



THE FEDERAL QUESTION IN UGANDA

By Yasin Olum

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ISBN No. 978-997-09-144-0-1

Published by

Friedrich-Ebert-Stiftung
Uganda Office
5B, Acacia Avenue
P.O.Box 3860
www.fes-uganda.org

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Table of Contents

Acknowledgements	2
Foreword	3
List of Boxes	4
List of Figures	5
List of Tables	6
Executive Summary	7
The Findings	9
Chapter One: Introduction	14
Background to the Study	14
Purpose of the Study	18
Goals and Objectives of the Study	19
Chapter Two: The Meanings, Significance and Models of Federalism	20
Introduction	20
Definition of Federalism	20
Why Federalism?	22
Models of Federalism	25
Issues to Consider in Designing Federalism	28
Challenges of Federalism	32
Chapter Three: Methodology	34
Chapter Four: Presentation of the Findings and Analysis	37
Introduction	37
Definition of Federalism	37
Why Federalism?	49
Model of Federalism Suitable for Uganda	59
Issues to Consider in Designing Federalism	74
Challenges and Remedies to Introducing Federalism in Uganda	81
Chapter Five: Conclusions	85
Chapter Six: Recommendations	87
Bibliography	96
About the Author	107

Acknowledgements

This book is the result of two years of research undertaken in Uganda. It arose from my personal reflections on the subject of federalism which, if not handled with utmost care, has the potential to cause political instability and fragmentation, in part because of the emotional and under-informed manner in which it is being debated. In this regard, I am deeply indebted to the Friedrich-Ebert-Stiftung (FES) for awarding me the grant to conduct research on it. I must single out for mention, the resident representative of FES, Sarah Tangen, and program officer Henry Kasacca for not only endorsing my concept note but also for the financial support of FES and helpful comprehensive comments, respectively. Their personal interest and transparent discussions on the subject greatly sharpened the focus of the research and the intellectual direction it took. Without their involvement, I might not have proceeded with the work. In this vein, I wish to admit that I benefitted enormously from their insightful contribution to the eventual analysis of the federal question in Uganda for the period 1962 to 2012. I also wish to extend my appreciation to my research assistants, led by Wilson Asiimwe, who traversed Uganda to interview respondents. I sincerely thank them for easing my personal labors as well as FES for financing their field visits. In a similar vein, I wish to extend my appreciation to all the staff at FES for their support.

Furthermore, I must thank the stakeholders who participated in the dissemination workshop organized by FES that took place in the Protea Hotel, Kampala, on 19 June 2012. Their brutally honest ideas on the sensitive subject of federalism contributed tremendously to the final revision of the analysis of the findings. To all of them, I say thank you. Of course, there are many other contributors whom I cannot mention by name. Last, but by no means least, I am grateful to Dr. Sallie Simba Kayunga, head of the Department of Political Science and Public Administration at Makerere University, for allowing me the time to concentrate on this critical research.

Finally, I wish to recognize my family for tolerating my frequent absences due to my research schedule and concentration on this project during the course of the literature review and write-up. All those persons named and unnamed share in the success of this research project and the eventual publication of the book.

Yasin Olum
Kampala, 2012

Foreword

The year 2012 marks 50 years since Uganda's independence, during which time the country has seen many changes politically, socially and economically. The debate about federalism, however, has been a constant that stretches back to the time of independence and remains on-going.

Federalism in Uganda has been and continues to be a highly contentious issue. The conceptions and misconceptions about what federalism means, what it does and what it looks like are many, and emotions on the matter are strong.

Despite the persistence of the federal issue and the conflict-laden nature of the debate, few attempts have been made to resolve it.

The Friedrich-Ebert-Stiftung hopes that this study will provide a basis for rationalizing the debate on federalism in Uganda by providing analytical and evidence-based examination of the issue. It investigates the meaning Ugandans attach to the term *federalism*, points out reasons for and against the adoption of federalism, examines different models of federalism, addresses challenges to the introduction of federalism in Uganda and makes recommendations on how to move forward.

Experience shows that debates on such issues as federalism and related topics are rarely conclusive. Even established systems are continuously subject to discussion, scrutiny and sometimes modification; as the variety of federal and non-federal systems worldwide shows, there are many reasons for and against each arrangement. Every country has to have its own debate and define its own system of governance. So long as the debate is grounded in analysis, based on evidence rather than emotions, is transparent and held on level ground, it is a healthy debate worth pursuing.

This book is meant to be a reference for political actors, policy-makers and scholars in and outside of Uganda who are interested in gaining insight into the debate surrounding federalism in Uganda and welcome the benefit of researched evidence on the matter.

Sarah Tangen

Resident Representative
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September 2012

List of Boxes

Box 1	Views of Respondents from Northern, Western, and Eastern Regions on the Meaning of Federalism	37
Box 2	Views of Respondents from Central Region on the Meaning of Federalism	38

List of Figures

Figure 1	Responses As To Whether Uganda Should Adopt Federalism	46
Figure 2	Overall Responses As To Whether Uganda Should Adopt Federalism	47
Figure 3	Responses As To Whether Federalism Should Be Applied Selectively	74
Figure 4	Overall Responses As To Whether Federalism Should Be Applied Selectively	75
Figure 5	Responses As To Whether Federalism Can Function in Uganda	76
Figure 6	Overall Responses As To the Functionality of Federalism in Uganda	77
Figure 7	Responses As To Whether Milton Obote Was Right in Abolishing the 1962 Quasi-Federal Constitution?	79

List of Tables

Table 1	Key Resources in Regions of Uganda	54
Table 2	Buganda's Proposed Federal States or Units for Uganda	62
Table 3	The Conservative Party's Proposed Federal States or Units for Uganda	72

Executive Summary

This empirical research was conducted to investigate the persistent demand for the adoption of federalism, colloquially referred to by the Baganda as *federo*, by a cross-section of Ugandans and especially by the Mengo establishment, the seat of the Buganda government. The political contestation over Uganda being a unitary or federal country needs resolution to forestall future political crises. Since demands for a federal system cannot simply be ignored, and given the lack of an evidence-based, objective debate on the issue, the objective of this study is to unearth the fundamental issues regarding federalism so that stakeholders can use them to arrive at a national consensus.

There are five main objectives in this investigation of the federalism question: determining the extent to which Ugandans understand the meaning of federalism; identifying reasons for the adoption of federalism; examining a model of federalism that could be adopted; assessing issues to consider in designing a federalist system; and identifying the challenges and remedies for adopting federalism.

The methodology for this study is largely qualitative, but accentuated by quantitative data from responses to thematic questions from an interview guide in the regions and districts of Western (Hoima and Kasese), Eastern (Jinja), Northern (Arua and Gulu), and Central (Kampala, Kayunga and Masaka). The categories of respondents interviewed as key informants included elders, political leaders (members of parliament and Local Councils V [LCVs]), civil society representatives (academicians, journalists, religious leaders, women, and youth), and civil servants (chief administrative officers). Information was also gathered from participants in focus group discussions consisting of citizens from the same area. The information and data generated through these methods were subjected to content analysis and analysis with the Statistical Package for Social Sciences (SPSS).

A few limitations were encountered in the course of collecting information from the field. First, there were delays in completing the study, which commenced late in 2010 as the country prepared for elections scheduled for early 2011. It was at times difficult to reach some of the respondents. Nevertheless, the research period of more than twelve months turned out to be a blessing in disguise because it allowed many more respondents to be interviewed in 2011 and the federalism issues to become clearer in the mind of the principal researcher through periodic revisions of the study. Second, collecting data from a broader section of the country would have enriched this study, but regardless, being a baseline study, a rigorous scientific method was used in the selection of the districts and the respondents. Third, the technical nature of the federal issue proved problematic to some respondents, especially members of the focus group discussions. As a consequence, the

principal researcher and the research assistants made efforts to clarify some of the concepts and issues so that the participants could respond appropriately. Fourth, some respondents, especially in Kayunga, were wary of the study given its political sensitivity.

The Findings

On the meaning of federalism, the majority of the respondents, especially key informants (i.e., technocrats, academicians, politicians, and representatives of civil society), defined the concept correctly in the conventional sense. A minority of respondents, however, especially among the citizens interviewed in the focus groups, was unclear about its meaning. Of particular interest, in Central region, the understanding of federalism was intertwined with monarchism. These participants' perception of it fused the conventional meaning of federalism with monarchism to create a hybrid, indigenous concept.

When the respondents were asked about the general objectives of federalism, they offered the following in regard to Uganda:

- belief in the power of cultural or traditional leaders, rather than political leaders under a unitary system;
- a way, as Buganda sees it, to preserve and protect Ganda culture and institutions;
- reduction in dictatorial powers at the centre, that is, Kampala;
- improved service delivery and processes of socio-economic development;
- creation of employment;
- inclusion of citizens in planning and budgeting processes;
- creation of economic markets and competition amongst regions;
- grooming of leaders at regional levels;
- development of infrastructure;
- promotion of central government accountability;
- and creation of semi-autonomous governance so that units can contribute to the whole.

Some of the objectives they mentioned correspond to the conventional objectives of federalism (as explained in chapter two): reducing power at the centre through dispersal to lower levels; easing of service delivery; creating employment opportunities; including citizens in planning and budgeting; creating competition, enhancing accountability, and grooming leaders at lower levels.

The respondents who thought Uganda should adopt federalism were as follows: 14 percent in Hoima, 40 percent in Arua, 48 percent in Kampala, 50 percent in Jinja, 60 percent in Masaka, and 60 percent in Kayunga. In short, at least half of all respondents in three districts supported the adoption of federalism. Those who opposed adopting federalism were as follows: 28 percent in Kampala, 40 percent in Jinja, 40 percent in Kayunga, 40 percent in Masaka, 55 percent in Arua, and 86 percent in Hoima. Majorities of respondents in only two districts strongly objected to the adoption of federalism. Various reasons were advanced for these responses (see chapter four).

The following characteristics were determined to be critical for consideration in designing a system of federalism: geographical size to ease administration; distribution of national resources on an agreed-upon formula to prevent inequity; avoidance of sectarianism (e.g., tribalism) as much as possible to prevent future conflicts; delegation of powers by political leaders to the federal states; ability of citizens to move and settle freely anywhere in the country; grouping of areas with common language in forming federal states; constitutionally defining the functions of the federal government and federal states; implementing adult suffrage as the basis of electing national leaders; ensuring that the voices of the poor and the marginalized be heard; and demanding non-partisanship among cultural leaders. Without doubt, these issues are all pertinent in designing federalism in the Ugandan context.

When respondents were asked whether federalism could work in Uganda, the percentage of those who said it could were as follows: 29 percent in Hoima, 40 percent in Jinja, 45 percent in Arua, 60 percent in Kampala, 80 percent in Masaka, and 100 percent in Kayunga. The overall perception of whether federalism could work totaled 59 percent who thought that it could, 38 percent who thought it could not, and 3 percent who did not know. The majority of the respondents in Central region agreed that federalism could work in Uganda, compared with a sizeable minority in Arua and Jinja and a small minority in Hoima. It is not surprising that the majority in Central region felt this way, because it is the area that has been the most persistent in demanding some form of federalism. Hoima's response of less than half is somewhat surprising due to the discovery of oil there that it could control more effectively under a federal arrangement.

On the question of which model of federalism Uganda might adopt, the study found that the majority of respondents was unaware of possible models. Only a handful of respondents could identify models that other countries (e.g., Germany, Switzerland, United States) have adopted. In general, however, the respondents could not provide justification for the adoption of any of these models. Also, they mentioned some examples that are not federalist in the conventional sense (e.g., Kenya, Sudan, and interestingly, the International Federation of Association Football, or FIFA, and the Catholic Church). It should be noted that the National Resistance Movement's decentralization and regional tier government (RTG) efforts were dismissed by the majority of respondents as alternative models to federalism. Most respondents observed, however, that decentralization and RTG are structures that can be found in both federal and unitary systems of government.

The majority of respondents mentioned challenges that could constrain the adoption of federalism in Uganda: confusion and contestation regarding the meaning of federalism; constitutional issues; land; language; defining the boundaries of federal states; imbalances in natural resources; insufficient social capital; difficulties regarding how to introduce federalism; ethnic and cultural issues; and lack of political will.

In conclusion, the study found that while the majority of respondents understood the meaning of federalism, a sizable minority confused it with monarchism; only a few had no idea what it means. On the objectives of federalism, the majority of respondents had a clear idea of what it could achieve. Responses regarding whether Uganda should adopt federalism resulted in majorities in Masaka and Kayunga supporting it, a split for and against it in Jinja, and less than half supporting it in Kampala, Hoima, and Arua.

As noted, the respondents identified a number of issues as being important in designing federalism for Uganda. In terms of the country's geographical size, it is, indeed, appropriate for implementing federalism; it is not too big or too small to hamper ease of services. Unless an appropriate formula is found for distributing and sharing the nation's resources, however, conflict might ensue if resource-endowed areas were to deny deficient areas of their use or income generated by them. Designing a federalist system with a basis in sectarianism or tribalism could also drive ethnic tensions, as well as lead to the domination of minority groups by dominant groups. Federalism should not prevent people from freely interacting as citizens of one nation; in addition, cultural leaders should remain apolitical, resisting the urge to mix politics and culture. Regarding the role of leadership, should the ruling National Resistance Movement refuse to adopt federalism against the wishes of the majority, a long-term political struggle could develop. The powers of the central government and federal states should be constitutionally established to prevent national leaders from changing them at will. In designing any substantive concept for implementation, such as federalism, all stakeholders, that is, all citizens, should be included in decision making.

Concerning the functionality of federalism, the majority of respondents expressed the opinion that it could work in Uganda. The majority, however, also had no idea of existing federal models as possibilities for adoption. The lack of knowledge amongst some respondents regarding the different models implies that their participation in the debate on adopting federalism could be problematic.

Respondents identified various challenges that could interfere with the adoption of federalism in Uganda.

In a nutshell, the subject of federalism in Uganda remains an on-going issue because of contestations over its meaning as well as its adoption and the various challenges that could inhibit its implementation.

Recommendations regarding Uganda's adoption of federalism – based on suggestions from respondents and analysis of the findings – are as follows:

- *On the issue to ensure that Ugandans clearly understand the meaning of federalism:* An impartial body comprised of people of integrity and

who hold no bias for or against federalism should be empowered to sensitize and educate citizens about conventional federalism to counter its incorrect association with monarchism among some Ugandans;

- *With regard to the division of powers between the central government and the federal states:* Constitutional demarcations should be arrived at through consensus by stakeholders to avoid potential conflicts in their operations;
- *On land:* Each federal state should have sovereign powers to legislate on matters agreed upon mutually by it and the central government to ensure that they each have unconditional authority over certain areas;
- *On language:* The government should adopt a language policy to resolve the incessant psychological clash between the domineering Luganda language and other languages that leads some non-Baganda to see the federal issue from a narrow perspective (i.e., as a Buganda affair).
- *On the imbalance of natural resources and on national economic management, especially under concurrent legislative powers:* The federal states should be empowered to pass their own legislation, but legislative competence should lie with the central government to preserve legal and economic uniformity, particularly in matters involving socio-economic conditions as well as resource distribution. A formula can be developed to determine how the central government should distribute tax revenues to the federal states and how much it should retain. In addition, compensatory measures, for example, equalization grants, should be devised to address socio-economic imbalances between and among regions;
- *On insufficiency of social capital:* Apart from each federal state designing its own capacity-building program, each one should also establish a mechanism to attract and retain well-qualified citizens from areas of abundance to areas with fewer resources;
- *On the method that can be used to introduce federalism:* There are three possible approaches to introducing federalism: parliamentary resolution; a resolution passed by at least 50 percent of all district councils; or a petition to the Electoral Commission signed by at least 10 percent of all registered voters from at least two-thirds of the parliamentary constituencies;
- *On ethnicity and culture:* To eradicate the politics of tribal and cultural division being perpetuated by some Ugandans, Ugandans should be sensitized to the significance of nationalism and unity;

- *On political will:* There is a need by all categories of leaders, particularly national leaders, to listen intently to the voices of all citizens as well as provide an environment that supports open debate on any national issue, no matter how contentious, including federalism.

Chapter One: Introduction

Background to the Study

The political debate surrounding federalism, colloquially referred to as *federo* in Buganda, has been one of the fiercest in Uganda, stretching from the era of British colonialism, into and through the post-independence regimes, and continuing even now, after general elections in 2011.¹ When the British exited Uganda, they left behind a semi-federal constitution that lasted from 1962 to 1966. Apollo Milton Obote, the first prime minister of Uganda, abrogated this constitution, in its place introducing the 1967 republican constitution, which centralized excessive powers in the executive. While Obote made a number of political mistakes during his rule, his ruthless attack on the Lubiri royal compound that led to Kabaka Mutesa II's exile in Britain was not only the height of political miscalculation, but also heralded an era of incessant political conflict between the central government and the Kingdom of Buganda – located in the Kampala suburb of Mengo and referred to as the Mengo establishment – as well as political crises in the country in general.

The formation of kingdoms before colonialism was socio-cultural and political in nature, and today their existence has been fused with a demand for federalism in certain areas. Indeed, the old kingdoms, including the Buganda kingdom, were recognized by the quasi-federal 1962 constitution. Hence, the persistent demand by the Mengo establishment for the return of 9,000 square miles of confiscated land in Buganda along with the implementation of federalism.

By early 2000, the strained relationship between the central government under President Yoweri Museveni's National Resistance Movement (NRM) government and the Mengo establishment, led by Kabaka Ronald Mwenda Mutebi, son of Mutebi II, attested to the gravity of the political sensitivity and impasse over federalism. The worst aspect of the inability to resolve the federal question has been the manner in which different individuals and groups have taken advantage of the impasse to gain political advantage by either agitating for or against it, thus leaving it in abeyance and volatile. For instance, in the *Sunday Vision* of 7 September 2009, Museveni was quoted as stating firmly that the NRM government would not grant federalism to any part of Uganda (p. 7). To emphasize his position, he insisted that Parliament should consider a bill on traditional rulers that would

¹ *The terms federalism and federo are used interchangeably. In the 2011 elections, the opposition Forum for Democratic Change, allied with the interest group SUUBI, used federalism as a bargaining chip for political support in Buganda.*

prohibit traditional leaders from engaging in active and partisan politics and to pass it before the general elections scheduled for February 2011.

To accentuate their anti-federal stance, the NRM government and its leadership constantly invoked the 1995 constitution, which provides in Article 5(1) that “Uganda is one Sovereign State and a Republic.” In Article 5(2)(a), it further provides that “Subject to article 178 of this Constitution, Uganda shall consist of . . . regions administered by regional governments when districts have agreed to form regions as provided for in this Constitution.” Furthermore, while referring to article 5(2)(a), the NRM government affirms that the districts of Buganda are free to pursue their quest for federalism.

In a survey on the constitution-amending process in 1993/94, 65 percent of Ugandans responded in the affirmative in response to a Constitutional Review Commission (CRC) question on whether the country should adopt federalism. In Buganda, the response was 95 percent in favor.² In addition, the constitutional report of 1993 cited 3,770 memoranda submitted in support of federalism and 2,002 in support of a unitary system.³ Regardless, the NRM government ignored the majority’s support for federalism. Instead, it argued that Ugandans who preferred federalism could attain it through decentralization. To enhance its position, the government restored the kingdoms as apolitical traditional and cultural institutions through the 1993 Traditional Rulers Restitution of Assets and Properties Act, which did not resolve the demand for federalism.

In September 2009, the animosity between the central government and the Buganda kingdom climaxed in three days of rioting, spearheaded largely by Baganda youth, during which twenty-four people died and several others were injured. This unfortunate incident resulted from the central government’s blocking of a visit by Mwenda Mutebi to Kayunga district, one of the districts the Mengo establishment considers its own. The central government insisted that the Banyala, a small ethnic group living in Kayunga, be consulted by the Mengo establishment before the visit. The Mengo establishment leaders saw the emergence of the Banyala within Buganda as a creation of the central government intended to cause division amongst people who had lived peacefully in Buganda and owed allegiance to the Kabaka. They also argued that the NRM government sought to weaken the kingdom by fragmenting it into smaller geographical entities, which in the long run could have deleterious effects on the demand for federalism. The conflict worsened when President Museveni asserted in the 7 September *Sunday Vision* that his government would not grant federalism to any part of Uganda.

² *The Constitutional Review Commission, under the chairmanship of Professor Frederick Ssempebwa, was charged with reviewing the constitution. Because the struggle for adopting federalism in Uganda is being driven more by Buganda than other parts of the country, it is frequently in the forefront of the federal debate and negotiations with the central government over it.*

³ *See Odoki 2005.*

The federalism debate, which is driven more by emotion than facts, can be viewed from three primary perspectives. The first perspective is that of the “rejectionists,” who espouse a republican position opposing the reinstatement of federalism. Two examples, including the following 2001 editorial, demonstrate their opposition:

The Buganda Lukiiko [parliament] is going to petition the Constitutional Review Commission to adopt a federal system for the whole country. The Lukiiko's stand is just a variation of its long-running for Buganda to be granted a federal status, as was in the 1962 Constitution. The lobby has now realized that the Buganda alone approach cannot work, and is looking to disguise their self-centred aspirations in a supposedly wider setting. Nobody should be deceived, for these individuals have not suddenly become magnanimous. For a start, no other region or group is advocating for federal structure, partly because they view it as a ploy for supremacy by individuals purporting to represent a community, and also because historically reality has shown it not to be viable. The federo advocates argue that their system would take power and resources down to the grassroots. On the contrary, a federal arrangement in the Uganda context would actually be centralizing authority and resources – in Buganda's case these would go to the Lukiiko and its acolytes. Conversely, the decentralization policy now being implemented countrywide would actually bring benefit to the grassroots, principally because it is uniform in approach and has been arrived at systematically, with studies and pilot programmes. And of course, the Lukiiko's is not necessarily a representative view, because the delegates sitting on this organ are not elected though they work as a parliament. They are appointed to their seats, possibly because they represent a specific ideology. But they are entitled to giving their view to the review process, which should be given due airing, albeit taking into consideration the issues that have hamstrung federo through the years.⁴

An editorial on federalism in the *Daily Monitor* in September 2001 took a similar stand:

The demand for federo is gathering steam again, as the CRC [Constitutional Review Commission] continues to work on what now look set to be radical proposals to amend the 1995 Constitution. Buganda's unrelenting pursuit of federo is ironic and instructive in many ways. Nationwide, the idea of federo doesn't have a lot of support, although attitudes are changing in favor of it in parts of the north that have seen nothing but war and poverty over the last 15 years. Part of Buganda's agitation for federo is born out of a sense of betrayal. Buganda feels that it paid the highest price for the rise of President Yoweri Museveni and the Movement to power, but the region hasn't

⁴ “Old Flawed Argument,” *New Vision*, 26 September 2001, 12.

*benefited much in the post-1986 period. That instead Museveni and the top Movement leadership took the fruits of their liberation to their "native soil" in some parts of the western region. The idea then grew that in Uganda only the homeboys can take care of the home. In the north, there is a strong sense of alienation, with people feeling that the government will never do enough to end the suffering there because of sectarian bias. The government denies both accusations. Certainly, it has done something, though not enough, to deal with the war and poverty in the north, and some attempts to rehabilitate the war damage was undertaken in Buganda.*⁵

President Museveni's opposition to federalism certainly has a significant influence on whether Uganda adopts a federalist system. In part of its bid to circumvent the quest for federalism, the NRM government provided in Article 178(1) of the 1995 constitution the formation of regional tier government. According to this provision, "Two or more districts may co-operate to form a regional government to perform the functions and services specified in the Fifth Schedule to this Constitution."

