

**AN ANALYSIS OF THE ROLE OF THE LEGAL AND REGULATORY FRAME WORK
ON DECENTRALIZATION IN THE SOCIAL ECONOMIC TRANSFORMATION OF
UGANDA: A CASE STUDY OF LWENGO DISTRICT**

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DECLARATION

I, TUGUME JORAM, Reg. No LLB/41500/133/DU, declare that this research report is my original work and has never been submitted to any institution of higher learning for any award.

Signature



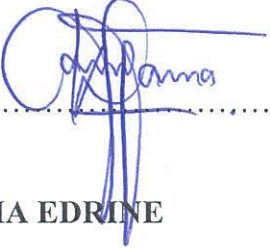
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APPROVAL

This is to certify that this work was compiled under my supervision and is now ready for submission with my approval.

Signature.....

Date.....13/04/2019.....

MR. WANYAMA EDRINE

DEDICATION

I dedicate my work to my late parents, my wife Mrs. Tugume Esther, my children, my supervisor

Mr. Wanyama Edrine for guidance, support and inspiration.

May God bless you.

ACKNOWLEDGEMENT

I would like to sincerely take this opportunity to appreciate the effort of my supervisor Mr. Wanyama Edrine who has guided me during my proposal writing and report compilation. His effort was inspirational.

My sincere appreciation goes to my respondents for they gave me the necessary information needed for this study. I also acknowledge the assistance of Mr. Muwonge Abdul Aziz rendered to me particularly on secretarial matters of my proposal and dissertation.

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LIST OF ACRONYMS

DDHS	District Director of Health Services
GLSD	Ministry of Gender Labour and Social Development
LC	Local Councils
LG	Local Government
MAIF	Ministry of Agricultural Research Organsiation
MOH	Ministry Of Health
NARO	National Agricultural Research Organisation
NRM	National Resistance Movement
PMFA	Public Finance and Management Act
RC	Resistance Committees
SSA	Sub Saharan Africa
UNDESE	United Nations Department of Economic Social Affairs
UPE	Universal Primary Education
WB	World Bank

STATUTES AND REGULATIONS

Uganda, 1995, Constitution of the Republic of Uganda, 1995 as amended

Leadership Code Act, Cap 168

Inspect Of Government Act, 2002

Anti-Corruption Act, 2009

Local Governments Act, Cap 243 as amended

Public Finance and Accountability Act, 2003 (Repealed)

Public Procurement and Disposal of Public Assets Act, 2003

Local Government (Finance and Accounting) Regulation.

Public Finance Management Act, 2015

ABSTRACT

The purpose of carrying out this research was to get tangible results and was guided by the assumption that decentralization has played a fundamental role in social economic transformation of Lwengo District. The main objective of this study was to investigate the role of the legal and regulatory frame work on decentralization in the social economic transformation of Uganda. And specifically, analyse the legal and regulatory frame work on decentralization in the social economic transformation of Lwengo district.

The study explores into efforts taken by Uganda pursuing decentralization programmes since the late 1980s. It scores that Uganda has gradually turned into a decentralized with specification of powers, functions and services from central government to local governments being at the centre. The study further underscores peoples understanding of decentralization as meaning the transfer of power and resources from the central government to local government. The study observes that there is increased participation of local people in decision making and in resolving conflicts that affect the local people in Lwengo district and in other part of the country.

The study further scores that decentralization is not a panacea. It has its advantages and disadvantages. To this end, it established that the legal and regulatory framework on decentralization in the social economic transformation of Uganda depends critically on its design and prevailing institutional arrangements and the enacted laws. To show relevance of the study, the researcher recommends increased funding and increased capacity building for professional and efficient delivery of services by Local Governments for effective service delivery. The researcher further recommends running of sensitization courses for new council chairpersons and councilors.

Finally, the study concludes that for decentralization to thrive, there is need for strengthening of local democracy for its effectiveness in socially and economically homogeneous communities. The study also observes that there are opportunities that require further exploration if decentralization is to be said to have made its intended goals and objectives in Uganda.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Decentralization is the transfer of power from the larger central government to smaller local Government. Decentralization contributes to the development and transformation by empowering the people and institutions at every level of a society including public, private civic institutional, improving access to the basic services, increasing peoples participation in decision making assisting in developing peoples capacities and enhancing government responsiveness, transparency and accountability for these reasons, decentralization is providing a frame work with in which Uganda is implementing its poverty eradication actions plan.

Decentralism took effect in Uganda in 2000 with a purpose of reducing the backlog of responsibilities of central government. Some of the responsibilities include among others planning, resource mobilization and budgeting, this Chapter looks into the general information on decentralization and existing knowledge on the decentralization in Uganda.

1.2 Background to the Problem.

The word decentralization came into usage in the 1820s.¹ Centralization entered written English in the first third of the 1800s;² mentions of decentralization also first appear during those years. In the mid-1800s Tocqueville would write that the French Revolution began with a push towards decentralization [but became], in the end, an extension of centralization. In 1863 retired French bureaucrat Maurice Block wrote an article called Decentralization for a French journal which reviewed the dynamics of government and bureaucratic centralization and recent French efforts at decentralization of government functions.³

Ideas of liberty and decentralization were carried to their logical conclusions during the 19th and

¹ Vivien A. Schmidt, *democratizing France: the political and Administrative History of Decentralization*, Cambridge University press 2007.

² Levick, B. M. "Roman history." *Greece & Rome* 59, no. 1 (2012): 132-142.

³ Maurice Block, *French liberalism in the 19th century*

20th centuries by anti-state political activists calling themselves anarchists, libertarians, and even decentralists. Tocqueville was an advocate, writing: Decentralization has, not only an administrative value, but also a civic dimension, since it increases the opportunities for citizens to take interest in public affairs; it makes them get accustomed to using freedom. And from the accumulation of these local, active, persnickety freedoms, is born the most efficient counterweight against the claims of the central government, even if it were supported by an impersonal, collective will. According to a 1999 United Nations Development Programme report a large number of developing and transitional countries have embarked on some form of decentralization programmes. This trend is coupled with a growing interest in the role of civil society and the private sector as partners to governments in seeking new ways of service delivery. Decentralization of governance and the strengthening of local governing capacity is in part also a function of broader societal trends. These include, for example, the growing distrust of government generally, the spectacular demise of some of the most centralized regimes in the world (especially the Soviet Union) and the emerging separatist demands that seem to routinely pop up in one or another part of the world. The movement toward local accountability and greater control over one's destiny is, however, not solely the result of the negative attitude towards central government. Rather, these developments, as we have already noted, are principally being driven by a strong desire for greater participation of citizens and private sector organizations in governance.⁴

Worldwide, if not world over, for the last two decades there has been a recent wave of implementing decentralization policy by states around the world. The driving force and purpose for implementing this policy vary from state to state. Some other countries, decentralization has been a way of reconstructing states affected by conflicts, especially where the conflict arises from ethnic diversity. For example post-apartheid restructuring in South Africa emphasized the importance of sub-national levels by adopting the term separate sphere of government in its new constitution which connotes decentralization.

Notwithstanding the above, there has been pressure from international agencies like World Bank towards the developing countries to decentralize or else miss out on the donations. These agencies are concerned about the failure of the central government to deliver services efficiently and to address poverty have endorsed the economic argument for decentralization which tends to coincide

⁴ Decentralization; a sampling of definitions 1999 p.11-12

with the new- liberal agenda of reducing the role of central state (World Bank, 2004).

The World Bank and other donor agencies have advocated and even required decentralization in a number of countries in Africa, Asia with quite mixed results. Finally, there has emerged certain climate of option in favour of decentralization.

However, there is now an increasing note of skepticism about the results of decentralization particularly because of the evident weaknesses of local level democratic processes in so many countries.⁵

There are many valid economic and administrative arguments for decentralization. However in reality the process in most countries has generally been driven by local and national political elites by certain political realities at the centre and by external demand. This raises important questions about the capacity of local level democratic systems to call local decision makers to account for the use of resources and thereby to curb corruption.⁶ Key among the successes has been the transfer of powers and resources from central to local government and there has been increased participation of people in decision making. However a number of challenges have equally been faced.

First Local Governments in most countries have limited local tax base from which to finance the services assigned to them. As a result service levels fall far short of what is required. Local Governments suffer from weak institutional capacity, decision making processes are unsystematic, mechanism of accountabilities between officials and elected representatives are inadequate, there is shortage of officials with the necessary technical, managerial and financial skills, this often due to lack of financial resources to attract and retain high calibre staff, salary levels of for local government staff in Africa are often a fraction of what people could earn in private sector, corruption and challenges of local government-central government relations.⁷

In Uganda, since 1980's Uganda has been pursuing a major decentralization policy. Like any other African country, Uganda has registered some successes in implementing the decentralization policy.

⁵ Olowu et al, 2004 Shah *et al* 2004, Wunsch, 2001

⁶ Ibid.

⁷ Ibid.

Following the civil war in (1980-1986) president Museveni thought to reconstruct the state from Bottom-up through local councils (Resistance councils) which were subsequently transformed into local councils. As already noted above, the challenges suffered by Uganda are similar to those already identified above in most African countries. The purpose of this study is therefore aimed at evaluating the above challenges so as to insure an efficient and effective decentralization policy in Uganda.⁸

1.3 Statement of the Problem

Decentralization in real context should mean the full transfer of powers and resources from the central government to local government. There should be a sound legal and regulatory frame working providing for the full transfer and devolutions of powers and resources from the central to the local government. Countries like Malawi, Senegal registered some successes in enacting laws that provide for transfer of powers and resources from the central to local government their successes are basically in fiscal decentralization, political decentralization-local authority embedded in comprehensive well designed frame work of territorial governance. Uganda has since 1995 enacted a number of legal and regulatory frame work to enable full implementation of the decentralization policy.

However, the legal and regulatory frame work on decentralization has in some cases not been friendly to local government in regards to social- economic transformation. Some functions were centralized, some over ruling powers were retained by central government. Matters of budgeting, planning, expenditure are all influenced by central government. The recruitment of key staffs is still done by public service commission independent of the respective district service commission, grants are still controlled by the central government and natural resources are controlled by central government including wild life, minerals wealth, forests, and fisheries among others. It is indicative that the local government has not been fully decentralized and still largely depends on central government for major development Decisions. If this problem is not given due attention, it means the object of decentralization in relation to empowering local people to participate in decision making with a view of taking a lead in matters of social economic transformation will be realized.

⁸ Decentralization and rural service delivery in Uganda by Mangheni Ephraim 2011

Therefore it is the purpose for which this study will be conducted

1.4 Objectives of the study

The main objective of this study is to investigate the role of the legal and regulatory frame work on decentralization in the social economic transformation of Uganda. And specifically, analyses the legal and regulatory frame work on decentralization in the social economic transformation of Uganda.

1.4.1 Specific Objectives

1. To examine the conceptual frame work on decentralization.
2. To analyze the legal and regulatory frame work on decentralization in Uganda.
3. To discuss the role of decentralization on social economic transformation of Lwengo District.
4. To identify strategies on how to overcome the challenges faced during the implementation of Decentralization policies in Uganda.

