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UGANDA LAW SOCIETY

PRESENTED BY:

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PREVENTION OF CORRUPTION IN THE JUDICIARY

**INCREASING INVOLVEMENT AND AWARENESS IN THE LEGAL PROFESSION
ON ANTI CORRUPTION ISSUES IN UGANDA**

A case study of the ULS PTF Project September 2008 to December 2009

1.0 INTRODUCTION

When the NRM Government came to power in 1986 it promised a sweeping reform on economic political and social changes. Institutions such as inspectorate of government, public accounts committee of parliament and recently the anti-corruption court were established to curb corrupt tendencies. Despite all these corruption has remained endemic in Uganda, Uganda is currently ranked 2nd most corrupt country in east African bribery index and 112 in the world by transparency international. The recent east African index ranked the judiciary as the 6th most corrupt out of about 31 government agencies, instances of corruption are prevalent among the lower judicial officers and support partly explained by variation in salary and the increasing moral decay, greed and loss of integrity and professionalism that is affecting the Ugandan society including the senior government officials. This state of affairs has greatly affected the economic and social development of the country calling for serious and effective intervention in countering the vice of corruption, promote good governance and restore peace, security and economic development.

2.0 Institutional background

ULS is the National Bar Association of Uganda, established in 1956, currently with over 1,200 members. It's statutory objectives among others include: *“to maintain and improve the standards of conduct and learning of the legal profession in Uganda; to protect and assist the public in Uganda in all matters touching, ancillary or incidental to the law, and to assist the Government and the Courts in all matters affecting legislation and the administration of Justice and practice of law in Uganda.”*

3.0 Project background

In August, 2008 Partnership for Transparency Fund approved a grant of \$25,000 to the Uganda Law Society to implement a project on ***Enhancing the Capacity of Lawyers and the Public in Uganda to Promote Accountability***. The project aimed at empowering the lawyers, CSOs, Members of Parliament, public servants and all communities to embrace accountability and fight corruption in Uganda.

The project ran from September 2008 to December 2009.

3:1 Objectives of the project

The project Objectives were to:

1. Identify gaps in current anti-corruption laws and regulations and suggest solutions to inform legislative reform;
2. Identify ways in which the legal profession can promote good governance;
3. Monitor the proceedings of the new Anti-Corruption Court (ACC) and to provide technical assistance at the bar;
4. Constitute a multi-stakeholder Legal Experts Committee (LEC) to provide technical legal assistance to existing anti-corruption initiatives; and
5. Catalogue and document developments within the anti-corruption arena at national, regional and international forums to benefit from best practices

4.0 Project implementation (experiences, achievements, lessons and challenges)

4:1 Activities undertaken

In implementation of this initiative ULS positioned itself as a central coordinating resource for civil society anti-corruption activity in Uganda. The summary of the key activities and outputs of the project were:-

a) Review of the Anti-Corruption laws and regulations and documentation

- During the first months of the project, ULS undertook an independent analysis of the legislative and policy framework for combating corruption in Uganda, through identification of gaps in current anti-corruption laws and regulations and provided input to the process of formulation of a new legal framework to combat corruption. ULS provided expert comment to Parliament on the draft Anti-Corruption Bill (passed into law in August 2009) and the Whistleblower's Protection Bill of 2008.
- A compilation of a collection of national and international anti-corruption laws was done and a resource information centre on corruption laws set up in the ULS legal resource centre thereby providing resource information to the legal fraternity and other key anti - corruption institutions.

b) Monitoring the proceedings of the new Anti-Corruption Court (ACC)

The Anti-Corruption Court was established by the judiciary as a separate division of the High Court to handle corruption related matters and began operations in February 2009.

- As part of this project, ULS monitored the proceedings of selected cases and, after the first seventy days, produced a report summarizing its opinions on the achievements and challenges of the ACC.
- In June 2009, the ULS Executive Council and Senior officers met with the Chief Justice and several members of the ACC to discuss their findings and make recommendations to improve the efficiency of the court. As a result of this meeting, the Uganda Law Society was appointed to sit on the Court Users Committee, and thus positioning the institution to participate in enhancing the operations of the court. It was at this meeting that the society lobbied for increase in the judicial officers manning the anti-corruption court a recommendation that was first tracked by the judiciary leading to appointment of more magistrates.

c) Constitution of the Legal Experts Committee on Anti-Corruption

In April 2009, the ULS Executive Committee formed a multi-stakeholder Legal Experts Committee (LEC) to provide guidance on the project and review program team's analysis and opinions. The LEC is made up of influential members drawn from

- Legal Practitioners (Private)
- Directorate of Ethics and Integrity (DEI);
- Inspectorate of Government (IG);
- Director of Public Prosecutions (DPP);
- Ministry of Justice and Constitutional Affairs (MoJCA);
- Anti-Corruption Court (ACC);
- Uganda Police Force;
- Anti-Corruption Coalition of Uganda (ACCU); and
- Uganda Law Society.