The functions authority granted to RTG includes control of secondary education, inter-district roads, and referral hospitals. In a speech in 1995, Museveni appeared to imply that because of a Buganda effort to work together under RTG, it negated their demand for federalism: "Before I came here this morning, I consulted the Director of Legal Affairs in the NRM Secretariat who told me that now the RC5 chairmen of the eight Buganda districts have elected a chairman from amongst themselves."⁶

The second perspective is that of Ugandans who support the adoption of federalism, regardless of whether it is through a conventional form or a Buganda-backed, *federo* form. The strongest advocates of federalism come mainly from the Mengo establishment, but others include John Ken-Lukyamuzi, a member of parliament (MP) for Rubaga South, and Yusuf Nsibuga-Nsambu, a former MP for Makindye West. The demand for federalism and restoration of traditional and cultural institutions is also supported by the Conservative Party (CP), whose agitation had gained momentum in 1980 (Kayunga 2000: 3-4).

After the constitutional restoration of traditional and cultural institutions in 1993, a key concern focused on appropriate arrangements for accommodating them (Kayunga 2000: 15). NRM radicals had opposed constitutionalizing traditional and cultural leaders with political powers at the grassroots. They saw it as potentially capable of causing confusion amongst traditional rulers with customary rights and democratically elected leaders with popular mandates.⁷

⁵ "Buganda Cannot Get Federo if ...", *Daily Monitor*, 26 September 2001, 8.

⁶ *Republic of Uganda 1995*: 21.

⁷ *Both the traditional and cultural rulers and the democratically elected leaders could claim to be the "peoples' representatives" within their communities.*

The third perspective is that of Ugandans who either do not care whether the country adopts federalism or have no idea what the federalism debate is about. What they care about is the maintenance of peace and stability that will allow them to eke out a living for their families. Regardless, the federalism debate became more intense when Museveni signed the Institution of Traditional or Cultural Leaders Bill, which mainly prohibits them from engaging in politics, on 7 March 2011.⁸

As soon as Parliament passed the bill, controversies emerged over it. The Buganda kingdom, the largest of the kingdoms in the country, saw it as a means of frustrating its demands for federalism and vowed to challenge it in the Constitutional Court.⁹

In the context of federalism, the intention of the NRM government in passing the measure was to block traditional and cultural leaders, especially the Kabaka of Buganda, from participating in politics. Thus the quest for federalism, which is directly linked to the kings, could be quashed. In other words, the NRM strategy was to isolate the Kabaka from any future discussions on the adoption of federalism.

Because federalism will always be a critical issue at the centre of Uganda's politics, there is an urgent need for an analytically grounded discussion of the issue, especially since it holds the potential for future political conflict, violent or otherwise. Indeed, it is only through empirical analysis that the debate and resolution on the federal question can be based on informed positions rather than highly charged emotions, as is the case today.

Purpose of the Study

In 1993/94, Benjamin Odoki chaired the Constitutional Review Commission, which wrote the 1995 constitution. During the course of the CRC's work, it found that 65 percent of Ugandans, including 95 percent of the Baganda, supported a federalist form of government. Since that time, seventeen years ago, no empirical studies were carried out to determine whether Ugandans had changed their opinions on federalism. In addition, the key factors informing the debate at that time were not fully unearthed by the process.¹⁰ This study goes beyond the previous assessment by gathering and analyzing data through field research to examine the current perceptions of Ugandans about federalism and the fundamental issues that need to be considered before it can be adopted or rejected.

⁸ See *Namutebi 2011: 1–2*

⁹ *Ibid., 2.*

¹⁰ *Simba 2000: 1–87.*

Goals and Objectives of the Study

The primary goal of this study was to conduct empirical research on federalism to find the pertinent issues that currently inform the debate on whether Uganda should adopt federalism.

The specific objectives were as follows:

- Investigate the extent to which Ugandans understand the meaning of federalism;
- Identify reasons for and against the adoption of federalism;
- Examine the model of federalism best suited for Uganda if the country decides to become a federal state;
- Assess other issues to consider in designing federalism; and
- Identify challenges and remedies regarding the adoption of federalism.

Chapter Two: The Meaning, Significance, and Models of Federalism

Introduction

All nations of the world have units of local government, among them states, provinces, republics, regions, cities, counties, and villages. These units are created and administered through decentralization policies, but not all countries are based on federalism. This section examines definitions of federalism, the reasons for adopting federalism, models of federalism, issues to consider in the design of federations, and challenges likely to be faced in adopting federalism in Uganda along with remedies for these challenges.

Definition of Federalism

Federalism comes from the Latin *foedus*, meaning “pact” or “covenant.” By definition, federalism concerns the political autonomy of a geographical entity that renders it capable of making its own legislation. It gives power to the people to determine how they are governed and by whom and to hold their leaders accountable. The entity has the power to raise taxes and determine how to use such revenues and to exercise control over land and other natural resources. In other words, federalism distributes power between the central (or a common) government and peripheral and subordinate governments under an arrangement that cannot be changed by an ordinary or simple process of central legislation.¹¹

The guarantor of the autonomy of each level of government is that neither the central nor the subordinate government can amend the constitution unilaterally.¹² This autonomy requires a written constitution to delineate the division of powers between the central and subordinate governments. Thus, federalism requires a constitutional guarantee of the powers of the national and sub-national governments that cannot be changed without the consent of both the national and sub-national populations.¹³ In the event of disputes between the central and subordinate governments, a supreme court would have the power to interpret the constitution and arbitrate between them.

¹¹ Definition according to Nsibambi 2004b: 10–11.

¹² For example, amendment of the U.S. constitution requires two-thirds of both houses of Congress (i.e., the Senate and the House of Representatives) and three-fourths of the fifty federal states. In Australia and Switzerland, amendments to the constitution must be ratified through a referendum.

¹³ See Dye 1995: 268.

Federalism also refers to a political system in which there are local – territorial, regional, provincial, state, or municipal – units of government as well as a national government that make decisions with respect to some areas and whose existence is especially protected.¹⁴ Daniel Weinstock observes that a federal political system means that “there is division of powers, constitutionally defined and protected, between a central government whose decisions apply to all the members of a state, and a number of sub-statal governments whose decisions apply only to segments of the population of that state, these segments being defined . . . according to divisions of territory.”¹⁵ James Madison wrote in *Federalist* No. 10, “The federal Constitution forms a happy combination . . . the great and aggregate interests being referred to the national, and the local and particular to state governments.”¹⁶

In short, federalism is a mode of political organization that unites smaller polities within an overarching political system by distributing power among general and constituent units in a manner designed to protect the existence and authority of both national and sub-national systems, enabling all to share in the overall system’s decision-making and executing processes. Hence, federalism is about matters entrusted to the constituent units, whether powers are residual or delegated, which must be substantial, not merely trivial. Furthermore, central organs of federations are to some extent directly in contact with individuals, in drawing authority from them and for purposes of collecting taxes and ensuring compliance. This explanation distinguishes a federation from a confederation, which is a looser form of union.¹⁷

Another characteristic of federalism is the notion of equality of the federal states, absolute as to the legal but at best relative as to such matters as size, population, and wealth. Equality among federal states in a federal structure can manifest itself in allowing each state to send equal numbers of representatives to the national parliament regardless of population. This notion has been criticized, however, as conflicting with the democratic equality of citizens within the federal whole and as a potential distortion of popular majorities. Nevertheless, the counter-argument is that states may be reluctant to enter a federal union unless they are guaranteed some safeguard in the legislature against their being swamped by more populous members of the federal union.

¹⁴ *Ibid.*

¹⁵ Weinstock 2001: 75.

¹⁶ See Janda, Berry, and Goldman 1997: 105.

¹⁷ Nsibambi (2004b: 10) observes that the American union under the Articles of Confederation acted only on the state governments, not directly on individual citizens. Through experience, the United States and Switzerland found that without the direct action of federal power upon individuals, the objectives of the federal union could not be implemented because in some instances state governments had views different from those of the federal government and were reluctant to displease local interests.

Federalism is also about member states having institutional leeway in devising and changing their forms of government and their procedures. This principle does not forbid degrees of standardization from above to aid in erecting and maintaining the central organs and to maintain certain minimal institutional forms, rights, and decencies that are deemed more important than autonomy and variation among the constituent governments. In some federal governments, such as that of the United States, the federal state is guaranteed republican government. Although this is a constitutional restriction that the states must tolerate, they are not deprived of their autonomy.

The demands of modern government, and the immense financial resources of the central authority, have led to revision of the classical conception of federalism, where the independence of states from the federal government is emphasized through co-operative federalism. The essence of co-operative federalism is that while the central and regional legislatures nominally retain separate jurisdictions over different aspects of the same policy concern, there is close contact and discussion between ministers and civil servants at both levels of government so that choices are the result of joint decisions.

Why Federalism?

There are several reasons why some countries choose federalism over a strong, centralized political system with a single government accountable to national majorities, that is, a government capable of implementing uniform policies throughout the country. These reasons include, but are not limited to, protection against tyranny (the liberty argument); policy diversity; conflict management; dispersal of power; increased participation; improved efficiency; insuring policy responsiveness; citizenship argument; democracy argument; encouraging policy experimentation and innovation; and national and cultural divisions.¹⁸

First and foremost, *protection against tyranny, the liberty argument*, is advanced as a reason for federalism because such republican principles such as periodic elections, representative government and political equality, are seen as being insufficient in themselves to protect individual liberty.¹⁹ Whereas these principles may make governing elites more responsive to popular concerns, they do not protect minorities or individuals from government deprivations of liberty or property. It is a well-known principle that the great objective of constitution writing is to preserve both popular government and at the same time to protect individuals from unjust and interested majorities.

¹⁸ Dye 1995: 269–70.

¹⁹ *The liberty argument, which is central to the Madisonian defense of U.S. federalism, is that every government is a threat to individual liberty, and thus sees the proliferation of levels of government and the counterweights so created as favoring liberty.*

While dependence on the people is the primary control on government, experience has taught the necessity of auxiliary precautions. Federalism was one of the most important “auxiliary precautions” devised as a source of constraint on big government. In the case of the United States, the Founders constructed a governmental system incorporating the notion of “opposite and rival interests,” whereby government officials could be constrained by competition with other governments and other branches of government. Defense of the liberties of people can lead to constitutional guarantees for the protection of minority groups, including political and civil rights. Through federalism, people are left free to determine their social, economic, and political destinies, whereas unitary and autocratic rule tends to suppress the human rights and freedoms of individuals.

The second reason for federalism is *policy diversity*. Because federalism permits policy diversity, an entire nation is not straitjacketed in some policy areas by a single policy to which every state and community must conform. Indeed, state and local governments are seen as better suited to deal with specifically state and local problems than are policies handed down by the centre, some of which may not tally with local conditions.

The third reason for federalism is *conflict management* as federalism is capable of helping with policy conflicts. Permitting states and communities to pursue their own policies reduces the pressures that would build at the national capital level if the national government were to be responsible for deciding everything. Indeed, federalism permits citizens to decide many things at the state and local government levels and avoids some battles over national policies being applied uniformly throughout the country.

The fourth reason for federalism is *dispersal of power*. The widespread distribution of power is generally regarded as an added protection against tyranny. States and local governments created through federalism contribute to political pluralism. In fact, state and local governments often provide a political base for the survival of the opposition when it has lost national elections.

The fifth reason for federalism is *increased participation* by the citizenry. Through federalism, more people are able to run for and hold political office, whether in counties, cities, townships, school districts, special constituencies, and so on. Local leaders are typically closer to the local population than central government officials. There is usually some belief among a cross-section of a nation’s citizens that local government is more manageable and responsive than the national government.

The sixth reason for federalism is *improved efficiency*. Although it is arguable that local government necessarily leads to an inefficient system, governing an entire nation from the national capital can produce worse outcomes. To illustrate the latter point, it is possible that if every activity in every community

in a nation is controlled by the central government – policing, schools, roads, garbage collection, sewage disposal, street lighting – there would be endemic bureaucracy, “red-tape-ism,” delays, and confusion.

The seventh reason for federalism is *insuring policy responsiveness*. Through federalism, multiple and competing governments are created that are more sensitive to citizen’s views than a monopoly or centralized government. In other words, the existence of multiple governments offering different packages of benefits and costs allows a better match between citizens’ preferences and public policy. Practically, therefore, people and businesses can vote with their feet by relocating to those states and communities that most closely conform to their own policy preferences. Hence, mobility not only facilitates a better match between citizen’s preferences and public policy, it also encourages competition among states and communities to offer improved services at lower costs.

The eighth reason for federalism is the *citizenship argument*. It is believed that the proliferation of levels of government also increases the number of political levers available to citizens, thus increasing the likelihood of the development of active citizenship, especially if the political levers created by federal restructuring will be closer to the people than those offered by a central government.²⁰

The ninth reason for federalism is the *democracy argument*. The creation of levels of government exercising sovereignty over certain matters, but involving fewer citizens than the central government must engage, provides more opportunities for the people to express themselves democratically through the ballot box, increases the weight of each vote, and in theory fosters enlightened and informed democratic participation by situating certain political decisions at a level cognitively more accessible to the average citizen.²¹ In this sense, federalism nurtures conditions for democratic equalization through guaranteeing the rational use of natural resources in situations where compromise through existing orders may not be possible.

The tenth reason is that federalism encourages *policy experimentation and innovation*. As a result of federalism, states are often encouraged to test new solutions to social and economic problems rather than wait to be guided by central government officials. Federalism can, therefore, be an instrument of progressiveness, and some would argue, create “laboratories of democracy.”

The final reason for federalism is *national and cultural divisions*, particularly when they are based on relatively natural territorial delineations. In a country comprised of different groups of diverse ethnic origin, it is unlikely that a unitary state respecting liberal democratic principles will be able to impose a national identity capable of

²⁰ This argument might be referred to as a Tocquevillean defense of federalism.

²¹ An argument in favor of a proliferation of levels of government can be found among those of John Stuart Mill (1861).

offsetting the tensions that arise when distinct groups must coexist in the same political space. In such societies, attempts by the central government to establish a common national identity can prompt virulent reactions, if only because the central government is perceived (rightly or wrongly) as the instrument of the majority. This raises the related issues of the right to self-determination and equity.

Besides these eleven reasons, others have also been offered in advocating federalism (Ken-Lukyamuzi 1994: 2–4). Some argue that federalism emerged as a result of goodwill, understanding, compromise, and love. These characteristics relate to acceptance, tolerance of people belonging to a common accepted order, especially resulting from having a common language, religion, and culture. Federalism is viewed as a solution in some economic and fiscal spheres because it leads to economic unions and common services organizations. By subsuming differences between peoples and regions, federalism accommodates unique solutions.²²

Although the right to self-determination does not necessarily imply the right to secession, it certainly suggests that groups occupying broad political spaces and whose members can form a distinct political community may constitute majorities within defined borders and make democratic decisions on issues that affect the interests of their members. With regard to equity, simple justice requires that the members of national or ethnic minorities concentrated in one region should be able to exercise some measure of control over their political destiny. The fundamental fairness central to the normative justification of democracy has often been tied to the fact that within a democratically organized political space, there is no permanent minority.

Models of Federalism

Before conceptualizing a model of federalism, three terms must be distinguished: *federalism*, *federal political systems*, and *federations*.²³

Federalism is a normative rather than a descriptive term that refers to the advocacy of multi-tiered government combining elements of shared rule and regional self-rule. It is based on the presumed value of achieving unity and diversity by accommodating, preserving, and promoting distinct identities within a larger political union. Federalism is the result of the “federalization” of a unitary state through the process of federal restructuring.

Federal political systems is a descriptive term that applies to a broad category of political systems in which, by contrast to the single source of central authority in unitary systems, there are two (or more) levels of government, combining elements

22 *Federalism can be successful in uniting people in their respective diversities, especially in areas where language, culture, religion, and ethnicity are endemic problems.*

23 *Watts 2001b: 24–28.*

of shared-rule through common institutions with regional self-rule via the constituent units. This broad category encompasses a spectrum of more specific, non-unitary systems, including federations and confederations. A federation may emerge from an agreement by two or more independent political entities to acquire common political structures through a process of federal integration (e.g., the European Union [EU], the United States, and Canada). Within the spectrum of federal political systems, it is possible to identify the following models involving elements of federal power sharing: unions, constitutionally decentralized unions, federations, confederations, federacies, associated states, condominiums, and leagues.

Unions are polities compounded in such a way that the constituents preserve their integrity primarily or exclusively through the common organs of the general government rather than through dual government structures.²⁴ Such systems recognize diversity but do not provide an opportunity for autonomous regional self-government.

Constitutionally decentralized unions are basically unitary in form, in the sense that ultimate constitutional authority rests with the central government, but they also provide constitutionally protected subunits of government with some functional autonomy. Such systems provide for a measure of regional or local self-government, but they are ultimately vulnerable to the overriding constitutional authority of the central government.

Federations are compound polities, combining strong constituent units of government and a strong central government, with each possessing powers delegated to it by the people through a constitution, each empowered to deal directly with the citizens in the exercise of its legislative, administrative, and taxing powers, and each directly elected and accountable to its citizens. Federations enable both strong general and strong regional governments, each directly responsible to its citizens; this, however, is achieved at the price of tendencies toward complexity and legalism. Their defining characteristic is that in a federation neither the federal nor the constituent units of government are constitutionally subordinate to the other. Each order of government has sovereign powers defined by the constitution rather than by another level of government, each is empowered to deal directly with its citizens in the exercise of its legislative, executive, and taxing powers, and each is directly elected by and accountable to its citizens.

The generally common structural characteristics of federations are at least two orders of government acting directly on their citizens; a formal constitutional distribution of legislative and executive authority and allocation of revenue between the orders of government that ensures some areas of genuine autonomy for each order; provision for the designated representation of distinct

²⁴ *Belgium prior to becoming a federation in 1993 (with central legislators serving a dual mandate as regional or community councilors) and Scotland and Wales in the United Kingdom prior to devolution are classic examples.*

regional views within the federal policy making institutions, usually including the representation of regional representatives in a federal second legislative chamber; a supreme constitution not unilaterally amenable and requiring for amendment the consent of a significant proportion of the constituent units either through assent by their legislatures or by regional majorities in a referendum; an umpire, usually in the form of courts or provision for referendums to rule on disputes over the constitutional powers of governments;²⁵ and processes and institutions to facilitate intergovernmental collaboration in those areas where governmental powers are shared or inevitably overlap.

The extent to which federation is the appropriate model to accommodate and manage diversity in a particular situation will depend on the extent to which social diversity is amenable to the institutional features of federations and the particular form of federation planned for adoption.²⁶

Confederations occur where polities join to form a common government for certain limited purposes, such as defense or economic policy, but the common government is dependent upon the constituent governments. Here, the common government has only an indirect electoral or fiscal base since the member governments act as intermediaries between the common government and the citizens. By requiring the assent of member governments for all major common policies, such a system reinforces their autonomy by comparison with constituent units in federations. This, however, puts the common government in a weaker position to deal decisively with contentious subjects or to redistribute resources.²⁷

Federacies occur where a large unit is linked to a smaller unit or units, but the smaller unit retains substantial autonomy and plays a minimum role in the government of the larger one, and where the relationship can be dissolved only by mutual agreement.²⁸ Such arrangements ensure a high level of autonomy for the smaller unit, but at the expense of having little significant influence on the policies of the larger unit.

Associated states are relationships that are similar to federacies but are dissolvable by either of the units acting alone on prearranged terms.

Condominiums are relationships in which a political unit functions under the joint rule of two or more external states in such a way that the inhabitants have substantial internal self-rule.²⁹

²⁵ For example, Switzerland is a good example regarding federal powers.

²⁶ For a detailed discussion of social diversity and federalism, see Fleiner 2001.

²⁷ Examples of confederations include Switzerland (1291–1847) and the United States (1776–1789), which were superseded by federations, and the European Union, which is primarily a confederation although it has increasingly incorporated some features of a federation.

²⁸ This is a feature of the relationship between the United States and Puerto Rico.

²⁹ One example is Andorra under the joint rule of France and Spain from 1278 to 1993.

Meanwhile, leagues are linkages of politically independent polities for specific purposes that function through a common secretariat rather than a government. Member states may unilaterally withdraw from such an arrangement.³⁰

Apart from these models, there are instances of joint functional authorities and hybrids that can lead to some form of federal arrangement. Joint functional authorities are agencies established by two or more polities for implementation of a particular task or tasks.³¹ Such authorities may also take the form of trans-border organizations established by adjoining sub-national governments.³² Hybrids are political systems with a combination of characteristics of different models. The term *quasi-federations* has sometimes been used to describe systems that are predominantly federations in their constitutional structure and operation but have some overriding federal government powers more typical of a unitary system.³³ Another form of hybrid is one combining the characteristics of a confederation and a federation.³⁴

The applicability of any of these models will depend upon the particular circumstances of a particular country's situation. However, the critical factors that must be taken into account include the nature and strength of the motives for common action and shared rule as well as the intensity and distribution of the pressures and motives in the constituent units for autonomous policymaking and self-rule.

Issues to Consider in Designing Federations

Issues to consider in the design of federations that affect their operation include the following: a) the number and character of the constituent units; the distribution of legislative and executive authority and of financial resources and powers; symmetry or asymmetry in the allocation of powers to constituent units; the nature of the common federative institutions; the role of courts; constitutional rights, and intergovernmental relations.³⁵

³⁰ *The North Atlantic Treaty Organization is a league.*

³¹ *A few examples are the North Atlantic Fisheries Organization, the International Atomic Energy Agency, and the International Labour Organization.*

³² *Take for example the interstate Regio Basiliensis, involving Swiss, German, and French cooperation in the Basel area.*

³³ *Among the examples are Canada, which initially, in 1867, was a federation but included some overriding federal powers that fell into disuse in the second half of the twentieth century. India, Pakistan, and Malaysia are federations but have constitutions with overriding central emergency powers. The South African constitution of 1996 sets forth characteristics of a federation but retains some unitary features.*

³⁴ *A prime example is the European Union after the Maastricht Treaty. West Germany since 1949 was predominantly a federation, but its federal second chamber, the Bundesrat, represents a confederal element.*

³⁵ *For further discussion of the federal issue, see Watts (2001a), Dye 1995, and Weinstock 2001.*

The number and relative area, population, and wealth of the constituent units in relation to each other within a federation have a considerable effect on the operation of the entity. Where the number of units is relatively large, the relative political power and leverage of individual constituent units are likely to be much less than in federations of only a few units. Those composed of only two units, such as Pakistan and Czechoslovakia before each split, seem to generate sharp polarizing tendencies that often result in instability. Where there are substantial disparities in area and population among constituent units, they may generate dissension over the relative influence of particular regions in federal policymaking.

In some cases (e.g., India and Nigeria) regional boundaries have been altered to reduce disparities and to make the regional units coincide more closely with linguistic and ethnic concentrations. Disparities in wealth among regional units that make it difficult for citizens to receive comparable services can have a corrosive effect on solidarity within a federation. This explains why so many federations have found some form of financial equalization highly desirable.

