

Uganda's Decentralisation Policy, Legal Framework, Local Government Structure and Service Delivery¹

1. Introduction

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.

2. The Rationale and Characteristics of Uganda's Decentralization

The rationale for decentralization in Uganda was political and the main consideration leading to the decentralization that is being implemented was the need to restore democracy and return power to the people. The constitution at independence in 1962 established a decentralized system combining federalism, with semi-federalism and unitary. It granted a federal status to the kingdom of Buganda and a semi-federal status to the kingdoms of Ankole, Bunyoro and Toro, and the territory of Busoga. It also provided for Councils to be established in the districts of Acholi, Bugisu, Bukedi, Karamoja, Kigezi, Lango, Madi, Sebei, Teso and West Nile.

The independence constitution was abrogated in 1966 and in its place a new constitution, which centralised powers was enacted. There was a military take-over in 1971. The military regime of Idi Amin (1971-1979) dissolved district and urban administrations and in their place established provincial administrations led by Governors, most of whom were high-ranking military officials. Obote (1980-1985), a key protagonist in the 1966 crisis, did not make any significant efforts to re-establish decentralised governance. So it was that the re-introduction of democratic governance became an important pact with the people of Uganda and one of the main features of the new constitution.

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A notable characteristic of Uganda's decentralization is that from the very beginning of the National Resistance Movement's (NRM) rule, the process was marked as fundamental and crucial to restoring good governance. The restoration of democracy was Point No.1 in the NRM's Ten Point Programme. The return of power to the people was, in keeping with the Ten Point Programme, a matter of urgency and nowhere is the tempo best set than in Y.K. Museveni 'Ours is a fundamental change' address of January 29, 1986.

"The first point in our programme is the restoration of democracy. The people of Africa – the people of Uganda – are entitled to democratic government. It is not a favour from any government. It is the right of the people of Africa to have democratic government. The sovereign power in the land must be the population, not the government.

In our liberated zones, the first thing we started with was the election of Village Resistance Committees. My mother, for instance, cannot go to Parliament; but she can surely, become a member of a Committee so that she, too, can make her views heard. We have, therefore, set up village, muluka, gombolola and district committees. but right now I want to emphasize that the first point in our political programme is democracy for the people of Uganda".

This urgency motivated the NRM to take certain measures to give assurances to the people that the return to democratic governance was a high priority. One of the measures was to establish, right from the village to the district, resistance councils and committees as policy-making organs. The second was to establish a high profile "Commission of Inquiry into the Local Government System".

The second characteristic of Uganda's decentralization is that the policy has been gradually developed and implementation of some measures has been in phases. In 1987 the resistance councils did not have control of financial and human resources. However, they were empowered with policy-making and watchdog functions. The detailed policy itself was constructed through an inquiry into the local government system and through public consultations. The inquiry and consultations were followed by technical analyses, discussion papers and policy papers, then Cabinet consideration and approval of "Measures to Strengthen Democratic Decentralization in Uganda". Some of the measures that were approved did not require a new legal basis. Thus, in 1992 administrative officers at the rank of Under Secretary were posted to districts as District Executive Secretaries, which office has in time come to be known as Chief Administrative Officer. Staff in line ministries field departments were seconded to districts and placed under the charge and supervision of District Executive Secretaries. In addition, a 'transitional period' of financial decentralization in which Districts first managed votes, then block grants, started in the financial year 1993/1994 and completed in the financial year 1996/1997. In 1993 the Local Governments (Resistance Councils) Statute was passed, creating the legal framework enabling the gradual transfer of powers in the years 1993 to early 1997. The return of power to the people was deliberated upon by the constituent assembly (1993–1995). Eventually, democratic principles, which empower and encourage the active participation of all citizens at all levels in their own governance were entrenched in the constitution.

Third, Uganda adopted devolution. During the 'bush war' of the early 1980s, the organs of the state were destroyed, thus creating a vacuum in local governance. The NRM had

no spare manpower to utilize as local administrators. Accordingly, local communities were requested to elect from amongst themselves, councils to perform the duties of the defunct agents and organs of the old state. However, the primary role of these councils was to resist infiltration – through a network of information gathering on the operations of the enemy and liaising with the NRM intelligence organs – hence, the name “resistance councils”.

By the time the NRM took over state power in 1986, resistance councils were in operation in most parts of the country and beginning to take root in other parts. As earlier noted, resistance councils performed the duties of the defunct state organs including service delivery, which powers and responsibilities were previously a reserve of the central government. It’s this experience that provided the base for devolution.

