

DEEPENING DEMOCRACY AND ENHANCING SUSTAINABLE LIVELIHOODS IN UGANDA

An Independent Review of the Performance of Special Interest Groups in Parliament



Arthur Bainomugisha
Elijah D. Mushemeza

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LIST OF ACRONYMS

ACODE	Advocates Coalition for Development and Environment
AI	Access to Information
CA	Constituent Assembly
CP	Conservative Party
DP	Democratic Party
GDP	Gross Domestic Product
ISO	Internal Security Organisation
KAP	Kalangala Action Plan
LCs	Local Council System
MP	Member of Parliament
NGO	Non-Government Organisation
NRA/M	National Resistance Army/Movement
PwD	Persons with Disabilities
SIGs	Special Interest Groups
UNISE	Uganda National Institute of Special Education
UPC	Uganda Peoples Congress
UPDF	Uganda Peoples Defence Force
USAID	United States Agency for International Development
WRI	World Resources Institute

ACKNOWLEDGEMENTS

There is a direct relationship between good governance, environmental governance and sustainable development. In countries such as Uganda where natural resources form the very basis for survival of majority of the population, the need to invest in good environmental stewardship should become a matter of national priority. In most democracies and democratizing countries, Parliament plays a central role in the promotion of environmental governance and protection of the livelihoods of resource dependent communities.

This research work is part of the continuing effort by ACODE to build the capacity of Parliament and Members of Parliament to effectively represent the interests of the electorate with particular emphasis on the environment and natural resources issues. The on-going constitutional reform and political transition processes presented an opportunity to evaluate the performance of representatives of Special Interest Groups in Parliament and ultimately influence their subsequent performance in the next Parliament. The research that focused on the performance of the 6th and 7th Parliament was influenced by our understanding that representatives of Special Interest Groups have the potential to play a proactive role in effectively representing the interests of their constituencies who are dependent on the environment and natural resources for their livelihoods. However, for them to be effective legislators would require that they remain independent, issue based and upholding their constitutional mandate at all times.

ACODE is grateful to the USAID Africa Bureau and the World Resources Institute (WRI) for the financial support which made it possible to undertake this research. We are specifically thankful to Dr. Peter Viet and Bradley Kinder at WRI who have provided intellectual guidance during the inception and the conduct of the study.

EXECUTIVE SUMMARY

Uganda is currently going through a political transition process. To most political commentators, yet another milestone in the democratic development of a country whose 44 years of post-independence period have been marred by political anarchy and violence. After almost 20 years under a no-party political system, Uganda has re-introduced a multiparty political system. Most political analysts have observed that the way the political transition and constitutional reforms are handled will determine whether or not Uganda will have a peaceful democratic transition and consolidation of democracy. Critical in the constitutional reform and political transition processes is the institution of Parliament which is central to the amendment of the 1995 Constitution to provide for the necessary political reforms.

The legislature in any democratic society is considered the most fundamental arm of the state in promoting democratic governance. Parliament in true democracies serves to secure the foundations of democracy by translating the will of the people into the law of land. At its core, the legislature is a mirror of society's soul. The question is how to ensure that the composition of the legislature and the decisions it makes are a true reflection of the will of all people whom this body is designed to represent.

The Parliament of Uganda, like in most post-conflict societies, is well placed to provide a mechanism for conflict prevention and management by creating conditions for sustainable development and stability. The composition of the sixth and seventh Parliament of Uganda was very diverse. Both parliaments were composed of directly elected members of Parliament and representatives of special interests groups such as women, persons with disability, workers, youths and the army elected under the principle of affirmative action to represent the voices of the marginalized.

In this study where we assessed the performance of Special Interest Groups (SIGs) in the 6th and 7th Parliament, we contend that Parliament is the most important arm of the state and government that can promote environmental governance, protect and advance the interests of natural resource dependent communities. As such, we have argued here that strengthening the parliament to perform its legislative responsibility would ultimately promote environmental governance and sustainable livelihoods. The Special Interest Groups representation in parliament created an opportunity for effective representation of issues that directly affect livelihoods of the poor natural resource dependent communities. We have argued in this paper that the SIGs are disproportionately affected by environmental degradation, and environmental scarcity than others in the Ugandan society. Consequently, effective legislative representation of SIGs environmental interests would not only secure their livelihoods but also protect the integrity of the environment and promote sustainable development. However for parliament and individual legislators

to perform effectively, they need to be independent and accountable, with authority to make fundamental decisions.

The study was premised on the understanding that Uganda is largely a nature based economy with natural resources providing immediate economic and enterprise opportunities for the majority of poor people in rural areas. As such good environmental governance would ensure equity and availability of goods and services to majority of the citizens. According to the Housing and Population Census report of 2000, the agricultural sector alone contributes 42% of the total GDP; and accounts for 85% of the export earnings and provides approximately 80% of employment. A recent study by the Uganda National NGO Forum revealed that 74% of Ugandans currently depend on subsistence agriculture for their livelihood and their standard of living remains at the lowest level in the world¹. Part of the explanation for a down ward trend in poverty levels has a lot to do with poor environmental management.

Despite, the various opportunities in the environmental sector, they cannot be enjoyed by the majority rural poor people unless they have information about such opportunities, can participate in making decisions concerning management of those resources and can obtain redress in case of denial of those opportunities. Parliament in most democracies is an institution where citizens can participate in decision making through their elected representatives: the Members of Parliament. By strengthening the Parliament and individual MPs to effectively represent the interests of their constituencies promotes environmental governance and environmental interests of majority Ugandans.

Strategic Recommendations and Way Forward

Based on the analysis of the findings, the study submits that an effective and responsible Parliament is very critical in establishing functioning and enduring democracy. At the same time, it is our submission that good governance and sustainable development are only possible under an accountable political system where the Parliament enjoys authority, autonomy and independence to perform its legislative responsibilities. The study has proposed ways and possibilities of strengthening the capacity of Parliament particularly the Special Interest Groups to exercise their legislative responsibility.

Operationalize the Principle of Separation of Powers

Uganda, like most African post Cold War countries is experiencing constitutional challenges over the principle of separation of powers. Experience shows that the executive most times treats the other braches: Parliament and Judiciary as appendages. This becomes a source of tension and impacts negatively on the performance of the Parliament. The need to clearly spell out the roles and responsibilities of the three arms of Government emphasizing independence,

¹ See, Uganda National NGO Forum Report, "Civil Society perspective on the progress and challenges of attaining the Millennium Development Goals in Uganda," May 2005.

authority and autonomy of these institutions is very critical for the proper functioning of democracy. Critical about the principle of separation of powers is the whole issue of interdependence. While the three arms of Government need independence, authority and autonomy, they also need to govern together in an interdependent manner.

Review the Principle of Affirmative Action in favour of Special Interest Groups

For affirmative action in parliament to be meaningful, representatives of Special Interest Groups need to be insulated from capture by any sitting Executive. This calls for the need to review the principle of affirmative action by harmonizing it with the emerging realities. It is recommended that the representation of women should be revisited and limited to a quota system based on four regions of the country: Western, Northern, Eastern and Central in order to reduce the size of Parliament that is consistent with the resource envelope. We note that the trend of Government's creation of new districts is going to be too costly to the Ugandan tax payer since each of the districts will have to elect a woman member of Parliament. While one appreciates the principle of affirmative action especially in favour of women, the currently approved number of 74 districts would greatly increase women MPs in Parliament which would be cost ineffective for Uganda's economy. We indulge Parliament to support our recommendation for regional representation of 10 women MPs per region which would bring the number of women on affirmative action to 40.

In order to increase opportunities for many women to join politics, it is recommended that affirmative action for women parliamentarians should have a two term limit of five years. After serving two terms on affirmative action women MPs should be able to compete favourably with men for political offices.

The youth and workers representatives should be phased out since this category is no-longer marginalized and can get their peers represent them by competing through the universal adult suffrage. This study found a strong case for maintaining five MPs representing Persons with Disabilities. Indeed, the representatives of this group have advanced the collective interests of their constituencies regardless of their political leanings.

The Army MPs

The army representation should be maintained in Parliament under the new Multiparty system for the next ten years to enable the country adjust to the new system. Phasing out army representation at the commencement of a multiparty system would be interpreted as political exclusion by the military who may become hostile to it. However, their numbers should be reduced

from 10 to 5 MPs with a plan of eventually phasing them out. In the meantime, Parliament should develop clear guidelines and terms of reference for Army representatives.

Equally important, the electoral process of Army MPs should be made more transparent and open for public scrutiny, conducted by a non-partisan Electoral Commission which will enable the Electoral College elect representatives of their choice. MPs elected under a free and fair election have demonstrated capacity to exercise independence and authority because of the legitimacy that the electoral process confers upon them. Further, the army MPs should be facilitated to interact and consult their electorate on a regular basis to increase their effective representation and accountability. This would motivate other officers to look forward for opportunities, besides enabling the electorate to have an opportunity to change poor performing MPs.

Size of Parliament and Effective Representation

The debate about effective legislative representation has a lot to do with the size of Parliament. To achieve effective representation, Uganda needs to create a Parliament that is cherished by all as an efficient institution. This Parliament should be the one where MPs are remunerated competitively, provided with physical and research infrastructure with proper constituency servicing facilities. The current number of MPs of 305 in the 7th Parliament is too big for proper remuneration and facilitation. The size of the 8th Parliament is likely to be much bigger and unmanageable. At the moment, Government is creating 18 new districts in addition to 56 old ones which brings the total number of districts to 74. The implication for these changes are that the next Parliament will have 74 women MPs on affirmative action, 10 army MPs, 5 workers MPs, 5 youths MPs, 5 MPs of Persons with Disabilities. Such a number is too big and too expensive for a country of about 27 million people and is likely to be ungovernable and difficult to reach any meaningful decisions.

It is argued here that effective representation can not be found in large numbers. Effective representation is contingent upon the quality of individual legislators, the level of their remuneration and political environment in which they operate. On the basis of this fact, it is recommended that Parliament commits "class suicide" and consider reducing its numbers.

Introduce a Reward System for the best performing MPs

Legislative representation in Uganda is relatively young with most of the citizens and members of Parliament not well versed with the functions of Parliament. Yet in its purest form, the legislature serves to secure the foundations of democracy by translating the will of the people into the law of the land and their wellbeing. In spite of the low level of political maturity, a considerable section of Ugandans look at the Parliament as an institution that ought to be

a strong foundation for democracy. Consequently, it is imperative that for the Parliament of Uganda to perform as an effective legislative body, it must be an institution where MPs' major motivation and gratification is to serve their electorate and the country to the best of their ability. In order to attain such a standard, it is proposed that recognition of MPs in Parliament who champion representation of environmental issues of their constituencies would motivate them and also influence others to start supporting environmental issues. One way of recognizing such MPs is by introducing a reward mechanism for best performing MPs such as an annual environmental award. Besides, individual MPs, this award can be given to committees of parliament or the entire sitting Parliament.

1.0. INTRODUCTION

The relationship between the forms of government and good environmental stewardship... ought to be analyzed with respect to effectiveness in representation. In countries like Uganda, environmental resources form a critical mass of assets for poor people especially in rural areas. Recent studies on the relationship between poverty and environment have demonstrated the intricate relationship between local livelihoods, security and the health and integrity of key ecological systems such as water, forests, wetlands and wildlife²

The on-going constitutional reform and political transition processes in Uganda are yet another milestone in the democratic development of a country whose 44 years of post-independence period have been marred by political anarchy and violence. After almost 20 years under a no-party political system, Uganda has returned to a multiparty political system. The recently concluded Parliamentary and Presidential elections which took place on 23 March, 2006 were organized under a multiparty political system. Most political analysts have observed that the way the political transition and constitutional reforms are handled, will determine whether or not Uganda will have a peaceful democratic transition, consolidation of democracy and sustainable development. Critical in the constitutional reform and political transition processes is the institution of Parliament which is central to the amendment of the 1995 Constitution to provide for the necessary political reforms.

The Parliament of Uganda, like in most post-conflict societies, is well placed to provide a mechanism for conflict prevention and management by creating conditions for sustainable peace and development. Most importantly, Parliament is a critical democratic institution where the citizens can express themselves to influence Government actions and policies that can make Uganda attain a stable future. In 1820, James Mill, writing about the importance of parliament proclaimed it as an institution of representation as “the grand discovery of modern times” in which “the solution of all difficulties, both speculative and practical, will perhaps be found”³. This paper observes that in order for parliament to perform its legislative role effectively, it needs to be independent, accountable, and with authority to make fundamental decisions.

This paper audits the performance of representatives of Special Interest Groups (SIGs) in the sixth and seventh Parliament of Uganda with respect to environmental issues of their constituencies. The SIGs include women, army and persons with disabilities, youth and workers. The paper analyses the performance of SIGs through historical and global perspectives while discussing theoretical insights, role of Members of Parliament, potential facilitating and constraining factors of representation and the general environment in which the members of Parliament work. For an in-depth analysis, the paper purposively selected the women, persons with disabilities and the army.

² See, Godber W. Tumushabe and Arthur Bainomugisha, “Constitutional Reform and Environmental Legislative Representation in Uganda: A Case of Butamira Forest Reserve in Uganda, ACODE Policy Research Series, No 10, 2004, p.1

³ See, Robert A. Dahl, “Democracy and its Critics”, Yale University Press, New Haven, 1989, p.29..

This paper is divided into five sections. Section one focuses on the Constitutional failures and challenges in post-colonial Uganda. The second section discusses the linkage between representation and environmental governance, the third section focuses on the concepts and practice of Affirmative Action and representation and the origin of the Special Interest Groups in Uganda. The fourth section examines Special Interest Groups under the 1995 Constitution and supporting legislations. The fifth section focuses on the mechanisms for measuring performance of Special Interest Groups in Parliament. The sixth section focuses on the incentives and disincentives that influence the decisions and actions of Special Interest Groups in Parliament as individuals or collectively. The seventh section focuses on case studies: referendum and presidential term limit motions. The eighth and last section is the policy recommendations and a conclusion.