1.5 Research Questions

1. What is the conceptual frame work of decentralization?
2. What is the legal and regulatory frame work of decentralization in Uganda?
3. What is the role of decentralization in social economic transformation of Lwengo district?
4. What are the necessary strategies for overcoming challenges to the implementation of the decentralization in Uganda?

1.6 Research hypothesis

The purpose of carrying out this research was to get tangible results. The researcher was guided by the assumption that decentralization has played a fundamental role in social economic transformation of Lwengo District.

1.7 Research Methodology

This section examines the research methodology employed in this study. The author outlines the research strategy, research method, research approach, the methods of data collection, the selection of the sample, the research process, and the type of data analysis.

1.7.1 Qualitative Method

In order to satisfy the objectives of the dissertation, a qualitative research approach was employed. The main characteristic of qualitative research is that it is mostly appropriate for small samples, while its outcomes are not measurable and quantifiable. Its basic advantage, which also constitutes its basic difference with quantitative research, is that it offers a complete description and analysis of a research subject, without limiting the scope of the research and the nature of participant's responses.⁹

However, the effectiveness of qualitative research is heavily based on the skills and abilities of researchers, while the outcomes may not be perceived as reliable, because they mostly come from researcher's personal judgments and interpretations. Because it is more appropriate for small samples, it is also risky for the results of qualitative research to be perceived as reflecting the opinions of a wider population (Bell, 2005).

1.7.2 Interview Method

For the purposes of this research, in depth interviews were used. In depth interviews are personal and unstructured interviews, whose aim is to identify participant's emotions, feelings, and opinions regarding a particular research subject. The main advantage of personal interviews is that they involve personal and direct contact between interviewers and interviewees, as well as eliminate non-response rates, but interviewers need to have developed the necessary skills to successfully carry an interview.¹⁰

What is more, unstructured interviews offer flexibility in terms of the flow of the interview, thereby leaving room for the generation of conclusions that were not initially meant to be derived regarding a research subject. However, there is the risk that the interview may deviate from the pre-specified

⁹ Collis & Hussey, 2003).

¹⁰ Fisher, 2005, Wilson, 2003

research aims and objectives.

As far as data collection tools were concerned, the conduction of the research involved the use of semi-structured questionnaire, which was used as an interview guide for the researcher. Some certain questions were prepared, so as for the researcher to guide the interview towards the satisfaction of research objectives, but additional questions were made encountered during the interviews.

1.7.3 Sampling

The method of purposive sampling was used to develop the sample of the research under discussion. According to this method, which belongs to the category of non-probability sampling techniques, sample members are selected on the basis of their knowledge, relationships and expertise regarding a research subject. In the current study, the sample members who were selected had special relationship with the phenomenon under investigation, sufficient and relevant work experience in the field of decentralized governance, active involvement in system of decentralized governance as well as proven research background and understanding of raw data concerning decentralized governance.

1.8 Data analysis

Content analysis was used to analyze the data which was gathered from personal interviews. According to Moore & McCabe¹¹ this is the type of research whereby data gathered is categorized in themes and sub-themes, so as to be able to be comparable. A main advantage of content analysis is that it helps in data collected being reduced and simplified, while at the same time producing results that may then be measured using quantitative techniques.

1.9 Research design

A research design as defined by Karoro refers to the nature and pattern the research intends to follow like whether qualitative or quantitative, descriptive survey, historical, experimental or quasi

¹¹ Moore, D. S., McCabe, G. P., & Evans, M. J. (2005). *Introduction to the practice of statistics minitab manual and minitab version 14*. WH Freeman & Co..

experimental and location.¹²

The researcher used a descriptive survey research design from which the researcher was able to generate views, ideals and attitudes from respondents. By this design, the researcher made conclusions based on the views, attitudes, ideas and feelings as given by respondents both qualitatively and quantitatively. The researcher used such views to describe the phenomenon and explore into the legal and regulatory framework on Decentralization Uganda with specific reference to Lwengo District.

1.10 The Scope Study

The study covers the legal and regulatory frame work on decentralization as an independent variable and social-economic transformation as a dependent variable. The researcher took extra step and interest and considered some other factors as intervening variables that impact on the variables under duty.

1.11 Significance of Study

This study is significant especially in Uganda where the decentralization policy has been implemented since 1980. This policy despite a few successes has suffered great challenges. Therefore, the findings of this study and recommendations may provide a basis for policy reviews, law reform and amendments since baseline data will be provided.

This study being academic, its findings have added on the existing body of knowledge and literature about the legislation and decentralization. Future scholars and academicians will refer to this study as a secondary data and literature source.

To the researcher, this study is very significant in that it has added on his knowledge of the subject matter and also enables the researcher to acquire the required competence to advise the government on the modes of ensuring that decentralization policies are implemented without any challenges in Uganda.

With the recommendations of this study, local governments may be able to appreciate and utilize

¹² 2010

the legal and regulatory frame work on decentralization for social-economic transformation in Uganda.

1.12 Literature Review

Decentralization of the authority over administering redistribution programs to local communities has recently become widespread in the developing world. These initiatives have transferred responsibility of procurement, selection of local projects, and identification of beneficiaries from central ministries to Local Governments or community representatives. Such experiments were first introduced in the 1980s in several countries, including Armenia, Albania, Bosnia-Herzegovina, Brazil, China, El Salvador, Georgia, India, Mexico, South Africa, Uganda, and Uzbekistan.¹³ The presumed argument in favor of decentralizing delivery systems is that Local Governments will be subject to electoral pressures from local citizens, who are able to monitor delivery better than a distant central authority.

The first step in Uganda's decentralization process was the enactment of the 1987 Resistance Council/Committee's (RC's) Statute 9, which legalized RCs and gave them powers in their areas of jurisdiction at the local level.¹⁴ Thereafter, the government embarked on an effective implementation program of decentralization with the enactment of the 1993 Resistance Council Statute.¹⁵ The decentralization policy was later enshrined in Uganda's constitution in 1995 and was legalized by the Local Government Act of 1997, which established local councils at the district (LCV), municipal (LCIV), and sub county / division / town council (LCIII) levels as corporate bodies of Local Governments.

The act devolved to these council's far-reaching powers and responsibilities in such areas as finance, legislation, politics, planning, and personnel matters.

Hence, decentralization in Uganda is based on three interlinked aspects: (1) political and legislative empowerment of the people, (2) fiscal devolution, and (3) control of the administrative machinery by the local councils.

¹³ Conning and Kevane 1999; Jimenez and Sawada 1999; Mookherjee 2001; World Bank 2000

¹⁴ Asiiimwe 1989

¹⁵ Lubanga 199

The Republic of Uganda is in the process of implementing decentralization policy with the expressed goals of enabling inclusive economic development and nation-wide democratic participation. There is a strong consensus in the literature that decentralization has the potential to increase participation of local communities and citizens, improve government service delivery, and achieve a better level of governance that is more transparent and accountable. The process of realizing these beneficial outcomes through decentralization, however, will take time.¹⁶

1.12.1 Decentralization and Governance

Faguet and Jean-Paul state that Decentralization is one of the most important reforms of the past generation, both in terms of the number of countries affected and the potentially deep implications for the nature and quality of governance. A decade ago, estimates of the number of decentralization experiments ranged from 80 percent of the world's countries to effectively all of them. Since then, further reforms have been announced in countries as diverse as Bolivia, Cambodia, Ethiopia, France, Indonesia, Japan, Peru, South Africa, South Korea, Uganda, the UK, and many others. The trend encompasses all of the world's regions, and includes nations rich and poor, large and small, and with very different colonial histories. In short, decentralization is being implemented essentially every where.¹⁷

The importance of reform goes well beyond the sheer number of experiments under way. At least in their intention, many decentralizations aim to reconstitute government from a hierarchical, bureaucratic mechanism of top-down management, to a system of nested self- governments characterized by participation and cooperation, where transparency is high and accountability to the governed acts as a binding constraint on public servants' behavior

1.12.2 Decentralization, Governance and Public Services: The Impact of Institutional Arrangements

Decentralized levels of government have their *raison d'être* in the provision of goods and services whose consumption is limited to their own jurisdictions. By tailoring outputs of such goods and

¹⁶ A summer in Uganda

¹⁷ 2011 Decentralization and governance. Economic Organization and Public Policy Discussion Papers, EOPP 027.

London

School of Economics and Political Science, London, UK by Jean-Paul Faguet

services to the particular preferences and circumstances of their constituencies, decentralized provision increases economic welfare above that which results from the more uniform levels of such services that are likely under national provision.¹⁸ The basic point here is simply that the efficient level of output of a local public good (for instance, that for which the sum of residents' marginal benefits equals marginal cost) is likely to vary across jurisdictions as a result of both differences in preferences and cost differentials.¹⁹

Decentralization is a highly complex political, financial, and social transform that requires significant financial commitments, policy coordination, and Local Government capacity building. In Uganda, several challenges have constrained the implementation process thus preventing many of the intended benefits from being actualized.²⁰

Uganda's experience with a decentralized government structure dates back to colonial times when the British ruled Uganda under what was referred to as indirect rule of administration. British District Commissioners held power over the districts while local authorities, typically traditional chiefs, lent political support. These chiefs acted as middlemen between the commissioners and local populations. While they were able to exercise direct administrative control, they remained subordinate to their colonial superiors.²¹

Upon independence in 1962, local authorities were eliminated and new Ugandan District Commissioners became the representatives of the central government at the district level. The Independence Constitution is the legislative framework of this new structure. The Constitution devolved powers to kingdoms, urban councils, and districts councils.

The quasi-federal form of government did not last long, however, and in 1966, Prime Minister

¹⁸ to Omar Azfar, SatuKähkönen, Anthony Lanyi, Patrick Meagher, and Diana Rutherford IRIS Center, University of Maryland, College Park, September 1999

¹⁹ Oates 1999, 1121-2

²⁰ Ibid.

²¹ Ibid.

Milton Obote suspended the Constitution, abolished all kingdoms, and centralized all executive powers. The Local Administration Act in 1967 formalized these changes by dividing the country into 18 new districts and stripping local administrations of any autonomy and power. A structure of centralized power remained the norm through the 1980s. It was in 1980, following a contest election of Milton Obote, that the National Resistance Movement (NRM) initiated a civil war. Political instability and conflict consumed the nation in the years to follow until 1986 when the opportunity for formalized decentralization reemerged.²²

The NRM rose to power with aims to establish a democracy which was participatory, grassroots base, and popular, rather than representative, elitist, and parliamentary.²³ Abolishing the current concentration of power was a critical to the achieving these goals. After the NRA overthrew the reigning power in 1986, it instituted a Marxist-Oriented approach to government and established Resistance Councils at all sub national government levels throughout the country. These councils would form the framework of today's council structure.²⁴

According to Campbell, in Latin America local governments began spending ten to 50 percent of central government revenues. Campbell calls this the quiet revolution, and argues that it has generated a new model of governance based on innovative, capable leadership, high popular participation, and a new implicit contract governing local taxation. Rodden makes a similar point: other than transitions to democracy, decentralization and the spread of federalism are perhaps the most important trends in governance around the world over the last 50 years.²⁵

1.12.3 Uganda's Decentralization Policy and Legal Framework

Edward Mugabi in his article termed Uganda's Decentralization Policy, Legal Framework, Local Government Structure and Service Delivery in September 17 to 18, 2004 in Florence, Italy says that Uganda has developed a local government system based on the constitution and an elaborate Local Governments Act. The local council structures described in this paper are Uganda's primary institutions for the promotion of good governance, increased people's participation and improved service delivery. Most service delivery indicators show positive improvements. Thus, we conclude

²² Steiner, 2006, pp. 42

²³ Ibid.