The initiators of the policy did not consciously discuss or designate the form of decentralization. However, they were aware that putting powers in the hands of the local councils enabled them to respond better to the needs of the people. Therefore, they began a process that sure increased local democratic control and participation in decision-making. Later on, the framers of the constitution, keen to reserve power in the hands of the people and put an end to centralized governance so that the people develop their own localities, with their own resources and at their own discretion, deliberately adopted devolution. Decentralization and devolution are now constitutional principles applying to the local government system.

Devolution was preferred because it gives citizens or their elected representatives’ decision-making power and grants “local-level” governments discretionary powers to act independently in their areas of jurisdiction, thus reducing central government control. An administrative decentralization or deconcentration would have wrenched powers from the hands of the people.

Fourth, local councils, more specifically the local government councils, have been granted wide-ranging powers. Local government councils are the highest political authority in their areas of jurisdiction, with both executive and legislative powers, therefore can make local laws not inconsistent with the constitution or any other law. Local government councils have powers to make development plans based on locally determined priorities; raise revenue, including determining and implementing the revenue raising mechanism; make, approve and execute own budgets; alter or create new boundaries within their areas of jurisdiction; appoint statutory commissions, boards and committees for personnel (District Service Commissions), land (District Land Boards), procurement (District and Urban Tender Boards) and accountability (Local Government Public Accounts committees); establish or abolish offices in the public service of a district or urban council as well as hire and manage personnel, and administer own payroll and pension. It is worth noting that these powers are assigned to the councils, and not to individual offices like that of the Chairperson or the Chief Administrative Officer. This is to ensure democratic participation in decision-making and control by the people as represented in council.

Fifth, two or more districts may, in accordance with article 178 of the constitution, cooperate in the areas of culture and development and may, for that purpose, form and support councils, trust funds or secretariats. Also, a local government council may concur with any

other council to appoint a joint committee for any matter in which they have a common interest.

Sixth, in line with devolution, sector or line ministries affected by decentralization are gradually expected to concentrate on national policy and standards, ensuring compliance with national standards, inspection, training, providing technical advice, mentoring, monitoring and evaluation. Line ministries are no longer responsible for the direct delivery of transferred services. It is the local governments that are accountable to the people for the provision of devolved services.

The central government is directly responsible for the following functions and services: defense, law and order, banks, land, mines, mineral and water resources, citizenship, foreign relations, taxation, national parks, national elections and national plans. A Resident District Commissioner represents the President and central government in the district. The Resident District Commissioner is responsible for the coordination of the administration of government services. The Resident District Commissioner monitors and inspects Government services and may sensitize the populace on government policies and programmes; advise the District Chairperson on matters of national nature that may affect the district; draw the attention of the Auditor General to the need for special investigation audits; draw the attention of the Inspector General of Government to the need to investigate cases of mismanagement or abuse of office; and draw the attention of any line ministry to divergence from or non-compliance with government policy.

Seventh, regarding the distribution of revenue between the central government and local governments, the constitution establishes a formula for determining the minimum unconditional grant paid to Local Governments to run decentralized services. Besides the unconditional grant, Local Governments receive conditional and equalization grants. A Local Government Finance Commission with representatives of the district councils, urban councils, the ministry responsible for finance, and the ministry responsible for local governments advise the President on all matters concerning the distribution of revenue and the allocation of moneys to each local government.

3. The Legal Framework

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

1. 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.
2. 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.
3. 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.
4. The system shall be such as to ensure the full realization of democratic governance at all local government levels.

5. There shall be established for each local government unit a sound financial base with reliable sources of revenue.
6. 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.
7. Persons in the service of local government shall be employed by the local governments.
8. 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.

For purposes of giving full effect to the provisions of the constitution, the Local Governments Act was enacted in March 1997. Specifically, 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.

Thus far, the Local Governments Act has been amended four 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 have essentially been modifications of provisions relating to the establishment, composition and election of local councils – 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, is now by secret ballot, instead of lining behind the candidate as initially provided for under the act.

4. The Local Government Structure

The local government system is based on the district as a unit under which there are lower local governments and administrative units. Local government councils in a district are:

- (a) the District or City Council
- (b) the Municipal Council
- (c) the City Division Council
- (d) the Municipal Division Council
- (e) the Sub-County Council
- (f) the Town Council

Administrative unit councils in a district are:

- (a) the County Council
- (b) the Parish or Ward Council
- (c) the Village Council

There are distinct differences between local government councils and administrative unit councils. A local government council is a body corporate with perpetual succession and a common seal. It may sue or be sued in its corporate name. Each local government council has a directly elected chairperson, directly elected councilors representing demarcated electoral areas, two councilors (one male, one female) representing the youth, two councilors (one male, one female) representing persons with disabilities and women councilors forming one third of the council. Additionally, every lower local government council has two elderly persons (one male, one female) above the age of fifty five years nominated by the respective executive committee for approval by the respective council. A speaker, elected from among the members presides at council meetings.

