



# UGANDA DEBT NETWORK

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## Issues Paper

### Legal Provisions to Enhance Participation, Financing, Accountability and Service Delivery in Local Governments

**Shared with Parliament  
and USAID/GAPP Project**

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#### **A) Introduction and highlight on Context:**

Governance is the key driver to enhancing participation, financing, accountability and eventually the provision of quality service delivery. Whereas Government initiated decentralization in 1993, and whereas Gov't has been increasing the number of decentralized units, the core principles and objectives of decentralization have not been realized.

In November 2012, Government and USAID commissioned a five year Governance, Accountability Participation Performance (GAPP) Program. However, the challenges of reversing over 20 years of failure in these aspects are overwhelming access, quality and quantity of public sector service delivery. The challenges of understanding the problems are as high as proposing remedial interventions. USAID and Uganda Government five year project to clean Local Government (LG) will not be a straight exercise. To achieve the said aspects, the Directorate of Patriotism should roll out its program to the wider community and encourage them to take it up for ownership and

individual practicing without coercing citizens.

## **B) Overview of Uganda Debt Network (UDN)**

UDN is a policy advocacy organization working to promote and advocate for poor and marginalized people to participate in influencing poverty-focused policies, demand for their rights and monitor service delivery to ensure prudent, accountable and transparent resource generation and utilization. UDN works in 24 districts and 59 sub-counties; as well as with various Government Ministries Departments and Agencies at Central and Local Governments, Community Based Organizations at the local level, other Civil Society Organizations, Parliament; etc on issues of service delivery, public sector accountability, budget processes and policy options.

With reference to the draft report on “Policy Analysis of Legal Provisions to enhance Participation, Financing, Accountability and Service Delivery in LGs”, below are contributions of UDN on the implementation of this programme.

## **C) General Comments on the study report**

1. Quality Service delivery is dependent on participation, financing and accountability.
2. Seeks to actualize legal provisions as the cause of the problems – is failure of LG service provision a legal problem?
3. Uganda is not short of legal and policy regimes. The challenge is on implementation, inadequate financing and adherence to the legal and institutional frameworks.
4. While there has been decentralization of services, the funds have never been decentralized thereby undermining the overall objective e.g the governance and management of Community Agricultural Infrastructure Improvement Program (CAIPP), Referral Hospitals etc is conducted by Central Government.
5. Resident District Commissioners (RDCs) should be involved in commissioning

- (start and end) of Government programmes at the districts.
6. The approach of policy development using external consultants rather than the local ones provides a prescription which is not domesticated. Many studies therefore can not be implemented locally because they are abstract in nature.
  7. The conceptual framework of the paper is not clear whether participation should be spontaneous or organized and administered. When organized and administered, there are opportunities to facilitate women and other interest groups into the processes.
  8. The selection criterion of districts where the study was conducted is not clear in terms of geographical location, culture etc and not representative of the context across the country. A district from south western Uganda especially around the protected areas and also one in Karamoja region would have been sampled.
  9. The prospective changes /revisions in the LG legal provisions to enhance participation, financing, accountability and service delivery should be consistent with the East African Community Protocol.
  10. Conceptual approach to participation seems lacking – there is no indication whether participation is by the general public in public activities or by private entities in public activities/services or whether it is by the general public in the private sphere.
  11. Municipality revenue collections are not reflected in district budgets yet they collect a lot of funds from ground rate, market dues, licenses etc leading to high friction between the two parties.
  12. It is necessary to redefine decentralization in financial terms. Make a law that is mandatory to link local administrative units and functions with decentralization of national budget resources.

13. The report structure is a bit repetitive which tends to lose the reader's concentration.
14. Specific policy and legislation references are missing /scanty yet some policy issues/proposals require cross referencing for proper interpretation. For instance if only 5% or less funds are available to districts are unconditional, why would a law for mandatory community participation be enacted? The conditional grants represent a perpetual mismatch with the local priorities.
15. The disparities between rural and urban priorities are assumed. Urban priorities are not for beautification even though it is being done subjectively. One can continue planting flowers and making walkways on top of archaic and high-risk sewage systems until one day when the Tsunami brings everything on the surface! In this case the level of urban poverty should not be under-estimated. The calculations used should take into consideration that

Kampala has a day time and night time population (estimated variance in 2008 was about 1 million). Is participatory planning happening in Kampala or it's just a few individuals building clocks and planting trees etc?

