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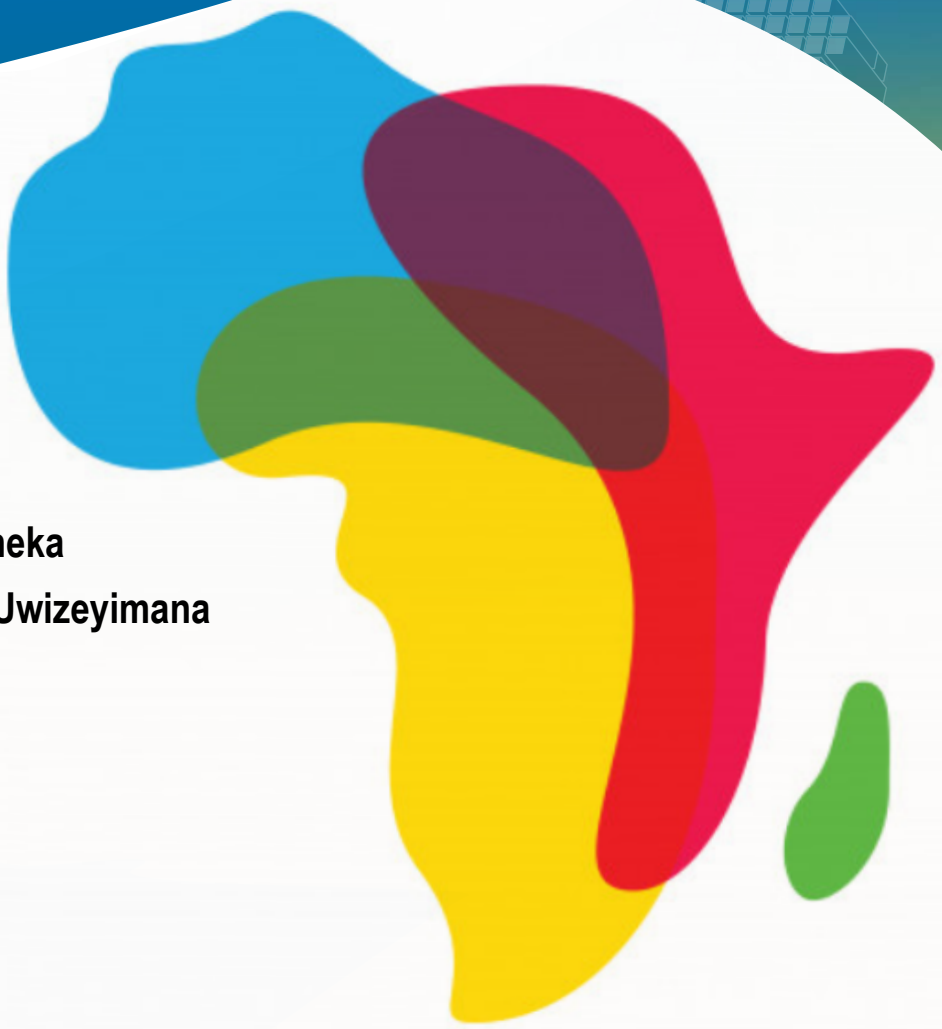

Editors

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CONTENTS

Public Accountability and its diverse context: a tale from different disciplinary parameters.

One of the greatest hurdles of sound administrative and governance contexts in Africa remains that of accountability. Accountability in itself is huge and can be seen from different angles and no issue of a journal like this one can pride of a capacity to cover all forms of accountability. There is political accountability, financial accountability, administrative accountability, managerial accountability, and professional accountability. Accountability can also be business accountability, bureaucratic accountability, social accountability, representational accountability, audit accountability, fiscal accountability, legal accountability and many other forms. There remains a serious deficit of all these forms in the African continent. In all forms of accountability there are four outstanding pillars: -

i. Responsibility: a duty that binds to the course of action
ii. Answerability: being called to account
iii. Trustworthiness: a trait of being worthy of trust and confidence
iv. Liability: being legally bound to a debt or obligation

Tanzania has had good examples of accountability in various forms. In this issue, a substantial portion is devoted to this country not for any other reasons but for enabling readers appreciate how accountability can be a theme that is so huge that authors from one country or organisation still can tackle it from diverse contexts. To help us understand the concept of accountability and mainly from a financial angle, Ramadan Marijani starts of this issue with an article themed '**Transparency and public money accountability in Tanzania: a bench learning approach of selected civil society organizations (CSOs)'**. The author begins by warning his audience of how Transparency and Public Money Accountability (TPMA) are ubiquitous themes in current discourse. He then delves into role of CSOs in ensuring transparency and public money accountability in Tanzania. He feeds us with findings which were obtained through a methodological approach that entails archival data gathered from CSOs' official documents, policy documents, plans and strategic documents, published reports and articles as well as Web search and personal contacts that provided him primary data through Key Informant Interviews (KIIs). Overall, the findings from his study suggest that CSOs have the potential to enhance TPMA through a robust analysis and demonstration of expertise in research, monitoring and evaluation, advocacy and stakeholders' engagement. However, despite the few success stories registered, the current trends in CSOs working environment in Tanzania indicate a dark and difficult future.

Article two is by Grace Kapama and Wilfred Lameck, again from the Tanzanian jurisdiction on what the authors call '**The discrepancy of labour institutions and the three metrics for labour dispute settlement in Tanzania**'. This is another form of accountability which is both managerial and institutional accountability. The authors use the analytical framework proposed by dispute Budd (2004) and Budd & Colvin (2005) which is illustrative of the fact that competing rights of different stakeholders of employment relationship can be harmonized through balancing the three dimensions: efficiency, equity and voice in the dispute resolution system. Their findings indicate that implementation of industrial disputes resolution mechanisms as established by the Labor Institutional Act and assurance of peace, harmony and access to justice is still questionable.

In what we classify as Public Sector accountability, Frank Jones Mateng'e, walks us through the **Legacy of New Public Management in Tanzania with a sharp eye on the Human Resource Management aspect**. The study used a qualitative approach to examine NPM attributes in the management of people in the public sector in Tanzania. He justifies his choice of Tanzania on two grounds. First, Tanzania has been reforming its public service in the last three decades within the framework of NPM prescriptions. Secondly, as a public servant for over 20 years, the author has sufficient experience in and is widely knowledgeable about the selected case. The author sadly identifies those developments in HRM practices that point to reversals from NPM and examines their implications for the management of public sector employees. On a happy note, he reports that The NPM movement has left a legacy in Tanzania and this legacy continues to shape the management of employment relations in the public sector. The NPM legacy manifests in terms of modernization and rationalization of the public service through an increased use of ICT for managing HR matters, the use of OPRAS, though not in its envisaged outcome, among others.

In the fourth article, we turn to political accountability in different African countries where Benon C Basheka, Daniel M. Walyemera and Dominique E Uwizeyimana, combine experiences on a theme '**Judicial Proceduralism: The Application and Exploitation of The Substantiality Rule in Presidential Election Petitions in Africa**'. The authors observe that within the African continent, the upsurge of democratization has led to a number of elections. These elections have tended to be contested by the losing candidates and the role of courts in the nomenclature of the governance apparatus of countries has been subjected to scrutiny. The article educates readers on how Presidential candidates who have faith in judicial supremacy have tended to turn to the courts for redress when they lose presidential elections. The courts on their part rely on some technicalities and the substantiality test to determine the elections is one such technicalities which the authors in a comparative manner give us a comparative picture from many African countries.

Finally, this issue deals with managerial and administrative accountability on the '**Effect of student's involvement in fees policy implementation on learner's stability in public universities in Uganda: the case of Makerere University**' by Doreen Tazwaire and Chrisostom Oketch. Their study adopted a case study design and had a sample of 368 consisting of students, their leaders and selected university administrators. The results indicated that there was a gap on the part of student leaders to consult extensively from their constituents because they lack advocacy and lobbying skills, management rarely put into consideration student's views while making decisions, and that protests are seen by students as a mobilization structure for airing out their voices on fees policy changes. The study concludes that the level of student involvement in fees policy implementation depends on the nature of student leadership and willingness of management to incorporate their views in decision making.

Accountability is broad and takes many facets. The debates on accountability in each of the papers presented are exciting. We invite readers to reflect on how accountability thrives in their own contexts as they read through the five articles in this issue.

Professor Benon Basheka
Editor in Chief

Transparency and public money accountability in Tanzania: a bench learning approach of selected Civil Society Organizations (CSOS)

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Abstract

Transparency and Public Money Accountability (TPMA) is ubiquitous theme in current discourse. Using the Content Analysis (CA) of CSOs performance reports coalesced with the Key Informant Interviews (KIIs), this paper reports six success stories on the role of CSOs in enhancing TPMA in Tanzania. Generally, the findings suggest that CSOs have the potential to enhance TPMA through a robust analysis and demonstration of expertise in research, monitoring and evaluation, advocacy and stakeholders' engagement. However, despite the few success stories registered, the current trends in CSOs working environment in Tanzania indicate a dark and difficult future. This paper highlights those challenges facing CSOs and offers policy implications to reverse the situation and locate areas for further research.