²⁴ Ibid.

²⁵ 2006, pp. 1-2

that decentralization has not only opened up opportunities for empowerment of the people, but has also led to improvements in service delivery.²⁶

Edward Mugabi further says that Uganda has been pursuing a major decentralization programme since the late 1980s. A highly centralized state is gradually turning into a decentralized one following the transfer of powers, functions and services from central government to local councils: Decentralization is expected to contribute to development by empowering the people and institutions at every level of society including public, private and civic institutions; improving access to basic services; increasing people's participation in decision-making; assisting in developing people's capacities; and enhancing government's responsiveness, transparency and accountability. For these reasons, decentralization is providing the framework within which Uganda is implementing its Poverty Eradication Action Plan.

Decentralization under President Museveni is legislatively noted in the Local Government Statute of 1993. The Statute, however, was later repealed to include the new developments of the Constitution of 1995. It found its new form in the Local Government Act of 1997, which is the legislative framework for the decentralized structure in Uganda today. The Act is a comprehensive and specific outline of intended objectives, Local Government divisions, functions of each respective division and government personnel, as well as protocols and procedures. It is regarded as one of the most radical decentralization initiatives worldwide.²⁷

1.12.4 Aims of decentralization

Decentralization aims to increase popular participation in decision-making and strengthen the relationship between the Local Governments and its constituents yet the academic discussion suggests a lack of participation linkages between Local Governments and citizens. This is particularly relevant for disenfranchised groups such as the poor, the youth, or the disabled.²⁸ Reasons for this include limited citizen attendance at public meetings, high opportunity costs of attending meetings, and lack of understanding of political processes as well as individual political

²⁶ Uganda's Decentralization Policy, Legal Framework, Local Government Structure and Service Delivery (September 17 to 18, 2004. Florence, Italy. Edward Mugabi

²⁷ Ibid.

²⁸ Ibid.

rights.²⁹

Disadvantaged members do not typically attend sub-county level meetings where most decisions are made because they cannot afford the costs of travel, missed work, among others. Rather it is the often the well-off population who are in attendance. A study conducted by Francis and James in *Balancing Rural Poverty Reduction and Citizen Participation under Uganda's Decentralization Program* revealed that the new structures did not render a participatory system of local governance.

According to David Watson's study on decentralization, the poor are infrequently consulted on their priorities...the poor have useful things to say but unfortunately rarely anyone is listening. Decentralization may promote participatory planning but there is a majority of Uganda's population who are not heard.

Another contributing factor to the exclusion referred to above is the lack of access to information. Susan Steiner's study, which includes over 30 expert interviews and several sub-county councilors, suggest people have not fully grasped what decentralization entails and do not understand their new rights and duties within this framework. In addition to the understanding of the overall structure, there is a lack of access to the programs, policies, and interventions that happen within this structure. The Ministry of GLSD noted that the youth specifically do not have access to information pertaining policies intended to benefit them.³⁰

So according to the above literature, it is clear that there is no substantive research so far done in relation to the role of the legal and regulatory framework on the decentralization in the social economic transformation of Uganda. Therefore, there is a need to carry out a substantive research on the topic which this study aim.

²⁹ Steiner, 2006.

³⁰ Bagenda, 2004

CHAPTER TWO

CONCEPTUAL FRAME WORK

2.1 Introduction

Like building a strong house requires a firm foundation, any comprehensive study requires a conceptual frame work as its foundation.³¹ In this study, the conceptual frame work provides a linkage between the study of variables and explain their relationship.

2.2 Service delivery

Most governments all over the world both have centralized and decentralized levels of decision making in which choices made at each level regarding the provisions of public services are influenced by the demands for those services by persons living in such jurisdiction.³²

With this context decentralization involves the existence of sub national or lower levels of government, the fiscal relationships and /or arrangements between the centre and the lower levels of government called fiscal federalism. Sub national governments (decentralized governments) have been justified for two fundamental reasons. First, representative democracy seems to work best the closer the government is to its constituents.³³

The presumption is that a lower level of government for example a local government is better placed at perceiving the desires and demands of its constituents for public services than a distant centralized government. It is the reason that for must developing economies are stressing decentralization a process of pushing responsibilities and resources to lower levels.³⁴

Secondly, the people in the country have the right to demand the different types and qualities of public goods or services they seem to benefit from subsets of residents to demand different arrays of services.

³¹ Hessler 200

³² Ibid.

³³ Ibid.

³⁴ Ibid.

It is argued that decentralization may result in better service delivery. The decentralization of the provision of social services such as education, health water and sanitation may improve service delivery.

Uganda is a country that decentralizes in order to deliver public services to the people. Good public social services transform societies socially and economically. The local government Act 1997 places responsibilities for delivery of most services with local government. The object was to ensure the delivery of services was responsive to local needs and also that the available limited resources were utilized in the efficient and effective manner.³⁵

Some authors have argued that decentralization in Uganda generally resulted in improvements in service delivery while others indicate otherwise.³⁶ One crucial issue of decentralization is that there has not yet been much real improvement of service delivery.³⁷ However, he attributes the problem to perception gap as service workers see some improvement while service users do not. Obwona et al (2000) concludes that financial and institutional constraints have adversely affected the ability to the sub national governments to adequately deliver services of sufficient quality.³⁸

Obwona et al (2000) also argued that decentralization has become theory one way of ensuring good governance and effective service delivery most developing countries in recent times. However, reality shows that decentralization to succeed it needs the confidence and commitment of central governments through putting in place the right policy and appropriate/institutional frame work. In addition, the centre ought to provide and some degree of fiscal autonomy at sub- national level.³⁹ Local officials must reciprocate by being committed, operate in a transparent manner and involve fully the local service in poverty is to be eradicated. In addition officials at the local level ought to design and implement ways of enhancing their own revenue.

2.3 Corruption and Decentralized Public Governance

Political corruption has plagued the African continent for a long time. In Transparency International's 2012 Corruption Perceptions Index, which indicates the extent to which

³⁵ local government Act 1997

³⁶ Kator, 1997

³⁷ saito 2000

³⁸ Obwona et al (2000)

³⁹ Ibid.

Countries are free of corruption; only two African countries place well enough to escape a classification of serious corruption. In addition, a mere handful made the top half of the index.⁴⁰ Graft has undermined development as resources shift away from productive uses. Spending on basic goods such as infrastructure and human resources has suffered, and widespread corruption has discouraged investors.

Even in Africa, however, corruption can vary widely. There is no country where there is no abuse of power but in some countries, the breaches of public honesty are the exception, not the rule, whereas in other countries corruption is systemic and pervasive, an essential aspect of the way public business gets done.⁴¹ To effectively combat graft, policy makers have to know the factors that give rise to higher levels of corruption. Several of these variables have already been identified within the literature, including a country's level of economic development, the strength of law enforcement institutions, the political will of leaders to combat corruption, and different levels of cultural tolerance for what is termed Corruption.

Globally, all but 12 of the 75 developing and transitional countries with populations over five million claim to be transferring powers to local units of government.⁴² Given the increasingly widespread implementation of decentralization, it is of vital importance that policy makers know how it interacts with corruption. A variety of international development organizations now champion decentralization.⁴³ Proponents of decentralization believe that decentralization can bring a greater sensitivity to local needs,⁴⁴ increase political stability and promote national unity, and increase efficiency as local expenditure and government activities correspond more closely with actual need on the ground.⁴⁵

At the same time, there has been a vigorous debate about the effects of decentralization on corruption. Some argue that, due to increased discretion granted to bureaucrats, and closer interactions between decision makers and ordinary citizens at the local level, opportunities for corruption increase especially when the monitoring mechanisms of central governments fail.

⁴⁰ Transparency International 2012: 2.

⁴¹ Goldsmith 868

⁴² Ribot 1

⁴³ Ibid.

⁴⁴ Litvack and Seddon 4

⁴⁵ Litvack and Seddon 5-6

Others, on the other hand, stress competition between Local Governments for mobile residents, and point to the potential impact of local democracy in punishing corrupt officials. While there have been other studies on this subject, few uses a measure that accounts for the multiple facets of decentralization, and no studies focus on Sub-Saharan Africa specifically.⁴⁶

This is a significant oversight. Most obviously, this is a region that hosts a large number of countries (48, though the study here only investigates 30 of them), and accounts for some 850 million people.⁴⁷ In addition, the question of whether decentralization reduces corruption is particularly pertinent here: African countries are among the most corrupt in the world, and many countries in the region are in the process of implementing decentralization policies. Many theorists have pointed out that assumptions implicit in decentralization theory may not hold in developing countries, where the population is generally poorer and institutions less developed than in developed nations.

Many Sub Saharan African countries are characterized by certain institutional features that could lessen the importance of formal decentralization in reducing corruption. Neo-patrimonialism systems, where personalism is rife and the state serves as a source of spoils for competing political factions, predominate. Many African cultures are strongly collectivist and encourage loyalty to individuals' personal networks rather than an abstract state. These features could impact strongly on whether decentralization serves to reduce corruption, yet no study has focused on this region.⁴⁸

This study investigates whether decentralization leads to a reduction in corruption, focusing on the Sub-Saharan African context and utilizing both statistical regressions (with a sample of 30 countries) and two case studies. The paper will begin with a definition of the concepts of political corruption and decentralization. It then offers a review of the literature both theoretical and empirical on the link between decentralization and corruption. It goes on to discuss the model used, the empirical results obtained, and potential methodological issues.⁴⁹

Pearson's correlations showed a linear relationship between decentralization and lower levels of corruption ($r=0.466$, statistically significant at the 0.01 level) without controlling for covariates. Seeing as the Pearson's r only indicates association without indicating causality, a multivariate

⁴⁶ Ibid.

⁴⁷ World Bank 2013

⁴⁸ Ibid.

