year. A certain level of bad internal governance exists within NGOs. In some cases, NGOs suffer from a duplication of functions and lack of transparency in management. Often, the same people serve in both management and decision-making bodies.

NGOs have permanent, paid staff but cannot provide full benefits or job security. Volunteerism is not developed. Some NGOs make efforts to recruit and maintain staff in order to realize their missions. The

state also supports understaffed NGOs through the provision of recent young graduates in search of their first jobs.

The internal resources of NGOs are insufficient to enable them to replace or modernize their equipment. Grantmakers emphasize project activities rather than institutional support. The low capacity of NGOs to mobilize resources is another contributing factor. Currently, only 41 percent of NGOs which provide regular reports to the state have adequate equipment enabling them to work effectively.

FINANCIAL VIABILITY: 5.7

Ninety percent of NGOs' funds come from foreign funders. Local funds are few and are generally limited to government sources through co-execution of the national plans of development (PACR, PASAOP, PADEC) and some private foundations such as the Fondation pour l'Enfance (Infant Foundation) and Fondation des Sociétés Minières (Gold Mining Foundation). Target communities contribute to NGOs' activities in kind through physical labor or locally available construction materials. Territorial administrations are starting to call upon the expertise of NGOs.

NGOs' resources are insufficient for their short-term viability, in spite of the 86 billion FCFA (\$160 million) in domestic and international funding provided to NGOs, according to the CADB in 2008. Fifty-nine percent of registered NGOs are not functional, meaning they do not submit annual reports to the administration. On a practical level, many NGOs disappear annually because of a lack of financing.

Only 41 percent of NGOs (463 out of 1,125) provided annual reports and financial reports to the administration as of December 31, 2009. NGOs have systems of financial management but they are not sufficiently transparent. The reporting of annual financial statements is not a widespread practice. Written management procedures are rarely applied in practice and internal audit structures are not functional.

Philanthropy is not a common practice and NGOs make few efforts to encourage philanthropy. NGOs or coalitions of NGOs such as CCA/NGO rent out vehicles or buildings to mobilize funds. The government and local government agencies use the expertise of NGOs for the execution of their development programs. NGOs collect modest members' contributions but not at the desired level. Particularly in the health field, NGOs such as ARCADE-AIDS often organize telethons (charitable evenings) to mobilize funds. The scarcity of funding sources and the weak fundraising expertise of NGOs result in weak financial viability.

ADVOCACY: 4.1

An NGO-government dialogue is held annually. NGOs and the government hold a meeting to discuss the level of their partnership and problems encountered. Almost all umbrella organizations attend this meeting as well as some individual NGOs.

NGOs and coalitions of NGOs work in partnership with local government agencies and the decentralized state services in the implementation of projects. NGOs participate in various public commissions such as those on population and development and the management of government contracts.

NGOs are timid about advocacy actions, but certain coalitions, networks and groups of NGOs endeavor to influence governmental policies and practices at the local and national levels. The Group of Budgetary Follow-up-Mali (GSB-Mali) promotes transparency in budgetary and financial decisions. The Lobby Network (RPL) lobbies for the public financing of NGOs, and the Coalition of Women's Associations and NGOs (CAFO) advocates for the adoption of the draft people and family code. AADeC is an NGO

that promotes the management of local resources allocated to education. The NGO FDS monitors mining resources. The Coalition of Health-Related Organizations (GPSP) supports the adoption of a law against the excision of women. The Network of People Living with HIV/AIDS advocates for free antiretroviral drugs. The National Council of Civil Society (CNSC) took an active part in the development and implementation of the strategic framework of the fight against poverty.

Advocacy actions to promote philanthropy are underdeveloped. Neither NGOs nor coalitions of NGOs completely understand the opportunities involved and need more expertise to carry out this kind of advocacy. Their efforts are also overly dispersed due to weak leadership.

SERVICE PROVISION: 3.6

NGOs cover all the fields of development, including education, health, agriculture, environment, and microfinance. In most cases the services offered correspond with the needs of communities, but NGOs initiate some activities without discussions or studies, based only on available funds.

Joint projects carried out with the government are in line with national policies and priorities. NGOs provide services to all social groups including women, young people, orphans, people living with HIV, and minorities. Certain NGOs with expertise offer services such as trainings and community mobilization to other NGOs and to the government. Others offer services to universities, such as the Rural Institute of Economics (IER), which conducts pre-tests of new seed varieties.

NGOs lack expertise in marketing or market research. Costs are recovered only for services offered to private individuals, while services offered to communities within the framework of projects are not paid. Because of their nonprofit status, NGOs are denied access to certain economic markets. The government and local government agencies recognize the value of NGOs, but misunderstandings regarding roles and responsibilities between NGOs and certain decentralized state services are common occurrences at the local level.

INFRASTRUCTURE: 4.9

The concept of resource centers for NGOs is not very developed. Some NGOs such as the Djoliba Center offer paid trainings on various topics and provide rooms for conferences and workshops. NGOs can use the government's Community Territories Training Center (CFCT). No centers provide adequate access to information and technology.

Coalitions of NGOs at the national and regional level such as GSB-Mali and SECO/NGO often offer trainings for their members, although some of these trainings do not respond to the needs of trainees. Funding and donor requirements within the execution of projects often determine trainings. Research groups such as the Association for Counseling and Action (ACA), the National Center for Training and Development (CENAFOD), Baara Services, and GEFRAD offer fee-based technical assistance. Sector-specific NGO coalitions mobilize funds to finance their members. The Soumaré Foundation, a local foundation, supports NGOs with computers. The network of people living with HIV/AIDS set up toll free phone numbers to provide information for its members. Donor agencies such as USAID and the Canadian International Development Agency provide support to NGOs through training and provision of equipment.

Several coalitions, networks and groups of NGOs such as the Group of Budgetary Follow-up-Mali (GSB-Mali), the Lobby Network (RPL), the Council of Coordination and Support to NGOs (CCA/NGO), the National Council of Civil Society (CNSC), and the Coalition of Civil Society Organizations for

Education for All (COSC–EPT) facilitate communication and the exchange of information between NGOs. Local coalitions are also functional. They benefit from the support of donors for their operations and the support of members for advocacy actions. NGO networks would benefit from working in greater synergy. Currently, weak leadership plagues umbrella groups, which limits their effectiveness. These networks also lack internal good governance.

There are some individual trainers but they have not formed a group or association. The ARIANE project of the European Union set up a pool of trainers in each region but their effectiveness is questionable. There is no training center on NGO management or strategic planning. The trainings are ad hoc and initiated for the needs of projects and programs. Some NGOs work in collaboration with local radio stations, but long-term partnerships with the media are nonexistent.

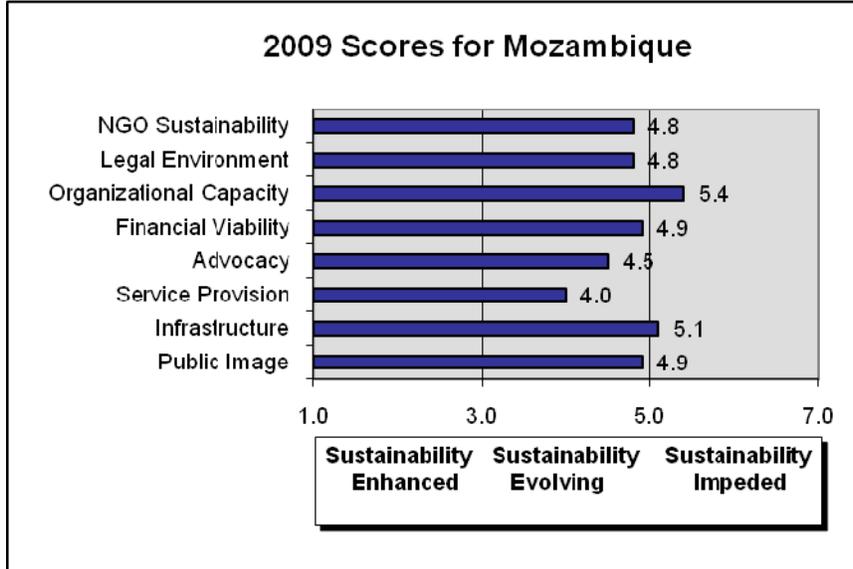
PUBLIC IMAGE: 4.5

NGOs work with the media at the national and local levels in an ad hoc way. Generally, the media covers training workshops, project launches, and annual reports of NGOs but on a paid basis. Formal and permanent collaborative relationships between NGOs and networks of journalists are almost nonexistent. The media makes no distinction between the advertisements of NGOs and those of businesses. NGOs do not have communication strategies or communication specialists.

The public has a generally favorable opinion of NGOs. The public understands the role of NGOs, but the label of “funds provider” always comes before that of “development services provider.” Communities, the government, and local government agencies support NGOs and consult them as sources of information and expertise. The president of Mali decorated the president of the network of people living with HIV/AIDS. The government grants certificates of functionality to NGOs that request them.

Some NGOs have websites, such as www.aadec.net, but the sites are not updated because of limited financial resources and human capacity. Forty-one percent of NGOs present annual reports to the administration. Most coalitions and networks of NGOs do not have a code of conduct. Certain coalitions of NGOs, such as CCA/NGO, adopted a code of conduct and a membership charter in 2006, but have not put it into practice. A gap exists between NGOs that are concerned about excellence in their operations and services, and those created to collect funding for the benefit of their members.

MOZAMBIQUE



Capital: Maputo

Polity:
Republic

Population:
22,061,451 (July 2010 est.)

GDP per capita (PPP):
\$900 (2009 est.)

NGO SUSTAINABILITY: 4.8

In Mozambique's post-independence society, NGOs have had a slow and arduous route towards government recognition and acceptance, and uninhibited freedom of expression. The post-independence national government, headed by a single political party, FRELIMO, required the people to channel their participation through one of three party-dominated institutions: the sole labor union, a national women's organization, or a youth movement. In 1987, as the government began to take measured steps towards liberalization of a nonfunctioning economy and to search for alternative international partners, legislation was passed that opened the way for NGOs to register and operate.

The past decade has seen a proliferation of manifestations of civil society in multiple sectors across the country's eleven provinces. The gradually expanding educational and travel opportunities for rural residents, a mushrooming urban class, and the peace enjoyed after seventeen years of internal conflict have stimulated civil society development. Entrenched poverty alongside new wealth, and the HIV/AIDS pandemic, are two factors that have helped form and drive NGOs. At the provincial and district level, resource-strapped young people are trying to lead the way via CBOs, faith-based organizations and locally registered NGOs.

NGOs are registered at the Ministry of Justice. Most of these organizations operate in at least two and sometimes more provinces. The number of NGOs currently registered at the Ministry of Justice is estimated to be 150. NGOs are required to maintain and update their registration with the submission of an annual report. For the past several years, registration of NGOs that operate at the level of a single province, or in a limited number of districts within a province, can be done through the provincial



governor's office. The total number of these organizations across eleven provinces is also estimated at 150.

LEGAL ENVIRONMENT: 4.8

While statutes are on the books that permit and detail the registration of NGOs in Mozambique, in practice, the procedures are long and difficult, and can serve to discourage registration. Some argue that it is easier to register a business than an NGO, even though it is notoriously complicated to register a private business. The registration of associations, one of the forms of NGOs, at the provincial and even district level has been decentralized in recent years. According to a recent survey of national NGOs, 70 percent are in rural areas, as opposed to 30 percent that operate in urban areas.

Current laws do not distinguish between types of NGOs. "Self-help" (ajuda mutua) organizations are lumped together with charitable organizations and those that are oriented towards service delivery. The laws of 1991 and 2007 that define NGO registration have left the door open for inclusion of some entities that are more related to labor unions and political parties, such as youth movements and groups that claim to fight poverty.

A government initiative to introduce mechanisms to regulate services by geographic and subject areas was taken off the table when some NGOs opposed it. Ostensibly designed to serve as a means of separating government and nongovernment services in a designated geographic area, many viewed it as a tool to control NGOs.

Senior NGO leaders have appealed for competent jurists to take a look at the registration laws and to suggest modifications that will help to distinguish between the various forms of NGOs. Without a specific, competent authority to provide assistance to NGO applicants, the registration picture remains confused. Applicants in the distant provinces are at a further disadvantage. There is no source of information regarding appropriate articles of an NGO constitution, composition of a board of directors, or forms to fill out and submit. Moreover, officials within the administration at all levels lack knowledge regarding steps in the registration process.

In principle, NGOs are exempt from paying taxes, but effective tax laws and collection procedures are still nascent. In practice, NGOs charge for some services, such as consulting, and also sell goods, with the expectation that income generated through the sale of goods and services should be channeled toward the organization's development activities. NGOs do not record or report sales as commercial transactions.

ORGANIZATIONAL CAPACITY: 5.4

Often the initial composition of an NGO fails to evolve over time. Leadership becomes entrenched, and new membership is discouraged, since it may pose a risk to and upset the existing management structure. This hinders NGOs' ability to expand their constituencies. Most NGOs do not actively seek members who are committed to their organizations' objectives.

Internal management structures of NGOs are nascent and developing gradually as staff and board members learn their respective roles. Some of the larger NGOs enjoy supportive and helpful board members. Well-defined board guidelines are practically nonexistent, however. Good training materials are lacking and experienced trainers in organizational management are few. NGOs generally place a low priority on institutional development concerns.

Dependency on international NGOs and donors means that NGOs follow the strategies of these larger and wealthier organizations. At least two of the larger NGOs, Progresso and Foundation for Community

Development (FDC), have mounted efforts, with varying degrees of success, to break loose from this dominance.

NGOs at the district level face multiple problems when implementing plans or projects. Internal administration is badly constituted, with the same individuals assuming multiple functions. Sometimes, local organizational capacity can be assured for a short-term intervention such as disaster response, but is much less likely to be sustained in a longer-term, more complex activity. Community-based organizations are particularly vulnerable to this malaise.

NGOs often have vacancies in key positions. Except for large NGOs with outside funding resources, most NGOs draw from a small local pool of talent, generally lacking experience and training. The few qualified personnel are highly prized—especially financial managers and accountants—and tend to move on frequently for higher salaries or better benefits.

Access to electricity, especially in rural areas, greatly affects NGOs' organizational capacity. Access to improved and even advanced technology has improved significantly among most NGOs, but equipment remains basic. Familiarity with relevant software is improving. Too often, an NGO's computer remains behind the locked door of the director due to cases of abuse of access. The slow speed of the Internet is a deterrent to its use outside the capital. Many NGO managers and directors are reticent to make active use of e-mail, hindering information exchange and networking.

FINANCIAL VIABILITY: 4.9

NGOs in urban areas fare less well than those in rural districts when it comes to local support. This is due to the social values that are generally still maintained in many rural areas. Volunteerism and in-kind contributions are very much part of Mozambican culture, though it is difficult, if not impossible, to quantify this nonmonetary support.

Churches and mosques insist on voluntary contributions, and this is an avenue of financial viability for many faith-based organizations. The faithful tend to be motivated to give more when there is transparency.

Private sector support to NGOs is in its initial stages. The flow of financial assistance that followed the 1992 Peace Accords has mostly tapered off. Instances of support from the large, primarily foreign-owned companies have been occasional "one-shot" deals, such as construction of a school or health center, or materials to carry out an advocacy campaign. There is some evidence of corporate responsibility for socioeconomic activities, but this has not yet translated into sustained support for NGO institutional development or regular service delivery. For example, one large multinational mining company has created an organization that dispenses grants and sponsors various campaigns in the community near the factory. A second mining sector company has engaged a consultant to outline a program of social responsibility, again in the immediate area of its operations. A law allows the private sector to contribute to civil society institutions, but few tangible benefits accrue by law to the donor.

Government contributions to the NGO community are rare. The bureaucratic entanglements inherent in the process of competing for contracts have discouraged most NGOs from bidding. One NGO twice incurred high costs in unsuccessful bids to provide school books; another won several contracts for primary school construction in rural areas. The European Union financed local NGOs which competed to manage agricultural extension programs. The Ministry of Agriculture organized the competition, but the funds are extra-budgetary, and this initiative cannot be considered as government-funded.

Fundraising and marketing are relatively new approaches for NGOs. NGOs are often the last to know about funding opportunities and are passive in spite of the promise of long-term partnerships. There are stories of donors not following up an initial tranche of grants in successive years. Some NGOs—particularly in the democracy and governance sector—have begun to follow up with donors more aggressively.

Even though NGOs recognize the importance of occasional program and financial audits, distance, isolation and inaccessibility work against fulfilling this requirement. Moreover, the use of volunteers and in-kind contributions frustrates normal audit practice. NGOs largely agree, however, that whether they receive cash or goats, they must be accountable to members and the public.

ADVOCACY: 4.5

There have been serious efforts related to advocacy as well as visible but low-impact activities. Some NGOs initiate advocacy on behalf of various causes, albeit with rudimentary tools. There is also the “t-shirt crowd,” in which some NGOs are included, that is visible on the day of a march, but is more content with a one-time event than committed to seeing through an agenda of action.

Formal channels for regular NGO participation in the affairs of governance do not exist at present. Ad hoc, issue-specific bodies such as working groups on the Program for Poverty Alleviation (PARPA) and the National AIDS Council (CNCS) Partners Forum may have some seats set aside for NGOs, but major government programs in health, agriculture, the environment, and education do not, as a rule, offer NGOs an entry point for discussion and decision making.

There is little, if any, movement in the direction of legal reform to enhance NGO effectiveness. Instead, NGOs largely interpret advocacy as espousing worthy causes and bringing them to the attention of the public, the media, or the government. The advocacy agenda has evolved in recent years to include peace, land rights, environmental concerns, HIV/AIDS, gay and lesbian rights, domestic violence, child trafficking, and universal education.

