

LEGAL FRAMEWORK OF CENTRAL-LOCAL
GOVERNMENT ADMINISTRATIVE RELATIONSHIP IN
MAINLAND TANZANIA: A PARADOX OF LOCAL
AUTONOMY?

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Abstract

This article examines the implication of the present legal framework of central-local government administrative relationship on the autonomy of Local Government Authorities (LGAs) in Tanzania. The focus is on the power of LGAs over their personnel, fiscal matters and their own priorities. Both primary and secondary data were collected and analyzed for the conclusions made in this article. It is argued in the article that, despite the amendments which have been made in the constitution and in some other laws enacted by the Parliament; the current legal framework of central-local government administrative relationship is still fuzzy, centralistic and unsupportive of local government autonomy. There is no provision in the Constitution on central-local government

administrative relationship from which the Parliament can proceed to enact a law to regulate such relationship. As a result, there are so many laws enacted by Parliament with loopholes that give room to the central government to frequently meddle with the autonomy of LGAs in the exercise of their powers and in carrying out their statutory functions. It is therefore recommended that the Constitution of the United Republic of Tanzania, 1977 should be amended to provide for central-local government administrative relationship and a safeguard against central government interference with local government autonomy.

Key words: *Legal framework, central-local government, administrative relationship, Mainland Tanzania, local autonomy.*

1.0 Introduction

This article stems from a research by the authors on the present legal framework of central-local government administrative relationship and its implication on the autonomy of local government authorities (LGAs) in managing their personnel and finances, and in executing their statutory functions. The general objective of the study was to determine the forms of central-local government administrative interactions within such framework, and their implication on the autonomy of LGAs.

The study was governed by three theories namely: *juridification theory*,¹ *normative theory*,² and *instrumental legal theory*.³

¹ Juridification theory in legal analysis of central-local government relationship connotes the use of law as an instrument to regulate central-local government relationship and it was first applied in legal analysis of central-

Accordingly, both doctrinal and empirical data were sought, analyzed, and interpreted to draw some conclusions which are also reflected in this article. This article, therefore, seeks to

local government relationship in UK by Martin Loughlin. For details see Loughlin, M. (1996). *Legality and Locality: the Role of Law in Central-local Government Relationship*. Oxford: Clarendon Press. Available at https://books.google.co.tz/books?id=uyoRNDuojpWC&pg=PP4&lpg=PP4&dq=locality+and+legalitymartin+loughlin&source=bl&ots=if_bdfgrbh&sig=aPJ4zEkRoYRnxni4HgQjRCozGgs&hl=sw&sa=X&redir_esc=y#v=onepage&q=locality%20and%20legality-martin%20loughlin&f=false. Website visited on 4th October, 2016. Also see Loughlin, M. (2000). *The Restructuring of Central-local Relations* in Jowell, J. & Oliver, D. (Eds).(2000). *The Changing Constitution*. Oxford: Oxford University Press. p.137.

² Normative theory of law is generally concerned with theoretical analysis and description of the nature of law as a normative social practice guiding human behaviour. It deals with description and systematization of legal norms as well as making choices among values and interests especially in search for better law. This theory allows description of not only what the law is, but also what the law ought to be. For details see Stanford Encyclopedia of Philosophy. (2015). *The Nature of Law*. Available at <http://plato.stanford.edu/entries/lawphil-nature/> Website visited on 4th October, 2016; and Hoercke, M.V.(2011). *Legal Doctrine: Which Method(s) for What Kind of Discipline?* In Hoercke, M.V. (2011). *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* UK: Hart Publishing Ltd. p.10.

³Legal instrumentalism is a theory in legal philosophy promulgate by Rudolph Von Jhering which considers law as an instrument of achieving a certain purpose or goal. It postulates that law is created for a particular effect or purpose in mind which once not achieved, the legal rules and institutions so designed are regarded ineffective. For details see Jhering, R.V.(1913). *Law as a Means to an End*. Boston: Boston Book Company. Also see Fortson, R.(1999). *Three Roles for a Theory of Behavior in a Theory of law: a Commentary on Talk by Lewis Kornhauser*. *Stanford Journal of Legal Studies*, Vol.1(1), 30-34.

clarify more on the general objective in that study and the findings thereon.

Both Primary and Secondary data were used in the study. Secondary data were mainly obtained through documentary review and primary data were obtained through analysis of the law and empirical data from the field obtained through in-depth interviews. In-depth interviews involved a sample of 32 respondents selected through purposive and convenient sampling in six Councils from four Regions of Mainland Tanzania. The said six Councils were Dodoma Municipal Council, Kinondoni Municipal Council, Morogoro Municipal Council, Kilosa District Council, Meru District Council and Mvomero District Council. The choice of these councils was based on three major considerations: easy accessibility and affordability of cost by the researchers; possibility of gathering data within reasonable time; and the need to acquire representative information from both Urban and District Councils for comparative purpose. The data obtained were qualitatively analyzed.

This article is organized in four sections: section one provides the introduction and the methodology of the study on which this article is based; section two provides a brief background to and the analysis of the present legal framework of central-local government administrative relationship in Mainland Tanzania; section three discusses the implication of the said legal framework on the autonomy of LGAs in the areas pointed out above and around which the discussion in this article revolves; and section four provides some concluding remarks.

2.0 Background to the Present Legal Framework

It was noted from the review of different legislation that the post- independence legal framework of the central-local government administrative relationship has not been much different from that which was in place immediately before Tanganyika (now Mainland Tanzania) attained her political independence in 1961. Both pre-and post- independence legislation do not seem to have any streamlined and therefore clear framework that seeks to safeguard the autonomy of LGAs in executing their statutory functions, and at the same time to facilitate a healthy relationship which is expected to continuously exist between the central and the local government in the overall administration of the government. For instance, right after independence in 1961 the government replaced the Native authorities which were established under the Native Authorities Ordinance but retained the British system of subordination of local governments to the centre under the umbrella of national unity, stability and consolidation of strong political base.⁴ Strong and autonomous LGAs were perceived as potential source of opposition and a threat to national unity and stability.⁵

⁴ See Liviga, A.J. (1992). Local Government in Tanzania: Partner in Development or Administrative Agent of the Central Government? *Journal of Local Government Studies*, Vol. 18(3), 208-222. Also see Max, J.A.O.(1991). The Development of Local Government in Tanzania. Dar es Salaam: Educational Publishers and Distributors Ltd. pp.25-26.

⁵ See Max, J.A.O.(1991). *Ibid*. p.26. Also see Liviga, A.J. (1992). *Ibid*; and Keller, E.J.(1995). Decolonization, Independence and the Failure of Politics. In Martin P.M. & Meara, P.O. (Eds).(1995). Africa. Bloomington: Indiana University Press. pp.156-171. Available at <http://www.sscnet.ucla.edu/polisci/faculty/keller/papers/SelectedPub/decolonization.PDF> . Website visited on 17th April, 2016.