2.0. BACKGROUND: CONSTITUTIONAL AND POLITICAL HISTORY OF UGANDA

Uganda's political history is characterized by a failed constitutional order. In 1966, the then Prime Minister Apolo Milton Obote overthrew the first president Sir Edward Mutesa and abrogated the independence quasi-federal constitution of 1962. Mutesa fled and later died in exile in England. Obote replaced the independence constitution with what is famously known as the "pigeonhole" republican constitution of 1966⁴. The 1966 Constitution is called a "pigeon hole" Constitution because Members of Parliament were simply told to pick copies of the new constitution that had been written without their consent and input in their pigeon holes. The 1966 Constitution was subsequently replaced with the 1967 Constitution. Under the new constitution, Obote proclaimed himself the President with executive powers and ruled Uganda without holding elections until 1971 when he was overthrown by the army.

It should be mentioned, that from 1966 to 1971, Obote's ruling Uganda Peoples Congress sought to destroy and neutralize the opposition parties: Democratic Party and the Conservative Party and to monopolize political power. The climax of political exclusion and power domination was reached in 1969 when opposition Members of Parliament from DP and CP had to cross the Parliamentary floor to join UPC without due regard to the wishes of their constituencies. Political exclusion, refusal to hold elections and over reliance on the army are known to be some of the factors responsible for the 1971 military coup which brought into power Field Marshall Idi Amin who abolished the constitution, vested all legislative powers in the presidency, ruled by decrees⁵ and established a reign of terror till his eventual overthrow in 1979.

In 1986, the NRA/M led by Yoweri Museveni captured power from the short lived military government led by General Tito Okello. On assuming political power, President Museveni promised to restore the rule of law and constitutionalism in Uganda⁶. By 1989, the NRM had set up a broad based Parliament: the National Resistance Council (NRC) which was inclusive and accommodative to all political forces

⁴ See, Uganda National NGO Forum Report, "Civil Society perspective on the progress and challenges of attaining the Millennium Development Goals in Uganda", May 2005.

⁵ See, Lorna Juliet Amutojo and Jeff Atwine, "Compulsory Land Acquisition in Uganda: Case studies of Lake Mburo National Park, AES Nile Power- Bujagali Hydro Electricity Power Project and Kibaale District Absentee Landlords". A Policy Research Report (forthcoming), 2006.

⁶ See, Indra de Soysa, "The Resource Curse: Are Civil Wars Driven by Rapacity or Paucity?" in, Mats Berdal and David M. Malone, Greed and Grievance: Economic Agendas in Civil Wars, New York, 2000, p.117.

to address the past ills of political exclusion. The principle of inclusiveness especially in respect to formerly marginalized groups was institutionalized in the 1995 Uganda Constitution. Political inclusiveness was also pursued through devolution of political power right from the national level to the village level through the Local Council System (LCS). Through the LC system, people were enabled to participate in making decisions about their governance and other issues that affect their lives.

3.0. RESEARCH METHODOLOGY

In conducting this study, researchers mainly used qualitative methods data collection and analysis. The bulk of work was undertaken through literature review. The researchers undertook a comprehensive review of the existing literature on legislative representation in Uganda and globally. The Parliamentary Hansards, Constitutional Assembly and Constitutional Review reports, news paper reports, books, the Ugandan Constitution and other pieces of legislation were found to be very useful sources of information during the study.

Furthermore, the research team carried out a number of interviews with key selected respondents drawn mainly from the Members of Parliament (MPs), civil society, academia and the general public. Most of the MPs that were interviewed were representatives of Special Interest Groups and had served in both the 6th and 7th Parliaments. This was necessary for comparative analysis. The researchers also used self administered questionnaires which were found to be handy especially in dealing with very busy respondents such as MPs.

The study set on a strong premise that a strong, independent and accountable Parliament is important for championing and protecting the environmental interests of natural resource dependent constituencies and the environment. The argument is that since Parliament is comprised of elected people's representatives, it is well placed as the top most institution of decision making to promote and protect their environmental interests. It was also hypothesized that for Parliament to be able to provide effective environmental representation for the electorate, it must enjoy autonomy, authority and have the necessary capacity to execute its duties. As such, the study assessed the performance of the Special Interest Groups representatives in the 6th and 7th Parliament and on the basis of the findings proposed ways of strengthening their capacity and ultimately, the capacity of the entire Parliament to execute its legislative responsibility.

4.0. LEGISLATIVE REPRESENTATION AND ENVIRONMENTAL GOVERNANCE

Uganda is essentially a nature based economy with natural resources providing immediate economic and enterprise opportunities for the majority of poor people in rural areas. According to the Housing and Population Census report of 2000, the agricultural sector alone contributes 42% of the total GDP; and accounts for 85% of the export earnings and provides approximately 80% of employment. A recent study by the Uganda National NGO Forum revealed

that 74% of Ugandans currently depend on subsistence agriculture for their livelihood and their standard of living remains at the lowest level in the world⁷. Part of the explanation for a down trend in poverty levels is linked to poor environmental management.

Despite the various opportunities in the environment sector, they cannot be enjoyed by the majority rural poor people unless they have information about such opportunities, they cannot participate in making decisions concerning management of those resources and later on seek legal redress in case of denial of those opportunities. Parliament in most democracies is an institution where citizens can participate in decision making through their elected representatives: the Members of Parliament. By strengthening the Parliament and individual MPs to effectively represent the interests of their constituencies promotes environmental governance and environmental interests of the majority of Ugandans.

Because the majority of Ugandans are dependent on natural resources, most human rights abuses and conflicts revolve around the struggle to access and control of various natural resources. The current political problems in Kibale district between the indigenous Banyoro and the immigrant Bakiiga⁸, the quest for federalism for Buganda region presented as political issues are known to be driven and fuelled by the struggle to access and control land resources.⁹ In such circumstances Parliament is best placed to act as a conflict management and conflict prevention mechanism in natural resource based conflicts. Parliament using the various mechanisms and resources at its disposal can promote Environmental rights especially of vulnerable resource dependent communities including access to land, access to protected areas, access to clean water and access to key economic resources such as forest concessions and wildlife concessions. Consequently, it becomes pertinent to strengthen the capacity of Parliament and MPs to undertake to mitigate such problems and promote sustainable livelihoods for the resource dependent poor.

Security analysts see a nexus between natural resources and violent conflicts for natural resource dependent societies arising out of the struggle for access and control of natural resources. Homer-Dixon has argued that environmental degradation which leads to scarcities in natural resources is fuelling civil conflicts within the poorest states in the international system¹⁰. According to these scholars, a persistent and serious ingenuity gap raises grievances and erodes the moral and coercive authority of government, which boosts the probability of serious turmoil and violence. If these processes continue unchecked, countries with a critical ingenuity gap therefore risk becoming

⁷ See, Uganda National NGO Forum Report, "Civil Society perspective on the progress and challenges of attaining the Millennium Development Goals in Uganda", May 2005.

⁸ Ausi Balyesiima, "Two die in tribal clash", The Daily Monitor, Monday, March 6, 2006, p.6.

⁹ See, Lorna Juliet Amutojo and Jeff Atwine, "Compulsory Land Acquisition in Uganda: Case studies of Lake Mburo National Park, AES Nile Power- Bujagali Hydro Electricity Power Project and Kibaale District Absentee Landlords": A Policy Research Report (forthcoming), 2006.

¹⁰ See, Indra de Soysa, "The Resource Curse: Are Civil Wars Driven by Rapacity or Paucity?", in, Mats Berdal and David M. Malone, Greed and Grievance: Economic Agendas in Civil Wars, New York, 2000, p.117. America", (4th Ed.), Massachusetts, Bladell Publishing Company, p.278.

trapped in a vicious cycle.¹¹ Parliament as a main negotiation mechanism and decision making body in Uganda can play a big role so as to avoid the ingenuity gap and the risk of being trapped in the cycle of violence.

Finally, the selected representatives of the Special Interest Groups: women, persons with disabilities and the army are disproportionately affected by environmental degradation and its consequences as well as problems of lack of access and ownership. For instance, women form the majority of the labor force engaged in agriculture where they till the land that most of them do not own. Improving agricultural production and attaining ownership of land would greatly improve the livelihoods of majority of women. Like wise, persons with disabilities become more disadvantaged in the face of worsening environmental conditions such as declining firewood and water resources. As resources become scarce and distant, the persons with disabilities suffer most as they struggle to access them. Improving water resources and accessing it to all the people, conservation of wood resources as well as diversification of energy sources through technological innovation have a direct benefit to this category of interest group.

In order for Uganda to deepen the democratization processes, it also requires to focus seriously on democratizing the management of the country's natural resources. It is argued here that democratic management and utilization of natural resources will go a long way to consolidate democracy and sustainable development in Uganda.

Since 1986 when the NRM came into power, Government has attempted to correct the historical wrongs including political exclusion and disenfranchisement of disadvantaged groups. The 1995 Constitution for instance, undertook to institutionalize the principle of Affirmative Action which provided for representation of marginalized groups in Parliament and other positions of decision making. Affirmative action in favor of political representation of marginalized groups will be discussed in detail in the subsequent section.

5.0. UNDERSTANDING THE CONCEPTS OF AFFIRMATIVE ACTION AND REPRESENTATION

Since the study uses key concepts such as Affirmative Action and representation, it is important that these concepts are defined and clarified. The principle of Affirmative Action gained credence in the 1960's at the height of the civil rights movement in the United States. Affirmative action from the civil rights perspective is defined as,

Attempts to make progress toward substantive, rather than merely formal equality of opportunity for those groups, such as women or racial minorities, which are currently under-represented in significant positions in society, by

¹¹ Ibid.

explicitly taking into account the defining characteristic- sex or race—which has been the basis for discrimination¹²

Affirmative Action in respect to legislative representation in Uganda will be deeply analyzed in the subsequent section.

Hanna Pitkin on the other hand, defines representation as:

...acting in the interest of the represented, in a manner responsive to them. The representative must act independently; his action must involve discretion and judgment; he must be one who acts. The representative must also be capable of independent action and judgment-and, despite the resulting potential for conflict between (them) about what is to be done, that conflict must normally take place—or if it occurs an explanation must be possible in terms of the interest of the represented¹³.

Friedrich also defines representation as:

the process and through which the political power and influence which the entire citizenry or a part of them might have upon government action is, with their express or implied approval, exercised on their behalf by a small number among them, with binding effect upon the whole community thus represented¹⁴.

Similarly, Mill defines representative government and submits as,

The meaning of representative government is that the whole people, or some numerous portions of them, exercise through deputies periodically elected by them the ultimate controlling power which, in every constitution, must reside somewhere. This ultimate power they must possess in all its completeness. They must be masters, whenever they please, of all the operations of government¹⁵.

From these definitions one can point out indicators of representation in a liberal democracy.

- The ultimate power lies with the people (the popular sovereignty principle);
- This popular power is exercised by a selected few on behalf of the many;
- These deputies (or representatives) are mandated by the people through periodic elections;
- Decisions made and actions carried out by these deputies have a binding effect on the community; and
- As ultimate masters, the people remain the final judge of performance of the government and their deputies.

These principles raise theoretical and practical problems. How should the representative act as to conform to all the principles? The main debate has,

¹² See, Silvia Tamale, "When Hens Begin to Crow: Gender and Parliamentary Politics in Uganda", Fountain Publishers, Kampala, 1999, p. 23.

¹³ Ibid.

¹⁴ Friedrich, C.J. (1968), "Constitutional Government and Democracy: Theory and Practice in Europe and America", (4th Ed.), Massachusetts, Bladell Publishing Company, p.278.

¹⁵ Mill, J.S. (1963), "Of the Proper Functions of Representative Bodies" in, H. Eckstein and D. Apter, (Eds.), Comparative Politics: A Reader, New York, The Free Press, p. 104.

historically focused on whether the deputy or MP should be a delegate bound by an imperative mandate or one with a general, flexible mandate in which he/she can exercise discretion as a rational person. While Rousseau favored a representative bound by a rigid mandate, Edmund Burke (an English philosopher and politician) argued for a representative with discretionary authority. He argued that the MP is not bound by a rigid mandate from his constituents. He is, rather guided by four things, namely constituency opinions, rational judgment, consideration of the national interest and personal convictions or conscience¹⁶.

5.1. Representative Democracy in a Historical Perspective

The idea of democracy is believed to have originated in Greece, however, the great political philosophers, namely Plato and Aristotle seemed not to have understood or known the concept of representation. Indeed, neither the Greeks nor the Romans of antiquity built representative institutions. They instead practiced face to face democracy which was applicable in the small city-states. The male citizens who were legible to participate could afford the time for direct participation in politics and governance. Subsequently, the ideas of representation began to emerge from political theories of the middle ages (fifth to fifteenth century). The European medieval constitutional order had to include representative elements because unlike the Greek City states, it applied to large territorial units in which direct participation by entitled citizens was impossible.

The Military organization of the Catholic Church had necessitated the creation of representative assemblies in the form of councils. This practice was extended to the secular feudal order by giving corporate representation to cities, municipalities, towns and some rural shires in the emerging parliaments under monarchs¹⁷.

The social contract political theorists of the seventeenth centuries took the idea of representation seriously, making the pivot of their governance schemes and constructs. For instance, Thomas Hobbes stated that,

A multitude of men are made one person when they are by one man or one person represented, for it is the unity of the represented that make the person one --- unity cannot otherwise be understood in multitude¹⁸.

On the other hand, Rousseau argued that sovereignty cannot be represented and therefore, the deputies of the people are not its representatives, but merely its commissaries (i.e. delegates) that cannot make independent decisions. John Locke on the other hand placed emphasis on such democratic values as personal freedoms and rights, government by consent of the people and the right of the people to call their government into accountability, including the right to revolt. Subsequently, the

¹⁶ Edmund Burke, "Writings and Speeches", Vol. 11 (Boston, 1901).

¹⁷ Friedrich, C.J. Constitutional Government and Democracy: Theory and Practice in Europe and America (4th Edition), Massachusetts, Bladsdell Publishing Company, 1968, p. 272.

¹⁸ Ibid.

utilitarian philosophers of the nineteenth century further elaborated on these values and added a new one, namely the view that the highest good lies in the greatest good of the greatest number. These liberal values ushered mass democracy in which representatives would be elected by and were accountable to the people in electoral constituencies.



The Parliament of Uganda in session. A strong and effective Parliament is necessary to promote good governance and Sustainable Development.

