

# Fiscal Autonomy of Local Government Authorities: Reflection on the Constitution and the Local Government Finances Act

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## Abstract

It is undeniably that the fiscal autonomy of local government authorities constitutes a critical component of any financial decentralization in both developed and developing countries. It gives local government authorities freedom to impose taxes, generate revenue within their areas, allocate their financial and material resources, determine and authorize their annual budgets without external motivate. The fiscal component of local governments in Tanzania Mainland is mannered by the Constitution of the United Republic of Tanzania, 1977 and The Local Government Finances Act, 1982. Despite such recognition, powers of local government authorities in relation to local government finance are still, limited by central government. These limitations do not only deny local governments requisite powers to adequately raise revenue from their own sources and borrowings but also inhibit their ability to determine and approve such annual budgets.

*Key words: Fiscal Autonomy, Fiscal Decentralization, Local Government Authority, by-laws and rates*

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## 1. Introduction

Local government authorities are assigned a number of mandatory<sup>1</sup> and permissive<sup>2</sup> responsibilities to perform. Effective and efficient performance of such responsibilities requires, among others things, existence of adequate fiscal resources. These resources are required for the purposes of financing operational expenses, development projects and costs of rehabilitating some dilapidated local infrastructures within their respective areas. The existence, development and growth of local government authorities depend substantially on the subsistence of sufficient amounts of revenue. According to Olowu<sup>3</sup> presence of a sound local government revenue system is essential and serve as a critical tool for a successful operation of the local governments. Local government authorities should, therefore, be accorded with sufficient financial autonomy to enable them impose, collect and spend such revenue in the delivery of various public social services.

This paper underscores the extent to which the Constitution, The Local Government Finances Act and other directives issued by the Minister grants sufficient fiscal autonomy to local government authorities in Mainland Tanzania to conduct their fiscal affairs. Specifically, it explores the effectiveness of the powers conferred upon local government authorities to generate revenue from their own sources, powers to prepare and approve a detailed annual budget or supplementary budget, powers to access loans and lastly, ascertain whether or not such powers confers sufficient fiscal autonomy to local government authorities. The paper is organized into five separate segments. First section gives a succinct introduction of the study, second section offers a snapshot of the conceptual scrutiny of the key concepts used, third section provides a comprehensive analysis of the Constitution, The Local Government Finances Act and other guidelines issued by the Minister and fourth segment alludes to the conclusion.

## 2. Conceptual Analysis of the Key Concepts

### 2.1 Fiscal Autonomy of Local Government Authorities

Fiscal autonomy of sub-national governments implies that, to some extent, sub-national governments can arrange their own sources revenue by exercising their taxing powers to cover the costs occurring in the provision of public goods and services.<sup>4</sup> It entails the freedom to impose local taxation, generate revenue within its assigned sources, allocate its fiscal and material resources, determine and authorize its annual budgets without external

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<sup>1</sup> Section 113 (1), The Local Government (District Authorities) Act, (Cap. 287 R.E. 2002), and The Local Government (Urban Authorities) Act, (Cap. 288 R.E. 2002)

<sup>2</sup> First Schedules to The Local Government (District Authorities) Act, (Cap. 287 R.E. 2002), and The Local Government (Urban Authorities) Act, (Cap. 288 R.E. 2002)

<sup>3</sup> Olowu, D., and Wunsch, J. S. (2003); *Local Government in Africa: The Challenges of Democratic Decentralization*: Boulder, Lynner Rienner

<sup>4</sup> Vo, D. H. (2006); *Measuring Fiscal Decentralization: An Entropic Approach*. University of Western Australia, Australia

interference.<sup>1</sup> Some authors<sup>2</sup> observed that local government fiscal autonomy derived its validity from fiscal federalism. Fiscal federalism is the transfer of functions, resources and authority to peripheral levels of government. It also relates to disposition of tax powers, retention of revenue and methods adopted in sharing centrally collected revenue in accordance with constitutional responsibilities of all levels of government. The exhibited disparities in the definition of fiscal autonomy may, probably, be induced by the nature, background and structural set-up adopted and practiced by government.

