

Devolution and transfer of powers and functions: a case for local government in Uganda

Historic background

Before 1993, when decentralisation policy started, the majority of the people in Uganda had little say in the running of the affairs of the state. The government was heavily centralised and corrupt. Local administration only translated into state dictatorship, brutality and force, manifested through central government appointees. The independence Constitution of 1962, merely apportioned powers to parts of the country than devolve powers to ordinary people. Under the military rule of late President Idi Amin, local military *militias* instead wielded enormous powers at the districts and subcounties levels. The 1980 elections that were held after the overthrow of the military government were massively rigged. This was a breeding ground for the five year civil war which enjoyed grass root support of the ordinary people. During the civil war, structures were put in place in such a manner that leadership and administration were from the bottom to the top. After the war, the pledge was among other things, to democratise the country. To this end, local government is one of Uganda's iconic democratic symbols, especially in the manner in which it transfers power and functions for the first time, from the central government to local governments.

Constitutional recognition of Local Government

Local government and all its structures are constitutionally recognised. The Constitution permits devolution of powers and responsibilities from the central government to the lowest structures of local government. The Constitution gives the local government roles in education, road constructions and water delivery. These roles are buttressed by the fact that the Constitution directs the central government to grant financial autonomy and assistance to local governments so as to perform the functions that are devolved. To underscore the importance of local government, its structures and institutions are entrenched in Constitution in such a manner that any amendment regarding local government requires a special procedure. It must be supported by more than two-thirds of the members of the Parliament together with more than two-thirds of districts councils approving the amendments.

Structures of local government

District as the basic unit of local government

This devolution and transfer of powers and responsibilities has a three-layered structure. The first layer of devolution of powers is manifested in districts as pillars of local governance. There are 80 districts out of the population of 29.7 millions. That means there are 375000 people per

district. The Constitution mandates a district to be the basis of local government system and a unit from which other lower local government and administrative structures evolve. The process of creation of or changes in boundaries of a district is governed by the Constitution. The head of the district is known as the district chairperson and in case of a city he or she is known as a mayor. Kampala as the capital city has a population of approximately 1.6 million people. All political offices in a district or city are electable. These are: a district chairperson, and one councillor representing an electoral area in a district. In addition, in consideration of gender equity, the law requires the in every district council women must form a third of the members. Special interest groups are by law represented in every district council. A unique innovation is the fact that women councillors, the youth and people with disabilities are elected by colleagues. However the introduction of multiparty democracy appear to have had challenges since most local government structures are dominated by the ruling party, owing to Uganda's history of non-party democracy since 1986.

Lower local government councils

The second layer of the local government is known as the lower local government. Its basic structure is known as subcounty. It includes a city division council, a municipal council, a municipal division council and a town council. A subcounty, municipality, city division council, and town council are also known as the Local Government III. Where a subcounty forms part of the city, it is called a city division. Where the subcounty forms part of a bigger town it is known as a municipality. Where subcounty forms part of a smaller town it is known as a town council. Each of these lower local councils has a chairperson, one councillor representing each parish, two youth councillors, two councillors representing people with disabilities and women councillors forming a third of the council. Each of these lower councils has an executive committee, which initiates and formulates policy, oversees the implementation for council policy, and promotes public participation. They evaluate the performance of council against the approved plans of council every year. They also act as bridges between central government, district local government council and local residents. In addition they monitor and supervise projects undertaken by central government and NGOs. Below the subcounty, is the parish council or the LC II and below the parish is the Village council or the LCI.

Delegation of powers to lower local government councils

A district council has powers to delegate its functions and responsibilities to a lower local government council within its area of jurisdiction. This power is however conditioned to

adequacy of resources and appropriate measures to inform members of the public of the delegation. Delegation of powers may be to chairpersons of councils, committee of the council, a joint committee as the case may be. Powers may also be delegated to lower councils.

Powers of local government

Monitoring powers

A local government council has monitoring powers over the performance of all persons employed by government or a higher local government to provide services in its area of jurisdiction and monitor the provision of government services or projects. The term “monitor” connotes an element of overseeing, supervising.

Planning powers

The performance of functions at the district level just like at the national level required adequate planning. Thus every district council has planning powers. To this end every district council is the planning authority of a district. Other than the procedures it may adopt, the district planning authority is required to comply with guidelines established by the National Planning Authority. The district council is tasked with the preparation of a comprehensive and integrated development plan, incorporating plans for lower local government for submission to the National Planning Authority.

