

Survey of the Issues

Local Government: Links with Human Rights

Spring 2002

DECENTRALISATION IN UGANDA TODAY: INSTITUTIONS AND POSSIBLE OUTCOMES IN THE CONTEXT OF HUMAN RIGHTS

Josephine Ahikire¹

© 2002, International Council on Human Rights Policy
ICHRP commissioned this document as a Working Paper.
ICHRP has not edited it and is not responsible for its accuracy or for the views and opinions expressed.
ICHRP welcomes the re-use, re-publication and re-distribution of this paper, appropriately cited.

INTRODUCTION

1. Uganda is one of the several countries around the world, pursuing the policy of decentralisation as one pillar of public sector reform. Accordingly, the policy was designed to devolve powers and responsibilities for administration, planning and finance to the local levels where people can also participate in the decision making of their respective areas.
2. Decentralisation is a term that appeals to a number of actors even those with divergent views on other issues. Indeed as according to Manor, "decentralisation has quietly become a fashion of our time" (1999:1). It tends to mobilise sentiments around local democracy, people's participation and rural development expected to bring about effective and efficient service delivery. However, within the seemingly global consensus there are those who look at decentralisation as a smoke screen, geared at concealing fundamental disparities and inadequacies. Within the current debates, one of the oft mentioned critique of decentralisation is that more often than not, governments do not make decisions to decentralise on the basis of the democratic potentials but rather as a result of an attempt to deepen the government's hegemony (Mutizwa- Manginza & Conyers, 1996, Hillebrand, 1996). It is argued for instance, that in Uganda, decentralisation has been adopted as a mechanism to improve service delivery, which in turn is hoped to increase people's support for the National Resistance Movement (NRM) government, and subsequently keep it in power (Saito, 2001). The other primary impetus for decentralisation in current literature, has been seen to relate to political conditionalities attached to AID by donors (Doornbos, 1999). Goetz, for instance, asserts that:

Decentralisation is one of the cornerstones of the contemporary good governance agenda. ...Policy reform therefore has targeted the public sector for radical surgery and along with sharp reductions in the extent of government action in the economy has come support for programmes which

¹ Research Fellow, Centre for Basic Research and Lecturer, Department of Gender Studies, Makerere University, Kampala

decentralise government to local levels and devolve responsibility for service delivery and local planning as well (2000:3)

3. In relation to Uganda Makara observes that:

there is no doubt that some donor agencies ...are convinced that good governance is closely associated with the empowerment of local communities to participate in decision making and development programmes ...This has served to strengthen the policy makers' commitment to the policy (cited in Lind & Cappon, 2001:7).

4. Beyond concerns of homogenising discourses of regimes and imperialistic undertones in the crave for decentralisation there has been an aspect that has not received an equally enthusiastic concern and critique and this is the question of human rights. In Uganda there exists a statutory Human Rights Commission that is supposed to examine abuses of past regimes, and the Inspector General of Government (IGG) specifically mandated to inquire into the methods by which state security agencies execute their functions (Oloka-Onyango, 1991). The 1995 constitution also provides for a wide range of liberties and freedoms. At the level of civil society, there exists a host of organisations directly dealing with human rights, such as the Foundation for Human Rights Initiative, whose purpose is to articulate, advocate educate and inform policy makers about human rights principles and the needs and aspirations of the underprivileged. Human rights reports on Uganda have observed a marked positive departure from the past albeit with critical concerns on the criminal procedures and the conduct of the military in areas with rebel insurgency. The current and most prominent discussion relating to human rights in Uganda today is that to do with the right of association and the question political pluralism where the NRM government has actively suppressed the return of political parties and the hence the right to political organisation.
5. Human rights concerns and advocacy in Uganda have therefore concentrated at the centre/national level and the question of local government has largely been left to scholars of public administration who tend to concentrate on managerial performance and efficiency. Also, local government is largely viewed in terms of service delivery as a development issue. Although a few donors and NGOs have attempted to inject the notion of human rights with regard to the service delivery and the broad citizenry, emphasis is still laid within a welfarist approach that does not fundamentally engage the question of rights. A rights-based approach to local government would allow for critical interrogation of people's relationship to local government institutions and the relations that emanate from them. Decentralisation in the context of rights raises issues of people as subjects in the whole question of citizenship and how they are located within the political economic and social processes of local government. The aim of this paper, is to present an overview of the institutional framework of decentralisation in Uganda (within an historical context) and to further explore the role of local government in the implementation of human rights, pointing to possible outcomes- opportunities as well as risks. The paper ends with a highlight of possible areas for future concern.

UGANDA'S LOCAL GOVERNMENT IN CONTEXT

6. Uganda's history of turmoil, mass struggle and reconstruction has a lot to tell us about the nature of decentralisation today. The present decentralisation is largely based on the Resistance Council system that was first established during the civil war of 1981-1985. The general philosophy of decentralisation is then closely related to the 1980s NRM (National Resistance Movement) liberation struggle whose Ten Point Programme had the first objective as to create a local government system that would be democratic participatory, efficient and development oriented, indicating also, that the system would empower communities "to take charge of their destiny through local institutions of self governance and resource mobilisation (Nielsen, 1996:2).