The LEC held several meetings and its recommendations were implemented throughout the project period; a highlight of which are here below;

- The project was advised to arrange strategic meetings with key Anti Corruption policy makers to bring to their attention challenges hampering the fight against corruption. To wit a meeting was held with the Chief Justice, the Director of Public Prosecutions, the Directorate of Ethics and Integrity and the Inspectorate of Government.
- The LEC also recommended that the project undertakes field visits to the regional anti-corruption coalitions to gather the local anti-corruption issues, challenges and successes. The Key impact of this was that ULS was able to provide legal back stopping of their corruption investigations and also bring their challenges to the attention of the policy makers who they had previously been finding it difficult to meet.
- Another recommendation of the LEC was to expand its membership to bring on board other stakeholders that had previously not been included such as Police Force, DEI and IGG to ensure a well represented committee.
- It was also a proposal by the LEC that there is need to improve on the visibility of the project activities and the ULS contribution to fighting corruption in Uganda and to which a press briefing was organized during the anti-corruption week.
- Proposed and agreed on the theme and programme for the roundtable discussion on fighting corruption in Uganda.

This group therefore brought to the table a wealth of experience and formed the policy body that oversaw the implementation of the Project This group met several times during the life of the project and has evolved into an anti-corruption think tank, generating policy options for fighting corruption in Uganda and providing technical assistance to anti-corruption initiatives in the country in addition to providing access to senior levels of government

d) Support for regional Anti-Corruption Coalitions of Uganda (ACCUs)

ULS visited five regional anti-corruption coalitions throughout the country, listening to their complaints and offering technical support and information. This was originally outside the original scope of the project, though an important opportunity identified, for instance it is through such interaction that ULS learnt about one of the allegedly corrupt magistrates that had become an ache in his community, and with ULS taking up the matter with the concerned authorities the magistrate was interdicted. Below were some of the benefits and undertakings of ULS in its interaction and support of these CSO's

- ULS was able to appreciate the mandate and operations of the coalitions which enabled the society put forward their concerns to the respective anti-corruption agencies
- Offered technical backstopping through providing legal opinions on cases that were being handled by the regional anti-corruption coalitions. To this end, a total of eight legal opinions were evaluated and forwarded to the coalitions.
- Widened and created linkages with the grassroots organisations through which the project was able to disseminate and share information with the coalitions on anti-corruption developments in the country
- Increased public awareness on the effects of corruption on the economy, to which ULS organized a press conference during the National anti-corruption week.

e) Identify ways in which the legal profession can promote good governance

To achieve the above objective the society organized and held a roundtable discussion on fighting corruption in Uganda, which brought together key stakeholders in the fight against corruption including state and non state actors and the grassroots anti corruption coalitions.

The key recommendations from the discussion included:

- Uganda Law Society should undertake an on spot evaluation of public works that fall below the mark to which end the Society organized an on spot evaluation of the Northern By-Pass (a road that was to be handed over the day following to the Government of Uganda but was alleged to be faulty) the day following which led to increased interest and pressure to ensure that the allegations are responded to and the Parliament of Uganda called for a value for money audit into the same.
- The Ag. Inspector General of Government agreed to increased cooperation between his office and civil society to provide a unified stand against corruption in Uganda.
- Increased advocacy with the judiciary for sentencing guidelines for anti-corruption cases to ensure that the judiciary is effective- ULS has raised this issue in the anti-corruption court user's committee, but it is yet to be adopted although the Office of the IG petitioned the Constitutional court challenging the Provisions for the release of corruption convicts on bail pending appeal; the petition is yet to be disposed of.

The dialogue identified immediate steps that needed to be taken to enhance the fight against corruption. It also made proposals to the Minister of Ethics and Integrity who promised to adopt the proposals.

4:2 Achievement and or impact

Uganda Law society's enjoys a strategic position of trust and influence both by government and the general public. This strength caused the interdiction of the errant magistrate, increased appointments of judicial officer. More to this were the key significant which included among others the Society's ability to monitor the activities of the Anti-Corruption Court and the establishment of the Legal Experts Committee on Anti-Corruption (LEC) which achievements have given ULS good access to senior levels of government and put it in a position where they can influence policy.

