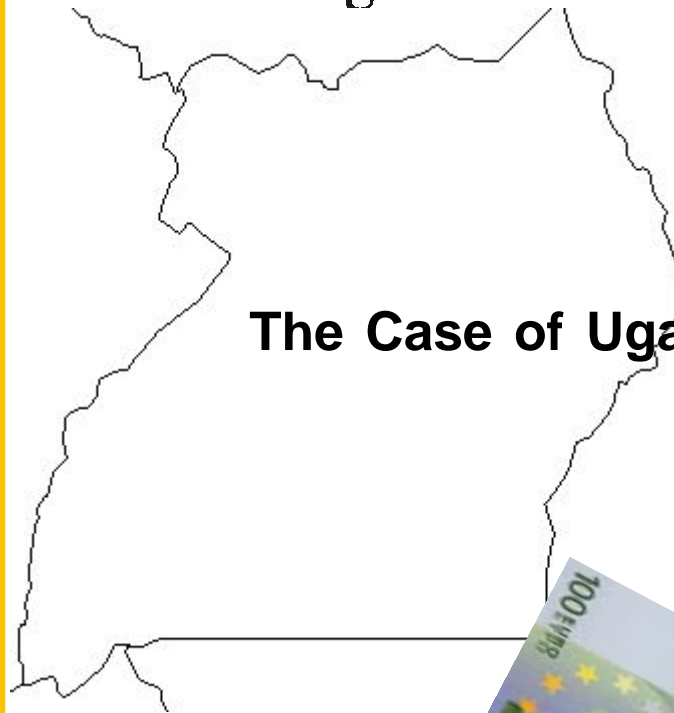


# The Loan Contraction Process in Africa

## Making loans work for the poor



### The Case of Uganda



# **AFRODAD AND CHRISTIAN AID**

## **MAKING LOANS WORK FOR THE POOR IN UGANDA**

### **STUDY REPORT**

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## LIST OF ACRONYMS

ABADEA	Arab Bank for Economic Development in Africa
AES	(A global power generation corporation)
AfDB	African Development Bank
AFRODAD	African Forum and Network on Debt and Development
AG	Attorney General
AGOA	Africa Growth and Opportunity Act (US)
AIDS	Acquired Immune Deficiency Syndrome
CAO	Chief Administrative Office
CBMES	Community Based Monitoring and Evaluation System
CHILD	Community and Home Initiative for Long term Development
CSO	Civil Society Organization
DCC	District Coordination Committee
DPT	Diphtheria
EAC	East African Community
EDF	European Development Fund
EIB	European Investment Bank
EPRC	Economic Policy Research Centre
EU	European Union
GBS	General Budget Support
GDP	Gross Domestic Product
GoU	Government of Uganda
HIPC	Heavily Indebted Poor Country
HIV	Human Immunodeficiency Virus
IBRD	International Bank for Reconstruction and Development (World Bank)
ICSID	International Centre for Settlement of Investment Disputes
IDA	International Development Association
IDB	International Development Bank
IFAD	International Fund for Agricultural Development
IGG	Inspector General of Government
IMF	International Monetary Fund
LGDP	Local Government Development Programme
MDG	Millennium Development Goal
MPED	Ministry of Planning and Economic Development
MTEF	Medium Term Expenditure Framework
MTTI	Ministry of Trade, Tourism and Industry
NAADS	National Agricultural Advisory Services
NEMA	National Environment Management Authority

NGO	Non Governmental Organization
OECD	Organization for Economic Cooperation and Development
OPEC	Organization of Petroleum Exporting Countries
PAC	Public Accounts Committee
PAF	Poverty Action Fund
PCO	Project Coordination Office
PEAP	Poverty Eradication Action Plan
PMA	Plan for Modernization of Agriculture
PRGF	Poverty Reduction and Growth Facility
PRSC II	Poverty Reduction Support Credit II
PRSP	Poverty Reduction Strategy Paper
SAP	Structural Adjustment Programme
SEP	Strategic Exports Programme
SOP	Standard Operating Procedure
UBOS	Uganda Bureau of Statistics
UDN	Uganda Debt Network
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNPAC	Uganda National Programme of Action for Children
UPE	Universal Primary Education

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## **1.0. Introduction and Background to the Study**

The causes of Africa's debt crisis are varied and complex. Most countries of Sub-Saharan Africa have acquired an unsustainable debt burden. In 1985, the external debts of the region stood at \$95 billion. By 1998 this sum had reached a phenomenal \$208 billion. In response to the resultant crisis, the World Bank and the IMF in 1996 succumbed to international pressure to grant debt relief to poor Third World countries – many of them in Africa – with the HIPC initiative. Three years later, as a result of further intense lobbying from civil society to make debt relief more meaningful, a so-called “enhanced HIPC” was announced to make debt relief faster, broader and deeper.

A lot of emphasis has been put on external factors to the negation or belittling of internal factors. Notwithstanding the external factors, it is clear that the causes of the debt crisis in many African countries are also attributable to poor borrowing, debt policy and debt management factors. This problem is also a symptom of poor governance in which the underlying premises should be consensus oriented approval mechanisms, equity and inclusiveness in the use of scarce financial resources, effectiveness and efficiency in the use of financial resources, and accountability.

It is in the light of the foregoing that AFRODAD plans commissioned studies in five selected African countries, including Uganda to critically analyse the role of internal factors in Africa's debt crisis. These studies seek to shade light on the link and contribution of debt management mechanisms to the mounting external debt. AFRODAD believes that if appropriate external borrowing strategies and good internal management of external loan resources were put in place, Africa's external debt would become sustainable. Key to this is the putting up of administrative, institutional and legal reforms to ensure proper management of external loans and project design, implementation and evaluation.

### **1.2 Objectives of the Study**

The overall objective of this study is to ensure that the loans taken by the poor countries are legitimate and serve the basic functions of poverty reduction and development. This objective should primarily be achieved in the short, medium and long term planning of governments of the poor countries. By this objective the study intends to realign the support rendered by international financial institutions to poor countries with the basic needs of those countries.

The specific objectives of the study are to:

- 1 Challenge African Governments and international financial institutions to become more transparent, accountable and inclusive in the loan contraction and debt management process starting from 2004;
- 2 Raise the awareness of anti-debt campaigners, civil society organisations and the general public in Southern and Eastern Africa and the UK, in the course of 2004, on the need to monitor loan decisions and push for or use existing spaces for civil society participation in the loan contraction and debt management process; and
- 3 Strengthen AFRODAD and Christian Aid's partnership to continue collaborating to achieve their collective goals using their respective strengths and resources in advocacy and research.

### **1.2 Rationale for the Study**

The study is premised on the understanding that the procurement, utilization and management of public loans and debts are a national and global issue and, therefore, should be seen to be transparent, accountable, participatory and inclusive. The processes of loan procurement and debt management require legitimacy and systematic planning to be sustainable. By making loans sustainable, governments will

have extra revenue to support their social services and goods for development and enhance their people's welfare and reduce poverty. This study constructs a framework for rationalization of the loan contraction and debt management process in these terms.

### **1.3 Research Methods**

This study is the result of a rapid assessment and intensive study of documents relevant to the subject of the research guided by the Terms of Reference. The process principally comprised a desk review research, with telephone discussions to key and relevant officials in Government, especially Ministry of Finance, Planning and Economic Development, Uganda Bureau of Statistics (UBOS), Economic Policy Research Center (EPRC), Bank of Uganda, as well as donor institutions, especially the World Bank country office. We also tried to search for information on various websites of Government and donor agencies. We made use of the bank of Uganda Library, UDN Documentation Unit.

Unfortunately, accessing information beyond that published and in the public domain was not possible. This is not because the officials are not willing to give information but because of the bureaucracy involved. For instance, getting a copy of any loan agreement from the Ministry of Finance, Planning and Economic Development requires an official letter written to the Permanent Secretary/Secretary to the Treasury, who is the only one who can authorize the release. This can take any amount of time, depending how quickly the letter gets to him and his availability to respond.

