MAKING DECENTRALIZATION WORK FOR THE PEOPLE OF UGANDA: Policy Issues Ahead of the 2016 Elections

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INTRODUCTION

Uganda's current legal and institutional framework for decentralization took effect in 1992 first through a Presidential policy statement and later provided for in the 1995 Constitution and operationalized in the Local Government Act (1997 as amended). Decentralisation is expected to lead to greater citizen participation, enhanced citizen-led local governance and improved livelihoods at the local level. At the core of decentralization is the need to deliver quality services to citizens. It also involves shifting decision-making processes down to the people who know and understand their community needs and problems. Clearly, it makes more sense for those at the bottom to assess local problems, build consensus on realistic development programmes and oversee the delivery of services, rather than respond to centrally mandated, top-down schemes that are prone to inefficiency, leakage, misallocation, and corruption. This makes the policy of decentralisation a means and not an end in itself.

Uganda's decentralization framework provides for strong local governments with both downward and upward accountability mechanisms. The system espouses local governments where decisions are taken at the lowest possible level and provides for citizens engagement in their own governance. It involves leadership, participation, inclusion, representation, decision-making, and power relations between central and local governments, and between higher and lower local governments.

Facts on Decentralisation

(i) In 1995, the Local Government system was entrenched in the Constitution (Article 178) as the primary vehicle for ensuring effective delivery of public services.

(ii) In 1997, the Local Government Act (CAP 243) was passed to operationalise the policy of decentralisation

(iii) The Local Government Act provides for a five tier local government system comprising of Local Councils I, II, III,IV and V

(iv) LCI, III and V are referred to as Local Governments which in essence are bodies corporate with powers to generate, collect, plan for and utilise resources.

(v) Local Governments are responsible for public services which include primary health care, primary education, feeder road works, water and saniation and agriculture while the line ministries provide the policy guidance in the way these decentralized services are implemented.

(vi) Central government has progressively recentralized the powers and responsibilities of local governments, thereby changing the decentralization model from devolution to delegation.

(vii) Financing of local governments continues to be dominated by grants from the central government which accounts for over 92 per cent.

(viii) In Financial Year 2014/2015 only 17 percent of the national budget will be sent to local governments to finance service delivery for 89 percent of the country's population.

(ix) Local district revenues are Local Service Tax (LST), Local Hotel Tax (LHT), property related charges, user charges and Business licenses.

(x) Local Government staffing levels stand at 64.1% in urban authorities and 55.5% in the districts averaging at 59.8%of the approved establishments across the board.

Box 1: The tenets of Uganda's decentralization system as enshrined in Article 178 of the Constitution

- The state shall be guided by the principle of decentralization and devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their own affairs.
- The system shall be such as to ensure that functions, powers and responsibilities are devolved and transferred to local government units in a coordinated manner.
- Decentralization shall be a principle applying to all levels of local government and in particular, from higher to lower local government units to ensure people's participation and democratic control in decision making.
- The system shall be such as to ensure the full realization of democratic governance at all local government levels.
- There shall be established for each local government unit a sound financial base with reliable sources of revenue.
- Appropriate measures shall be taken to enable local government units to plan, initiate and execute policies in respect of all matters affecting the people within their jurisdiction.
- Persons in the service of local government shall be employed by the local governments.
- The local governments shall oversee the performance of persons employed by government to provide services in their areas and monitor the provision of government services or the implementation of projects in their areas.

