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**MULTIPLYING THE 'JIGGERS' IN THE FEET OF  
OFFICIALDOM:  
REFLECTIONS ON THE CHALLENGES FACING CIVIL SOCIETY UNDER  
A MULTIPARTY DISPENSATION**

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The Human Rights and Peace Centre (HURIPEC) was established at Makerere University in 1993, and was designed among others to:-

- 1) Act as a focal point in Uganda in the field of Human rights and peace for the development of academic programs sensitising the general public about human rights issues and to extend human rights principles beyond the classroom walls and ensure that it reaches the streets and villages.
- 2) Provide a library and documentation unit, particularly concerned with the compilation, collation and development of materials and literature in the areas of human rights and peace.
- 3) Organize seminars, symposia and conferences in order to systematically propagate the message of human rights protection in Uganda and beyond.

#### **NOTE ON WORKING PAPER AND AUTHOR**

This was a Keynote Presentation at the Reflection Dinner for the Programme Civil Society . Steering Committee on January 20, 2006. The writer is a Professor of Law and the Director, Human Rights & Peace Centre (HURIPEC), Makerere University.

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## I. INTRODUCTION

Most government officials react negatively to critical statements made by civil society actors and academics. They accuse us of being armchair politicians, meaning that we only know 'theory' and have no knowledge of the nitty-gritty of 'real' politics. They say we have never stood for public office so how can we have any knowledge about what the 'common people' think? Sometimes they call us 'elites' out of touch with the 'grassroots.' What they consider the most damning accusation is to say that we are simply a front for one opposition political organization or another.

At the end of the day, and even though they will never admit it in public, if the views of civil society are presented articulately, with persistence and with force and clarity, the government is forced to take them into account. This was clear in the debate about the White Paper and the subsequent discussion of the amendment to the 1995 Constitution (the so-called *kisanja* debate) when government changed its position in pushing for a referendum on the issue, to accepting that Parliament was the right forum for resolving the matter. My short point is that civil society can be abused and dismissed, but if it is persistent enough, it cannot be ignored.

In this sense, one could describe civil society as a 'jigger' in the feet of officialdom. Before you accuse me of using abusive language, consider it a compliment. It is a compliment in the sense that the work of a jigger is to cause as much irritation and discomfort to its host, such that the host is forced to take account of its presence. The host can react in two ways; it can extract the jigger and go back to walking barefoot (in which case it will attract more jiggers). Alternatively, it can protect its feet. The role of civil society and the media should therefore be to force government to take account of our views and to comprehensively address them; whether we are talking about human rights abuse; the conflict in Northern Uganda, or the destruction of the environment.

Tonight I have been requested to comment on a number of specific issues relating to the state of civil society in Uganda today, among which are the following:

- ♥ **Where are Uganda's civil society voices in the ongoing political developments?**
- ♥ **What opportunities do the 'transition' to multiparty politics present to civil society actors?**
- ♥ ***Will civil society change its mode of engagement with the State?***

♥ ***How can civil society avoid the charge of partisanship?***

I will quote the last question in full because it raises many issues:

*"In recent times across Africa (e.g. Kenya) civil society played a key role in the political transition and now there are grumblings that civil society was co-opted. Civil Society in Uganda has not been as active; is it already co-opted or will it be co-opted or does civil society in Uganda not matter enough to be co-opted anyway?"*

I will return to these questions, but would like to begin with some more broad observations of my own.

**II. WHAT ARE THE ROOTS OF CONTEMPORARY CIVIL SOCIETY?**

First of all, I would like to ask what the roots of the animal we call 'civil society' in today's Uganda are, and then move on to the challenges that this animal faces before directly confronting the questions I have been asked to address this evening. To appreciate the roots of civil society, one needs to have an historical perspective, because civil society is not a new thing, and by drawing comparisons with the past we will be able to consider how much things have changed and indeed, what has remained the same if anything.