7. The civil war in the 1980s is normally traced to the 1980 elections (Tukaheebwa, 1998, Nuwagaba, 1991), but Ddungu and Wabwire (1991) strongly argue that the fundamental causes of the armed resistance cannot be sought in a single instance of rigging an election. Rather armed insurrection results from the gradual accumulation of contradictions and the level of development of social forces in a given environment, (1991:8). Broad causes of the armed insurrection in the 80's are traced to the crisis of the post-colonial state manifested in military take-overs, state repression and economic crisis (Oloka- Onyango, 2001).
8. The National Resistance Army launched a popular guerrilla movement, which promised a fundamental change in Uganda, and it focused its mobilisation on the rural peasantry and other marginalised social forces. To draw on popular support to counter and survive state oppression, the NRA had to broaden the parameters of popular participation and this brought within its rubric formerly excluded social groups such as women and youth .The development of the Resistance Council (RC) system then directly relates to the specific needs of the mass struggle in the 1980s as a revolutionary process where broader democratic structures become necessary (Ddungu, 1994). The RC system was one such structure that was started in war zones, to enable people choose leaders and to participate in decision making in their communities.
9. The RC system was a hierarchical structure of councils and committees that stretch from village RC1 to District RC5, up to the legislature the NRC. Every village community was organised into a Resistance Council with the Village Council as RC1, parish, RC2 Sub-county-RC3, County RC4 and the District RC5. In respect of each RC there was a resistance committee of nine (9) members elected from the members of the resistance council comprised of the Chair, Vice chair, General Secretary and Secretaries for Women Information, Youth, Defense and Mass Mobilization. Mandatory positions for women and youth in such structures were particularly the first of its kind (Tamale, 1999, Byanyima, 1992). To many observers and scholars, this inclusion of previously marginalised social groups as participants in community affairs was one cutting edge of the RC system in terms of changing the political landscape in Uganda.
10. However, similar to many mass participation and democratic structures evolved within the context of mass struggles, the RC system had a number of democracy deficits. The combination of two contrasting roles i.e. original populist role of RCs as instruments of the people to check state power and their bureaucratisation as instruments of local administration overtime undermined their capacity to fulfil any of the roles (Makara, 1997, Ddungu, 1994). The mode of election was only direct at village level and the rest of the levels were indirect elections where elected members for one level would constitute the Electoral College for the level above it. Hence, “the higher one went up the RC pyramid, the more watered down was the democratic content of the system” (Mamdani, 1996:216).
11. Launching the decentralisation programme in 1992, The president, H.E. Yoweri Museveni, noted that though the RC system had eliminated some of the problems with relation to local authority and peoples participation, it was more of a limited deconcentration. The limitations of the RC system were located in the fact that there were dual systems of local administration, and lack of clear mechanisms of accountability overshadowed any other benefits that could have arisen from the structures. The establishment of the RC system was more or less superimposed on the old system of local administration and as expected, there arose conflict between the RCs and the chiefs. Seeking to place the new initiative of decentralisation within an historical context, the president submitted thus:

You will recall that in 1967, the Republican Constitution replaced the 1962 Independence Constitution that had devolved significant powers to local Authorities and had granted them sufficient revenues to enable them to deliver services efficiently. The 1967 constitution and the Local Administration Act centralised powers and severely constrained local authorities. Between 1967 and 1970 local governance deteriorated rapidly as local Administration political offices became appointive.

Without direct accountability to the electorate for the efficient and effective provision of services, the discipline of the councils degenerated and so did the services...Then came Amin who dissolved District and Municipal Councils in 1971. The Obote II era did not make any effort to revive democratic local governance. Instead, the regime set out to monopolise the control and distribution of resources at the local and national levels partly to acquire a decisive capacity to starve opponents into submission and partly to reward proven party functionaries and supporters (Republic of Uganda, 1992: 1-2).

12. The launch of the decentralisation programme in 1992 led to the Local Government (Resistance Councils) Statute in 1993 and this provided for the transfer of powers and resources to local governments which began with phase one with thirteen districts (out of 45 then). The Local government Statute 1993 gave powers and responsibilities to every RC to exercise political and administrative authority and provide services as it deemed fit within its own area of jurisdiction (Kasumba, 1997). During the Constituent Assembly in 1993/4, decentralisation emerged as one of the most contentious issues with some sections of Ugandan society preferring federalism to decentralisation as they argued that the latter was merely borrowed power (CA proceedings, 1994). But decentralisation had strong backing, also due to the composition of the Constituent Assembly fairly dominated by delegates who supported the NRM positions. Decentralisation was eventually enshrined in the 1995 Constitution.