Key words: Transparency, Public Money Accountability, Civil Society Organizations - Tanzania

Introduction

Accountability and transparency is a cicada strategy for enhancing public services in an international perspective (Kessy.2020; Joshi, 2013; Bastida and Benito, 2007; Bahr and Carlitz, 2021). Accountability is viewed as the fort sumpter of democracy (Mulgan, 2003). Thus, there is a number of academic works on accountability and transparency in the public administration discourse (Brandsma, *et al*. 2016). However, transparency and accountability remain as complex terms and therefore difficult to define. This is partly attributed to two factors: first and foremost, is the tendency for pundits of accountability to keep pouring a torrent of new definitions and second, is the relatedly conceptualization of accountability that seeks to capture multiple accountability instruments (Bovens, 2005). For example, Cucciniello *et al.* (2017) define transparency as the act of giving information. In terms of the breadth of available information and accessibility. Furthermore, to Heald (2006, 2012) distinguish between higher and lower transparency and between internal and external transparency (and vice versa). Accountability is the act of fulfilling the assigned duties and resources provided (Kernaghan and Langford, 2011).

There is documented empirical evidence on the importance of transparency on democracy, politics, trust and accountability (Grimmelikhuijsen and Meijer, 2014; Parka and John, 2016). Similarly, there is a growing number of published research reports about the role of transparency (Langella *et al*., 2021;

Pina *et al.*, 2007; Welch & Wong 2001; Wirtz *et al.*, 2019; Worthy 2015). Some authors focus on the external side and on "external stakeholders (e.g., CSOs) (Cucciniello*et al.*, 2017). Thus, previous decade has witnessed the rapid ascendency of transparency and accountability to global agenda with support of both researchers and administrators. As a result, authorities have shown commitments to transparency and accountability and have gone an extra mile to incorporate these two aspects of good governance (Otenyo & Lind, 2004).

Civil Society discourse is very old in literature; there are innumerable contested accounts of the historical development of CSOs within political science, sociology and public administration and management disciplines (Pollard and Court; ,2008; Brandsen, *et al.*,2015; Van de Wijdeven,2012; Lewis, 2001). The current emphasis is on the role of organisations CSOs in poverty reduction, promotion of democratic ideals and acting as the force for achieving sustainable development (Lewis, 2001). In Tanzania the current legal context still poses some challenges in the role of CSOs and functioning of accountability. For example, the local government, which ideally should have been completely devolved, still faces upward accountability (Kessy,2020). Likewise, the litany of changes has occurred in the operating environment and legal framework resulting into shrinking of civic space in the past five years. This was due to, among others, the enactment of the Cyber Crime Law, 2015, the Media Service Law, 2016 and the Access to Information Law, 2016. These laws have negatively affected the civic space, which is the desiderate for good governance.

Ironically, despite the above reverse direction to good governance, Tanzania has institutions mandated to ensure good governance flourish in the country. They include, the Controller and Auditor General (CAG) office established by Article 143 of constitution, Parliamentary Watchdogs Committees established under National Assembly Standing Orders as per Article 89(1) , the Ethics watchdog, Anti- Corruption Bureau (PCCB), Human Rights Commission(CHGG) and Public Procurement and Regulatory Authority (PPRA). These institutions are required to ensure external oversight mechanisms.

Internally, the government has also established Open Performance Review and Appraisal Systems (OPRAS) to ensure individual level accountability and the Client Service Charters (CSC) for institutional accountability in Tanzania (Mutahaba. *et al*, 2017). The centrality of external and internal accountability pattern is well expounded by Heidelberg (2018) in the article titled "Ten Theses on Accountability". It is in the above context that Kessy (2020) associates the above irony with the absence of connection between the user and supply of accountability in Tanzania bequeathed by single part system (1965-1992) era.

In ensuring public money accountability, two aspects are regarded here: first, CSOs as watchdogs, second, CSOs as an accountability instrument because CSOs accountability is nowadays both a necessity and a duty (Policy Forum, 2020).

The discussion on TPMA in Public Administration in general and Tanzania in particular, is very timely now than ever as the two forms part of eleven guidelines on effective Governance for Sustainable Development developed by the United Nations to provide practical expert guidance to implementation of the 2030 Agenda (UN, 2018).

The main purpose of this paper is to ascertain what has been the role of CSOs in ensuring transparency and public money accountability in Tanzania. In so doing, the paper contributes to the demand side accountability discourses by documenting the role of CSOs in enhancing transparency and public money accountability in Tanzania. The layout is: Literature review section with a brief terminological clarifications, theoretical framework and empirical reviews. The following section bears methodological endeavour followed by the results and discussion section. The last section presents a concluding remark with recommendations for policy and practice.

Literature review and theoretical framework

Before delving into the empirical literature review, we hereby hatch some terminological ground clearing and brief hors d'oeuvres of some key terms and theoretical framework used in this paper. What it means by these concepts is as follows:

Conceptualising Accountability

The concept of accountability is a mercurial one spanning various academic fields, policy areas, organisational forms and theoretical traditions. It is sometimes closely related to that of responsibility. for example, Bovens (2007) conceptualizes accountability as an obligation of the public sectors to explain and justify their conducts. Aleksovska and Schillemans (2021) view accountability as An act of being responsible to a delegated tasks.

Literature abounding with myriad way of classifying accountability. Lindberg (2013), Bovens (2005) and Radin and Romzek (1996) all focus on the who question and the relationship; where accountability is unpacked as:

1. Political accountability- accounting to principal-agent-relationships, such as that of ministers, elected officials to voters;
2. Legal accountability - accounting to civil or administrative courts;
3. Administrative accountability – accounting to ombudsmen, auditors, inspectors and controller;
4. Professional accountability- rendering account to professional peers or associations;
5. Societal accountability – accounting to citizens, interest groups and the media; societal accountability is the focus of this paper.

Accountability can be instrumental in a number of ways. First, it can present the justification on why an organisation should start delving into feedback information. Second, it can act itself as a valuable source of information. Therefore, holistically accountability can form a force for sustainable innovation in the organisations (Van acker,2017). Parenthetically, Bovens (2005) enlightens us that accountability can be exercised to inform debate and provide judgement. As an element of information, accountability entails that an actor is duty-bound to give information regarding performance; in debate, the actor is usually engaged in discussion and questions on the quality and adequacy of the information; finally, as a judgement, this is usually a verdict given to poor or exemplary performers. Accountability cannot be enforced without transparency and rule of law. Next, the paper adumbrates what transparency mean in this paper.

Conceptualising Transparency

Good governance advocates views transparency as the means of achieving an array of objectives such as trust, reducing corruption and improving performance (Porumbescu & Grimmelikhuijsen, 2016). Scholars such as Florini (2007), Grimmelikhuijsen (2012) and Meijer (2013) emphasise the importance of accessibility of information to the public (Bauhr, *et al.*, 2019).

Similarly, the CEPA defines Accountability as being responsible in accordance with the law (UN, 2018). The commonly used strategy to promote transparency includes prior disclosure of information, budget transparency and open data government (UN, 2018). Public money transparency renders a number of gains. It enhances public inclusion, it enhances service delivery to the public, engender responsiveness, effectiveness and equitable policies. (UN, 2019).

Transparency in relation to expenditure facilitates public representatives and official's accountability for effectiveness and efficiency. Therefore, dissemination of information on public money allows stakeholders to provide feedback to influence policy formulation and resource allocation to address citizens' preferences. Moreover, Public Money Accountability engender trust in society by respecting people's views and ensuring that resources is well spent (UN, 2019).

The Concept of Civil Society Organization (CSO)

Conventionally, there is a tendency to conceive CSOs as nongovernmental organisations (NGOs) whose missions are specific and progressive in nature. Brandsen, *et al.* (2015) regard CSOs as those organisations dealing with society concerns. Civil societies are not homogenous, they may be in form of peasants' associations, professionals, or religous organisations. Notable among others include, UK big society and the Netherlands' "Doe-Democratie" (Van de Wijdeven, 2012).

Theory of Stakeholder

Publications of the Freeman's magnum opus in 1984, has been instrumental in explaining the relationship between an organisation and its environment (Gomes *et al.*, 2020). The theory has the power to discern the internal and external sources of influences likely to shape the behaviour of an organisation (Gomes *et al.* 2020). The theory conceive stakeholder as any person or group with the power to change the organisational objectives (Freeman,1984).It has been used as the lens for knowledge development in various domains; for istance, it has been used in non-profit organisations (Bryson,1988; Welch,2012) and Local government (Goes,2020). In this paper CSOs are viewed as stakeholders with capacity to influence the performance of and are also affected by the performance of the government in Tanzania. In this context, the government's transparency and public money accountability are viewed as independent variables and the influence of CSOs is viewed as a dependent variable.

The Evolving Landscape of Civil Society Organisations (CSOs)

Adieu Public Administration and Courses Public Governance

CSOs and political society were conceived as more integrated. In fact, the classical Aristotelian view of politics and participation in civil society were essentially participation in political life (Rosenbaum, 2006), that is, public life and political life were inseparable (Rosenbaum, 2006; Bramsen, *et al*,2014).

The notion that the third sector is independent from the state and market which now looms large in literature emerged in eighteen centuries (Bramsen, *et al*, 2014). Subsequently, the nature government has equally fundamentally altered compared to the past. Hitherto, there are two perspectives intertwined together with regard to the role of the government. First, it is the emergency of the governance paradigm and second, it is the liquefaction of social life (Brandsen, etal.2014). The two perspectives attest that the conception of the current role of the government is complex and contradictory. For example, in the traditional bureaucratic public administration model the government had monopoly in public service delivery resulting to the of welfare state characterised by increased government responsibilities and budget. The roles of CSOs in the context of welfare economies were very mercurial. For example, where as in corporatist countries like Germany, Belgium and Netherlands civil societies were entrusted with delivery of many public services (Delker, 2004; Zimer, 1999), in the continental Europe and Scandinavian side government bureaucracies still retained the mandate of delivering similar services. Tanzania embraces the dual system of letting the CSOs deliver some services and the government do similar functions.

