INTRODUCTION

a) About the Submitting Organisations

This report is a culmination of joint efforts and data contributions of the Finance and Accountability cluster under the CSO National Stakeholders' Forum on the UPR- a loose network of over 300 NGOs dedicated to following upon on UPR mechanism coordinated by the National Coalition of Human Rights Defenders Uganda. All these organisations, with varying experience and expertise are key actors in the advocacy on Finance and Accountability in Uganda and the attendant rights. The report was compiled through collection of data from the membership of the cluster. A draft report was presented and validated amongst the members leading to this final report. This particular cluster on Finance and Accountability was convened and co-convened by:

I. **The Anti-Corruption Coalition Uganda (ACCU)** was formed in January 1999 and later registered as a Non-Governmental Organisation (NGO) under the NGO Statute in 2004 with the sole objective of providing a forum through which various anti-corruption actors can enhance their capabilities and act as one strong voice and force that can effectively engage the government on issues of corruption. The organization brings together like-minded organizations and individual actors whose pre-occupation is exposure and advocacy in the fight against corruption in Uganda. ACCU works with national Civil Society Organizations (CSOs) engaged in the accountability sector. At the local level ACCU works with and through Regional Anti-Corruption Coalitions (RACCs) that are spread out in the various parts of the country and of recent grassroot member organisations.

II. **The Civil Society Budget Advocacy Group (CSBAG)** is a coalition of over 100 organizations formed in 2004 to bring together CSOs at national and district levels. CSBAG was created out of a desire to collectively influence government and effectively participate in setting national budget priorities. Our vision A Uganda with a people centered budget that dignifies humanity. Our mission; working towards ensuring that resource mobilization, allocation and utilization is inclusive for a transformed Uganda.

III. **Other members of the cluster** include; Uganda Debt Network (UDN), The Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI),Action AID, African Freedom of Information Centre, Transparency International, Strategic Forecast Uganda.

b) About the Report

This report is premised on the growing intersectionality between the issue of foreign debt, public financing and accountability and their impact on realization, protection and promotion of human rights in Uganda. Moreover, this comes from the realization that the debt of Uganda has continued to grow and to constrain not only her development prospects but also to undermine her capacity to establish the conditions for the realization of human rights, particularly economic, social and cultural rights. Progressively though, the government of Uganda has undertaken official initiatives to address the balance between development, debt and human rights. It is part of the various resolutions and declarations, notably the Millennium Declaration and the Monterrey Consensus of the International Conference on Financing for Development for better performance and greater accountability in Public Financial Management (herein after-PFM) systems..[i] Government accounting and financial reporting aims to protect and manage public resources and discharge accountability. The social value of government accounting reform therefore lies in its contribution to development goals, including poverty reduction.

In the period under review, progressively, the Government of Uganda has undertaken several PFM reforms to improve finance and accountability in the country including the enactment of the Public Finance Management Act, 2015, PFM Reform Strategy for July 2019 – June 2024, the Domestic Revenue Mobilization Strategy, among others. These have aimed at improving the mobilization and management of government resources for human rights based development however, challenges still exist in effective implementation.

The report highlights finance and accountably concerns that government should focus for effective PFM in the country which shall positively impact on the promotion and protection of human rights in Uganda. The report makes recommendations as against every concern raised.

SECTION I: EMERGING HUMAN RIGHTS AND FINANCE AND ACCOUNTABILITYCONCERNS

Human Rights Based Approach to Planning and Budgeting in Uganda

1.1 The Human Rights Based Approach (HRBA) calls for institutionalization of human rights principles of transparency, accountability, participation and non-discrimination to planning and budgeting. This approach is aimed at promoting inclusive development and socio-economic transformation of the country by ensuring that plans and budgets are people centered and sensitive to their needs. Uganda has witnessed a stable economic growth averaging 6% in the last 5 years under review before the recent COVID-19 pandemic. However, this growth has not been inclusive given that 21.4% of the population lives below the poverty line.[ii] The spatial distribution of poverty is worse in Acholi, Bukedi, Elgon, West Nile and Karamoja regions of the country. Reversing this poverty trend requires that government plans and budgets are focused towards promoting inclusive growth.