Furthermore, federations as a form of territorial political organization seem traditionally to have been most applicable where diversities are territorially concentrated so that distinct groups can exercise autonomy through regional units of self-government. Power sharing among distinct non-territorial groups – that is, distributed across a country rather than concentrated in regions – has more commonly been associated with a consociational form of political organization, in which the different groups affect policy primarily through their representatives in a central government.

Another noteworthy recent development is the numbers of federations that have become constituent units within a broader federal or confederal organization, thus creating a multi-tiered federal organization, (e.g., the EU). In each of these federations, this affects the relative roles of their federal and constituent governments. Another trend contributing to the tendency toward multi-tiered federal systems has been the increasing attention being given to the importance of local governments and the constitutional recognition of their role. Germany and India are good examples of designing multiple layers of government under a federal arrangement.

The issue of the form and scope of the constitutional distribution of legislative and executive jurisdictions or authority and of financial resources and powers may vary enormously, thus affecting the specific responsibilities assigned to each order of government in terms of the degrees of centralization. In some cases, the exclusive jurisdiction of each order of government is constitutionally emphasized (e.g., Canada and Belgium). In others, substantial areas are constitutionally assigned to concurrent jurisdiction (e.g., Australia, Germany, the United States, and Latin American federations). Also, executive responsibility for a particular matter is generally assigned to the same order of government that has legislative

responsibility over that matter (e.g., Australia, Canada, the United States). In some places, there is constitutional provision for much federal legislation to be administered by the states. Germany in terms of legislative jurisdiction is much more centralized than Canada, but in administrative terms more decentralized.

There are also variations among federations in the allocation of taxing powers and revenue sources. Federations differ in the employment of financial transfers to assist constituent units and in the degree to which these are conditional or unconditional, thereby affecting the relative dependence of the constituent units upon the federal government. They also vary in their emphasis on equalization transfers to reduce financial disparities among their constituent units.

The allocation of powers to constituent units raises the issue of two types of constitutional asymmetry. The first is permanent asymmetry among the full-fledged units within a federation (e.g., Belgium, Canada, India, and Malaysia), and the second is an asymmetrical arrangement. The latter is transitional, with the intention ultimately to arrive at a more uniform autonomy (e.g., Spain and the EU). The nature of asymmetrical arrangements suggests that the federation may become contentious and complex, but there may be cases in which constitutional asymmetry is the only way to resolve differences, particularly when much greater impulses for non-centralization exist in some regions than in others within the federal system.

With regard to common federative institutions, the constitutional establishment of regional units with self-government is an essential feature for accommodating diversity. Also, the character of representation and power sharing within the federal institutions is an important aspect in the ability of federations to manage and reconcile diversity. The relationship between the legislature and executive within the common shared institutions represents a crucial variable among federations.

These different forms of federations shape the character of federal politics and administration and the role of political parties in coalition building and consensus generation within the shared institutions of federations. They also affect the nature of intergovernmental relations.³⁶ A key issue is what special provisions should be made for the proportionate representation of the various groups in the federal executive, legislature (particularly second chambers), public service sector, and agencies. In comparing federations and confederations, in the former, where the federal legislature and government are directly elected by and accountable to the electorate, it is less difficult for federal governments to generate the support of the citizenry. In confederations (e.g., the EU), on the other hand, the intergovernmental character of the common institutions and their indirect

³⁶ *Within parliamentary federations, for example, the general tendency of cabinet dominance has usually given rise to executive federalism, in which most negotiations are carried out between the executives of the governments within the federation.*

relationship to the electorate can lead to charges of a “democratic deficit.”³⁷

The issue regarding the role of the courts is that most federations and confederations (e.g., the EU) rely on courts to play the primary adjudicating role in interpreting the constitution and adapting the constitution to changing circumstances. There are exceptions, however, in some countries, such as Switzerland, whereby the legislative referendum plays a major adjudicating role in defining the limits of federal jurisdiction. In yet other federations, a supreme court stands as the final adjudicator for all laws (e.g., Australia, Canada, India, Malaysia, the United States, and some Latin American federations). In others, a federal constitutional court specializes in constitutional interpretation (e.g., Belgium, Germany, and Spain). In most cases, a concerted effort is made to ensure the independence of the supreme or constitutional courts from political influence. There are also practices by constitutional requirement or tradition to ensure a measure of regional representation in the ultimate court.

Federations are essentially a territorial form of political organization that safeguards distinct groups or minorities, and they do this best when these groups are geographically concentrated in such a way that they can achieve self-governance as a majority within a regional unit of government. In practice, however, populations are rarely distributed in neatly arranged regions. Where significant intra-unit minorities exist, a few types of solutions have been attempted to address the rights of various groups and minorities: draw the boundaries of the constituent units to coincide with the concentration of the linguistic and ethnic groups;³⁸ assign special responsibility to the federal government as the guardian of the intra-regional minority;³⁹ and, the most widely used approach, establishing a comprehensive set of fundamental citizens’ rights in the constitution enforceable by the courts.⁴⁰

Within federations, the inevitability of overlap and interdependence in the exercise of constitutional powers has generally required extensive intergovernmental consultation, cooperation, and coordination. These processes for intergovernmental relations serve two critical functions: resolving conflicts and providing a means of pragmatic adaptation to changing circumstances. There are variations among federations in these intergovernmental processes, particularly in terms of the so-called executive federalism that typifies most parliamentary federations and the more multifaceted character of intergovernmental relations in those federations marked by the separation of powers between the executives and legislatures within each government. Certainly these different arrangements

³⁷ *Indeed, the pressures within the EU to reduce the democratic deficit by enhancing the role of the European Parliament, and increasing the extent of majority voting within the European Council, point towards making it less confederal and more federal in character.*

³⁸ *Examples of this include the Jura canton in Switzerland, reorganization of state boundaries in India in 1956, and the progressive devolution of Nigeria from three regions to thirty-six states.*

³⁹ *This kind of provision has long existed in federations, particularly in relation to indigenous peoples, for example, aboriginals.*

⁴⁰ *This pattern is now found in most federations except in Australia and Austria.*

affect the extent to which regional units of government may effectively participate in federal power sharing.

In sum, the successes and failures of federations during the past half-century point to four major lessons on the ability of federations, and more broadly federal systems, to reconcile and manage social diversity. First, around the world, federations combining shared rule and self-rule provide a practical way of combining the benefits of unity and diversity through representative institutions. They are not, however, panaceas for humanity's political ills; significant failures have occurred. Second, the extent to which federations have been effective has depended upon the degree of public acceptance of the need to respect constitutional norms and structures and the rule of law. Third, the effective operation of federations requires mutual faith and trust among the different groups within a federation and an emphasis on a spirit of tolerance and compromise. Fourth, the extent to which a federation can accommodate political diversity is likely to depend upon the adoption of federal arrangements and whether the particular form or variant of federation that is adopted or evolves gives adequate expression to the desires and requirements of the particular society in question. Ultimately, the application of federalism involves a pragmatic and prudential approach.

Challenges of Federalism

There are four main challenges militating against federalism: efficiency, identity, solidarity, and the size of a population or country.

The proliferation of levels of government that in theory create counterweights against excessive power and checks on potential abusers of power can also become a source of inefficiency and an obstacle to collective action. The creation of tariffs and other barriers between political units can carry a heavy economic cost.

The creation of new administrative and political units and the definition of corresponding new territorial entities may actually obscure the political identity defined by the entity that the central government represents. Political identities are not part of the natural order, but rather reflect political circumstances and institutional arrangements. The carving up of political space required by federal restructuring may create new identities distinct from those previously formed around the central government. Group allegiance has some negative dimensions, and the emergence of new identities may generate tensions and conflicts among the members of the new federated entities and between the entities and the central government. Thus, federal restructuring carries some danger in terms of identity, which may even lead to secessionist tremors or tendencies.

The creation of new political subspaces, and thus of new sources of identity and solidarity, may make it difficult to achieve desirable objectives at the national

level. In particular, it may reduce the solidarity that exists among the members of a society united under a single government. Hence, by creating new identities that represent potential rivals, federalism may impede the achievement of such desirable social objectives as the equitable distribution of material resources.

A case can be made for federalism where the size of the population or country is relatively large. For instance, a vast expanse of territory warrants the creation of smaller political units to give citizens a feeling of inclusion; if the central government was their only point of reference, these citizens would be in danger of anomie, politically and in terms of identity. However, countries that have good reason to undertake federal restructuring because of their multinational or multiethnic composition must nonetheless consider measures capable of compensating for the losses that may be occasioned by the lack of a strong and shared political identity. Through the construction of social trust, the central government can help enable the members of various groups not to perceive citizens who are members of different groups as posing threats to the interests that distinguish them as members of their particular group.⁴¹

In sum, federalism is a two-edged sword. While it may yield progress in some aspects, such as democracy, citizenship, and individual liberty, it tends also to create new divisions, weaken emotional bases for the equitable redistribution of resources, and create political and economic inefficiencies. Therefore, the pursuance of one or other of these values will depend on the circumstances of individual cases.

⁴¹ *Among the measures that a central government can take to promote social trust are increasing the probability that interests shared by the members of a minority group can be realized within the federal state, for example, by granting corresponding powers to representatives of the group's members and making its interests (say, through public policy) a priority of government. By positively affecting how the members of a minority group calculate their capacity to realize their principal interests within the federal state, the central government can block potential separatist challengers offering better prospects outside the state, such as through secession.*

Chapter Three: Methodology

The research for “The Federal Question in Uganda” covers the period from 1962, the year of Uganda’s independence, to 2012. Nevertheless, this study also explores historical events prior to 1962 critical to informing what has transpired in the politics of post-independence Uganda.

The study hinges on document review and empirical data and information gathered from the field. For the former, primary and secondary documents on federalism were reviewed, the main purpose being to elucidate the concepts of federalism in order to interpret the field findings.

Four regions, and within those particular districts, were selected for on-site field visits: Western (Hoima and Kasese), Eastern (Jinja), Northern (Arua and Gulu) and Central (Kampala, Kayunga, and Masaka). In Western Uganda, Hoima was selected because of the recent discovery of oil there that is not only exacerbating divisions between indigenous Banyoro and other ethnic groups that have long lived together harmoniously, but is also intensifying the demand for federalism.⁴² Kasese and Jinja were chosen because of the current controversy over the restoration of their kings. Due to the fact that monarchism is central in the discussion of federalism in Uganda, these districts were thought to offer particular insight into the way the respondents understood federalism. In Central region, Kampala was a natural choice because it is the national capital and also because there is strong support for federalism there, especially among the Mengo establishment; it is also cosmopolitan. Within Kampala, field workers visited Makindye, Nakawa, Rubaga, and Kawempe. Masaka was selected in Central region as a typically Buganda-dominated district and for comparison with cosmopolitan Kampala. Masaka district is one of the oldest and relatively more developed districts in Buganda after Kampala.

Also in Central region, Kayunga has entered into the annals of the monarchical-cum-federal debate because of the creation of the chiefdom of the Banyala. In 2009, Kabaka Ronald Mwenda had wanted to visit Kayunga, as part of the district of Buganda, but was blocked by the central government. Violence amongst the Baganda, especially youths, and the central government security forces resulted in twenty-seven people being killed and numerous others injured. The reconfiguring of some districts in Buganda, including in Kayunga, with the support of the central government raises interesting issues regarding

⁴² *The demand for federalism is linked to local control of local resources. Some Banyoro expressed these feelings in a study carried out on oil discoveries. See Kiiza, Bategeka, and Ssewanyana 2011.*

the position of Buganda's demand for federalism. In Northern region, Arua and Gulu were selected because they are the oldest and largest districts with more or less republican leanings as compared to the pro-federal-oriented Central region.

The principal researcher and the research assistants collected primary data through individual interviews and focus group discussions about perceptions on the federal question.

The sample size of 602 individuals, roughly eighty-six from each of the seven districts, is sufficient for an initial study of opinions in the four regions of the country selected. The respondents included politicians – for example, councillors, MPs, and leaders of political parties – traditional and cultural leaders, representatives of civil society (from NGOs, education, religious communities, and the media), and other, average citizens. The main instrument used in obtaining information from the respondents, both key informants and focus group participants, was an open-ended interview guide. The respondents were asked to freely offer their views on the different themes.

For quantitative and qualitative data analysis, the researcher used SPSS for the former and content analysis for the latter.

After data analysis, the principal researcher produced a draft report and disseminated the findings on 19 June 2012 at a workshop convened at the Protea Hotel, Kampala. The key stakeholders in attendance rigorously debated the findings.

This study faced four limitations. First, the date for the commencement of the study fell around the end of 2010, when the country was in the midst of preparing for elections slated for February and March 2011. As a consequence, the targeted respondents were not always available to be interviewed. The longer-than-expected research period proved to be a blessing in disguise, however, because it allowed the principal researcher time to reflect intently on the issues and to reach out to more respondents. Second, collecting data covering a broader swath of the country would have further enriched this study. Although only a limited number of districts could be reached, the findings are adequate for a baseline study. To avoid compromising the validity of the study, key districts were selected using the scientific method to reflect a range of viewpoints.

Third, the technical nature of the federal issues posed a constraint on some respondents ability to respond to questions, especially among members of the focus group discussions. This constraint, however, interestingly demonstrated one of the problems with the debate on federalism: Before the country can even resolve whether to introduce federalism or *federo*, there is a need for a concerted effort to clearly explain to the population what it means. If not, emotions will

always outrun rationality in the course of the debate, and possibly lead to undesirable and unanticipated outcomes. Fourth, respondents in some districts were wary of the subject matter. For example, in Kayunga district, the research assistants were turned away during their first attempt to meet with people. Given the riots of 2009, the residents thought the assistants were a government team who had ulterior motives for wanting to know their position on federalism. The respondents conceded only after the intervention of the lead research assistant. Eventually, they made significant contributions to the study.

Chapter Four: Presentation of the Findings and Analysis

Introduction

The section progresses along examination of the following themes: investigating the extent to which Ugandans understand the meaning of federalism; identifying reasons for the adoption of federalism; examining the model of federalism suitable for Uganda if it decides to become a federal state; assessing issues to consider in designing a federal system; and identifying the challenges and remedies for adopting federalism.

Definition of Federalism

One of the most contentious issues regarding the debate about federalism in Uganda is the diverse meanings attached to it by cross-sections of Ugandans. Sometimes the term is not understood at all. Boxes 1 and 2 summarize what the respondents in this study understood federalism to imply.

Box 1: Views of Respondents from Northern, Western, and Eastern Regions on the Meaning of Federalism

- *System of government whereby a country is constitutionally divided into sub-regions called regional or federal states and each state has its own mandated powers and elected leaders and civil servants to run its affairs.*
- *Federal states control their own economic, social, and political affairs without central government interference (i.e., they take final decisions on matters that affect them).*
- *Sharing ideas by bringing common understanding of different regions together.*
- *A system of governance that empowers the king with constitutional and cultural powers.*
- *A form of government where states form a union and are responsible for foreign policies, internal affairs, and defense.*
- *An institutional arrangement through which ethnic communities govern themselves but as part of a larger political entity.*

Source: Field Findings

Box 1 indicates that although the respondents understood federalism in different ways, they largely grasped its conventional meaning. These responses represent those of the key informants (i.e., technocrats, politicians, and representatives of civil society). In general, however, the majority of the respondents identified federalism as:

A system of government where a country is divided into sub-regions called states and each of them manages its own resources and civil servants, or it is a system of power sharing between the central government and the local states. It is about democratizing the centre aimed at better resource allocation, efficient service delivery based on administrative and geographical convenience.⁴³

Although the word *federalism* as defined by the majority of the respondents meant the dispersal of power from a central government to federal states, this understanding was not clear to a minority of the respondents in some of the districts.⁴⁴ It was discovered that some respondents tended to confuse federalism with monarchism. Versions of the meaning of federalism as expressed by respondents from Central region are presented in Box 2.

Box 2: Views of Respondents from Central Region on the Meaning of Federalism

- *A form of governance where traditional or cultural leaders are the rulers.*
- *Equitable sharing of power, resources, responsibilities, risks, and uncertainties between the regions, or units, or states and the central government after a string-free dialogue which is defined constitutionally.*
- *Form of government where there is a union of states that control their own internal affairs, and the central government is responsible for managing national affairs.*
- *A country where federal states have powers in the management of natural and cultural resources within their territory.*
- *The return of Buganda's glory days or where Buganda has autonomy to manage its own social, political, cultural, and economic affairs.*

Source: Field Findings

⁴³ Interviews with Beti Olive Kamywa of the Uganda Federal Alliance and Professors Odoi Tanga and Mwambutsya Ndeebesa of Makerere University.

⁴⁴ During the Protea Hotel workshop, a participant said that some forty members of parliament from Buganda who had met at the home of former vice president Gilbert Bukenya could not define federalism, nor could they agree on the form of federalism Uganda should adopt.

Box 2 indicates the respondents' emphasis on federalism as a form of governance where power is shared between the central government and the federal states and there is respect for traditional or cultural institutions. Of particular interest is the fact that whereas some of these respondents also defined federalism in the conventional sense as indicated in Box 1, there was a tendency amongst them to define it in a cultural sense. In fact, one of the respondents defined federalism as follows:

Federo is the Buganda version of federalism, which is a system of power sharing between the central government and the federal states or regional governments with a desire for Buganda to be autonomous from Uganda based on culture and tradition. Federo is not about democracy and administration but a move or struggle by Baganda for ethnic autonomy.⁴⁵

These latter perceptions of federalism depict the belief that as a system it should enable citizens to freely determine their own affairs, manage their own resources, and have cultural or traditional leaders as political leaders. Because of this perception, some respondents tended to define federalism in a monarchical sense. This perspective definitely affects the Ugandan debate on the issue. For instance, it is arguable that anti-federal or republican-oriented respondents would reject federalism if they understood it to be monarchical in character. This would be the case not only because their areas are not monarchical, but also because monarchical areas would automatically acquire a special status. Indeed, some areas, such as Buganda, that are advocating for federalism have fused federalism with the revival of their kingdoms, hence causing misunderstandings of the meaning of federalism. This fusion of monarchism and federalism causes political disparity between regions that are monarchical and those that are not.

Another, third version of the meaning of federalism was suggested by a respondent who fused the two main – i.e., conventional and cultural or traditional – definitions cited above. Beti Olive Kanya, president of the Uganda Federal Alliance (UFA), a political party, defined federalism as “a system of governance in which two different levels of authority in one country share power and authority over a given geographical territory as enshrined in the national constitution.” She added that “*federo* is a hybrid of federalism and monarchism, ‘cross-bred’ by Buganda to create a uniquely Ugandan brand of federalism.”⁴⁶ She was the only respondent who attempted to define federalism in a way that addressed Uganda’s particular situation. Her definition, like those of other respondents from Central region, embraced the cultural aspect of the concept.

⁴⁵ Interview with Mwambutsya Ndeebesa.

⁴⁶ This definition is contained in her written submission to the principal researcher.

Two explanations may help clarify why respondents from Central region perceive federalism from a cultural dimension. First, the respondents argued that cultural leaders should have the right to control the people they lead. This position represents a political and ethnic interpretation of federalism. Second, they held that the central government should not have the authority to settle “foreigners” – meaning non-Baganda regardless of whether they are Ugandan citizens – on the 9,000 square miles of Buganda land confiscated by the British as Crown land under the 1900 Agreement.⁴⁷ This second perception is not simply about land, but monarchism. Some respondents from Central region tended to confuse federalism with monarchism because they saw it as the restoration of the Kingdom of Buganda, which is led by their king, the Kabaka. Although they do not state it openly, their desire appears to be for a return to pre-1960 Buganda.

In the workshop held at the Protea Hotel in June 2012, a young man belonging to the Buganda Lukiiko, categorically offered the views of the Mengo establishment regarding its federal demand: the king of Buganda must be part-and-parcel of the federal demand because he has been integral to Buganda for six centuries; the Baganda agree on the principle of power sharing; Buganda’s 9,000 square miles must be returned; and the Baganda, like the rest of the Ugandan majority, must be supported by the central government in eradicating poverty among them. These demands have the potential to cause a clash between the Buganda Lukiiko, including the Mengo establishment, and other Ugandans who oppose the federal debate being mixed with kingdom issues. The entrenched position laid out by the young man is viewed as Buganda chauvinism, which has “Bugandanized” the federal debate, causing not only objection amongst republican-oriented respondents but distortions about the meaning of federalism and the debate itself.

Of course, not all Central region respondents were nostalgic for the federalism that the Mengo establishment and some radical Baganda respondents seek. For instance, around 1994, P. Mugenyi, a former Constituent Assembly delegate from Isingiro, stated cogently, “Federalism is nothing but tribalism whereby a clique of people simply want to grab power and take it to Mengo. A person from Rakai [District] would not settle his problems in Mengo.”⁴⁸

He dismissed the idea of Buganda’s version of federalism just as the anti-*majimboists* did in regard to Kenya’s experiment with federalism in the 1970s. In Kenya, *majimbo* was declared “a clumsy and badly . . . thought out variant of federalism. . . . [T]here is little evidence of clear or coherent thought behind [the *majimbo*] plans; . . . this saddled the nascent country with a ramshackle of a quasi-federal constitution that was never given serious thought. The regional governments were clumsy and unwieldy, there was a wide dispersion of authority, and no clear lines of responsibility.”⁴⁹

⁴⁷ In the Luganda language, this land is referred to as *mailo akenda*.

⁴⁸ See Ken-Lukyamuzi 1994: 24.

⁴⁹ See Kagwanja and Mutunga 2001.

The different perception of the meaning of federalism by respondents in different parts of the country demonstrate a significant degree of confusion over what federalism and monarchy are and exacerbates disagreement in the debate over federalism. This confusion thus deserves clarification.

Monarchism advocates the establishment, preservation, or restoration of a form of government led by a royal, hereditary figure. The Glorious Revolution and the overthrow of King James II in 1688 established the principles of constitutional monarchy in the West. The main principle of constitutional monarchy, which clearly distinguishes it from federalism, is that it is a system based on the belief that (political) power should be concentrated in one person who rules by decree. Under absolute monarchy, the monarch possesses ultimate authority as head of state and head of government which is not limited by legal provisions such as a constitution. It was in the eighteenth century that Voltaire and others encouraged the development of “enlightened absolutism” or “enlightened despotism,” in which enlightened rulers embrace the principles of the “enlightenment” especially its emphasis upon rationality, and apply them to their territories. For instance, they allow religious freedom, freedom of speech and the press, and the right to hold private property. This enlightened monarchism was then embraced by the Holy Roman emperor Joseph II and Catherine II of Russia. Beginning in the mid-nineteenth century, some monarchists stopped defending the institution as being supported by abstract or universal principles or as the best or most practical government for a nation. Instead, their defense relied on local tradition, including a nation’s link to its past, and symbolic grounds.

As a global political force, monarchism has substantially diminished since the end of World War II. In 1974, Ethiopia abolished monarchy after the overthrow of Emperor Haile Selassie. The Iranian Revolution of 1979 overthrew the Pahlavi monarchy and replaced it with a theocracy. Nepal’s absolute monarchy ended in 2008, when the nation became a federal republic after the peaceful deposition of King Gyanendra. Today, constitutional monarchies form the majority of the world’s monarchies. In Uganda, a number of kingdoms (Ankole, Buganda, Bunyoro, and Toro) existed before British colonization in the nineteenth century. President Obote abolished them in 1967 only to be restored by President Museveni as traditional and cultural institutions in 1993. Monarchism (no matter its variants), as a governmental system, is what some respondents, especially from the kingdom areas, supported and ultimately confused with federalism.