16. The recommendation to regionalize the Public Accounts Committee has a cost implication given that the cost of administration is already too high. On the other hand, the entire Parliament could be regionalized and have only 3 months of full sessions (one per quarter). Members of Parliaments (MPs) would then have their regional sessions closer to the people and come to national sessions, having submitted their preliminary input online.
17. A reward mechanism for community participation will become another conduit for bribery and exclusion. Government is obliged to deliver services. If communities received the services, they would

understand the value of participation.

18. The study should have been undertaken between the three parties (GAPP, MoLG/LGs and CSOs) to enable a direct buy in for advocacy purposes. This was a missed opportunity in terms of advocacy and shows that USAID/GAPP intends to take the lead on advocacy issues but without the mandate and capacity.
19. The report has not made any reference to the politics involved in the decentralization system (creation of districts for votes) yet this has been part of the debate both in terms of accountability and service delivery.
20. NGOs and Development partners have been contributing on behalf of the community although some LGs claim the development projects thus taking the allocated funds (water projects, schools and health centers built by NGOs/donors are claimed by LGs). Reference can be made to the reports of the Budget

Monitoring and Accountability Unit (BMAU) of the Ministry of Finance to focus on some of these issues.

## **D) Specific analyses on Participation, Financing, Accountability and Service Delivery**

### ***Participation***

- i) Communities demand service delivery but they are reluctant to support its provision financially e.g. in form of paying taxes; yet in cases of poor service delivery, they are the first to degrade its quality.

***Recommendation:*** *Communities should be sensitized continually to take responsibility of services provided and incase of degradation, a punishment should be administered as a deterrence mechanism.*

- ii) Participation is premised on ownership and power relations. There is lack of good will among communities to participate in policy making. Otherwise doing the right or wrong thing depends on who has power (e.g. the case of

Rosebud flower farm vs Wakiso LG).

**Recommendation:** *A system to restore Integrity and separation of power relations should be established to tame persons in positions of influence and to ensure orderliness in communities.*

iii) The report proposes participation to be mandatory.

**Recommendation:** *The feedback mechanism should equally be mandatory. This is a way to determine whether community contribution is captured into national policies e.g. in budgeting process. Otherwise the list of unfounded priorities has continued to grow.*

iv) Apparently, there is lesser participation of the women and other interest groups (People with Disabilities, youth, children etc) in the planning, implementation and monitoring processes. Therefore specific gender issues are easily left out.

**Recommendation:** *To ensure effective representation of women and other interest groups, it should be made mandatory to identify different gender to participate in community activities and decision making processes.*

v) Districts have large numbers of Local Councilors (LCs) but their effective participation and value addition is questionable.

**Recommendation:** *The number of LCs should be reduced while the district council takes on the form of an Authority that meets as often as Boards do. Their level of education should be determined to ensure quality analysis of district documentation. The academic papers of such members of the Authority should also be verified for authenticity given the fear that people hold fake papers. E.g. a case of 60 councils in Kibale district.*

*Secondly, the Terms of Reference of these Councilors need to be studied as well as to acknowledge that some local realities are better dealt with by local people.*

vi) The framework for participation is available but there is no participatory will among citizens. On the other hand, the report limits participation to the planning stage (which is very technical for communities) and monitoring but not in the implementation hence

presenting community members as observers.

**Recommendation:** *A visible stage for community participation should be determined where communities can make contribution in ensuring quality service provision e.g. in making demands for quality service deliver and consumption of services provided. Monitoring of planned activities can be conducted through CSOs together with communities. Frequent Village councils meetings should be revived and emphasized to enhance participatory roles. For instance in the past, Ugandan communities had rules and bye-laws on standards for building a habitable house, community cleaning, reporting cases of sickness etc which has since been abandoned. This should also be revived to ensure community responsibility of conditions in their localities.*

Vii) There is a high tendency of poor implementation of policies in Uganda but the report recommends a reward system of LGs that successfully implement policies.