Later, the government introduced a number of local government reforms and policy decisions which resulted into bankruptcy and subsequent abolition of LGAs in 1970s.⁶ For instance, the adoption of single party democratic state and the policy of socialism and self reliance through the Arusha Declaration of 1967 strengthened the central government on one hand, and weakened the local government on the other hand.⁷ The 1965 interim Constitution and later the current Constitution of the United Republic of Tanzania, 1977 made the party the final authority in respect of all matters in the United Republic.⁸ All political activities and all executive functions of the government (including those of the LGAs) had to be performed under the patronage and control of the ruling political party.⁹

The implication of the above constitutional developments was to merge the authority and functions of the LGAs with those of the Party. The Party being supreme over all government institutions, the LGAs were turned to be mere agents of the ruling Party. For

⁶ See Liviga, A.J. (1992). *Op.cit*; pp. 213-214. Also see Olowu, D and Wunsch J.M.(2004). *Local Governance in Africa: The Challenges of Democratic Decentralization*. USA: Lynne Rienner Publishers. p.33; and Max, J.A.O. (1991). *Op.cit*. pp. 66-76. Other reasons given for the abolition of local government authorities in 1970's were political conflicts between council officials, central government officials and politicians; lack of external supervision; weak internal administration; poor financial position of local authorities and failure by the central government to honour their obligations towards local authorities.

⁷ Liviga, A.J. (1992). *Op.cit*. pp.213-214.

⁸ See Art. 3 of the Interim Constitution 1965 as amended on February 5th 1965 to officially declare Tanzania a *de jure* single-party state; and further amended in 1975 by the Constitutional Amendment Act No. 8 of 1975 to make Tanzania a socialist democratic single party state.

⁹See Arts. 3 and 10 of the Constitution of the United Republic of Tanzania, 1977 as amended in October, 1990.

instance, in December, 1964 when the executive officer of Mingoyo division of Lindi District in Mtwara Region wrote to the chairman of Mingoyo TANU branch requesting the TANU branch secretary to inform him about any meeting that TANU officials indented to hold within his division, the TANU chairman replied in writing;-

*I advice you that you had better understand that TANU leaders today have more authority in matters of government than you who are servants appointed and that as servants of government you have been given duties as required by TANU in order that you may carry them out. You must always please remember that TANU is, in fact, the government and that its leaders and no others are the heads and leaders of government, and if you do not get this into your head, you will be lost.*¹⁰

Incidents that depict the erosion of local government autonomy to mere agents of the Party (central government) are many. In 1972, the Government invoked the Decentralization Policy and enacted the Decentralization Act, 1972 which replaced Urban and District Councils by Regional Development Committees and District Development Committees.¹¹ The local and central government responsibilities were merged by placing the task of planning, implementation, monitoring and supervision of development projects under the District Development Director (DDD), the Regional Development Director (RDD) and the Prime Minister's office at the District, Region and National levels respectively.¹²

¹⁰ As quoted in Dryden, S.(1966). Local Administration in Tanzania. Unpublished Master's Dissertation, University of East Africa. p.249.

¹¹ Max, J.A.O.(1991). *Op.cit*.p.83. Also see Liviga, A.J. (1992). *Loc.cit*.

¹² *Ibid*.

A decade later the government found itself unable to continue with the decentralization scheme due to drastic fall of both rural and urban economies and social services.¹³ Urban authorities were re-introduced in 1978 and the entire local government system was restored in 1982 by enacting a number of local government legislation (some of which are currently in force) and amending the Constitution in 1984.¹⁴

Unfortunately, the 1985 Constitutional amendment did not fully capture the concept of devolution.¹⁵ Furthermore, the new local government structures still had several impediments to LGA's autonomy: an overlap of LGAs with the ruling political party; strong central control and supervision (command-driven);¹⁶ and

¹³ *Ibid.* Also see REPOA. (2008). The Oversight Processes of Local Councils in Tanzania. REPOA. p.12.

¹⁴ *Ibid.* Among the Local Government Acts enacted in 1982 to re-establish LGAs in Mainland Tanzania include the Local Government (District Authorities) Act No.7 of 1982; the Local Government (Urban Authorities) Act No.8 of 1982; the Local Government Finances Act No.9 of 1982; the Local Government Service Act No.10 of 1982; the Local Government Negotiating Machinery Act No. 11 of 1982; and the Decentralisation of Government Administration (Interim provisions Amendment) Act No.12 of 1982. Other Acts were passed in 1983 which included the Urban Authorities Rating Act No. 2 of 1983; the Local Authorities (Elections Amendment) Act No. 3 of 1983; and the Human Resources Deployment Act No.6 of 1983.

¹⁵ See REPOA. (2008). The Oversight Processes of Local Councils in Tanzania. *Op.cit.* p. 13. Also see Government of the United Republic of Tanzania. (2009). Local Government Reform Programme II (Decentralization by Devolution) Draft. PMO-RALG. p.13.

¹⁶ See REPOA. (2008). The Oversight Processes of Local Councils in Tanzania. *Ibid.*

unclear central-local government relationship.¹⁷ However, the search for LGA's autonomy continued and resulted into the 1990's local government reform programme (LGRP).¹⁸ The LGRP had two phases: phase one, 1998-2008 and phase two, 2009-2014. The question which remains is: has the administrative legal framework been improved to enhance administrative devolution and the autonomy of Local Government Authorities? The answer to this question is provided in the item which follows.

2.1 Pre- LGRP Legal Framework

Prior to the LGRP, the legal framework of central-local government administrative relationship was based on the local government legislation enacted in 1982¹⁹ and the 1984 constitutional amendment. The constitutional amendment of 1984 added only two Articles, Articles 145 and 146 which provided for the establishment and the objectives of LGAs in Tanzania.²⁰ The Articles did not establish any local authority or thereby transfer any function to any local authority, but only vested in the Parliament the power to make legislation to

¹⁷ See Mwaikusa J.T. (1985). Control of Local Government Authorities in Tanzania. Mzumbe. p.178. Also see Rwekaza S. M. (2004). Local Government, Effectiveness and Human Rights: the Cases of Bukoba Rural and Mtwara- Mikindani Districts in Tanzania. International Council on Human Rights Policy. pp.6-7; Government of the United Republic of Tanzania. (2012). History Of Local Government System In Tanzania. Prime minister's Office. Available at <http://www.pmo.go.tz/mawaziri.php?cat=12&subcat=81>. Website visited on 20th July, 2013.