THE INSTITUTIONAL FRAMEWORK FOR DECENTRALISATION

13. Article 176 (b) of the 1995 Constitution of the Republic of Uganda stipulates that decentralisation shall be the principle applying to all levels of Local government and in particular, from higher to lower local government units to ensure people's participation and democratic control in decision making. Decentralisation in Uganda is legally guided by the Local Governments Act, 1997² whose objectives are stated as follows:

- to give full effect to the decentralisation of functions, powers, responsibilities and services at all levels of local governments;
- to ensure democratic participation in, and control of decision making by the people concerned;
- to establish a democratic, political and gender sensitive administrative set up in Local Governments;
- to establish sources of revenue and financial accountability; and
- To provide for election of Local Councils.

14. The specific objectives of decentralisation in Uganda are stated as:

- To transfer real power to the districts and thus reduce the load of work on the remote and under-resourced central officials
- To bring political and administrative control over services to the point where they are actually delivered, thereby improving accountability and effectiveness, and promoting people's feeling of ownership of programmes and projects in their districts
- To free local managers from central constraints and as a long term goal allow them to develop organisational structures tailored to local circumstances

² Described in its preamble as an Act to amend, consolidate and streamline the existing law on local governments in line with the Constitution, to give effect to the decentralisation and devolution of functions, powers and services; and to provide for decentralisation at all levels of local governments to ensure good governance and democratic participation in, and control of decision-making by the people; and to provide for revenue and the political administrative set up of local governments; and to provide for election of local councils and any other matters connected to the above

- To improve financial accountability and responsibility by establishing a clear link between the payment of taxes and provision of services the finance
 - To improve the capacity of local councils to plan, finance and manage the delivery of services to the constituents.
15. The current system of Councils though based on the RC system presents major changes too. The RCs have been transformed into more conventional local government units, known as Local Councils (LCS). The system of local government is based on the District as a unit rather than a part of a political movement and there are no intermediate levels between the national and local government. Under the district are lower Local governments and administrative units and every local government council is a body corporate. In case of urban councils, the City is equivalent to a district, while municipal councils and Town councils are equivalent to the sub-county as lower local governments (See appendix 1)
 16. According to the Local Governments Act 1997, Councils and Committees are constituted by elected representatives. At LC1, there are ten positions of the Executive Committee, composed of, the chairperson, vice chairperson (also secretary for children welfare, general Secretary, Secretary for Information, Education and Mobilisation, Secretary for Security, Secretary for Finance, Secretary for production and Environmental protection, The chairperson of the Women Councils at village level, also Secretary for Women and Public health Coordinator, Chairperson of the Youth Council at village level also, Secretary for Youths and the Chairperson of the Organisation for Persons with Disabilities (PWDs) at the village level, also secretary for PWDs. At LC 2, all Village Executive Committees in a parish form the Electoral College and elect another Executive Committee with similar positions at that level. Also at LC4 the elected representatives at LC3 constitute the Electoral College from which an executive Committee is elected. In other words with regard to administrative units, the LC system is still similar to the old RC system in terms of election and modes of representation.
 17. At LC5 (Local government) and LC3 (lower local government) levels, representatives, known as councillors are directly elected by universal suffrage on the basis of a ward system, representing sub-counties and parishes respectively. In addition, the 30% quota for women as well as representation for youth and People with Disabilities (PWDs) is effected through separate elections. The Youth representatives, a male and a female, are elected through their organisation of Youth Councils, while the PWDs are elected through their National Union of Disabled Persons (NUDIPU). With regard to women, a separate quota of one-third is effected through an election that redraws the existing constituencies to get the women's representation.

POWERS OF LOCAL GOVERNMENTS

18. The district, the highest tier, is governed by a District Council (DC) which is in turn presided over by a (full time) Executive Committee, consisting of the district chairperson, elected as a political head, by Adult suffrage, a speaker and deputy, elected from among the members of the DC, as well as the vice chairperson and secretaries, nominated by the chair and approved by the council.
19. Councils at Sub-county level, are constituted by the chairperson, elected as so by universal suffrage, and councillors elected according to their constituencies. In the case of the sub-county, only the chairperson is full time. The administrative units, namely, the County, Parish and Village levels are governed by committees and are mainly to assist in implementation of district programmes, mobilisation, communication and generally assist in maintenance of law and order.
20. The powers of local governments (Districts) are described as:

To deliver services which include primary and secondary education, hospitals, health centres, control of communicable diseases, construction and rehabilitation and maintenance of roads, agricultural extension, district planning, land surveying, land administration, physical planning, forests, wetlands, street children and orphans, community development, trade licenses, licensing of produce buying, district information services and social welfare development (ROU, 1994)