1.2 The National Planning Authority (NPA) developed guidelines to enable sectors and Local Governments (LGs) to mainstream the HRBA in their plans.[iii] This would not only promote development but also human rights related planning and budgeting concerns as detailed below;

a) Participation of citizens in the planning and budgeting process

Participation of citizens in planning and budgeting process is a fundamental human right, not an option that governments can choose to ignore. Participation can be enhanced through a transparent budgeting process. However, citizens' participation in the planning and budgeting process in Uganda is still low and in the period under review, it declined from 28% in 2017 to 22% in 2019.[iv] This is attributed, partly to the lack of comprehensiveness of budget documents that are shared with the public; lack of timely access to budget information by citizens, and limited engagement of the vulnerable and underrepresented communities, directly or through civil society organizations among other factors.

b) Inadequate alignment of government plans and budgets to gender and equity

Progressively in relation to the law, Sections 14 and 15 of the Equal Opportunities Commission Act (2007) and Section 9 (6) (a) (b) and 13(11) e (i) (ii) of the Public Finance Management Act 2015 (amended) require that the budgets for Local Governments and Ministries Departments and Agencies (MDA/LGs) are gender responsive. Much as there has been some progress achieved by Uganda in gender responsive budgeting, there are Ministries Departments Agencies (herein after MDAs) /Local Governments (herein after LGs) that have not fully mainstreamed gender and equity concerns in their budgets and plans. For example, in the government of Uganda budget Financial Year 2020/21, LGs allocated only 2% (UGX 96.499 billion) of their budgets towards interventions that explicitly address gender and equity responsive budgets. Only 58.07% of Local Government budgets were gender and equity responsive in Financial Year 2020/21, implying that priorities of the vulnerable and the marginalized are not fully incorporated in plans and budgets. This compromises resourcing of the marginalized groups, limiting inclusiveness of the budget.

c) Poor adherence to Public Finance Management Act (PFMA)

Adherence to the PFMA, 2015 (as amended) which guides the planning and budgeting process in the country has been poor. For instance, i) Government has to-date not fully complied with operationalizing the contingencies fund with an amount equivalent to 0.5% of the appropriated budget of the previous Financial Year; ii) inconsistence in submission of the treasury memoranda in contravention of Section 53 (1), with the most recent one being Financial Year 2015/16 presented to Parliament in June 2020; iii) continuous submission of supplementary budgets for approval with expenditure items that do not qualify in contravention of Section 25 (7). For example, in Financial Year 2019/20, the Auditor General noted that there was approval of supplementary funding without clear funding sources before approval totaling UGX 2.236 Trillion granted by the Minister of Finance. Such practices distort the planning and budgeting processes and compromise service delivery to the vulnerable and marginalized such as affordable, accessible and quality health and education services.

d) Low absorptive capacity of loans by the government

Over the years, Uganda's debt has been rapidly growing majorly to fund key infrastructure projects, and budget shortfall as a result of low locally raised domestic revenue. However, there is a low absorptive capacity of loans which has led to an increase in the cost of debt servicing at the expense of service delivery. For example, loans worth UGX 1.3 trillion performed poorly, and some reached expiry without full disbursement.[v]

Recommendations:

a) The Government of Uganda and the Equal opportunities Commission (EOC) should consider sanctioning Ministries Departments Agencies /Local Governments that continuously fail to comply with Gender Responsive Budgeting provisions of the law which is central to achieving a balanced and all-inclusive growth and development.

b) Parliament of Uganda should enact a public participation law which should embrace HRBA principles. Such a law should require that LGs and central governments are obligated to facilitate public participation in their governance and development mandates. As such, the planning and budgeting process will be more inclusive and participatory.

c) Government of Uganda should implement fully the PFMA 2015 as amended by MDA/LGs for better planning, budgeting and PFM as a whole.

d) Government of Uganda should undertake comprehensive public finance management reforms to address the inefficiency in public investment management including weak project implementation, procurement delays, low absorption of loans, provision of counterpart funding among others.