In modern democracies, legislative representation is considered to be a cornerstone of democracy. Most scholars note that legislative representation provides a means for people to express their will through representatives who bring their constituencies concerns and aspirations to the Government decisions and actions. This process revolves on voters electing representatives, who in turn are given authority through the electoral process and empowered by the people to make decisions and create laws in their best interests¹⁹.

5.2. Legislative Representation in Uganda

Uganda like in most parts of the world, representative democracy was introduced by the colonial Government starting with the Legislative Council (LEGCO) established around 1920. By all intents and purposes, the LEGCO was established to serve the colonial interests. Kanyeihamba G.W. has pointed out that the Royal Instructions of 1921 made provisions for the membership for the LEGCO, which excluded representation by Ugandans²⁰. It was not until 1945 that Africans were allowed to join the LEGCO.

Since 1945, when the first Ugandans joined parliament-the Legislative Council (LEGCO), Uganda has gone through political episodes which have seen the Parliament disappear, rendered irrelevant and restored again by different successive governments²¹. At independence in 1962 Uganda adopted a multiparty representative democracy which was harshly interrupted by the 1966 constitutional crisis resulting into the abrogation of the independence federal constitution and replaced by a republican constitution in 1967. The military coup of 1971 led by Idi Amin terminated the legislative representation which was resurrected in 1979 after the fall of Idi Amin and terminated again by the 1985 military coup. When the National Resistance Army/ Movement

¹⁹ See, Stephanie Kodish, *Balancing Representation: Special Representation Mechanisms Addressing the Imbalance of Marginalized Voices in African Legislatures*, "Un Published Paper for World Resources Institute, July 2004, p.3.

²⁰ Kanyeihamba G.W., "Constitutional and Political History of Uganda: From 1894 to the Present". Centenary Publishing House Ltd, Kampala, 2002, p.13.

²¹ *Ibid*, p.22.

(NRA/M) captured power in 1986, it established the National Resistance Council comprised of representatives of different political interests which performed legislative roles until the coming into force of the 1995 Constitution. Since the promulgation of the 1995, Parliament in Uganda has experienced and enjoyed a stable legislative process. For the purpose of this study, we have confined ourselves to the period 1986-2005 since this is the only period in which Ugandans have enjoyed the longest time under representative democracy.

The section below discusses the Affirmative Action and how it has been implemented under the NRM Government.

6.0. AFFIRMATIVE ACTION AS A MECHANISM FOR ENHANCING REPRESENTATION IN UGANDA: THE CASE OF SPECIAL INTEREST GROUPS IN PARLIAMENT

6.1. Background

The struggle for independence and representation in the governance of Uganda took a new turn after World War II. The militant Nationalists were in command of the anti-colonial resistance. The Second World War had unleashed forces that loosened the colonial states' hold on political power. Internally, the colonial arrangement which had incorporated the chiefs in colonial governance had to be revised. Efforts were made to satisfy new political demands by democratizing the local government structures which had been manned largely by chiefs and by establishing limited representation in central institutions. Under the African Local Government Ordinance 1949, limited powers were devolved on district councils and a limited number of posts in local governments were elective. According to Kanyehamba, by 1952, the LEGCO was almost truly representative consisting of the Governor, nine Ex-official members, eleven cross-bench members and twenty-seven representative members²². In the same year it was announced that each district except Karamoja, would elect a representative on the Legislative Council. The new chamber was also for the first time, to include two women, although both women were European- Mrs. Saben and Mrs. Boase.

The rise of political parties in the 1950s consolidated the need for representation within parties and subsequently in government. As representation came to be accepted as norm in the new political dispensation particularly after independence, political parties included special interest groups in their structures and hierarchies namely, the youth and women.

The decades that followed independence were characterized by political upheavals and dictatorship narrowed the political space for special interest groups at the national level. However, the 1967 constitution was amended during Obote II regime, where formal provision for representation of the military in the legislature was established. There were also to be ten specially elected

²² Ibid, p.28.

members and another ten nominated by the President to represent interest groups. The representation of the army in Parliament was not systematic and constitutional during the second Obote rule. Rather, it seems President Obote was obliging to the military demands to avoid clashing with its interests that had led to his overthrow in 1971. Kanyeihamba observes that,

In 1970-71, he (Obote) had ignored the murmurings in the army that all was not well in his relationship with it, and he had been overthrown. He would not make the same mistake. This time he let them have their way. The result was that whatever Oyite Ojok and other senior officers in the army wished to do or have, the government would oblige and accept their demands unconditionally. Besides being the chief of army, Oyite Ojok demanded and was made a member of Parliament, he could attend Cabinet and the UPC caucus whenever he desired²³

When the National Resistance Movement took power in 1986 and subsequently instituted the Uganda Constitutional Commission to review the Constitution and make proposals for a new Constitution, the issue of interest groups bounced in the public realm. It aroused much debate in the People's views coming to the Commission. Many people opposed any interest group representation, saying it would debase the principle of democratic representation while others noted that direct election of people's representatives would in any event tend to bring people from different sections of society to Parliament including people from interest groups²⁴.

Furthermore, those supporting interest group's representation presented two main sets of arguments. A minority argument was that representatives of a wide range of interest groups should be included so as to ensure the broadest possible commitment of all social forces to the new Constitution. A more general argument concerned the fact that some major groups in our society have long been marginalized and excluded from the mainstream political and social life. It was difficult for them to have their needs recognized through normal decision making and political processes²⁵. Reference was made to women, Youth, Workers, Persons with disabilities and the armed forces.

The argument was made that Uganda's women make up more than 50 percent of the population and make an enormous contribution to the society; they are constrained and marginalized by a number of factors such as customs and cultural practices, discriminatory laws and other biases. Youths make up more than 60 % of the population and also play vital roles in our society, but are seldom given a hearing as to their needs and problems. Wage workers of all kinds also play an essential role in creating wealth and the basis for the economic development of our society yet workers have little voice, especially when compared to powerful employers and to other major economic forces in our society²⁶.

²³ Ibid., p.210.

²⁴ See The Report of the Uganda Constitutional Commission: Analysis and Recommendations, 1988, p. 296.

²⁵ The Report of the Uganda Constitutional Commission, 1988, p. 296.

²⁶ Ibid.p.297.

It was further argued that the potential, talents and wisdom possessed by these groups is such that it is essential to ensure they are properly mobilized and integrated in the development of the nation. Special mechanisms were believed to be necessary through which the attention of other sections of society is focused on the problems and needs of such groups so that slowly the society at large is educated to change their attitudes. Their representation in Parliament was seen as one such mechanism. Many commended to the commission, the precedent set by the NRM government in providing National Resistance Council (NRC) representation for those groups.

In the end the Commission recommended inclusion in the Constitution, representation of special interest groups in Parliament namely Women, Youth, Workers, Persons with disabilities and the army. The subsequent section discusses in detail constitutional provisions for affirmative action.

As scholars have noted, Affirmative Action was not an invention of the NRM Government but has been applied in the Western World though in the areas of education and economics. In Africa, Ghana was one of the first countries to introduce Affirmative Action in favor of women when in 1960 a law was passed allowing nomination and election of women to the National Assembly²⁷. Today several African countries have replicated the practice. It is worth noting that Uganda has taken the affirmative action agenda further both at legislation as a constitutional matter and at implementation level with impressive results. What perhaps is not certain is whether a country like Uganda will consolidate the achievements of affirmative action and scales them up to irreversible levels.

The study maintains that the principle of affirmative action enfranchising formerly marginalized groups in the governance of their country is a fundamental achievement by the National Resistance Movement Government. However, with hindsight based on Uganda's political history, unless the principle of affirmative action is continuously assessed and evaluated by independent analysis, it risks being hijacked and misused to boost support of certain political interests at the expense of the intended beneficiaries. Because of this reason, the study assessed whether these groups have performed their legislative responsibility with independence, responsibility and accountability that are necessary attributes of peoples representatives. The study seeks to high light the importance of affirmative action in legislative representation of formerly marginalized groups and how it can promote their interests, strengthen the institution of Parliament and enhance and consolidate democracy in Uganda.

²⁷ Silvia Tamale, Op cit.

6.2. Constitutional Provisions Supporting Special Interest Groups in Parliament

One of the fundamental achievements of the National Resistance Movement (NRM) was the affirmative action that enfranchised formerly marginalized groups in Uganda by involving them in all positions of decision-making. Objective Six under the National Objectives and Directive Principles of State Policy of the 1995 Constitution provides that, "The State shall ensure gender balance and fair representation of marginalized groups on all constitutional and other bodies". Article 32 (1) of the Constitution is very instrumental on affirmative action in favor of formerly marginalized groups. It states that, "Notwithstanding anything in this Constitution, the State shall take affirmative action in favor of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them". Sub-section (2), states that Parliament shall make relevant laws, including laws for the establishment of an equal opportunities commission, for the purpose of giving full effect to clause."²⁸

Additionally, under the National Resistance Council (NRC) system that has now been incorporated in the Local Government Act, it is provided that all Ugandans, men and women, young and old, professionals and non-professionals, handicapped, the soldiers, employed and unemployed participate fully in the political and administrative affairs of their country right from the village level up to the national Parliament²⁹. Groups such as women, youths, the army, workers and Persons with Disability were identified as constituencies that needed to be politically enfranchised and were specifically given special seats at every level of decision making in the country.

Further constitutional guarantees are provided for in Article 36 under the protection of minorities. The article states that, "Minorities have a right to participate in decision making processes, and their views and interests shall be taken into account in the making of national plans and programmes". Other provisions for protection and representation of interest groups can be found in article 21 which guarantees equality of all and provides for freedom from discrimination and article 35 on the rights of Persons with Disabilities.

Article 78 on Composition of Parliament is very instrumental on representation of Special Interest Groups in Parliament. Section (a) of article 78 provides for one woman representative for every district while subsection (b) provides for such numbers of representatives of the army, youth, workers, persons with disabilities and other groups as Parliament may determine. It should be noted

²⁸ See, Constitution of the Republic of Uganda.

²⁹ See, G.W. Kanyeihamba, "Constitutional and Political History of Uganda: From 1894 to the Present" Centenary Publishing House Ltd., Kampala, p. 238, 2002.

that since the promulgation of the Constitution in 1995, Special Interest Groups have been represented in the 6th and 7th Parliament and in other levels of decision making downwards to the village level. In the section that follows, we discuss the disincentives and incentives that influence the member of parliament to effectively represent the interests of his/her constituency. On the basis of this analysis, we shall then engage three motions in parliament as case studies for assessing the performance of Special Interest Groups in the 7th Parliament.

A. Members representing People With Disabilities

1. Baba Diri Margaret – Northern Uganda
2. Katuramu Hood – Western Uganda
3. Florence Nayiga – National
4. Mwandha James Eliezer – Eastern Uganda
5. Ndeezi Alex – Central Region

B. Members representing the Army

1. David Tinyefuza (Gen.)
2. Henry Guti (Brig.)
3. Elly Tumwine (Gen.)
4. Jeje Odongo (Lt.Gen.)
5. Phenhas Katirima (Col.)
6. Elly Kayanja (Col.)
7. Lukanga Ndwula (Dr.)
8. Noble Mayombo (Brig.)
9. Fred Bogere (Col.)
10. Aronda Nyakairima (Gen.)

C. Representatives of Workers.

1. Charles Bakabulindi
2. Sam Lyomoki
3. Pajobo Joram Bruno
4. Ssentongo Nabulya
5. Wandera Odwori Martin

7.0. MOTIVATIONS AND DE-MOTIVATIONS THAT INFLUENCE MEMBERS OF PARLIAMENT: AN ANALYSIS OF FACTORS THAT AFFECT EFFECTIVE LEGISLATIVE REPRESENTATION

In our previous publication “Constitutional Reform and Environmental Legislative Representation in Uganda”,³⁰ we argued that Parliament and individual MPs are motivated or de-motivated to perform their legislative responsibilities by a numbers of factors. These factors are categorized as autonomy, authority, accountability, personal attributes and the level of civic awareness of the citizens. In this section we demonstrate how these motivating and de-motivating factors specifically apply to the representatives of special interest groups in Parliament.

In order to measure the performance of special interest groups in the 6th and 7th Parliaments, one needs to understand the legal foundation and basis for the institution of Parliament in which they operate from. The legal framework that provides for the establishment of Parliament, its functions and operations is set out in Chapter Six of the 1995 Constitution of Uganda. Article 79 of the constitution spells out the functions of Parliament. It states that, “Subject to the provisions of this Constitution, Parliament shall have power to make laws on any matter for the peace, order, development and good governance of Uganda”. Parliament is charged with the responsibility of making laws in the country and will have the force of law. Besides, Parliament is charged with the responsibility to “protect the Constitution and promote democratic governance of Uganda”³¹.

³⁰ See, Godber W. Tumushabe and Arthur Bainomugisha, “Constitutional Reform and Environmental Legislative Representation in Uganda: A Case of Butamira Forest Reserve in Uganda, Kampala, 2004.

In the last 10 years of existence of the 1995 Ugandan Constitution, Parliament has played four important known functions. The first function is law making. The second function is approving Government policies, auditing and passing the national budget. The third function is representation of the electorate or citizens interests at the national level. The fourth function is providing oversight on the performance of the Executive and Judiciary. The fifth function is constitutional reform or amending the constitution to provide for political change such as what is currently going on in Uganda. The country has transited from the Movement political system to a multiparty political system. As already mentioned at the beginning of this section, the performance of Parliament and individual MPs is influenced by a number of factors that are discussed in detail below.

7.1. Autonomy

One of the motivating or de-motivating factors that significantly affect effective legislative representation relates to the autonomy of the institution of Parliament and individual legislators to freely exercise their right to perform their duties. For example, one of the responsibilities of Parliament is to provide oversight over the actions and decisions of the Executive and Judiciary. While the three arms of Government are supposed to be interdependent on each other, their effectiveness depends on the ability of each one of them to enjoy autonomy while exercising its duties. In the case of the Ugandan Parliament, autonomy is provided under the law. Key legal provisions related to the autonomy of the Parliament include the power of Parliamentary Standing Committees and Sessional Committees, the method of elections of MPs to Parliament, legislative powers of Parliament, powers relating to presentation of bills and the laws relating to the dissolution of Parliament.

