Sustainability Index of NGOs in Sub-Saharan Africa (2009)

Indice de pérennisation des ONGs en Afrique subsaharienne (2009)

NGO SUSTAINABILITY INDEX for Sub-Saharan Africa (2009) 1st Edition – September 2010

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Cover photo: Members of the Ndethye Ngutethye self-help group (“Help me to help you”) from the Yatta region in Kenya participating in a training on bookkeeping, supported by Pact Kenya under the “Self Help Approach” program (self-help program). Photo: Pact Kenya.

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INTRODUCTION USAID is proud to present the first edition of the NGO Sustainability Index for Sub-Saharan Africa. This Index reports on the strength and overall viability of the NGO sector in nineteen countries in Sub-Saharan Africa, including countries from the East, West, and Southern African sub-regions. With a few region-specific modifications, the methodology of this Index replicates that of the NGO Sustainability Index for Central Europe, Eastern Europe, and Eurasia, a recognized tool published by USAID and used by NGOs, governments, donors, academics, etc., to better understand the sustainability of the NGO sector in Europe and Eurasia. Comparing the NGO sectors of Africa and Europe and Eurasia will be useful for users of both Indices. This methodology is based on the work of a panel of practitioners and NGO experts from each country who assess the NGO sector across seven interdependent dimensions: legal context, organizational capacity, financial viability, advocacy, service provision, infrastructure, and public image. An editorial committee of technical and regional experts reviews the findings of each country panel. Based on their ratings, the 19 countries studied in the Index fall into three categories or stages of development: enhanced sustainability, progressing sustainability, and constrained sustainability. The methodology used to calculate the ratings is examined in more detail in Sections 1 to 3 (pages 9-18). This is the first publication by USAID of the NGO Sustainability Index for Sub-Saharan Africa, and the ratings contained in this volume serve as a baseline for future Indices, allowing for comparisons between countries and sub-regions over time. The country reports highlight key factors influencing NGO sustainability, thus providing context and a foundation for subsequent reports aimed at tracking the progress and setbacks of the sector's development. In addition to the reports for each of the nineteen countries, this year's Index includes two articles that examine trends affecting NGO sustainability in Sub-Saharan Africa: the legal context for NGOs, specifically restrictive NGO laws and mandatory self-regulation initiatives, as well as factors influencing the financial viability of NGOs. The 2009 Index includes, at the beginning of each country report, a brief overview of the ratings for each dimension and the overall country rating, as well as the capital, population, and a summary of key economic indicators. This type of publication would not have been possible without the contributions of many individuals. The Index has been financially supported by the USAID Bureau for Democracy, Conflict and

Humanitarian Assistance, the USAID Bureau for Africa, and the Aga Khan Foundation. Special thanks to the NGO staff responsible for the Index are noted on the following page. We would also like to express our deep gratitude to all the local NGO experts, USAID partners in Washington and Sub-Saharan Africa, and international donors who participated in the discussions of the expert group in each country. Their knowledge, perceptions, ideas, observations, and contributions form the foundation upon which this Index is based.

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iv INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) ACKNOWLEDGEMENTS South Africa Yvette Geyer, Dirkie Steyn, Naidoo Nyoni and Jerann Naidu, Idasa ; Monica Moore, USAID/South Africa Angola Fern Teodoro, World Learning ; Ranca Tuba, USAID/Angola Burundi Melchoir Ndayimirije, Onesphore Nduwayo and Christophe Sebudandi Observatory of Government Action (OAG) ; James M. Anderson and Seconde Nizigiyimana, USAID/Burundi Ethiopia Debebe Hailegebriel, independent legal consultant ; Steve Smith and Brian Gilchrest, USAID/Ethiopia Gabon Marc Ona Essangui, Protet Judicaël Essono Ondo and Reine Patrick Banioguila, Brainforest NGO ; Eric Chehoski, U.S. Embassy/Gabon Ghana Dr Emmanuel Akwetey and Kofi Marrah, Institute for Democratic Governance (IDEG) ; Emil Stalis, USAID/Ghana Guinea Kabinet Cissé, National Council of Guinean Civil Society Organizations (CNOSCG)/CECIDE ; Anna Diallo, USAID/Guinea Kenya Jasper Morara and Joyce Gatambia, Pact Kenya ; Lola Odubekun and Catie Lott, USAID/Kenya Liberia Guzeh Subah and Precious Cee, Subah-Belleh ; Sean Hall and Dinah Zeltser, USAID/Liberia Mali Togo Abdramane, AADeC/Mali ; Salimata Niang Diallo, AKF/ Mali ; Martine Keita and Jason Smith, USAID/Mali Mozambique Sidney Bliss and Alfredo Mazive ; Euridia Azevedo and Luisa Capelao, USAID/Mozambique Nigeria Mohammed Ismaila Zango and Umaru Ibrahim Yakubu, Centre for Research and Documentation (CRD), Kano ; Minnie Wright, USAID/Nigeria Uganda Arthur Larok and Festus Kahiigwa, Uganda National NGO Forum ; Andrew Colburn, USAID/Uganda DRC Baudouin Hamuli Kabarhuza, Alexis Pezi Kuyowa and Justin Kangwenyenye Kazige, National Center for Support to Development and Popular Participation (CENADEP) ; Ruxandra Datcu and Sarah Berry, USAID/DRC Rwanda Faustin Vuni Ngoma, Eugene Rwibasira, Umbrella Organisation of Local NGOs in Development/ Consultation Council of Support Organizations for Grassroots Initiatives (CCOAIB) ; Tye Ferrell and Guillaume Bucyana, USAID/Rwanda Senegal Momar Talla Kane, Boubacar Seck, Council of NGOs Supporting Development (CONGAD) ; Nicole Tresch, USAID/Senegal Sierra Leone Maynard Cox-George, SLANGO ; Hyphen Services ; Abdulai Jalloh, USAID/Sierra Leone Tanzania Theo Macha and Linda Jerry, Pact Tanzania ; Magdalena Hiza and Tom Crubaugh, USAID/Tanzania Zimbabwe McDonald Lewanika, Jonah Gokova and Maria Mache, Crisis in Zimbabwe Coalition ; Otto Saki and Kevin Sturr, USAID/Zimbabwe

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INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) v Project Directors Management Systems International, Inc. Lisa Slifer-Mbacke Erin Portillo The International Center for Not-for-Profit Law Stephan Klingelhofer Catherine Shea Jennifer Croft Elaine Scudder Aga Khan Foundation Rebecca Gordon Richard Holloway Joanne Trotter Editorial Committee Boichoko Abraham Ditlhake, Claire Ehmann, Rebecca Gordon, Richard Holloway, Stephan Klingelhofer, Lisa Slifer-Mbacke, Jeremy Meadows, Gladwell Otieno, Eric Picard, Catherine Shea, Paul Takow Takow Translation from English Kamar Bencrimo

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INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 1 ANALYTICAL SUMMARY Whether responding to a cholera outbreak in Zimbabwe, garnering public support for peace

talks in Uganda, advocating for a law on access to information in Ghana, or addressing the needs of local communities to improve housing or healthcare in Burundi, non-governmental organizations (NGOs) in sub-Saharan African countries both meet and reflect the challenges of their societies 1 . They provide vital services, reach out to marginalized groups, act as watchdogs to hold governments accountable, and raise public awareness on issues of general policy and social problems. However, the sustainability of the NGO sector varies significantly from country to country and even within the same country. From countries like Gabon where NGOs operate in a legal vacuum and constantly face the risk of being dissolved, or Ethiopia where a new law imposes restrictions on NGOs receiving foreign funding, to South Africa or Kenya where NGOs play an active role in the decision-making process, a vivid diversity and common challenges characterize the sustainability of NGOs in Africa. This first Index of NGO sustainability in sub-Saharan Africa from USAID provides an important baseline for tracking changes in the situation over time, since the period when the NGO sector in some sub-Saharan African countries has been active for about forty years. Some of the issues faced by African NGOs include restrictive laws, political interference, lack of tax benefits such as exemptions on income from their activities, corruption, media censorship, as well as underdeveloped corporate philanthropy and public funding mechanisms. NGOs in some African countries operate amid prolonged armed conflicts; the unpredictability of electricity supply and weak communication infrastructure are obstacles to the efforts of NGOs. Nevertheless, the first edition of the Index of NGO sustainability in sub-Saharan Africa reflects many examples of NGOs that succeed in fulfilling their missions despite a myriad of obstacles. REGIONAL TRENDS From over 350,000 registered NGOs in Kenya between 1997 and 2005 to the mere 150 NGOs currently registered at the national level in Mozambique, the NGO sector in each of the nineteen countries studied in the Index is the product of unique historical, geographical, economic, and cultural factors. The region includes countries like the Democratic Republic of the Congo (DRC) and Nigeria which have enormous populations and multiple ethnic and linguistic groups. Different historical contexts have shaped the origins of the NGO sector in different countries; in Ethiopia, for example, NGOs began to emerge during the disastrous national famines of 1974 and 1984. Some countries still face today the overwhelming effects of past wars or prolonged military rule, factors that have impacted the capacity of NGOs to thrive. Political contexts also vary; among the nineteen countries studied in this Index, Ghana, Mali, and South Africa are the only “free” according to the 2010 global study by Freedom House on freedom, while ten countries are “partially free” and six “not free.” 1 The term “NGO” is sometimes applied to a relatively narrow group of officially registered organizations. In this publication, the use of the term “NGO” refers to non-profit civil society organizations, whether registered or not—including membership associations, advocacy organizations, community-based organizations (CBOs), service-providing organizations, and faith-based organizations.

 However, despite significant variations across the region, certain development trends in the NGO sector are evident in multiple countries in Sub-Saharan Africa. Legal obstacles: NGOs face certain types of legal obstacles in the majority of the countries covered by the Index. One major obstacle is, for example, the difficulty of registering. In some countries, laws regarding NGOs are outdated and complex, and the registration process is extremely centralized, which poses difficulties for NGOs located outside the capital. In Angola, Ghana, and Rwanda, NGOs must register at various administrative levels, which can lead to additional formalities and delays. Another issue is related to legislation on NGOs that introduces unwelcome restrictions, such as in Ethiopia, where NGOs receiving foreign funding are prohibited from working on issues deemed politically sensitive. (The issue of restrictive legislation is examined more closely in the study on page 19.) Legal

provisions in other countries limit the ability of NGOs to financially support themselves. In Burundi, for example, NGOs do not benefit from tax exemptions; even in countries that grant tax exemptions or other financial incentives to NGOs, such as the DRC and Guinea, the procedures are often so complicated that few NGOs manage to benefit from them. Sierra Leone does not provide tax incentives to encourage private donors and businesses to donate to NGOs. Bureaucratic requirements in Mali exclude NGOs from participating in certain state tenders. In some countries like the DRC and Senegal, NGOs have recognized the need for more favorable legislation and are undertaking initiatives to develop it, but for NGOs in other countries like Nigeria, this is not a top priority. In Ghana, NGOs opposed a draft law on NGOs that they believe could limit their development and activities. Defining the role of donors: Financial viability is the weakest dimension of NGOs in Africa, a problem discussed in depth in the study ON page 31. While resources are an issue for NGOs worldwide, the situation in many African countries creates particularly difficult financial conditions for NGOs. Few African NGOs can generate significant income by engaging in economic activities, charging for services, or collecting membership fees, and private and corporate philanthropy tends to be low, although community-based organizations (CBOs) and faith-based organizations often benefit from foreign contributions and individual donations. The awarding of state contracts to NGOs is very limited and is often hindered by bureaucracy and corruption. In most countries, NGOs are therefore largely dependent on foreign donors for funding, which has often resulted in donors dictating the priorities of NGOs. The dependence of NGOs on donors also makes them vulnerable when these donors reduce funding or withdraw from a country, as seen in Angola. NGOs as development actors: Service provision is the highest-rated dimension, on average, among the countries studied in the Index. In the majority of the covered countries, NGOs have been active for years, responding to humanitarian needs and providing basic services such as food and water, medicine, shelter, and education to needy and marginalized groups. One of the main features in many countries is the close link between CBOs and the local communities where they have had an impact. In Uganda, for example, NGOs are making efforts to involve communities in service provision and project implementation. The private and public sectors in Ghana recognize the skills of CBOs in gaining the trust and cooperation of local communities. In many Sub-Saharan African countries, NGOs are heavily involved in assisting people affected by HIV/AIDS and preventing the transmission of the disease. Yet, the services provided by NGOs, as in Liberia for example, are often determined by donor priorities rather than by the priorities or needs of

the community. In Sierra Leone, NGOs providing services feel limited in their role as subcontractors for international NGOs. Their capacity to provide services has earned them recognition from the government and even partnerships in several countries, but instances of the state awarding service contracts to NGOs remain rare. Such initiatives are still in their infancy in Kenya and are rare in Mozambique. • The evolution of the role of NGOs in advocacy: While many African governments tend to accept, and even in some cases adopt, the role of NGOs in providing social services, they are more inclined to be ambivalent or even hostile towards NGOs that promote human rights or advocate on sensitive issues such as corruption. Socioeconomic development seems to be the area where policymakers could involve NGOs in decision-making. Thus, in Rwanda, for example, NGOs participate in the Rwandan Economic and Social Council. In several countries, NGOs have realized that they can have a greater impact on policies and legislation through forming coalitions and networks, such as the Malian network of people living with HIV/AIDS, the campaign for good governance in Sierra Leone, the education network in Tanzania, and the Food Rights Alliance in Uganda. Other areas where NGOs can target their advocacy efforts include sexual violence and gender-based violence, land rights, women's rights, the environment, conflict resolution, and transitional justice. SUB-REGIONAL AND COUNTRY TRENDS The NGO sectors in the sub-regions of West, East, and Southern Africa have similar

average overall scores—the East and Southern Africa being at the same level of NGO sustainability, while the overall average score for West Africa is slightly lower. These overall scores place the NGO sectors of the three sub-regions towards the lower end of the “evolving sustainability” stage. Geography does not seem to be a determining factor for NGO sustainability scores. Each sub-region contains countries with NGO sectors that have received relatively high scores for the “progressing sustainability” stage: Kenya for East Africa, Senegal for West Africa, and South Africa for Southern Africa. Each sub-region also has an NGO sector firmly entrenched in the “constrained sustainability” stage, such as Burundi in East Africa, Guinea in West Africa, and Angola in Southern Africa. Between these two poles, the NGO sectors of the countries in each sub-region have been rated on the spectrum of NGO sustainability. As a result, the average overall scores of the sub-regions are the same.

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4 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) West Africa 2009 2009 2009 2009 2009 2009 2009 2009 1.0 3.0 5.0 7.0 Gabon Ghana Guinea Liberia Mali Nigeria Senegal Sierra Leone Sustainability Sustainability Sustainability strengthened in progress constrained Sustainability of NGOs in West Africa The Index covers eight countries in West Africa —Gabon, Ghana, Guinea, Liberia, Mali, Nigeria, Senegal, and Sierra Leone. The NGO sector in Gabon and Guinea is characterized by low ratings for sustainability (constrained sustainability). Guinea is the lowest-rated country in West Africa and, among all the countries in the Index, only Angola received a similarly low score. Social and political instability has indeed negatively affected the ability of Guinean NGOs to operate and achieve financial stability. 2 In Senegal, the highest-rated country in West Africa, NGOs are actively engaged in service provision while contributing to political debates. Ghana and Mali also offer relatively positive conditions for NGOs. The legal context for NGOs in Mali is one of the most favorable in Africa, with NGOs benefiting from an easy registration process and freedom to express their views on policy issues, although they find it difficult to benefit from tax exemptions and participate in state calls for expressions of interest. In Ghana, NGOs have strong organizational capacity compared to other countries in the region; for example, many NGOs engage volunteers. Ghanaian NGOs also provide services across a wide range of areas, although they continue to rely on foreign donor funds. Gabon is the West African country with the most challenging legal context for NGOs. The NGO-State relations tend to be confrontational, and NGOs face harassment, including the arrest of association members and the freezing of NGO bank accounts. Other aspects of NGO sustainability in Gabon are also constrained. The Gabonese state sometimes grants NGOs subsidies or contracts, but political nepotism makes it difficult for most NGOs to access these resources. 2 The expert panel on Guinea met, and the country report was drafted during the political crisis that followed the assassination attempt on the president and the postponement of national elections, which took place in June 2010.

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INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 5 accessing these funds also leads to the creation of NGOs by political figures for their own political and financial interests. Liberia and Sierra Leone, which experienced prolonged civil wars less than a decade ago, have identical average overall scores. In both countries, the activities and missions of NGOs reflect the transition between the post-conflict reconstruction phase and the development phase. Defining the legal framework for NGOs remains a major challenge in both countries, as does the search for funding sources in addition to foreign grants. In Nigeria, the most populous country in Africa, the NGO sector presents unique challenges and opportunities. NGOs have thrived with the influx of foreign funding that followed the country's return to democracy in 1999 and have been quite effective in engaging the government on key political issues. They indeed

benefit from a relatively positive public image. Despite the presence of vast natural resources, oil companies, and the establishment of some corporate foundations, NGOs in this country share the same struggles for financial viability as NGOs in other West African countries. East Africa The Index studies the following seven countries in East Africa: Burundi, Ethiopia, Kenya, Uganda, the Democratic Republic of the Congo, Rwanda, and Tanzania. Kenya has the best overall score in the sub-region and possesses the strongest NGO infrastructure of all the countries in the Index. In addition to the ongoing development of intermediary organizations and resource centers, Kenyan NGOs can benefit from institutionalized training programs and funding from local foundations. Tanzania's overall score is also relatively high, partly due to the particularly strong role of NGOs in service provision, for which they benefit from cooperation and support from local communities and the central government. In Uganda, the growing NGO sector is quite active in providing services, and strong networks of NGOs and umbrella organizations facilitate the success of NGOs in advocacy. However, the sustainability of Ugandan NGOs is hindered by the lack of diversified funding sources, as well as a restrictive environment, including the persecution of NGOs attempting to work on politically sensitive issues. The difficult situation faced by NGOs in Ethiopia is reflected in the low score of its legal context—equivalent to that of Zimbabwe. The negative aspects of the new Ethiopian Proclamation on the Registration and Regulation of Charities and Societies adopted in early 2009 indeed outweigh the positive aspects, including a restriction on international funding for NGOs involved in human rights, gender, conflict resolution, or justice sector reform. Ethiopia's scores for all dimensions, except for service provision, fall into the category of hindered sustainability.

6 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 2009 2009 2009 2009 2009 2009 2009 1.0 3.0 5.0 7.0 Burundi Congo Ethiopia Kenya Rwanda Tanzania Uganda Sustainability Sustainability Sustainability strengthened in progress hindered Sustainability of NGOs in East Africa More than half of Burundi's scores reflect the stage of hindered sustainability. In this country, NGOs are particularly struggling with an almost total dependence on funding from international donors and a restrictive legal context. In neighboring Rwanda, NGOs also face financial sustainability issues and weak infrastructure, but have managed to gain some momentum through advocacy for the formulation of socioeconomic development policies, improvements in NGO legislation, and oversight of transitional justice mechanisms. Southern Africa Four countries in Southern Africa are considered by the Index: South Africa, Angola, Mozambique, and Zimbabwe. South Africa, with its dynamic NGO sector and trend towards establishing national funding mechanisms, has the best score for the entire region of Africa, despite the decline in funding from donors, decreasing unity within the NGO sector, and brain drain to the private and public sectors that have weakened NGOs in recent years. At the other end of the scale, Angola shares with Guinea the lowest score of the countries studied. Angolan NGOs suffer from, among other things, low organizational capacity, a lack of support infrastructure, and a complex legislative framework. The country's oil boom has increased operating costs in Angola, leading many donors to withdraw or reduce aid budgets. Meanwhile, oil companies and other businesses provide minimal support for a limited range of associative activities. Mozambique and Zimbabwe share the same average overall score, even though the conditions for NGOs in both countries are quite different. NGOs in Zimbabwe operate in an unstable political context and are vulnerable to dissolution by the state. Despite this government hostility, NGOs in this country are among the most advanced in the region in terms of service provision to meet acute social and humanitarian needs. In Mozambique, NGOs can operate without harassment but struggle with particularly low organizational capacity. Like their counterparts in Zimbabwe, they are quite effective in providing services at the local level. They also succeed in mobilizing contributions and volunteers from local communities. 2009 2009 2009

2009 1.0 3.0 5.0 7.0 Angola Mozambique South Africa Zimbabwe Sustainability Sustainability Sustainability strengthened in progress hindered Sustainability of NGOs in Southern Africa CONCLUSION The Index of sustainability of NGOs in Sub-Saharan Africa published this year by USAID lays a solid foundation for an in-depth examination and evaluation of the NGO sector in nineteen countries and offers an opportunity for some to leverage the experience of others. NGO activists, policymakers, and the international community can draw inspiration from the Index and the best practices of African NGOs to determine their priorities and approaches—such as improving legislation, creating tax incentives for philanthropy, or enhancing NGOs' access to the Internet. Users of the Index can, among other things, track the evolution of the situation over time and see whether it continues to improve in countries with a relatively favorable context for NGOs or tends to worsen in countries with a difficult context; whether more marked differences gradually emerge between the sub-regions of West, East, and South; and how trends in NGO sustainability affect—or are affected by—other development trends in Africa. As explained in some country reports contained in this year's Index, in many cases, for example, African NGOs have been particularly active during periods of intensified conflict, humanitarian emergencies, and even in situations of state failure, intervening to address the problems of needy populations

and serving as a link between international donors and local communities. The thematic studies of the Index focus on two particularly challenging issues for NGOs across the Sub-Saharan African region—the lack of a supportive legal framework and the struggle for financial survival—as reflected in the scores of the legal context and financial viability dimensions, often the lowest for many countries. Relatively higher scores, on average, for the dimensions of service provision and advocacy point to the important role played by NGOs in meeting basic social needs in Africa and their growing capacity to make their voices heard through issue-focused campaigns, coalition building, and participation in general policy forums. However, often, NGOs that emphasize advocacy related to human rights and governance issues find themselves disadvantaged in obtaining national funding sources or gaining positive recognition compared to their service-providing counterparts. It is clear from this year's report that NGOs in Sub-Saharan Africa reflect and simultaneously raise the conditions and trends of the countries in which they operate. As noted by USAID and MSI in their study, the wide range of NGOs in Africa—from faith-based organizations to professional associations to community groups—is largely the result of the democratic movements of the 1990s in Africa, which opened up space for non-state actors. Regime changes, political developments, economic fluctuations, and technological advancements in the studied countries will undoubtedly continue to be among the factors influencing both positive and negative trends in the development of the NGO sector, leading to future fluctuations in scores. The NGOs themselves will likely also accelerate change while adapting and innovating in their own unique ways.

INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 9 SECTION 1: DIMENSIONS OF NGO SUSTAINABILITY Seven different dimensions of the NGO sector are analyzed in the Index of Sustainability of NGOs in Sub-Saharan Africa: the legal context, organizational capacity, financial viability, advocacy, service delivery, infrastructure, and the public image of NGOs. In this Index, each of these dimensions is examined with a focus on the following questions: 1. What has been achieved? 2. What remains a problem? 3. Do local actors recognize the nature of the challenges that remain to be addressed? 4. Do local actors have a strategy and the capacity to address these challenges? The criteria used to evaluate each dimension of sustainability are briefly explained below: LEGAL CONTEXT For the NGO sector to be sustainable, it needs a legal and regulatory context that supports the needs of NGOs. This context must facilitate access for

newcomers, help prevent state interference, and provide NGOs with the essential legal basis to engage in appropriate fundraising activities and legitimate income-generating activities. The legal context dimension of the Index analyzes the legal status of non-governmental organizations. Factors shaping the legal context include the ease of registration; legal rights and conditions governing NGOs; and the extent to which laws and regulations related to taxation, market services, access to information, and other issues are beneficial or discouraging for the effectiveness and viability of NGOs. The extent to which public officials, NGO representatives, and private lawyers have the legal knowledge and experience to work on and improve the legal and regulatory context for NGOs is also examined. The questions posed include: Is there a law favorable to the registration of NGOs? In practice, are there NGOs that can easily register and operate? Is internal management, the scope of authorized activities, financial information, and/or the dissolution of NGOs well detailed in current legislation? Does clear legal terminology exclude undesirable state control over NGOs? Is the law applied according to its terms? Are NGOs protected from the possibility of the state dissolving an NGO for political/arbitrary reasons? Are NGOs and their representatives allowed to operate freely within the law? Are they exempt from harassment by the central government, local governments, and tax authorities? Can they freely address public debate issues and express criticisms? Are there local lawyers familiar with NGO law? Is legal advice available for NGOs in the capital and secondary cities? Do NGOs benefit from any type of tax exemption or deduction on grants, endowments, fees, or economic activities? Do individual or corporate donors receive tax deductions? Is there legislation allowing NGOs to earn income from the provision of goods and services? Are NGOs legally allowed to bid for government contracts at local and central levels?

10 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) ORGANIZATIONAL CAPACITY A sustainable NGO sector will contain a critical mass of NGOs that are managed transparently and publicly accountable, effectively led, and demonstrate essential organizational skills. The organizational capacity dimension of the Index addresses the operations of NGOs. The questions posed include: Do NGOs clearly identify and actively seek to form local constituent bodies for their initiatives? Do they succeed in these efforts? Do NGOs have clearly defined missions that they adhere to? Have they clearly defined strategic plans and incorporated strategic planning techniques into their decision-making processes? Do NGOs have a clearly defined management structure, including a recognized division of responsibilities between the board of directors and staff members? Is the board actively involved in the governance of NGOs? Do boards operate openly and transparently, allowing contributors and supporters to verify the appropriate use of funds? Can NGOs retain paid permanent staff? Do NGOs have adequate human resources practices for staff, including contracts, job descriptions, payroll (social charges), and personnel policies? Are potential volunteers recruited and engaged in sufficient numbers? Do NGOs make use of professional services: accountants, IT specialists, or lawyers? Do their resources generally allow them to have basic office equipment (relatively recent computers and software, functioning cell phones, fax/scanners, internet access, etc.)? FINANCIAL VIABILITY A critical mass of NGOs must be financially viable, and the economy must be strong enough to support NGOs' self-financing efforts and generate donations from local philanthropy. For many NGOs, financial viability may depend as much on their availability as on their ability to compete for funding from international donors. Factors influencing the financial viability of NGOs include the state of the economy, the degree of philanthropy and volunteerism embedded in local culture, and the extent to which state market services and commercial income opportunities are developed. The sophistication and prevalence of fundraising and strong financial management skills are also considered. The questions posed in this dimension include: Do NGOs collect a significant percentage of their funds from local sources? Are NGOs able to rely on a core of

volunteers and non-monetary support from their communities and members? Are there local sources of philanthropy? Do NGOs normally have access to various sources of funding? Do most NGOs have sufficient resources to remain viable in the short term? Are sound financial management systems in place? Do NGOs normally operate transparently, including conducting independent financial audits and publishing their annual reports and financial statements? How many NGOs have cultivated a loyal core of financial supporters? Are NGOs involved in any type of program to engage their members and develop philanthropy? Do revenues from services, products, or asset rentals supplement NGOs' income? Do governments and/or local businesses grant NGOs service contracts? Do member associations collect dues?

INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 11 ADVOCACY The political and advocacy context must support the creation of coalitions and networks and provide NGOs with the means to communicate their messages through the media to the public, articulate their demands to state officials, and oversee government actions to ensure accountability. The advocacy dimension assesses NGOs' performance in influencing public policies. The Index analyzes the prevalence of advocacy in various sectors and at different levels of government, as well as with the private sector. The extent of coalition building among NGOs around specific issues and the existence or lack of partial monitoring by NGOs of government platforms and performances are taken into consideration. This dimension does not measure the level of NGOs' engagement with political parties. The questions posed include: Are there direct means of communication between NGOs and decision-makers? Do NGOs and state representatives work together on certain projects? Have NGOs created thematic coalitions and conducted extensive advocacy campaigns? Have these campaigns been effective at the local and/or national level in raising awareness or supporting various causes? Are there mechanisms and relationships that allow NGOs to participate at different levels of government decision-making processes? Are NGOs comfortable with the concept of lobbying? Have lobbying activities sometimes led to the adoption or amendment of legislation at the local or national level? Does the NGO community as a whole know that a favorable legal and regulatory framework can enhance the effectiveness and sustainability of NGOs? Are local advocacy efforts by NGOs undertaken to promote legal reforms that will benefit NGOs, local philanthropy, etc.? SERVICE DELIVERY The sustainability of the NGO sector requires that a critical mass of NGOs can effectively provide services that systematically meet the needs, priorities, and expectations of their constituent members. The Index examines the following questions: Do NGOs provide services in various areas, including basic social services and other areas such as economic development, contextual protection, or governance and empowerment? Overall, is the sector's “product line” diversified? Do the goods and services provided by NGOs reflect the needs and priorities of their members and communities? Are goods and services that exceed basic social needs provided to a broader constituent body than that of NGOs? Are certain products, such as publications, workshops, or expert studies, sold to other NGOs, universities, churches, or states? When NGOs provide goods and services, do they recover some of their costs by charging fees? Do they understand market demand and the capacity of various constituent bodies to pay for these products? Does the government, at the national and/or local level, recognize the value that NGOs can add to the provision and oversight of basic social services? Does it grant subsidies or contracts to NGOs to enable them to provide these services? INFRASTRUCTURE A strong sectoral infrastructure is essential to give NGOs broad access to local support services. Intermediary organizations (IOs) must be able to inform, train, and advise other NGOs and provide access to networks and coalitions of NGOs to share information and address common issues. The questions posed include: Are there IOs, resource centers, or other means for NGOs to access relevant information, technology, training, and

12 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) Is technical assistance available throughout the country? Do international organizations and resource centers for NGOs meet the needs of local NGOs? Do some revenue streams from international organizations and resource centers come from income generated by their activities (such as service fees) and other locally generated sources? Do local community foundations and/or international organizations provide grants, from locally raised funds or by reallocating funds from international donors, to address needs and projects identified at the local level? Do NGOs share information among themselves? Is there a network to facilitate this information exchange? Is there an organization or committee through which the sector advocates for its interests? Are there competent local trainers specializing in NGO management? Is basic training in NGO management available in the capital and in secondary cities? Are more advanced specialized trainings available in areas such as strategic management, accounting, financial management, fundraising, volunteer management, and board development? Do the trainings meet the needs of local NGOs? Is training material available in local languages? Are there examples of NGOs working in partnership, officially or informally, with local businesses, the state, and the media to achieve common goals? Are various sectors aware of the opportunities and benefits of these partnerships? PUBLIC IMAGE For the NGO sector to be sustainable, the government, businesses, and communities should have a positive public image of NGOs, including a good understanding and appreciation of the role played by NGOs in society. Public awareness and credibility directly affect NGOs' ability to recruit members and volunteers and to encourage local donors. The Index examines the extent and nature of media coverage of NGOs, public awareness, and the willingness of public officials to involve NGOs, as well as the knowledge and perception of the public regarding the sector as a whole. The questions generally asked in this section include: Do NGOs receive positive media coverage at the local and national levels? Is there a distinction made between public interest messages and corporate advertising campaigns? Do the media positively analyze the role played by NGOs in civil society? Does the public have a positive perception of NGOs? Do they understand the concept of NGOs? Are they supportive of the overall activities of NGOs? Do the business sector, local authorities, and central government officials have a positive perception of NGOs? Do they rely on NGOs as a community resource or as a source of credible expertise and information? Do NGOs promote their activities or their public image? Have they developed relationships with journalists to encourage positive coverage? Have they adopted a code of ethics or tried to demonstrate transparency in their operations? Do large NGOs publish annual reports?

INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 13 SECTION 2: RATINGS – GENERAL DEFINITIONS The Index of sustainability of NGOs in Sub-Saharan Africa uses a seven-point scale, with 1 representing the highest level and 7 the lowest level of sustainability. These ratings are grouped into three general stages: Enhanced Sustainability (1 to 3), Progressing Sustainability (3.1 to 5), and Hindered Sustainability (5.1 to 7). The following broad guidelines can be used to determine the ratings for each indicator and dimension: 1. Sustainability of the NGO sector significantly enhanced by practices/policies in this area. If the necessary reforms may be incomplete, the local NGO community recognizes what reforms or developments are still needed and has a plan and capacity to pursue them itself. 2. Sustainability of the NGO sector enhanced by practices/policies in this area. The local NGO community demonstrates its commitment to pursuing reforms and developing its professionalism in this area. 3. Sustainability of the NGO sector somewhat enhanced by practices/policies in this area or significant commitment to developing the aspect in question. 4. Sustainability of the NGO sector moderately affected by

practices/policies in this area. Progress may be hindered by a stagnant economy, a passive government, disinterested media, or a community of well-meaning but inexperienced activists. 5. Sustainability of the NGO sector somewhat hindered by practices/policies in this area. Progress may be hindered by a recessionary economy, an authoritarian leader and a centralized government, controlled or reactionary media, or a low level of capacity, willingness, or interest from the NGO community. 6. Sustainability of the NGO sector hindered by practices/policies in this area. A hostile context, low capacities, and lack of public support prevent the growth of the NGO sector. 7. Sustainability of the NGO sector significantly hindered by practices/policies in this area, generally due to an authoritarian government that aggressively opposes the development of independent NGOs.

14 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) SECTION 3: RATINGS – FOCUS The following sections examine in more depth the characteristics of each of the seven dimensions of sector development. These characteristics and stages are derived from empirical observations of sector development in the region, rather than from a causal theory of development. Given the decentralized nature of the NGO sector, several contradictory developments may occur simultaneously. Therefore, we do not attempt to break down the characteristics of the seven dimensions into seven distinct stages of development. These characteristics are rather grouped into three basic stages: Enhanced Sustainability, Progressing Sustainability, and Hindered Sustainability. The Enhanced Sustainability stage, the highest level of sustainability and development, corresponds to a rating of 1 to 3 points; the Progressing Sustainability stage corresponds to a rating of 3.1 to 5 points; and the lowest level of development, the Hindered Sustainability stage, corresponds to a rating of 5.1 to 7 points on the scale. LEGAL CONTEXT Enhanced Sustainability (1-3): The legislative and regulatory framework provides specific provisions for the needs of NGOs or grants non-profit organizations special advantages: significant tax deductions for corporate or individual contributions, substantial tax exemptions for NGOs, open competition among NGOs to provide state-funded services, etc. At this stage, efforts in legislative reform are primarily an advocacy effort by NGOs to reform or refine tax laws, procurement procedures, etc. Local and comparative expertise on the legal framework for NGOs exists, and legal services and documents are available. Progressing Sustainability (3.1-5): NGOs have little difficulty registering and do not experience harassment from the state. They are allowed to engage in a wide range of activities, although tax provisions, procurement procedures, etc. may inhibit their operations and development. Programs aim to reform or clarify legislation regarding NGOs, to enable them to increase their revenues and commercial activities and for the national government or local authorities to privatize the provision of certain state services, to address key tax issues for NGOs, etc. The local NGO community understands the need to come together and advocate for favorable legal reforms for the NGO sector as a whole. A local core of legal experts begins to specialize in NGO legislation by providing legal services to local NGOs, advising the NGO community on necessary legislative reforms, drafting bills, etc. Hindered Sustainability (5.1-7): The legal context severely limits NGOs' ability to register and/or operate, due to the absence of legal provisions, the confusing or restrictive nature of legal provisions (and/or their implementation), or hostility and harassment from the government towards NGOs. ORGANIZATIONAL CAPACITY Enhanced Sustainability (1-3): Several transparently managed and competently run NGOs exist in various sectors. A majority of organizations have clearly defined mission objectives, and many of them use strategic planning techniques. Boards of directors exist, and there is a clear distinction between the responsibilities of board members and staff. NGOs have well-trained permanent staff and widely rely on volunteers.

SUSTAINABILITY INDEX OF NGOs IN SUB-SAHARAN AFRICA (2009) 15 volunteers. Most NGOs have relatively modern equipment that allows them to work effectively. Large NGOs have managed to develop strong local support groups. Progressing sustainability (3.1-5): Some NGOs demonstrate an enhanced capacity to self-manage and organize their work. Some others have full-time staff and boast a division of labor between board members and staff. NGOs have access to basic office equipment, including computers and fax machines. While these efforts may not yet have yielded results, large NGOs recognize the needs and strive to develop local support groups. Hindered sustainability (5.1-7): NGOs are essentially "one-man shows," entirely dependent on the personality of one or two key figures. They often break apart due to personality conflicts. NGOs lack a clearly defined sense of their mission. At this stage, NGOs reflect weak knowledge or gaps in strategic planning or program formulation. Organizations rarely have a board of directors, bylaws, or at most a handful of active members. NGOs do not understand the value or need to develop local support groups. FINANCIAL VIABILITY Enhanced sustainability (1-3): A critical mass of NGOs have adopted sound financial management systems, including independent audits and the publication of annual reports with financial statements, to gain potential trust from funders. NGOs raise a significant percentage of their funds from local sources, including the state, businesses, private donors, and income from their activities. Most NGOs have various funding sources, allowing them to remain viable in the short term. A growing economy makes local donations possible. Progressing sustainability (3.1-5): NGOs are paving the way by adopting different approaches to financial autonomy and viability. While they are still largely dependent on foreign funders, some NGOs are beginning to increase their revenues through the provision of services and obtaining grants and service contracts from municipalities and ministries or are trying to attract paying members or local donors. However, a sluggish local economy can hinder efforts to raise funds from local sources. Training programs focus on financial management, and NGOs are beginning to realize the importance of transparency and accountability regarding fundraising, even if they may not be able to fully implement transparency measures. Hindered sustainability (5.1-7): New NGOs survive from grant to grant and/or are financially dependent on a foreign sponsor. While many NGOs are created in the hope of securing funding, most are largely inactive due to their failure to obtain financial resources from foreign funders. Local funding sources are virtually nonexistent, partly due to a depressed local economy. NGOs lack financial management systems and do not understand the need for transparency or financial accountability. ADVOCACY Enhanced sustainability (1-3): The NGO sector demonstrates the ability and capacity to respond to the changing needs, problems, and interests of the community and the country. As NGOs secure their institutional and political base, they begin to 1) form coalitions to advance common interest issues, including legislation related to NGOs; 2) lobby political parties and monitor them; and 3) lobby legislative and executive bodies. NGOs demonstrate the capacity to mobilize citizens and other organizations to respond to changing needs, problems, and interests. At this stage of development, NGOs review their strategies and have the capacity to adapt and respond to challenges across various sectors. A significant incentive for cooperation is self-interest: NGOs can form alliances around common issues they face as non-profit non-governmental organizations. Progressing sustainability (3.1-5): Closely defined advocacy organizations are emerging and becoming politically active in response to specific issues. Organizations at this stage of evolving development often

present their issues at inappropriate levels of government (local instead of national and vice versa). The weakness of the legislative power may manifest or be poorly assumed, as activists prefer to meet with executive officials ("where the real power lies"). Alternative policy analysis work is beginning to emerge in universities and think tanks. The exchange of information and the establishment of networks allowing the NGO sector to inform and advocate its needs within

the government are beginning to develop. Hindered sustainability (5.1-7): Large umbrella movements, composed of activists concerned with various sectors and united by their opposition to the government, are disintegrating or disappearing. Some countries at this stage have not even begun to experience a surge of activism. Economic concerns are predominant for most citizens. The general public exhibits a degree of passivity, cynicism, or fear. NGO activists are afraid to engage in dialogue with the government, feel unqualified to express their views, and/or do not believe that the government will listen to their recommendations. NGOs do not understand the role they can play in public policy or the concept of public policy. SERVICE DELIVERY Enhanced sustainability (1-3): Many NGOs provide a wide range of goods and services that reflect the priorities of the community and/or local funders. Many of them deliver products beyond basic social services, in sectors such as economic development, environmental protection, or democratic governance. NGOs have developed sufficiently strong knowledge in several sectors about the market demand for their services, the government's capacity to offer markets for these services, or other funding sources such as private donations, grants, and fees, if legally permitted by law. A number of NGOs find ways to cross-finance these goods and services for which full cost recovery is not viable with revenues from more profitable goods and services or with funds raised from other sources. Public authorities, especially at the local level, recognize the capacities of NGOs and grant them subsidies or contracts to enable them to provide various services. Progressing sustainability (3.1-5): The contribution of NGOs to bridging the gap in social services is recognized by the state, although it rarely grants them funds in the form of subsidies or contracts. NGOs recognize the need to charge for services and other products—such as publications and workshops—but even when legally permitted, fees rarely cover incurred costs. While the goods and services provided by NGOs meet community needs, these needs are generally identified by foreign funders or by NGOs in a non-systematic manner. In addition to the NGO members themselves, interest groups for NGO expertise such as reports and documents are beginning to expand to include other NGOs, universities, churches, and the government.

 Hindered sustainability (5.1-7): A limited number of NGOs are able to provide basic social services—such as health, education, relief, or housing—albeit at a still quite low level of sophistication. Those that provide such services benefit little or not at all from state grants or contracts. NGOs produce publications, technical services, or research work often solely for their own members or their donors. They rarely attempt to charge for the goods or services provided. INFRASTRUCTURE Strengthened sustainability (1-3): Intermediary organizations (IO) and/or NGO resource centers are active in all regions of the country and provide advanced training, information services, support, and legal advice as well as activities for developing philanthropy. Efforts are underway to establish and equip community foundations, indigenous grant-making institutions, and/or organizations to coordinate local fundraising. There is a professional framework of experts, consultants, and local trainers specializing in nonprofit sector management. NGOs recognize the value of training, although the lack of financial resources remains a constraint to accessing locally provided training. The themes of available training cover the legal and fiscal issues of NGOs, accounting and bookkeeping, communication skills, volunteer management, media and public relations, sponsorship, and fundraising. NGOs work together and share information through networks and coalitions. They are beginning to develop intersectoral partnerships with businesses, government, and media to achieve common goals. Progressing sustainability (3.1-5): IOs and resource centers are active in major urban areas and provide services such as grant distribution, newsletter publication, maintenance of a membership database, management of an NGO literature library, and provision of basic training and consulting services. Other umbrella organizations and networks are beginning to form to facilitate the creation of networks and

coordinate the activities of NGO groups. Local trainers have the capacity to provide basic organizational training. Funding forums are formed to coordinate financial support from foreign donors and develop local corporate philanthropy activities. The value of intersectoral partnerships has not yet been realized. Hindered sustainability (5.1-7): Few, if any, IOs or resource centers, networks, and active umbrella organizations. Those that are operational primarily work in the capital and provide limited services: computers, fax machines, email, and meeting space. Local training and capacity development for NGOs are extremely limited and underdeveloped. It is mainly international donor programs that provide training and technical assistance. There is no coordinated effort to develop traditions of philanthropy, improve fundraising, or establish community foundations. Efforts by NGOs to work together are limited by a perception of competition for support from foreign donors and by distrust of other organizations. PUBLIC IMAGE Strengthened sustainability (1-3): This stage is characterized by increased public trust in NGOs as well as volunteer rates. NGOs come together to organize campaigns aimed at increasing public trust. Widespread examples of good working relationships between NGOs and national and local governments exist and can lead to public-private initiatives or NGO advisory committees for city councils and ministries. The media cover the work of NGOs, and they approach media and public relations in a professional manner. The NGO sector demonstrates an increased obligation to accountability, transparency, and self-regulation, notably through the adoption of an ethical code or a generally accepted code of conduct. Progressing sustainability (3.1-5): The media tend not to cover NGOs because they see them as weak and ineffective or irrelevant. Some NGOs realize the need to educate the public to become more

transparent and seek media coverage opportunities, but lack the skills to do so. As a result, the general population does not really understand the role of NGOs in society. Some local communities have strong working relationships with local NGOs, as evidenced by their participation in advisory committees, consultations, public-private initiatives, and occasional grant funding, but this is not yet widespread. Hindered sustainability (5.1-7): The public and/or government are poorly informed or suspicious of NGOs as institutions. Most of the population does not understand the concept of “non-governmental” or “non-profit,” including public officials, business leaders, and journalists. Media coverage can be hostile, due to the suspicion of free but poorly informed media or due to the hostility of a press outlet controlled by an authoritarian government. Accusations of treason may be leveled against NGOs. Due to a hostile atmosphere caused by an authoritarian government, individuals or businesses that sometimes donate to NGOs often do so anonymously.

 Section 4: ARTICLES LEGAL TRENDS IN SUB-SAHARAN AFRICA David Moore I. Introduction In Sub-Saharan Africa, legal traditions are diverse and multidimensional. Regardless of the country, the legal context of civil society can be shaped by indigenous customary law, common law, civil law, and/or Islamic law. In South Africa, for example, the legal system has been shaped by Dutch civil law and common law traditions, while indigenous customary law continues to constitute a central part of the legal system. 1 Uganda's legal system is based on common law and African customary law; customary law is applied insofar as it does not contradict written law. 2 In Senegal, on the other hand, where the legal system is based on French civil law and Islamic law, no reference to customary law is permitted by the courts. 3 Furthermore, national political systems in Sub-Saharan Africa, which range widely from the relatively stable democracies of South Africa and Ghana to relatively less stable states like Guinea and Zimbabwe, 4 have a direct impact on the role of legislation to enable or hinder civil society activities and freedom of association. In Sub-

Saharan Africa, civil society undeniably has a rich and diverse history. A brief overview reveals a deeply rooted associative life in many countries, based on connections to tribe and clan. Civil society actors—including associations, faith-based organizations (or religious groups), and informal networks—have played central roles in the struggle against colonization. 5 In the period following independence, advocacy, development, and human rights associations, generally referred to as NGOs, began to emerge across the continent. 6 Moreover, NGOs 7 have increasingly played a crucial role as service providers. Some have indeed described their growth as an “explosion of associative life in Africa.” 8 1 Ricardo G. Wyngaard, South Africa Country Report, International Journal for Not-for-Profit Law, Vol.12, Issue 2 (February 2010), http://www.icnl.org/knowledge/ijnl/vol12iss2/special_7.htm. 2 Livingstone Sewanyana, Uganda Country Report, International Journal for Not-for-Profit Law, Vol.12, Issue 2 (February 2010), http://www.icnl.org/knowledge/ijnl/vol12iss2/special_8.htm. 3 Customary and Islamic law in Senegal, published in Legalbrief Africa, 20 December 2004, Issue No: 110, http://www.legalbrief.co.za/article.php?story=20041217123824607. 4 See Freedom House, Worst of the Worst: The World’s Most Repressive Societies 2009, http://www.freedomhouse.org/uploads/WoW09/WOW%202009.pdf; and Foreign Policy, The Failed States Index 2010, http://www.foreignpolicy.com/articles/2010/06/21/2010_failed_states_index_interactive_map_and_rankings 5 Bhekinkosi Moyo, The Legislative Environment for Civil Society in Africa: A Synthesis Report, Trust Africa, May 25, 2009, http://www.trustafrica.org/documents/LegislativeEnvironment.pdf. 6 Michael Edwards, The Challenges of Civil Society in Africa, Trust Africa, February 12, 2009, http://www.trustafrica.org/index.php?option=com_content&task=view&id=166&Itemid=51&lang=en. 7 While recognizing that the term “NGO” is not a rare organizational legal form of civil society in Sub-Saharan Africa, this document will use the term “NGO” to include non-governmental organizations, nonprofit associations, regardless of the definition of a given legal system. 8 Michael Bratton, Civil Society and Political Transition in Africa, Institute for Development Research (IDR) Reports Vol. 11, No. 6 (1994), pg. 6, http://www.worlded.org/docs/Publications/idr/pdf/11-6.pdf. A more recent study assessing trends in democratic citizenship from 1999 to 2008 conducted in 11 African countries revealed that civic participation (attending community meetings, joining others to raise issues) is...

 The explosion of associative life in Africa, which coincided with the "global associative revolution" 9 described by Lester Salamon, has perhaps inevitably increased attention to regulation. An official from the Ugandan Ministry of Internal Affairs commented that "the mobilization capacity of civil society has taken the State by surprise and the strength of NGOs can no longer be taken for granted." 10 Indeed, two particular trends have emerged in recent years. First, states are drafting, enacting, and enforcing laws to regulate civic space – often to restrict or shrink civil society activity. Second, civil society organizations themselves are developing and implementing self-regulation regimes to improve the governance of individual associations and the sector as a whole, as well as public perception of good governance. This document will examine each regulatory trend in turn. Section II analyzes the trend of restrictive state regulation. Section III is dedicated to the rising trend of self-regulation. II. Shrinking the Legal Space of Civil Society The overall trend of resorting to law to limit the space of civil society is referred to as the "regulatory backlash against civil society," 11 the "associational counter-revolution," 12 and more recently, the "steel vise in which governments around the world are slowly crushing civil society..." 13 It is in this global context that the same trend unfolds in Sub-Saharan Africa. This section will examine recent restrictive regulatory measures – including laws, policies, and regulations – that hinder civil society in the region, as well as various forms of government harassment targeting civil society. Restrictive Regulatory Measures Since January 2009, we have witnessed the

introduction of proposed or adopted regulatory restrictions in at least six countries and the enforcement of restrictive rules in many other Sub-Saharan African countries. But the severity of the restrictions may be even more striking than the number of countries illustrating the regulatory trend, and the new laws governing civil society organizations (CSOs) in Ethiopia and Zambia are particularly constraining. Indeed, the Proclamation for the Registration and Regulation of Charitable Organizations and Associations, enacted in Ethiopia in February 2009, has been called "one of the worst in the world." 14 The rise in the number of individuals facing legal problems and participating in protests or demonstrations is increasing, despite declines in involvement in civil society networks (active members of religious and volunteer organizations). See Afrobarometer, Are Democratic Citizens Emerging in Africa?, Afrobarometer Briefing Paper No. 70, May 2009. 9 Lester M. Salamon, Helmut K. Anheier, Regina List, Stefan Toepler, S. Wojciech Sokolowski et al., Global Civil Society: Dimensions of the Nonprofit Sector, the Johns Hopkins Center for Civil Society Studies, 1999. 10 Bhekinkosi Mayo, The Legislative Environment for Civil Society in Africa: A Synthesis Report, Trust Africa, May 25, 2009, http://www.trustafrica.org/documents/LegislativeEnvironment.pdf. 11 Jude Howell and Armine Ishkanian, The backlash against civil society in the wake of the Long War on Terror, Development in Practice, Volume 18, Issue 1 (2008), pages 82 – 93, http://www.informaworld.com/smpp/content~db=all~content=a789773469~frm=abslink. 12 Doug Rutzen and Catherine Shea, Associational Counter-Revolution, Alliance Magazine, September 2006, http://www.alliancemagazine.org/en/content/the-associational-counter-revolution. 13 U.S. Secretary of State Hillary Clinton, Civil Society: Supporting Democracy in the 21st Century, Krakow, July 3, 2010. 14 Lotte Leicht, EU should not tolerate Ethiopia’s repression, Ethiopian Review, February 18, 2009, http://www.ethiopianreview.com/forum/viewtopic.php?f=2&t=20560.

 21 The Ethiopian Proclamation particularly restricts the work of NGOs that receive more than 10% of their funding from foreign sources in certain areas: promotion of human rights, children's rights, and rights of persons with disabilities, gender equality, nations and nationalities, good governance, conflict resolution, and judicial system effectiveness. In other words, organizations receiving substantial foreign funding will not be able to monitor the government's record on human rights, conflict resolution, and even children's rights and rights of persons with disabilities. The restriction on foreign funding, especially in light of the limited availability of local funding, will likely result in depriving organizations of resources. Ultimately, many Ethiopian organizations will be left with the choice of either giving up almost all their funding or their activities in the field of human rights, gender equality, etc. "You are doomed in either case," says Kumlachew Dagne, lawyer and executive member of the Bar Association. 15 Just a few months after the Ethiopian law came into force, an extremely restrictive law was proposed and adopted in Zambia. The NGO Bill was made public in July 2009 and enacted by the President in August 2009. This law imposes a criminal offense on unregistered associations; allows the State to impose limits on an organization’s registration status; requires re-registration every five years; envisions a heavily bureaucratic regulatory body called the NGO Registration Service; grants this Service dangerously broad regulatory powers; imposes constraints on the ability of NGOs to communicate and cooperate with counterparts both within the country and abroad; mandates membership in an umbrella organization; and threatens violators with severe criminal penalties, including imprisonment. Not yet enforced a year after its enactment, this law weighs heavily on civil society in Zambia. In Sierra Leone, Parliament enacted the Revised NGO Policy Regulations in November 2009. The meaning and impact of these regulations are controversial. Some civil society actors – as shown in the IPONG report on Sierra Leone in this compilation – have generally welcomed these new rules, which they believe create a favorable context for NGOs. Others disapprove, arguing that

the implementation of the Policy Regulations, as well as the adoption of the National Revenue Authority Act and the anti-corruption law, subject NGOs to increased state interference and other state agencies. The establishment and registration of NGOs are certainly subject to stricter requirements: hiring at least five full-time employees, office space, prominently displayed signage, and an organizational bank account. Candidate NGOs may be summoned for an interview with the Ministry. Selected candidate NGOs must sign an agreement with the State before starting their operations; in other words, every project implemented in Sierra Leone by NGOs must be approved by the relevant ministerial sector as well as by the Ministry of Finance and Economic Development. Civil society organizations in Uganda are governed by the NGO Registration Act (as amended in 2006) and the accompanying NGO Registration Regulation (2009), which contains a number of obstacles to the registration and oversight of NGOs. To cite just one example, Regulation 13 stipulates that an association shall not establish any direct contact with the population in its area of intervention in Uganda unless it has given written notice of seven days to the local councils and district permanent commissioners of the region. However, in the case of Uganda, civil society representatives report that while the legal texts are draconian, their implementation and enforcement are selective: "NGOs engaged in advocacy or general policy activities, for example, are therefore vulnerable to action from the state." 15 Geoffrey York, New Ethiopian law cripples NGOs,

Ethio Quest News, November 20, 2009, http://www.ethioquestnews.com/Spotlight/Food_Security/Update-16.html.

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 State supervision. Furthermore, the extent of NGO operations remains subject to the discretion of the State.” 16 In other countries, the State has developed or considered drafting legislation that would limit civic space. In Zimbabwe, for example, the Ministry of Employment and the Ministry of Justice issued the Joint Memorandum re: Amendment to the PVO 17 Act and the Deeds Registries Act. The Memorandum proposed that trusts registered with the Deeds Registry and also falling under the definition of a Private Voluntary Organization (PVO) be explicitly required to register as a PVO before commencing their activities. This would subject trusts to a burdensome two-tier registration process and extensive oversight from the clerk and the PVO department. Knowing that a large number of human rights and advocacy associations in Zimbabwe are registered as trusts, the proposal was particularly troubling. In Angola, a bill on NGOs, drafted without any consultation with NGOs, has been pending approval before the Council of Ministers since 2007. This new law would introduce additional registration requirements. In Burundi, a revision of the government decree governing non-profit associations was introduced in July 2009 but has not yet been reviewed by the Council of Ministers. The legal constraints faced by civil society are not only rooted in restrictive legislation or regulations on NGOs. Laws related to, among others, media or internet access, counter-terrorism or extremism, while not directly targeting NGOs, can nonetheless be used to limit the space for civic activity, particularly advocacy activity. For example, the Sudanese Parliament approved in June 2009 the press law, which was widely opposed by Sudanese civil society. According to the Committee to Protect Journalists, “The passage of this press law represents a significant step backward for press freedom in Sudan.” 18 The Press and Journalist Amendment Bill, which has been criticized as excessively punitive in nature, is currently pending in Uganda. This bill would contain broad and poorly defined powers allowing authorities to revoke the license of a media outlet if it publishes documents deemed to be “prejudicial to national security, stability, and unity,” or “offensive to Uganda's relations with new neighboring or friendly countries”; causes “economic sabotage” or violates any of the conditions imposed by the license.” 19 And in the wake of its Proclamation on Charities and

Societies, Ethiopia adopted a new anti-terrorism law in July 2009. Commenting on the bill (which turned out to be the version ultimately enacted into law), Human Rights Watch stated: “[T]his law could give the Ethiopian government a powerful tool to crack down on dissenting politics, including peaceful political protests and public criticism of government policy... The draft Proclamation is even more alarming when placed in the context of concerns about political repression and the disappearance of a civil society free to express itself and independent...” 20 16 Livingstone Sewanyana and Josephine Ndagire of the Foundation for Human Rights Initiative (FHRI), Uganda country report, 2010, ICNL’s NGO Law Monitor, http://www.icnl.org/knowledge/ngolawmonitor/uganda.htm. 17 The acronym “PVO” refers to a Private Voluntary Organization, which is one of the organizational forms of civil society in Zimbabwe and is defined as “any body or association of persons, natural or legal, or any institution, having one or more of the following objectives: [list of permissible objectives].” Private Voluntary Organizations Act, Section 2(1). 18 Committee to Protect Journalists, Repressive press law passed in Sudan, June 11, 2009, http://cpj.org/2009/06/repressive-press-law-passed-in-sudan.php. 19 Livingstone Sewanyana and Josephine Ndagire of the Foundation for Human Rights Initiative (FHRI), Uganda country report (2010), ICNL’s NGO Law Monitor,

http://www.icnl.org/knowledge/ngolawmonitor/uganda.htm. 20 Human Rights Watch, Analysis of Ethiopia’s Draft Anti-Terrorism Law, June 30, 2009, http://www.hrw.org/en/news/2009/06/30/analysis-ethiopia-s-draft-anti-terrorism-law.

 23 Government harassment of civil society organizations (CSOs) Beyond the enactment of new laws or the introduction of draft laws, governments in many other countries have created a hostile environment for civil society through the harassment of civic actors, whether through legal or extra-legal means. Governments often resort to inspections and requests for documentation – legitimate oversight tools when applied appropriately – in order to interfere with and distract CSOs from their missions. Most disturbingly, governments are increasingly confronting CSOs with suspensions of activities, dissolutions, and expulsions. Some leaders and representatives of CSOs are also subjected to travel restrictions, forced expulsions, defamation lawsuits, and even arrests. The targets of such state harassment are most frequently human rights and advocacy organizations, civic activists, and journalists. In Niger, for example, the head of a civil society coalition was arrested in August 2009 for “undermining the security of the State” due to criticisms made about the illegal extension of the President of Niger's mandate; after his acquittal, he was immediately rearrested and charged with “illegally leading [the civil society coalition] without authorization.” 21 In February 2010, in Malawi, three members of the Malawian association, Eye for Development, were arrested for inciting violence, following a conference where they criticized the statement of President Dr. Bingu wa Mutharika. In May 2010, the government of Burundi even expelled a researcher from Human Rights Watch (HRW) Burundi in response to an HRW report on pre-election violence. Humanitarian organizations can also be particularly vulnerable to state harassment. In March 2009, the Sudanese government expelled 10 international aid groups – all engaged in the humanitarian sector. In addition, Sudanese authorities dissolved two local organizations – the Khartoum Center for Development and Environment and the Amal Center for the Rehabilitation of Victims of Violence – simply because they had violated their missions as humanitarian organizations. In most contexts, the axe of harassment falls on human rights and advocacy organizations; it is therefore extraordinary to see humanitarian organizations targeted in a country with needs as pressing as those in Sudan. Commenting on the expulsion of the 10 NGOs, Sudanese Vice President Ali Osman Taha stated that "[w]hen an organization uses humanitarian aid as a cover to pursue a

political agenda affecting the security of the State and its stability, measures must be set by law to protect the country and its interests." 22 It is not uncommon for governments to send mixed messages to civil society. Rwanda illustrates this point well. At the time of writing this report, three bills relatively favorable to NGOs and local and international religious communities are pending before the Rwandan parliament, and there is great hope that the adoption of these laws will improve the legal context for NGOs in Rwanda. However, in July 2010, the government vowed to crack down on all unregistered NGOs or NGOs engaged in illegal activities, claiming that its investigations showed that most of them were defrauding donors of their money under the guise of engaging in development activities. The threat of government action, the accusations raised against CSOs, and the harsh words of politicians and public officials can indeed create, or certainly reinforce, a hostile environment for civil society. President Omar al-Bashir of Sudan has labeled NGOs as 21 Prof. Kwame Karikari, Niger Alert: Civil Society activist held for criticising President Tandja, August 13, 2009, http://www.mediafound.org/index.php?option=com_content&task=view&id=419. 22 Sudan expels 10 aid NGOs and dissolves 2 local groups, Sudan Tribune, March 5, 2009, http://www.sudantribune.com/spip.php?article30382.

