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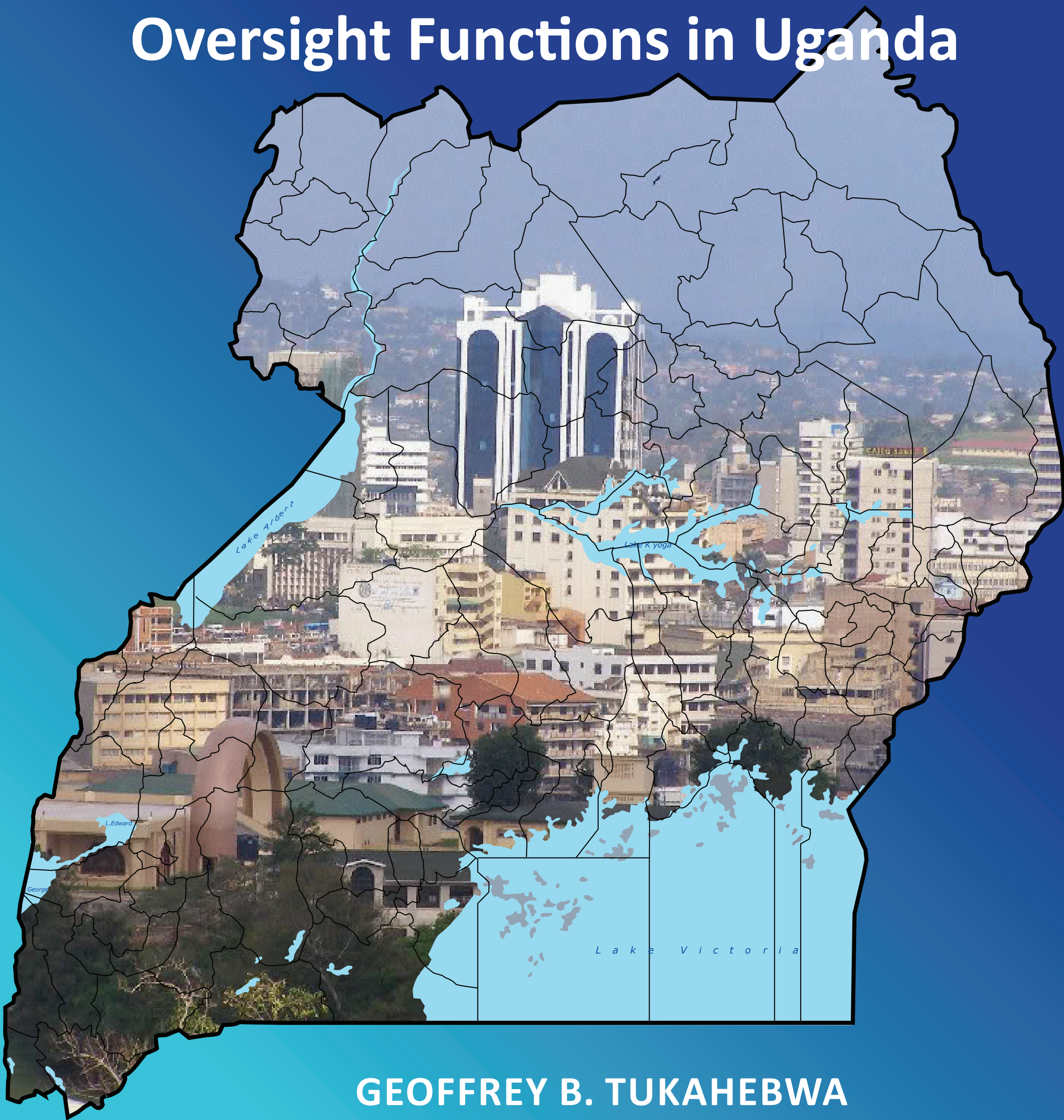
The Political Context of Financing Infrastructure Development in Local Government: Lessons from Local Council Oversight Functions in Uganda



GEOFFREY B. TUKAHEBWA

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The Economic Policy Research Centre (EPRC) is an autonomous not-for-profit organization established in 1993 with a mission to foster sustainable growth and development in Uganda through advancement of research –based knowledge and policy analysis. Since its inception, the EPRC has made significant contributions to national and regional policy formulation and implementation in the Republic of Uganda and throughout East Africa. The Centre has also contributed to national and international development processes through intellectual policy discourse and capacity strengthening for policy analysis, design and management. The EPRC envisions itself as a Centre of excellence that is capable of maintaining a competitive edge in providing national leadership in intellectual economic policy discourse, through timely research-based contribution to policy processes.

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LIST OF ABBREVIATIONS

CDD	- Community Driven Development
DANIDA	- Danish International Development Agency
DSC	- District Service Commission
CAO	- Chief Administrative Officer
FDS	- Fiscal Decentralization Strategy
FY	- Financial Year
HST	- Hotel Service Tax
IP	- Investment Plan
IPF	- Indicative Planning Figure
KCCA	- Kampala Capital City Authority
KCC	- Kampala City Council
LC	- Local Council
LGDP	- Local government Development Project
LGFC	- Local Government Finance Commission
LGMSD	- Local Government Management Service Delivery
LGSIP	- Local Government Sector
LST	- Local Services Tax
MC	- Municipal Council
MoFPED	- Ministry of Finance Planning and Economic Development
MOLG	- Ministry of Local Government
MP	- Member of Parliament
NRM	- National Resistance Movement
PHC	- Primary Health Care
PMC	- Project Management Committee
PSC	- Public Service Commission
RC	- Resistance Council
RDC	- Resident District Commissioner
SAP	- Structural Adjustment Programme
SFG	- School Facilities Grant
TPC	- Technical Planning Committee
UPE	- Universal Primary Education
URA	- Uganda Revenue Authority
NGO	- Non Governmental Organization
USE	- Universal Secondary Education
VAT	- Value Added Tax

ABSTRACT

In Uganda, local governance has vacillated between tight central control and decentralisation depending on the vicissitude of the political tempo. It is in the era of decentralisation which started in 1993 that local governments attained responsibility over infrastructure development while elected councils exercise oversight functions over the infrastructure which includes health and education facilities, roads, water sources, channels, street lights and bridges.

The financing of infrastructure is largely by the central government because the locally raised revenue is meagre. Currently, the average contribution of local revenue to local governments' annual budgets is between 2 to 3 percent. The effect of this is a "patron-client" relationship between the central government and local governments. This is aggravated by creation of new districts. Besides, the legal transfers from the central government are largely conditional. About 95 percent of transfers from the central government to local governments are in the form of sector conditional grants. The local governments are unable to re-allocate the resources to meet priority needs of their communities.

The structural arrangement and legal framework appear sufficient to enable local councils to exercise oversight functions in infrastructure development. However, the challenge is that most of the councillors who monitor infrastructure projects lack the necessary educational qualifications, technical skills and competence to adequately exercise their oversight functions. Even the project management committees do not have sufficient competence.

1. INTRODUCTION

1.1 Overview of Local Governance

In Uganda, the system of local government has vacillated between tight and loose central control. The central issue has always been which level of government to be responsible for infrastructure development and general welfare of society/citizens. The Ministry of Local Government (MoLG) (2006a) categorises these initiatives in three distinct phases namely: 1955-1964; 1964-85; and 1987-2005. In the first phase of 1955-64, which is a pre-independence and immediate post-independence period, there was an attempt to create strong local administration. The second phase of 1964-85, was a period when the central government dominated and controlled local administration and severely weakened local administration; while the 1987-2005 phase, was when the local governments were granted even more significant powers over local development management than the first phase. In all the three phases, the state was grappling with the challenge of how to balance central authority against local dynamics in a way that would minimise conflict and maximise local and national development.

In the run-up to independence in 1962, some tentative steps were taken by the colonial government to promote greater democracy and effectiveness in local administration as pointed out by MoLG (2006a). In this regard, the 1955 District Administrations Ordinance gave significant responsibility over service delivery, allowed local administrations some latitude to elect district council members and to collect revenue. Nonetheless, real power over borrowing and expenditure remained with the central government while the local technical officials continued to report to line ministries at the centre. Real attempts to devolve power were made by the 1962 semi-federal constitution which gave some significant powers to the kingdoms namely; Buganda, Bunyoro, Toro, Ankole, and the territory of Busoga.

However, the 1967 Local Administrations Act and the 1964 Urban Authorities Act Cap 27, recentralized most of the service delivery functions that had been assigned to local administrations by the independence (1962) constitution. These Acts vested extensive powers with the Minister responsible for local administration. These powers included determining the number of local councils, approving council elections and byelaws, and even dissolving the councils themselves. The Minister could even take over any local administration which in his/her view was not functioning effectively. Financial, planning, and maintenance of law and order powers were vested in the District Commissioner who was appointed by the central government. With such institutional framework, local councils could not perform oversight functions over infrastructure development. The local administrations were more or less simply appendages of the central government.