The 1980s and 1990s witnessed the collapse of economic boom and the limits of power of large bureaucratic welfare celebrated in the previous decades. This paradigm shift resulted in change on the nature of CSOs operations by introducing the competition and adoption of managerial culture contrary to their original soft culture (Brandsen, *et al.*, 2014).

The contemporary thinking on CSOs emerged in 2000 to 2010 which advocates for the limits of state in policy making and public services delivery and adoption of networks and collaborations as sure panacea for effective policy making and service delivery (Osborne, 2006). For CSOs this means the end of the romance with hierarchical structure of the state enjoyed during the earlier stages of the relationships (Baumann, 2000). The above development went in tandem with the second perspective of CSO called social liquefaction (Brandsen, *et al.*, 2014). Exacerbated by weaker labour relations at the workplaces and in communities, increasing contracts out of services and more urbane and anonymity lifestyle (Brandsen, *et al*, 2014).

The CSOs in Tanzania

The CSOs odysseys in Tanzania reflect similar governance changes that have been expressed elsewhere as discussed above. First, before independence: Various associations were established partly to respond to colonial rule and also as a result of the social and economic changes which took place at that time (EU, 2014). For instance, this time witnessed the formation of unions or welfare and social associations to demand for the improvement of both living and working conditions. During this era, government justified its direct control over organisations. As a result of this, there were little space for CSOs to thrive. Kiondo (2004) informs us that political development after independence negatively affected the development and expansion of CSOs in Tanzania.

Second, the post- Arusha Declaration Period: Characterised by the ideology of self-reliance in Tanzania in 1967.The post-colonial Tanzania undermined the establishment of CSOs and discouraged the emergence of similar organisations by co-opting the voluntary groups such as women, youths, students and workers (Liviga, 2010).

Third, post Bretton woods -Tanzania Agreement: Tanzania embarked on reforms by implementing economic liberalization policies in the 1980s. However, during this period the development of CSOs proceeded at the snail's pace. For example, Kiondo (2004) reports that between 1961 and 1970s there were only seven (7) NGOs in Tanzania. The number rose to eighteen (18) towards the end of the 1980s.

The Capacity of Civil Societies

Capacity is another key factor for successful social accountability. The level of organisation of CSOs, the breadth of their membership, their technical and advocacy skills, their capacity to mobilize and effectively use media, their legitimacy and representativity and their level of responsiveness and accountability to their own members are all central to the success of social accountability activities (Rosenbaum,2006). Rosenbaum still substantiates that the CSOs' capacity is also increased by their capacity to develop strong ties with their counterpart units or agencies within the government structures such as education, water, Human rights and the environment. These relations may be very supportive to the growth of CSOs' ((Rosenbaum, 2006). In Tanzania context CSOs are under the umbrella of the Policy Forum a secretariat dedicated to the coordination of CSOs' activities in the country.

State-civil Society Synergy

Effective government-civil society relationships require effective mutual participation. There is no Holier- than -though scenario where one participant capitalises on the weakness of another part (Rosenbaum,2006), but rather mutual success than the single government decisions which eventually being manipulated. Similarly, individual social action often ends in repression and violence by the state and "the most productive results arise when both sides actively participate" (Ackerman, 2004). Ackerman (2004) emphasising mutual participation does not necessarily rely on agreement nor trust because that even "conflict and suspicion" can lead to effective state-society synergies. The key message is social accountability initiatives must include both state and societal actors and must focus on the interface between them (Ackerman,2004). As stated earlier, the role of CSOs in fostering transparency and public money accountability is very mercurial. Therefore, when making critical analysis of a holistic approach should be used.

Methodological consideration

Study adopted descriptive and exploratory research methods. The study used archival data gathered from CSOs' official documents, policy documents, plans and strategic documents, published reports and articles. Web search and personal contacts provide primary data through Key Informant Interviews (KIIs).

Data Analysis

Content Analysis (CA) technique guided by two schema- one for policy assessment and another for pattern analysis facilitated data analysis. Using the insights from Strauss and Corbin (1990) and Miles and Huberman (1994) on content analysis technique, entry point was located. The Allan McConnell (2010) three dimensions assessment map further guided the analysis. This included programmatic, process and political assessment of case studies of CSOs. This approach helped to report the case studies of CSOs that had influenced transparency and public money accountability. The report described how they went about achieving the success stories by documenting their techniques and strategies and by pinpointing the challenges they encountered in influencing the two fundamental principles of good governance in Tanzania.

Levels of Analysis

The social science methodology literature abounds with a myriad way on how researchers have approached levels of analysis such as macro, meso and micro levels (Luetjens, *et al*.2019; Jilke, *et al*., 2019). This paper opted for the micro level, as it allows breadth and depth analysis (Marijani & Lufunyo, 2022; Lawrence *et al*.,2009).

Case Selection

There are several reasons for selecting the 13 CSOs for this study. First and foremost, all these CSOs are active members of Policy Forum (PF), a network of over 60 CSOs established in 2003 to augment the voice of ordinary citizens to influence public money accountability at both central and local levels. Second, all CSOs are involved in policy implementation and governance and therefore they constitute a kernel of people's daily lives. Third, government attention to these organisations has steadily risen, as shown by strict controls through voluminous laws and regulations over the last five years. Fourth, since these CSOs focus on different policy sectors, they facilitated the latitude to gain in-depth insights to government's steering. Moreover, the multiple sectors availed the room to study the government's influence and its underlying mechanisms.

Sub-Saharan Africa consists of countries found to the south of the Sahara desert (See Figure 1). The continent of Africa is commonly divided into five sub regions, four of which are in sub-Saharan Africa: West, East, Central and South Africa. The World Bank statistics from 2018 recorded a total population of 1.078 billion for the Sub-Saharan Africa, making it the second largest population region in the world (World Bank, 2018). The history of sub-Saharan Africa is characterized mainly by European colonialism, whereby white minority governments controlled the economic and political affairs in most countries. The 20th century witnessed armed struggles and violent confrontations as black majority parties and groups fought for their independence from colonial governments. Colonialism plundered the continent while stifling local political and economic development, and left behind a legacy with ramifications for the present, as reflected in the patterns of contemporary globalization (Ocheni & Nwankwo 2012; Heldring & Robinson 2013; Frankema, 2015; Austin, Frankema, & Jerven, 2016). Across the continent, many countries (e.g. Nigeria, Cameroon, Ghana, South Africa, Senegal, Kenya, Rwanda) have made significant strides in the social, political and economic spheres since the turn of the millennium, although some of these successes have yet to be firmly consolidated, with corruption proven to be playing a major role (TI, 2018).

Corruption is a factor seen as contributing to the stunted development and impoverishment of many countries in the Sub-Saharan region (TI, 2020). According to TI (2018), a leading global watchdog on corruption, six of the ten countries considered most corrupt in the world are in Sub-Saharan Africa. High levels of corruption across the Sub-Saharan Africa have become a threat to many countries considerable efforts towards the vision of a democratic, prosperous, and peaceful continent (TI, 2020). Sub-Saharan Africa is the poorest-performing region in the Corruption Perceptions Index (CPI), which uses a scale of zero (0) to hundred (100), where zero means that a country is perceived to be highly corrupt and a hundred means it has no corruption at all, in other words, it is clean. In the last three years, Sub-Saharan Africa's average score in Transparency International's CPI is thirty-two (32); a score that is well below the global average of fourth-three (43) (TI 2020).

According to Tl's 2020 CPI, perceptions of corruption in a number of Sub-Saharan African states show little improvement from the previous years, nonetheless, major regional players continue to struggle. Alongside the problem of bribery, money laundering and mismanagement of public funds which is extensive in some parts of the region, the interrelated phenomena of fragility, crony capitalism, and poor governance have resulted in shocking forms of corruption, notably state capture (Crabtree & Durand, 2017; Logde, 2019). In response, countries in the region have enacted various anti-corruption legal instruments. Besides, regional organisations, civil society, and the media are also tackling the problem head-on. With all these anti-corruption instruments, a number of Sub-Saharan African states have improved both their scores and rankings in 2020 CPI, with countries like Seychelles, Botswana, Sierra Leone, South Africa, Guinea-Bissau, Benin, Cabo Verde and Guinea as regional outperformers. Nevertheless, some of the region's major economies such as Cameroon, Ghana, Nigeria, Kenya and Senegal continue to under-perform with flat or (in Cameroon and Nigeria's case) declining scores. At the bottom of the index are Sudan, Somalia and South Sudan (TI, 2020).

According to 2020 CPI, Côte d'Ivoire has considerably improved, by nine points since 2013. However, the political crisis surrounding the re-election of the country's president, which erupted into violence and human rights violations, risks derailing progress.

With a CPI of 19, the Republic of Congo significantly declined by seven points since 2012. This performance is reflective of endemic corruption and impunity by the country's political elite. The Republic of Congo has an anti-corruption framework in place, but its implementation remains weak. TI submits that, in Senegal, the political will of its leaders to tackle graft has declined in recent years. Nigeria also continues to under-perform, notwithstanding the country's anti-graft stance of its president. Similarly, Corruption in Togo continued to worsen in 2020, potentially undermining authorities' otherwise successful efforts to entice foreign investors, such as reducing corruption and bureaucracy (TI, 2020).