1.2 Escalating National Debt and its impact on Human Rights

Uganda was the first country to receive debt relief worth US$650 million in the 1990s under the Highly Indebted Poor Countries (HIPCs) initiative. Later in Financial Year 2006/07 under the Multilateral Debt Relief Initiative (MDRI), Uganda received 100% debt forgiveness/cancelation which consequently reduced the stock of the country's foreign debt to $1.5 billion.[vi] However, since the last review, the debt stock has kept on increasing from UGX 14.257 trillion in 2000 to UGX 49.7 trillion in December 2019 and as at March 2020, the total public debt stock stood at UGX 65.63 trillion.[vii]

1.3 The increasing debt stock is partly due to shift from acquiring concessional loans to non-concessional borrowing.[viii] Uganda's debt to domestic revenue ratio is highest in the East African region, meaning that the country's revenue is insufficient to sustain the increasing debt repayment obligations. A quarter of the national budget resources over the Second National Development Plan (NDP II) period (FY 2015/16 and FY 2019/20) was spent on debt servicing i.e. principle and interest payments, management charges and penalty fees.[ix] Despite debt being a crucial element to development, it has human rights based concerns that arise including:

a) Debt servicing at the expense of social services for the citizen

In Financial Year 2021/22, budget allocation to debt servicing (both domestic and external) is projected at UGX 15,765.75 Billion (35%) compared to domestic revenue projected at 22,425.4 billion.[x] Allocation to direct service delivery under the programme approach is projected at UGX 11,252.37 Billion (25.13%) of the total budget,[xi] which is lower than the proposed debt servicing allocation. Hence, the burden to debt servicing is increasingly leading to inadequate service delivery for citizens with the health care system emerging the most hit as the Corona pandemic revealed.

b) Low debt absorption/non-performing loans

In addition, the Auditor General of Uganda, highlighted the **low debt absorption/non-performing loans** of up to UGX 18.1 trillion (comprising of UGX 8.6 trillion multilateral and UGX 9.5 trillion bilateral), leading to increased commitment charges worth UGX 20.9Bn in FY 2015/16.[xii] Increase stock of public debt threatens public debt sustainability measures in place majorly through servicing of the principal and interest for the debt stock, likely to raise the dependence of government, especially with low revenue collections.

Recommendations:

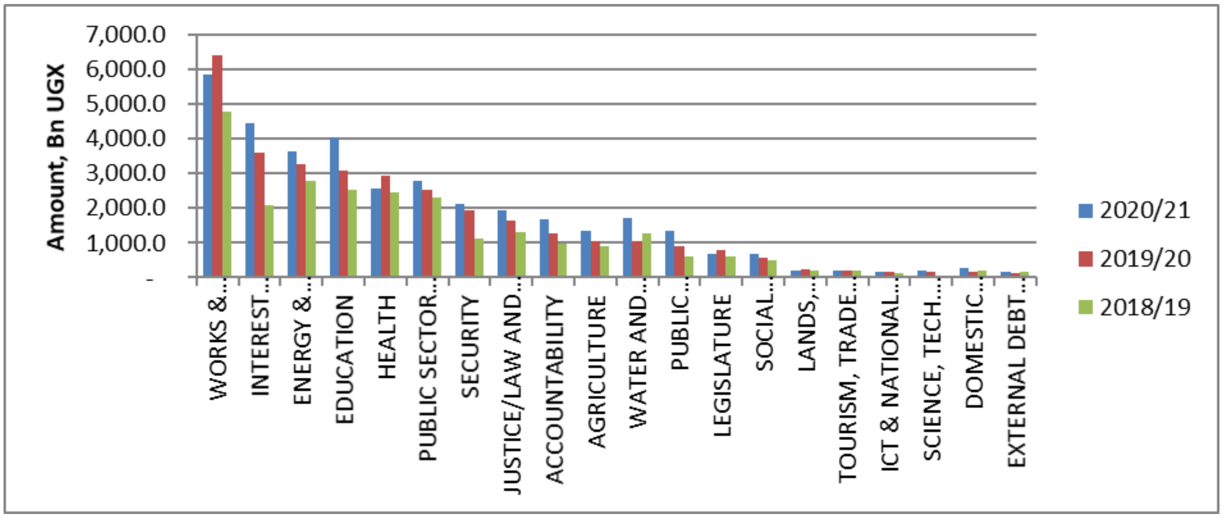
a) The Government of Uganda should consider adopting more concessional borrowing to enjoy lower interest rates and a longer term for maturity as opposed to non - concessional borrowing loans that are high risk with short maturity periods and attract high interest rates.
b) The Government of Uganda should consider reforming its borrowing framework to refocus on priority projects, including the provision of social services for the ordinary citizen.
c) Government through the Ministry of Finance should improve on efficiency in Public Investment Management (PIM) by exercising due diligence and addressing loopholes relating to project identification, appraisals and absorptive capacity of for public debt financed projects to ensure better preparation and absorption.

