



MEMORANDUM ON LOCAL GOVERNMENT ISSUES AND POLICY RECOMMENDATIONS, APRIL 2020

PREAMBLE

This memorandum is submitted to the Ministry of Local Government (MoLG) by Advocates Coalition for Development and Environment (ACODE). The memorandum seeks to contribute to the policy and legal reform within the Local Government Sector to improve the performance of local governments in Uganda. This memo follows calls from the Permanent Secretary and the Minister of Local Government while officiating at the launch of the Local Government Councils Scorecard Report FY 2018/19 held on March 10, 2020. This memorandum is based on the research, capacity building and outreach activities that ACODE has implemented in Local Governments over the last 10 years.

BACKGROUND

The Advocates Coalition for Development and Environment (ACODE) in partnership with Uganda Local Governments Association (ULGA) have for the last 10 years (2009-2019) been implementing the Local Government Councils Scorecard Initiative (LGCSCI). The main objective of LGCSCI is to improve the quality and effectiveness of district councils and political leaders in fulfilling their mandate as spelt out in the Local Governments Act (1997 as amended) concerning service delivery. Through annual assessments¹ of the performance of the District

Councils, District Chairpersons and District Individual Councillors² and other studies including analysis of the proposed budget for FY 2019/20³; Decentralisation in Uganda: Trends, Achievements, Challenges and Proposals for Consolidation⁴, ACODE has established several issues that undermine the effectiveness of Local Governments in delivering services and being politically accountable to the citizens. Critical among the challenges affecting Local Governments relate to inadequate local government financing; inadequate capacities of local governments; functionality of local government structures; limited citizen participation and engagement; conflicts in local governments; centralisation of devolved functions under the Public Finance Management Act; accountability and financial relationships between higher local governments and lower local governments; and poor management of business of council among others. Its against this background that ACODE is submitting this memo of issues and recommendations to contribute to the improvement of the policy and legal framework for the

Research Paper Series No. 96, 2020. Available at: <https://www.acode-u.org/uploadedFiles/PRS96.pdf>

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3 Ggoobi, R., and Lukwago. D., Financing Local Governments in Uganda: An analysis of Proposed National Budget FY 2019/20 and Proposals for Re-allocation. Kampala: ACODE Policy Research Paper Series No. 92, 2019. Available at: <https://www.acode-u.org/uploadedFiles/PRS92.pdf>

4 Mushemeza, E., D., Decentralisation in Uganda: Trends, Achievements, Challenges and Proposals for Consolidation, Kampala: ACODE Policy Research Paper Series No.93, 2019. Available at: <https://www.acode-u.org/uploadedFiles/PRS93.pdf>

1 Bainomugisha, A., Mbabazi, J., Muhwezi, W., W., Bogere, G., Atukunda, P., Ssemakula, E.G., Otile, O., M., Kasalirwe, F., Mukwaya, N., R., Akena, W., Ayesigwa, R., The Local Government Councils Scorecard FY 2018/19: The Next Big Steps; Consolidating Gains of Decentralisation and Repositioning the Local Government Sector in Uganda. ACODE Policy

local government sector.

KEY ISSUES AND POLICY RECOMMENDATIONS

1. Local Government Financing

The constitution article 176 (2) (d) states that “there shall be established for each local government unit a sound financial base with reliable sources of revenue”. Also, under article 176 (2), (g), Local Governments are expected to oversee the performance of persons employed by the government to provide services in their areas and to monitor the provision of government services or the implementation of projects in their areas. Similar responsibilities are articulated in LGA Sections 9, 24, 26 and 30.

a) Resource Envelope and Funds held by MDAs:

Central government transfers dominate the resource envelope for local governments accounting for 95% while Local Revenue and Donor funds stand at 3% and 2% respectively. There is an increase in local government financing both in nominal terms and as a percentage of the national budget in FY2018/19 when contracted with FY2017/18 from UGX22 Tn to UGX 25.09 Tn. However, Local Governments have been grappling with inadequate funding of the devolved functions through ceilings on the wage bill; limited funds for service delivery, political monitoring, technical inspection, planning and budgeting among others. It has also been established that the nominal amount of money sent to local governments has been increasing over time but this is not commensurate to the devolved roles and functions. In a study conducted by ACODE in 2019, it was established that according to the proposed budget for FY2019/20, UGX 1.066 trillion would be retained by various MDAs in FY 2019/20, yet, these funds are supposed to be allocated to LGs as mandated under the Second Schedule of the LGA (CAP 243)⁵.