**Recommendation:** *There is need to determine the sustainability of the reward mechanism for continuity.*

## **Financing**

i) LG financing should be looked at from a holistic point of view. LGs are supposed implement 70% of national poverty eradication policies but receive less than 30% of the national budget yet some of the LG functions are being recentralized. What implications does this have for LG financing? What happened to FDS? What has happened to policies such as equalization grants? What happened to PRDP/NUSAF as vehicles for financing Northern Uganda reconstruction? Under the decentralization frame work, Sub Counties are frontline service delivery points however, they are grossly under resourced in terms of personnel, tools, equipment and finances  
(development and recurrent)

**Recommendation:** *Resource allocation between the Centre Government and Local Governments should be scaled up to 50 - 50 per cent ratio to enable decentralized services provision.*

ii) In the last quarter of the year, Central Government releases funds late to districts yet they are expected to spend and account for it within the same Financial Year.

Otherwise it should be returned to the centre as unspent funds.

**Recommendation:** a) Funds realized from Central Government to districts in the fourth quarter of the Financial Year should be left on the district accounts to enable officials expend it effectively to be accounted for within the first quarter in the next Financial Year. We recommend that the return of funds to the centre when LGs have not exhausted all the issues that require funds should stop. This undermines other sets of rights, entitlements and services that communities should otherwise be enjoying as a package.  
b) LGs should develop income generating projects to facilitate activity implementation in cases of inadequate and late funds disbursement from Central Government.

iii) Quality delivery of LG programmes has a cost implication.

**Recommendation:** Government should continuously sensitize communities on cost sharing to enhance ownership of a specific service provision centres to ensure quality service delivery.

iv) Implementation of the decentralization policy has been challenged with the multiplication of districts (more administrative units) making it difficult for

Central Government to effectively finance them.

**Recommendation:** Multiplication of districts should stop and some districts should be merged upon reviewing their performance for effective financing of planned activities since some new districts don't have the capacity to run a district.

vi) The introduction of the National Development Plan (NDP) is a good initiative however it's only partially useful. Annual budget reviews have been indicating that the national budgets fall short of alignment with NDP hence affecting LGs performance in implementing the plan.

**Recommendation:** The report should have clearly established why there is no adequate financing for the NDP and Vision 2040. How will LGs implement their mandate with inadequate financing and; does it matter that the NDP is in place?

v) Many institutions to fight corruption have been established only to reap high higher degrees of corruption.

**Recommendation:** Government should emphasis the recovery of lost funds since this reduces resource allocation to LGs when what is lost



*is not recovered. In this case, what would guarantee the safety of more resources being disbursed from embezzlement and mismanagement?*

### **Accountability**

Accountability should not be mixed up with audit work. Accountability is the responsibility to show what the resources have been used for (outcomes/outputs) while audit is a paper verification undertaking of the same resources. The audit exercise can be successful but accountability function/work may fail especially when projects do not reflect value for money in terms of quality of work.

- i) Accountability is a very broad aspect which requires technical analysis; hence communities may fear to engage in demanding for it.

#### **Recommendation:**

*a) LGs should initially focus on accounting for a few basic needs which community members can meaningfully engage e.g. feeder roads, Health centers, schools. Participating in demanding for accountability for these social services is within the reach of communities and physical*

*accountability is possible. In the long run, communities should be empowered to critically analyze the budgets, Bills of Quantities, implementation period as well as the quality of the final product.*

*b) Citizens should be sensitized to demand for physical accountability from political leaders for the services they should have received. Political leaders in turn should demand for financial and physical accountability from the technocrats.*

- ii) Accountability is a culture in some countries that the moral values are upheld by everyone. The underlying principle of accountability is built on the principle of responsibility. The more important the responsibility, the greater the expectation for being accountable. Such Persons/officials/departments responsible for implementing services are held to explain /account for how they executed that responsibility.

*Recommendation: Officials who fail to account effectively should resign from their positions otherwise, they should account to*

*the people on whose behalf they hold those offices.*

- iii) With reference to the mismanagement/embezzlement of PRDP funds in the Office of the Prime Minister (The Kazinda Case), citizens have decried the exhibition of double standards since he was given a lighter sentence with regard to the offence committed.