When the military took over government in 1971, the prevailing centre-local relations did not change. After all, the Local Administration Act of 1967 and the Urban Authorities Act Cap 27 of 1964 remained in force. During the military regime of 1971-79 the country was sub-divided into ten provinces directly ruled by military governors. The provinces were an additional tier to the existing local council set up of district, county, sub-county, parish and village councils (MoLG 2006a). The provinces were largely for administrative convenience that assisted the central government to oversee the operations of the districts. During this period, the military regime ruled by decree; it was indeed centralization par excellence. In 1979 when the military regime was removed from power, the 1967 Local Administrations Act and the Urban Authorities ActCap 27 of 1964 were reverted to, while provinces were abolished. The abolition of provinces notwithstanding, centralization remained in place. It was not until 1986 when the National Resistance Movement (NRM) came to power that steps towards meaningful decentralization began to be taken. It is in a decentralised system that local councils can play an oversight function in the financing of infrastructure development.

1.2 Objectives

The objectives of this paper are in tandem with the project titled "Financing Infrastructure Development under Decentralization: Challenges and Opportunities" to which it is part. The specific objectives of this paper are to:

- Demonstrate how politics affects infrastructure development and oversight functions;
- Investigate how local government financing affects infrastructure development and local council oversight functions;
- Establish how the centre-local relations affect infrastructure development and local council oversight functions;
- Identify the legal basis of infrastructure development and local council oversight functions; and
- Map out emerging policy issues in infrastructure development and oversight functions in local government and make appropriate recommendations.
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This paper enquires into or is an attempt to answer questions of how politics, legal framework, financing (both local revenue and central government transfers) affect infrastructure development and local council oversight functions. The paper also looks at the question of why there is proliferation of districts and consequently mushrooming of local governments and its effect on infrastructure development and local council oversight functions.

1.3 Theoretical Framework

The theoretical linchpin of this paper is the localist theory. The localist theory is buttressed in pluralist politics and local democracy whereby local authorities are periodically elected through democratic elections. The spring board of the localist theory is to stem off central government control of local authorities that may not fully implement its policies even if they are contrary to priorities of the local authority. Thus, the main argument of the localist theory is that since local government is democratically elected, it should have a high degree of autonomy to decide its priorities. The argument of this paper is that with such autonomy, local governments can take charge of infrastructure development and exercise over sight functions while they have decentralized or devolved powers.

The prime movers of the localist theory were Jones and Stewart (1985), while others such as Stoker (1996, 1988) followed suit. In defence of local autonomy and local government these localist theorists developed what Stoker (1996) refers to as orthodox arguments in a range of ways. Foremost among these is diffusion of power. This is a fundamental value and elected local authorities can represent the dispersion of legitimate political power in society. In this regard, the localists object local government under deconcentration[1] and advocate for autonomous local governments with devolved powers. To contextualise this, it is important to note that it is such local governments that can be responsible for financing infrastructure development while the Local Councils exercise oversight functions.

The second argument hinges on the diversity of needs. This presupposes that needs, wishes and concerns of people vary from locality to locality. Local governments should therefore allow these differences to be accommodated. This implies that each local government should set priorities in its area of jurisdiction in accordance with needs of its people or community demands.

The third argument of the localist theory is that local government is local. To the localists, this facilitates accessibility and responsiveness because the elected officials (councillors) and the technical staff live close to the decisions they make and the areas whose environment they shape. The fourth argument revolves around the size of local government. The localists argue that the small scale of local government makes it more subject to demands to be accountable by both the local councils and the central government which provides most of the funds. A local government is visible and open to pressure when it fails to meet the needs of citizens under its jurisdiction. A local government makes a government less remote and more manageable. It makes it more comprehensible and enables a clear and balanced choice to be made over the extent to which people wish to promote community values.

While the localist theory which forms the framework of analysis in this paper rests on a pluralist approach to understanding the state and politics and recognizes the existence of diversity in social, institutional and ideological practices and values, this paper adds another dimension.

1 Deconcentration is the transfer of functions and responsibilities to lower administrative units manned by centrally appointed officials, who implement defined functions under central control.

This is the economic dimension particularly the financial position of local governments and how it affects both infrastructure development and ability of local councils to exercise oversight functions.

1.4 The Era of Decentralization in Uganda

When the NRM came to power in 1986, the local government system was over centralized and virtually under direct control of the Minister responsible for local administrations. In an attempt to reverse this, the NRM government set up a Commission of Inquiry to look into the local government system in 1987.[2] The Commission was mandated to investigate and inquire into the then system of local administrations, that is, the setup, the functions, duties and responsibilities thereof with a view to improving and/or reforming the local administrations system and structure (Republic of Uganda 1987). The commission was required among others to inquire about the setup, powers, functions, duties and responsibilities of district administrations and urban authorities as provided for by the constitution of Uganda, the Local Administrations Act (cap. 18/67); Urban Authorities Act (cap. 27/64) and any other legislation incidental thereto or connected therewith and suggest ways and means of improving and/or reform if any.

The Commission was also required to inquire into the financing of district and urban authorities in particular:

a) the taxing and revenue raising powers of district administrations and urban authorities independent of the central government; and

b) ways and means whereby inhabitants of local areas can be encouraged and stimulated to take active interest in and participate in the programme and functions of their authorities and in particular, whether any institutions should be established or abolished to assist in this process.

In the recommendations of the report, full decentralization was not unequivocally recommended. For example, one of the recommendations was that development effort must have as its basis effective democratic institutions and ruled out decentralization by deconcentration as being too restrictive; and full-fledged devolution was also ruled out as too disintegrative for the then Uganda. The report also recommended that what was needed was to realise viable and representative local authorities (Republic of Uganda 1987: 51). The above notwithstanding however, in the same report, one of the commissioners, Apolo Nsibambi, wrote a minority report which recommended meaningful devolution (M3-M7).

Further to the above Commission of Inquiry report, the World Bank carried out the Uganda District Management Study (World Bank 1992). This report not only lays out the mechanics

2 This commission of Inquiry and the subsequent report are popularly referred to as the Mamdani Commission report because it was headed by Professor Mamhood Mamdani.

of decentralisation but also recommends how the policy could be implemented. The study points out that Uganda's decentralisation policy was being considered in the context of its Structural Adjustment Program for macroeconomic reform the principal goals of which are improved economic growth through the operation of the market mechanisms. On the central-local relationship which are central in the nature of decentralization, the World Bank report recommended that central Ministries should retain responsibility for handling security matters, national planning, national unity, defence, immigration, foreign affairs and clearly defined national projects. The report emphatically recommended that all other government policies would be implemented through district councils. The report also indicated that under this arrangement, the central government would issue regulations and advice to ensure appropriate standards and administrative efficiency and that both elected and appointed officials would be held accountable by the electorate for their actions. The report put it that the new local government system sought to take the decision making function in respect of all matters of local significance away from the centre to closer to the areas where the decisions are implemented by devolving to the local unit of administration functions which were at that time centralized in government ministries. It is therefore pertinent to note that these two reports offered guideline for formal decentralization in Uganda, although the Resistance Councils statute of 1987 can be viewed as the proto-legislation for decentralization.

Formal decentralization in Uganda can be traced from 1987 when the Resistance Councils statute was enacted. Mutabwire (2001) noted that in 1987, arising out of the recommendations of the Commission of Inquiry into local governments, the Resistance Councils statute was enacted. He observes that it aimed at ensuring participation in decision making at the local level, mobilising the masses for local economic development, empowering the masses by raising their political consciousness and/streamlining administration at the local level. Although this had good intentions, it did not provide the local councils with significant authority and autonomy; neither did it bequeath these councils with oversight functions.

In order to extend greater powers to the local governments, the Local Government (Resistance Councils) Statute, 1993 was enacted. This statute legalized popular participation and indeed commenced the process of decentralisation. The preamble of this statute goes thus: "A Statute to provide for the decentralization of functions, powers and services to local governments (Resistance Councils) to increase democratic control and participation in decision-making and to mobilise support for development which is relevant to local needs". Although this statute provided a solid ground for decentralization, it did not clearly lay out the oversight functions of the Resistance Councils. In any case decentralisation is not an event but rather a process and it is a political decision rather than simply a technical affair. The current decentralization evolved from the Constituent Assembly corollary to which it was enshrined in the Constitution in 1995. The constitution and Local Governments Act, 1997, which is the enabling legislation, spells out clearly the role of local councils in the decentralization process, local governance, and local development in general.

1.5 Institutional set-up of Local Governments

The Constitution of the Republic of Uganda (as at 15th February 2006) is the supreme law of Uganda. It provides for decentralized local governance and the principles of local governments. These principles apply to both rural and urban local governments. Specifically, the constitution (Article 176 (2)) provides that the following principles shall apply to the local government system:

a) The system shall be such as to ensure that functions, powers, and responsibilities are devolved and transferred from the central government to local government units in a coordinated manner;
b) Decentralization shall be a principle applying to all levels of local government and in particular, from higher to lower local government units to ensure peoples' participation and democratic control in decision making;
c) The system shall be such as to ensure the full realisation of democratic governance at all local government levels;
d) There shall be established for each local government unit a sound financial base with reliable sources of revenue;
e) 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 jurisdictions;
f) Persons in the service of local government shall be employed by the local government; and
g) The local government shall oversee the performance of persons employed by the central government to provide services in their areas and to monitor the provision of central government services or the implementation of projects in their areas.