b) Revenue utilization at LG level: The utilization Discretionary Development Equalization Grant (DDEG) indicates districts largely faulting the guidelines that require a minimum of 70 per cent of the grant to be used for social infrastructure in sectors such as education, health, water and social development. Tellingly is the allocation of 31% the grant to administration yet the guidelines stipulate a maximum of 15% of the grant to

be used for administrative purposes. This raises issues of adherence to guidelines and measures to ensure compliance.

c) Financing Reforms: The MoFPED has been implementing several reforms that have changed the terrain of grant management in local governments. Findings indicate both appreciation and apprehension on part of local governments about Program Based Budgeting System (PBS) mainly stemming from the ease of use, software and hardware and reporting procedures.

While the Government has made significant attempts and improvements to finance Local Governments, this financing remains insufficient. The allocation of Conditional Grants to the Local Government by the sector is not per the formulae agreed upon with Local Governments and the Local Government Finance Commission (LGFC). Consequently, Local Governments have not had the expected increments in Conditional Grants to match the increase in the cost of delivering services in LGs and the growing needs. The allocation of Unconditional Grant to LGs is not undertaken by the formulae prescribed under Article 193 (2) of the constitution. Consequently, the allocations have not enabled Local Governments to adequately finance their local discretionary priority needs or cater for the general price changes and the incremental costs of running services⁶.

Without adequate revenue from Central Government and own sources, Local Governments are constrained and cannot provide adequate services to the local population to the required level of quantity and quality. It also restricts their innovation. There has been a decline in transfers from Central Government to LGs; the share of the national budget allocated to LG programs reduced to 10 per cent in FY2018/19 from 13 per cent in 2016/17⁷. The limitation in funding for the Local Governments has resulted in low-performance indices of Local Government Councils and these include the following:

i) Irregular Meetings of District Councils and LLG Councils: By law, all Local Governments are required

⁵ GOU (2016) Financing of Local Governments in Uganda through Central Government Grants and Local Government Revenues, A report by the Auditor General, Office of the Auditor General, Kampala. <http://www.oag.go.ug/wp-content/uploads/2017/04/Financing-of-Local-Governments-in-Uganda.pdf>

⁷ Ggoobi.R. et al (2019) Financing Local Governments in Uganda: An analysis of Proposed National Budget FY 2019/20 and Proposals for Re-allocation. ACODE Policy Research Series No.92, 2019.

⁵ This study report is available at: <https://www.acode-u.org/uploadedFiles/PRS92.pdf>

to hold a minimum of six mandatory Council meetings every financial year⁸. However, the assessment shows that some District and Sub-county Councils did not meet for the required number of times. Most of these Local Governments attributed the failure to hold all the requisite meetings to inadequate local revenue. It should be noted that many of the district Councils assessed were not able to improve local revenue beyond 5 per cent. Therefore, the Local Governments that were not able to hold the least 4 Council meetings could not earn any scores on holding Council meetings which affected their overall performance score.

ii) Inconsistency in Induction of Councillors: Due to lack of resources, both the Ministry of Local Government and the Local Governments have not been able to adequately induct elected leaders. The new Councillors elected in the year under review who mainly included the workers' and older person representatives had not received any induction to Council. These Councillors on interfacing with the research teams indicated that they did not understand their mandate in Council because they had not been inducted. They said this affected their performance. On average the Councillors representing workers scored 43 points while Councillors representing older persons scored 42 points which were below the average score of the 70 districts inducted by the government in the FY under review.