On the issue of the monarchies, President Museveni said the following in 2011:

Since the restoration of monarchies in 1993, I have never spoken out against them. I gave them time to prove their worth. However, recent events, especially in Buganda have caused me and many others great worry. It is up to the monarchies to prove they will not undermine the integrity, unity and development of Uganda. Failure to do so will cause

*their premature destruction like in France, Russia, Ethiopia, Rwanda, Burundi, Egypt and many other countries. Absolute and political monarchy based on deceit and intimidation has no place in modern and democratic Uganda.*⁵⁰

Museveni's main concern was that Buganda's quest for federalism seemed reminiscent of events that transpired in Uganda decades earlier under the old kingdoms. In 1963, the National Assembly elected the king of Buganda, Edward Mutesa, as the non-executive head of state (Haroub and Nassali 2002: 17). At the time, each of the monarchies in Uganda had its own constitution, land board, revenue collecting board, police force, and court system. In the case of Buganda, the National Assembly lacked the authority to alter Buganda's constitution without the consent of two-thirds of the members of the Lukiiko, the Buganda parliament.⁵¹ In the other monarchies, consent required approval by two-thirds of the assemblies' voting members. The rules governing tenures for federal rulers and district heads were historically such that these leaders were exempt from civil proceedings, direct taxation, and confiscation of property.

The 1962 constitution defined the various relationships between the central government and the kingdoms. At the time, Buganda was more or less a "state within a state," a quasi-federal entity. The Lukiiko, acting on behalf of the king, had powers not only to make laws for the Buganda kingdom, but also authority over the status of the Kabaka's ministers, including their powers, obligations, and duties; the public service sector of Buganda; matters of taxation as agreed to by the government; and Buganda's traditional and customary matters. In addition, the chief justice and judges of the Ugandan high court were also the judges of the high court of Buganda. The Buganda kings ruled by birth and divine right and were not answerable to the people. They represented the embodiment of the state, combining legislative, judicial, executive, and spiritual powers. Violence was the means by which one king succeeded another (ibid.: 18). Given this history, it is understandable why some Central region respondents, especially from Buganda, tended to mix monarchism with federalism.

With regard to the republican perception of federalism, many respondents, including some focus group members, demonstrated commonality in their understanding of federalism. The two main commonalities were (1) the division of power amongst the central government and the federal states along with (2) the central government having clearly defined powers and federal states having autonomy to pursue goals unique to their local interests provided they are constitutional.⁵² The definitions offered by the majority of the respondents conform to those of scholars, for example Marquard (1971: 14), who notes that

⁵⁰ Atubo 2011.

⁵¹ In the 1950s and 1960s, of the eighty-two members of the National Assembly, twenty-one were Buganda representatives.

⁵² Of course, a constitution can be changed to alter such an arrangement. See Ahmadi 2006: 153–54.

federations tend to be constructed when a number of regions desire autonomy in such matters as defense, trade, or banking but do not seek political unity. In an article on Buganda's definition of federalism, Okuonzi (2009: 5), an anti-federalist, posits thus:

But what credentials and legitimacy does the kingdom have to champion and teach others about federalism? Federalism is not an aspect of Ganda culture. What miracle will the kingdom use to disguise its well-articulated sectarian interests to pursue a special status (commonly called Federo) as federalism? The people who peddle Federo or special status for Buganda want the rest of Uganda to believe that their pursuit of federalism is genuine and is not associated with the kingdom, the Kabaka or with a special status. But their actions and utterances show us the contrary. These people always refer to the 1962 Constitution as the gold standard for federalism. Yet, this was a highly unequal and unfair arrangement where Buganda (as one ethnic group) was made to federate with the rest of Uganda consisting [of] over 50 ethnic groups. By virtue of this arrangement a traditional leader of this one ethnic group became the president of the whole country, something many believe was preposterous.

Like some of the respondents from outside Central region, Okuonzi sees Buganda as a colonial construct with privileged status (in relation to other kingdoms and regions) that was calculated to fragment the country in the interests of imperial Britain. In a similar vein, Atkinson (2001: 2–4; see also Low 1971: 1–10) notes the following:

Misrepresentation and manipulations of ethnicity were part of the very creation of Uganda by the British. At the centre of that creation and the distortions of ethnicity accompanying it was the kingdom of Buganda. . . . It was . . . the state that Europeans of the time recognized as most similar to their own and thus worthy of some respect and recognition. . . . Indeed, Buganda served as the bridgehead for extending British imperial rule into the rest of what became Uganda.

Structurally, the kingdoms in Uganda have aspects unique to African societies. A brief comparison of two kingdoms in Uganda helps clarify this point. The construction of clans in Buganda, like in Ankole, is in accordance with their relationship to the monarchy. In Buganda, unlike in Ankole, the relationship carries an economic value (Kayunga 2000). As Kayunga (2000) points out, the performance of clan functions in Buganda is exclusively for the king, not for a family or clan. Noting that in spite of the hierarchical nature of the relationship between clan members and the monarchy, the horizontal relationship between clans as social units is autonomous and equal in terms of power, he observes that:

The historical narrative, clan linkages and symbolic functions which clan leaders perform towards the institution of the monarchy, are very important in explaining why the Buganda monarchy is very popular compared to the Ankole one, and why demands, such as the federalism demand, which are directly linked to the Kabaka, have received popular support in Buganda and not in Ankole, with regard to their King. (Kayunga 2000: 39).

In other words, there has always been an integration of the virtues inherent in the kingdoms or monarchies with the construction of federalism in Uganda. This integration explains why, for instance, Kiwanuka (2009:12) strongly believes that “the federal system contributes more effectively to the preservation of culture and regional ethnic peculiarities”.

The level of education of respondents is a critical factor in their understanding of federalism: The higher the level of education, the clearer their perception. For instance, some members of the focus groups some of whom had minimal or no education – the majority of the group members were selected at Local Council I level, which largely consists of uneducated local citizens – demonstrated vagueness in their grasp of the meaning of federalism. In addition, as was the case in Central region, their understanding of a monarchical federalism indicates a desire to ensure that the Kabaka is constitutionally recognized as a political leader as opposed to the apolitical position enshrined in the 1995 constitution.

The cross-section of respondents who defined federalism in a cultural sense did not mention that traditional leaders face the problem of culture-driven internal contradictions due to the wealth that they or clan leaders amass in relation to the poverty of their communities (see Kayunga 1995: 249). In such a setting, political legitimacy is connected to class domination, something that pro-federalists either fail to address or about which they are conspicuously silent. A new dynamic has evolved over the years in which traditional rulers, who were once the richest in their communities, must now seek political or socio-cultural legitimacy over subjects who are much stronger (Kayunga 2000: 249).

Two complexities need further explanation regarding monarchical structures. The first relates to the fact that monarchies, by their very nature, are not democratic institutions. They are hierarchical, with political power residing at the top and obedience, by the people, at the bottom, without any resistance. The second is the problem of whether the king of Buganda and other kingdoms are supportive of or opposed to playing a political role.⁵³ In the event of the former, the question then becomes How should this be achieved in a modernizing Uganda? The answer necessitates confronting the social realities of Uganda today, an issue that

⁵³ *The construction of a long-lasting apolitical Kabaka by the NRM government will be a difficult constitutional provision to sustain; the Kabaka has always been a political as well as a cultural institution.*

is not being fully addressed by pro-federalists. There is another, related question: In the event that federalism is rejected, how will those citizens who support it go about acquiring it?

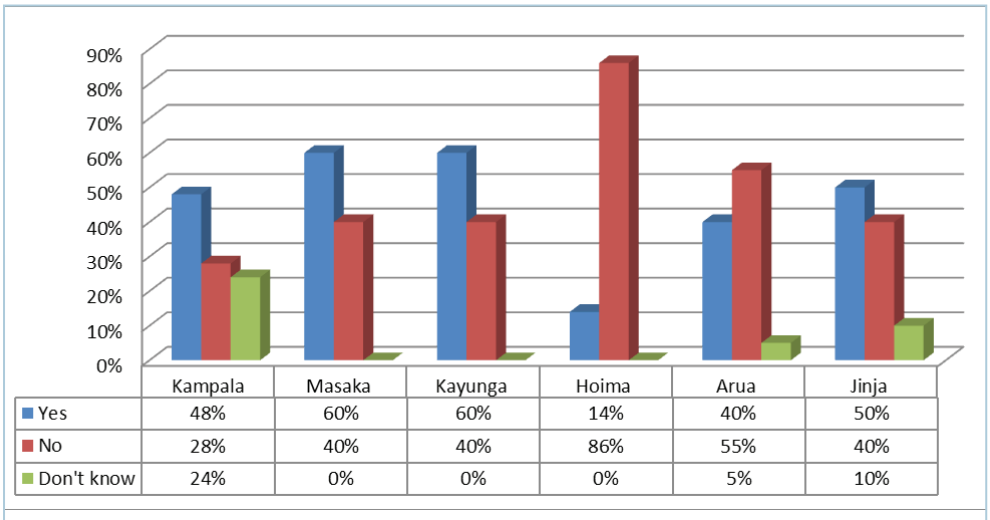
Fortunately, the regions that support the adoption of federalism have not entertained using force to attain it. It is arguable, however, that the possibility of civil war as a means of implementing federalism in Uganda could frighten many who oppose its being adopted based on political kingdoms because they fear it will spur ethnic division or secession. The Munster Commission (1961: 55) expressed similar fears in the 1960s. Referring to its recommendation for a composite state containing a single federal kingdom for Buganda and the rest of the country to be governed unitarily, the commission asserted, "This cannot be said to be an ideal balance of forces, since it gives a unique position to Buganda, at present a disruptive element in the country. On the other hand, the union of the rest of the country will be a powerful force to offset Buganda's powers and privileges, and to hold in check her inherent bias towards secession, so long as it may last."

Pro-federalists, especially from Buganda, posit that anyone calling for secession is merely threatening Ugandans who detest the variant of federalism (i.e., *federalo*) that some Baganda are demanding. The pro-federalists view ethnicity and federalism as two different issues wherein the former is a natural inclination to see one's ethnic origin as a birth or natural right and the latter as a form of government arrangement for purposes of effective governance. Despite their desire for federalism, the Baganda do not intend to expel non-Baganda from Buganda. Indeed, some Ugandans see the Baganda as being accommodative. Kayunga (2000: 2) notes that in the language of development discourse, multi-cultural communities grow faster than those that are not. Hence, it would be counterproductive for the Baganda to exclude other Ugandans from Buganda by virtue of their ethnicity. In addition, when cultural institutions are empowered, they can become vehicles of development.

Hence, central to the discussion of federalism is its connectivity with issues of rights and democracy (Kituo Cha Katiba n.d.: 19). In other words, the demand for federalism is about the respect of a peoples' values of democratic governance and human rights. Uganda is a pluralistic society with two dominant tendencies: monarchism and republicanism. These tendencies also hold divergent cultural values. Whereas those in Central region may cherish the hereditary system, Ugandans in the non-monarchical areas abhor it. Among many of the respondents, these two positions are entrenched and tend to obscure the federalism debate.

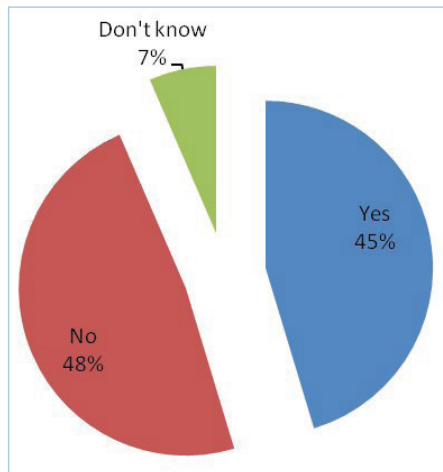
Complications regarding the meaning of federalism arise when the reason or reasons for or against its adoption are investigated. Hence, this study sought to cross-check the perceptions of the respondents by asking them their views on the adoption of federalism (see figures 1 and 2).

Figure 1: Responses as To Whether Uganda Should Adopt Federalism



As figure 1 illustrates, among respondents 48 percent in Kampala, 60 percent in Masaka, 60 percent in Kayunga, 14 percent in Hoima, 40 percent in Arua, and 50 percent in Jinja believed that federalism should be adopted. Hence, majorities in Masaka and Kayunga support the adoption of federalism, while half of respondents in Jinja and slightly less than half in Kampala and Arua, and a minority in Hoima were in favor of federalism. Figure 2 shows the composite responses from the districts.

Figure 2: Overall Responses As To Whether or Not Uganda Should Adopt Federalism



As figure 2 shows, overall, 45 percent of respondents supported the adoption of federalism, 48 percent opposed it, and 7 percent did not know if it should be adopted. Although the majority of respondents rejected the adoption of federalism, a sizable minority (45 percent) was for it; this minority's interests cannot be dismissed. It is also interesting to note that while one might have thought that a sizable majority of respondents in Hoima would support the adoption of federalism to better control recently discovered oil in their region, only a small minority did so. The Hoima respondents gave four main reasons for rejecting federalism: Uganda is too small geographically; federalism requires Ugandans to practice full democracy, which is not the case today; most Ugandans are poor, and the country has meager resources, which cannot be distributed equitably; and some areas without kings will not benefit.

These reasons – which are not practical ones for rejecting federalism – largely demonstrate the respondents' lack of understanding of federalism. First, it is not true that Uganda is too small to be divided into federal entities. In fact, this could be done through regionalization. The five regions of Uganda – Northern, Central, Western, Southern, and Eastern – could easily constitute federal states as long as the citizenry agreed on the basis of such a restructuring. Second, the argument that Uganda must first be a democracy before it can adopt federalism is the most illogical of the reasons offered. In fact, as noted in chapter two, one argument for federalism is that it promotes democratic rule and good governance. Third, whereas it is true that most Ugandans are poor, this is not an adequate basis for rejecting federalism; of note, the respondents who supported federalism argued

that poverty in Uganda was the result of centralization, whereby most of the country's resources end up in the pockets of a few national leaders at the centre. Those who occupy the centre are viewed as being too far removed from the citizens at the grass roots to be held accountable for their actions or inactions. Pro-federalists believe that Uganda has adequate resources to benefit the majority of the citizens, but must define a formula for distribution to make this happen. It is due to corruption that the nation's resources appear to be meager. Fourth, the reasoning that areas without kings will lose out if Uganda adopts federalism is evidence of the erroneous mixing of federalism with monarchism.

In Arua district, where nearly half (55 percent) rejected federalism, respondents offered the following primary reasons: Uganda's development is uneven (e.g., some regions have poor road and electricity infrastructure, insufficiency of human resources, and lack of capacity to exploit and manage resources); Uganda is too small geographically to be divided; some tribes are too small, and the country is so ethnically polarized that it will break into unviable entities; and the push for federalism is a selfish demand by Baganda because they want to use their culture and king to run their own affairs. As in the case of Hoima, these reasons are not valid for the rejection of federalism, because they are based on misunderstandings of federalism.

What emerged as the main concern amongst the majority of respondents is the widespread fear that the adoption of federalism has the potential to cause ethnic differences amongst the newly created federal states. In fact, in opposing federalism, some respondents from the north observed that some federal states would be bigger than others, thus giving them unfair advantage over smaller ones. In this sense, and as one respondent put it, federalism will promote fierce competition between states because some of them will feel they are superior to other regions or states, creating a "my state is better than yours" mentality. This concern is legitimate because dividing a country without taking into consideration factors that negatively highlight ethnic differences could lead to political conflict. Mulera (2003: 8) notes that federalism can, indeed, promote localism and ethnic xenophobia and undermine a sense of unity and nationhood. Indeed, federal Nigeria is a good example of debilitating separatist wars between states. Even India, frequently paraded as a federal miracle, bleeds from secessionist movements. The introduction of ethnic-based "quasi-regionalism" in post-Mengistu Ethiopia has fueled the conflict over the proposed state by members of the Oromo population.

Furthermore, federalism could lead to wrangling, or civil war, over regional resources between states, as underdevelopment of one state and overdevelopment of another could heighten animosities over benefits and taxes. One respondent alluded to such a scenario thus: "No one can tell with certainty whether federalism will not trigger ethnic recidivism and separatists tendencies in a country such as Uganda. In addition, social and economic imbalances could ensue, such as overpopulation of one state and under-population of another state, that will have an

overheating effect on the economy.” This outcome is definitely inimical to the adoption of federalism.

Indeed, although federalism can be modeled to guarantee socio-economic equality and equity, the inherent danger remains of engendering federal states with low resources or capital and weak markets. Some regions may end up promoting their interests over the national interest. In addition, a new constitution would give power to regions to control or manage their own resources, which would likely prevent equitable distribution of national resources across the country. As if to support this point, some respondents especially from regions such as the north, raised this issue during interviews, arguing that if Uganda adopted federalism, and, say, the Banyoro were the only ones to benefit financially from the oil-rich Albertine Graben, it would be unfair to the rest of the country, especially to those regions endowed with lesser resources. The respondents are correct in this observation, because even today, the country is experiencing unequal distributions of revenues accruing from various resources that should have been equitably distributed.

Like decentralization which has duplicated services and officials at the district level, federalism might turn out to be an expensive system that duplicates services and officeholders at the federal state levels. Consequently, it could interfere with the uniformity in public policies on issues of national concern, such as laws regulating marriage, divorce, abortion, liquor, voting rights, and public education. Worst of all, local governments could experience double subordination from both the central government and the federal states.

In summary, there was no unanimity in the respondents’ understanding of federalism. The findings indicate a clear mix. Some understood it in its conventional sense, while others mixed it with monarchism or perceived a hybrid variety. Further, respondents across districts raised serious concerns regarding the adoption and rejection of federalism. These differences pose serious challenges for reaching agreement regarding the meaning of federalism as well as whether it should be adopted or rejected.

Why Federalism?

When respondents were asked the objectives of federalism, they offered the following: it leads to the preservation of different cultures and the protection of traditional institutions by providing them political autonomy; it lessens the dictatorial powers at the centre; it eases service delivery to the people and enhances regional socio-economic development; creates employment opportunities; involves citizens in resource planning and budgeting; can lead to the development of economic markets and competition amongst regions; grooms leaders at regional levels; promotes infrastructure development; upholds the cultures and norms of ethnic groups; pressures central government to account

for their actions and inactions; forces local people to work hard lest they be left behind by other regions; and brings about autonomous self-governance so that they, the federal states, can contribute to the whole.

Furthermore, respondents in most of the districts observed that federalism creates a political landscape that would bring about good governance through the division of the country into sovereign entities – the central government and the federal states – that share power constitutionally. Federalism imposes strong fetters through the constitution in such a way that the national leadership cannot easily amend the enumerated powers of the federal states. Amending the constitution would require a special procedure, say, approval by two-thirds of the federal states. The respondents observed that to achieve such objectives, the national constitution should be clear about the kinds of powers that will reside with the central government and with the federal states. Both the centre and the federal states should respect the demarcated powers.

The theoretical result of the power-sharing envisioned by respondents would be better governance through checks and balances prohibiting the central government from unduly encroaching on the powers of local federal states. It is somewhat like the decentralization provided for in the 1995 constitution, whereby the president has the power to close any local government office that is acting *ultra vires* established laws, regulations, and procedures. In fact, the respondents' views agree with those of Ostrom (1994: 149), who notes that federalism offers opportunities for self-determination in the sense that it enables effective control, efficiency, and inclusion of political interest.

The respondents further observed that the added advantage of constitutional demarcations of power is the creation and eventual nourishment of democratic institutions that would be more accountable to local authorities, and to ethnically marginalized groups, than to a centre sustained by stranglehold of a powerful executive or a dominant ethnic group. The majority of respondents in the Central, Eastern and Western regions except for a few in the Northern region who are republican in their orientation, strongly believed that under a federal constitution the enactment of legislation by the national parliament should first be scrutinized by the people of the federal states. The respondents' views agree with scholars who note that any amendment of a federal constitution should receive the endorsement of, say, two-thirds of the votes in three-quarters of the federal states. Marquard (1971: 71) puts it this way: "It must not be impossible to change it [a federal constitution], but it must not be easy." Under such a constitutional arrangement, federal states would have clear legislative powers on a wide variety of matters dear to them.

Federalism has a built-in mechanism to promote democratic values whereby it bestows upon citizens the inalienable right to self-governance. A federal arrangement can ensure effective management of the electoral process through

the dispersal of power to federal states. Indeed, to attain greater democracy, the federal system has the potency to establish political institutions amenable to democratic governance through which individuals and groups can compete for political power.⁵⁴ This approach enhances citizens' quest for socio-political justice by increasing their awareness about their civil and political rights.

On a different note but still concerning the democratic framework, one respondent argued that federalism encourages proportionality in the recruitment of civil servants in federal states, thus distributing jobs to local inhabitants, as opposed to the present centralized constitutional arrangement whereby the "juicy" jobs go to individuals of a few ethnic groups and supporters of the regime through a patronage system.⁵⁵ In other words, recruitment will be based more on "know-how" than on "who you know," as under the current centralized system.

The potency of a federal system is that federal states serve as hothouses for experiments in new laws and government programs. In this regard, not only can resourceful people enter the political system at the federal level, but the federal states will engage many decent-minded and patriotic citizens and civil society institutions to participate in the development process of the locality and the country. Whereas this argument for federalism sounds laudable, the respondents could not raise points to distinguish it from the current system of decentralization.

A federal system can also reduce strong tribal sentiments through the creation of conditions of unity in diversity. Inherent in federalism's division of powers is the potential to resolve civil and political conflicts by socializing the different ethnic groups into understanding and accepting each other as citizens of one nation with a common destiny.

Another objective mentioned by the respondents for adopting federalism concerns economic management and natural resource distribution. Pro-federal respondents advanced the argument that federalism encourages balanced economic growth because it disperses socio-economic development in such a way that federal states design their own path to economic development as opposed to the central government's imposition of an agenda or policy that may not necessarily be in line with the local people's desires. They saw federalism as encouraging each state to become innovative in designing its own development plans to harness local resource potentialities. This way, they argued, local citizens can "own" the development process, contrary to the present practice under centralization whereby policies are superimposed from "above."

When respondents were asked the distinction between a federalism perspective on the management and distribution of resources and what decentralization

⁵⁴ Interview with Odoi Tanga and Mwambutsya Ndeebesa.

⁵⁵ Interview with John Ken-Lukyamuzi. *The Equal Opportunities Commission (EOC) set up in 2007 is yet to address this imbalance.*

offers today, their argument was that in the latter case an excessively powerful president can prohibit policies from being formulated and implemented that are not in his “interest.” This informed some respondents’ argument that federalism grants legal and political powers to states to determine their own future, thus promoting economic growth, employment creation, and improvement of local people’s living standards without interference from the central government. In the case of recently discovered oil in Bunyoro, some local inhabitants are now of the view that once they are granted federal powers, they will use their share of the oil revenue to develop their economy and society on their own terms, rather than the dictates of the centre.⁵⁶

In Kampala on 1 June 2012, during a meeting on transparency and accountability in the oil sector, civil society organizations (CSOs) and political party leaders opposed a demand by Iguru Gafabusa, king of Bunyoro, for a dedicated share of the oil revenues. Instead, they urged that the government should treat oil as a national resource:

“It is high time we realize that oil is a national issue. Apart from oil being under their land, what are the Banyoro contributing to its development? We need to detribalize and de-regionalize issues of national importance.”⁵⁷

What the CSOs were saying essentially is that the king’s demand is anti-republican and anti-nation-state building, potentially creating a situation that could turn the country’s oil resources into a curse rather than a blessing.