Most NGOs have much to learn about implementing an advocacy agenda over an extended time period and following through with an action plan. The announcement of a new government policy, and even the passage of a law is one thing, but promulgating, implementing and enforcing policy change in each district is another thing. Still, civil society has made enormous strides in advancing a “people’s agenda.”

The Youth Parliament (Parlamento Juvenil, or PJ) is a promising civil society effort to address issues that weigh on NGOs. Created in 2008, PJ advocates public policies and a strategy that are more inclusive of youth, and monitors government actions. Mozambique does not have NGOs that operate as think tanks, though NGOs such as the Centre for Public Integrity (CIP) conduct monitoring and research on public policies.

SERVICE PROVISION: 4.0

NGOs offer services across a broad spectrum of sectors. With 70 percent of NGOs based in rural areas, the focus has been on agricultural extension. This is an outgrowth of the seeds and tools distribution programs from the years 1992–1996 following the end of armed conflict, when the rural economy was reestablished after many years of dormancy. Mozambique experienced a huge and rapid expansion of international and national NGOs, the latter acting often as rural service delivery agents for the former.

Gradually, NGOs assumed other responsibilities in rural water supply, farm-to-market road maintenance, de-mining operations, mother/child nutrition education, and, as the political process gathered momentum, in civic education and rural-related advocacy issues. By 2000, NGOs and even local CBOs were increasingly involved in HIV/AIDS-related prevention, home-based care and OVC (orphan and vulnerable children) programs. Finally, local income generation activities and microfinance initiatives have brought on a new wave of practical-minded NGOs. A significant percentage of NGOs involved in service provision have a distinct if not exclusive orientation toward women, the elderly, children under eighteen, and the disabled.

Several umbrella programs wherein a major national NGO subgrants to local organizations have boosted the involvement of NGOs in rural service delivery programs, particularly HIV/AIDS-related. In addition, the National AIDS Council, a government agency, subgranted funds received from major international cooperation partners, until perceived poor management resulted in a shift of the grantmaking point to a UNDP-based unit.

Some NGO leaders believe the government does not recognize or utilize NGOs' strong position at the community level. The government may be hesitant to join forces with faith-based organizations. On the other hand, in some provinces such as Nampula, the local administration has been known to solicit NGO participation.

NGOs do not recover costs for goods and services provided. One international donor program focuses on greatly improving the capacity of several national NGOs to deliver quality goods and services so that recipients will be willing to pay for them. NGOs' seemingly nonresponsive goods and services are often the result of a supply-driven approach imposed on NGOs by international NGOs and donors.

INFRASTRUCTURE: 5.1

Generally, NGOs understand and appreciate the advantages of forming simple networks of similarly oriented NGOs. The potential benefit of networking can break down, however, when there are multiple and overlapping networks, such as in the case of one network that sought to group organizations involved in HIV/AIDS, food security, housing, and labor unions. Networks are perceived to have worked at the provincial and district levels where resources can be combined for specific objectives.

No national NGO member organization exists in Mozambique. The NGO network LINK accompanied and sometimes led the surge in NGOs and activities in the mid-1990s, with strong support from international partners. LINK did not survive a spate of internal, largely personalized differences, and in its place are several loose networks of NGOs that are involved in HIV/AIDS programs. At the provincial level, networks are unevenly organized and managed, with the exception of a few provinces such as Nampula, where the governor's first secretary has taken a proactive approach to integrating NGOs in planning and operations, and NGOs make the time and effort to contribute to working sessions.

Resource centers are few. Resources such as databases and technical information (primarily on HIV/AIDS-related matters) are available and generally accessible, but insufficiently used and highly dependent on users' familiarity with information technology. There is no common point where all materials related to NGO organizational development are located. An effort was made to establish such a focal point in the early 1990s but no one has assumed ownership to maintain it.

Very few NGOs have expertise in grantmaking and subgranting. The expertise that does exist is relatively recent and concentrated in the HIV/AIDS sector. A lack of accountability and human resource capacity are the greatest limiting factors in expanding NGO grantmaking.

PUBLIC IMAGE: 4.9

Some NGO experts are critical of the way that the media perceive, present and interpret NGOs' role in civil society, in socioeconomic development, and in the political life of the country. NGOs report instances when what had been recorded in the presence of the NGO was later reported in an entirely different manner.

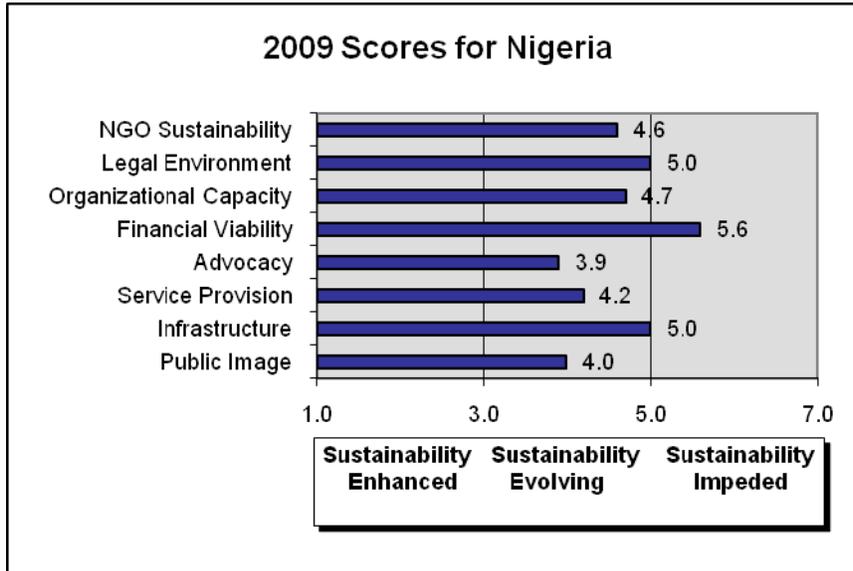
NGOs sometimes court the attention of the media and sponsor briefings to ensure that the media understands the issues, their importance to the public and the implications for other sectors. In Maputo, NGOs are frequently invited to participate on a radio talk show or as panel members on a current affairs TV program. District-level radio stations provide an opportunity for NGOs to communicate with rural populations, usually in local dialects. Some personalities are well known for their weekly discourses on various themes.

Some NGOs have all but given up in dealing with the media. There is a consensus that the media, with some exceptions, has failed to keep up with the changes that are underway in socioeconomic development, and lack capacity to report accurately on what is going on. Journalists lack specific prior knowledge of the subject and of available background material. Sometimes media coverage depends on personalities involved in the event. The presence of a well-known individual almost assures that as many as twenty journalists will cover an event, while other events presided over by a less public figure are barely covered at all.

Only a few NGOs that promote HIV/AIDS prevention are well known by the public. Those NGOs that promote Mozambican arts and crafts are visible at fairs and exhibitions. NGOs do not have sufficient resources to be able to undertake activities such as co-sponsoring concerts, dance shows or football matches.

NGOs have not discussed or adopted a code of best practices. Their lack of transparency in this regard sometimes gives rise to suspicions and accusations that their membership and staff are purely in the business for their own advantage, and live in a world of chauffeured cars, comfortable conferences and generous per diems.

NIGERIA



Capital: Abuja

Polity:
Republic

Population:
152,217,341 (July 2010 est.)

GDP per capita (PPP):
\$2,400 (2009 est.)

NGO SUSTAINABILITY: 4.6

With a population of over 150 million people, Nigeria is the most populous country in Africa and has over 250 ethnic groups, 320 dialects, and two major religions: Christianity and Islam. The political history of Nigeria has been largely characterized by a series of military regimes where corruption, economic mismanagement, and ethnic/religious conflicts were common features. Despite the country's recent strong economic performance, with GDP growth averaging 7.6 percent per year between 2003 and 2007, over half of Nigerians still live below the poverty line.

The prolonged military rule in Nigeria resulted in the systematic closure of the political space. The suspension of constitutional rule, the centralization of political power, and the denial of the basic rights of citizens led to the emergence of all kinds of associational life that stood up to successive military governments.⁷ The economic failure experienced in the country in the 1980s also brought about the emergence of associations ranging from human rights organizations and professional associations to business and mutual help associations across the country.



It is difficult to establish the actual number of officially registered NGOs working in Nigeria. NGOs can register at the national, state and local levels. The process of registration is cumbersome, so some NGOs affiliate themselves with other registered NGOs or simply carry on unregistered while their registration processes are underway. In 2009, according to records of the Corporate Affairs Commission (CAC), there were over 46,000 registered NGOs in Nigeria. This figure is questionable, however, because defunct organizations are not purged from the register, nor is there a record of organizations that were denied registration or sanctioned.

NGOs have flourished, largely due to the number of foreign funders wanting to take advantage of the more democratic working atmosphere in Nigeria prior to the return to civilian rule. Human rights and media development activity by NGOs has been facilitated mostly by bilateral donors. Donors play a crucial role in strengthening civil society's ability to organize, mobilize and fight corruption. This assistance has vastly increased NGOs' influence and contributed to advocacy campaigns that led to the passage of key legislation at the federal level. In spite of these successes, NGOs' capacity is still weak, including having small membership bases and weak links to local associations that can mobilize their memberships in support of national issues.

NGO infrastructure in Nigeria is weak, although it is gradually improving with the emergence of NGO coalitions organized around major issues affecting society, such as electoral reforms and effective budgeting. NGO resource centers are few in Nigeria, and mainly located in major cities like Abuja, Lagos and Kaduna.

Though the public perception of NGOs in Nigeria is taking a positive turn, many people still perceive NGOs as organizations that make money for their directors and board members. The media, particularly private media, has done well in covering NGOs' activities. Nonetheless, some journalists demand "brown envelope" (kickbacks) before featuring NGOs' activities in their programs. NGOs' ability to work with the media needs improving to ensure balanced coverage of critical policy issues.

LEGAL ENVIRONMENT: 5.0

The legal framework for NGOs in Nigeria is defined by provisions of the 1999 Constitution of the Federal Republic of Nigeria, as well as federal and state laws. These federal laws include the Companies and Allied Matters Act (CAMA) of 1990 and the Companies Income Tax Act of 1961. Specific laws also exist to regulate specialized organizations such as trade unions and cooperative societies. The CAMA regulates the registration of NGOs. Government departments in some instances require NGOs to register with them for the purpose of collaborating with or working for such departments in specific program areas.

Applying for the registration of an association with incorporated trustees (NGO) as provided for under section 674 of CAMA is an expensive, tedious and uncertain process. The process requires a board of trustees and a security background check, among other things, and sometimes takes a very long time. Some human rights NGOs have had their applications rejected. The law makes no specific provision for appeals against rejection.

Section 691(1) of CAMA provides for the dissolution of an NGO by a court of competent jurisdiction upon a petition brought by members of the organization or the Corporate Affairs Commission after certain conditions have been met. By law NGOs cannot be dissolved by the state for political reasons. Most NGOs do not strictly adhere to the CAMA, which requires them to submit audited annual financial reports to the CAC, and the CAC has been very lax in the implementation of this requirement.

The government generally does not harass NGOs. Some instances of police harassment occur, especially at the local level. For example, a member of an NGO working on budget monitoring was arrested because he requested budget information from a local government official in Yobe State, in the northeastern part of Nigeria.

The provisions of section 19 of the Companies Income Tax Act (CITA) exempt NGOs from paying tax. There are, however, instances of state officials illegally collecting taxes from NGOs. NGOs are allowed to earn income from the provision of goods and services. Though NGOs operating at the national and state levels can bid on government contracts, such contracts are facilitated largely by personal

relationships with government officials or with individuals close to those in power. For most contracts in Nigeria, NGOs rarely meet the tenders' conditions. In addition, many NGOs do not even know that they can bid on contracts despite their nonprofit status.

No lawyers have been specifically trained in NGO law in Nigeria, so NGOs do not have access to legal advice should the need arise.

ORGANIZATIONAL CAPACITY: 4.7

NGOs have become a powerful voice for democratic reform and inclusive governance, including building local constituencies for their initiatives. Given the dominance of corruption-fed patronage politics in Nigeria, however, the ability of NGOs to mobilize nationally remains impeded. On a more technical level, the organization of NGOs in Nigeria is generally weak and lacks self-regulation or appropriate infrastructural support and resources for achieving NGOs' goals.

Many NGOs in Nigeria lack strategic action plans and personnel policies, and generally have weak organizational development systems. Only more developed NGOs based in major cities such as Abuja, Lagos, and Kaduna have strategic plans.

Most NGOs have clearly defined management structures, but few are functional. The boards of most NGOs rarely meet. The few big NGOs with active boards of directors have clear divisions of responsibility between the boards and staff members.

Staffing has been a major issue among NGOs in Nigeria, particularly in small NGOs where many of the staff are not adequately trained due to a lack of institutional support. In addition, most NGO workers are not exposed to leadership positions because NGOs' founders dominate activities. NGOs engage very few volunteers in Nigeria and most of the smaller NGOs cannot afford the services of professionals like lawyers and accountants. Qualified personnel from international donors have begun to work closely with NGOs in Nigeria, which has attracted newly qualified university students. In recent years, however, local and national NGOs have been losing skilled staff to international NGOs, which offer competitive salaries and benefits.

There is a capacity gap in information technology among most NGOs in Nigeria. Many of them lack Internet access and basic office equipment such as computers. Only the big NGOs and international NGOs have good office equipment. A number of NGOs are in rented buildings.

FINANCIAL VIABILITY: 5.6

Most NGOs in Nigeria are donor-dependent, relying largely on international donor agencies for funding. There is very little local philanthropy, partly due to poor fundraising skills, and because of the global economic meltdown, the financial resource base is shrinking. The absence of government funding compounds the situation. Most NGOs in Nigeria are likely to go bankrupt if foreign donors stop funding their activities for a short period of time.

The oil companies in Nigeria are not extensively involved in funding NGOs' activities. They tend to be more concerned with building relationships with community leaders with whom they collaborate on community development issues.

Some corporations are setting up foundations, such as MTN Foundation, but this has not been adequate to address the needs of large numbers of NGOs in Nigeria. Some companies' corporate social responsibility

efforts benefit NGOs; for instance, banks have provided funding for HIV/AIDS projects, and companies provide their products in support of NGOs' activities.

Most NGOs have not cultivated a loyal core of financial supporters, and many still do not have assets to generate income. The government provides contracts to NGOs for services, but most of the contracts go to government-sponsored NGOs (GONGOs), except for a few cases like monitoring of the Conditional Grants Scheme (CGS) projects, which some large NGOs based in Abuja and Lagos are conducting. The CGS seeks to utilize the debt relief gain by Nigeria to implement projects at the state and local government levels.

The majority of NGOs in Nigeria have poor financial management systems and do not adhere to legal requirements to file annual financial reports. The few NGOs that audit their accounts and publish their annual reports with financial statements do so for their donors.

ADVOCACY: 3.9

NGOs in Nigeria have done a lot of advocacy and have always engaged the government on major policy issues. Early in 2010, coalitions of NGOs mounted pressure on the federal cabinet and the National Assembly to speed the process of transmitting power to the vice president of Nigeria due to the ill health of the president. To a large extent, the government appears reluctant to work with NGOs as partners in promoting democracy, good governance and development. Although the government has appointed specific advisors on civil society matters, regular channels of consultation do not exist. NGOs often do not exploit the opportunities available to constructively engage with the government.

Issues of legal and constitutional reforms have attracted the attention of many NGOs in the country. There has been advocacy directed at the national and state assemblies, particularly on violence against women, child rights, the Freedom of Information Bill, and electoral reforms, with some success. NGOs in Nigeria have succeeded in lobbying to influence public policies, such as influencing the government to enact the Child's Rights Law prohibiting child labor. The legislation has been passed in eleven of the thirty-six states of the federation. Moreover, as a result of NGOs' advocacy, the federal government enacted a law establishing the National Agency for the Prohibition of Trafficking of Persons in 2003; passed the Fiscal Responsibility Act of 2007 and the Public Procurement Act of 2007; and launched the Nigeria Extractive Industry Initiative in 2007. The Freedom of Information Bill introduced in the National Assembly came about as a result of lobbying activities by NGOs, particularly the Media Rights Agenda. NGOs are still advocating for the passage of the bill.

NGOs tend to focus their attention largely on the government, rather than the people, in their advocacy. Hence, sometimes there is a disconnect between what is being advocated and the target audience. The government sometimes collaborates with NGOs to disseminate information to the public, especially related to health issues.

Advocacy for legal reform that would benefit NGOs is minimal. Most NGOs in the country are aware of the benefits of having a favorable legal framework, but they approach the issue of regulation in the form of a specific NGO law with suspicion, believing that the government would use it against them as a restrictive measure.

SERVICE PROVISION: 4.2

NGOs render a range of services in various sectors such as the environment, health, women, and education. The federal government is beginning to recognize the role of NGOs and seeks collaboration with them. For instance, in 2009 the Federal Ministry of Health brought together NGOs to assist with the dissemination of information on the Integrated Maternal and Child Health Program. Donor agencies sometimes set the agenda for NGOs, while in some other cases communities set the agenda. NGOs' services do not always reflect the needs and priorities of their communities.

Most services provided by NGOs are paid for by donors; therefore, the rate of cost recovery is very low. Some NGOs' publications are distributed to other NGOs and the government at no charge, while in some instances publications are sold to academia and the public. NGOs do not have adequate knowledge of the market demand for their products; this is because sometimes these products and services are determined by donors.

The federal government recognizes that NGOs can be useful in the monitoring and evaluation of social services. This informed the government decision to allow some NGOs to monitor and evaluate the performance of the Virtual Poverty Fund (VPF) projects across six states in the country. The VPF projects are funded by the federal and state governments through the Conditional Grants Scheme. The government does not provide grants to NGOs; however, some state departments, such as the Federal Ministry of Women Affairs, do give minimal subsidies to NGOs registered with them in recognition of their challenges and to support their work.