## 2 Overview of Uganda's Debt Crisis

Since 1997, Uganda has been a prime beneficiary of the Heavily Indebted Poor Country (HIPC) initiative for debt cancellation. Despite this, statistics show that its external debt status has remained unsustainable, while the demographic indicators continue to look bad. For example, Uganda has:

- A high population growth rate of close to 3 percent;
- An infant mortality rate of 91/1000
- A pupil-teacher ratio of 41:1
- Immunization rates of only 53 percent and 58 percent respectively for DPT and Measles for children below five years of age
- 67.5 percent of the working population being peasants; and
- Life expectancy is as low as 47 percent at birth.

Together, these statistics represent a situation which, when combined with the increasing debt burden, shatters the hope for economic transformation.

Table 1, below, gives a summary of the debt stock ratios for Uganda.

**Table 1 Uganda's Debt Stock Ratios**

	Financial Year			
	2000/1	2001/2	2002/3	2003/4*
Total Goods and Non-Factor Service Exports	676.42	697.28	826.04	1 019.40
Nominal GDP at Market Prices (Ug Shilling billion)	9 991.42	10 247.50	11 812.84	12 263.10
GDP at Market Prices (US \$ Million)	5 667.55	5 840.49	6 273.86	6 015.70
Exports as a % of GDP	8.09	8.12	8.10	10.29
Imports as a % of GDP	-16.82	-18.19	-18.75	-22.71
Total External Debt Stock (end of period)	3 395.20	3 825.21	4 215.52	3 606.30
o/w External Arrears	281.56	0.00	185.40	185.40
Total Debt Stock (end of period) as a % of GDP	59.91	65.49	67.19	59.95
Debt Service (maturities excl. IMF) as a % of Exports	14.86	17.54	17.82	16.87
Debt Service (maturities excl. IMF) as a % of Export of Goods and Services.	10.07	11.92	10.96	10.24
Debt Service (maturities excl. IMF) as a % of GDP	1.20	1.42	1.44	1.74
Debt Service (maturities incl. IMF) as a % of Exports	24.92	24.83	26.70	25.57
Debt Service (maturities incl. IMF) as a % of Export of Goods and Services.	16.88	16.88	16.41	15.52
Debt Service (maturities incl. IMF) as a % of GDP	0.67	0.61	0.88	0.91
Total External Reserves (end of period) in Months of Imports	9.30	10.99	12.14	14.06
Total External Reserves (end of period) in Months of Imports of Goods and Services	6.44	6.63	6.87	7.02

\* Estimate

Source: 2004 Reliable Source in Bank of Uganda (but not yet officially in public domain)

Table 2, below, gives a sample of some loans to Uganda and the interest rates and terms accompanying them. These are just a few of the country's loans but they are representative of a general trend over the recent period.

Table 2 Sample of Loan Terms and Interest Rates

**Table 2 Sample of Loan Terms and Interest Rates**

Loan	Amount	Donor	Payable	Loan Date	Annual Interest	Other Information
Makerere University Capacity Building Fund	US\$ 11 million	IDA, Rockefeller Foundation	40 years time	2003	0.75%	10 years grace period
Financing studies for East African Civil Aviation Project	Euro 292 000	European Investment Bank	2005-2009	2002	1%	Coordinated by EAC secretariat
Protected Areas and Sustainable Use (MTTI)	US\$ 27.13 million	IDA	40 years	2002	0.75%	Wildlife, major component
Budget Support Credit (PRSCII)	US\$ 150 million	IDA	40 years	2002	0.75%	2nd batch of US\$ 600 m loan. 1st batch prior passed
Small Towns Water and Sanitation (Soroti, Sironko and Kaberamaido)	US\$ 9.41 million	BADEA (Arab Bank)	30 years	2003	1%, 10 year grace period	Parliament noted the loan as costly on consultancy, but still passed it
Fisheries Development Project (landing sites)	22 million Units of Account	AfDB	50 years	2003	0.75%	10 year grace period
Northern Uganda Social Action Fund	US\$ 100 million	IDA	40 years	2003	0.75	0.5% commitment fee
Agricultural Modernization Programme	19 million UA	IFAD-9.70m ADF-9.67m	50 years	2003	0.75	HASP loan
Kafu-Masindi Road Upgrading Project	US\$ 8 430 000	ABADEA	30 years	2003	1%	10 year Grace period
CHILD	US\$ 34 million	IDA	40 years	1998	0	0.75 sevicig, 10 year grace period

Source: The Hansards, 7th Parliament

Table 3, below, gives a detailed breakdown of Uganda's debt stock levels throughout 2002 and 2003.

## 2.1 The Relationship between Loans and Grants

Table 2, above, presents a situation where the lengthy loans of twenty years maturity and above are given a grace period of five to ten years. This is part of what the Ministers call 'highly concessional' terms, and leans towards grant status, making the loan look attractive at first glance.<sup>1</sup>

The total grants exceed loans by far, as shown by the reports on Loans and Grants (2002/2003), where average total grants per year were well in excess of US\$ 390 million over the period from 1996-2002, with the biggest creditors for both aid and loans being the multilateral creditors, followed by the OECD bilateral creditors and, lastly, the non OECD bilateral creditors.

## 2.2 Existing Level of Debt Service and Total Expenditure

Records from MFPED projected that the total debt stock as at 30 June 2003 would have risen from the previous year's US\$ 3.785 billion to US\$ 3.90 billion, while actual debt service after HIPC relief amounted to US\$ 61 million.

Table 4, below, shows Uganda's external debt service payments by creditor, differentiating between multilateral (global lending institutions), bilateral (both Paris Club members and non Paris Club) and commercial and bank creditors.

**Table 3 External Debt Stock for Uganda as September 2003 (US\$ million)**

<b>Creditor Country/Organisation</b>	<b>Mar '02</b>	<b>Jun '02</b>	<b>Dec '02</b>	<b>Mar '03</b>	<b>Jun '03</b>	<b>Sep '03</b>
<b>Bilateral Non Paris Club</b>						
China	18.03	18.03	18.04	18.04	18.03	18.04
Tanzania	58.25	58.25	58.25	58.25	58.25	58.25
Korea Rep	4.06	4.36	4.61	4.36	4.75	4.79
Kuwait	25.34	25.48	25.71	25.98	26.04	25.93
Saudi Arabia	16.52	9.65	9.70	14.78	14.66	15.07
Burundi	5.31	5.40	5.49	4.62	5.51	4.52
India	87.21	87.91	84.46	87.02	86.14	86.48
Iraq	6.36	6.17	6.36	6.36	6.36	6.36
Libya	129.64	143.31	134.44	133.11	133.61	134.31
Nigeria	11.49	11.49	11.52	11.53	11.53	11.53
Pakistan	2.18	2.22	2.32	2.35	2.38	2.40
United Arab Emirates	4.94	5.01	5.01	0.00	0.00	0.00
<b>Sub Total Non Paris Club Bilateral</b>	<b>369.35</b>	<b>377.29</b>	<b>365.90</b>	<b>366.40</b>	<b>367.26</b>	<b>367.69</b>
<b>Bilateral Paris Club</b>						
Austria	17.02	19.14	20.29	20.71	22.00	21.93
France	5.88	9.52	9.93	10.35	10.57	10.35
Italy	7.01	0.00	0.00	0.00	0.00	0.00
Japan	47.08	52.13	52.71	0.00	52.23	56.21
Norway	0.83	0.89	0.90	0.86	0.87	0.84
Spain	26.00	24.91	23.24	23.32	34.92	34.04
Sweden	11.89	4.76	4.87	4.63	4.93	4.73
<b>Sub Total Non Paris Club Bilateral</b>	<b>115.72</b>	<b>111.36</b>	<b>111.94</b>	<b>59.87</b>	<b>125.53</b>	<b>128.11</b>
<b>Total All Bilaterals</b>	<b>485.07</b>	<b>448.65</b>	<b>477.84</b>	<b>426.27</b>	<b>492.79</b>	<b>495.80</b>
<b>Multilaterals</b>						
ADB\$ADB	10.19	392.74	10.61	10.08	10.18	9.72
ADF\$ADT	354.58	0.00	396.36	401.93	412.82	419.66
IDA\$IDA	2 315.30	2 472.61	2 594.11	2 615.94	2 878.91	2 917.97
IMF\$INT. MON	269.03	268.66	274.92	254.76	242.32	241.95
<b>Sub Total Multilaterals</b>	<b>2 949.11</b>	<b>3 134.02</b>	<b>3 275.99</b>	<b>3 282.71</b>	<b>3 544.22</b>	<b>3 589.29</b>
<b>Other Multilaterals</b>						
BADEA	11.39	8.26	8.06	7.86	7.78	7.59
European Invest. Bank	41.79	45.13	47.95	46.98	45.64	74.35
Islamic Development Bank	4.62	8.98	8.96	9.01	9.01	9.08
Nordic Development Fund	20.62	21.90	22.47	22.72	24.06	25.33
OPEC Fund	20.64	19.61	21.04	20.03	21.22	20.20
Shelter Afrique	0.11	0.11	0.11	0.11	0.00	0.00
Commonwealth Development Corp	8.00	4.17	8.46	0.00	0.00	0.00
Commonwealth Telecom	2.45	2.45	2.45	0.00	0.00	0.00
East Africa Development Bank	3.02	3.42	3.42	3.51	3.58	3.58
PTA	3.11	3.52	3.58	3.67	3.78	3.81
IFC	1.03	1.09	1.11	0.00	0.00	
IFAD	56.70	60.57	62.34	62.37	63.43	64.33
<b>Sub Total Other Multilaterals</b>	<b>173.48</b>	<b>179.21</b>	<b>189.94</b>	<b>176.27</b>	<b>178.50</b>	<b>208.28</b>
<b>Total All Multilaterals</b>	<b>3 122.59</b>	<b>3 313.23</b>	<b>3 465.93</b>	<b>3 458.98</b>	<b>3 722.73</b>	<b>3 797.57</b>
<b>Private Banks/Other Financial</b>						
Banco Arabe Espanol-Spain	3.59	5.78	0.00	0.00	0.00	0.00
Commonwealth Development Bank	0.98	0.98	0.00	0.00	0.00	
	2.60	4.80	0.00	0.00	0.00	
<b>TOTAL</b>	<b>3 628.30</b>	<b>3 825.21</b>	<b>3 961.44</b>	<b>3 889.84</b>	<b>4 215.52</b>	<b>4 293.38</b>