It is from this last principle that at least theoretically local councils derive their functions to oversee financing and infrastructure development. In essence however, this is also enabled by decentralization. Decentralization which is the "modus operandi" of local governments has been defined and explained by the MOLG (2006a) in the Decentralization Policy Strategic Framework as the transfer of power over decision making and implementation to lower administrative levels to improve efficiency and effectiveness in service delivery.

Decentralization takes three major forms namely; deconcentration, delegation and devolution. Deconcentration is the transfer of functions and responsibilities to lower administrative units manned by centrally appointed officials, who implement defined functions under central control. It essentially decongests the centre while the locally based officials implement policies made by the centre and are accountable to the central government. Delegation is the transfer of powers to lower administrative units that are granted some relative discretion in managing defined responsibilities although they still report directly to the centre. Functions and responsibilities can also be delegated to organizations outside the regular bureaucracy such as civil society organizations. The third type is devolution which is a much more expansive transfer of powers, functions and responsibilities to local governments. Devolution is sometimes referred to as political decentralization. Under devolution, the local governments are granted corporate status and extensive decision-making, planning, administration, financial and development management powers and responsibilities, while the centre retains policy-making and oversight functions. Of the three forms of decentralization, devolution is the most empowering and democratic because it gives beneficiaries significant say in decision-making and local –priority setting, in addition to enabling them to hold local officials accountable.

Decentralization is both a political and technical process. At the political level, it involves elected leaders (councils) with political, executive and legislative powers. These elected councils set priorities, plan, initiate and implement policies in their areas of jurisdiction. In Uganda, the local government councils are elected by the adult suffrage method which ensures popular participation by the citizens. At the political level, power-relations between the central government, higher local governments and lower local governments are legally defined. On the technical level decentralization involves administration, planning, budgeting, financial management, human resource management and development, monitoring and evaluation, supervision and mentoring. The success of decentralization depends on careful and effective synchronisation of political and technical elements and functions (MoLG 2006a). In the local governance system in Uganda, a distinction is made between local governments and administrative units.

1.6 The Structure/hierarchy of local councils

According to Section 3(1) of the Local Governments Act cap 243, the system of local government shall be based on the district as a unit under which there shall be lower local governments and administrative units. The major distinction between local governments and administrative units is that local governments are body corporate while administrative units are not. Section 6(1) of the Local Governments Act cap 243, provides that every local government shall be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name and may, subject to the provisions of the constitution do enjoy or suffer anything that may be done, enjoyed or suffered by a corporate body. It is important to note that while local governments raise and appropriate revenue, administrative units do not. They depend on transfers from the local governments. The local governments have devolved powers to initiate and implement policies, as well as develop infrastructure in their areas of jurisdiction.

Section 3(2) of the Local Governments Act CAP 243, provides that local governments in a district rural area shall be the district councils and sub-county councils. Sub-Section 3 provides that in a city, local governments are the city council and division councils. Sub-Section 4 provides that in a municipality the local governments are the municipal council and the municipal division councils. Section 3(5) provides that in a town, the local government is the town council. Section 4 stipulates that a city is equivalent to a district. It further provides in 4(a) that a city council shall exercise all functions and powers conferred upon a district council within its area of jurisdiction. These powers and functions are political, executive and legislative. It is the city council and district councils that are higher local governments, the rest are lower local governments. Section 4(b) provides that a city division shall be equivalent to a municipality while 4(c) provides that municipal division and town council are equivalent to a sub-county. Section 5 of the Local Government Act CAP 243, stipulates that in accordance with Article 197 of the constitution, municipal and town councils are lower local governments of the district in which they are situated. This means that the lower urban local governments are legally enjoined to the district council.

For better local governance, the law provides for administrative units. Section 45(1) of the Local Governments Act Cap 243, provides for administrative units based on the county, parish and village in rural areas; and the parish or ward, the town board, and village in urban areas. Section 45(2) provides that there shall be a council at each level of administrative units. What is not clear in these legal provisions is the equivalent of a town board when it comes to comparison with rural areas. The law is contradictory when it comes to a town board. Section 45(2) provides for a council at each level of administrative units but when it comes to composition of these councils, the town board is left out. Instead, Section 46(3) provides for a board comprising of technocrats at the district level. The law does not specify whether this board is equivalent to the councils in other administrative units. Section 46(3) of the Local Governments Act CAP 243 provides that a town board shall consist of the chief administrative officer as chairperson, the district engineer, district director of health services, district planner and district police commander; and the town clerk of the town board, who shall be appointed by the District Service Commission who shall be the secretary to the board. Currently the town board is exclusively composed of technocrats from the district level. There is no local participation in the board affairs. This is despite the ideal that the essence and spirit of devolution of functions and responsibilities is greater participation and democratic control at the local level. Figure one below is a diagrammatic presentation of the hierarchy of local councils.

Figure 1: The Structure of Local Councils

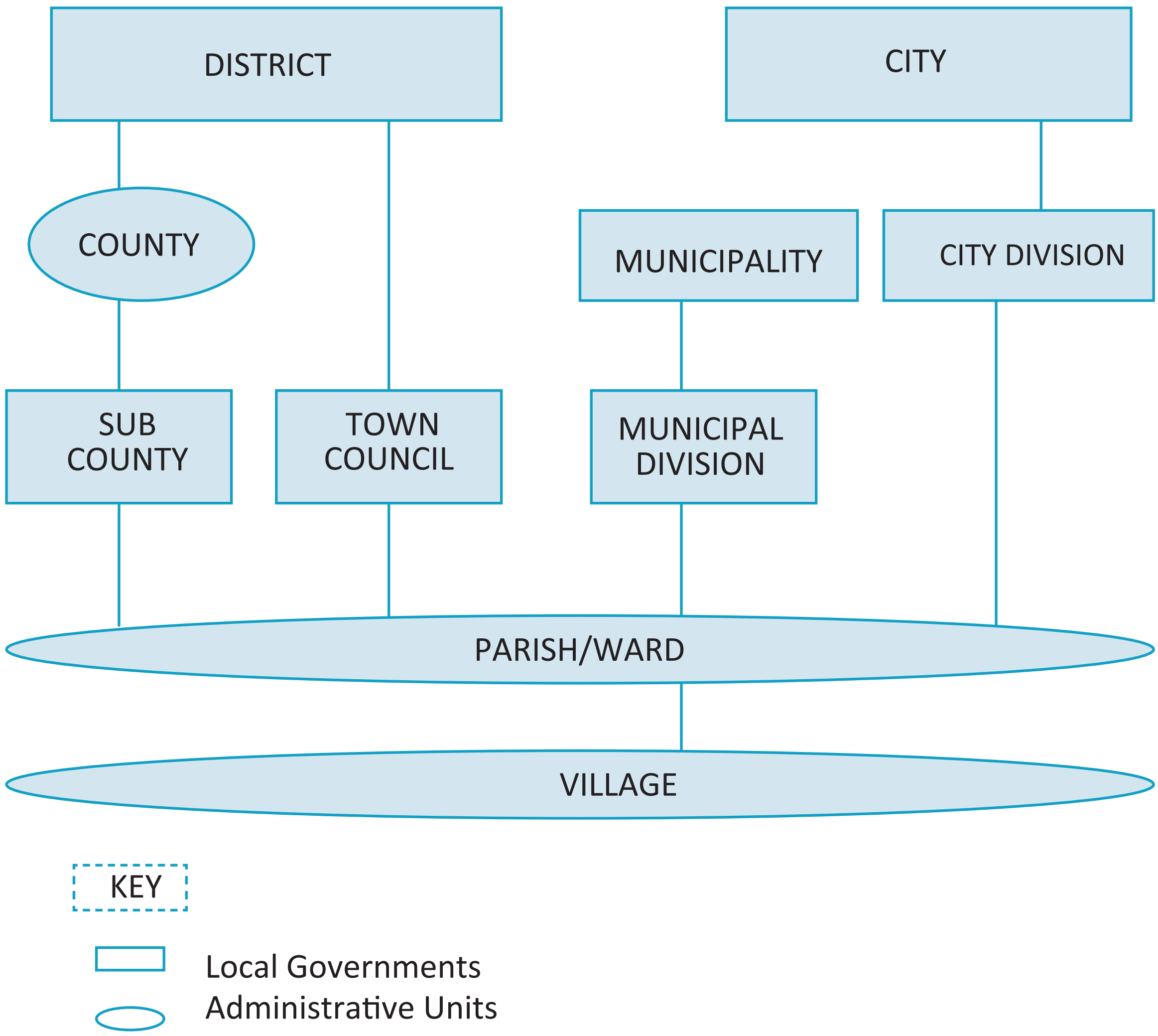


Figure 1clearly shows the local governments and administrative units in both rural and urban areas. What is not depicted is the town board because it has no council. While the law seemingly bequeaths powers, functions and responsibilities, to the local governments, for infrastructure development, the local governments need to have funds.

