

DECENTRALISATION AS A TOOL IN MANAGING THE ETHNIC QUESTION:

A CASE STUDY OF UGANDA

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Declaration

I, Charlotte Oloya, declare that the work presented in this dissertation is original. It has never been presented to any other University or Institution. Where other people’s works have been used, references have been provided. It is in this regard that I declare this work as originally mine. It is hereby presented in partial fulfilment of the requirements for the award of the LLM Degree in Human Rights and Democratisation in Africa.

Signed.....

Date.....

Supervisor: Professor Nico Steytler

Signature.....

Date.....

Dedication

For my parents

Without you, I would not have gotten this far.

Thank you.

Acknowledgement

The greatest gratitude goes to my heavenly father whose grace got me into this course, sustained me through it and has brought me to the end.

I would also like to thank my family and friends for all the support, prayers and encouragement throughout this year. The constant calls, emails and messages kept me going. Thank you for believing in me, encouraging me, praying for me and pushing me to reach greater heights. Most importantly to my mother, she has shown me the value of an educated woman. She is a true inspiration.

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To all my friends in the LLM Class of 2011, we did it, we made it, and we are still breathing.

List of abbreviations

AG	Attorney General
CAO	Chief Administrative Officer
CIVHR	Commission of Inquiry into Violations of Human Rights
DP	Democratic Party
DSC	District Service Commission
KY	Kabaka Yekka
LC	Local Council
LGA	Local Government Act
LGFC	Local Government Finance Commission
LRA	Lord's Resistance Army
MP	Member of Parliament
NRA	National Resistance Army
NRM	National Resistance Movement
PAF	Poverty Action Fund
PSC	Public Service Commission
RC	Resistance Council
RDC	Resident District Commissioner
UPC	Uganda People's Congress
UPDF	Uganda People's Defence Forces
UPM	Uganda Patriotic Movement
VAT	Value Added Tax

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CHAPTER ONE

INTRODUCTION

1.1. Background to the study

At the dawn of independence in Africa, colonial rulers hastily introduced new structures such as national parliaments, local councils, and opposition parties in a bid to channel popular demands into responsive policies. These structures while all laudable were no match for the ethnic identities that had been created during the colonial period. Colonial rulers had drawn ethnic and geographic boundaries arbitrarily perhaps as part of the divide and rule policy which are said to have contributed immensely to the development of ethnic identities.¹ This seems to give credibility to Mngomezulu² argument that the concept of 'ethnicity' itself was imposed by colonial administrators upon an otherwise undifferentiated group of people. Thus, while it may be true that Africans in the pre-colonial societies were not homogeneous as evidenced by the migration of various groups across the continent, the colonial era played on the divisions making them rigid.³

These rigid ethnic identities, Taylor⁴ notes, have given rise to the politics of difference which is the cause of the many incidences of violence and conflict.⁵ Some of these conflicts have assumed a genocidal nature such as in Sudan, Rwanda, and Somalia. At the heart of these conflicts is usually discontent among ethnic groups, due to deepening social injustice, the weakening administrative and policy apparatuses of the state among others.⁶ Social groups thus still identify themselves with the lowest units of social and political organisation, namely ethnicity which has then been used as a

¹ ED Green 'On the size and shape of African states' (2011) 3.

² BR Mngomezulu 'Ethnic politics and life presidents as casual factors for the African economic crisis' (2008) 4.

³ N Kasfir *The shrinking political arena: Participation and ethnicity in African politics with a case study of Uganda* (1976)1.

⁴ C Taylor *Multiculturalism and the politics of recognition* (1992)38.

⁵ O Adebayo & L Laakso *Challenges to the nation state in Africa* (1996) 50.

⁶ K Fulgencio 'The politics of identity: Assessing the influence of ethnicity, regionalism, religion and gender in Uganda' (2009) 6.

tool to exclude others.⁷ This has been done through the over centralisation of power leading to the manipulation by the dominant ethnic group of their position in power to siphon resources to their ethnic brothers. This evidenced in the distribution of resources, the polarisation of the army, civil service and executive, leaving the non-dominant ethnic groups feeling excluded. This exemplifies a need for a system of governance that would give the non-dominant ethnic groups an opportunity to manage their own affairs and curb control by the centre. To many scholars and researchers, the answer to this problem lies in the decentralisation of the government which is a means of integrating different interests into a national state while allowing a degree of independence to divergent groups.

Decentralisation became more pronounced in the 1980s. It followed recommendations by the World Bank for developing countries to develop political and administrative powers to local and autonomous levels because most of the social services such as health, education, water and sanitation that were the responsibility of the central government, were failing.⁸ Decentralisation also provides an institutional mechanism for bringing divided groups into formal rule-bound bargaining process and can serve as a path to national unity.⁹

1.2. Statement of research problem

Africa is a continent in crisis, a crisis which is multi-dimensional, has both economic and political manifestations coupled with deep seated historical roots.¹⁰ A multi-ethnic state is confronted with the complex problem of managing ethnic diversity. States may choose to manage diversity by suppressing ethnic minorities, creating an ethnically neutral state or to

⁷ J Bateisibwa *Creating Ugandans in a new Uganda* (2002) 13 cited in Fulgencio (n 6 above) 6.

⁸ World Bank report 2003.

⁹ RK Muriisa 'Decentralisation in Uganda: Prospects for improved service delivery' (2008) XXXII *Africa Development* 83 84.

¹⁰ M Abutundu 'Reflections on early 21st century Africa' in O Adesida & A Oteh (eds) *African voices, African visions* (2001) 19.

separate state and ethnicity. This, however, serve as recipes for disaster as they fail to manage the ethnic question.¹¹

A multi-ethnic state like Uganda, which has been divided since colonialism, has faced grave challenges in managing ethnic diversity. The notions of cultural separatism and internal colonialism have become apparent in the government decisions on who to appoint to what position of authority, where resources should be utilised, among others. Thus, it is ethnic consciousness and not one's ability or expertise that determines who is appointed to what position of authority. It is on this basis that the extreme violence has been carried out since independence.¹² Fulgencio attributes this to the colonial divide and rule policy which bestowed on Buganda a privileged status in the 1900 Uganda Agreement. He adds that the 1962 Independence Constitution reaffirmed Buganda's superior position in the new state much to the chagrin of the rest of Uganda.¹³

This ethnic divide was exacerbated by subsequent presidents and manifested in Uganda's bloody history, the twenty year war in northern Uganda and the division between the Nilotic north and the Bantu dominated south.¹⁴ Ethnic tensions have also manifested in violent and angry protests in Kampala as people feel victimised by practices of the ruling government that seem to favour the president's own relatively small ethnic.¹⁵ There are also arguments that the creation of new districts by government is merely a manipulation of ethnicity as they serve as inducement to communities to vote for the ruling political party.¹⁶

¹¹ YT Fessha *Ethnic diversity and federalism: Constitution making In South Africa and Ethiopia* (2010) 23.

¹² JR Quinn 'Ethnic conflict in Uganda' (2004) <http://politicalscience.uwo.ca/faculty/quinn/ethnicconflictinuganda.pdf> (accessed 30 August 2011).

¹³ Fulgencio (n 6 above) 6.

¹⁴ Fulgencio (n 6 above) 8.

¹⁵ 'Uganda in flames: Ethnicity as a mark for political dissent' <http://africaworksgpz.com/2010/03/22/uganda-in-flames-ethnicity-as-masquerade-for-political-resistance/> (accessed 29 August 2011).

¹⁶ Statistics show that the ruling party has taken the majority vote in all the new districts created.

One would expect that the ambitious decentralisation reform initiated in Uganda would address these problems as it was a response to political and economic problems. This full-fledged devolution transferred political, administrative, financial and planning authority from central government to local government councils to promote popular participation, empower local people to make their own decisions and enhance accountability.¹⁷ However, the plan supposedly born during the guerrilla war of the ruling party does not seem to be achieving its results. The theory of decentralisation argues that decentralisation is not only about transfer of decision-making power and resources to lower level governments, but also authority to demand for accountability and enhancement of public participation in the local political process. This has not been done in Uganda as the system is still highly centralised.¹⁸

1.3. General objective of the study

Uganda is one of the countries that has been practising decentralisation of government since the 1990s. However, this system does not seem to have achieved its objectives. Non-dominant ethnic groups in the country still feel excluded, leading to demands by some groups for a federal system of governance. It is, therefore, important to assess the decentralisation structures and policies to determine how and if they are managing ethnic diversity.

The general objective of the study is to assess if a stronger system of decentralisation in Uganda can provide a mechanism by which ethnic differences can be accommodated. The study will also show that the ethnic question is grave concern in Uganda and investigate whether the existing decentralisation system has been effective in managing ethnic diversity in the country.

¹⁷ S Steiner 'Decentralisation in Uganda: Exploring the constraints for poverty reduction' in G Crawford & C Hartmann (eds) *Decentralisation in Africa: A pathway out of poverty and conflict?* (2008) 80.

¹⁸ JM Kauzya 'Political Decentralisation in Africa: Experiences of Uganda, Rwanda and South Africa' (2007) 8.

1.4. Significance of the study

Almost all countries in the world are ethnically plural and while diverse ethnic identities can sometimes flourish within a broadly defined national identity, at other times, these identities can be broadly denied in order to promote a particular definition of a nation.¹⁹ Some countries have forced a common language or culture on the people which has often resulted in violent reaction such as ethnic conflict and secessionism.²⁰ Others like Colombia have pursued decentralisation as a means of addressing regional conflict or like Brazil decentralised to accommodate sharp regional differences. Decentralisation and regional autonomy measures have also figured prominently in debates about how to contain conflict in Afghanistan, Angola, Bosnia, Colombia, Cyprus, Mozambique, Nigeria, South Africa and Sri Lanka.

All these states have several challenges in trying to design how to achieve domestic peace. Policy makers in these states have turned to some form of decentralised governance as a possible means for managing conflicts between the central government and sub-national groups in pursuit of greater autonomy or outright independence.²¹ The World Bank has also noted that national unity is being sought through decentralisation in Uganda and South Africa.²² Thus in a bid to create amicable national situations and accommodate ethnic diversity, central governments all over the world are decentralising fiscal, political and administrative responsibilities to lower levels of government.²³ In order to be effective, decentralisation requires innovative ways of structuring and institutionalising the interface between the people and their governments.

¹⁹ B Jacques *Nationalism and ethnic conflict in Indonesia* (2004) 214.

²⁰ D Brancati 'Decentralisation: Fueling the fire or dampening the flames of ethnic conflict and secessionism' (2006) 60 *International Organisation* 651 651.

²¹ KM Bakke & E Wibbles 'Federalism and Intrastate Struggles: The Role of Diversity and Disparity' (2006) http://www.crise.ox.ac.uk/copy_/decentralization_%20conference/Bakke%20and%20Wibbles.pdf (accessed 29 August 2011).

²² BC Smith *Good Governance and Development* (2007) 103.

²³ JI Litvack *et al Rethinking decentralisation in developing countries* (1998) 1.

1.5. Literature review

On the subject of decentralisation in Uganda, Dauda²⁴ had explored the concept of democratic decentralisation as a means of ensuring accountability for existing resources, using Uganda and South Africa as examples. She argues that for decentralisation to be effective, practitioners must develop a better understanding of local political engagement so that their efforts may strengthen rather than thwart emerging political relations of accountability.

Conyers²⁵ has explored the history of decentralisation in Sub Saharan Africa noting the role that decentralisation has played in the continents history. She states that the impact of decentralisation on service delivery is indirect as it affects a number of immediate factors which include access to information, resources availability among others which in turn affect service delivery.

Saxena²⁶ has looked at the structure of the decentralised system of governance and has assessed decentralisation in Uganda in practise. While Schelnberger²⁷ has explored the role of decentralisation in conflict management in Kibaale district in Uganda. She argues that decentralisation in Kibaale district is an example of how decentralisation polices can mitigate and intensify conflict. She traces the historical roots of the conflict on the district and comes to the conclusion that decentralisation and the increased participation of all groups of the population has actually contributed to conflict.

²⁴ CL Dauda 'Democracy and decentralisation: local politics, marginalisation and political accountability in Uganda and South Africa' (2006) 26 *Public Administration and Development* 291 291.

²⁵ D Conyers 'Decentralisation and service delivery: Lessons from Sub-Saharan Africa' (2007) 38 *IDS Bulletin* 18 18.

²⁶ K Saxena 'Decentralisation in Uganda' (2010)
<http://www.ruralgovncaer.org/images/product/doc/13400450990decentralizationinUganda.pdf> (accessed October 19 2011).

²⁷ AK Schelnberger 'Decentralisation and conflict in Kibaale, Uganda' in G Crawford & C Hartmann (eds) *Decentralisation in Africa: A pathway out of poverty and conflict?* (2008) 208.

Oloka²⁸ in his paper on decentralisation and human rights conducted a critical audit to which the process of decentralisation has taken on board the issue of human rights. He states that decentralisation is under threat from the phenomenon of recentralisation witnessed by marked reversals in the policy of devolution and has left local governments with fewer resources. He goes ahead to propose recommendation to Uganda's policy of decentralisation in order to ensure that human rights are respected at the local government level.

There is a lot of separate information on the subjects of decentralisation and ethnicity, research shows that there is limited literature on the subject of decentralisation and the ethnicity in Uganda. Thus, having looked at what other people have written, I have a contribution to make on the subject.

1.6. Research methodology

The study will be qualitative and will follow a case study design. The research will be based on a textual analysis of available literature, a historical contextualisation of the concept of decentralisation and ethnicity. The research will be based on traditional library bases and on documented facts and will be theoretically informed by several related literature. The study will take an exploratory design.