¹⁸See Government of the United Republic of Tanzania. (1998). Local Government Reform Programme Policy Paper I, 1998-2008. *Op.cit.* p. 4.

¹⁹ See Footnote 14.

²⁰ See the Fifth Constitutional Amendment Act No.15 of 1984.

establish and prescribe the types, designation, the structure and composition, sources of revenue and procedure for the conduct of the business of LGAs.²¹ This (like the case of the Britain and Wales) made LGAs a creature of the Central Government which through the Parliament retained the authority to tilt and shape the local government system anyhow it liked through parliamentary legislation.²²

The Acts of Parliament enacted in 1982, especially the Local Government (District Authorities) Act, 1982²³ and the Local Government (Urban Authorities) Act, 1982²⁴ established corporate urban and district authorities as they appear in the present local government system in Mainland Tanzania. These Acts provided for the establishment, composition and functions of District Authorities (District Councils, Township Authorities and Village Councils)²⁵ and Urban Authorities (Town Councils, Municipal Councils and City Councils).²⁶

The Acts vested in the LGAs a number of functions including the facilitation and maintenance of peace, order and good governance in their respective areas of jurisdiction; promotion of socio-economic well being of the local people in their respective areas; and promotion of socio-economic development of their respective areas subject to the National

²¹ See Art. 145(1-2) CAP 2 R.E. 2002.

²² See Bailey, S.H.(1997). Cross on Principles of Local Government Law, 2nd Ed. London: Sweet and Maxwell.p.243.

²³ Act No. 7 of 1982.

²⁴ Act No. 8 of 1982.

²⁵ See ss. 5, 13, 22, 25, 117, 118, 131,132, 141, 142, 155, 156, 163 and 164 of Act No. 7 of 1982. Also see ss. 61-66 and 79-81 of Act No. 8 of 1982.

²⁵ Act No. 9 of 1982.

²⁶ See s. 5 of Act No. 8. *Loc.cit.*

Policy and planning for rural and urban development; to make bylaws; to acquire and use or dispose land; charging rent or fees in respect of land or premises; power to contract; power to accept gifts; power to write off and borrow, to mention but a few.²⁷ Most of these powers and functions were subject to approval by or the consent of the minister who among other things had the power to establish or abolish LGAs and enforce performance of functions by LGAs or transfer functions from LGAs.²⁸

Besides the Local Government (District Authorities) Act, 1982 and the Local Government (Urban Authorities) Act, 1982 there was also the Local Government Finance Act, 1982²⁹ which, among other things, vested all the assets and liabilities which were vested in the former Urban and District Councils before the abolition of the Urban and District Authorities in the newly established Urban and District Councils established in the area of the previous Urban and District Development Councils³⁰ and spelt out the sources of revenue of both the Urban and District Authorities.³¹ The LGAs were also given power to raise funds through loans and taxes. The Act further imposed upon the central government the duty to provide such amount of annual grants to LGAs payable from the public revenue to cover the cost incurred by the Urban or District authorities in the

²⁷ See ss. 111, 117 and 118 of Act No.7. *Loc.cit.* Also see ss 54, 55, 57 and 59 of Act No. 8. *Ibid.*

²⁸ See ss.5, 13, 129, 139, 169, 171 and 172 of Act No. 7. *Ibid.* Also see ss. 5, 71, 73,75 and 76 of Act No.8. *Loc.cit.*

²⁹ Act No. 9 of 1982.

³⁰ See s. 5. *Ibid.*

³¹ See ss.5-9. *Ibid.*

provision of essential social services particularly education, health, water, roads and agriculture.³²

Notwithstanding such financial provisions, all the powers of LGAs to raise and spend moneys were subject to approval or rules made by the minister responsible for local government in consultation with the minister for finance or subject to approval by the proper officer. Even the amount of grants payable to LGAs had to be determined by the minister in consultation with the minister for finance.³³ The proper officer for Urban Authorities was the minister and the RC was the proper officer for each District Authority in his region and assistant proper officer for each Town and Municipal Council within his region.³⁴ Furthermore, every Area Commissioner was designated as Assistant Proper Officer for each District Council, Township Authority and Village Councils established within his or her district.³⁵ Thus, the LGAs autonomy over finance was highly restricted.

Apart from restrictions in financial autonomy, LGAs also had restricted autonomy over their personnel (human resource). Let alone the Constitution which empowered the President to appoint top local government officers in the local government service, the Local Government Service Act, 1982³⁶ also bestowed on the President the power to appoint top chief executives of City and Municipal Councils.³⁷ The Act also

³² See s. 10-12 & 31. *Ibid.*

³³ See ss. 11, 12 & 31. *Ibid.*

³⁴ See ss. 33 & 34. *Ibid.*

³⁵ *Ibid.*

³⁶ Act No.10 of 1982

³⁷ See s.32. *Ibid.*

established a unified local government service under the Local Government Service Commission.³⁸

The Commission which consisted of only central appointed members was vested with the power to appoint Township Executive Directors and other officers in District Councils; to employ and promote local government officers within the category of LGGS 5 up to 10; to act as a disciplinary authority in respect of officers it employed; to deal with allegations against a Director and report to the Minister on the disciplinary action to be taken.³⁹The Commission was further delegated all the powers of the President in respect of constituting and abolishing offices in the local government service; making appointments of officers in the Local Government service; making transfers and promotion of local personnel; and determining termination of appointment, dismissal and disciplinary control of local government employees.⁴⁰

The Act also provided for the powers of the Minister and the Council in respect of the Local Government service.⁴¹The Minister was vested with the powers to make Schemes of service and to appointment some members of the Commission; to transfer Directors of District Councils and Urban Councils; to appoint heads of departments of District and Urban Councils; to transfer heads of departments and staff employed by the Commission; to act as the disciplinary authority for all directors and appellate authority for officers employed by the Commission; to coordinate training of local government staff in

³⁸ See s.4 (1-3). *Ibid.*

³⁹ See ss. 4,14B & 33. *Ibid.*

⁴⁰ See s. 7. *Ibid.*

⁴¹ See s. 14A. *Ibid.*

consultation with the Commission; to prescribe the code of conduct for employees of the Local Government Authorities; and to appoint District Executive Directors.⁴²

Councils were given powers to employ only such employees other than those employed by the President, the Commission or the Minister had disciplinary authority only over the employees employed by them with the RC being the final disciplinary appellate authority in that respect.⁴³ The powers of the councils over local personnel were further restricted by certain levels of salary determined by the Commission. The Act expressly provided that councils shall have no power to appoint or dismiss an officer or employee whose monthly salary exceeded such sum as the commission would from time to time specify for the local government authority.⁴⁴