Local governments without sufficient own revenue are subject to both political blackmail and manipulation since they cannot make their own priorities due to conditions attached to funds raised elsewhere. This notwithstanding however, the law stipulates how local governments are to be financed, while the local councils oversight functions are derived from their functions which are also legally provided for.

2. FINDINGS

This section presents and discusses the findings. These findings were primarily based on desk research - largely review of existing literature. However, some information was obtained from the field and the sources are indicated in the footnotes. The findings mainly concentrate on local government financing and its implication for infrastructure development in local governments and oversight functions. Emerging policy issues and their implications for infrastructure development and local council oversight functions are also discussed.

2.1 Local Government Financing

Article 176 (2) of the Republic of Uganda Constitution stipulates that there shall be established for each local government unit a sound financial base with reliable sources of revenue. Consequent to this, a Local Government Finance Commission (LGFC) was put in place (Article 194) to give expert advice on how local governments can raise revenue. The functions of the LGFC are:

a) To advise the president on all matters concerning the distribution of revenue between the central government and local governments and the allocation to each local government of monies out of the consolidated fund;
b) In consultation with the National planning Authority (NPA), consider and recommend to the president the amount to be allocated as the equalisation and conditional grants and their allocation to each local governments;
c) Consider and recommend to the president potential sources of revenue for local governments;
d) Advise local governments on appropriate tax levels to be levied by local governments; and
e) To perform such other functions as parliament shall prescribe.

The LGFC is largely advisory especially to the president. Although one of its functions is to advise local governments on appropriate tax levels to be levied by local governments, this function is more or less redundant because taxation powers have remained a preserve of the central government. Even when some local governments have attempted to tax some activities such as motor cycle commercial cyclists, and market dues from vendors, the politicians have come out and stopped the local governments. Moreover, the Resident District Commissioners (RDCs) who are representatives of the president in local governments claim to be implementing his directives, hence interfering with local governments' attempts to raise revenue, as well as execute some ordinances. However, it should not be construed that politics of populism which affects mobilisation of revenue are limited to the RDCs, it is the case with all elected politicians especially towards and during the time of elections. Indeed it was during the heat of campaigns for the 2006 elections that personal graduated tax which used to be the main source of revenue for local governments was abolished in 2005.

In regard to innovations in raising local revenue, a lesson can be learnt from the local government system of Poland. Swianiewicz (2006: 312-323) shows how local governments raise revenue through taxation. He notes that the tax revenues of the local governments particularly the municipal tier of levy and raise local tax revenues from property tax, tax on agriculture, tax on vehicles, forest tax, tax on dog owners, tax on civil legal activities, tax on legacies and donations, and tax on small businesses. Swianiewicz (2006: 312) notes that the general rule is that the maximum rates of local taxes are decided in the central legislation, although local governments may set their own rates that are equal to or lower than the ceiling level. He further points out that local governments can also use other instruments of their own tax mechanisms. These are indeed not only liberal provision to enable local governments to mobilise own revenue but also innovative ideas.

In this paper, focus is put on three issues where Uganda can derive lessons from Poland. These are tax on agriculture, centrally determined tax ceilings, and local taxation instruments. On the issue of tax on agriculture, it is important to note that Uganda is a country whose economy is largely based on agriculture and if local governments were raising revenue from agriculture, they would have more fiscal control and flexibility in their areas of jurisdiction. Swianiewicz (2006:313) notes that tax on agriculture is the second most important local tax. He indicates that while the basic rate is centrally defined, the local council may reduce the rate. This tax is typically paid by the owner of the farm or by the farmer who rents the farm. According to this author, in Poland a farm is defined as an area larger than one hectare that it used as arable land, that contains a pond, or that contains a building used for farming activity. He further points out that, according to tax regulations, it does not matter whether the area is actually cultivated or not. Therefore even redundant arable land is still taxed. In Uganda, the arable land is 40 million acres (State of the Nation Address by President Museveni on June 7th, 2012), if the Polish system was used and this land is taxed, local governments would raise a substantial amount of revenue. This is however, impeded by about three major factors; one is that this arable land is mostly occupied by peasants who do not cultivate for commercial purposes but largely for subsistence. In some cases, they even fail to produce enough to subsist on and this partly results in persistent food scarcity in different parts of the country. It is thus difficult to tax such peasants.

Second, the big companies engaged in commercial production such as sugarcane and tea estates/farms are taxed by the central government. Even then, it is not tax on agriculture but on what they produce. In essence therefore, these commercial farmers do not have any tax obligations to the local governments where they are located. While this agriculture tax would be a good innovation for local governments, there would still be need for the central government to approve the taxing powers and regulations for local governments to tax commercial farmers. Third, is that much of the arable land, some of which is even idle, belongs to "political heavy weights" that are prepared to resist any policy to tax their land. These politicians are in both local governments and the central government. These landowners, who are in the policy making and implementing positions, will resist tax on agriculture by the local governments.

One of the major problems with Uganda's local government system is that there are no clear local tax policies to enable local governments raise revenue to finance infrastructure development. In Poland, for example, there are clear tax instruments for local governments implying that these governments have great leverage to raise revenue through taxation. In this respect, Swianiewicz (2006:316) notes that local governments may express their local tax policies in three different ways namely:

- They can set local tax rates within limits decided in the central legislation;
- They can grant tax exemptions to certain categories of taxpayers, other than those listed in the tax exemptions decided in the central legislation; and
- They may grant individual tax releases or reductions to individual tax payers.

Although the scrapped graduated tax was replaced with the graduated tax compensation from the central government it is less than what used to be raised from the tax and sometimes there are delays in its remittance, hence, affecting both planning and implementation of local governments' budgets and infrastructure development. The local service tax (LST) which was established in 2007 has barely taken off due to the difficulty in establishing the rates (DANIDA 2009) while the hotel service tax (HST) is only limited to major urban centres. The local governments rely almost entirely on central government grants. The LGFC (2010) indicates that in FY 2008/9 local revenue contributed a paltry 3 percent of the local governments' annual budgets generally. This not only affects local government activities but also affects the local councils' oversight functions when it comes to infrastructure development. In this regard, during an orientation workshop organized by the MoLG for local leaders from the Northern and Eastern regions, held in Soroti in 2007, it was revealed that foreign donors simply get clearance from the Office of the Prime Minister and start projects without involving the local councils. In some cases these foreign donors simply give information to the local council where they are operating. What this means is that while the law provides for oversight functions of the activities and projects from the centre by the local governments, in practice this is impaired because of lack of own funds by the local government yet they need such projects.
It is important to note that the oversight functions of local councils are constitutionally provided. Article 176(2) (g) of the Constitution (as at 15th February 2006), stipulates that the local governments shall oversee the performance of persons employed by the central government to provide services in their areas and monitor the provision of central government

services or the implementation of projects in their areas. These are legal niceties which do not necessary translate into practical realities. Cases in point include the construction of the hydro-electricity dams in Kanungu district on river Ishasha and the construction of hydro electricity dam on river Nyagak in the newly created Zombo district in the West Nile region. In both cases the local councils are like any other bystander. They largely simply watch what is taking place. They can neither determine the pace of construction nor the engineering designs. In effect therefore, they do not regulate these projects. The projects are controlled and regulated from the centre. This shows that regardless of the law, the old saying that; "whoever pays the piper calls the tune" still holds even when the governance system (regime) confesses devolution. While this may be imbedded in the politics of decentralization and national politics in an attempt to portray who is delivering what and therefore deserves a pat on the back by way of the number of votes in appreciation, it also revolves around the question of where power lies in the decentralized system with regard to infrastructure development and service delivery especially when resources are provided by one party dominated central government. The case of Jinja Municipality and Paidha town council can illustrate this.

In Jinja municipality when the central market was burnt, the Municipal Council made plans to reconstruct it. The Islamic Bank was ready to fund the project but the Municipality could not go ahead because the central government frustrated the project partly because the *Leadership of the Municipality did not belong to the ruling party*[3]. Although the market is now being reconstructed by funds from the African Development Bank, it is under the auspices of the central government. Though the municipal engineer is coordinating the reconstruction project, council does not play a significant role. This is partly because of political and power dynamics and lack of own funds to implement the project.