 "facade of Western information." 23 In a particularly striking example in The Gambia, President Yahya Jammeh reportedly stated on a television show: "If you think you can collaborate with so-called human rights defenders and get away with it, you are living in an imaginary world. I will kill you and nothing will come of it." 24 And President Robert Mugabe of Zimbabwe, alleging that NGOs had "overstepped their terms of reference," threatened in 2009 to ban NGOs in the country, a threat made credible by the fact that he had already banned all NGO interventions in June 2008, just weeks before the presidential election race. 25 Despite the formation of the national unity government in 2009, Zimbabwe continues to be a particularly difficult and often dangerous environment for independent NGOs and NGO activists. In October 2009, two officials from the National Association of Non-Governmental Organizations (NANGO) were arrested for allegedly holding a "political meeting." In March 2010, the director of the Zimbabwean Human Rights Association was arrested for organizing an "unauthorized" photographic exhibition. In April 2010, four women activists were arrested and held for five days following a peaceful protest. According to a NANGO representative, "The climate of fear, suspicion, and distrust persists relentlessly, negatively affecting the constitutional and national reconciliation processes." III. Strengthening Self-Regulation within Civil Society Issues of accountability and transparency are at the heart of debates surrounding legislative reform in sub-Saharan Africa. Governments often seek to justify increased levels of state regulation by calling for greater accountability from civil society. In many countries, NGOs themselves are seeking to improve the public image of the sector or sub-sector through the adoption of common standards or voluntary codes of conduct, certification models, and other self-regulation initiatives. The motivating logic behind self-regulation may lie in the desire to improve internal governance and accountability to the outside; to strengthen the capacity of NGOs and the formation of coalitions; to anticipate state intervention in regulation; and/or to enhance the credibility of constituent members, funders, and the general public. In short, whether due to external or internal pressures, CSOs are increasingly making efforts to demonstrate their accountability, legitimacy, and effectiveness. Self-regulation encompasses a wide variety of mechanisms, strategies, and structures all aimed at enhancing the accountability of those regulated through the voluntary initiative of the organizations themselves. Voluntary codes of conduct are standards governing behavior, agreed upon by organizations. Accreditation and certification programs measure the compliance of participating organizations based on a well-defined set of standards. Monitoring or rating agencies measure the performance of other organizations, without the participation of the

evaluated organizations. Information agencies provide information to users (constituent members, funders, the public, the organizations themselves) without any rating or interpretation. According to One World Trust, which maintains a database on civil society self-regulation initiatives (http://www.oneworldtrust.org/csoproject/), there are 37 self-regulation initiatives in 20 of the 47 sub-Saharan African countries. 26 While several self-regulation models are well established, many are nascent or emerging initiatives. Indeed, sub-Saharan Africa is a region "where CSOs are increasingly recognizing the need to set minimum standards of practice and developing initiatives to support them." 27 Codes of Conduct The most common approach to self-regulation is undoubtedly through the development of codes of conduct or ethics. Such codes can be found in South Africa, Botswana, Cameroon, Ethiopia, Kenya, Mali, Namibia,

Nigeria, Uganda, Senegal, Somalia, Tanzania, and Zimbabwe. In many cases, the codes are supported by a national coalition or umbrella group of NGOs. For example, the Nigerian Network of NGOs (NNNGO) is a voluntary umbrella group of NGOs in Nigeria. 28 Established in 1992, the NNNGO represents over 800 associations ranging from small local groups to larger networks operating at the national level. To become members, candidate NGOs must subscribe to the NNNGO Code of Conduct. This Code includes 33 principles concerning democratic governance, sustainability, accountability and transparency, independence, conflict of interest, and tolerance. One of the biggest challenges regarding codes of conduct is, of course, compliance. In Botswana, Cameroon, Ethiopia, and Somalia, for example, compliance is sought through complaint procedures. 29 In Botswana, the Council of Non-Governmental Organizations (BOCONGO), the national umbrella body for NGOs in Botswana, requires all members to adhere to the NGO Code of Conduct. 30 The Code establishes the NGO working group and assigns it the responsibility of monitoring and evaluating the implementation process; receiving and listening to complaints from NGOs; and recommending measures to be adopted by the complainant and the NGO itself. In Cameroon, the Association of Organizations for Development of the Northwest (NWADO) has launched a Code of Ethics for CSOs, envisioning the establishment of an ethics committee tasked with enforcing the code through complaint and redress procedures. In Ethiopia, the NGO Code of Conduct was developed in 1998 and approved by nearly all active NGOs in the country. 31 The Code creates the Code Observation Committee, which is responsible for receiving and addressing all complaints and/or suggestions regarding compliance with the Code by signatories. The Code of conduct for Somali NGO networks has established a Regulatory Committee to manage complaints. 32 Certification Models Accreditation and certification models are significantly fewer in number. In Uganda, NGOs have developed the NGO Quality Assurance Mechanism (QuAM), which was officially approved in 2006. 33 QuAM seeks to promote NGO adherence to commonly accepted ethical and operational standards, as well as good governance to protect the credibility of NGOs. NGOs that meet the requirements defined by the National Certification Council are issued a certificate. 26 Shana Warren, Robert Lloyd and Jeannet Lingan, The growth of CSO self-regulation, December 1, 2009, http://www.alliancemagazine.org/node/3100. 27 Id. 28 NNNGO's website: http://www.nnngo.org/. 29 However, it is difficult to measure the effectiveness of these complaint procedures in ensuring compliance. 30 BOCONGO website: http://www.bocongo.org.bw/. 31 More than 10 years later, the Code of Conduct remains relatively unknown in the NGO sector. 32 Jeannet Lingan, Amy Cavender, Thomas Palmer, and Beris Gwynne, Responding to development effectiveness in the global South, One World Trust / World Vision Briefing Paper Number 126 (June 2010). 33 See NGOs regulating themselves: the NGO Quality Assurance Mechanism, http://www.deniva.or.ug/files/programme-governance_QUAM%20leaflet_policies.pdf.

 "quality assurance certificate for NGOs." There are three levels of certification: provisional, full, and advanced. Once the certificate is issued, its provisions are mandatory for NGOs. The National Certification Council

is an organization jointly appointed by national NGO networks but operates independently. By adhering to the principles contained in the QuAM, NGOs are able to improve their work and truly be accountable. One potential advantage of self-regulation is reflected in the Ugandan government's response to the development of QuAM. The draft National NGO Policy – a government strategy document – is indeed worded as follows: The government believes that self-regulation, if effectively implemented by all NGOs, is the most cost-effective way to promote discipline and quality assurance benchmarking among stakeholders in the sector. This minimizes the need and extra costs associated with implementing a state-controlled regime. 34 That said, in light of the regulatory challenges facing civil society in Uganda, it is reasonable to question the extent of the effectiveness of self-regulation in countering the heavy hand of the state. The Ghanaian NGO/CSO Standards Project is an emerging initiative in Ghana aimed at promoting self-regulation among NGOs and CSOs operating in the country. 35 The project has established a standards commission composed of 15 members, including leaders from local and international NGOs across the country, tasked with setting up a peer review process for awarding labels/ certificates to NGOs that comply with 35 standards. The first phase of the project involved presenting the concept to about 200 NGOs/CSOs from all regions of the country. During the second phase, eight workshops were organized to present the standards and assessment tools to about 150 NGOs/CSOs. The pilot project trial phase is currently underway, with 26 CSOs volunteering for this process. The next steps will focus on launching the project's communication strategy and starting the certification application procedure for organizations. Information Services Highlighting a third approach to self-regulation, information services in several African countries provide data and information about CSOs to funders, beneficiaries, and the general public. In Mali, the Forum of CSOs has a database of Malian CSOs. Nigeria has a national directory of NGOs. In Chad, the NGO Information and Networking Center is currently developing a directory of NGOs. SANGONet provides a database of South African NGOs. Moreover, GreaterGood South Africa is an information service aimed at bringing together charities and engaged donors. 36 Launched in 2004, GreaterGood SA has registered over 1,900 associations on its website, raised 35 million rands for good causes, generated 140,000 hours of volunteer work, and facilitated the distribution of 7.3 million surplus or second-hand goods. The database provides contact details and information on needs, a summary of activities and programs, mission and objectives, as well as achievements of various CSOs working for different causes in South Africa. GreaterGood SA recently introduced a rating system to highlight key aspects of each registered association. Government Involvement in “Self-Regulation” It is well recognized that the government can play an active role in self-regulation initiatives. An example of this state involvement would be where "power is partially delegated to a supervisory organization or another association representing CSOs to regulate behavior or set sector standards." 37 Kenya offers such an example. Indeed, Kenya has been one of the first African countries to grapple with self-regulation. 38 The 1990 NGO Coordination Act does not establish mandatory rules or internal governance standards but rather relies on the self-regulation mechanisms it provides; it includes the NGO Code of Conduct, the Regulatory Committee, and the General Assembly

of the NGO Council. The NGO Council was designed as a national umbrella organization; the NGO Coordination Act provides for the automatic membership of NGOs in the NGO Council upon registration. 39 Mandatory participation in the Council and the Code has been described as an advantage of the Kenyan approach. 40 The Council was supposed to represent the interests of its members and provide them with essential services. However, despite its promise, the NGO Council and the entire self-regulation system have not lived up to expectations; the Council is virtually non-operational today. The role, and even the existence, of the NGO Council are among the most contentious issues in current discussions on reform. Reformers seek to achieve, among other things, an appropriate balance between statutory regulation and self-regulation and to

address the relationships between the various laws governing different forms of organizations. CSOs participating in the reform discussions have issued a statement of principles for the new legislation (which would replace the 1990 Act) including the following: CSOs should be allowed and encouraged to set high standards of conduct and performance through voluntary self-regulation. For sector self-regulation, a) The law will allow regional organizations or sector umbrella organizations to adopt and enforce clear conduct standards and promote self-regulation objectives. b) The law should not require membership in any specific umbrella organization. c) The self-regulatory roles of umbrella CSO bodies should be clearly defined by law and supported by the NGO registration agency. d) The law should provide for the establishment of an independent complaint and redress mechanism (complaints commission). 41 37 Shana Warren, Robert Lloyd and Jeannet Lingan, The growth of CSO self-regulation, December 1, 2009, www.alliancemagazine.org. 38 M.K. Gugerty (2008), The effectiveness of NGO self-regulation: theory and evidence from Africa, Public Administration and Development, 28: 105-118, doi: 10.1002/pad.490. 39 Section 23 (1) of the NGO Coordination Act presumes the automatic membership of NGOs upon registration. It provides: "A Council shall be established to be known as the Council of Non-Governmental Organizations which shall serve as a collective forum for all non-governmental organizations registered under this Act." 40 Gugerty (2008), The effectiveness of NGO self-regulation: theory and evidence from Africa. 41 Excerpt from the civil society statement of principles, received by ICNL in July 2010.

 Thus, after the disappointments related to the explicit delegation of regulatory powers from the government to a designated oversight body for NGOs, Kenyan CSOs are now wary of replicating this approach in the emerging new legislation. The preference seems to lean towards a greater choice of CSOs and reduced involvement of the State. Of course, it remains to be seen how the tension between the State and civil society regarding self-regulation will ultimately be resolved in Kenya. A problematic trend? In some other countries, however, the separation between State regulation and voluntary self-regulation has become blurred. Governments have shown a willingness to co-opt a measure of self-regulation and impose it on the civic sector as a binding legal requirement. The end result is a kind of “mandatory self-regulation.” In Sierra Leone, for example, organizations registered as “NGOs” under the Revised NGO Policy Regulations of 2009 are currently required to re-register every two years. The re-registration procedure requires the submission of numerous documents, including proof of their affiliation with the Sierra Leone Association of Non-Governmental Organizations (SLANGO), an oversight body for NGOs, whether national or international. 42 As part of the reporting process, the Ministry of Finance and Economic Development (MFDE) requires an independent evaluation of the performance of NGOs; to satisfy this evaluation, the MFDE demands a number of documents, including a “certificate of payment of the SLANGO membership fee.” 43 In other words, SLANGO is designated by law to serve as the State's agent to establish the good faith of registered NGOs. In Zambia, Part V of the 2009 NGO Act is titled “Self-Regulation by Non-Governmental Organizations.” Article 29 provides for the establishment of a Zambian NGO Congress as a “collective forum for all organizations registered under this law.” Article 30 mandates the creation of a “Council of Non-Governmental Organizations” responsible for managing and overseeing the affairs of the Congress; the Council is composed of 12 representative NGOs. Article 31 clearly outlines the functions of the Council, including the development of a code of conduct for NGOs, coordinating the work of NGOs in Zambia, and performing other functions determined by the Congress. Article 32 then addresses the development of a Code of Conduct that would be binding for NGOs “as obligations under this law.” In a letter dated July 30, 2009, the International Federation of Human Rights expressed serious concerns about the Zambian NGO bill and argued that this bill contemplated forced self-regulation: “This so-called self-

regulatory framework may again seriously undermine the autonomy and capacity of NGOs to formulate positions on issues affecting human rights." 44 In Tanzania, the 2002 NGO Act required the establishment of an umbrella NGO body, the National Council of NGOs, which would serve as a "collective forum for non-governmental organizations for the purposes of coordination and networking of all non-governmental organizations operating in mainland Tanzania." 45 The Tanzanian National Council of NGOs (NACONGO) has developed an ethical code that addresses issues such as governance, stakeholder relations, and financial transparency. Severe violations of the Code can be punished by law. However, in the years following its enactment, little progress has been made towards meaningful implementation, and controversies have arisen regarding State interference in the election of Council members; NGOs have claimed that "Council members have been handpicked by the government to serve its agenda." 46 The allegation of government interference has been exacerbated by the fact that NGOs perceive that the current Council "has literally done nothing to support NGOs." 47 Indeed, even the Code of Ethics has been deemed ineffective and dismissed for the simple reason that

"the Council has not communicated around the code which is subject to very high requirements that the Council itself fails to meet." 48 The desire of Sub-Saharan African governments to improve 'coordination' and 'harmonization' of civil society activities fuels the trend to mandate self-regulation (and specifically, to require affiliation with national oversight groups or councils). The legislative goals of coordination and harmonization may seem appealing, even commendable, but they are often used to mask restrictive measures aimed at increasing State control. Indeed, the end result of these regulatory obligations may be to require or mandate coordination with the government's goals and priorities. In Sierra Leone, for example, according to the Revised NGO Policy Regulations, NGOs must align their missions with government development policies aimed at promoting the well-being and flourishing of Sierra Leoneans. At the time of registration, NGOs must enter into an agreement with the State before they can begin their activities. 49 An NGO must therefore register and agree to serve the State following the signing of a specific convention. Similarly, the NGO registration commission envisioned by the 2009 NGO Act in Zambia is tasked with (1) approving the "scope of work" of NGOs in Zambia; (2) providing guidelines to "harmonize the activities [of NGOs] with Zambia's national development plan"; and (3) advising on strategies for effective planning and coordination of NGO activities. 50 The National Council of NGOs in Tanzania is defined in the 2002 NGO Act with a goal of "coordination and networking" of all NGOs in Tanzania. However, regardless of the government's motivations, self-regulation has become, in each of the countries mentioned in this section, a legal obligation. 51 It can therefore be argued that these "self-regulation" initiatives have unduly crossed a line in State regulation. "The common point of all forms of self-regulation of CSOs is that they are not subject to any legal obligation." 52 The most disturbing point is that these self-regulation models are mandatory, as they require membership in associations or umbrella organizations, which risks violating international standards regarding freedom of association, particularly the right not to belong to an association. 53 IV. Conclusion From the diversity of legal approaches towards civil society in Sub-Saharan Africa, two distinct regulatory trends have emerged: the strengthening of State regulation and self-regulation. By resorting to the adoption and implementation of laws as tools, States seek to introduce greater regulatory control over the civic space often in a manner that constrains and threatens the legitimate activities of civil society. At the same time, NGOs themselves seek to voluntarily address governance and accountability issues through enhanced self-regulation models sometimes in response to regulatory threats from governments. This article is not the first to comment on these two regulatory trends. And it is likely that both trends will continue for some time. However, it is interesting to note that legal initiatives are underway in Kenya and Rwanda, both of which could lead to an improvement in the legal context for civil society. The outcome of

each initiative remains uncertain. If these initiatives lead to more conducive legal contexts, they could then represent a first step towards weakening the first trend and strengthening the second. 53 According to Article 10(2) of the African Charter on Human and Peoples' Rights, “No one may be compelled to belong to an association subject to the obligation of solidarity provided for in Article 29.”

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INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 31 FINANCIAL VIABILITY OF NGOs 1 Management Systems International and the U.S. Agency for International Development Analytical Summary In this reference year of the Index of Sustainability of NGOs in Sub-Saharan Africa, a number of positive elements stand out in the country reports. The capacity of NGOs to provide vital basic services to underserved populations received the highest score across the 19 countries. While service provision appears to be a strength, financial viability is a weakness. Of the seven indicators, it indeed received the lowest scores in all country reports. A common problem for many NGOs is dependence on a single external source of funding. In this situation, if international funding were to disappear, many NGOs would collapse. While this financial weakness may sometimes reflect the overall economic situation of many countries themselves heavily reliant on international aid, several examples drawn from various reports show cases where NGOs and donors are exploring innovative approaches to support NGOs. In the 19 country reports, the narrative section on financial viability systematically informs us that a large number of NGOs depend on international donors and have only limited support from local sources such as the state and individual and corporate philanthropy. This description could just as easily have been written in 2000 or 1990. These narrative discussions are complemented by data drawn from the analysis and scoring of each country by the panel of experts who jointly determine the scoring of the NGO sector on the dimension of financial viability 2 of the Index of Sustainability of NGOs in Sub-Saharan Africa (IPONG). Here are some highlights and conclusions from this data review: • Of the 19 countries studied, five (Kenya, Tanzania, South Africa, Mozambique, and Senegal) were in the second of three stages of financial viability, “sustainability in progress”; the remaining 14 were in the “hindered sustainability” stage; and no country met the criteria for “enhanced sustainability,” which is the first stage. 3 What do the five highest-rated countries in terms of financial viability have in common? Except for Mozambique, the other four countries have well-established NGO sectors, which are among the oldest on the continent with mature and diverse NGOs. The five countries, except for Rwanda, have a relatively high rating for the democracy index with freedoms of association, assembly, and expression largely respected by the respective governments. 4 Relatively speaking, these countries would have economies that exceed the regional norm and likely mobilize more local resources, which are still insufficient to reach the highest stage of financial viability. 1 USAID and MSI would like to thank Leslie Fox, independent consultant, who collected the case studies for this report and significantly contributed to the writing of this article. 2 Five indicators of financial viability are used by the panel of experts in each participating country to evaluate NGOs for this dimension of sustainability: local support, diversification, financial management systems, fundraising, and salary income. 3 The characteristics of each sustainability dimension are described in the methodology section of this report. 4 Freedom House, in its 2010 report on the “Index of Freedom in the World,” considers countries that received the highest score (3-5) for financial viability as partially free, one country as not free, and one country as free, while three of the five countries with the lowest score are classified as not free and two as partially free.

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32 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) • South Africa, which received the highest overall score, is also the country with the most diverse resource base and

the highest percentage of financial resources coming from the state. This indicates that the government values the participation of NGOs in national development and that these NGOs have strong capacities to bid for and obtain state contracts and grants. • Conversely, the five lowest-rated countries, namely Gabon, Zimbabwe, Angola, Guinea, and Burundi, tend to have either relatively young NGO sectors or public policies and legal frameworks that have not fostered the development of civil society. All five countries are ranked at the bottom, or near the bottom, of the scale for most social and economic indicators of the United Nations Human Development Index, despite, in the case of Angola and Gabon, immense mineral wealth. • Countries in conflict and post-conflict situations such as the Democratic Republic of Congo (DRC), Sierra Leone, Liberia, Zimbabwe, and Guinea received scores almost as low as the five lowest-ranked countries. However, in the case of Liberia and Sierra Leone, there seems to be a positive movement as the two countries consolidate other democratic governance systems and provide NGOs with a relatively healthier enabling environment. While the reports offer some encouraging news regarding NGO funding, particularly new strategies and innovative resource mobilization approaches, 5 it is also clear that the financial viability of NGOs still has a long way to go. Given that this is the reference year for the IPONG, it is important to examine case studies of higher financial viability of NGOs. The IPONG is based on the assumption that the NGO sector develops linearly. Therefore, this article will explore several approaches to financial viability and attempt to draw lessons from examples of good practice and significant innovations in this field. Funding and Development of NGOs in Africa Several major historical markers have defined how the NGO sector in the 19 countries covered by this Index has evolved and developed to become what it is today, including its capacity to ensure its financial autonomy. The first of these historical markers was the prolonged drought of the early 1970s, which devastated the Sahel and the Horn of Africa, particularly Ethiopia. This drought was significant because it brought the first wave of so-called Northern NGOs to Africa, primarily funded by Northern countries and private citizens. These organizations responded to the humanitarian crisis of the time, and many of them are still present today. Some might argue that the local NGOs that emerged were essentially created in the image of their Northern counterparts. The second major influence on the development of the NGO sector in many countries in the region was the structural adjustment programs (SAPs) imposed by international financial institutions and implemented by governments during the 1980s. SAPs essentially forced states to withdraw from the provision of public services (education, health) or suffer the consequences: primarily through a halt to Western loans and credits to economies 5 This article is sprinkled with examples of successful NGO resource mobilization strategies that offer the reader several good practices.

 Several umbrella programs where a large national NGO reallocates grants to local organizations have fostered the involvement of NGOs in rural service delivery programs. – Mozambique country report already in difficulty after years of corruption and mismanagement. At the same time, SAPs created space for new, indigenous, secular NGOs to address the growing social and economic problems since the years following independence. This space was further expanded by donors who sought to replace the state-as-engine-of-economic-growth with the private sector. As the decade progressed, NGOs took over from the state in the provision of public services, to a considerable degree in some countries. This period saw the introduction of new funding mechanisms for African NGOs: the umbrella mechanism for supporting private voluntary organizations (PVOs). Funding Mechanisms for NGOs: the PVO/NGO Umbrella Project In 1982, USAID launched an innovative funding instrument in Senegal known as the PVO/NGO umbrella project. This mechanism aimed to maintain support for the growing number of Senegalese NGOs that had proven their ability to make a difference during and especially after the Sahelian drought as

humanitarian aid gave way to development assistance. A U.S.-based PVO serving as an “umbrella” intermediary was selected to manage grants, technical assistance, and training for various NGOs working in targeted sectors. An additional requirement for both platforms and local NGOs was to provide contributions to ensure their ownership of the project. The umbrella project evolved over time, and by the 1990s, it placed more emphasis on a range of organizations, including advocacy NGOs, chambers of commerce, bar associations, platforms, and NGO networks. In many cases, local partners of USAID beneficiaries supported community associations to strengthen their capacities to provide services and promote good governance. NGOs in Mali and Senegal were at the forefront of this third generation of platforms, promoting democratic governance at the decentralized level of administration and serving as models for others. Leslie Fox The “umbrella” structure of PVOs is still used today and contributes to providing greater support to indigenous NGOs, generally smaller. While the need to supplement state service provision has been obvious and has strongly driven the growth of NGOs in recent years, this growth would have been significantly less without donor funding, provided largely indirectly through Northern NGOs. The 1980s marked the beginning of a prolonged period of growth and heightened vision for the NGO sector in Sub- Saharan Africa. A much wider range of NGOs emerged beyond the older churches, charitable and humanitarian associations (local sections of the Red Cross/Red Crescent, CARITAS, etc.): women’s or environmental conservation associations and micro-enterprises. On the negative side, the broad support of African NGOs to ensure the provision of social services funded by foreign donors has created and/or exacerbated tensions with the respective governments, still very evident today. The third event that had a major impact on the financial viability of the NGO sector was the democratization movement that began in the early 1990s. The national conference

 Financial support for innovative NGOs A relatively new development has been the creation of pooled funds, generally established by donor consortia for specific purposes - Uganda report The government's decision to make public-private partnership its official policy for public service provision has strengthened the role of NGOs in this area – Tanzania report The majority of large companies operating in Kenya have established foundations through which they support community initiatives as part of their corporate social responsibility strategies – Kenya report … there are trends towards establishing national funding mechanisms such as the National Development Agency, the Lotto Fund, the Nelson Mandela Foundation, and the Southern African Trust – South Africa report The sovereign conference of Benin, which took place in February 1990, is often considered the beginning of the many national democratic transitions that marked the decade and were characterized by the participation of civil society organizations. After 1990, there was an explosion of autonomous voluntary associations representing the interests and aspirations of their citizen members. Organizations that may have been little more than appendices of the government or a political party (chambers of commerce, women’s and youth leagues, cooperatives, bar associations) became independent and capable of more effectively representing the interests of their members and constituents. Some of these organizations adopted democratic governance structures with broad membership. Others created federated bodies to engage with the government at all levels, thus amplifying the voices of members and constituents at the center of power where public policy decisions are made. The implications of this development of civil society in terms of funding are multiple: • First, a much larger and more diverse group of organizations are now competing for financial resources, primarily from external donors, including international NGOs and their respective governments; • Second, new areas of intervention have been added after 1990, particularly in the democracy and governance sector, which includes areas such as human rights promotion, conflict management, accountability, transparency, and advocacy; • Third, larger financial resources from donors are

being committed to support civil society, particularly to strengthen organizational capacity; • Finally, community associations are involved in several civil society strategies in light of their legitimacy and their own potential capacity to self-finance their activities. Donors and local research institutes are increasingly taking an interest in traditional associations, such as Tontines, user groups of natural resources, and more modern social and economic groups, such as economic interest groups, cooperatives, and parent-teacher associations. Approaches of NGOs on financial viability When measuring the financial viability of the NGO sector in a country, greater attention may be paid to the larger NGOs (national level), to the detriment of smaller NGOs. For example, despite relatively low levels of volunteering and local patronage in many urban centers, traditional mutual aid institutions and groups are thriving at the community level as they have always done traditionally. These groups, which tend to have more socioeconomic objectives, are increasingly formal and continue to attract a relatively high level of volunteers and member contributions. Resource mobilization strategies of community-based organizations are often underestimated or overlooked, yet they have proven to be as valuable as appeals for donations from individuals or businesses. In many cases, a decentralized approach has largely ensured in-kind contributions and ownership by civil society organizations and the community. The following case study on health mutuals in Rwanda examines the effective use of

volunteers within decentralized health models supported nationally. Universal health care in Rwanda: the case of health mutuals and community health agents (CHAs) Rwanda has developed a community health insurance system that is the centerpiece of the country's national community health policy. Two types of organizations make up the main component of this mandatory universal program: • Health mutuals: these are mutual aid organizations composed of members and established at the “sector” level (416 across the country) that mobilize member contributions, supervise the use of these contributions in health centers, and address members' concerns regarding the functioning of the health center. The mutuals are also represented at the district level, the highest level of sub-national administration. They supervise a percentage of local members' contributions used in referral hospitals. To cover their costs, each mutual uses a small percentage of member contributions to pay the salaries of the two accountants who work in health centers and hospitals. The overall costs of the mutuals are modest and also benefit from the support of volunteer managers and leaders. • ASC cooperatives: they provide primary health services to all 15,000 Rwandan villages. Volunteers are chosen by their communities from among community health agents based on their interest and work capacity. The state has recently encouraged the CHAs to learn to leverage funding based on results and to grant merit payments to all eligible health agents. The cooperatives, which belong to the members, reinvest this money into income-generating activities to provide the CHAs with some financial compensation. Although the Rwandan health system relies on donor support, health care would not be universally available without the organizations described above. Their operating costs are modest and largely covered by member contributions in time and money. Both organizations still require significant assistance in capacity building. The Rwandan government and donors are beginning to recognize the importance of strengthening the capacity of mutuals and the ability of ASC cooperatives to jointly plan, manage, and supervise the country's health services. Leslie Fox Two other case studies on the DRC and Mali highlight similar cases where environmental protection legislation allows for the development of diversified financial resources for civil society initiatives.