In the struggle against colonialism, a host of civil society actors arose within the frameworks of organization, association and expression that were permitted at the time. For example, one recalls the early trade unions that organized protests and boycotts over the racist economic and labour policies of the time. There were also the local newspapers that were the main conduit and mouthpieces for anti-colonial political activity. Cooperative unions and societies brought together thousands of peasant farmers united around issues of an economic nature, but also addressing the main social and political questions of the day. The most prominent characteristics of these civil society actors or social movements were the following:

- (a) They were closely and organically linked to the pulse of the people (what we call the 'grassroots' today);
- (b) They operated shoe-string budgets, which were essentially raised internally (there were no 'donors' and certainly they got nothing from the government of the day);
- (c) They addressed issues which were not simply of a socio-economic nature, but also directly political. In other words, they were not afraid of politics—partisan or otherwise, and
- (d) They were extremely effective.

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After independence, a lot of the civil society actors were either transformed into state agencies (such as the cooperatives); they were nationalized (as with the trade unions) or banned outright (as with the newspapers). By the time Idi Amin came onto the scene Ugandan civil society had been severely crippled. Amin completed the task by exterminating what little was left of it through executive decrees and orders.

Since 1986, we have seen a revival of civil society activity, in part a reaction against the repression of the past, but also the product of a regime that was more 'benevolent' than its predecessors. It must be said that the NRM government also realized that allowing the operation of civil society (within limits) was strategically important and useful, not only in terms of allowing middle class frustrations to find a non-violent outlet, but also to appease the international community and the 'donors' who are a very influential part of it. Besides, given the state of collapse of the state at the time, it became very quickly obvious that government would not be able to do all the things it previously could, particularly provide social services. Ugandan civil society is thus a product of the social, economic and political conditions existing in 1986, and the developments we have witnessed thereafter.

What is the dominant character of contemporary civil society?

- (i) The vast majority are into service provision, or some kind of 'developmental' activity;
- (ii) The most prominent of our actors are donor-supported (I will not say donor-driven, although the line is extremely fine);
- (iii) Many of us are retrenchees or escapees from the civil service or privatized parastatals (one local translation of the acronym 'NGO' is "nekolera gyange ... olusi", I do my own thing ... sometimes);
- (iv) We are distanced from the local communities, even as we profess to be closely connected to them;
- (v) In part because of our immediate history, but also on account of the concrete conditions existing in the early years of the NRM government, civil society adopted a 'softly-softly' approach to the government, particularly after government detained Lance Seera Muwanga of the Uganda Human Rights Activists in 1987
- (vi) We claim to be non-political but have ended up being highly *apolitical*, and,
- (vii) As a consequence of all the above, I would say that we have been only minimally effective.

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I think the most serious criticism of civil society in Uganda today is that we have somehow managed to remove the element of 'activism' from our function as activists and to pretend that the work we are doing is the furthest thing from politics imaginable. This has therefore led to what could be described as 'inactive activists' or a *civilocracy* in the same way as one would describe a bureaucracy. The main challenge we have is thus to change this situation and to critically engage with 'officialdom,' which in my view is not only the State, but with all other institutions of power and authority with which we are familiar, whether it is the family, the community, the school, the local authority, the corporation, the opposition political party, or the government of the day.

### **III. ASSESSING THE ROLE OF CIVIL SOCIETY IN THE POLITICAL 'TRANSITION'**

I would now like to turn to a consideration of the place of civil society within the so-called 'transition' and to present some thoughts on what I think needs to be done. First though, a word on two terms, 'transition' and 'multiparty politics.' In the first instance, it is important that we not be deceived by the term 'transition.' Although the opposition is optimistic about winning this election or even causing a run-off, I highly

doubt (and I am ready to eat my shoes if proved wrong) that President Museveni will lose the election next month. This is because what is happening in Uganda today is simply a transition from Emperor Museveni IV to Museveni V, and we are seeing this scenario playing itself out. No election is determined by the events on ballot day. All elections (everywhere in the world) are determined by what takes place well before. And in Uganda since 2001, many things have happened to seal this election in President Museveni's favour, by hook or by crook. Among them are the use of the state machinery to bribe, coerce and intimidate the voting population; the overlap between the movement 'system' and the NRM-O and its influence on the structures on the ground; the absence of the necessary degree of demilitarization required to ensure that the election is a civil (and civic) exercise, the legal regime which overly tilts the field in favour of incumbency, the technical incompetence and political partisanship of the Electoral Commission, and the misuse of state resources.