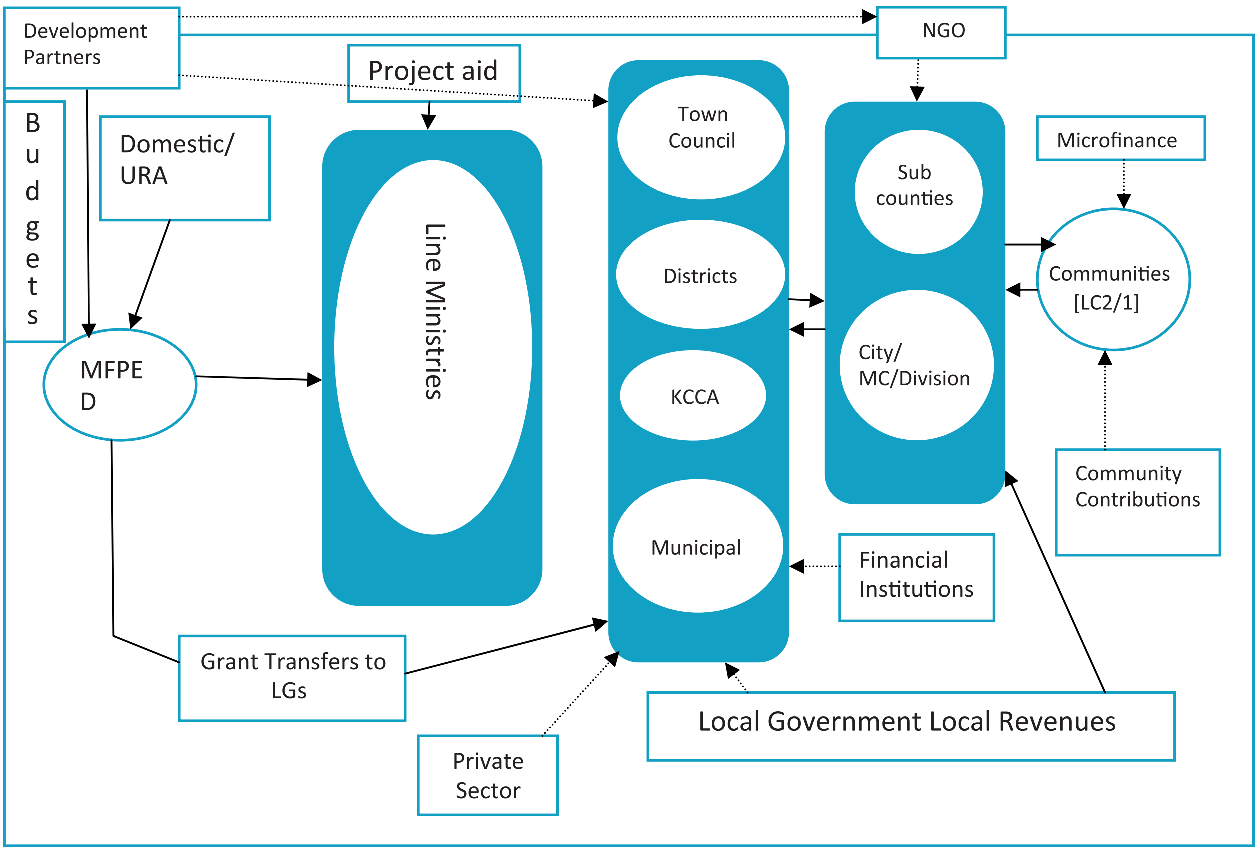
In the case of Paidha Town Council, to tarmac the road in the town, the money was got from the road fund. The central government went ahead and selected the contractor but gave the money to pay the contractor to the town council.[4] Since payment was to be made by the town council, ideally they are supposed to have played their oversight function. In reality however, the town council only acted as a conduit to pay the contractor. The contractor's allegiance was not to the council but to the central government which selected the company. In an interview with the Town Clerk of Paidha, he revealed that the council has fiscal autonomy only over local revenue, which is actually meagre. For example, according to the LGFC (2009) the contribution of Local revenues to the total urban local government budget is between 30 percent and 40 percent while for rural local governments, contribution of local revenue to the budgets is between 2percent and 3 percent. While contribution to the budget appears a bit high for urban local governments, some urban local governments are far below average.

3 Interview with the Private Secretary of the Mayor of Jinja Municipality and the Senior Planner Jinja Municipal Council.

4 Information obtained during a consultative meeting with the technical staff and political leaders of Paidha town council held in the town on 8th January 2010 during the urban situation Analysis study commissioned by MoLG.

For example, in Arua Municipality the contribution is 14 percent. Nakapiripirit Town Council, which has a population of 8,000 people, raised Ushs20 million in FY 2008/9.[5] With such paltry contribution from their local revenues to their budgets, the local governments almost entirely depend on the central government for funding. Figure 2 is an illustration of the flow of funds from the national level to local government.

Figure 2: Flow of Funds from the National Level to Local Governments, 2009



Key

⟶ On-budget (funds prepared through government budget)

• Off-budget (funds from outside government budget)

KCC	:	Kampala City Council
MC	:	Municipality Council
URA	:	Uganda Revenue Authority
NGOs	:	Non-Governmental Organizations
LC2/1s	:	Local Councils 1 and 2

Source: Local Government Finance Commission, 2009.

5 Information obtained during consultative meetings for urban situation analysis study for Arua municipality and Nakapiripirit town council on 13th and 22nd January 2010 respectively.

As can projected in Figure 2, the local governments receive funding from grant transfers from the central government, development partners through project aid, non-government organisations (NGOs), private sector and local revenues. Currently however, the bulk of the funding to local governments is from the central government through conditional, unconditional, and equalisation grants which are legally provided for in article 193 of the constitution (as amended in 2006) and Section (83) of the Local Governments Act CAP 243.

Local governments are legally allowed to borrow to develop and maintain infrastructure. However, it is neither open ended nor devoid of politics since it has to be ultimately approved by the Minister responsible for Local Governments. Section 84 of the Local Governments Act cap 243, provides that a local government may borrow money or accept and use a grant or assistance. In this respect, regulation 20 in the fifth schedule of the same Act clarifies that a local council may from time to time raise loans by way of debenture, issue of bonds, or any other method in amounts not exceeding 25 percent of the locally generated revenue provided that a local government council demonstrates ability to meet its statutory requirements. While 25 percent would appear reasonable, the problem is that the base from which it is calculated is extremely small in most local governments especially the rural ones. As earlier noted in this paper the average contribution to the budget of rural local governments ranges from 2 percent to 3 percent. Indeed, even if these local councils were to borrow, control and overseeing of infrastructure development would still largely lie elsewhere, that is, with the funders. The requirement that borrowing should be sanctioned by the local council and approved by the Minister, which is cumbersome, is meant to protect local councils' property/ assets from unscrupulous local government officials who may connive with the lenders to take/steal local council properly that was mortgaged. Hence, LC authoritiesare not able to borrow but largely depend on grant transfers from the central government.

2.2 Grants from Central Government to Local Governments

McMillan (2007) argues that the principle guiding inter-governmental transfers should be to match the transfers from the central government to the functions and responsibilities assigned to the local government. In Uganda's case, while the functions and responsibilities have not been reduced, the grants transferred to local governments as a share of the total national budget has declined from 25.5 percent in FY 2003/4 to 20 percent in FY 2009/10 (LGFC 2009). This puts a strain on local government finances, and in such a case the first casualty is infrastructure development. McMillan (2007) also argues that the role of transfers in local government finance depends very much on the assignment of responsibilities and the assignment of revenue sources. In respect of revenue sources, Nsibambi (1998) points out that the central government monopolises the buoyant sources of revenue like sales tax, VAT, and income tax, leaving only non-elastic taxes like market dues to the local governments. The small own local revenue affects both the ability of local governments to initiate big infrastructure projects, and to oversee infrastructure projects whose funding is effectively controlled elsewhere rather than the local councils. The inequity in revenue sharing and sources of revenue notwithstanding, transfers are made from the central government to local governments.

As earlier noted the law provides for three grant transfers from the centre to local governments namely; conditional, unconditional and equalisation grants. Section 83(2) of the Local Governments Act CAP 243 provides that an unconditional grant is the minimum grant that shall be paid to local governments to run decentralized services and shall be calculated in the manner specified in the seventh schedule to the constitution. The seventh schedule clarifies that this grant is equal to the sum of wage and non-wage components. It stipulates that the wage components should be adjusted for the wage increase, if any, while the non-wage component is adjusted for the changes in the general price levels. It is important to note that the fact that the unconditional grant is more or less conditional since it is tied to the wage bill of the local governments.

Section 83(3) provides that a conditional grant shall consist of monies given to local governments to finance programmes agreed upon between the central government and the local governments and shall be expended for the purposes for which it was made and in accordance with the conditions agreed upon. However, the conditional grant funds the national priority areas determined by the central government. These include infrastructure such as water and sanitation, Primary Health Care (PHC), Universal Primary Education (UPE), and Schools Facilities Grant (SFG). Although these priorities are centrally determined, Local Councils have oversight functions when it comes to their implementation. These functions are derived from Section 30(1) (d) of the Local Governments Act CAP 243 which provides that subject to the constitution, a local government council shall ensure the implementation and compliance with central government policy. This however, is impaired by the fact that due to funding from the centre, control also tends to lie with central government officials who monitor and inspect implementation.