1.7. Limitations of the study

There are several divisions that plague Uganda such as religion. However this thesis will only address ethnicity. There are also various methods of managing diversity that could be suggested such as the much sought after federalism, however, this study will be limited to decentralisation. The author will also be limited by the inability to carry out interviews and thus the information relied on will mostly be secondary information as obtained by the researcher.

²⁸ J Oloka Onyango 'Decentralisation without human rights? Local governance and access to justice in post movement Uganda' (2007) 8.

1.8. Overview of chapters

The study will consist of five chapters. Chapter one will be the introduction. In chapter two, I will look at the theory and practise of decentralisation and ethnic accommodation. Chapter three will then focus on ethnicity in Uganda. Chapter four will look at Uganda, decentralisation and the ethnic problem. In chapter five, i conclude and give recommendations.

CHAPTER TWO

THEORY AND PRACTICE OF DECENTRALISATION AND ETHNIC ACCOMMODATION

2.1. Introduction

This chapter explores in theory whether ethnic accommodation can be achieved through decentralisation. It will be shown that even though some scholars argue that decentralisation does not accommodate ethnic diversity, it has been sought and achieved in a number of countries. It will be argued that using a good institutional design which includes elements such as territorial autonomy, representation, a clear demarcation of power, and strong fiscal decentralisation, this would ensure participation and autonomy of all ethnic groups thus accommodating ethnic diversity.

2.2. Ethnicity

An ethnic group is a psychological community whose members share a persisting sense of common interest and identity based on some combination of shared valued cultural traits. Its members distinguish themselves from other groups by such characteristics as language, social customs, and physical appearance and region of residence or by a combination of these features.²⁹ Ethnic groups are thus social formations distinguished by communal character of their boundaries.

Narrol an anthropologist has defined ethnicity to designate a population which is largely biologically self-perpetuating, shares fundamental cultural values, realised in overt unity in cultural forms, makes up a field of communication and interaction, has a membership which identifies itself and is identified by other categories to the same order.³⁰ Ethnicity denotes the complexity of human existence and behaviour which defies simplistic definitions. It signifies perceptions of common origins, historical memories, ties of people. It has its foundation in combined remembrances of past experiences and in common aspirations, values, norms and expectations.³¹

²⁹ JM Thompson *Justice and peace: A christian primer* (1997) 115.

³⁰ R Narrol 'On Ethnic Unit classification' (1964) 5 *Current anthropology* 283.

³¹ SY Hameso *Ethnicity in Africa: Towards a positive approach* (1997) 9.

2.2.1. The political relevance of ethnicity

As most states in the world are ethnically plural, most conflicts in the world are no more between states but within states and as most of the latter entail a significant ethnic dimension.³² Many ethnically plural states have either chosen to embrace ethnic diversity and choose to coexist.³³ Others have chosen to ignore ethnicity and develop a national identity in a bid to create the nation state and create a single national identity. At the centre of creating the nation state or nation building is the policy that promotes unity at the expense of ethnic diversity. This nation building processes inescapably privileges members of the majority culture leaving the minority cultures with limited options. These groups face marginalisation from economic, academic and political institutions of the society.³⁴ Kymlicka points out two forms of nation building; one where the state nation building is based on the colonial language and pan-ethnic symbols that are neutral amongst various ethnic groups. Here, minorities mobilise as communal contenders to ensure that they are not excluded from a share of state power. The second is in countries such as Ethiopia, where the state nation building is not neutral amongst ethnic groups but is shaped by the dominant ethnic group to reflect its language, history and culture.³⁵

There are two schools of thought that explain the phenomenon of ethnic identity. The first is primordialism which explains ethnicity in terms of inherited group behavioural characteristics argued to be biologically based, that is ethnic groups identify passed on from one generation to the next. Primordialists entertain the notion that the dissolution of the one party state will naturally lead to multi-ethnic multi-partyism and through this a blossoming of ethnicity generally.³⁶ The other school known as

³² JP Tranchant 'Does fiscal decentralisation dampen ethnic conflicts? The heterogeneous impact of fiscal decentralisation on local minorities and local majorities' (2010) 2.

³³ Fessha (n 11 above) 10.

³⁴ W Kymlicka 'Nation building & minority groups: Comparing Africa and the West in Berman *et al* (eds) *Ethnicity and democracy in Africa* (2004) 56.

³⁵ As above 67.

³⁶ M Doornbos 'Linking the future to the past- ethnicity and pluralism' in MA Mohamed &

instrumentalism argues that ethnicity is contextual, fluid and a function of structural conditions in society. Instrumentalists assert that ethnic identities are malleable, that they wax and wane, contingent on a number of variables including the capacity and skills of political entrepreneurs who can effectively mobilise groups for collective aims and articulate beliefs about common ancestry and destiny.³⁷ They dismiss ethnicity as just an instance of false consciousness, positing that manifestations of ethnic identity, ethnic ideology and ethnic conflict are mere epiphenomena not really worthy of serious attention.³⁸

Despite these arguments, it can be seen that ethnicity as a form of identity only becomes relevant when people feel excluded and as a means of managing this, states have adopted a means that manages the ethnic divisions in a country. The primordialist school of thought seems to give credence to the view that ethnic identity is not a fixed unchangeable characteristic since the elements that define the ethnic group have strong subjective components thus making it possible to change the content of one's ethnic identity.³⁹ Ethnic identities can be shaped by social, economic and political processes. That especially happens in the context of state policies and state action, inter group rivalry and state resource competition. Ethnic consciousness is a frequent result of oppression by the state or the majority community then ethnic identity is mobilised by political agents to demand greater concessions and share in power and authority.⁴⁰

SJ Markakis (eds) *Ethnicity and the state in Eastern Africa* (1998) 20.

³⁷ SO Ouma 'Constitutional mechanisms for the management and settlement of identity conflicts: The case of Sudan, Kenya and Somalia' Unpublished PhD Thesis, Luiss University of Rome (2011) 273.

³⁸ Doornbos 'Linking the future to the past- ethnicity and pluralism' in MA Mohamed & SJ Markakis (n 36 above) 20.

³⁹ YT Fessha 'Institutional Recognition and Accommodation of Ethnic Diversity: Federalism in South Africa and Ethiopia' Unpublished PhD thesis, University of the Western Cape (2008) 26.

⁴⁰ As above 27.

2.3. Decentralisation

2.3.1. Definition of decentralisation

Decentralisation is taken to mean a transfer of power away from a central authority to a lower level in territorial hierarchy.⁴¹ Decentralisation is a means of overcoming the limitations of centrally controlled national planning by delegating greater authority to officials working in the field, closer to the problems. It may result in better penetration of national policies to remote local communities, greater representation for various religious, ethnic and tribal groups in the policy process, and greater administrative capability at the local level.⁴² In the most general of terms, decentralisation refers to the transfer of authority from a central government to a sub-national entity.⁴³ It is important to note that under the decentralised system of governance, the central government retains decision making powers as to the functions and responsibilities of the local government meaning that the central government can recentralise powers and functions that it has already decentralised.⁴⁴

2.3.2 Autonomous arrangements

Autonomy in the decentralised system is a critical principle that must underpin the decentralisation effort. If the local government does not have sufficient and real power, it cannot enlarge people's choice by being responsive to their needs.⁴⁵ Jellinek⁴⁶ has described an autonomous entity as one based solely on its own laws and with all the material and functional attributes of statehood. In this study, autonomy refers to an arrangement aimed at granting to a group that differs from the majority of the population

⁴¹ RC Cook & J Manor *Democracy and decentralisation in South Asia and West Africa; participation, accountability and performance* (1998) 6.

⁴² MS de Vires 'The rise and fall of decentralisation: A comparative analysis of arguments and practices in European countries' (2000) 38 *European Journal of Political Research* 193-197.

⁴³ S Boko *Decentralisation and reform in Africa* (2002) 19.

⁴⁴ Fessha (n 39 above) 90.

⁴⁵ J de Visser *Developmental local government: A case study of South Africa* (2005) 35.

⁴⁶ G Jellinek *The general theory of the state* (1960) 493.

in the state but that constitutes the majority in a specific region, a means by which it can express its distinct identity.

2.3.3. Forms of decentralisation

Deconcentration

This is the delegation of certain decision making powers to lower, provincial or local levels of the central government.⁴⁷ It has a peculiar characteristic in that it is a form of centralisation and decentralisation. In this case, decision making authority is shifted from one locality and one individual to lower levels of the government.⁴⁸ However, although financial and management responsibility may be shifted to the local units, there remains the hierarchical dependence of the local authority on the central government for appointments, assignments and salaries.⁴⁹ Deconcentration is the weakest form of decentralisation used mostly in unitary states.

Delegation

With delegation, the responsibility for decision making with respect to public functions and administration is transferred to the semi-autonomous organisations or units that are not wholly under the control of government.⁵⁰ Such organisations as housing or transportation authorities, public enterprises, regional development corporations may enjoy ample discretion in decision making and may not be subject to the same constraints as regular service personnel.⁵¹ Delegation remains a limited form of decentralisation with the difference between it and full political decentralisation being that the lower level organisations to which power is transferred remain ultimately accountable to the central government.

⁴⁷ Boko (n 43 above).

⁴⁸ As above.

⁴⁹ Cook & Manor (n 41 above) 11- 12.

⁵⁰ W Oyugi 'Decentralisation for good governance and development' (2000) 21 *Regional Development Dialogue* 3.

⁵¹ As above.

Devolution

This is a form of decentralisation in which the authority for decision making with respect to finance and management is transferred to quasi-autonomous units of local government.⁵² In other words, devolution is a political concept that denotes the transfer of political, administrative and legal authority from the centre to lower level units of government created by the national constitution. In a devolved political system, the lower level units of government to which power, authority and responsibility have been transferred are more or less autonomous from each other.⁵³ Devolution forms the foundation for political decentralisation in that it usually involves the transfer of responsibilities to municipalities that elect their own mayors and councils, raise their own revenues and are able to make investment decisions independently of the central government. In such a system, local governments have legally recognised geographical boundaries within which they exercise their authority and perform public functions.

2.3.4. Content of decentralisation

Administrative decentralisation

This is the transfer of responsibility for the planning, financing and management of selected public functions from the central government to lower tier units of the government.⁵⁴ These might be field units of government, semi-autonomous public authorities or corporations or regional authorities. It complements political autonomy by freeing sub-national units from reliance on the central government and its bureaucracy to implement their local policy decisions.⁵⁵

⁵² JC Ribot 'African decentralisation: Local actors, powers and accountability, democracy, governance and human rights' (2002) 7.

⁵³ As above.

⁵⁴ JM Cohen & SB Peterson 'Administrative decentralisation: A new framework for improved governance, accountability and performance <http://www.cid.harvard.edu/hiid/582.pdf>. (accessed 29 September 2011).

⁵⁵ Y Fessha & C Kirkby 'A critical survey of sub-national autonomy in African states' (2008) 38 *Publius: The Journal of Federalism* 248 259.

Political decentralisation

It consists of the creation of sub-national levels of government with hierarchical division of power where each level has independent decision making power at least one issue area.⁵⁶ Generally, political devolution is more likely to be successful when conducted within the framework of a multiparty, participatory, grassroots-based system.⁵⁷ The exercise of the delegated tasks by the lower authority remains under the legal direction and control of the central authority. The responsibility for implementation remains with the centre and the lower authorities are only mandated to execute and the directives of the higher authority. The unitary state provides either asymmetric or general autonomy to its regions.⁵⁸ Political decentralisation is best conceived when it includes the full range transfer of decision-making from central government to local governments.⁵⁹

Fiscal decentralisation

This refers to the definition and alignment of monetary functions among the different levels of government.⁶⁰ The responsibility of which level of government sets and collects taxes or which tier undertakes what expenditures ought to be clearly spelt out. Fiscal decentralisation if not clearly structured may altogether derail an otherwise plausible decentralisation program. It must clearly specify what types and what levels of intergovernmental transfers are undertaken, whether municipalities or counties as the case may be can expand local revenues through property taxes, sales taxes or indirect taxes. It must also spell out whether there is to be any type of co-financing arrangements between the central government

⁵⁶ Brancati (n 20 above) 6.

⁵⁷ S Yuichi 'The effect of decentralisation on conflict in Sub-Saharan Africa' (2008) 47.

⁵⁸ T Fleiner & LRB Fleiner *Constitutional democracy in a multicultural and globalised world* (2009) 539.

⁵⁹ Kauzya (n 18 above) 4.

⁶⁰ P Smoke 'Fiscal Decentralisation in Developing Countries: A review of current concepts and practice' (2001) 9.

and local government and whether municipalities have the authority to borrow and mobilise funds from local, national or international sources.⁶¹

2.4. Decentralisation and ethnicity

In many circumstances, countries decide to decentralise not as a means of accommodating ethnic diversity, but as already stated, to manage resources better or to bring services closer to the people. However, given the ethnic conflict and political, economic challenges in ethnically diverse states, scholars have sought to look for other means of reducing ethnic conflict in ethnically plural states. Several tools have been suggested such as federalism and consociationalism. One of these tools is decentralisation which is thought to manage ethnic diversity as ethnic groups have control over political, administrative and fiscal matters.

This chapter argues that under the right circumstances, decentralisation can bring excluded ethnic groups closer to the government and provide them with a tool to address their grievances.⁶² Decentralisation allows for ethnic minorities to control their own affairs whilst the geographical integrity of the country remains intact. Decentralisation improves the quality of governance, fosters political participation and helps designing and implementing policies that are closer to the people in the field of development.⁶³

In practise however, there have been divergent views on the ability of decentralisation to manage ethnic diversity as it has been more successful in some states over other states. For example, while decentralisation has been successful in Quebec and Spain, it was less successful in Czechoslovakia which dissolved into two separate states in 1993.⁶⁴ Trenchant argues that even though decentralisation exerts a strong effect on ethnic violence, it all depends on the distribution of ethnic groups within the country and the

⁶¹ Ouma (n 37 above) 30.