INFRASTRUCTURE: 5.0

The level of NGO infrastructure in Nigeria is low but has been gradually improving in recent years. There are networks and coalitions such as the Transition Monitoring Group (TMG), Alliance for Credible Elections (ACE), and Electoral Reforms Network (ERN). These coalitions facilitate the sharing of information among NGOs across the country but sometimes there is a disconnect between coalitions and members, particularly at the grassroots level. The few available resource centers are ill-equipped and difficult to access. Very few intermediary support organizations provide funds to address local problems; usually international donors provide such funds.

Trainings available to NGOs in Nigeria are only accessible to the big NGOs in major cities, and advanced trainings for NGOs are very limited. Small NGOs hardly have access to training opportunities. Moreover, training materials are mostly in English and are rarely available in local languages. NGOs in Nigeria have limited opportunity for local technical support and rely mostly on foreign support.

Partnerships exist between the government and NGOs to achieve common objectives. For example, the government authorizes NGOs to monitor elections; however, such activities do not usually yield the desired results for many Nigerians. The government is beginning to realize the importance of collaborating with NGOs on certain programs, such as engaging NGOs in the monitoring and evaluation of the Virtual Poverty Fund. In addition, the government is working with NGOs to disseminate information on issues like HIV/AIDS, maternal and child mortality, and civic education.

NGOs also work in partnership with the media, especially the private media, to enlighten the public on major issues affecting the country. The public media outlets do not cover NGOs' activities that are against government policies. Business associations rarely participate in NGOs' activities.

PUBLIC IMAGE: 4.0

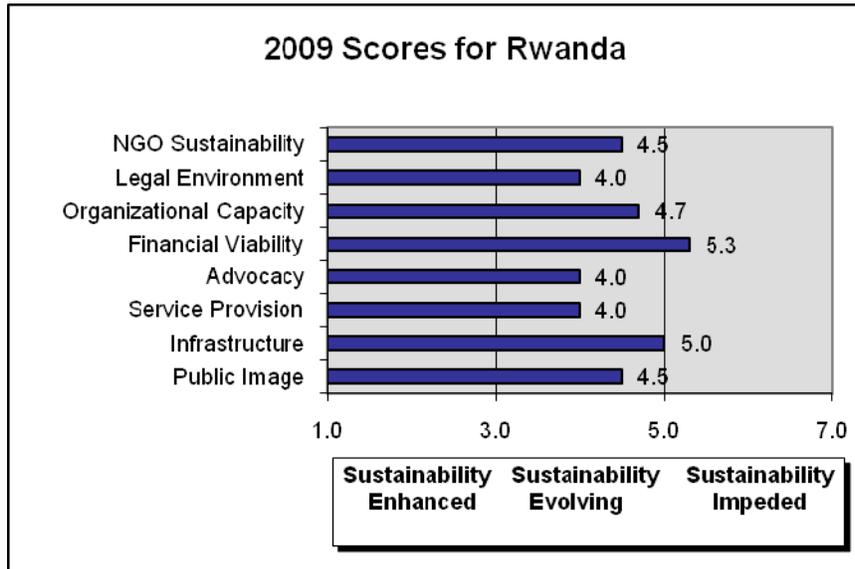
In Nigeria, most NGOs have enjoyed cordial relationships with the media and NGOs are very active in collaborating with the media. NGO activities are covered as public service activities and not as corporate advertising to be paid for. However, some journalists expect to be given a token payment before they feature NGO activities in their programs. Private media organizations are more active in the dissemination of information relating to NGO activities.

With the return of democracy to Nigeria in 1999 and the opening of the political space for NGOs to operate in, many people are beginning to understand and view NGOs in a positive light, and NGOs enjoy public support for their activities. However, there are still people who view NGOs as money-making organizations which do not actually address the developmental problems they are supposed to address.

Very few business associations interact with NGOs, which may suggest that they do not view NGOs in a positive light. Government perceptions of NGOs vary. NGOs involved in service provision have more recognition from the government, while those working to ensure accountability and transparency in governance face resistance. Human rights NGOs are seen as being in opposition to the government.

Most NGOs have constitutions, rules and regulations, but in most cases these are not observed or put into practice. The Companies and Allied Matters Act of 1990 provides the basic standards of operation for NGOs that are registered. However, there is no monitoring of these standards and no record of how much NGOs self-regulate. NGOs have not been able to develop internal regulatory mechanisms, and have opposed attempts to institute a government body that would monitor self-regulation. Only leading NGOs publish their annual reports.

RWANDA



Capital: Kigali

Polity:
Republic

Population:
11,055,976 (July 2010 est.)

GDP per capita (PPP):
\$900 (2009 est.)

NGO SUSTAINABILITY: 4.5

The NGO sector in Rwanda started to formalize in the 1980s. According to a joint donor-government assessment report in 2008, registered local NGOs numbered 2,000. The NGO Law of 2002 is undergoing revision and the draft law, which NGOs participated in developing, is now in the upper chamber of parliament.

The growing tendency for NGOs to engage the government on policy issues has led to a rising call for NGOs to be more transparent and well organized with properly functioning governance and management structures. Accountability of NGOs is now the talk of all NGO and political leaders and they are working hard to set management standards. Several donors have sponsored projects to strengthen NGOs.



NGOs obtain fees for services rendered, receive contributions from members, and engage in other income-generating activities. The proportion of locally generated income is insignificant compared to funding from foreign donors. This creates a high rate of staff turnover, poor infrastructure, and failure to acquire necessary skills. It also creates obstacles to specialization, constituency building, research and advocacy.

A civil society platform at the national level is made up of fifteen umbrella organizations, which represent around 730 local NGOs. This platform is independent from government influence, but some stakeholders perceive it as government controlled, mainly because the platform is still in its initial stages with few professional staff that can engage the government on policymaking.

LEGAL ENVIRONMENT: 4.0

The registration process is favorable to NGOs, but quite cumbersome because an NGO must start from the grassroots administrative unit (the sector) and then proceed to the district and national levels. Registration is completed at the district and ministerial levels, but an organization first has to get clearance from lower administrative levels. The law is clear on the registration process, but implementation can be challenging due to regulations imposed by local and central government authorities. NGOs have proposed amendments to the NGO Law to ease the registration process, which have been included in the draft NGO Law that has been approved by the lower chamber of parliament and forwarded to the upper chamber of senators. The draft NGO Law also proposes an NGO registration board.

Internal management, scope of permissible activities, financial reporting, and dissolution of NGOs are well detailed in current legislation. At times regulations, such as the requirement for NGOs to seek approval from lower administrative levels in order to register, may conflict with the law, or implementation is not in accordance with its terms. These issues can be addressed in the courts. There is no direct state control over NGOs and NGO dissolution is done through the courts.

NGOs and their representatives are allowed to operate freely within the law and they are generally free from harassment by the central government, local governments, and tax police. Some isolated cases of harassment have been recorded, especially at local levels, when NGOs have criticized political authorities.

Lawyers at national and local levels can give legal advice irrespective of their lack of specialization in NGO law. This legal advice is more easily accessible in cities than in the rural areas.

Some restrictive conditions affect tax exemptions and incentives for NGOs. At times a concerned ministry may give an NGO a certificate of tax exemption, but the revenue collection office refuses to allow the exemption on the grounds that the NGO does not demonstrate clearly how the good or service is going to benefit citizens.

NGOs can earn income from the provision of goods and services and are at times allowed to compete for government contracts, especially if they can prove their expertise in a given domain.

ORGANIZATIONAL CAPACITY: 4.7

Most NGOs are weak in constituency building. They change their operational areas to follow donor priorities. They do not specialize and their activities at times overlap. They design projects to obtain funding without consultations with beneficiaries.

Most NGOs have a clearly defined mandate, vision, mission and objectives, which they rarely adhere to. Some of them have strategic plans that are overly ambitious and unrealistic considering the resources required to implement them. Organizations do not stick to their strategic plans, especially when they fail to obtain funding to implement them. Instead they find themselves running after funding opportunities offered by donors. These strategic and operational plans are not owned by beneficiaries, whose levels of participation in planning processes are very low. NGO decision making is not based on strategic planning techniques.

Management structures are clearly defined within NGOs. In some NGOs, the boards of directors interfere with the staff in day to day management. Responsibilities between staff and the board sometimes overlap,

causing conflict within an organization. Openness and transparency are at a very low scale within most NGOs and they hardly adhere to their core values.

There is a high rate of staff turnover resulting from failure to employ and pay permanent staff. Most NGOs' staff is employed on a project basis and the moment the project is closed, the staff allocated to these projects has to leave. Human resources practices are present on paper, but very hard to practice. Most NGOs rarely employ professional staff, such as accountants, primarily as a result of limited resources. There is no spirit of volunteerism and the level of volunteering is insignificant or absent in most NGOs.

As a result of limited financial resources, technical advancement moves very slowly. Donors that are willing to provide institutional support are very few and consequently human and material support is also on a minimal scale.

FINANCIAL VIABILITY: 5.3

Although NGOs receive contributions from members, funding from local sources is insignificant. Very few NGOs obtain payments from services rendered in the form of consultancies or have income-generating activities. The major source of funding for NGOs is foreign donors. The cost of living is quite high, with high levels of poverty, so most of the population struggles for survival. The culture of philanthropy has yet to be developed even among those who have the capacity. Sources of philanthropy are insignificant, with the exception of some faith-based organizations, which both receive contributions from their followers as well as provide for their beneficiaries.

Some NGOs have several donors. Most NGOs are funded through projects and their viability depends on the duration of the project. When the project ends and is not renewed, the NGO faces the threat of closure. Late disbursement of donor funds can paralyze NGOs' operations. Most donors fund projects; few NGOs receive institutional support from donors. NGOs engage in membership outreach, but philanthropy programs are rare. Fundraising is limited to designing projects that may attract donor funding and responding to calls for proposals.

Few strong NGOs have sound financial management systems with accounting software and qualified financial managers. Some NGOs operate in a transparent manner with internal and external financial audits. No single NGO has ever made public its annual reports with financial statements. NGOs do, however, produce such reports before their general assemblies, donors, and responsible government authorities, such as the Ministry of Local Government, which is responsible for overseeing NGO operations.

Certain NGOs that provide specialized services generate some income. Other NGOs engage in income-generating activities such as owning small- and medium-scale enterprises and renting out buildings. Although such activities are not a common practice, they are not prohibited. In rare cases governments contract NGOs that have demonstrated a high level of expertise. Membership-based organizations collect dues, although there are times when members are reluctant to pay or unable to pay regularly.

ADVOCACY: 4.0

At local levels NGOs and policymakers meet in Joint Action Development Forums (JADF). JADF operate at the local government level and are coordinated by local authorities, but are still independent. Some local officials consider JADF as an implementing organ rather than a venue where ideas can be developed and shared. At the national level there is interaction through sector working groups. Whenever

there is a policy to be discussed, NGOs are contacted and invited to express their views. Government and NGOs rarely conceive or design projects together but sometimes collaborate during implementation.

POER (Programme d'Observation des Elections au Rwanda) was an NGO coalition that was created to monitor elections, and was effective in election observation until the formation of CSEOM (Civil Society Election Observation Mission), a bigger civil society coalition working under the Rwanda Civil Society Platform. PAPG (Programme d'Appui au Processus Gacaca) was formed to monitor the functioning of traditional gacaca courts that were set up to judge genocide crimes. PAPG was also instrumental in raising awareness during the first days of the gacaca courts. NGOs formed these coalitions, which are independent of the government.

NGOs are represented at the Rwanda Economic Social Council that deliberates on social and economic issues before the presentation of policies to the cabinet. The public procurement appeal council has NGO representatives. This council presides on disputes that arise from tender procedures. There is also significant representation and participation of NGOs at the JADFs at the district level, which discuss and take decisions on development issues of the district.

NGOs lobbied to amend the NGO Law, specifically its articles regarding registration, taxation, and membership. In the last six years, NGOs also lobbied on the Land Law, the law on succession on women's rights to property, the enactment of the gender-based violence law, the law on genocide where rape was to be shifted from a third- to first-category crime, abolition of the death penalty, the reproductive health bill, and revision of the Penal Code that punished gays and lesbians. NGOs also successfully lobbied for establishment of the commission to fight against genocide, and for NGO involvement in the budget process. Only one NGO provided input on recent constitutional amendments.

NGOs do not effectively utilize the space that the government provides for NGO engagement. They sometimes fear speaking out or lack skills in research for evidence-based lobbying and advocacy, or lack knowledge of lobbying and advocacy techniques. The government tends to view NGOs as development partners which are not encouraged to express divergent views.

SERVICE PROVISION: 4.0

NGOs provide services in a variety of fields, such as agriculture and livestock, food security, artisanship, development of cooperatives (mainly agricultural cooperatives) and associations, housing, water and sanitation, microfinance, education, vocational training, gender and women's empowerment, health, HIV/AIDS, and the environment. NGO service provision is on a small scale as a result of limited resources and skills. In most cases, NGOs design projects to attract donor funds without making prior consultations with their constituents and communities to assess needs.

NGOs' services have direct and indirect benefits that go beyond NGOs' constituencies. Rarely, information is shared, generally through workshops and reports and to a limited extent through publications. Expert analysis is insufficient due to a lack of human and financial resources.

Depending on the nature of the service provided, NGOs recover service costs by charging fees, but they have little knowledge of market demand or the ability of beneficiaries to pay because market surveys are not made before the provision of services.

Government at all levels recognizes the value of NGOs in the provision and monitoring of basic social services. That is why NGOs' representatives sit on various public councils and commissions. Depending on their expertise, some NGOs win government contracts or grants to provide specific services.

INFRASTRUCTURE: 5.0

There are some intermediary support organizations established by higher institutions of learning, research centers, and private consultancy firms. Some NGOs in the form of umbrella organizations and platforms serve as NGO resource centers. To some extent, these ISOs and centers meet the demands of NGOs, but some skills are not available because these organizations are not quite diversified. Resource centers earn income from services provided through consultancy fees. Services provided include but are not limited to training, skills development, guidance in planning, research, and information sharing and exchange.

There are no grants from locally raised funds, but umbrella organizations re-grant to their member organizations and local NGOs provide grants to implementers. This re-granting is possible only when foreign donors fund these organizations. In some cases umbrella organizations compete with their members for donor funding.

Through umbrella organizations, coalitions, networks and platforms, NGOs share information among themselves. Umbrella organizations, platforms and coalitions are created to address specific interests. Not all NGOs are skilled networkers, however.

Most of the trainings undertaken using local and foreign consultancies and materials are either in English or French. Few members of civil society have the capacity to offer training. Employees of local NGOs carry out local level trainings, especially those dealing with strengthening the capacities of cooperatives.

As long as they provide only “constructive” criticism, NGOs work in partnership with the private sector and government through platforms like the maize and coffee platforms (networks of maize and coffee organizations that bring together the actors in the value chain). NGOs conduct awareness raising, information sharing and mobilization to encourage participation in their networks.

PUBLIC IMAGE: 4.5

There is limited media coverage at the national level and isolated cases of coverage at the local level. Public service announcements are usually channeled through public media instruments. As a result of limited coverage of NGO activities, there is a lack of positive analysis. The media also generally lacks professionalism.

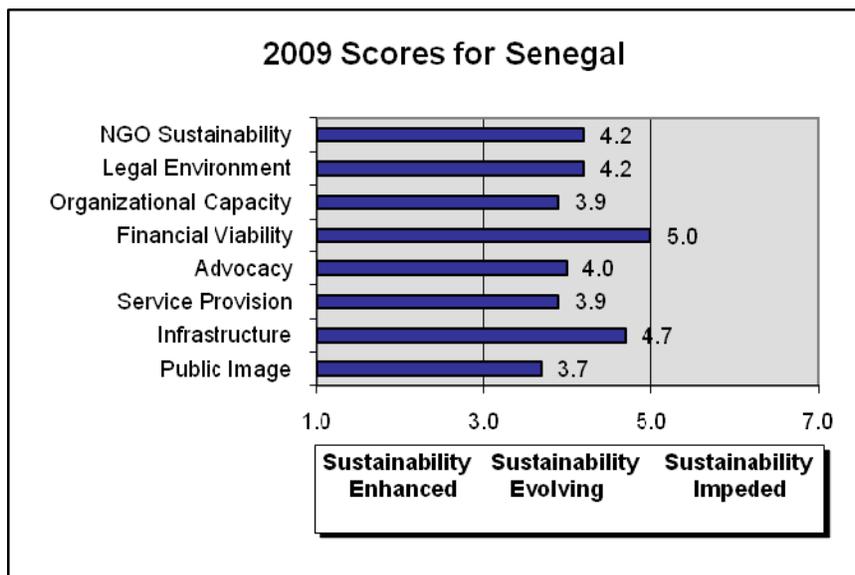
The public has a mixed perception of NGOs; some consider NGOs positively as service providers and the voice of the voiceless, while others view them negatively as future government officials or political opposition, as rich people driving posh cars, or as organizations that advance the concerns of the poor only for their own interests. The concept of civil society in general and NGOs in particular is poorly understood.

While the business sector and local and central government officials view NGOs as partners in development, they also see NGOs as still-weak organizations that need strengthening in both their human and financial resources.

Some NGOs publicize their activities to promote their public image while others do not, depending on the availability of resources and their commitment to publicity. An insignificant number of NGOs have developed relationships with journalists to encourage positive coverage of their activities.

Very few NGOs have internal codes of ethics. Among the few that possess codes, some do not adhere to them and transparency is limited. Annual reports are never published, though they are sometimes shared with other stakeholders.