 Support of CSOs for natural resource management through legislation1 Land management: the case of co-management of land and water resources in Mali The Malian situation provides a good example

of land management at the national and community levels. Following a political change in 1991, the government undertook a decentralization program and invited local communities four years later to participate in a review of the legislation related to land and water resource management in Mali (Ogier et al., 2001). In 1999, a government decree consolidated this decentralization policy through the following important articles: (a) Article 11–local authorities are responsible for managing, developing, and conserving their domains, as well as protecting the ecological balance of their territory; and (b) Article 14–local authorities may delegate power to village councils and interest groups with an established rural management structure (Article 14) (Ogier et al., 2001). Although management authority and decision-making are devolved to local authorities and villages through these processes, land is still legally owned by the state, and the new system should still be described as a co-management system. The 2001 pastoral charter also recognizes the role of local village institutions in conflict resolution (Winter, 2000). For power to be legally devolved to villages, local authorities are required to produce a management and development plan that must be approved by the state and implemented within the framework of management contracts with the local council and village organizations. This is an area where state or donor support to villages is greatly needed for the success of the system. Fortunately, there are a number of other projects (led by both the state and NGOs) aimed at supporting village institutions in the decentralization process, and their progress has generally received positive feedback. Community conservation areas in the DRC: community organizations and their federations in forest management In the DRC, the 2002 Forestry Code recognizes the rights of local communities to manage their traditional forests, through a request addressed to the competent authorities. Under this legislation, a number of community conservation areas (CCAs) have been established (Mehlman, 2006), such as the Tayna reserve, for example. This reserve imposes restrictions on bushmeat consumption and supervises the use of resources within the park. It was officially recognized by the state in 2002 and now serves as a model for the creation of other community reserves. Behind this success, eight community NGOs in the region formed a federation, the Union of Associations for Gorilla Conservation and Community Development in Eastern DRC (UGADEC), tasked with organizing other conservation activities based on the model of the Tayna reserve. This area is called the community conservation area of the Itombwe Massif (ZCCMI). Logistical support for the ZCCMI is provided by the NGO Conservation International, with funding from the Central Africa Regional Environmental Program (CARPE), which has developed a Sustainable Financing Plan, including a special allocation fund of 4 million dollars and provided the communities involved in the project with various services in health care, family planning, education micro-projects, and development. 1 See: Community management of natural resources in Africa: Impacts, experiences and future directions. Edited by Dilys Roe, Fred Nelson and Chris Sandbrook, The IIED (UK) in 2009. Leslie Fox An important aspect of the financial viability of NGOs concerns the role of constituents, and more specifically how they are included in the governance structure of an NGO. It is useful to

 distinguish between organizations with broad membership, which often federate from the community level upwards, and organizations with more limited governance structures. The constituents of an NGO may include members who benefit from the advantages and/or services of the NGOs or targeted clients such as beneficiaries of a good or service for which the NGO was created. NGOs can also represent, promote, or defend the interests of their clients or members, acting as elected representatives serving specific constituent bodies. Such an example is highlighted in the following case study on parent-teacher associations in Benin. Parent-Teacher Associations in Benin: Natural Evolution of PTAs into Federations as a Sustainable Model If the role of parent-teacher associations, or "PTAs" in Francophone Africa, was previously limited to providing financial support to schools

and teachers, their role has expanded over time. In order to transform PTAs into more dynamic local CSOs representing parent members, USAID/Benin partnered with the private voluntary American organization, World Education Incorporated (WEI) to strengthen their capacities. With technical support from WEI, the PTAs began to have their own statutes and bank accounts, and the state recognized their importance by passing laws to define their role in primary education governance and by giving them a place alongside teachers and school directors in school management. In 1993, at the request of an interested donor, a national federation of PTAs, the "FENAPEB," was created to represent the interests of parents at the national level. However, the FENAPEB was created by 23 parents chosen by the donor, which led community-level PTAs to find it illegitimate due to its undemocratic origins and thus withdrew their support. The FENAPEB attempts to revive itself through various actions, including elections, but the results are mixed. Community-level PTAs have continued to work alongside local authorities and school administrators. A partnership between WEI, development NGOs, and local authorities encouraged PTAs across the country to begin federating into community associations (CAPEs) to work more closely and on an equal footing with community governments to address broader issues. The PTA movement, particularly the CAPEs, is universally recognized throughout Benin and in this sub-region of Africa as an important civil society actor that demonstrates the capacity of community associations to participate in significant national governance functions. As a result, PTAs benefit from the support of local and national authorities in upgrading their schools, as well as from a growing number of donors, including USAID, JICA, and several Northern NGOs. PTAs largely cover their modest costs through the contributions of their members. The CAPEs are directly elected by the PTAs they advocate for, and the member PTAs—numbering in the thousands—set aside a portion of their contributions for the CAPEs to enable them to cover their costs. Al Miller, Director, World Education/Benin, Parakou Some of these federated systems rely on donors, receive various financial resources, and benefit from public support, which significantly contributes to their overall financial viability. This is due to the fact that community-based organizations, such as parent associations and credit cooperatives, include hundreds or even thousands of active members more inclined to devote time and/or money to initiatives that have a direct impact on their daily lives. In analyzing financial viability, it may therefore be more useful to

 reason in terms of member organizations and client organizations, given that the former can generate more support than the latter. Member organizations also have the potential to be managed more democratically than traditional development NGOs, which further enhances project and resource ownership. Another example of this community-based approach focused on resource mobilization is that of the Federation of NGOs of Senegal (FONGS). The Federation of Non-Governmental Organizations of Senegal (FONGS) FONGS is a federation that dates back about thirty years and is composed of independent peasant associations across Senegal. Its ongoing success is attributed to its commitment to the principle that strength lies in numbers as well as in good organization, coordination, and cooperation at all levels. It is represented at the local level by about 31 independent small farmer associations and at the national level by the National Council for Consultation and Cooperation of Farmers, composed of all professional producer associations in Senegal, and at the regional level by the Network of Peasant Organizations and Producers of West Africa (ROPPA). FONGS' fundraising strategy aims to optimize the diversity of its funding sources, which number four. The first source is the federation's own funding, which is mainly rural. The 31 local peasant associations each have a savings and credit fund; a third of these associations have already received their accreditation or official recognition from the Senegalese state (they can access public funds if available); at the national level, member associations

contribute to FONGS' budget. The Federation also raises funds from Senegalese public institutions. The majority of its funds come from foreign donors, who provide nearly 70% of its budget. The last source of funding comes from knowledge-sharing activities. FONGS has positioned itself as a competent organization, which explains why other peasant associations invite it to share its experiences and provide training and support on topics such as institutional capacity building, rural financing, organization, and social mobilization. Regarding strategic planning and accountability, FONGS' partners meet every two years to review completed activities, identify new objectives, develop strategic directions, and set priorities. Furthermore, the consortium of donor partners of FONGS engages an accounting firm to conduct an annual financial audit. While FONGS still relies on donor funding, revenues collected through service provision would be sufficient to achieve sustainability as long as the base of these earnings expands. FONGS works closely with other like-minded groups in East, West, and Southern Africa to launch a continental platform of producer associations in October 2010. Leslie Fox Country reports from IPONG reflect the important role of public-private partnerships (PPP) and corporate social responsibility (CSR), especially in Nigeria, Angola, and Liberia, where the financial resources of the extractive industries present both opportunities and challenges. NGOs must rely on forms As part of the model mining agreement initiated by Arcelor-Mittal, an annual allocation of $3 million is reserved for the specific development of communities hosting its mining operations – Liberia Country Report

 traditional fundraising and awareness-raising methods, seek local CSR, and develop proposals as opportunities arise. While CSR offers a potential source of funding for NGOs, the following case study highlights some of its limitations, particularly the practice of strategic donations for targeted interests or communities. Corporate social responsibility: potential and limitations By the late 1990s, many multinational companies began to rethink their public relations strategies. This new perspective was termed corporate social responsibility (CSR). It is based on the principle that companies can do well financially by doing good—socially and environmentally—in the eyes of the communities and countries where they operate. The practice of simply donating sports equipment to a community as part of a public relations campaign has given way to meticulously planned CSR strategies that sometimes involve community members in the planning and management of projects. A distinction must be made between two types of companies, as the nature of the company strongly influences its CSR strategy. Extractive industries (timber, mining, gas, and oil) leave visible and often destructive footprints, while other types of companies—telecommunications, banks, pharmaceutical companies, beer and soft drink manufacturers—do not necessarily have a limited geographical footprint and may consider their “community” to encompass the entire population of a country. The operations of extractive industries are localized, which explains why their CSR initiatives are designed to benefit the neighboring communities where many of their employees are recruited and live. For companies with less localized operations, CSR strategies tend to involve establishing a foundation or an endowment fund. The MTN Foundation in Nigeria is an example of a cellular phone company that considers the community to be the entire country. These foundations generally focus on one or two specific issues (girls' education, HIV/AIDS, environmental protection) and grant funds through calls for proposals. In 2008, Chevron established the Development Partnerships Center in Angola to support civil society organizations and promote public-private partnerships with the state and donors. This type of “legacy” organization is an increasingly popular option for companies and donors who wish to either continue their support once their operations are finished or avoid the responsibilities associated with managing a development NGO. Leslie Fox Country analyses from IPONG also point to the use of payments to support social development initiatives and community associations. In

countries with large diasporas, such as Senegal, Ghana, and Nigeria, economists are studying the potential economic impact of remittances. Leveraging support from diaspora communities through awareness and cooperation is increasingly seen as a practical approach to mobilizing NGO resources. The case study of the New Nigeria Foundation (NNF) illustrates how multilateral, individual, and corporate funds have been combined to form an innovative public-private partnership.

40 SUSTAINABILITY INDEX OF NGOs IN SUB-SAHARAN AFRICA (2009) The New Nigeria Foundation: a new development paradigm The New Nigeria Foundation (NNF) was established in November 2000 as a non-profit non-governmental organization by a group of distinguished national leaders and international friends of Nigeria. Initially funded by the United Nations Foundation and UNDP, this project was intended to represent a new institutional paradigm to serve as a platform for mobilizing non-traditional resources through the promotion of public-private partnerships (PPP). The mission of the NNF is to serve as a mechanism for strategic collaboration between the public and private sectors, with the aim of promoting and funding sustainable economic and social development activities at the community level. The organization has targeted the Niger Delta region partly for its potential to mobilize non-traditional resources. NNF emphasizes the PPPs it catalyzes through communities, local authorities, and multinational companies in the country. Once established, the PPP develops concrete programs and projects based on common objectives. The NNF then mobilizes resources from its partners and uses them to leverage support from external donors. For example, it mobilized $8 million from the United Nations Foundation, UNDP, the Gates & Packard Foundation, and Mobil Producing Nigeria, Ltd., as well as from local communities. It then used the funds to implement a three-year program aimed at improving health conditions in approximately 45 communities in the nine oil-producing states of the Niger Delta and in three northern states. NNF projects highlight an approach based on the principles of co-management and co-financing of community development projects, as well as the identification of demand and prioritization of community interventions. In recent years, the NNF has diversified by offering consulting services in development management to international development agencies, UN agencies, and private and public institutions in the country. To ensure the sustainability of its operations, the NNF encourages CSR among the private sector in Nigeria in the hope of mobilizing resources for its development activities. This type of long-term relationship has been secured with UNDP, Mobil Producing Unlimited, and Chevron Nigeria Limited. The main strategies used by the NNF to support its activities include: diversifying its resource base to ensure multiple funding streams; relying on the extensive networks of its membership committee to maintain connections and stay informed about new opportunities; anticipating market trends and developing new areas of expertise accordingly (such as CSR); and focusing on delivering quality services to clients. Pr Femi Ajibola, Executive Director, NNF, Lagos Ongoing challenges of financial viability In Sub-Saharan Africa, many NGOs continue to grapple with the effects of donor decisions on their structure and orientation. Another major challenge is the reluctance of several governments to accept NGOs as full partners in development and democratic governance. At this stage in the history of international development, most Sub-Saharan African countries are dependent on donor funding for a significant portion of their national budgets. To cite an extreme example, Rwanda's health budget is funded by nearly 80% from development partners. 6 6 Gellar, Sheldon, et. al, December, 2008, Corruption Assessment Of Rwandan Health Sector, MSI, for USAID/Rwanda.

SUSTAINABILITY INDEX OF NGOs IN SUB-SAHARAN AFRICA (2009) 41 Several of the countries studied by IPONG are not only low-income but emerging from violent conflicts (Liberia, Sierra

Leone, Rwanda); experiencing ongoing conflicts (Uganda, DRC); or at risk of a violent conflict being reignited (Guinea, Zimbabwe). Few beneficiaries, NGOs, or donors are inclined to emphasize the financial viability of NGOs when they are concerned about short-term humanitarian needs and vulnerable populations. This point has been well clarified in reports on DRC, Sierra Leone, and Zimbabwe, among others, countries where NGOs have been heavily relied upon to provide emergency aid services. Donors, who are a significant part of this discussion on the financial viability of NGOs, should reflect on how their activities and beneficiaries might have significant and often unforeseen consequences for civil society. As discussed above, the choices made by donors during the 1980s and 1990s had a major impact on the structure, differentiation, and capacity of Sub-Saharan African NGOs. Country reports highlight several successful examples of resource mobilization by NGOs, but many challenges still remain. For example, several governments view NGOs with suspicion, as illustrated by the fact that few country reports mention NGOs' access to or success in competing for state markets. It would be helpful to further examine the reasons for this mistrust in order to understand how this key issue can be addressed in the contexts of different countries. This article has opened avenues for reflection on the financial viability of NGOs, offering relevant examples of best practices and resource mobilization strategies. There is now a wide range of organizations representing the diversity of associative life in many Sub-Saharan African countries. Despite the multiple challenges they face, many of these organizations have proven to be dynamic and have persevered during times of great financial difficulty. In their quest for financial resources, it is important that they aim, as much as possible, for diverse and sustainable sources, both local and external. The NGO Sustainability Index serves as a new useful resource to contribute to the sharing of information, experiences, and lessons among development stakeholders and to promote the financial sustainability of NGOs in Sub-Saharan Africa and other regions of the world.

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42 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 3.5 3.9 3.2 3.3 3.8 3.7 3.5 3.6 1.0 3.0 5.0 7.0 Public image Infrastructure Service provision Advocacy Financial viability Organizational capacity Legal context Sustainability of NGOs Sustainability Sustainability Sustainability strengthened in progress obstructed 2009 Results from South Africa Section 5: COUNTRY REPORTS SOUTH AFRICA Capital: Pretoria Political regime: Republic Population:* 49,109,107 (est. July 2010) GDP per capita (PPP): $10,100 (est. 2009) SUSTAINABILITY OF NGOs: 3.6 South African civil society is a dense, complex, and dynamic fabric but with uneven development and often structurally weak. A study conducted in the 1990s by Johns Hopkins University identified about 90,000 civil society organizations. The South African Department of Social Development currently identifies 57,636 officially registered NGOs. There has been, particularly at the local level, an expansion of NGOs dedicated to service provision in areas such as home care for people living with HIV/AIDS and early childhood development. Some of these NGOs are extremely developed and complex organizations and operate like those in industrialized countries. However, the majority of NGOs are smaller and more informal and have access to fewer human, financial, or other resources. * Population and GDP figures and maps from all reports are sourced from the CIA: Central Intelligence Agency, The World Factbook, available online at: https://www.cia.gov/library/publications/the-world-factbook/.

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SOUTH AFRICA 43 The civil society sector has a proud history of engagement throughout society and has particularly contributed to the fall of apartheid. One of the consequences of the democratic transition, however, has been a weakening of the sector over the past sixteen years. This is due to a number of factors, such as the reorientation of international aid away from civil

society in favor of bilateral government relations, the loss of human resources moving to new state structures or businesses, and increased movement within the NGO sector itself. There have been trends towards establishing national funding mechanisms such as the National Development Agency, the Lotto Fund, the Nelson Mandela Foundation, and the Southern African Trust (which also funds regional work in Southern Africa). LEGAL CONTEXT: 3.5 After the first democratic election, the new South African government adopted legislation to support the dynamic civil society sector and developed excellent regulations that favorably compare with other countries. However, things often differ in practice. Overall, it is relatively easy for NGOs to register with the Department of Social Development as long as they are aware of the law and the procedures to follow. In many cases, however, smaller NGOs are not aware of these requirements and inadvertently violate the law. A small group of organizations engages lawyers; others rely on the knowledge of other NGOs and experienced professionals and manage to carry out the registration process with relative ease. The main challenge for NGOs is to keep their registration with the Department of Social Development up to date through periodic reporting and the submission of information, including annual reports and audited financial statements. Many organizations lack the human resources to dedicate to this specialized function. The internal capacity of the department does not lend itself to deeper levels of support either. Registration documents often go missing, affecting NGOs that need to be registered to obtain other important benefits such as tax certificates. The 1997 Nonprofit Organizations Act imposes additional requirements on NGOs such as the need to register to obtain tax exemptions and funds for social welfare. These registration procedures have become more complex and sometimes require professional assistance, which is beyond the reach of many NGOs and strains their internal administrative capacities. Since it is government ministers who make the final decisions on tax exemptions, there can also be political influences. The law facilitates the work of NGOs aiming for financial independence, but in practice, lengthy and difficult processes, poorly applied procedures, and some unawareness of legal options can prevent NGOs from benefiting from the legal framework. Political interference is sometimes felt in the legal existence of NGOs, and some organizations may sometimes face arbitrary delays in registration or closer scrutiny. However, the broader legal context and constitutional provisions generally keep NGOs safe from state political interventions. There are indications that, particularly at the local community level, many NGOs, if not most, can be harassed, intimidated, and denied access to resources and political corridors if they criticize the state. 1 The government has tried to intimidate NGOs in some cases. This may include

 selective allocation of grants or state contracts to NGOs that do not challenge the government and discrimination against those that do. Some NGOs that have encountered this behavior have, however, won their cases in court. 2 Legal capacity is greater in urban areas, and some law firms or private lawyers work with NGOs. However, there is no specific legal training for the sector, and it is unlikely that young lawyers will specialize in NGO law as this work would not be lucrative. ORGANIZATIONAL CAPACITY: 3.7 The strategic planning procedures of NGOs are uneven. Developed NGOs create annual plans, but it can be questioned whether most organizations do so systematically. Many smaller NGOs are still in the phase of acquiring these skills and can only undertake activities to respond to one-off events rather than being driven by missions, goals, or strategic plans. Funding is increasingly limited to regional projects, which affects the choices made by large national organizations in terms of strategic intervention. The lack of core funding also limits the ability of NGOs to form interest groups. Smaller NGOs do not necessarily emphasize good internal governance and management capacity development, but more complex organizations are well aware of these needs and generally adhere to good practices. It has recently become

difficult to recruit members for boards from the increasingly limited pool of competent individuals, as most of them prefer to work in the corporate sector where they are better compensated. The challenge is to find board members who are proactively interested in the protection and strengthening of NGOs. The King Report on Corporate Governance in South Africa, a national report on good governance published by the Institute for Directors, is generally known. The pool of experienced specialists in the sector is shrinking. Even though very specialized NGOs may attract more competent individuals, overall, it is mainly the public and private sectors that are actively recruiting these candidates. NGOs often serve as training grounds but do not benefit much from their investment in employees, even though more complex NGOs are paying increasing attention to managing their human resources. Young graduates tend to use NGOs as a career stepping stone, whereas in the past, the NGO sector was supposed to be the preserve of underpaid activists. Historically, NGOs may have been at the forefront of technology, but they are starting today to lag behind the public and private sectors. In urban centers, NGOs have access to technology. But in rural areas and at the local level, the picture looks slightly different. In general, mobile phone penetration is 92% in South Africa, 3 which facilitates networking or organized action, but the lack of financial resources of rural NGOs minimizes the potential effectiveness of mobile technology as a useful tool for informing citizens. A lack of technological resources particularly affects certain sectors, such as community radio, where some studios operate with a minimal and archaic system.

SOUTH AFRICA 45 FINANCIAL VIABILITY: 3.8 Many complex NGOs reliant on a small core of international donors find themselves in a vulnerable position due to the global economic crisis. While civil society has benefited from one of the largest diplomatic representations in the world, this situation may change. The European Union budget is closely monitored as it traditionally constitutes the largest source of international funding in South Africa. There are local tools for national and regional funding such as the Lotto Fund (established in 1997), the National Development Agency (established in 1998), and the Southern African Trust (established in 2005), as well as private foundations like the Nelson Mandela Foundation (established in 1999), the Shanduka Foundation (established in 2004), and the Oppenheimer Memorial Trust (established in the late 1950s). However, the amounts granted are generally lower than the grants from foreign development agencies and international private foundations. Local funding mechanisms also impose bureaucratic burdens that most NGOs struggle to bear. NGOs need to diversify their funding sources. Interesting alternatives are currently emerging, such as the Gumboot Foundation, which includes in its cost recovery basket services, business prospects, and donations, as well as a group of social enterprises. While some NGOs generate income through product sales, more complex NGOs have financial inflows independent of markets or consulting services. Through Black Economic Empowerment (BEE) initiatives, some NGOs have benefited from shareholding in private companies. However, this means of revenue generation is still poorly understood within the sector. The bulk of the financial resources for the NGO sector in South Africa comes from the state (42% or 5.2 billion rand, approximately 691 million dollars) and a significant share of own revenue (34% or 4.6 billion rand, approximately 611 million dollars). The remaining 25% comes from philanthropy, which includes donations from the private sector (between 2-3 billion rand, approximately 262-392 million dollars) and international private sector, notably private foundations (500 million rand or 66.5 million dollars). Organizations like Inyathelo, the South African Institute for Advancement, emphasize promoting philanthropy within the country. The role of individual contributions is less studied and discussed. A national study conducted by the Centre for Civil Society revealed that, on average, South Africans contribute 921 million rand (123 million dollars) per month (in time and money) to charitable organizations or to individuals in need of charitable assistance, and that the poor generally give

more than the rich. Financial management systems vary: complex NGOs have sophisticated accounting and publish financial reports, while smaller and less established NGOs do not always produce reports on received funds and sometimes exhibit wastefulness. Registered NGOs are required to provide audited financial statements to the Department of Social Development to keep their registration up to date. ADVOCACY: 3.3 NGOs are able to engage with the state, although their success varies depending on the level of government, the sector, personal relationships, and the capacity of the NGOs themselves. Legislation offers NGOs vast opportunities to influence and shape governance and policies. In addition to stakeholder forums, civil oversight structures and special interest groups are integral to the political landscape. NGOs hope that with the advent of the Zuma administration, the opportunity for engagement will improve and that the government's willingness to hear civil society perspectives will increase, through the adoption and implementation of their suggestions in public policies. Among the examples of successful advocacy initiatives are the treatment action campaign on various HIV/AIDS-related issues and the passage of the Children's Act and the Promotion of Access to

Information Act. There seems to be a trend towards coalitions and joint initiatives focused on specific issues. This has led NGOs not to engage together in sectors, which weakens their potential impact on effective and accountable governance. Some organizations like the Congress of South African Trade Unions are very successful in advocacy, but most NGOs do not possess these skills, especially at the local level. Despite the interest in reforms for the sustainability of the NGO sector, the absence of an organized network representing all NGOs results in a lack of follow-up. In the 1990s, initiatives mobilized the NGO sector around legal reform that led to the current legal framework. Subsequent initiatives aimed at introducing amendments or changes have failed due to a lack of energy and interest within the NGO sector itself rather than government resistance. SERVICE DELIVERY: 3.2 Registered NGOs with the Department of Social Development work in a number of areas and provide various services. More than a third (37%) work in the field of education. Twenty-seven percent work in social services (including economic, social, and community development, income support, as well as employment and training) and are primarily community-based. The bulk of civil society work, which is very diverse and touches all sectors, lies in providing services that the state has failed to deliver, but NGOs are not well supported in this area. When service organizations are member associations, it is common for them to assist individuals even if they are not members of the NGO. Cost recovery procedures are not well consolidated in NGO culture given that the communities served mostly live below the poverty line. Overall, organizations interact openly with each other and share information. Generally, as most organizations are located at the local level, they are quite responsive to community needs. Judging by some examples, due to inadequate research, there have been instances where NGOs imposed programs on communities or where communities were exploited for the benefit of NGOs, but this phenomenon is not widespread. INFRASTRUCTURE: 3.9 While there are organizations with resources for NGOs such as training, libraries, and websites, many NGOs do not have physical and financial access to these resources, which are mostly located in urban centers. The private sector is increasingly tending to offer capacity-building services to the civil society sector; NGOs working in certain sectors such as youth, development, education, and human rights are better served than others. Overall, skills development has declined within the NGO sector due to a lack of donor funds to finance this aspect. State agencies offer training, but NGOs generally do not benefit from these initiatives since they do not contribute to the national skills fund, a mandatory tax for the private sector. As noted in the financial viability section, a number of national and regional foundations grant funds to NGOs. Civil society includes networks, such as the Poverty Network, but generally very few networks and intersectoral organizations operate in specific areas. In the period following

apartheid, the dynamism and energy of the civil society sector became sporadic. There has been a shift towards NGOs working independently and protecting their specific niches. This has led to the collapse of what were previously dynamic and strong networks and coalitions focused on major structural issues, such as the South African Women's Coalition, the Human Rights Democracy Forum, and Education for Peace and the South African NGO Network. Movements persist to establish NGO networks at the provincial (federal) level, such as the KwaZulu-Natal Community Organization and the Eastern Cape NGO Coalition. New alliances have emerged that focus on specific issues: the Treatment Action Campaign (on the rights of people living with HIV/AIDS), the Juvenile Justice Monitoring Network, and the Landless People's Movement.

PUBLIC IMAGE: 3.5 Given the role played by NGOs in establishing democracy and providing services, experts generally believe that the sector is well regarded by the public. However, the role played by NGOs in building a more socially equitable society is not always well understood. The state and the private sector, which have a good opinion of certain NGOs, may not take the entire sector seriously. It is still possible for NGOs to proactively promote themselves; however, only a small number of them have specific public relations strategies. At the local level, NGOs benefit from media coverage from small newspapers in urban centers and community radios across the country. A weekly, Mail and Guardian, regularly reserves space for inserts on the development of the NGO sector. Furthermore, analysts from the NGO sector are regularly quoted by the media, although this sometimes limits to a certain layer of civil society, such as high-level academics and policy think tanks. Generally, articles are not analytical in nature, and although there are training programs within the journalist community to strengthen this aspect; some of these trainings are indeed led by NGOs like the Institute for Advanced Journalism and community media associations.

48 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) 5.4 5.7 5.3 5.5 5.9 5.7 6.0 5.6 1.0 3.0 5.0 7.0 Public Image Infrastructure Service Provision Advocacy Financial Viability Organizational Capacity Legal Context NGO Sustainability Sustainability Sustainability Sustainability strengthened in progress obstructed 2009 Results from Angola ANGOLA Capital: Luanda Political regime: Republic Population:* 13,068,161 (est. July 2010) GDP per capita (PPP): $8,900 (est. 2009) NGO SUSTAINABILITY: 5.6 Civil society is intrinsically weak in Angola and its political and societal space is limited. The Angolan authorities have not fully accepted the voice of civil society nor its watchdog and control functions, and its legal framework is restrictive. Most organizations are cautious in their approach and their contacts with the government. NGOs have a tangible fear of backlash based on negative past experiences. Those that work directly in the areas of governance, transparency, and democracy, particularly public finance management, are all very small, have a limited number of members, and depend on foreign funding. According to the NGO directory recently compiled by the state agency responsible for coordinating NGO activities, Unidade Técnica de Coordenação da Ajuda Humanitária (UTCAH), there are 127 international NGOs, 464 national NGOs, 25 church organizations, and 19 foundations. 80% of these organizations have not completed the registration process. There is no reliable figure on the number of Angolan community-based organizations (CBOs), which number in the thousands. LEGAL CONTEXT: 6.0 The registration of NGOs is a cumbersome and complex process that lacks transparency. There is no clear institutional directive from UTCAH or the ministries regarding the chain of entities responsible for registration. Different government agencies regulate the registration process and apply inconsistent criteria, often leading to confusion and redundancy. The national registration process for an NGO, which is required to operate legally throughout the country, is centralized and entirely takes place in Luanda. Strong and dynamic community associations based in the provinces have been unable to register as NGOs because it is too costly to travel to Luanda repeatedly. The first step of registration occurs at the local level, but it is unclear whether an NGO is required to register first with the municipal administration and then

with the provincial UTCAH or vice versa. Once the organization is registered at the local level (which allows it to legally operate at the provincial level), the process moves to the national level. A number of ministries, including the Ministry of Justice and the Ministry of Social Services, are responsible for the registration process at this level. According to the law on organizations (14/91) and its implementing decree (84/02), once the registration process is completed at the local level, the NGO must go directly to the Ministry of Justice, which must issue a certificate. Before issuing this certificate, the ministry may require the NGO to first follow the procedure with UTCAH and obtain its authorization. But UTCAH may also require the authorization of the Ministry of Justice and another supervising ministry before approving the application. This back-and-forth between two ministries can last for several years. The lack of infrastructure at all levels to facilitate communication within the NGO sector and between NGOs and other sectors exacerbates the problems related to the registration process. In many cases, the relevant ministries require documents that are not mandated by law. Within the government, various entities interpret legal instruments differently according to their own interests. For example, a police commander stated that the Association for Justice, Peace, and Democracy (AJPD) was illegal because its advocacy activities crossed his path, while it is actually up to the Ministry of Justice to

decide if an NGO is legal. When the NGO Omunga tried to organize a march against the illegal demolitions by the provincial government of Benguela, the provincial police chief, who reports to the Ministry of the Interior, suggested in a press statement that Omunga was “illegal” despite being registered at the provincial level. NGOs involved in advocacy and human rights face more difficulties in the registration process than service-providing NGOs because they are viewed by the government as opposition forces. Advocacy and human rights NGOs such as AJPD, the Human Rights Coordination Council, SOS-Habitat, Maos Livres, and Omunga, which were established between 2000 and 2006, have still not received their certificates from the Ministry of Justice to finalize their registration process. Many NGOs must wait five years to receive the certificate from the Ministry of Justice. Even after obtaining it, an NGO must publish its statutes in the Diário de República to be fully registered, which is costly for most NGOs and sometimes involves corruption. However, the majority of NGOs lack resources, which means that many of them are not registered. Delays in publishing statutes can last one or several years. A new law on NGOs has been drafted without any transparency. NGOs have fought to learn more but have never received a copy of the final version, which has been with the Council of Ministers since 2007 for approval. The new NGO law is particularly concerning due to the introduction of new requirements that NGOs will have to meet before registering.

50 INDEX OF SUSTAINABILITY OF NGOs IN SUB-SAHARAN AFRICA (2009) ORGANIZATIONAL CAPACITY: 5.7 More than 80% of local NGOs do not use internal systems or tools to ensure accountability, define clear objectives, a vision and strategic framework, develop resource mobilization and monitoring and evaluation plans, and are rarely equipped with internal management structures. 7 Furthermore, these NGOs lack the capacity to develop and articulate strong proposals that can attract available funding sources and meet their requirements. For example, only six Angolan NGOs responded to the USAID development grant program launched in January 2010, whereas in neighboring countries, such calls for proposals for grant funding are generally very competitive and widely sought after. Funding, especially for national NGOs, does not cover overhead costs, which would allow NGOs to improve in these crucial areas or support salaries to attract appropriate technical staff. NGOs do not have sustainable staff retention plans and depend on short-term grants for year-to-year funding. Nearly 20% of national NGOs have visible activities and have offices, staff, and at least one vehicle. The other 80% exist only on

paper and have no links with their constituents and stakeholders. Across the country, only one national NGO, Acção para o Desenvolvimento Rural e Ambiente (ADRA), has managed to thrive and be present in four provinces. A study by World Learning showed that among the 20% of functional NGOs, the majority have annual operating budgets of less than $100,000, and only about 2% have the capacity to manage $1 million annually. Only the NGO ADRA has the capacity to manage more than $1 million annually. In a country like Angola where volunteering does not exist, if a powerful individual is linked to an NGO, he or she expects to gain from it. Often, an individual's desire to control an organization can lead to a one-man show and the use of tactics that result in internal conflicts. The separation of powers between boards of directors and executive bodies is non-existent in more than 90% of NGOs. These NGOs cannot maintain boards of directors because they are by definition voluntary, and their members expect to be paid to participate in meetings. With high unemployment and poverty, many do not like the prospect of volunteering within an NGO, especially if they cannot benefit from available funds. Without functional governing bodies, NGOs lack internal control systems and only report to their funders. More than 95% of CBOs lack the necessary equipment: leadership skills, human resources, financial resources, governance, financial management systems, and do not have the skills and technical knowledge to successfully implement projects. Furthermore, CBOs have a more informal organizational structure than NGOs, rely entirely on volunteering, and lack office space and equipment. More than 95% of CBOs lack stability for various reasons. Many of them manage various activities and have no specific target. All CBOs struggle to mobilize resources for their activities. The active lifespan of CBOs is generally only a few years. These groups may also cease to exist when the initiatives they undertake (building a school, obtaining land title, etc.) are partially or fully implemented. FINANCIAL VIABILITY: 5.9 The wealth and operating costs of Angola have scared off funders. Rents there are for example generally 10 to 15 times higher compared to other African countries. Concern, Trocaire, and Cordaid are among the main donors that have left the country, and others like IBIS plan to close their operations in Angola starting January 2011. Some donors, like the

 The embassies of the Netherlands, Japan, Great Britain, and Spain have drastically reduced their aid budgets. NGOs heavily depend on external financial aid, which has decreased drastically over the last two years. Without support from foreign donors, NGO services could cease. Studies by the World Bank and PAANE (the program for non-state actors in Angola supported by the European Union) have revealed that NGOs are largely reliant on foreign funding, with several sources indicating that 100% of their budgets come from foreign donors. In the water and electricity sectors, some communities pay for NGO services, but this is an exception. The state does not provide grants to NGOs for service delivery projects, nor does it award contracts. This situation is even more critical for NGOs working in the fields of good governance and human rights. The private sector, particularly oil companies, does not support projects in these areas. Meanwhile, donors who had supported these activities in the past have left Angola or reduced their budgets by more than half. For example, during the revision of the Angolan constitution between April 2009 and January 2010, NGOs that did not receive external funding were unable to influence this process, thus demonstrating their total dependence on donors. Angola does not have a solid and defined local base of donors to support the NGO sector. While some oil companies engage in philanthropic activities and support certain service delivery activities, the number of projects they support is very small and the available funding is very limited. Moreover, oil companies are restricted by the geographical areas and sectors they can support. The project selection process must comply with Sonangol's regulations (the state-owned oil company), a costly procedure that can take years or may never yield results. The only oil company that periodically issues calls for proposals across the country is Exxon Mobil. No other oil company or business has explicit grant-making strategies or practices. Construction

companies, another major sector of the economy, are not accustomed to supporting social responsibility projects; in isolated cases, some fund the purchase of pencils, books, and other similar materials. In some cases, individuals establish NGOs for personal enrichment. This makes NGO funds vulnerable to abuse since financial authority rests solely with the main leaders of the NGO and adopting sound financial systems is typically not in their interest. Even when they wish to, organizations are not equipped with qualified and competent personnel to develop realistic financial plans and fundraising strategies. With a highly competitive oil sector, it is very difficult for them to attract and retain good financial staff, as most qualified individuals prefer to work for oil companies. ADVOCACY: 5.5 While there are advocacy mechanisms and platforms, capacity remains weak in this area. Angola has a large national organization, ADRA, while others are small and struggle to survive. An NGO engaging in advocacy and lobbying may jeopardize its survival. The government can sideline an NGO that is critical of it, ensuring that it does not receive the necessary media coverage or access to key state institutions such as schools and hospitals. It can also label an NGO as opposition, which can affect NGO funding. Most organizations therefore avoid engaging in conflictual situations with the government.