**Recommendation:** *Government should be strict on corruption and give equivalent punishment to the evils committed to deter others from engaging in corrupt practice.*

- iv) Barazas have been identified as accountability platforms for LG officials to communities. It is however important to establish who draws the agenda and who manages the process. Currently communities are not empowered to demand for the separation of the mentioned roles.

**Recommendation:** *The roles played in programming Baraza activities should be on a rotational basis with different persons identified by community members to chair the proceedings to ensure objectivity during discussion sessions.*

### ***Other recommendations under accountability***

- a) Open up the procurement processes to public observers to reduce connivance among bidders/service providers.
- b) A law should be enacted to compel Central Government to be accountable to LGs with respect to its constitutional mandate with regard to the national and regional services that it undertakes in the geographical area of the LGs. Without this accountability, it can't be justified to compel the LGs to be accountable to their beneficiaries. This mutual, two-way accountability would remove gaps where LGs have often made excuses of not being able to supervise Central Government projects within their area.

### ***Service delivery***

- i) The multiplication of districts (more administrative units) affects effective and quality service provision due to lack of capacity of new districts to serve communities.

**Recommendation:** *Once Central Government creates decentralized units, it should be incumbent upon it to ensure that staffing and other requisite resources eg funds, tools and equipment are provided up to at least 75%. This is to enable such administrative units have a functional capacity to deliver public services and goods. Secondly, decentralized units should be identified with commensurate capacity to deliver services to the communities.*

- ii) The draft report is not clear on the components of local service delivery that communities should expect from LGs. The current LG Act spells out the services delivered by LGs.

**Recommendation:** *This review should specifically pronounce and prioritize the local services that the communities should expect from LGs.*

- iii) Communities have continued to relay on service providers to kick-start programmes in their localities. For instance in the NAADS programme, they relax and wait for supplies from identified suppliers even when they are getting late in season for

planting (in the case of crops). Farmers lack the will and capacity to implement NAADS programme unless assisted. Secondly, some communities are not proactive enough to try other methods of practicing farming but wait for technical people to advice on what and when to plant.

**Recommendations:** *Central Government through LGs should empower communities to manage their own affairs and stop relying on technical assistance since they will have acquired knowledge.*

- iv) Although Central Government withdrew the discretionary powers of service delivery from LGs by switching from releasing block grants to conditional grants, the current situation makes LGs conduits of Central Government service delivery hence absorbing total blame by communities for failure.

**Recommendations:** *Government should empower LGs to manage their responsibilities and not being mere conduits in providing poor service delivery. The LG system in Uganda should sensitize local communities on the free local services they should expect*

*and relate these services to other aspects of their livelihood and development in their areas.*

- v) The report assumes that communities are willing and able to contribute for services e.g. contribution to health insurance. This is contrary to the practice in communities evidenced by; e.g. the fact that they are unwilling to provide labour during a construction of a primary school or health centre unless they are hired.

**Recommendation:** *Communities should be mobilized and compelled through the institution of a bye-law to make non-monetary contributions for effective delivery of services since they are the final beneficiaries e.g. provision of labour during construction of a near by health centre or school. A punishment can be tagged to non-adherence.*

## **E) Legal provisions**

- a) The potential threat through the Public Order Management Bill risks narrowing citizens' space in engaging with the LG participation, accountability and service delivery processes.

- b) Within the 5 years of the GAPP, there should be a concerted effort to revisit the constitutional provision on decentralization so as to constitutionalize the 50-50 per cent resource sharing between Central Government and LGs through the annual national budget.

## **F) Conclusion**

The study was based on reviewing legal provisions with very little reference to what is practiced eg there is high political influence in expenditure decisions even at local level which is not mentioned. Whatever is flexible goes for manifesto interests. Otherwise, the recommendations made in the report have been fronted before and have been previously ignored. Notwithstanding the large number of policies, regulations, laws and other provisions as sighted in the study, LGs have not achieved what they were set up to do. Instead there is a strategy to "recentralize" decisions on financing and accountability back to the centre. Currently, MOFPED has directed that no more automatic quarterly release of funds unless Government Ministries Departments and Agencies submit work plans and budgets. The report

does not examine the implications for the three pillars of the study. Lastly, unless corruption is fought against willingly, poor service delivery will continue undermining community contribution yet people pay taxes for the services.