It is also a fallacy to imagine that we shall move into a situation of fully-fledged multipartism in the same way as it was foolhardy to have thought that because we enacted a new constitution in 1995, we would begin

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to enjoy the fruits of constitutionalism. In other words, Ugandans at large, and civil society activists in particular should prepare for multiple parties *without* multipartism. The conduct of the primaries in all the parties should make this point clear; if none of them can exercise internal democracy, how can we hope that they will exercise democracy in the opened political arena?. My short point is that multipartism is not an event; it is a process. Furthermore, it is a process that will invariably be marked by a good deal of struggle. To that extent, very little is going to change in the transition to a multiparty political arrangement unless we actively work to change it. Otherwise business will continue as usual.

At the same time, civil society should also prepare for the most unlikely of events too; an opposition victory. This is because there is no guarantee that if the current opposition comes to power things will change fundamentally. After all, politicians (like taxi-drivers) suckle from the same breast. And as yet, there is nothing to demonstrate that the politicians on the different sides of the political divide are actually very different from each other. The most important point is that at all times, civil society must act to defend those without power against those who hold it and can abuse it.

Let me now turn to the direct questions I was asked by the organizers to address:

### **1. *Where are the civil society voices?***

Unfortunately, civil society in Uganda today is still largely silent about issues of a political nature. It sporadically speaks up, but its voice is neither strong, consistent or compelling. In this respect, civil society is like boiling milk; it froths and it fumes, but it settles down as soon as you turn off the heat. Perhaps the lone voice assessing the political arena has been that of the Media. However, since the Media's main function is to produce profit, the extent to which the Media can be described as the 'voice' of civil society or of the people is debatable. Needless to say, there is a lot that civil society actors can learn from the Media, including investigation (or research) publicity (or dissemination), and focus (or determination) e.g. the exposé on the case of the Mambas-turned-policemen.

Of all the groups that are out there, the DemGroup (a loose coalition of civil society election monitors) deserves some commendation because it has been consistently speaking out on the political problems that the country is faced by. However—and I mean this

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with all due respect and admiration for the work they are doing—they need to be more forceful; more proactive and to bring more civil society actors on board in order to create a critical mass of non-state actors interested in the deeds of those who control (or want to control) the state, and with the necessary vision and determination to do something about it. Furthermore, let us hope that the group doesn't fall silent after the election but keeps up the pressure.

Let me say that I am particularly disappointed in both the women's and the human rights movements in Uganda today. It is quite clear that the women's and human rights movements need to forge closer alliances than they have so far attempted to. For example, how many mainstream human rights groups spoke out on the Domestic Relations Bill? Conversely, how many times has a women's group spoken up about a directly political issue? If there is any group that has been silent about the political transition it is women. It was only in the debate over the *Vagina Monologues* that several women's rights activists came to appreciate that the lack of democracy within the state can have direct implications for the autonomy and free operation of their own movement.

Despite that experience, women's groups have been silent about the vulgarization of the women's cause—particularly the claim that the state is interested in dealing with domestic and sexual violence—represented by the bizarre charges of rape currently unfolding in the Besigye trial. On their part, virtually no human rights group has made an input on critical issues affecting the political status of women (such as the debate on affirmative action).

But let me not be accused of throwing stones from a glass house; the academic fraternity has singularly failed to be the voice of intellect; reason and analysis that it is supposed to be. Indeed, virtually the only cause that brings out members of the academy to speak collectively is if the issue for discussion is the living wage. To conclude on this question, if civil society voices are indeed speaking out, then I am afraid, I can barely hear them.

### **2. *What opportunities does the 'transition' to multiparty politics present?***

In the first instance, this question presupposes the reverse of what I have been saying civil society needs to do. Rather than waiting for the transition to create opportunities for us, we need to create the

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opportunities for ourselves and for those who we lay claim to represent. Rather than waiting to be presented with a *fait accompli*, we need to create the space for more activism. In short, we need to revive the spirit of the 1995 Constitution and to challenge the negative and retrogressive forces represented by the enactment of the 2005 Constitution; we need to force government to change its repressive legislation through protest, verbal assault, public interest litigation (PIL) and other tactics and measures.