 During the recent constitutional reform process, the government did not provide the space or necessary conditions, such as constructive dialogue with civil society actors and communities, civic education campaigns, or printed materials to allow civil society to engage. Networking is weak and no effort has been made to confront the government in the constitutional reform process. Isolated voices have emerged, but they were not sufficient to influence the outcome. The government has succeeded in instilling fear in activists. Well-known figures and journalists have found themselves unemployed and destitute. Fewer than a handful of organizations have dared to sue the state for illegally imprisoning human rights activists and journalists and for illegal land evictions; these cases are still ongoing. A political culture of administrative secrecy, clientelism, and favoritism further weakens lobbying and advocacy efforts. This includes practices such as bribing political rivals, including NGO leaders; deliberately ambiguous rules and regulations and the resulting bureaucratic obstacles, such as excessive delays at the Ministry of Social Affairs to register a new NGO, as well as the distrust of various public institutions towards NGOs. At the same time, some isolated advocacy actions have been successful. As part of its “Stop the Demolitions” awareness campaign, OMUNGA organized a demonstration that filled the streets of Benguela with about 400 angry people ready to march against the authorities' plan to continue demolishing homes and forcibly evict people from their land. Provincial authorities banned the march on weak legal grounds and surrounded the city with more than 800 armed police and military personnel. Although the residents of Benguela did not participate in the march, it remains significant in the Angolan political context that 400 people were willing to march against the state's “illegal” evictions. SERVICE DELIVERY: 5.3 Service delivery by NGOs is visible but remains weak. Local NGOs face challenges such as failing to attract competent and qualified staff or secure sustainable funding for long-term programming. Both NGOs and communities have worked little together, and it takes time to achieve results and competently measure the quality of service delivery. However, NGOs are making extra efforts to provide services in many areas, including informal education, community health, HIV/AIDS, community organizing, agricultural production, assistance to urban micro-enterprises, daycare services, literacy programs for youth and women, as well as water supply and rehabilitation of sanitation infrastructure. The state does not have a specific policy regarding NGO service delivery and does not actively and strategically engage with civil society to develop services or techniques or research in the national interest. Furthermore, it does not fund the limited number of NGOs with the capacity and capabilities to provide services. Neither external donors nor the government provide

funding for research. Most services provided by NGOs are subsidized by donors. In the water and electricity sectors, some communities pay for NGO services, but this is an exception.

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ANGOLA 53 INFRASTRUCTURE: 5.7 The infrastructure of the NGO sector is lamentable. Resource centers are virtually non-existent and the coordination of activities remains weak. NGOs have taken on the responsibility of sharing information and also benefit from isolated training sessions. Although a USAID support program for civil society is certainly one of the most visible in terms of support for NGOs, it barely reaches fifty NGOs out of a total of more than 500 organizations in need of this type of support. Communication is very costly; fax and landline services are rare even in Luanda, the Internet is slow and expensive to install, and most regions outside Luanda have limited means of communication, making it very difficult for NGOs to stay in touch and form networks. Local facilitators and trainers are scarce and expensive, and no database is accessible to them. In a recent study conducted by PAANE on the capacity of networks, it was estimated that only 22% of networks are truly implementing activities. Nearly 47% of networks are based in the capital, Luanda. FONGA, a federation of NGOs, has been inactive since 2008. Political parties like the MPLA have positioned themselves within NGO networks such as the Women's Network, the Land Network, and ANASO, an organization that oversees NGOs fighting against HIV/AIDS. The parties use NGO networks for their benefit and sometimes undermine their work. Members of the Land Network, who are from the MPLA, for example, refused to support OMUNGA in its press statement protesting against the illegal evictions of vulnerable groups from their land and homes. The president of ANASO is a high-ranking member of the MPLA who has never allowed ANASO to ask the government to account for the spending of funds allocated to HIV/AIDS ($40 million). Many organizations with differing viewpoints are excluded from activities, while some simply shy away. Several NGO leaders are increasingly aware of the need to form coalitions and networks around specific issues but seem far from agreeing on sustainable ways to work together. PUBLIC IMAGE: 5.4 The majority (88%) of NGOs do not have a properly planned program or the necessary documentation to shape a brand image and a positive public image. The failure of NGOs to attract qualified and competent staff creates a vicious circle where the lack of staff capacity and a deteriorated image make the sector less attractive to skilled workers. NGOs receive media coverage when a case of financial mismanagement is discovered; the efforts they make in development are not considered important news. Most NGOs are not in the habit of documenting and announcing their activities. Even those that do not communicate this information to key stakeholders, including the government. Few NGOs indeed disseminate their activity reports and annual financial statements or maintain professional and independent Boards of Directors that can contribute to better stewardship of their funds. Currently, most NGOs report to their donor agencies, but these are generally located in Europe and therefore can only provide limited follow-up. Communication with stakeholders is often minimal. Most vulnerable communities do not understand the role of NGOs, which reflects poor communication strategies. In one case, an evaluation of an NGO revealed a total ignorance of the community regarding the activities, objectives, and scope of the program of an NGO working in that same community. Acção Humana, a large national NGO, was rejected by community leaders in Luanda who claimed that the organization wanted to take advantage of them. Efforts to improve public image and branding are not priorities for NGOs at this stage. The government should also be perceived as cooperating with NGOs and presenting them as necessary institutions for community empowerment.

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BURUNDI 55 4.4 5.6 4.5 4.6 5.9 5.9 5.8 5.2 1.0 3.0 5.0 7.0 Public Image Infrastructure Service

Provision Advocacy Financial Viability Organizational Capacity Legal Context Sustainability of NGOs Sustainability Sustainability Sustainability strengthened in progress obstructed 2009 Results from Burundi BURUNDI Capital: Bujumbura Political regime: Republic Population: 9,863,117 (est. July 2010) GDP per capita (PPP): $300 (est. 2009) SUSTAINABILITY OF NGOs: 5.2 By the end of 2009, nearly 4,000 NGOs were registered with the Ministry of Internal Affairs. However, only about 5% of them have permanent staff and offices. Most NGOs are poorly managed and their permanent staff show no democratic governance and lack professionalism. NGOs still heavily depend on foreign donors. Local resources and member contributions are insufficient for the sustainability of the sector. The government is not involved in funding NGOs. Due to the low capacity to mobilize funds and the absence of local mobilization strategies, many organizations are unable to secure funding. Networking is a regular practice for some organizations. NGOs share information and begin to work together to undertake organized awareness campaigns on specific issues. Some of these efforts yielded results in 2009. The government recognizes the contribution of NGOs in service provision. The actions of NGOs are community-oriented and significantly contribute to areas such as education, health, assistance to orphans and other vulnerable children, income-generating activities for poor families, housing for vulnerable individuals, water supply, environmental protection, food security, and the fight against HIV/AIDS. The population increasingly understands the roles and missions of NGOs and participates in the planning and implementation of NGO activities.

 The government's perception of NGOs changes from time to time depending on its interests and the areas of intervention of NGOs. The government sometimes reacts defensively when faced with criticism, even if constructive, and tends to view certain organizations, particularly those working in governance and human rights, as opposition political parties. LEGAL CONTEXT: 5.8 Article 32 of the Constitution of the Republic of Burundi guarantees the freedom of assembly and association, as well as the right to create associations or organizations in accordance with the law. The government decree establishing the framework for the operation of non-profit associations is now outdated; a draft revision of the decree was introduced in July 2009 but has not yet been approved by the Council of Ministers. The requirements for registering an association are clear, but they have not yet been translated into the national language, Kirundi, nor widely disseminated. Furthermore, many local associations face great difficulties in registering due to the long distances between the Ministry of Internal Affairs and their workplace. Additionally, the documents required for registration are numerous and costly given the extreme poverty in which the population lives. Some of these documents are only issued in Bujumbura, the capital. They include, among others, the criminal record extract, which is a prerequisite for obtaining a certificate of good conduct and morals issued by the provincial governor or the mayor of the city of Bujumbura. NGOs are allowed to undertake activities, but a new directive from the Ministry of Internal Affairs requires them to seek permission for activities covering the national territory. They can raise funds nationally and internationally, but tax exemptions are granted only to international NGOs. While there are networks, working groups, or coalitions, there are no specific legal provisions governing their operation. The Forum of Agricultural Producers' Organizations of Burundi is a collective of organizations of farmers cultivating coffee, tea, rice, cotton, and palm oil. Established in 2009, it has been waiting for more than six months for its registration. On November 23, 2009, the Minister of Internal Affairs canceled the ministerial decision approving the registration of the Forum for the Strengthening of Civil Society because some of its member associations—particularly, the unions, the Bar Association of Burundi, and the Chamber of Commerce of Burundi—have been registered by other ministerial departments. The ruling party tends to view NGOs as political parties and, for

this reason, places them on an equal footing with certain civil society organizations to limit their effectiveness. Some NGO leaders who are considered too critical of the government are victims of blackmail and harassment. ORGANIZATIONAL CAPACITY: 5.9 Only 5% of the 4,000 registered NGOs in Burundi operate more or less adequately. Very few associations have national or even regional coverage or possess offices, equipment, and staff. Most NGOs would like to form interest groups, but they face obstacles when deciding to decentralize their activities.

 Some organizations practice transparent management. They have written documents that govern their operations, such as statutes, procedural rules, administrative and financial procedure manuals, strategic plans, and operational plans. They also regularly publish factual and financial reports and conduct financial audits. Moreover, some large organizations are gradually establishing local support groups and networks that contribute to strengthening the capacity of their members. This is the case for the Forum for the Strengthening of Civil Society, the Collective of Women's Associations and NGOs of Burundi, the Collective of Youth Associations, and the Observatory of Government Action. In most cases, there is still much to be done to improve the organizational capacity of NGOs. Many of them indeed lack permanent staff and offices and operate poorly, sometimes without any democratic management. Professionalism is limited among the permanent staff of NGOs, and there are no financial resources to ensure adequate capacity building. The resources of most NGOs do not allow them to modernize their office equipment. Some NGOs working in large urban centers with electricity or another energy supply system would like to improve their access to the Internet. NGOs working in areas without electricity or other energy supply systems do not have access to the Internet. FINANCIAL VIABILITY: 5.9 Striking disparities exist between NGOs. Some organizations have financial resources while others do not. Those with funds are still heavily dependent on foreign donors. Local resources and member contributions are insufficient to achieve sustainability. The government is not involved in funding NGOs. NGOs are making efforts to develop projects and submit financial requests to donors, but many organizations fail to do so due to their limited capacities and the lack of community mobilization strategies. The culture of patronage is still non-existent, and some organizations disappear due to a lack of financial resources or change their orientation or mission according to the wishes of the donor. The populations are poor and cannot make significant financial contributions, but they wish to contribute in kind to the construction of schools and health centers, for example. The state increasingly calls on NGOs to participate in the implementation of certain activities, particularly projects funded by the World Bank, the Global Fund to Fight AIDS, Tuberculosis and Malaria, and the European Union. Programs exist to strengthen the capacity of NGOs in financial management. Donors closely monitor the management of financial resources to ensure transparency, notably by requiring regular annual audits. ADVOCACY: 4.6 Organizations are active in advocacy in certain areas such as human rights, governance, the fight against corruption and economic mismanagement, gender parity in decision-making bodies, the right to inheritance for women, and the right to education for all. Professional organizations such as unions, journalists' associations, and organizations fighting against AIDS are very active.

 NGOs interested in monitoring and analyzing government policies are beginning to emerge. This includes the Observatory of Government Action, the Economic Development Institute of Burundi, and the National Conflict Alert and Prevention Center. NGOs share information and are starting to work together to carry out awareness-raising activities on specific issues. Some results were achieved in 2009 regarding agricultural funding, the establishment of transitional justice mechanisms, the fight against

corruption and economic and financial mismanagement, and the adoption of amendments to the Electoral Code and the Code of Criminal Procedure. However, the capacity of NGOs to undertake sustained advocacy efforts is still weak, and the results obtained are still mixed because they have not yet mastered advocacy techniques, have difficulties responding in a timely manner, or face political and cultural obstacles. The low level of government engagement with the cause of NGOs also constitutes a serious obstacle to advocacy. Due to conditions imposed by donors, the government involves NGOs in steering committees, such as the committee responsible for overseeing the funds of the Heavily Indebted Poor Countries (HIPC) Initiative, and in national consultations on issues such as transitional justice, market services, employment, and social security. However, the government largely responds to donor requests rather than expressing a genuine commitment to involving NGOs. SERVICE DELIVERY: 4.5 Many NGOs work in areas such as health, education, housing for vulnerable people, water supply, environmental protection, and food security, including the development of wetlands, agricultural inputs, and livestock. Beneficiaries participate in program development, priority setting, and sharing results, mainly through the media. Networks and working groups are beginning to establish themselves. The goods and services provided by NGOs reflect the needs and priorities of constituents and communities. Given the context of widespread poverty, exacerbated by the global financial crisis, the needs of the population for services are so numerous that NGOs are unable to meet them. In some areas, such as the energy sector, for example, very few NGOs are involved due to limited financial resources. Some NGOs help a very limited number of vulnerable people, such as orphans, child-headed households, widows, or patients with AIDS. The fact that financial resources are limited means that the number of people helped is much smaller than the actual number in need. The government values the contributions of NGOs in providing and monitoring basic social services. It does not grant subsidies to NGOs, but sometimes contracts for services. Some NGOs charge for certain products and services such as publications, workshops, or expert studies and can thus recover some costs. However, other NGOs provide these products and services for free.

 INFRASTRUCTURE: 5.6 Some intermediary support organizations help strengthen the capacity of their members through training programs and workshops. These organizations are beginning to become more structured, and some of them have websites and newsletters, but they cannot generate income from their activities (by charging for them) and are largely dependent on resources provided by foreign donors. There are local trainers in NGO management. Basic training in NGO management is available in the capital, and workshops are organized from time to time in other regions of the country. More advanced and specialized training sessions in areas such as strategic management, accounting, financial management, fundraising, and volunteer management and development meet the needs of NGOs, and training materials are available in the local language. The number of NGOs creating networks is on the rise. There are active platforms and networks of NGOs, but most are located in Bujumbura. These networks contribute to strengthening the capacities of members through training and workshops. The need to work in synergy around sensitive issues is reinforced at critical times, such as during the campaign for legal action in response to the April 2009 murder of Ernest Manirumva, a leader in the fight against corruption. NGO coalitions regularly share information in their respective fields, but no organization centralizes information intended for NGOs. There are no local community foundations in Burundi, but there are organizations that grant subsidies received from foreign donors for local community projects. This mainly concerns agricultural and livestock activities where some groups of farmers or herders receive seeds, agricultural inputs, pesticides, goats, or cows purchased with funds from foreign donors. NGOs fighting against HIV/AIDS also purchase medicines and other products with funds granted to

national coverage NGOs. NGOs work within certain intersectoral partnerships, mainly with the media. PUBLIC IMAGE: 4.4 NGOs and the media have significant exchanges and work closely together. The media willingly cover most of the activities of NGOs. Press bodies sometimes work in synergy with each other and with NGOs to address specific issues of great importance to the life of the nation. NGOs regularly organize forums bringing together both the government and private radio stations around issues such as education, health, the environment, elections, and governance. The population increasingly understands the roles and missions of NGOs and participates more in activities organized by them. The government's perception of civil society changes according to its interests and the services provided by NGOs. The government tends to view certain organizations, particularly those involved in governance and human rights promotion, as opposition parties. Some NGOs have independent codes of conduct, but there is still no code of conduct for the entire sector. The Forum for the Strengthening of Civil Society, one of the most representative NGO platforms, is finalizing a draft code of conduct.

 Capital: Addis Ababa Political regime: Republic Population: 88,013,491 (est. July 2010) GDP per capita (PPP): $900 (est. 2009) SUSTAINABILITY OF NGOs: 5.5 Both national and international NGOs began to emerge in Ethiopia in 1960 in response to the growing demands of the population for various societal needs. Most NGOs trace their roots to the disastrous famines of 1974 and 1984. Under the Derg regime of Mengistu Haile Mariam, most NGOs, which were foreign, focused on relief operations. Ethiopian national NGOs remain underdeveloped and somewhat misunderstood by the government and have always struggled for a space to maneuver and to strengthen institutional capacity. Since 1991, NGOs have remarkably progressed in terms of their number and diversity as well as addressing the complex development agenda of the country. Article 31 of the constitution guarantees everyone the freedom of association for any cause or purpose. However, the current government is not necessarily more favorable than its predecessors regarding the role and responsibilities of NGOs. At best, it tolerates NGOs as organizations that fill a gap rather than as development partners. It does not truly consider NGOs, especially international NGOs, as necessary for the country, and NGOs risk being replaced by local organizations, controlled by the party, which are more benevolent than threatening to it. Until recently, no regulatory text had been adopted to govern the administration of NGOs in Ethiopia. Outdated laws proclaimed under the regime of Emperor Haile Selassie, as well as subsequent administrative directives, indeed governed this sector. Before the adoption of the new Proclamation on Charitable Organizations and Associations in 2009, the non-profit sector in Ethiopia was largely divided into four categories: development organizations, advocacy organizations, professional associations, and religious organizations. Most NGOs were registered as development/service provision organizations and as religious organizations. The number of NGOs involved in human rights policy and advocacy remained very small. By the end of 2009, there were approximately 3,800 NGOs registered with the Ministry of Justice, although this number dropped to 1,850 in February 2010 after the re-registration process was instituted in accordance with the new Proclamation on Charitable Organizations and Associations. LEGAL CONTEXT: 6.1 The need for an updated law specifying the rights and responsibilities of NGOs and establishing a more integrated regulatory framework within which they can operate has long been one of the crucial issues for the development of NGOs in Ethiopia. Since 2000, the government has made sporadic attempts, sometimes in consultation with NGOs, to enact a specific law for NGOs. In 1995, the Ministry of Justice

published a directive on the operation of NGOs, which contains the main classifications of the sector (development, advocacy, professional associations, and religious organizations), defines the areas of activity of programs, and sets the conditions for the registration of national and international NGOs. Due to the outdated and narrow nature of the previous legislative framework, NGOs were indeed mostly governed by practices and administrative directives that generally contradicted the provisions of the constitution, the Civil Code, and international treaties ratified by the country. Driven by these factors as well as other political factors, the government adopted the infamous Proclamation on Charitable Organizations and Associations in early 2009. This law has a significant impact on the operations

of NGOs, particularly those involved in rights issues. Regarding the positive aspects, the law allowed for the creation of a specific agency for the administration of NGOs and recognizes the establishment of consortia and engagement in income-generating activities, areas where NGOs had previously faced difficulties. NGOs are not required to pay taxes on the grants they receive, but like commercial organizations, they are liable for income tax from their economic activities. Nevertheless, the new legislation contains provisions that have negative implications for freedom of association and the functioning of NGOs. Contrary to Article 31 of the constitution, the Proclamation indeed recognizes freedom of association not as a human right but as a democratic right, guaranteed only to Ethiopian citizens. According to this law, local and international NGOs that receive more than 10% of their funding from abroad are not allowed to work on promoting human rights, promoting gender equality, children's rights, and the rights of persons with disabilities, conflict resolution, or the effectiveness of the justice sector. These organizations also do not have the right to judicial recourse or appeal against administrative decisions, including the decision to dissolve an NGO. The law grants unjustified and subjective powers to administrative bodies, which can harm the independence and operations of NGOs. Starting in September 2009, the government began to implement the new law and finalized the re-registration procedure. During this process, significant concerns arose; advocacy organizations in the field of rights were particularly subject to very strict controls and prolonged bureaucratic constraints. The number of NGOs registered as advocacy NGOs in the field of rights has significantly decreased, as most of them chose to register as service-providing NGOs in order to access foreign funding. By their very nature, community organizations have a regional base and are governed by the regional laws of the States, and therefore do not fall under the scope of the new NGO law. ORGANIZATIONAL CAPACITY: 5.1 Limited access to resources, including funds and physical assets as well as skilled personnel, constitutes a major constraint for Ethiopian NGOs. They cannot rely on local patronage and are rather heavily dependent on foreign donors for financial and other assistance. This is why most of them work on a short-term project basis rather than on long-term strategies. The regulatory body requires that all statutes (constitutions) of NGOs have objectives, but due to financial constraints and competition, organizations sometimes struggle to adhere to their stated objectives. It is mandatory for the statutes of NGOs to specify a formal management structure with a division of responsibilities. The statute must provide for the powers and responsibilities of the general assembly, executive committee (board of directors), and auditor. However, real and practical power is usually in the hands of the executive director, who is generally the brain behind the organization. In most cases, general assemblies and boards of directors are not sufficiently engaged and are purely symbolic. Most NGOs depend on the personality of the executive director, and the management of their staff is often undemocratic. The formation of support groups has remained one of the major challenges for Ethiopian NGOs. Apart from asking individuals to be members of a general assembly or a board of directors—mandatory requirements for establishing NGOs—the sector generally lacks strategies aimed at forming support groups. Only a small number of organizations use foreign volunteers, and local volunteering is still minimal. There are evidently

no clearly defined strategies for mobilizing volunteers. New NGOs struggle to obtain capital resources to advance technically. Most donors are not interested in extending their support to equipment such as computers, vehicles, and furniture. FINANCIAL

VIABILITY: 5.8 All local NGOs heavily depend on foreign aid for the implementation of their activity programs for various reasons, including a dilapidated economy and the weakness of NGOs to mobilize local resources, form support groups, and diversify their resource bases. Few organizations are engaged in local fundraising or public collection activities. Significant numbers of NGOs do not have healthy and transparent financial management systems. Almost all community organizations, except for Idir—one of the traditional associations that can be considered a community-based organization—do not have a solid financial base given the limited capacity of their members or the community to make financial contributions. The new Proclamation on Charitable Organizations and Associations severely affects the ability of advocacy NGOs in the field of rights to access foreign aid. The law requires that foreign resources do not represent more than 10% of the budget of these organizations. It defines a foreign resource as “a donation, delivery, or transfer made by a foreign source of any item, currency, or guarantee. Foreign sources include a government agency or enterprise of any foreign country; an international agency or any person residing in a foreign country.” The law

 considers even the financial support from Ethiopians living outside the country as a foreign source. NGOs established as Ethiopian residents or foreign charitable associations have full access to foreign sources. Given that humanitarian organizations are generally established as Ethiopian residents or foreign charitable associations, they may not be affected by financial restrictions. NGOs are required to submit activity reports and annual financial statements to the regulatory body, failing which they face administrative measures. Nevertheless, they struggle to make these reports accessible to the public and target beneficiaries. Most local NGOs operate on a project or short-term basis due to the lack of support for core programming. Some donors have taken the initiative to form a consortium and coordinate their support for a small number of organizations. The new Proclamation on charitable organizations and associations allows NGOs to engage in income-generating activities, but at the same time, it does not provide special treatment for NGOs and sets unreasonable prerequisites, such as the need to obtain permission from the NGO regulatory agency and to prove that this activity is secondary to the NGO's objectives. The law also does not provide special treatment for NGOs regarding the issuance of permits, registration, and taxation of economic activities. ADVOCACY: 5.8 The number of advocacy organizations is low compared to that of service delivery and development organizations. Advocacy is a recent phenomenon in the history of Ethiopian NGOs. Besides their small number, the majority of current advocacy NGOs have little or no experience in the field and are subject to government oversight. Due to the nature of their work, their relationships with the government are based on suspicion and distrust. The government perceives the behavior of human rights organizations and watchdogs as a manifestation of civil and political discontent towards the state's dysfunctions. This situation worsened after the national election of 2005, where advocacy organizations played an active role in voter education and election monitoring. The new Proclamation on charitable organizations and associations severely restricts the activities of advocacy organizations in various ways, for example, by denying them access to foreign funds and defining their activities as political activities only authorized for citizens able to mobilize money from local sources. However, the law does not limit all forms of advocacy; the state's restriction only applies to organizations working on the promotion of human rights and democracy, gender equality, children's rights and the rights of persons with disabilities, conflict resolution and reconciliation, as well as the promotion of the effectiveness of the justice sector. It is difficult to measure the influence of the rights and advocacy activities of NGOs on public policies and the democratic process.

Nevertheless, there are some concrete signs of NGOs' achievements in the spheres of rights and policy advocacy. In some cases, state institutions invite advocacy NGOs to participate in political debates. Thus, advocacy NGOs have played a crucial role in the past in revising the Family Law and the Penal Code and in reforming the administration of the juvenile justice system and improving child protection. The contribution of NGOs to the development of the Growth and Poverty Reduction Strategy and the Accelerated and Sustainable Development Plan aimed at eradicating poverty (PASDEP) has also been decisive.

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64 SUB-SAHARAN AFRICA NGO SUSTAINABILITY INDEX (2009) SERVICE DELIVERY: 5.0 Although to a lesser extent than with advocacy organizations, the state used to consider service delivery NGOs as an informal and unregulated power center that channels valuable resources into either contradictory or inappropriate activities for long-term public development strategies. It even considered that a number of NGO activities fostered dependency, but this perception has improved over time. The NGO community was dominated by relief activities until the late 1990s. It is only recently that it has dedicated itself to long-term development activities such as education, health, food security, credit and savings, environmental protection, and child welfare. Nevertheless, in a short period of time, NGOs have made remarkable advances in the fields of development and services. In 1996, 5% of the aid received by the country from international sources was provided through NGOs. According to a recent study by the civil society organizations working group, established to develop new legislation regarding NGOs, the total amount transferred to NGOs by foreign sources amounted to $1.78 billion between 2004 and the first half of 2008, and NGOs implemented 2,020 development projects across the country for the year 2008. INFRASTRUCTURE: 5.3 No intermediary organization (IO) or NGO resource center is established at the national or local level. One of the major problems for Ethiopian NGOs is the scarcity of local resources to meet locally identified needs and projects. Most donors are not interested in supporting the infrastructure needs of local NGOs such as training, exposure to national and international experiences, technical assistance, equipment, or the construction or purchase of buildings. Organizations like Pact Ethiopia and Christian Relief Development Association (CRDA) have played an important role in building the capacity of their partners and member NGOs through training and technical assistance. Various consulting agencies provide training on management, strategic planning, accounting, and financial management for NGOs. As the NGO sector grows in size and strength, the need to work together and advance a common agenda increases. Although there is no national organization to oversee NGOs, a significant number of networks, alliances, forums, and coalitions are emerging formally and informally. The majority of these networks are established based on themes such as poverty, gender, environment, health, HIV/AIDS, and religion. Even though previously the law did not impose any restrictions on the establishment of networks, officials from the Ministry of Justice used to reject them. But the new Proclamation on charitable organizations and associations recognizes this right for organizations. PUBLIC IMAGE: 5.1 The lack of adequate media to inform the public about the activities of NGOs remains one of the sector's problems. In Ethiopia, there are two types of media groups: private media and public media. The priorities of the government strongly influence the latter, while the former is characterized by a lack of experience, professional staff, and budget. State media sometimes attack and undermine NGOs. In contrast, private media are much more concerned with current politics and sensational issues. The government and the ruling party own the electronic media with national coverage. This virtually makes it impossible for NGOs

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ETHIOPIA 65 to reach poor and illiterate populations, who neither have the ability to read nor

the means to purchase newspapers. The NGO sector has not made a concerted effort to use the media to promote the role of NGOs and to educate and mobilize the public. Few organizations are in the habit of publishing their annual reports. As a result, the public knows little about the role of the NGO sector as a whole, although it may appreciate the work of an individual NGO operating in its community. Compared to other NGOs, relief organizations are better known by the communities they work with, and the public has a positive perception of them. With the exception of a handful of businessmen, the private sector has not yet extended its support to NGO activities. Through the Chamber of Commerce, the private sector also competes with NGOs for funding to promote the interests of the business community and to engage in other social issues. A group of NGOs adopted a code of conduct in March 1999. More than ten years after its adoption, the majority of Ethiopian NGOs know little about its existence. Apart from the members of CRDA, an umbrella organization that supports and houses the secretariat of the code observation committee, most Ethiopian NGOs are not signatories to this code, and the sector has made no effort to revive the self-regulation system.