**Table 4 Uganda's External Debt Service Payments by Creditor, 1998-2001 (US\$ million)**

	1998/99	1999/2000	2000/2001
<b>Multilateral Creditors</b>			
AfDB/F	11.7	10.83	11.4
BADEA	3.31	0.67	1.9
EDF	0.30	0.29	0.1
EIB	1.46	3.18	3.5
IBRD (5)	0.00	0.00	0.0
IDA	27.29	33.61	40.3
IFAD	1.81	1.19	1.2
IMF	59.53	43.45	49.6
IDB	3.49	1.65	2.2
OPEC Fund	2.28	3.02	2.8
Shelter Afrique	0.13	0.08	0.1
Nordic Development Fund	0.15	0.22	0.4
<b>Sub Total Multilateral</b>	<b>110.91</b>	<b>98.20</b>	<b>113.5</b>
<b>Non Paris Club Creditors</b>			
Abu Dhabi	0.00	0.00	0.00
Burundi	0.00	0.00	0.00
P.R.China	6.80	1.89	3.00
Cuba	0.00	0.00	0.00
India	0.00	0.00	0.00
Kuwait	2.80	3.37	3.30
Saudi Arabia	0.70	0.72	0.70
Tanzania	0.00	7.50	
North Korea	9.60	0.38	4.30
South Korea	0.10	0.00	0.40
Other	0.00	0.00	0.60
<b>Sub Total Non Paris Club</b>	<b>29.70</b>	<b>13.86</b>	<b>12.30</b>
<b>Paris Club Bilateral Creditors</b>			
Austria	0.00	0.47	0.5
France	0.00	1.49	1.1
Germany	3.00	0.08	0.1
Italy	0.00	5.30	6.9
Japan	0.00	0.56	0.8
Spain	3.30	5.16	5.1
U.K	0.70	1.64	3.1
United States	0.00	0.11	0.1
Finland	7.50	0.17	0.4
Israel	1.31	0.57	0.2
<b>Sub Total Paris Club</b>	<b>18.08</b>	<b>15.57</b>	<b>18.3</b>
Commercial non Bank	0.00	1.68	0.00
Commercial Bank	0.33	0.96	0.00
Other Category	0.00	3.16	1.80
<b>GRAND TOTAL</b>	<b>152.84</b>	<b>133.43</b>	<b>145.90</b>

Source: MFPED

However, a trend analysis reveals that, since 1999, total debt relief has doubled from US\$ 45 million to US\$ 88 million and, as a result of this increment, debt service has also fallen from 16 percent in 1997/98 to 8 percent in 2002/2003. The ratio of debt service to domestic revenue has been fluctuating, but was projected at 19.7 percent as at the end of June 2003. This indicator does not necessarily mean that debt service is increasing, but rather that it is becoming less sustainable. This has over time been attributed to sharp falls in coffee prices, non-delivery of HIPC relief by some creditors,

and payment of court awards. Uganda's debt burden is projected to become sustainable in 2007, when the ratio of debt service to export of goods and services is estimated to fall to 148 percent from the current 185.5 percent.

National budgeting in Uganda is done as per the pillars of the Poverty Eradication Action Plan (PEAP) in order to ensure poverty eradication, and Government has consistently kept in line with a pro-poor budget by making significant allocations to UPE, salary increments, pursuit of the PMA and establishment of NAADS on a wider scale. The PHC component continues to rise, displaying a further commitment to social welfare. The above has been handled with promotion of strategic investment, with PMA and Strategic Exports Programme (SEP) having been planned for timely funding to improve competitiveness. These features can be seen in Table 5, below.

Table 5: Summary of Government's Budgetary and Financial Operations, 2000/01 to 2002/03 (Billion shillings)

<b>Budget/Financial</b>	<b>2000/01 Actual Outturn</b>	<b>2002/03 Actual Outturn</b>	<b>2002/03 Approved Budget</b>	<b>2002/03 Projected Outturn</b>
<b>Revenue and grants</b>	<b>1881.0</b>	<b>2014.6</b>	<b>2293.8</b>	<b>2269.8</b>
Revenue	1083.5	1253.6	1432.6	1418.3
URA Revenue	1075.2	1212.2	1392.1	1393.0
Other Non Tax Revenue	8.3	41.4	40.5	25.3
<b>Grants</b>	<b>797.5</b>	<b>761.0</b>	<b>861.2</b>	<b>851.5</b>
Budget Support Grants	400.8	397.8	481.9	485.3
Project Grants	396.7	363.2	379.3	366.2
<b>Expenditure</b>	<b>2240.9</b>	<b>2590.9</b>	<b>2745.8</b>	<b>2721.4</b>
<b>Recurrent Expenditure</b>	<b>1131.2</b>	<b>1428.4</b>	<b>1536.3</b>	<b>1596.1</b>
Wages and salaries	434.1	541.5	627.0	610.1
Non wage	486.8	613.9	656.7	703.4
Statutory	87.6	121.1	108.0	103.7
Interest payments	122.7	151.9	144.6	178.9
External	63.9	60.4	71.0	61.1
Domestic	58.8	91.5	73.6	117.8
Development Expenditure	1005.7	1042.5	1133.5	1081.8
Donor projects	661.1	578.0	632.2	627.2
Domestic	344.6	464.5	501.3	454.6
Net lending and investment	-26.1	4.8	-24.0	-12.9
Domestic arrears payments	130.1	115.2	50.0	56.4
Overall deficits (incl. grants)	-359.9	-576.3	-452.0	-451.6
Overall deficits (excl. grants)	-1,157.4	-1337.3	-1313.2	-1303.1
Financing	360.0	576.2	452.0	451.6
External financing (net)	336.8	484.2	461.7	480.3
Disbursement	411.4	583.9	583.6	619.0
Budget support loans	147.0	341.8	330.7	358.0
Project loans	264.4	242.1	252.9	261.0
Amortization	-132.0	-150.8	-165.1	-181.9
Exceptional financing	57.4	51.2	43.2	43.2
Domestic financing (net)	23.1	92.0	9.7	-28.7
Bank financing (saving)	46.1	21.4	9.9	70.0
Non Bank financing	-23.1	70.6	65.4	52.7
<b>Memo items</b>				
Poverty Action Fund	414.8	589.2	692.4	659.4
Transfers to districts & municipalities	453.6	611.1	670.7	660.8

Table 6, below, shows the allocation of loan and grant funds to different sectors. The figures highlight a sustained trend of increments in some specific sectors but more significantly in health, education, security, law and order.