Government spending and Human Rights

1.4 Over the last five years, Uganda's budget has grown from UGX 23.9 Trillion in the FY2015/16 to UGX 44.779 Trillion projected for FY2021/22.[xiii] This increase over the years is heavily attributed to the increasing public sector expenditure that is greatly consumptive to wage and none wage expenditure. In FY 2020/2021, recurrent expenditure was UGX 27.417 Trillion (60%) of the total budget against development expenditure.

1.5 Of the total budget, works and transport and energy and mineral development have continuously taken a big proportion of the budget, together with interest payments at the expense of other sectors. The growth of these sector budgets has happened at the expense of other critical sectors affecting various social welfare rights and freedoms, that have seen little to no growth in the same period[xiv] - see Figure 1 below.

Figure 1: Sector Budget Allocations, FY 2018/19 – 2020/21, Billion UGX

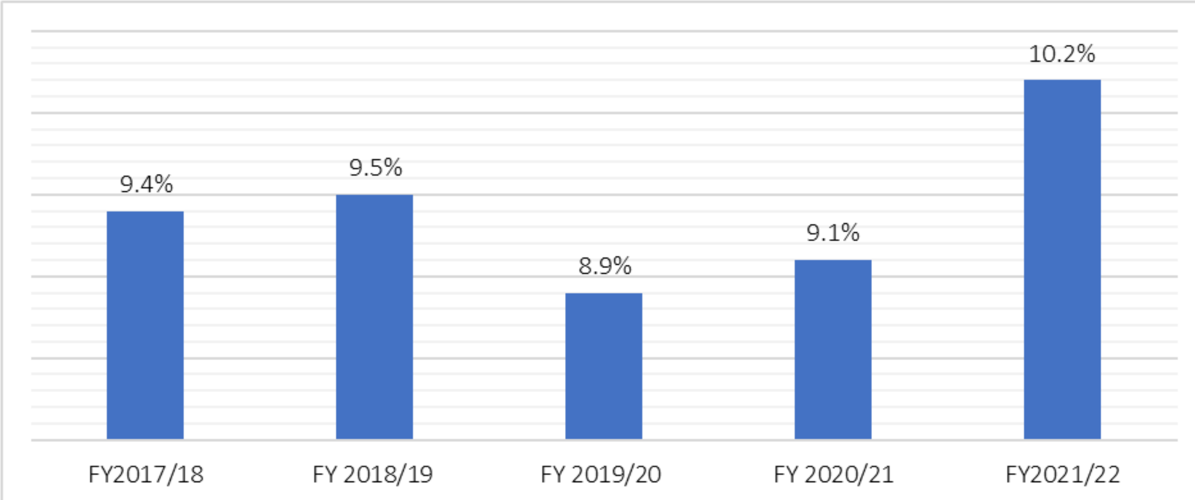


Source: https://www.csbag.org/

Over the last 3 years, works and transport have taken the lion's share of the budget, financed by borrowed funds which have pushed the debt burden.

1.6 The cost of public administration has shot up over the years owing to an increase in administrative units such as districts, cities, sub counties, town and municipal councils. An analysis of the local government budgets indicates that about 80% of their budgets goes to recurrent expenditures and not development/capital expenditure, and yet they generate less than 5 percent of their revenue.[xv] Local governments heavily rely on central government transfers which are almost 90% conditional. The national budget allocation to local governments has been less than 12% and yet the bulk of much needed public services are at the local government level.

