



UGANDA LOCAL GOVERNMENTS ASSOCIATION

**SUBMISSION OF ISSUES ON THE CONSTITUTION
(AMENDMENT) (NO.2) BILL OF 2005**

TO

**THE PARLIAMENTARY SESSIONAL COMMITTEE
ON PUBLIC SERVICE AND LOCAL GOVERNMENT**

MAY 2005

I INTRODUCTION:

Uganda Local Government Association (ULGA) is the national Association of Districts and Lower Local Government Councils. The Association objective is to unite and strengthen the local governments and build their capacity for efficient and effective delivery of public services to the population. The main functions of ULGA are advocacy and negotiation on behalf of the local governments for strengthening of decentralization in Uganda, mobilizing and sensitizing the local governments on matters that affect local governance, communication and information, training conflict resolution and management, financial management and planning services. ULGA champions the principles of gender, equity, sustainability, efficiency, accountability, and transparency in local government management and cherishes local democracy and development.

The Executive Committee of ULGA, considered the proposed amendments of the 1995 Constitution of the republic of Uganda embodied under the Constitution (Amendment) (No. 2) Bill, of 2005. The critical issues identified were discussed at a meeting of all District Chairpersons on the 12th of May 2005. It is in line with the outcome of this general meeting that the following submission is now made:

II ULGA'S OVERALL POLICY ON LOCAL GOVERNMENT AS A SYSTEM:

The Local Governments of Uganda derive their existence from the National Policy on Decentralization. It is therefore from this basis that ULGA in pursuit of its objective of strengthening Local Government as a system by ensuring efficient and effective service delivery, that it sets out to promote and further the implementation of Decentralization as a policy.

ULGA as a matter of policy supports the continued implementation of the policy of Decentralization, hinged on the fact that:

1. A Clear Policy and Legal Frame work does exist:

Decentralization has been entrenched in the Constitution, the highest law of the land, and given full effect by an Act of Parliament. This has helped to give the Local Governments the necessary direction and guidance.

2. Political Commitment is enjoyed by the Local Governments:

Local Governments have the full confidence in the personal commitment of H.E. Yoweri Kaguta Museveni, President of the Republic of Uganda, to devolve power to the people through their popularly elected councils. The National Resistance Movement Government upholds the principles and objectives of decentralization. The Local Governments and people of Uganda regard this as a major achievement.

3. Democratization is being actualized:

The impact of decentralization has been seen in its efficacy to inculcate the fundamentals of democratic governance at all levels of our society. This is evident in the bottom-up planning and budgeting processes and renewal of political mandate through regular free and fair Local Council elections. It is also seen in participation of the women, youth, persons with disability and the elderly in decision making at all Local Councils, as well as existence of a vibrant and free press and media who provide fora for critical and constructive debate on local governance.

4. Effective Public Service delivery is taking place:

Our situation today is nowhere comparable to the period under the centralized regimes. A lot has been done by the Local Governments in delivering services to the people. Infrastructure has been built. There are tremendous achievements in Universal Primary Education, Modernization of Agriculture (particularly the extension services), classroom construction, Primary Health Care, the provision of safe and clean water, district and community roads, community welfare services, etc.

5. Poverty Reduction

The records registered by Uganda on the African continent with respect to reducing poverty and increasing the pace of economic growth could not have been possible without the active involvement of the Local Governments. This has been possible because by design, decentralization brings political and administrative control over services to the point where they are actually delivered thereby improving accountability and effectiveness and promoting the peoples feeling of ownership of programmes and projects executed in their Local Councils.

6. Improved Financial Management has been manifest:

Decentralization gave the Local Governments powers over their planning and budgeting functions. Planning units and budget desks were established to strengthen the technical capacity of the councils in this aspect. It is no longer necessary to refer to the Center for approval of plans and budgets. Local Governments have excelled in bottom-up and medium-term comprehensive planning and budgeting. The role of councils in financial management has also improved with time. Councillors play an important role in supervision, monitoring and evaluation of all LG activities.

Their oversight function and political support to the administration cannot be over-emphasized. The increased reporting by members of the public on cases of mismanagement is a clear sign of the transparency of the system of Decentralization.

7. Administrative Efficiency has taken place:

The Staffing and management were decentralized. This led to an increase in staff efficiency, since the employer was on sight unlike under the centralized system where the master operated remote control of staff. The Chief Executives were given powers to manage personnel, financial and material resources, reporting directly to the local council. The establishment of Statutory Boards and Commissions and Office of the Resident District Commissioner (RDC) in every District helped to enhance the service delivery machinery and co-ordination with the Central Government.

III SUBMISSION:

The proposed amendments embedded in the Constitution (Amendment) (No. 2) Bill, of 2005, seek to Introduction of the Regional Tier of Government within the Local Government system. On this matter, ULGA submits as follows:

- **Clause 4: Amendment to Article 178 of the Constitution:**

The proposed replacement of Article 178 introduces the idea of regional government as established through the co-operation of two or more districts.