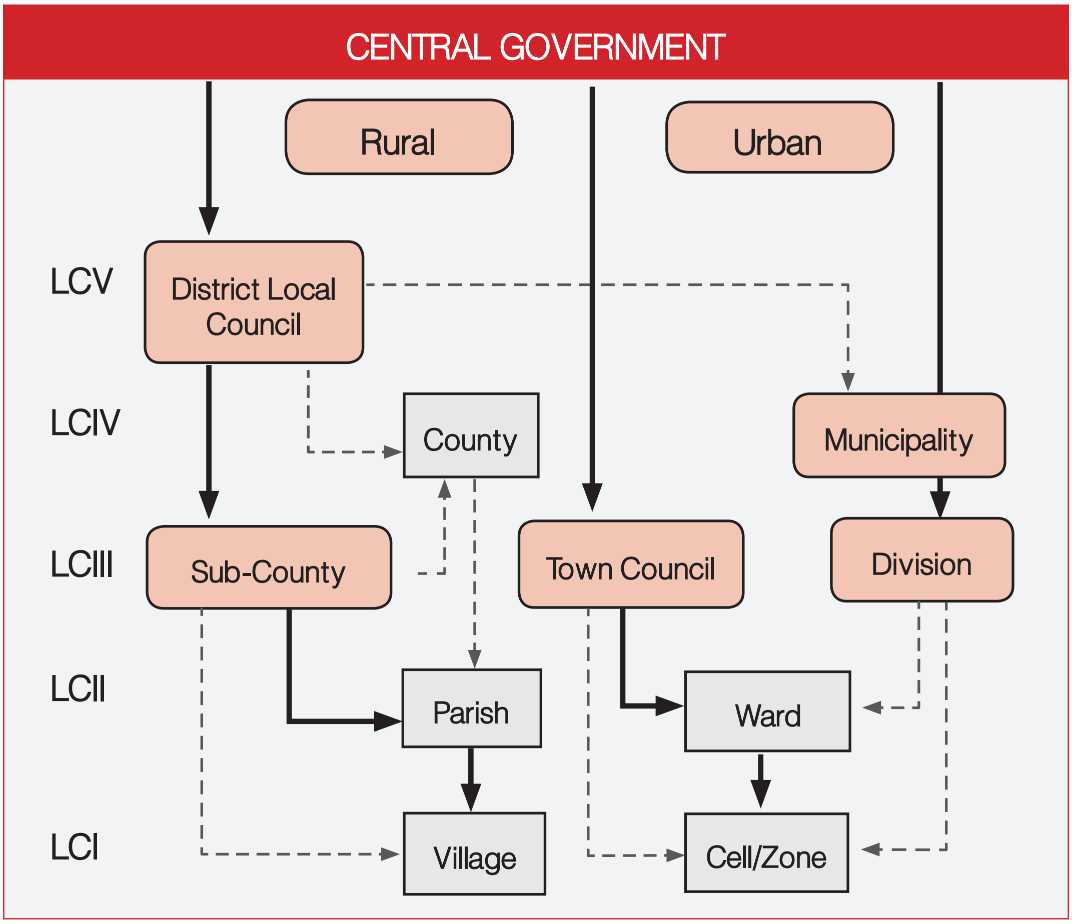
Currently, these tennets of decentralisation are under threat due to changing dynamics including the increasing tendencies of recentralisation. Citizen's voice and participation get lost in the mist of the overwhelming powers that come from central government.

To explore the debate on whether decentralisation in Uganda has brought services nearer to the people and indeed strengthened local governance, the paper presents six thematic policy issues that help underpin the practice, relevancy and future of decentralisation and local governance in Uganda. The six thematic policy issues include; the understanding of decentralisation by the citizens, the policy vs politics of decentralisation, the concept of fiscal independence at local government level, quality of political oversight at the local government level and citizen engagement/ or disengagement in local governance. At the end of every thematic policy issue, a precise policy question is paused to guide the discussion.

A. Is Decentralisation understood by citizens and all political parties?

The Local Government Act provides for a five tier local government system comprising of Local Councils I, II, III, IV and V. In this hierarchy, LCI, III and V are referred to as Local Governments which in essence are bodies corporate with powers to generate, collect, plan for and utilise resources. Local Governments can be rural or urban. On the other hand, LC II and IV are administrative units that carry out functions related to resolution of problems and disputes, monitor the delivery of services and assist in the maintenance of law, order and security. Figure 1 below shows the current structure of local governments in Uganda.

Figure 1: Current structure of local governments in Uganda



Source: *ACODE Local Government Score Card 2013*

Under the current decentralisation policy, the central government ministries are responsible centres for policy direction while local governments are the implementing bodies of these policies. Local Governments are responsible for public services which include primary health care, primary education, feeder road works, water and sanitation and agriculture while the line ministries provide the policy guidance in the way these decentralized services are implemented.