21. Translated and detailed by the LGA (1997), the above powers mean that Local governments are thus legally vested with planning and legislative functions. The District Council as the supreme organ in local government, has powers to enact district laws as long as they are not inconsistent with the Constitution or any other law made by the national legislature. This power is to be exercised by the passing of local bills into ordinances. The LGA (1997) permits local governments to budget and make development plans and allows local government to levy, charge and collect fees and taxes, including rates, royalties, stamp duties, personal graduated tax and registration and licensing fees (Ministry of Local Government 1998:4).
22. Within the new political dispensation, local governments raise and retain all local revenue as provided for by the Act. However some observers have noted that the financial powers supposedly devolved to local government are limited. Local revenue is minimal, as the main source tends to be graduated tax and trade licensing. The President of the Zimbabwean Association of Rural district Councils for instance noted that decentralisation in Uganda was a hoax because the centre had denied local authorities real financial power (The new Vision October 7, 1999). His observation was that central government had retained the major sources of revenue and had only decentralised minimal sources, such as graduated tax and trade licensing which do not derive substantial revenue. Graduated tax in particular is costly in terms of assessment and collection. Performance indicators for a number of districts have been dire as the number of defaulters have been on the increase. Much more importantly, the tax base is also narrow considering that majority of the population depend on agricultural production. As a result, local governments have tended to rely more on central government transfers rather than internally generated revenue, which to some observers begs the question of whole notion of decentralisation in the first instance.
23. Furthermore, central government still retains major sources of livelihood in terms of natural resources. In the second schedule of the Local Governments Act (1997) the centre retained the following functions: mines minerals and water resources and the environment. It also retained the responsibility for national parks and making policies for forests and game reserves (Muhereza et al. 2001).
24. The various functions of local governments exercised through a number of structures. District Councils are mandated to appoint standing committees (not exceeding five) for the efficient performance of their functions (LGA, 1997:Section 23(1)). Standing committees are constituted by councillors and the chairperson of each committee is elected by simple majority from members of the council who are not members of the Executive Committee. Standing Committees also referred to as sectoral committees are supposed to be key arenas for planning and monitoring where councillors deliberate on budget estimates and reports from relevant sectors.
25. The council is supposed to prepare comprehensive plans that incorporate of the lower local governments through the technical planning committee constituted by heads of departments and the Chief Administrative Officer. The planning function is the nerve centre of decentralised local governance and in terms of policy, there is a good framework for bottom up identification of priorities and incorporating them in the development plans from village to District level. Village and Parish Councils (i.e. all adults of 18 years and above residing in the village/parish) are convened in what is termed as a budget conference and priorities are identified and sent through to the Sub-County (LC3). The Sub-county council is supposed to prioritise further so as to

enable the sub-county technical committee come up with a plan. The District budget Conference hence takes place finally to aggregate priorities from all the sub-counties. As described by one official the process of planning seems to be all-inclusive:

26. At the conference, that is where we get needs of the people, they are divided into sectoral groups, e.g. education, health and they come up with the problems in those sectors. The District Technical Committee then sits down to discuss the problems /needs (DWGS, 2001).
27. Furthermore, the LG councils are vested with powers to appoint boards and committees for efficient, effective and transparent service delivery. As specified in the Act, DCs are supposed to appoint a District Service Commission, District Tender Board and Local Government Public Accounts Committee. The District Service Commission is appointed by the District Council, on recommendation of the District Executive Committee. The DSC is mandated to recruit, confirm promote discipline and fire all employees in the services of the district or lower government council. This henceforth abolished the hitherto dual personnel systems where there was a level of field staff employed by the District service Committee and those recruited by the central government through the Public Service Commission. The latter was what was known as the integrated personnel system where staff was recruited and posted to districts through their line ministries. This meant that part of the staff owed their allegiance to their parent ministries and the councils had no control over activities of such staff (Ashaba -Aheebwa, 1997)
28. Local Government Tender Boards, are also appointed by District Councils, on recommendation of the DEC. The Local government tender boards are supposed to act upon the request by the Local council seeking procurement of goods, services or works. The tender board therefore takes care of the procurement and contractual process which is supposed to be separate from the council to avoid conflict of interest in as far as politicians are concerned. Also, the district council appoints a Local Government Public Accounts Committee which is supposed to examine financial reports of local governments and submit reports to the Minister of Local Government (at the centre).
29. Actual development takes place at the level of lower local governments (Sub-county) . Development projects from the district and donors are operationalised at this level and here we find various avenues for participation. There are numerous committees for different areas of service delivery at local level, such as investment, water user Committees, School management, health and environment. Functions of these committees range from management to monitoring as well as mobilisation of community.

Summary of Powers and Functions of Local Governments in Uganda

Make Policy and regulate the delivery of devolved services
 Make development plans based on locally determined priorities
 Raise revenue, including determining and implementing revenue raising mechanisms
 Make, approve and execute own budgets
 Alter or create new boundaries
 Appoint statutory committees, boards and Commissions for personnel, land, procurement and accountability
 Establish or abolish offices in the public services of a District or Urban council, including payroll and pension
 Make ordinances and bye-laws that are consistent with the Constitution and other existing laws
 Have responsibility to manage a broad range of services including primary, secondary trade, special and technical education, hospitals other than hospitals providing referral and medical training, health centres, construction and maintenance of feeder roads; provision and maintenance of water supplies; agricultural extension services; land administration; and community development.