At this juncture it is quite clear that the pre-reforms legal framework transferred substantial power and functions to LGAs but it provided strict central control over LGAs through statutory powers of the Minister, the Regional Commissioner, the District Commissioner and other central departments.⁴⁵ As noted above, all aspects of governance which constitute the fundamentals of local autonomy particularly finance and personnel were subjected to the central government control. Generally, as stated by the Local Government Reform Agenda

⁴² See ss.14A & 20A. *Ibid.*

⁴³ See s.14C. *Ibid.*

⁴⁴ See s.8 (2). *Ibid.*

⁴⁵ See for instance ss. 4, 5, 13, 18, 148, 149, 147, 148, 157, 158, 165 186,171 and 172 of Act No. 7. *Loc.cit*; ss. 4, 10, 71, 75, 76, 80, 81, 82 and 83 of Act No. 8. *Loc.cit*; ss. 10, 13, 11, 12, 31, 33, 34, 44, 45 and 48 of Act No.9. *Loc.cit*; and ss. 14 A and 20A of Act No. 10. *Loc.cit.*

(LGRPA), 1996-2000 and the Local Government Rrogramme Policy Paper I, 1998-2008 the pre-reforms legal framework was fragmented, complex, ambiguous and excessively control-oriented.⁴⁶ The complexity arose from the overlaps and conflicts between central legislation, circulars, standing orders and other regulations imposed by the central and sector ministries.⁴⁷

2.2 The Present Legal Framework

The LGRP which ended in 2014 aimed at (among other things) harmonizing and rationalizing the pre-reforms central and sector legislation. It also aimed at amending the 1982 local government legislation and enacting a comprehensive uniform local government Act as well as amending the Constitution to enshrine administrative devolution and local government autonomy.⁴⁸

Research findings revealed that by the end of the two phases of the LGRP, all the 1982 local government Laws and the the Regional Administration Act, 1997⁴⁹ were amended by the Local Government Laws (Miscellaneous Amendment) Act, 1999⁵⁰ and the Local Government Laws (Miscellaneous Amendment) Act, 2006.⁵¹ Furthermore, the government had constituted a task force to harmonize local government laws which started reviewing sector laws and policies and the 1982 local

⁴⁶ See Government of the United Republic of Tanzania.(1996). The Local Government Reform Agenda 1996-2000. *Op.cit.* p.5. Also see Government of the United Republic of Tanzania. (1998). The Local Government Reform Programme Policy Paper I, 1998-2008. *Op.cit.* pp.8-9.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.* p. 10.

⁴⁹ CAP 97 R.E. 2002.

⁵⁰ Act No.6 of 1999.

⁵¹ Act No.13 of 2006.

government legislation.⁵² However, by the time of completing this study, there was neither a comprehensive local government Act nor harmonised central and sector legislation in place. Worse still, the Constitution was not amended and even the proposed Constitution pending referendum does not contain any notable changes. It only rephrases the provisions of Articles 145 and 146 of the current Constitution and adds one more Article which states the manner in which the leaders of the LGAs shall be elected.⁵³

The amendments in the laws before the said LGRP (in 1999 and 2006) only introduced general provisions regarding central-local government relationship.⁵⁴ Under the said new provisions, the central government roles include the facilitation of LGAs in the exercise of their powers; formulation of national policies and regulatory frameworks; and co-ordination and monitoring of the performance of LGAs to ensure compliance with the said national policies, guidelines and standards.⁵⁵ The central government is further required to provide LGAs with technical assistance; to provide assistance in the execution of council decisions and resolutions; to afford and secure LGAs an enabling environment for effective performance of their functions; to ensure all persons and LGAs comply with government decisions and guidelines related to promotion of local government; and to do all such acts and things which

⁵² See Government of the United Republic of Tanzania. (2009). The Local Government Reform Programme Policy Paper II (Decentralization by Devolution) Draft. *Op.cit.* p.12.

⁵³ See Arts.124, 125-126 of the 2014 Proposed Constitution.

⁵⁴ See ss.168, 174A CAP 287. *Loc.cit.* Also see s. 78A CAP 288. *Loc.cit.*

⁵⁵ *Ibid.*

facilitate and secure LGAs' effective and lawful implementation of their statutory and incidental functions.⁵⁶

Besides the general functions of central government in relation to local government powers and functions, sector ministries are required to supervise professional conduct of sector employees in the LGAs; to ensure quality in performance of technical sector employees in LGAs; to monitor and evaluate the performance of technical employees in their functions; to fill in all posts by qualified professionals as required by the establishment of respective professions; to ensure availability and development of human resources; and to ensure availability of equipment, and sufficient funds for execution of sector programmes in the local government.⁵⁷

Above all, the Minister responsible for Local Government still enjoys overwhelming powers to influence LGAs. The Minister is responsible for (among other things) the formulation and implementation of all policies on decentralization by devolution, local government administration, rural and urban development policies, primary education and secondary education, performance improvement and development of human resources in the ministry and oversight of LGAs.⁵⁸ Other functions of the Minister are vested in him under the Local Government (District

⁵⁶ See s. 174A (1) CAP 287. *Ibid.* Also see s. 54A (1) CAP 288. *Ibid.*

⁵⁷ see s. 174A(2) CAP 287. *Ibid.* Also see s.54A (2) CAP 288. *Ibid.*

⁵⁸ See the Ministers (Assignment of Ministerial Functions) Notice, 2016. Government Notice No. 144 of 2016. Also see Government of the United Republic of Tanzania. (2011). The Functions and Organisation Structure of the Prime Minister's Office, Regional Administration and Local Government (PMO-RALG). PO-PSM. p.10.

Authorities) Act 1982;⁵⁹ the Local Government (Urban Authorities) Act, 1982;⁶⁰ the Local Government Finances Act, 1982;⁶¹ the Public Services Act, 2002 and its statutory instruments;⁶² and several other statutes. For instance, analysis of the Local Government (District Authorities) Act 1982 and the Local Government (Urban Authorities) Act, 1982 show that out of the 156 sections of former Act, the Minister is mentioned more than ninety five (95) times and out of the one hundred and eleven (111) sections of the latter Act, the Minister is mentioned more than eighty (80) times. Also out of the 65 sections of the Local Government Finances Act, 1982, the Minister is mentioned more than sixty (60) times. Thus, in all most every aspect of local government exercise of powers and and discharge of functions the minister is involved.