According to Beer<sup>3</sup> financial autonomy can generally be referred to the freedom of sub-central government units to manage their affairs in a way that is not entirely dictated and controlled by the central government. Financial autonomy includes three elements. First, local expenditure autonomy entails right and ability to determine the nature and size of all local public expenditure and its breakdown in various public goods and services basing on the demand of the local constituency, the right and ability to manage local property. Second, local revenue autonomy entails right and ability to determine the origin and amount of financial resources, the rate at which beneficiaries contributes to the common pool, and use of the same. Third, local budgetary autonomy entails right and ability to adjust revenue levels to spending levels across various domains of public intervention, within one generation of taxpayers and successive generations. It is the right and ability to modulate local budget constraint both statically and dynamically. It requires local authorities to assume fiscal responsibility for their decisions in their areas.

The financial autonomy of sub-national governments is primarily influenced by the assignment of taxing powers.<sup>4</sup> If tax assignment is extensive, the gap between spending responsibilities and taxing powers of sub-national governments will be minimized or eliminated<sup>5</sup> leading to financial autonomy. The political accountability and economic efficiency require not only sub-national governments should have their own sources of revenue but also total control or almost total control over taxes and fees. That is, sub-national governments should besides being accorded adequate powers to raise enough taxes from their own sources by setting tax rate and defining tax base be given authority to make their expenditure decisions. According to Varguez<sup>6</sup>, sub-national governments that lack their independent own sources revenue can never enjoy the fiscal autonomy; they may presumably, be placed under the financial thumbs of the central government.

The fiscal autonomy is, therefore, the bedrock and most important aspect of the local government autonomy<sup>7</sup> and financial decentralization. Financial decentralization that does not directly deal with fiscal autonomy is partial. Financial decentralization should be designed in such a manner that financial and fiscal competencies assigned to local governments correspond tasks and responsibilities devolved to them. The degree of local governments fiscal autonomy can be measured by placing on board three variables. These include the contribution of local governments own sources revenue to national budget, total local governments expenditure to central expenditure and level of local governments self-reliance rate.<sup>8</sup> These measures have been defined on the basis of single dimension of fiscal autonomy such as expenditures going through sub-national budgets and revenue raised by sub-national governments. Unlike traditional ways of measuring fiscal autonomy, revenue and expenditure ratios, experts in public finance are more concerned with qualitative measurement. This entails powers of sub-national governments to decide appropriate tax rate, define tax base, policy and legal regulatory framework for borrowing and type of intergovernmental fiscal transfer<sup>9</sup> given to them.

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<sup>1</sup> Okafor, 2010 Quoted in Okechukwu, E. I. and Another (2013); Local Government and Fiscal Autonomy for Local Government in Nigeria: Review of Public Administration and Management Vol. 2, No. 3

<sup>2</sup> Osakwe, J. O. (1999), "Fiscal Relations among Three Tiers of Government in Nigeria" in Fiscal Federalism and Economic Development (NES), University Press

<sup>3</sup> Beer-Tóth, K. (2009); Local Financial Autonomy in Theory and Practice: The Impact of Fiscal Decentralization in Hungary; Doctoral Thesis in fulfillment of Economics and Social Sciences

<sup>4</sup> Vo, D. H. (2006); Measuring Fiscal Decentralization: An Entropic Approach. University of Western Australia, Australia

<sup>5</sup> Vo, D. H. (2005); Fiscal Decentralization in Vietnam: A Preliminary Investigation, University of Western Australia

<sup>6</sup> Varguez, M. J. and Another, (2007); The Design of Equalization Grants: Theory and Application, World Bank Institute

<sup>7</sup> Okechukwu, E. I. and Another (2013); Local Government and Fiscal Autonomy for Local Government in Nigeria: Review of Public Administration and Management Vol. 2, No. 3

<sup>8</sup> Prud' home (1990), The Dangers of Decentralization, The World Bank Research Observer, World Bank

<sup>9</sup> Liu, C. (2007), What Type of Decentralization System Has Better Performance? University of Maryland, College Park

### 3. Fiscal Powers of Local Government Authorities

#### 3.1 The Constitution of the United Republic of Tanzania, 1977

Article 145 (2) of the Constitution of the United Republic of Tanzania<sup>1</sup> empowers the Parliament and the House of Representatives, as the case may be, to enact the law providing for the establishment of local government authorities in each region, district, urban areas and villages in the United Republic. Moreover, it requires the law enacted by the Parliament and the House of Representatives to prescribe, among other things, sources of revenue of local government authorities. The provisions of the Constitution does, generally recognize and anoint, local government authorities to have and raise revenues from a variety of sources situated within their local vicinity. These provisions do not, however, endeavor to define nor identify whatsoever the names of such revenue sources. This means that besides ordering the Parliament to enact the law specifying the sources revenue for local government authorities, the Constitution provisions remained silence and continued to be deaf on what constitute local government revenues sources.