EXAMINING OPPORTUNITIES PRESENTED BY DECENTRALISATION

30. One of the most apparent opportunities embedded within the decentralisation framework is the right of participation. In the National objectives, the Constitution explicitly states that the state shall be guided by principles of devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their own affairs ((Wagaba, 2002). Participation as a human right is an essential aspect in determining the democratic content of any political system. It is observed that there is citizen participation in the selection of representatives through periodic elections and there has been a relatively increase in community involvement in the local government planning process. There is enormous community participation engendered, by the multiple layers of activity at the different levels of local councils.
31. The structure of decentralisation has also provided a framework through which various donors can initiate projects. For instance, UNICEF, in conjunction with the Directorate of Water and Sanitation operates through the LC system to improve water sources for communities. The United Nations Capital Development Fund, working with the Ministry of Local Government initiated a District Development Programme (DDP) in a number of districts. All these programmes set up committees for managing the projects. In relation to the DDP for instance it is specified in the programme document that the project management committees shall be composed of LC 2/1 representatives, community representatives from the catchment area (the area in which the investment will yield benefits), representatives of disadvantaged group (women youth and disabled, and specified explicitly that forty percent shall be women. In this way, a form of community empowerment is being nurtured.
32. Nonetheless, questions regarding what participation, not for its own sake, but rather meaningful citizen involvement, are continuously being raised. For instance, Communities strongly criticise the way in which district tendering and the whole contractual process is handled. In a group discussion at Misindye in Mukono, (Central Uganda) an example of construction of pit latrines was given. Contracts are awarded to people from outside the communities to construct pit latrines at high costs whereas local people would construct them at a relatively less cost and at the same time derive more meaningful benefits. Community development workers were of the view that participation would have more meaning, if the poor were mobilised to provide some of the goods and services that do not require heavy machinery and financial input such as supply of plant materials, piglets, simple furniture and construction of pit latrines and simple water sources. It was observed that the procurement process largely benefits the rich and technically excludes the poor more so the women. In their view, the rigid formal rules and technicalities only function to conceal the heavily guarded lucrative ground for the tender board and elite business community. Community participation is instead advocated in many other ways but mostly in less lucrative arenas or those where free labour is expected and this, in some cases, breeds apathy and discontent.
33. The Local Governments Act (1997) allows local governments to manage their cultural affairs. This has also engendered the formation of new districts constituted of a people formerly subsumed under dominant cultures. Within a pace of about five (5) years, over 11 new districts have been created. 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 (Kayunga, 2000).
34. On the whole, therefore decentralisation in Uganda has the potential for generation of spaces for citizen demands for services and accountability. However such concerns have not been framed within the context of human rights which in turn would give it more significance in as far as

people's relationship to local government is concerned. Below we also look at the possible risks of decentralisation that may have far reaching consequences.

HUMAN RIGHTS AND THE RISKS EMBEDDED IN DECENTRALISATION: FOLLOWING THE POINTERS IN CONTEMPORARY POLITICS

35. The opportunities noted above simultaneously present contradictory processes. There are evident risks of oversight in some cases as well as blatant abuse of human rights in others.
36. The very notion of people determining their own history and the impulse for cultural homogeneity is very problematic in the context of Uganda a country with a very complex set of ethnic composition and heterogeneity. For example, the power of the districts to employ staff has bred what is locally known as the "son of the soil syndrome". Within the working of the District service Commissions, the phenomenon has been for each district to employ people who regard a particular district as their native home. One observation that civil servants in local governments always make is that decentralisation subsumed them under the political leadership and one is also stuck in a place where decentralisation found him/her. The contestation between civil servants and elected representatives tends to sharpen in cases where, for example, the concerned civil servant is not a native of that particular district. In the on-going 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 districts.
37. Feelings of marginalisation have become apparent in districts with a particularly identifiable concentration of immigrants. In Mbale district in the East of Uganda, there is a case of a parish called Kilayi where people feel that they are culturally and politically dominated, and would like to be transferred to the neighbouring district of Sironko³. The community of Kilayi – 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 Bakilayi 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 (Opolot: 2001). In Mubende District in the central region, there is a village known to be dominated by immigrants from the west of the country. During a group discussion, people graphically demonstrated their marginalisation in that the only officials that found it easy to reach this particular area were those to do with law enforcement and tax collection. The rest- be it extension staff, medical personnel and the like, find the village inaccessible. This, the people felt was a case of marginalisation because they are immigrants. This phenomenon that has been apparently aggravated by the decentralisation process because now, the area is much more subjected to the whims of local politics.
38. 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.