The district technical departments which in practice control the budget are the public service delivery organs of the local government. They fall under the direct leadership of the Chief Administrative Officer (CAO) whose fiscal accountability responsibilities primarily lie with the central government agencies that control the conditional grants. One of the presumably powerful offices at the local government level is the office of the Resident District Commissioner (RDC) who is appointed by the president and therefore directly reports to the president.

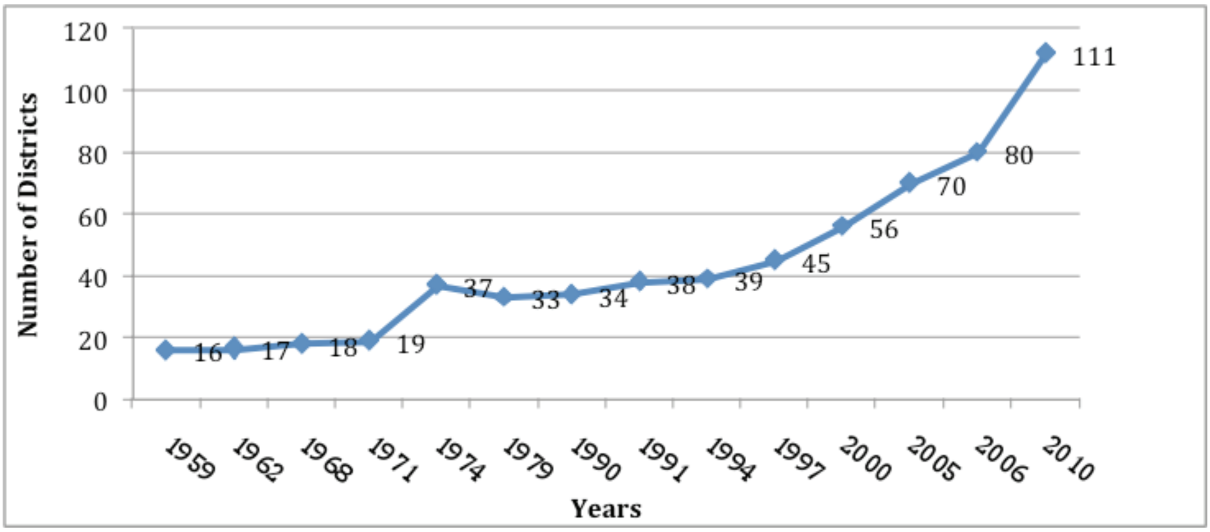
The reality on the ground presents a completely different picture in all Local Governments. The district council has political responsibility but controls no budget. The RDC's primary responsibility seems to be to attribute all successes to the president, and all failures to the inefficiency and corruption of local leaders trying to undermine the good intentions of the president. The failure to stick to the principles of policy has led to a number of conflicts in many local governments. For example, in the *Daily Monitor* of 20 August 2007, it was reported that the Ntungamo RDC claimed to be under threat from the LCV chairman because he demanded accountability and had exposed the LCV chairman's corruption practices. In Kiruhura, the then acting RDC reportedly resigned, citing corruption and intimidation from elected representatives.[1]

Policy Question 1: *Is the current local government structure relevant for meaningful public decision-making at the local level?*

B. The Policy and Politics of decentralisation

Over the years, the NRM government has strongly heeded calls for creation of new districts, a move that is linked to 'taking services nearer to the people'. The number of districts has exponentially grown from 36 in 1986 to now 111 in 2014. The strongest argument put across by the proponents of creation of more districts in Uganda is the need to take services closer to the people.

Figure 2: Trends in creation of districts in Uganda



Source: Author's calculations based on government records

The creation of new districts is also strongly linked to increasing opportunities for local people to build local democratic cultures and community-driven local economic development. There have been wide-ranging public discussions regarding the viability of creating new districts with opponents arguing in favour of the negative burgeoning costs to public administration

Policy Question 2: *Is the creation of new districts enhancing access and quality of service delivery at the local level?*

1 Muriisa, R. Decentralisation in Uganda: Prospects for Improved Service Delivery, Africa Development, Vol. XXXIII, No. 4, 2008, pp. 83–95.