The provisions of the Constitution in respect of local government own-sources revenue are generally vague in all manners. Besides giving a broad statement on the sources of revenue, the provisions do not specifically first; identify the nature and type of sources of revenue to be collected by local government authorities; second, prescribe and accord sufficient taxing or revenue raising powers to local government authorities and third, grant sufficient spending autonomy to local government authorities for the revenues collected from their own sources. Failure of the said provisions to prescribe the nature and types of taxes that can be imposed and collected by local government authorities is, certainly, a serious hurdle and setback towards the fiscal autonomy of local government authorities. This goes without saying that local government own-sources revenues are not protected by the Constitution. It makes them more liable and susceptible to all sorts of encroachment by the central government through regular amendments of legislation.

Some authors have at different time attempted to open their eyes widely and therefore, shed some lights on the provisions of the Constitution pertaining the establishment and conduct of the general and specific affairs of local government authorities. These two Constitution provisions, namely, Articles 145 and 146 have been strongly criticized for being too broad but scant in content.<sup>2</sup> The said provisions do not subscribe, address and entrench accordingly the concept of decentralization by devolution as promulgated under The Policy Paper on Local Government Reform<sup>3</sup> leave alone the contents of various pieces of local government legislation. Basing on such premise Mnyasenga<sup>4</sup> observed, among other things that, failure of the government to review the Constitution to entrench the concept of decentralization by devolution whether deliberately or intentionally has been considered as the worst decision being taken by the government.

#### 3.2 The Local Government Finances Act

The management and control of local government finances is mannered by a plethora of legislation and directives issued by the Minister responsible for local government. The principal legislation that regulates the fiscal component of local government and all other matters related to is The Local Government Finances Act.<sup>5</sup> This law provides, inter alia, sources of revenue of local government authorities by categorizing them into three distinct groups; own sources revenue<sup>6</sup>, central government fiscal transfers<sup>7</sup> and borrowing<sup>8</sup>, powers to impose rates and collect revenues, powers to prepare and approve a compressive and detailed annual and supplementary budget, provides for a coherent system of sound management of local government financial resources and lastly, establishes a Local Government Loan Board.<sup>9</sup> Besides that, The Local Authority Financial Memorandum<sup>10</sup> and Guideline for Application and Management of Loans in Local Government Authorities<sup>11</sup> regulates the spectrum of the local government finance.

<sup>1</sup> The Constitution of the United Republic of Tanzania, 1977

<sup>2</sup> REPOA (2008); The Oversight Processes of Local Councils in Tanzania, REPOA P. 13 ISSN: 2306-9007

<sup>3</sup> The Policy Paper on Local Government Reform, 1998

<sup>4</sup> Mnyasenga, T. and Another (2015); Administrative Legal Framework of Central-Local Government Relationship: Is It Tailored to Enhance Administrative Devolution and Local Autonomy? IRMBR, V. 4 I. 3

<sup>5</sup> (Cap. 290 R.E. 2002)

<sup>6</sup> Section 6, 7, 8 and 9, The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>7</sup> Section 12 and 13, The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>8</sup> Section 14, The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>9</sup> Section 60, The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>10</sup> The Local Authority Financial Memoranda, 2009

<sup>11</sup> Mwongozo wa Maombi na Usimamizi wa Mikopo Katika Mamlaka za Serikali za Mitaa, 2015

The local government own sources revenue is composed of several distinct components. But, notwithstanding their comprehensiveness of sources, they may be clustered and placed into any the following units; namely, property tax, fees and charges, service levy, license and permits, hotel levy and produce cess. The control of the local government own sources revenue hereinabove referred to is placed at the disposal of the Minister responsible for local government. Apart from imposing rates and collecting revenue from the people or authorities residing or carrying on business within their areas, local government authorities or such other persons are prohibited from altering any item or revenue source likely to affect local government authorities without consultation with the Minister responsible for local government.<sup>1</sup> Moreover, distribution of own sources revenue among various levels of councils remains to be an exclusive jurisdiction of the Minister responsible for local government after making the requisite consultation with other stakeholders.<sup>2</sup> Sadly, it is unknown if the Minister is not bound to follow advices.