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66 SUB-SAHARAN AFRICA NGO SUSTAINABILITY INDEX (2009) 5.0 5.1 5.1 5.3 6.1 5.5 6.0 5.4 1.0 3.0 5.0 7.0 Public image Infrastructure Service delivery Advocacy Financial viability Organizational capacity Legal context NGO sustainability Sustainability Sustainability Sustainability strengthened in progress hampered 2009 Results for Gabon GABON Capital: Libreville Political regime: Republic Population: 1,545,255 (est. July 2010) GDP per capita (PPP): $13,900 (est. 2009) NGO SUSTAINABILITY: 5.4 The NGO sector in Gabon is characterized by a legal void. There is indeed no specific law on NGOs; the law respected by NGOs is Law No. 35/62 of 1962, which concerns all associations. In 2009, the state officially recognized 516 NGOs, but this number is unreliable due to the lack of a clearly defined legal framework for NGOs. The legal provisions concerning NGOs are restrictive and ambiguous. Even though it is relatively easy to register for a provisional legal status of three months, the law does not specify what happens if the three months expire and the NGOs have not yet received the final verdict regarding their status. The NGO Brainforest, for example, obtained its provisional official certificate in 2000, but the definitive certificate has not yet been issued to it. Even though NGOs are allowed to raise funds and conduct activities, they still run the risk of being banned when they oppose government policy. The roles and regulations of NGOs clearly define their governing bodies, but the lack of professionalism of some NGO leaders leads to violations of these provisions. Very few professional NGOs still depend on international donors for 90% of their funding. Regarding advocacy, apart from the activism of some NGOs in the environmental field, few activities are undertaken in other areas.

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GABON 67 Almost all NGOs have limited access to the media. Access to the media, even public media, is linked to financial compensation paid or not by NGOs to benefit from media coverage. LEGAL CONTEXT: 6.0 The legal framework for NGOs in Gabon is not clearly defined. Only Law No. 35/62 of 1962 concerning associations regulates NGOs. However, this law is outdated and does not align with the current priorities of NGO management. NGOs define aspects of internal management through their own rules and regulations. From a legal standpoint, NGOs and their representatives can work freely, but they are sometimes victims of government harassment. In 2008, five representatives of Gabonese NGOs were arrested and placed in custody without any legal assistance. The bank accounts of some NGOs were frozen. That same year, twenty-two NGOs were banned on the grounds that they had violated regulations and had politically interfered. The impact of these harassment incidents continues to be felt in 2009; some NGOs have reduced their activities and maintain a low profile. It is rare to find legal experts specialized

in laws related to NGOs. Legal consultations are only available for NGOs that request this type of assistance and must pay consultation fees to lawyers. Apart from international NGOs that have an official agreement with the state to work in Gabon, national NGOs that benefit from tax relief are those that apply for registration with the Ministry of Finance. Most of the time, these NGOs are colluding with the public administration. Since the procedures are long, tedious, and complex, many NGOs do not complete them. Donations and grants awarded to NGOs are tax-exempt. But unfortunately, these provisions in various legal texts are not very explicit. No law specifies whether NGOs are allowed to generate income from their goods and services, but they do provide consultations, advice, and expertise to institutions and international organizations, such as impact studies for example. NGOs work with organizations like the World Wildlife Federation (WWF), the Wildlife Conservation Society (WCS), and the National Parks Agency (ANNP). ORGANIZATIONAL CAPACITY: 5.5 The overall dynamics of NGOs are not very visible. NGOs operate in a disparate manner while working towards the same goal: the well-being of the population. Despite increasing coordination among NGOs in certain areas like ecology, some NGOs still work for their own account. One of the outcomes of cooperation among NGOs has been the development of the national framework for the environment. NGOs are rarely equipped with strategic plans as many of them are created directly or indirectly by political leaders. The rules and regulations of NGOs clearly define their management bodies, but the lack of professionalism of some NGO leaders sometimes leads to violations of these provisions. The boards of directors of NGOs sometimes fulfill their management functions democratically, but in the majority of NGOs, the boards lack transparency or do not exist. Except for some well-structured NGOs, most Gabonese NGOs do not have permanent staff. NGOs often recruit seasonal volunteers based on available funds for projects. But in the absence of funds, NGOs often lack physical infrastructure, which contributes to their lack of professionalism. FINANCIAL VIABILITY: 6.1 The majority of NGOs rely on funding from international institutions and embassies that finance various projects. Only a small number of them are able to generate income from their services and products. Some companies and ministries have started awarding service contracts to NGOs, but there is still much to be done in this area. The working relationships between NGOs and public departments are still in the initial stages. The rules and regulations of NGOs often mention the payment of fees by NGO members, but very few members fulfill this obligation. NGOs do not have solid financial management systems due to the lack of training in this area.

ADVOCACY: 5.3 No public body establishes direct communication between NGOs and decision-makers. NGOs often struggle to establish this communication on issues such as the environment and transparency of oil revenues. National NGOs and the government collaborate in many areas, such as the fight against AIDS. NGOs have formed coalitions and launched awareness campaigns on certain issues. These campaigns have been effective in raising public awareness about HIV/AIDS, the use of mosquito nets, logging activities at site 32 of Rougier Gabon 12, and iron extraction in Bélinga. No mechanism is in place to allow NGOs to participate in the political process, except in certain areas like the fight against AIDS. NGOs sometimes ignore that they should not work outside the scope of their areas of activity. This can prevent their work from being visible and recognized. In general, except for advocacy on the environment for the revision of the iron mining treaty in Bélinga, the impact of NGOs is still insignificant. Most NGOs are not well-equipped to stand against actions and policies that violate the principles of good governance. In general, NGOs know that a favorable legal framework can contribute to their effectiveness and long-term existence. They are active in revising certain legal texts, such as the law concerning the creation of associations and NGOs. The Non-State Actor Strengthening Program (PROGREANE) is a local movement for the defense of NGOs that fights to promote legal reforms favorable to NGOs. SERVICE PROVISION: 5.1 Although the missions of NGOs are clearly

defined within the framework of their rules and regulations, there is some disorder in their activities. NGOs provide products and services in various fields such as ecology, health, and education. These areas reflect the needs of their constituents. The provision of services by NGOs is not very extensive. It does not always cover their costs, except for consultations. Most of the time, NGOs receive funds from donors to engage in the provision of specific services. GABON 69 The state recognizes the value of NGOs based on the work they do and their sector of activity, mainly when it supervises their work. It often grants subsidies or service contracts in certain sectors, such as the environment and HIV/AIDS. However, a high degree of political nepotism marks the granting of subsidies or contracts. The positive trend is that NGOs are increasingly making efforts to adhere to their action plans in order to be more effective. INFRASTRUCTURE: 5.1 Intermediary organizations, NGO resource centers, or other means of access to information, technology, training, and technical assistance at the national level are not widely known. Even centers like PROGREANE, CENAF (National Support Center for Women's Organizations), and MGBEF (Gabonese Movement for Family Welfare) are not well known, and NGOs do not benefit from their services. Some NGOs exchange information while others do not because they are often in competition and are not complementary to each other. In the environmental sector, a platform attempts to promote the sector and its interests to the public. This is not always the case for other sectors. PROGREANE tries to play a training role in the field of NGO management, but it has some limitations. Its training sessions on NGO management often take place in the capital and rarely in smaller towns. The training is neither recurrent nor provided in local languages, but only in French, which is still the dominant language. Several NGOs work within a formal or informal partnership with local businesses, the state, or the media to achieve common objectives. For example, Nyanga Tour collaborates with the local radio station in the Nyanga province in a public awareness campaign on forestry and environmental issues. Once or twice a year, the NGO Aventure Sans Frontière conducts, on behalf of Total Gabon, a study on the impact of oil production on marine wildlife. PUBLIC IMAGE: 5.0

NGOs receive media coverage as long as their activities do not concern political issues. To benefit from positive media coverage of their activities, NGOs sometimes have to pay fees, even to public media. The latter often have a poor understanding of the activities and role of NGOs, which are very rarely the subject of media coverage. Some partnerships exist between NGOs and the media, but they are not always productive since the media primarily operate in the capital. The general public has a positive opinion of NGOs, depending on the type of their interventions in the region. However, it is still necessary to organize educational and civic activities at the local level to raise public awareness, even if populations support NGOs in theory. Businesses and representatives of the central government are very skeptical towards NGOs, even if they recognize their importance and rely on them for certain issues. Due to a lack of professionalism and communication strategies, NGOs do not announce their activities to improve their image. No code of ethics regulates the work of NGOs. To become professional and make their activities more transparent, some NGOs adhere to the principles of good governance outlined in their rules and regulations and publish annual activity reports.

GHANA 71 4.3 4.7 3.8 4.0 5.7 3.9 4.0 4.3 1.0 3.0 5.0 7.0 Public image Infrastructure Service provision Advocacy Financial viability Organizational capacity Legal context Sustainability of NGOs Sustainability Sustainability Sustainability strengthened in progress obstructed 2009 Results for Ghana GHANA Capital: Accra Political regime: Democracy Population: 24,339,838 (est. July 2010) GDP per capita (PPP): $1,500 (est. 2009) SUSTAINABILITY OF NGOs: 4.3 According to statistics from the Department of Social Welfare, 4,463 NGOs are currently registered in Ghana. An increasing number of new NGOs are registered every year in this rapidly developing sector. NGOs are primarily active in the areas of water and sanitation, education and training, health, agriculture and food security, as well as energy. There are also a number of relief organizations,

most of which are faith-based. Research and advocacy NGOs focus on issues such as human rights, children's rights, gender, the environment, governance, and rights. NGOs are present in all ten regions of Ghana, although they are more strongly concentrated in the poorer regions of the North, Northeast, and Northwest. They generally tend to establish themselves in urban areas, and many of them are headquartered in the capital. Community organizations, which are quite numerous, are mainly located in rural areas. The registration of NGOs is relatively easy as there are virtually no legal obstacles. However, since there is no specific law on NGOs, they must register under the Companies Code. They are also required to register with the Department of Social Welfare, which falls under the Ministry of Employment and Social Welfare. Furthermore, NGOs operating in rural communities are supposed to register with district assemblies at the local community level.

 The bill on trust funds, designed to govern the activities of NGOs as well as the relationships between NGOs, the state, and the donor community, remains a point of contention between the state and NGOs, which are dissatisfied with its content. In the meantime, NGOs have attempted to improve their performance by creating an independent body, the NGO Standards Review Commission. Most NGOs tend to be small and underfunded. Apart from a few large NGOs, most boards of directors are rarely functional. Internet access is biased in favor of the capital and other urban centers. As a result, most NGOs rely on internet cafes that do not always have a reliable connection. Local funding for NGOs is critically lacking in Ghana. Even the largest ones depend almost exclusively on external funding sources. The government does not directly allocate funds to NGOs. Only those NGOs that execute state contracts receive project funds. Local NGO coalitions engage the government on a number of social issues. National laws on issues such as disability and domestic violence are largely due to effective campaigns led by these coalitions. The public image of NGOs may be improving, but they need to do more to win the media over. NGOs find that they sometimes have to pay to ensure they receive media coverage. LEGAL CONTEXT: 4.0 The legal framework regarding the registration of NGOs in Ghana is favorable to them. The 1992 constitution guarantees freedom of association, but an NGO must be registered as a limited liability entity under the Companies Code to access certain benefits such as tax exemptions and participate in state projects. The Companies Code details issues such as internal management, the nature of activities, and the dissolution of entities. Administrative and human resource limitations sometimes lead to frustrating delays for NGOs in obtaining necessary documents for registration. At the local authority level, the issuance of a certificate and the resulting authorization to operate as a legal entity are sometimes delayed due to inefficient procedures. This is more due to a lack of staff capacity than a deliberate government policy. Generally, NGOs have the freedom to operate freely and are not subject to government harassment. The constitution guarantees freedom without unnecessary interference from the state, except within the framework of the country's laws. There is no specific law on NGOs, despite discussions held between the government and NGOs at the national level regarding the bill aimed, among other things, at establishing the parameters within which NGOs will be legally authorized to operate. It will also define the relationship between the state and NGOs as well as other parties involved in development. NGOs have opposed this bill, as several provisions could harm their development and operations. No legal entity specializes in legislation related to NGOs. They have access to general legal advice like all other organizations and businesses. However, while they generally benefit from available tax exemptions, current procedures sometimes inhibit the full utilization of these incentives. No legal restrictions are imposed on NGOs that generate income, and they can compete for state contracts at the local or national levels. ORGANIZATIONAL CAPACITY: 3.9 Generally, it is the larger and better-resourced NGOs that pay attention to strategic planning.

Many smaller organizations do not include strategic planning in their internal management processes. While virtually all NGOs have boards of directors as required by the Companies Code, it is usually the boards of the larger ones that play a significant role in their governance. However, the majority of NGOs are small and lack resources. Their boards of directors are often non-functional and not involved in governance or management. Many NGOs employ permanent staff, although the number of employees varies from one or two to more than ten

depending on each NGO's resources. The better-resourced NGOs tend to adopt adequate human resource practices and offer their employees employment contracts and clear job descriptions. NGOs that hire professionals, such as accountants for example, are larger and based in urban areas. Instead of hiring IT specialists, they occasionally engage the services of private information technology specialists. It is not common for NGOs to hire lawyers. Many of them engage volunteers. The use of modern equipment such as computers and cell phones is more widespread among NGOs. While the equipment acquired may be relatively new, it is rarely replaced when it becomes old or obsolete. Most NGOs, except for the larger ones, tend to rely on communication malls for the use of scanners and fax machines. Although internet access is improving in the country, it is more readily available in urban areas. Most NGOs rely on internet cafes that do not always have a reliable connection. In towns closer to rural areas, internet services tend to be of poor quality. FINANCIAL VIABILITY: 5.7 NGOs in Ghana, particularly the larger ones, largely depend on foreign funding sources. Local financial resources are scarce and sparse, making up only a small part of NGOs' means. The state does not directly provide funds to NGOs. Only those involved in executing state contracts receive funds for projects to be implemented. Generally, NGOs can draw on their support groups for voluntary and non-monetary assistance, although community-based organizations are better positioned to benefit from these resources. While there are local sources of corporate sponsorship, these are usually businesses owned by foreigners such as banks and mining companies that rarely engage in corporate social responsibility. Other funding sources involve a limited number of grants provided by foreign embassies, international NGOs, or organizations such as the World Bank. Local foundations from which NGOs can access financial support do not exist in Ghana. In some cases, individuals donate educational or medical equipment, such as wheelchairs, to NGOs tasked with distributing them to institutions or communities. These individuals are generally people living abroad, Ghanaians, or foreigners who have visited or worked in Ghana. Cases of Ghanaian benefactors residing in their country who make donations are rather rare. Despite a larger number of NGOs having various financial resources, generally obtained from foreign sources, this is not the case for most NGOs. The latter lead a precarious existence, submitting project proposals to foreign sources in the hope of attracting funding. In many cases, NGOs turn to areas where funds are available—HIV/AIDS, climate change, or issues in vogue with donors. This has led to a lack of specialization among NGOs, pushing them either to change their priority areas or simply to add others for which funds are available. Many do not succeed and are forced either to pack up or to resort to a

 commercial activities to stay afloat. While there are no bureaucratic obstacles to fundraising, most NGOs lack the technical capacity to raise funds effectively. Unregistered NGOs are most likely to rely on their members and engage in raising awareness, even though some registered NGOs do this as well. But whatever contributions are collected, they represent only an insignificant part of their income. Only a few NGOs, generally the largest and based in urban areas, are able to generate additional income or revenue through service delivery activities or rents from properties they own. Most rely solely on external funding, state projects or funders, or grants. Large NGOs tend to have good financial management systems while smaller ones do not. All NGOs are required to undertake annual audits and submit annual reports and financial statements to the office of the

registrar general and the tax service, but many of them do not comply with these requirements. Funders also require proof of the annual audits of NGOs before considering their funding requests. ADVOCACY: 4.0 Although direct communication between the government and NGOs remains limited, it is improving. NGO coalitions are able to draw the attention of decision-makers to a number of issues. NGOs have successfully formed coalitions that continue to engage the government on issues such as the privatization of water, oil, and gas and the right to information. The bill on the right to information, for example, is currently at an advanced stage of study in the national parliament thanks to the activism of the Coalition for the Right to Information, which is primarily composed of NGOs. Other NGO platforms such as those on poverty reduction, anti-corruption, health, and education are also active and are able to exert pressure on the government. A helpful factor is that some government members, when they were in opposition, belonged to some of these coalitions and can now be considered important allies. However, there are no identifiable mechanisms to facilitate NGO participation in decision-making processes. Generally, it is rather under the pressure of the donor community that the government occasionally accepts the views of NGOs in decision-making. But despite progress made in this area, the relationship between the government and NGOs is still characterized by distrust. NGOs have made remarkable efforts to involve the government in a comprehensive legal and regulatory framework that would be favorable to all NGOs in the country. National and advocacy NGOs, which are at the forefront of these efforts, anticipate that such legislation will clarify the relationships and roles not only of NGOs but also of other stakeholders, including the state, in the development process. SERVICE DELIVERY: 3.8 Ghanaian NGOs operate in many areas such as health, education, agriculture, relief, oil and gas, as well as water and sanitation. They are also engaged in poverty reduction, environmental protection, governance, and issues such as gender and children's rights. These areas essentially reflect the needs that community NGOs address, and services are generally not confined to their own members. The state and international development agencies rely on NGOs to mobilize rural communities to support project implementation. The state recognizes the value that NGOs can bring to the provision of basic social services, and the best-resourced NGOs occasionally win state contracts. Despite this fact, the government does not materially support NGOs and continues to view them with suspicion, as it did during the period before the consolidation of democracy. INFRASTRUCTURE: 4.7 While there are intermediary organizations and resource centers in Accra and a few regional capitals, they are not widespread. The few that exist usually do not charge for their services, as this would make them even less accessible. The UNDP resource office for civil

society and the World Bank public information center are popular among NGOs in Ghana, but are located in the capital, Accra. Other resource centers located in major cities like Kumasi and Tamale are generally operated by larger NGOs, store various research publications, and offer Internet services. Databases of NGOs and other information of this type are generally available. But in general, information is usually shared among sectoral networks. While there is no organization to umbrella NGOs in Ghana, several networks have been created according to sectors and regions of the country. The largest umbrella organization is the Ghanaian Association of Private Voluntary Development Organizations (GAPVOD), but not all NGOs are members. Other umbrella organizations include the Coalition Against Corruption in Ghana, the Coalition for the Right to Information, and the Ghanaian Coalition for National Education. The practice of establishing networks is a growing phenomenon. These umbrella organizations and networks form strong lobbying groups to pursue common interests. The Northern Ghana Network for Development, for example, which brings together several NGOs working in the three poorest regions of Ghana, has become a vital spokesperson for citizens living in those areas. Intersectoral partnerships are not yet developed. Partnerships between the state and NGOs and between the media and NGOs are more common than those between business

entities and NGOs. Workshops are a common tool for training and disseminating information among the different stakeholders. Workshop reports are usually distributed to NGO networks, the donor community, and occasionally to the government. Some NGOs like the SEND Foundation and the Integrated Social Development Center (ISODEC) periodically distribute their newsletters and annual reports to a wide group of stakeholders. Although there are some local trainers in NGO management, training in cutting-edge or specialized areas is usually offered by private consultants. Funding from local organizations is virtually non-existent. Grants from international funders are very rarely reallocated. PUBLIC IMAGE: 4.3 Overall, NGOs receive positive coverage in national and local written media and electronic media. However, they do not occupy a significant place in the news, except when the news is negative. The general sentiment among NGOs is that they can only benefit from media coverage if they pay. Only one newspaper, Public Agenda, which is owned by a national NGO, regularly publishes numerous articles on the activities of NGOs.

 Rural residents often confuse NGOs with the government, indicating the failure of the media to adequately inform rural communities. This is not the case in urban areas where the population has better access to the media. Neither the government nor the business community has a positive perception of NGOs, and both tend to view them with a significant level of distrust. Expatriate companies have a more positive view. They all recognize the capacity of local NGOs, particularly community organizations, in terms of community entry techniques (when an NGO enters a new community and gains its trust and cooperation). Ghanaian NGOs have not yet adopted a code of ethics in the absence of a national law on NGOs, and despite recent attempts to develop their own standards. Large NGOs publish annual reports and generally demonstrate transparency in their operations.

GUINEA 77 4.9 5.7 5.1 5.7 6.2 5.8 5.5 5.6 1.0 3.0 5.0 7.0 Public image Infrastructure Service delivery Advocacy Financial viability Organizational capacity Legal context NGO sustainability Sustainability Sustainability Sustainability strengthened in progress obstructed 2009 Results for Guinea GUINEA Capital: Conakry Political regime: Republic Population: 10,324,025 (est. July 2010) GDP per capita (PPP): $1,000 (est. 2009) SUSTAINABILITY OF NGOs: 5.6 Socio-political factors have undoubtedly influenced the current levels of NGO development in Guinea. The establishment of the first Guinean NGO coincided with the regime change of 1984. This radical shift in political orientation, clearly expressed in President Lansana Conté's speech of December 22, 1985, paved the way for economic liberalization and decentralization to stimulate private initiatives as well as the participation of NGOs and communities in the development process. Unlike other countries in the West African sub-region, the first Guinean NGOs were created in 1985–1986. Since that time to the present, the National Service for Cooperative Assistance and Coordination of NGO Interventions (SACCO) has registered many NGOs. Registration in the SACCO records can be done at the prefectural, regional, or national level. This is why SACCO is unable to provide centralized data on NGOs, but it has registered 125 international NGOs, 555 national NGOs, and 1,257 coalitions. Of this number, less than 30% are truly operational. Today, despite the fact that legal texts define the general aspects of NGO operations, a number of points remain unclear. Issues include poor governance at all levels and in all sectors, the applicability of existing laws, lack of financial resources, and low capacity levels. These factors contribute to the slow evolution and growth of NGOs.

78 SUSTAINABILITY INDEX OF NGOs IN SUB-SAHARAN AFRICA (2009) According to several studies, the NGO sector, instead of developing and sharing a common vision, has allowed itself to disperse, based on narrow interests at the expense of the development challenges that NGOs hope to address. The ruling government has maintained and supported this trend to make it an instrument of manipulation. However, in recent years, NGOs have contributed to the democratic movement in Guinea, which led to the country's first free and fair presidential elections in June 2010. LEGAL CONTEXT: 5.5 Before 2005, the legal texts governing the existence and promotion of NGOs in the Republic of Guinea were ambiguous and confusing when it came to differentiating between associations, NGOs, networks, and cooperatives. Four ordinances dating from 1986 to 1988 on the status of NGOs and cooperatives governed the legal existence of NGOs in Guinea. These texts did not address the legal nature of coalitions, notably forums, networks, federations, and unions. In 2005, the government undertook to democratize political life through the adoption of two laws: Law L2005/013/AN on associations and Law L2005/014/AN on economic interest groups (similar to cooperatives), non-profit associations, and coalitions. Although the passage of this legislation constituted a significant step in the legal context of NGOs, the legislation is not fully operational because the government has not developed and adopted the necessary regulations for its implementation. Furthermore, the law is, for example, silent on certain issues such as registration fees. This gives authorities the opportunity to set arbitrary registration fees, which are then used for personal purposes. The legislation is particularly flexible regarding the administrative procedures for granting an association authorization. Some NGOs are created by officials, which leads to a certain level of unfair competition. Since the departure of its Italian partners after 1997, the SACCO—the office responsible for the registration, support, capacity building, monitoring, and evaluation of NGOs—has failed due to its demagogic attitude and mismanagement of funds and assets. The SACCO no longer enjoys the trust of the NGO sector and is now facing a serious crisis. Registered NGOs enjoy privileges and benefits, especially in terms of taxation. However, they find it difficult to take advantage of these tax privileges due to administrative harassment combined with the centralization in Conakry of the main services responsible for exemptions. Legal support services and law firms are concentrated in Conakry and show little interest in national NGOs given their low income. ORGANIZATIONAL CAPACITY: 5.8 Guinean NGOs typically define their objectives when establishing their legal status. Their missions then evolve over time to adapt to the political and social changes in the country. The majority of NGOs do not comply with the organizational provisions set out in their statutes and internal regulations. In most cases, the Board of Directors does not fulfill its role in defining the direction of the NGO. Its role is generally confused with that of the operational staff. Qualified human resources are a priority for most NGOs but are neglected in practice. A high unemployment rate forces many people to resort to survival tactics

 such as employment in the informal sector, particularly in associations. Despite the availability of quality employees, NGOs cannot afford to hire their services due to high wage rates. Furthermore, the lack of motivation and the low capacity to mobilize funds do not contribute to having competent staff, nor do they allow for the retention of skilled personnel in the long term. The extreme poverty of the country significantly weakens the practice of volunteering. Due to the relatively low commitment of financial partners in terms of institutional support as a means of strengthening NGOs, many organizations lack the essential elements to carry out activities, such as offices, computer equipment, and internet access, which limits their sustainability. Acute power outages contribute to the reduction of technological capacity, restricting the use of computer equipment and effective means of communication. FINANCIAL VIABILITY: 6.2 In Guinea, even though various donors financially support NGOs in different areas of intervention, it is difficult for the majority of these organizations that have not yet obtained

financial resources from a donor to identify a financial partner. A small number of NGOs that know how to access funds exercise a monopoly on this kind of information to prevent other NGOs from benefiting from funding. The majority of NGOs lack both resources and fundraising strategies. The lack of transparency in project management constitutes a real obstacle to the development of most NGOs. This situation is exacerbated by the absence of procedural manuals and internal and external audits. ADVOCACY: 5.7 The National Council of Civil Society Organizations of Guinea (CNOSCG) has supported actions initiated by major workers' coalitions to advocate for more democratic governance in Guinea, which began in 2006–2007, when the country's situation was characterized by a crisis of confidence between the government and the governed due to the state's inability to meet the most basic needs of the population. The workers' confederation resorted to a series of strikes and other mass protests to protest against how the country had been governed since its independence in 1958. Strongly supported by the CNOSCG, these actions allowed for an unprecedented dynamic political transition, which ultimately led to the holding of the first free and fair presidential elections on June 27, 2010. NGOs and the state have initiated and implemented some joint projects in sectors such as education, health, the environment, and the promotion of democracy. However, the political visions of NGOs and the government often remain opposed. Some efforts have been made at the central level to overcome these differences, while in the interior regions of the country, NGOs are not interested in advocacy, either due to their ignorance of the issue or because state representatives refuse to communicate with them. A European Union program aims to support the partnership between the state and civil society in the forestry sector. The Concerted Program for Strengthening the Capacities of Guinean Civil Society and Youth (PROJEG) aims to enhance the capacities of NGOs in advocacy and lobbying for public policies through the establishment of networks and consultation platforms at the local level, as well as facilitating youth participation to address the socioeconomic and political development challenges of Guinea.

 SERVICE DELIVERY: 5.1 Even though the range of services offered by NGOs in Guinea is well-provided and diversified as it touches on the main sectors of national life, particularly health care, the environment, education, and democracy, the services do not always reflect the needs or demands of the affected populations. This is partly due to the constant dependence of most local NGOs on international NGOs. In many cases, the activities of NGOs fill the gap of services provided by the state. In fact, poor governance has led donors to pay more attention to civil society, which leaves the state with few resources and unable to fully play its role. In the mining sector, an increasing number of NGOs are involved in implementing community development programs, including the construction of local infrastructure such as health centers, community wells, and schools. In Guinea, NGOs do not tend to take into account results or lessons learned, nor do they engage in information exchange. This is not necessarily due to the bad faith of NGOs, but rather to a lack of organization and know-how. INFRASTRUCTURE: 5.7 Given the political and social instability of the last five years in Guinea, the international community has suspended its development interventions in most sectors. This has resulted in limited international financial support for NGO infrastructure. The training needs of NGOs cover many areas: strategic planning, project packaging, fundraising, IT management, monitoring and evaluation, and advocacy. Despite their efforts to address these needs, NGO leaders continue to face enormous difficulties and a lack of technical capacity to achieve their objectives. Resource centers and NGO networks are sorely lacking. Competent resource persons are available to train NGOs but demand fees that NGOs cannot afford to pay. Many NGO networks have been created in various sectors, such as health, HIV/AIDS prevention, education and literacy, women's and girls' empowerment, civic participation of youth, and conflict management and prevention. However, the majority of these

NGO networks eventually disappear due to a lack of human and financial resources. The CNOSCG (National Council of Civil Society Organizations of Guinea) is the main communication and exchange body between NGOs and the state on one side, and NGOs and donors on the other side. The CNOSG includes many sectoral coalitions that benefit from its training activities. Generally, it is this body that follows up with bilateral and multilateral partners and the state and conveys political viewpoints. In some cases, however, the CNOSG appears to be used as a platform by opportunists with political ambitions. This reflects the lack of energy invested in adequately preparing future generations to ensure succession. Another aspect of the problem is that some members of the CNOSCG have been appointed to political positions but have not resigned from the CNOSCG.

GUINEA 81 PUBLIC IMAGE: 4.9 The media help some NGOs disseminate information about their activities, but only a tiny minority of NGOs with special relationships with certain journalists can access it. Aside from some exceptions, the media, which also lack resources, do not cover NGO events without asking them to pay generally excessive fees. However, many local FM radio stations cover NGO activities at a lower cost. There is officially no difference between public interest information and commercial announcements. The government and the public generally have a positive perception of NGO operations in Guinea and approve of what they achieve, although there are sometimes misunderstandings about democracy and governance issues. NGOs still need to establish good relationships with the political and administrative authorities concerned with the areas of activity in which they operate and provide services. Very few NGOs, especially emerging ones, publish and disseminate activity reports and financial statements.