iii) Poor Service Delivery Monitoring: For the standing committees of Councils, district executive committees and individual Councillors to conduct monitoring of service delivery in their jurisdictions, they require financial resources. However, the financing of this political role has been minimal because local Councils have been unable to raise enough revenue to finance some of these activities. Though there was an improvement in monitoring service delivery, the results still showed that there was still a lot that needed to be done. For instance, scorecard results showed that of the 416 Councillors that did not have a single service delivery monitoring report in all the sectors, 192 were females and 224 were males. A total of 416 Councillors did not have a single monitoring report; of these, 192 were female and 224 were male. It should also be noted that most women representatives in Council represent 2-3 electoral areas compared to their male colleagues who represent one electoral area which puts the women at a disadvantage. The most

neglected area of monitoring was FAL which doesn't exist in most districts even though resources were realized for this activity. However, on the whole, even where monitoring takes place, the Councillors rarely submit reports or follow up to ensure that appropriate actions are taken. This deficiency is further evidenced by the fact that the majority of the Councillors did not present specific motions or petitions on key issues from their constituencies.

iv) Limited Contact with Electorate: As part of accountability, the Local Government Act mandates that Councillors dedicate at least one day in a year to meet electorates to be able to provide them feedback from resolutions of Council and solicit their views for onward submission to Council⁹. However, it was established that the Council does not provide resources to facilitate the convening of such meetings. As a result, 361 Councillors out of 1,005 and 5 out of 35 Speakers did not organise and hold any meetings with their electorate in the year under review. Their performance on this parameter was therefore poor. This implies that they were not able to collect views from the electorate and present them to the Council.

v) Dormant Structures for the Special Interest Groups: Special interest groups' structures¹⁰ provide an avenue for constructive engagement between members of these groups and Council. These structures include: Youth Councils¹¹; Women Councils¹²; Disability Councils¹³; Associations of the Elderly; and Workers' Trade Unions. The Councillors representing these groups are supposed to monitor programmes and projects for their interest groups and raise concerns of these groups to various authorities at the Local Government level. These structures are potentially good accountability structures cascading to the lowest level for the respective groups. These structures can also be used to channel issues of their constituents to the Local Government authorities and to demand accountability from the duty bearers. They often act as a mobilisation point for the members of the special

⁹ See Regulation 8, Duties of a Councillor, Third Schedule of the Local Governments Act (CAP243).

¹⁰ See Section 118 of the Local Governments Act, Cap 243

¹¹ According to the National Youth Council Act, 1993, (Cap 319), the following youth Councils are established in each district: village youth Councils; parish or ward youth Councils; sub-county, division or town youth Councils and a district youth Council.

¹² There are village, parish or ward, sub-county, division or town women's committees provided for under National Women's Council Act, Cap. 318

¹³ There are district and sub-county Councils for Disability, see The National Council for Disability Act, 2003

⁸ See Regulation 9 of the Local Government Councils Regulations, Local Governments Act (Cap 243).

interest groups. However, the structures for special interest groups mentioned above were found to be so dormant in many of the districts because they lacked resources. There was very limited interface between these structures and the district Councils particularly on the concerns of their groups because the representatives of these structures in Council had no resources to organise their meetings. These rather dormant structures affected the performance of the special interest group representatives especially in the assessment parameter of contact with the electorates.

vi) Inadequate Local Revenue Mobilisation: Local Governments are constitutionally empowered to control, regulate, and raise revenues from activities in their jurisdiction. In so doing, they are supposed to impose some taxes and rates on local economic activities to generate local revenue for their operations. The Constitution and Local Governments Act (CAP 243) also provides for sources of local revenue where LGs should benefit. However, during the assessment, some Local Governments reported that they experienced shortfalls in local revenue collection. For instance, 21 out of 35 did not have any increases in local revenue collections. This has been attributed to LGs' lack of viable sources of revenue, inadequate capacity to collect revenue, lack of local revenue tax enforcement teams, and failure to mobilise potential taxpayers to pay tax. On the other hand, potential taxpayers were also reported to be resisting payment of local taxes such as property tax. It should be noted that the business of Council is financed by 20 per cent of local revenue. This implies that if revenue collections are low, then, Councils will have very limited resources available to finance activities of Council. With such resource constraints, Councils were found unable to conduct all meetings of standing committees, capacity building of Councils and political monitoring.