⁴⁹ Ibid.

regression was employed to also examine variables the literature predicts have an impact on corruption. The model thus controlled for levels of democracy, the level of economic development, and the strength of law enforcement institution. While GDP was not normally distributed, it was still used in the regression analysis as there is a strong theoretical justification for including it.⁵⁰

Results indicated that higher levels of decentralization might improve a country's performance in terms of corruption. However, the results were not significant and the practical effect, even given significance, would be minute.⁵¹

The case studies offer some evidence for why this may be so. Both countries struggled to various degrees with two problems: ensuring democratic accountability at the local level, as Corruption can be conceptualized as a principal-agent problem: the interests of the principal (voters) and of the agent (public officials) do not align, and the extent of corruption depends on the extent of discretion that public officials enjoy versus the power of citizens to hold them accountable.⁵² Alternatively, it is possible to view it as a crime and punishment problem, where individuals weigh the benefits (monetary gain) and costs (potential loss of position or legal ramifications) of an action.⁵³

It is also useful to regard corruption as rent-seeking behavior by those with discretion over the control of certain limited resources.⁵⁴ Regardless, corruption is regarded as a function of two major sets of variables: opportunities for corruption and controlling power of institutions.⁵⁵ Several of the variables affecting the level of corruption have already been identified. A wide range of studies has investigated a multitude of factors, including the presence of protestant tradition, a history of British rule, the level of imports, the share of women in government, freedom of press, the level of democracy, various cultural factors, political competition, the extent of bureaucratic regulations, and many more.⁵⁶

However, the evidence for most of these variables has not been very strong. This study will focus

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Goldsmith 868

⁵³ Gurgur and Shah 49

⁵⁴ Arian 177, Goldsmith 868

⁵⁵ Ibid.

⁵⁶ Treisman 2000, 2005, 2007, Ruhl 2011, (summarized in Lambsdorff 2005) and (Montinola and Jackman 2002)

instead on the factors that have been shown consistently to impact on the prevalence of corruption in a given country: the level of economic development, strength of law enforcement institutions, political will to combat corruption, cultural tolerance for corruption, and to a certain degree, the level of democracy.

2.3 Fiscal Decentralization

Decentralization is any act in which a central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy.⁵⁷ Scholars of decentralization usually seek to distinguish between three types of

2.3.1 Decentralization: Administrative, Fiscal, and Political Decentralization

Administrative decentralization is perhaps the weakest form of decentralization. It refers to a process where local bodies are tasked with implementing policies determined by the central state. Often, this form of decentralization merely shifts responsibility from officials in the capital to those in more remote areas.⁵⁸ Under administrative, Decentralization, officials' primary responsibility is to central government and as such, the process lacks the downward accountability that characterizes fiscal and political forms of decentralization.⁵⁹

Political decentralization occurs when powers and resources are transferred to authorities' representative of and downwardly accountable to local populations.

The goal of this form of decentralization is to give citizens more power in public decision-making.⁶⁰ A regular turnover of individual leaders should minimize the Opportunities for corrupt behavior as citizens vote out the public officials they know to be corrupt. Giving citizens a degree of control over decisions that affect them, coupled with superior information at the local level, could thus increase service delivery.⁶¹

No matter how much power local bodies ostensibly hold, their effective reach will be delineated

⁵⁷ Ribotii

⁵⁸ Litvack and Seddon 3

⁵⁹ Ribot iii

⁶⁰ Litvack and Seddon 2

⁶¹ Montinola and Jackman 154

by the extent of their resources.

Fiscal Decentralization, the decentralization of fiscal resources and revenue-generating powers seeks to address this. Local Governments must have adequate resources to carry out their functions, and fiscal decentralization provides various options for procuring funds, ranging from local taxation and user charges to transfers from the central government.⁶²

For a long time centralized, often authoritarian states dominated the African landscape. Decentralization, when it occurred, was characterized by tight central control of administrators at the local level. This arrangement brought in most cases an increasingly unaccountable and corrupt system, and to speak of decentralization here would be a misnomer, given the extent of central control.⁶³

After decades of development policy driven by a strong centralized state, many development agencies and international institutions now emphasize the purported benefits of local government. Since the 1980s most African countries have initiated some sort of program of decentralization.

Today, several African countries have explicitly pro-decentralization constitutions. Higher levels of decentralization are believed to lead to greater efficiency and equity in the provision of public services, as well as greater levels of democratic participation. Proponents also highlight the potential for more accountability, as close proximity between officeholders and voters makes it easier for the latter to monitor the former.⁶⁴

It is important to evaluate decentralization holistically. For example, spending might be controlled at the local level (there is high fiscal decentralization), but if citizens have no say over who exercises power locally (there is a lack of political decentralization), then abuse is easy because there is no method of holding office holders accountable. Similarly, as outlined above, political decentralization without fiscal decentralization leaves officeholders without effective power.⁶⁵

According to Anwar shah, (World Bank, 2006) stated that; Decentralization local governance is

⁶² Litvack and Seddon 3

⁶³ Brosio 322

⁶⁴ Ibid.

⁶⁵ Ivanyina and Shah 11

conducive to reduced corruption in the long run. This is because localization helps to break monopoly of power at the national level by bringing decision making closer to the people. Localization strengthens government accountability to the citizen in the monitoring of government performance and demanding corrective actions.⁶⁶

Localization is a means of making government responsiveness and accountable to the people, can help reduce corruption and improve service delivery hence economic transformation in the lives of the people.

Localization implies home rule. That is decision making and accountability for local services at the local level. Fundamental elements of home rule are: local administrative autonomy with elected offices accountable to local resident local administrative autonomy with the ability to hire and fire local government employees, local fiscal autonomy (ability to raise revenue) and flexibility in the use of local revenue.⁶⁷ Efforts to improve service delivery usually force the authorities to address corruption and its causes.

However, one must pay attention to the institutional environment and the risk of local capture by elites. In the institutional environments typical of some developing countries when in a geographical area, feudal or industrial interest dominate and institutions of participation and accountability are weak or ineffective and political interference in local affairs is rampant , localization in many increase opportunities for corruption.⁶⁸

This suggests a pecking order of anti-corruption policies and programs where the rule of law and citizens empowerment should be the first priority in any reform effects. Localization in the absence of rule of law may not prove to be a potent remedy for combating corruption.

Anwar also states that although statistics on corruption are often questionable, the available data suggests that it accounts for a significant proportion of economic activity. For example, in Kenya, questionable public expenditures noted by the controller and auditor general 1997 amounted to

⁶⁶ Shah, Anwar, 2006 local governance in developing countries. Public sector governance and accountability Washington DC.
Worldbank.org/handle/10986/7192.

⁶⁷ (Ivanyna and Shah 11

⁶⁸ Ibid.

7.6% of GDP. In Latvia, a World Bank survey found that more than 40% of Latvian households and enterprises agreed that corruption is a natural part of our lives and helps solve many problems.⁶⁹

In Tanzania, service delivery survey data suggests that bribes paid to officials in police, courts, tax services and land offices amount to 62% of the official public expenditure in these areas. In Philippines, the commission on audit estimates that 4 billion is diverted annually because of public sector corruption.⁷⁰

He states that corruption manifests in a number of ways; Petty Administrative or bureaucratic corruption. These are isolated transactions by individual public officials who abuse their office for example by demanding bribes and kickbacks diverting public funds awarding favors in return for personal consideration. Such acts are often referred to as petty corruption even though in aggregate, a substantial amount of public resources may be involved.

Grand corruption- It is the theft or misuse of vast amounts of public resources by state officials usually members of or associated with, the political or administrative elite. Constitutes grand corruption.

State or regulatory capture and influence peddling. This is collusion by private actors with public officials or politicians for their mutual, private benefits referred to as state capture. This is where the private sector captures the state, legislative and executive and judicial apparatus for its own purposes. State capture co-exists with the conventional (and opposite) view of corruption, in which public officials extort or otherwise exploit the private sector for private ends.

Patronage/ paternalism and being a team player That is using official position to provide assistance to clients having the same geographical, ethnic and cultural origins so that they receive preferential treatment in their dealings with the public sector including public sector employment. Also providing the same assistance on a quid pro quo basis to colleagues belonging to an informal network of friends and allies.⁷¹

It was also observed that corruption is country specific. Thus approaches that apply common

⁶⁹ World Bank, 2006

⁷⁰ Shah and Schacter 2004

⁷¹ Ibid.

policies and tools (that is, one-size-fits-all approaches) to some countries in which acts of corruption and the quality of governance vary widely and are likely to fail. One needs to understand the local circumstances that encourage or permit public and private actors to be corrupt.⁷²

It was finally observed that corruption is about governance and governance is about the exercise of state power, then efforts to combat corruption demand strong local leadership and ownership if they are to be successful and sustainable. Also was stated that public sector corruption as a system of failed governance depends on a multitude of factors such as the quality of public sector management, the nature of accountability relations between the government and citizens, the legal framework and other degree of which sector processes are accompanied by transparency and dissemination of information.⁷³

According to Transparency International (2018), Uganda is ranked 149 least corruption nation out of 180 countries according to 2018 corruption perceptions index reported by Transparency International. Corruption rate in Uganda averaged 124 from 1996 until 2018. An all-time high of 151 in 2016 and a record low of 43 in 1996.⁷⁴

According to the World Bank report *Doing Business 2017*. It was reported that corruption constitutes a major constraint for business operating or planning to invest in Uganda. The police, the judiciary and procurement are areas where corruption risks are very high and under-the-table cash payments are expected.

The Chief Justice Bart Katureebe⁷⁵ has acknowledged the extent of corruption in Ugandan society and the fact that it also infiltrates the judiciary. Katureebe indicated that in several cases corruption judicial officials have been found guilty in the courts, but were ultimately set free by the same corrupt system, *The Uganda Today* April 2017. Corruption in every sector of government is at the sky level and this has hampered every social and economic transformation in Uganda.⁷⁶

⁷² Ibid.

⁷³ Transparency International (2017), *supra*

⁷⁴ Ibid.

⁷⁵ *The Uganda Today* April 2017

⁷⁶ Ibid.

2.3.2 Decentralization and Accountability

The delivery of services needs strong relationship of accountability between the actors in service delivery scheme. The delivery of public service involves at least two relationships of accountability. Clients as citizens have to hold policy makers or politicians accountable for allocating resources towards their services since they are their representatives in the government and they were elected by them.

Policy makers in return need to hold the service providers accountable for delivery of the services. (Ahmed et al 2005) refer to this as –long route of accountabilities) as opposed to the short route which connotes the direct responsibility of providers to clients. If one or both of the links, in the long route of accountability has a breakdown that means there will be weaknesses in service delivery out comes.⁷⁷

For example if public spending on health and education mainly benefits the non-poor the implication is that poor citizens are unable to hold the politicians accountable. The politicians at the local government level may find it difficult to hold the service provider accountable. There must be a mechanism in which clients can monitor and discipline the providers. This is referred to as short route accountability for this frame work to function properly.