Table 1: Name and Sector of studied CSOs

S/N	Name of CSO	Name of the Sector
1.	HakiElimu	Education
2.	TWAWEZA	Policy Influence
3.	Water Aid Tanzania	Water, Hygiene and Sanitation
4.	Agricultural Non-State Actor Forum (ANSAF)	Agriculture and Livestock
5.	Wajibu Institute of Public Accountability	Policy Influence/Accountability
6.	Engender Health	Health and Gender Rights
7.	Action Aid Tanzania	Gender and Human Rights
8.	Tanzania Gender Network Program (TGNP)	Gender and Human Rights
9.	Policy Forum	Policy Influence
10.	Open Mind Tanzania	Youth Empowerment
11.	Save the Children	Children Welfare
12	Haki Rasilimali	Natural Resources
13	Netherlands Development Organization (SNV)	Youth Empowerment

Source: Field survey (2021)

Results And Discussions

Success stories

Success supposed to be detailed to feel plausible, while imaginative enough to challenge our conventional thinking, as we operate in very dynamic environment (NIC, 2017:49). The choices of CSOs made will remain the biggest catalyst driving the course. Other success stories could have been selected from the CSOs visited, but it is hoped that the few which have been documented stimulate thinking and discussion about the future role of CSOs in enhancing transparency and public money accountability in Tanzania.

Case Study One: Transparency in Public Procurement in Tanzania

WAJIBU Institute of Accountability conducted an assessment in collaboration with the Public Procurement Authorities using the Transparent Public Procurement Rating (TPPR) in Tanzania. The assessment which measured Efficiency, Transparency, Accountability and Integrity, Competitiveness and Impartiality and Uniformity of the Legislative Framework, indicated that Tanzania's Public Procurement Framework scored 34.4%, which was the lowest score relative to other criteria (Wajibu Institute,2019; CAG,2019). To address the situation, Wajibu Institute, with further support from HIVOS East Africa, worked to demonstrate and convince the government to prioritize open contracting in its approach to public procurement.

In response to the findings raised, the government resorted to retooling the Public Procurement Regulatory Authority (PPRA) with the intention of controlling corruption. The intervention centered on digitisation of the public procurement process and the development of an online system – the Tanzania National Electronic Procurement System (TANePS), with the purpose of reducing the likelihood of corruption through the minimisation of human interaction in the procurement processes and increasing transparency in decision-making.

Contribution of the Interventions

The findings of this work have been a marked increase in the rate of adoption of TANePS over the course of the year 2019/ 2020, with the system now being used by 95% of public entities (510 out of 540) (Wajibu Institute,2019). The government also issued a circular in December 2019 mandating the use of the system by all public entities, meaning that complete coverage was not far off. Increased utilisation of the system would result in improvement in both the provision and quality of public services to citizens across all sectors in Tanzania. It would also serve to increase the accountability.

Case Study two: Capacity Building to CBOs on Accountability and Transparency

HakiElimu is addressing the challenges in the education system such as violence against children in schools, lack of inclusion, particularly for children living with disabilities and poor retention, transition and access to education for girls. HakiElimu in collaboration with Foundation for Civil Society lead the education cluster to promote service delivery improvement in education through Social Accountability Monitoring. A total of 176 education projects in Tanzania, valued at TZS 9 billion were monitored by 24 trained representatives (14 males and 10 females) from 24 organisations who were trained on Public Expenditure Tracking Survey (PETS) (Hakielimu, 2019).

Contribution of the Interventions

A total of TZS 496 million was saved or recovered through PETS/SAM activities at the local level. Social accountability interventions have also resulted in improved transparency of income and expenditure of public resources in education. Of 440 villages that have been involved in Social Accountability Monitoring (SAM), 249 villages (equivalent to 57%) are now publicly displaying information on income and expenditure through notice boards and public meetings. This is higher than in the year 2018 when only 52% of villages published information on income and expenditure (Hakielimu, 2019).

Case Study Three: Public Money Accountability on Tax Justice

In 2012, Action Aid international reported that Tanzania was losing by providing tax incentives deliberately provided to encourage investment in Tanzania. The total annual losses documented reached 1.2 billion USD amounting to 6% of Tanzania GDP (ActionAid, 2016, 2015). A local Civil Society Action Aid intervened by building the capacity and lobbying to influence policy changes as the results of those reports.

Contribution of the Interventions

It was from this outcry that the government of Tanzania introduced a new VAT Act and a Tax Administration Act in 2015, thereby increasing revenue collections and reducing tax exemptions. It broadened the understanding of the Tanzania politicians, including the African Parliamentary Network against Corruption (APNAC) members on the negative effects of tax incentives. It further built the capacity of journalists and editors on tax justices and accountability. As a result, they are now able to engage the public through publications of articles, newspapers and blogs.

Case Study four: Community Land Rights in Bagamoyo

The 500 million US$ Bayamoyo Eco Energy (BEE) bankrolled by the Swedish development agency SIDA. In line with Big Results Now (BRN) priority project, which was the calling card for the fourth phase President Jakaya Mrisho Kikwete (ActionAid, 2016).

The project included a 7,800 hectors plantation and close to 3,000 hectors for out growers. Local and international NGOs brought to the limelight this overt "land grabbing' by the BEE. The project was planned on the land that was owned by the Government of Zanzibar (RAZABA), but the villagers claimed that it was their 'ancestral land'. Action Aid campaigned against this land grabbing in marginalised rural communities (ActionAid, 2016).

Contribution of the Interventions

Following the launch of the research report and coordinated land campaigns by Action Aid, the report received widespread attention from the government, leading to the cancellation of the project and withdrawal by SIDA of its funding to Eco Energy project while investments by IFAD and ADB were put on hold. Moreover, the then Parliamentary Committee for Land, Natural Resources and Environment ordered the Ministry of Lands to recover 3000 hectors of land within Saadani National Park (ActionAid, 2016).

Case Study Five: Agricultural Subsidies

The ANSAF established in 2006, is a member-led national advocacy platform. It deals with agricultural budget and advocates for government to allocate 10% of its national budget to agricultural and rural development as per the 2003 Maputo Declaration.

Contribution of the Interventions

In 2012, ANSAF reported that there was decrease in productivity and value addition of the cashewnut sector thereby loosing 551million USD in value addition alone and losing about 45,000 jobs (ANSAF,2020).

Case Study Six: Pre-Paid Water Payment Systems for Rural Water Supply Schemes

In 2014, Water Aid, an international NGO in the WASH sector, started electronic water payment system for rural water supply schemes in several villages in Babati- Manyara Region to improve sustainability services. The prepaid component is based on a technology developed by Susteq, a Dutch company based in the Netherlands and implemented by investing in Children and societies (Komakech, et al., 2020).

Contribution of the Interventions

Key data on water flow rates and pressure are used for monitoring the system and are helpful evidence for future planning. (Komakech, 2019).

Discussion

What the Success Stories Suggest: A Benchlearning of Case Studies

The six case studies makes it vivid that the changes and outcomes brought about by the above success stories have the potential impact on transparency and public money accountability in Tanzania. Theoretically, stakeholders' influence illustrates how CSOs can be effective in influencing policy using a robust analysis and demonstration of expertise. This corroborates the Welch (2012) finding that civil societies influence the increase people's participation which in turn enhances government's transparency and accountability. Moreover, the findings offer the following benchearnings;

The findings further revealed that the techniques and strategies used by the CSOs to enhance transparency and public money accountability include: assisting citizens to hold government accountable through capacity building programmes, monitoring effective implementation of government commitments; investing in research and data analysis to inform policy decisions through publications; demanding direct accountability from the government; advocacy and engagement with the media. Similar techniques have been reported by Rosenbaum (2006) where civil societies in Latin America, Russia, Nigeria and United States used policy making processes to foster accountability through agenda setting (through civic education, research and demonstration), policy making (through influencing policy proposals, mobilising media and publicising proposed legislations) and policy implementation (through influencing implementation and seeking judicial interventions).

The case studies also highlight that some strategies and techniques heighten risks on CSOs operation like the BEE case in Bagamoyo. The government normally intervenes whenever there is burgeoning political influence of the CSOs which may result to increase in power and influence of the CSOs (Rosenbaum, 2006), interventions that largely affect the operation of the CSOs. However, steady pursuance of the

strategies by CSOs and players over the longer-term build resilience to manage disruptions and uncertainty resulting to better outcomes.

Furthermore, the findings also encourage the CSOs to stop working in '*silos*' as 'islands' (individual CSOs) and invest more in working as '*orbits*' (sector coalition) and '*communities*' (broader SCOs coalition) like the case of accountability on tax justice in Tanzania revealed.

Despite the above success stories, the CSOs in Tanzania faced the following challenges in their operations. First, some strategies and approaches that were adopted triggered threats and retaliation from the government. For instance, the Bagamoyo land campaign ushered problems which intensely involved the Action Aid Tanzania management and board in time and resources. Second, some CSOs experienced abrupt budget cuts by their sponsors due to the changing legal regimes, which led to uncertainties and under performance as the result of shelving off some strategic projects, a good example being Action Aid Tanzania 2019/2020 plan.

Second, the perennial changing of legal the framework governing CSOs in Tanzania resulted into the shrinking of civic space. One of the key Informants had this to say on the Tanzania legal regime;

> "The 2016 media law calls for journalists to be licensed or accredited; it also establishes statutory Media Services Council to replace the current self-regulatory body- the Media Council of Tanzania, and it introduces severe sanctions for a number of media-specific offences and allows for the banning of newspapers. In effect, this law intends to restrict both the space of civil societies as well as the individual's".

Third, presence of number of regulatory bodies to oversee the CSOs' research activities in Tanzania. These laws include the Statistics, 2015, the Commission for Science and Technology (COSTECH) , 1986 and the National Institute of Research (NIMRI) 23 of 1961. These multiple laws introduced an overly bureaucratic procedure.