The Minister enjoys facilitative, control and supervisory powers over local government functions, finance and personnel through approval powers, appellate powers, issue of guidelines and regulations, issue of directives or orders, power of direct interventions, power of appointment and transfer of local government staff, disciplinary powers over local government staff, variation of local government functions and powers to

⁵⁹ CAP 287. *Loc.cit.*

⁶⁰ CAP 288. *Loc.cit.*

⁶¹ CAP 290. *Loc.cit.*

⁶² Act No. 8 of 2002. Also see the Local Government Scheme, 2008, G.N. No. 146 of 2008; the Public Service Disciplinary Code of Good Practice, 2007, G.N. No.53 of 2007; the Public Service Recruitment Code of Good Practice, 2007, G.N. No.54 of 2007; the Public Service Scheme, 2003, G.N.No.169 of 2003; the Public Service Standing Orders of 2009, G.N.No.493 of 209; and the Public Services (Regulations) 2003, G.N.No.168 of 2003.

dissolve local government councils.⁶³ Most of these powers are discretionary and can be delegated by the Minister to any Public officer (most often are delegated to the Regional administrative secretary-RAS and the regional commissioner-RC).⁶⁴

Furthermore, some of these powers are vested in the RC who can also order them to be performed by the District Commissioner.⁶⁵ Generally, the LGRP has brought no noticeable changes to the legal framework which is worth of enhancing local autonomy. The legal framework has remained entirely the same as was the case before the LGRP. The implication of the said framework on local autonomy is discussed in the next section.

3.0 Implication of the Present Legal Framework on Local Autonomy

The implication of the present legal framework on the autonomy of LGAs can be examined on different grounds but, in this article, it is examined by focusing on local government finances and personnel only. In particular, the discussion revolves around revenue mobilization and expenditure, and human resources management (power to hire and fire). These are critical areas in managing any institution and, for this reason; the central-local

⁶³ See for instance ss. 4, 5, 13,147, 148, 150, 152, 157, 165, 168, 169, 171, 172 and 174 CAP 287. *Loc.cit*; ss. 4, 5, 70-78A CAP 288. *Loc.cit*; and ss. 9A, 10, 13, 11, 12, 31, 34 and 48 CAP 290. *Loc.cit*. Also see Regulations 8, 11-12 of the Public Service Regulations, 2003, G.N.No.168 and Clause 7(1) of the Local Government Schemes, 2008, G.N. No. 146 of 2008.

⁶⁴ See ss.173(1) of CAP287. *Loc.cit*. Also see s.77(1)of CAP 288. *Loc.cit*.

⁶⁵ See ss. 127(4), 150(3), 156(3 and 4) and 177(2) CAP287.*Ibid*. Also see ss.65 (2,4&5), 78, and 78A of CAP288. *Ibid*.

government interaction in such areas may help to draw some useful conclusions on the autonomy of LGAs in Mainland Tanzania. We can now look at these areas one after another.

3.1 LGAs and Their Power in Fiscal Mobilization and Expenditure

Following the amendment of the Local Government Finance Act, 1982 in 1999 and 2006, now the Act makes it mandatory for the central government to provide LGAs with annual block grants from the national income.⁶⁶ This has led to positive increase in central transfers of grants. Interview results (85.7%) revealed an increase of intergovernmental transfers especially for recurrent expenditures. Besides interview findings, review of scholarly works also show that there has been considerable increase of intergovernmental transfers since 2004 when the Cabinet endorsed formula-based grants and local government capital development grants (LGCDG).⁶⁷

Formula based grants were intended to reduce and remedy disparities in LGAs revenue allocation between urban and rural areas; and LGCDG were intended to facilitate autonomous and

⁶⁶ See s.10 A CAP 290. *Loc.cit.*

⁶⁷ See Government of the United Republic of Tanzania. (2007). Joint Government-Development Partner Evaluation Working Papers. *Op.cit.* p.127; Per Tidemand, Olsen, H.B., and Sola, N. (2008). Local Level Service Delivery, Decentralisation and Governance: A Comparative Study of Uganda, Kenya and Tanzania Education, Health and Agriculture Sectors. Tanzania Case Report. *Op.cit.* p.14-16; Per Tidemand and Jamal, M. (2010). The Impact of Local Government Reform in Tanzania 1998-2008. REPOA. *Loc.cit.*; Per Tidemand, Sola, N.,Bofin, P., Chaligha, A.(2010). Comparative Assessment of Decentralisation in Africa: Tanzania in Country Assessment Report. *Op.cit.* p. 18-20; and Per Tidemand and Sola, N. (2014). Tanzania: Devolution under Centralised Governance. *Op.cit.*; p.214-215.

discretionary local government spending.⁶⁸ However, unlike formula-based grants, LGCDG are awarded only to Councils which meet certain basic standards such as quality of development plans, procurement system, financial management and transparency.⁶⁹

Despite the increased inter-governmental transfers, interviews (92.6%) revealed limited autonomy in local government planning and expenditures because LGAs are required to follow central guidelines and directives in planning and expenditures. For instance, the budget ceiling and guidelines issued by the Minister of finance through the Minister responsible for regional administration and local government limits the discretion of LGAs to plan on the basis of actual needs and priorities of their localities and direct their priorities to centrally determined priorities.⁷⁰ Review of scholarly works further revealed that central prescription and dictation on how central grants are to be spent has remained a notable feature in the local government expenditures.⁷¹ Most of the LGCDG are still earmarked and

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ For instance in 2015, the PMO-RALG issued Circular letter No. HA.131/395/01 for 2015/16 budget priorities. The circular outlined seventeen priorities that all LGAs had to comply with in planning and preparation of the 2015/16 council budget.

⁷¹ See Government of the United Republic of Tanzania. (2007). Joint Government-Development Partner Evaluation Working Papers. *Op.cit.* p.127; Per Tidemand, Olsen, H.B., and Sola, N. (2008). Local Level Service Delivery, Decentralisation and Governance: A Comparative Study of Uganda, Kenya and Tanzania Education, Health and Agriculture Sectors. Tanzania Case Report. *Op.cit.* p.14-16; Per Tidemand and Jamal, M. (2010). The Impact of Local Government Reform in Tanzania 1998-2008. REPOA. *Loc.cit.* and Per Tidemand, Sola, N.,Bofin, P., Chaligha, A.(2010). Comparative Assessment of Decentralisation in Africa: Tanzania in Country

backed by numerous directives from the PO-RALG which dictates targets and priorities.⁷²

Nonetheless, some interview respondents (78.6%) argued that central directives and instructions and close follow-up of intergovernmental transfers is necessary and not inconsistent with the autonomy of LGAs because, since the LGRP started, most of the government funds have been directed to LGAs. Most of these funds come from donors and are normally accompanied by conditions on how they should be spent. They went further to say that, without close monitoring, nothing can be done by LGAs because of corruption and embezzlement by dishonest officers in LGAs. Although they could not provide evidence on the corruption allegations, they were also of the view that, if close follow-up through central directives and instructions is not done, the central government can be blamed because all government policies and public services are mainly implemented and delivered by LGAs.