vii) Delayed response to citizen concerns: During the year under review, there were 424 petitions and 22 letters submitted to at least 27 district councils. It was noted that most of these petitions and letters had been submitted to the Office of the Clerk to Council or Speaker, but in most cases, these were not processed or followed up by the relevant committees and offices at the district level. In most districts, there was no evidence in the Minutes of Council or committees that these petitions and letters had been put on the order paper, discussed, or even referred to relevant committees. Most of Councils that had not provided a response to the citizens or undertaken any action

to address the issues, reported that they had no resources to investigate the issues raised. They could not hold extra Councils given that they already had a lot of Council business to handle in the year under review.

Recommendations

- There is a need to finance Local Governments as mandated by the Constitution. Article 176(2) (d) of the Constitution provides that: "There shall be established for each Local Government unit, a sound financial base with reliable sources of revenue". Article 191 provides for LGs to levy and appropriate taxes, while Article 193 provides for three types of grants to Local Governments to run decentralized services i.e. unconditional grants, conditional grants, and equalization grants (GOU, 1995). It should be noted that: Financing Local Governments by the Central Government remains insufficient; Local revenue in districts remains meagre (about 3-5 per cent of the total Local Government budgets) and has been so for nearly 15 years and Local Governments remain constrained and unable to provide adequate services to the population as expected in volume and quality (GOU, 2019).
- The laws should be amended to ring-fence a percentage of the national budget to local government financing;
- In the wake of inadequate local revenue in many local governments, Regulation 4 of the first schedule which limits council expenditure on emoluments and allowances of councillors should be amended and increased.
- There is a need to further support LGs in planning and budgeting, local revenue assessment, mobilisation and collection. There should be incentives in place for LGs to collect more local revenue.
- The MoLG should hold strategic meetings with the MoFPED and other MDAs holding funds for Local Governments' devolved functions and responsibilities
- There is a need to revive the intergovernmental revenue sharing system, which would incentivize Local Governments to collect local revenue as well as foster cooperation among different levels.
- There is a need to conduct Research: The Local Government Sector should play a greater role in spearheading and championing policy

reforms that impact on the functioning of local governance through conducting targeted research focusing on the following:

- i) Reforms needed to look into the deficits in local governance performance in relation to other government MDAs;
 - ii) The areas where PFMA re-centralises powers of Local Governments, duplicates functions and creates confusion within accountability relationships among Local Government institutions.
 - iii) The Local Government sector should spearhead scoping studies to inform local governance reforms, facilitate stakeholder consultations, draft pieces of legislation, evaluate and document the impact of policies and laws on the functioning of Local Governments;
- The Local Government sector urgently needs to follow-up with the MoFPED on the implementation of the Uganda Public Finance Management Reform Strategy, the Fiscal Decentralisation Strategy and the Inter-governmental Fiscal Transfer Reforms.
 - The Ministry of Local Government (MoLG) together with Ministry of Finance, Planning and Economic Development (MOFPED) should institute a review of the Public Finance Management Act (PFMA) and other Local Government public financial management legislation and regulations.

2. Inadequate Capacities of Local Governments

Local Governments are handicapped by shortages of staff, largely attributed to internal delays in recruitment, limitations in the wage bill and inability to attract and retain highly qualified personnel. Current staffing levels across Local Governments stand at 56 per cent and 57 per cent for Districts and Municipal Councils respectively; and 49 per cent for key strategic positions¹⁴. Also, 80 per cent of the filled positions are administrative and support staff, leaving a vast majority of core technical positions vacant. Optimum delivery of services and catalysing Local Governments as agents of local development and transformation cannot be

ensured with such skills gaps and shortages of human resources. The magnitude of the staffing shortfall becomes even greater when considered in light of the current expansion of Local Government Units (GOU, 2019).

Recommendations

- There is need for the Ministry of Local Government to ensure that the Local Governments utilize their wage bill funds
- There is need for the Ministry of Local Government to engage the Ministry of Public Service and the MoFPED to adjust staff ceilings and wage bill respectively especially for the districts that lack critical and strategic staff.