Principally, the collection of the local government own sources revenue is preceded by the enactment of by-laws. By-laws are enacted by the highest local government political authority composed of elected and appointed representative members and approved by relevant authorities.<sup>3</sup> By-laws made by local government authorities play a critical role in the administration and management of local government own sources revenue. They amplify and ease the provisions of the enabling legislation by defining, among other things, amount of rate to be paid in respect of each source imposed by local government authorities, nature of persons liable to pay the rate, prescribing such available payment modalities and stating the time frame within which payment of the said rate should be done. They further prescribe the possible consequences associated with neglecting or failure to pay the rate duly imposed by local government authorities within the allotted time leave alone charting penalties for such persons enticing others to retract payments.

### **3.3 Does the Constitution and Law Provide for Local Government Fiscal Autonomy?**

This is rather a simple and straightforward question. It merely seeks for a simple and short answer. But, the answer is reserved until a content analysis of the provisions of the constitution, laws, guidelines and other directives is basically done. The analysis of such instruments is aimed to establish the extent to which local government authorities though operates within the constitutional-legal framework of the national government are free from performing their constitutional mandate and legislative functions without such undesired interference from central government. Therefore, the Constitution, The Local Government Finances Act, The Local Authority Financial Memorandum, The Guideline for Application and Management of Loans in Local Government Authorities and other directives issued by the Minister responsible for local government will be expounded. At the conclusion of content analysis of those instruments, presumably, an informed conclusion as to whether or not the provisions of the constitution, statutes and other directives grants the requisite financial autonomy to local government authorities.

The power of local government authorities in relation to the imposition of tax rates and determination of taxable base are not absolute. They are constricted by the central government. They are subject to the rating rules made by the Minister responsible for local government after making thorough consultation with the Minister responsible for finance.<sup>4</sup> Also, it is worth noting herein that, the Minister apart from setting the rules to be complied with by local government authorities may, still exempt<sup>5</sup> certain categories of persons from paying the rates which have been dully imposed by local government authorities. However, the criteria upon which the decision of the Minister can lie in relation to the exemption of those persons are not certainly promulgated for under the Local Government Finances Act or regulations. They are merely discretionary powers vested under the fingertips of the Minister responsible for local government authorities.

The Minister responsible for local government after consulting the Minister of finance is allowed to make rating rules that may prescribe the limit of the rates to be imposed by local government authorities and conditions associated with such rates. The rating rules constitutes some mandatory requirements that ought to be observed and complied with local government authorities whenever they have been called upon to make their by-laws aiming at imposing new rates. This restriction and conditions upon the powers of local government authorities to set tax rates and sometimes define the nature of persons to pay such rates though recommendable may certainly appear to be undesirable for two main reasons. First, they deny local government authorities sufficient discretion

<sup>1</sup> Section 10 (1), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>2</sup> Section 10 (2), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>3</sup> Section 155 (4), 161 (3), 169 (3), The Local Government (District Authorities) Act, (Cap. 287 R.E. 2002) and section 89 (3), The Local Government (Urban Authorities) Act, (Cap. 288 R.E. 2002)

<sup>4</sup> Section 16 (2), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>5</sup> Section 16 (4), The Local Government Finances Act, (Cap. 290 R.E. 2002)

to set tax rates and determine tax bases and second, they further deny local government authorities sufficient right to adjust their own revenue by varying the rates whenever necessary, in response to the financial demand for the publicly provided social services.