Fourth, the cumbersome CSOs regulations, such as the amendment of the NGOs Act in 2005, Other key laws governing CSOs were also amended in June 2019, including the Non-governmental Organisations Act, 2002, the Tanzania Society Act and the Companies Act, 2002. The three laws were the main legislations in the country that could register and regulate CSOsin Tanzania. After the adoption of the above amendments, NGOs could no longer register under the Companies Act. One of the key Informants had this to say on the situation;

> "Transparency and public money accountability call for the existence of a strong and robust institutional architecture which is supportive, with various mechanisms which allow for individual citizens and CSOs to voice out their concerns through public hearing, citizen oversights and vibrant democratic system of governance. Unless these ideals are legally restored, CSOs will not success in holding government accountable".

Conclusion and Policy Implications

The story for the future prosperity begins with the success stories and ends with the challenges as they have been reported in the discussion section. This paper was set to examine the role of CSOs in enhancing transparency and public money accountability in Tanzania.

Generally, the findings suggest that CSOs have the potential to enhance TPMA through a robust analysis and demonstration of expertise in research, monitoring and evaluation, advocacy and stakeholders' engagement. However, despite the few success stories registered, the current trends in CSOs working environment in Tanzania indicate a dark and difficult future. Theoretically, the findings point towards new forms of civility in Tanzania what Brandsen et al., (2014) calls "*state-driven manufactured civility*" shaped by institutional infrastructure at the expense of the new social dynamic heralded by the NPG paradigm. As a result, we are now witnessing the onset of the state manufactured civil societies divorced from their original mandate and the birth of new civil societies in the form of "gated communities".

Policy implications

The marching orders and flag decisions points for CSOs to improve and strengthen transparency and public money accountability efforts in Tanzania include: First, CSOs should stop working in '*silos'* as '*islands*' (individual CSOs) and invest more on working as 'orbits' (sector coalition) and 'communities' (broader SCOs coalition) like the case of accountability on tax justice in Tanzania.

Second, CSOs should make their work more accessible and transparent through publications of reports and websites. Third, CSOs should adopt an engagement strategy. Evidence from the study's findings suggests that states are more willing to engage with CSOs that show a more collaborative and less critical engagement with government. Fourth, CSOs should use their parliamentary networks and external influence to advocate for amendments of various repressive laws that hinder CSOs performance in Tanzania such as the Political Party Law, the Cyber Crime Act, the Media Act and the NGO Act.
Implications for future research agenda.

The above findings point to what Brandesen at al., (2014) christened "*grand ambition to manufacturing*" new CSO in Tanzania. Therefore, the door is wide open for the following research avenues in Tanzania: First, for object question - one may attempt to research on "*what is actually being manufactured in Tanzania CSOs?*" Second, for the results question- one may attempt to search on "what are the results of the top-down reshaping of the CSOs in Tanzania? And lastly, for the governance question – one may attempt to search on" is the move to manufacture CSOs in Tanzania pro or against Public Governance in Tanzania?

Notes:
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The discrepancy of labour institutions and the three metrics for labour dispute settlement in Tanzania

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Abstract

In the past fifteen years, the Tanzanian government enacted new labor institution Act no.7 of 2004 as a part of labor law reforms. The purpose of the reforms was first, to address the problem of the pre-existing discrepancy in the labour institutions and second, to develop the labour institutions which reflect the current socio-economic and political development in the country. One of the institutions created under labour institution Act of 2004 is the commission for mediation and arbitration (CMA) which is responsible for labour dispute settlement. Despite these reforms, the pace of unsettled labour disputes is increasing. The objective of this paper was therefore twofold: first to explore the practice of the current labour institutions in resolving labour dispute in Tanzania and second was to explore the extent to which the current dispute settlement process meet the preconceived standards of dispute settlement namely: efficiency, equity and voice. In doing this, the paper used a qualitative sample of 60 respondents selected purposely from the commission for Mediation and Arbitration and the high court labour division in Dodoma region in Tanzania. The data from the respondents were collected through documentary review and interviews and analyzed through content analysis and thematic approach. The research shows that, the efficiency and equity of dispute settlement procedures are affected by various factors including lack of resources, the long procedures and the lack of willingness of the parties to resolve the dispute on time. The study recommends that the mediation process should be strengthened to reduce unnecessary delays. But also enough resources including financial and human resource should be allocated to facilitate the mediation process and finally training should be provided to both employees and employers to increase their awareness concerning dispute settlement procedures.

Key words: Labor Disputes, Labor Dispute Resolution, Industrial relations

Introduction

Labour dispute is an inherent part of both the workplace and organizational life (Zhou, 2017). The presence of dispute is a result of diverse interests, priorities and high level of awareness among management and workers at workplace (Budd, 2006). The dispute may result into loss of production, low employee income and employment, management unwillingness to discuss disputes with its employees, and a high rate of discharged or dismissed workers (Ajayi *et al.* 2016). Therefore, although dispute may be beneficial, it is generally perceived as harmful and dysfunctional, especially when it involves employers and employees

within an organization (Zhou, 2017). Workplace disputes can be interest or right based (Martinez *et al*. 2008). Historically, labor dispute can be traced back to 1960s, when lack of recognition of trade union and the refusal of collective bargaining became popular. But recently labour disputes are compounded by not only lack of recognition of trade union but also anti-union discrimination and victimization such as very slow increases in salaries, and the lack of promotion of union leaders by management (Achu 2018). In Tanzania, industrial dispute can be traced back to the period between colonial and post-colonial period. Before independence, dispute resolution was guided by Employment Ordinance (Cap 366), Security of Employment Act (Cap. 574) and the Industrial Court Act, of 1967. All these established substantive and procedures for labour dispute resolution (Mtaki 2005). In many cases dispute resolution procedures were too lengthy and complicated, cases could take even a decade before a resolution was reached", thus causing a lot of sufferings to families of affected employees as well as loss to employers in regard to productivity. Following these huddlers, Tanzania like other countries in the past fifteen years reformed its labour institutions to cope with the current changes (Mtaki 2005, Mwalongo 2019). The new labour institutions provide the procedure for dispute settlement which are streamlined and shortened. For example, the labour institutions Act direct all labour disputes to be referred to the Commission for Mediation and Arbitration and that the Commission is required to appoint a mediator to mediate the parties within 30 days. If the mediator fails within 14 days and if it is a dispute of interest the parties in dispute can give notice of its intention to commence a strike. If it is right dispute, the parties can refer a dispute to arbitration. The arbitrator finally provides a decision and if the parties are dissatisfied with the decision, they can refer the matter to the Labour Court (Mtaki 2005; Kapinga 2018)

Therefore, the overall purpose of labour law reforms was to create consistency in legal framework for dispute settlement. Nevertheless, the literature shows that the trend of reported labour disputes is increasing in Tanzania. Besides, settlement of some disputes takes longer than expected and in some other cases the disputes remains unsettled. The question is what goes wrong? The literature on labour disputes assumes that, if the dispute settlement framework is well designed and implemented it should realize the three metrics: efficiency, equity and voice. To this end, efficiency implies the productive use of limited or scarce resources in order to produce effective result, equity entails a fair treatment and compensation, and voice encompasses level of involvement and participation of individuals in matters concerning their interest (Budd 2005; Colvin 2008).

Although Budd & Colvin (2005) suggested the three metrics as an important yardstick to gauge the effectiveness of industrial dispute settlement and although many countries including Tanzania have reformed their dispute settlement system to achieve the three metrics mentioned above, the trend of unsettled labour dispute is still increasing. The question is what goes wrong? why industrial dispute is still increasing despite the introduction of these reforms? To uncover this question, this paper discusses the trend and practice of labour dispute settlement in Tanzania, the three dimensions of labour dispute settlement and the extent to which the current practice of labour dispute settlement realize the three metrics namely: efficiency, speed and voice.

The concept of industrial disputes resolution

Industrial dispute is defined as the perceived or actual opposition in needs, interests, and values caused by misunderstanding or disagreement among the workplace actors (Mareschal, 2005). The main cause of dispute includes human interaction and the incompatibility of values, attitudes, and goals. The literature

suggests that industrial disputes can be resolved by parties themselves through peaceful negotiation and through third part intervention which is referred as mediation, arbitration and litigation (Heron & Vandenabeele 1999). According to Smith (2019) mediation is a process whereby the opposing parties come together with an independent party whose aim is to help them to secure a resolution of the dispute in question. Also, arbitration is referred to as the settlement device where by the interest of two or more parties are entrusted to the third party who holds power vested by private agreement and make decision basing on laws, received evidences and provide binding award (Clark1954; Best 2007). Litigation on the other hand is defined as the formal legal process of resolving industrial disputes by following a set of rules and procedures applied by court of law (Smith 2019). It involves court processes and procedures as applied by judge or magistrate (Pon2020). This article used mediation because it is one the method of dispute settlement which uses less cost but also settle dispute peacefully and voluntarily between employees, employers through negotiation. This explanation matches closely with the objective of this article which is to discuss the trend of labour dispute settlement through mediation in the lens of three metrics: speed, efficiency and equity.

Analytical frame

This article uses the analytical framework proposed by dispute Budd (2004) and Budd & Colvin (2005). To begin with the Budd's framework suggests that competing rights of different stakeholders of employment relationship can be harmonized through balancing the three dimensions: efficiency, equity and voice in the dispute resolution system. To this end, efficiency implies the productive use of limited resources to produce effective result. This suggest that, efficiency relies much on the management of resources, and it can be gauged through time, speed, client's satisfaction and the cost associated with the dispute resolution system. Therefore, an efficient dispute resolution system is one that conserves scarce resources, especially time and money. Systems that take shorter timeframes to produce a relatively quick resolution are considered to be efficient while systems that are slow and take a long time to produce a resolution are considered to be inefficient. Besides, dispute resolutions systems with less cost are considered to be efficient while dispute resolution systems that are costly are considered to be inefficient (Budd & Colvin 2005). Furthermore, equity implies a fair treatment and fair compensation. The presence of equity is gauged in relation with fairness and consistency in dispute resolution system. Besides, equity can be ensured through sensitivity, privacy, neutrality, secrecy, transparency, accountability and accessibility in workplace matters by the stakeholders of employment relationship.