C. Recentralization and the relationship between the centre and local governments

Central government has progressively recentralized the powers and responsibilities of local governments, thereby changing the decentralization model from devolution to delegation. Over the last decade, central government has ammended the local government legal frameworks and recentralised the appointment of the chief administrative officers (2005) and the district contract committees (2006), as well as assumed the powers to pay the salaries and allowances of district council chairpersons, speakers and councilors (2005), and LCI chairpersons (2010). The policy shift from devolution to delegation not only shifts the primary responsibility of service delivery to the central government, but also fundamentally changes the accountability relationships between citizens and government.

Numbers for Decentralisation

(i) 111 – number of districts in Uganda

(ii) 163,691 – average amount in shillings that government spends on each person in a district

(iii) 17 – Percentage of the total amount of the national budget conditionally allocated for service delivery by local government.

(iv) 92 – percent of the total amount of money spent by local governments is sourced from the central government as conditional grants

(v) 5 – percent of the total amount of money spent by local governments is sourced from development partners

(vi) 3 – percent of the total amount of money spent by local governments is locally generated

(vii) 24 – number of districts designated by government as 'hard to reach'

A good case study is the weakened Local Government Councils. Legally and politically, Local Government Councils are responsible for all Local Government functions as stipulated in the Local Government Act including: planning, financial accountability and the delivery of public goods and services. However, district political leadership holds no controlling or other appropriate authority to determine or direct how the funds allocated to the district are utilized. The Chief Administrative Officer (CAO) who is the accounting officer of the district is appointed by the Central Government. Secondly, the various ministries including those responsible for Local Government and Finance have developed a set of guidelines and procedures that limit the involvement of the district councils in the management of the district's financial resources including the procurement process. The guidelines and procedures enjoin the council to oversee the use of funds by the technical agencies of the Local Government but to ensure that they do not get involved in the governance of these resources. This is popularly referred to as the *"eyes on, hands off"* approach to the governance of Local Government council financial resources.

Before Kampala became an authority in 2011, it was marred with incessant scandals of financial misappropriation which arose from the confusion created by political interference from the central government. A forensic audit into the management of KCC commissioned by the Auditor General in 2008[2] indicated deliberate actions by the technical staff to defraud KCC through financial

2 Refer to the Forensic Audit into the management of KCC, 2008

Salient Policy Issues

(i) The tenets of decentralised as enshrined in the 1995 Constitution are under threat due to the recentralisation of certain provisions

(ii) The policy shift from devolution to delegation (recentralisation) is shifting primary responsibilites of service delivery to the central government.

(iii) Decentralisation policy implementation amidst political manoeuvres, gerrymandering and partisan politics.

(iv) Limited fiscal autonomy and local revenue sources amidst conditional grants from the center stand to thwart the principal objectives of decentralisation.

(v) Quality of political oversight at the local level and citizen engagement/ or disengagement in local governance

(vi) Human resource inadequencies and failure to retain competent staffs at local levels is detrimental to quality service delivery at the local level

misrepresentation, manipulation and disregard of the financial reporting systems, processes and control procedures at the headquarters. Cases of wrong accounts, (over UGX 1.8bn deposited on a wrong account after a delay of about six months), disappearance of money (UGX 2bn withdrawn by KCC banking agent), fictitious payments (over UGX 1 bn purportedly paid to URA), sale of used vehicles (32 used vehicles at prices ranging from UGX 200,000 to UGX 1.5M) and use of a manual accounting system which is prone to human error and manipulation were widespread[3].