Figure 2: Percentage of Local Government Financing Trends, FY 2017/18 – 2021/22



Source: Ministry of Finance, Planning and Economic Development

1.7 Local governments have been performing poorly when it comes to domestic revenue mobilization and have continuously failed to meet their set revenue targets. According to the Local Government Performance Assessment 2019 report, only 23% of LGs were able to meet their revenue targets. Relatedly, there is centralization of monies meant for Local Governments for service delivery continuing to be retained by Ministries Departments and Agencies (MDAs). In FY 2019/20 UGX budget allocations for six sectors totaling UGX 1.07 trillion was retained by MDAs in FY2019/20 while in FY2020/21, UGX 1.32 trillion was retained representing an increase of nearly UGX 250 billion.

Recommendations:

a) The Government of Uganda should expedite the process of domesticating the Domestic Resource Mobilization Strategy to strengthen the Local Revenue Mobilization system at Local Government levels

b) The Government of Uganda should ensure monies meant for Local Governments held by the Central Government Ministries, Departments and Agencies (MDAs) are relocated as mandated under the Second Schedule of the Local Government Act (CAP 243).

c) The Government of Uganda should consider freezing the creation of new district administrative units and implement the Cabinet resolution on rationalization of government MDAs to save resources for service delivery.

Tax and Human Rights

1.8 Tax is an important element to any country's development as it provides a foundation for implementation. Without tax revenue, a country's plans are limited for implementation. The government of Uganda has over the years increased its tax revenue collections through the Uganda Revenue Authority (URA), and we have witnessed a growth of the taxpayers register from 902,339 in FY 2015/16 to 1,594,116 in the FY 2019/20. This is however still low compared to the estimated tax paying population, who are largely operating informally. The revenue collections (both tax and non-tax) are still lower than the set targets for example in FY2019/20 the total revenue collections of UGX 16,751.64 Billion were lower than the target of UGX 20,344.13 Billion.

1.9 In addition, there are still companies that file less returns and URA has not addressed this challenge. Further, the pace at which URA is rolling out tax reforms such as e-tax is slow and in silos (the rental tax, e-invoicing/receipting and Digital Tax Stamps). At the local government level, the LG revenue performance was 42% in 2018 and 44% in 2019, which is still low (Local Government Performance Assessment, 2017). This is partly due to staffing gaps, administrative challenges, and gaps in enforcement of compliance affecting the tax collections.

1.10 Further, Government of Uganda has had to increasingly rely on indirect taxes such as VAT, Excise duty and Import duty. The 18% Value Added Tax (VAT) imposed on basic items such as salt, sugar, books, fuel, etc. limits the access to basic items among the less advantaged groups of people especially the women who use these items the most in the poverty stuck up country regions. In the FY 2021/22, the government dropped the widely-opposed Over-The-Top (OTT) tax for social media access in Uganda, but impose a 12 percent levy on Internet bundles.[xvi]

1.11 This is expected to affect the Small Media Enterprises that are advancing towards E-commerce, especially with the COVID-19 pandemic. Additionally, the tax on fuel increment of UGX 100 on every liter of petrol and diesel will add a burden on the economy amid efforts to recover from the COVID-19 impact.[xvii] The combined impact of the prevalent tax regime is a digression in the access of information towards citizens due to tax restrictions to access internet. Additionally is the infringement on economic rights and attendant freedoms of expressions again due to tax framed restrictions on access to internet, a tool of promoting other rights and freedoms.

Recommendations

a) The Government of Uganda should effectively equip Uganda Revenue Authority (URA) financially and technically to enable it improve efficiency of revenue administration through modernization, enhancement of institutional and human resource capacities to increase revenue collections;
b) Government of Uganda should innovatively widen the tax base and tap into the largely informal sector to increase formalization through awareness creation and sensitization;
c) The Government of Uganda should consider scrapping the internet access tax as a means of stimulating online business transactions and entrepreneurship which can ultimately lead to widening the tax base.