2.3.3 Decentralization and Fiscal Transfers

Another link is that between the central and local policy maker. In fact, a lot of the discourse on decentralization stresses this relationship that is the rules and practices governing fiscal transfer's regulations and expenditures between central and local policy makers if there are changes in the rules and practices effect on accountability relationship between local policy makers and providers. Ahmad et al (2005) examine how different types of accountability mechanisms between central and local government affect the incentives facing service providers and its impact on service delivery outcomes. The issues include fiscal financing, regulatory and administrative dimensions and its effect on service delivery.⁷⁸

This conceptual frame work contends that the sound design and implementation of these aspects

⁷⁷ Ahmed et al 2005

⁷⁸ Ibid.

of decentralization remain the starting point for improving local service delivery. While sound design is important, it should be noted that the implementation may elicit new challenges that may require revisiting the designing issue. In some countries in sub Saharan Africa decentralization and service delivery have taken place by default. For example, in some Local Governments, officials are never responsive to its constituents but the attempt by the latter to ensure service delivery forces the elected officials attempt in designing the Administrative aspects of service delivery.⁷⁹

Uganda is one of the countries that decentralize in order to deliver better public services to the people. The local government Act 1997 places responsibility for delivery of most services with local government. The objective was to ensure that delivery of the services was responsive to local needs and also available limited resources is utilized in effective and effective manner.

Some authors have argued that decentralization in Uganda generally resulted in to improvement in service delivery while others indicate otherwise. One crucial issue of decentralization is that there has not been much real improvement of service delivery.⁸⁰ However he attributes that the problem to perception gap as service workers do not.⁸¹ Concludes that financial and institutional constraints have adversely affected the ability to the sub-national governments to adequately deliver services of sufficient quality.⁸²

The results in implementing a programme of decentralization and its effects on service delivery have mixed achievements in improving services such as education; water supply and health have been due to central government direction rather than initiative of Local Governments. This is attributed to digit control over funding. In fact all the weaknesses and challenges some which have been highlighted in this frame work are quite prevalent.⁸³

2.3.4 Decentralization and Poverty.

For any country to fully achieve the purpose of decentralization in respect to social economic transformation as an indicator, poverty levels should go down. Therefore, it very clear that, there

⁷⁹ Living stone and Reharlton 2001), Takahebwa, 1996.

⁸⁰ Saito 2000

⁸¹ Obwona et al 2000

⁸² Kator, 1997

⁸³ Living stone and reharlton 2001; Takahebwa, 1996.

is a linkage or relationship between poverty and decentralization.

The conceptual frame work takes the form of an optional scenario and indicates potential ways for an impact of decentralization on poverty. Three different but inter-related channels are identified. Decentralization is considered to affect poverty through providing opportunities for previously excluded people to participate in public decision making through increasing efficiency in the provision of local public services due to an informational advantage of local government over the central government and through granting autonomy to geographically separately conflicting groups and entitling local bodies to resolve local-level conflicts. Based on the experience, with decentralization in Uganda, it is shown that their channels but are often not fully realized in practice.⁸⁴

In conclusion therefore, the different reasons are singled out for the Ugandan case, along them low levels of information about local autonomy, corruption and patronage, high administrative costs relate with decentralization for low down ward accountability.

⁸⁴ Ibid.

CHAPTER THREE

LEGAL AND REGULATORY FRAMEWORK ON DECENTRALIZATION IN UGANDA

3.1 Introduction

This chapter provides an account on how this study was conducted. Uganda has been pursuing a major decentralization programme since the late 1980s. A highly centralized state is gradually turning into a decentralized one following the transfer of powers, functions and services from central government to local councils.

Decentralization is expected to contribute to development by empowering the people and institutions at every level of society including public, private and civic institutions; improving access to basic services; increasing people's participation in decision-making; assisting in developing people's capacities; and enhancing government's responsiveness, transparency and accountability. For these reasons, decentralization is providing the framework within which Uganda is implementing its Poverty Eradication Action Plan.

The first part of this paper examines the rationale and characteristics of Uganda's decentralization. The sections that follow focus on the legal framework, the local government structure and how the policy of decentralization is leading to improvements in service delivery. The last section of the paper is a conclusion.

3.1.1 The Constitution of the Republic of Uganda, 1995

The Constitution sets the following as the tenets of Uganda's decentralization:

Objective (ii) of the National objectives and directive principles of state policy in the constitution states that the state shall be guided by the principle of decentralization and devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their own affairs.

Article 176(2)(a) provides that the system shall be such as to ensure that functions, powers and responsibilities are devolved and transferred to local government units in a coordinated manner.

Article 176(2)(b) provides that Decentralization shall be a principle applying to all levels of local government and in particular, from higher to lower local government units to ensure people's participation and democratic control in decision making.

Article 176(2)(c) provides that the system shall be such as to ensure the full realization of democratic governance at all local government levels. There shall be established for each local government unit a sound financial base with reliable sources of revenue.

Article 176(2)(f) provides that appropriate measures shall be taken to enable local government units to plan, initiate and execute policies in respect of all matters affecting the people within their jurisdiction. Persons in the service of local government shall be employed by the Local Governments.

Article 176(2)(g) provides that the Local Governments shall oversee the performance of persons employed by government to provide services in their areas and monitor the provision of government services or the implementation of projects in their areas.

According to the provisions above, the decentralization system of governance enables local governments to effectively bring services near to the people and also enable local government units to plan, initiate and execute policies in respect of all matters affecting the people within their jurisdiction

3.1.2 The Local Government Act 1997

For purposes of giving full effect to the provisions of the constitution, the Local Governments Act was enacted in March 1997. Specifically section 2, the Act aims to consolidate and streamline the law on local government to be in line with the constitution, to give effect to decentralization and devolution of powers, functions and services. It also provides for decentralization at all levels of Local Governments to ensure good governance, democratic participation and control of decision making by the people. Lastly, it provides for the political and administrative set-up of Local Governments, the district public service, finance and local elections.⁸⁵

⁸⁵ the Local Governments Act

Thus far, the Local Governments Act has been amended for a number of times. First, in July 1997 to provide for the establishment and composition of interim local councils for newly created local government units. Second, in June 2001 to give more effect to the decentralization of powers and ensure the smooth implementation of the decentralization policy. Third, in November 2001 to amend specific sections concerning holding two political offices, nomination and approval of the village and parish executive committees, quorum at parish and county elections, and the time for holding local council elections. Fourth, in November 2003 to make substantive provisions relating to the establishment and functions of the Local Government Finance Commission and consequentially repeal sections of the Act that are now replaced by the Local Government Finance Commission Act, 2003. Further, for practical purposes, consequential amendments to the schedules have been made using statutory instruments.

On the whole, the amendments have streamlined the decentralization policy. It should be noted that the major amendment of 2001 was made to give more effect to decentralization and ensure the smooth implementation of the policy. The other amendments like Local Government Commandment Act 2015 have essentially been modifications of provisions relating to the establishment, composition and election of local councils Administrative units aimed at facilitating more active participation by the people in local councils. By way of illustration, voting at local council elections, except at the county, village and parish is now by secret ballot, instead of lining behind the candidate as initially provided for under the Act.

Section 30 provides for the functions, powers and services of a council.

Under sub section (1), it is provided that subject to the Constitution, a local government council shall, within its area of jurisdiction, (a) exercise all political and executive powers and functions;

(b) provide services as it deems fit with the exception of the functions, powers and services listed under Part 1 of the Second Schedule to this Act; (c) protect the Constitution and other laws of Uganda and promote democratic governance; and (d) ensure the implementation and compliance with Government policy.

Just like the constitution 1995, the local government act allows local governments to effectively bring services near to the people and also enable local government units to plan, initiate and execute

policies in respect of all matters affecting the people within their jurisdiction.

3.1.3 Public Finances and Accountability Act 2003

Public finances and accountability Act 2003 was also enacted to provide for the development of an economic and fiscal policy frame work for Uganda to regulate the financial management of the Government (including Local Governments)

However, public finance and accountability Act 2003 was repealed and replaced by enactment of public finance management Act 2015 commonly known as (PFMA) with a view of providing for fiscal and macroeconomic management, provide for the charter for fiscal responsibility and budget frame work paper in government including Local Governments.

The law provides for penal sanctions to all those public officials that are in breach of public finance and management.

This Act gives more effect to the requirement of public finance and accountability as they demand so to ensure value for money and adequate service delivery.

3.1.4 Public procurement and disposal of public assets Act 2003

Public procurement and disposal of public assets Act 2003 were enacted and subsequently, the Public procurements and disposal of public assets regulation 2003 were made through statutory instrument by the line minister. The purpose of the Act and regulations there under were to ensure efficiency and regulate the practice in respect to public procurement and disposal of public assets and all activities and matters connected there with.

3.1.5 Leadership Code Act, 2002

The Ugandan parliament in 2002 enacted the leadership code Act 2002 which repealed the leadership code Act cap 168 laws of Uganda. This leadership code Act was to provide for the minimum standard of behavior and conduct for leaders to require leaders to declare their incomes, assets and liabilities to put in place and effective enforcement mechanisms and to provide for other related matters.

The main object of this enactment was to check on public officials on matters of corruption illicit

enrichment and embezzlement of public funds. If one declared his income, assets and liabilities in each year, it would be easy to monitor the rate which public officials amass wealth whether honestly or in dishonest way or manner.

The leadership code Act provides for strict compliance of the code and provide for penal sanctions in the respect to however acts in non-compliance when he or she is still substantively or acting in any public office whether one is a conventional civil servant or a public officer.

3.1.6 Anti-Corruption Act, 2009

Another effort as a legal regime to ensure effective implementation of decentralization was the enactment of the Anti-corruption Act 2009. The act provides in the preamble that it is an Act to provide for the effectual prevention of corruption in both the public and the private sector, to repeal and replace the Prevention of Corruption Act, to consequentially amend the Penal Code Act, the Leadership Code Act and to provide for other related matters.

The main object of this law was to provide for the effective prevention of corruption in both the public and private sector, to repeal and replace the prevention of corruption Act and consequently amend the penal code Act cap 120, repeal of the leadership code Act of 1992 and provide for other related matters. The intention of parliament was to the effect that corruption has an adverse effect on the provision of public social and economic services. Therefore, the social economic transformation is dependent on sound efficient and effective legal and regulatory regime on corruption.

This laws provides for penal sanction for any one in both public and private sector who are in breach or contravention of Anti-corruption Act law of Uganda assisting in service delivery and enables government getting value for money

3.1.7 The Inspectorate of Government Act, 2002

The inspectorate of Government Act, 2002 was enacted to provide for the inspectorate of Uganda in line with chapter 13 of the constitution and in particular to give effect to the provision of the chapter as required by article 225, 226 and 232 of the constitution, to repeal the inspectorate of government statute 1988 and provide for other related matters. This office is charged with

enforcing adherence to the rule of law and principles of natural justice in administration, to promote fair, efficient and good governance in public offices. The intention of parliament was that if such office is lawfully created to enforce adherence to law, then people would be assured of efficient and effective services and this would enable the proper and easy implementation of decentralization policy.