The CSOs were reacting to an appearance by the king before the parliamentary Committee on National Resources on 31 May 2012. The king’s demand was for Bunyoro kingdom to receive 12.5 percent of the total revenue from oil when production starts, rather than the central government paying compensation for land and environmental damages. What these CSOs should have added is that there is no guarantee that once such resources are controlled at the local level, even by Bunyoro kingdom itself, it will trickle down to the local, indigenous populations. Corruption knows no bounds; it can happen just as easily at the local level within a federal arrangement, as at the central government level being witnessed under decentralization.

However, the chairman of the Committee on National Resources, Hon. Michael Werikhe, pointed out that the king was within the Rules of Procedure of Parliament in making his request because “he alluded to his subjects throughout his presentation.”⁵⁸ Charles Peter Mayiga, minister for cabinet affairs in the Buganda kingdom, opined that federalism is the answer to Bunyoro’s problem.⁵⁹

⁵⁶ See Kiiza, *Bategeka, and Ssewanyana 2011*: 22.

⁵⁷ *Imaka 2012*: 5.

⁵⁸ *Ibid.* p.5.

⁵⁹ *Mayiga 2012*: 21.

While objecting to the justifications presented for Bunyoro's demand – the area's lagging in health and education services, infrastructure underdevelopment, and marginalization during British colonial rule – he also noted that the Banyoro should take a share of the revenue simply because it is realized from their region. In dismissing the reasons that Bunyoro advanced for a share of the oil revenue, he stated that the same applied to all regions, the only difference being one of degree. He noted that other areas that have contributed resources to Uganda's existence for more than hundred years have not had a fair share of the national cake.

In his answer to Bunyoro's demand, Mayiga gave four main reasons for supporting federalism: it guarantees equitable sharing of revenue by all regions of the country; priorities for each area could be determined by the people directly affected by decisions; it would ensure that regions with resources (such as Bunyoro with its oil) have access to it, and thus the chance to protect, preserve, and promote their history and heritage; and it promotes good governance, a critical benchmark for the equitable distribution of national wealth.

Mayiga reiterated that the majority of Ugandans had supported a federal system during the work of Justice Benjamin Odoki's Constitutional Review Commission, only to have the effort killed through underhanded methods by the Constituent Assembly (CA) that promulgated the 1995 constitution. He, therefore, proposed a united front in which areas such as Bunyoro kingdom join hands with Buganda kingdom to push for a constitutional amendment to introduce federalism. He noted that the percentage of revenue accruing to any region should not depend on a given regime or act of parliament, but should be constitutional, emanating from the system of government. His argument was that a regime can always be changed, and an act of parliament is far easier to amend or entirely scrapped than a constitutional entrenchment.

The issue surrounding the ownership and distribution of natural resources in each region will certainly spark off serious contestation and emotions among those who favor sharing revenue accruing from local resources and those opposed to the idea. Mayiga was right in observing that federalism offers good governance which is a critical benchmark for equitable distribution of national wealth. However, he fell short in two respects. First, he did not mention the specific issues to do with good governance that should guide the resources management process. He did not state why federalism rather than unitarianism is the best system to address the management of resources in the country. The failure to objectively discuss the federal question with regard to the distribution or re-distribution of the country's natural resources is one of the core reasons why some Ugandans are suspicious or fearful of the adoption of federalism.

A related argument mentioned by respondents is the efficacious management of natural resources under federal states versus under a centralized system. Pro-

federal respondents argued that not only would federalism constitutionalize the states' autonomy over local resources, but it could also check the central government's unilateral utilization of the country's natural resources to serve the interests of a cabal of individuals.⁶⁰ They asserted that centralization and decentralization foster this kind of (mis)use of national resources, whereas under a federal arrangement, the national parliament and the state assemblies must agree on how the resources will be utilized. Hence, they claim that local people's living conditions would improve substantially under federalism. They also viewed federalism as possibly producing efficient and effective utilization of indigenous knowledge in the management of local resources. Some of the resources found in the regions of Uganda are presented in table 1.

Table 1: Key Resources in Regions of Uganda

Buganda	Lango	Acholi	Bukedi	Bugisu	Bunyoro	Karamoja
Tourism	Cotton	Cotton	Cotton	Coffee	Oil	Minerals
Ma-tooke	Millet	Sweet Potatoes	Maize	Minerals	Maize	Cotton
Coffee	Simsim	Millet	Cement	Passion fruit	Sweet potatoes	Cattle
Maize	Fish	Sorghum	Fertilizer	Bananas	Cassava	
Fish	Tobacco	Poultry	Rice	Tourism	Tobacco	
Tea	Poultry	Tourism	Sorghum		Forests	
	Tourism					

Source: Based on Ken Lukyamuzi (1994:25).

As table 1 illustrates, all the regions of Uganda have rich resources for harnessing to the benefit of the citizenry. The natural resources range from minerals to agricultural crops. A recent mineral mapping shows the presence of nickel-platinum group metals in Iganga district and base metals and rare earth elements, carbonites, and kimberlites in the east and southwestern regions; base metals, chromite, and marble in Karamoja in the northeast; iron ore in Mayuge in the central region; and diatomite in Pakwach in West Nile region (for details, see Butagira 2012: 1–4). Hence, federalists argue that there is no reason for anyone to worry that federalism will cause retardation in the socioeconomic development of a particular region. They insist, instead, that the key concern should be on the efficacious management of local resources.

⁶⁰ Written submission of Beti Olive Kamya to the principal researcher.

This perspective on the management of natural resources implies that because there is more autonomy under federalism, it has the ability to create an enabling environment for local economic development and support of a more competitive business climate. For example, some key informants argued that “once adopted, federalism disperses capital from high-incentive industrial zones to remote areas.” Other Ugandans agree with this view, but for such dispersal to occur there is a need to develop infrastructure to attract industries based on local natural resources (Museveni 1985: 58).

Other respondents dismissed the management of the economy under a central, unitary government because the location of industry is largely determined by patronage rather than investment or economic rationale, and politicians simply seek to reap political gain for setting up industries regardless of whether they are viable. These respondents, who cut across districts, noted that the unity-based, post-independence governments had all distributed resources in similar ways. For example, one of the respondents from the north pointed out that Apollo Milton Obote had constructed a tarmac road from Kampala to the north, and Idi Amin had built the Islamic University in Uganda and the earth satellite station at Arua. Another respondent wondered what other areas, especially depressed ones like Karamoja, had benefited over the years. He answered his own question by acknowledging a few programs funded by the central government, but also noting that many had yet to produce their announced impact.

Another respondent from the north observed that although federalism is capable of opening up space for business competition, relations between “settlers” and indigenous peoples could pose difficulties. The respondent’s view is relevant because the relationship between these communities is sometimes manifest in competition over natural resources, tensions between socio-cultural systems, and the ordering of political systems (see Kefale 2002: 48). Furthermore federalism should not permit the redistribution of resources among communities in such a way that it enhances the power of local traditional oligarchs. Okuonzi (2009: 5) relates this problem through the case of Buganda:

Buganda controlled its resources for itself and got additional grants from the central government (i.e., from the rest of Uganda) to develop itself. By this historical and economic distortion, much of the national economic wealth of the country has been concentrated in Buganda. Resources were channeled to Buganda to build “national” institutions, which are dominated and largely benefit Buganda. Before we split into federal states, how does the kingdom propose to share out the national wealth concentrated in Buganda?

This economic challenge also encompasses a socio-political dimension that requires thoughtful resolution. In discussing Uganda’s north-south conflict, Ginyera-Pinycwa (1992: 7) asserts,

Despite the . . . efforts of President Museveni, the troubles in Uganda still go on. And they are, in my opinion, likely to do so as long as northern and southern Uganda are considered as a single nation. The mainly Nilotic peoples of the North (including the Acholi, Ateso, Kakwa, Karimojong, Karasuk, Langi, Lugbara, Madi, and Sebei) will never mix happily with the mainly Bantu peoples further south.

Okuonzi (2009: 5) cites his own region's contribution to Buganda's socio-economic development:

West Nile has made a significant contribution to Buganda's development in [the] form of contributing to the building of national institutions and infrastructure located in Buganda. It [West Nile] was a major producer of cotton when cotton was a key cash crop. West Nile continues to produce tobacco, which fetches the highest amount of revenue to the government. If in the very unlikely event that Buganda is seeking genuine federalism, how will West Nile and other communities be compensated? The Pandora's box of sharing the national wealth concentrated in Buganda must . . . first be opened before we embark on actual federalism talks. . . . Federo is strongly linked to a powerful and political Kabaka, contrary to the Constitution of Uganda.

These are legitimate socio-political and economic concerns that necessitate serious reflection on the past and present. The British developed Uganda as a collection of ethnic entities (Kasozi 1999: 48). By 1955, Uganda was a series of concentric ethnic rings, with Buganda at the centre; Busoga, Bugisu, Teso, Toro, and Ankole as the inner ring; Kigezi, West Nile, Bunyoro, Lango, and Acholi on the periphery; and Karamoja outside the periphery. This development created varying levels of inequality among the regions and districts that has persisted.

Not surprisingly, people from the underdeveloped or underserved parts of the country have sought a share of the privileges at the centre to which they have in some ways contributed. If, for example, Buganda claims Kampala as its territory, as it frequently does, how will the rest of the Ugandans who contributed to making it what it has become benefit from its growth? If Uganda adopts federalism, will Buganda compensate the states that have contributed to Buganda's socio-economic development over the years? If the Baganda attempt to compensate other Ugandans, how much, and how long, will it take to enable the other regions, as federal states, to "catch up"? These questions are at the heart of the federal debate but, unfortunately, are merely glossed over or ignored entirely, particularly by those who fear the adoption of federalism.

Inherent in the economic argument for adopting federalism are the tax-raising and tax-utilization powers of federal states. In Kayunga district, members of the focus group discussion raised the following questions regarding payment of

taxes and revenue utilization:

If federalism is introduced in Uganda, will local people pay taxes to the kingdom or to the central government? If it is to the kingdom and we oppose the establishment of the old kingdom, what do we do? If the kingdom is responsible for utilizing the revenues collected, shall the local people have a say?

One respondent noted, "For us the local people, we are for tax payment but to an authority which is accountable to us and the revenues should be used in areas of our need."

These concerns reflect matters of accountability regarding the collection of revenues and their utilization. The problem with establishing systems, whether they are centralized or decentralized or federal, is that the voices of the local people tend to be ignored by those in charge of government. What the members of the focus groups in Kayunga district were conveying is the need to involve local people in the governance process as opposed to imposing decisions and policies on them from above.

Indeed, as the late Abubaker K. Mayanja, a former prime minister of Uganda, asserted, it is impossible to have federalism without collecting taxes because it is about organizing resources (Kaheru 2004: 33). On another note, he observed that it is inappropriate for a federal state to depend on handouts from other centers of power other than mobilizing resources locally. He also contended that it does not matter who collects the resources. It can be through the Uganda Revenue Authority or some other entity, so long as they are collected and retained for the management of those states in which the resources are found.

Under federalism, tax collection and expenditure should reside in the federal states. The argument is that under federalism, the states will have economic autonomy to determine their tax rates to raise sufficient revenue to balance their budgets (recurrent and capital). Revenue generation would typically come from land; ground rates; stamp duties on documents; estate duties and inheritance taxes from assets, such as buildings; occupational permits; commercial transaction levies for various services; borrowing from banks; and grants from the central government, especially equalization grants for depressed states that have inadequate taxable sources.⁶¹

Pro-federalists and some scholars assert that the higher the conditional grants that the central government transfers to the districts, the less autonomous the districts

⁶¹ *The problems are twofold with equalization grants as sources of funds to top-up federal states that have low revenue. The first concerns how substantial the grants would need to be to enable the states to plough them into their developmental programs and projects to improve the standard of living of local citizens. The second, as alluded to above, concerns the extent to which such financial powers held by the centre will eventually translate into control of federal states.*

become in determining their local needs and priorities.⁶² One observer argues that “districts are too small to be of economic significance as institutions of local governance. . . . [G]iving power to people who are economically powerless is self-defeating” (Kayunga 2000: 19). Uganda’s rapid “districtization,” the creation of new districts – from 60 to nearly 136 in less than ten years – has exacerbated the problem of inadequate resources for managing decentralization.

Through constitutionalizing federalism, the central government would lose control of and influence over local sources of revenue and expenditure. This implies that the federal states would not be totally subordinate to statutory orders and directives by the central government regarding how they should manage local affairs. Such autonomy should not, however, be misunderstood or misinterpreted to mean that the federal states can do whatever they deem fit, especially if it goes against the common will and good of the nation.

Federalism allows for variation in public policies among the federal states (Ostrom 1994: 54–55). Federalism can also, however, impose policy constraints. For instance, it can lead to intergovernmental competition in (re)distribution policy; hence some calls for the federalization of welfare policy. Anti-federalists, even in Uganda, argue that “federalism allows special interests to protect positions of privilege, frustrates national policies, distributes the burdens of government unevenly, hurts poorer states and communities, and obstructs action toward national goals” (Dye 1995: 280–81).

Another objective of federalism mentioned by the respondents, particularly those from Central region, is socio-cultural in nature. They observed that federalism is capable of reviving and sustaining cherished socio-cultural values of different ethnic communities. They emphasized that it has the potential to preserve traditional institutions, customs, dignity of leaders, and justice systems.⁶³ Other respondents, however, especially from non-kingdom areas, held that the older, traditional institutions cannot work in modern-day Uganda, and can only be made to do so after modification to mesh them with global socio-political and technological systems. They posit that cultural egoism or perceived superiority of one ethnic group over others should not dominate the evolution and shaping of national culture under a federal dispensation. The socio-cultural perspective on the part of some respondents had ingredients of kingship attached to federalism fused to it.

Speaking to education, some respondents saw federalism as capable of leading to an educational system with relevance to the respective federal states. They opined that each region or state has its unique and indigenous identity by virtue

⁶² *The central government retains a sizeable portion of national revenues in spite of the various types of transfers to local governments.*

⁶³ *While federalism is viewed as capable of meting out justice, none of the respondents was able to clarify the issue of local council courts achieving a similar objective.*

of history, culture, language, values, and norms that it strongly feels it should pass on to its future generations. Hence, each federal state should have the freedom to design and implement its own educational curriculum, even if guided by a national education policy framework.

The majority of respondents across districts thought that the role of the central government should be limited to the supervision of federal states to ensure that local populations receive quality educations as defined by the country's education policy comparable to international standards. The respondents observed further that there is a need to clearly define the central government's role in education before adopting federalism to avoid potential conflict. They emphasized that the central government should have the legal mandate and the capacity to enforce its responsibilities towards the education sector and all others.

Among the objectives of federalism not identified by respondents, but which are fundamental to the federalism discourse, were conflict management, policy diversity, policy responsiveness, and encouragement of policy experimentation. It is arguable that these can also be attained under a unitary system. It probably demonstrates the respondents' bias towards federalism that they were silent or could not state reasons why these objectives are only attainable under federalism.

Model of Federalism Suitable for Uganda

Besides asking the respondents whether they knew of different models of federalism, the study also inquired about a model suitable for adoption in Uganda. The majority of respondents had no idea about conventional models of federalism. Although few respondents could suggest models, they were able to focus on countries that practice some form of federalism, namely, the United States (presidential),⁶⁴ Canada and New Zealand (parliamentarian), Germany, Switzerland, Nigeria, Kenya, South Africa, Malaysia (hybrid),⁶⁵ and Sudan and Australia.

They also referenced other models, among them monarchism and dualism. They defined the latter as a type of federalism whereby the central government and the federal states share responsibilities in service delivery in such sectors as health, education, and road infrastructure. Their main argument for the sharing of responsibilities and functions hinged on the inability of federal states to raise adequate local revenue for programs and projects to meet local service demands. Some respondents justified this model of federalism by arguing that since all

⁶⁴ *The U.S. model was defended for the following reasons: fosters sustainable development because each state is given autonomy to resolve its problems; allows states to collect their own taxes and draft budgets; allows the central government to check how different regions run their affairs, hence improving service delivery, and allows local people to participate in the management of their affairs.*

⁶⁵ *Interview with John Ken-Lukyamuzi.*

resources are national, no one state or region should deny other regions the enjoyment of those resources. Thus, the central government should generate surplus to assist areas with resource deficits.

Of interest, some respondents mentioned the Catholic Church and FIFA as “models,” though without substantiation. One respondent proposed a homegrown model: “If it looks like a duck, walks like a duck, and quacks like a duck, then it must be a duck.”⁶⁶ She made this analogy because of the NRM’s regional tier government model, which is close to a federal structuring.

It should be noted that although the respondents were able to mention some “models,” they offered no clear explanation of what they actually were, how they worked, and their implications. Only one respondent, besides the Conservative Party member who mentioned a “hybrid” variety, was able to defend his or her homegrown model. To this woman, the model offers local solutions to the problems caused by the unitary system of government.⁶⁷

The responses of pro-federalists about a possible structure of federalism for Uganda were varied: The country should be divided into fifteen federal states, including the seat of the central government (either Kampala or a new location). The federal state boundaries should be explicitly defined in the constitution so they cannot be repealed except through a referendum; they might be based on the existing Central, Eastern, Northern, and Western regions or current kingdoms, for which in the latter case cultural leaders would become federal heads. Also, bordering regions with similar cultural beliefs could form states, which should remit resources to the central government for running national affairs. The system should not have a tribal basis or lead to the monopolization of natural resources or assets by any particular ethnic group. The duties and authority of the central government and the federal states should be clearly delineated. The political heads of federal states should be elected governors, not cultural or traditional leaders. The reasons offered by respondents who said Uganda should not consider federalism were that the country is too small, its natural resources are too meager, and it could be plunged into chaos because it would be divided along ethnic lines.

When probed further on a model for Uganda, pro-federalists suggested some which they thought would apply uniquely to the Ugandan context, namely, the Buganda model, decentralization, RTG, and CP’s hybrid model (discussed below). These “models” are not federalist, but are of interest because of the respondents’ perception of them as such.

⁶⁶ *Written submission to the principal researcher by Beti Olive Kamya. She believes that the hybrid model could have features of conventional federalism as well as elements of traditional and cultural attributes in which a king is recognized as an actor without necessarily engaging in partisan politics. She did not offer details of the model.*

⁶⁷ *Ibid.*

The Buganda structure of federalism was British ordained. Indeed, the form of government enshrined in the 1962 semi-federal constitution originated in the Munster Commission and the Lancaster Conference. The major problem with the 1962 constitution was that it emphasized division rather than unity by placing Buganda's interests above those of Uganda. For instance, it provided for direct election of members from the kingdoms to the national assembly but with the proviso that Buganda kingdom could appoint a representative through its parliament (Lukiiko), acting as an electoral college.

This arrangement created tension between the post-independence central government and the federal states, especially Buganda, at the centre of Ugandan politics. Buganda caused the Obote regime serious political headaches, which led him to take action against the kingdom and abrogate the 1962 constitution and replace it with a new one in 1966. A year later, in 1967, he produced yet another, highly centralized constitution giving him enough political power to effectively control the country. With the exception of Idi Amin's regime, which relied heavily on ruling through presidential decrees and militarism, all Uganda's post-independence regimes used the 1967 constitution to suppress the people's aspirations for democratic governance, including federalism.

When President Museveni took power in 1986, Buganda royalists sought to reestablish Buganda's pre-1967 autonomous status during the debates over the 1995 constitution. The Buganda Lukiiko proposed to the Constitutional Review Commission (CRC) the creation of fifteen federal states (table 2) endorsed by the Democratic Party and the Uganda Peoples Congress (UPC).⁶⁸

⁶⁸ *The endorsement of the Lukiiko's proposal for federalism by the UPC was a political U-turn because the UPC was responsible for abolishing the kingdoms in the 1960s by replacing the 1962 constitution with the 1967 republican constitution. The Mengo establishment did not forgive the UPC for its actions against the Buganda kingdom: After Obote's death, they refused to allow the transport of his body across Buganda soil en route to his burial in Akokoro, in Lango. Many Africans would deride such behavior as "un-African" because once one's enemy has died, reconciliation is expected.*

Table 2: Buganda’s Proposed Federal States or Units for Uganda

	Federal States or Units
1	Acholi
2	Ankole
3	Buganda
4	Bugisu
5	Bukedi
6	Bunyoro
7	Busoga
8	Elgon (Mbale and Sebei)
9	Karamoja
10	Kigezi
11	Lango

Source: *Field Findings*

The joint Buganda Lukiiko through its Constitutional Committee submitted a position to the CRC proposing a) a three-tier system of government consisting of a central government, federal states, and counties (*amasaza*).⁶⁹ The proposed lower administrative units were as follows: sub-county (*gombolola*), parish (*muluka*), and village (*mutongole w’ekyalo*). The federal and district (county) governments would exercise all powers and functions other than those exclusively reserved for the central government under the constitution. The system of devolution of powers would apply at all levels with a view towards empowering people to manage their own affairs through elected councils. Only the powers and functions that could not be viably retained at the county and *gombolola* levels would be reserved for the central government.

The devolved functions consisted of administration, finance, education, culture and social welfare, heritage, information, health, lands, agriculture and fisheries, industry, commerce and marketing, legislative powers, and finance.

The Buganda Lukiiko held that Kampala should remain the capital of Uganda. It also stated, however, that Kampala’s boundaries should accord with those stipulated in the 1962 constitution, and that given the cultural importance of Mengo to the Baganda, that section should revert to the status of a municipality. The Lukiiko recognized the distinction between Kampala as a city and Kampala as a district of Buganda and felt that the latter should be part of

⁶⁹ See *Buganda Lukiiko/Mengo 1995: 10–15*.

Buganda and the former the national capital. The Mengo establishment never clarified what it meant by the statement “Kampala is part of Buganda.” It is possible that should this position have been adopted, the Mengo establishment might have ended up having a hand in the management of Kampala despite central government structures responsible for managing the city. The potential for duplicity in the management of Kampala also represented potential seeds of future political conflict.

The NRM strategized to foil Buganda’s quest for *federo* before the enactment of the new 1995 constitution. First, it persistently argued that Buganda’s demand for federalism and other kingdoms’ demands for federalism were available to them through the NRM’s decentralization system, which devolved political, financial, and personnel powers from the centre to the districts. Specifically, the NRM waved the 1995 constitution, which provides that districts wishing to co-operate by pulling their resources together for purposes of enhancing development were free to do so. Second, the NRM hurriedly passed the Traditional Institutions and Rulers Statute of 1993 restoring traditional rulers as cultural leaders. Third, the NRM leadership met with Baganda leaders from Mengo to form an RTG under the proposed 1995 constitution; the NRM’s aim, according to federalists, was to frustrate the potential for an alliance among the opposition parties and Baganda leaders. Buganda has so far not been able to attain its demand for federalism.