7.2. Power of Standing Committees of Parliament

The mechanism of committees is the major method by which legislatures conduct their business³². The autonomy of Parliament can be assessed based on whether or not the Parliamentary Committees have adequate powers to respond to concerns addressed to them by the electorates. Such concerns may be related to management of environmental resources, budget review, examining the conduct of ministers or any other civic matter that directly affects the livelihoods of the citizens. Article 90 of the Ugandan Constitution grants Parliament powers to appoint or set up Standing Committees of Parliament. The same Constitution grants Committees extensive powers to enable them perform their functions. For example article 90 (4) provides that in the exercise of their functions under this article, Committees, "May call

³¹ Ibid., pp 16.

³² See, Peter Harris and Ben Reilly (Eds.), "Democracy and Deep-Rooted Conflict: Options for Negotiators", Handbook Series 3, International Institute for Democracy and Electoral Assistance, Stockholm, 1998, p. 214.

upon any Minister or any person holding a public office and private individuals to submit memoranda or appear before them to give evidence; Shall have the powers of the High Court for (i) enforcing the attendance of witnesses; (ii) compelling the production of documents; and (iii) instituting a commission or request to examine witnesses abroad”.

There is significant evidence from the records of the 6th and 7th Parliament which indicate that Standing Committees have utilized their powers to summon public officials to appear before them and provide evidence or information in government conduct or decisions. For example the Parliamentary Committee on Natural Resources while handling the petition lodged in Parliament by the tree farmers of Butamira Forest Reserve summoned the Minister of Water Lands and Environment, the Executive Director of National Environment Authority and other senior officers from relevant Government departments to give evidence during the hearings.

7.3. Electoral Process of Members of Parliament

It should be understood that the Parliament’s autonomy or the autonomy of individual legislators can also be influenced by the manner in which Members of Parliament get elected into Parliament. The electoral process of MPs is likely to significantly influence the voting patterns on particular issues and contribution in Parliament. Consequently, their independence, responsibility and effectiveness in Parliament are also affected.

While majority of legislators in the 6th and 7th Parliaments were directly elected through the universal adult suffrage that emphasized the principle of individual merit, there exists a substantive number of legislators (91 MPs) who were elected



Presidential hand shake:- Hon. Margaret Baba Diri MP Northern Region, shakes hands with President Museveni. President Museveni’s Government is credited for initiating affirmative action in favour of special interest groups. It remains to be seen whether such groups can exercise independence over the Executive.

by electoral colleges representing special interest groups. These include: the women, youths, workers, persons with disability and the army. It is important

to point out here that the way legislators are elected into Parliament greatly determines their performance. For instance the performance of the Special Interest Groups in the 7th Parliament emanates from the way they were elected into Parliament. In what is nationally and internationally acclaimed as an effort to enfranchise formerly marginalized groups, the NRM government introduced the principle of affirmative action that ensured political representation of these groups at positions of decision making. This starts right from the village level to national level: in the Parliament. Representatives of these groups are elected into Parliament by electoral colleges. Scholars such as Sylvia Tamale note that because of affirmative action introduced by the NRM administration most of the representatives of the special interest groups find it hard to vote against an issue coming from the Executive³³.

Most MPs interviewed during the study indicated that some representatives of Special Interest Groups and indeed most MPs in the current 7th Parliament are reluctant to express their thoughts publicly for fear of not being re-elected in the next Parliament³⁴. An MP lamented about the lost golden time before parties were allowed to operate. She said,

You see, the 6th Parliament was based on the principle of individual merit. We could afford to debate and vote according to our conscience. But now under partisan politics, we are controlled by collective responsibility. Once the Movement Caucus takes a position, we all support without questioning³⁵

In Uganda, the president has demonstrated his capacity and interest to influence the election of MPs. For example during the 2001 parliamentary elections, the president campaigned for some MPs in spite the fact that the country was still under the Movement political system that espoused individual merit. Representatives of special interest groups face a fundamental challenge because they are elected by electoral colleges which are small and easy for the Executive to mobilize against an “errant” member of Parliament. The decision to register Movement MPs in Parliament in the “Yellow Book” and by Major Kakooza Mutare’s Kalangala Action Plan, the most feared militia group at the time Parliament was debating crucial issues: presidential term limits and referendum motions confirm the above point.

The recent arrest and loss of a parliamentary seat by Brig. Henry Tumukunde an army MP further alludes to the point above³⁶. Tumukunde, a former Director of Military Intelligence and Internal Security Organization (ISO), and formerly a close confidant of President Museveni was detained for indiscipline and for making unauthorized political statements in the media and disobeying

³³See, Sylvia Tamale, “When Hens Begin to Crow: Gender and Parliamentary Politics in Uganda”, Fountain Publishers Ltd, 1999, Kampala, Uganda, p. 23.

³⁴Interview with a Member of Parliament who did not want her name disclosed.

³⁵Ibid.

³⁶See, The New Vision, “Former spy boss loses petition”, Friday, August 26, 2005.

lawful orders³⁷. Tumukunde was opposed to the amendment of article 105 (2) of the Constitution on the tenure of the office of the President during the Constitutional reform process widely viewed as an attempt by President Museveni's desire to rule as long as he wants.

The Government's handling of Brig. Tumukunde who is now being court marshaled, casts doubt whether the army representatives have any utility value in Parliament if they can not express themselves on any political matter that does not favor the Executive.

In such a situation representatives of special interest groups are constrained to exercise autonomy and responsibility in exercising their constitutional rights and legislative responsibility. Constrained autonomy by Special Interest Groups in the Ugandan Parliament has had serious implications to the autonomy and performance of the entire Parliament. Representatives of special interest groups constitute 91 out of 305 members of Parliament. As such while the justification for special interest groups was varied in as far as enfranchising marginalized groups, it can also be used to disenfranchise the electorate. This is a sizeable figure that is capable of influencing the outcome of every motion or decision of Parliament. This threatens the ability of Parliament to check the actions and decisions of the Executive as well as providing oversight over the functioning of Government. In the final analysis we argue that autonomy is very important for the special interest groups to be able to effectively represent the interests of their electorate.

7.4. Authority

Political theorists such as John Locke (1632-1704) and Jean Jacques (1712-1778) observed that the basis of any democratic polity was the social contract between the rulers and the ruled which gives power to the former to enact laws to govern society. In other words, the ruled consent to be ruled and delegate power and authority to the rulers to govern them. At the same time these political thinkers observed that delegated power and authority can be withdrawn by the people. The argument is still valid today and fits in the context of modern world democracy where leaders are periodically elected by the people. The electorate has power to elect MPs or not to re-elect them based on their performance or any other reason. For example, members of parliament and the president under 1995 Constitution are elected periodically for a period of



Hon. Col. Fred Bogere swears in as a Member of Parliament. He is respected for firmly taking a non-partisan stand during the constitutional amendment process (Cover photo.)

³⁷ See, "Museveni will not let Tumukunde go", Weekly Observer Newspaper, June 9-15, 2005, p.4.

five years after which they are expected to go back to the people to seek fresh mandate.

The constitutional authority of Members of Parliament is provided for under the 1995 Constitution. The constitution mandates Parliament to enact a legislation granting immunity and privileges to members of Parliament and any other person participating or assisting in or acting in connection with or reporting the proceedings of Parliament or any of its committees. The Parliament (Powers and Privileges) Act was enacted in 1995 to implement the provisions of Article 97 of the Constitution. Among other things the Act provides that, "no civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to Parliament or a committee, or by reason of any matter or thing brought by the member in Parliament or a committee by a petition, bill, motion or otherwise"³⁸. The Act also provides for immunity for Members of Parliament from arrest for civil debt or served in respect of any judicial process during parliamentary sessions³⁹. On the basis of these constitutional provisions, Parliament and individual MPs seem to have sufficient authority to perform legislative roles without undue interference.

7.5. Accountability

Underpinning effective legislative representation of the electorate's interests: environmental and other civic issues in Parliament by their MPs, is the whole issue of political accountability. Accountability refers to the answerability of government to law and the people- an essential ingredient of a new democracy⁴⁰. As long as the Government remains in real terms answerable to the citizens, a self regulatory process is set in motion. Accountability obviously figures most clearly in elections in a sense that if voters do not like a government's or MP's record, they can vote it or him/her out of office. In order to enforce accountability of Government and Parliament in particular, it is important to put in place legal and political mechanisms which would monitor progress, review and criticize performance and ultimately compel Government to be accountable to the citizens.

In the case of Parliament, a number of mechanisms need to obtain to ensure accountability. These factors include among others, the system of voting in Parliament, regularity of the elections and level of competitiveness, provisions for recall of Members of Parliament and the level of civic awareness of the electorate and Constitutional provisions relating to separation of powers. It is important to note that the electorate can easily hold their MPs accountable if they are able to access the voting and debating records of Parliament on certain issues that affect their livelihoods. This argument is supported by Tumushabe et, al who have argued that, "...the availability of a systematic voting record of legislators on motions and laws relating to the

³⁸ S.2, Cap 257, Laws of Uganda, 2000

³⁹ Ibid, section 3 and 4.

⁴⁰ See, Peter Harris and Ben Reilly (Eds.), "Democracy and Deep-Rooted Conflict: Options for Negotiators", Handbook Series 3, International Institute for Democracy and Electoral Assistance, Stockholm, 1998, p. 350.

environment is one of the key useful instruments for the electorate to hold their representatives in Parliament accountable. The existence of such records helps voters to determine whether their representative voted in support of a motion on environmental matters of interest to them or not⁴¹. Article 89 (1) of the Ugandan Constitution provides that, “ Except as otherwise prescribed by this Constitution or any law consistent with this Constitution, any question proposed for decision of Parliament shall be determined by majority votes of the members present and voting. Article 89 (2) further provides that ...If on any question before Parliament, the votes are equally divided, the motion shall be lost”.

The Parliament recently amended the procedure for voting on motions provided for under rule 73 of the Interim Rules of Procedure of Parliament. Initially, the rules of procedure allowed “voice voting”. The new amendment introduced open voting which involves roll calling by the Speaker of Parliament. The past voting system would not allow for recording of individual member votes which made it almost impossible for the electorate to know how their MPs voted. This system was tested in a case of *Paul Kawanga Semwogorere and Zachary Olum vs the Attorney General* challenging the Referendum and Other Provisions Act in 1999⁴². The petition was challenging the grounds, inter alia that the Act was null and void because it did not obtain the constitutional majority requirement at the stage of its final deliberations and of its passing as required under Article 98 of the Constitution. This case provided an opportunity for the Constitutional Court to address itself to the voting methods of Parliament.

In an unanimous decision nullifying the Referendum and Other Provisions Act, Justice Twinomujuni J.A ruled that the provisions of Article 89 (1) were mandatory and did not ... give the Speaker any discretion at all. For the House to take a decision, he must be satisfied that more than half of the members present and voting have supported the decision. How can this be reflected through the “Ayes and Nos” vote? He further held that, “In my humble opinion, nothing short of physical counting can comply with the requirement of Article 89 (1). The records should be able to show the number of members who supported the decision, the number of those who opposed it, the number of those who abstained”. Justice Kato, J.A who concurred with Justice Twinomujuni declared voice voting “totally archaic” and observed that it did not take into account that some members of Parliament may be impaired in their vocal systems or organs⁴³.

⁴¹ See, Godber W. Tumushabe and Arthur Bainomugisha, “Constitutional Reform and Environmental Representation in Uganda: A Case Study of Butamira Forest Reserve in Uganda. ACODE Policy Research Series, No 10, 2004, p.17.

⁴² Ibid, p. 18.

⁴³ Ibid, p. 18.

7.6. Regularity of Elections, Degree of Competitiveness of The Electoral Process and Legal Provisions for Loss of a Parliamentary Seat

One of the ways how the electorate can hold their legislators accountable is the constitutional and legal provision that provides for regular elections through a competitive process. In Uganda's case, voters have a right to elect their MPs after every five years. This mechanism enables the voters to re-elect or choose another Member of Parliament based on their judgment. A combination of regularity of elections, level of competitiveness of the electoral process and legal or constitutional provisions available to the electorate empower them to hold their MPs accountable.

7.7. Civic Competence of the Electorate

Another factor that could motivate or de-motivate a legislator to effectively champion the interests of the electorate in Parliament is their level of civic awareness. Where the electorate is knowledgeable about their civic rights, duties and responsibilities and have access to vital information about their Government, they are likely to demand effective representation from their legislator. Like wise, in a situation where the electorate is largely ignorant of their civic rights, obligations and duties, uninformed, with limited access to information on the functions and actions of parliament, it becomes difficult for them to demand effective representation from their representative. This is why for any country that chooses to establish durable democracy it must invest in building civic awareness of the citizens. In Uganda, the Human Rights Commission and the Electoral Commission were set up among other things, to conduct civic education and build the citizens civic competence to hold their government accountable as well as fulfill their civic duties and obligations.⁴⁴

7.8. Transparency

Transparency essentially refers to the openness of the government system. As long as there are no mechanisms for making Parliament transparent in its business transactions, it becomes hard for the electorate to hold it accountable. In Uganda's case the Constitution under Article 41 (1) provides that,

Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or the privacy of any other person.

The recently enacted law on Access to Information (AI) has also added force to the Constitutional provision on freedom of access to information on Government actions and decisions where citizens could base their decisions to support it

⁴⁴ See, Articles 52 and 61 of the 1995 Constitution of Uganda, regarding the functions of both the Uganda Human Rights Commission and the Electoral Commission.

or to withdraw their mandate. Presenting the AI bill to the Parliament the Minister of State for Information and Broadcasting stated that, “ The bill seeks to promote an efficient, effective, transparent and accountable Government, to give full effect to article 41 of the Constitution by providing the right of access to information held by organs of State other than exempt documents; to protect persons disclosing evidence (whistle blowers) of contravention of the law, mal-administration or corruption on Government bodies...”⁴⁵. Suffice it to say that having in place laws for enforcing transparency is not a sure deal that Parliament will function effectively. The legal and constitutional provisions need to work hand in hand with other factors.