⁶² D Brancati *Peace by design; Managing intrastate conflict through decentralisation* (2009) 3.

⁶³ Trenchant (n 32 above) 2.

⁶⁴ As above 3.

distribution of demographic characteristics of these groups which can make the overall effect of decentralisation be null, negative or positive.⁶⁵ Others argue that decentralisation continues to freeze ethnic identities over time, reinforce the legitimacy of ethnically defined subunits and to provide new institutional and economic resources to the separatist movement.⁶⁶ This would thus fostering violent conflict instead of preventing them.

Former Canadian prime minister has heralded decentralisation as the best way to integrate diverse groups within a large country.⁶⁷ And given the excesses to which intra state ethnic conflict can go as was witnessed in Rwanda in 1994, a solution has to be found to manage these diverse states, decentralisation despite its short falls would be one of these solutions.

2.4.1. Administrative decentralisation

Territorial autonomy

As Trenchant argues, small groups, concentrated in one region in which they represent a significant share of the population are good candidates to benefit from territorial decentralisation.⁶⁸ Through this form of decentralisation, the political and spatial realities on the ground would be recognised by granting each group a state-within-a-state. This would mitigate fears of political exploitation and, at least in part, satisfy local demands for autonomy. Here, decentralisation increases the well-being of minority groups if it empowers them enough so that they can design and implement public policies close to their preferences.⁶⁹

The importance of a good territorial design was witnessed in 2007 post election violence in Kenya where regions were associated with ethnic conflict. Mugoya⁷⁰ noted that the grouping of ethnic groups into regions where they formed the majority may have in the long-run led inter-ethnic competition

⁶⁵ As above 3.

⁶⁶ Kymlicka (n 43 above) 54.

⁶⁷ Brancati (n 62 above) 4.

⁶⁸ Trenchant (n 32 above) 2.

⁶⁹ DA Lake & D Rothchild 'Territorial decentralisation and civil war settlements' (2005) 2.

⁷⁰ BC Mugoya 'Devolution and conflict resolution: Assessing the potential role and capacity of county governments in enhancing local peace in Kenya' (2011) 8.

which led to negative ethnic consciousness and thus ethnic conflict. In such circumstances, some scholars urge splitting of ethnic groups in order to create intra-ethnic competition as a means of reducing ethnic conflict.⁷¹ The new Kenyan Constitution may have followed this by dividing most of the major ethnic groups in Kenya into several county governments.

Nigeria also redrew its boundaries to accommodate its ethnic diversity. This occurred when rising ethnic tensions and regional antagonisms within the new Nigerian state necessitated the progressive decentralisation of the polity, leading ultimately in 1954 to the establishment of a three region federation which survived until independence in 1960.⁷² The three region tier however failed to secure Nigeria's unity and diversity due to fundamental structural flaws in the design. These flaws included the division into only three or four large regions which robbed the political system of its flexibility that could have resulted from a larger number of smaller constituent units which denied smaller units to ethnic minorities. Thus in 1967, the military government in a bid to stave off imminent secession proclaimed the dissolution of the four regions into twelve states which contributed to diluting the hegemony of the north, curtail the chauvinism and secessionism of the three major groups, alleviate ethnic minority insecurity.⁷³

It is important to note that while creating ethnically homogenous units can only solve ethnic diversity to a certain degree, a state can never have a truly ethnically homogenous unit as there will always be a minority within those units. In such situations, the states should put in place mechanisms that should protect the minorities that would be living in these units. It is also important to note that territorial autonomy is always secondary to political decentralisation as the redrawing of boundaries alone cannot calm ethnic tensions.

⁷¹ Fessha (n 39 above) 416-425.

⁷² R Suberu 'Federalism and the management of ethnic conflict: the Nigerian experience' (1996) 68.

⁷³ As above 70.

2.4.2. Political decentralisation

There are two important basic designs for local governments that would make for strong political decentralisation. The first is the ability of ethnic minorities to elect their leaders democratically and secondly, the separation of powers that the central government and the local government have.⁷⁴ The institutional framework must allocate powers to Local governments in this respect have to have final decision making power over certain areas of governance. The local government should not be undermined or limited by another central or regional authority except as provided by law. Ethnic minorities need to have authority over the elections through direct elections as the highest form of control which ensures better responsiveness of the local government and of higher accountability.

The primary concern of political decentralisation therefore is creating a conducive political environment for decentralised decision making. The essential components of such an environment are autonomous decision making powers of lower levels of government and citizens' access to decision making. In parallel, it is necessary to strengthen autonomous local entities. To prevent different tiers of government from working at cross-purposes, the national Constitution should provide the framework within which local governments are to function.⁷⁵ A good example of this is in South Africa where the Constitution mandates local governments to provide democratic and accountable government for local communities and provides for elected provinces and municipalities.⁷⁶

2.4.3. Fiscal decentralisation

Fiscal decentralisation is an important part in managing ethnic diversity because political or administrative power without control over resources might be meaningless.⁷⁷ The distribution of spending and regulatory powers between levels of government is usually regarded, and rightly so, as the

⁷⁴ Fessha & Kirkby (n 55 above) 256.

⁷⁵ De Visser (n 45 above) 41.

⁷⁶ Fessha & Kirkby (n 55 above) 256.

⁷⁷ Jacques (n 19 above) 187.

keystone of decentralisation.⁷⁸ Fiscal decentralisation is advocated for on the grounds that the central government cannot adequately meet the growing local demands for adequate goods and services as it fails to improve fiscal efficiency as it fails to take into account cultural differences as well as economic and social factors among others which are all important factors of public sector performance.⁷⁹

A key issue in the process of good decentralisation is to find an appropriate financing system for local governments. Local governments must have adequate revenue to fund their public expenditure requirements so that they enjoy effective autonomy but at the same time they must take responsibility for how they raise those revenues. However, the central government must also ensure equality between citizens within all the regions whether the region is poor or rich. Thus as Bosch argues, autonomy and fiscal wellbeing must be combined with territorial solidarity.⁸⁰ Effective fiscal decentralisation requires meaningful levels of revenue autonomy at the regional and local government levels what is also needed is accountability and political and fiscal responsibility for sub national government officials which is fundamentally achieved by granting sub national governments a significant level of tax autonomy.⁸¹

South Africa's local government revenue comprises of own revenue, inter governmental allocations and borrowing.⁸² Local governments are responsible for the provision of public goods and user services. The public goods comprise municipal infrastructure like access roads, streets, streetlights, garbage collection, sanitation, and town planning. The key users pay services are water and electricity. Local governments also have taxation powers (property rates, regional levies), and generate income from the

⁷⁸ N Bosch Revenue assignments in fiscal decentralisation in N Bosch & JM Duran Fiscal federalism and political decentralisation: lessons from Spain, Germany and Canada (2008) 50.

⁷⁹ F Kiichiro & DM Luiz (eds) *Development Centre Seminars Fiscal Decentralisation in Emerging Economies* 9.

⁸⁰ Bosch & Duran (n 78 above) ix.

⁸¹ As above 49.

⁸² J de Visser 'Republic of South Africa' in N Steytler (ed) *Local government and metropolitan regions in federal countries* (2009) 281.

provision of services. The South African Constitution allows provincial and local governments to borrow for capital and bridging purposes only.⁸³

Colombia has a fairly successful system of fiscal decentralisation. The central government's budget is shared with the local and regional governments which receive transfers and shared revenue amounting to almost fifty percent of the total budget. The transfers are both conditional and unconditional. The revenues are based upon the size of the population, the degree of poverty and demand for example regarding school needs. Although, the fiscal and political decentralisation was not successful in solving the long lasting security conflict at the sub-national level,⁸⁴ it is regarded as rather successful with regard to the effectiveness of transfers and financial management at central government level.

2.5. Conclusion

In conclusion, as many countries in the world are not ethnically homogenous, the inability of governments to manage ethnic diversity in their countries has on many occasions led to ethnic conflict, threats of secession and discontent. However, a carefully crafted design of decentralisation that is well implemented may lead to ethnic accommodation.

⁸³ I Momoniat 'Fiscal decentralisation in South Africa a practitioners perspective' (2004) 9.

⁸⁴ N Boschmann 'Fiscal decentralisation and options for donor harmonisation' (2009) 25.

CHAPTER THREE

ETHNICITY IN UGANDA

3.1. Introduction

This chapter will address the evolution of ethnicity in Uganda. It will explore long term route of ethnicity by examining the origins, route and concretisation of the ethnic divisions in Uganda. The examination starts from colonialism when ethnic divisions are said to have been born through the colonial policies of divide and rule, drawing of colonial boundaries, economic and labour divisions as well as the special status given to Buganda. It will be argued that those who governed post colonial Uganda, from Mutesa to Museveni, played an important role in the entrenchment of these ethnic divisions. The discussion of Museveni's era which spans over 26 years will be divided into two eras from 1986 to 1995, showing how he tried to accommodate ethnicity, and from 1995 to date, addressing his inability to manage diversity by looking at the army, the war in northern Uganda, the executive and the creation of new districts.

With a population of more than 31 million people, the Constitution recognises 65 ethnic groups.⁸⁵ The Baganda form the largest group, comprising almost 17% followed by Ankole (8%), Iteso (8%), Basoga (8%), Bakiga 7%, Banyarwanda (6%), Langi (6%), Bagisu (5%), Acholi (4%), and Lugbara (4%).⁸⁶ These ethnic groups are subsumed into larger categories as the Bantu, Nilotic, Nilo-Hamatic and Sudanic people. With the two main clusters of the Bantu and the Nilotic situated in the southern and northern parts of Uganda respectively.

3.2. Ethnicity during the Colonial era

In the 68 years of colonial administration, the British systematically cultivated and firmly established an intricate system of domination in all

⁸⁵ Third Schedule to the Constitution of the Republic of Uganda 1995.

⁸⁶ CIA fact sheet <https://www.cia.gov/library/publications/theWorldfactbook/geos/ug.ht ml> (accessed 13 September 2011).

spheres of Uganda society.⁸⁷ This started with the 1900 Buganda agreement and the subsequent agreements which were signed by other kingdom areas such as Ankole, Toro and later Bunyoro defined the nature of association in the colony. Through these agreements, the colonialists worked out a politico-economic formula for Buganda and other kingdom areas but one which was different from the northern regions and was the beginning of the ethnic woes and the colonial policy of divide and rule.

3.2.1. Divide and rule

This policy started with the way in which the term 'tribe' was deployed by the British colonial administration as a policy for colonising and administering Uganda.⁸⁸ The 'tribe' was used as a tool of mapping and controlling the population for exploitation and domination. It was so intense that it was socialised in the consciousness of the Ugandan political elite who later became the rulers of post-colonial states.⁸⁹ This policy was designed to reduce social interaction and promoted disunity and ethnicity.⁹⁰ It was justified mainly by the argument that it would be cheaper to permit traditional authorities to carry out administrative tasks under British supervision.⁹¹

The policy pitted some ethnic groups against others for colonial advantage. For example, to curb resistance against their rule, the British collaborated with the Baganda and used them as agents in their military campaigns to conquer areas such as Bunyoro kingdom where king Kabalega attempted to resist British colonialism. When the Banyoro were eventually defeated, the British rewarded the Baganda by giving them land in Bunyoro.⁹² Buganda's

⁸⁷ JA Okuku *Ethnicity, state power and the democratization process in Uganda* (2002) 6.

⁸⁸ DW Nabudere 'Ethnicity and conflict in Uganda is national consensus possible' <http://allafrica.com/stories/20090921758.html> (accessed 10 September 2011).

⁸⁹ As above.

⁹⁰ TB Kabwegere *The politics of state formation: The nature and effects of colonialism in Uganda* (1977) 44.

⁹¹ Kasfir (n 3 above) 97.

⁹² They are referred to as the 'lost counties' and were a great contribution to the 1966 Buganda.

direct collaboration with the British imperialists thus aggravated the ancient rivalry between the two kingdoms, a matter that was compounded by the annexation to Buganda of two Bunyoro counties as war booty.⁹³ This involved uprooting hundreds and thousands of Banyoro who lost their ancestral land.

The colonialists also used Baganda to conquer and implement the harsh and oppressive rules in the Northern and Eastern parts. In these areas the Baganda were appointed as chiefs to the other colonised ethnic groups.⁹⁴ By using Baganda agents and giving Buganda a degree of self government, denied to other kingdoms and districts, the British contributed to a sense of resentment other people felt towards the Baganda. There was also a growing awareness that only by unity approximating that of the Baganda could other ethnic groups wring similar concessions from the British.⁹⁵

3.2.2. Drawing of colonial boundaries

When the British created Uganda, they lumped together members of diverse ethnic groups with different backgrounds, political systems, cultures and traditions.⁹⁶ However, despite this, the British drew ethnically inspired boundary lines in addition to the divide and rule policy. The country was carved into administrative units, the most significant of which was the district. With a few exceptions, the boundaries of these districts coincided with more or less culturally homogenous groups.⁹⁷ In these districts, counties were often demarcated along ethnic lines and given the name that the people called themselves. These ethnic boundaries were frozen to better maintain law and order or changed to reward one ethnic group at the expense of another. It created problems later in areas like eastern and

crisis. This problem has not been resolved and Buhekura, Buruli, Bulemezi and parts of Singo which were part of Bunyoro and Mawogola and Kabula which were part of Ankole remain part of Buganda to date.

⁹³ F Byarugaba 'Ethno politics and the state: Lessons from Uganda' In M Salih & J Markakis (eds) *Ethnicity and the state in Eastern Africa* (1998) 183.