SENEGAL



Capital: Dakar

Polity:
Republic

Population:
14,086,103 (July 2010 est.)

GDP per capita (PPP):
\$1,600 (2009 est.)

NGO SUSTAINABILITY: 4.2

In Senegal NGOs are involved in activities ranging from providing basic social services to advocating for public policies for more efficient services and lasting development. Threats to NGOs include a growing insecurity related to the legal and regulatory framework, the economic and institutional environment, NGOs' capacity to adapt to technological changes, and the scarcity of institutional support. The mechanisms used to channel development aid and the limits of partnerships with the state and donors increasingly confine NGOs to more of a subcontracting role. Added to these constraints are a weak public perception and the lack of a philanthropic culture geared toward NGOs.

There are 498 registered NGOs, of which 303 are national NGOs, according to the Community Development Directorate (la Direction du Developpement Communautaire).



LEGAL ENVIRONMENT: 4.2

Freedom of association is guaranteed in the constitution. Any citizen who wishes to can initiate the creation of an association in accordance with the Senegalese Code of Civil and Commercial Obligations. NGO status is granted by order of the Ministry of Family Affairs, Social Development and Entrepreneurship based on the nonbinding opinion of an inter-ministerial commission consisting of representatives of various ministries and NGO sector representatives, including CONGAD, an NGO umbrella organization. The commission is under the supervision of the ministry through the Community Development Directorate. At times, misunderstanding or a lack of knowledge related to regulations governing NGOs slows the registration process.

NGOs do not yet benefit from the advantages of a specific NGO law. Decree No. 96-103 governs the creation and the work of NGOs, and the authorities can revoke it at any time. The state can control and terminate an NGO's activities at any moment. In addition, international NGOs that have not signed an agreement with the foreign ministry are subject to evaluations of their funding portfolios, carried out by the Community Development Directorate.

In theory NGOs can work within the framework defined by the law and also have the right to express themselves freely in public debates. In practice, authorities grudgingly accept that NGOs have a critical eye on public policies, particularly in regard to the political and socioeconomic management of the country.

Access to legal services adapted to the needs of NGOs varies. Disparities exist between Dakar, where services are more available, and the regions, as well as among the regions themselves. NGOs that are under the supervision of the Ministry of Family Affairs benefit from tax exemptions on goods and services under programs approved by an inter-ministerial commission headed by a Ministry of Finance representative. NGOs do not benefit from tax exemptions on staff salaries.

NGOs can apply for government procurements in the form of subcontracts, but they are increasingly confronted with competition from private firms.

ORGANIZATIONAL CAPACITY: 3.9

NGOs need to build their capacity to work with constituency groups, as well as to address the diversity and complexity of the requests made to NGOs by communities. In particular, NGOs are in need of support to strengthen their technical capacities in planning, programming, access to new technological resources, mobilization of resources, intervention, monitoring and evaluation, and advocacy.

A growing number of NGOs are basing their interventions and decision-making processes on strategic planning. However, this dynamic is not yet institutionalized.

Many NGOs practice good governance based on the use of procedural manuals and the regular organization of strategic planning sessions, institutional audit assessments and financial audits. Not all NGOs have adopted these good practices, which have emerged as a result of self-regulation or conditions set by technical and financial partners. NGOs do not always have appropriate administrative and financial procedures, and their governing structures are not always based on clear rules and regulations. Breaches sometimes occur in the execution of governance mandates and in the adherence to rules for the renewal of governing bodies.

The growing complexity and expansion of NGOs' public service missions have brought about a restructuring of NGOs' staff. Most employees work on a contract basis. These salaried employees work full or part time and are sometimes supported by volunteers. NGOs that lack institutional support have difficulties keeping their staff.

NGOs are not always able to modernize their equipment due to the shortage of institutional support and donors' increasing reluctance to invest in technology. This limits NGOs' capacities for planning, development, intervention, and monitoring and evaluation.

FINANCIAL VIABILITY: 5.0

The bulk of NGOs' income consists of grants from foreign donors, and to a lesser extent donations and income from service provision. Access to local funding is marginal, even though potential exists for its expansion. NGOs' ability to mobilize local resources requires financial incentives for philanthropy as well as sustained advocacy and fundraising campaigns. There is no mechanism for the allocation of state grants to NGOs. At the community level, NGOs sometimes mobilize resources as in-kind contributions by people involved in projects and programs. Foundations are beginning to work in Senegal but the majority of them are from abroad.

Not many NGOs have diverse funding sources and most of them have only short-term resources. Generally, there is a shortage of resources due to declining donor support. Short-term funding ranges from a period of one to three years. Funding covering longer periods and allowing NGOs to achieve sustainability is scarce. Some NGOs have donors with which they have established partnership relations that allow them to have stable resources on the basis of funding contracts of one to three years. A few NGOs develop fundraising strategies by communicating with their members and communities to generate support for their initiatives, but philanthropy is not yet developed. Communication efforts and advocacy for philanthropy remain weak.

Income from services and products sold by NGOs, as well as members' contributions, remain a marginal part of their funding, but governments and local development projects are increasingly requesting NGOs' services, offering new sources of income.

Some NGOs lack an efficient system of financial management. Due to internal self-regulation initiatives and the desire for transparency, a growing number of NGOs have put into place systems of financial management based on procedural manuals and systematic audits carried out by private firms. Viable management systems with clear procedures and annual audits are necessary conditions for access to important donor funding.

ADVOCACY: 4.0

The government works with NGOs and cooperates with them on some projects, but not necessarily voluntarily. Internal and external factors have an influence on the cooperation between NGOs and the government, notably the will of technical and financial partners to promote citizen participation in the governance of development aid.

NGOs mobilize for local, national and international causes. This mobilization has a positive effect on the development, implementation and follow-up of public policies, strategies and partnership agreements. NGOs engage in lobbying, but not systematically enough to have a significant influence on policy.

Examples of NGOs' advocacy activity include CONGAD's advocacy for measures to address social and environmental concerns in the formulation of the compact for the Millennium Challenge Account. NGOs also participated in national meetings on the charter of democratic governance, and were actively involved in the formulation and monitoring of Poverty Reduction Strategy Papers (PRSPs), which provide a framework for the country's economic and social development.

NGOs have participated in the development of a bill that is designed to abrogate and replace Decree 96-103. They are not yet advocating, however, for a law to promote the efficient development of NGO service provision in different fields of intervention.

SERVICE PROVISION: 3.9

NGOs operate in all fields, but improved planning is needed in order for their interventions to achieve a better geographical and sectoral distribution throughout the country. Within the limits of their capacities, NGOs and associations support community initiatives and address the needs expressed by beneficiaries. NGOs have made efforts to improve service provision on the basis of lessons learned from interventions. NGOs target their publications to diverse audiences.

NGOs recover certain costs for services, but the rate of cost recovery remains weak if one considers the calculation of employees' working hours, wear and tear on NGOs' facilities, and the follow-up that NGOs provide after the end of the contract.

The state, which did not always accept alternative points of view, benefits from the public service mission of NGOs and calls on them for services, but does not support them with allocations of public funds in the form of grants for the implementation of their activities. The state considers NGOs as rivals for access to public aid for development.

INFRASTRUCTURE: 4.7

Permanent resource centers do not exist. Some key organizations and NGOs in the framework of limited programs offer support services such as training, information and advice, but they do not always have the necessary means to supply these services in a sustainable and efficient way. Despite the interest in setting up intermediary support organizations, there is no discussion or deep thought on the subject.

With the exception of SONATEL Foundation, which favors actions directed towards support to state structures, notably in the health sector, the rare community or private Senegalese foundations don't have great capacities for support at their disposal and contribute in a marginal way to funding NGOs.

There are many NGO networks such as CONGAD, FAFS (Federations des Associations Feminines du Senegal), CNCR (Cadre National de Concertation et de Coordination des Rureaux), and FONGS (Federations ONGs). FAFS and FONGS are members of CONGAD. NGOs share information at the internal level among themselves and through a website and periodical news bulletin.

Expertise in the management of NGOs and capacity building exists, but material is not always available in all local languages. Relations between NGOs, universities and training centers are weak. There is also a lack of formal links for the development of curricula devoted to NGOs, and a deficit in access to information and advisory services regarding administrative procedures.

Partnerships exist between NGOs and local enterprises, government and media, but these intersectoral partnerships are not broadly used.

PUBLIC IMAGE: 3.7

The media covers NGOs' activities, notably when they are about democratic governance and public policies, fields in which journalists who consider NGOs credible and fair seek their point of view. Still, more work needs to be done to arouse media interest in NGOs' interventions in terms of local development and the fight against inequities.

Public perceptions of NGOs vary according to location. In Dakar, where most NGOs have headquarters or country offices, there are questions about the roles and missions of NGOs. NGOs are associated with

four-by-four vehicles as opposed to the improvement of the living conditions of disadvantaged communities.

There is not necessarily a positive or negative perception of NGOs by the government and businesses. NGOs are considered to be a strong community resource, or at least close to the community, and have a comparative advantage in terms of the fight against poverty and capacity building for rural populations. When they work with administrative officials, agencies or public services providers, NGOs' staff often need to prove their skills in the field.

Information concerning NGOs and their activities are accessible on the Internet. However, NGOs are not in the habit of promoting their public image and do not make their activities known to the public. There are relations between NGOs and journalists, but NGOs do not always make effective use of these relationships.

NGOs have made considerable efforts to promote good governance and transparency in the framework of their public service missions. NGOs that are members of CONGAD have developed and adopted an ethical code. NGOs need to make efforts to systematize the production and presentation of annual reports to government structures in charge of governance policies.

SIERRA LEONE



Capital: Freetown

Polity:
Democracy

Population:
5,245,695 (July 2010 est.)

GDP per capita (PPP):
\$900 (2009 est.)

NGO SUSTAINABILITY: 4.8

The NGO sector in Sierra Leone has fully embraced the developmental phase that is indicative of the country's position a decade after the war ended. Sierra Leone is focused on developing its infrastructure and industry after five years of post-conflict reconciliation and reconstruction.

There are currently 240 registered NGOs and several thousand unregistered grassroots NGOs and community-based organizations in Sierra Leone. Twenty-eight new NGOs registered in 2009, including three civil society coalitions representing over 1,200 NGOs. The overall number of NGOs has decreased in the last five years as the country has transitioned from the post-conflict to development stage. Many NGOs have merged while those involved in post-conflict work have ceased operations.



While registration is merely a formality, the government applies the requirements for registration strictly in order to ensure transparency and facilitate probity.

Several NGOs have formed coalitions or networks in order to promote advocacy on specific issues and to lobby for particular interests. Several women's coalitions have been leading advocacy campaigns resulting in the implementation of the Domestic Violence Act 2007, the Registration of Customary Marriage and Divorce Act 2007, and the Devolution of Estates Act 2007. The Campaign for Good Governance (CGG), a broad-based coalition of NGOs, has also launched the 30 percent Quota Advocacy Campaign, aimed at greater women's participation in the labor force.

The NGO sector is largely dependent on foreign donors. Service provision by NGOs is subject to levels of funding available from foreign partners. NGO infrastructure is lacking in formalized structures, and NGOs lack basic equipment. Some NGOs have emulated best practices and have restructured both their functions and operations.

While there is much to do to ensure the sustainability of the NGO sector in Sierra Leone, the sector is aware of what is needed and is working towards positioning itself collectively in a sustainable, transparent and accountable manner.

LEGAL ENVIRONMENT: 5.0

The Ministry of Finance and Economic Development published its NGO Policy in November 2009 after a lengthy consultative process with stakeholders in all the regions. While the process itself was not totally inclusive, the government is open to discussion and the NGO community is engaging with the government on several levels to affect needed changes through advocacy, lobbying and discussions. On the whole the NGO Policy is consistent with the working partnership between NGOs and the government.

In general, the legal environment is viewed as somewhat favorable for NGOs. NGOs are able to operate free from repressive government policies and regulations. Registration of NGOs is fairly straightforward. Mandatory registration with the Sierra Leone Association of NGOs (SLANGO) can be completed in a few hours. Optional registration with the Ministry of Finance and Economic Development can take up to three months. Systems are in place for reporting and other communications with authorities, and these will soon come online. The NGO sector in Sierra Leone can be divided into a number of subsectors, namely international NGOs, local NGOs and CSOs.

NGOs do not pay taxes on their income, and once registered they are eligible for tax exemptions on the importation of goods and equipment. Only international NGOs are eligible for exemption from or reimbursement of general sales tax. SLANGO has begun consultations with the National Revenue Authority on extending this exemption to local NGOs.

There is an urgent need to develop laws and regulations promoting financial sustainability of the NGO sector in response to the increasing difficulties encountered in obtaining funding from foreign donors. There are no tax incentives for corporate and individual donations, resulting in a lack of stimulus for domestic philanthropy. Tax exemptions for economic activities would allow NGOs to engage more actively in raising revenues. While NGOs can compete for government procurements and contracts, there are no legal mechanisms for the government to provide grants to NGOs.

Little or no attention has been given to the legal environment for NGOs in Sierra Leone. There are no specific laws for nonprofit organizations. As a consequence there is also a paucity of lawyers specializing in the NGO sector. There is room for considerable improvement in the availability and affordability of legal advice and assistance.

ORGANIZATIONAL CAPACITY: 4.7

NGOs are evolving in terms of professionalism, embracing structure in the planning and implementation of their activities and how they work with partners. Some local NGOs utilize sophisticated strategic planning models, and this is increasingly the norm as organizations acknowledge best practices of the more advanced NGOs.

The NGO Policy requires all NGOs to have a minimum of five paid staff members, but the Labor Law also requires that a member of staff employed for more than two consecutive years be entitled to termination of service benefits. Given the worsening economic situation globally, many NGOs are reluctant to offer contracts exceeding eighteen months, which is proving problematic in developing NGOs' capacity or strengthening institutions. The majority of NGOs in Sierra Leone rely on a small team of paid staff and recruit short-term project teams and volunteers as and when necessary. There has been an increase in volunteering, primarily at the grassroots level, but still few organizations are making the best use of volunteers.

A local NGO, Enhancing the Interaction and Interface between Civil Society and the State to Improve Poor People's Lives (ENCISS), and SLANGO, together with UNDP, UNICEF and DFID, have provided considerable support for capacity building and have had a positive effect on the sector. These organizations have generally helped to increase efficiency, accountability and sustainability through their training and support, but much more is needed, particularly to reach down to grassroots organizations.

Generally speaking, organizational structures in Sierra Leone are weak. Many NGOs do not meet high standards in terms of structure, human resources and capacity. Basic equipment for the smooth running of operations is often absent.

FINANCIAL VIABILITY: 5.7

The economy of Sierra Leone is still very much dependent on donor aid, with a modicum of commercial activity propping up the GDP. Exports tend to be very small scale and the trading economy is not very structured.

Most new NGOs in the country have survived from grant to grant or depended on the philanthropy of a single foreign sponsor. Many NGOs have been formed in the hope of receiving foreign funding for a specific project and when this funding has not been forthcoming, those NGOs have remained largely inactive. Local sources of funding tend to be few and far between, and consist mainly of large corporate sponsors which provide funding in fulfilment of their corporate social responsibility obligations. This funding tends to be ad hoc at best.

Several NGOs are actively raising revenues through service provision, bidding for and in some instances winning contracts from municipalities and ministries to provide services. This is a relatively new phenomenon and still very much in its infancy.

NGOs find themselves in a vicious cycle where they are unable to obtain funds because of poor capacity, and as a result fail to develop capacity to raise or manage funds.

In 2009, the Council for Standards of Accounting, Auditing, Corporate and Institutional Governance (CSAAG) proposed a set of financial accounting standards that have been adopted and will become mandatory for all NGOs effective January 1, 2011. This has given a boost to the sector and also to donors, as it will lend itself to increased transparency and accountability, something that has been lacking to date in the sector. Many NGOs do not have sound financial management systems in place and have little concern for transparency.

ADVOCACY: 4.5

There is an open line of communication between NGOs and the government, and the relationship is cordial. In recent years there has been an increase in cooperation and collaboration, with the government and NGOs undertaking programs jointly, both at local and national levels.

Several advocacy groups have emerged in the course of the last few years with varying focus areas. Many of these have had considerable success in influencing government policy and raising awareness of specific issues, such as implementation of the Domestic Violence Act, the Registration of Customary Marriage and Divorce Act, and the Devolution of Estates Act. In 2009, NGOs succeeded in advocating for the ratification of the UN Convention on the Rights of Persons with Disabilities and the passage of the Youth Commission Bill. The Campaign for Good Governance (CGG) also launched a 30 percent Quota Advocacy Campaign, which seeks a mandatory 30 percent quota of women in all spheres of work. There remains a considerable gap, however, between the work of advocacy groups and the range of policy matters that need addressing. Existing and emerging advocacy groups need to build capacity to sustain their momentum and to enhance the effectiveness of the NGO sector.

The distinct lack of educated and capable development professionals, coupled with a lack of funding, limit the ability and willingness of NGOs to provide policy advice and analysis. NGOs rarely draft concept or policy papers for government submission because of a lack of funding. Notwithstanding, there is a noticeable increase in civil society power and expertise to demand government reforms and accountability. A few think tanks and policy-oriented NGOs provide high quality research on key policy issues, but their activities are not well communicated to the public through the media or through networking and information sharing with other NGOs.

SERVICE PROVISION: 4.2

The government recognizes that NGOs are making considerable contributions to filling the gaps in social service provision, but there are not many contracts available due to the straitened circumstances of the state. As a consequence, some international NGOs like Marie Stopes and MSF charge fees for services and products such as medication and training, but local NGOs rarely charge fees for services to their communities. NGOs' fees are usually heavily subsidized due to the poverty of the target constituents.