7.9. Personal Attributes of a Legislator

The final factor that influences individual legislators to bring the interests of their electorate on the floor of Parliament is what scholars have termed personal attributes. Some legislators are motivated by the desire to serve the electorate well with honor, zeal and distinction in order to live behind a legacy. Other legislators are motivated by ambition and responsibility. An example is the Woman Member of Parliament for Mbarara District, Hon Miria Matembe. She joined Parliament in 1989 through the Local Council structures to rise to Parliamentary level. Because of her being articulate and passionate for the cause of women in Uganda, she was appointed a Commissioner in 1989 on the Constitutional Commission which moved around the country soliciting views for inclusion in the Constitution. She was subsequently elected a member of the Constituent Assembly which debated enacted and promulgated the 1995 Ugandan Constitution. She was appointed a Minister of State for Ethnicity and Integrity a post she held for three years.

Matembe observes that her struggle for women’s rights is a calling and a duty. She thinks it is a duty that God has called her to serve. Because of her dedicated service to the women’s cause, Matembe is regarded as one of the leading women’s activist in Uganda. Through her activism she has been able to build an international image for herself. Through Matembe’s example one can see how personal attributes linked to personal ambition desire to perform better and personal conviction can influence legislators to effectively represent the interests of their electorates.

Having discussed the motivations and de-motivations the subsequent section will focus on the functions of MPs upon which their performance can be measured.

8.0. FUNCTIONS OF A MEMBER OF PARLIAMENT

In order to measure the performance of members of Parliament, it is important to articulate their functions as representatives of the people. Montesquieu in “The Spirit of the Laws”, wrote admiringly about the legislature. He

⁴⁵ See, The Access to Information Bill, 2004.

declared, "...since it was impossible in a large state for the people to meet as a legislative body, they must choose representatives to do what they could not do themselves"⁴⁶. Seen from Montesquieu's point of view and from modern democratic practices, people's aspirations and their views are voiced through their representatives to whom power and responsibility has been delegated. In any democratic polity, legislators are elected through popular elections where people pronounce themselves by choosing representatives of their choice for a specific term of office: five years in Uganda's case. This section discusses the roles or functions of Members of Parliament upon which the groups being assessed are measured. On the basis of the known roles, then one can safely establish whether or not a particular MP has lived up to his/her expectations.

Suffice it to say, that the function of Members of Parliament are very much linked with the function of Parliament: making laws, approving the Government budget, policies and appointments as well as providing checks and balances to the other arms of Government. However, Legislators are also expected to perform a lot of other functions either based on personal initiatives or exerted by expectations from voters against which performance can be assessed.

First, a Member of Parliament acts as a bridge between the Government and the citizens being represented in Parliament. As an MP one is supposed to articulate Government policy and political decisions including legislations to the people in the Constituency. The MP irrespective of the party he/she belongs to, has to explain the Government policy decisions to the constituents and its socio-economic implications. In case the MP belongs to the opposition party, he/she still has to explain the position of the party on such a policy decision. Conversely, the Member of Parliament is expected to act as a voice for the voters and bring their interests and needs to the attention of Government.

Second, a Member of Parliament is expected to mobilize and attract resources, financial and material for the development of his/her constituency. The MP can mobilize such development resources from government departments, ministries and agencies as well as from foreign friends and donors. Hard working and innovative MPs attract projects such as water, health and sanitation to their constituencies. It should be noted however, that in Uganda's case, the development roles of a Member of Parliament has been confused by the electorate. The electorate demands money and other material resources that legislators are not able to provide. As a consequence legislators who attempt to satisfy their electorates that way end up in perpetual debts. There is evidence that too many demands from the electorate in Uganda is slowly driving away talented politicians from active politics and this could result into unprincipled politicians taking over power with its attendant problems. A case in point is the recent confession by Beatrice Kiraso, a woman MP for Kabarole

⁴⁶ See, Robert A. Dahl, "Democracy and its Critics", Yale University Press, New Haven, 1989, p. 29.

District. She remarked,

...the demands from the constituents, even after elections are enormous. Political maturity has not been attained, so the population does not know which role is whose. So it is too much for me. I am not very resilient. The pay for an MP gives a wrong impression because you are paid handsomely but at the end of the day you do not see that money. It is not yours because you are contributing to building mosques, churches and schools, burials, fundraising and everything⁴⁷.

Third, a Member of Parliament is to defend his constituency from unfair Government policy, decision, or legislation. In matters or issues that threaten the existence or livelihoods of the voters/ constituents, the MP becomes a spokesperson in Parliament and a defender of his/her people. The role of MP Frank Nabwiso in the defense of his constituents in the 7th Parliament when they were faced with Government's attempt to degazet Butamira Forest Reserve in favor of Kakira Sugar at the expense of tree farmers⁴⁸ is a good example.

Fourth, a Member of Parliament is expected to mobilize the people in the constituency for development. Mobilizing people for development is a leadership function. Most communities have potential to undertake collective or individual development. The MP can assist the constituency in shaping the development agenda by working with them to identify relevant projects to undertake. A Member of Parliament should provide leadership that galvanizes the energies of his/her people to direct their commitment into the development of the constituency. At the same time an MP should influence government and other development agents to commit financial and physical resources to the constituency.

The fifth function is what is called self advertising. Self advertising is any effort used by an MP to disseminate one's name among constituents in such a fashion as to create a favorable image. A good member of Parliament should establish good relations between his/her constituency and other constituencies to promote harmony and national unity. In Uganda, MPs are also expected to attend weddings and burial ceremonies in their constituencies.

The subsequent section discusses the mechanisms for measuring the performance of MPs.

⁴⁷ See, Beatrice Kiraso, "I want to give others chance- MP Kiraso", *The New Vision*, Tuesday, August 9, 2005.

⁴⁸ See, Godber W. Tumushabe and Arthur Bainomugisha, *Constitutional Reform and Environmental Legislative Representation in Uganda: A Case of Butamira Forest Reserve in Uganda*, ACODE Policy Research Series, No 10, 2004.

9.0. MECHANISMS FOR MEASURING PERFORMANCE OF MPS

The performance and effectiveness of members of Parliament can be measured in several ways. For instance, Members of Parliament can be assessed based on their contributions during debates on the floor of Parliament on national issues and those issues that affect their constituencies. Secondly, MPs can be measured based on their regular attendance of Parliamentary sessions. One of the noted weaknesses of the 7th Parliament was absenteeism of most MPs and Ministers even during crucial constitutional debates. The climax of absenteeism resulted into Government loss of a critical motion in Parliament: the Referendum Bill, which prompted the Prime Minister, Professor Apolo Nsibambi to impose a travel ban on all ministers⁴⁹. The performance of Members of parliament can therefore be assessed based on their regular attendance in parliament which would involve one analyzing the attendance register and their contributions on the floor of Parliament in the Hansards. The third mechanism for measuring performance of MPs is what Winnie Byanyima, the former Member of Parliament for Mbarara Municipality called a track record of gender sensitivity in respect to women MPs. She argued that,

The performance of a woman representative should be measured by her record of gender sensitivity and (the) equal opportunity legislation she has moved or actively supported. And also by the programs she has initiated or contributed to enhance the status of women⁵⁰.

The fourth mechanism for measuring performance is analyzing the voting patterns of members of Parliament on controversial bills and motions in parliament where the Executive has serious interests. Most opposition groups and political analysts have criticized representatives of Special Interest Groups for always supporting the position of the Executive as a pay back for bringing them out of historical marginalization. In such situations representatives of Special Interest Groups in the 6th and 7th Parliaments were always caught in the middle of two opposing sides: the opposition and Government with each one of them wanting their support. It therefore becomes necessary for the MPs to exercise their independence to support a side where the interests of their constituencies are best served. In a situation where Uganda's recent political history has been dominated by the Movement Government, representatives of Special Interest Groups have naturally voted the Government's side. The section that follows below attempts to assess performance of Special Interest Groups in Parliament by analyzing their voting, circumstances surrounding their participation and debates. To do this, the study focused on specific case studies: Referendum Motion and the Motion on Presidential term limits.

⁴⁹ Felix Osike, "PM stops ministers travel," *New Vision*, April 28, 2005.

⁵⁰ Sylvia Tamale, "When the Hens Begin to Crow: Gender and Parliamentary Politics in Uganda," Fountain Publishers Ltd, 1999, p.76.

10. CASE STUDY 1: THE REFERENDUM MOTION ON RETURN TO A MULTIPARTY SYSTEM

This section examines the conduct, voting pattern and participation of Special Interest Groups during the on-going Constitutional reform process in Parliament in respect to the referendum motion.

The constitutional amendment of article 69 to provide for Uganda's return to a multiparty political system was the most heated debate in Parliament during the on-going Constitutional reform process. When the National Resistance Movement came into power in 1986, it regulated political parties and only limited their operations to national offices and running party news papers. Government succeeded in convincing Ugandans that past political woes that afflicted Uganda were because of the sectarian and narrow minded nature of the old political parties. For the last 20 years of the NRM rule, Uganda has been under a no-party system that emphasized inclusiveness and individual merit. However, over time the Movement became increasingly challenged by the opposition, civil society and the donor community as the dividing line between the Movement and political parties converged and disappeared.

Because of increasing pressure from the opposition groups, international community and internal contradictions within the NRM, the National Executive Council and the National Conference organs of the ruling Movement in 2003, decided to return the country to a multiparty political system. The change from the Movement political system to any other democratic system is provided for in the 1995 Constitution. While at its promulgation in 1995, the Constitution provided for the Movement political system, it also provided that Ugandans have a right to choose any political system in a referendum after every five years. Article 69 (1) maintains that, "The people of Uganda shall have a right to choose and adopt a political system of their choice through free and fair elections or referenda"⁵¹. Article 69 (2) identifies the types of political systems as the Movement political system, the multi-party political system and any other democratic and representative political system. Article 74 of (1) provides for the change of the political system through a referendum. It provides that, "A referendum shall be held for the purpose of changing the political system:

- (a) if requested by a resolution supported by more than half of all members of Parliament; or
- (b) if requested by a resolution supported by the majority of the total membership of each of at least one half of all districts councils; or
- (c) if requested through a petition to the electoral Commission by at least one-tenth of the registered voters from each of the least two-thirds of the constituencies.....of article 78 of this Constitution.

⁵¹ The Constitution of the Republic of Uganda, 1995.

The opposition did not support the referendum motion arguing that it was a violation of their right of association and a waste of tax payer's money since both Government and the opposition were in agreement to return the country to a Multiparty democracy. The opposition were in for a cheaper option of amending Article 74 of the Constitution such as opting for a petition from the district councils supported by two thirds of at least 28 districts. The opposition also interpreted Government's insistence on organizing the referendum at all costs as a ploy to entrench the Movement political system arguing that there was no sufficient civic education for the population. The opposition reasoned that since for the last 20 years the population has been treated on how political parties messed up the politics of Uganda, they should have been prepared for the multiparty system by Government explaining the good side of parties in democracy. To the opposition, the referendum would only serve the interests of the ruling Movement and further disadvantage opposition politics in Uganda.

The opposition further claimed that some top leaders in the Government and society had already positioned themselves to grab the funds set aside for the referendum and so the exercise would simply serve their greed for money. Mugisha Muntu, the Chief Political Mobilizer for Forum for Democratic Change (FDC), a new strong political party argued that, "The Government opened up political space when it allowed political parties to register. If the masses decide through the referendum that they want the Movement to continue, what will Government do with the certificates it issued to parties"⁵². On the other hand, Government reasoned that holding a referendum was a constitutional matter and an obligation no matter how expensive the exercise seemed to be. The Government further argued that the exercise was worthwhile investing in so as to cultivate the culture of constitutionalism and avoiding the past political mistakes.

In 'The Monitor' Story of April 27, 2005 titled, "Referendum must be held- Museveni", the President vowed that the referendum must be held despite opposition from some Members of Parliament and Civil Society. He pointed out that, "I have heard some people saying we should not hold a referendum on the political system; that one I don't agree with; adding that, "We can't decide without consulting you (the people)". The President warned the Parliament and MPs not to resist the referendum. At a public rally in Masindi district, Western Uganda, the President stated that, " If Parliament does not pass the referendum (motion), I will use another 'kasonseroke' (trick) to bring it here (to the people)" He added that, " I cant allow to be trapped because if anything goes wrong in future you will blame me. Those who don't know Uganda's issues think it is Parliament to decide on the referendum but I don't agree with them. The power is not with Parliament, not the President, not the District chairmen but with the people"⁵³.

⁵² See, K. Muhanga, "Referendum a hoax- Muntu," *The New Vision*, May 2 2005, p.7.

⁵³ See, Richard Mutumba, Gen. Museveni warns Parliament as MPs resist referendum," *The Monitor*, April 28, 2005.

Consequently, when Government tabled the Referendum Motion seeking to change the political system before Parliament on Thursday 21, April, 2005 it lost the motion after failing to raise support of 147 MPs. The motion was supported by 142 MPs, opposed by 17 MPs while one abstained. The legal implication of the loss of the motion was that Government could not go on to organize the referendum without tabling another substantive motion to parliament as provided for under the Parliamentary Rules of Procedure. The parliamentary rules of procedure provide that a matter on which Parliament has taken a decision cannot be reintroduced in Parliament unless the decision is first rescinded. Rule 53 (3) of the Parliamentary Rules of Procedure states that, " It is out of order to attempt to reconsider any specific question which the House has come to a conclusion during the current session except upon a substantive motion for rescission.

Following the defeat of the first Government Motion on the referendum, the Minister of State for Justice and Constitutional Affairs, Adolf Mwesige moved a fresh motion in Parliament on April 28, 2005 where MPs voted overwhelmingly to overturn the previous decision. At least 189 MPs supported the motion while 24 opposed it. The move paved way for reconsideration of the motion seeking to request the Electoral Commission to hold a referendum on the future political system. Subsequently, Parliament on May 4, 2005 approved a motion for holding the referendum on the change of the political system. The motion was overwhelmingly supported by 221 MPs while 18 voting against it with three abstentions.

One of the interesting issues that emerged from the Government's handling of the referendum motion relate to autonomy, authority and accountability of MPs. The loss of the referendum motion shocked the Government. The President instructed his Prime Minister to draft in every body and issued threats to Parliament and MPs at various public rallies. In response, Prime Minister Professor Apollo Nsubambi, suspended Minister's travels abroad and far off places within the country until the debate and voting on constitutional amendments were disposed off. Nsubambi said,

Having consulted with the President, I hereby with effect from today suspend authorization of travel abroad except for special cases such as medical treatment. I also direct that travel inland should be arranged in such a way that you attend Parliament⁵⁴.