The MoLG (2006b) indicates that about 95 percent of transfers from central government to local governments are in the form of sector conditional grants. The MOLG observes that although the sectors argue that they want to achieve their sector targets, the conditions undermine the fiscal discretion of local governments. On this issue, the MOLG concludes that the local governments are unable to re-allocate the resources to meet the service delivery needs of the communities. It therefore suggests that there is need to increase fiscal discretion to local government transfers, which can be achieved through increase in discretionary transfers namely, unconditional and non-sectoral grants. A move towards full implementation of the FDS with gradual increase in the percentage flexibility for resource allocation between sectors would also increase fiscal discretion of local governments. Although this could give local councils leverage on both infrastructure development and oversight functions, it is difficult to discern that the central government ministries are readily willing to loose or let go of tight grip over their sectors.

Section 83(4) of the Local Governments Act CAP 243 provides for equalisation grants. It stipulates that an equalisation grant is the money to be paid to local governments for giving subsidies or making special provisions for the least developed districts and shall be based on the degree to which a local government unit is lagging behind the national average standard for a particular service. While many local governments lag behind national standards in service delivery, equalisation grants continue to be the least and in many cases the entitled local governments do not receive it. The LGFC (2009) notes that the grants transferred to local governments as a share of the total national budget (exclusive of amortization and interest payments) has declined from 25.5 percent in FY 2003/4 to 20 percent in the FY 2009/10. The LGFC further notes that there is a big imbalance in the levels and growth rates among the grants. In the budget for FY 2009/10, conditional grants constituted 85.5 percent, unconditional (including compensation for Graduated Tax) grants comprised 14.2 percent while equalisation grants comprised 0.3 percent. The high level of conditional grants means that priority setting is largely done at the centre and certain key priority expenditure needs of local government are not funded. The overwhelming conditional grants means that the central government has an overarching over sight function on infrastructure development in local councils. Therefore, despite the fact that local governance is legally decentralized, much of the control is still exercised by the central government.

The Fiscal Decentralization Strategy (FDS) which was launched in 2002 by MoFPED and envisaged assignment of local governments more financial autonomy has not yet been implemented. Steffensen (2006: 118-119) highlights the FDS scheme which among others included the creation of flexibility in the use of grants. The FDS also referred to as Recurrent Transfer Scheme is supposed to reduce the number of grants, to enhance allocative efficiency and local government autonomy. The grants were to be grouped in six or seven sectors to establish among others, common modalities and reporting systems. The FDS further envisaged that within each grant, budget lines would determine the spending on various items especially development (if relevant), recurrent non-wage parts, recurrent wage parts, and projects (such as National Agriculture Advisory Service), but the number of these earmarked areas would be kept to the bare minimum to ensure sufficient flexibility. However, as noted earlier, the MoLG (2006b) indicates that 95 percent of transfers from central government to local governments are in form of sector conditional grants. In this regard, the local government financial flexibility and autonomy as envisaged in the FDS remains unimplemented since guidelines and budget lines for conditional grants are determined by the central government. Moreover, the priority sectors namely; education, health, agriculture, roads, and water are also determined by the central government and local governments are not allowed to divert sector grants to what they consider a priority in their areas of jurisdiction. In essence therefore, the FDS remains shelved. It should also be noted that, although the decentralization law gives local councils a high degree of autonomy, the exercise of their powers in financing infrastructure development and exercise of oversight functions are not divorced from both national and local politics.

Steffensen (2006) while commenting on oversight functions notes that a number of institutions at the central government level are responsible for supporting local governments in delivering their mandated functions under the decentralized system. Steffensen points out that these include the MoLG, the Ministry of Public Service, MoFPED, and other line ministries. The line ministries are responsible for ensuring implementation of national policies and adherence to performance standards on behalf of local governments, inspection, monitoring, technical advice, support, supervision, and training. These oversight functions by the central government institutions are not devoid of politics.

This notwithstanding however, Leatier (2006) pertinently observes that many developing countries continue to suffer from unsatisfactory and often dysfunctional governance systems that include rent-seeking and malfeasance, inappropriate allocation of resources, inefficient revenue systems, and weak delivery of vital public services. To supplement Leatier's observation it is important to note that when the issues she points out cascade to local governments, the situation becomes worse because the local governments do not have only weak-revenue systems but almost entirely rely on central government and donor funding for their activities and public service delivery. This affects both infrastructure development and local councils' exercise of oversight functions as the adage goes that "whoever pays the piper calls the tune". Political interests coupled with bureaucratic resistance tend to interfere with the oversight functions of local councils in infrastructure development. Politicians always seek for recognition and credit for any given infrastructure development at both local and central levels, hence the zeal to be seen to oversee it. However, this is not limited to central government level politicians but also individual local government politicians rather than the entire local council. Infrastructure development is a big political card. What this shows is that the delivery of services including infrastructure development is based on partisan considerations rather than based on the principle of equity and need in different local governments.

There is also the issue of bureaucratic resistance. Bureaucratic resistance is the tendency by central government technocrats to try to be involved in projects/programme implementation at the local level when the system is decentralized. The reason for this is that the central government officials do not want to see all the resources go to local governments. For example, the Ministry of Health (MoH) is involved in the construction of health centres at the local level, a role that should have been left to the Directorate of Health Services at the district level. Similarly, the Ministry of Education and Sports (MoES) is directly involved in the construction of Universal Secondary Education (USE) schools. In these cases, the local councils do not exercise oversight functions.

2.3 Infrastructure Development in Local Governments

The politics of financing infrastructure development in local governments is manifested at different levels namely; between the central government and districts and municipalities and between these local governments and the lower local governments namely; sub-counties in rural areas and town councils and divisions in the urban centres. The infrastructure under local governments include; roads particularly feeder and urban roads, markets, drainage channels in urban local governments, schools, office buildings, health units, water sources, bridges and street lights in urban local governments. Turyasingura and Mudoi (2004), note that in Uganda generally, local governments are responsible for feeder road management among other services, as well asa range of sectors including secondary and primary education, health services below the level of referral hospitals.

Districts and urban councils have works committees and a secretary (specifically for works) drawn amongthe elected council members which is an important organ of local governments. The function of the department of works is to implement central government strategies for planning, rehabilitation, and feeder road maintenance. Turyasingura (2004) indicates that the works departments in local governments carry out three main maintenance systems when it comes to road infrastructure namely;

- Routine maintenance, which involves small scale operations usually done once in a year on a section of the road such as cleaning culverts, filling pot holes, among others;
- Periodic maintenance done after lapse of time. This involves extra resources for re-gravelling, re-grading and upgrading to bitumen pavement, and provision of gravel stacks along the road for routine maintenance activities. Periodic maintenance is usually contracted out; and
- Emergency works which comprise repairs on damages caused for example by among others storms, erosion and flooding.

Other than overseeing roads infrastructure maintenance and rehabilitation, the department of works also oversees construction and rehabilitation of UPE, some health units, markets and community centres. While feeder road maintenance responsibilities were transferred to local governments under decentralization, the role of sector ministries is to monitor and coordinate central government activities as they relate to local governments. Section 96 of the Local Governments Act cap 243 provides that to ensure implementation of national policies and adherence to performance standards on the part of local governments, and ministries, shall inspect, monitor and where necessary, offer technical advice, support, supervision and training within their respective ministries. While the role of the central ministries appears to be neutral with regard to provision of technical advice to local governments on issues such as setting of performance standards and supervision, it may lead to the central government officials and politicians dominating local governments in oversight functions in infrastructure development.

The political direction and prioritisation for infrastructure development largely lies with the central government. In this regard, Steffensen (2006) notes that the experience with the LGDP was promising and the benefits tested and proved, the project funds have to be used for the implementation of the national poverty reduction strategy (roads, education, water and sanitation, and health) and annual assessments of local governments have put performance development on the agenda. However, this has reduced local government autonomy and the ability to address local priorities and needs because most of the transfers are conditional. Besides, the annual performance assessments tend to put local governments at the whims of the central government. Moreover, while the local governments found to have performed well are rewarded, those found to have performed poorly are punished by reducing the grants to them. In this regard, who bears the consequences? The local government officials or the ordinary citizens supposed to benefit from the projects? Instead of reducing the grants to local governments, the implementing officials should be made to account why they did not meet the performance targets.

On water and sanitation infrastructure, Kugonza (2004) noted that the district water offices work within the overall framework of the district local councils, which are established in all districts. He indicates that within each district council, there is a committee that is charged with overseeing the water and sanitation planning and implementation. Its other roles include approval of sector work plans, monitoring implementation and ensuring physical accountability. Although some overseeing functions are carried out by technical officers, they still report to and are employees of the district council. For example as Kugonza (2004) notes that at county level, officers are posted to facilitate planning, supervision of construction and overseeing maintenance of installed supplies. It is important to note that these technical officers carry out these oversight functions on behalf of the district council.

2.3.1 Oversight functions

The LCs are legally empowered to oversee infrastructure development at the local level. According to the law, they are supposed to monitor infrastructure development at the local or community level. To this effect, Project Management Committees (PMCs) are formed whenever an infrastructure project such as road, health, or school construction is being undertaken. The PMCs are usually comprised of councillors and ordinary citizens and each

PMC is for a specific project. However, in Uganda, the councillors in local governments are largely not technically qualified people and there is no requirement for a specific level of education for one to become a councillor.[6]

The councillors are usually trained after an election under the capacity building programme. However, it is usually a one week course which is not sufficient to neither impart sufficient legislative skills nor make the semi-literate councillors understand the intricacies in the laws namely the constitution, the Local Governments Act, and Accounting Regulations. This short training ends up being more of orientation rather than imparting skills which would enhance councillors' exercise of oversight functions.