⁹⁴ JO Latigo 'Northern Uganda: Tradition based practices in the Acholi region' (2008) 86.

⁹⁵ Kasfir (n 3 above) 99.

⁹⁶ G Mwakikagile *Ethnicity and national identity in Uganda* (2009) 15.

⁹⁷ DM Mudoola *Religion, ethnicity and politics in Uganda* (1996) 11.

western Uganda where ethnic tensions culminated guerrilla movements. These movements were peasant resistance against the intense oppression that led to land deprivation, language exclusion, and job discrimination throughout most of the colonial period.⁹⁸

This version of indirect rule contributed to the growth of ethnic identification but more importantly, it sanctioned the notion that the existence of an ethnic unit was a valid basis for an administrative unit.⁹⁹ The districts demarcated by the colonial administrators still hold today and ethnic groups still regard themselves as unique entities although they accept rule from the centre.

3.2.3. Economics and Labour

The undemocratic and autocratic nature of the British colonial rule also resulted in the economic exclusion of the colonised which enhanced ethnic consciousness and was compounded by economic distortions.¹⁰⁰ British colonialism created regional imbalances and ethnic specialisation as southern and to some extent eastern Uganda became regions of peasant production of cotton and coffee.¹⁰¹ While labourers from the north and south western was created to offer labour to peasant farmers in the south for cash crop production. This explains the unbalanced development in Uganda.¹⁰² The British did very little to encourage cash crop production in the north even if cotton could grow well enough there. Active measures were taken to discourage this. Without the necessary transportation infrastructure, the growing of cash crops in Northern Uganda would have been meaningless in economic terms since the cost of getting such crops to Kampala and the to the coast in Mombasa would have been prohibitive.

⁹⁸ M Mamdani *Citizen and its subjects* (1994) 197.

⁹⁹ Kasfir (n 3 above) 99.

¹⁰⁰ Okuku (n 87 above) 92.

¹⁰¹ SR Karugire *Roots of political stability in Uganda* (1988) 33.

¹⁰² FR Banugire 'Uneven and unbalanced development: Development strategies and conflict' in K Rupensinghe (ed) *Conflict resolution in Uganda* (1989) 208.

The perfect solution of the British was to involve them in the Army. Thus Acholi, Teso and West Nile became catchment areas for armed forces.¹⁰³ The southerners would grow cash crops and their educated sections would become minor civil servants while the less educated northerners would serve in the army, police, and prisons and provide labour in the southern factories and plantations. It became a truism that a soldier must be a northerner and a civil servant a southerner. The implications of this division of labour were only realised in the post-colonial period.

Baganda were also granted a superior status above others. The Baganda consolidated their population advantage by becoming educational and economic elite. The Baganda continued all throughout the colonial period to get the higher paying jobs because they were better educated by colonial standards. Their numbers dominated the rapidly expanding civil service, and virtually monopolised its higher level positions as they were opened up to Africans.¹⁰⁴ By the late 1950s as Uganda moved towards independence, many of the contradictions of colonial rule became obvious. Most important was the extremely privileged position of Buganda and to a lesser degree of the south in general as opposed to the north.¹⁰⁵

3.2.4. Buganda's special status

Although all the above factors in a way point to Buganda's privileged status over the rest of the country, an important part of the ethnic divide created by colonialism was the kingdom of Buganda. Buganda was the focus of merchant missionary and other colonial activities and many Baganda allied themselves with the powerful new outsiders.¹⁰⁶ Buganda became the commercial and administrative centre of the colony. Roads, schools and other infrastructural investments were concentrated there. Atkinson states that it was because the British felt that the set up of Buganda was most similar to their own and thus worthy of some respect and recognition and

¹⁰³ J Mugaju *Uganda's age of reform: A critical overview* (1999) 14.

¹⁰⁴ RR Atkinson *The roots of ethnicity; the origins of the Acholi of Uganda before 1800* (1994) 8.

¹⁰⁵ As above.

¹⁰⁶ As above 3.

that in this context, both the Baganda and British elite emphasised, exaggerated and sometime invented ethnic distinction.¹⁰⁷

Further, the 1900 agreement gave Buganda a lot of advantages. It defined Buganda as part of Uganda, spelt out the powers of the Kabaka and his chiefs and the material interests of the chiefs. This would continue as long as the Kabaka, his chiefs and conformed to the laws and regulations instituted by the British, the British would recognise Buganda kingdom. However when it came to the other Kingdoms of Toro and Ankole in 1901 and Bunyoro in 1933, the agreements were limited to definition of administrative areas eventually known as districts and no formal agreements were made apart from ordinances defining the powers and obligations of the chiefs.¹⁰⁸

The 1962 independence Constitution reaffirmed Buganda superior position in the new state to the chagrin of the rest of Uganda. Buganda was given a federal status while the other kingdoms of Toro, Bunyoro and Busoga were granted a semi federal status. The rest of the country was to be governed from the centre and was placed under a unitary system.¹⁰⁹ This arrangement as well as the Kabaka of Buganda being president did not sit well with many and it was a source of controversy and instability.¹¹⁰ From then on, the relationship between Buganda Kingdom and the national political leaders has been one characterised by Buganda's demands for a privileged status over and above that of other areas.¹¹¹

This manoeuver by the British was seen by the nationalist politicians of the time, especially in the Uganda People's Congress (UPC) and to some extent in the Democratic Party (DP) as a British colonial attempt to 'divide and rule' by 'favouring' the Buganda Kingdom against other kingdoms.¹¹² The contribution of the colonial practises in the construction of ethnicity should

¹⁰⁷ As above 2.

¹⁰⁸ Mudoola (n 97 above) 12.

¹⁰⁹ Nabudere (n 88 above).

¹¹⁰ SA Gakwandi (ed) 'Uganda pocket facts: A companion guide to the country, its history, culture, economy and politics' (1999) 22.

¹¹¹ Fulgencio (n 6 above) 6.

¹¹² Nabudere (n 88 above).

thus not be underestimated as these practises gave rise to many of Uganda's ethnic problems.

3.3. Post colonial Era

From independence in 1962, Uganda has had nine presidents. The first government under Sir Edward Mutesa II ended in 1966 when Apollo Milton Obote who was the prime minister assisted by the army overthrew the 1962 independence constitutional arrangement and introduced the 1967 republican Constitution. Obote was ousted by Idi Amin Dada who ruled Uganda with an iron hand until combined forces from Tanzania and Uganda forced him into exile in 1979. Following this, Uganda was ruled by Yusuf Lule, Godfrey Binaisa, Paulo Muwanga who rigged the elections and ushered in Milton Obote's second rule. General Tito Okello Lutwa later overthrew Obote and was forced out of power by the Museveni led National Resistance Army (NRA) in 1986. Scholars like Mazuri state that the upheavals in Uganda since independence were a result of ethnic tensions and ethnic diversities.¹¹³ While Kabwegere blamed it on British colonialism and the effects of the divide and rule policy that they perpetrated during colonialism.¹¹⁴ On a whole, it can be argued that both these factors have contributed to ethnisation of Uganda.

At independence, the political parties were the Uganda People's Congress (UPC) the Democratic Party (DP) and Kabaka Yekka (KY). According to Karugire, the DP started with two fundamental mistakes. It was predominantly Buganda and Catholic in leadership. The UPC, on the other hand, was Protestant and sought to contain Buganda.¹¹⁵ The major resources of the ethnic groups were the block votes on which the political parties were to depend if they were to inherit the colonial mantle. The politics surrounding the election of president mainly involved ethnic groups and the ruling coalition UPC and KY. While the Buganda ruling group believed that their Kabaka should be president, the other ethnic groups

¹¹³ A Mazuri *Soldiers and kinsmen in Uganda: The making of a military Ethnocracy* (1975) 60.

¹¹⁴ T Kabwegere *The politics of state formation and destruction in Uganda* (1995) 67.

¹¹⁵ Karugire (n 101 above) 50.

opened up the candidature to include other ethnic leaders.¹¹⁶ The race seemed to be between the Kabaka of Buganda and the Kyabazinga (king) of the Basoga Sir William Nadiope but due to ethnic considerations and the fear of the Baganda, Mudoola reports that Obote did a lot of convincing in order for the Kabaka to be made President. Further, as a means of ethnic balancing, the post of vice president was created for the Kyabazinga.¹¹⁷ Thus with Mutesa as president,¹¹⁸ and Obote as prime minister, and with manipulations of ethnicity already at play, Uganda entered into her days as an independent state.

3.3.1. Edward Mutesa II (1962- 1966)

This regime started with a UPC-KY alliance. The major problems seemed to be boundary disputes like in the east of Bugisu, the Bamba and Bakonjo rebellion against the rule of the Batoro. However, the most controversial was the lost counties to Bunyoro. When the matter of the lost counties came up, Obote adhered to the 1962 Constitution which clearly stated that in a case of a boundary conflict or people wanted to secede, a referendum would be conducted.¹¹⁹ Thus a referendum was held in 1964. The population of the two counties voted overwhelmingly for the return of the counties to the Bunyoro Kingdom. This democratic solution to the problem instead brought conflict between the Baganda and the Banyoro on the one hand and the central government and Buganda on the other hand.¹²⁰

This resulted in the breakup of the UPC-KY alliance that had been strong at independence. It also led to wide spread rioting in Buganda. The Baganda demanded for the removal of central government from their land and the

¹¹⁶ This was done through the Constitutional Heads (Elections) Act No 66 Of 1963 which enabled all districts to elect constitutional heads and they were to be the equivalent of kings of kingdom areas.

¹¹⁷ Mudoola (n 97 above) 94.

¹¹⁸ The President did not have any real powers. He was a ceremonial head. The powers were held by the prime minister.

¹¹⁹ Karugire (n 101 above) 45.

¹²⁰ Okuku (n 87 above) 9.

Kabaka started persuading people from the central government, parliament and opposition groups to join them in a mission of overthrowing Obote.¹²¹

After this event, both leaders resorted to ethnic manipulation with the army as the pawn, while Mutesa put his trust in the Iteso and Baganda in the army, Obote solicited support of high ranking Langi and Acholi officers and a few from west Nile led by Idi Amin.¹²² These upheavals made the army less national and more ethnic in character. The years 1964 to 1966 were turbulent and culminated into the 1966 Buganda crisis which took on an ethnic expression.

3.3.2. Apollo Milton Obote (1966 to 1971)

In 1966 while Mutesa was preparing to table an opposition motion denouncing Obote as corrupt, accusing him of plotting to overthrow his own government, filling the army with Acholi and Langi and of training a personal army, Obote had the army surround the parliament. With an army whose figures indicate that by 1963, 50% were drawn from Acholi and most of the remainder were from West Nile,¹²³ Obote was ready to face Buganda and opposition from within the UPC. Obote then accused Mutesa of colluding with the Itesot to use the army to topple the government.

On 26 February 1966, Obote organised a battalion under Idi Amin to storm the Kabaka's palace in Lubiri which formed the 1966 Buganda crisis. Throughout this crisis, Buganda found itself surrounded by unsympathetic neighbours. Reactions from other ethnic leaders in Bunyoro, Toro, Ankole among others were supportive of Obote's actions and indeed sent congratulatory messages to Obote for his brave actions.¹²⁴ Buganda ceased to exist as a political sub entity and was divided into four divisions for the

¹²¹ GW Kanyeihamba *Constitutional and political history of Uganda: From 1894 to the present* (2002) 50.

¹²² Mwakikagile (n 96 above) 21.

¹²³ Byarugaba (n 98 above) 186.

¹²⁴ He received congratulatory messages from the Bunyoro, Lango, Ankole & Toro.

purpose of the new administration.¹²⁵ Obote's concern was to weaken the organisational manifestation of ethnicity. He thus worked to strengthen the authority of the centre by enacting a series of regulations for local government creating a uniform system of regulations for local government between the centre and all districts.¹²⁶

Obote suspended the 1962 Constitution and Mutesa fled to Britain ushering in what is called the 1967 pigeonhole Constitution.¹²⁷ Uganda then declared a republic, monarchies were abolished and the presidency with political powers of which Obote was the incumbent was established.¹²⁸ He mostly persons from his own ethnic group to cabinet positions such as Felix Kenyi Onama as defence minister, Erinayo Oryema inspector-general of police and Akena- Adoko head of intelligence.¹²⁹

His era was marked by ethnic manipulation largely against the Buganda.¹³⁰ By the outbreak of the 1966 crisis, Obote had in the military a reliable constituency, based on ethnicity. And until the military coup in 1971, Buganda remained in a state of emergency which rendered Obote more dependent on the ethnic based army for fear of upheavals.¹³¹

3.3.3. Idi Amin Dada (1971 to 1979)

Amin came to power in 1971 after ousting Obote. The Amin coup was a decisive reaction against polarisation in the military along ethnic lines.¹³² Nsibambi argues that it was a product of Uganda's political culture and was directly linked to the social cleavages that hindered Uganda's national

¹²⁵ Mudoola (n 97 above) 98.

¹²⁶ HB Hansen *Ethnicity and military rule in Uganda* (1977) 65.

¹²⁷ Mwakikagile (n 96 above) 21.

¹²⁸ Mudoola (n 97 above) 101.

¹²⁹ FT Odoi 'Politics, ethnicity and conflict in post independent Acholiland, Uganda 1962-2006' Unpublished PhD thesis University of Pretoria (2009) 143.

¹³⁰ As above 137.

¹³¹ Fulugencio (n 6 above) 8.