The NRM repelled the push for federalism and multiparty politics by acceding to the latter and offering decentralization as an alternative to the former.⁷⁰

Understanding of the concept of decentralization varies widely among practitioners (politicians and administrators) and scholars (Olum 2011b: 3). This variation is one reason Leonard (1982) posits that a single universally applicable typology of decentralization is impossible. In general, decentralization is a process through which the central government transfers its powers, functions, responsibility, and finances or decision-making power to other entities away from the centre, to either lower levels of government or to central state agencies or the private sector (see Olum 2011a: 41–58; Olum 2010: 99). Presenting the view of the government of Uganda, Bidandi (1993: 17) defines decentralization thus:

Rejection of elitism and belief in the capacity of local citizens to elect their leaders, choose what is in their interest, set their own priorities, and seek the realization of their goals and common good through their active participation.

After the National Resistance Army (NRA)/NRM took power on 26 January 1986, it set up the Uganda Constitutional Commission (UCC) to review the 1967

⁷⁰ At the time the 1995 constitution was being debated, the majority of the Constituent Assembly delegates were anti-federalism because they saw it as potentially capable of causing national disunity.

constitution and pave the way for a new draft constitution. The UCC solicited views from a cross-section of Ugandans. Whereas its report indicates that 65 percent of Ugandans, including 95 percent of the Baganda, supported federalism, the issue became contentious during the debates of the 284 delegates of the Constituent Assembly in 1994.

The Uganda Peoples Congress and the Democratic Party, which originally opposed federalism, suddenly changed their position in its favor. To foil the demand for federalism, the leadership of the NRM caucused and ultimately defeated federalism in favor of decentralization. The NRM argued that decentralization is similar to federalism because it transfers powers to local levels to manage their own affairs.

Those opposed to decentralization saw the NRM's claim as a strategy to hoodwink Ugandans, to convince them that they had certain political powers when in reality decentralization was for the purpose of entrenching the unitary system of government and consolidating the NRM regime. The main objection to decentralization was that the 1995 constitution empowers the president to lock any local government office deemed not to be acting in accordance with the law. Such would not be the case under federalism, where likely two-thirds of the federal states would have to agree on substantive decisions. They also observed that decentralization, as a way of structuring government, is a feature found under both federal and unitary systems of government.

Although the decentralists initially won the day in the Constituent Assembly, the struggle for federalism continues. In elections in 1996, 2001, 2006, and 2011, members of the opposition, the Mengo establishment in particular, have continued to rally for federalism. Indeed, some opposition politicians and presidential candidates even allied in their efforts to attain political power and implement federalism. For its part, the Mengo establishment urged its followers to vote for candidates who supported federalism. It is, therefore, not surprising that at the beginning of 2003, Baganda youth, men, and women marched through Kampala city demanding a federal system of government.⁷¹

Such displays of enthusiasm for federalism have not, however, influenced the NRM to change its position. In April 2004, the cabinet proposed to the Constitutional Review Commission to grant federalism to those regions that supported it. This position indicated that the NRM government remained uninterested in adopting federalism for the entire country. Its determined stance on this issue is also evident in its implementation of decentralization irrespective of the opposition against it.⁷²

⁷¹ See Muleka Muniini (2003) "Doubting Demands Does Not Mean Hating Baganda", in *Daily Monitor*, 3 January.

⁷² At the Protea workshop, a participant argued that federalism can be attained through decentralization. His view is that decentralization cedes power from the centre and transfers it to the local areas, which is what the people want and what decentralization is about.

The government codified decentralization in chapter eleven of the 1995 constitution under article 176(1):

The system of local government in Uganda shall be based on the district as a unit under which there shall be such lower local governments and administrative units as Parliament may by law provide.

Based on this provision, and the principles that apply to the local government system,⁷³ the NRM government constructed the Resistance Council and Committees system to deal not only with the local “tyranny” of the village chief, but also to expand the scope of representation and access to wider social groups, such as cultural leaders and civil society (Oloka-Onyango 2007: 50).

Given this position and based on the NRM’s definition of decentralization, this study sought respondents’ opinion as to whether they viewed decentralization as an alternative to federalism as suggested by the NRM. The majority rejected the government’s stand, giving the following reasons: it neither reduces power at the centre nor provides for regional autonomy; it does not guarantee protection of cultural or traditional institutions; it does not provide for local areas to own their natural resources; policy formulation and prioritization requires central government endorsement and supervision; resources are corruptly misused; some local officials from outside the district they work in are not mindful of its development; funds are not evenly distributed (e.g., much revenue in Uganda comes from Buganda, yet it receives less resources compared to its contribution); federalism is a system of government while decentralization is a system of administration; it causes segregation and tribalism; it could be appropriate to places without federal features; less important functions and resources were decentralized, but the major ones remained at the centre; and federalism is bottom-up leadership while decentralization is top-down leadership.

Some respondents, however, supported decentralization on the following grounds: it can work better than federalism because it fosters freedom of governance and creates structures of power that percolate to the local people; federalism entrenches the powers of unelected cultural leaders who rule local people in an undemocratic fashion; decentralization is better because decisions made by the central government benefit the whole country unlike under federalism, where decisions made by the regions tend to benefit their indigenous people more.

Many of the issues raised by the respondents are laudable, but they do not offer any explanation as to why federalism can obviate the problem areas. For instance, are some of the respondents suggesting that corruption will cease as soon as Uganda adopts federalism? The fact is that corruption will simply shift from the

⁷³ See Article 176(2) that provides for the principles that apply to the local government system in Republic of Uganda (2006) Constitution of the Republic of Uganda, Uganda Law Reform Commission, 15 February, p. 138.

centre to the districts and to the federal state level. Another question is whether indigenous citizens are really more devoted to their areas than citizens originally from other districts. The reality is that some individuals commit themselves to development no matter where they come from. There are certainly some Ugandans who have devoted more energy to the development of their adopted districts than have the indigenous inhabitants.

As noted above, some of the respondents do not have a clear understanding of decentralization. For instance, there is no way decentralization can be compared to federalism simply because under a unitary or federal system, decentralized structures will of necessity be created. Given their level of education and background, perhaps their confusion is understandable. Arguing strongly in favor of decentralization as a model of federalism, President Museveni was reported to have said:

The only party which did not support federo is NRM and we said so in our Manifesto. This is because federo means taking power away from the people and giving it back to the centre. There was the question of federalism and decentralization. And we could not support federalism because the one who has got the pain, feels it most (Ocowun 2012: 3).

Clearly, President Museveni's sentiments are heavily republican, but he errs in his characterization of federalism in two senses.

First, federalism does not take power away from the people and concentrate it at the centre. In fact, federalism does the opposite; it transfers power to the federal states or federating states, that is, away from the centre. Second, by implication, the president is of the view that decentralization is a system that transfers "real" power to local people. This assertion is incorrect because under decentralization, power is devolved, but the presidency retains legal authority and can take away powers when he thinks it is being abused at the local level. Federalism does not allow the retrenchment of power in this way because its allocation is constitutionally entrenched and cannot easily be withdrawn by the centre.⁷⁴

It is important that federalism not be confused with decentralization in the sense that the former empowers federal states unlike in the latter, where the central government grants powers that it can easily withdraw. Kituo Cha Katiba (n.d.: 29) even fathoms that the decentralization system is similar to the old colonial system of indirect rule, which created native courts, native administration and a native treasury without genuinely transferring powers. It notes that Buganda's reason for

⁷⁴ Under decentralization, President Museveni withdrew the powers of locally and democratically elected leaders in the district of Ntungamo when it was experiencing confusion between the LCV chairman and the vice chairman. He sent the then minister for local government, Kahinda Otafiire, to lock the doors of the local government and to sort out conflicts in the district.

opposing decentralization is that the NRM government is consciously designing a system with powers that remain under the central government's ambit and away from the Mengo establishment.

While acceding to the decentralization that Buganda has always practiced in the past, the pro-federalists argue that decentralization was promoted over federalism mainly because implementing decentralization meant that the traditional districts belonging to the Buganda kingdom could be placed under the control of the central government (Kituo Cha Katiba n.d.: 29).

Orban (1990: 257) argues that "a genuine federalism requires . . . more than an administrative decentralization . . . because it is . . . possible to slide irreversibly from the status of a federal state to that of a unitary one." He also asserts that under federalism (ibid.: 257) "the central government would tend to make more and more of the important decisions (notably in the economic and foreign policy spheres) and the federated entities would then content themselves with adjusting and implementing the 'framework legislation' – all the more so since the technocrats of the central administration play a major role in their elaboration."

In the event that central government officials are intricately responsible for what happens at the local level, it is not possible to claim that federalism exists in a particular country. Instead, federal entities need clearly defined juridical roles, powers, and responsibilities for true federalism to occur. Decentralization is of a more limited scope and has more residual powers than federalism's concurrent powers.

The other argument respondents raised against decentralization is that it suffers from a high degree of duplication of services in many of the unviable districts, and administration overhead is too high to the extent that most of the districts can ill-afford to provide qualitative services to the rural populace. To federalists, the district as the highest unit of governance at the local level has only weak potential economically for sustaining decentralized services.

Some of the pro-federalism respondents observed that in a federal system, power is distributed to the lower tiers of government, which, in turn, can employ checks and balances in the governance process. Furthermore, they noted that the degree of political participation under federalism is substantive because the federal states have more power to legislate on local issues. They asserted that this kind of political environment would improve local opinions about local governance more than it would under any other governmental arrangement. In a nutshell, according to the respondents, federalism devolves power to local levels in such a way that it can lead to local democracy, thus leading to cultural revivalism. Some Ugandans disagree.

Bada (2004: 11) believes that federalism will cause the country to transform into smaller, unviable nations, such as Buganda, Acholi, and Teso if built around tribes. Furthermore, he sees it as inconceivable that while the rest of the countries of the world are moving towards a global village, common markets, and multilateral relations, Uganda should be looking in the opposite direction with federalism. In examining U.S. federalism, which hinges on citizenship rather than race or ethnic origin, Bada argues that Uganda should nurture federalism based on cultural values, not tribal differences.

Some scholars consider the form of power constructed towards the end of colonialism as “decentralized despotism” (Mamdani 1996: 37–61). The colonial state created so-called “native authority”, which consisted of a hierarchy of chiefs, as its decentralized arm (see Low 1971: 227–50; Reid 2002: 206–209). The chiefs used the customary powers bestowed upon them to maintain law and order and to exact labor to aid in their work. By the middle of the nineteenth century, when the British and other colonizers began their exploration of East and Central Africa, Buganda, with a chieftaincy system, was the largest, most sophisticated, and most prosperous of the kingdoms of Central Africa (Leggett 2001: 15). Its principal rival was Bunyoro, to the northwest. Buganda’s early alliance with the British proved to be critical in the relationship between these two kingdoms. As a result of it, the British enhanced Buganda’s importance, and Bunyoro’s status and influence declined.

According to Mamdani (1996), with decentralized despotism the colonial state created a separate but subordinate structure for natives using a dual system – one for colonizers, the other for natives (or a modern one, the other customary). In a similar vein, Marxist-oriented scholars saw the local government system as a principal-agent relationship. The central state was the principal and the local state the agent. The latter did the bidding on behalf of the former. For example, the agent collected resources from the local state and funneled much of it to the centre for consumption. To these observers, decentralization was nowhere near what federalism entails.

When the NRM failed to sell decentralization as an “alternative model” to federalism, it introduced regional tier government. This begs the question: Where does RTG decentralization stand as an alternative to federalism?

Although the NRM government passed the bill that created forty-eight RTGs in 2009, it had in effect already approved such a system in 2005. It also operationalized Article 178 of the 1995 constitution, which states that “two or more districts shall be free to co-operate in areas of culture and development.” To arrive at RTG, the government amended Article 5(2) and other provisions of the 1995 constitution. This made regional government the highest political authority below the central government.

Specifically, RTG provides for the establishment of regional governments, their administrations, parliaments, and the takeover of regional government administration by the president under special circumstances, such as failure to recognize regional diversity (Namutebi 2009a and 2009b). Hence, RTG has political, legislative, administrative, and cultural functions. Leadership of regional governments consists of ministers, a regional chief executive officer (RCEO), and staff.

According to Apollo Nsibambi⁷⁵ who was the minister of constitutional affairs in the Buganda government and its chief negotiator on Buganda's cultural sites (*ebyaffe*) during the negotiation between the central government and Buganda kingdom over the return of their properties confiscated by the former government, the central government and Buganda (the only kingdom or region consulted) agreed on the following: (a) the creation of the regional tier, with significant functions, resources, and taxation powers and the Kabaka as ceremonial head of the tier; (b) the creation of Mengo Municipality to include cherished cultural sites of Buganda, such as the prime minister's residence, the Kabaka's palace, Bulange, and burial grounds; (c) Kampala, the capital of Uganda, but geographically located in Buganda, would remain under the jurisdiction of the central government and the boundaries of the capital would be demarcated by the central government; (d) the 9,000 square miles of formerly public Buganda land on which customary tenants have settled and live would not be in the possession of the central government, but instead vested in the twelve districts of Buganda and Kibaale district. It falls under customary tenure and the authority of the Buganda district land boards, which allocates it to lawful applicants.⁷⁶

The field findings revealed that while some groups supported RTG, the majority opposed it. Those who argued in favor of the system said that it transferred power to local people.

Those who opposed it gave the following reasons: it was designed to appease agitators for federalism, not to resolve the quest for it; since it was a "hoax," it was not brought in good faith but to silence the pro-federalists; it is an extension of the current decentralization policy from LCV to, say, level LCVI; it neither devolved powers to regions by guaranteeing power sharing between the central government and regional governments, nor did it guarantee security of geographical boundaries for the functioning of cultural or traditional institutions; a respondent observed that although the plan was to hoodwink the Baganda, it failed because the "Baganda know what they want"; and it is top-down, as decisions flow from the central government to the local people. Despite such

⁷⁵ Professor Apollo Robin Nsibambi later became President Museveni's nomination to the Constituent Assembly.

⁷⁶ Article 237 of the 1995 constitution protects the rights of customary tenants. It would require a constitutional amendment to dispossess the customary tenants before Mengo establishment can be given the 9,000 square miles they are demanding.

responses, a handful of respondents did not know what RTG is about. Opposition to RTG continues today.

Buganda and Busoga vehemently rejected RTG in favor of a more genuine federal system (see Tripp 2010: 122–23). On the eve of the 2006 presidential elections, the Buganda Lukiiko rejected the RTG, scheduled to go into effect on 1 July 2006. It argued that RTG undermined the true cultural nature of kingdom institutions and traditional leaders. While it continued to pressure government for more political space, Buganda vehemently demanded federalism. Yet again Buganda and Busoga’s rejection of RTG fused federalism and kingdoms, which has complicated the debate over federalism.

This rejection prompted the NRM government to halt the process until the introduction of the RTG bill in 2009. In joining Buganda in rejecting RTG, the Busoga People’s Charter outlined its own regional status in 2004. Two bodies in Busoga, the Busoga People’s Forum and the Busoga Parliamentary Group, argued for a federal status by bringing together Jinja (including Jinja Municipality), Kamuli, Iganga, Mayuge, and Bugiri districts. In an initiative spearheaded by prominent leaders from Busoga, including the Speaker of Parliament, Rebecca Kadaga, and a former vice president, Speciosa Kazibwe, these bodies observed that the five districts would launch their demand for federal status by cooperating in certain service areas, such as physical infrastructure, water, energy, education, health, trade, tourism, employment mobilization, and culture.

The district councils and the National Assembly of Busoga endorsed these areas of cooperation. Their position was that the Obwa Kyabazinga (i.e., Busoga’s Kabakaship) would be apolitical, only serving as a cultural institution, and would not collect taxes. Peasants from the Samia and non-Basoga ethnic groups who live in Bugiri, however, rejected the creation of the Obwa Kyabasinga because it did not represent them. They petitioned Parliament to stop the “kingdom” from executing its activities. The impasse continues up to this day.

Another federal model, proposed by one of the respondents,⁷⁷ is the Conservative Party’s hybrid variant, which is slightly different from what Beti Olive Kanya suggested. In this model, there is more emphasis on conventional federalism while taking into account the geographical features and resource bases of the country. Kanya’s hybrid integrates the modern aspects of federalism with cultural or traditional elements. The CP hybrid has roots in the 1960s. Ken-Lukyamuzi (1994; 1995) notes that from 1962 to 1966 Uganda had a semi-federal constitution with fourteen regions. To him, it was a moment of “glory” because Uganda’s per capita income was the highest in sub-Saharan Africa, excluding South Africa. The country had good roads, good schools, and attractive social services.⁷⁸ What he does not acknowledge is that this is the period just after independence from

⁷⁷ Interview with Ken-Lukyamuzi.

⁷⁸ He offers no statistics to substantiate this claim.

the British, who had left behind functioning systems and a positively performing economy.

Furthermore, Ken-Lukyamuzi writes that the 1962 constitution derived from an extensive political system stemming from charter, peace, and constitutional agreements signed between 1955 and 1962. He refers to the constitutional recommendations of Lord Munster, Lord Molson, and the Wild Report as the basis for the Lancaster House Constitutional Conference. He, therefore, argues that federalism addresses three main issues: self-determination, the sharing of state executive powers, and territorial independence. The CP proposal is to create fourteen regions for the federal arrangement of Uganda (see table 3).

Table 3: The Conservative Party's Proposed Federal States or Units for Uganda Federal Units/States/Region

	Districts	Language	Proposed Centers of Government	
1	Acholi	Gulu, Kitugum	Luo	Gulu
2	Buganda	Kalangala, Kiboga, Luwero, Masaka, Mpigi, Mubende, Mukono, Rakai	Luganda	Mengo
3	Bukedi	Pallisa, Tororo	Lugweri	Tororo
4	Bunyoro	Hoima, Kibaale, Masindi	Runyoro	Hoima
5	Busoga	Iganga, Jinja, Kamuli	Rusoga/Luganda	Jinja
6	Karamoja	Kotido, Moroto	Akaramojong	Moroto
7	Kampala	Kampala	Luganda/English	
8	Kigezi	Kabala, Kisoro, Rukungiri	Rukiga/Rufumbira	Kabale
9	Lango	Apach, Lira	Luo	Lira
10	Sebei	Kapchorwa	Kasib	Kapchorwa
11	Teso	Kumi, Soroti	Iteso	Soroti
12	Rwenzori (Toro)	Bundibugyo, Kasese, Toro	Rukonjo/Rutoro	Fort Portal
13	South West Ankole	Bushenyi, Mbarara, Ntungamo	Runyankole	Mbarara
14	West Nile	Arua, Moyo, Nebbi	Lugbara/Luo/ (Alur)	Arua

Source: Ken-Lukyamuzi 1994.

Some of the states-to-be in table 3 coincide with ethnic groups or linguistic boundaries. The main differences between the Buganda and CP proposals are twofold: Buganda wanted Elgon to be one federal state consisting of Mbale and Sebei while the CP supported separation; and Buganda wanted one federal state known as Rwenzori, consisting of Kasese and Bundibugyo, while the CP wanted the state to be called Toro. It should be noted that many new districts have been created by the NRM government (about 120 by 2012) but are not reflected in tables 2 and 3. Either they will need to be included as districts within the proposed states, or some of them will have to be merged to form larger districts to re-constitute the old districts. The re-structuring of the districts is a task that will be difficult and could be resisted by individuals who have been enjoying the powers (political, financial, and managerial) that go with the creation of new districts.

Poly-ethnic federations are susceptible to secessionist tendencies.⁷⁹ Yet such types of federations are on high demand in particular in countries with territorial groupings of two or more, each having its own unique language and customs. Respondents who strongly advocate federalism in Uganda do not seem to consider the secessionist tendencies within their demand. In addition, because the centers of government are sometimes contestable, it does not occur to pro-federalists that it is necessary to engage in rigorous consultations and negotiations before federalism can be established. They prefer to push the federal agenda based on their own group interests, rather than by involving all key stakeholders.

The CP identifies the following responsibilities for the central government (see Ken-Lukyamuzi 1994: 18–19): foreign affairs, external defense, higher education, printing of national currency and management of the Central Bank, highways and railways, and international treaties. The CP proposes the following areas of authority for the regional or federal governments: agriculture, culture and environment. Shared responsibilities include health, primary and secondary education, lands, justice, finance, and transport. The ultimate division of authority would depend on the choices of the population when designing the federal structures. The bottom-line of such demarcation is to ensure that the central government and the federal states are clear of their roles, and the citizens understand the constitutional mandates in order to achieve good governance and political stability.

Central to the CP's hybrid structure is the status of Kampala. The CP is emphatic that Kampala remain an autonomous state from Buganda. The most radical monarchists in Mengo establishment disagree with this view. Instead, they want Kampala to be an integral part of the federal state of Buganda. Given the CP and Mengo establishment views, it can be argued that the position of Kampala in a federal Uganda needs to be determined through the participation of all the stakeholders, not just a portion of the citizenry, to avoid conflicts over the place of Kampala within the federal discourse.

⁷⁹ On poly-ethnic federations, see Sklar 2004: 6.

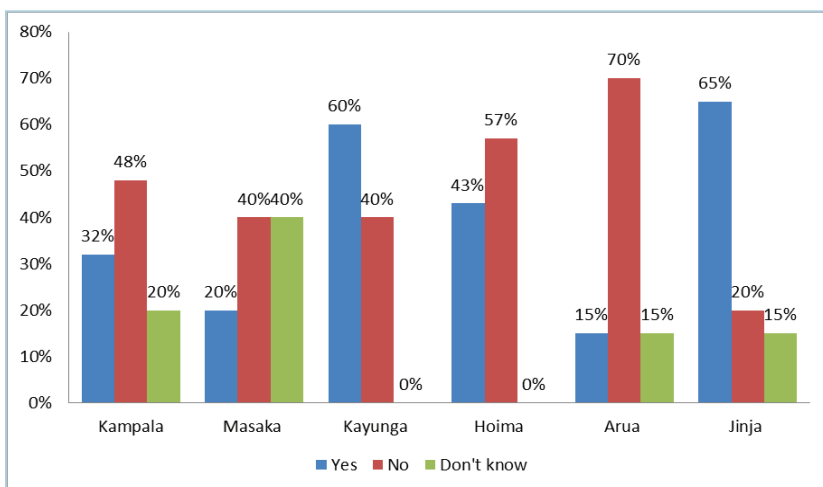
Issues to Consider in Designing Federalism

The respondents in this study were asked their views on the following related but fundamental issues: how federalism should be administered; whether federalism should be applied selectively; whether federalism can function in Uganda; and whether Obote's abolition of the 1962 quasi-federal Constitution was the correct action to take.

The issue of how federalism should be administered if adopted generated unanimity amongst a cross-section of respondents regarding four fundamental aspects: each party (the central government and the federal states) should do what it is mandated to do as provided in the constitution; sharing power and responsibilities amongst the parties should be conducted through consultation to curb excessive powers residing at the centre; the different levels (central government and federal states) should be presided over by elected leaders to foster accountability; and federal states should send (an undetermined number of) representatives to the national parliament, and all adult citizens should participate in electing the nation's president through universal suffrage.