The local governments in Uganda have the legal powers but politics, personal interests and lack of technical skills compromise their oversight functions on infrastructure development. This is further compromised by the fact that local government's local revenue is meagre and largely depends on central government and donors (these days largely called development partners) for funding. In this regard, the District Planner for Koboko district, pointed out that the local governments cannot have power when their funding is from elsewhere.[7]

The funding notwithstanding however, the biggest challenge to carry out oversight functions by the local councils arises out of lack of technical skills. Most of the Councillors are either illiterate or semi-illiterate and cannot even read or even understand Bills of Quantities for construction of public infrastructure such as schools or health centres. Lack of technical skills also affects the performance of PMCs. In this regard, the local councils have to rely on technical officials such as the district engineer. If the ethical probity of the engineer is suspect, he/she can easily mislead the local councils that proper work has been done when it is actually shoddy.

6 When parliament passed a bill that the councilors in local governments should have similar qualifications as those of Members of Parliament, President Museveni vetoed it (cite source). His argument was that this requirement would leave out many elders and opinion leaders who do not have these qualifications. The reason behind this is populist politics, in any case, one of the reasons for establishment of these local councils which started as Resistance Councils (RCs) when the NRM shot itself to power in 1986 was to get political support rather than to democratize local governance(see for example, Tukahebwa 2001; and Ahikire 2007). What is surprising however, is that even up to now the issue of minimum qualifications for local government councilors is still not only contentious but un resolved. For example, while in a consultative meeting for an urban situation analysis study in 2010, in which the author was part of the team, this issue was raised. In Nakapiripirit, where the meeting was held largely through translators, they suggested primary seven (P.7) to be the minimum qualification for councilors; in Kyengera Town Board, a suburb of Kampala City, the consultative meeting had to be conducted in vernacular because most of the councilors did not know English; in Wakiso Town Council, the consultative meeting for the same study (Urban Situation Analysis) held on February 11, 2010 had to be conducted largely in vernacular because many of the councilors did not understand English. In a similar meeting, held in Entebbe Municipality on February 26, 2010, the councilors suggested that there should be no minimum qualifications for councilors. While Entebbe is an urban local government and even a gateway to Uganda, one would have expected that its councilors, relatively, have higher education qualifications than those either in town councils or rural LCs, but this assumption may not hold when subjected to empirical test. I have explained this in extenso to show that while the local councils have legal powers to exercise oversight functions in infrastructure development, there are still impediments arising out of politics, lack of technical skills, and to a large extent selfish personal interests. The question remains whether a semi-illiterate councilor or P.7 graduate can read and understand laws such as the local governments Act.

7 Interview with the District Planner of Koboko district in April 2009 during a DANIDA study on capacity of Districts for Peace Building and Conflict Resolution.

In the development of infrastructure, all projects pass through the responsible sectoral committees but finally have to be passed by councils. The most responsible organ is the works committee, under which the District Engineer works. It is this official who prepares the Bills of Quantities (BQs) and issues the certificate of completion and sanctions payment to the contractor at each stage of the project. However, councillors are part of the monitoring team on the implementation of the project.[8]

Infrastructure development in local governments were largely funded by Local Government Development Programme (LGDP) projects I and II which were largely controlled from the central government. The guidelines on the implementation of LGDP were made and performance measurement was carried out by the central government staff from the MoLG. Since it was largely controlled from the Centre, LGDP was more or less a "straight jacket" designed to fit all local governments regardless of the different conditions, circumstances and priorities of different local governments. Moreover, it was the Central government staff that assessed local governments' performance under LGDP. LGDP ended in 2009, but a successor project namely; Local Government Management Service Delivery programme (LGMSD) was put in place. LGMSDP which is operated at both district and sub-county levels is a conditional grant.[9] The components of LGMSD are Community Driven Development (CDD), capacity building, and re-tooling. However, LGMSD is basically a grant for infrastructure development. The local governments are required to use the funds for tangible capital developments such as schools, health units, roads etc. These are annually assessed by a team of officials from both the MoLG, and the MoFPED, which releases the funds to the local governments. The issue here is to determine and witness the infrastructure that has been developed from the LGMSD funds.
The politics in the LGMSD however, is not only at the national level but also within the local governments themselves. The funds are supposed to finance the development plan. So the politics of this programme begin with the writing/making of the development plan. It should be noted that every local government is required to have a three year development plan. While this is good on its own merit, it is important to note that the Indicative Planning Figures (IPFs) are provided by the MoFPED. In this respect, Local governments cannot renege on the wishes or interests of the central government. After all, performance assessment is carried out annually by a team from the MoLG and MoFPED. So the Local governments must conform to the guidelines from the centre in order to be eligible for the next release. In this regard, it is not only the local councils playing an oversight function on infrastructure development but also the central government.

The political dynamics in this project however, are largely played at the local government level in the councils. This is through which councillor can pull which capital development to

8 Interview with the Senior Principal Assistant Town Clerk, of Central Division, Kampala City.

9 Interview with a Senior Assistant Secretary, Apac district on 18/04/2011.

his/her constituency, which itself is healthy, but compromises the oversight functions since each councillor mainly cares for what infrastructure is put in his or her constituency. This notwithstanding, the oversight function on the infrastructure development at the local level legally lies with the local councils. In this regard, the lessons from Uganda are that it has made laws and regulations that legally empower local councils, but legal niceties are not enough since they may not be implemented, yet the spirit of these laws may be political rather than either legality or democracy. It should be noted that the local councils in some instances even lack capacity to oversee infrastructure development "objectively" either due to lack of technical skills/knowledge or for sheer partisan interests.

In the wake of re-introduction of partisan politics in 2005,[10] the local government politics and oversight functions of Local councils have since changed. The focus is more on partisan considerations rather than objective infrastructure development oversight functions. This is not only limited to local councils but also parliament. For parliament, this is compounded by existence of party caucuses especially the NRM caucus. Whenever there is a controversial issue in Parliament that requires the August house to exercise its oversight functions, the tendency is to convene an NRM caucus meeting before the issue is tabled in parliament. What normally happens in the caucus meeting is to "beat" the NRM MPs in line so that when in the house they do not oppose the party position even where it is not only in the interest of the country but also necessary for them to play their oversight functions. In this respect the crucial decisions are made at party caucus level rather than on the floor of parliament which only endorses. It is important to note that this situation reverberates to the local councils.

2.3.2 Emerging Policy Issues

As the political tempo changes, the hitherto devolution which was pivotal in empowerment of local councils to exercise oversight functions, is steadily being eroded. The 2005 Amendments to the Local Governments Act of 1997, removed the Chief Administrative Officers (CAOs) and Municipal Town Clerks from the ambits of District Councils and Municipal Councils and placed them under the central government. Up until then, these officers, who are the accounting officers in their respective councils, were removed from the jurisdiction of the District Service Commission (DSC), a statutory body that was responsible for appointing them. According to Local Governments Act cap 243, they are now appointed by the Public Service Commission (PSC) which is a central government agency. These officers and their deputies can be transferred to any part of the country which was not the case when they were under the DSC. The implications of this shift include the following:

10 Uganda was since 1986 when NRM came to power under the "Movement System", where political parties were not allowed to operate. After the referendum in 2005, political parties were re-stored. But it would appear that the so-called "individual merit" which was touted in the Constituency Assembly (CA) elections in 1994, and the pronouncements thereof by the president that "we have defeated them", still persist. This is because the current talk even when political parties have been legally freed, where NRM is regarded as a political party, the supporters of NRM still talk and reflect themselves as the Movement versus political parties.

- The CAO and the Town Clerk – are no longer directly accountable to their respective councils but to the central government. Hence first allegiance is to the central government;
- These accounting officers can conveniently ignore some of the instructions from their Local Councils if they are not in the interest of the central government even if they have implications for infrastructure development and exercise of oversight functions by the Local Councils; and
- The other implication of this shift is that devolution is being undermined. Yet without it the local governments will neither play a significant role in infrastructure development nor exercise oversight functions.

Another emerging trend in the local government system in Uganda is the proliferation of districts and town councils. The legal criterion for creation of new district is that it should be based on population and distance from the present district headquarters. In creation of new districts, the government argument is that it is taking services closer to the people. However, this is largely a "window dressing". Nearly every county in the country has been turned into a district. The creation of many districts largely due to political expedience and populist politics has led to a situation of uneconomically viable districts which always paternalistically look to the central government for both financing and infrastructure development. Such districts abound and are spread throughout the country. To mention but a few, they include Mitooma and Sheema in the West; Manafwa and Bukedea in the East; Oyam and Amuru in the North; and Gomba and Kalungu in the Central region. None of these districts locally raises more than 3 percent of their total annual budget. The implication of this is that since financing of infrastructure development in their areas comes from elsewhere, largely the central government, the exercise of oversight functions by these local councils is compromised.