3. The Functionality of Local Government Structures

The Ministry of Local Government and Stakeholders ought to focus on strengthening accountability and oversight at the Local Government level for improved service. This can be achieved through several interventions including continuous training and mentorship of Local Government leaders and structures of local Councils on their roles and responsibilities; deepening public participation and oversight within Local Governments by improving leadership and accountability for results; strengthening the standards, reward and sanctions systems for public officials, challenging the norms, attitudes and behaviour that fuel poor performance; enhancing key systems, standards and accountability institutions at the national and sub-national level and strengthening accountability processes within Local Governments.

Recommendations

- There is need to empowering existing local structures within the Local Government set up to be drivers for accountability at the local level. This would facilitate regular service delivery-related engagements between Local Governments, the various committees (Youth Councils, Women Councils, Associations for Older persons, Parish Development Committees, SMCs, WUMCs and HUMCs) and administrative units to spur development and promote accountability.
- The Ministry of Local Government should prioritise strengthening the role of the District Council in

¹⁴ The Key Strategic Positions in LGs are: Accounting Officer; 13 Heads of Departments; Sub County Chiefs and Parish Chiefs.

Public Financial Management by clarifying the role of LGPACs in audit and reporting. It is not uncommon to find that the district budget approved by Council is at variance with that which is reported during periodic reporting to the MoFPED by the technical arm of the district.

- There is need to monitoring Compliance. The ministry of Local Government needs to develop a mechanism for monitoring compliance with guidelines including budgeting, rules of procedure among others and provide support services to assist Local Governments that are not meeting the minimum standards. Absence of such a mechanism makes it possible to flaunt procedures with impunity.
- The Ministry of Local Government and Stakeholders ought to focus on strengthening accountability and oversight at the Local Government level for improved service. This can be achieved through:
 - i) Continuous training and mentorship of Local Government leaders and structures of local Councils on their roles and responsibilities;
 - ii) Deepening public participation and oversight within Local Governments by improving leadership and accountability for results;
 - iii) Strengthening the standards, reward and sanctions systems for public officials;
 - iv) Challenging the norms, attitudes and behaviours that fuel poor performance;
 - v) Enhancing key systems, standards and accountability institutions at the national and sub-national level; and
 - vi) Strengthening accountability processes within Local Governments.
- There is a need for a mechanism for monitoring and reporting on the implementation of LG audit recommendations nation-wide. The lack of clarity about the extent to which the recommendations are implemented weakens accountability.

4. Limited Citizen Participation and Engagement.

Various scorecard reports have established that there is limited citizen participation and engagement in the public sphere to influence decision-making. The studies have revealed that there is limited consultation

of citizens during the planning and budgeting processes conducted at the local government level. Most of the budget issues are picked from reports provided by parish development committees or sub-counties. The districts report that they lack resources to conduct extensive consultations. Besides, there is limited downward accountability where the duty bearers provide information on planned services and available resources for each locality and picking issues from the citizens. The results show that before ACODE implemented the Civic Engagement Meetings (CEMs) and educated citizens on how to constructively engage local leaders and local government structures, through use of strategies like letters, petitions, community meetings, and radio call-ins among others, the local governments were receiving minimal or no service delivery concerns from the communities. However, after this process, the 35 local governments covered by the LGCSCI received 447 demands from citizens in FY 2018/19 where 425 (95 per cent) were petitions while 22 (5 per cent) were letters about service delivery issues.

Recommendations

- There is need to strengthening frameworks for citizen participation by rationalizing approaches and costs involved and leveraging advancements in information communications technology.
- Local Governments need to be given clear guidelines on citizen participation in planning and budgeting. Currently, the convening of citizen participation events is at the discretion of the Local Governments with little latitude to influence policy decisions at that level. It is also important that citizen participation is accompanied by civic education of citizens.
- There is a need for deliberate effort from the Ministry of Local Government to support citizen engagement to demand better services, through increasing citizen's voice, and engagement with the government to improve quality of service delivery.
- There is a need for guidance for LGs to respond to citizen demands (letters and petitions) by Councils or committees of council.