NGOs offer a variety of services to communities, particularly in areas such as agriculture, education, health care, social welfare and human rights. Demand for legal services and human rights interventions and protection, particularly in the more remote rural areas, has increased.

Very rarely do NGOs or CBOs identify the needs of the communities they serve directly. The common practice is for these organizations to respond to needs identified by donors or international NGOs. In response to this trend, and driven by NGOs' desire to build partnerships and deliver services needed by communities that historically have been identified primarily by donors, there has been a marked increase in collaboration and cooperation between NGOs, particularly in capacity building, monitoring and evaluation of programs, and technical services.

INFRASTRUCTURE: 5.1

NGOs struggle to build local constituencies but have considerably more success networking. Coalition building and intersectoral partnerships, though largely donor-driven activities funded through specific programs, have been increasing as NGOs wake up to the fact that there is strength in unity and numbers. There is little competition between NGOs; what has emerged in the course of the last few years is an

increase in joint ventures between NGOs and more frequent partnering with other civil society organizations in order to deliver services.

In the whole country there are only three resource centers: SLANGO, the government's Development Assistance Coordination Office (DACO), and ENCISS, an NGO. Under new management since 2007, SLANGO is currently in the process of updating its database of registered NGOs and their activities in cooperation with the Ministry of Finance and Economic Development, and taking steps to reorganize its website and resource centers. With decentralization and the opening up of regional offices funded by UNDP, capacity building training, registration, networking and other support services to NGOs are now available nationally. For many years DACO has been providing the main database on NGO activities. Most of the larger, more established NGOs provide basic training and consulting services, though much of this is in response to foreign donors' initiatives.

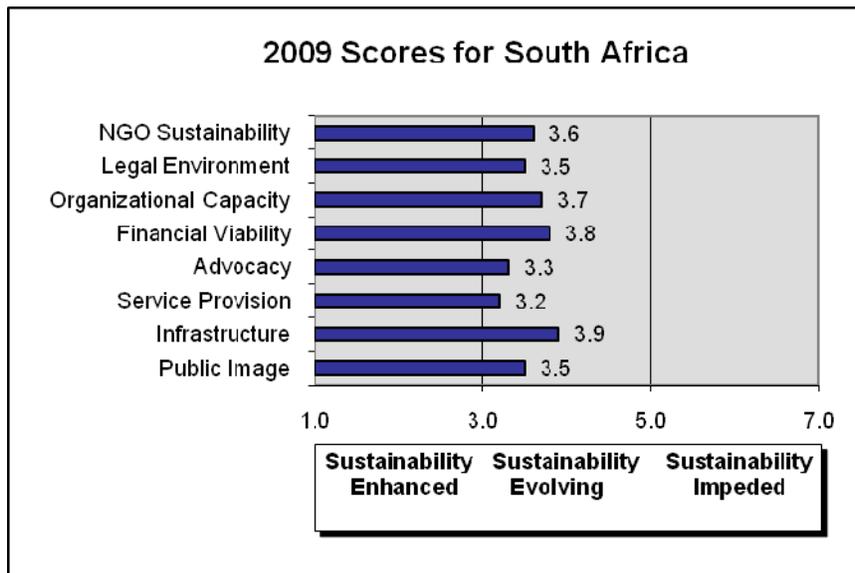
PUBLIC IMAGE: 4.5

Two major actors currently dominate media space in Sierra Leone: political parties and the Anti-Corruption Commission (ACC). Heated debates between the ruling party and opposition in the lead-up to presidential and parliamentary elections in 2012, and the increased visibility of the ACC in investigating and prosecuting corrupt practices, have resulted in a lack of media coverage for other actors or issues. As a result, the overall visibility and perception of NGOs is low.

The media in Sierra Leone lacks professionalism and journalistic integrity. It does not tend to cover NGO activity unless it specifically involves the president, or when journalists are remunerated for coverage. Journalists view the NGO community as a cash cow to be milked at every opportunity. NGOs, on the other hand, are cognizant that the public needs to be educated and that the sector needs to become more transparent. More and more frequently, NGOs are buying airtime on the radio for discussion programs and inviting public participation through phone-ins. There is a need for specialist marketing personnel in the NGO sector, with a greater knowledge of how to attract positive media attention without having to pay for it.

Some local government authorities welcome collaboration with NGOs and enjoy a healthy working relationship with the sector. Yet there are others who view NGOs as destabilizing their communities with their interventions, particularly in the areas of human rights, female genital mutilation, support for female political and traditional leaders in some parts of the country, and sexual and gender-based violence. Sierra Leone has traditionally been a male-dominated society and continues to be so in much of the country.

SOUTH AFRICA



Capital: Pretoria

Polity:
Republic

Population:
49,109,107 (July 2010 est.)

GDP per capita (PPP):
\$10,100 (2009 est.)

NGO SUSTAINABILITY: 3.6

South African civil society is a dense and complicated organism, vibrant but uneven in its development, and in many instances structurally weak. A study conducted in the 1990s by Johns Hopkins University identified approximately 90,000 civil society organizations. Currently South Africa's Department of Social Development has identified 57,636 formally registered NGOs. Particularly at a grassroots level, there has been an expansion of NGOs dedicated to service provision in fields such as home-based care for people living with HIV/AIDS and early childhood development. Some of these are highly developed and complex organizations operating like those in the developed world. However, most NGOs are smaller, more informal and have access to fewer human, financial or other resources.



The civil society sector has a proud history of engagement in broader society, in particular contributing to the fall of apartheid. One of the consequences of the democratic transition, however, has been a weakening of the sector over the past sixteen years. This is due to a number of factors, such as the redirection of international aid from civil society to bilateral government relationships, the loss of human capacity to new government structures or business, and increased movement within the NGO sector itself.

There have been trends towards establishing national funding mechanisms such as the National Development Agency, the Lotto Fund, the Nelson Mandela Foundation and the Southern African Trust (which also funds regional work in Southern Africa).

LEGAL ENVIRONMENT: 3.5

After the first democratic election the new South African government enacted legislation to support the vibrant civil society sector and produced excellent regulations that compare very favorably with other countries. Practice, however, is often different.

For the most part, it is fairly easy for NGOs to register with the Department of Social Development as long as they are aware of the law and the procedures that need to be followed. In numerous instances, however, smaller NGOs are not aware of these requirements and unintentionally run afoul of the law. A small group of organizations use legal professionals; others rely on the knowledge of other NGOs and experienced professionals and are able to complete the registration process with relative ease.

The key challenge for NGOs lies in keeping their registration current with the Department of Social Development through regular reporting and provision of information including annual reports and audited financial statements. Many organizations do not have the human resource capacity to dedicate to this specialized function. The internal capacity of the department also does not lend itself to deeper levels of support. Often registration documents go astray, which affects NGOs that need to register for other important benefits such as tax certificates.

The Non-Profit Organizations Act of 1997 imposes additional requirements in order for an NGO to register for tax exempt status and obtain social welfare fundraising status. These registration processes have become more complex and sometimes require professional assistance, which is beyond the reach of many NGOs and strains their internal administrative capacities. As government ministers make the final decisions on tax exemptions, there may also be political influence. The law facilitates NGOs working towards financial independence, but in practice time-consuming processes, poorly implemented procedures and a lack of knowledge of legal options can exclude NGOs from benefitting from the legal framework.

Political interference in the legal existence of NGOs has occurred in a few instances, such as arbitrary delays in registration or the application of more thorough scrutiny of certain organizations. The broader legal environment and constitutional provisions, however, generally protect NGOs from political interventions by the state. There is evidence to suggest that, particularly at the local government level, many if not most NGOs may be harassed, intimidated and denied access to resources and the political corridors if they critique the state.⁸ The national government in certain instances has attempted to bully NGOs. This can include the selective award of government grants or contracts to NGOs that do not challenge the state and discrimination against those that do. Some of the NGOs that have encountered this behavior, however, have won legal judgements in their favor.⁹

Legal capacity is greater in urban areas, and some legal firms or individuals work with NGOs. No specific NGO legal training exists, however, and young lawyers are unlikely to specialize in NGO law as it is not lucrative.

ORGANIZATIONAL CAPACITY: 3.7

NGOs' formal strategic planning processes are uneven. Developed NGOs may conduct planning annually but it is questionable whether most organizations do so systematically. Many smaller organizations are still in the process of acquiring these skills and may only conduct activities in response to events of the day rather than being driven by missions, objectives or strategic plans. Funding is increasingly available only for regional work, and this influences the choices larger and national organizations make in terms of

strategic interventions. Lack of core funding support also limits the possibility for NGOs to actively build constituencies.

Smaller NGOs do not necessarily focus on good internal governance and managerial development, but more complex organizations are aware of these needs and generally adhere to best practices. Recently it has been difficult to recruit board members from the diminishing pool of skilled people as many individuals prefer to serve in the corporate sector where they earn compensation. The challenge is to find board members who have a proactive interest in protecting and strengthening NGOs. There is general awareness of the King Report on Corporate Governance for South Africa, a national report on good governance published by the Institute for Directors.

The pool of experienced specialists in the sector is narrowing. Although NGOs with a very specific focus may be more able to attract skilled individuals, on the whole the public and private sectors actively recruit these individuals. NGOs often serve as a training ground but do not benefit from their investment in individual employees, even though more complex NGOs pay increasing attention to human resource management. Young graduates tend to use NGOs as a career stepping stone, whereas in the past it was assumed that the NGO sector was the preserve of poorly paid activists.

Historically NGOs may have been at the cutting edge of technology but they are now starting to lag behind the public and private sectors. In urban centers, NGOs have access to technology. In rural areas and at a grassroots level the picture looks slightly different. In general mobile phone penetration is at 92 percent in South Africa,¹⁰ which enables networking or organized action, but rural NGOs' lack of financial resources minimizes the potential effectiveness of mobile technology as a tool for active citizenry. A lack of technological resources particularly affects some sectors, such as the community radio sector, where some studios operate with archaic and minimal systems.

FINANCIAL VIABILITY: 3.8

Many complex NGOs that are reliant on a small core of international donors are in a vulnerable position due to the global economic crisis. While civil society has benefitted from having one of the largest representations of diplomatic missions in the world, this situation may change. European Union budget numbers are being followed closely as they are traditionally the largest source of international funding in South Africa.

There are national and regional indigenous funding facilities such as the Lotto Fund (established in 1997), the National Development Agency (established in 1998) and the Southern African Trust (established in 2005), and private foundations such as the Nelson Mandela Foundation (established in 1999), the Shanduka Foundation (established in 2004) and the Oppenheimer Memorial Trust (established in the late 1950s). The amounts donated, however, are generally less than grants from overseas development agencies and international private foundations. Local funding mechanisms also impose bureaucratic burdens that most NGOs struggle to shoulder.

There is a need for NGOs to diversify their funding sources. Interesting alternatives are emerging such as the Gumboot Foundation, which includes in its basket of income cost recovery for services, business opportunities and donations, and a group of social entrepreneurs.

While some NGOs generate income through the sale of products, most complex NGOs have independent income streams from tenders or consultancy services. Through Black Economic Empowerment (BEE) initiatives, some NGOs have benefitted from shareholding in private companies. This is not a well understood avenue of income generation within the sector, however.

The NGO sector in South Africa receives the bulk of its funding from government (42 percent or R5.2 billion, approximately \$691 million) and a significant portion from self-generated income (34 percent or R4.6 billion, approximately \$611 million). The remaining 25 percent comes from philanthropy, which includes private sector donations (between R2–3 billion, approximately \$262–\$392 million) and the international private sector, including private foundations (R500 million or \$66.5 million).¹¹

Organizations such as Inyathelo, the South African Institute for Advancement, focus on promoting increased philanthropy within the country.

The role of individual contributions is less explored and discussed. A national study conducted by the Centre for Civil Society has found that on average individual South Africans contribute R921 million (\$123 million) per month (this includes cash and time) to charitable organizations or people in need of charitable support, with the poor giving more than the rich.

Financial management systems vary from complex NGOs with sophisticated accounting and financial reporting to smaller, less established NGOs that may not formally report on funds received and where wastage may be prevalent. Registered NGOs are obliged to provide audited financial statements to the Department of Social Development to keep their registration current.

ADVOCACY: 3.3

NGOs are able to engage with the government, although their success varies according to the level of government, sector, personal relationships, and the capacity of NGOs themselves. Legislation provides ample opportunities for NGOs to influence and shape governance and policy. In addition to stakeholder forums, civilian oversight structures and special interest groups are a regular part of the political landscape. NGOs hope that with the advent of the Zuma administration, opportunity for engagement will improve and government willingness to hear the perspective of civil society will increase, with their suggestions incorporated into policy and implementation.¹²

Examples of successful advocacy initiatives include the Treatment Action Campaign (TAC) on various issues related to HIV/AIDS, and the passage of the Children’s Act and the Right to Information Act. There appears to be a trend for coalitions and joint initiatives to focus on specific issues. This has led to NGOs not engaging with each other across sectors, weakening their potential impact on effective and accountable governance. Some organizations such as the Congress for Trade Unions (COSATU) are highly successful in advocacy but, particularly at a local level, most NGOs do not have these skills.

Despite interest in reforms for the sustainability of the NGO sector, the lack of an organized network representing all NGOs results in poor follow-through. A number of initiatives in the 1990s mobilized the NGO sector around legal reform, which led to the legal framework currently in place. Subsequent initiatives to make amendments or changes have not been successful due to a lack of energy and interest within the NGO sector itself rather than government resistance.

SERVICE PROVISION: 3.2

NGOs registered with the Department of Social Development work in a number of fields and provide diverse services. More than a third (37 percent) work in the field of education. Twenty-seven percent work in the field of social services (including economic, social and community development, income support, and employment and training) and are primarily located at a community level. Much of civil society’s work, which is very diverse and across all sectors, is in the provision of services that the government has failed to provide, but NGOs are not well supported in this work.¹³ In cases where service organizations are membership-based, there is a culture of assisting individuals even though they may not

be members of the NGO. Cost recovery processes are not well entrenched in NGO culture as the communities NGOs serve survive mostly under the poverty line.

Organizations generally interact openly with each other and share information, perhaps with the exception of ideas that are still in development.

In general, as most organizations are located at a local level, they are responsive to the needs of communities. There is anecdotal evidence of instances where inadequate research has resulted in NGOs imposing agendas on communities or where communities have been exploited for the benefit of NGOs, but this is not widespread.

INFRASTRUCTURE: 3.9

While there are organizations with resources for NGOs such as trainers, libraries, and websites, many NGOs do not have physical and financial access to these resources as they are mainly located in urban centers. There is a growing trend in the private sector to market capacity building skills to the civil society sector; NGOs in some sectors such as youth development, education, and human rights are better served than others. In general there has been a dip in development within the NGO sector due to a lack of donor funds to support skills development. Government bodies offer training, but NGOs do not generally benefit from these initiatives as they do not contribute to the national skills fund, which is a compulsory tax for the private sector. As mentioned in the Financial Viability section, a number of national and regional foundations provide grants to NGOs.

There are networks within civil society, such as the Poverty Network, but generally very few intersectoral networks and organizations operate within specific fields. During the post-apartheid period, the dynamism and energy of the civil society sector has become sporadic. There has been a shift towards NGOs working independently and protecting their individual niches. The result has been the collapse of what used to be vibrant and strong networks and coalitions that focused on broad structural matters, such as the South African Women's Coalition, the Human Rights Democracy and Peace Education Forum, and the South African NGO Network.

There are still movements to build networks of NGOs at the provincial (federal) level, such as the KwaZulu-Natal Community Based Organization and the Eastern Cape NGO Coalition. New alliances have arisen which focus on specific issues such as the Treatment Action Campaign (focused on the rights of people with HIV/AIDS), the Child Justice Monitoring Network and the Landless People's Movement.

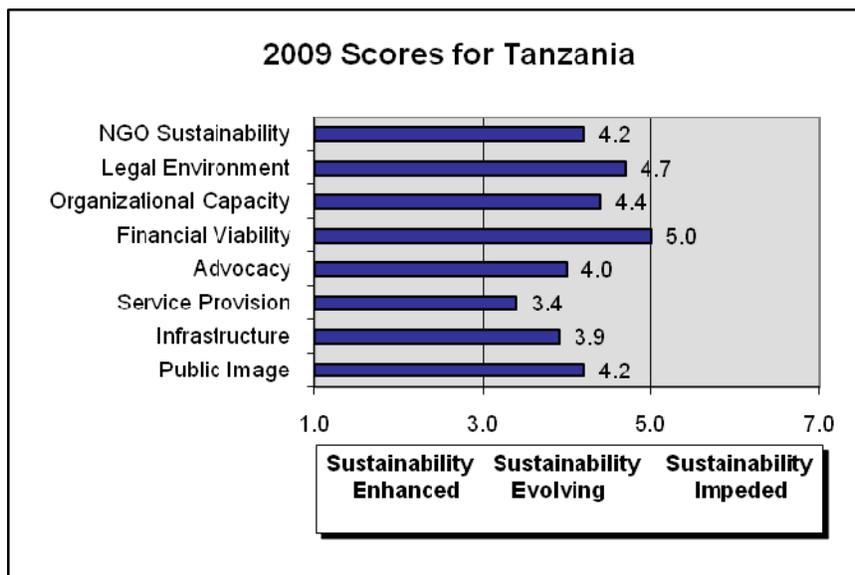
PUBLIC IMAGE: 3.5

Due to the role that NGOs have played in creating democracy and providing services, NGO sector experts generally agree that the public has a good view of the sector. There is not always a good understanding, however, of the role that NGOs play in building a more socially just society. Government and the private sector that have a positive view of specific NGOs may not take the sector seriously overall. There is room for growth in the ability of NGOs to promote themselves in a proactive fashion; not many have specific public relations strategies.