In order not to leave anything to chances, Government had to draft in all the army MPs including those that were attending the military course in Jinja, suspend minister's travels abroad and far places inland in order to bolster its numbers in Parliament during the time of debate. Nine out of 10 Army MPs voted for the referendum. One of the army MPs abstained from voting, an act

⁵⁴ See, Richard Mutumba, " Govt taking no chances on constitutional changes: Premier restricts ministers' travel", The Monitor, April, 28, 2005.

that drew a wrath from the army leadership. Commenting on the abstention by Col. Bogere, the Army Spokesman Lt. Col Shaban Bantariza observed that,

The Army is part of the Executive. We take the position of the Government especially if that position is on national issues. But they (Parliament) may be discussing other things which are partisan, and we don't have to take positions on those⁵⁵

Government also used other strategies that included registering all MPs who professed to be supporters of the newly formed organization called the National Resistance Movement. Minister of Works, Housing and Telecommunication John Nasasira led the drive to register MPs in a Yellow Book. The Yellow book has the name, age, village, constituency and signature of the MPs⁵⁶. Most political observers argue that the timing of registration of Movement MPs was intended to keep a tight ring around them to pass the two important motions for the Executive: Referendum and "Presidential term limits" Motions.

Surprisingly, during the heated debates on the referendum and presidential term limits in Parliament, Kalangala Action Plan (KAP) of Maj. Kakooza Mutale, the militia known to have terrorized voters and opposition MPs during the 2001 elections surfaced at Parliament registering MPs into its ranks. Most MPs scampered to register with KAP. Victor Karamagi described KAP as follows,

Sheer mention of KAP revives memories of the 2001 election terror group unleashed on the opposition. That senior ministers and legislators (soon to reach 250 mark) have willingly signed up for membership of a group whose activities the Parliamentary Committee on Defence and Internal Affairs is investigating raises questions⁵⁷

While most opposition groups think the reason why KAP surfaced at Parliament at the time of debating crucial motions was to intimidate MPs to vote in a certain way, Movement MPs think otherwise. Hon. Amon Muzoora, the Chairperson of the Parliamentary Committee on Defence and Internal Affairs, observes that the opposition is biased towards KAP and Major Kakooza Mutale. Hon Muzoora, a professed Member of the National Resistance Movement organization did not register with KAP. However, some Movement MPs that were interviewed say that they joined KAP to stop it from coming to their constituencies during the forth coming elections and also to reform and redirect its operations and activities from within⁵⁸.

The way Government has handled what it considers crucial issues in Parliament, may derail the independence of Parliament and most especially the Special Interest Groups whose constituency is so small to be influenced by Government.

⁵⁵ Comments attributed to Lt. Col. Shaban Bantariza, Army Spokesman, Daily Monitor July 6, 2005.

⁵⁶ See, Ssemujju Ibrahim Nganda, "200 MPs register for NRM," The Weekly Observer April 21-27, 2005.

⁵⁷ See, Victor Karamagi, "Dubious: Why would decent MPs and Ministers join Mutale's KAP?," The Monitor, April 27, 2005.

⁵⁸ Interview with Hon Loyce Bwambale, Woman Member of Parliament, Kasese District and also a Member of the Pan African Parliament, on 29 September, 2005.

Apparently, District Parliaments have also not been spared by some Government functionaries. The Speakers of the districts presumed to belong to the opposition were being targeted. In a story carried by *The Monitor* of April 21, 2005, titled "Movement schemes to oust district opposition officials", the Movement spokesperson Mr. Ofwono Opondo said that it was okay for a political party to undermine those who do not agree with its thinking. It has been noted that a minister is heading a team to oust the Speaker of Bushenyi District who is thought to be a supporter of the opposition Forum for Democratic Change (FDC). Opondo said, "They are right to fight the Speaker politically and democratically ...we are going to organize to fight and undermine those who do not agree with us politically just like they are also organizing to fight us". In one meeting the Minister is said to have forced the councilors to sign the list indicating that they had agreed to censure the Speaker and 32 of 34 in attendance signed⁵⁹. The implication of this kind of action by the Government functionaries at National and district parliaments is the weakening of the functioning of these institutions. Most critical is that it is easy for the representatives of Special Interest Groups since they are elected by electoral colleges that can easily be mobilized by the State to censure or recall the representative perceived to belong or belonging to opposition or exercising his/her mind as the principle of individual merit was meant to champion.

11. CASE STUDY 2: TERM LIMITS FOR THE PRESIDENCY

The 1995 Constitution introduced limitation on the number of times a person can be elected as President of Uganda. In the on-going Constitutional reform, Government proposed that this limitation be revisited with a view to allowing indefinite eligibility for the post of the President. A number of reasons have been raised by Government in support of this proposal including the desire to give people the right and freedom to exercise their right of choice in selecting a leader. This proposal has been widely interpreted by the opposition and political analysts as a ploy to allow President Museveni now serving his second and last Constitutional term to run again in 2006. The debate on the tenure of the president became one of the most controversial issues in Parliament. Three Ministers including Museveni's closest ally from childhood and 1st Deputy Prime Minister Eriya Kategaya is believed to have been sacked for opposing the "third term" for President Museveni.

Just like in the case of the referendum, the government did not take chances. The KAP registration of MPs, the registration in Yellow Book by Movement MPs including the Ug. Shs. 5 million facilitation to royalist MPs all worked in favor of the term limit motion. The motion to lift the Presidential term limits was overwhelmingly supported by Parliament with majority of the support coming

⁵⁹ See, Charles Mwanguhya Mpagi and Sam Amanyire, "Movement schemes to oust district opposition officials," *The Monitor*, April 21, 2005.

from Special Interest Groups MPs. The section that follows below clearly shows how the Special Interest Groups voted on both motions.

12. SPECIAL INTEREST GROUPS IN PARLIAMENT: HOW DID THE MPS VOTE ON THE REFERENDUM AND PRESIDENTIAL TERM LIMIT MOTIONS?

12.1. Women Parliamentarians on Affirmative Action

Women Members of Parliament form the majority of the Special Interest Groups represented in the Parliament of Uganda. Out of the 305 Members of Parliament of the current 7th Parliament, 56 are women representatives elected specifically on affirmative action to represent their districts. They are elected by an electoral college comprising all councillors at parish (LC11) and Sub-County (LC 111) levels within the district, plus all members of parish women councils within the district. The introduction of Affirmative Action in favour of women was hailed by women feminists in Uganda as a tool that would enhance the liberation of women⁶⁰

The National Objectives and Directive Principles of State Policy of the Constitution section (vi) states that, “The State shall ensure gender balance and fair representation of marginalized groups on all constitutional and other bodies. Further section (xv) states that, The State shall recognize the significant role that women play in society. Article 78 (1) (b) provides one woman representative for every district. The Chicago Tribune highlighted the progressive gender provisions and described the 1995 Constitution as a “Women’s Constitution”⁶¹.

While affirmative action in favour of women has positively brought quite a good



Hon. Miria Matembe swearing to uphold the Constitution and to effectively represent women of Uganda in parliament, is considered one of the leading advocates of women's rights in Uganda. Matembe was sacked as Minister of State for Ethics and Integrity, allegedly for opposing the Lifting of the Presidential Term Limits in the Constitution. (Cover photo).

⁶⁰ See, Beatrice Kiraso, “I want to give others chance-MP Kiraso, The New Vision, August 9, 2005.

⁶¹ See, Sylvia Tamale, *When Hens Begin To Crow: Gender and Parliamentary Politics in Uganda*, Fountain Publishers, Kampala, 1999, p.115.

number of women into positions of decision making in Uganda, the principle has its own discontents and limitations. These limitations impose serious constraints to effective representation and legislative responsibility on the beneficiaries. One of such limitation has to do with the top-bottom nature in which it was introduced by the NRM government. The system raises the question of loyalty of women to the NRM government which is credited for creating such an “opportunity”. Women leaders’ failure to question policy decisions of government even when they do not favour their constituents, for to question such policies would amount to being ungrateful to the Government that picked you from the “Kitchen”⁶². Gender analysts fear that affirmative action introduced from above and not from below could significantly undermine the emancipation process for women in Uganda. One such gender expert observed that,

Affirmative action is good but it raises the question of loyalty on the part of women MPs.... They owe their allegiance to the National Resistance Movement government—which is responsible for their presence there. This was very apparent during Constituent Assembly (CA) debates. That’s my problem with affirmative action; it’s not empowering because when you listen to most female politicians you will find that they still relate their presence in the House to NRM instead of thinking about their presence there as contributing to decision-making, standing for certain positions and things like that....I seriously believe that we must take on affirmative action with a new dimension⁶³

Comments made by some of the leading women leaders that have benefited from affirmative action confirm the reservations raised in the quotation above. Joan Rwabyomire a former Woman Member of Parliament for Kabarole District concurs:

You know we would not be talking about these things if we didn’t have exclusive support of government. Since independence-----even from time immemorial, really---there was no government which expressed a bias towards women’s emancipation. But the National Resistance Movement government came out very clearly and supported the women’s cause and it is because of the NRM government as our biggest ally that we have been able to do all these things.... So really, I would like to pay tribute to the National Resistance Movement for its support⁶⁴.

Some feminist scholars have argued that had affirmative action been introduced as a result of pressure from the women’s movement which is a bottom-up approach, perhaps the rules for participation would have been devised by

⁶² Interview with Hon. Miria Matembe on whether women MPs are independent Legislators in Parliament on 19th August, 2005.

⁶³ *Ibid.*, p. 105.

⁶⁴ See, Sylvia Tamale, *When Hens Begin To Crow: Gender and Parliamentary Politics in Uganda*, Fountain Publishers, Kampala, 1999, p. 10

women themselves or women would have become empowered. The argument here as Sylvia Tamale has pointed out is that “the beneficiaries of such a policy would hardly regard it as a favour. Neither would the NRM hold women psychologically hostage, engendering the kind of complacency and self-satisfaction that is sometimes exhibited by some women parliamentarians”⁶⁵.

The attitude that NRM is a benevolent saviour of women is abundantly clear among female parliamentarians. Most women MPs view the affirmative action policy as a favour (as opposed to a right) and view the NRM as a critical factor in not only the initial enactment of the policy but also its continuation. This view is supported by the views that are expressed by women leaders that have benefited from affirmative action. One of such women leaders is Mary Kamugisha who observed that:

We should use this chance; it’s God’s grace that we have this chance. We should use it to consolidate our position so that.... you never know, next time the next government might be antiwomen. If we don’t do it now, we would have missed the chance⁶⁶

Further, effective representation of women in Parliament has been hampered by the general poverty among the electorate and of most MPs. Most MPs are not economically empowered enough to fund their elections and for quite some time, some of them who are professed Movement supporters have been funded by the State. Because, of the funding from Government, most of them become compromised to the extent that they can not oppose any motion/ bill where the Executive has interests. Related to poverty is the whole issue of commercialization of Ugandan politics at the electorate level. The electorate is too demanding from their MPs such that some of them choose not to go back to the constituencies after a torturous election process which makes them loose touch with the constituencies.

⁶⁵ Ibid., p. 105.

⁶⁶ Ibid.

Table showing District Women Representatives in the 7th parliament

Name (Hon.)	District	Name (Hon.)	District
Jessica Eriyo	Adjumani	Hellen Aporu Amongin	Kumi
Betty .O. Amongi	Apac	Harriet Kagaba	Kyenjojo
Angupale Aanimu	Arua	Margaret Otim Ateng	Lira
Justine Kasule	Bugiri	Miriam Mwaka	Luwero
Jane Alisemera	Bundibugyo	Sarah Mugerwa	Masaka
Mary Karooro Okurut	Bushenyi	Jalia N. Abwooli Bintu	Masindi
Rose. W. Munyira	Busia	Lukia Isanga	Mayuge
Betty Aketch	Gulu	Miria Matembe	Mbarara
Beatrice N. Byenkya	Hoima	Rose M. Lochiam	Nakapiripirit
Beatrice Z. Magoola	Iganga	Eugenia Mindra	Moyo
Ruth Tuma	Jinja	Geraldine N. Bitamazire	Mpigi
Hope Mwesigye	Kabale	Sylvia Senabulya	Mubende
Beatrice Kiraso	Kabarole	Lydia Balemezi	Mukono
Mary Magdalene Oriekot	Kaberamaido	Rose L. Nacha	Kotido
Ruth Kavuma Nvumetta	Kalangala	Grace Bagaya Tubwita	Nakasongola
Margaret Zziwa	Kampala	Betty Pachito Udongo	Nebbi
Rebecca Kadaga	Kamuli	Beatrice Rwakimari	Ntungamo
Idah Mehangye	Kamwenge	Santa Okot	Pader
Jacqueline Kyatuheire	Kanungu	Jennifer K. Namuyangu	Palisa
Gertrude Chelangat	Kapchorwa	Sarah Kiyingi Namusoke	Rakai
Loice B. Bwambale	Kasese	Winfred K. Matsiko	Rukungiri
Grace Akello	Katakwi	Anifa B. Kawooya	Sembabule
Victoria K. Sebagereka	Kayunga	Beatrice Wabudeya	Sironko
Benigna Mukiibi	Kibale	Alice Alaso	Soroti
Ruth Nankabirwa	Kiboga	Dorothy Samali Hyuha	Tororo
Annette Mukabera	Kisoro	Rosemary Sseninde	Wakiso
Jane O. Akwero	Kitgum	Nusura Tiperu	Yumbe

In some cases, the electorate does not understand the role of MPs. They demand resources and services from them as if they are the Government. As such most MPs in Uganda end up sharing out their Parliamentary earnings with the electorate which demoralize them with some of the current MPs vowing not to run again. The case of Beatrice Kiraso can illustrate the above point. Hon. Kiraso is a woman MP for Kabarole district. She recently hosted a party in her constituency and categorically promised not to run again because of the frustration of the job⁶⁷.

Poverty and lack of civic competency for the electorate affect the MPs interest in the electorate and their roles as people's representative and ultimately affects their legislative role in Parliament.