Table 6 Allocations by Sector (in Uganda shillings billion)

<b>Sector</b>	<b>2001/2002</b>	<b>2002/2003</b>	<b>2003/2004</b>
Agriculture	48.29	46.87	51
Health	169.79	195.97	213
Roads and Works	170.09	150.47	157
Water	52.50	48.75	54
Education	458.26	505.17	529
Security	227.39	261.66	
Public Administration	330.84	360.13	362
Law and Order	127.08	142.15	333
EF&SS	141.52	150.18	165
Accountability	22.60	26.64	N/A
Interest payments	155.10	144.60	221
<b>Total</b>	<b>1 903.46</b>	<b>2 032.59</b>	<b>2 264</b>

Source: MFPED, Budget Analysis

### **3 The Legal framework regulating government's lending practices**

#### **3.1 The Authorized Bodies for Sanctioning External Borrowing**

Public borrowing is sanctioned by the 1995 Constitution. The power of Government to borrow and lend derives from Article 159, which states that, "subject to the provisions of the constitution Government may borrow from any source". According to Section 2, all such borrowing and guaranteeing of loans must be under an Act of Parliament, specifying the terms and conditions of the loan and the mode of repaying it, while Section 4 makes informing Parliament of the status of public debt from time to time the responsibility of the President of Uganda.

In the public interest, however, Parliament may pass a resolution for Government to enter an agreement for the giving or acquisition of any loan or grant (Section 5). Article 160, Sections 1 and 2 restricts all charges on payment and management costs of public debt to the Consolidated Fund, be it foreign or domestic debt.

Enabling laws for the contraction of foreign debt have been put in place. Parliament's role is further emphasised in section 20(3) of the Public Finance and Accountability Act (2003), where it is the only authority to approve a loan, while Part III, Section 20, clause 1 and Section 24 vest the power to accept or reject such monies and grants in the responsible Minister. Section 26 lays down the guidelines for guaranteeing loans for bodies and enterprises, and the terms of payment, while section 27 and 28 specifically provide for foreign grants.

The Budget Act (2002) plays a role in laying down the procedures in debt acquisition and reporting. Section 13 (1) obliges the President to lay before Parliament the state's total indebtedness. The subsequent subsections deal with the principal for loans and debts, accumulated interest, balance of payments, and details of utilization of each loan (a, b, c and d, respectively). It also provides for a report on appropriations on Aid (17) as well as the indicative expenditure framework and budget cycle, setting milestones and deadlines for achieving these. As far as debt is concerned, the Act is a tool for fiscal discipline.

The policy of decentralization was adopted as the major mode of service delivery and governance under the 1995 Constitution. Accordingly, the description of what 'government' refers to has since oscillated between Local and Central Government, where the center comprises the line ministries and Government's self accounting agencies, while local Government is at district and sub county levels, as defined by the Local Government Act (1997).

Each of these levels of government can, in theory, borrow externally. However, macroeconomic controls, authored by the center, with the close monitoring of World Bank and IMF 'experts' have, since 1988, advocated a shift from project support to General Budget Support (GBS). Consequently, multilateral agents have preferred dealing with the center to dealing directly with local governments.

The result of this has been the adoption of a Standard Operating Procedure (SOP) that MFPE should first approve donor funding to the lower levels of government, and should also match such donations with sector priorities approved as per the ceilings provided under the MTEF. At MOPED level this is regulated by the Aid Management Manual (2003) that spells out the procedures in aid contraction, management, external aid accounting, monitoring and evaluation, and procurement guidelines.<sup>2</sup>

While this is a good tool in controlling liquidity and exchange flows so as to better manage inflation and keep it under manageable levels, the change, in effect, has meant that the capacity of local governments to borrow has been seriously curtailed.

For self-accounting institutions, such as the Inspector General of Government; Security

Agencies and other special commissions Act have been given powers to accept or reject loans and grants. In line with Sections 23, 24 and 25 of the Public Finance they are equally responsible for repaying the loans or grants. In this manner the government has increasingly withdrawn from guaranteeing loans.

Worth mentioning is the non-statutory, policy framework for indicative spending, the Medium Term Expenditure Framework (MTEF), under which sector ceilings for budgeting are set. Its relationship with loan contraction is that it sets a maximum beyond which no further sectoral mobilisation of foreign funding is possible. This is in harmony with the Poverty Reduction Strategy Paper (PRSP) principle for strict budgetary discipline - 'you can only spend what you have'.

### **3.2 The Legal Loan Contraction Process**

The Ministry of Finance and Economic Planning has developed an Aid Management Manual (2003), which details the loan contraction process. It describes the roles of the various stakeholders in the process, namely, the development partners (donors), the Parliament, the Cabinet, MFPED, line ministries and sector working groups, local governments, and other non core institutions.

#### **3.2.1 Identification, Planning and Programming**

The process begins with identification of the project. Once the project is considered feasible, it is formulated by examining the economic, financial and, technical requirements and the likelihood of these being realised, and any other features and conditions that will be necessary to ensure that the project succeeds.

The technical line ministry is primarily responsible for preparing the project, although sometimes the donors and, quite often, external consultants are involved in this stage. The donor with the assistance of the Government of Uganda (GoU) appraises the project to provide a basis for the decision to support the project with a loan or grant.

#### **Negotiation and Approval**

Formal negotiations with the donor follow appraisal. These result in a legal agreement or agreements between the GoU and the donor. The agreement defines the project and its specific objectives. The agreement must contain:

- Financial terms and conditions, including disbursement procedures;
- A schedule of items to be financed by the donor;
- Procurement and disbursement methods to be used; and
- Covenants on audit, expenditure lines, institutional arrangements, project monitoring, and any other points requiring special attention.

At this stage, arrangements for disbursement of the loan are worked out in detail between the GoU and the donor. After negotiations are completed both the donor and the government approve the loan and sign the loan agreement.

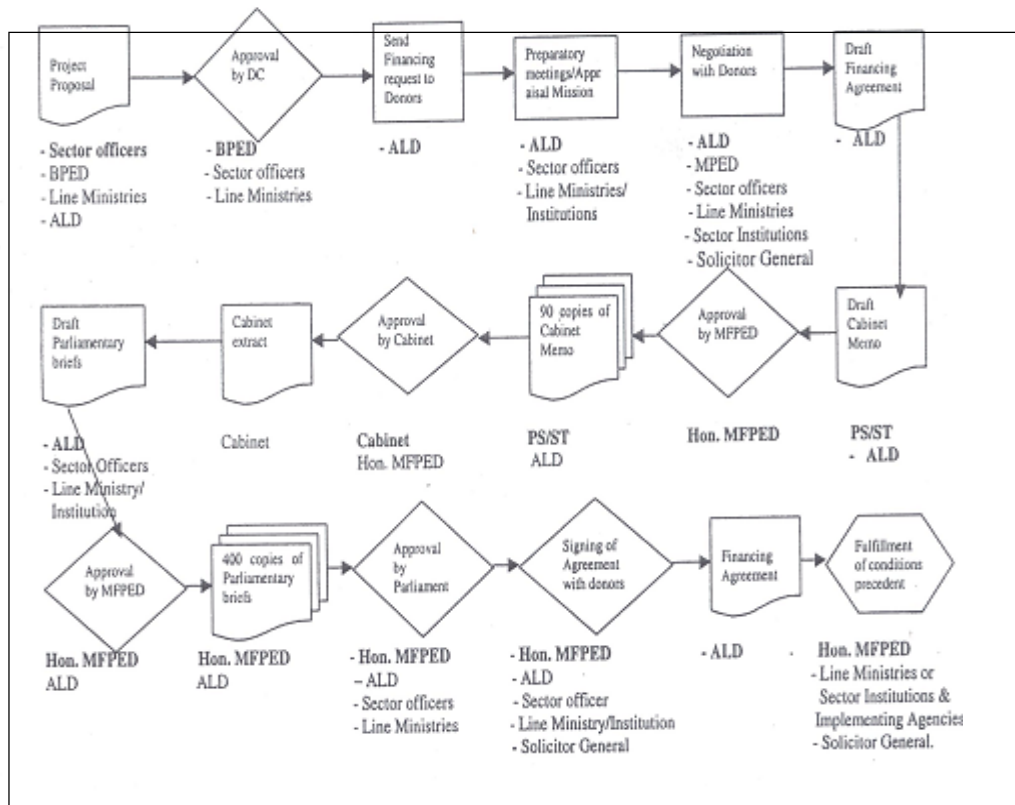
#### **3.2.3 Implementation and Coordination**