Every local government council is obliged to appoint an executive committee, which committee is chaired by the Chairperson. It is the responsibility of the executive committee to initiate and formulate policy for approval by the council; monitor and oversee the implementation of policies and programmes; and recommend to the council persons to be appointed members of statutory commissions, boards and committees. Local government councils also have standing committees, which make detailed consideration of proposals and recommendations.

An administrative unit council is not a corporate body. Its functions are to resolve problems or disputes monitor the delivery of services and assist in the maintenance of law, order and security.

Administrative unit councils at the county level consist of all members of the sub-county executive committee in the county; at the parish level, all members of the village executive committees in the parish; and at the village, all persons of eighteen years of age or above residing in the village. In addition, administrative unit councils have ex-officio members - at the county, all district councilors representing electoral areas in the county and at the parish, all sub-county councilors representing electoral areas in the parish. Meetings of an administrative unit council, unlike the meetings of a local government council, are presided over by the Chairperson.

The village and parish administrative units are required to have an executive committee. A county council cannot, however, establish or appoint an executive committee in its true meaning. Instead, the county council elects a Chairperson and Vice-Chairperson from among its members.

Local government and administrative units are collectively known as local councils. Local councils are further classified as either rural or urban:

Local Councils

Rural Local Councils	Urban Local Councils
District Council County Council Sub-County Council Parish Council Village Council	City Council City Division Council Municipal Council Municipal Division Council Town Council Parish or Ward Council Village Council

5. Service Delivery

Questions will be asked: specifically, what services do the local councils provide? Has decentralization led to effective and responsive service delivery?

A central feature of Uganda's decentralization is that local councils are responsible for the delivery of the majority of public functions and services. There is also, in the second schedule to the Local Government Act, a listing of functions and services to be carried out by each local council.

The district, which is the basic unit of local government, is responsible for major functions and services previously carried out by the central government. District councils are responsible for functions and services including but not limited to: primary, secondary, trade, special and technical education; hospitals other than hospitals providing referral and medical training; health centers, dispensaries and aid posts; the construction and maintenance of feeder roads; the provision and maintenance of water supplies; agricultural extension services, land administration and surveying; and community development.

Urban councils are responsible for service delivery in urban areas and they enjoy both financial and planning autonomy.

In general, the division of functions and services is working well for the district level. At lower levels, however, problems related to duplication of service delivery have surfaced, sometimes leading to revenue collection and funding disputes. As previously stated, local revenues are locally determined and collected. A revenue sharing arrangement ensures that all councils share the revenue. For example, in the city revenue is collected by the division. The

division retains 50% of the revenue and transfers 50 % to the city. Revenue from all divisions is placed in a pool and redistributed by formula as grants to the divisions.

It may happen that the city division builds a secondary school using the local revenue it retains and expects the city district to take over payment of teachers' salaries. The issue here is that secondary schools are a responsibility of the district and only become a service to be carried out by a lower level upon devolution. To effect such an arrangement the district must transfer the service and funds to carry it out.

It has happened that the city did not redistribute revenue collected from the divisions. In May 2000 Kampala City Central Division Council filed a court case against the city for both collecting revenues that it should have collected and for not remitting revenues due to it.

In spite of the emerging difficulties in sharing and financing services, there are noticeable improvements in service delivery. This has really been facilitated by government's policy, as elaborated in the Poverty Eradication Action Plan, to mainstream poverty concerns into all programmes plus the direct transfer of Poverty Action Fund resources to districts. In the road sector, for example, 70 % of all districts now have the capacity to handle and are carrying out feeder roads rehabilitation and maintenance. Health infrastructure has improved – health units have been upgraded and new ones built. The percentage of the population with access to a health centre has improved from 55 % in 1995 to 48 % in 2003. The availability of medicines and drugs has improved. The infant mortality rate has dropped from 122 (per 1,000 live births) in 1991 to 88 (per 1,000 live births) in 2003; maternal mortality rate from 700 (per 100,000) in 1991 to 504 (per 100,000) in 2003; and under five mortality rate from 180 (per 1,000) in 1991 to 114 (per 1,000) in 2003. The percentage of the rural population with access to safe water increased from 18 % in 1991 to 55 % in 2002. On the whole, the quality of life is improving seeing that the poverty level fell to 35 % in 2003, from 56 % in 1991.²

6. Conclusion

The purpose of this paper was to examine the rationale and characteristics of Uganda's decentralization, discuss the legal framework, present the local government structure and examine 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.

² The main source of progress indicators presented in this paper is the Uganda Poverty Status Report, 2003 issued by the Ministry of Finance, Planning and Economic Development. Also Uganda Bureau of Statistics Population Census Report, 2002; Service Delivery Surveys, 1995 and 2002; and National Demographic and Health Surveys

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