Policy Question 3: *Has the recentralisation of the appointment of the CAO and contracts committee affected the quality of services delivered at the district level?*

D. Local Government Financing: How do we ensure adequate resource mobilisation and frugal utilisation?

Local government financing is central to effective service delivery. In accordance with Article 178 of the Ugandan Constitution, it is envisaged that there shall be established for each local government unit, a sound financial base with *reliable* sources of revenue. The composition of financing sources therefore, depicts a local government's level of autonomy and impacts functions critical for service delivery, such as convening of council and committee meetings and monitoring of service delivery. Specifically, over-dependence on central government transfers, accompanied by strict conditionalities, limits the discretion of local governments to determine priorities, and constrains their leverage for planning and implementation. In short, it greatly curtails their power and influence. Further, the level of financing of council operations by the central government is largely inadequate, and it is unrealistic to expect that locally generated revenue will supplement the shortfall.

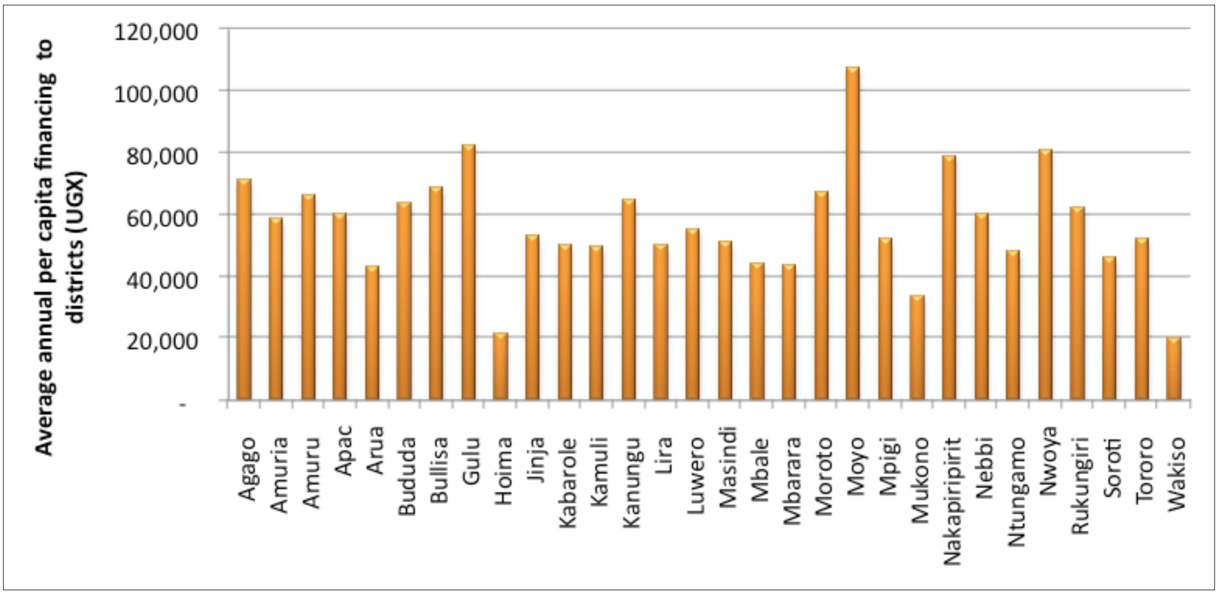
The most recent Local Government Scorecard report presents an exhaustive understanding of local government financing in 30 districts in Uganda.[4] Current local government financing levels translate to an average of UGX 163,691 per year per year in the 30 districts using preliminary census figures from 2014. Figure 3 presents the average per capita financing of the districts for three financial years

3 Ibid

4 Bainomugisha, A., et. al., (2014). Local Government Councils Score-Card Assessment Report 2013/14: A Combination of Gains, Reversals and Reforms. ACODE Policy Research Series No. 64, 2014. Kampala.

(2011/12 to 2013/4). Moyo (UGX 107,806), Gulu (UGX 82,609) and Nwoya (UGX 80,884) registered the highest financing per capita while Wakiso (UGX 20,209) and Hoima (UGX 21,793) registered the least annual financing per capita. In simple terms, the per capita calcution means that on average, government spends UGX 163,691 on each person in a district in a year. This money is expected to cater for the delivery of essential services including primary education, primary healthcare, feeder district roads, water and saniation; and community development among others.