5. Conflicts in Local Governments

Many District Councils are entangled in conflicts between technical and the political arms of the district on one hand and between DEC, Council, Chairpersons

and Speakers. It was established that 4 out of the 35 Councils assessed had conflicts in their districts. These conflicts were noted in Tororo¹⁵, Nwoya¹⁶, Agago¹⁷, Kisoro and Masindi¹⁸. There were also other districts like Moyo that were riddled with boundary conflicts. There were also conflicts over land ownership and ethnicity that preoccupied the Council's time. As a result of these conflicts, Council proceedings during the financial year under assessment left a lot to be desired. Political disagreements between members of Councils had also negatively affected their performance, and the Council order papers were oftentimes not followed but rather amended to suit political aims of influential individual Councillors. Such conflicts consumed a bigger part of the Council's business and slowed progress in the districts, especially in terms of service delivery. The findings show that conflicts greatly impact on the performance of Councils and ultimately service delivery. There is a need for deliberate conflict resolution arrangements to minimize the adverse impact of skirmishes on the functioning of the district bodies.

Recommendation

- There is a need for deliberate conflict resolution arrangements to minimize the adverse impact of skirmishes on the functioning of the district bodies.

6. Duties of the Chairperson

Section 13 provides that the Chairperson is the political head of the District and details the functions of that office. In particular, Section 13(5) requires the Chairperson to make a report to the council on the state of affairs of the District at least once a year. It has emerged that in some councils, aside from that statutory address of council under section 13(5), some of the Speakers council deny district chairpersons opportunity to address the council even when there are urgent and important issues to address. It also emerged during the scorecard assessments conducted by ACODE that many absentee Chairpersons have delegated this duty to their Vice-Chairpersons.

¹⁵ Conflict between the Japhadola and Itesots emerged after the death of the district chairperson in January 2017

¹⁶ Conflict between the Chairperson LCV and the District Speaker

¹⁷ Conflict between the technical team and the political wing that pitted the District Chairman against the DCAO and the CAO that resulted into a District the district chairperson closing the office of a CAO following a Council resolution.

¹⁸ Conflict between the Council and Technical Team (CAO)

Recommendations

- It is important to incorporate a provision to the effect that the Chairperson may from time to time depending on the matters and their urgency be given room to address the council.
- Section 13 should be amended to include duties of District Chairperson that cannot be delegated just like functions and powers of a local government council not to be delegated in the Fourth Schedule. The state of the district address should be among such functions that should be delegatable.

7. Lack of a Law that Compels Councillors to Attend Meetings at LLGs

District Councillors provide a critical link between the District Councils and Sub-county or Municipal or Division Councils. The Councillors at the district are expected to attend Council meetings at the LLGs and give official communication on the programmes and projects of the district and be able to take feedback to their district councils. This is part of the accountability relationships between LLGs and District Councils. The scorecard assessment established that 10 out of 35 speakers, 509 out of 1005 Councillors did not attend Council meetings at the LLGs which constrains accountability relationships between higher LGs and lower local LGs. Interaction with Councillors revealed that district Councillors did not attend these Council meetings at LLGs because they were not invited by the leaders at LLGs to these meetings and that district Council or committee meeting schedules clashed with those at LLGs. There is no legal requirement that compels district Councillors to attend LLG Councils which undermines downward accountability. It has also been noted that there is no provision within the law to compels district Councillors to attend Councils at the LLG level. The law considers them as ex-officio members and leaves their participation of Councils at these LLGs to their discretion. This has led to irregular attendance of Lower Local Government (LLG) Council Sittings by District Councillors.

Recommendation

- There is a need to amend Section 23 of the Local Government Act to make it mandatory for the Local Government Leaders at the District (Higher Local Government) level to attend council

meetings at the at lower local government level (Municipal, sub-county or division level).