The study revealed prevalence of central influence in local government financial affairs even on local government own revenue collection. The sources of local government own revenue collection have remained limited and substantially poor.⁷³ The central government interferes even with the very scarce sources of local government revenue. For instance, in 2004, many local taxes were abolished when the Minister of

Assessment Report. *Op.cit.* pp. 18-20; and Per Tidemand and Sola, N. (2014). Tanzania: Devolution under Centralised Governance. *Op.cit.*; pp.214-215.

⁷² *Ibid.*

⁷³ See Per Tidemand and Jamal, M. (2010). The Impact of Local Government Reform in Tanzania 1998-2008. *Op.cit.* P.13.

finance through the PMO-RALG disseminated a closed list of local revenue which prohibited LGAs from levying any tax other than those in the prescribed list unless there was approval by the minister responsible for local government.⁷⁴

Similar instances were also revealed through interviews in Mwanza City Council.⁷⁵ For instance, in 2002 the Council negotiated with stake holders and came to an agreement that, two shillings per litre of petrol or diesel sold at the filling station should be paid to the Council so that the same can be used to repair roads within the Council. This plan started working effectively but the central government intervened and ordered not payment of two shillings as agreed, but payment of ten shillings per litre to the TRA and not the Council. The TRA collects this amount of revenue and pays back to the Council 30% while the larger amount (70%) is given to the TANROADS which has fewer roads to repair compared to those under the local government councils.

⁷⁴ See also Government of the United Republic of Tanzania. (2007). Joint Government-Development Partner Evaluation Working Papers. PMO-RALG. p.127. Also see Per Tidemand, Olsen, H.B. and Sola, N. (2008). Local Level Service Delivery, Decentralization and Governance: A Comparative Study of Uganda, Kenya and Tanzania Education, Health and Agriculture Sectors: Tanzania Case Report. JICA. p.16; Per Tidemand et.al.(2010). Comparative Assessment of Decentralization in Africa: Tanzania in Country Assessment Report. USAID. p 18; and Kunkuta, G.E.A. (2011). Responsiveness and Accountability of Urban Government: experiences from Provision of Water and Sanitation in Temeke Municipality in Dar es Salaam, Tanzania. Unpublished PhD Thesis, Mzumbe University.p.196; and Per Tidemand and Sola, N. (2014). Tanzania: Devolution under Centralised Governance. In Dickovick, T.J. & Wunsch, J.S.(Eds).(2014). Decentralisation in Africa: the Paradox of State Strength. USA: Lynne Rienner Publishers.p.216.

⁷⁵ In-Depth Interviews with the Director of Local Government legal affairs in the PMO-RALG at Dodoma, conducted in 2014.

A similar experience was noted in Kinondoni Municipal Council. Interview with the heads of departments (human resources and finance) revealed that in the past decade, TRA had also grabbed property tax from LGAs as an experiment to improve government collections and financial management. Although TRA had promised to pay back a certain percentage from the collations to the Council, TRA has never paid back any amount from the property tax collected to the Council. Worse still, it has now been officially decided that in all LGAs, property tax shall be collected by TRA and not individual Councils.⁷⁶ Even taxi license charges which are now under the Councils were once grabbed by TRA but have recently been restored to councils following long term complaints by the Councils. Interview also revealed that, all these fiscal reforms were done without consultation with respective LGAs. These interventions are inconsistent with the decentralisation theory and the subsidiarity principle. However, the LGAs could not sue for interference or under the *ultra-vires* principle because there is no constitutional demarcation of powers, responsibilities and resources between the central government and the LGAs.

⁷⁶ See Speech by the Minister for finance and planning, Hon. Dr. Philip I. Mpango (MP) introducing to the national assembly, the estimates of government revenue and expenditure for Fiscal year 2016/17. pp.12 & 22. Available at <http://repository.eac.int/bitstream/handle/11671/1614/BUDGET%20SPEECH%20FINAL%202016%20-%20TZ.pdf?sequence=1&isAllowed=y>; <http://www.mof.go.tz/mofdocs/msemaji/BUDGET%20SPEECH%20FINAL%202016.pdf>. Website visited on 17July, 2016.

3.2 Powers of the LGAs on Human Resources Management

Like in the case of local government finance, the absence of constitutional provision on local government personnel enables the Parliament to vary the power of LGAs as it likes through legislation. This is evidenced by the trend of changes in the legal framework of local government staff management from the time the implementation of the LGRP started in 1999. For instance, following the amendment of the Local Government Service Act, 1982 in 1999, specified LGAs were given the power of appointment, remuneration, promotion and development, discipline and dismissal of their employees. In the exercise of such powers, the specified LGAs were only required to observe the Regulations and Guidelines promulgated by the minister, employment policies and scheme of service as guided by the Local Government Service Commission.⁷⁷ The amendment to the Act provided:

*... Every specified local government authority may... appoint, remunerate, promote, develop, discipline and dismiss its own employees. The Minister shall, by regulation published in the Gazette prescribe the procedure and manner in which specified local government authorities ... shall appoint, remunerate, promote, develop, discipline and dismiss categories of employees as may be prescribed by the Minister...The specified local government authorities shall, for all matters regarding employment policies and scheme of service, be guided by the Local Government Service Commission...*⁷⁸

⁷⁷ See s. 87 of the Local Government Laws (Miscellaneous Amendment) Act No.6 of 1999.

⁷⁸ See s.34A of Act No. 10 of 1982 as amended by s. 87 of Act No.6 of 1999.

To operationalise the above amendment, the government endorsed the Local Government Service Regulations of 2000 which, among other things, transferred the power of recruitment and selection, appointment and administration of all local government employees except the chief executive directors, teachers and health employees who were reserved for central recruitment and appointed.⁷⁹ The first batch which was issued with these regulations involved 38 councils. These councils were selected for experimentation of the LGRP and had positive take off though could not do better as expected of them due to frequent contradictory circulars and continued central transfers of local government employees.⁸⁰

The LGAs autonomy over the management of local government staff could not last long as it was partially interrupted through the enactment of the Public service Act, 2002 which centralized and deconcentrated the administration of the public service (including the local government service) under the Public Service Commission, Permanent Secretaries and Regional

⁷⁹ See Government Notice No.397 of 2000. Also see Government of the United Republic of Tanzania. (2007). Joint Government-Development Partner Evaluation Working Papers. *Op.cit.* p.80; REPOA. (2008).The Oversight Processes of Local Councils in Tanzania. *Op.cit.* p.14; and Per Tidemand and Sola, N. (2014). Tanzania: Devolution under Centralized Governance. *Loc.cit.*