Figure 3: Average Local Government financing per capita for LGCSCI districts (2011/12 to 2013/14)

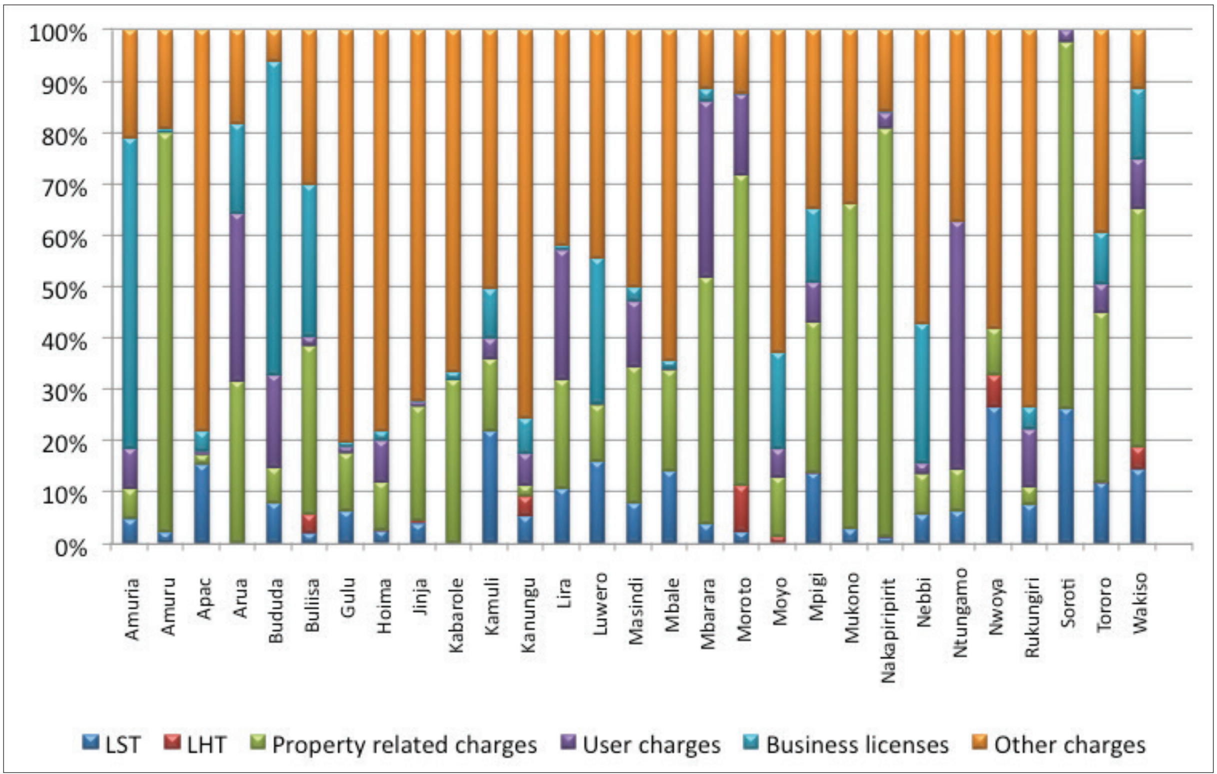


Source: *Author's compilation using preliminary census figures 2014 (UBOS) and Annual District Performance Reports 2011/12 to 2013/14*

Financing of local governments continues to be dominated by grants from the central government which accounts for over 92 per cent. Other sources of financing for local governments include donor funding (5 per cent) and locally generated revenue (3 per cent).Comparing the past and the future, the Uganda National Budget Framework Paper FY 2013/14 – FY 2017/2018 shows that in Financial Year 2014/2015 only 17 percent of the national budget will be sent to local governments to finance service delivery for 89 percent of the country's population. Unfortunately, this 17 percent is conditional grants from the central government.

With the so many conditions from central government funding, locally generated funds are critical to local governments as they provide room for flexibility in case of emergencies or unique priorities to districts. Local revenues are categorized under five major categories including Local Service Tax (LST), Local Hotel Tax (LHT), property related charges, user charges and Business licenses. Several other sources of revenue are lumped up as 'other charges'. Information from the Local Government Finance Commission (LGFC) on local revenues for the 30 score-card districts for 2011/12 shows that the major local revenue sources combined accounted for less than 50 per cent of local revenue collected in 11 districts. Property-related charges, LST and User charges accounted for a substantial share of local revenue to districts, while business licenses accounted for the least as shown in Figure 4.