The GoU is responsible for implementing the project, and for satisfying the donor that the project is being carried out according to plan and is likely to achieve the objectives of the loan.

#### **3.2.4 Evaluation**

After the project is completed and the loan is closed, GoU and the donor jointly evaluate the results of the project. The figure below details the process for the external aid process for loans and grants.

Figure 1 The External Aid Process for Loans and Grants



Adopted from the Aid Management Manual, 2003, Ministry of Finance, Planning and

### 3.3 Effectiveness of Statutory Controls

The 1995 Constitution puts several controls on government borrowing practices. The office of the Auditor General is independent, as established by Article 163, with the mandate to audit and report on all public accounts of Uganda, all offices, including courts, central and local administration, and all corporations, such as universities, that use public money. By implication, all transactions of foreign debt, whatever the department they fall in, are still within the jurisdiction of this office.

According to clause 3 of Article 154, the President consults the Auditor General for emergency withdrawal and deployment of consolidated funds, and this includes all appropriations relating to foreign debt transaction and servicing.

The Central Bank is one other statutory control on foreign debt, according to Article 162 of the 1995 Constitution. It is charged with promoting and maintaining currency stability, economic progress, an efficient and effective banking system as well as foreign exchange control in accordance with the 1993 statute, later the 1999 Act with amendments. Thus it is an indispensable stakeholder in loan contraction and servicing.

The office of the Inspector General of Government (Article 223) also has a role. To the extent that clause (e) of Subsection (1) Article 225 gives the office investigative power over actions, advice, decision, omission or recommendation made by any officer, then the process of borrowing is covered, with all the remedies offered by law relating to the office. The special powers, according to Article 230, make the office instrumental in matters of public debt, especially issues of accountability and transparency.

The Public Accounts Committee (PAC) of Parliament is another watchdog to ensure compliance with the law as well as prudent debt contraction and management. Article 90 creates committees, among which PAC is one, with a mandate to audit all public

transactions.

The Local Government Finance Act, as well as the standing orders relating to financial management in all relevant departments complements the above measures at local level.

Article 119 of the constitution establishes the Attorney General's office. As the principle legal advisor to the government, The attorney General (AG) is the sole officer who gives a no-objection vote after drafting and reviewing contracts relating to lending and borrowing. Subsection 5 of the Article makes void all treaties, understandings, conventions, agreements and documents to which government becomes party without the advice of the AG.

A question can be asked as to whether mere presence of all these legal provisions and institutions means efficiency and effectiveness in the contraction and management of foreign loans.

A review of previous reports of the AG to Parliament has shown that some loans are not in the country's best interests. The functioning of the office itself is questionable, since accounts are only audited after two or more financial years. The office in 2001 reported failing to access information at times, and understaffing in the finance ministry, weakness in the internal controls, funds unaccounted for, and irregular reimbursements to Bank of Uganda, and consequently, to the donors.

### **3.4 Difference Between Laws and Normal Practice of Loan Contraction**

As indicated above, Uganda has an elaborate legal framework for loan contraction and aid management in general. The MFPEd is the chief government ministry responsible for planning and management of public finances. It derives its mandate from the Constitution and the Public Finance and Accountability Act (2003). This act empowers the Minister responsible for finance to raise funds domestically and externally to "defray shortfalls in the development budget". The Minister's powers to borrow externally are, however, subject to approval by Cabinet on behalf of the Executive, and to Parliamentary approval.

The following documents, for instance, must be prepared and verified before an external loan or grant can be approved by Parliament:

- A Cabinet Memorandum by the Minister responsible for finance on his or her intention to commit Government by borrowing the required funds;
- A Cabinet Brief to Parliament by the Minister responsible for finance to seek approval to borrow;
- Power of Attorney if so required, issued by the Minister responsible for finance to any other party to sign on his or her behalf;
- Legal opinion, if so required, issued by the Minister of Justice certifying the legality of the borrowing; and
- A draft credit agreement including terms and conditions of the proposed borrowing.

In practice, occasionally the government, especially the mandated Ministry of Finance, Planning and Economic Development, flouts the law. However, the Parliament once it knows doesn't let go the culprits go scot-free. For example, in the case of Kenyan company BIDCO, the company was offered a 25-year tax-exempt status, among other benefits, by the Government of Uganda to set up a palm oil project in Uganda's Kalangala district. When most MPs disagreed with this decision, the Minister of Finance, Planning and Economic Development was called to account before the Finance, Planning and Economic Development Committee of Parliament. He was reminded that the Public Procurement and Accountability Act gives powers to

Parliament to debate on all such ventures before they are signed by Government.

### **3.5 Adequacy of the Existing Regulatory Framework**

The watchdog institutions in Uganda have over time been labeled as 'harmless barking dogs', with a parent law but no enabling legislation. The case of the Constitution made in 1995, that only spawned the Budget Act and Public Finance Act in 2002 and 2003 respectively, shows a lax system that could have been injurious to national interest in the interim due to lack of clarity over responsibility in debt management.

Even with the presence of the IGG and PAC, corruption and connivance have continued to bedevil contract negotiation. The IGG, for instance, could get reports but must adduce evidence before court to prosecute the culprits.

Even when such evidence is present, the IGG cannot query anything relating to the prerogative of mercy, and this makes the office weak. Although the IGG reports to the President and Parliament, the mechanism for making its findings public is inadequate. The findings are disseminated only through seminars, radio and television programmes, and the conduct of such dissemination efforts in English renders it incomprehensible to many members of the public reach a few people.

Allegedly, the anti-graft agencies are themselves corrupt. The 2003 donor consultative group report identifies commissions of inquiry and anti-corruption agencies as key targets for reform in promotion of transparency in resource mobilisation from the donors.

The greatest independence exists at Central Bank level and the presence of audit trails has increased openness in negotiations. But this has not stopped the country from a deficit in loan management, creating over 200 percent of the debts-to-exports ratio. This is the third time Uganda has exceeded its debt sustainability threshold after reaching completion point under HIPC.

Debt service and contraction in Uganda appears more of a political decision than one for the technical people and, as a result, the institutions outlined above do, and will for the foreseeable future, play a peripheral role.

Default cases are always present in the loan agreements, either due to breach of the loan terms or other unanticipated vagaries, like plummeting prices, that make non-compliance more probable. Although it is an agreed procedure that vague language should be avoided in the default clause, and that the lender should not be given too much discretion to disadvantage the borrower, this is exactly what has often happened. The President of the Republic of Uganda himself has, on several occasions, decried the arrogance of the donor community in setting too rigid frameworks that complicate the honoring of time pledges on the borrowing side. Ugandan negotiators could move to give a provision of 60 days at least, where time deadlines are set to make the period more flexible.

In most agreements with undertaken by the Ugandan government, the Ugandan negotiators are operate in an amateur way and end up being outwitted. There is a need to gain access to fair loans and, as such, the following should be given attention when negotiating to avoid harmful clauses,

Non payment, misrepresentation, breach of obligation, cross default, insolvency, insolvency proceedings, change of activity, validity of agreement, unlawfulness, expropriation and disposal, moratorium, IMF, material adverse change, and project authority.