Moreover, voice implies the level of involvement and participation of individual employees in the matters concerning their interest. It allows workers to be part of the resolution because they are given opportunity to participate throughout the process. The literature shows that, participation of employees in the dispute resolution system is threatened by the bureaucracy of dispute settlement procedures and lack of recognition on the importance of trade union officials. But this argument is counted by the fact that, although duty of fair representation is important, union carriage of grievances may reduce employee voice when there is a difference between the interests of the union and the individual employees (Klare, 1988; Stone, 1981). On the other hand, effective system of dispute resolution is a function of many factors. One of these factors is consensus. The literature suggests that the work place dispute must begin with consensus. Consensus here implies mediation, conciliation, negotiation, and dialogue or collective bargaining (ILO 2013). According to Heron (1999) collective bargaining implies the process of arriving at, or attempting to arrive at collective agreement. It involves voluntary negotiation of agreed terms between the employer

and employee. The main goal of collective bargaining is the formation of rules that govern employment relationship. Therefore, collective bargaining can be said to be a means rather than an end in itself. It rather provides a cushion to accommodate, reconcile and in many instances compromise the diverse interests' employment relationship stakeholders (Achu 2018). On top of that the need for collective bargaining is compounded by employment legislation which provides for the duty of the employers to bargain with the recognized trade unions but also the duty of the employers and employees to bargain in good faith. This duty suggests that for effective bargaining employers must supply necessary information to trade unions (Mtaki 2005).

Apart from that, the behavior of the parties towards the dispute can also affect the dispute resolution system. The behavior here can be competitive, compromising, or collaborative (Tosi *et al*. 1986). Finally, (Naik, 2015) suggested that forming works committees and strong trade unions that consist of representatives of both employers and employees can as well increase the voice of the parties in dispute resolution. We can subsume these factors into institutional framework that provides guidelines for negations, formation of trade unions, work committees and the informal social rules that guide the behavior of parties. Those factors are assumed to determine the efficiency, equity and voice of the industrial disputes resolution.

Methodology

In this article, qualitative approach with a case study design was adapted to answer the research question: What is the dispute resolution system in Tanzania and to what extent does it achieve the three dimensions of effective dispute resolution systems namely: efficiency, equity and voice as proposed by Budd (2004 & 2005). To answer this question, the research a case study of the commission for mediation and arbitration in Dodoma region in Tanzania. A qualitative sample of 60 employees was selected from CMA staff working in Dodoma Region. Out of the employees, 39 were male equivalent and 21 were female. Concerning their education qualifications, 16 employees were advocates, 15 were Record Management Assistants, 10 were Litigants, 8 were Personal Secretaries, 5 were mediators and arbitrators, 4 were Trade Union Representatives, and 2 were Deputy Registrars.

The data collection from the case study involved the number of phases: Phase one began with documentary review which includes the annual reports on the disputes referred for mediations and arbitration, quarterly reports, minutes of meetings (internal meetings and stakeholder's meetings) and other reports. The phase two was interviews with mediators, arbitrators, advocates, trade union representatives and ordinary workers. Finally, the data were analyzed through content analysis for documentary reviews and thematic approach for interviews.

Demographic analysis of respondents

This section analyses respondents in terms of their gender, working experience and education qualifications. With respect to this, 39 respondents involved in the research were male while 21 were female. Concerning their education qualifications: 15 respondents were degree holders, 12 respondents were diploma holders, 3 had secondary school education and 6 had primary school education. Concerning their working experience; 19 respondents had 3-5yrs working experience, 13 respondents had 0-2yrs working experience, 10 respondents had 11 years working experience while 8 respondents had 6-10yrs working experience (CMA Staff profile 2021).

Mediation Process as dispute resolution system in Tanzania

The mediation process in Tanzania is handled by the Commission for Mediation and Arbitration which formally commenced its operation in Tanzania Mainland on 04th May 2007 in all regions. The vision of the commission is to promote peace and harmony at workplaces through resolving industrial disputes which arises between workers and the management. The establishment of the commission is given under section 12 of the Labor Institutional Act of 2004 and granted power under section 15 to resolve industrial disputes through mediation and arbitration.

Furthermore, according to this Act, mediation of Industrial disputes begins when parties refer their disputes to the commission for resolution and fill form No. 1 of CMA that is made under Regulation 34(1) and GN.No.47 whose purpose is to show the intention of the party to refer the dispute to the commission as prescribed by section No. 86(1) of Employment and Labor Relation Act of 2004. Application must be submitted to the commission within 30 days since the dispute occur, but if they fail, applicant are obliged to fill form No.2 of CMA that is known as condemnation form that justify the reasons for delay. After completing the early processes of register the dispute, the Commission will engage the mediator who will facilitate parties to reach agreement by scheduling time, venue, and date of hearing and serve summonses to parties to notify the intention of the commission by using form No.3, and if needed form No.4 is used to call upon witnesses during mediation.

Finally, mediation process is expected to be completed within 30 days since registration of the dispute, but if it is not completed for any reason, form No.5 is filled for extension of time. After completion, form No. 6 & 7 are filled showing agreement or non-agreement of terms. The commission grants right of representation to the parties under section 86(6) (a-c) of LIA of 2004. The representative can be a trade union, employers association, personal representative, or advocate. During mediation, analysis on history and factors that lead to rise of dispute is traced by the mediator, and sometimes witnesses are summoned so as to assist the commission to resolve a dispute. In case of dissatisfaction of parties on the resolution, room for seeking remedies through arbitration is granted, and form No.8 is filled in order to refer the dispute to arbitration (sect 10(a) of Industrial Dispute Act).

Commission for mediation and Arbitration (CMA) in Dodoma

CMA Dodoma Region is amongst 26 CMA's offices found in Tanzania mainland located at Dodoma municipal council (CMA website, 2021). Dodoma region as a capital city of Tanzania is congested with various public and private institutions operates in order to provide basic services to the people. Geographically, Dodoma region is located at latitudes 6'57' and 3'82 and longitudes between 36'26' and 35'26' east of Greenwich. Just like other regions, it comprised of 7 districts, 29 divisions, 209 wards, 199 streets and 607 villages with land area of 41.311 KMSQ with a total of 2,083,588 people (population census report of 2012) and main economic activities conducted at the region is agriculture, trading, and industry (Dodoma urban profile, 2016). Iringa, Singida, Manyara and Morogoro encircle the region.

Administratively, CMA is headed by the Chairperson who is assisted by the Director and Deputy Director of the Commission in administering the commission's operations in Tanzania. For effective operation, the Commission has several units that operate cooperatively, those are finance and account unit headed by chief accountant who hold responsibility over all financial resources of the commission, internal audit unit that is headed by chief internal auditor with the responsibility over inspecting all financial and non financial

resources of the commission, planning and account unit headed by principal economist, procurement unit headed by principle supplies officer and administration and human resources management unit headed by director of administration and human resources. CMA is also having two core directories that report directly to the Director of the Commission, which is Mediation Unit headed by Director of Mediation and Arbitration Units headed by Director of Arbitration. Lastly in the structure, there is Regional Offices headed in charges of the stations that are Mediator/ Arbitrators.

Nature of disputes taken before CMA for resolution

Various kinds of disputes are taken before the Commission for resolution, and most of them are basically caused by reasons like unfair termination, discrimination, humiliation, exploitation and others. The following table indicates the nature of disputes taken before CMA.

Table 1: Nature of disputes taken before CMA for resolution

SN	Nature of Industrial Dispute
1	Termination of employment
2	Salary Claim/ unpaid salaries
3	Application, Execution, and interpretation
4	Organizational rights
5	Discrimination
6	Breach of contract
7	Constructive termination
8	Tort
9	Disclosure of information
10	Negotiation about terms and conditions of work etc

Source: (CMA case registration form 2021)

Registration of labor dispute at the CMA in Dodoma

Registration of labor disputes at the Commission is in respect of jurisdiction based on the geographical, time, money and subject matter. For the case of geographical or territorial jurisdiction, matters registered before CMA Dodoma are disputes that arises within 7 Districts of Dodoma region that is Dodoma, Bahi, Chamwino, Chemba, Kondoa, Kongwa and Mpwapwa as obliged by rule number 10 of GN 64/2004 as stated below; -

"(1) A dispute shall be mediated or arbitrated by the Commission at its office having responsibility for the area in which the cause of action arose, unless direct otherwise".

Source: Rule No.10 of GN 64/2004

On the side of time limit, dispute settlement and enforcement mechanisms require timely resolution of industrial disputes so that both employers and employees could concentrate on their productive activities rather than wasting much time on tribunals and courts waiting for the resolution of their disputes. The law provides a time limit on registration and resolution of the case to improve efficiency. According to reviewed documents, the research shows that registration should be within 30- 60 days as seen in the quotation below by one of the senior arbitrators" narrative is expressive:

"According to the law that is rule no 10(1) & 10(2) of GN 64/2007, a matter must be registered within 30 – 60 days from termination. And if there will be any valid reasons for the delay, application for registering a case out of time must be submitted before its registration and if the tribunal or court will be satisfied with the reasons for the delay, the case will be registered".

Time limit help to avoid registration of outdated claims that lead to more challenges on the provision of evidence, availability of parties, witnesses, properties, and other factors that can cause any kind of delay in the delivery and execution of justice. For the case of subject matters, CMA has authority to resolve industrial disputes according to labor laws with no monetary limit.