The Right of Access to Information

1.12 In a progressive step to ensure open governance, Uganda's Access to Information Act, 2005 (ATIA) was enacted pursuant to Article 41 of the 1995 Constitution.[xviii] It among others aims to promote an efficient, effective, transparent and accountable government; empower the public to effectively scrutinize and participate in government decisions that affect them.

1.13 Additionally, we recognize the efforts, legislative and otherwise, the Government of Uganda has undertaken to implement the right to information, among which include: the establishment of the Ministry of Information, Communication, Technology and National Guidance (MoICT) to formulate and implement ICT policies; sustain, manage and oversee ICT infrastructure;[xix] and the development of the government Communication Strategy to establish effective and well-coordinated and proactive communication systems across Government such as websites, social media links, open government portals, Citizens Interaction Centre (GCIC), Government Procurement Portal (GPP) and other electronic platforms and community meetings such as barazas.[xx]

1.14 Despite these efforts however, there are still bottlenecks to implementation of the right to information that have continued to emerge since the 2nd review which include:

a) Delayed government responses for demand for information: Studies have found that even the few requests are being made for information by the citizens, the majority of requests are unsuccessful. In its 2019 study, Africa Freedom of Information Centre (AFIC) found that out of the 4,059 known information requests, less than one out of ten (9%) were partially successful. 81% were awaiting a response, well past the legally provided official 21-day time limit for State bodies to respond to such requests.[xxi]

b) **Lack of compliance with reporting to Parliament**: Section 43 of the Access to Information Act requires each Minister to report to Parliament on the progress towards the implementation of the Act detailing information requests received and responses given, together with requests denied, and circumstances for such denial. Information requests to both Parliament and the Office of the Prime Minister by AFIC in 2011 confirmed lack of compliance by all Ministers and the situation has not changed since then.

c) Wide exemptions on ATIA: The ATIA provides for a wide scope of exemptions provided beyond those imposed by the Constitution under Article 41. The categories of information that an officer may refuse or grant under Sections 27, 29, 30, 32, and 33 of the ATIA are numerous and in many cases ambiguous. This kind of ambiguity coupled with the repeated use of the national security and confidentiality narratives have been used by the State in denying the citizens information requested. A case in reference is that of the two Daily Monitor journalists who were denied access to oil production sharing agreements between the government and the oil production companies arguing that the contracts contained confidentiality clauses.[xxii]

d) High levels of bureaucracy which are deterrent to citizenry information requests: It is vital to note that just having ATI is not enough but this information should be accessed in a timely manner so as to help its seekers determine the next course of action before it is too late for the information to become obsolete. Section 3 (d) of the Act provides for citizens to get quick responses to their requests for information (a maximum of 21 days), but due to bureaucracy, this has been made impracticable in some circumstances leading to loss of usability of information especially for journalistic work as well as the enforcement of human rights and freedoms.[xxiii] Whereas the 21 days response period looks like a short time, it may be so much and government officials have used it to deny the requesters information that could even be granted within a day.

e) **Conflicting legislations:** The realization of access to information in Uganda is frustrated by the existence of archaic laws in the statute books that inhibit access to information. One of such laws is the Official Secrets Act[xxiv] that makes it an offense to "obtain, collect, record, publish or communicate in whatever manner to any person" what is deemed to be an official secret as vaguely interpreted by the government. The Public Servants Standing Orders also constitute a strong contradiction in the legal framework. Most instruments designed for internal government agency operations therefore have confidentiality clauses which motivate their staff to deny citizens access to information.

f) Limited funding for ATIA activities including training of information officers: A study by the Carter Center 2016 on selected government agencies indicates that none of the sampled government ministries had specific budgets for ATI activities nor did they have sufficient mechanisms for monitoring ATIA implementation and operationalization efforts. Findings from the AFIC survey of 2018 also revealed the need to intensify training for data owners on ATI Act issues however, the Ministry of ICT does not have a specific budget to oversee implementation of ATI in government institutions.