The Government of Uganda's embarrassment over the Bujagali World Bank loan (2002) that was held up amidst allegations of bribery was a case in point of controversy over agreement provisions. The project was discovered to be grossly expensive and the power purchase agreement was not in line with international standards. This was a

case of poor advice to government and misleading the public about the actual cost of the dam by the World Bank. The Bank, funding the project up to 40 percent, was found to have had cases of connivance with AES officials, their erstwhile partners in energy business worldwide. Such cases raise questions over whether the Bank's interests in development loans are altruistic or self-serving.

The government health budget has been on the increase since 1995. What is not mentioned is that, for instance, 78 percent of the fund for the control of tuberculosis comes from loans and, while the total cost on this component alone was estimated at US\$ 5.5 million, the World Bank loan was not yet guaranteed.

The efforts of government to reform, however, have not all been in vain. There has been, generally improved debt management due to Government taking the following steps in contracting recording and monitoring external debt:

- Reactivation and maintenance of a computerized database of its external debt in Bank of Uganda;
- Continuous analysis of debt status in semi-annual reports;
- Centralization of new loan acquisition by law through MFPED;
- Establishing standard operating procedures (SOPs) for debt use repayment (for example MTEF); and
- Definition of clear debt servicing priorities and sticking to schedules of the biggest creditors (Paris Club).

Government has mounted major capacity building programmes to cope with the above changes. It has also adopted an enhanced reserves management policy through investing in the most highly rated financial institutions, for instance other central banks, maximizing liquidity to allow for timely debt servicing, and ensuring maximum returns on investments.

What is needed is to prioritize enabling legislation whenever necessary, so as to safeguard the country from laissez faire debt management that promotes abuse of the system. The imposition of General Budget Support (GBS) as opposed to project aid, and centralization of the system has been a step in the right direction.

However, political will is needed if the institutions are to work. This has a lot to do with strengthening the anti-corruption monitoring system to ensure that the vetting of loans is done purely in the public interest. The mere presence of offices doesn't mean they are functional. There is a need to strengthen the investigative capacity of the offices of the IGG and the Auditor General. To this end, rather than the IGG being appointed and dismissed at on a whim by the President, this should be done by an independent body to increase the independence of the office.

Personnel in the Attorney General's Office should be of a high calibre, specializing in matters of public debt investigation and negotiation analysis. This will minimize chances of them being hoodwinked as was the case with the World Bank Bujagali dam project.

Finally and importantly, there is a need for leaders to promote trade, not aid. Studies and experience have shown that aid is self serving, and that the burden of debt is an economic barrier for the future generation. Instead of focusing on foreign debt, it is time to emphasize domestic saving in a bid to create capacity for government to borrow from its citizens. Initiatives such as AGOA should not be hijacked by state functionaries, but liberalized. The fact that foreigners find it easier to access credit in hefty sums than indigenous entrepreneurs has irked the nationals of many African countries. The Controversy shrouding Apparels Tri-Star, the Company manufacturing clothing for the American market under AGOA, has brought to the fore the anomalies in

a corrupt liberalized system, where an incompetent foreign management is used by politicians to rob the state of borrowed funds.

## 4 The IMF, World Bank and other Creditors' role in loan contraction

By the way, don't get confused by the mix in this discussion of the IMF, World Bank, and the WTO, they are interchangeable masks of a single governance system. They have locked themselves together by what are unpleasantly called 'triggers'. Joseph Stiglitz, October 2001.

The Bretton Woods Institutions - the IMF and World Bank - have been the most influential institutions in external debt management and regulation as bilateral partners. Other multilateral donors to Uganda are The African Development Bank (AfDB), the European Union (EU), and Members of the Organization for Economic Cooperation and Development (OECD).

Prior to 1996, not only did the IMF believe that debt rescheduling in Uganda was unnecessary, but it also promoted restructuring through its 'bitter pill', the Structural Adjustment Programmes (SAPs).

Together with World Bank, the IMF has become the leading lending bloc imposing a cocktail of stringent conditionalities to access the loans. An example of this is the technical memorandum of understanding with Uganda that sets benchmarks and performance criteria for 2003/2004 support of MFPED under the IMF Poverty Reduction and Growth Facility (PRGF).<sup>3</sup>

The loans are given on the criteria of transparency, good governance and economic liberalization policies. Specifically, a clause on fraud and corruption was included in World Bank guidelines (1996), requiring "borrowers, bidders and suppliers to observe the highest standards of ethics when executing the bank's contracts". Corrupt practice was also defined in clear terms in the bank's SOP. The recipient countries have to embrace the poverty reduction strategy, even though the developed world is free to practice protectionism.

Specifically, some of the clauses will specify the base money, net claim on the central Government by the banking system, net international reserves, sector expenditure, mode of payment, performance criteria, monitoring and evaluation, and limits on use of other borrowed money on same project.

It is assumed that the guidelines for the World Bank and IMF are a 'consensus' view of the members but, in fact, they are devised in secrecy and simply handed down to the poor, under an absolutist ideology. In some cases, the search for liberalization has led to the breaking of third world banks which are then subject to scrutiny by 'experts' from the west, although this situation was resisted in Ethiopia.

Other conditions include restricting a country's foreign reserves to a prescribed level, privatization, cost sharing, deregulating petroleum and fertilizer prices, and scaling down the size of the public service. At the same time, little is said about agrarian reform, ignoring the peasant livelihoods of the majority of people from the developing countries.

The effect has been that, unless these institutions sanction a loan from the developed countries (the Paris Club), the beneficiary country will never access it. This tool has made the situation of the poor worse, and has served to cultivate western values under the newly entrenched paradigm of globalization that has created a system of permanent losers on one hand and winners on the other.

The lending agencies are hardly sensitive to the cry of the public. In the event that the legislature disagrees with their terms (which is rare), the most likely option is unilateral withdrawal of aid. This is not only practiced by the IMF and World Bank, but also by international development agencies like Save the Children (Norway), who, in their dealings with CSOs take partnership to mean acceptance of donor conditionality

without compromise on the donor's part.

Another, often neglected, argument deals with the multilateral country offices, which are staffed by foreign 'experts'. These officials have little experience of the realities in the country and, save for a few meetings with top MFPED officials and those in the Central Bank; their other experience is of the luxury of five star hotels in Kampala. Their reports, on which the multilaterals base action for advancement or withdrawal of loans, lack crucial data and the resultant policies are not very helpful.

## 5 The Role of Civil Society in the Loan Contraction and Monitoring Process

'Civil society' refers to organized interest groups that seek to influence public policy in ways other than through political power. Article 38 of the Constitution of the Republic of Uganda recognizes the right of the citizens to participate in the affairs of government as individuals or in groups, in accordance with the law. Other related provisions that implicitly regulate civil society operations are found in the Bill of Rights, relating to freedom of speech and expression and the right to information (Articles 20, 41, 42, 50).

Apparently, a Bill is being tabled before Parliament on Citizen's Access to Public information and, in spirit, the Ugandan law provides for civic action. CSOs in Uganda include human rights organisations, women's organisations, child welfare organisations, development and service delivery organisations as well as pro-poor policy advocacy organizations. The latter group, spearheaded by the Uganda Debt Network (UDN), a membership organization of individuals and other CSOs, has made matters of public debt contraction and management its priority interest. The Jubilee 2000 campaign was undertaken by the organization from 1996, leading to Uganda being the first and prime beneficiary of debt relief under HIPC.

The consolidation of the debt relief funds into PAF ignited change, and the CSO has undertaken an initiative of capacity building and empowerment of communities to monitor the use of PAF in seventeen districts of Uganda under the Community Based Monitoring and Evaluation System (CBMES).

Of note is the fact that, whereas the law seems to provide for CSO participation, actual politics stifles the involvement of CSOs in the process of debt contraction and use. The tendency of government at local and central level to treat CSOs with suspicion is high, leading to them concealing information about which borrowed money goes where. The stage at which CSO involvement is possible is inadequate. Government has always criticized the sector as dealing with 'post-mortem' cases of abuse and corruption but this is because, in the process of contraction, the CSOs are sidelined.