The other effect of creation of more districts which to some extent follow tribal lines is not only fragmentation but also balkanisation of the nation. The arguments by the locals is that once they have their own district, then they can also share on the national "cake", while the president plays on this sentiment and argues that services are being brought closer to the people. Creation of these uneconomically viable districts is a vote catching strategy. Moreover, most of them are promised during political campaigns and given after the elections. The re-centralization tendencies are not only being witnessed in putting back the CAOs and Town Clerks (Accounting officers) under the central government, but also the rendering of the elected local councils toothless and almost all the powers being vested in officials appointed by the central government. A case in point is the Kampala Capital City Authority (KCCA) which may be a harbinger of what will happen in other local governments as long as the NRM government remains at the helm of power in Uganda.

The Kampala Capital City Act, 2010, is an epitome of movement away from the spirit of devolution which is at the heart of decentralization and empowering of citizens to choose their leaders and these leaders in the Local Councils to exercise oversight functions in infrastructure development. In this regard, for the first time since decentralization was introduced in 1993, members not elected by either universal adult suffrage or indirectly through colleges have been introduced into a local council. Section 6(g) of the Kampala City Council Act, 2010, provides that in the composition of the KCCA Council, there shall be councillors representing professional bodies namely:

- One councillor representing Uganda Institution of professional Engineers;
- One councillor representing Uganda society of Architects;
- One councillor representing Uganda Medical Association; and
- One councillor representing Uganda Law society.

What this shows is that the central government is focused on “capturing” the city council from the electorate who have over the years persistently largely voted for members of the opposition parties. The non-elected members of the council enumerated above, will probably, be handpicked by heads of their associations since there is no legal provision of how they are supposed to be selected.

Section 17(1) of the Kampala City Act 2010, provides that there shall be an executive director who shall be the chief executive of KCCA. Section 17(2) makes it clear that this executive director shall be appointed by the president on the advice of the Public Service Commission. The unanswered question is whether this executive director is answerable to the Council or the president. To compound Central government takeover of administration of Kampala City, Section 5(3) of Kampala City Act 2010, stipulates that the Authority is the governing body of the capital city and shall administer the capital city on behalf of the central government. What is ironical however is that the subsequent subsection (4) provides that any enactment that applies to the district shall, subject to this Act and with necessary modifications, apply to the Authority. What these legal provisions imply is that whereas Kampala City remains a local government, it is directly, administered by the central government. Moreover, a Minister in charge of Kampala City has been appointed. The Minister in charge of KCCA reports to the president while the Executive Director reports to parliament. However, the Minister is also required to make an annual report to parliament.

The Minister for KCCA has been given powers to override the decisions of the KCCA. Section 79 of the Kampala City Act 2010 which stipulates the powers of the Minister for Kampala among others provides that the Minister shall have powers in relation to the Authority:

- To vary or rescind any decision of the Authority which is in contravention of any law or central government policy, with the approval of cabinet;

- Where the minister considers that the matter is of a grave nature, to institute a commission of inquiry to inquire into the matter;
- To appoint and remove members of the metropolitan Authority; and
- To oversee the performance of the Authority and make annual report to parliament.

The subsequent sub-sections are more emphatic. Section 79 (2) provides that the Minister shall have general powers to give directives on policy and general development of the capital city and the Authority shall comply with the directives. In effect, the Minister in charge of Kampala will to a large extent be the source of the policy. Even when the council originates policy, it will stand at the pleasure of the minister. This is because section 79(3) provides that the Minister may veto decisions taken by the Authority which appear to the Minister to be illegal and where the Authority fails to perform any of its duties, the Minister shall by writing, direct the Authority to carry out those duties. To crown it all, Section 79 (4) provides that the Authority shall give effect to any direction given by the Minister under Sub-Section (3). Effectively therefore, the elected council has been rendered toothless not only on matters of financing infrastructure development but also exercise of oversight functions. This trend has started in Kampala City but is likely to spread to any other city since the government is in the process of creating more cities in the country. What is important to note is that this is reversal of decentralization particularly devolution while tightening central government control over local governments. In this regard, Stoker (1996), while citing Jones and Stewart (1985:3), observes that in Britain since 1979, the central government sought to have control over local authorities by increasing the pace of centralization and notes that the message of the central government was that it needed to control disobedient local authorities. Could this be the case with the NRM government in respect of Kampala city?

3. CONCLUSIONS AND RECOMMENDATIONS

3.1 Conclusions

In Uganda, there are sufficient structural arrangements that devolve responsibility for infrastructure development to local governments. In the same vein, there are also sufficient legal provisions for the local councils to perform oversight functions in infrastructure development. The local government's responsibility for infrastructure development and local councils' oversight functions are enshrined in the Constitution and the enabling legislations particularly the Local Governments Act Cap 243.

While the laws are in place, they are not implemented to the letter. This is largely because local councils lack sufficient funds while transfers from the central government are largely conditional and not easily predictable. Failure of local governments to raise revenue locally compromises their ability to exercise oversight functions in infrastructure development. Because of meagre locally raised revenues, infrastructure is financed largely by central government transfers and donor funds over which the local councils do not have flexibility. There is therefore need for fiscal flexibility and control by the local governments in order for them to prioritize which infrastructure to finance depending on the needs of different localities or communities.

Despite lack of fiscal control however, the structural set-up of local councils is well suited for them to exercise oversight functions in infrastructure development. Every infrastructure development has to pass through a sectoral committee before being approved by the council. During implementation, the councillors, spearheaded by the secretary of the committee monitor the projects while the civil servants such as the District Engineer, provide the supervision and technical guidance. This arrangement buttressed by the legal framework is a good lesson that can be drawn from Uganda's local governance system.

The creation of KCCA, which is largely run by officials appointed by the central government is a sign that decentralization is being rolled back and direct central government control being re-asserted. The legal provision in the Kampala Capital City Act 2010 that the Minister can veto the decisions of the authority means that infrastructure development initiated by the elected councils in the city can be overridden by the Minister. This also weakens the council's exercise of oversight functions. Since the authority governs the capital city on behalf the central government, the creation of KCCA which is largely run by appointed officials rather than elected councillors was inspired by politics rather than improvement of service delivery.

3.2 Recommendations

Albeit the structure and legal framework for local governance in Uganda are in place to enable local governments initiate infrastructure development and for local councils' to exercise oversight functions, there are still impediments that constrain them from performing these functions properly. Foremost among these constraints is the inability of local governments to mobilize and raise sufficient revenue. The consequence of this is over reliance on central government transfers and donor funding. To maintain grip and control over local governments by the central government, about 86 percent of the transfers are conditional grants implying that local governments do not have flexibility in setting priorities. It is therefore recommended that the Constitution of Uganda and the Local Governments Act Cap 245 should be amended to explicitly provide for fiscal discretion to local government transfers. This will lead to increase of discretionary transfers such as unconditional and sector grants. This will accord local governments flexibility in priority setting in their areas of jurisdiction.

The guidelines and budget lines for conditional grants are determined by the central government. This "ties the hands" of the local governments to decide which infrastructure to finance given the different circumstances and conditions of different local governments in different locations in the country. While the guidelines can be determined by the central government, the budget lines should be determined by the local governments themselves. On national sector priorities, there should also be flexibility, for example why should agriculture be a priority in urban local governments? On the issue of planning, the indicative planning figures are determined by the central government. This paper therefore recommends that the central government should restrict itself to planning guidelines and leave the figures to be determined by the local governments.

The exercise of oversight functions in local councils is affected by academic qualifications and competence or skills of the councillors. Local councils are dominated by semi-illiterate councillors who cannot read and understand or interpret the laws. Such councillors cannot exercise oversight functions. This paper recommends that the minimum qualifications for the councillors at the village, parish and sub-county levels should be senior four (ordinary level) or its equivalent while the minimum qualifications for district and municipal councillors should be senior six (advanced level) or its equivalent. While the laws and contracts with private sector providers of public services are written in English, some councillors cannot read or understand English which is an impediment for them to exercise oversight functions.

The politics of creating new districts which are even uneconomically viable, affects both financing of infrastructure development and exercise of oversight functions by the local councils. Political populism by central level politicians should be minimised and instead focus on infrastructure development by the local government. This paper recommends that the creation of new districts should strictly follow the legally provided criteria rather than political impulse. The economically unviable ones, which look paternalistically for transfers from the central government, should be amalgamated to form economically viable units, whose local governments can finance infrastructure development and their councils exercise oversight functions.

Although the creation of KCCA is a recent phenomenon and yet to be thoroughly assessed, there is need for clear clarification whether the authority is a local government or not lest there will be tension between the elected councillors and appointed officials of the authority. This will affect the financing of infrastructure development and exercise of oversight functions by the urban councils within the city. While the behaviour of the councillors in the authority is typical of any other local council, the appointed officials particularly the Minister is above the elected councils. This paper recommends that the councillors in the authority should be the ones to hold appointed officials accountable while the legal powers of the Minister to veto decisions of the authority should be expunged.

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