The trends of labor disputes referred to CMA in Dodoma

Concerning this, through documentary review, the research provides statistical data of industrial cases that are formally registered and decided before the commission for mediation and arbitration in the past four consecutively financial years from the year 2016/17, 2017/18, 2018/19 and 2019/20. This includes the type of the cases, the leading sector in registering cases, and the root cause of those disputes that are registered before the commission.

Statistics indicate that there is a rise in the number of cases registered and decided in the commission and labor division each year, the reason behind the rise despite having a legal framework for control of industrial disputes includes globalization, increased public trust on CMA and increased awareness of workers on CMA services inflate the trend of labor cases. Several respondents presented this during the interview with the management, workers and their representatives and litigants as seen from one of the senior trade union representatives below: -

"Through the use of technology and information we acquired from various sources – human being inclusive, we are aware of the right places to submit our grievances for resolution".

Basing on his explanation, it is assumed that, in previous years workers were not aware of their rights or the right place to submit their grievances for effective resolution. But due to the development of science and technology that improve access to the right information to all, grievances are now taken to the right place for resolution. In connection to that is the rise of public trust towards legal institutes and increase of cases taken before them for fair resolution as seen from the interview below with one of the litigants;

"I think the current government that insists on responsibility, transparency, and accountability helps us to restore our trusts to legal institutions like CMA".

Source: Interview with Litigant, 2021

The government has contributed a lot in the restoration of trust from citizens towards its institutions – legal institutions inclusive, through improving transparency, fairness, and accountability in resolving industrial disputes. This helps to allow people to manifest and undoubtedly see how justice is been done. And in case of dissatisfaction with the process, procedure, environment, or any other valid reason, room for review, revision, or appeal, and other remedies according to the law are provided to both parties. Findings also revealed that the rise in the number of cases that are brought to CMA for resolution is influenced by accountability and responsibility of service providers that improve assurance to the people on attaining their rights as seen from the interview below with one of mediator from CMA;

"For us, as public servants, we are trying our level best to serve the people so that whatever they face injustices at their workplace, they will use a proper channel of resolving their disputes, and for labor disputes, the proper channel is CMA".

Source: Interview with Mediator, 2021

Apart from that, the trust of people toward legal institutions leads to the rise of the number of cases brought before them for resolution. This is because people who receive legal services can act as agents who spread the good news to others who need the same kind of help. Therefore, the increase of responsibility and accountability of public workers at CMA influenced the rise of the trend of cases.
Findings also indicate that rise of the trend of industrial cases brought to CMA is influenced by the increase of population.

"The rise of population reflects on industrial context, for it will lead to the need to open up new offices and employ more workers. And whatever there are many people placed in the same context who are having different objectives, the conflict became inevitable."
Source: Interview with Advocate, 2021

The number of cases registered from 2016/17, 2017/18, 2018/19 and 2019/20. The researcher noted that statistics provided a picture on the trend of cases of CMA, the results were as shown below: -

Table 2: CMA Annual Statistical Report from the year 2016 – 2020

	Mediation				Arbitration		
SN	**YEAR**	**Case registered**	**Case decided**	**Pending**	**Case registered**	**Case decided**	**Pending**
1	2016/17	8,517	927	7,590	5,610	4,752	858
2	2017/18	9,379	1,362	8,017	5,209	4,195	1,014
3	2018/19	9,646	1,280	8,366	5,131	4,102	1,029
4	2019/20	10,031	8,112	1,919	6,238	4,825	1,413
TOTAL		37,573	11,681		22,188	17,874	

Source: (CMA Statistical Report 2021)

After discovering the rise of the trend of cases taken before the commission for resolution through mediation and arbitration, a researcher decided to investigate the nature of disputes that cause litigants to submit themselves and register their dispute before the commission for resolution and the number of cases registered for each cause from the year 2019/20. And the following table indicates the nature and number of the disputes: -

Table 3: Nature and Number of Cases Registered for CMA 2019/20

Sn	**Nature of Dispute**	**No. Of Cases Registered**	**Percentage %**
1	Termination of employment	6,431	39.5
2	Salary claims	2,456	15.0
3	Application, Execution, and Interpretation	754	4.6
4	Organizational Rights	812	4.9
5	Discrimination	731	4.4
6	Breach of Contract	624	3.8
7	Termination of Contract	2,278	14.0
8	Constructive Termination	1,289	7.9
9	Tort	568	3.4
10	Others	326	2.0
TOTAL		16,269	100

Source:(CMA Statistical Report 2021)

The result found by the researcher in table 4 on the nature of disputes with the number of cases registered for each in the commission indicates that unfair termination has been a leading cause of industrial disputes because it covers 39% of all cases registered. Unfair termination is against employee's right, that's why they decided to fight for their right in the commission and other courts. It also manifests the presence of unfair treatment and violation of worker's rights done by their employers.

This table also shows that there is a problem of exploitation found at workplaces, which leads to employees not be paid or underpaid their salaries. That's why salary claims covered 15% followed by unfair termination of work contract with 14%.

The discovery of the leading cause of grievances that lead to an increase of cases registered before the commission makes a researcher review the sectors that are having more cases than the others in four financial years, that is 2016- 2017, 2017 -2018, 2018-2019 and 2019 to 2020.
The following table indicates the number of cases registered before the commission per sector for four years.

Table 4 shows number of Cases Registered per sector from 2016 to 2020

SN	Year	Sector / Company	No. of Cases
1	2016 to 2017	Security Company	380
		Building and Construction	299
		Business	263
		Hotel	248
		Transportation	237
2	2017 to 2018	Transportation	349
		Building and Construction	336
		Security Company	263
		Industrial Sector	200
		Hotel	197
3	2018 to 2019	Transportation	820
		Security Company	754
		Education	657
		Industrial Sector	610
		Hotel	571
4	2019 to 2020	Building and Construction	2,467
		Security Companies	1,851
		Food, Drinks, and Hotel	1,496
		Business	1,156
		Transportation	1,011

Source: (CMA Annual Statistical Report 2021)

As shown in table 4 on the number of cases registered per sector for four financial years, building and construction, transportation and security companies are the leading sectors having many industrial cases in the commission compared to others. And according to the data, the year 2019/20 statistics abruptly rise from the total of 3,412 in the year 2018/19 up to 7,981 cases equivalently to 42.7%.

Time frame for dispute settlement through mediation at Dodoma

According to labor law standards, resolution of industrial disputes in the commission through mediation is not supposed to take more than 30 days. In order to measure the extent to which the labour dispute resolution is efficient, the researcher used client's satisfaction as one of the measures. The client satisfaction was identified as the element that helps CMA to maintain efficiency of the system. The satisfaction is measured through the formal and informal forms like suggestion box, stakeholders meetings, outreach programs, conferences and informal discussions.

The research shows that most of workers interviewed are satisfied with the resolution system and services provided by CMA than other institutions like High Court as indicated in the following interview with one of the litigants: -

"I'm satisfied with the service provided by the commission. Procedures are based on the law and everything is in order but I faced a kind of hardship at high court, there are so many postponements, we usually go hoping our cases will proceed, but they always postpone cases".

Source: Interview with Litigant, 2021

Second, the efficiency was measured through flexibility which is the ability of the system to change in order to comply with changes that occur in the industrial context that are influenced by local and international factors. It was discovered that the current disputes resolution system is flexible because it responds immediately after changes occurs in laws, directives, environmental and technological changes found in the society. At CMA, flexibility is assured and practiced than in other courts of law where decisions are only based on the facts, evidence, and law, but CMA involves the use of common sense, consistency, and logic. For example during submission, the law requires submission of affidavits, but at the commission, if a client fails to submit affidavit and submit a letter instead, they consider and filled it as seen in the interview with registrar officer below:-

"During submission, the law requires the submission of affidavits, but at the commission, if the client fails to submit affidavit and submit any official identification letter instead, they put him or her into consideration and application is accepted".

Source: (Interview with Registrar Officer, 2021)

Therefore, efficiency includes the time frame used for a dispute to be resolved, speed, client's satisfaction or dissatisfaction with the system, financial and non-financial cost, and flexibility of the system towards changes that occur in the country. For the case of mediation, experience shows that the resolution took a shorter time than arbitration due to the procures that involve negotiation and collective agreement on the best ways that can help both parties to reach agreement on their disputes but arbitration, involves the use of laws, rules, and principles by the third party who is the arbitrator after hearing and submission of evidence to provide a decision or award based on facts, evidence, and laws. Therefore, the difference in the timeframe differs due to the processes involved in each method, but the Commission insists on quick resolution of disputes. These findings are consistent with the research by Mushi (2015) which shows that lack of enough resources such as budget can affect the efficiency of labour dispute settlement.

Equity of the labour dispute settlement at Dodoma

Fairness, neutrality, sensitivity, privacy, transparency and accountability were used as the indicators that can help to measure the level of involvement and participation of individuals in matters concern them in the resolution of disputes.

To explore respondent's views, opinion and experience on how equality is maintained by CMA, findings indicates that, equality was maintained in each stage from case registration, hearing, judgment, and others, as obliged by the law through constitution and other Acts. Findings also revealed that, privacy is well maintained throughout the process of disputes settlement and every party were given equal opportunity in the trial as sew in the interview with one of the litigants below; -

"During the trial, sessions were in the chamber, my trade union representative represented me and my employer was with the company's lawyer. After the trial, award was given to each part privately Interview".