Debt monitoring by CSOs is an independent initiative. UDN's efforts at community empowerment require money for training and sensitization of the masses in monitoring government projects. Surprisingly, all governments, central and local run expensive capacity building budgets but none has yet come up with a way to build the capacities of community members, although this would be a cost effective way of fostering partnership. CSOs are looked at as adversaries, not partners.

Contrary to claims of decentralization's bottom-up approach, participation of beneficiaries in debt policy is low. Where it is noticed, it is token participation, for it is done through local governments, ignoring the fact that even at local level, participation is elitist. For example, The PRSP/PEAP4 and its implications are unknown to the grassroots people, who experience the most adverse implications of such programmes. Other policies include the PMA, as well as the budget process, where participation is least noticed. Yet these are the broad frameworks through which government becomes heavily indebted.

The degree to which the IMF and World Bank want to share information on debt is suspect. Only a few reports are collected and rarely is such information volunteered to UDN. The multilaterals seem inclined to the government side, paying mere lip service to civil society participation. The only open opportunity is at the Donor Consultative Group meetings and, by the time these take place, a lot of discussion and agreement have already been concluded between government and the donors. The Bank and Funds' policies towards civil society need to be made open in a policy document accessible to all if transparency in their activities is to be assured.

Most CSOs in Uganda do not seriously tackle the issue of debt. Apart from international organisations, such as Christian Aid, the process of engaging the Ugandan Government on debt issues and monitoring their impact has been left solely to UDN. The reasons are many. From the financial perspective, such advocacy requires continuous vigilance and research, which is expensive. It is also risky since debt monitoring inevitably tracks patterns of public expenditure. In an environment like that in Uganda, where corruption is present, an attack on it poses a security threat. Only the confident organisations may not be cowed and, even then, only those that have the technocratic competence in their staff to handle issues of national debt.

Support for advocacy and research in this area is derived from previous experience in campaigns against parliamentary pensions, motor vehicle loan schemes, and anti-corruption activities. The law should be specific as to civil society participation in debt contraction, the channels of participation, and at what levels and what measures are there to ensure that CSO views are incorporated. A provision for a 'no objection' could be given as an incentive for CSO participation in matters of public debt acquisition.

Government funds for capacity building in LGDP could have guidelines specifying partnership in funding CSO community empowerment programmes. This could be done in an independent way so as not to compromise the objectivity of the nascent CSO sector.

Access to information for civil society is another important issue. A campaign cannot be run from a point of ignorance, for then it would lack clear targets and would collapse. Notably, Uganda has not yet enacted law regulating public access to information, even the type that is non prejudicial to security. This has given leeway to people in government (MFPED and Bank of Uganda) to deny access to information relating to matters of public debt. That several questions have to be answered by CSO programme staff, several appointments made, and few relevant documents are accessed, means the process still lacks transparency.<sup>5</sup>

Government needs to develop a partnership with CSOs through information sharing. This could be done by providing access to relevant external debt papers to the CSOs and facilitating peer reviews. Traditional approaches to hoarding information must be discarded if Uganda is to develop a modern civil service.

Apparently, a Bill is being tabled before Parliament on Citizen's Access to Public information and, in spirit, the Ugandan law provides for civic action. The bill is currently at its first reading phase, and when passed, should. Make the process simpler

## **6 Case Studies of Specific Loan Processes**

### **6.1 The Makerere University IDA-Rockefeller Capacity Building Loan**

Makerere University, Uganda's largest public university has been undergoing a period of reforms since the introduction of the private sponsorship scheme in 1988. The need for gender mainstreaming, and computer innovation through e-learning have brought new demands, catered for by the innovations@makproject, and a subsequent need to fund capacity building.

In 2003, the government had a loan approved by Parliament to the tune of US\$ 5 million to finance the components of academic institutional capacity, including an academic decision making mechanism, internship pilots and project support. Another component was the local government capacity building and curriculum development. As a broad intervention, it would support research in the fields of medicine, accounting and financial management, governance, ethics and accountability, local government staff training, and support to local government planning units.

There is also a component of monitoring and evaluation, including general performance monitoring and learning from the pilots. The implementing agencies are MFPED, Makerere University - faculties, institutes and students, Makerere committee, the World Bank, and the Rockefeller foundation providing the finances. The scope is wide and includes all universities in the country, though primarily managed by and at Makerere.

The loan was requested by Makerere University through a plan submitted to MFPED on the strength of its partnership with the Rockefeller Foundation, in a bid to contribute to strengthening decentralization in Uganda. Originally, the idea was bred in Ghana and the Makerere management learnt from there that they could access funding through the foundation.<sup>6</sup>

Negotiations began in 2001 to fund the plan with Acumen foundation, a branch of Rockefeller, and progressed into negotiations. Makerere University was included in the negotiations as the prime partner in agreeing to the terms laid down in "The Partnership for Higher Education in Africa", which is the memorandum of understanding.

The issue of beneficiary input is complex, for whereas Makerere is an implementing partner, it is only one among the beneficiaries. The local governments were not consulted, and only got involved as advertisements for scholarships were published. The case was similar for the masses in the local governments, and participation was only at the top, between World Bank, the University, and Rockefeller Foundation.

Parliament, as is normally the case, was informed at the passing of the debt in 2002, as is demanded by law, but civil society was never called upon to review the partnership.<sup>7</sup>

The difficult part of the negotiations was the fund allocation by department. Some sections felt the fund would be best used in gender mainstreaming, environmental studies and support, while others thought it should go exclusively to HIV and AIDS research. Rather than acrimony arising at the national level, it was felt internally at the University itself. The issues debated by Parliament were mainly the equity considerations and how the fund would trickle down to other institutions, rather than being expended only by Makerere.

### **6.2 The Nutrition and Early Childhood Project of the World Bank and Ministry of Health**

Popularly known as the CHILD (Community and Home Initiatives for Long term Development) project, this project was initiated by the Ministry of Health and the World Bank to promote the health and development of children. Running from March 1998 to June 2004, the project has a projected cost of US\$ 40 million, US\$ 34million being

funded by IDA while US\$ 6million is met by the Government of Uganda. The terms of the loan are credit without interest, payable in 40 years time, with a 0.50 percent commitment fee, 0.75 percent service charges, and ten years' grace period.

The loan was approved on the realization that:

- Close to 15 percent of Ugandan children die before their first birthday;
- Thirty five percent of school age children are underweight, with malnutrition and infectious diseases
- Forty one percent of the children below the age of six are stunted; and
- The presence of AIDS has left about 1.5million orphans, mainly to the care of girls and children in the extended family.<sup>8</sup>

The causes of the above were identified as:

- Sub-optimal breastfeeding and infant weaning practices;
- High incidence of infectious diseases;
- Low levels of education among mothers; and
- Poverty.

The loan was expected to complement Government's effort in implementing the Uganda National Programme of Action for Children (UNPAC) as well as the provisions of the Child Statute, and had components relating to child nutrition, health, early education, and support for income generating opportunities and initiatives. These would come under the broad frameworks of an integrated community childcare package, parental education and initiatives towards national support for child development.

A framework to manage the project was put in place through a Project Coordination Office (PCO) of three people, one of them an accountant, headed by the Permanent Secretary of MFPED. At district level, there would be a District Coordination Committee (DCC), while the powers of oversight would lie in an inter-ministerial committee, also headed by the Permanent Secretary of MFPED.

Although at both levels, representation of NGO forum members is alluded to, no specific importance is attached to such representation, as the provisions are not binding. The practicality of the project in meeting the set objective of "reversing Uganda's extremely poor child health indicators" has remained questionable as the following excerpts from the Civil Society statement on the project, supported by a study by Save the Children (UK), entitled "Thin on the Ground" seem to suggest:

- The project cannot have an impact since it over emphasizes caring motherhood at the expense of food security;
- The project is not well integrated into the health system and creates parallel structures, contrary to its operational manual provisions;
- At district level, the CAO and the coordination committee are in charge, but these are individuals, not institutions;
- The programme relies on semi-literate, poorly trained volunteer nutritionists who have scant knowledge of what it entails;
- There is no clear referral system and children are turned away from rehabilitation centres due to lack of treatment; and
- Every district is expected to provide counterpart funding but the health budgets are under funded, hence creating a fiscal burden.