NGOs receive coverage at a local level through neighborhood newspapers in urban centers and community radio across the country. One weekly newspaper, Mail and Guardian, assigns space for regular inserts covering the development sector. In addition, NGO analysts are quoted regularly by the media, although this may be limited to a certain stratum within civil society, such as high-level academics and policy think tanks. In general the reporting is not analytical in nature, although there are training

programs within the journalism community to begin to address this, some of which are run by NGOs such as the Institute for Advanced Journalism and community media organizations.

TANZANIA



Capital: Dar es Salaam

Polity:
Republic

Population:
41,892,895 (July 2010 est.)

GDP per capita (PPP):
\$1,400 (2009 est.)

NGO SUSTAINABILITY: 4.2

According to data from the NGO unit of the Ministry of Community Development, Gender and Children (MCDGC), 3,755 registered NGOs operate in Tanzania. Tanzania began to enter a new phase in the development of NGOs when the state retreated from service delivery during the Structural Adjustment Programs of the late 1980s and early 1990s. The adoption of multiparty politics in July 1992 further accelerated the proliferation of NGOs. Studies show that while both economic and political liberalization have contributed to the numerical growth of NGOs, from a qualitative point of view this growth does not necessarily imply improvement in all aspects of NGO sustainability.

NGO sustainability in Tanzania is still evolving. Sustainability is higher in service delivery NGOs than in advocacy NGOs. Overall, sustainability is lowest in the financial viability dimension and highest in the service delivery dimension.



LEGAL ENVIRONMENT: 4.7

NGOs have little trouble registering and do not suffer from state harassment. They are permitted to engage in a broad range of activities, although taxation provisions, procurement procedures and other factors inhibit NGOs' operations and development.

Both the 1977 Constitution of the United Republic of Tanzania (the Union Constitution) and the Constitution of Zanzibar of 1984 guarantee human rights and freedoms, including freedom of association. Tanzania has a number of very oppressive laws in force, however, some of which interfere with NGO

activity. These include the Police and Auxiliary Police Act, which requires any person who wants to demonstrate or assemble peacefully in a public place to obtain written permission from the police.

The NGO Law of 2002 regulates NGOs. Other laws also apply, including the Societies Act, the Trustees' Incorporation Act, the Companies Act, and the Law of Contract Act. The multitude of laws for NGO registration creates confusion. Apart from the Registrar of NGOs at the Ministry of Community Development, Gender and Children, which implements the NGO Law, the Ministry of Home Affairs registers societies, the Business Registration and Licensing Authority (BRELA) registers companies limited by guarantee, and the Registration, Insolvency and Trusteeship Agency (RITA) registers trustees. The Registrar of NGOs is also the Director of NGO Coordination, an arrangement that creates confusion among NGOs, particularly with regard to registration, coordination and accountability.

The NGO Law does not apply in Zanzibar, where there is no NGO Law to date. In Zanzibar the legal environment for NGOs' operation is also evolving, but it is more constrained than on the Tanzania mainland.

NGOs face red tape and delays in their dealings with the government. Many laws have backlogs, and NGOs are given rights through the front door while the government takes them away through the back door. NGOs and the government engaged in the process of formulating an NGO Policy in the late 1990s. Local NGOs, local government authorities and donors were invited to give their views, and their comments were incorporated into the fifth version of the policy which was later used as a background document for the enactment of the NGO Law of 2002. Coordinated views of civil society stakeholders did not inform other laws related to the NGO sector.

Tanzania is a decentralized country, but legal provisions for NGOs do not differ at the national and local levels. Power and authority over NGOs operating at the district level have now been delegated to the district community development officer. Some argue that this loophole makes it possible for the central government to manipulate NGOs' operations throughout the country. For example, district commissioners are required to allow NGOs to work in their areas of jurisdiction, but often reject NGOs working on rights-based issues. Those allowed to work may be subject to conditions such as being accompanied by local security officials.

Although access to legal aid is available, most lawyers are not conversant with civil society issues. Other weaknesses include low capacity of public agencies to implement the NGO-related laws, competing interests among NGO actors at various levels, and government misconceptions about NGO roles and responsibilities. On the other hand, the government recognizes NGOs as legitimate players in development efforts and in poverty reduction strategies.

ORGANIZATIONAL CAPACITY: 4.4

Some individual NGOs maintain full-time staff and boast an orderly division of labor between board members and staff. NGOs have access to basic office equipment, including computers and fax machines. Leading NGOs have access to funding to strengthen their institutional capacity, even if their efforts to do so may not have reached fruition yet.

NGOs seeking registration are required to prepare a constitution and draw up a set of rules before submitting applications. Many NGOs, however, fail to hold management responsible for mismanagement of funds or lack of financial accountability on the part of boards of directors. NGOs tend to lack operational plans and the formulation of strategic plans is not systematic.

Few NGOs serve their constituencies, often because they implement activities which are not part of their objectives. Local issues are not among the priorities in NGOs' programming. Most donors fund the operationalization of global agendas such as the Millennium Development Goals (MDGs). NGOs end up being more accountable to donors than to their own members, much less to the people they serve.

Internal management capacity is low in some NGOs and high in others. Rural NGOs tend to have fewer competent staff when compared with their urban counterparts. This is a source of concern for service delivery NGOs because most of their interventions are rural based and very few competent Tanzanians are ready to "venture into the bush." Some retired civil servants transfer their management capacity to the NGO world.

FINANCIAL VIABILITY: 5.0

While still largely dependent on foreign donors, local NGOs also experiment with raising revenues through providing services and winning grants from local governments, especially in responding to HIV/AIDS. Other NGOs attempt to attract dues-paying members. The depressed local economy hampers efforts to raise funds from local sources.

NGOs shift their focus from one thematic area to another just to obtain donor funding. Severe budget constraints affect all local NGOs, making them heavily dependent on grants, primarily from Western and Northern European and North American governments and foundations.

NGOs are required to prepare annual reports of their activities and submit copies to the National Council for NGOs (NACONGO) and the Registrar of NGOs. Few NGOs keep audited accounts of their finances, however. Less sophisticated NGOs have little expertise in accounting.

The tax law treats charitable contributions to organizations dealing with poverty alleviation (through delivery of services and provision of credit) and advancement of religion more preferentially than other types of contributions made to other organizations, namely advocacy NGOs. The law distinguishes between types of contributions as well as the types of organizations that contributions are made to. Exemptions are provided for contributions to NGOs engaged in development, maintenance or renovation projects relating to health, education, training, water supply, infrastructure, or other community development projects. NGOs are not exempt from VAT on importation of consumables such as foodstuffs, beverages or spare parts, nor on motor vehicles and motorcycles.

The diversity of funding sources and growing volume of NGO activities have raised the question of tax treatment of the goods and services that NGOs receive, particularly imports. There have been cases of misuse of tax exemptions extended to NGOs. Common practices of abuse include the importation of goods for individual use by NGO leaders or their associates. There are also incidents when businesspeople channel their imports through faith-based organizations in order to evade tax under the guise of serving a charitable cause. The government has been using taxation as an instrument to discipline NGOs that it perceives as troublemakers, especially those that engage in preaching fundamentalist religious ideas.

Many service delivery NGOs charge fees for services they provide and earn income. Some of them, such as education NGOs, plan to collect more revenues by scaling up their services. As for fundraising, many NGOs collect membership fees, but the amount is very low when compared with donor funding.

ADVOCACY: 4.0

NGOs are making strides in advocacy. Narrowly defined advocacy organizations emerge and become politically active in response to specific issues such as gender, human rights and democracy. Advocacy NGOs, however, often present their concerns to inappropriate levels of government (local instead of national and vice versa). The government prefers NGOs that play a complementary role, such as in service delivery. Policy analysis for advocacy work tends to be inadequate.

At the local level, NGOs are monitoring service delivery and use the evidence gathered to influence bylaws, rules and regulations in their areas of jurisdiction. Some service delivery NGOs are also involved in monitoring public service delivery through their network organizations. For example, NGOs running primary and secondary schools are also members of Tanzania Education Network (TENMET), which is the main civil society lobby in education policymaking, planning and budgeting at the national level. Such NGOs are subject to periodic government inspections to determine the quality of education they provide. Pastoralist NGOs formed a parliamentary forum comprised of all MPs representing pastoralist communities.

Advocacy NGOs differ from their service delivery counterparts by having much narrower membership bases—anything from ten to a few hundred members—and are more visible than service delivery NGOs due to their resources and outreach activities. Advocacy NGOs do not generally aim at having a broad membership but rather work for the disadvantaged masses through lobbying, awareness programs and networking with smaller organizations.

Advocacy coalitions in thematic areas are strong. NGOs have been partnering in order to have a common voice on issues concerning not only their constituencies but also the public. Advocacy campaigns tend to be successful when likeminded NGOs join together. Past examples include the NGO campaign for the enactment of the Sexual Offences and Special Provisions Act in 1999. In 2008, civil society litigation led to the High Court ruling that abolished hospitality provided to voters during election campaigns, popularly known in Kiswahili as Takrima.

Despite the restrictive legal environment, most NGOs involved in advocacy have built their capacity to contribute to the formulation of government policy, but it is mainly urban-based NGOs that play an advocacy role. Even among the urban NGOs, Dar es Salaam-based NGOs are more involved in advocacy-related activities than those from other parts of the country. Advocacy is fraught with risks when NGOs question the wisdom and integrity of policymakers. For example, the government issued strong threats and partially banned activities of the NGO HakiElimu, and declined the extension of a collaboration contract with the Women's Dignity Project.

SERVICE PROVISION: 3.4

Many NGOs provide a wide range of goods and services, which reflect community and local donor priorities. NGOs in several sectors have developed a strong knowledge of the market demand for their services. Government bodies, primarily at the local level, recognize the abilities of NGOs and award grants or contracts to enable them to provide various services, but service delivery NGOs do not have reliable sources of funding.

The government's decision to make public-private partnership its official policy in the delivery of public services strengthened the service delivery role of NGOs. The government contracts NGOs for the delivery of public services, especially basic health care, agriculture extension and water supply. Despite regional variation, the NGO sector plays an important role in service delivery all over the country, surpassing state

service delivery in most fields save for primary education. NGOs are subject to routine government inspection to ensure quality services. Many NGOs charge higher fees for services than public entities.

District councils in collaboration with local communities and NGOs provide primary education, basic health care, water, agricultural extension and rural roads. The Poverty Reduction Strategy Paper 2000–2003 identified these priority services, which the National Strategy for Growth and Reduction of Poverty 2005–2010 reinforced. Yet, service delivery NGOs may exacerbate regional inequalities and compromise the government’s poverty reduction efforts. Service delivery NGOs are concentrated in affluent zones such as the Northern, Lake, and Southern Highlands, where many retired civil servants are living, rather than in less developed zones such as the South, Central and Western regions.

While NGOs have a significant role to play in improving local service delivery, the reliance on NGOs for social services brings many challenges. Northern donors, which funded most of these NGOs, have now opted to channel their resources for service delivery through the government budget. Donors are increasingly interested in supporting NGOs that promote accountability of the government and public service providers to beneficiaries, including advocacy as well as activities such as public expenditure tracking surveys.

INFRASTRUCTURE: 3.9

NGO resource centers are active in major population centers and provide services such as distributing grants, publishing newsletters, maintaining a membership database, running a library of NGO literature, and providing basic training and consulting services. Most NGO resource centers are urban-based due to a lack of power in rural areas. Local trainers have the capacity to provide basic organizational training. NGOs such as Foundation for Civil Society organize donors’ forums to coordinate the financial support of international donors. Many donors provide capacity building interventions.

Grantmaking NGOs play an intermediary role between donors and local NGOs. The majority of these NGOs are of foreign origin but local organizations also assume this role. NGOs are also involved in trainings on different topics. Research on Poverty Alleviation (REPOA), for example, provided research-based trainings, while other NGOs are specialized in organizational development. NGO-related information is easily obtained online.

Networks exist at the national, regional, and district levels and across different sectors such as education, agriculture, and HIV/AIDS. Many advocacy campaigns are conducted through coalitions. Coalitions suffer from internal bickering, however, and networks sometimes interfere with the mandates of their member organizations. The NGO Act created NACONGO as a coordination body of NGOs throughout the country. Civil society actors formed NACONGO but it is underfunded, and has been very weak.

NGO partnerships with the government exist, but primarily in service delivery rather than policy work. Many NGOs working in partnership with the government avoid advocacy.

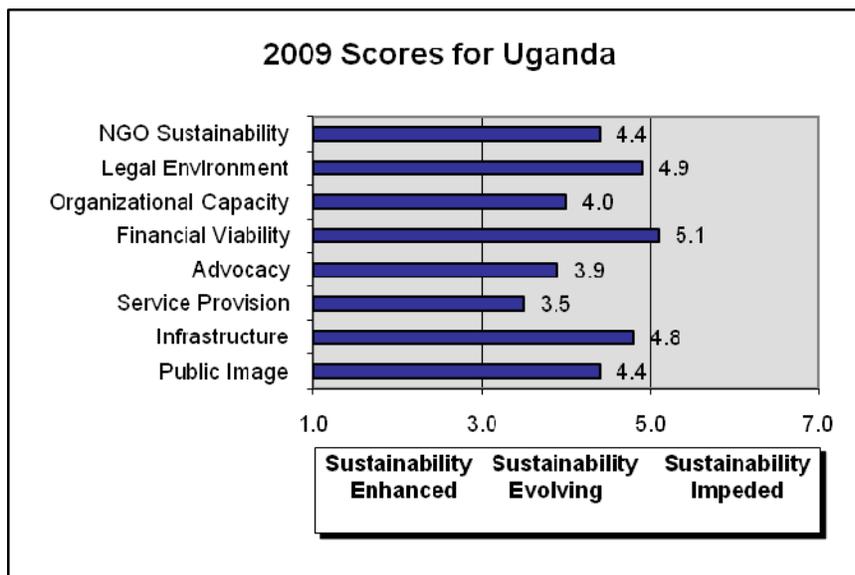
PUBLIC IMAGE: 4.2

The media does not tend to cover NGOs because it considers them weak, ineffective, or irrelevant. Individual NGOs realize the need to educate the public, to become more transparent, and to seek out opportunities for media coverage, but do not have the skills to do so. As a result, the public has little understanding of the role of NGOs in society.

NGOs have increasingly been using media to position themselves in terms of lobbying, advocacy, information sharing and awareness raising. Media now recognize NGOs as a source of news regarding the fight against corruption. FemAct, a network of gender sensitive NGOs, is one of the coalitions that have been vocal in the fight against corruption, including by using the media. The proliferation of media outlets has facilitated NGOs' access to the media; for example, community radio gives NGOs access to populations in remote areas.

NGOs face some constraints, however, when they wish to use the media for their advocacy work. Media access depends on the subject matter and its newsworthiness. Effective media coverage is too expensive for many NGOs. The government has been using the newspapers, radio and television to manipulate public opinion, including running a smear campaign against "troublesome" NGOs.

UGANDA



Capital: Kampala

Polity:
Republic

Population:
33,398,682 (July 2010 est.)

GDP per capita (PPP):
\$1,300 (2009 est.)

NGO SUSTAINABILITY: 4.4

The NGO sector in Uganda is young and growing. A 2004 study found that the age of the average Ugandan NGO was eleven years. From a little more than 200 NGOs in 1986, the official NGO Registry at the Ministry of Internal Affairs shows that by the close of 2009, there were 8,385 registered NGOs. This statistic may not fully capture the real size and scope of the sector. Surveys conducted in 2002 and 2008 suggested that only between 15–30 percent of NGOs that register go into operation. It is also likely that some NGOs operate without registering due to the cumbersome registration process or other reasons.

The NGO sector in Uganda is an important contributor to the country's health and well-being. NGOs work in a multitude of sectors, with the highest concentration in education and training. While historically predominant in the service delivery sphere, from the mid-90s several NGOs became active in advocacy, policy lobbying and rights work. In practice the operating environment for NGOs in Uganda is reasonably tolerable. The key external constraint to NGOs' work is inadequate funding, while internally there are concerns over internal governance and management challenges.



LEGAL ENVIRONMENT: 4.9

The legal environment for the establishment and operation of NGOs in Uganda, which is governed by the NGO Registration Act Cap 113 as amended in 2006 and its attendant NGO Regulations of 2009, has become increasingly more restrictive. The registration process is very bureaucratic, centralized and cumbersome, especially for smaller NGOs. There are several ambiguous terms in the law, which also confers excessive administrative discretion to the NGO Registration Board and the Minister of Internal

Affairs to deny registration. Some provisions in the law are very regressive. For instance, one section of the 2009 NGO Regulations, an administrative instrument to guide implementation of the NGO Act, requires NGOs to provide seven days' advance notice in writing to local authorities before making direct contact with residents of their area.

For over a decade NGOs have engaged in lobbying and advocacy for more progressive NGO legislation, with very little return. The underlying problem seems to be the attitude behind the law, which is discernible whenever state officials are challenged about its provisions. In 2007, NGOs actively participated in developing a national policy for NGOs which they hoped would set the context for revisiting the restrictive aspects of the NGO Act. A draft NGO Policy was completed in 2008 and is considered relatively more progressive than the current legislation, but the cabinet has yet to adopt it.

In practice NGOs are freer to operate than the law suggests, in part because the government and in particular the NGO Registration Board has insufficient capacity to enforce the law. Many government officials, especially at the local level, have scant knowledge of the law. There are generally few cases of administrative impediments to NGO operations beyond the rather cumbersome registration process. State harassment of NGOs and their staff in the conduct of official work is rare, happening occasionally when the state believes that NGO work touches on politically sensitive issues. An NGO in Soroti in Eastern Uganda, for instance, was the subject of surveillance for its civic mobilization work, while another NGO in Luweero and its staff were threatened when they introduced social audit work that enabled citizens to question the performance of their elected leaders.