82 SUB-SAHARAN AFRICA NGO SUSTAINABILITY INDEX (2009) 4.3 3.7 3.5 3.8 4.8 3.9 4.7 4.1 1.0 3.0 5.0 7.0 Public Image Infrastructure Service Provision Advocacy Financial Viability Organizational Capacity Legal Context NGO Sustainability Sustainability Sustainability Sustainability Strengthened in Progress Impeded 2009 Results from Kenya KENYA Capital: Nairobi Political Regime: Republic Population: 40,046,566 (est. July 2010) GDP per capita (PPP): $1,600 (est. 2009) NGO SUSTAINABILITY: 4.1 The NGO sector in Kenya includes a very diverse group of organizations ranging from small community welfare organizations to large national organizations. NGOs in Kenya can be registered under one of five different legal forms. Over the last two decades, the number of NGOs and the amount of resources they control have seen a significant increase. A study conducted by Karuti Kanyingi and Winnie Mitullah in 2006 revealed that a total of 350,000 non-profit organizations were registered in Kenya during the period 1997–2005. This number includes all organizations registered under different forms, working in various sectors, and operating from the community level to the national level. Given the favorable political context, the current number of NGOs is likely even higher. Although actual figures are difficult to obtain, it is estimated that NGOs in Kenya have an annual development expenditure of about $270 million, contribute 2.5% to the gross domestic product (GDP), and provide 42.6% of public employment. LEGAL CONTEXT: 4.7 Kenya has five different legal forms for NGO registration. These include self-help groups, registered with the Department of Social Services under the Ministry of Gender and Youth at the district level; NGOs, registered by the NGO Coordination Board under the 1990 NGO Coordination Act; trusts (non-profit) registered with the Registrar of Companies under the 1959 Companies Act; companies, registered with the Companies Registry under the 1968 Companies Act; and trusts,

KENYA 83 registered with the Ministry of Lands under the 1982 Trustees Act (perpetual

succession). These regimes all have strengths and weaknesses, but the variety of choices provides some latitude for those wishing to register. Registering a self-help group is the least expensive and easiest procedure. Registering an NGO can take three months or more depending on the type of activities and objectives it proposes and the perceived political trend regarding the NGO. Applicants are subject to a selection process involving national security and intelligence services. Advocacy NGOs involved in politics, human rights, and social justice have more difficulties registering because their position is perceived as opposition to the government. Registering companies involves a lengthy and cumbersome bureaucratic selection process because political parties are registered under the same law. Registering an NGO as a trust tends to be more expensive. For trusts, approval of the foundation deed and board of directors takes a few months, and obtaining a registration certificate can take several years. The various registration regimes provide guidance on internal management, the content of authorized activities, financial reporting, and dissolution, but do not emphasize good governance and management. The dissolution clause provided by the laws governing the various types of registration addresses the distribution of assets but does not cover other aspects of closing an NGO. While NGOs have recently made progress in promoting freedoms of assembly and expression, the general absence of the rule of law has led to cases of intimidation and harassment of NGO leaders. The state sometimes interferes with the rights of the population to peaceful assembly despite clear provisions in the public order law regarding categories of gatherings that do not require authorization. The bar is quite active, and legal expertise is well distributed across the country. However, this expertise is not easily accessible, particularly in secondary cities, given that legal services tend to be unaffordable for many NGOs, especially at the community level. NGOs can apply for charitable status, which is normally granted by the Kenyan tax administration. Successful applicants receive a renewable tax exemption certificate every three years. NGOs registered as charitable organizations enjoy a range of tax exemptions, including on income, customs, and to a limited extent, value-added tax (VAT). One of the main obstacles is that most NGOs are poorly informed about these opportunities and do not know how they work or how to access them. The NGO Act and the Income Tax Act do not restrict NGOs' rights to generate their own income from the sale of goods and services, but there are no clear criteria to determine which NGOs can earn income. NGOs can compete for government contracts, sometimes unsuccessfully, especially if they are not favorably perceived by the government. ORGANIZATIONAL CAPACITY: 3.9 A lack of legitimacy may be the greatest weakness among NGOs, particularly those operating at the national level. NGOs operating at the territorial level, by their very nature, actively seek to constitute interest groups. But many NGOs operating at the national level tend to adopt a community problem-support approach and therefore do not take into account the formation of interest groups.

 Many NGOs, especially at the national level, are largely mission-oriented and understand and apply strategic planning quite well. Community-based organizations sometimes lack concrete strategies, but they have very clear missions and visions. The common problem for NGOs, whether large or small, is translating strategic plans into actions. This is mainly due to a lack of funds and capacity. In most cases, strategic planning processes are dictated by donors and generally written by consultants without the participation of the concerned NGOs. An increasing number of NGOs have internal strategies but still struggle to implement them. Most NGOs do not clearly separate governance and management functions within the organization. Furthermore, most boards of directors are dysfunctional and rarely available to fulfill their supervisory role. In some other cases, executive directors, particularly those who are the founders of the organizations, are more powerful than the boards, whose members are often handpicked. In other cases, boards do not have a

mechanism for re-election. However, an increasing number of organizations are professionally administered and managed. This can be attributed to heavy investments in capacity building and leadership development in the NGO sector, mainly through donor programs. Regardless of their size, NGOs have unpredictable revenues and can only recruit staff on short- term contracts. The situation is worse for small local NGOs that must rely on member contributions as their primary source of income. The culture of volunteering is not well developed in Kenya. Few NGOs have developed appropriate systems and policies to engage and involve volunteers and interns. Opportunities exist to engage volunteers through international volunteer organizations like VSO, the Peace Corps, and Skill Share, as well as local higher education institutions, but only a few NGOs are aware of these opportunities. Due to limited revenues, human resource management practices are severely compromised, resulting in low staff motivation and high turnover rates. Most NGOs can only afford to invest in basic office equipment, such as phones and a few computers. Aside from technology and equipment acquired through donor resources, most NGOs rarely have the means to invest in technological advancement. The rapidly developing information and communication technology (ICT) sector has led to significant cost reductions and created opportunities for NGOs, particularly those working in rural and remote areas. FINANCIAL VIABILITY: 4.8 Financial viability is one of the key challenges for NGO sustainability. Most national NGOs rely on a single source of funding, making them very vulnerable. A few large NGOs have developed long-term financial relationships with one or two donors. Local NGOs, on the other hand, rely more on member contributions and in-kind contributions from members and benefactors. While the scale of aid provided by these sources is small, it is more secure and sustainable than donor funding. Large and medium-sized NGOs, particularly faith-based organizations, generate significant levels of their own income from property rentals, consulting services, and service sales. NGOs that have their own offices rent space to other NGOs. Almost all large churches in Kenya have created non-profit companies through which they have invested in hotels, guesthouses, conference centers, hospitals, schools, and

 colleges. A number of other NGOs have also invested in real estate, services, and businesses focused on hospitality activities; among them are the Kenya Family Health Options NGO (FHOK), the Undugu Society of Kenya, the Kenyan Red Cross, and the African Network for Animal Welfare (ANAW). Several NGOs also provide consulting services in their respective areas of specialization in addition to services related to their mission. A good example is the African Medical Research Foundation (AMREF), which conducts paid training in community health year-round. Local philanthropy is also picking up quickly. A number of community or family foundations and trusts are registered and operating in Kenya. Some of these trusts and foundations from Kenya, Uganda, and Tanzania have come together to form the East Africa Association of Grantmakers (EAAG). The majority of large companies operating in Kenya have established foundations through which they support community initiatives as part of their corporate social responsibility strategies. Several famous Kenyans, including former presidents and businesspeople, have also created foundations. The difference is significant between the financial management capacities of local organizations that rely more on a bookkeeping system, maintained by staff with basic financial management skills, and medium and large NGOs that have computerized systems managed by professional financial staff. Different laws require NGOs to conduct audits and prepare periodic reports for the appropriate authorities. Funders have also begun to attach great importance to financial accountability, thus pushing NGOs to take financial management practices more seriously. ADVOCACY: 3.8 Kenyan NGOs are generally good at advocacy, but not lobbying, mainly due to the lack of adequate capacities and a state mechanism to support this type of activity. Many NGOs today resort to advocacy as one of their development methodologies, either alone or as part of a coalition. However, the success rate

varies. There have been notable successes in political advocacy across all sectors, but public involvement and participation in advocacy are generally low. Media support for advocacy initiatives is weak but with a rising trend. A key challenge is that NGOs do not have adequate mechanisms to ensure that laws and policies developed are implemented and produce the expected results. NGOs have failed, for example, to advocate for the implementation of the 2006 Sexual Offenses Act and the 2005 Forest Act. In Kenya, the need for the government and NGOs to work together is increasingly recognized. Collaborative initiatives between the state and NGOs have been noted in most sectors, including health, HIV/AIDS, environment, education, agriculture, and peacebuilding, at both national and local levels. Examples of state/NGO collaboration at the national level include the collaboration between the Ministry of Lands and the Kenyan Land Alliance aimed at undertaking land reforms in the country. Through this initiative, the government has developed and adopted a national land policy. Additionally, the Governance, Justice, Law, and Order Sector (GJLOS) program involves thirty-two government agencies and a number of non-state actors, including NGOs, the private sector, and international development partners. There is also collaboration between the Kenyan Red Cross, the state, and NGOs to respond to the effects of the post-election violence of 2007. A national steering committee on peacebuilding and conflict management also includes the state and NGOs. Although collaboration has improved, there remains some animosity between the government

 and NGOs, particularly with those working in the field of human rights and social justice. There are no infrastructures or lobbying mechanisms at the government level, and NGOs are generally much less comfortable with lobbying than with advocacy. The selection of NGO representatives for participation in government decision-making processes is generally influenced by individuals, and the chosen individuals do not always necessarily represent the sector. Lobbying is a longer-term effort, and most NGOs do not have the resources to support it. Examples of successful lobbying initiatives include the passage of the 2003 Persons with Disabilities Act and the 2006 Sexual Offenses Act. The NGO sector is aware of the importance of establishing a favorable regulatory framework but pays little interest to it. Most NGOs are indeed more reactive than proactive regarding legislative changes that affect them. An effort is currently underway across the country to raise awareness about the NGO Act, but NGO interest is still very low. The process of drafting a new NGO law started in 2006 but was thwarted by disagreements among the leaders of the NGO Council, the body that oversees all NGOs established by the NGO Act. Most NGOs are currently focused on the constitutional review process and other reforms related to land, the judicial system, elections, and the Truth, Justice, and Reconciliation process that intensified following the post-election violence of 2007. SERVICE DELIVERY: 3.5 The goods and services provided by NGOs are extremely diverse. NGOs are virtually present throughout the country and work in almost every sector, including relief, water resources, agriculture, education, health, HIV/AIDS, micro-enterprise and microcredit, environment, wildlife, forests, peacebuilding and conflict management, marine conservation, human rights, and empowerment of disadvantaged and marginalized groups. NGOs are innovative and introduce new models and approaches such as results-based management and participatory approaches, particularly in programs that involve the community and support the development of strategies for citizen empowerment. Given the high levels of poverty, it can be argued that almost all goods and services reflect the needs of communities, but most NGO interventions do not reflect community priorities and are often undertaken in a way that does not empower communities. The majority of community organizations are by nature mutual aid organizations, their goods and services being limited only to members. Larger NGOs provide goods and services to a broader support group. In the case of more advanced NGOs, goods and services are reserved for specific interest groups or

networks rather than society as a whole. An increasing number of information supports are available, but due to financial constraints, few NGOs have invested in knowledge development, documentation, and information sharing. Cost recovery is rarely practiced in the NGO sector, although a study conducted by the Institute of Development Studies found that most nonprofit organizations charge for their services. Membership-based NGOs are more cost recovery-oriented, while those providing goods and services are more charity-oriented. In December 2008, a working group on collaboration between the government and civil society was established to lead the process of developing an appropriate framework for this collaboration. While aware of the contribution of NGOs to development, the government recognizes it

 rarely in public. Unlike the national government, local communities appreciate and recognize the role of NGOs more. The state granting subsidies to NGOs to provide services on its behalf is a practice that is just beginning to emerge. The few examples of beneficiaries of state subsidies are the Red Cross for aid and relief, Wildlife Clubs for environmental protection, and the Kenyan Pact for tourism and community development projects. INFRASTRUCTURE: 3.7 Intermediary organizations (IOs) and NGO resource centers are constantly developing. The Poverty Eradication Network, Pact Kenya, the International Institute for Rural Reconstruction, the Development Cooperation Training Center, and the Organizational Learning Center for East Africa are examples of IOs providing quality technical assistance. Consultants, research firms, and private sector service companies also provide services in a wide range of areas. The main challenge remains access to services, as most NGOs cannot afford to access them unless funded by a donor. Moreover, it is difficult for some NGOs to allow their staff the time to attend as many of them are too busy providing services to others and give little priority to their own development. Kenya has one of the most dynamic training programs for NGOs. Several national and international universities and colleges have established vocational training centers in Nairobi and other cities across the country. Highly qualified and experienced trainers are present in most areas related to NGO management, but less so in areas like good governance, volunteer management, and resource mobilization. There is also a lack of post-training support mechanisms and mentoring to ensure that the knowledge and skills acquired are applied. Furthermore, access to and the cost of training are issues for most NGOs. Training materials are primarily produced in English and rarely in Kiswahili and other local languages, even though the readership of materials developed in Kiswahili and local languages is itself limited. Although their number is limited, some NGOs work within coalitions and sectoral or thematic networks. NGOs have not developed a strong culture of learning and sharing experiences and lessons learned. Some networks also serve as resource centers for their members. The Council of NGOs, which is supposed to serve as a national network for information sharing and representation, is currently non-functional due to leadership disputes. About eighty local grant-making foundations from East Africa have come together (EAAG), but only eleven of them are active. The Ford Foundation and the Dutch government have tried to introduce the concept of community foundation, but have only had limited success. The Kenyan Community Development Foundation (KCDF), whose development has been funded by the Ford Foundation and the Aga Khan Foundation, is a future success. KCDF has developed an endowment fund and grants to local organizations across the country to strengthen their capacities. However, the largest grant-makers are currently international NGOs, such as Pact, Inc., CARE International, Plan International, OXFAM, AMREF, World Vision, and Aide et Action (Action Aid). NGOs and local businesses generally do not succeed in working together, but there is an increasing trend in intersectoral partnerships. As noted in the advocacy section, several NGOs partner with the state and the private sector to provide services in sectors such as education, health, and agriculture. The state and a number of international NGOs also work together in relief operations. Ufadhili

Trust and Allavida are examples of NGOs currently involved in initiatives aimed at strengthening intersectoral partnerships. PUBLIC IMAGE: 4.3 Public perception of NGOs varies from sector to sector. The millions of people who benefit from the goods and services of NGOs generally appreciate them and have a positive perception. A study conducted in 2009 by Synovate Research (formerly

Steadman Group) indicated that the public has more trust in NGOs than in the executive power of the state. In some localities, particularly isolated regions, the population recognizes NGOs providing essential services more than the state. Local authorities have a more positive perception of NGOs than the central government. The business sector has a very negative perception of NGOs, which is mainly due to misinformation about the activities and funding of NGOs. The media's perception of NGOs is also poor. For the media, NGOs are self-interested agents that perpetuate poverty and whose enormous administrative expenses have little impact on responding to community needs. Local media, especially radio, sometimes highlight the good work of NGOs, but national NGOs tend to make headlines during a scandal or when they have paid for the service. NGOs have not taken adequate measures to correct the poor perception of the media and the business sector. Only more advanced NGOs and those generating income are willing to develop their profiles and improve their public image. Others do not see the need or do not have resources to devote to this area. Self-regulation has been a major challenge for NGOs. The Council of NGOs developed a code of conduct for organizations registered as NGOs, but the regulatory mechanism collapsed with the disappearance of this Council. Other registration regimes do not have their own code of conduct and are not bound by the code of the Council of NGOs. A number of more advanced NGOs publish and circulate their annual reports. Small local organizations are inherently more transparent and publicly accountable at the local level even if they do not publish annual reports. Efforts are currently being made to develop a self-regulation mechanism for all civil society organizations as part of an initiative led by the NGO Viwango Kenya.

LIBERIA 89 4.7 4.8 4.4 4.3 5.8 4.8 5.0 4.8 1.0 3.0 5.0 7.0 Public Image Infrastructure Service Delivery Advocacy Financial Viability Organizational Capacity Legal Context Sustainability of NGOs Sustainability Sustainability Sustainability strengthened in progress obstructed 2009 Results for Liberia LIBERIA Capital: Monrovia Political Regime: Republic Population: 3,441,790 (est. July 2010) GDP per capita (PPP): $400 (est. 2009) SUSTAINABILITY OF NGOs: 4.8 Overall, the NGO sector in Liberia is evolving. Additional efforts are needed to consolidate the gains made over the years, overcome current challenges, and make the sector more effective in communities and at the national level. No specific law governs the operations of NGOs in Liberia. The sector remains subject to legislation that was enacted for the business sector. The registration process is highly centralized. The NGO coordination unit of the Ministry of Planning and Economic Affairs is the functional arm of the state for everything concerning NGOs. This unit is responsible for the registration of NGOs and carries out this function from its offices in Monrovia. It does not have branches in the rest of the country and has not designated other institutions to register NGOs on its behalf. There are also no clear criteria indicating which agency is primarily responsible for NGO accreditation. The NGO coordination unit as well as the implementing ministries accredit NGOs. The leadership of the unit recognizes this gap in the procedure and plans to restructure and integrate registration and accreditation. The unit's database currently includes a list of 573 local NGOs and 95 international NGOs. The formation of support groups is still lacking for most NGOs, especially at the national level. As the national reconstruction agenda shifts from emergency aid to development, NGOs are now increasingly seen as addressing problems rather than the existence of financial means. Staff permanence is an issue as the

 Recruitment is based on project demands, and NGOs struggle to retain qualified staff. The chances of obtaining funding from local sources are not encouraging. Philanthropy is rare, and most people see themselves as beneficiaries rather than donors. Volunteering has not yet developed sufficiently in most communities. Although advocacy is recent in the political arenas of the country, a number of thematic coalitions have formed. These coalitions have helped to reduce the previously held government opinion that NGOs seek confrontation and have improved perceptions in this regard. NGOs provide various services and are the primary service providers in certain areas. The services have an impact that goes beyond immediate beneficiaries. Partnerships, especially with the public sector, are on the rise. LEGAL CONTEXT: 5.0 Liberia has not yet reformed the basic legal framework governing NGOs. The sector remains subject to outdated legislation that is not specific to NGOs. NGOs are registered under the 1976 law (General Business Act) enacted for the constitution and registration of organizations. This law requires organizations wishing to operate in Liberia to submit their statutes to the Ministry of Foreign Affairs before registering with the Ministry of Commerce. A fee corresponding to the nature and structure of the organizations is paid to the Ministry of Finance. The level of harassment of NGOs has significantly declined, including in rural areas. It is more common today for local leaders to expect NGOs to address the myriad of problems in their communities. The NGO coordination unit at the Ministry of Planning and Economic Affairs serves as an authority for NGOs. It registers organizations and accredits them to carry out specific activities and programs for a given period and often in a designated area of the country. Overall, registration is extremely centralized. The unit operates from its main office in Monrovia and has no branches elsewhere in the country. Local NGOs, CBOs, and community-based organizations (CBOs) in rural areas face difficulties in registering. The organization overseeing NGOs, NARDA (New Agency for Research and Development in Africa), facilitates the registration of member organizations through its regional offices. The NGO coordination unit at the Ministry of Planning has adopted a plan to restructure and improve the registration process. Online registration is expected to start in 2010. Other umbrella NGOs like NARDA will also be allowed to register their member organizations. In addition to the accreditation provided by the NGO coordination unit, executing ministries—such as health, education, and agriculture—insist on accrediting NGOs engaged in their sectors. As a result, NGOs operating in multiple sectors are required to have several accreditations to operate in Liberia. Furthermore, the terms and conditions of accreditation vary from agency to agency. NGOs are generally exempt from taxes. They are allowed to bid and subcontract projects sponsored by international organizations or the state, and the income from these activities is not taxed. However, when they engage in commercial activities such as providing public minibus services, this income is considered taxable. The few law firms that support NGOs in the registration process are based in Monrovia and have no offices in the counties. ORGANIZATIONAL CAPACITY: 4.8 The establishment of support groups is still lacking in most NGOs, particularly those operating at the national level. Local NGOs and CBOs have made some efforts to actively seek to involve communities in their interventions. Specifically, Action Aid Liberia noted that the communities of Gbarpolu are more familiar with Action Aid’s local implementation partners, LIURD (Liberia United for Reconstruction and Democracy) and ADEN (African Development Network), than with Action Aid itself. NGOs are now seen as entities responding to

problems rather than the availability of financial resources. As the country transitions from emergency aid to development, a number of NGOs are settling in to define their missions and adhere to them. Governance remains an issue for the majority of NGOs. Most organizations do not have governance structures; when these structures exist, it is difficult to distinguish between

boards of directors and management bodies. A key factor is that some NGOs are organized by individuals and consequently tend to be centered around these individuals. In recent years, NGOs have benefited from assistance to improve their internal organizational capacity. The Africa Development Foundation based in the United States, in collaboration with a local consulting firm, has planned and implemented a governance training program for NGOs and small businesses eligible for grant funding. Trust Africa has organized a four-month program with ten NGOs to support them in strategic planning. UMCOR, the humanitarian and relief work of the United Methodist Church, initiated governance training for its board and institutions last year. Recruiting staff is a problem for most NGOs. In Liberia's post-conflict environment, there is a severe shortage of well-trained labor. A significant number of professionals have left the country due to the conflict and have not returned. The remaining professionals in the country are few and often require retraining. Recruitment is generally based on the demand of an ongoing or upcoming project, and most organizations struggle to retain qualified staff at the end of a project. NGOs, especially in rural areas, are disadvantaged in terms of technology. Most do not have modern office equipment such as computers, printers, and fax machines. Those with minimal equipment face issues due to the lack of electricity and the absence of spare parts, supplies, and know-how to meet basic maintenance needs. FINANCIAL VIABILITY: 5.8 The prospects for developing local funding sources are not promising. After two decades of mismanagement and a devastating armed conflict, poverty is pervasive throughout the country and even more severe in rural communities. Moreover, the spirit of philanthropy is almost non-existent, and most people see themselves as beneficiaries rather than donors in relation to NGOs. The provision of non-monetary aid and volunteering has not yet developed sufficiently in most communities. Funding sources are not diversified. NGOs generally move from one funded project to another and sometimes risk closing their doors at the end of a project. Several organizations that participated very visibly in the National Disarmament, Demobilization, Rehabilitation, and Reintegration Program have disappeared since the program's closure. Funding for NGOs generally comes from international development agencies and United Nations organizations. The private sector, particularly the mining sector, which has been a key driver of Liberia's economy, has not provided any notable assistance to NGOs. However, under the standard mining development agreement initiated by Arcelor-Mittal, an annual allocation of $3 million is reserved for the development of certain specific community regions hosting Mittal's mining operations. While the spending mechanisms for this fund have not been finalized, it is hoped that local NGOs, community organizations, and CBOs currently engaged in the targeted communities will benefit from these funds. Some efforts have been made to promote financial management and internal control practices. As part of a capacity-building program with Trust Africa, five national NGOs have been targeted for an intensive program to introduce basic financial management systems. Follow-up assessments have been planned to determine the effectiveness of this training. Based on the results, this program could be replicated by other NGOs. ADVOCACY: 4.3 Overall, advocacy is recent in the political landscape in Liberia. Advocacy led by NGOs has helped

to clarify issues and reduce the previously held view that NGOs seek confrontation. Communication is perceptible between the government and NGOs. The restructuring of the NGO coordination unit at the Ministry of Planning supports coordination among sectors. The services involved with NGOs at the Ministries of Health and Internal Affairs have also improved the level of understanding and cooperation. There are a number of thematic coalitions. In response to concerning cases of gender-based violence, coalitions like Women Won’t Wait, led by the Association of Women Lawyers of Liberia (AFELL), have played an active role in pursuing cases of rape. In general, coalitions led by AFELL significantly contribute to raising awareness, as in the case of Angel Tokpah, where a couple is on trial for the sexual assault and murder of a

young girl. The Poverty Reduction Strategy Tracking and Publish What You Pay networks are examples of coalitions that help the government explain public policies. SERVICE DELIVERY: 4.4 The range of services offered by NGOs is diverse and covers health, education, agriculture, livelihood strategies, food security, governance, human rights, environment, and natural resource preservation. In sectors like health, NGOs are major service providers. However, the services do not always reflect the priorities of constituents and may be determined by the availability of financial resources. The quality of services remains low and could improve if the state becomes more involved and supports the provision of vital services for populations in underserved areas of the country.

LIBERIA 93 The impact of services extends beyond beneficiaries to the basic needs of a larger interest group. This is how messages addressed by coalitions against gender-based violence sometimes target not only the victims and perpetrators of this violence but also the general public. The National Drug Service is one of the few NGOs that has seriously attempted cost recovery. With the support of the Ministry of Health, the organization has established a cost-sharing scheme in which patients are called upon to pay a minimal amount as a contribution to recover the cost of medications. Medications are subsidized and provided to partner health centers within the context of a program supporting the rational use of medications in these centers. The recognition of the state and its support for NGOs is fluctuating. This support is sometimes difficult to predict and complicates planning within most organizations. For example, Phebe Hospital and School of Nursing, a private referral hospital in a rural area, saw its national budget subsidy decrease at the same time its expenses were increasing. INFRASTRUCTURE: 4.8 There are a limited number of resource centers allowing NGOs to access information, but within the framework of collaborative modalities such as with the LIAP (Integrated Agricultural Program of Liberia), NGOs share information to help each other and promote their common interests. To help its members and other NGOs access information, NARDA has set up three resource centers across the country. These centers were initially operated by NARDA but have now changed structure to allow a network of local NGOs to own and manage them. Services and training centers are available locally to promote general management training and specialized training. The Liberian Institute of Public Administration, with the support of DfID and USAID, offers management training to organizations in all sectors of the economy. Consulting firms provide training services on demand. However, one limitation of these services is that they are primarily offered in Monrovia and not in the counties. Partnerships between NGOs and the business community are new and informal but encouraging. The Liberia Chamber of Commerce has adopted a program with NGOs to raise public awareness and the workforce about the threat of HIV/AIDS. NARDA and its members are working with UNDP and the public governance commission on a program to promote the decentralization of governance. As part of this partnership, training has been provided in local communities, towns, districts, and counties to establish development committees that would serve as forums for communities to contribute to the identification and planning of development activities in their respective communities. PUBLIC IMAGE: 4.7 Media coverage of the NGO sector does not recognize the role of the sector within civil society. The media tends to treat NGOs on the same basis as businesses. NGOs must pay for their advertisements just like businesses, without any discounts. On a positive note, community radio stations and women's groups have built partnerships. Journalists receive training on women's rights. Furthermore, a network of radio stations broadcasts a press conference on gender issues and the results of a research program that amplified the unheard voices of women. Public perception of NGOs is not always entirely positive. The general sentiment is that NGOs are the creation of donors who do not want to directly involve the government and therefore create NGOs as a means to bypass the state. Furthermore, it is believed that NGOs and

their traditionally high overhead costs are a way to create jobs for the useless and ineffective workers from donor countries. Unfortunately, recent press articles on the misallocation of resources and the loss of batches of humanitarian aid items have not improved the negative public perception of the sector. Some municipal, clan, and district authorities express a deep desire to work

with local NGOs. Authorities and community opinion leaders view the ingenuity of NGOs favorably; development committees are increasingly recognized by the state and donors as ideal structures to lead development in specific areas. NGOs have not been very successful in the area of self-regulation, even though one of the goals of establishing NGO coalitions was to promote transparency and ethics within the sector. Generally, the level of publication of annual reports by NGOs is extremely low.

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94 SUB-SAHARAN AFRICA NGO SUSTAINABILITY INDEX (2009) MALI 95 4.5 4.9 3.6 4.1 5.7 4.1 3.7 4.4 1.0 3.0 5.0 7.0 Public Image Infrastructure Service Delivery Advocacy Financial Viability Organizational Capacity Legal Context NGO Sustainability Sustainability Sustainability Sustainability Strengthened in Progress Hindered 2009 Results for Mali MALI Capital: Bamako Political Regime: Republic Population: 13,796,354 (est. July 2010) GDP per capita (PPP): $1,200 (est. 2009) NGO SUSTAINABILITY: 4.4 The NGO sector in Mali is governed by Law No. 04-038 of 2004 relating to associations. According to Article 37 of this law, an NGO is considered a declared association after three years of existence and the signing of an agreement with the state. As of December 31, 2009, the number of registered NGOs was estimated at 1,125, according to the grassroots development support unit (CADB), a division of the Ministry of Territorial Administration and Local Communities dedicated to territorial development. The number of registered NGOs exceeds 10,000. In December 2009, 1,125 NGOs signed an agreement with the state that emphasizes their official status. NGOs operate freely in accordance with their statutes, and the state has never dissolved an NGO. NGOs depend on foreign funds for 90% of their resources and for carrying out their activities, which are diversified across the country. Their organizational capacities are somewhat limited due to insufficient funds and a lack of expertise and creativity in fundraising. The state and local authorities greatly appreciate the services of NGOs for their participatory approach, diverse expertise, and knowledge of the field and local communities. Private foundations such as the Aga Khan Foundation and Qatar Charity provide support to NGOs. Support from local businesses to NGOs is quite limited. Various communication tools, legislative frameworks, and other favorable conditions for lobbying exist at the national and local levels, but the weakness of NGOs' advocacy capacities limits their effectiveness. Nevertheless, some coalitions and groups of NGOs have still achieved impressive results.