8. Lack of Substantive Clerks to Councils

Section 62 of the Local Governments Act requires that the Chief Administrative Officer assigns a senior public officer at the rank of or above Senior Assistant Secretary¹⁹ to the responsibility of Clerk to Council. But such officers have other demanding responsibilities to superintend over their primary deployments at the sub-county level. They are also required to attend all standing committees meetings at the district and record minutes, participate in monitoring activities with standing committees and write monitoring reports, attend all Council meetings at the district and record minutes and also attend Council at the sub-county. In some districts, the Clerks to Council further reported that they seldom had assistant clerks to Councils to share this workload with thus ended up working inefficiently. It was also observed that the Clerks to Councils were always redeployed as and when the need arose without due regard to whether they had completed their assignments or not. This had severely affected the performance of the Office the Clerk to Council and ultimately the Councils and the results were the following:

a) Delayed Production of Council and Standing Committee Minutes: Evidence from the assessment revealed that out of 35 districts assessed 32 did not produce minutes of Council and minutes for standing committees of Council on time. This greatly hindered operations of Council business. This was reflected in the delay or outright failure by some districts to provide all sets of minutes for Council meetings. Some district Councils like Mukono, still had some of the sets of Council minutes for FY 2018/19 in raw form. This situation was worse with minutes of standing committees of Council. It was widely reported that the Clerks to the Councils in many districts had experienced many redeployments, sometimes without first completing assignments at hand.

b) Poor Documentation of Council Proceedings: Many of the Council minutes examined contained many inconsistencies in various aspects. Given that Council minutes were official documents of Council, essential for accountability, how they are captured is guided by the standard rules of procedures of

Council²⁰. In some cases, Council minutes did not capture the full detail of the proceedings and others were either not comprehensive enough or were difficult to follow. In particular, it was also noted that, with few exceptions, the minutes revealed no intensive deliberations on specific service delivery issues from the constituencies.

c) Inconsistencies in Writing Minutes: Further, evidence from the Council minutes examined showed that there were inconsistencies in writing of Council minutes across the districts. There was no standard format that Clerks to Councils could use in writing minutes of Council. While it may be easy in some Council minutes to know who said what, in many Council minutes, it was difficult to tell which members of Council contributed to plenary. In some districts, the record of minutes hardly attributed discussions to members. There were several cases where minutes of Council were not signed by the clerk²¹. The standard Rules of Procedure of Council requires that members of Council be addressed by the name of their electoral area or group or body they represent to Council. However, in many districts covered, minutes of Council did not capture such detail. This, therefore, implies that most minutes of Councils are not an accurate representation of what happens in Council meetings as required by rules 21 and 53 of the standard Rules of Procedure of Council.

d) Forgery of Council Documents: A review of different Council documents revealed that 4 out of 35 districts assessed had forged some council documents. For instance, it was observed that some districts presented the same set of minutes with different dates. In other instances, Councillors claimed that even when they debated contentious issues, their names and debates were not captured in minutes of council especially if they were at loggerheads with the Speaker, Chairperson, and Clerk to Council. Some Councils had names of members who had not attended the Council meetings or had not been in Council in a long time. In some districts where new districts were created, Council minutes had names of members who had since moved to new districts.

¹⁹ See Section 62 of the Local Governments Act (CAP243)

²⁰ See Rule 53, Standard Rules of Procedure for Local Councils in Uganda, July 2014

²¹ See Rule 107.

Recommendation

- There is a need to amend section 62 of the Local Governments Act to ensure that a Clerk to the council is not an assigned responsibility.
- The structure of the Local Governments also needs to be reviewed to ensure that it provides for a clerk to council with a clear career path allowing upward movement of such officers.