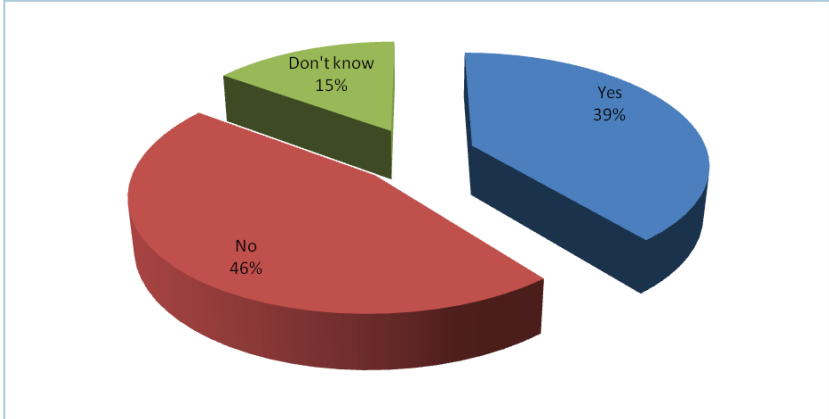
To further ascertain respondents' views on the administration of federalism, the study asked them whether federalism should be applied selectively. Figure 3 is a representation of their views.

Figure 3: Responses As To Whether Federalism Should Be Applied Selectively



A minority of 32 percent of respondents from Kampala supported the selective adoption of federalism, while 48 percent opposed it. The respondents in the other districts supported selective application as follows: Masaka, 20 percent; Kayunga, 60 percent; Hoima, 43 percent; Arua, 15 percent; and Jinja, 65 percent. The aggregate responses on selective application are shown in figure 4.

Figure 4: Overall Responses As To Whether Federalism Should Be Applied Selectively



A minority of 39 percent of respondents thought that federalism should be applied selectively, while a majority of 46 percent rejected the idea. In the latter case, the respondents observed that if federalism is to be adopted in Uganda, it should be applied to the entire country. A minority (15 percent) were not aware whether or not federalism should be applied selectively. Hence, with the exception of Jinja and Kayunga, the majority of respondents in each district who opposed the selective application of federalism raise a crucial concern of adopting or rejecting federalism altogether.

The majority of respondents in Kampala and Masaka prefers universal application of federalism as opposed to its selective application because they have always advocated for federalism. Given that Kampala is cosmopolitan, the 32 percent who prefer selective application likely means the respondents are somewhat republican and, therefore, think people for it should have it, and those opposed should not be forced to accept it.

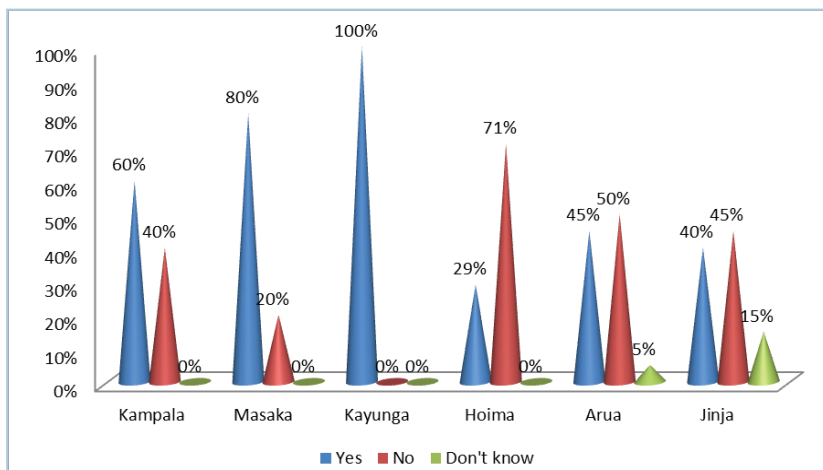
In Kayunga, the majority (60 percent) offered two main reasons for the selective adoption of federalism: no one should have the right to impose his or her ideas on anyone; and it should apply to areas or regions that request its adoption. In

Arua, the minority (15 percent) in favor said that regions should be allowed to decide what they want to do. In Jinja, the majority (65 percent) gave the following reasons for selective adoption: Busoga tasted some degree of federalism in the 1960s but other areas have not, and so they should have it if they so wish; no one should force a system on those who do not want it; and federalism will cause disunity in the country but those who want it, like in Buganda, should have it.

The reasoning of the respondents from Kayunga, Arua, and Jinja is based largely on fundamental human rights and democratic principles. They observed that citizens' demands should be heard and respected by national leaders. If their position is to be respected, however, it must be understood that the selective adoption of federalism will give rise to a mixture of administrative structures and governmental systems whose application will prove quite complicated. Indeed, such a "hybrid" model does not exist anywhere in the world.

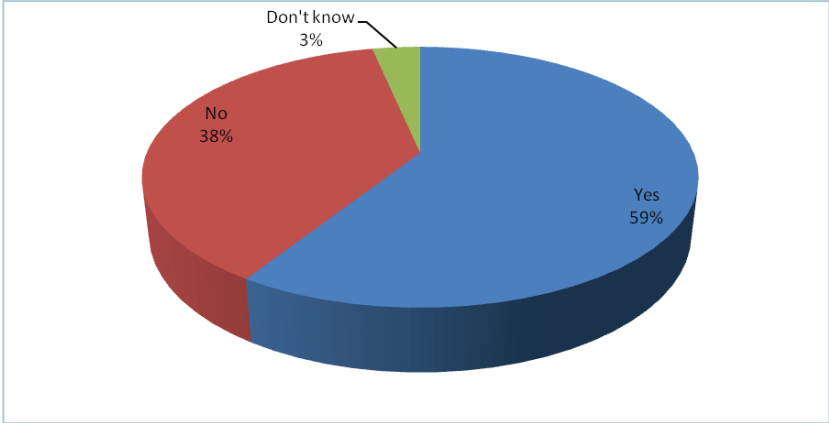
Mere advocacy of selective application does not help in resolving the differences of opinion regarding the adoption or rejection of federalism, and the respondents offered no concrete approach as to how it can be operationalized. The fact is that a confusing administrative system is bound to result from a mixture of federalism and unitarism. It is important that a single, particular system be applied in a country, depending on the decision of the citizens. The respondents' views on whether federalism can work in Uganda are captured in figure 5.

Figure 5: Responses As To Whether Federalism Can Function in Uganda



The responses of those who believed in the functionality of federalism in Uganda are as follows: 60 percent in Kampala; nearly 100 percent in Kayunga; 29 percent in Hoima; 45 percent in Arua; and 40 percent in Jinja. The aggregate of the responses on the question of functionality is presented in figure 6.

Figure 6: Overall Responses As To the Functionality of Federalism in Uganda



The majority (59 percent) of respondents agreed that if adopted, federalism can work in Uganda, while a minority (38 percent) disagreed. A much smaller minority (3 percent) did not know whether federalism would work in the country.

As can be seen in Figure 5, the majority of respondents from Kampala, Kayunga, and Masaka – in Central region – saw federalism as being functional. Respondents from Kampala gave the following reasons: Uganda has diverse cultures that must be respected; sixty-eight years of British colonialism in the country had been based upon it; it works in the United States, Canada, Australia, Malaysia, India and Nigeria, so it must be a good system that could work for Uganda; Uganda can be easily divided based on the existing five regions; and each federal state can manage its own affairs and resources.

Respondents from Masaka offered these reasons for federalism's functionality: it can work in Uganda because some areas, like Buganda, already have good leadership; Uganda is big enough for the adoption of federalism; development and service delivery will be enhanced; because it worked in the past, it can work today; and it is a good system of governance because people will own the socio-economic development process. In Kayunga, the respondents gave the main

reasons: citizens will own the federal system of governance, and they will believe in their culture and leaders.

The reasons advanced by the respondents in all the districts for the functionality of federalism are similar. They cover respect of distinct cultures, the fact that some degree of federalism had previously existed in parts of the country; the country's geographical size is adequate for creating federal states; democracy will be practiced because citizens will be governed under a system and leadership they believe in; and service delivery and development will be enhanced through good governance. The respondents did not, however, expand on how federalism might work practically in Uganda. This failure is largely because they do not fully understand how federalism is supposed to work in practice. Most of these issues are relevant to a centralized system as well.

The respondents from Hoima, Arua, and Jinja who thought that federalism would not work in Uganda gave various reasons for their position. Hoima respondents cited the lack of clear understanding of federalism, absence of democracy, and inadequate resources for equitable distribution, especially to deficient areas. In Arua, respondents said the diversity in tribal cultures will cause wars or conflicts, and the absence of the rule of law will lead to chaos in governance. Other obstacles were the widespread, uneven development of infrastructure; Uganda being too small, hence posing difficulties in demarcating boundaries; citizens not being ready for rule under kingdoms; imbalances in human resources and recruitment in state institutions (e.g., the army and public organizations); and citizens' not being sensitized regarding the meaning of federalism.

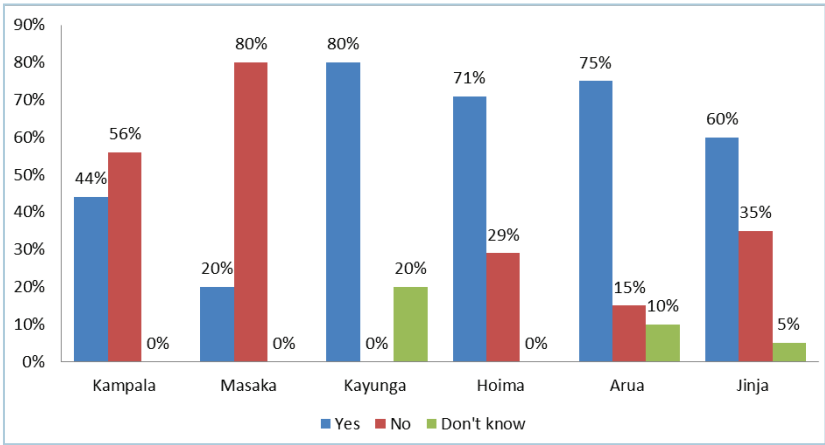
In Jinja district, the respondents gave these reasons: Uganda has moved away from federalism to unitarism and therefore it should not revert to the past system; citizens do not understand what federalism means; widespread uneven development means that some areas do not have the resources to support federal states; Uganda is not democratic enough to practice federalism; and, given that Uganda is politically fragile because of insecurity and tribalism, federalism could lead to fragmentation or cessation.

There are many similarities in the reasons advanced in the three districts regarding the non-workability of federalism: a lack of clear understanding of federalism; lack of democracy; inadequate resources; diverse cultures; absence of the rule of law; and development differentials. There is also the thinking that Uganda is too small to be divided into federal states; Ugandans are anti-kingdom; and Uganda should not revert to federalism because it abandoned it a long time ago. Some of these reasons – such as a lack of clear understanding of federalism and inadequate resources – are crucial in determining whether federalism will work. The other reasons, however, should have no bearing on functionality. For instance, the issue of rejecting federalism because of kingdoms is part of the confusion that equates monarchism and federalism. Not all parts of Uganda have experienced the quasi-

federalism that existed in the past. To keep things in perspective, some countries that have adopted federalism also at one time faced some of the same constraints mentioned by the respondents in the case of Uganda.

The functionality of federalism in Uganda was cross-examined against President Obote’s abolition of the quasi-federal 1962 constitution in an attempt to further assess the extent of respondents’ thinking on functionality. Their responses to the question of whether Obote was right in doing so hinted at their position of federalism, albeit of the type that existed earlier (see figure 7). It is worth pointing out that not all the regions of Uganda experienced this quasi-federal arrangement. It mainly applied to Buganda and in part to Ankole, Bunyoro, and Toro, which had attained some form of quasi-federal status. Perhaps this diversity helps explain the variations in support and rejection of federalism today.

Figure 7: Responses as to Whether Milton Obote Was Right in Abolishing the 1962 Quasi-Federal Constitution



The responses of those who agreed that Obote was right in abolishing the 1962 constitution are as follows: 44 percent in Kampala; 20 percent in Masaka; 80 percent in Kayunga; 71 percent and 75 percent in Hoima and Arua, respectively; and 60 percent in Jinja.

The responses from Kayunga district are interesting in that while the majority (60 percent) supported the adoption of federalism, the majority also supported Obote’s abolition of the quasi-federal arrangement. The reasons they gave for supporting Obote’s abolition helps in explaining this dichotomy: the constitution and some Baganda in Mengo establishment were restricting him from fully

ruling the country; he wanted to have more political control; and he wanted a unified Uganda.

In Arua the reasons were similar to those from Kayunga: Obote was a nationalist because he united Ugandans under a republican constitution; Buganda kingdom was threatening to secede; the Mengo establishment was arrogant and becoming tribal towards Obote's leadership; federalism was being practiced selectively (i.e., the 1962 constitution provided for "a state within a state" arrangement); and Obote wanted to avert the potential of civil war between the northerners and the Baganda.

In Hoima, the respondents gave reasons similar to those from Kayunga and Arua: Obote wanted a united country; it was benefiting Buganda most; Buganda was dividing the country between them and the "rest." In Jinja, the following reasons were advanced: it was good for the country because it prepared the ground for independence; because federalism at the time only existed in some parts of the country, the quasi-federal arrangement was proving divisive; the Mengo establishment was stubborn and showed less respect for the central government under Obote; there was an unequal distribution of resources; and Buganda wanted to secede.

These views were strongly held and reflected the respondents' attitude towards the 1962 constitution. Although the views here do not necessarily imply that all the respondents were against federalism, there was still a tendency among some of them to confuse federalism with monarchism and kingdoms, particularly the Buganda kingdom. As noted previously, this misperception is sometimes the reason why some respondents oppose the adoption of federalism. There is, therefore, a need for the two terms to be clearly understood by the citizens before even thinking about the actual adoption of federalism.

Other respondents who rejected the abolition of federalism offered the following candid reasons: it was a gross violation of the 1962 constitution, thus leading to the turbulence that ensued; Obote was afraid of losing power; Obote used an "iron fist" and violence to rule the country; Obote sabotaged socio-economic development of the old kingdoms; Obote caused hatred amongst some tribes, especially some Bantu and some Nilotic (northerners), thus promoting segregation; and Obote weakened cultural and traditional leadership.

In summary, as much as Milton Obote suffered political headaches brought on by the Buganda kingdom, the abolition of the quasi-federal 1962 constitution was inappropriately conducted – posting it in the pigeonholes of MPs at short notice – thus causing political crisis for his regime and thereafter. It is within the context of the abolition of the 1962 constitution that Uganda's political crisis was intensified.

Challenges and Remedies to Introducing Federalism in Uganda

The respondents in this study identified several challenges to the adoption of federalism in Uganda including confusion and contestation regarding the meaning of federalism; constitutional difficulties; land; language; defining the boundaries of the federal states; imbalances in natural resources; insufficient social capital; approaches in introducing federalism; ethnic and cultural concerns; and political will.

The first and immediate challenge is one of defining and understanding the meaning of federalism. This study revealed that in Uganda, federalism is sometimes confused with monarchism and is too tied to traditional chiefs and cultural leaders. In this regard, some Ugandans have this opinion because they view federalism as a Buganda concern, not a national issue. The “Bugandanization” of federalism by some Baganda and non-Baganda interferes with the very essence of federalism. Indeed, this confusion denies those individuals and groups who support it the necessary united front to make a legitimate case for its adoption. Instead, the way the pro-federalists are pursuing it renders it unpalatable to those Ugandans who do not cherish it. Others see advocacy of federalism as a selfish ploy by some pro-federalists who want to use it to acquire political power. At this point in time, those seeking the adoption of federalism do not have the essential logistics to campaign for it countrywide, thus leaving many Ugandans ignorant of what the debate is all about. Failure to clearly understand what federalism means poses a serious impediment not only to debating it, but also to adopting or rejecting it.

The key questions regarding the second challenge are the following: What needs to be done to change the current, 1995 constitution to turn it into a federal constitution? Who should participate in the constitutional review process? These are complex questions that will necessitate give and take among all stakeholders. Because the process is fraught with the loss of political power and its accompanying benefits, it is likely to generate resistance from the incumbent leadership. Getting them involved and assuring them that the national interest is the driving force will require a savvy, tactical approach by those involved.

The third challenge concerns the question of land. Because land in, say, Buganda is intricately tied to the federal question, it is an issue that has sown acrimonious relationship between the NRM government and the Mengo establishment (Tripp 2010: 123). Indeed, the National Land Policy and the Land Amendment Bill passed in 2009 was controversial amongst these conflicting parties. The government posits that its main aim for introducing the Land Act was to modernize land rights and to improve the efficiency of land administration to promote development (ibid.: 124). In a treatise on land, President Museveni (Republic of Uganda 1995: 19–20) noted that tenants should not worry because the issue of *mailo* land was resolved in three ways: first, the new, 1995 constitution provided security of tenure to *musenze* (tenants without land title), who can neither be evicted

nor forced to pay *busuulu* (property taxes); second, *mailo* land owners still retain ownership in the form of a freehold title to the land; and third, a new land law would regulate the relationship between the landlord and the *musenze*.⁸⁰ He added that the 1995 constitution would provide for the acquisition of registrable interest in the land by the occupant.⁸¹

President Museveni's defense of the tenants, however, is the very reason Mengo establishment has resisted the Land Act. One key aspect of the law that the Mengo establishment opposes is the prohibition on forceful evictions of tenants without a court order under a penalty of up to seven years in prison. The government argued that the law seeks to protect tenants who have lived on such pieces of land for years without protection or land titles. In this regard, the government aimed to convert *mailo* and freehold land into leased land.⁸² Buganda and other regions of Uganda see this legal argument as a ploy to grab their land in the guise of forcing landowners to use it productively.⁸³

The fourth challenge to the adoption of federalism in Uganda is the language question (Ruth 1991: 334). Like India, Uganda is an "ethnic mosaic" of languages

⁸⁰ *Mailo tenure was introduced under the 1900 Buganda Agreement between the British protectorate government and the then-reigning king of Buganda. The land was divided into square miles, hence the name mailo, which in Buganda means "miles." The 9,000 square miles of Buganda is referred to as mailo akenda. The mailo land was allocated to the Kabaka and chiefs. The rest of the land, consisting of swamp and scrub, was held by the colonial power. This process disposed the clans of their traditional holdings as it created a landed aristocracy. The mailo land in Buganda became public land in 1967, as did freehold land in the eastern and western parts of the country, through which land titles were issued to absentee landlords and were held in perpetuity. The NRM government has contended that it has merely sought to offset the causes of perennial squabbles between landlords and tenants. Indeed, the colonial land policy caused untold acrimony between clan leaders (bataka), peasants (bakopi), and the Buganda government. Landowners discount the government's position by noting that the conversion of mailo and freehold land to leasehold would deprive them of their titles without clear guidelines for compensation.*

⁸¹ *Article 237(1)–(9) of the 1995 constitution resolved this matter. The standoff between tenant and landowner was resolved in such a way that a musenze who had stayed on a kibanja (plot of land) for a long time, say, twenty years, could be assisted with a government loan for kwegula (paying the landlord) in order to get a land title. Museveni strongly believed this approach would trigger development in Buganda because the musenze and the landlord would both be empowered, the one acquiring tenure to the land he or she occupies and the other acquiring capital from the sale of that land.*

⁸² *The NRM government notes that the land tenure system was anti-development and benefitted landlords. For example, the mailo landlords demanded rent payment (busulu) on their land and from cash crops (nvujjo) from the tenants. It should be recalled that a subsequent decline in socio-economic production forced the government to pass laws in 1928 known as Busulu and Envujjo laws. These laws set a limit on the rent that landlords could demand from their tenants. The nationalist Bataka Movement of 1911 had its origins in this acrimony in Buganda. Later the movement was joined by other organizations, including the Bataka Association, formed in 1921, Bana ba Kintu (who championed the rights of ordinary farmers and merchants), and Ignatius Musazi's Uganda Farmers Union, formed in 1941, to demand political (such as the option to elect their chiefs) and socio-economic (such as returning their land) rights. These wider demands led to the 1945 and 1949 riots.*

⁸³ *In fact, this point is well captured in Tripp (2010: 124), where she notes land grabbing by the westerners – primarily meaning Museveni's tribe – and foreign investors.*

that can interfere with the federal debate. For example, India is home to the Sanskrit of the Bengali, Hindi, which is the most widely spoken language, Bangla (spoken in Bangladesh), Punjabi, Gujurati, Marathi, and Oriya. The dominant language differs from state to state. This played a role in the federal reorganization of the states along linguistic lines in 1953 (see Hicks 1978: 87). Just as some Baganda presume Luganda should be the dominant language in Uganda, successive Indian governments attempted to push Hindi as the single language. In spite of the fact that it gained ground in the recent past, Hindi was strongly opposed by the Dravidians. English remains the *lingua franca* in India, just as it does in Uganda.

The fifth challenge that Uganda will have to confront in adopting federalism involves defining the boundaries of the federal states (see Kefale 2002: 48). Difficulties could arise due to the incompatibility of cultures, the fluid nature of ethnic identity, linguistic and contested political and administrative decisions on boundaries, and traditional competition among ethnic groups over resources, such as water points, land, and minerals. Hence, the issue that should be addressed is how to divide the powers of the central government and federal states to avoid constitutional crises and political clashes between those for and those against a federal system. Indeed, it is possible that once power is transferred to federal states, it could enable some states to dominate others. For instance, if no clear formula for sharing resources is devised, areas with abundant resources could starve areas that are deficient. Also, federalism could lead to conflicting government loyalties for citizens, most likely with them feeling more allegiance to the federal state than to the central government. In fact, in Buganda, if a person takes a position contrary to Buganda's interest, he or she is automatically labeled a non-Muganda or a traitor of the Kabaka.

The sixth challenge of adopting federalism in Uganda is economic, involving regional imbalances in natural resources. Indeed, inequitable resource bases between rich and less rich regions can cause difficulties in shifting to a federal system. A key concern of federalism is to generate local revenue to compete favorably with more resource endowed areas. Indeed, some depressed areas could find themselves isolated economically and unable to implement their development programs and policies for lack of revenues. In addition, overemphasis on local resource use for local needs can sometimes cause resource-rich areas to deny resources for distribution to resource-deficient areas by the central government (Boadway 2001: 104).

The seventh challenge is that less economically prosperous areas will lack sufficient social capital. Because some regions are economically more underdeveloped than others, those that are will find it difficult to attract and retain highly qualified personnel, such as engineers, managers, and medical doctors. Deficiencies in such personnel can deter development and service delivery to the needy as well as cause diseconomies of scale (Kincaid 2001: 92). For example, after the civil war in 1996, Gongolo in Nigeria had no trained

administrators to the extent that it had to depend on neighboring states to implement its programs (Hicks 1978: 139).

The eighth challenge is how to introduce federalism in Uganda. None of the respondents had suggestions on how to do this. The different conventional methods discussed in chapter two might not be applicable to Uganda. In fact, the incumbent NRM leadership may even resist them altogether. If this were to be the case, what becomes of the sizeable minority who want to be governed under a federal arrangement? The issue is how can a win-win outcome be achieved in a situation whereby those for and against federalism are nearly equally distributed? Does leaving the issue unresolved merely postpone the political question regarding federalism?