Legislative powers

A district council has powers to make laws as long as they are not inconsistent with the Constitution or any other law made by Parliament known as by laws. There many bylaws which regulate district services control of diseases and payment of rates that have been made by district councils and subcounty council. It is not clear if the powers given to local governments to legislate are entirely new or different from the powers previously enjoyed by local administration. However one could argue that since this is the first time this power is constitutionally articulated by the Constitution to a local government, then it is a novel power to local government than had been previously the case.

Budgetary powers

A local government must formulate, approve and execute a budget and plans for its implementation. In exercising this power, has to accord national priority areas preferential budget outlays. This power is subject, by implication, to supervision of a local government financial commission, a body appointed by the President. Where a local government council's budget significantly detracts from priority areas the district financial commission is required to

inform the line Minister or the Present for action. In this way local government council's budgetary powers are limited.

Powers to levy taxes

Constitution grants powers to local governments to levy taxes but on behalf of the central government. Thus local governments mainly act as "collecting revenue officers" than for themselves. However where a local government collects fees or taxes on behalf of the government, it shall retain a portion of the funds collected. The law does not indicate what percentage of the taxes collected shall be retained. The following are the local government sources of taxes: rates, royalties, stamp duties, personal graduated tax, registration and licence fees. The Constitution further grants power to village councils, with approval of subcounty councils to impose a service fee.

Financial autonomy

It is mandatory to establish, for each local government unit, a sound financial base with reliable sources of revenue. Government is under obligation to present a proposal to Parliament each financial year as to the monies to be paid out of the consolidated fund as unconditional grant, conditional grant and equalisation grant. Unconditional grants constitute 11% of the transfers, conditional grants constitute 88% and equalisation grants constitute 0.5% of transfers. All these constitute 30% of the GDP.

Chief administrative officer (CAO)

For every district there is a CAO who shall be appointed by the district service commission. In order to qualify to be appointed as a CAO, a person must have a university degree, from a recognised institution, and a diploma in public administration, or development studies from a recognised institution. He must have a ten year working experience and must be of a high moral calibre. Thus competency and experience are core to the qualification of the office of the CAO. The result is that the district council can not appoint the chief accounting officer of a district but merely recommends his appointment or his removal. All other public servants in a district fall under the supervision of the CAO. But they are appointed by the district service commission on the recommendation of council.

Chiefs

The law establishes the office of the chief in every subcounty and parish, appointed by the district service commission as administrative heads and accounting officers. The duties of the chief within his or her area of jurisdiction include among other the following: to obey lawful directions from the council and other higher council or authorised persons. The chief also

carries out the general administration in line with government policy district, ordinances and council bylaws. He or she is charged with enforcement of council's lawful policies and decisions. In addition, the chief is obliged with the collection of local government revenue and to account for it.

The Role and place of Traditional Leaders in local Government

The Constitution of Uganda makes a case for traditional leadership institutional existence in accordance with the culture, custom and traditions or wishes and aspirations of the people to whom it applies. However, in a more stern manner that goes against all tenets of democracy and public participation, traditional leaders are prohibited from joining or participating in partisan politics, and do not have administrative, legislative powers of Government or local government. 1986.

Presidential representative

The resident district commission (RDC) remains one of the most powerful and influential offices in every district country. This is because he or she is a presidential nominee and a senior civil servant. This implies that the central government plays a dominant administrative role in each district. For instance, he or she coordinates the administration of government services in a district, and advises the district chairperson on matters of 'national nature'. The RDC thus becomes a point of reference in promoting good working relation between the Government and the district.

Supervision of local government

Local governments must adhere to policy and performance standards set by the Government. For instance the Minister of local government may institute a commission of inquiry if in his view set standards have not been complied with by a local government. Thus monitoring by central government is of a regulatory nature. Where an offence has been committed a Minister may refer the matter to appropriate bodies for action. Monitoring as a tool is not idle in that in extreme cases it may lead to takeover of the district administration by the President, until conditions are in place for its proper administration. Whereas no district administration has been taken over by central government since 1995, there have been latent threats to administer Kampala city largely because it has persistently voted against the ruling government. This threat seems to have matured into reality, with a bill now before Parliament to formally take over Kampala.

Key Challenges

- ✓ Dependence on central government finances weakens the fiscal autonomy of districts
- ✓ Peripheral institutions like the district service commission; financial commission weaken the powers of the district council. For instance district councils cannot directly appoint staff, nor can they independently initiate and execute budgetary plans.
- ✓ The powerful role of the RDC who sometimes takes over the role of the district council.
- ✓ Threat of takeover by the president. Present bill in Parliament to take over Kampala by a Presidential body. This has been prompted by the persistent manner in which Kampala district has voted against the ruling government.
- ✓ Traditional leaders should be given powers to participate in politics as any other citizens.
- ✓ Greater autonomy for Bugada's ethnic group should be reconsidered.