3.1.8 The Local Government (Finance and Accounting) Regulations 2007

The local Government (finance and accounting) regulations 2007 were enacted through delegated jurisdiction conferred by parliament to the line minister through (a statutory instrument) supplement no. 13 of 2007. The purpose of these regulations was to regulate the management of Local Government raised funds and grants to ensure efficient and sound accountability

3.1.9 Public Finance and Management Regulations 2016

Public finance and management regulations 2016 were made by line minister exercising his delegated responsibility by parliament to make regulations through statutory instrument. These were made under sec (81) of public finance management Act (PFMA) Act 2015 and it is directed that they have to apply on all Local Governments where it is expressly provided. The regulations were made to give full effect in implementation of public finance and management Act 2015.

3.2 Conclusion

The purpose of the reviewed literature in this section was to examine the existing information with regard to the rationale and characteristics of Uganda's decentralization, the legal framework, the local government structure and how the policy affects service delivery. Uganda has developed a local government system based on the constitution and an elaborate Local Governments Act. The local council structures described in this paper are Uganda's primary institutions for the promotion of good governance, increased people's participation and improved service delivery.

Most service delivery indicators show positive improvements. Thus, we conclude that decentralization has not only opened up opportunities for empowerment of the people, but has also led to improvements in service delivery.

CHAPTER FOUR

ROLE OF DECENTRALIZATION ON SOCIAL ECONOMIC TRANSFORMATION OF LWENGO

4.1 Introduction.

Decentralization of social services, including education, health, agricultural advisory services, and rural infrastructure (rural roads, water, electricity, and so on), is embedded in the larger decentralization processes that are occurring in the sub-Saharan Africa (SSA) region. Although the motives of decentralization differ across countries,⁸⁶ the major arguments supporting decentralization in developing countries include economic and political gains. The economic justification for decentralization is allocative and productive efficiency aimed at improving public service delivery. Allocative efficiency involves better matching of public services to local preferences, whereas productive efficiency involves increased accountability, fewer levels of bureaucracy, and better knowledge of local costs.⁸⁷

The political justification relates to considerations of local participation, good governance, and democratization. The participation rationale developed as a consequence of changed approaches to development. It aims to make the people central to development by ensuring involvement in interventions that affect them.⁸⁸ This rationale is also seen as a means of ensuring political stability where there are deep divisions along ethnic or regional lines, as in South Africa or Uganda.⁸⁹

4.2 Role of Decentralization in Education Services

Structural and Governance Reforms in Uganda's Education Services. As noted earlier, the 1997 Local Government Act decentralized social services, including education. The Act provided for five levels of local government: village, parish, sub-county, county, and district. The district and sub-county levels have political authority and significant control over resources. District councils have autonomy over primary and secondary education, primary health services, and basic services in water provision, roads, planning, and licensing. Each district has the authority to formulate,

⁸⁶ Ibid.

⁸⁷ Naidoo 2002

⁸⁸ World Bank 1999

⁸⁹ Cooke and Kothari 2001

approve, and execute its own development plan. Primary education, community-based health services, hygiene, and low-level health units were devolved by districts to lower-level councils.⁹⁰

However, the central government continues to play a key role in policy setting, governance, management, finance, and curriculum development. Essentially, national guidelines regulate the translation of state policy into local reality and define how schools are run.⁹¹

In 1997, decentralization coincided with introduction of the universal primary education (UPE) policy, which provided for free primary education for all school-age children, which at first had a limit of four children per family but was amended to benefit all children in 2003.⁹² So in other words, decentralization improved access to education services in Uganda.

4.2.1 The Performance of Education Services under Decentralization and Universal Primary Education.

A survey conducted to assess the impact of UPE policy on educational attainment and private costs in education found that the UPE policy has led to increased public funding for primary education, as well as an increase in the number of teachers and schools.⁹³ The immediate result of the policy was a dramatic increase in primary school enrollment, with the number of students in public primary schools nearly doubling by mid-1997. The net enrollment ratio of school-age children (6–12 years) grew from 85 percent in 2000 to 92 percent in 2007.

However, other than enrollment, the policy's actual effects are yet to be realized or empirically determined. Various studies have revealed flaws in its design and operation. Whereas some studies conducted a few years after implementation indicated that UPE policy has improved access to primary education for children of poor families by removing tuition fees, others revealed that due to the various other charges that are still levied (such as uniforms, meals, exercise books, local materials for building classrooms), a dropout rate as high as 55 percent has been reported by the government.⁹⁴

⁹⁰ Azfar et al. 2000

⁹¹ Naidoo 2002.

⁹² Nishimura, Takashi, and Yuichi 200

⁹³ Ibid.

⁹⁴ Nishimura, Takashi, and Yuichi 2008

The dropout rate has also been attributed to the high opportunity cost of sending children to school when they could instead provide the much-needed household labor in rural areas. There are also problems of capacity to accommodate the large numbers, inadequate instructional materials, and qualified teachers. Other problems observed include internal inefficiency, such as delayed enrollment and repetition of grades by pupils, and funding arrangements that do not reward performance.

4.3 Role of Decentralization in Health Services

The presence of many regions and districts and each trying to do well for its locality brings about healthy competition among the regions and districts. When one district becomes successful with a programme, the programme can be adopted by other regions to raise the living standard of the people.

After decentralization, the central government, through the Ministry of Health (MOH), is responsible for resource allocation and hospitals. However, it has devolved much of the responsibility of operating the lower health units, such as health centers and dispensaries, to lower levels of local government under the Ministry of Local Government. Health facilities run by faith-based organizations, which constitute 40 percent of the country's healthcare facilities, offer better services than non-faith-based facilities.⁹⁵

The process of fiscal decentralization in Uganda began in fiscal year 1993/94, when the central government devolved many functions and responsibilities, including the provision of basic health services and the control of medical personnel from the central MOH to the district level. Fiscal decentralization occurred in a phased manner, with some districts being decentralized before others.⁹⁶ Health sector reform was part of an overall reform of the public sector, consisting of liberalization, constitutional reform, civil service reform, and privatization. Public sector reform essentially drove the changes in the health sector.

Therefore, health sector decentralization follows and uses the general administrative and political structures of the public sector. At the central level, the MOH's functions were revised to include

⁹⁵ Jeppsson and Okuonzi 2000

⁹⁶ Akin, Hutchinson, and Strumpf 2005

policy formulation, the setting of service standards, quality assurance, provision of training and human resource guidelines, provision of technical supervision, responses to epidemics and other disasters, and the monitoring and evaluation of health services in Lwengo District.⁹⁷

The MOH headquarters divested all service provision to regional and national hospitals and was significantly reorganized and reduced in size. At the local levels, formal powers over the implementation of health services lie with the district's political bodies, as well as with the hospital management boards, which are appointed by elected local councils. Technical management teams are charged with the day-to-day running of health services.⁹⁸

The district health team, headed by the district director of health services (DDHS), provides technical leadership for the health sector in the district, including for hospitals. However, the DDHS only plays an advisory role in the affairs of regional and national referral hospitals, which are under the leadership of medical superintendents and hospital committees or boards. The next level below the district is the sub district, which is an innovation of the health sector and is not a formal structure of the decentralized system of government. This level was established to increase equitable access to health services, because there were too many sub counties for the existing healthcare infrastructure and resources to handle.⁹⁸

The Performance of Decentralization Reforms in the Health Sector in Lwengo district. As noted earlier, the general objectives of decentralization within the wider context are to bring political power closer to local communities, to respond to local needs, to build local capacity, and to improve accountability. Specifically for the health sector, improvement was expected in the form of increased utilization of health services, better access to health services, more coverage of the population with basic services, better quality of healthcare and, ultimately, a decline in the rate of illness and death.⁹⁹

However, according to Jeppsson and Okuonzi (2000), existing data show no improvement in social services or people's quality of life during the period of the reform. In fact, many indicators have either remained the same or worsened.¹⁰⁰

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Jeppsson and Okuonzi 2000.

¹⁰⁰ Jeppsson and Okuonzi (2000)

Komakech (2005), in an analytical paper not based on an empirical study, challenged that the criteria used by MOH to determine the performance of the different districts are unreliable and misleading. He observed that these indicators were mainly facility and management indicators derived from Uganda's first Health Sector Strategic Plan and that most of the data used for the ranking were obtained from the facility health management information system reporting forms, which were submitted to the MOH without triangulation with other sources.¹⁰¹ Examples of the indicators used include proportion of health management information system forms submitted timely and completely, the proportion of the approved posts that were filled by trained health personnel, and pit latrine coverage, among others. According to the paper, these indicators have limited value in monitoring progress toward the attainment of the national health sector objective of improving health status.

4.3 Role of Decentralization in Agricultural Extension Services

Public sector extension, in both developed and developing countries, is undergoing major reforms. Coupled with the reforms is a gradual rethinking of the theoretical paradigm underpinning agricultural extension practice. The linear technology transfer model that traditionally informed extension practice in the 1960s was replaced by the agricultural knowledge and information systems perspective in the 1990s and, more recently, by the innovation systems concept.¹⁰² The technology transfer model, which was informed by the diffusion of innovations theory suggested by Rogers (1962), defined innovation as new technology developed by scientists, transferred by extension personnel, and adopted by farmers. Extension also provided feedback about farmers' problems to researchers.

Governments thus established extension organizations or ministries to operationalize this model. According to Rivera and Sulaiman (2009), this model came under challenge in the 1980s and 1990s, when it was recognized that innovation could come from multiple sources (including farmers—hence, the importance of a wider set of information sources and the value of creating systems that assist in the generation and dissemination of knowledge.¹⁰³

¹⁰¹ Komakech (2005)

¹⁰² Rivera and Sulaiman 2009

¹⁰³ Ibid.

Recognition of the value of multiple actors, including local voices, informed the emergence of structural reforms in extension that espouse participation, farmer ownership, and, organization, and management, as well as with other extension programs.

4.4 Decentralization and Civil Service Reform in Lwengo

In Uganda, decentralization has been characterized by a transfer of powers, functions, and responsibilities for planning and implementation of agricultural extension services from the Ministry of Agriculture, Animal Industry, and Fisheries (MAAIF) to Lwengo district Local Governments. MAAIF was left with the role of planning and policy formulation, regulatory functions, technical backstopping and training, setting standards for and monitoring performance of the agricultural sector, and managing funds of selected projects. Extension workers at the district level were put under the direction of the local district governments.¹⁰⁴

In 1998, the MAAIF's directorate of extension was abolished, central staffing was reduced by some 80 percent, and the major responsibility for supporting field-level extension was transferred to the National Agricultural Research Organization (NARO). In the same year, in a move contrary to downsizing, restructuring, and contracting out or privatizing objectives, the central government introduced a plan to employ up to three graduate specialists per Sub County, with salaries paid by the central government as conditional grants; the districts and sub counties were expected to cover operational expenses.¹⁰⁵

Parallel to the changes in public extension in the 1980s and 1990s, liberalization of service delivery led to a proliferation of private companies and NGOs operating at the grassroots level, providing channels for agricultural technology and information service delivery to farmers.¹⁰⁶

Unlike in a centralized government where policy alterations have first to be referred to the center, in a decentralized system, the people can vary the policy to suit local situations as long as it does not completely deviate too much from the original policy. This helps to reduce the delay that is associated with the implementation of government programs in Lwengo District.