- i. Under the new provision for **Article 178 (2)**, the procedure for an agreement by a district to join the regional government is provided for. It has been observed that reference is made to the requirement for approval by a majority of two thirds of the members of the district Council and the ratification of the resolution by not less than two-thirds of the sub-county councils in the district.

The requirement for the need to ratify the decision by a district to co-operate under the regional tier arrangement by two-thirds of the sub-county Councils in the District raises the issue as to how the interests of the Urban Local Governments have been handled.

Recommendation:

ULGA submits that the existing structure of local governments is one, which is comprised of a five tiered level of independent entities, three of which, form the Local Government institution the rest being administrative Units. It is therefore necessary to be cautious and put in mind the degree of representatives required at the Regional Government level for purposes of ensuring inclusiveness and establish ownership amongst and through all the existing Local Government structural mechanisms within a specific Region.

- ii. It is further proposed under new provision for **Article 178 (7)**, that a Regional Assembly formed under the said article shall be the highest political authority within its region and shall have political, legislative, executive, administrative and cultural functions in the region.

The observation on the proposal is that it establishes a scenario whereby, if the Districts agree to join together to form a Regional Government, they lose their political independence and instead submit to the political authority of the Regional Government. Does this then not mean that the

identity and decision making authority of the District Local Government is subsumed within the Regional Government's powers?

Recommendation:

It is therefore the recommendation of ULGA that the District Local Governments although in agreement to form a region should not be subjected to political authority of the Regional Government. They should remain intact as independent political, units but can be advised by the Regional Government where necessary.

- iii. Under new provision for **Article 178 (12)**, provision is made for a new Fifth Schedule of the 1995 Constitution:

The proposals contained in this schedule lay down more detailed provisions for the establishment, and functioning of the proposed Regional Government.

Recommendations:

ULGA makes the following prepositions on the proposals contained in the schedule:

a) Composition of the Regional Assembly:

Sub Clause 2 (1) (e) of the proposed new Fifth Schedule to the Constitution makes provision for the position of District Chairpersons in the region as being that of ex-officio members with no right to vote.

The issue here is that the Chairpersons represent the institution that bears the nomenclature of ownership and has interests in whatever happens at the

Regional Government level as founder members. It is therefore pertinent that the chairpersons being the representative of the region have full rights to vote on issues for which they will be held accountable by virtue of their representative position.

b) Co-operation with Central Government:

It is proposed under **Sub Clause 6** of the Schedule that Regional Government shall co-operate with the Ministries of the Central Government but that on policy matters they shall liaise with the Office of the President.

The above position raise issue as to whether the Regional Government is part of the structure of Central Government or whether since it is formed by the Local Government it should rest more with the Local Government system.

It is the submission of ULGA that since it is the Districts that agree to co-operate and form the Regional Government, the principle of devolution should take its full course and therefore the issue of liaison with the Office the President should not arise. What should be done is to provide for policy and legislation that ensures that policies of Regional Government are subjected to implementation of National policy, as in the case of the District and Lower Local Governments.

c) Functions and services of Regional Governments:

The Bill spells out the functions and services of the Regional Tier **under Sub Clause 9** of the Fifth schedule.

Although there are proposals, which are specific like in the area of the Regional Referral Hospitals and the regional roads, it is also important to

have a clear demarcation of responsibility like in matters concerning water and sanitation, between the Regional tier and the Local Governments. Today, District services include provision of water services, sanitation, forests, and cultural affairs and land administration.

ULGA recommends that it should be clear as to whether services, which hitherto the Districts have been handling like water, are to be surrendered in total to the Regional Government level.

If not, there should be clear distinction as to what extent each level's obligation shall lie towards the same service. In this case, it is necessary to establish dialogue between the Regional tier and the Local Governments, as regards the nature of functions to be managed at the Regional level. Such dialogue can allow for equitable sharing of the obligations of local service delivery as well developing a sense of programme ownership and responsibility amongst the two respective levels, henceforth promoting efficiency and effectiveness in programme implementing and meeting the needs of the people of Uganda.

d) Land:

It is proposed under sub Clause 10 of the Schedule that a Regional Government may establish a Regional Land Board.

As indicated in the submission on the functions and services of the Regional Government, **ULGA submits** that there is need to clearly spell out the functions of this Board so that they do not overlap or conflict with the land administration responsibility undertaken by the District Local Governments.

e) Financial provisions for regional Governments:

Sub Clause 11 of the Fifth Schedule provides for the form of financing for the Regional Government level.

ULGA **recommends** that there is need for stronger commitment by the Central Government with regard to providing for a sound financial base on which the system of Regional Government and more to say, on which Local Governments can stand. Today, there are some devolved functions and responsibilities of Local Governments, which remain inappropriately funded. Similar situations at the Regional level should be avoided for the future.

WE HUMBLY SUBMIT THE ABOVE VIEWS AND PROPOSALS FOR YOUR CONSIDERATION.

Capt. John Emily Otekat

PRESIDENT-ULGA