¹³² D Mudoola (n 97 above) 131.

integration.¹³³ When Amin came into power, he promised that he would organise free and fair elections. He however, introduced an elder's forum in which he began to condemn political parties and politicians and later promulgated a decree dissolving all district heads, declared all political parties illegal and declared himself life president.¹³⁴

Then like Obote, Amin used the army to further his political career. He constituted the army with West Nilers mostly Kakwa and Lugbara.¹³⁵ He also gave his soldiers 'blanket protection' to undertake revenge killings in parts of Acholi and Lango on the grounds that these areas were Obote domain.¹³⁶ Witch hunting of Acholi soldiers continued to the different barracks. Uganda post-independence leadership now took on revenge against members of other ethnic groups. Amin's massacre of Acholi and Langi led several of them to flee to neighbouring countries where they regrouped against his regime. His rule was characterised by torture, gross human rights abuses, killing against mostly the Acholi and Langi.¹³⁷ Ethnicity perpetuated by militarism was now at in full force.

3.3.4 Yusuf Lule to Tito Okello (1980 to 1985)

After the fall of Amin the leaders took on a 'winner takes all' type of politics and struggle that plunged Uganda into a civil war between 1981 to 1985. This was an extremely chaotic period in Uganda's already bloody history. In this short period, Ugandans were subjected to five presidents and separate governments they included, Yusuf Lule,¹³⁸ Binaisa,¹³⁹ and Paulo Muwanga.¹⁴⁰ This then led to the second Obote regime and Tito Okello Lutwa.

¹³³ A Nsibambi 'Political integration in Uganda: Problems and prospects' (1968) *East African Journal* 9 31.

¹³⁴ Okuku (n 87 above) 14.

¹³⁵ He is a Kakwa.

¹³⁶ Odoi (n 149 above) 147.

¹³⁷ GB Wairama 'Uganda: The marginalisation of minorities' (2001) 6.

¹³⁸ He ruled for 68 days from April to June 1979.

¹³⁹ He ruled from June 1979 to May 1980.

¹⁴⁰ May 1980 to December 1980.

Each president during this era attempted to retain power at the expense of another ethnic group. For example, Lule, on taking over power, attempted to reorganise the army by implementing a quota system of enlistment where recruits from each ethnic group would be proportionate to the numerical strength of that group in the whole country.¹⁴¹ This would of course have led to a number of Baganda being enlisted, as they were the majority in the army, to counter the Acholi and Langi presence in the army. This did not work as all these governments exhibited weakness. None of the governments had a firm hold on the police, the secret service or the army. The soldiers in Binasia, Obote and Okello governments often defied orders and behaved unprofessionally. More over none of the five governments after Amin was deposed were elected by the people of Uganda.¹⁴²

In 1980, the military commission finally arranged for general elections.¹⁴³ The main parties during these elections were the Obote-led UPC, DP, KY and Museveni's Uganda Patriotic Movement (UPM). The UPC was declared elected but the results were disputed by DP and UPM. Ethnicity came to the fore during these elections as most of the elected opposition members of parliament came from the southern part of the country. Nearly all members of parliament in Buganda were elected from a predominantly Buganda party DP. West Nile, being the region identified with the Amin regime which had been overthrown the year before, had no elections. The MPs from that region were declared unopposed and they were all members of Obotes UPC.¹⁴⁴

These disputed elections led Museveni into the bush after his UPM party won only one seat in parliament. The guerrilla war, which was fought on Buganda soil against the UPC government, was predominantly seen as a struggle between the north and south. Uganda's politics degenerated further into ethnic backed conflicts. Museveni in an interview stated that the problem was from the north and that the Acholi had permeated all spheres

¹⁴¹ Odoi (n 130 above) 157.

¹⁴² As above 154.

¹⁴³ Gakwandi (n 110 above) 24.

¹⁴⁴ Okuku (n 87 above) 15.

of Uganda's public service with the southerners playing a periphery role since independence.¹⁴⁵

While Museveni was fighting the guerrilla war, Obote the newly elected president shifted the conflict to West Nile where the bulk of Amin's army hailed from. Revenge massacres were committed in this region which manifested the level of ethnic polarisation and militarism in Uganda.¹⁴⁶ Obote thought that he could rely on the army and a divided ethnic Uganda to keep power as he had done in his first tenure. However he faced rebellion on several fronts. From the Museveni led UPM in the Luwero triangle, to one on West Nile in retaliation to the ethnic massacres by Obote in West Nile after Amin's regime. The infighting within the ranks of Obote's UPC and the Army led him to be deposed in 1985 by a once loyal Tito Okello. Tito Okello an Acholi president tired to bridge the ethnic divide by appointing Paulo Muwanga as prime minister. His rule was, however, short lived as despite calls for peace and power sharing arrangements with the rebel movements in the country, the Museveni-led group ousted him from power in 1986.

3.3.5. Yoweri Kaguta Museveni (1986 to 1995)

When the Museveni came to power, he inherited the problems that bedevilled all the previous regimes. Museveni tried to restore calm into the country by outlining a ten point programme. These were intended to provide the basis for a nationwide coalition of political and social forces which could usher in a better future for the long-suffering people of Uganda. Specifically, he among others pledged the consolidation of national unity and the elimination of all forms of sectarianism.¹⁴⁷ He also put in place particular programmes that were meant to manage the ethnic problems that had plagued the country since independence. These included the introduction of resistance councils country wide, reinstatement of cultural leaders and putting in place ministers for vulnerable groups.

¹⁴⁵ *Drum Magazine* (1985) in Odoi (n 130 above) 170.

¹⁴⁶ Mudoola (n 97 above) 103.

¹⁴⁷ YK Museveni *Sowing the Mustard Seed: The struggle for freedom and democracy in Uganda* (1997) 217.

Resistance councils

One of the responses to the ethnic divisions that plagued the country was the formation of local Resistance Councils (RCs), which were named after the Resistance Movement that Museveni himself championed. These RCs grew out of the bush war beginnings in 1981. At that time, the RCs were informal networks of volunteers who assisted the NRA in their campaign, providing food, recruits and intelligence information for the guerrilla soldiers. Within a few years, the RCs came to act as *de facto* local governments, organising and providing services including policing and administration.¹⁴⁸ The RC system was an opportunity for self governance by previously excluded ethnic groups.

Reinstatement of cultural leaders

Key in what Museveni felt at the time would manage the 'ethnic question' particularly in Buganda was the reinstatement of kingdoms in 1993, but without any political powers.¹⁴⁹ This was a promise that Museveni has made to the Baganda while he fought against the Obote government. Thus, to the Baganda the reinstatement of their king whom they loved and had never forgotten was a major boast in their cultural identity. However, from his own ethnic group, Museveni discouraged the reinstatement of the cultural leader stating that the cultural institution is not popular in Ankole.¹⁵⁰

Special ministers for vulnerable groups

Another initiative implemented by Museveni is the establishment of Ministries of State to deal with issues that are relevant to particular regions. They have been created in Luwero Triangle, Karamoja, and in several regions in the north of the country.

¹⁴⁸ Museveni (n 167 above) 189.

¹⁴⁹ FE Munhereza & P Otim 'Neutralising ethnicity in Uganda in MA Mohammed' in Salih & J Markakis (n 36 above) 193.

¹⁵⁰ R Kasasira & A Tumushabe 'John Barigye- the king who never sat on the royal throne' *Daily Monitor* 23 October 2011 4.

The first was established in 1991 to deal with the District of Luwero, which is located virtually in the centre of the country of Uganda. The Luwero Triangle, as it is often called, was the scene of some of the worst fighting, from 1980 to 1986.¹⁵¹ The mission of the Department of Luwero Triangle was to administer the task of planning, coordinating and organising the social, economic and political rehabilitation and development in the war affected areas in the face of the aftermath of the war. The second special regional Ministry of State related to the 18 districts in the north of Uganda to cater to the needs of the ethnic groups that were suffering at the hands of the rebellion of the Holy Spirit Movement (HSM) and the Lord's Resistance Army (LRA).¹⁵²

However, the ethnic problems have not been solved. The bitterness that is expressed in the north south divide which has deepened as Museveni has chosen a militaristic approach for ending the war in the north. There has also been increasingly unequal access to resources of Uganda's economic success as trumpeted by the World Bank and the IMF.¹⁵³

3.3.6. Yoweri Kaguta Museveni 1996 to date

Despite Museveni's original intentions, ethnicity has remained a significant problem in Uganda. One may even argue that due to the length of the regime, it is an effective tool used to exclude those of a different ethnic group in the competition for power and resources. Since it is known that issues of ethnicity draw emotional responses, which are solidified by narratives and memories, its instrumentalisation is very effective.¹⁵⁴ Ethnic tension has for one been manifested in the war with the Lord's Resistance Army in the north.

¹⁵¹ Museveni (n 147 above) 185.

¹⁵² Quinn (n 12 above).

¹⁵³ Okuku (n 87 above) 25.

¹⁵⁴ Nabudere (n 88 above).

Army

The army which has played a significant role in Uganda's politics since the rule of Obote also plays a significant role in Museveni's government. The chief of staff of the army once noted that president Museveni's county and not district has contributed 6000 officers and men to the UPDF. At the time, this was almost as many officers and men as the entire UPDF army of 6700. The Museveni's brother major-general Salim Saleh at one point in time admitted that there is tribalism in the army stating that the system in the army is so clogged that there is no movement.¹⁵⁵

The NRM has also relied on ethnic identity for promoting army officers. Despite the criteria for promoting Army officers, Muhereza notes that the NRM is becoming an ethnic dictatorship because of the way in which certain minority ethnic army officers are promoted faster than others. In 1996, of the 35 Army officers promoted and published in the press, 23 were from western Uganda.¹⁵⁶ In the recent promotions among which was Museveni's son to the post of full colonel, the bulk of the army officers that were promoted hailed from western Uganda.¹⁵⁷ In this way, Museveni is ensuring the dominance of his ethnic group in the high ranks of the army and continuing the tradition of using the army as a force to protect the interests of political leaders. Today the army is constituted of the Banyankole and Bahima. All five generals are Banyankole.¹⁵⁸

War in Northern Uganda

The success of the Museveni government in 1986 sparked off another civil war – the Lord's Resistance Army (LRA) in northern Uganda. This war that

¹⁵⁵ T Allen & J Seaton *The media of conflict: War reporting and representations of ethnic violence* (1999) 230.

¹⁵⁶ Muhereza & Otim (n 149 above) 200.

¹⁵⁷ R Kassasira 'Former ISO boss honoured in new promotions' *The Monitor* <http://www.monitor.co.ug/News/National/-/688334/1242220/-/biourbz/-/index.html> (accessed 25 September 2011).

¹⁵⁸ Odoi (n 130 above) 141.

spanned a little over two decades was blamed in the beginning on the perception of the government towards the conflict. It was looked at as an Acholi war which perception caused untold suffering to the Acholi.¹⁵⁹ A colonially constructed ethnic identity led to unjustified mistrust of northerners compounded by systematic underdevelopment of the area and prejudiced government agenda.¹⁶⁰ The 1990s elections reflected this split with the north voting largely anti Museveni and the more populous south voting for the NRM. The split was exhibited in the continuing armed conflict in the North's. Rebel groups in the north fought the NRM and its successor the UPDF since the NRM seized power in 1986.¹⁶¹ By mid-1996, there was an upsurge in fighting which led to the near isolation of the North West as the LRA cut off the road leading to the Nile crossing that links the north to the rest of the country. The LRA attacked the civilian population of Gulu and Kitgum mutilating and killing those who transgressed an ever growing series of commandments.

Executive

Cabinet appointments are measured by how many sons and daughters of the soil the president appoints to ministerial positions. Despite Uganda having third largest cabinet in the world, it does not reflect an attempt to include most ethnic groups. Rather it shows the attempt to consolidate support among those ethnic regions that support the ruling party.¹⁶² Of the over seventy ministers, the bulk of them come from western and central Uganda areas where Museveni is seeking patronage to stay in power.¹⁶³

¹⁵⁹ Museveni (n 147 above) 176.

¹⁶⁰ Allen & Seaton (n 155 above) 230.

¹⁶¹ As above 221.

¹⁶² A Mwenda 'Uganda has the third largest cabinet in the world'

<http://www.independent.co.ug/cover-story/3824-uganda-has-3rd-largest-cabinet-in-the-world.html> (accessed 24 September 2011).

¹⁶³ 'Anti sectarian law was made to protect sectarianism' *The observer* 2009

http://www.observer.ug/index.php?option=com_content&view=article&id=2067:anti-sectarian-law-was-made-to-protect-sectarianism (accessed 23 September 2011).

This particular distribution of patronage is no accident. After coming to power, Museveni needed to demonstrate that his was an inclusive, coalition government, not one run exclusively by his small circle of his kith and kin. Had he given top positions exclusively to his fellow westerners, he would have isolated himself and become vulnerable to attempts to grab power by those groups who were marginalised. The potential threat from Buganda was particularly strong. As the largest ethnic group in Uganda and one located at the political and financial heart of the country, the Baganda were not a group Museveni could afford to exclude. As a token of goodwill, he appointed Baganda to some of the top government positions like the position of vice president.

Still, his coalition government did not need to be all-inclusive. Northerners were conspicuously underrepresented or absent altogether from top government positions and easterners were similarly scarce.¹⁶⁴ It was relatively easy to build a coalition of those from the west and center. After decades of tumultuous rule by northern-led governments, uniting the south with the implicit threat of northern domination, came easily. The fortification of the west-center coalition, and the north's exclusion was aided by civil unrest in northern Uganda.¹⁶⁵ Museveni's cabinet to-date still shows a predominance of people from western and central Uganda with many of the positions for the north and the east being mainly ministers of state and not full ministers.¹⁶⁶ It is also interesting to note that Museveni's wife holds the position of special minister of state for Karamoja while his brother was a former minister of state for micro finance.