¹⁰⁴ Friis-Hansen and Kisauzi 2004; Mangheni 1999

¹⁰⁵ Crowder and Anderson 2002

¹⁰⁶ Friis-Hansen and Kisauzi 2004

Some problems are peculiar to some localities and therefore only local solutions can be applied to it. The fact that there is room for finding local solutions means that the people at the local are able to take initiatives to solve their own problems.

Another advantage of decentralization is that the tendency to become dictatorial is minimized.

There is government at the local level and because people participate actively in the operations of the government at the decentralized level, they become political wise to check any holder from sliding into dictatorship.

One of the roles of decentralization is that it brings the government from wherever it is to the people at the local level. The people are able to have easy access to the various services that are provided by the government. For example, to take a passport, one does not have to go to the capital city before he or she can do so. The person can take the passport at the decentralized office near him or her.

4.5 Challenges in the Implementation of Decentralization in Lwengo District

Uganda has been cited as having –one of the most far-reaching Local Government reform programs in the developing world as well as –one of the most radical devolution initiatives of any country at this time.. In theory, the implementation of decentralization renders widespread benefits reaching and empowering the most disenfranchised sections of the population. But the questions remains, has this rhetoric become a reality in Uganda (Lwengo in particular)? The next section explores the challenges and constraints that face the nation in achieving the intended benefits of decentralization.

The Government of Uganda has highlighted successes and noted challenges to the implementation of decentralization. Local Council Courts at the village and parish levels have been lauded for being accessible to and tailored to the needs of local people. For example, court proceedings are conducted in local languages and without the legal jargon present in higher courts. The Local Government's Decentralization and Local Development in Uganda report states that the Local Council Courts handle an average of 2 cases per week and that Overall 80% of Ugandans access justice through Local Council courts.¹⁰⁷ However, specific successes are rarely cited in the

¹⁰⁷ MoLG, 2014, p. 20

literature outside of government publications and reports.

Evidence collected from the current literature on the subject suggests a major gap between the theory and the practical results of decentralization. It is widely argued that decentralization is an effective tool for both democratic and economic development due to its promotion of popular participation, locally responsiveness policy-making, and increased efficiency in governance and public service delivery. Despite this held belief, however, academic support for tangibly achieved benefits of decentralization is sparse. The case of Uganda, the success of decentralization has been constrained by 1) limited local autonomy, 2) financial shortages, 3) exclusion of participatory groups, and 4) lack of access to information. These four challenges are explained in greater detail below.

4.5.1 Lack of Financial Capital

Along with administrative and democratic components, fiscal components are also essential to Uganda's decentralization reform. Though the authority over budgets has been given to local actors, the current literature suggests Local Government's lack the financial resources to execute this authority. According to a study by the Ministry of Local Government, funds do not add up to the service delivery requirements of Local Government are leading to a continuous cycle of funding gaps. Part of this funding gap is due to the low collection of local taxes and fees. Revenues that are generated locally are used for salaries and the allowances of the council itself as opposed to services for the local populations.¹⁰⁸

Another source for funding apart from locally generated revenue is central funds of three kinds: unconditional grants, conditional grants, and equalization grants. The majority of these funds are conditional limiting financial freedom and leading to the next constraint of a limited local autonomy.¹⁰⁹

4.5.2 Limited Local Autonomy

Scholars on the subject have highlighted the connection between financial freedom and local autonomy. Francis James (2003) notes the extent to which elected local representations actually

¹⁰⁸ Francis & James, 2003

¹⁰⁹ Ahman, Brosio, & Gonzalez, 2006

control district finances free from central interference is fundamental to the realization of local autonomy.¹¹⁰ As noted above, the Local Governments of Uganda are financially strained. This presence of a weak local revenue base works to undermine local decision making, as transfers from the central government will typically dominate the budget. It is not the transfer, however, that is problematic but the conditions set by the respective line ministries which are frequently attached.

It is a tactic that ensures funds are used properly in alignment with national priorities and rooted in the presumption of weak financial management and capacity at the local level.¹¹¹ The result of this is a previously established policy agenda, which may aligns itself with national priorities but only minimally involves the Local Governments in the agenda setting process.

4.5.3 An Exclusion of Disenfranchised Groups in Citizen Participation

Decentralization aims to increase popular participation in decision-making and strengthen the relationship between the Local Governments and its constituents yet the academic discussion suggests a lack of participation linkages between Local Governments and citizens. This is particularly relevant for disenfranchised groups such as the poor, the youth, or the disabled.¹¹²

Reasons for this include limited citizen attendance at public meetings, high opportunity costs of attending meetings, and lack of understanding of political processes as well as individual political rights.¹¹³ Disadvantaged members do not typically attend sub-county level meetings where most decisions are made because they cannot afford the costs of travel, missed work, among others. Rather it is the often the well-off population who are in attendance.

A study conducted by Francis and James in –Balancing Rural Poverty Reduction and Citizen Participation under Uganda’s Decentralization Program revealed that the new structures did not render a participatory system of local governance. According to David Watson’s study (2005) on decentralization, the poor are infrequently consulted on their priorities...the poor have useful things to say but unfortunately rarely anyone is listening.¹¹⁴ Decentralization may promote

¹¹⁰ p. 326

¹¹¹ Steffenson, 200

¹¹² Steffensen, 2004

¹¹³ Steiner, 2006

¹¹⁴ pp. 7

participatory planning but there is a majority of Uganda's population who are not heard.

4.5.4 Lack of Access to Information

Another contributing factor to the exclusion referred to above is the lack of access to information.

Susan Steiner's study, which includes over 30 expert interviews and several sub-county councilors, suggest people have not fully grasped what decentralization entails and do not understand their new rights and duties within this framework.¹¹⁵

In addition to the understanding of the overall structure, there is a lack of access to the programs, policies, and interventions that happen within this structure.¹¹⁶

The Ministry of GLSD noted that the youth specifically do not have access to information pertaining policies intended to benefit them.¹¹⁷ The citizens are not the only ones to face this challenge; it is a two-track system. Government officials lack information regarding their constituents' needs as well. It is likely that an increase of information flows from citizens to the government as well as the government to the citizens will increase citizen participation therefore strengthening the potential outcomes of decentralization in Uganda.¹¹⁸

4.6 Conclusion

In conclusion therefore for as long as the above challenges persist and exist, Uganda will not reap the benefits of a decentralized government. Part two of this post will examine the necessary policy interventions to overcome these challenges in Uganda. Specific focus will be placed on current initiatives being implemented by the government or being pursued by civil society organizations. Stay tuned.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ agenda, 2004

¹¹⁸ agenda, 2004

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the researchers point of view from his study findings and what he records as a way forward but the conclusion and recommendations in this section are based on the primary data as well as secondary data. They are presented in accordance with the objectives of the study.

5.2 Summary of the Study Findings.

The researcher established that the people understood what decentralization is all about as the transfer of power and resources from the central government to local government. The researcher observed that there is increased participation of local people in decision making and in resolving conflicts that affect the local people.

The researcher also observed that the driving force behind the implementation of decentralization policy in Uganda was a result of the Agenda of National resistance ten point programme that brought National Resistance government to power.

This is in agreement within paper prepared for the first conference of regional assembly of Africa and Europe organized by the regional assembly of Tuscany under the Italian presidency and the united nations department of economic and social affairs (UNDESA) September 17th to 18th 2004, Florence Italy.¹¹⁹

A notable characteristic of Uganda's decentralization is that the very beginning of the National Resistance Movement (NRM) rule the process was named as fundamental and crucial of restoring good governance. The restoration of Democracy was 10 point programme.¹²⁰ This is also supported by Jan 29th 1986 His Excellency President Museveni Address ours is a fundamental change.

This argument for Uganda as a driving force towards implementation of decentralization contrasts the position of who claims the driving force for decentralization especially in Eastern Europe was

¹¹⁹ Edward Mugabi 2004

¹²⁰ Ibid.

as a result of demand from the local level for local democratic control. The researcher found out the driving force behind the implementation of decentralization vary from state to state.¹²¹

The other factor that was observed was pressure from external donors like World Bank pressurizing developing economies to decentralize so as to tackle poverty issues and this coincided with the neo-liberal agenda of reducing the role of central state.¹²² During the implementation of the decentralization policy, the researcher observed that there are several factors that constrain the effective implementation of decentralization policy in Uganda.

The researcher observed that central government transfers determine the effective implementation of decentralization. This is in agreement with (Obwona et al 2000) who concludes that financial and institutional constraints have adversely affected the ability of sub national Governments to adequately deliver services of sufficient quality. Obwona concurs with Livingstone and Charlton 2001, Takahebwa 1998, who observed that the weaknesses and challenges faced by Local Governments in implementation of decentralization policy and service delivery was a result of tight control over funding by central Government. Other factors which the researcher observed as to impact on decentralization policy was corruption.¹²³

The researcher observed that there was a lot of corruption in government institutions like police, judiciary, Administrative offices, Land offices, tax services. This concurs with World Bank policy research working paper 3824 Jan 2006. The researcher's observation concurs with transparency international report 2017 which ranked Uganda 151 least corrupt nation out of 175 countries according to 2017 corruption perception index report by transparency international. Most resource that would be to provide social services end up being misappropriated and diverted hence not accounted for.

The other factor which the researcher observed as to impact the effective decentralization policy was poverty. The researcher observed most Local Governments have a narrow tax base to the extent that they cannot raise enough revenue to fund the services that their people need. As a result, service levels go down.

¹²¹ Coulson 1995

¹²² World bank 2004

¹²³ Obwona concurs with Livingstone and Charlton 2001, Takahebwa 1998

This finding is in agreement with Olowu et al 2004, Shah et al 2004 Wunsch, 2001 who all stated that Local Governments in most countries have limited local tax base from which to finance the service assigned to them consequently service levels fall far short.

Finding on the Human Resource Capacity, there is general agreement that the problem of inadequate capacity in Uganda's local government continues to exist. The problems highlighted by De Muro, Salvatici, and Conforti as affecting many sub-Saharan African countries also exist in Uganda.¹²⁴

These problems include shortages of qualified and experienced staff to deliver public services and a lack of training opportunities to develop professional and technical expertise. The problems noted by the study as constraining staff recruitment and retention in the Local Governments include, among others, low pay and salary payment delays, which, in turn, lead to low staff morale. In Uganda, the staffing problem is exacerbated by a shortage of equipment and materials.