³ Sironko is a new district created out of Mbale

39. Apart from the obvious question related to the viability of units being created, human rights implications of this intricate process have to be addressed.
40. The notion of territoriality has further aggravated existing conflict between people. One glaring example is the current crisis in Eastern Uganda. The NorthEastern part of Uganda is occupied by the Karimajong, a pastoralist community that was marginalised since the colonial times. There is even a local popular saying that "Uganda cannot wait for Karamoja to develop"⁴. Their way of life which is nomadism -migration in search of pasture and water for cattle was curtailed by the colonial process and the drawing of boundaries. But the Karimajong have often defied boundaries and grazed their cattle in outside areas, which fact subsequently places them in conflict with the neighbouring districts. Because Karamoja is situated right in the midst of a volatile region with Somalia, the SPLA (Sudan Peoples Liberation Army) and the Lords Resistance Army rebels in the neighbourhood there is a lucrative arms trade that has therefore enabled the Karimajong to have access to arms that have then been further used in the cattle rustling and raids. In the recent times, the press has been flooded with the stories of the Karimajong gone on rampage raiding neighbouring district and causing displacement and untold suffering. A large percentage of people in neighbouring district of Katakwi are currently living in camps due to this conflict.
41. The point here is not the mere existence of a conflict but the form it has taken with the onset of decentralisation. Through discussions, a researcher on Karamoja noted that the current conflict had been aggravated by the district officials in Katakwi, particularly who cultivated the "us and them" dichotomy into the official ideology. He noted that prior to decentralisation, conflict existed but there were isolated incidents rather than mass killings and looting. In his view there in fact existed a symbiotic relationship between the people of Teso (neighbouring districts of Kumi, Katakwi and Soroti) and the Karimajong with the former providing foodstuffs such as potatoes and Cassava and the latter, milk and in some cases animals. The Karimajong would be allowed to graze in the fields in Teso during the post-harvest season. Currently, Teso is declared a no-go area for the Karimajong. It was reported in the press that Katakwi district had lost Sh. 346 million (Three Forty Six Million Uganda Shillings- approximately 280,000 US Dollars) in tax revenue. The Katakwi Security Committee passed a resolution placing a ban on transporting cattle through Katakwi from the Karamoja region (The New Vision Newspaper, August 2, 2000). Subsequently the Resident District Commissioner (RDC)⁵ of Moroto (Karamoja) is reported to have addressed the fellow RDC in Katakwi thus:

You and I are part of the presidency. The presidency cannot follow local emotions. It is our duty to harmonise our people regardless of our own personal sentiments for this is what nation building is (The new Vision Newspaper, August 18, 2000).

42. The above dialogue between the respective RDCs raises issues around dangers of localism and indirectly hinges on the important aspect of human rights. The high premium placed on territorial boundaries particularly by the district leadership goes against the grain of harmony and nation building. In the New Vision of August 25, 2001, it was reported that the Karimajong elders particularly pointed an accusing finger to the Katakwi District chairperson, for blocking reconciliation and peace initiatives in the region. This is a very clear case of potential risks of decentralisation which has created a strong identity of small "*nation states*" at the local level, further problematising the relationship between nationality and citizenship. It has also been

⁴ The Vice President Dr. Specioza Wandira Kazibwe is even reported to have publicly apologised to the karimajong for the neglect they have suffered under the successive governments. She said: "It is now significant that we want to apologise to the Karimajong that for long they have not been part of Uganda's development process" (The Monitor Newspaper, August 21, 2001)

⁵ The RDC is a presidential appointee and not part of the elected representatives of the district. The function of the RDC is represent the president and government in the district especially in matters of security and any others of national importance (LGA 1997 Part vii)

observed by communities especially in historically disadvantaged districts that decentralisation has widened the gap between rich and poor districts - making the former richer and the latter poorer (Muhereza et al., 2001).

43. With regard to the actual powers devolved to local governments and Councils there is a question of insufficient devolution as well as the unintended dire consequences of devolved powers for specific social groups. I will illustrate this point with two examples, one relating to natural resources and the other, to conflict/dispute resolution/settlement at local level.
44. The question of natural resources and the relationship between them and communities has particularly become a thorny one in the era of decentralisation. The contradiction has been that with decentralisation there has been much more systematic alienation of people from what is considered natural resources under the jurisdiction of central government. Insufficient devolution of powers with regards to natural resources has pitted the people against the environment and what people call hunting, the Uganda Wildlife Authority classify as poaching (Bazaara, 2001). Even with the concept of community management being introduced into dealing with protected areas, poor people are still alienated from the process and the terms of the Wildlife Authority are generally paramount. Rights of livelihood for people who derive sustenance from the now protected areas become a critical question.
45. In terms of local disputes village councils have the authority to settle civil disputes, including those related to land ownership, domestic conflict and payment of debts. General concern has been raised over the fact that, LCs often exceed their authority by hearing criminal cases including murder and rape/defilement (Human Rights Report, 1993). However there are even other under-currents that the socially powerful groups are given an upper hand in these supposedly local and participative processes of dispute settlement. This supports the warning advanced by Griffith who argues that decentralisation and similar initiatives that tend to romanticise the local level and local participation may not necessarily engender democracy since power at the local level tends to be more concentrated and in some cases exercised more ruthlessly against the poor and the socially powerless groups (Ahikire:2001). Poverty assessments carried out under the auspices of the Ministry of Finance, Planning and Economic Development (MFPED) across the country have established that local councils promote development but are in some cases endangering development and human rights. In Kapchorwa (eastern Uganda) it was found out that land was getting concentrated in the hands of the rich. Poor people complained that judgements in land wrangles were usually in favour of the rich due to corruption and bribery. They also complained that local councils over-assess them for graduated tax (Muhereza et al. , 2001:13).
46. It is interesting also to note what is going on in some districts with regard to the general cultural identity. Decentralisation seems to have created a space for cultural expression that rearms those who are in position to determine the "common good". Women in Local Councils for instance, have been reported to be subjected to a powerful comeback of notions of womanhood that were otherwise under attack nationally. Selection processes in elections have been known to determine preference on the basis of notions of womanhood that comply with what is expected of a subservient woman, a wife in particular. In Mukono District for instance, a woman seeking to be elected is required by general consensus to kneel in front of the voters greet them as a "typical Muganda woman". Inside local councils, women in certain districts are required to dress in a certain way and even kneel for, and serve food to their fellow male councillors (Ahikire:2001). Women are supposed to behave in a certain way and are, in some cases, treated as squatters in a supposedly alien system of public engagement. The ways in which tradition could reposition itself (Walker, 1995) within this relatively democratising trend may have far reaching impact on women's rights, threatening to undermine the progress that is already registered nationally.