¹⁶⁴ C Musoke & M Olupot, 'NRM Vows to Unite, Move On' (2010) <http://www.accessmylibrary.com:80/...new-vision-uganda/january-2010-> (accessed 21 September 2011).

¹⁶⁵ A Mwenda 'Why Museveni keeps more westerners, Baganda in the cabinet' <http://www.independent.co.ug/cover-story/3823-why-museveni-keeps-morewesterners-baganda-in-cabinet> (accessed 18 October 2011).

¹⁶⁶ S Mwesigye 'Cabinet: Analysis by region' http://www.observer.ug/index.php?option=com_content&task=view&id=13629&Itemid=59 (accessed 18 October 2011).

Creation of new districts

Museveni has manipulated ethnic identities in almost every district of Uganda. For electoral purposes, Museveni has been engaging himself in creating new districts by splitting existing districts. These new creations have followed ethnic or sub-ethnic lines.¹⁶⁷ For more political than development gains, Museveni promised the creation of districts in several areas. Most of these developmentally non-viable districts are created along ethnic demarcations, hence further entrenching inter-ethnic divisions.¹⁶⁸ For example, in districts of Tororo where the Japadhola and the Itesot existed and worked together, the issue of separate districts arose as a consequence of the politicking of both the local political elites from both these communities and Museveni's wish to win the favour of both these communities. This he did by agreeing to the creation of three districts at Kisoko, Mukuju and Tororo County out of the present district. Instead of encouraging the two communities to continue to work together, the President succumbed to the local ethnic pressures exploited by the local political elites to win jobs for themselves.¹⁶⁹

Another example being in Kibaale, one of the ethnically tense districts in Uganda, the native Banyoro have been in violent opposition to leadership by non-Banyoro in their local government since 2002. The argument is over whether the Banyoro should exclusively occupy all top positions in the area since the area historically belongs to them.¹⁷⁰ Muhereza and Otim note that the government created the new district of Nakasongola from Luwero in order to curb the powers of Buganda to demand for federal. They note that by creating this district that is dominated by the Baruli this curtailed the power of the Buganda monarchy to form a united front against the central government as it is very unlikely that that the new districts that were part of the lost counties would agree to join the Buganda.¹⁷¹

¹⁶⁷ Nabudere (n 88 above).

¹⁶⁸ As above.

¹⁶⁹ As above.

¹⁷⁰ As above.

¹⁷¹ Muhereza & Otim (n 149 above) 195.

3.4. Conclusion

The divisions within Uganda are enormous. But the greatest division in Uganda appears to be ethnic related differences. It is on this basis that the extreme violence that has been carried out since colonial times. To many ethnic groups, the independent state is an instrument for the advancement of their own interests. While the NRM leadership is characterised by peace and prosperity in the south, the North has seen two decades of rebellion that has claimed tens of thousands of lives and for several years forced over 1.5 million people into internally displaced camps.¹⁷²

Museveni, established initiatives and programs to address the ethnic problems. Yet they do not seem to be particularly effective. Certainly, the implementation the complex system of Resistance Councils has been disappointing. The reinstatement of the kingdoms of Uganda and the convocation of the three special regional Ministries of State have been only moderately successful and ethnic conflict in Uganda continues. The agitation for federalism from both the Baganda and Acholi can therefore be seen as a search for a new identity particularly with the perceived failure of national identity.

Since the advent of the NRM, several socio-political formations have been unfolding. Mamdani once described the Museveni government, as a broad based government which did not go beyond the Nile to the East and beyond Karuma to the North.¹⁷³ According to this view, the Museveni government is predominantly seen as a southern government.¹⁷⁴ Uganda thus needs to put in place a system that would encourage a more ethnically inclusive state.

¹⁷² Okuku (n 87 above) 103.

¹⁷³ Mamdani (n 98 above) 24.

¹⁷⁴ As above

CHAPTER FOUR

DECENTRALISATION AND ETHNICITY IN UGANDA

4.1. Introduction

The aim of this chapter is to examine whether the policy of decentralisation in Uganda has addressed ethnic differences. The chapter will start by reflecting on decentralisation from colonialism to date. It will be argued that while the political, financial and administrative decentralisation have to some extent accommodated ethnic diversity, the loopholes in the implementation of the policy are causing one of the most advanced decentralisation policies in Africa to fail to accommodate ethnic diversity.

Uganda is one of the several countries in the world pursuing the policy of decentralisation. In fact it has one of the most ambitious and radical decentralisation policies in Sub Saharan Africa. Building upon a long tradition of local government structures in Uganda, the presidential policy statements of 1992 formalised and articulated the government's political commitment to decentralisation.¹⁷⁵ This commitment was strengthened and maintained through the provision of the Constitution which clearly spells out that the state is to be guided by the principles of decentralisation, and the devolution of government powers and functions.¹⁷⁶ Accordingly, it has been designed to devolve powers and responsibilities for administration, planning and finance to the local levels where people can also participate in the decision making. This was a reversal of the centralist tendencies that had been introduced by the Local Administration Act of 1967, under which local administrations were tightly controlled by the centre.¹⁷⁷

¹⁷⁵ W Katono 'Factors affecting service delivery in decentralisation in Mukono district' in D Asimwe & B Nakanyike-Musisi (eds) *Decentralisation and transformation of governance in Uganda* (2007) 2.

¹⁷⁶ National objectives and directive principles of state policy- political objectives II (ii) Constitution of the Republic of Uganda 1995.

¹⁷⁷ D Asimwe & J Kabatoro 'Decentralisation and transformation of governance in Uganda' in Asimwe & Nakanyike-Musisi (n 194 above) (2007) XVII.

4.2. Decentralisation during colonialism

The decentralised system of governance in Uganda goes back as far as the colonial administration times. The colonial ruler's divided Uganda into four provinces, namely north, east, west and the Kingdom of Buganda. Each province was further divided into sixteen districts created along ethnic lines and ruled through 'traditional' leadership.¹⁷⁸ The districts were important in the subsequent formation of ethnic identity and new districts were very rarely created, and then only for explicitly administrative purposes.¹⁷⁹

In order to rule over the created districts, the British adopted a system of indirect rule by which indigenous leaders were used to serve as colonial junior functionaries.¹⁸⁰ The British replicated throughout most of the country a Buganda form of administration which consisted of a hierarchy of chiefs in a descending order of seniority and importance: respectively the county chief, the sub-county chief, and the parish chief.¹⁸¹ The traditional leaders were neither elected nor were they accountable to the local population but rather to their colonial administrators.¹⁸² Backed by the power of the colonial government in the guise of the District Commissioner, the chief's powers of arrest and seizure, and control over allocation and use of property was nearly unlimited.¹⁸³

This system continued until 1947 when the colonial secretary announced a new policy converting the indirect rule into a democratic, efficient and modern system of local governance. This led to the Local Government Ordinance of 1949¹⁸⁴ which was the first formal recognition of the district as the basic unit of the local government in the protectorate. With the creation

¹⁷⁸ Karugire (n 101 above) 20.

¹⁷⁹ ED Green 'Decentralisation and Conflict in Uganda' (2008) 8 (4) *Conflict, Security and Development* 427 429.

¹⁸⁰ WH Galiwango 'Decentralisation and development: The contradictions of local governance in Uganda with specific reference to Masindi & Sembabule districts' Unpublished PhD thesis Nelson Mandela Metropolitan University (2008) 40.

¹⁸¹ Karugire (n 101 above) 21.

¹⁸² N Bazaara 'Decentralisation, politics and environment in Uganda' (2003) 8.

¹⁸³ FG Burke *Local government and politics in Uganda* (1964) 34.

¹⁸⁴ EF Byaruhanga 'Ethno politics and the state- lessons from Uganda' in MA Mohamed Salih and J Markakis (n 98 above) 181.

of ethnic based districts, this Ordinance in large meant that the legal enactment formalised the introduction of ethnic local government councils in Uganda.¹⁸⁵ In order to institute further reforms of democracy in the local government, the British passed the 1955 District Councils Ordinance. This Ordinance provided for the election of the majority of the district council members with a measure of autonomy and control over local budgets and taxation subject of course to approval by the protectorate government. The Ordinance also provided that chiefs would be appointed by a district appointments board and this same board would be responsible for the discipline and control of chiefs. There was however excessive partisan interference by local politicians in the appointment of chiefs, making it impossible for chiefs to discharge their duties.¹⁸⁶

Thus, it became necessary for the 1955 Ordinance to be amended in order to shield the chiefs from political pressure and to turn them into civil servants of their councils. Thus, the District Councils (Amendment) Ordinance 1959 was enacted. Under this, an appointments board was to be instituted in each district and kingdom except Buganda and the members of those boards were appointed by the governor.¹⁸⁷ The system cemented political and ethnic divisions in the country as there was not a uniform system of local government in Uganda. Buganda remained the only provincial government with local autonomy based on her 1900 agreement with the British.¹⁸⁸ This system operated until independence.

4.3. Decentralisation 1962 to 1985

At independence, the Constitution maintained the local government system developed during colonialism. It however established a fairly decentralised system combining federalism, semi-federalism and a unitary State. It granted a federal status to the Kingdom of Buganda and a semi-federal status to the Kingdoms of Ankole, Bunyoro and Toro, and the territory of

¹⁸⁵ Karugire (n 101 above) 22.

¹⁸⁶ As above 23.

¹⁸⁷ As above.

¹⁸⁸ GB Tukahebwa 'The role of district councils in decentralisation' in A Nsibambi (ed) *Decentralisation and civil society in Uganda: The quest for good governance* (1998) 12.

Busoga. It also provided for councils to be established in the districts of Acholi, Bugisu, Bukedi, Karamoja, Kigezi, Lango, Madi, Sebei, Teso and West Nile.¹⁸⁹ Districts as well as urban local governments were granted powers over their local matters.

Local governments comprised largely of elected councils.¹⁹⁰ However, the local government elections were organised around political parties. Candidates vying to be councillors stood on the tickets of political parties. They were elections *by* and *for* state officials. The basic Electoral College was the parish council, which was constituted, not of the population of the parish, but of non-elected government chiefs. These chiefs *elected* chiefs to serve on the county councils, whose members in turn *elected* from among themselves councillors who sat on the district council. Since these elections were not based on universal suffrage, they did not constitute a mechanism for participation or accountability. On the contrary, they cemented top-down control over the population.¹⁹¹ The decentralised local government had the power to raise revenue through taxes, draw up and implement budgets and provide services.¹⁹²

The Obote rule, which sought to curtail the powers of Buganda, diminished the powers of local government significantly in the 1967 Constitution. The federal and semi federal kingdoms were sub-divided into districts and they had the same relationship with the central government as other districts.¹⁹³ The Constitution set up a highly centralised system of government which was operationalised by the Local Administration Act of 1967.¹⁹⁴ Under this Constitution and local governments act, all local government officials were to

¹⁸⁹ E Mugabi 'Uganda's Decentralisation Policy, Legal Framework, Local Government Structure and Service Delivery' (2004) <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN031014.pdf> (accessed 19 September 2011).

¹⁹⁰ S Makara 'Decentralisation and urban governance in Uganda' Unpublished PhD thesis, University of Witwatersrand, Johannesburg (2009) 24.

¹⁹¹ Bazaara (n 182 above) 8.

¹⁹² Tukahebwa (n 188 above) 13.

¹⁹³ As above.

¹⁹⁴ A Nsibambi (ed) *Decentralisation and civil society in Uganda: The quest for good governance* (1998) 1.

be appointed by the government. It also made local governments increasingly dependent on the central government for financing as the central government controlled most of the sources of revenue. Local government budget, by laws and the convening of meetings had to be approved by the minister of local government.¹⁹⁵

This situation continued until 1971 when Amin ousted Obote from power. Amin dissolved districts and abolished local governments and urban administrations.¹⁹⁶ He then established provincial administrations led by governors, most of whom were high-ranking military officials who ruled by decree.¹⁹⁷ Amin also used village security council's which were mainly administrative and security organs of state at the local level. Beke equates this security council system to Resistance Council system that Museveni later promulgated.¹⁹⁸ However, these systems were not at the will of the masses but rather were imposed on them by from above.

The ousting of Amin in 1979 led to the brief regimes of Yusuf Lule, Godfrey Binaisa and Paul Muwanga respectively. During these regimes, a local administrative system *Mayumba Kumi* (ten house cells) was established at the village level. They consisted of a chairman, a treasurer and a secretary. They were meant to mobilise the community to participate in self help activities. They, however, did not accomplish this task and were often used as rallies to listen to central government directives.¹⁹⁹ The second Obote government did not make any significant efforts to re-establish decentralised governance. Obote in fact continued with his 1967 policy. This situation remained under the Tito Okello regime rule which was too short lived to

¹⁹⁵ Makara (n 190 above) 7.

¹⁹⁶ By Legal Notice 1 of 1971.

¹⁹⁷ P Francis & R James 'Balancing rural poverty reduction and citizen participation: the contradictions of Uganda's decentralised programme' (2003) 31 *World development* 325-327.

¹⁹⁸ D Beke 'Legislation and decentralisation in Uganda: From Resistance Councils to elected local councils with guaranteed representation' in MC Foblets & T von Trotha (eds) *Healing the wounds: Essays on reconstruction of societies after war* (2004) 148.