At the same time, it is true that government will offer more opportunities for us to become more active. This is because Museveni V will be even more repressive than any of its previous incarnations. As more diminishing returns begin to set in, the government will have to resort more and more to overt force and direct coercion. In the process it will create even more strident conditions for anti-officialdom operations. Thus, civil society needs to prepare to be more vigilant and critical of state action after the elections. Secondly, civil society needs to be wary of ceding the political ground only to political actors whether in government or in the opposition. The problem with politics in Uganda is that it has been over-monopolized by politicians. It is time for us to break that monopoly and ensure that

*everybody* becomes a politician. This means that civil society needs to empower people not to fear to talk about politics and to challenge and hold our politicians accountable.

### **3. *Will civil society change its mode of engagement with the State?***

This is a highly subjective question, because it goes back to the issues I raised in the introduction to the paper: what are the motives that drive those of us who control civil society in today's Uganda? Why should we change our *modus operandi* unless we can clearly see a positive gain that can be made? What will a change of 'engagement' mean? These are all questions that we need to ask ourselves as civil society leaders. Certainly the service-delivery element in civil society is likely to continue, and perhaps to remain the dominant one. However, even here, inroads can be made in the exposure of how politicized the area of service delivery and 'development' activity is. I therefore think it is necessary for us who are in the more political arena of civil society action to demonstrate that *bonna bagaggamale* is not a question only of service delivery or development, but ultimately a question of politics. How can you *kugaggawala* when somebody is sitting on your back like *akakookolo* or *mwok*?

**4. How can civil society avoid the charge of partisanship?**

In the first instance, we need to ask ourselves the reasons why civil society should try to avoid the charge of partisanship? In my view, if civil society is to be at all active on the political scene in a multiparty context, then it must know that it cannot avoid such a charge. Indeed, the higher the degree of activism by civil society, the greater the likelihood of being branded partisan. During the American civil rights struggle, civil society actors were called 'communists' and many of them suffered jail, torture and death for their words and their actions. Anti-apartheid activists and proponents of Irish Republicanism were described as 'terrorists.' Activists for gay rights will be called lesbians and homosexuals whether or not they are. Consequently, civil society actors should not be afraid of labels such as 'militant,' 'radical,' and 'uncompromising.'

The fact is that if you are not with the government, then you will be regarded as against them and on the side of whoever is in opposition to them. The partisan label will follow. For me therefore, it is not what you say that is important. Instead, it is on whose behalf

you are saying it and whether or not you are protecting vested interests in the *status quo* or challenging them to justify their existence and monopoly of the political arena. This is because, even keeping silent is a partisan act in favour of the person or institution who is violating your rights or the rights of others. For civil society to have kept quiet about the patently illegal detention of Kizza Besigye is quite clearly partisan—in support of the wrongful actions of the government. Thus, the better question to ask is whether what you are doing or saying is in the interests of expanding democratic space, or by keeping quiet and acquiescing, are you reducing it?

Having argued that there is no way of avoiding the charge of partisanship, I think there are some obvious things that civil society needs to do in order not to be knocked out in the first round with such an accusation. First, is to avoid direct identification, endorsement and support with any one particular or specific political organization. There is a big difference between saying "I support the FDC," and saying "What the government is doing to FDC is wrong and unsupportable." The latter is clearly a statement of support of the right to democratic political opposition, but make no mistake that a Minister like Nsaba Buturo can turn the second statement into a political one, but at least you will be better able to defend it.

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Next, there is a need for us to be equally critical of both the party in government as well as of the opposition; this is why I used the term 'officialdom' and not 'government' in the title to this paper. For example on the issue of the recent bill which MPs passed increasing their pensions, civil society should not stop at urging the President to veto the bill, but it should also organize a court petition to challenge the bill in the event that he signs his assent to it.

Thirdly, civil society needs to develop its own agenda on politics and the political situation well in advance of the political actors and not to be reactive to their excesses. There are a host of issues that we need to be taking on that will demonstrate that civil society is thinking pro-actively and ahead, rather than simply waiting to respond to the situation that government creates for it.