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96 SUB-SAHARAN AFRICA NGO SUSTAINABILITY INDEX (2009) There are no official and permanent partnerships between NGOs and the media. NGOs are perceived positively in the media, within communities, and by the state, but public support for NGO activities depends on the extent to which NGOs take citizens' concerns into account. LEGAL CONTEXT: 3.7 The legal context is favorable for the registration of NGOs and is done in accordance with Law No. 04-038 of 2004. The registration of thirty new NGOs and foundations in 2009 reflects the absence of administrative obstacles to their creation. NGOs operate based on their statutes and in accordance with the content of the agreements concluded with the state. The CADB is responsible for monitoring NGOs. NGOs and coalitions of NGOs are free to express their opinions on major national issues. There are no lawyers or specialized structures within the legislative framework governing NGOs. They benefit from customs and tax advantages, the

obtaining of which in practice is complex and difficult. Private donations to NGOs are rare, but private foundations such as the Orange Foundation and Morila Gold Mine are beginning to make tax-deductible donations. Legally, nothing prevents NGOs from participating in state or territorial administration tenders. NGOs lead some government development programs such as the Agricultural Services and Farmers' Organizations Support Program (PASAOP), the National Rural Infrastructure Program (PNIR), and the National HIV/AIDS Control Program (PNLS). In practice, however, NGOs are unable to participate in certain tenders due to certain conditions such as providing a certificate of non-bankruptcy or license. Statutory texts are not very clear regarding the category of contracts to which NGOs can access, which is often a source of tension between NGOs and research bodies. ORGANIZATIONAL CAPACITY: 4.1 Generally, the mission of an NGO is defined at the time of its creation and is included in the agreement signed with the state. The race to access financial resources and the requirements of donors lead NGOs to lose sight of their initial missions and interest groups. However, community groups are increasingly volunteering to participate in the activities of certain NGOs. Strategic planning is not an institutionalized practice among NGOs. Due to insufficient financial and human resources, they generally prioritize the daily management of their activities over strategic management. Some NGOs and coalitions of NGOs, such as the Community Self-Development Support Association (AADeC), the Consultation and Support Council for NGOs in Mali (CCA-ONG), and the Secretariat of Consultation of National NGOs of Mali (SECO-ONG), integrate strategic planning into their decision-making process, while others practice it to meet donor requirements. Umbrella organizations and some donors push their members or partners to adopt strategic planning. Even at this level, strategic planning is quickly abandoned once funds are exhausted. The management structures of NGOs such as the general assembly, board of directors, and management are clearly defined in the foundational texts, but in practice, the roles of the various bodies are often confused. Often, entities are not even renewed from year to year. A certain level of poor internal governance exists within NGOs. In some cases, NGOs

 suffer from a duplication of functions and lack transparency in management. Often the same people work both in management and decision-making bodies. NGOs have paid permanent staff but cannot offer them all the benefits or job security. Volunteering is not well developed. Some NGOs make efforts to recruit and retain staff to carry out their missions. The State also supports NGOs with few staff by providing them with young graduates seeking their first job. The internal resources of NGOs are insufficient to allow them to replace or modernize their equipment. Funders emphasize project activities rather than institutional support. The low capacity of NGOs to mobilize resources is another unfavorable factor. Currently, only 41% of NGOs providing regular reports to the State have adequate equipment that allows them to work effectively. FINANCIAL VIABILITY: 5.7 Ninety percent of NGO funds come from foreign donors. Local funds are scarce and usually come from the State as part of the co-execution of national development plans (PACR, PASAOP, PADEC) and some private foundations such as the Foundation for Children and the Mining Companies Foundation. Target communities contribute in kind to the activities of NGOs by providing labor or locally available construction materials. Local authorities are beginning to call on the expertise of NGOs. The resources of NGOs are insufficient for their short-term viability, despite the 86 billion FCFA (160 million dollars) provided to NGOs through national and international funding, according to the CADB. Fifty-nine percent of registered NGOs are not functional, which means they do not submit annual reports to the administration. In practice, many NGOs disappear every year due to a lack of funding. Only 41% of NGOs (463 out of 1,125) had provided annual reports and financial statements to the administration by December 31, 2009. NGOs have financial management systems, but these systems are not very transparent. The presentation of annual financial statements is not a

common practice. Written management procedures are rarely applied in practice, and internal audit structures are not functional. Sponsorship is not a common practice, and NGOs make little effort to encourage it. NGOs or coalitions of NGOs like CCA-ONG rent vehicles or buildings to mobilize resources. Public institutions and local authorities call on the expertise of NGOs for the execution of their development programs. NGOs collect modest contributions from members but not at the desired level. Particularly in the health sector, NGOs like ARCADE-SIDA often organize telethons to mobilize funds. The scarcity of funding sources and the low expertise of NGOs in fundraising lead to low financial viability. ADVOCACY: 4.1 A dialogue between NGOs and the State takes place annually. NGOs and the government hold a meeting to discuss the level of their partnership and the issues encountered. Almost all umbrella organizations attend this meeting, as well as some specific NGOs.

 NGOs and coalitions of NGOs work in partnership with territorial delegations and decentralized State services in the implementation of certain projects. NGOs participate in various public commissions such as those on population and development and the management of State markets. NGOs are timid regarding advocacy actions, but some coalitions, networks, and groups of NGOs strive to influence government policies and practices at local and national levels. The Budget Monitoring Group–Mali (GSB–Mali) encourages transparency in budgetary and financial decisions. The Advocacy and Lobbying Network (RPL) increases pressure for public funding of NGOs, and the Coordination of Women's Associations and NGOs (CAFO) advocates for a modification of the family and personal code. AADeC is an NGO that promotes the management of local resources allocated to education. The FDS NGO supervises mining resources. The GPSP (Health/Population Pivot Group) supports the adoption of a law against female genital mutilation. The Malian network of people living with HIV/AIDS advocates for free antiretroviral drugs. The National Council of Civil Society (CNSC) has played an active role in the development and implementation of the strategic framework for the fight against poverty. Advocacy actions to promote sponsorship are underdeveloped. NGOs and coalitions of NGOs do not fully understand the opportunities involved and require greater expertise to undertake this type of advocacy. Their efforts are also excessively scattered due to the weakness of their leadership. SERVICE DELIVERY: 3.6 NGOs cover all areas of development, including education, health, agriculture, the environment, and microfinance. In most cases, the services offered meet the needs of communities, but NGOs initiate some activities without prior discussions or studies, based solely on available funds. Joint projects carried out with the State are in line with national policies and priorities. NGOs provide services to all social groups, including women, youth, orphans, people living with HIV, and minorities. Some NGOs with expertise offer services such as training or community mobilization to other NGOs and the State. Others provide their services to universities, such as the Institute of Rural Economics (IER), which tests new seed varieties. NGOs lack expertise in marketing or market studies. Costs are recovered only for services offered to individuals, while services offered to communities as part of projects are not paid for. Due to their non-profit status, NGOs do not have the right to access certain economic markets. Public bodies and local authorities recognize the value of NGOs, but misunderstandings about the roles and responsibilities between NGOs and some decentralized State services are common at the local level. INFRASTRUCTURE: 4.9 The concept of resource centers for NGOs is underdeveloped. Some NGOs like the Djoliba Center provide paid training on various topics and offer rooms for conferences and workshops. NGOs can use the Training Center for Local Authorities (CFCT), which belongs to the State. No center offers adequate access to information and technology.

MALI 99 National and regional coalitions of NGOs like GSB–Mali and SECO/ONG often provide training to their members, although some of this training does not meet the needs of trainees. The requirements of donors in the execution of projects often determine the content of training. Research groups like the Advisory Council for Action (ACA), the National Training and Development Center (CENAFOD), the Baara Services, and GEFRAD offer paid technical assistance. Sector-specific coalitions of NGOs mobilize funds to finance their members. The Soumaré Foundation, a local foundation, supports NGOs by providing computer equipment. The Malian network of people living with HIV/AIDS sets up free phone numbers to provide information to its members. Funding agencies like USAID and the Canadian International Development Agency support NGOs through training and the provision of equipment. Several coalitions, networks, and groups of NGOs like the Budget Monitoring Group–Mali (GSB–Mali), the Advocacy and Lobbying Network (RPL), the Council for Consultation and Support for NGOs (CCA/ONG), the National Council of Civil Society (CNSC), and the Coalition of Civil Society Organizations for Education for All (COSC–EPT) facilitate communication and information exchange between NGOs. Local coalitions are also functional. They benefit from donor support for their interventions and from member support for advocacy actions. It would be more beneficial for NGO networks to work with greater synergy. Currently, weak leadership hampers umbrella groups, limiting their effectiveness. These networks also do not demonstrate good internal governance. Private trainers have not trained any groups or associations. The ARIANE project of the European Union has established a pool of trainers in each region, but their effectiveness remains questionable. No training center is dedicated to NGO management or strategic planning. Training is ad hoc and initiated for the needs of projects and programs. Some NGOs work in collaboration with local radio stations, but long-term partnerships with the media are nonexistent. PUBLIC IMAGE: 4.5 NGOs work with the media at the national and local levels on an ad hoc basis. Generally, the media cover training workshops, project launches, and annual reports of NGOs, but on a paid basis. There are almost no official and permanent collaborative relationships between NGOs and journalist networks. The media do not distinguish between announcements from NGOs and those from businesses. NGOs do not have communication strategies or communication specialists. The public generally has a favorable opinion of NGOs. It understands the role of NGOs, but the label of “fund provider” always comes before that of “provider of development services.” Local authorities and national and local public bodies support NGOs and consult them as sources of information and expertise. The President of Mali decorated the president of the network of people living with HIV/AIDS. The government grants certificates of good standing to NGOs that request them. Some NGOs have websites, such as www.aadec.net, but these sites are not updated due to limited financial resources and human capacities. Forty-one percent of NGOs submit annual reports to the administration. Most coalitions and networks of NGOs do not have a code of conduct. Some coalitions of NGOs, such as CCA/ONG, adopted a code of conduct and a membership charter in 2006, but have not yet implemented them. There is a gap between NGOs that care about the excellence of their operations and services and those that are created solely to raise funds for their members.

 MOZAMBIQUE Capital: Maputo Political regime: Republic Population: 22,061,451 (est. July 2010) GDP per capita (PPP): $900 (est. 2009) SUSTAINABILITY OF NGOs: 4.8 In post-independence Mozambican society, NGOs have had to traverse a long and arduous path to gain recognition and acceptance from the State and total freedom of expression. The post-independence national

government, led by a single political party, FRELIMO, required citizens to channel their participation through one of three party-dominated institutions: a single union, a national women's organization, or a youth movement. In 1987, when the government began to take moderate steps towards liberalizing a poorly functioning economy and seeking international partners, the law that paved the way for the registration and operation of NGOs was adopted. The last decade has been marked by the proliferation of civil society manifestations in multiple sectors across the eleven provinces of the country. The gradual widening of educational and travel opportunities for rural residents, a rapidly growing urban class, and the regained peace after seventeen years of internal conflict have indeed stimulated the development of civil society. Deep-rooted poverty alongside new wealth and the HIV/AIDS pandemic are two factors that have contributed to the creation and impetus of NGOs. At the provincial and district levels, resource-strapped youth are trying to show the way through community- based organizations (CBOs), faith-based organizations, and locally registered NGOs. NGOs are registered with the Ministry of Justice. Most of these organizations operate in at least two provinces. The number of NGOs currently registered with the Ministry of Justice is estimated at 150. NGOs are required to maintain and update their registration and submit an annual report. In recent years, the registration of NGOs operating at the level of a single province or in a limited number of districts within a province can be done at the provincial governor's office. The total number of these organizations in the eleven provinces is also estimated at 150. LEGAL CONTEXT: 4.8 While in theory the texts governing the registration of NGOs in Mozambique do exist, in practice, the procedures are lengthy and difficult and can serve to discourage registration. Some allege that it is easier to register as a company than as an NGO, even though the registration of a private business is notoriously known for its complexity. The registration of associations, one of the forms of NGOs, at the provincial and even at the district level has been decentralized in recent years. According to a recent study on national NGOs, 70% are located in rural areas, compared to 30% in urban areas. Current laws do not distinguish between types of NGOs. Mutual aid organizations (ajuda mutua) are grouped with charitable organizations and service-oriented organizations. The laws of 1991 and 2007 defining NGO registration have left the door open for the inclusion of certain entities that are more closely linked to unions and political parties, such as youth movements and groups that claim to fight against poverty. A government initiative to introduce mechanisms to regulate services by geographical area and theme was shelved when some NGOs opposed it. Ostensibly designed to serve as a means to separate state and non-state services in a designated geographical area, many viewed it as a tool to control NGOs. Leading NGOs have called upon competent lawyers to review the laws related to registration and propose amendments that will allow for a distinction between the various forms of NGOs.

Without a specific competent authority to provide assistance to candidate NGOs, the image of registration remains confusing. Candidates from remote provinces are even more disadvantaged. There is no source of information or appropriate article on the formation of an NGO, the composition of a board of directors, or the forms to be filled out and submitted. Furthermore, administrative officials at all levels lack knowledge about the steps in the registration process. In principle, NGOs are exempt from taxes, but tax laws and effective collection procedures are still in the process of being developed. In practice, NGOs charge for certain services, such as consultations, and also sell goods, with the expectation that the revenue generated from the sale of goods and services will be channeled into the organization's development activities. NGOs do not record sales as commercial transactions. ORGANIZATIONAL CAPACITY: 5.4 The initial composition of an NGO often fails to evolve over time. Leadership is often well-established and discourages new members, as they risk disrupting the existing management structure. This hinders NGOs' ability to broaden their support groups. Most NGOs do not actively seek engaged members in their organizations' goals. The internal management

structures of NGOs appear and develop as staff and board members learn their respective roles. The boards of some larger NGOs have helpful members who provide support. However, well-defined board guidelines are practically non-existent. Quality training is lacking, and experienced organizational management trainers are rare. NGOs generally place a low priority on institutional development issues. Dependence on NGOs and international donors means that NGOs must follow the strategies of these larger and wealthier organizations. At least two of the largest NGOs, Progresso and the Community Development Foundation (FDC), have made efforts, with varying degrees of success, to detach themselves from this supremacy. District-level NGOs face multiple challenges when it comes to implementing plans or projects. Internal administration is poorly structured, with the same individuals holding multiple roles. Local organizational capacity may sometimes be ensured for a short-term intervention such as disaster response, but it is much less likely to be sustained in a longer-term and more complex activity. Community organizations are particularly vulnerable to this malaise. Key positions are often vacant in NGOs. Aside from large NGOs with external financial resources, most NGOs rely on a small local pool of candidates who generally lack experience and training. The rare qualified staff is extremely sought after—particularly financial directors and accountants—and tends to move frequently for higher salaries or better benefits. Access to electricity, especially in rural areas, greatly affects the organizational capacity of NGOs. Access to high-performing and even advanced technology has significantly improved for most NGOs, but equipment remains rudimentary. Familiarity with adequate software is improving. However, too often, an NGO's computer remains behind the closed door of the director due to numerous cases of misuse. The slowness of Internet has a deterrent effect on its use outside the capital. Many NGO managers and directors are reluctant to actively use email, which hinders information exchange and networking. FINANCIAL VIABILITY: 4.9 In urban areas, NGOs perform worse than those operating at the rural district level in terms of local support. This is due to social values that are generally still upheld in many rural areas. Volunteering and in-kind contributions are an integral part of Mozambican culture, although it is difficult, if not impossible, to quantify this non-monetary support. Churches and mosques emphasize voluntary contributions, which constitute a possibility for financial viability for many faith-based organizations. Believers tend to be motivated to give more

when there is transparency. Support from the private sector for NGOs is barely at an initial stage. The flow of financial assistance that followed the peace agreements of 1992 has significantly decreased. Examples of support from large primarily foreign companies have been occasional one-off interventions, such as building a school or a health center or providing support for an advocacy campaign. Some signs indicate corporate responsibility in socio- economic activities, but this has not yet translated into sustained support for the institutional development of NGOs or the provision of regular services. For instance, a large multinational mining company has created an organization that provides grants and sponsors various campaigns in the neighboring community of the plant. A second mining company has hired a consultant to outline a

 social responsibility program, also in its operational area. A law allows the private sector to contribute to civil society institutions, but it provides few tangible benefits for the donor. State contributions to the NGO community are rare. The bureaucratic complications inherent in the bidding process for state contracts have discouraged most NGOs from submitting bids. One NGO incurred high costs twice in unsuccessful calls for proposals to provide textbooks; however, another, for example, secured several contracts for the construction of primary schools in rural areas. The European Union has funded local NGOs that competed to manage agricultural extension programs. The Ministry of Agriculture organized the call for proposals, but the funds are off-budget, and this initiative cannot be considered state-funded.

Fundraising and marketing are relatively new approaches for NGOs. They are often the last to learn about funding opportunities and are passive despite the promise of long-term partnerships. It has happened that some donors have not followed up on the initial tranche of their grants for several consecutive years. Some NGOs—particularly in the democracy and governance sector—have thus begun to follow up with donors more aggressively. Even though NGOs recognize the importance of occasional programs and financial audits, distance, isolation, and inaccessibility prevent them from meeting this requirement. Furthermore, reliance on volunteers and in-kind contributions hinders the completion of audits. However, NGOs largely agree that they must be accountable to their members and the public, regardless of whether they receive cash or goats. ADVOCACY: 4.5 Serious efforts have been made in the field of advocacy as well as visible activities, but with low impact. Some NGOs initiate advocacy on behalf of various causes, albeit with rudimentary tools. There is also the “t-shirt crowd” where some NGOs appear, visible during the organization of a demonstration or a march, but they settle for a one-off event rather than getting involved in the implementation of a program of activities. Currently, there are no formal channels for the regular participation of NGOs in governance affairs. Ad hoc thematic bodies, such as working groups on the Action Plan for Absolute Poverty Reduction (PARPA) and the National Council for the Fight Against AIDS (CNCS) partners' forum may reserve a few seats for NGOs, but major state programs in health, agriculture, environment, and education generally do not offer NGOs the opportunity to participate in discussions and decision-making. There is virtually no movement towards legal reform to enhance the effectiveness of NGOs. NGOs broadly interpret advocacy as embracing noble causes and bringing them to the attention of the public, media, or government. The advocacy program has evolved over the past few years and now extends to issues of peace, land rights, environmental problems, HIV/AIDS, gay rights, domestic violence, child trafficking, and universal education. Most NGOs still have much to learn to implement an advocacy agenda over a long period and to follow it up with an action plan. Announcing a new government policy and even passing a law is one thing, but promulgating, implementing, and applying political change at the district level is another. Nevertheless, civil society has made considerable strides in advancing a “people's agenda.” The Youth Parliament (Parlamento Juvenil or PJ) is a promising civil society effort to address the issues facing NGOs. Established in 2008, the PJ advocates for public policies and a more inclusive youth strategy and oversees government actions. Mozambique does not have NGOs that function as think tanks, although NGOs like the Center for Public Integrity (CIP) monitor and research public policies. SERVICE DELIVERY: 4.0 NGOs provide services across a wide range of sectors. With 70% of NGOs based in rural areas, the focus has been on agricultural extension.

This stems from the seed and tool distribution program from 1992–1996 at the end of the armed conflict, when the rural economy was restored after many years of inactivity. Mozambique has seen a huge and rapid expansion of international and national NGOs, with the latter often acting as service delivery agents for the former. Gradually, NGOs have taken on other responsibilities in water supply, rural road maintenance, demining operations, education on maternal and child nutrition, and as the political process gained ground, themes related to civic education and awareness and advocacy. By 2000, NGOs and even local community organizations were increasingly involved in HIV/AIDS prevention programs, home-based care, and support for orphans and vulnerable children. Finally, income-generating activities and microfinance initiatives have brought a new wave of NGOs with more concrete goals. A significant percentage of NGOs involved in service delivery have distinct objectives and are almost exclusively focused on women, the elderly, minors, and people with disabilities. Several framework programs where a large national NGO reallocates grants to local organizations have stimulated NGO involvement in rural service delivery programs, particularly those related to HIV/AIDS. Furthermore, the

National Council for the Fight Against AIDS, a state agency, has temporarily reallocated funds received from major international cooperation partners in the form of grants, but due to mismanagement, these funds were transferred to a UNDP-based unit tasked with managing them. Some NGO leaders believe that the government does not recognize or utilize the strong role of NGOs at the community level. The state sometimes hesitates to collaborate with faith-based organizations. In contrast, in some provinces like Nampula, local administration is known to seek the participation of NGOs. NGOs do not recover the costs of the goods and services they provide. An international donor's program is heavily focused on building the capacity of several national NGOs to provide quality goods and services so that beneficiaries are willing to pay for them. The apparently non-compliant goods and services from NGOs are often the result of a supply-driven approach imposed on Mozambican organizations by international NGOs and donors.

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MOZAMBIQUE 105 INFRASTRUCTURE: 5.1 NGOs generally understand and appreciate the benefits of simple networks composed of NGOs with similar orientations. However, the potential advantage of forming networks can disappear when these networks have multiple and overlapping objectives, as is the case with a network that sought to group organizations involved in HIV/AIDS, food security, housing, and unions. Networks operate at the provincial and district levels where resources can be pooled for specific objectives. No member organization of a national NGO exists in Mozambique. The LINK NGO network supported and sometimes trained the emergence of NGOs and activities in the mid-90s, solidly backed by international partners. LINK did not survive a series of internal disagreements largely due to personality conflicts and was replaced by several informal networks of NGOs involved in HIV/AIDS programs. At the provincial level, networks are unevenly organized and managed, except in a few provinces like Nampula, where the provincial secretary has undertaken a proactive approach to integrate NGOs into planning and operations; NGOs also devote time and effort to working sessions. Resource centers are scarce. Some resources such as databases and technical information (mainly on HIV/AIDS issues) are available and generally accessible, but underutilized and extremely dependent on users' familiarity with information technology. There is no focal point to centralize all support related to the organizational development of NGOs. An effort was made to establish such a focal point in the early 90s, but no one wanted to take on the burden of managing it. Very few NGOs have any expertise in grant-making. The existing expertise is relatively recent and focused on HIV/AIDS. The lack of accountability and the weakness of human resource capacities are the greatest limiting factors for expanding NGO grant-making. PUBLIC IMAGE: 4.9 Some NGO experts criticize the way the media perceives, presents, and interprets the role of NGOs in civil society, socioeconomic development, and the political life of the country. NGOs report cases where recorded interviews in their presence were later reported in a completely different manner. NGOs sometimes seek media attention and sponsor briefing sessions to ensure that the media understands the issues, their importance to the public, and implications for other sectors. In Maputo, NGOs are frequently invited to participate in a radio talk show or a panel in a television program on current affairs. District-level radio stations offer NGOs an opportunity to communicate with rural populations, usually in local dialects. Some personalities are well-known for their weekly interventions on various themes. Some NGOs have practically given up dealing with the media. Everyone agrees that the media, with some exceptions, fail to keep up with changes in socioeconomic development and do not have the capacity to accurately report what is happening. Journalists often lack specific prior knowledge or basic documentation on the topics covered. Sometimes, media coverage depends on the personalities involved in the event. The presence of a well-known figure almost guarantees that at least twenty journalists will cover the event.

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 an event, while other events presided over by a less prominent figure are barely covered. Only a few NGOs aimed at raising public awareness about HIV/AIDS prevention are well known to the public. NGOs promoting Mozambican arts and crafts participate in fairs and exhibitions. NGOs do not have sufficient resources to undertake activities such as co-sponsoring concerts, dance performances, or football matches. NGOs have neither discussed nor adopted a code of good practices. Their lack of transparency in this regard sometimes leads to suspicions and accusations that their members and staff are there only for their own profit and live in a world of chauffeur-driven cars, pleasant conferences, and generous daily allowances.

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 4.0 5.0 4.2 3.9 5.6 4.7 5.0 4.6 1.0 3.0 5.0 7.0 Public image Infrastructure Service provision Advocacy Financial viability Organizational capacity Legal context Sustainability of NGOs Sustainability Sustainability Sustainability enhanced in progress obstructed 2009 Results for Nigeria NIGERIA Capital: Abuja Political regime: Republic Population: 152,217,341 (est. July 2010) GDP per capita (PPP): $2,400 (est. 2009) SUSTAINABILITY OF NGOs: 4.6 With a population of over 150 million inhabitants, Nigeria is the most populous country in Africa and has more than 250 ethnic groups, 320 dialects, and two major religions: Christianity and Islam. Nigeria's political history has been largely characterized by a series of military regimes where corruption, poor economic management, and ethnic/religious conflicts were common features. Despite the recent good economic performance of the country, with an average GDP growth of 7.6% per year between 2003 and 2007, more than half of Nigerians still live below the poverty line. The prolonged military regime in Nigeria resulted in the systematic closure of the political space. The suspension of constitutional life, the centralization of political power, and the denial of basic citizens' rights led to the emergence of all types of associative life that resisted successive military governments. The economic failure experienced by the country in the 1980s also led to the emergence of associations ranging from human rights organizations and professional associations to business and mutual aid associations. It is difficult to establish the actual number of officially registered NGOs operating in Nigeria. NGOs can register at the national and local levels, as well as at the state level. The registration process is cumbersome, so some NGOs affiliate with other already registered NGOs or simply continue to operate while their registration process is ongoing. In 2009, according to the records of the Corporate Affairs Commission (CAC), more than 46,000 NGOs were registered

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 in Nigeria. However, this figure is debatable as organizations that have ceased operations are not purged from the register and there is also no register dedicated to organizations that have been denied registration or have been sanctioned. NGOs have largely thrived due to the number of foreign donors eager to take advantage of the more democratic working atmosphere in Nigeria before the return to civilian rule. Activities concerning human rights and media development have been particularly facilitated by bilateral donors. Donors play a crucial role in strengthening the capacity of civil society in terms of organization, mobilization, and fighting corruption. This assistance has significantly increased the influence of NGOs and contributed to advocacy campaigns that have led to the passage of key legislative texts at the federal level. But despite these successes, the capacity of NGOs remains weak, particularly due to the small number of members and the weak links with local associations that can mobilize their members to support national issues. The infrastructure of NGOs in Nigeria is weak, although it is gradually improving with the emergence of NGO coalitions formed around major issues affecting society, such as

electoral reform and effective budgeting. NGO resource centers are few in Nigeria and are mainly located in major cities like Abuja, Lagos, and Kaduna. Although public perception of NGOs in Nigeria is taking a positive turn, many people still perceive NGOs as organizations that make money for their directors and board members. The media, particularly private media, have managed to cover the activities of NGOs. Nevertheless, some journalists demand a “brown envelope” (bribes) before featuring the activities of NGOs in their programs. The capacity of NGOs to work with the media needs to be improved to ensure balanced coverage of major general policy issues. LEGAL CONTEXT: 5.0 The legal framework for NGOs in Nigeria is defined by the provisions of the 1999 Constitution of the Federal Republic of Nigeria, as well as by laws at the federal and state levels. Among these federal laws are the Companies and Allied Matters Act or CAMA (Companies and Allied Matters Act of 1990) and the Companies Income Tax Act or CITA (Companies Income Tax Act of 1961). There are also specific laws governing specialized organizations such as unions and cooperative societies. CAMA regulates the registration of NGOs. In some cases, government departments require NGOs to register with them in order to collaborate on specific programs and areas. The application for the registration of an association with directors (NGO) as provided in section 674 of CAMA is a costly, tedious, and uncertain process. The procedure requires, among other things, a board of directors and a criminal background check and can sometimes take a very long time. Some human rights NGOs, for example, have seen their applications rejected. The law contains no specific provisions for appeals against rejection decisions. Section 691(1) of CAMA provides for the dissolution of an NGO by a competent court following a petition filed by the members of the organization or the Corporate Affairs Commission once certain conditions are met. Legally, NGOs cannot be dissolved by the state for political reasons. Most NGOs do not strictly adhere to CAMA, which requires them to submit annual audit financial reports to the CAC, but the latter has been very lax in enforcing this condition.

NIGERIA 109 The government generally does not harass NGOs. However, there are sometimes cases of police harassment, especially at the local level. For example, a member of an NGO responsible for budget monitoring was arrested for requesting budget information from a local government official in Yobe State, in the Northeast of the country. The provisions of section 19 of CITA exempt NGOs from taxes. However, cases of state agents illegally collecting taxes from NGOs have been reported. NGOs are allowed to earn income from the provision of goods and services. While NGOs operating at the national and state levels can bid for public contracts, the awarding of these contracts is largely facilitated by personal relationships with officials or individuals close to power. NGOs rarely meet the conditions of the tenders for most of these contracts. Furthermore, many NGOs are not even aware that they can bid for contracts despite their non-profit status. No lawyer specializes in NGO legislation in Nigeria, so they cannot access legal advice when needed. ORGANIZATIONAL CAPACITY: 4.7 NGOs have become a powerful voice in democratic reform and inclusive governance, particularly through the establishment of local support groups for their initiatives. However, given the dominance of patronage politics and corruption in Nigeria, the mobilization capacity of NGOs at the national level remains hindered. At a more technical level, the organization of NGOs in Nigeria is generally weak as they lack self-regulation and the necessary infrastructural support and resources to achieve the objectives of NGOs. Many NGOs in Nigeria do not have strategic action plans or personnel policies, and their organizational development systems are generally weak. Only the more developed NGOs based in major cities like Abuja, Lagos, and Kaduna have strategic plans. Most NGOs have clearly defined management structures, but few are functional. The boards of most NGOs meet rarely. The few large NGOs with active boards have well-defined distributions of responsibilities between board members and staff. Staffing issues are significant among NGOs in Nigeria,

particularly among small NGOs where a good portion of the staff cannot receive adequate training due to a lack of institutional support. Furthermore, most employees do not have access to leadership positions as the founders of NGOs dominate activities. NGOs engage very few volunteers in Nigeria, and most small NGOs cannot afford to hire professionals such as lawyers and accountants. Qualified staff from some international donors have begun to work closely with NGOs, attracting recently qualified university students. In recent years, however, local and national NGOs have lost qualified staff to international NGOs that offer competitive salaries and benefits. Most NGOs in Nigeria suffer from a lack of resources in terms of information technology. Many of them do not have access to the Internet and basic equipment, such as computers. Only large NGOs and international NGOs are equipped with good office equipment. A number of NGOs are located in rented buildings.

 FINANCIAL VIABILITY: 5.6 In terms of funding, most NGOs in Nigeria rely on donors, heavily depending on international funding agencies. Local sponsorship is very rare, partly due to weak fundraising skills, but also due to a shrinking resource base caused by the global economic crisis. The lack of government funding exacerbates this situation. Most NGOs in the country are likely to go bankrupt if foreign donors stop funding their activities for a short period. Oil companies in Nigeria are not widely involved in funding NGO activities. They tend to be more concerned with establishing relationships with community leaders with whom they collaborate on community development issues. Some companies set up foundations, such as the MTN Foundation, but these efforts are not yet aligned with the needs of many NGOs in Nigeria. Efforts made by some companies in corporate social responsibility benefit NGOs; banks, for example, have funded HIV/AIDS projects and companies provide their products to support NGO activities. Most NGOs have not cultivated a loyal core of donors and many do not yet have the assets to generate income. The government awards service contracts to NGOs, but most of these contracts are granted to state-sponsored NGOs (GOONG), except in a few cases such as the monitoring of conditional grant projects (CGS), which is carried out by some large NGOs based in Abuja and Lagos. The CGS aims to use the debt relief obtained by Nigeria to implement projects at the state and local government levels. The majority of NGOs in Nigeria have poor financial management systems and do not comply with legal obligations such as publishing their annual financial statements. The few NGOs that audit their accounts and publish their annual reports with financial statements do so for the benefit of their donors. ADVOCACY: 3.9 In Nigeria, NGOs have undertaken numerous awareness campaigns and have always involved the government in major political issues. In early 2010, coalitions of NGOs pressured the federal cabinet and the National Assembly to expedite the power transfer process to the Vice President of Nigeria due to the President's poor health. To a large extent, the government seems reluctant to work with NGOs as partners to promote democracy, good governance, and development. Although the government has appointed specific advisors for civil society affairs, there are no regular consultation channels. NGOs rarely exploit available opportunities to engage constructively with the government. The issue of legal and constitutional reforms has attracted the attention of many NGOs in the country. Thus, advocacy campaigns have been conducted to raise awareness among the National Assembly and the States, particularly on violence against women, children's rights, the freedom of information law, and electoral reform, with some success. NGOs in Nigeria have succeeded through lobbying to influence public policies, such as pushing the government to adopt the children's rights law that prohibits child labor. This law has indeed passed in eleven of the thirty-six states of the Federation. Furthermore, following advocacy campaigns,