9. Recentralization of Functions of LGs by the PFMA

The Public Finance Management Act (PFMA), 2015, in some respects curtails the powers of the Local Governments enshrined in the Fourth Schedule of the Local Governments Act. The PFMA conflicts with the spirit of Chapter 11 of the Constitution of the Republic of Uganda. The Act: our considered view that that the PFMA has:

- Consolidated various powers of LGs in Section 22 on virements, 26(8), Warrants; and LG bank account management, Sec 33(3), the authority to raise loans, sec.36; yet these powers infringe on the functions and powers of a local government council not to be delegated (LGA, Fourth Schedule) and touched the very foundational principles of the decentralisation envisaged in Chapter 11 of the constitution.
- Took away powers of LGs to approve virements, supplementary budgets and re-allocations and vested this power to the Minister of finance. This, therefore, undermines the budgeting and planning powers bestowed on LGs by article 176 of the Constitution of Uganda;
- This also means that approvals by Councils and DECAs are inconsequential given that the minister can reject what these structures have approved.
- Superseded the LGA in terms of financial matters. It is argued that since over 95 per cent of income in LGs is transfers from the centre, and accounting officers were also appointed by the centre, it was appropriate to have controls of all revenues appropriated by parliament. However, given that there is a shift where LGs are supposed to run as business entities under LED, there is a need for flexibility in Planning, Budgeting and managing resources generated locally.

Recommendations

- Harmonize the Local Governments Act, the Public Finance Management Act and the Local Governments (Financial and Accounting) Regulations, 2007.
- There is need for further research about the how the PFMA has affected the functioning of local governments to inform the review and amendment of the PFMA to confer the planning, budgeting, expenditure and service delivery powers of local governments.

10. Financial Relationship between Urban Councils and the District.

It has been noted that Urban Councils especially Municipalities behave as if they are entirely autonomous from the District Local Governments in contravention of Section. There has been a misinterpretation of Section 79 of the LGA to mean that Municipalities are entirely autonomous.

Also, Municipalities do not expect the District Chairperson to supervise what happens in their jurisdiction, yet, Article 183 (3) (c) of the constitution states that the district chairperson shall “coordinate the activities of urban councils and councils of the lower local administrative units in the district”.

The ACODE Local Government scorecard assessments have established that the District Councils complain of Municipal Councils (MCs) sending Councillors to the District Councils, yet they do not remit any resources to the District. That these councillors from such urban councils receive allowances from the District Councils yet their constituencies don't contribute to the district councils' local revenue.

Further, given that the MCs are semi-autonomous in terms of planning and budgeting, the district councils do not implement any activities in the MCs. As a result, the elected councillors who represent MCs to the district councils are viewed to have no value on both district and MCs.

Recommendations

- There is a need to review intergovernmental relations to ensure proper coordination, cooperation and minimization of conflict. The key relationships that require scrutiny include the relationships between the central government

MDAs and the district; the district and the sub-counties; and the districts and municipalities;

- There is a need to revive the intergovernmental revenue sharing system, which would incentivize Local Governments to collect local revenue as well as foster cooperation among different levels.
- Amend Section 79 to include a sub-section of the powers of District Councils over the Urban Councils (MCs);
- The amendment of the LGA should also emphasise both technical and political oversight of the DLG over the Municipal Councils;
- Amend of Section 30(3), 85 of the Local Governments Act and insert a sub-sections that require urban councils remit to the district council a per cent of the local revenue collected.

CONCLUSION

This memorandum raises critical issues in the Local Governments Sector that constrain the implementation of the decentralisation policy and delivery of services. It also makes proposals that the Ministry of Local Government needs to consider to consolidate the remarkable achievements within the sector. It is therefore important that the Ministry scrutinises the

proposals above to inform the to inform re-engineering of changes within the policy and legal framework of the local government sector. We hope that the proposals contained in this memorandum will contribute to the building of stronger local governments and Local Government Sector able to deliver quality services and promote accountability in local governments.

About ACODE

The Advocates Coalition for Development and Environment (ACODE) is an independent public policy research and advocacy think tank registered in Uganda but working in Eastern and Southern African sub-regions. Founded in 1999, ACODE's mission is to make policies work for people by engaging in contemporary public policy research and advocacy and generating alternative policy ideas to improve policy formulation and policy implementation.

ACODE has emerged as one of the leading regional public policy Think Tanks in Sub-Saharan Africa. ACODE has been recognised among the Top-100 Think Tanks worldwide by the University of Pennsylvania's 2019 Global-Go-To Think Tank Index Report²².

²²See our website <https://www.acode-u.org/>



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