⁶⁷ See, Beatrice Kiraso, "I want to give others chance-MP Kiraso, The New Vision, August 9, 2005.

The critical moment however, for effective representation by women MPs will come when they succeed in winning themselves off the support of any government. The recent motions and voting pattern on the referendum and the constitutional term limits for the president clearly shows whether affirmative action women MPs can be independent and autonomous while executing their legislative work. Out of the 54 district women representatives on affirmative action, 49 of them voted in favour of the Government driven referendum that was boycotted by the opposition while five voted against. This overwhelming support for the Government's led referendum by the affirmative women MP tends to confirm the fact that women's "liberation" movement has been exploited to bolster Government numbers in Parliament.

A woman Member of Parliament who did not want her name mentioned and is a National Resistance Movement party supporter confirms this point. She said that women MPs had supported the Government's side with hope that they will be given juicy positions on the executive of the NRM party. Surprisingly, the women have been given a raw deal on the NRM National Interim Executive Committee. She promised to raise the issue with the President before the party's national convention⁶⁸. Another woman MP Miria Matembe, observes that Government has patronized women too much to the extent that they even now vote against their interests such as the Bill on Domestic Relations.

Matembe lamented, "God help us" women now support anything Government wants. It is amazing that women now can afford to vote against their interest such as Domestic Relations Bill because the Executive doesn't like it"⁶⁹. In spite of the criticism of women representative's performance in Parliament by Matembe, her counterpart Loyce Bwambale thinks that women have performed perfectly well under the NRM system. Bwambale argues that almost all women representatives have initiated women development projects in their constituencies which can not compare with their male counterparts.

12.2. Army Representation in Parliament

The Uganda Peoples Defence Forces (UPDF) is one of the Special Groups represented in the Uganda Parliament. The institution of the army is established under Article 208 of the Constitution which states that, "There shall be armed forces to be known as the Uganda Peoples Defence Forces". Article 209 provides for the functions of the Uganda Peoples Defence Forces among which are to preserve and defend the sovereignty and territorial integrity of Uganda and to foster harmony and understanding between the Defence Forces and civilians. Article 210 provides for Parliamentary oversight or control of the UPDF. The same article makes provisions that mandate Parliament to make laws regulating the management and conduct of the Uganda Peoples' Defence Forces. Article 78 (c) is the most instrumental in respect to the army representation in Parliament. The army has 10 MPs elected by the electoral colleges constituted

⁶⁸ Interview with a woman member of Parliament that did not want her name disclosed for political reasons.

⁶⁹ Interview with Hon. Miria Matembe, Op cit.

by the Military Council which is chaired by the Commander-in- Chief who is the President of Uganda.

The decision to have the army represented in Parliament was born out of the need to control the military by civilian leaders and reverse Uganda's political history where the army has held the democratic development hostage through successive military coups and military rule. Uganda, like most other countries in Africa has suffered successive military coups and its consequences.

Commenting about the tragedy of militarism in Africa and struggle to control armed forces, Kayode Fayemi has observed that, "In a region where military rule and militarism have contributed significantly to the arrest of state building and democratization projects, finding the most innovative mechanism to address the problem of coup d'états remains a major objective of several constitution-making exercises in Africa⁷⁰. In 1966, Milton Obote, the then Executive Prime Minister used the military to overthrow President Mutesa, destroy the kingdom of Buganda and abolished all the kingdoms in Uganda. By 1969 Obote had successfully purged the opposition parties essentially making Uganda a defacto one party state thereby creating material conditions for a military coup. In 1971, the military turned against President Milton Obote and overthrew him in a coup that brought Idi Amin to power. Idi Amin went on to establish a reign of terror that ruled Uganda for 8 years until 1979 when he was overthrown by the combined forces of Tanzanian army and Ugandan exiles. The army further overthrew Milton Obote 11 in 1985 and established a military junta that was also overthrown by the National Resistance Army/ Movement led by Yoweri Museveni in 1986.

The framers of the 1995 Constitution reflected upon Uganda's past and decided that in order to control the army from overthrowing the elected Governments, it was important for it to be represented in Parliament as a Special Interest Group. During the making of the 1995 constitution the continued representation of the army in Parliament was justified on two grounds: First, the significance of the military in state building historically. It was argued that the military is a political institution and a strong pillar of the state. In pre-colonial Africa and elsewhere in the world, state building involved use of violence where the military was a dominant actor. This is what guided strategic thinkers like Clausewitz a German General and Mao the Chinese revolutionary leader. The two thinkers



Brig. Henry Tumukunde a former army representative who is believed to have been forced to resign because of his opposition to the lifting of the presidential term limits in the Constitution. He is currently detained and faces charges of creating ghost soldiers in the army and spreading harmful propaganda.

⁷⁰ See, Kayode Fayemi, "Constitutionalism In Transitional In Africa: Balance Sheet & Prognosis, in, Kayode Fayemi, "Deepening the Culture of Constitutionalism: Regional Institutions & Constitutional Development in Africa, published by Centre for Democracy and Development, 2003, London, 34.

argued that the objectives in war must be determined by political authorities while at the same time the pressures faced by the military commanders on the battle field invariably give rise to civil-military tensions regarding the best means to be employed. In other words the nature of war, a phenomenon that has historically been part of the development of society is a reflection of the dynamic relationship among the political authorities, the people, and the military,

Following the above argument, the question that arose during the constitution making process was: Is it possible to have a non partisan army but ideologically committed to defend the common good? The response that was entrenched in Chapter 12 of the Constitution is where a non partisan UPDF is expected under multi-party arrangement or any other system of representation, not to take sides with the political organizations or political parties particularly during elections.

More so, the representation of the army in Parliament was believed to consolidate the positive civil-military relations that were emerging in the post 1986 era. It was argued that the interaction between society and the military is based on the principle that the military must not be isolated and insulated from civil society. Rather the two must have an active and on going exchange. If the military is exposed to the diverse interests and forces within pluralistic civil society, the armed forces begin to understand that their role is not to dominate or influence the civil sector but to be subordinate to it and to protect it from foreign threat. If the military learns to appreciate the broad spectrum of interests that exist, it intuitively realizes that its function is to remain neutral and thus serves democracy⁷¹. Therefore, civil society and the armed forces must be constantly exposed to one another and maintain an open and transparent dialogue. Representation in Parliament is one such avenue to achieve the desired improved civil-military relations.

The UPDF is widely respected by majority of Ugandans as a disciplined army compared to the past armies that are blamed for holding the country hostage and committing gross human rights abuses. During the Constituent Assembly (CA) debate, it was envisaged that the army needed to be insulated from political controversies. The army was supposed to remain neutral and non-partisan in controversial political matters since the country expects them to protect all Ugandans irrespective of different political persuasions. UPDF representatives such as Gen. David Tinnyefuza and Late Col. Serwanga (RIP) were not allowed to express their personal views openly for doing so would create divisions within the army. As such the army representatives in the CA would be constantly reminded that they were there as listening posts⁷².

While the army's representation in Parliament is justified, most political analysts agree that its performance in the 6th and 7th Parliaments has been wanting. A close examination of the army members of Parliament attendance and contributions in the house shows that they are irregular, rarely consult their constituency and at times receive directives to behave as 'listening posts'. The experience from the constitutional amendment process confirms this observation. One of the Army MPs

⁷¹ See, G.C. Biddle, "A Principle Lesson of Civil Military Relations in Latin America, the Democracy Projects, School of International Serice. The American University, 1995.

⁷² See, Eriya Kategaya, "Will the UPDF be impartial during and after Kisanja?"; Sunday Monitor, May 1,

abstained from voting on a controversial amendment Article 105 (2); in respect to the proposal to remove the term limit for the president. The response from both the military and political leadership and the public through the press raised questions about the effectiveness of an army MP in Parliament who is expected to be guided by constituency opinions, rational judgment, consideration of national interest and personal convictions or conscience. Below we bring out the views on the above matter as it was debated in the press.

Based on the voting and debates in the House and outside the House, opposition politicians and political pundits note that far from the intended purpose of institutionalizing civilian control and oversight over the military, the army representation has made the whole principle irrelevant. The Army MPs seem not to have been given sufficient space to effectively represent the interests of the army. A number of reasons may explain their minimal performance of UPDF in Parliament. First, army representation in Uganda is still a political experiment. The second reason is that Parliament as a place for politicking by politicians sometimes becomes cumbersome and uninteresting to army representatives who are used to a different style of an ordered life. This point is confirmed by Gen. Salim Saleh's interview with Kevin Aliro of *The Weekly Observer*. He submitted, "I am permanently accused of wrong doing, but honestly I couldn't cope with the levels of politicking going on in that Parliament. You see someone smiling at you and at the same time stabbing you in the back"⁷³. The third point has something to do with the history of evolution of the Uganda Peoples Defence Forces and the fact that UPDF is still under its strong control of its architects who exert strong influence on it in a way that may at times contradict the principle of army representation in Parliament.

Most critical questions that one should ask in assessing the performance of the UPDF in the 6th and 7th Parliaments is whether the army as a Special Interest Group will still be relevant in the 8th Parliament after Uganda has reverted to the Multiparty political system. Political analysts have observed that the UPDF has served with less controversies in Parliament under the Movement political system based on individual merit but could face challenges of being partisan and compromised under a Multiparty political system.

During the recent Constitutional amendment on the term limits and referendum, the Army representatives including those who were undergoing a military training course in Jinja were recalled to vote in favour of the Government position. Indeed all of them except one abstention voted yes.

Eriya Kategaya, former First, Deputy Prime Minister and Minister of Internal Affairs and one of the political ideologues of NRM, now a strong critic of President Museveni is concerned about the future of the UPDF. He observed

⁷³ See, "Saleh: I'm quitting UPDF in 2006," *The Weekly Observer*, October 6-12, 2005.

that,

“...Let us take the example of Maj. Gen. Aronda Nyakairima (Nyakairima is now a General), the Army Commander (now Chief of Defence Forces). The Speaker calls out his name to indicate his position on a “Kisanja” amendment. Hon Aronda stands up and the Speaker asks him. “Do you support the amendment or not? Hon Maj.Gen. says he supports the amendment or he does not support the amendment. Whichever stand he takes-whether supporting or opposing the amendment-presents a problem because one does not know whether his answer is a personal stand or of the armed forces he leads. The country expects UPDF to protect all Ugandans as enshrined in Article 208 (2) of the 1995 Constitution which says that the army shall be non-partisan. In other words UPDF should protect those who support Kisanja and those who do not support it. However, if we look at above scenario, would UPDF be a neutral army or it would instead become a partisan army?”⁷⁴.

There seems to be a likelihood that the future Parliament under a multiparty political system could be greatly constrained by the army’s neutrality. Already, the army is said to be worried about the impending controversies in subsequent Parliaments prompting some of the senior officers to propose the possibility of being phased out from Parliamentary representation. In a story carried by ‘The Weekly Observer’, news paper of June 9-15, 2005, during the meeting of the Military Council, some officers proposed to the President who is the Commander-in-Chief to recall their 10 representatives from Parliament since according to them, they were serving no clear purpose⁷⁵.

Two cases of serving Army Parliamentary representatives: Brig. Henry Tumukende and Col. Bogere serve to explain whether, this category of Special Interest Groups have the necessary authority, autonomy and accountability to best serve the interests of their constituencies. Brig. Tumukunde is currently under detention and is being tried by the General Court Martial for making unauthorised political statements in the media and disobeying lawful orders. Most political observers point out that Brig. Tumukunde’s crime is because he openly spoke against the proposal to lift presidential term limits paving the way for President Museveni’s bid for a third term in office and for his opposition to Cabinet backed open voting in Parliament during the consideration of constitutional amendment process⁷⁶. Before Brig. Tumukunde’s case was disposed off by the General Court Martial, his replacement Brig. Andrew Guti was elected and sworn in Parliament.

⁷⁴ Ibid.

⁷⁵ See, “ Museveni will not let Tumukunde go; The Weekly Observer, June 9-15, 2005.

⁷⁶ See, Ssemujju Ibrahim Nganda, “ Moment of truth for Tumukunde; The Weekly Observer, June 2-8, 2005.

The second case involves Col. Fred Bogere another Army MP. While nine out of ten Army MPs voted in favour of the bill to lift the presidential term limits in the Constitution, Col. Bogere abstained. Asked why he did not vote, Bogere said,

I just complied with the law. The Constitution itself demands that the UPDF shall be national and professional in character and non-partisan. The Political Parties and Organizations Act (PPOA) maintains the spirit of the Constitution. I just complied with the law. There is nothing more I did⁷⁷.

Apparently Bogere's actions did not please the military leadership and Government. The Army Commander while passing out soldiers at Kabamba Military Training School warned errant soldiers that, "People who think they belong to the UPDF and also believe that they can do whatever they want... we are going to be firm on discipline. The army's position is one. If you want to represent your own things, you go and form your own army and then represent it"⁷⁸. Col. Bogere's abstinence from voting and the response his decision drew from the army leadership cast doubt as to whether army MPs can exercise independence and promote effective representation of Parliament. Commenting on the decision by Col. Bogere, the Minister of Defence Amama Mbabazi subsequently told Parliament that there was no plan to convene a Military Council to quiz Col. Bogere. He said, "The Army Council has not been convened neither set a date nor do I have a plan to convene the Council to consider this matter. This does not mean that the Council will not call army MPs to account for their work"⁷⁹ The decision by Col. Bogere to abstain from voting and remain neutral in a politically charged Parliament, continues to raise the same debate: does the country need army representatives in Parliament in a pluralist Uganda?

In the final analysis, it is clear, that the Army MPs' operating environment is so constraining for them to effectively represent their constituencies. The Army's representation in Parliament looked from the point of view of the framers of the 1995 Constitution is as valid today as it was then. The threat for military take over is still present, the level of civic consciousness of the Ugandan society is still low that the citizens will not be able to defend and protect the Constitution. The Parliament's ability to provide oversight to the military is still weak based on the quality of decisions and debates of the 7th Parliament. For this reason and in the interest of peace and stability, continuity in democratic development and professionalization of the Army, it would be useful to maintain Army representation in Parliament. To the persons with disabilities, the subsequent section now turns.