Figure 4: Contribution of different sources to district local revenue FY 2011/12



Source: *LGFC Data Base 2013*

Figure 4 shows a variation in diversity of local revenue sources for districts. This variation depicts the structure of the local economy and the level of urbanization. In districts with a small number of formal economic activities, collection of revenue from the major local revenue sources is very difficult. Also, districts are largely rural with very few hotels, real estate and formal business. Districts have decried the revenue source allocation system in which few and hard-to-administer taxes have been assigned to them while Uganda Revenue Authority (URA) takes the charge of the more viable tax revenue sources in the country.

Policy Question 4: *How can districts enhance their innovative capacities to increase local revenue generation and expand their resource envelope?*

E. Staff Attraction and Retention at the Local Government Level

The human resource has been rated highly among resources needed for development. Financial and time resources are equally important but institutions need human beings to turn these resources into outputs. Qualified staff is perhaps one of the greatest assets to any local government. The quality of staff is a high determinant of the quality of services the district will deliver. For this reason, attraction and retention of qualified and skilled civil servants is integral to capacity and performance of local governments. One of the biggest challenges faced by most local governments is attraction and retention of qualified staff.

Currently the staffing levels stand at 64.1% in urban authorities and 55.5% in the districts averaging at 59.8%of the approved establishments across the board. Essentially, this means that local governments do not have enough staff to deliver the services to district residents. In some cases, it means that some local governments do not have sufficient funds to hire and retain qualified staff.

The staffing gaps can be attributed to retention challenges and lack of resources to pay the local government staff. Limited career opportunities at local government level can cause this problem. The career paths of local government staff are limited compared to those of central government staff. Rigid local government structures limit promotion to a few levels. This limits career progression of staff. There are many cases of local government staff staying in the same position and at the same level for many years. Due to limited opportunities for career advancement, local government staff that wish to progress in their career usually look out for greener pastures elsewhere.

The location of some of the districts makes it hard to retain staff for more than a year. Under Circular Standing Instruction No. 2 of 2010, the Ministry of Public Service (MoPS) designated 24 out of 112 districts in Uganda as ‘hard-to-reach’. The concept encompasses the elements of being hard to stay and work in. Other dimensions of hard to reach include remoteness, insecurity and poor infrastructure.

Policy Question 5: *What incentives are necessary to attract and retain qualified staff at the local government levels?*

F. Citizen engagement in local government

Over the last decade, government has pursued a rural economic policy driven by three interrelated policy strategies: welfarism, tax relief, and administrative engineering. The central government and the international development community found convergence in implementing welfare programmes such as Universal Primary Education (UPE), Universal Secondary Education (USE), and other forms of welfare interventions. Tax relief interventions such as the abolition of the graduated tax, market dues, and other forms of direct taxes became standard policy responses to deepening rural and urban poverty. Discontent among local political elites has been addressed through systematic “administrative engineering” characterized by the creation of new district units and other forms of administrative institutions. On account of global and national development targets such as the Millennium Development Goals, these may seem fairly legitimate interventions.

However, findings from a recent study[5] show that these economic policy prescriptions seem to create a clientele arrangement in which citizens lose their claim over government and begin to see every service provided by government as a favor rather than a right. Like has happened with UPE, NAADS, and road projects, citizens are expected to be perpetually grateful to government for delivering public goods and any demands for accountability are considered unjustifiable ingratitude. Consequently, consistent deterioration in public service delivery is partly a product of this rural economic policy that undermines citizens’ ownership of government and accelerates a breakdown in accountability relationships between the citizens and the leaders.

Policy Questions 6: *What needs to be done to increase citizen participation in local government decision making?*

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5 H. Ojambo, “Decentralization in Africa: A critical Review of Uganda’s Experience,” Africa Development, Vol XXXIII, No. 4, 2012.