⁸⁰ See Per Tidemand and Sola, N. (2010). Comparative Assessment of Decentralization in Africa: Tanzania Desk Stucy. *Op.cit.* p.12. Also see Per Tidemand and Sola, N. (2014). Tanzania: Devolution under Centralized Governance. *Loc.cit.*; Government of the United Republic of Tanzania. (2007). Joint Government-Development Partner Evaluation Working Papers. *Loc.cit.*

Secretariats.⁸¹ Furthermore, the Public Service Act, 2002 repealed the Local Government Service Act, 1982 and made the President's office - Public service Management (PO-PSM) in charge of administration of the local government staff.⁸² Notwithstanding the enactment of the Public Service Act, 2002, the LGAs remained with the powers to appoint, confirm, promote and discipline all local government staff except those appointed by the President or the Minister.⁸³ Even these powers were immediately shifted to Council Directors by subsequent amendment of the Public Service Act, 2002 in 2003.⁸⁴ This amendment was followed by the Public Service Regulations, 2003 issued by the PO-PSM which to date guide the administration of the public service and the local government service in particular.⁸⁵

The Public Service Act was further amended in 2004 to restore to LGAs the powers to appoint, confirm, promote and discipline all local government staff except those appointed by the President or the Minister.⁸⁶ However, this amendment was not incorporated in the Public Service Regulations, 2003. Consequently, in contrast with the parent Act, the Public Service Regulations, 2003 recognizes the council executive directors as the authority for appointment, confirmation, promotion, and

⁸¹ See ss. 4, 5, 6, 8, 9 and 15 of Act No. 8. *Loc.cit.* Also see Regulation 5, 6 and 18 of the Public Service Regulations, 2003. *Loc.cit.*

⁸² See s. 35 of Act No. 8. *Loc.cit.*

⁸³ See s.6 (6). *Ibid.*

⁸⁴ See s.2 of the Written Laws (Miscellaneous Amendments) Act, No.25 of 2002.

⁸⁵ See Regulation No.2 (b) of the Public Service Regulations, 2003. *Loc.cit.*

⁸⁶ See s.2 of Written Laws (Miscellaneous Amendments) Act, 2002. *Loc.cit.*

discipline of all local government employees other than those appointed by the President and the Minister.⁸⁷

The Public Service Regulations, 2003 also establish local government employment boards in every LGA to facilitate appointment of local government employees but the composition of these boards mainly consists of externally appointed members except one member appointed from the LGAs and the director of human resources in the respective LGA who is the Secretary with no voting power. The decision of the board depends on the direction of the Public Service Commission.⁸⁸

The same Regulations also retain the central government power to transfer staff across ministries, and regions.⁸⁹ Besides the Regulations, the Local Government Schemes, 2009 also contain a similar provision which requires the minister to facilitate labour mobility in the local government service. This has frequently been used by the PO-RALG to transfer employees across LGAs without sufficient consultation with LGAs and with very late replacement.⁹⁰ Interviews with respondents in the surveyed councils revealed four patterns of transfers of employees in LGAs. Transfers within the council are done by the Director but transfers across councils within the region are done by the Regional Administrative Secretary (RAS) in

⁸⁷ See Regulation 6 (g) of the Public Service Regulations, 2003. *Loc.cit.* Also see s.6 (1) (b) of Act No. 8. *Loc.cit.*

⁸⁸ See Regulation 127, 128(4 and 5) and 128(1-3). *Ibid.*

⁸⁹ See Regulation 107. *Ibid.*

⁹⁰ See Government of the United Republic of Tanzania. (2007). Joint Government-Development Partner Evaluation Working Papers. *Op.cit.* pp.84-85.

consultation with the Permanent Secretary of the PO-RALG; transfers across regions are made by the Permanent Secretary of the PO-RALG; and transfers from LGAs to the central government or independent departments are made by the Permanent Secretary-PSM.

Again, some of sector ministries like Health and Education were from the beginning exempted by the PO-PSM from the decentralized and merit procedures for recruitment. In 2006, the PO-PSM issued a circular on *superlative staff* which excluded all heads of departments from open and decentralized recruitments as otherwise stipulated in the Public Service Regulations.⁹¹ The worst legal reform was brought by the Public Service (Amendment) Act, 2007⁹² which established the Public Service Recruitment Secretariat that completely centralized the recruitment of local government employees.⁹³

By the 2007 amendment of the Public Service Act, 2002, all local government employees even those in the operational service (non-officer grade) had to be recruited by the secretariat. What remained with the councils was only the role to report vacancies to the PO-PSM. The whole process- i.e vacancies advertisement, long listing and short listing, conducting written and oral interviews and selection of employees was the duty of the secretariat. This was complained of not only by the councilors and human resource directors in the Councils, but also by the Regional secretariats and the ministries which were visited. Whereas the former (from the Councils) saw this centralized recruitment as interference and encroachment to

⁹¹ *Ibid.* p.81.

⁹² Act No. 9 of 2007.

⁹³ See s.29 of Act No 8 of 2002 as amended by s.11 of Act No.18 of 2007.

local autonomy, the latter (from Regional Secretariats and ministries) praised the approach and said it was necessary because if councils were to be given the mandate to recruit, there would be many instances of corruption and favoritism in the recruitment process.

The Public Service Act was again amended in 2013 to allow the secretary of the Public Service Recruitment Secretariat to delegate to any Chief Executive Officer or council by notice published in the Gazette the functions and powers of the Secretariat to conduct recruitments in the public service.⁹⁴ Pursuant to this amendment, the Secretary delegated the recruitment of twenty two (22) cadres of non-officer grade like village executive officers, office assistants, security guards, and auxiliary policy to LGAs.⁹⁵ Interviews revealed that even the recruitment of these lower cadres is still heavily controlled by the PO-PSM. For instance, a Council must first obtain permit from the PO-PSM. After obtaining the permit, the whole process of recruitment from vacancy advertisement to oral interviews must involve a member of the Public Service Recruitment Secretariat.

The study further revealed that other aspects of local government personnel have not been reformed. For instance, remuneration policies are almost centralized and staff salaries are entirely paid from central government transfers where LGAs

⁹⁴ See s.29A of Act No 8 of 2002 as amended by s.13 of the Written Laws (Miscellaneous Amendment) Act No.2 of 2013.

⁹⁵ See the Public Service (Delegation of Functions and Powers of the Secretariat to Conduct Recruitment Process) Notice, 2014. G.N. No. 70 of 2014.

have no power of budget planning and control.⁹⁶ Local governments are only consulted during restructuring exercises but all decisions on staff budgets and numbers of approved staff are ultimately done by the PO-PSM.⁹⁷ The role of LGAs in recruitment, choice of personnel, fixing the number of employees and determining the conditions of their employees is very restricted.⁹⁸ The LGAs' role is only to identify staff needs in the preparation of annual budgets which is sent to the PO-PSM for approval and employment permit. When approval and permit are granted, other employment processes are either made by the Commission through the Secretariat or by respective sector ministries and departments except for the 22 delegated cadres named above.