On the same vein, powers of the Minister responsible for local government to exempt<sup>1</sup> certain categories of persons from paying the rates dully imposed by local government authorities are of no any significance value. It is rather an unnecessary enclosure and manifest subjugation of the financial autonomy of local government authorities. Sadly, the law does not prescribe any criteria whatsoever which may guide the Minister to exempt such categories of persons from paying such rates. This perpetuates the central government monopoly over the local government affairs more specifically the financial autonomy. Moreover, there is no any reasonable justification leveled for the Minister to make such exemption of categories of persons since the law<sup>2</sup> confers similar powers to local government authorities through their representative organs, that is, councils. The nature and type of persons to be covered by such exemption and grounds upon which local government authorities may exercise such powers are defined and promulgated.<sup>3</sup>

The central government has had at different times interfered the revenue assignment of local government authorities. This interference manifested itself in different forms such as abolition, transfer and re-centralization of collection some of the local government own sources revenue. The government through the Minister responsible for finance<sup>4</sup> abolished a list of taxes that have for a quite long being collected by local government authorities after terming them as 'nuisance taxes'. The same cause of action pursued by the Minister responsible for local government in July 2014 by pronouncing the decision that barred local government authorities from collecting cotton cess in favour of Cotton Boards. Recently, the government re-centralized the administration and management of property tax to Tanzania Revenue Authority.<sup>5</sup> The most intriguing question herein is that all those decisions were unilaterally arrived at by central government. Neither local government authorities as necessary parties nor the Association for Local Authorities of Tanzania as a proper party and representative organ were involved during that process.

Lastly, local government authorities through their councils have power to prepare and approve their budgets.<sup>6</sup> The budget apart from reflecting the council's service delivery plan<sup>7</sup> should, unequivocally state, such amounts of monies expected to be received and disbursed by local government authorities during the fiscal year. The power to prepare and approve the annual or supplementary budget does not shield away from the upper and strong whip of central government. The law<sup>8</sup> places some imperative requirements before chief executive officers of local government authorities to arrange a meeting with regional secretariats where budget proposals are submitted for scrutiny. Discussions, technical advises, recommendations and guidance regarding national polities, programs and financial regulations takes prominence during the meeting. Moreover, the meeting is aimed at ensuring that the budget proposals comply with relevant sector standards, guidelines and priorities.<sup>9</sup> The secretariat, is a mere an extension of central government at regional level, established to provide technical and administrative assistance, offer policy interpretation, enhance institutional capacity, monitor quality and

<sup>1</sup> Section 16 (4), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>2</sup> Section 22 (2), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>3</sup> Section 22 (3), The Local Government Finances Act, (Cap. 290 R.E. 2002), that is, person depends on others for his livelihood, women completely dependent on their husbands or other persons for their livelihood, full time students attained the age of or above eighteen years who depends on others for their livelihood, old persons of or above the age of sixty without visible source of income, disabled persons without visible source of income, and any persons or category of persons as the authorities may deem fit

<sup>4</sup> Reforms in Tanzania's local taxation system which abolished development levy in 2003 and in 2004 removed a wide array of 'nuisance taxes' and radically reduced the business license fees such as bicycle tax, livestock levy, and the entertainment levy. This should also be the fate of many fees such as push cart fees, cattle trekking fees, bicycle registration fees, among others, that simply have a high nuisance value and that cost more to enforce than what they yield in terms of revenues during the collection process

<sup>5</sup> The Finance Act, 2016: amended some provisions of The Local Government Finances Act, (Cap. 290 R.E. 2002), The Local Government (Rating) Act, (Cap. 289 R.E. 2002), and The Tanzania Revenue Authority Act, (Cap. 399 R.E. 2002). However, re-centralization of property tax administration and management is not a new phenomenon; available evidence shows that property tax was re-centralized to TRA in some local government authorities by The Financial Laws (Miscellaneous Amendments) Act, 2008

<sup>6</sup> Section 46 (1), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>7</sup> Regulation 10 (1), The Local Government Financial (Block Grants) Regulations: G.N. No. 282 of 2000

<sup>8</sup> Section 46 (1), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>9</sup> Section 46 (2), The Local Government Finances Act, (Cap. 290 R.E. 2002), and Regulation 10 (2), The Local Government Financial (Block Grants) Regulations: G.N. No. 282 of 2000

standards of service delivery, offer training and identify development opportunities<sup>1</sup>, among others.