In addition, accountability was seen as poor, after the project completed four years with no mid term evaluation Yet the World Bank evaluation was positive, suggesting gross manipulation on the part of the Bank.

The project reports show little evidence of beneficiary consultation, either at the contraction of the loan or in its use, and, despite the little impact on the ground, the World Bank has a plan to commit a further US\$ 100 million for extension of the project. The fact that the project is in 25 districts, about half of the country, is also telling.

CSO attempts to initiate independent value-for-money audits have been fruitless and, to date, no one has come up with an explanation to the public, apart from running expensive adverts in the papers to whitewash the authorities. However, due to pressure from civil society organisations, especially UDN which led the crusade, a review has been accomplished and is due for discussion by the stakeholders before seeking an extension of the project.

### **6.3. The Case of AES Nile Independent Power saga**

AES Corporation is a company registered in USA. It however incorporated AES Nile Power Ltd, and registered it in Uganda for purposes of the infamous Bujagali project. The Bujagali Hydroelectric project in short is a private power project which was meant to develop on a basis of “build-own-operate-and transfer” (BOOT). In 1999 an Implementation Agreement and Power Purchase agreement with the Uganda Electricity Board were concluded on the insistence of the Government of Uganda. The project was designed to produce 200 MW, but would cost US\$580 million, to complete.

The capital cost of the project was considered very high compared with similar projects elsewhere in the world. On top of this, the AES Power purchase Agreement signed with UEB contained stringent requirements detrimental to Uganda, such as requiring Uganda to pay US\$132 million for the project. This also meant that AES was guaranteed that every unit of power produced would have to be purchased by UEB whether consumed or not and this would be at US\$0.06 / kWh.

The Government of Uganda guaranteed the loan for the project, which was to be obtained from financial institutions such as the World Bank, the African Development Bank, and other financial institutions from Finland, the Netherlands, Norway, Sweden and Switzerland.

After the disclosure of the contents of the draft power purchase agreement, there were several protests from CSOs, parliament, environmentalists and many other Ugandans. The World Bank and the Government of Uganda were petitioned. Despite the protests however, the government especially with pressure from the president, cajoled the parliament to approve the deal and hence sign the Power Purchase agreement.

Fortunately, due the happenings in the United States especially concerning ENRON which was a major shareholder in AES, the continued pressure mounted by the environmentalists, and the discovery that the project had engaged in corrupt dealings and hence attracting investigations from the USA, all these led to the quick demise of the AES Nile power. AES Nile power, therefore officially wound up its business in Uganda in 2003.

## 7 Human Rights and MDG status

Uganda is a signatory to the Human Rights Charter, and the 1966 UN Convention on Economic, Social and Cultural Rights. As a partner to the IMF and World Bank, and a southern party to most bilateral covenants, it also subscribes to the Millennium Declaration, which seeks to achieve the following goals:

- Eradicate extreme poverty and hunger;
- Achieve universal primary education;
- Promote gender equality and empower women;
- Reduce child mortality;
- Improve maternal health;
- Combat HIV and AIDS, malaria, and other diseases;
- Ensure environmental sustainability; and
- Develop a global partnership for development.

Uganda has made some progress, as shown by indicators previously quoted. The PEAP framework was adopted as the PRSP, and sets out the four pillars for development. Poverty has been declining, and only 35 percent of Ugandans are absolutely poor, compared to more than 50 percent two decades ago. GDP growth is more stable at 5 percent per annum, although it has dropped from 8 percent in 1990, and the policy of universal primary education is in operation, ensuring better literacy levels. It is certain that, over the past two decades, almost all indicators have improved. However, with the population growing at 2.8 percent per annum, infant mortality rate at 91/1000, and 55 percent of children not immunised, together with a high teacher-pupil ratio in schools, there still remains a lot to do. Unemployment is high and incomes are too low.

The setting up of Health Centres with maternity wards is step towards curtailing maternal mortality, but these need to be staffed with competent and well motivated medical personnel.

There has been a move to provide anti-retroviral drugs for HIV positive people at a subsidised price and Uganda has a record in sensitisation that has reduced the rate of new HIV infections. But, at 70 000 deaths from HIV and AIDS annually, it is still high and more needs to be done.

Uganda is promoting sustainable use of natural resources through NEMA. In the area of gender, affirmative action through special political representation of women and entry into higher education institutions are measures taken. Gender mainstreaming is a part of all policy issues and debates. It must be noted that some of these innovations are used opportunistically to win votes, hence the need to plan sustainably. All the goals need a democratic setting in order to be useful and there is a need to strengthen systems of accountability.

Fortunately, the initiatives towards achieving the MDGs these are in their formative stages and need to be stepped up to achieve the goals. The above equity and service delivery considerations should not only be viewed as political obligations, but cases of human rights, guaranteed by law.

The debt situation is still unsustainable, despite HIPC, and the millennium goal of development partnerships needs to be revisited, otherwise the outcome will be a union of master and servant; of creditor and debtor. There is a need for unilateral debt cancellation if the partnerships between Uganda and the global village are to have any meaning. Much as the goals are ideals to strive for, Uganda will be judged by how near it comes to realising them.

## 8 Conclusion and Recommendations

The HIPC initiative in Uganda has been a good debt reduction tool and consolidation of the relief into PAF has induced development. Nevertheless one must hastily say, while this is positive, the debt levels are still unsustainable, requiring even stronger interventions.

The legal framework for debt contraction and management exists, albeit in need of strengthening. The relationship with donors must be transformed from conditionality to partnership and there is a need for a more meaningful partnership with CSOs if the fight against unsustainable debt is to make sense to the citizen.

Specifically, the following are recommended:

- Government agencies with a role of oversight in debt management are many and do often duplicate the work, thus increasing loopholes and weakening analysis of the loans and processes. There is a need for greater coordination among state agencies dealing with loan procurement, debt management and repayment.
- The inspectorate should be appointed by an external independent body, and should not be able to be sacked at will by the President. An amendment to this effect is required. Better legislation and autonomy in monitoring debt issues is crucial.
- There is need for a highly trained professional group to handle loans and debt issues in Uganda. It is necessary to train a high calibre cadre of lawyers specializing in debt contract negotiations. Such should be, as a team, afforded exposure to multilateral donor practices to enable them to effectively arrange the best loan terms. The lawyers could be drawn from the IGG, Auditor General and Attorney General's offices, and from among independent specialist consultants.
- Politicians should desist from committing the state to conventions that are likely to increase debt. Trade should be pursued, while at the same time seeking to improve the country's productivity. Programmes such as PMA should be supported to this end.
- SAPS have been a failure in most countries and Uganda is no exception. These need careful implementation. Nationalism in divestiture has to be preserved, while ensuring that the buyers of public enterprises are credible, to ensure productivity.
- Debt acquisition should be demand driven, not donor driven, since donor driven debt is bound to give support in the fields where it is least needed.
- There is a need for citizens' participation in the process. Civil society's role should be institutionalized by statute.
- In the international system, the lenders should review the international arbitration agreements over default. It makes little sense to impose court fines on an already heavily indebted partner.
- Secrecy in debt management processes fosters corruption and kickbacks. To ensure a transparent process, an Act should be passed on the right of the public to access information if such information is not prejudicial to national security.
- The creation of a regional African market to enhance trade is needed. This will go a long way towards stimulating production and reducing dependency on the west. The proposed EAC Customs Union is a step in the right direction.

## **Conclusion**

In conclusion it must be noted that findings in this report point to the need to review the legislative and institutional framework regulating public debt contraction and management, to make it more transparent, and ensure that it is sustainable and poses less of a threat to future generations.

Total cancellation of the debt owed by Uganda to the Paris Club, that has been advocated for, should be enacted in addition to all other countries delivering on their promises under the HIPC initiative. Lastly, it is necessary for Ugandan leaders to ensure that foreign financing is by grants and not loans.

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