While NGOs have identified the need to mount a legal challenge to regressive legislation such as the NGO Act, hardly any lawyers are trained in nonprofit law, and no university courses focus on this topic.

Provisions in the law waive certain taxes for NGOs, such as on vehicles, but in practice very few NGOs benefit because the process to obtain tax waivers is so bureaucratic. NGOs do not pay corporate taxes on grant income. The law provides guidance on the use of earned income from the sale of services by NGOs. The NGO Regulations of 2009 state that profit earned from the sale of goods or services should be "re-invested in the project or as directed by the organization."

ORGANIZATIONAL CAPACITY: 4.0

The overall perception of civil society, especially by those outside of it, is that it is weak and not organically embedded in the social structure. Such a perception, however, obscures the heterogeneity of civil society in Uganda. A 2006 survey by the Development Network of Indigenous Voluntary Associations (DENIVA) revealed that the depth of citizen participation in civil society organizations is quite extensive, in large part because rural life is accompanied by membership in various forms of communal agencies. The same survey observes that extensive participation has not translated into political activism, in large part because of a history of civil strife and repressive regimes. The extent of constituency building is thus minimal. NGOs tend to be formed in response to external factors such as the availability of funding or government policies that emphasize public-private partnerships, such as subcontracting NGOs to deliver services. NGOs are not seen as organic, although a small number of NGOs have historically advocated for the rights of various ethnic and religious minorities, and more recently for the rights of the lesbian, gay, bisexual and transgender population.

Several NGOs today see the importance of having a strong constituency connection and popular citizen support, in part as a response to incessant questions, especially by government officials, about who NGOs represent. A recent focus on work in civic education and other democracy promotion initiatives has conditioned NGOs to deliberately seek to strengthen their constituency bases in an increasingly polarized political context.

Most NGOs have stated missions, objectives and visions, but some rarely reflect them in their programming or practice. The development of strategic plans remains in vogue because often this is an important tool for fundraising. Strategic planning skills and techniques are a frequent focus of organizational development interventions and NGO capacity building. Because strategic planning is often done for fundraising purposes, however, several NGOs, especially smaller ones, suffer “mission creep” in response to shifting donor priorities.

An analysis of staff, management, governance and technical resource issues in NGOs reveals several variations across the sector. Full-time and part-time volunteers account for most of the manpower of NGOs. There are two main types of volunteers in the Ugandan context: those with expertise to make a contribution to NGO work and those that are placed in NGOs mainly for their own learning purposes. The former are often compensated with stipends that are less than prevailing market pay, while the latter usually receive reimbursement for basic costs such as transport and lunch. The sector attracts many educated Ugandans who wish to help poorer and disadvantaged members of society while earning a living. It is common, especially in urban areas, to find relatively well-trained accountants, doctors, lawyers, and IT specialists working for NGOs. NGO offices are often modestly equipped, most of them having electricity, piped water and a telephone connection.

Most NGOs, especially those headed by the more educated elite, have clear management structures and streamlined roles between management and oversight bodies. A survey in 2003 and a follow-up survey in 2008 revealed that 80 percent of NGOs surveyed have some kind of membership, either individuals, organizations or both. The survey also found that most NGOs have oversight committees, with 60 percent having boards of trustees and 77 percent having boards of directors to which NGOs are accountable for programming as well as use of finances. Only 10 percent had neither kind of board. A number of rural and peri-urban-based NGOs have less developed management structures with high levels of conflation of management and oversight roles.

FINANCIAL VIABILITY: 5.1

The NGO sector in Uganda is funded primarily by international NGOs and bilateral donors. Grant income is the life and blood of many NGOs, representing over 86 percent of total revenues, according to a 2008 study. The same study found that 20–25 percent of total NGO funds are from donations (almost entirely from international donors), just over 10 percent from business income, and 10 percent from membership fees. There are large variations in funding across NGOs, with a few NGOs attracting most of the funding.

While a few NGOs at the national and district levels are generally considered financially stable and are able to diversify their funding sources in the form of business income, membership fees, subscriptions, or income from more than three donors, the majority of NGOs are dependent on one or two donors.

Very little funding for NGOs is mobilized locally, in part because of high poverty levels. While Uganda’s private sector has experienced exponential growth in the last decade, it is still dominated by a few large multinational companies, and even fewer Ugandan companies. What seem to be plentiful are small to medium-sized enterprises struggling to remain afloat. Corporate philanthropy is not widespread, although several companies have corporate social responsibility programs tied to their overall public relations and marketing agendas. Very few NGOs get direct funding for their strategic program work from the private sector. When they do, it is usually for one-off activities or humanitarian work. As a result, constant fundraising remains one of the topmost tasks of the average Ugandan NGO leader. A good fundraiser is often considered a good leader.

Despite the array of services that NGOs provide and existing expertise within the sector, NGOs rarely earn income. For the few NGOs that earn income through membership and user fees, it is often between 2–3 percent of their annual budget.

Funding from donors is almost always accompanied by conditions for proper financial management systems. NGOs that receive large funding from donors are more likely to have sound financial management systems and strict accountability obligations, at least to donors. NGOs with little or no funding, on the other hand, are less likely to have sound financial systems.

ADVOCACY: 3.9

Historically, NGOs in Uganda have been strongly associated with service delivery and a “gap filling” role, especially in light of the breakdown in the state service delivery infrastructure in the 1970s and 1980s. With the re-establishment of state authority in the mid-80s and 90s, service delivery once again became an important function of the state, acknowledged by various actors, especially donors. NGOs’ attention quickly turned to advocacy and governance, in large part because of shifting donor priorities that made advocacy funding readily available, and most advocacy-oriented NGOs were formed in the mid-1990s and later.

Today advocacy and lobbying at different levels of government is a key priority for many NGOs, including service delivery NGOs. According to an NGO sector survey conducted in 2004, over 70 percent of NGOs claimed that they were involved in advocacy or lobbying. A little less than 30 percent said they were not involved in advocacy-related activities. NGOs’ advocacy activities often target the government and thus require a relationship with government. In the survey, 70 percent of NGOs said they were in partnership with a line ministry, the most cited being the Ministry of Gender, Labor and Social Development. There was a level of ambivalence towards government, however, with 60 percent of respondents stating that government helped them in their tasks, but 29 percent indicating that government was both a help and a hindrance to their work.

The NGO sector in Uganda is heavily networked. Approximately 72 percent of NGOs belong to a local NGO network or umbrella organization, the most popular being the National NGO Forum, DENIVA, and Uganda National Association of AIDS Service Organisations (UNASO). Several issue-based coalitions formed to enhance the possibilities of success in advocacy, such as the Uganda Land Alliance, Food Rights Alliance, Human Rights Network, Civil Society for Peace in Northern Uganda, Uganda Child Rights NGO Network, and Anti-Corruption Coalition of Uganda (ACCU). The successes of these coalitions vary. NGO coalitions working for peace in Northern Uganda have been successful in generating national support for the peace talks, which, while inconclusive, have resulted in dividends. The same effort has led to the enactment of important legislation and policies such as the Amnesty Act and the Internally Displaced Persons Policy. The work of anti-corruption NGOs has led to the enactment of several anti-corruption laws by parliament.

Key challenges to assessing the impact of advocacy coalitions are attribution, as many other actors make a contribution, and the inability of the state to fully implement laws and policies, such as in the field of corruption.

NGOs have generally been active in advocating for legal reforms, targeting parliament and district councils. Some of the most protracted legal reform advocacy efforts have targeted laws concerning the operation of NGOs. For instance, since 1999 the Coalition on the NGO Bill (CONOB) has lobbied parliament for reform of NGO legislation. While this effort was intensive, success was only modest, with the NGO Registration Act Cap 113 as amended in 2006 not significantly reflecting NGO proposals. NGOs have proceeded to challenge the constitutionality of this legislation in the Constitutional Court.

Other targets of NGOs' legal reform efforts include elections-related legislation, review of family laws, and even the constitution, with modest success.

SERVICE PROVISION: 3.5

Historically, service provision has been the mainstay of a majority of NGOs, in large part because of the history of state failure. NGOs provide a wide range of services to communities in Uganda, ranging from health services, education, emergency and relief services, and provision of social protection services to the most vulnerable groups such as orphans, the elderly and people with disabilities. NGOs also engage in agricultural extension services and training in skills for livelihood support at the household level. Another form of service is information and civic empowerment.

NGOs in Uganda have been champions of participatory and community-based approaches. In general, Ugandan NGOs are keen to involve host communities in the actual delivery of services or execution of projects. The main avenue through which NGOs find out the needs of communities they serve is through participatory workshops. In general satisfaction with NGO interventions is relatively high. While levels of NGO-induced participation in decision making vary, there is evidence that community participation in NGO interventions leads to greater satisfaction. NGO service targets are usually defined populations because funding is often available for specific target groups. However, where information, research and civic empowerment work is concerned, NGO services typically reach out to other clientele, not narrowly confined to pre-targeted communities. A good example is NGO research, which is available to students, academia and other researchers.

The concept of cost recovery is fairly well known in the NGO sector, but rarely do NGOs set this out as a major goal or even attempt to understand the demand for their services. The exception is microfinance work. In large part this is because NGOs' clientele are generally unable to pay for their services and also because donors heavily subsidize NGO costs. A few NGOs sell books and publications, but this rarely covers the costs incurred in any meaningful way.

Overall, the relationship between NGOs and government is characterized by collaboration. The government generally acknowledges the contribution of NGOs, especially in service delivery, considering them to be complementing government work. In some cases the government contributes funding to NGO work, most notably in health and education where annual allocations are provided to support NGOs (usually faith-based) to run health and education facilities, and more recently in the area of microfinance. This positive outlook is usually reflected in national policy and in the work of selected line ministries. At the local government level, however, the reality is slightly different. Local governments are not adequately resourced themselves and so can hardly support NGOs. In some cases they are resentful towards NGOs, seeing them as competitors who direct resources away from government and are better paid for doing the same job.

INFRASTRUCTURE: 4.8

The NGO infrastructure in the country is fairly extensive, with an NGO presence in almost all regions. Where they exist, NGOs' offices often double as places where information is readily provided for various end users. The main services provided are information on official government policy and other national and international news. NGOs largely provide services at no cost because their resources are usually targeted at disadvantaged groups. There are relatively few fully fledged, professionally managed NGO resource centers. There is therefore a large unmet need for support among NGOs all over the country, with training support usually available only in the capital. While a few capacity and organizational development support services are available through organized consortia such as the National District

Networks Support Programme (NDNSP), demand often outstrips available resources and outreach. Limited funding also reduces the extent to which NGOs specializing in training can reach out. Such programs tend to be donor-dependent.

Grantmaking is a relatively rare occurrence and almost all existing grant agencies, even when administered by NGOs, are closely linked to donors. A relatively new development has been the creation of basket funds, usually made available by consortia of donors for specific purposes. Examples of these include the Human Rights Fund earlier administered by the Human Rights Network and the HIV/AIDS Basket Fund of the Uganda AIDS Commission (a quasi government agency), which largely re-grant donor money. The extent to which such funds are responsive to needs is dependent to a large extent on the donors that support them. Recently a local grantmaking agency, the Independent Development Fund (IDF), was formed with the idea that it will grow to be a solid, Ugandan-managed agency. At present, however, its main contributors are bilateral donors who greatly influence what it does.

As noted, the NGO sector is heavily networked. There are several sectoral, thematic, issue-based networks as well as more broad-based national networks and platforms. Eighty percent of NGOs associate with a membership organization; members are predominantly individuals, although membership of NGOs in other NGOs is also a common phenomenon. The effectiveness of these networks is varied, but the fact that they continue to proliferate is a possible indication that they serve a purpose. The main service derived from networks is information, conferences and connection to opportunities for further networking or to potential partners. Training is another important function that NGO networks carry out. Often national membership organizations develop training services in response to their members' needs. Training is either done by professionals from within the NGO sector or is outsourced. The impact of training is not well documented because follow-up is rare.

PUBLIC IMAGE: 4.4

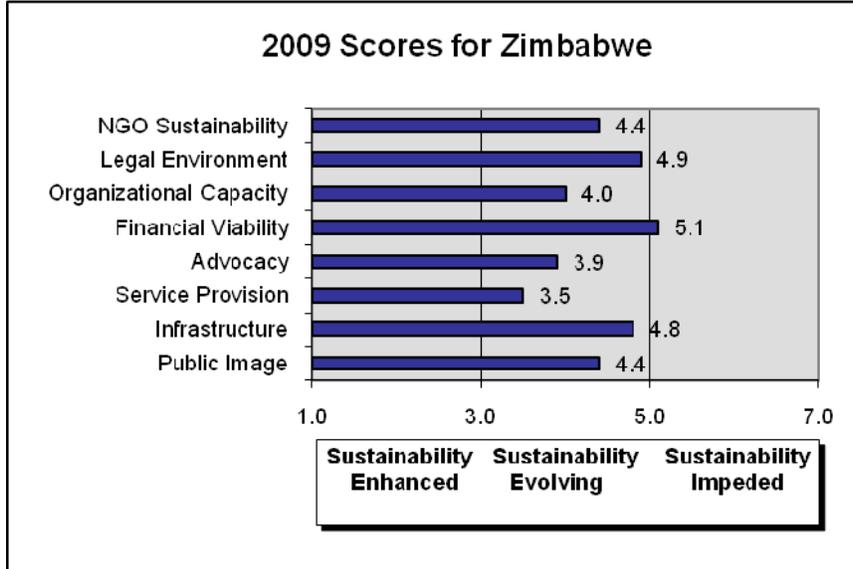
The public image of NGOs is relatively positive compared to other public and private sector institutions. A number of surveys by NGOs and independent bodies show that Ugandans trust non-state institutions such as churches and NGOs more than government institutions. Often NGOs tend to identify niches which other development actors do not emphasize. They also tend to work in areas and on issues where state capacity, interest or incentive is low, such as in conflict areas. By the very nature of this work, beneficiary communities are often appreciative of the little that NGOs provide.

Media coverage of NGOs' work is rather poor. By the very nature of the media and its preoccupation with entertainment, coupled with the negative bias in media reporting, positive work by NGOs only occasionally gets into the media, and NGO work is often not considered newsworthy. In 2009 a few media houses, most notably the state-owned New Vision and The Independent magazine, initiated special features on the contribution of NGOs to national development, but did not sustain this as the media outlets did not consider it commercially viable. A lot of news on NGOs in the print media is generated and paid for by NGOs themselves at market rates. A good number of NGOs also pay for airtime on radio. In a few cases, NGOs are accorded free airtime; this is more common at the district level. Most NGOs cannot afford to pay for media space.

The government perception of NGOs tends to vary on a case by case basis. The government generally speaks fondly about NGOs involved in service provision, but rarely openly acknowledges the work of NGOs in policy and governance, beyond occasional official rhetoric. NGOs do not feel especially concerned about the private sector because they currently do not benefit much from businesses. On the other hand, the private sector generally doesn't find much value in cooperating with NGOs except in a few selected instances where cooperation directly supports their public relations drives or corporate social responsibility agendas.

As part of an effort to enhance their public image, but also in response to strong moves to regulate the sector by the government, NGOs under the auspices of the Uganda National NGO Forum and DENIVA initiated a self-regulatory mechanism called the NGO Quality Assurance Certification Mechanism, popularly known as the QuAM. The QuAM builds on several NGO codes of conduct and attempts to strengthen an NGO sector-wide effort toward public and constituency accountability by promoting NGOs' adherence to generally acceptable ethical standards and operational norms. The QuAM has been praised by several NGOs and the government, the latter acknowledging it in the NGO Regulations of 2009 and the draft NGO Policy currently before the cabinet.

ZIMBABWE



Capital: Harare

Polity:
Democracy

Population:
11,651,858 (July 2010 est.)

GDP per capita (PPP):
Less than \$100 (2009 est.)

NGO SUSTAINABILITY: 4.8

According to statistics obtained from the Ministry of Public Service, as of 2009 there were approximately 5,000 NGOs in Zimbabwe. The exact figures are unknown because some organizations operate without registration both nationally and at the community level as a result of the stringent rules of entry into the sector and continued threats of closure. In addition, the legal environment remains highly restrictive despite the formation of an inclusive government in February 2009.

NGOs in Zimbabwe are evolving and have potential to grow, particularly in advocacy. They have successfully formulated initiatives which have influenced national processes, such as the Save Zimbabwe Campaign Initiative, the Broad Alliance Initiative, and the Civic Society Independent Monitoring Mechanism of the Global Political Agreement. NGOs provide a variety of services and adequately respond to the needs of communities; for example, NGOs responded to the cholera outbreaks and conducted public education on the constitutional reform process. NGOs also employ highly capable individuals who receive training in their areas of expertise. The uncertainty in the operating environment and lack of adequate financial resources, however, has impeded the growth of the sector. Coupled with this is the fact that most organizations, particularly those which are community based, lack adequate infrastructure because donors prefer funding programs as opposed to purchasing buildings and other tangible resources.



LEGAL ENVIRONMENT: 6.1

Registration of NGOs is a long and unclear process. Three different ministries provide three types of registration: a trust, registered under the Ministry of Justice (as the administrator of the Deeds Registries

Act under the High Court); a private voluntary organization (PVO) registered with the Ministry of Social Welfare; and a memorandum of understanding (MOU) where organizations wishing to work regionally and internationally register under the Ministry of Foreign Affairs, or even with the particular ministry that works in the sphere, such as health or local government. Registering as a trust is a less cumbersome process than registering as a PVO. Changing from a trust to a PVO is very difficult. When registering as a PVO, NGOs must provide a police clearance, curriculum vitae of board members, and district clearances (obtained from largely partisan district administrators). Registration is not guaranteed and can be denied. Appeal processes are equally cumbersome. The absence of rule of law in Zimbabwe further impedes the process. Authorities request bribes to register organizations and edit the trust deeds to suit their interests.