A study by Azfar et al that used a combination of analytical tools, including regression analysis and an innovative adjustability index, found that only 17 percent of health facility respondents reported that all their employees had the necessary equipment and resources to do their jobs well.¹²⁵

The central government is, however, making efforts to increase the capacity of Local Governments through training of administrative and support staff. The decentralization secretariat also runs sensitization courses for new council chairs and councilors. A related problem is the insufficient capacity of training institutions in Uganda to train qualified staff, despite a recent growth in private universities. Having a sufficient professional and well-trained staff is essential for Local Governments to realize their potential for serving their communities. However, LOCAL Governments in Uganda continue to operate at less than the acceptable minimal personnel structures, in some instances as low as 9 % of the approved personnel structure.¹²⁶

Findings on Elite Capture, Participation, and Exclusion of Vulnerable groups, a Key ingredient of decentralization the transfer of more political and administrative power to local leaders may also

¹²⁴ 1998

¹²⁵ 2000

¹²⁶ Onyach-Olaa 2007

provide an avenue for abuse. This feature opens the system to corruption, especially in awarding lucrative service contracts to friends, family, relatives, clansmen, and those who pay kickbacks. This corruption can lead to the poor, women, the disabled, the less politically favored, and other minorities being marginalized, unless measures are explicitly put in place to deter it.

Findings on the Financing of the Local Government, one of the most critical challenges faced by Local Governments is their low financial resource base due to limited sources of local tax revenue and overdependence on grants from the central government. This challenge is of major importance because all activities performed by Local Governments require adequate financial resources. The imperativeness of adequate financial and staff resources was also recognized by the World Bank's World Development Report.¹²⁷ For Uganda, in the process of introducing the decentralized system of governance, the political and administrative aspects moved faster than the fiscal decentralization.

A study by Green,¹²⁸ which examines the reasons for district creation in Uganda, makes a qualitative case that cites patronage as the most plausible reason for district creation. Green's analysis also runs several logistic regressions and examines election data to strengthen the case for patronage. One of Green's conclusions is that decentralized services were not matched with adequate financial resources for Local Governments to deliver services effectively. Currently, Local Governments in Uganda obtain their finances from four main sources, Locally generated revenue, such as market dues, trading licenses, rent, and rates, Government grants, Donor and project funds for specified activities and Fund-raising from well-wishers.

However, Local Governments also depend heavily on subventions from the central government. This dependence of Local Governments on funding from the central government increased when the graduated tax, which contributed 80 percent of the local revenue, was abolished in 2005.¹³⁰

According to Onyach-Olaa,¹²⁹ central government transfers to Local Governments account for 30 to 37 percent of the national budget and constitute about 95 percent of Local Governments revenue. Central government grants are by and large earmarked for the services for which they are given. Only a slight degree of flexibility is permissible with restrictions. There are three main forms

¹²⁷ 1999, 117

¹²⁸ 2008

¹²⁹ Green 2008

of grants from the central to the local government.

The unconditional grant, which is the only grant that Local Governments may use as part of their revenue, is mainly used to pay staff salaries. In many districts, the amount from this grant is not adequate to cover the wage bill. Local Governments have to obtain the rest from their local revenue.

The conditional grant, which is by far the largest source of revenue to Local Governments, accounted for up to 85 percent of Local Governments revenue in 1999/2000. This grant finances programs agreed upon between the central and local government, such as primary education, feeder roads, and primary healthcare, including the Local Government Development Program (Local Governments DP), through which grants are available to lower councils for specific projects identified in development plans. The equalization grant is paid as a special provision based on the extent to which least- developed districts lag behind the national average standard for a particular service. Because of this finance problem, decentralization has not been as successful as it was expected.

Findings for Legal and Legal and Regulatory Frame Work Governing Decentralization Policy, there is a wide range of legal and regulatory frame work governing decentralization Policies and Laws on decentralization are many but not effectively implemented, Corruption is too high and it is the reason why most decentralized services are not well realized on ground.

It is also found out that the penal sanctions provided by the legal regime on decentralization is not punitive and deterrent enough.

Findings for the Low Quality of Service Delivery, the researcher found out that low central government transfers to Local Governments is responsible to the low quality of service delivery. The researcher also observed that poverty levels arising from narrow tax base constrain Local Governments in providing quality service. The researcher also made a finding to the effect that most of the funds ear marked for service delivery is misappropriated and end up unaccounted for and embezzled by public officials.

The researcher found that there is no full decentralization of powers and resources.

5.3 Conclusion

Decentralization is not a panacea. It has its advantages and disadvantages. The role of the legal and regulatory framework on decentralization in the social economic transformation of Uganda depends critically on its design and prevailing institutional arrangements and the enacted laws.

This paper has reviewed the literature on factors that are likely to influence whether decentralization improves the efficiency of resource allocation, promotes cost recovery and accountability, and reduces corruption in public services. The literature suggests that decentralization may work best, indeed may only be meaningful, if there is a local democracy; local democracy may work best in socially and economically homogeneous communities.

The review raises the question: Must decentralization be the solution whenever the centralized system has failed to perform? What levels of democratic and economic development and societal enlightenment are consistent with the degree of decentralization? Is there an appropriate pace or sequence of decentralization? These are some of the research question that arise from this research paper which can prompt any person to conduct a further research about this topic.

5.4 Recommendations

5.4.1 Improving Human Resource

The central government should put efforts to increase the capacity of Local Governments through training of administrative and support staff. The decentralization secretariat also runs sensitization courses for new council chairs and councilors. A related problem is the insufficient capacity of training institutions in Uganda to train qualified staff, despite a recent growth in private universities. Having a sufficient professional and well-trained staff is essential for Local Governments to realize their potential for serving their communities. However, Local Governments in Uganda continue to operate at less than the acceptable minimal personnel structures, in some instances as low as 9 percent of the approved personnel structure. So the central Government should set up training institutions in Uganda to train qualified staff and improve on their skills.

5.4.2 Curbing Corruption as A Way of Improving Decentralization in Uganda

The researcher recommends that the institutions of government responsible for enforcement of the

law should be reinforced to ensure full enforcement of the law and enforce strict adherence to it. The office of the inspector general government should be reinforced to carry out this a mandate so that the rule of law prevail.

The researcher recommends that new laws should be enacted especially those responsible for protecting the whistle browsers in corruption cases. Whistle brewer laws should be put in place.

The researcher recommends that the anti-corruption Act be amended to protect any person from whom the bribe is solicited so that only the solicitor of a bribe be held capable.

The researcher also recommends that stringent and deterrent panel sanctions be put in place through amendment of laws to hold capable all those who contravene the legal regime to their advantage to the detriment of the majority population who are beneficially of service delivery.

5.4.3 Financing Local Government

A more sustainable situation should emerge from a national consensus regarding financing of Local Governments in a manner that shields local taxes from politicization and default. The Local Government Finance Commission should examine alternative sources of Local Governments financing, such as royalties, agency fees, and devolution of some of the taxes that could be effectively managed by the Local Governments. The commission should study and advise the government on the question of financing decentralization in a comprehensive way.

Such a study will include measures to strengthen Local Governments accountability in order to establish a stronger link between payment of taxes and services¹³⁰. Scott-Herridge (2002) suggested that the central and Local Governments work together to seek donor funding, particularly for capital projects, with the central government reassuring donors that democratic processes are being pursued and that corruption is being tackled.¹³¹ However, the downside of seeking donor funding is a deepening of dependency on external funding. Innovative ways of mobilizing funding for Local Governments are still rare.

Suggestions revolve around forging international partnerships and increasing cooperation and

¹³⁰ Scott-Herridge (2002)

¹³¹ Ibid.

networking between councils to enhance capacity, share experiences, share facilities and equipment, and increase bargaining power with governments and donors.

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APPENDIX: I CONSENT FORM

Dear respondent,

I am **Tugume Joram**, a student of Bachelor of Laws at Kampala International University and I am carrying out a study on the legal and regulatory framework on decentralization and its impact on the socio-economic development in Uganda with Lwengo District as a case study. You have been selected as a key respondent in this study and you are requested participate in this study by filling this questionnaire to the best of your ability. Your participation is voluntary and you are free to withdraw in case of any challenges. However, your full participation is essential. The study is for academic purpose and your views will not be disclosed to non-authorized persons whatsoever.

For confidentiality purposes, you may not disclose any of your identities such as names and telephone contacts

I therefore seek your informed consent

Respondent:

I have read and understood the above information and I hereby give/decline informed consent to participate in this study.

Consent Granted

☐

Consent Declined

☐

N.B: If consent has been granted, continue to the questionnaire (Appendix II)

**APPENDIX II: QUESTIONNAIRE FOR LOCAL GOVERNMENT AND
ADMINISTRATION OF LWENGO DISTRICT**

Section A: Bio-Data of Respondents

1. Level of local government

District

Sub-county

Municipality

Division

Position Held

Political leader

Public Servant

Civil Society Member

Gender of respondent

Male

Female

Age of respondent

18-30

31-45

46-60

60+

Education Status of the Respondent

Certificate

Diploma

Degree

Section B:

Objective One:

The conceptual frame work of decentralization

2. As a leader, are you well versed with the meaning of Decentralization policy?

Yes

No

3. What could be the driving force behind implementation of Decentralization in Uganda?

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4. Is there any factor that hinder the effective of implementation of Decentralization policy in Uganda?

Yes ☐ No ☐

5. As a leader, are the citizens satisfied with the way the decentralized services on Decentralization are provided?
Objective Two:

Analysis of the legal and regulatory framework of government on decentralization policy

6. Do you experience any challenges with legal and Regulatory Framework on Decentralization in Lwengo District?

7. Is there an adequate legal and regulatory regime for implementation of decentralization policy?

Yes ☐ No ☐

8. If your answer in 11 above is yes, has such legal Regulatory Framework on decentralization been effective to socio Economic Development in Lwengo District.

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OBJECTIVE THREE:

The term service delivery under decentralization in Uganda

Discuss the role of decentralization in social economic transformation in Uganda.

9. How has decentralization promoted social economic transformation in Uganda? (Give at least 2 ways)

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10. What is your general comment on local government structure, service delivery and Socio Economic transformation in Lwengo District?

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11. Is there aspect you consider to have constrained the smooth implementation of decentralization in Uganda.

12. Has decentralization made any successes in Uganda?

Objective Four

Identify key recommendations necessary for effective implementation of decentralization policies in Uganda?

Thank you for your cooperation

APPENDIX III RESEARCH WORK PLAN 2017- 2018

ACTIVITY	JA	FE	MA	AP	MA	JU	JU	AU	SE	OC	NO	DE
	20	20	20	20	20	20	20	20	20	20	20	20
Pre-reading												
Tool design												
Proposal writing												
Data												
Draft report												
Corrections												
Report												

APPENDIX IV: RESEARCH BUDGET (SHS)

Code	Particulars	Unit	Unit cost	Total cost
1	Transport			
	Data collection Meeting supervisor	5 times	30,000	150,000
		3 times	30,000	180,000
2	Accommodation			
	Data collection	2 times	30,000	60,000
3	Meals			
	Data collection Meeting supervision	10 times	10,000	100,000
		3 times	20,000	60,000
4	Stationery Ream of paper Clipboard Pens			
	Pencils Bag	2	15,000	30,000
	Box file	1	10,000	10,000
		5	500	2,500
		2	250	500
		1	20,000	20,000
		1	10,000	10,000

5	Secretarial work			
	Printing	200pgs	1,000	200,000
	Photocopying	600pgs	100	60,000
	Internet	General	General	100,000
	Binding	4 books	10,000	40,000
	TOTAL			1,303,000