¹⁹⁹ Tukahebwa (n 188 above) 14.

accomplish any changes until the National Resistance Movement (NRM) captured state power in 1986.²⁰⁰

4.4. From Resistance Council to Local Council

While the National Resistance Army (NRA) was fighting against the Obote government in the 1980s, they established secret committees of volunteers who banded together primarily to mobilise food, recruits and intelligence information to fight the guerrilla war. By 1982, areas in which the NRM had gained control, these secret committees were formalised into local Resistance Councils (RCs) whose duties extended to controlling crime and general administration in their jurisdictions.²⁰¹

The RC system was a five tier hierarchical structure of councils: the grass roots RC1 was at the village level, RC 2 parish, RC 3 sub-county, RC county and RC 5 district.²⁰² The new councils acquired the responsibility for local government and the administration of justice at the local level. This RC system played a big role in the expression by ordinary people of discontent towards the former elitist and distant actors in civil and political society who were considered responsible for the greater deterioration.²⁰³ The system gave an opportunity for previously excluded communities to have an opportunity to participate and chose who governs them.

When the NRM took power in 1986, the 1987 Resistance Councils Statute laid the foundation for the decentralisation of authority to the people through their councils.²⁰⁴ It legalised RCs and gave them powers in their areas of jurisdiction at the local level.²⁰⁵ The RC1 was the most important in

²⁰⁰ Bazaara (n 182 above) 8.

²⁰¹ Museveni (n 147 above) 189.

²⁰² F Saitio 'Decentralisation for participatory development in Uganda: Limitations and prospects' (2000) 2.

²⁰³ Beke 'Legislation and decentralisation in Uganda: From Resistance Councils to elected Local councils with guaranteed representation' in MC Foblets & T von Trotha (n 198 above) 149.

²⁰⁴ As above 146.

²⁰⁵ The RC Statute No 9 of 1987 was completed with the judicial powers statute of 1988 and the RC statute No 6 which made the sub-county RC III/ LCIII the most important local unit.

everybody's life. It was the village council, and every adult resident of this basic public administrative unit could become a councillor, regardless of their nationality. An Australian citizen could become an RC1 chairman in Koboko or Kisoro if the residents so wanted.²⁰⁶ The nine member executive of the RC1 constituted the council of the RC2, which corresponded with the parish, together with the executives of other RC1s in the parish. Similarly, the executive elected at RC2 constituted the council of the next level, RC3 which corresponded to the sub-county.²⁰⁷ Thereafter, the government embarked on an effective implementation program of decentralisation with the enactment of the 1993 Resistance Council Statute.²⁰⁸

The legal and political structure of the RCs was uniform throughout the country but the RCs tended to mean different things in different parts of the country. In some parts of the country the role was policy making within the framework of the NRM. In other parts it was the struggle against the state, the army, police, and court. The difference can largely be explained by geographical variation in the popularity of the NRM and the political forces and ethnic influences operating in the regions.²⁰⁹

4.5. Decentralisation 1995 to date

The decentralisation policy was later enshrined in Uganda's constitution in 1995 and was legalised by the Local Government Act (LGA) of 1997. It devolves substantial powers, functions and responsibilities to the local government, defines the structure of local government and specifies the respective responsibilities and powers of the local government as well as those of the central government.

²⁰⁶ J Buwembo 'We have come full circle we call county a district'
<http://www.monitor.co.ug/OpEd/Commentary/-/689364/1237902/-/12reb7yz/-/index.html>(accessed September 19 2011).

²⁰⁷ Museveni (n 147 above) 190.

²⁰⁸ UN HABITAT 'Local governance and decentralisation in East and Southern Africa; Experiences from Uganda, Kenya, Botswana, Tanzania and Ethiopia' *A publication of the global campaign on urban governance* (2002) 25.

²⁰⁹ Beke 'Legislation and decentralisation in Uganda: From Resistance Councils to elected local councils with guaranteed representation' in MC Foblets & T von Trotha (n 198 above) 150.

The LGA also established local councils (LCs) at the district (LCV), municipal (LC IV), and sub-county, division or town council (LCIII) levels as corporate bodies of local governments. The LGA devolved to these council's far-reaching powers and responsibilities in such areas as finance, legislation, politics, planning, and personnel matters. Local governments are now responsible for the bulk of administrative and political processes within their territories.²¹⁰ Hence, decentralisation in Uganda is based on three interlinked aspects; political empowerment of the people, fiscal devolution, and control of the administrative machinery by the local councils which will be the subject of this discussion below.

4.5.1. Political decentralisation

The constitutionally enshrined political decentralisation in Uganda has been a gradual process with the central government retaining responsibility for national security, planning, immigration, foreign affairs and national projects. All other functions were devolved to local institutions. They include health, education, transport, agriculture and communication. One of the reforms instituted by the government is the principle of non-subordination, which implies the power of lower councils to make decisions on matters affecting them without resorting to higher levels of local government.²¹¹

Election of local leaders

The vertical decentralisation in Uganda's local governance can be seen in the election process at the local government level. The members of the council which is the political organ at all local level are elected in regular elections. Councillors either represent specific electoral areas or interest groups, namely women, youth or disabled persons.²¹² Officials are recruited locally which gives non dominant ethnic groups that are excluded at the national level, a chance to elect persons from their own ethnic group into office without having to compete with the dominant ethnic group for the scarce

²¹⁰ B Bashaasha *et al* 'Decentralisation and rural service delivery in Uganda'
http://www.ifpri.org/sites/default/files/publications/ifpridp_0106_3.pdf (accessed 19 September 2011).

²¹¹ K Saxena http://www.ruralgov-ncaer.org/images/product/doc/13_400450990_DecentralisationinUganda.pdf (accessed 19 September 2011).

²¹² Article 180 Constitution.

political positions. Further, the mandate of the councillors who serve for five year term²¹³ can only be revoked by the electorate.²¹⁴ This crystallises the power of non dominant ethnic group at the local government level.

Further, elections under this system are based on ‘individual merit’ rather than political party affiliations. Councillors are elected by secret ballot on the basis of universal adult suffrage. This electoral system provides for downward accountability and the possibility of recall. Thus, the present system allows for a higher degree of participation in local government than any previous system in Uganda.²¹⁵ It allows for ethnic groups to participate in the election of their local representatives. The non dominant ethnic groups can hold their elected representatives accountable and be part of the political process. However, it has been found that the NRM and the presidency tend to interfere directly in local council elections²¹⁶ by using the police and the army and other paramilitary organs for dirty electioneering such as beatings, ballot stuffing and intimidation.²¹⁷ Further, Local elections are usually decided on the basis of personal, tribal and party political loyalties.²¹⁸ It is noteworthy that in the elected councils, there are reserved seats for women, youth and for minorities but the wording minorities however refers to handicapped and not ethnic minorities.²¹⁹

4.5.2. Fiscal decentralisation

Fiscal decentralisation in Uganda is expected to facilitate access to resources by the local governments. Local governments get funds from the central government in three ways; conditional, unconditional, and equalisation

²¹³ Article 181(4) Constitution.

²¹⁴ Article 182(1) Constitution.

²¹⁵ Bazaara (n 182 above) 8.

²¹⁶ Wadaala ‘The politics of decentralisation’ in D Asimwe & B Nakanyike Musisi (n 194 above) 54.

²¹⁷ As above 54.

²¹⁸ K Maina ‘Rural poverty, decentralisation and development’ <http://www.fiuc.org/esap/KENYA/KENYA3/General/Ruralpoverty.pdf> (accessed 26 September 2011).

²¹⁹ Beke ‘Legislation and decentralisation in Uganda: From Resistance Councils to elected local councils with guaranteed representation’ in Foblets & Von Trotha (n 217 above) 153.

grants.²²⁰ Conditional grants are funds delegated by the central government to local governments for specific purposes. Unconditional grants, also called block grants, are for unspecified purposes. Equalisation grants are allocated to disadvantaged local governments that fare below the national average.²²¹

The provision, management of primary healthcare, primary education, roads, and basic urban services were decentralised to districts. In spite of decentralisation, however, some important decisions and responsibilities remained with the central government for example, in health, staffing decisions are made at the district level. In education, the curriculum and most funding come largely from the centre but decisions about personnel and school construction and operational maintenance are made locally.²²²

Unconditional Grants

The Constitution and section 81 (1) of the LGA have created a vertical system by which funds from the consolidated fund flow to local governments in the form of unconditional and conditional equalisation grants. Unconditional grants are the minimum grant that shall be paid to the local governments to run the decentralised services.²²³ Unconditional grants cover salaries, wages and discretionary expenditure by the district government. The criteria for allocating unconditional grants are restricted to the population and size of the district.²²⁴ Unconditional grants also called block grants are for unspecified purposes and constitute 11% of the government transfers to the local government.²²⁵

²²⁰ Article 193 (1) of the Constitution,

²²¹ J Bitarabeho 'The experience of Uganda local governments role as a partner in the decentralisation process to strengthen local development' (2008).

²²² RK Muriisa 'Decentralisation in Uganda: prospects for improved service delivery' (2008) 89.

²²³ Article 193(2) Constitution.

²²⁴ Katono 'Factors affecting service delivery in decentralisation in Mukono district' in D Asimwe & B Nakanyike-Musisi (eds) (n 175 above) 22.

²²⁵ SW Kiseembo *Hand book on decentralisation in Uganda* (2006) 8.

Conditional grants

This constitutes a bulk of the fund transferred to the local governments for specified purposes. This fund constitutes about 88% of central government funding.²²⁶ The conditionalities attached to these funds leave little discretion to local governments resulting in local governments having little involvement in planning and delivery of services in their areas.²²⁷ Three quarters of these funds take the form of conditional grants to districts principally in the health, education water, roads, and agriculture sectors.²²⁸

There is no discretion available to the district to effect reallocation in line with its own priorities which undermines the local ownership of programmes.²²⁹ It can be argued that this keeps the central government in control of the local authorities by using conditional grants to influence and narrow down choice and political space for local authorities by attaching strong conditions and supervising procedures on the use of grants. The centre ensures that its programmes are lucrative and viable.²³⁰

Equalisation grant

Section 84(4) of the LGA stipulates that local governments lagging behind the national average in service delivery be given an equalisation grant to even out the differences in service delivery. Although it sometimes doesn't seem to narrow the income gap between regions as rich local governments such as Kampala become richer while poorer ones like Kalangala stay poor. Rich well placed and, educated politicians continue to dominate the local politics while the poor and marginalised play a peripheral role.²³¹

²²⁶ Muriisa (n 9 above) 89.

²²⁷ Katono 'Planning and budgeting for decentralised government' in D Asimwe & B Nakanyike-Musisi (eds) (n 175 above) 88.

²²⁸ Francis & James (n 198 above) 330.

²²⁹ Katono 'Factors affecting service delivery in decentralisation in Mukono district' in D Asimwe & B Nakanyike Musisi (n 175 above) 24.

²³⁰ AW Wadala 'The politics of decentralisation' in D Asimwe & B Nakanyike Musisi (n 194 above) 45.

²³¹ As above 51.

Raising revenue

The independence of local governments should have been guaranteed through raising of their own revenue. The Constitution specifically empowers local governments to mobilise and generate local revenues.²³² It gives extensive powers to districts to generate local revenue through taxes and autonomy to govern its distribution.²³³ These taxes include rents, rates, royalties, stamp duties, cess, fees on registration and licensing and taxes that parliament may prescribe.²³⁴ Locally raised revenues include produce taxes, market dues, licences and district specific taxes.²³⁵ Local governments have some discretion in setting tax rates but only after consulting with Ministry of Local Government or the Parliament.²³⁶

Annual license fees are payable by a wide range of trades and businesses. In addition to market dues, parish taxes are payable on all transactions and businesses at the village level. Permits are required for the movement of livestock.²³⁷ However, the level of revenues raised is constrained by a weak revenue base and the inevitable political costs of imposing local taxes. Reflecting these constraints, levels of local revenue are, in real terms, static or in many districts falling. Analysis of the budgets of the three research districts showed that the proportion of revenue raised from local sources was small: 5% in Mbale, 4% in Kamuli and 10% in Mubende. Centrally allocated funds, accounting, as a national average, for 90% of income, therefore dominate district finances. It is this combination of centrally originating conditional grants and limited local resources which gives decentralisation in rural Uganda its specific and contradictory character.²³⁸

²³² Articles 191 & 192 Constitution.

²³³ Fifth schedule of the LGA.

²³⁴ Article 191(2) Constitution.

²³⁵ Katono 'Factors affecting service delivery in decentralisation in Mukono district' in D Asimwe & B Nakanyike-Musisi (n 175 above) 11.

²³⁶ The LGA in the fifth schedule outline the sources of local revenues to local governments as graduated personal tax property tax, licences, permits and agency fees.

²³⁷ Saxena (n 26 above).

²³⁸ Francis & James (n 198 above) 330.

The central government retains the buoyant sources of revenue like the value added tax (VAT), income tax, customs and excise duties, leaving local governments depending largely on graduated tax which has also been abolished.²³⁹ Graduated tax was the most significant source of revenue among these and was payable annually by all adult males and salaried females according to a scale based on imputed incomes, which take into account ownership of productive assets.²⁴⁰ The abolition of graduated tax implies that local governments, especially the rural ones, will now solely depend of central government transfers. This will greatly undermine the autonomy of local governments because their operations will largely be regulated by the centre, as they cannot generate local revenue.²⁴¹

Further, the allocation of expenditure responsibilities among local government tiers favours upward accountability where higher levels of government retain significant expenditures but can delegate some of their responsibilities to lower level institutions. In contrast, local governments are entrusted with expenditures related to staff remuneration. Local authorities are also responsible for undertaking expenses related to service delivery financed through conditional grants. These funds are channelled through the Poverty Action Fund (PAF) which leaves little scope for the government to undertake non-stipulated but essential works.²⁴²

Some local authorities have attempted to enhance their independence by finding alternative sources and forums for organised action against the centre. They have therefore set up associations to counterbalance the power of the centre and maximise their plan to get a political advantage.²⁴³ Even though the local authorities have tried to raise external funds, in order to deal with outside authorities, they have to be cleared by the ministry of foreign affairs. The centre imposes conditions, control rules and regulations

²³⁹ Wadaala 'The politics of decentralisation' in D Asimwe & B Nakanyike Musisi (n 194 above) 45.