The registration of NGOs is also marked by uncertainty. The government attempted to enact an NGO law in 2007 which would have introduced more stringent registration procedures, including a ban on NGOs registered as trusts. Considering the volatile political environment, this would have primarily affected organizations perceived as opponents of the government. There are still fears that the government might enact the law, which could lead to the suspension of activities of NGOs operating as trusts. (When organizations operate as trusts there is less interference in their work by the government and less oversight by the parent ministry for NGOs, the Ministry of Public Service and Social Welfare.)

NGOs are also vulnerable to dissolution, as the state dictates developments in the sector. In June 2008, prior to the presidential runoff elections, the government suspended operations of all NGOs, including humanitarian NGOs, as a result of increased government suspicion that NGOs were engaging in political activities. The then-Minister of Public Service and Social Welfare Nicholas Goche ordered volunteer organizations to suspend operations until the end of August 2008—a move aimed at all NGOs but primarily affecting humanitarian organizations, which need the cooperation of the government in order to operate in rural areas. Advocacy organizations also ceased operating out of fear of reprisals in the volatile atmosphere.

NGOs perceived to be hostile are constantly at odds with the ZANU PF party, which controls the state security apparatus. In February 2010, an NGO, the General Agriculture and Plantation Workers Union of Zimbabwe (GAPWUZ), was raided and the leadership forced into exile for releasing a documentary on the land invasions which started in 2000.

Restrictive laws such as the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) hinder operations of NGOs by curtailing fundamental freedoms of expression, association and access to information.

Donations and grants are not taxed, although proceeds from income-generating projects are subject to value-added tax. When importing vehicles, PVOs are exempt from payment of duties, which trusts must pay. Even those NGOs which conduct humanitarian work and must travel often are required to pay road taxes (toll gate charges). When a funder buys a vehicle for a local NGO, no taxes are paid, although taxes are charged during transfer of ownership. When an organization has proof of a donation of goods, it is expected to acquire a rebate letter to show that it is exempt from taxation by the revenue authorities.

ORGANIZATIONAL CAPACITY: 4.5

Over the past decade, NGOs began moving away from their missions and became driven by donor demands. Larger NGOs, which are mostly urban-based, have mission statements and carry out yearly strategic planning workshops. Additionally, most have management structures, operational standards and manuals. The same cannot be said for community-based organizations, which often operate without proper management structures.

Audit and information technology experts are hired on a consultancy basis. Equipment such as vehicles, heavy-duty printers or printing presses is difficult to acquire. Donor organizations' funding has tended to be programmatic rather than institutional. Program funding tends to have a short-term focus and does not usually cover the purchase of buildings and large capital expenditures such as motor vehicles.

Owing to the funding dynamics of NGOs in Zimbabwe, most employees are on short-term contracts which run for three to six months. Larger organizations offer employees one-year contracts which are renewable depending on the availability of funds. Volunteers are difficult to find, especially for humanitarian and service delivery organizations, owing to the economic instability in the country. The lack of financial resources has limited NGOs' ability to enhance human capacities in the NGO sector. The capacity and quality of staff in NGOs has also been undermined by brain drain from the NGO sector. As a result of the formation of the inclusive government, the NGO sector lost staff to the government and the Movement for Democratic Change (MDC). The brain drain which affected Zimbabwe from the onset of the economic crisis has also affected the NGO sector, with key individuals within civil society moving to regional and international organizations. The donor community has also drained some skilled labor from the sector.

Another factor which has affected NGOs is "founder's syndrome," where founding members of NGOs remain involved in their operations, affecting the growth of ideas among the new crop of leaders. Local organizations, particularly in the humanitarian sector, are used as subcontractors, limiting internal capacity as NGOs become dependent on the institutions through which resources are being relayed.

FINANCIAL VIABILITY: 5.9

No local support exists for NGOs due to the economic turmoil which has characterized Zimbabwe since the late 1990s. The available funding is mainly from international donors, which are diverse. Despite the existence of a pool of funders, the global financial crisis resulted in the depletion of funds, with some donors cutting down their funding by more than 400 percent. Additionally, since the establishment of Zimbabwe's inclusive government, funds have dwindled as donors are mostly funding government initiatives, including the constitutional reform process.

Some donor agencies including USAID do not directly fund local humanitarian organizations, choosing to work through international NGOs like CARE International or World Vision. NGOs do not receive funding from the government, as it does not have any financial resources.

Most organizations, including community-based NGOs, have annual audits, as this is specified in the PVO Act and is also a prerequisite for funding. Although member-based organizations collect dues, most members are unable to pay because of the economic problems that affect Zimbabwe. Examples of organizations which successfully charge dues are Christian Care and Media Institute of Southern Africa (MISA).

Research-based organizations such as the Southern Africa Political Economy Series (SAPES) carry out consultancies and produce publications, which are sold both locally and regionally.

ADVOCACY: 4.5

The past ten years witnessed an increase in advocacy in response to the worsening political environment. NGOs developed initiatives to address the political challenges in the country, such as the Christian Alliance's Save Zimbabwe Campaign and the Broad Alliance. These initiatives were coordinated platforms where civil society organizations united to carry out actions meant to move the democratization

agenda forward. They also involved opposition political actors, and were responsible for carrying out joint advocacy initiatives that included but were not limited to prayer rallies, community advocacy meetings, demonstrations, and international lobby and advocacy initiatives. The brutal disruption of a prayer rally in 2007 led to the arrest and assault of opposition party and civil society leaders, which ultimately resulted in the call for negotiations between the MDC and ZANU PF under the leadership of the Southern African Development Community (SADC). These negotiations led to the Global Political Agreement which was signed on September 15, 2008, giving birth to the inclusive government formed in February 2009.

Local governments are more professional compared to the central government, which is more intolerant towards NGOs and considers them primarily as stooges of the West. With the establishment of the inclusive government, parliamentary committees are more receptive to information from NGOs and are creating an enabling environment for engagement. There is improved interaction between government officials and NGOs, although due to the mixture of progressive and retrogressive elements within government, some officials are cooperative while others remain highly skeptical of NGOs.

The relationship between NGOs and government is also dependent upon the sector represented. Women's groups, for example, are working well with the Ministry of Women, Gender and Community Development on women-related initiatives. In the social services and humanitarian sectors, there is greater cooperation than in the political field. The Ministry of Health and Child Welfare adopted a report compiled by the Community Working Group on Health (CWGH) on the revitalization of primary health care and modeled policies on the recommendations in the report.

SERVICE PROVISION: 3.4

NGOs in Zimbabwe provide services but have been affected by the lack of financial resources. NGOs' product line diversified as donors appeared to be dictating programs over the past decade. NGOs provide a mix of services in all sectors, including social services, economic development, and governance. The government sees the value of NGOs, particularly in the social services sector, and works closely with them.

NGOs in Zimbabwe, including faith-based NGOs such as Catholic Relief Services and Christian Care, have adequately responded to the needs of the populace. Since Zimbabwe's humanitarian crisis began, NGOs have provided communities with food, medicines and educational materials. Zimbabwe is currently facing food shortages, with 2.2 million people needing food aid in 2010.¹⁴ Social services organizations have responded to food shortages by providing food aid to affected areas. In 2008, social services organizations responded to the decay of both the health and education sectors by providing alternative services. When Zimbabwe faced a cholera outbreak in 2008 and early 2009, social service NGOs provided water purification tablets for residents, drilled boreholes and provided care for patients, resulting in the containment of the disease, which killed more than 4,000 Zimbabweans.

During the constitutional reform process which started in 2009, governance organizations including Crisis in Zimbabwe Coalition, Zimrights, and Zimbabwe Civic Education Trust (ZIMCET) have provided much-needed civic education on the constitution, which the government is not providing.

In executing their mandates, NGOs provide services to communities which are outside their memberships, particularly when providing humanitarian assistance and when conducting community outreach meetings. Reports produced by NGOs are marketed to other organizations, donors and constituencies free of charge. However, research organizations usually charge fees for their reports.

INFRASTRUCTURE: 5.0

Resource centers are mostly available in urban centers, and include NGO-run centers such as the Zimbabwe Women Resource Centre and Network (ZWRCN), Legal Resources Foundation (LRF), Zimbabwe Lawyers for Human Rights (ZLHR), National Association of Non-Governmental Organisations (NANGO) and Justice for Children Trust (JCT). These resource centers mostly serve these organizations' members and are mostly in urban areas, especially Harare, although 70 percent of the population is in rural areas. The materials that centers provide are in English as opposed to the local languages used mostly by the rural populace. Some foreign-sponsored libraries such as that of the British Council have foreign resources which do not respond to the needs of Zimbabweans. Rural-based resource centers are mostly "buildings without resources."

Local foundations and organizations including the Youth Empowerment Trust (YET) and Culture Fund re-grant international donor funds to local organizations. Communication channels between NGOs are poor, as there is mutual skepticism and suspicion.

PUBLIC IMAGE: 4.5

NGOs are covered extensively in the media, particularly in the private and online media. The public media, which is highly biased in favor of ZANU PF, covers social service NGOs in a positive light while governance organizations are denigrated. Although there is some favorable coverage, both the public and private media tend to misrepresent and sensationalize facts. The polarization within Zimbabwe's media landscape leads to the selective coverage of NGOs.

The public understands the role played by NGOs, but the negative image presented by the public media has resulted in the public perception that NGOs are rich and sometimes misuse funds. Local businesses also believe that NGOs already have financial resources, resulting in their unwillingness to contribute meaningfully to NGO initiatives.

NGOs provide up-to-date information to government officials, who have minimal access to the Internet or any other resources. CWGH provides information to the Ministry of Health and Child Welfare. There is greater interaction between the government and NGOs on a technical level as opposed to the political level.

Under the PVO Act, it is mandatory for PVOs to submit annual reports on their activities. Organizations which are either registered as trusts or are unregistered also produce annual reports which they distribute to donors, associates and networks. Most CBOs cannot afford to publish annual reports, although they gather information on their annual activities.

Annex A: Statistical Data

2009 NGO SUSTAINABILITY INDEX SCORES

COUNTRY	Legal Environment	Organizational Capacity	Financial Viability	Advocacy	Service Provision	Infrastructure	Public Image	NGO Sustainability
EAST AFRICA								
Burundi	5.8	5.9	5.9	4.6	4.5	5.6	4.4	5.2
DRC	5.0	4.9	5.6	4.5	4.5	5.2	5.0	5.0
Ethiopia	6.1	5.1	5.8	5.8	5.0	5.3	5.1	5.5
Kenya	4.7	3.9	4.8	3.8	3.5	3.7	4.3	4.1
Rwanda	4.0	4.7	5.3	4.0	4.0	5.0	4.5	4.5
Tanzania	4.7	4.4	5.0	4.0	3.4	3.9	4.2	4.2
Uganda	4.9	4.0	5.1	3.9	3.5	4.8	4.4	4.4
Average	5.0	4.7	5.4	4.4	4.1	4.8	4.6	4.7
WEST AFRICA								
Gabon	6.0	5.5	6.1	5.3	5.1	5.1	5.0	5.4
Ghana	4.0	3.9	5.7	4.0	3.8	4.7	4.3	4.3
Guinea	5.5	5.8	6.2	5.7	5.1	5.7	4.9	5.6
Liberia	5.0	4.8	5.8	4.3	4.4	4.8	4.7	4.8
Mali	3.7	4.1	5.7	4.1	3.6	4.9	4.5	4.4
Nigeria	5.0	4.7	5.6	3.9	4.2	5.0	4.0	4.6
Senegal	4.2	3.9	5.0	4.0	3.9	4.7	3.7	4.2
Sierra Leone	5.0	4.7	5.7	4.5	4.2	5.1	4.5	4.8
Average	4.8	4.7	5.7	4.5	4.3	5.0	4.5	4.8
SOUTHERN AFRICA								
Angola	6.0	5.7	5.9	5.5	5.3	5.7	5.4	5.6
Mozambique	4.8	5.4	4.9	4.5	4.0	5.1	4.9	4.8
South Africa	3.5	3.7	3.8	3.3	3.2	3.9	3.5	3.6
Zimbabwe	6.1	4.5	5.9	4.5	3.4	5.0	4.5	4.8
Average	5.1	4.8	5.1	4.5	4.0	4.9	4.6	4.7

COUNTRIES RANKED BY SCORES

LEGAL ENVIRONMENT

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.5
Mali	3.7
Ghana	4.0
Rwanda	4.0
Senegal	4.2
Kenya	4.7
Tanzania	4.7
Mozambique	4.8
Uganda	4.9
DRC	5.0
Liberia	5.0
Nigeria	5.0
Sierra Leone	5.0
SUSTAINABILITY IMPEDED	
Guinea	5.5
Burundi	5.8
Angola	6.0
Gabon	6.0
Ethiopia	6.1
Zimbabwe	6.1

ORGANIZATIONAL CAPACITY

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.7
Ghana	3.9
Kenya	3.9
Senegal	3.9
Uganda	4.0
Mali	4.1
Tanzania	4.4
Zimbabwe	4.5
Nigeria	4.7
Rwanda	4.7
Sierra Leone	4.7
Liberia	4.8
DRC	4.9
SUSTAINABILITY IMPEDED	
Ethiopia	5.1
Mozambique	5.4
Gabon	5.5
Angola	5.7
Guinea	5.8
Burundi	5.9

FINANCIAL VIABILITY

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.8
Kenya	4.8
Mozambique	4.9
Senegal	5.0
Tanzania	5.0
SUSTAINABILITY IMPEDED	
Uganda	5.1
Rwanda	5.3
DRC	5.6
Nigeria	5.6
Ghana	5.7
Mali	5.7
Sierra Leone	5.7
Ethiopia	5.8
Liberia	5.8
Angola	5.9
Burundi	5.9
Zimbabwe	5.9
Gabon	6.1
Guinea	6.2

COUNTRIES RANKED BY SCORES

ADVOCACY

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.3
Kenya	3.8
Nigeria	3.9
Uganda	3.9
Ghana	4.0
Rwanda	4.0
Senegal	4.0
Tanzania	4.0
Mali	4.1
Liberia	4.3
DRC	4.5
Mozambique	4.5
Sierra Leone	4.5
Zimbabwe	4.5
Burundi	4.6
SUSTAINABILITY IMPEDED	
Gabon	5.3
Angola	5.5
Guinea	5.7
Ethiopia	5.8

SERVICE PROVISION

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.2
Tanzania	3.4
Zimbabwe	3.4
Kenya	3.5
Uganda	3.5
Mali	3.6
Ghana	3.8
Senegal	3.9
Mozambique	4.0
Rwanda	4.0
Nigeria	4.2
Sierra Leone	4.2
Liberia	4.4
Burundi	4.5
DRC	4.5
Ethiopia	5.0
SUSTAINABILITY IMPEDED	
Gabon	5.1
Guinea	5.1
Angola	5.3

INFRASTRUCTURE

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
Kenya	3.7
South Africa	3.9
Tanzania	3.9
Ghana	4.7
Senegal	4.7
Liberia	4.8
Uganda	4.8
Mali	4.9
Nigeria	5.0
Rwanda	5.0
Zimbabwe	5.0
SUSTAINABILITY IMPEDED	
Gabon	5.1
Mozambique	5.1
Sierra Leone	5.1
DRC	5.2
Ethiopia	5.3
Burundi	5.6
Angola	5.7
Guinea	5.7

COUNTRIES RANKED BY SCORE

PUBLIC IMAGE

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.5
Senegal	3.7
Nigeria	4.0
Tanzania	4.2
Ghana	4.3
Kenya	4.3
Burundi	4.4
Uganda	4.4
Mali	4.5
Rwanda	4.5
Sierra Leone	4.5
Zimbabwe	4.5
Liberia	4.7
Guinea	4.9
Mozambique	4.9
DRC	5.0
Gabon	5.0
SUSTAINABILITY IMPEDED	
Ethiopia	5.1
Angola	5.4

NGO SUSTAINABILITY - COUNTRY RANKINGS

SUSTAINABILITY ENHANCED	
SUSTAINABILITY EVOLVING	
South Africa	3.6
Kenya	4.1
Senegal	4.2
Tanzania	4.2
Ghana	4.3
Mali	4.4
Uganda	4.4
Rwanda	4.5
Nigeria	4.6
Liberia	4.8
Mozambique	4.8
Sierra Leone	4.8
Zimbabwe	4.8
DRC	5.0
SUSTAINABILITY IMPEDED	
Burundi	5.2
Gabon	5.4
Ethiopia	5.5
Angola	5.6
Guinea	5.6

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- ⁴ For example, the 1960 Civil Code of Ethiopia and the Association Registration Regulation of Legal Notice No. 321 of 1966.
- ⁵ Dessalegn Rahmeto in *Ethiopia : The Challenge of Democracy from Below* (see note 2), p. 107.
- ⁶ The company Rougier Gabon received a forest concession numbered 32 near Mingouli Falls in Ogooué Ivindo, not far from the Ivindo River. The company has given up the exploitation of this concession under pressure by NGOs and after negotiations with the administration.
- ⁷ CIVICUS Civil Society Index, Nigeria, 2007.
- ⁸ For example, the Abahleni NGO experienced police harassment; the Privatisation Forum was banned from meetings for wearing t-shirts; and the Soweto Electricity Crisis Committee experienced intimidation and exclusion from meetings.
- ⁹ Examples of successful NGO lawsuits include *Government of the Republic of South Africa and Others v Grootboom and Others* which secured some access to government-provided housing, and *TAC versus the Minister of Health*, which gained access to HIV/AIDS medication.
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