#### **Let me finally turn to the last question which I have partially answered already:**

5. "In recent times across Africa (e.g. Kenya) civil society played a key role in the political transition and now there are grumblings that civil society was co-opted. Civil Society in Uganda has not been as active; is it already co-opted or will it be co-opted or does civil society in Uganda not matter enough to be co-opted anyway?"

The example of Kenya is a telling one. I lost a number of friends when on December 27, 2002 I called some prominent civil society actors in Kenya and told them they were wrong to openly endorse the NARC opposition and Mwai Kibaki. Fortunately, most of those 'friends' are now in the Kibaki government, demonstrating that they really did not have the interests of civil society or the people they were claiming to represent at heart, and were merely '5<sup>th</sup> columnists' waiting for their turn at the cake. Those who remained behind realized their folly and took measures to re-assert the independence and autonomy of the movement, and indeed Kenyan civil society is re-asserting its autonomy and freedom of action. The more important question is whether Ugandan civil society has been co-opted, will be co-opted or that it does not matter whether or not it is co-opted.

There is no doubt that the danger of possible co-optation is a serious one. We have seen many colleagues in civil society yesterday, entering the political arena today and completely changing their language tomorrow. However, given the diversity of the movement, it is too simplistic to say that civil society as a whole has been co-opted. There are several civil society actors in this country who have remained independent, critical and objective in their approach to

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the political situation in the country. However, these are few and far between, and the tactics of divide and rule, intimidation and other forms of coercion are abundant. Indeed, the more accurate way to describe civil society is not as 'co-opted.' Rather, civil society in this country has been intimidated, threatened, silenced and ultimately disenfranchised.

Consequently, there is a need for the mobilization of like-minded civil society actors in the cause of reinvigorating and defending the fundamental rights to political organization, expression and (most importantly) opposition. Secondly, there is a need to strategize on the development of minimum principles for collaboration and action in the political arena. Ultimately, it does matter if civil society is co-opted. But to be co-opted you must in the first instance be perceived to be a threat. If there are no attempts at co-option then clearly civil society is not doing its job.

### **IV. SOME TENTATIVE CONCLUSIONS**

First of all, this paper has argued that civil society needs to move away from the false stance of 'political neutrality' and to actively enter the fray of concerted 'political action.' It is my considered opinion that the time has come for us to debunk the image that CSOs

are everything 'non' i.e. *non*-partisan; *non*-political and thus (in the words of Issa Shivji) *non*-involved. In actively engaging with the fray of political action, we can still be as effective from the sidelines without necessarily having to invade the pitch. Secondly, there is a need for increased dialogue and critical strategizing on the different issues of concern in the political arena and the methods to approach them. Civil society needs to engage in more of what can be described as *Preventive Advocacy*, which essentially means that we should be assessing and forecasting on the direction that politics is likely to follow and taking the necessary measures to prevent the more negative scenarios from evolving. But we should also improve our fire-fighting methods. Every day, there is an issue in the Press that cries out for civil society intervention in the political arena, but the silences from our side are deafening.

It is important to emphasize that in our struggle we must be brave and bold enough to tread where others fear to go. We should not be intimidated about attracting 'controversy,' or to have our work discredited or delegitimized. After all, (and to cite only one example of many) ultimately history will be the judge of whether President Museveni was right to amend the constitution for a 5<sup>th</sup> term or we who opposed him were wrong to do so. But if we are to stop

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President Museveni from becoming an even worse dictator, the number of jiggers I referred to at the beginning of this talk needs to multiply. Jiggers may be tiny, physically inconsequential and unintimidating, but they have the potential to cause great damage.

However small, we should be sufficiently irritating, persistent and effective in order for the body of officialdom to react to what we are saying and to take us seriously. While, we may be dismissed as only attacking a seemingly unimportant part of the body (the feet), I am sure that if any of you have had the experience of even a single jigger in your foot, you are aware of how powerful that little flea can be. Let us be so persistent as to fundamentally influence and determine how the body politic in Uganda walks.