²⁴⁰ Katono 'Planning and budgeting for decentralisation' in D Asimwe & B Nakanyike- Musisi (n 174 above) 73.

²⁴¹ Galiwango (n 199 above) 71.

²⁴² Francis & James (n 198 above)

²⁴³ As above.

that ensure that local authorities comply with the needs and wishes of the central government.

Further, the discovery of oil in the country raises huge challenges for the country and the local governments in particular. The oil contracts are shrouded in secrecy and allegations of corruption are rampant. In Amuru district, one of the districts in which oil has been discovered, the district officials claim that the read about the prospecting of the oil in the district in the papers and are not consulted. The local residents also state that the oil companies employ people from outside of their districts to carry out even the casual labour.²⁴⁴ In Bunyoro kingdom where oil exploration has began, the kingdom officials are complaining that the natural oil and gas policy left out the kingdom as one of the rightful beneficiaries of the oil wealth. The local government on the other hand complains that the development activities of the oil company are done without the knowledge of the local government.²⁴⁵

There needs to be a review of the revenue sharing arrangements with districts to make them realistic and sustainable.²⁴⁶ Further still, there has been a policy by the president to give away land in districts without consulting local government authorities. There have been clashes with the president over giving away land in Mukono and Amuru district for sugarcane cultivation.²⁴⁷

The most important part of decentralisation which is financial is not felt by the Ethnic groups residing in these districts. The strong arm of the government is felt through the conditional grants that are given to these local government units and the people in these areas may not feel like they are governing themselves. Districts do not have sufficient financial resources to run decentralised and delegated functions due to a narrow tax base.

The central government has tended to monopolise the sources of revenue like the sales tax while leaving the non elastic sources like market dues to

²⁴⁴ M Rugadya & H Kamusiime 'Countering regional and local conflict impacts of oil discoveries in the Albertine rift Uganda' (2009) 7.

²⁴⁵ L Bategeka *et al* 'Oil discovery in Uganda: Managing expectations' (2010) 16.

²⁴⁶ As above 25.

²⁴⁷ *The Daily Monitor* 19 September 2011 4.

local authorities. The collected revenue between the centre and the local authorities should be shared equitably. Most of the sources of revenue for local governments are not as buoyant as VAT. Worse still local authorities are poor at collecting these taxes and added to corruption, these taxes collected do not give much to local governments.²⁴⁸

4.5.3. Administrative decentralisation

The Chief Administrative Officer (CAO)²⁴⁹ is the head of the service in the district and the accounting officer.²⁵⁰ The CAO is thus in charge of managing the district. In order to ensure that the local governments have independence, the Constitution ensures that they are in charge of accountability. The CAO is answerable to the district council which is the supreme political organ in the district and the district chairperson as the district political head.

The district council is also the legislative arm of the local government while the district executive committee and the local public service comprise the executive arm of local government. The civil servants are headed by the CAO who is an employee of the district council. The districts are linked to the central government through the Ministry of Local Government and the Local Government Finance Commission (LGFC).²⁵¹ Despite this, the local governments have sufficient authority to deal with public affairs in their respective jurisdictions.²⁵² Decentralisation has been seen in a number of services and functions transferred from the centre to local governments. These include powers to legislate powers at different levels.²⁵³ The laws made by local governments must be consistent with other laws in place and with the constitution. This ensures harmony between the laws made by the district LG and the existing laws and central government policies.²⁵⁴

²⁴⁸ A Nsibambi 'Financing decentralisation in A Nsibambi (n 194 above) 51.

²⁴⁹ Article 188 Constitution.

²⁵⁰ Section 65 LGA.

²⁵¹ Article 53(2) Constitution.

²⁵² Tukahebwa (n 188 above) 17.

²⁵³ Article 206 Constitution & section 39- 45 LGA

²⁵⁴ SW Kisémbó *Frequently asked questions on decentralisation in Uganda* (2006) 68.

One of the major achievements of the decentralisation is the devolution of civil service to the district councils. The district councils now recruit, remunerate, discipline and fire their own staff. These functions are vested in the District Service Commission (DSC) which is responsible to the councils. The DSCs were established not only to enable local governments recruit, discipline and dismiss local government employees expeditiously but also enhance their autonomous decision making.²⁵⁵ The tendency is to employ only persons from the recruiting district. This allows for ethnic minorities to find employment in the civil service and close to their homes. This has bred what is locally known as the 'son of the soil syndrome.'²⁵⁶ However, in the local council elections, one of the campaign chips in some areas rotates around eliminating foreigners and giving jobs to 'sons of the soil.' If this kind of localised discourse is allowed to flourish there is danger that decentralisation will end up marginalising people and communities perceived as non-native in the specific district.²⁵⁷ People tend to apply for jobs in their home districts. Candidates from the Bantu south have shown less and less interest for jobs in the north and north east. If this trend continues, this would lead to self-sustaining tendency for broad ethnic cleavages to dominate local public services in each region.²⁵⁸

Creation of new districts

There are now 111 districts in Uganda²⁵⁹ up from 33 in 1986 when the NRM came into power in 1986. An overview of the administrative structure related to the ethnic composition of Uganda today shows that almost no district is mono-ethnic. This internal multi-ethnicity is often seen as a reason for conflicts. A frequent response to these conflicts has been to split up districts. The danger is that this process is leading to fragmentation, resulting in

²⁵⁵ FX Lubanga 'Human resource management and development in the context of decentralisation' in A Nsibambi (n 194 above) 78.

²⁵⁶ Wadala 'The politics of decentralisation' in D Asimwe & B Nakanyike Musisi (n 194 above) 50.

²⁵⁷ Tukahebwa (n 188 above) 20.

²⁵⁸ Lubanda in Nsibambi 'Human resource management and development in the context of decentralisation' in A Nsibambi (n 194 above) 93.

²⁵⁹ List of local government districts <http://www.molg.go.ug/index.php/local-governments> (accessed 8 October 2011).

areas, too small to administer efficiently in particular areas too small to guarantee the presence of viable administrative infrastructure and of competent authorities.²⁶⁰

Demarcation of boundaries is an important component of a visible process of devolution of power. It is a process through which local needs are identifiable in a sustainable and non-conflictual manner.²⁶¹ In other words, decentralisation seems to have opened up the space for expression of rights of identity and belonging. Ethnic communities in districts who felt marginalised have therefore increased demands for the creation of more districts that will give them a native home with full political rights and some element of territorial autonomy. For example, in 1996 the government created the new district of Nakasongola which was carved out of Luwero. Historically, Nakasongola is part of the 'lost counties'.²⁶² This land is inhabited by the Baruli. The Baruli alleged that they were marginalised by the Baganda in Luwero and demanded a district of their own. This was granted to them and this limited the extent of the Buganda monarchy to form a united front against the central government.

Minorities within minorities

Feelings of marginalisation have become apparent in districts with a particularly identifiable concentration of immigrants. In Mbale district, parish people feel that they are culturally and politically dominated, and would like to be transferred to the neighbouring district of Sironko.²⁶³ The Bakilayi are said to be marginalised in terms of social services as well as dominated culturally and politically by their counterparts in the sub-county, the Bafumbo. The Kilayi claim to have been denied access to forest resources formerly utilised for economic and cultural activities and to have been subjected to frequent cruel attacks in the name of law enforcement.

²⁶⁰ Beke (n 21 above) 153.

²⁶¹ D Singiza 'Chewing more than you can swallow: A commentary on the creation of new districts in Uganda. Some compelling considerations' (2011) 2.

²⁶² See footnote 94

²⁶³ Sironko is a new district created out of Mbale.

Sentiments such as the above have now found expression in the crave for new districts or transfer to preferred neighbouring districts. It has been, however, noted that the creation of a district has a multiplier effect and each district created results into new demands from local communities who feel marginalised. The notion of territoriality and homogeneity embedded within the logic of decentralisation in Uganda creates an unending chain of marginalisation and quest for autonomy. Even within seemingly homogeneous communities issues still arise in terms of what dialect of the language is dominant is official discourse or even what clans are dominating powerful positions in the district.

Criticisms by certain local minorities that their political rights are being abrogated under the existing district structures have led to the formation of new districts and the reconfiguration of others to mirror better the ethnic composition of local geographic areas. While well-intentioned, the effect has been to accentuate ethnic differences, slow integration, and overlay a political matrix onto the existing ethnic boundaries. From a national perspective, son of the soil laws reduce incentives for group integration and limit opportunities for the most talented staff to advance. Finally, certain ethnic groups remain unsatisfied with the decentralisation framework and continue to agitate for some form of federal autonomy as an alternative. The Buganda (comprising 25% of population, historically privileged, and maintaining a recognized king) are the most vocal 49 proponents of a federal structure. Their vision is the restoration of the king as executive, control over fiscal policy, and territorial autonomy for the Buganda kingdom (which comprises the capital in Kampala). If successful, other former kingdoms would follow suit.²⁶⁴

4.6. Conclusion

The decentralisation system in Uganda although it was not intended to accommodate diversity has in some cases been used as a tool for settling ethnic diversity often where there have been two or more competing ethnic groups. However, this has not produced viable result with some writers often

²⁶⁴ J Siegle & P O'Mahony 'Assessing the merits of decentralisation as a conflict mitigation strategy'

arguing that it has actually exacerbated both intrastate and interstate conflict. However, this could be attributed to the way the system has been handled by the central government. Resources remain meagre, and transfers from central government are low and increasingly tied to conditions, leaving little room for local discretion. Additionally, broader reforms are necessary to achieve effective participation by ethnic groups without interference from the centre.²⁶⁵

²⁶⁵ R Work 'Federalism: The future of decentralising states?' (2002) 13.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1 Summary and conclusion

This study set out to investigate the efficacy of the decentralised system of governance in accommodating ethnic diversity in Uganda. The investigation on ethnicity in Uganda revealed that the concept of ethnicity was created during the colonial period. The colonial rulers using policies of divide and rule, drawing of boundaries, as well as favouring some ethnic groups over others, created rigid ethnic identities in Uganda. Further, that the post-colonial governments further entrenched that ethnic divide in the country leading to conflict, great economic disparities in the regions and the domination by the ethnic group that held power.

The study also found that the system of decentralisation in some cases manages to accommodate ethnic groups. It, for example, gives ethnic minorities in territories where they form the majority, the opportunity to elect and hold leaders accountable. The study also revealed that the decentralisation policy allowed for ethnic groups to obtain employment in the civil service at the district level. This form of decentralisation accommodates ethnic diversity and creates a sense of inclusion.

However, the study found that while Uganda's ambitious decentralisation policy may have devolved political powers to the local governments, the interference by the central government into the affairs of the local government's waters down the constitutionally entrenched policy. It revealed that the lack of a strong fiscal policy to guarantee ethnic minorities the power to raise their own revenues takes away the autonomy from the local government. The failure to raise revenue may lead to a recentralisation of powers as local governments depend heavily on resources from the central government to function. Lastly, the decentralisation of powers to control who works at the local governments is commendable as it gives ethnic minorities jobs that would have otherwise been taken by the dominant ethnic group. This needs to take into account the fact that local government units can never truly be ethnically homogenous and thus should avoid a

recentralisation of power at the local government level through the domination by the ethnic majority in that district.

In conclusion, if stronger decentralisation is actually practiced in Uganda, it can be a strong tool in managing the ethnic diversity in the country. However, as no district is mono-ethnic, new designs should be used to make local governments and administrations more inclusive of all ethnic groups in the districts.

5.2 Recommendations

5.2.1 Political decentralisation

It has already been noted that Uganda cannot achieve a purely mono-ethnic district. However, the implementation of the current decentralisation policy allows for the re-centralisation of power at the district level by the majority ethnic group. This recreates the feeling of exclusion of the minorities residing in these districts leading to conflict and demands for new districts. In order to address the problem of the recentralisation of powers at the local government level, local minorities need to be represented at every level in the local councils. The local governments can use the constitutional clause of the representation of the minorities to include ethnic minorities. The government should do this by reading Article 180(2) (C) of the constitution to include not only women and people with disabilities but also ethnic minorities. Thus like women and the disabled who have special seats at the local government level, ethnic minorities within these districts can also have special seats reserved for them.

5.2.2 Fiscal decentralisation

The central government needs to consult together with the local government on other possible sources of revenue for the local governments. The central government should start by ensuring that local governments in districts where oil has been discovered are consulted. The resources coming from the oil exploration can ensure the independence of the local governments in the districts in which it being explored. A stronger system for the equalisation grant would also ensure that the poorer districts would develop.

5.2.3 Administrative decentralisation

While the creation of new districts may be good for ethnic minorities as it ensures territorial autonomy, the number of districts on the country is alarming. Not only are these districts not economically viable, but they create isolation for ethnic groups that maybe a threat to nationalism. Uganda could thus learn from Kenya that has under their new constitution reduced on the number of ethnic-based districts as the previous ones were a source of inter-ethnic conflict. The central government can create larger districts which incorporate more than one ethnic group. The central government just needs to ensure that the design used accommodates all ethnic groups that are found in that district.

It should be noted that the ethnic question cannot be answered only at the local government level mostly when it is apparent that the state at central level is ethnically biased. Thus, here also needs to be more ethnic accommodation even at the central government level as decentralisation is just one tool in managing the ethnic question. Peace in Uganda therefore, has to tread a balance of accommodating ethnicity at the local government level but at the same time build the nation. The route is not to approach the question through as ethnic lense, but to create an inclusive government and administration at local as well as national level.

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