The complexity of corruption in Uganda makes it difficult to have an immediate impact. However, during the course of this project, ULS made some important inroads, and positioned itself as a key stakeholder for future anti-corruption work.

The Project achievements that impacted on the legal framework and judicial reforms included

1. Creation of an anti-corruption archive/library;
2. Comments submitted to the Presidential and Parliamentary Affairs Committee on the Anti-Corruption Bill and the Whistleblowers Protection Bill; which were subsequently passed as laws
3. The appointment of ULS to sit on the Court Users Committee and participate in enhancing the operations of the court is a key milestone in influencing the trend of delivery of justice within the judicial realm.
4. Meeting with the Chief Justice, resulting in the appointment of six additional Magistrates to the Anti-Corruption Division of the High Court;
5. The interdiction of the Apac Magistrate who had been alleged to be corrupt;
6. Provision of eight legal opinions to the regional anti-corruption coalitions;
7. Information disseminated to the regional coalitions and the general public that enhanced the public ability to demand accountability and good governance
8. Widening and creation of linkages with grassroots organizations; and
9. Increased public awareness on the effects of corruption on the economy., such as the inspection of the one of the major highways (Northern bypass before it was officially opened

4:3 Key challenges and lessons learnt

a) Challenges

The following were notable challenges that hampered the effective implementation of the project

- Regional coalition dissatisfaction with the Director of Public Prosecutions (DPP) who failed to prosecute cases sent to them by the regional coalitions;
- Lack of understanding of the Anti-Corruption Court and how to access it;
- The need for regular interface between ULS and the coalitions;
- The need for capacity-building in legal analysis and other technical skills; and
- The need for legal backstopping by ULS to help ensure that complaints submitted by the coalition were appropriate and well documented.

b) Lessons Learned

The following are some lessons learnt by the Society during the course of this project.

- There is a need to foster continuous engagement between Government and Civil society in the fight against corruption. ULS is uniquely positioned to serve as a conduit between the regions and the center.
- In order to influence policy and legal reform, CSOs need to be involved right from the start of formulation of laws , once a bill is read in Parliament, there is little room for changes to be incorporated
- Government is willing to adopt proposals from civil society if they are well researched and add value
- When institutions are well facilitated and good infrastructures set up, there bound to be positive results such as the Ant-corruption, whose approach to justice has rejuvenated public confidence to the judiciary.

c) Any opportunities

The following are some opportunities identified during the project life for future impact.

- ULS needs to continue to monitor the ACC. ULS have established their credentials with the Ministry of Justice through Justice Law & Order Sector (JLOS) and in the premises able to offer useful insights. In addition, the Society could track and report on case disposal, documenting how quickly cases are settled and what the outcomes are.
- The efforts of other CSO's provided an intertwined and collective efforts to fight corruption .ULS plans to continue its work with the regional anti-corruption coalitions and other grass root organizations, providing them with training, information and access to the justice institutions. In particular, the coalitions need capacity building in monitoring, evidence preservation and reporting of graft cases in order to be effective. An effective partnership with the ULS will allow them to achieve greater results locally and give them access to valuable support by the Society.
- The Law Society could leverage its access and position of influence to push for greater government action to fight corruption. The Society enjoys a position of influence and, through its Executive Council and the Legal Experts Committee, has access to senior levels of government. They are well positioned to expand their role into the fight against corruption This could include recommending more rigorous penalties for corruption and holding the courts accountable for enforcing existing laws.ULS is a key player in recommending appointment of judges or their removal and this is a niche over the other CSO .An example is judge Anup Singh Choudry a judge allegedly appointed without background

check and later it was discovered that he had gray areas in his practice in the UK, ULS has since called the powers that be to have him removed from the position of the judge. The judicial service commission has recommended to the president the position of ULS, and the decision still awaits the president to act

- The legal framework and anti-corruption structures in place such as the Anti-Corruption Act, Whistleblowers Protection Act etc provides an enabling environment to fight corruption and promote good governance. It is the political will to fight corruption and stop impunity that remains a struggle at all battlefronts.
- The establishment of the Anti-corruption court although still in its infancy has recaptured the public's confidence in the judiciary

Conclusion

The Uganda Law Society Project on *Enhancing the Capacity of Lawyers and the Public to promote accountability in Uganda* was a 15 months project that was well received by both Government and the public as it sought to contribute to the fight against corruption by focusing on the ULS comparative advantage which is the legal aspects in the fight against corruption. It was effectively implanted and provided a platform for institutional learning on how to fight corruption. Appreciation of the mandate and operations of the coalitions which enabled the society put forward their concerns to the respective anti-corruption agencies

THANK YOU FOR LISTENING