47. The examples given above demonstrate a danger in which decentralisation could turn into an instrument of local oppression under the guise of local participation and democracy. What is needed is therefore to find ways that enhance the positive aspects of decentralisation while combating the weaknesses that might undermine or even abuse people's human rights.

POSSIBLE AREAS FOR FUTURE CONCERN

48. As the foregoing overview Uganda has illustrated, the decentralisation process in Uganda has gone a long way in devolving powers to local governments and to some extent created avenues for citizen participation in matters of relevance to their local reality. It is however noted that concerns around decentralisation, are yet to embrace a human rights discourse that would allow for specific focus on the extent to which, local governments are promoting and further protecting human rights. The following are broad areas identified for critical investigation:

- Ethnic tensions and the role of decentralisation in promoting ethnic identity
- Rights and peoples perceptions of decentralisation
- Service delivery of local government and potentialities of a human rights discourse
- Gender equality/inequality as a human rights issue and the extent to which rights of people as men and women have been /can be promoted in the current decentralisation framework
- The role of NGOs (Non-governmental Organisations) and CSOs (Civil Society Organisations) in the promotion of human rights in local governments
- Locating the donor community and AID agencies
- Nationality and citizenship- the possible consequences of intense localism vis aviz broad national discourses

REFERENCES

- Ahikire J. (2001) Gender Equity and Local Democracy in Contemporary Uganda: Addressing the Challenge of Women's Political Effectiveness in Local Government, Working Paper No. 64, CBR (Centre for Basic Research) Kampala
- Barya, J. J. (1996) Internal and External Pressures in the Struggle for Pluralism in Uganda, J. Oloka Onyango et al. (eds.) *Law and the Struggle for Democracy in East Africa* Clari Press, Nairobi
- Bazaara, N. (2001) Participation and Environmental Accountability in Uganda's Decentralisation; Problems and Prospects, CBR (Centre for Basic Research) Bulletin Vol. 3 No. 2, Kampala
- Busuttill, J. et al. (1991) Uganda at the Crossroads – A Report on Current Human Rights Conditions, A report of the Committee on International Human Rights of the Association of the Bar of the City of New York
- Byanyima, W. (1992) Women in Political Struggle in Uganda, M.J.Bystydzienski, (ed.) *Women Transforming Politics: Worldwide Strategies for Empowerment*, Indiana University Press, Bloomington & Indianapolis
- Byaruhanga Rukooko, A. (2000) Buganda's Quest for self-determination: Possibilities and Challenges to Human Rights, paper presented at a CBR (Centre for Basic Research) Seminar, May 4, Kampala
- Crook, R. & Manor J. (1998) *Democracy and Decentralisation in South Asia and West Africa: participation, Accountability and Performance*, Cambridge University Press
- Ddungu E. & Wabwire E. (1991) Electoral Mechanisms and the democratic process: The 1989 RC-NRC Elections, Working Paper No.9, Centre for Basic research Publications, Kampala.
- Ddungu, E. (1994) Popular Forms and the Question of Democracy: The Case of Resistance Councils in Uganda, M. Mamdani & J. Oloka Onyango (eds.) *Uganda: Studies in Living Conditions, Popular Movements and Constitutionalism*, JEP Book Series, Vienna
- Doornbos, M. (1999) Globalisation, the State and other Actors: Revisiting state Autonomy in J. Martinussen (ed.) *External and Internal Constraints on Policy Making: How autonomous are the States ?* Occasional Paper No. 20, IDS Roskilde
- Goetz, A.M. & Jenkins, R. (1999) Creating a Framework for reducing Poverty: Institutional and Process Issues in National Poverty Policy, Uganda Country Report, Commissioned by DFID & SIDA
- Goetz, A.M. (2000) Accountability to Women in development Spending- the Local Level, Unpublished Paper
- Griffith, K. (1981) Economic development in a Changed World, *World Development*, Vol. 9, No.3
- Hansen H.B. & Twaddle (eds.) (1988) *Uganda Now: Between Decay and Development*, Heinemann, Nairobi
- Hansen, B. (1999) Policy Making in Central-Local Government Relations: balancing Local Autonomy, Macroeconomic Control and Sectoral Policy Goals, *Journal of Public Policy* 19(2)
- Human Rights Report 1993 : Uganda