Interview also revealed that in most cases the LGA's staff priorities are not met. It was noted that even the replacement of transfers does not take into consideration the profession or career of the employee transferred. The situation is worse in rural areas where there are very few employees. In most Council, however, it was observed that the Councils have acting HODs because of late confirmation by the PO-PSM. In respect

⁹⁶See Government of the United Republic of Tanzania. (2007). Local Government Reform Programmed: Joint Government Development Partner Programme Evaluation Working Papers. *Op.cit.* pp.80-86. Also see Per Tidemand and Sola, N. (2014). Tanzania: Devolution under Centralised Governance. *Loc.cit*; and Per Tidemand and Sola, N., *et al.* (2014). Local Government Authority (LGA) Fiscal Inequalities and the Challenges of Disadvantaged LGAs. The Overseas Development Institute (ODI) Reports. pp. 36-47.

⁹⁷ *Ibid.*

⁹⁸ See Per Tidemand, Sola, N.,*et.al.*(2014). Local Government Authority (LGA) Fiscal Inequities and the Challenge of Disadvantaged LGAs. *Ibid.* pp.36-38.

of HODs, Councils can only propose three names for each post, but the vetting and confirmation is in the authority of the PO-PSM.

The worst of all is the line of accountability and disciplinary authorities. It was noted that local government employees have multiple lines of accountability and disciplinary authorities including the Council, the Director, the RAS, the RC, the PO-RALG, the PO-PSM, sector ministries and departments, the Chief Secretary and the President. This causes confusion and divided loyalty in the service. The above narration reveals a lengthy and complicated process of hiring and other aspects of the local government service administration.

It was for such reasons that 85.7% of the respondents were of the view that the present legal framework of central-local government administrative relationship does not afford the LGAs the autonomy to manage their personnel especially in recruitment, selection and deciding the number of employees they want. As noted above, even in the recruitment of the operational service, the entire recruitment process must be done in the presence of a representative of the Secretariat;⁹⁹ and membership of the employment boards is mainly composed of externally appointed members except one member only who is appointed from the LGAs and the HR officer from the respective LGA who is the Secretary with no voting power.¹⁰⁰ The complication in the employment process is worsened by delay in releasing employment permits by the PO-PSM. It was found from 78.6% of respondents that employment permits are

⁹⁹ See the Permanent Secretary Circular No. CCD.129/215/01/40. *Loc.cit.*

¹⁰⁰ See Reg. 128 (4-5) of the Public Service Regulations 2003. *Loc.cit.*

usually not obtained in time and where they are given in time they usually rarely match with the requested number of new employees and professionals.

As a matter of fact, the problem is not only in relation to employment permits. It was also found that, even the approved establishments are disseminated late. Review of approved establishments and employment permits (Establishments) between 2012 and 2016 fiscal years of Dodoma, Kinondoni and Morogoro Municipal Councils and Mvomero and Meru District Councils shows that, on average, approved establishments were disseminated late (two to three months) after budget approval, and employment permits were delayed for about two to six months. Generally, dissemination of approved establishments and employment permits took about six to eight months before starting the recruitment process. When taken together with the period of vacancy advertisement, long and short listing of applicants and conduct of interviews; it takes about eight (8) to ten (10) months or more for Councils to fill in vacancies and get new employees.

Therefore, both interview and documentary review revealed that, the role of LGAs in the administration of local government personnel is only limited to assessing the employment needs, recruitment in the operational service, assignment of duties to employees, transfer within the Councils, long course training for employees and disciplining some junior employees. Generally the autonomy of LGAs in management of employees is restricted.

Perhaps before we conclude, one thing needs to be made clear at this juncture. By LGA's autonomy it is not meant that the LGAs

should be detached from the central government. Such would be to defeat the decentralisation and the subsidiarity theories. The argument is that, the LGAs should be able to tell with certainty their constitutional powers and responsibilities and be free to exercise their powers and perform their functions as prescribed by law. This facilitates accountability in the system of government and promotes responsible government. The present legal framework of central-local government administrative relationship does not offer much towards that end.

4.0 Conclusion and Recommendations.

It has been noted in this article that the present legal framework of central-local government administrative relationship in Mainland Tanzania does not provide much in terms of protecting the autonomy that LGAs need to effectively meet their statutory obligations. The main reason is that, having established local government authorities in Tanzania, the Constitution of the United Republic of Tanzania, 1977 does no more than entrusting the Parliament (in the case of Mainland Tanzania) and the House of Representatives (in the case of Tanzania Zanzibar) with the power to determine everything about local government authorities. The constitution does not provide much about local government authorities the way it does for the central government. As a matter of fact, it is not healthy for the Constitution to establish a government (local government) within the national government (central government) without showing how administratively the two governments will work together. Though this may be entrusted to Parliament, still the Constitution needs to state the basic principles on which the Parliament will proceed. This is lacking in the Constitution of the United Republic of Tanzania, 1977.

The present legal framework may only be gathered from scattered legislation enacted by Parliament and this has made the central government to unfairly meddle with the autonomy of LGAs in exercising their powers and in carrying out their statutory functions. Although it is accepted in this article that control by central government is acceptable to some extent as a way of curbing corruption and other malpractices, it is submitted that excessive control which takes away the necessary autonomy of LGAs in exercising their powers and in carrying out their statutory functions defeats the whole purpose behind the establishment of LGAs in Tanzania. It is only when the LGAs are autonomous that a fair assessment on their role and performance of their functions can be made. In our discussion, however, it is clear that the current legal framework of central-local government administrative relationship in Mainland Tanzania is a paradox of local government autonomy. Unless a clear legal framework is put in place for administrative relationship between the two governments, and the LGAs' personnel and finance are solely subjected to the powers of the relevant authorities within the LGAs themselves, the autonomy of the LGAs will continue to be tempered with by the central government.

This article, therefore, recommends that the Constitution of the United Republic of Tanzania, 1977 needs to be amended to provide for central-local government administrative relationship and a safeguard against central government interference with local government autonomy. Some of the best practices noted from other jurisdictions such as Philippines and South Africa may be of help to improve the situation in Tanzania. In particular, the Constitution should state with precision the

manner in which the national revenue should be shared and put emphasis on mutual trust and cooperation between the central government and the LGAs. Unless the central-local government administrative relationship and the LGA's fiscal entitlement and power are made clear and adequately protected under the Constitution, the LGAs shall continue to be mere administrative agents of the Central government. This cannot be doubted because; the central government being the national government has greater influence on policy matters and the enactment of statutes than have the LGAs.

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