The ninth challenge is ethnic and cultural in nature. If federalism is not intelligently negotiated and properly managed, it can cause local cultural chauvinism because various communities, especially dominant ones, can overwhelm through their culture (e.g., a favored language). In the minds of some Ugandans, federalism raises the fear of secession or separatism that could damage or fragment the country. The potential for hatred and conflict is certainly rife under such circumstances. Fragmentation is perhaps one of the main reasons why some respondents were strongly opposed to federalism.

The tenth and final challenge is the lack of political will by the leadership of the NRM to engage in the federal debate. Instead, the debate is polarized amongst those who advocate federalism to acquire political power versus those who see federalism as a divisive subject. In this sense, political reforms that do not take into consideration the political interests of some politicians at the centre is likely to be aggressively thwarted no matter its merits. Hence, some respondents observed that as part of its strategy to deflect the federal debate, the NRM leadership keeps moving the goalposts by enacting new laws such as decentralization and RTG.

Chapter Five: Conclusions

This empirical study examines the federal question in Uganda by investigating the extent to which Ugandans understand the meaning of federalism, identifying reasons for the adoption of federalism, examining a possible model of federalism to be adopted, assessing the issues that need consideration in designing a federalist system, and identifying the challenges and remedies for adopting federalism. Federalism is a sensitive and controversial subject in Uganda, and there exists a tendency amongst some Ugandans to engage in this debate based on emotion and without the benefit of empirical facts. Consequently, a sense of objectivity in building a consensus is lost.

In spite of the majority of respondents in this study being able to offer a clear definition of federalism in the conventional sense, two contesting perspectives emerged regarding its meaning. To residents in non-monarchical or republican areas, federalism is about the constitutional division of a country into a federal government and constituent federal states. They added that the separation should have nothing to do with traditional or cultural leaders, such as kings. In the central region, especially in Buganda, however, there is a strong attachment to the centrality of the king in defining federalism. In this sense, the definition leans more towards monarchism and cultural federalism than federalism as widely understood in the literature. Herein lies a key problem in debating federalism in Uganda: The lack of clear understanding of the meaning of federalism by all Ugandans threatens any effort to arrive at a decision on it as a system of government for them.

Also of interest, the majority of respondents were able to outline most of the objectives of federalism and how it should be administered, albeit, sometimes in a Uganda-specific context. Only a few respondents expressed total ignorance. Responses varied from district to district as to whether Uganda should adopt federalism. When it came to the conditions under which federalism should be introduced, most respondents were clear on the factors requiring consideration. This situation contrasted with the issue of the selective application of federalism in Uganda. A small majority opposed selective application while a small minority supported it. Despite this perspective, more than half (59 percent) of respondents said that federalism could work in Uganda, with 38 percent rejecting that idea. Of all the issues that a majority of the respondents was ignorant about, it was a model of federalism Uganda could adopt. Nevertheless, a handful of respondents proposed various “models” for adoption, including some being practiced by other countries.

The study unearthed several challenges that will affect the adoption of federalism in Uganda: confusion and contestation regarding the meaning of federalism; constitutional issues; land; language; defining the boundaries of the federal states; imbalances in natural resources; insufficient social capital; creation of new “kingdoms”; approach to introducing federalism; ethnic and cultural concerns; and lack of political will.

Although federalism appeals to some Ugandans, there are of course others who oppose it. Over the years, tensions have been rife as different social groups have debated the issue. One solution for coping with the competing demands is to get to the root of the issues that inform what federalism means so that when a resolution is eventually presented, the outcome is a win-win. At the core of federalism is the fact that it is a way of accommodating the differences in wants and beliefs of a diverse people without imposing an “iron will” on any of them (Wilson 2002: 56). In other words, federalism should enable peoples of the same country to remain united despite their ethnic, religious, and regional differences.

Chapter Six: Recommendations

One of the key objectives of this study was to recommend the “way forward” regarding the heated debate on the federal question in Uganda. The recommendations offered in this chapter, however, are not final. Rather, they can be used as a basis for further debating the federal question and the challenges involved: confusion and contestation regarding the meaning of federalism; constitutional issues; land; language; defining the boundaries of the federal states; imbalances in natural resources; insufficient social capital; how to introduce federalism; ethnic and cultural issues; and lack of political will.

First, on the lack of understanding surrounding federalism, it is imperative that those keen on pursuing the debate on this issue put in place a mechanism for civic education to increase awareness amongst key stakeholders regarding its meaning. Indeed, Ugandans need to know more about the concept before they can usefully debate it. Unless the discussion on the federal question is a sober one, much of what might be said and agreed upon could lead to exacerbated political antagonism, hatred, and instability, which is the opposite of what it seeks. Furthermore, it is important that Buganda desist from using federalism as a matter of negotiated settlement between the Mengo establishment and the central government. There is a need to sensitize citizens on the meaning of federalism so that citizens are clear on what it means before even attempting to discuss a ‘way forward’. A reputable organization agreeable to all stakeholders that does not hold a position for or against federalism should lead in this sensitization so that the broader population can make an informed and independent decision about how to proceed on this sensitive national issue.

To reiterate, pro-federalists in Buganda should avoid making federalism an exclusively Buganda demand or making it appear that way. They should mobilize resources to disseminate their concerns to other parts of the country and seek support that way if they want the debate to assume national legitimacy. Short of such outreach, they will have to go it alone, which will make adopting federalism much more difficult.

Second, the legal and constitutional division of powers between the central government and federal states should be arrived at through consensus by key stakeholders to avoid any real and potential conflicts between them. Laufer (1994: 19) notes the following:

Even though the principles of federal government and the rules of federalist behavior may be recognized and respected, conflicts of interest are still bound to arise between the central government and the constituent states. . . . To ensure that political activities in a federal state are not rendered cumbersome or even ineffectual . . . and to safeguard the proper functioning and the survival of the federal state, it is indispensable that there should be an institution to settle any conflicts between the central government and the constituent states . . . and to arbitrate competences and involvements. The best institution to settle federative disputes is an independent court . . . to mediate, stabilize, preserve, and keep the peace in the federal order.

Thus, by creating a federal constitutional court, an institutional framework would be established to which disputing parties in the federal government and federal states may appeal. The functions of such a court would include interpreting the Basic Law in the event of disputes about the rights and duties of federal constitutional organs, such as parliament, the government, and president; settling differences of opinion concerning possible formal or factual contraventions of the Basic Law by federal or state legislation or the possible contravention of federal law by state legislation; settling disputes about the rights and duties of the federation and the states particularly where the implementation of federal law by the state and the exercise of federal supervisory duties is concerned; and settling public law disputes between the federation and the state or between and among states.

A federal constitutional court should act efficiently and expeditiously in discharging its duties (i.e., to safeguard the federalist order, settle federal disputes, and preserve domestic peace).⁸⁴ In this respect, it must demonstrate that it is an able guardian and defender of the federal state. It should also protect the federation from erosion by the central government without debasing the efficiency of the federation or compromising the autonomy of the federal states, thus aiding considerably in preserving the incessant and potential tension that exists between the central government and the constituent federal states (Laufer 1994: 19).

Furthermore, the different levels of government have to agree on the functions requiring retention at the centre and those that should be the preserve of the states or regions. The key informants argued that to avoid the potential for conflict, this division must be codified. They cite the acrimonious relationship between the central government and Buganda resulting from the absence of a legal

⁸⁴ *This argument is in line with the constitutional principle of homogeneity; its major thrust is that federal legislation supersedes federal state legislation. Whenever the survival of the liberal democratic order of either the central government or one of its constituent states appears to be in danger, the central government may, provided the relevant law or laws are followed, employ the federal army or police forces of the state to execute specifically defined measures (including emergency measures). Such radical measures to maintain the homogeneity of the federation should be the exception rather than the rule.*

framework. The legal framework should then provide local peoples the necessary freedom to participate in politics, culture, and the economy, and government so created should be in a position to function autonomously as well as to serve the people to their satisfaction through effective coordination. Therefore, on the constitutional front, the stakeholders should fully participate in the amendment of the constitution and related laws. Experts of all walks of life should be selected and consulted to take part in debate and, where necessary, draft the necessary pieces of legislation on a non-sectarian basis if the outcome of the constitutional review process is to be all-encompassing and accepted by all.

Third, in a federal system, authority over the control of land might be rendered unalterable without constitutional mandate. Each state has sovereign powers to legislate on matters agreed to with the central government, and it follows that each state would seek unconditional power over land. For instance, in the event that the central government wishes to promote particular industries of national importance in a particular federal state, it must negotiate with that state before implementation occurs. This arrangement does not necessarily mean that the state should in every instance have the power to veto government actions in its jurisdiction. The point is that the federal states should have powers to protect their interests, for instance, from national politicians who purport to conceive development projects in the “public interest” but that end up benefiting themselves and their cronies.

In Buganda, imposition of the *mailo* tenure brought a fundamental change to Buganda’s body politic. Indeed, privatization in Buganda, made land an economic commodity far from what the Baganda believe in (see Kayunga 2000). The colonial land system removed not only the Kabaka from his position of Ssabataka, or chief trustee of land in Buganda, but also the clan heads as trustees of land on behalf of their people. In fact, the relationship of the Kabaka to the chiefs and through the chiefs to the peasants changed greatly with the colonial system and divorced the ownership of land from political responsibilities. Ultimately, the most radical of all land reforms was that land became purchasable and sellable by any citizen, no matter their social origin, like any other commodity in the marketplace.

The centrality of land in Uganda’s politics, let alone in the formation of government, has the ability to adversely affect the realization of federalism. Indeed, one of the reasons why it is sometimes difficult for the former kingdoms to speak with one voice is because of the things that divide them. Land is one such thing dividing the Banyoro from the Baganda. The British colonial state seized big chunks of land from Bunyoro and gave it to Buganda in return for its support. These lands dubbed “lost counties,” included Bugangaizi, Buyaga, Orugonjo (Singo), Buhekura, Bulemezi (Kayunga), and Bugerere. A 1964 referendum led to the return of Buyaga and Bugangaizi to Bunyoro, but nevertheless, these areas are in the hands of absentee landlords even after their return.

In 1995, the Buganda Lukiiko raised a few fundamental issues in its recommendations to the CRC on the land question (Buganda Lukiiko/Mengo 1995: 19–20). First, it suggested that all land be converted to freehold interest throughout Uganda. Second, the system of landholding (i.e., *mailo*) obtaining in the country as it applied to Buganda prior to 1975 should be reinstated. Third, administration of land matters should be transferred to local authorities. Fourth, the system of land registration should be uniform throughout the country. Fifth, there was a need to transfer the management of public land to local authorities. Sixth, government should be free to acquire land in the public interest. Seventh, Ugandans should be free to acquire land anywhere in the country on a willing buyer-seller basis or through succession. Eighth, the central government should assist people who own *bibanja* or *obusenze* and who are desirous of acquiring full ownership with title deeds and agreement of the *mailo* owner.

Fourth, in Uganda, for reasons that remain unclear, the country has never produced a language policy to resolve the persistent clashes between the domineering Luganda language and other languages (i.e., indigenous, Swahili and English).⁸⁵ Ruth (1991: 335) rightly observes that in East and Central Africa, Uganda is perhaps the only “country without a common grassroots language for mass-ethnic communication . . . and a precise language policy.” This failure has fallen prey to ethnic chauvinists who have exploited it to promote their language to hegemonic proportions. It would also be prudent that as Ugandans contemplate debating the language question, the regional blocs, such as the East African Community, also be put in perspective.

Whereas Luganda has historically been dominant compared to most of the other languages in the country, due to economic and political factors,⁸⁶ Swahili is more widely spoken in the Great Lakes Region. In the development of a language policy for Uganda, care has to be taken to avoid a scenario in which the policy becomes a weapon for power struggles between the ethnic groups that have been at the centre of Uganda’s political crises post-independence.⁸⁷ Indeed, as Mukama (1991: 346) notes,

Failure to or slowness in responding to the sensitivities of linguistic minorities, possibly because these minorities’ representation in regional politics tends to be relatively low, and also their socio-economic development has been slower than that of the dominant groups, can lead to gross inequalities in national development.

⁸⁵ *Luganda is the language of mass media coverage (radio, television, and print); it is taught in schools and universities; it has vibrant associations in tertiary institutions of learning supported by the king; and it is used increasingly in the performing arts (drama, music, etc.).*

⁸⁶ *Gertzel refers to the historically advantageous position of Buganda as “Uganda’s economic heartland.” On this expression, see Mukama 1991: 337.*

⁸⁷ *Mukama 1991: 343.*

The repercussions to national integration and development by such neglect can turn out to be enormous. While presenting reasons for reviving cultural institutions when opening the Lukiiko at Bulange, Kampala, on 2 August 1993, President Museveni said, among other things, that “the traditional institutions will help us preserve our languages and cultures which are under serious assault from external forces. Some of our people have already become Black Europeans.”⁸⁸ The last word on the language question is to take serious note of Ruth’s (1991: 348) assertion that “language development is inevitably an aspect of social change. And as social change is centrally organized and controlled, language change should also be similarly exposed to organized efforts.”

Fifth, on defining the boundaries of federal states, it is important to constitutionalize the politics of federalism whereby stakeholders agree on what the governmental arrangements should be and not on what a few individuals think it should be. Successful federalism is a consequence of a balanced division of powers among constituent parts. Where controversy arises over the division of powers and responsibilities, there is a need to establish clear avenues, say, through a supreme court or constitutional court, for aggrieved parties to seek redress before they cause constitutional crisis. In addition, it is important to construct an administrative mechanism that will guarantee consistency and uniformity in the execution of national policies and laws to avoid role conflicts and duplication (e.g., employees of the federal states and federal or central government providing the same services).

Although states may have legislative, judicial, and executive powers, the central government usually has supreme authority over them; the laws accorded to the central government tend to take precedence over state laws. Some of the powers the central government is supposed to have include: creation of boundaries of states, abrogation of the sovereignty of states, and declaration of war. During economic depressions, high unemployment, and a need to provide services of a local nature, political power tends to gravitate to the centre (Makonzi 2009: 87). Therefore, the constitutional imperative is to ensure that the central and federal states can minimize the chances of the former exercising appellant powers to reverse any decisions that have been arrived at that give autonomy to the latter.

Sixth, on natural resource imbalance and specifically on national economic management, it is critical that necessary legislation dealing with a number of areas falls under the ambit of the central government’s responsibility: those dealing with money and coinage, currency, treaties on commerce, unity of the customs and trading area, and maintenance of the free movement of goods, services, and capital.⁸⁹ There should never be widely differing rules in different regions of the federal territory. The variations in influence among the different levels within

⁸⁸ See Atubo 2011.

⁸⁹ For a detailed discussion of the economy and resources under federalism, see Thiel 1994: 150–55.

the federal system are attributable not only to their spheres of responsibility and spending powers, but also the extent that their power is substantially dependent upon their ability to raise funds before they can spend them.⁹⁰ Under concurrent legislative powers, the federal states are entitled to pass their own legislation, but legislative competence lies with the central government to preserve legal and economic uniformity, especially in matters of socio-economic conditions; it the central government retains powers concerning all taxes and its distribution.⁹¹ A percentage has to be determined as to how much revenue accruing from tax collections should be distributed by the central government to the federal states or should be retained by them (e.g., revenue from oil, minerals, personal income, corporation tax, value-added tax, trade tax, vehicle tax, net worth tax, and real property tax).

Furthermore, there are certain areas where the central government is empowered to enact so-called outlining legislation. For instance, the central government might issue general rules relating to civil service regulations, continuing educational institutions, and regional planning. It is also the central government that has the competence to pass legislation laying down certain principles that stipulate standard procedures and definitions that all central, regional, and local authorities are required to follow, for instance, in managing finances.

In addition to performing their own legislative functions, the federal states have the opportunity to influence the legislative process at the central government level through representation in the national parliament. In specific terms, they should present their own position in the national parliament on bills tabled by the central government. The federal states involve themselves in the enactment of laws that cannot be passed without their tacit consent, including any proposed changes to the national constitution, changes in funding of federal states, and laws or pieces of legislation affecting the administrative and juridical sovereignty of the federal states.

Because of the different functions they perform and their constitutional mandates, the central government and federal states can neither raise equal amounts of revenue nor influence the private sector to the same degree.⁹² In other words, there are substantial discrepancies in the revenues of individual levels of government. Because of the unequal nature of resources, socio-economic developments tend to produce unequal degrees of prosperity in the regions. In Uganda, for instance, the economic situation in the north (mainly due to more than two decades of civil war) and the east have generally not been favorable compared to other parts of the country, especially the central and western regions.

⁹⁰ *Ibid.*, 152.

⁹¹ *Examples of concurrent legislation include economic law, regulations governing the generation and utilization of nuclear power, labor law, promotion of scientific research, prevention of abuse of economic power, land law, road traffic, and essential areas of environmental protection.*

⁹² *Thiel 1994: 153.*

Sometimes, the need arises to devise compensatory measures to address growing socio-economic imbalances between and within the regions. Some measures deal with financial differentials through financial compensatory measures. For instance, a financial compensatory system could level the differences in per capita tax receipts within and up to a certain range.⁹³ In another scenario, the federal states might have relatively low tax receipts, thus necessitating transfers of supplementary grants from the central government financed out of value-added tax receipts. The federal state could provide grants to the lower local governments (districts and municipalities) that they can utilize at their own discretion. Principally, the determination of the amount of the payments depends on the number of inhabitants, number of schoolchildren, relative size of different age groups, and the size of the lower local governments. Besides the general grants, certain specific grants are payable to the lower local governments within the terms of special-purpose programs managed by the federal states.

An additional instrument to influence the efficacy of individual lower local governments is to establish joint tasks in which the central government and the federal states are expected to work together. Such areas of cooperation include the following: the construction or expansion of tertiary institutions of higher learning (e.g., universities and teaching hospitals), improving regional economic structures, improving the agricultural sector, and provisioning coastal defenses. The factors for deciding the choice of target areas for implementing cooperative economic policy instrument include the rate of unemployment, gross value-added and gross wages in the regions, and infrastructure endowment. Thus, there is likely to emerge the problem of bigger and richer states making a bigger contribution to the less rich areas as is observable in Uganda where some regions contribute more to others. For example, north-east sub-region where Karamoja lies has always received support from the central government after collection of contributions from other regions. The issue then becomes how the country will establish a sound economic system that will check the central government from acquiring the power to direct the affairs of the federal states without appearing to control them.

Having rich natural resources does not guarantee development and improvement in the lives of the indigenous, local people. The case of oil-rich states in the Niger Delta whose wealth has not transformed the peoples' lives and the states for the better is a classic example. In fact, individuals and other regions have benefitted more than the oil states. Hence, over time, it is insufficient for federalists to establish a few straightforward, unflinching rules on how different responsibilities, expenditure, and receipts should be distributed.

Seventh, concerning insufficiency of social capital, mechanisms and incentives should be established to attract well-qualified and competent personnel from areas of abundance in Uganda, such as Central region to areas of scarcity, like the

⁹³ *Ibid.*, 154.

northern and northeastern. In the medium- to long-term, the deficient regions should consciously design capacity-building programs that can increase essential social capital to ensure their ability to implement their development policies.

Eighth, on the method of introducing federalism, three main methods exist by law, namely; a referendum can be initiated through a parliamentary resolution, a resolution passed by at least 50 percent of all district councils, or a petition to the Electoral Commission signed by at least 10 percent of registered voters from at least two-thirds of the parliamentary constituencies. The Uganda Federal Alliance (UFA) has decided to work in a number of regions, including Bunyoro, Busoga, and Northern region, to collect the required 1.3 million signatures of registered voters from among some 13.5 million people to have a referendum. According to UFA president Beti Olive Kamywa, the party has so far collected more than 20,000 signatures from Central region. The Bunyoro and Buganda kingdoms are supporting the initiative. As opposed to earlier initiatives, this one extends the federal agenda beyond the pro-federal Buganda and the NRM leadership to other parts of the country.

Bunyoro is willing to help UFA in this effort because of the failure by the NRM government to involve the Banyoro in the exploration of oil coming from their area. This reluctance has greatly undermined Bunyoro's support for the NRM government.

In the case of Buganda, the simmering, acrimonious relationship between the central government and the Mengo establishment over the suppression of the Kabaka's right to operate within his districts has led to an alternative avenue for rejoining the federal debate. It is not clear how the NRM leadership will respond if the UFA succeeds in meeting the legal requirements for holding a referendum. In the past, the position of the NRM party towards federalism, according to Amama Mbabazi, the secretary general of the party, is that it opposes federalism in favor of one country under one government (Mulondo 2010: 12–13). It is arguable that in the event the NRM government sees the tide turning in favor of federalism, and perceives it as threatening the party's grip on political power, it could move to frustrate the effort in every conceivable way.

Ninth, concerning ethnicity and culture causing conflict or secession, some respondents discounted this position by stating that Buganda has been accommodative of several tribes for too long a time for fragmentation to happen. They also cite the example of different personalities – among them Daudi Ochieng, an Acholi, Jimmy Simpson, a Briton, and Virsim (who was given a Luganda name, Namubiru), an Indian – who have represented Buganda in the national and Buganda parliaments (Makonzi 2009: 43). The pro-federalists argue that ethnicity has been used by the successive centralized, post-independence regimes of Obote (1962–69), Amin (1971–79), and Museveni (1986–) while others counter that these have not been federal governments, but pseudo-multiparty, military, and

movement and [pseudo]-multiparty platforms, respectively. They observe that all past regimes have used ethnicity to consolidate political power by disenfranchising rival ethnic groups.

It is important to recognize that ethnicity is a fact with which one must reckon, and ethnic identity is something into which everyone, especially every African, is born and through it obtains membership without recourse to applications or bureaucratic red tape. Hence, there is a need to recognize the existence of different ethnic groups in order to democratize the Ugandan state, but without viewing them as opposing tribes. In the end, what matters is the method used in inculcating into the psyche of citizens a national ethos, ideological consciousness, and patriotism, not divisive politics based on ethnic and cultural chauvinism.

On the tenth point, the political will to introduce federalism, there is a need for national leaders to listen intently to the voices of all the people, those for federalism and those for republicanism.⁹⁴ Katorobo (1995: 350) is correct in observing the following:

There will have to be a delicate balance between demand for federalism by the restored kingdom areas and the republicans between emergent, strong, and viable centres of local governance and a strong, but not dominant, central government. The relationships between the centre and local authorities will have to be grounded on negotiations and bargaining. Only the emergence of a culture of tolerance, and give-and-take, will prevent the ever present danger of backsliding to convenient, but destructive, dictatorial rule.

It should be underscored that another unresolved problem continues to simmer between Buganda and Bunyoro in the form of communities that live in present-day Buganda because of past historical injustices resulting from British colonialism and conquest. The British helped Buganda annex parts of Bunyoro, including Buyaga, Bugangaizi, Northern Singo, Northern Buvuma, and Buruli. Other territories that ended up in Buganda are Kooki, Mawogota, Lwemiyaga, Sembabule, and Kabula. Today, because they resent the revival of the Buganda kingdom and feel marginalized, some of the inhabitants in these areas are demanding recognition of their ethnic groups within Buganda. No doubt, these demands will reconfigure Buganda's traditional landscape in the near future.

⁹⁴ At the Protea workshop, the Lord Mayor of Kampala, Erias Lukwago, also emphasized the need to provide an enabling environment to freely debate the federal issue. He observed that the federal issue has been going round for years and that the time had come for taking the right decision and moving the debate forward.

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ISBN No. 978-997-09-144-0-1