- Human Rights Watch (1999), *Hostile to Democracy? The Movement System and Political Repression in Uganda*
- Kasumba, G. (1997) *Decentralising Aid and its Management in Uganda: Lessons for Capacity Building at the Local level*, Working Paper No. 20, European Centre for Policy & Management
- Kayunga S.K. (2001) *Decentralisation and the Management of Ethnic Conflict in Uganda*, CBR Seminar paper
- Makara, S. (1997) *Linking Good Governance, Decentralisation Policy and Civil Society*, ***Makerere Political Science Review***, Vol. 2
- Makara, S. (1998) *Political and Administrative relations in decentralisation*, in A. Nsibambi, (ed.) ***Decentralisation and Civil Society in Uganda: The Quest for Good Governance***, Fountain Publishers, Kampala
- Mamdani, M. (1996) ***Citizen and Subject: Contemporary Africa and the Legacy of Colonialism***, Fountain Publishers, Kampala
- Manor, J. (1999) *The Political Economy of Decentralisation*, The World Bank Washington
- Muhereza, F. Et al. (2001) *The Participatory Poverty and the Environment Case Study: A review of Linkages between Sustainable Natu*
- Mutizwa – Manza & Conyers, D. (1996) *Decentralisation in Practice, with special reference to Tanzania Zambia and Nigeria*, ***Regional Development Dialogue***, 17 (2)
- Nielsen, H. (1996) *Donor Support to decentralisation in Uganda: Experiences from Rakai District 1990-5*, Working Paper No.9, ECDM Maastricht
- Nyangabyaki, Bazaara (2001) *From Despotic to Democratic Decentralisation in Uganda: A History of Accountability an Control over Nature*, Unpublished Paper
- Oloka- Onyango (1998) *State Structures and Governance in Contemporary Uganda*, Working paper No. 52, Centre for Basic Research, Kampala
- Oloka-Onyango (1991) *Human Rights and the Democratic Question in Uganda*, Paper presented at a Uganda Law Society symposium, July 18-19, Kampala
- Oloka-Onyango (2000) *Uganda's Benevolent Dictatorship*, <http://www.udayton.edu/rwanda/articles/uganda.html>
- Opolot, S. (2001) *Decentralisation or Balkanisation? A Community's Struggle for democracy and Control over Forest resources: The Case of Kilayi Parish, Bufumbo Sub-County, Mbale District*, CBR Bulletin Vol. 3 No.2
- Republic of Uganda(ROU) *The Local Governments Act 1997*, Entebbe Government Printers
- ROU *The Constitution of the Republic of Uganda, 1995*, Entebbe Government Printers
- Saito, F. (2000). *Decentralisation in Uganda: Challenges for the 21st Century*, Unpublished Paper
- Tamale, S. (1999) ***When Hens begin to Crow: Gender and Parliamentary Politics in Contemporary Uganda***, Fountain Publishers, Kampala

Totemeyer, G. (1994) Challenges for Democracy, Decentralisation and Empowerment in Africa, *Regional Development Dialogue*, 15 (1)

Tukaheebwa, G (1998) The Role of District Councils in Decentralisation, in A. Nsibambi, (ed.) *Decentralisation and Civil Society in Uganda: The Quest for Good Governance*, Fountain Publishers, Kampala

Wagaba F.X. (2002) The Decentralisation System: Uganda's Experience, Decentralisation Secretariat

Walker, C. (1995) Women, "Tradition" and Reconstruction, *South Asia Bulletin*, Comparative Studies of South Asia, Africa and the Middle East, 15(1)

APPENDIX I

LIST OF DISTRICTS- UGANDA

1. ADJUMANI	17.KAMULI	33. MASAKA	49. RUKUNGIRI
2.APAC	18.KAMWENGE *	34. MASINDI	50.SEMBABULE*
3. ARUA	19. KANUNGU *	35. MAYUGE*	51. SIRONKO *
4. BUGIRI	20.KAPCHORWA	36. MBALE	52.SOROTI
5.BUDIBUGYO	21. KATAKWI	37.MBARARA	53. TORORO
6. BUSHENYI	22. KASESE	38. MOROTO	54. WAKISO *
7.BUSIA	23. KAYUNGA *	39. MOYO	55. YUMBE *
8. GULU	24. KIBALE	40. MPIGI	
9.HOIMA	25. KIBOGA	41.MUBENDE	
10. IGANGA	26.KISORO	42.MUKONO	
11.JINJA	27.KITGUM	43.NAKASONGOLA	
12. KABALE	28.KOTIDO	44. NTUNGAMO*	
13.KABALORE	29.KUMI	45.NEBBI	
14.KABERMAIDO	30. KYENJONJO *	46.PADER *	
15.KALANGALA	31. LIRA	47.PALLISA	
16.KAMPALA	32. LUWERO	48. RAKAI	

New Districts created after 1992