⁷⁷ See, Emmanuel Gyezaho, "Col. Bogere martyrdom: So why have Army MPs?", Daily Monitor, July 6, 2005.

⁷⁸ Ibid.

⁷⁹ See, Gerald Walulya & Agness Nandutu, "Bogere: No plan to convene Army Council meeting, says Mbabazi", Daily Monitor, July 7, 2005.

12.3. Persons with Disabilities in Parliament

Persons with Disabilities are also one of the Special Interest Groups that have benefited from Affirmative Action under the Movement Government. The disability movement in Uganda has a remarkable history. In spite the negative perceptions that emphasized separation of persons with disabilities (PWDs) from the community, stifled individual initiatives, self esteem and confidence of PWD's to a nationally organized group through National Union of Disabled Persons of Uganda (NUDIPU); the disability movement has registered admirable achievements through effective representation in Parliament. Their NUDIPU slogan 'Nothing for us without us' has enabled PWD MPs to work together with their actions in Parliament being monitored by their constituents. Article 32 (1) of the 1995 Constitution mandates the State to take affirmative action in favor of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom for purposes of redressing imbalances that exist against them. Article 32 (2) mandates Parliament to enact relevant laws to actualize Affirmative Action, including laws for the establishment of an equal opportunities commission for the purpose of giving full effect to Article 32(1).

Like in the case of other Special Interest Groups, Article 78 (c) is very instrumental for the representation of Persons with Disabilities. Article 78 (1) (c) states that, "Parliament shall consist of- (c) such numbers of representatives of the army, youths, workers, persons with disabilities and other groups as Parliament may determine"



Hon. James Mwendha is considered one of the most articulate legislators to have represented Persons with disability in the 6th and 7th Parliaments.

Since the coming into force of the 1995 Constitution, Persons with Disabilities have been represented by five MPs in the 6th and 7th Parliaments. Five MPs elected by an electoral college represent Persons with Disabilities. The disability movement in Uganda has recorded several achievements. Representation in Parliament and local councils has over time accorded PWDs recognition and power to influence decisions making at various levels. There is evidence that effective representation in Parliament has yielded to various disability friendly legislations to be enacted. Indeed, MPs representing PWDs were instrumental in the formulation, debate and enactment of Uganda National Institute of Special Education (UNISE) Act; Traffic and Road Safety Act 1998; The Parliamentary Elections Act 2001; The Universities and Tertiary Institutions Act 2001; The Local Governments(Amendment) Act 2001. The following highlights drive the point home that effective representation brings out pro -PWDs pieces of legislations.

Like is the case of Women, the Army, Workers, and Youth, representatives of Persons with Disabilities operate in an environment dominated by the Executive and are exposed to similar constraints. For instance, just like women representatives, Persons with Disabilities regard the NRM government as a saviour for introducing affirmative action to address their plight especially political representation and participation. Because of this historical fact, MPs representatives for Persons with Disabilities find it hard and ungrateful to oppose a motion, bill where the Executive has interests. The operating environment has even become more constrained to most MPs with the introduction of a multiparty political system. According to one woman MP who did not want to be named, “under the Movement system, it was easy to debate and vote according to ones conscience. Today, we are caucused under the NRM party where members are expected to exercise collective responsibility irrespective of the interests of our constituencies”.

A few examples would perhaps serve to demonstrate the nature of the operating environment of MPs. In order to push through Parliament all the proposed amendments including the controversial lifting of the presidential term limits, Government embarked on a registration of MPs that subscribe to the newly created NRM organization so as to make sure that they have the two thirds in Parliament. A total of 200 MPs were registered. According to Hon. Hope Mwesigye, the Minister for Parliamentary Affairs, her organization (NRM) has close to 240 MPs in Parliament and registration of members by the NRM aimed at laying ground for the formation of the NRM caucus⁸⁰.



Hon. Alex Ndenzi represented Persons with Disability in both 6th and 7th Parliaments. He is also credited for advocating constantly for the advancement

Before the motions for presidential term limits and the national referendum, Government amended the Parliamentary Rules of Procedure providing for open voting in Parliament. The change in the rules of procedure providing for open voting away from secret voting made it easy for Government to monitor the voting patterns of MPs. One of the negative implications of open voting is that it makes it easy to monitor the voting pattern of MPs especially when they are believed to have been facilitated with funds to support the position of the Executive. Ultimately, such an operational environment does not promote effective legislative representation especially of Special Interest Groups with few numbers, little experience and limited financial base to assert their independence. It is not surprising that during

⁸⁰ See, Ssemujju Ibrahim Nganda, “200 MPs register for NRM”, *The Weekly Observer*, April 21-27, 2005.

the motion on the presidential term limits, four out of five MPs representing persons with disabilities voted in favor of the motion.

Another challenge that is not only unique to MPs of PWDs is meeting the material expectations of the electorate. There is a tendency to expect MPs to cater for the needs of their constituency for instance, school fees, rent, food and debt settlement. Where the MPs have not satisfied such expectations, they are perceived to have failed to provide effective representation. In other words, the environment of poverty which the MPs operate in makes them vulnerable to unfair judgment on their performance.

By and large, representatives of persons with disabilities can be credited for advancing collective interests of their constituencies regardless of their political leanings. James Mwanda MP for Persons with Disability noted, "On matters of Persons with Disability, we have always stood together. We can act differently on other political issues like the third term issue where four of my colleagues voted in favour and I voted against the motion, but we are united for the cause of our constituencies"⁸¹. Most importantly, representatives of Persons with Disabilities have consistently supported environmental issues because they know that environmental degradation affects their constituencies badly than any other group⁸².

The section that follows below discusses strategic recommendations and interventions designed to strengthen the capacity of Special Interest Groups to effectively represent the interests of their constituencies in Parliament. It is hoped that improved performance of Special Interest Groups in Parliament will ultimately improve the effectiveness of the entire Parliament and consolidate democracy in Uganda.

13. CONTRIBUTIONS OF THE SIGS IN THE 6TH AND 7TH PARLIAMENT OF UGANDA

One of the fundamental achievements of the National Resistance Movement (NRM) was the introduction of affirmative action that enfranchised formerly marginalized groups in Uganda by involving them in all positions of decision-making. Because of its sensitivity to marginalized groups and comprehensiveness that was informed by Uganda's history, the 1995 Constitution was at the time of its promulgation, hailed by the opposition, Government and the international community as one of the most progressive constitutions in the world⁸³.

⁸¹ Interview with James Mwanda, MP for Persons with Disability in his Parliamentary office on 22 August, 2005.

⁸² James Mwanda, MP for Persons with Disability in his Parliamentary office on 22 August, 2005.

⁸³ See, G.W. Kanyeihamba, *Constitutional and Political History of Uganda: From 1894 to the Present*, Centenary House Ltd., Kampala, p.238, 2002.

Special Interest Groups in Parliament have been instrumental in several ways;

- ❖ They have been able to bring the interests and issues of their constituencies on the floor of Parliament. Among the SIGs, Women, Persons with Disability are the most vocal and prominent;
- ❖ They significantly increased the number of MPs and representation in Parliament;
- ❖ The principle of Special Interest Groups enfranchised formerly politically excluded communities and groups in decision making especially at Parliamentary level;
- ❖ The representation of SIGs has earned Uganda a name and recognition in the international community as a progressive country.

13.1. Challenges of Special Interest Groups representation in Parliament

Effective representation of Special Interest Groups in Parliament faces a number of challenges. Some of the challenges are generally faced by Parliament as an institution while other challenges are specific to Special Interest Groups representatives. The challenges that face Parliament generally relate to the issues of autonomy, authority, accountability in the face of a strong Executive and level of civic competence of the electorate.

On the other hand, Special Interest Groups face specific challenges which include lack of financial resources, too much expectations, demands by the electorate and inexperience since most MPs of Special Interest Groups are pioneers of the affirmative action.

14. STRATEGIC RECOMMENDATIONS AND WAY FORWARD

Based on the analysis of the findings, the study submits that an effective and responsible Parliament is very critical in establishing functioning and enduring democracy. At the same time, it is our submission that good governance and sustainable development are only possible under an accountable political system where the Parliament enjoys authority, autonomy and independence to perform its legislative responsibilities. The study has proposed ways and possibilities of strengthening the capacity of Parliament particularly the Special Interest Groups to exercise their legislative responsibility.

14.1. Operationalize the Principle of Separation of Powers

Uganda, like most African post Cold War countries is experiencing constitutional challenges over the principle of separation of powers. Experience shows that the executive most times treats the other branches: Parliament and Judiciary as appendages. This becomes a source of tension and impacts negatively on the performance of the Parliament. The need to clearly spell out the roles and responsibilities of the three arms of Government emphasizing independence,

authority and autonomy of these institutions is very critical for the proper functioning of democracy. Critical about the principle of separation of powers is the whole issue of interdependence. While the three arms of Government need independence, authority and autonomy, they also need to govern together in an interdependent manner.

14.2. Review the Principle of Affirmative Action in favour of Special Interest Groups

For affirmative action in parliament to be meaningful, representatives of Special Interest Groups need to be insulated from capture by any sitting Executive. This calls for the need to review the principle of affirmative action by harmonizing it with the emerging realities. It is recommended that the representation of women should be revisited and limited to a quota system based on four regions of the country: Western, Northern, Eastern and Central in order to reduce the size of Parliament that is consistent with the resource envelope. We note that the trend of Government's creation of new districts is going to be too costly to the Ugandan tax payer since each of the districts will have to elect a woman member of Parliament. While one appreciates the principle of affirmative action especially in favour of women, the expected number of 74 districts would greatly increase women MPs in Parliament which would be cost ineffective for Uganda's economy. We indulge Parliament to support our recommendation for regional representation of 10 women MPs per region which would bring the number of women on affirmative action to 40.

In order to increase opportunities for many women to join politics, it is recommended that affirmative action for women parliamentarians should have a two term limit of five years. After serving two terms on affirmative action, women MPs should be able to compete favourably with men for political offices.

The youth and workers representatives should be phased out since this category is no-longer marginalized and can get their peers represent them by competing through the universal adult suffrage. This study found a strong case for maintaining five MPs representing Persons with Disabilities. Indeed, the representatives of this group have advanced the collective interests of their constituencies regardless of their political leanings.

14.3. The Army MPs

The army representation should be maintained in Parliament under the new Multiparty system for the next ten years to enable the country adjust to the new system. Phasing out army representation at the commencement of a multiparty system would be interpreted as political exclusion by the military who may become hostile to it. However, their numbers should be reduced from 10 to 5 MPs with a plan to eventually phasing them out. In the meantime, Parliament should develop clear guidelines and terms of references for Army representatives.

Equally important, the electoral process of Army MPs should be made more transparent and open for public scrutiny, conducted by a non-partisan Electoral Commission which will enable the Electoral College elect representatives of their choice. MPs elected under a free and fair election have demonstrated capacity to exercise independence and authority because of the legitimacy that the electoral process confers upon them. Further, the army MPs should be facilitated to interact and consult their electorate on a regular basis to increase their effective representation and accountability. This would motivate other officers to look forward for opportunities, besides enabling the electorate to have an opportunity to change poor performing MPs.



Brig. Noble Mayombo has been one of the most eloquent legislators representing the army in the 6th and 7th Parliaments. He is expected to resign from Parliament following his recent appointment as a Permanent Secretary in the Ministry of Defence.

14.4. Size of Parliament and Effective Representation

The debate about effective legislative representation has a lot to do with the size of Parliament. To achieve effective representation, Uganda needs to create a Parliament that is cherished by all as an efficient institution. This Parliament should be the one where MPs are remunerated competitively, provided with physical and research infrastructure with proper constituency servicing facilities. The current number of MPs of 305 in the 7th Parliament is too big for proper remuneration and facilitation. The size of the 8th Parliament is likely to be much bigger and unmanageable. At the moment, Government is creating 18 new districts in addition to 56 old ones which brings the total number of districts to 74. The implication for these changes are that the next Parliament will have 74 women MPs on affirmative action, 10 army MPs, 5 workers MPs, 5 youths MPs, 5 MPs of Persons with Disabilities. Such a number is too big and too expensive for a country of about 27 million people and is likely to be ungovernable and difficult to reach any meaningful decisions.

It is argued here that effective representation can not be found in large numbers. Effective representation is contingent upon the quality of individual legislators, the level of their remuneration and political environment in which they operate. On the basis of this fact, it is recommended that Parliament commits "class suicide" and considers reducing its numbers.

14.5 Introduce a Reward System for the best performing MPs

Most Ugandans look at the Parliament as an institution that can be an anchor of democracy. However, in order for Parliament to stand the test of time, it must also be a centre of Excellency. All efforts must be marshalled to build the institution of Parliament as a corner stone for an enduring democracy. It is proposed that one of the mechanisms to build the capacity of Parliament to champion environmental interests of the constituencies and other civic issues, there is a need to introduce a reward mechanism for best performing MPs, committees of Parliament or the entire sitting Parliament.

15. CONCLUSION

This study set out to audit the performance of the Special Interest Groups in the 6th and 7th Parliament. Since Uganda is a natural resource dependent economy with over 90% of the population deriving their sustenance to natural resources, the study contended that the good governance and management of these resources at higher positions of decision making like Parliament will determine whether Uganda will achieve sustainable livelihoods and development. An attempt was made to ascertain whether representatives of the Special Interest Groups specifically the women, army and persons with disability have effectively represented the environmental and other civic interests of their constituencies in Parliament. The study also discussed the functions of a parliamentarian and what factors motivates and de-motivates MPs while doing their legislative roles. The last part of the study discussed ways of scaling up the effectiveness of MPs and the Parliament generally.

By and far the study found out that the representatives of Special Interest Groups have tried to bring the issues of their constituencies be they environmental or other civic interests to the floor of Parliament. However, the study also established that these groups like the rest of the Parliament operate under serious challenges some of them originating from Uganda's political history, and also because of a strong executive which makes it hard for it to exercise autonomy, authority and independence to perform well. Since democratic development is not an event, but a process, one can safely conclude that the performance of the Special Interest Groups and the Ugandan 6th and 7th Parliament is commendable judging from where the country is coming from. It is hoped that the next and future Parliament could attract high calibre people and continues to exert its independence to build a foundation for a strong democratic Ugandan society.

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