Besides that, central government issues the budget ceiling for every financial year. Local government authorities have to ensure that their budget estimates are confined within the prescribed budgetary limit. Issuance of the said budget ceiling to local government authorities may be founded on the fact that a lion share of the money used to finance local government authorities' budget flows from central government in terms of central government fiscal transfers. The literature available accentuates that about 90%<sup>2</sup> of the annual local government budget comes from central government. This means that, local government own sources revenue are inadequate to finance the delivery of various quality social services to the public and development projects within their respective areas. This requirement though may have been designed to ensure proper checks and balance between the tiers of governments, on one hand; it sieges the fiscal autonomy of local governments, on the other hand. As a result, local government authorities cannot prepare any meaningful budgets reflecting the felt needs and preferences of the people.

Sometimes, mismatch between expenditure assignment and revenue assignment may appear very critical even where financial transfers from central government have been made. As a result, borrowing becomes an indispensable requirement. Borrowing seeks to offset fiscal imbalance manifested between constricted revenue assignments against available responsibilities assignments. The constitution, rather than containing a general provision on local government finance, does not specifically provide for borrowing. Fortunately, the law<sup>3</sup> creates regulatory framework within which local government authorities may whenever wishes comply with basic requirements access loan facilities. They can borrow whichever amounts of money from any reputable domestic financial institution or bank. Short-term loan and bank overdraft<sup>4</sup> is allowed where monies are temporarily for the purpose of meeting authorized expenditure. The bank overdrafts advanced to local government authorities should not, at any stage and under whatever cases exceed total income of local government authorities in the preceding fiscal year.<sup>5</sup> Loans may be secured by revenue or mortgage or charge of council land and premises.<sup>6</sup>

Local government borrowing is closely supervised by central government. Both normal and overdraft loan facility is placed at the disposal of the Minister responsible for local government. The law<sup>7</sup> requires local government authorities to seek an approval of the Minister prior to presenting the loan facilities to financial institution or bank. However, the Minister is bound to make consultation with the Minister of finance before issues such approval. The power of the Minister in respect of issuing an approval for local governments borrowing is, certainly, discretionary. This is due to the fact that, the law<sup>8</sup> does not prescribe any criteria within which the decision of the Minister may stand. It is grounded upon personal judgment of the Minister. This regulation by the Minister may manifest an intrusive control of central government on the financial autonomy of local government. It may impede the efforts of local government authorities to apply and access loan facilities to fund a number of responsibilities assignments devolved to them.

The law does not state the procedures that have to be observed by local government authorities whenever called to solicit loan facilities from financial institution or bank. However, The Local Authority Financial Memorandum<sup>9</sup> is very prescriptive on it. First, it imposes a mandatory duty upon local government authorities to present loan request to the finance, administration and planning committee for scrutiny and deliberation. If the committee is satisfied with the proposal, it has to table the same before the meeting of the full council for a resolution. Second, the loan request proposal finds its way to Minister responsible for local government through the executive officer of the Ministry responsible for Regional Administration and Local Government. The Minister issues an approval after satisfying that the proposal tabled to him ascribes to The Local Authority

<sup>1</sup> Section 29, The Local Government Laws (Miscellaneous Amendments) Act, 2006 repealed in whole section 11, The Regional Administration Act, (Cap. 97 R.E. 2002) offering functions of Regional Secretariat

<sup>2</sup> Controller and Auditor General Report (2013), The General Report on Local Government Authorities, 2012/2013; accounts only 10.4% of the total local government authorities expenditure, especially for the recurrent operational expenses such paying allowances to local councilors; and The Prime Minister's Office – Regional Administration and Local Government (2013); A Study on Local Government Authorities Own Source Revenue Collection

<sup>3</sup> Section 14 (1), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>4</sup> Section 15 (1), The Local Government Finances Act, (Cap. 290 R.E. 2002), and Order 51 (6), The Local Authority Financial Memorandum, 2009

<sup>5</sup> Section 15 (2), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>6</sup> Section 14 (2), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>7</sup> Sections 14 (1) and 15 (1), The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>8</sup> The Local Government Finances Act, (Cap. 290 R.E. 2002)

<sup>9</sup> Order 51, The Local Authority Financial Memorandum, 2009

Financial Memoranda and The Guideline for Application and Management of Loans in Local Government Authorities after carrying out consultation with Minister of finance.<sup>1</sup>