Recommendations:

a) Government of Uganda should compel all Ministers to comply with Section 43 of the Act and stringent sanctions for non-compliance should be applied. If necessary, sector budget approval should be based on compliance with this important section of the ATI law;
b) Government should increase funding for ICT ministry and its departments to enhance the implementation of the right to information.
c) Government should increase public awareness on the ATI Act by engaging in wide sensitization of the citizenry and public officials on the Act to increase proactive demand/disclosure. Public data owners should use all platforms especially the most popular ones for data dissemination such as radios, televisions and community meetings as studies show citizens prefer them.
d) Government of Uganda should undertake training of all appointed Information Officers in Ministries Departments Agencies on establishing and running and effective access to information regimes.
e) The Government of Uganda should initiate the reconciliation of the Oath of Secrecy in public service, the standing orders and ATI Act since many public officers cite this oath as one of the reasons for denying citizens access to information.
f) Ensure full compliance with its law on access to information, and that the Office for Coordination of Access to Information be sufficiently staffed and equipped to undertake its

responsibilities

Conclusion

1.15 In line with the Sustainable Development Goal of leaving no one behind by 2030, the Ugandan Government needs to ensure that finance and accountability of MDA/LGs is fully recognized to achieve the human rights principles of transparency, participation, non-discrimination, and enable the country achieve inclusive economic growth and development.

[i] See https://www.ifac.org/knowledge-gateway/contributing-global-economy/discussion/five-key-methods-improve-public-financial-accountability
[ii] Uganda Bureau of Statistical Abstract 2020
[iii]National Planning Authority (NPA) 2016; *Planning Tools for Sectors and Local Governments*
[iv]Open Budget Survey Report; Uganda 2019
[v] Auditor General's Report FY2019/20
[vi] Ministry of Finance, *Medium Term Debt Management Strategy* 2021/22 – 2024/25, Page 6
[vii] Ssempala, R., Ssebulime, K. & Twinoburyo, E. U*ganda's Experience with Debt and Economic Growth: An Empirical Analysis of the Effect of Public Debt on Economic Growth—1980–2016*. Economic Structures 9, 48 (2020). https://doi.org/10.1186/s40008-020-00224-2
[viii] Accessible https://www.bloombergquint.com/business/world-bank-warns-uganda-on-rising-debt-non-concessional-loans
[ix] Computations from www.budget.budget .go.ug
[x] Ministry of Finance, *Draft Budget Estimates, FY 2021/22*
[xi] Comprising Human Capital Development (7,598.48 Billion), Agro- Industrialization (UGX 1,686.47 Bn), Regional Development (UGX 1,242.05Bn), Climate Change, Natural Resource, Environment and Water Management (UGX 668.46Bn), Community Mobilization and Mindset Change (56.91 Bn)
[xii] Office of the Auditor General, 2021, *Auditor General Report FY 20219/20*
[xiii] Ministry of Finance https://www.budget.go.ug/dashboard/
[xiv] Accessible at https://www.budget.go.ug/dashboard/
[xv] Analysis by the Local Government Finance Commission 2018
[xvi] https://www.monitor.co.ug/uganda/news/national/govt-to-impose-7-new-taxes-3346924.
[xvii] https://www.thecitizen.co.tz/tanzania/news/africa/ugandan-government-proposes-more-tax-on-fuel-3375966
[xviii] Uganda's Constitution gives citizens the right of access to information in possession of the state or any other organ or agency of the state except where the release of information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any other person.
[xix] Ministry of ICT and National Guidance, htps://www.ict.go.ug
[xx] National Communication Strategy, September, 2011, available at htp://www.jlos.go.ug/index.php/document-centre/informaton-educaton-and-communicaton-iec/348- government-of-uganda-natonal-communicaton-strategy/file
[xxi] AFIC, 2019*, Shadow Report on the Status of Implementation of the Access to Information Act 2005 in Uganda*
[xxii] Charles Mwanguhya Mpagi and Izama Angelo V Attorney General Miscellaneous Case No. 751 of 2009
[xxiii] Edrine Wanyama, "*Freedom of Information in East Africa: Lessons from Uganda",* (LLM. Dissertation: University of Dar es Salaam, 2015)
[xxiv] Official Secrets Act, Cap. 311