The content analysis of the constitution and law shows that the fiscal autonomy of local government authorities is constricted. Despite the fact that the law unleashes powers to local government authorities to determine set tax rate and determine tax base, access to loan facilities and prepare their budget on one hand; still it confers supervisory powers to central government to parade their fiscal issues on the other hand. In some instances, central government has at different times abolished and re-centralized collection of some of the local government own sources revenue without consultation with local government authorities or its association. Level of fiscal autonomy of local government authorities and their discretion to set local expenditure priorities continues to decline even with the introduction of decentralization by devolution.<sup>2</sup> The government had admitted that, fiscal component of decentralization continue to have limited control over local expenditure and a limited degree of over revenue autonomy<sup>3</sup>, among others.

The degree of local government fiscal autonomy in Tanzania Mainland is relatively low. This can be grounded on three variables<sup>4</sup> used to measure the fiscal autonomy of sub-national government, to wit, contribution of local governments own sources revenue to national budget, total local governments expenditure to central expenditure and level of local governments self-reliance rate. The Controller and Auditor General Report<sup>5</sup> and PMO-RALG<sup>6</sup> report reveals that the local government own sources revenue accounts to about 10.4% and 7% only respectively of the total local government budget expenditure. Moreover, the 2011/2012 CAG Report reveals that local government collected about shillings 236,716,345,736/= only from own sources revenue and total local governments expenditure amounted to shillings 2,277,035,217,362/=. This amount is adequately low to cover manifested growing expenditure requirements of local government authorities.

Basing on the Controller and Auditor General report<sup>7</sup> and Prime Minister's Office – Regional Administration and Local Government own sources revenue survey report<sup>8</sup>, it is apparent that the level of local governments self-reliance is inadequate. Local government authorities may finance their responsibilities assignments by almost 10% only and about 90% of local government annual expenditure that constitute a lion share comes from central government in terms of intergovernmental fiscal transfers. The law<sup>9</sup> provides three different categories of central government transfers, namely, conditional grants, unconditional grants and equalization grants. An excessive dependence on fiscal transfers may bring a diverse interpretation. First, revenue assignment is not extensive; second, revenue assigned to local government are inelastic and thus, hard to administer; and third, local government authorities does not collect accordingly. This extreme reliance on fiscal transfers hinders the fiscal autonomy of local government authorities.

#### 4. Conclusion

The Constitution and The Local Government Finances Act gives powers to local government authorities to impose rates, collect revenue and plan a budgetary under which such monies collected will be used. The nature of revenue assignments, however, does not match with the expenditure assignments. The difference is obvious to the extent that they depend significantly on central government transfers; this inhibits the delivery of public services. The powers of local government authorities in respect of all local government finances is to a great extent constricted by enlisting some claw back clauses in The Local Government Finances Act, The Local Authority Financial Memorandum and other directives issued by the Minister responsible for local government from time to time. This constricts powers of local government authorities to raise adequate revenue from their own revenue sources and borrowing for projects development and service delivery and affects the fiscal autonomy of local government.

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<sup>1</sup> Mwongozo wa Maombi na Usimamizi wa Mikopo Katika Mamlaka za Serikali za Mitaa, 2015

<sup>2</sup> Mgonja, B. and Another (2012), Institutional Impacts of Local Government Reform Program on Good Local Governance in Tanzania, International Journal of Academic Research in Business & Social Sciences

<sup>3</sup> URT (2007); Local Government Fiscal Review 2007: Measuring Progress on D by D

<sup>4</sup> Prud' home (1990), The Dangers of Decentralization, The World Bank Research Observer, World Bank

<sup>5</sup> The Controller and Auditor General Reports for the Financial Year 2011/2012

<sup>6</sup> The Prime Minister's Office – Regional Administration and Local Government (2013); A Study on Local Government Authorities Own Source Revenue Collection

<sup>7</sup> The Controller and Auditor General Reports for the Financial Year 2011/2012

<sup>8</sup> The Prime Minister's Office – Regional Administration and Local Government (2013); A Study on Local Government Authorities Own Source Revenue Collection

<sup>9</sup> Section 12 and 13, The Local Government Finances Act, (Cap. 290 R.E. 2002)

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