(Source: Interview with Litigant, 2021)

Voice of the labour dispute settlement at Dodoma

Voice was also considered as an indicator for effective industrial dispute resolution. This is measured through the level of participation of individuals in the process of resolution and consideration of their inputs in the process. Findings revealed that CMA involve parties during the trial in order to fulfill the demand of the law, and this is practiced throughout the process from mediation where mediator assist parties to resolve the dispute through negotiation of terms up to arbitration where there is hearing, submission of evidence and cross examination of witnesses and others. CMA maintained equality throughout the process in order to make parties to be part of the resolution process in order to ensure transparence and satisfaction throughout the process as illustrated by the following quotation: -

"It is the demand of the law to involve parties with respect of fairness and equality throughout the trial. In doing so, for CMA during mediation, mediators assist the parties to negotiate and reach agreement up to arbitration during hearing, submission of evidences and cross examination of witnesses".

Source: Interview with Trade Union Representative, 2021

On the other hand, the findings indicate that in some cases especially where there is the is need for representation, the trade union often assist the parties in question and the representatives of the union arrange for the meeting with respective employees, discuss the matter with them and finally represent them in the mediation process but many times, the quality of the outcome of the mediation is affected by the interest of the parties. In Dodoma Region, the trade Union representatives always represent the interest of the workers who are represented in the mediation process. These findings are consistent with the findings by fair representation is important, union carriage of grievances may reduce employee voice when there is a difference between the interests of the union and the individual employees Klare, (1988); Stone, (1981) which shows that the interest of the parties may be affected by the trade representatives if the individual workers being represented in the mediation process have different interest with trade union representatives but also with the argument that voice is stronger in the process than in the outcome because a third party neutral unilaterally imposes the final resolution to the dispute though the parties have control over the outcome at the lower stages of the grievance procedure. In the current study, the final resolution is arrived by the parties themselves. The third party which is mediators does not interfere with unilateral decision.

Conclusion

This study explored the quality of industrial disputes resolution mechanisms and its adherence to basic standards for handling industrial disputes by using the Commission for Mediation and Arbitration as the case study. Our findings indicate that implementation of industrial disputes resolution mechanisms as established by the Labor Institutional Act and assurance of peace, harmony and access to justice is still questionable. Inaccessibility of CMA's offices at district levels in order to make easy access to the people who came from remote areas, lack of awareness of individuals rights, lack of fund enough to provide quality and affordable services to the people, lack of skilled and trustworthy human resources affect the quality of industrial dispute mechanisms and its implementation, that is why there is existing of disputes that lead to the rise of trend of industrial disputes that result to wastage of time, fund and sometimes destruct social relationship among the people at workplace. Statistics show that, disputes that end through mediation satisfy both parties because they involve mutual agreement of terms, but for those that end with arbitration and other methods like adjudication, it satisfies one part and that's makes the dispute to co-exist.

Recommendations

Therefore, there is the need of strengthening mediation procedures and processes so as it can be used to resolve all kind of disputes because literatures identified that it suits only for minor disputes, but for major disputes, there is still need for adjudication procedures. Also, there is the need of having stakeholders engagement for the review of labor laws and policies because findings revealed that LIA assumes that employee is the only one who can file the complain in the commission, but experience shows that there are employees who violate terms of contract and others that can make employer to seek remedy at the commission.

Training, workshops and seminars must be done to employees of the Commission in order to improve awareness on professional way of providing justice services to the people, internal strategies and systems for monitoring and evaluation of employees output must be monitored scientifically though setting the target in order to improve their effort and struggled to meet the target, thus increase output. Effective allocation of resources, improvement of working environment, establishment of more CMA's centers in order to improve accessibility of services, improve friendly relations with other institutions and borrow space for establishing offices, improve internal measures to deal with discipline of their employees to improve faithfulness and hardworking spirit when deliver service, strengthening feedback channels like suggestion boxes, stakeholders engagement meetings and engage research institutes in seeking customer's feedback towards the services that they receive from CMA. By doing so, the quality of industrial disputes resolution mechanisms will be improved and it will adhere effectively the quality standards of efficiency, equity and voice as suggested by Budd (2004) & (2005).

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Public sector in Tanzania and the legacy of new public management: a focus on human resource management

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Abstract

Tanzania is one of the African countries that have been reforming their public service over the last three decades within the framework of New Public Management (NPM). While previous studies have well documented the history of public sector reforms in Tanzania, the adoption and application of NPM, its scope, and limitations, none of them provides insights into recent developments that suggest reversals from NPM and what those reversals mean for human resource management (HRM) practices in the public sector. This article identifies those developments in HRM practices that point to reversals from NPM and examines their implications for the management of public sector employees. In doing so, the article analyses the extent to which NPM has shaped the management of human resources in the public sector. Data collection was based on a systematic review of secondary sources particularly from government reports, journal articles, textbooks, and online resources. A thorough content review of these sources helped to inform this study's analysis of practices and developments notable in the public service that are counter to the NPM ideals. Findings indicate that although the NPM movement has left a legacy in Tanzania, it has not been able to sustainably transform HRM practices in the public sector to meaningfully reflect the HRM thinking. The HRM practices are rather characterized by reversals and inconsistencies oscillating between the ideals of NPM and those of traditional public administration. The article concludes by highlighting some implications for HRM in the public sector in Tanzania.

Key words: Human Resource Management, New Public Management, Personnel Management, Public Service Reforms - Tanzania

Introduction

Human resource management (HRM) is a profession as well as a discipline that deals with the management of people in organizations in a way that produces organizational effectiveness and efficiency. HRM has been a subject of contentious debate both in theoretical and practical terms. Although the practice of managing people in organizations is not a new phenomenon, the application of the term HRM to the public sector in many African countries, including Tanzania, has been accelerated by the adoption of the neo-liberal reforms under the auspices of New Public Management (NPM). NPM represents a new orientation towards the management of the public sector. It emphasizes the reduction of the size of bureaucracy, the decentralization of authority to managers, and the use of private sector techniques in the public sector (Basheka & Uwizeyimana, 2021).

Such techniques include delivering services through contracting out, outsourcing, public-private partnership, competition among service providers, emphasis on results than process in measuring performance and the use of information and communication technology (ICT) to facilitate the effective management of employees, financial resources and service delivery (Hood, 1991; Hughes, 2003; Bach & Kessler, 2007).

The adoption of NPM reforms in Tanzania marked a shift away from a state-led economy to a free market-oriented economy. The shift was an outcome of prescriptions from western countries and the international financial institutions (IFIs) such as the World Bank and the International Monetary Fund (IMF) in an effort to improve performance in the public sector and service delivery at a minimum cost. Western donors and scholars had the view that the problems of poverty, poor service delivery, and inadequate accountability resulted from the inherent weaknesses of the traditional Weberian-based public administration. Such weaknesses included excessive bureaucracy, unreasonable expansion of the public sector leading to redundant workforce, political patronage, corruption and nepotism, among others (World Bank, 1981; Gore, 2000). In the same vein, inefficiency, ineffectiveness, corruption, inadequate motivation with no sense of accountability were common descriptions accorded to the Tanzanian civil service prior to the NPM reforms (Mukandala, 1993; Mutahaba & Kiragu, 2002; URT, 2013). Therefore the NPM reforms were expected to provide the remedy for these problems. However, after three decades of NPM reform implementation in Tanzania these problems still persist. The various reports of the Controller and Auditor General (CAG) have consistently indicated that staff shortages, lack of planned training programmes for some government entities, delays in promotions, payment of staff claims in a form of salary arrears, leave allowances, acting allowance are persistent features of public administration in Tanzania (URT, 2019, 2021). This serves as evidence to the fact that NPM has not adequately eliminated the problems of inefficiency in the public service.

Yet there is an emerging trend in HRM practices that signifies reversals from NPM orientation. While previous studies have documented the history, scope, and limitations of the NPM-reforms the public sector in Tanzania (Mukandala, 1993; Mutahaba, Bana & Mallya, 2017; Kihamba, 2018; Bwaki & Tefurukwa, 2022), they do not provide insights into recent developments that point to reversals from NPM and their implications for HRM practices in the public sector. This article intends to address this gap. It is argued that notwithstanding the influence of NPM, HRM in the public sector in Tanzania reflects features of NPM and Weberian models. Such heterogeneity is sustained by the socio-economic and political ecology within which the public service operates.

The article is organized into eight sections. The first section introduces the subject matter. Section two presents the objectives and research questions followed by the methodology in section three. The conceptual and theoretical underpinnings of HRM and NPM are presented in section four. It is followed by a brief description of Tanzania's experience with NPM reforms in section five. Sections six and seven focus on the NPM legacy and reversals from NPM respectively. The last section presents concluding remarks with implications for future directions.

Objectives and Research Questions

This article is guided by three objectives: (i) to explore the extent to which NPM reforms have significantly shaped HRM in the public sector in Tanzania, (ii) to examine some trends in HRM practices indicative

of reversals from the NPM reform ideals, and (iii) to examine the implications of such reversals for future directions in HRM in the public sector in Tanzania. This article seeks to answer the following three questions: (i) To what extent have the NPM reforms shaped HRM practices in the public sector in Tanzania? (ii) To what extent are the HRM practices in the public sector consistent with the NPM ideals? (iii) What are the implications of such consistency or inconsistency for future HRM directions?

Methodology

This article used a qualitative approach to examine NPM attributes in the management of people in the public sector in Tanzania. Tanzania was chosen as a case study for two reasons. First, Tanzania has been reforming its public service in the last three decades within the framework of NPM prescriptions. Secondly, as a public servant for over 20 years, the author has sufficient experience in and is widely knowledgeable about the selected case. The article takes a public administration orientation, which explains its limited scope, i.e. the public sector. The public sector still employs a significant portion of the workforce. According to the Tanzania National Bureau of Statistics (NBS), the public sector in Tanzania (Mainland) offers 871,926 jobs, which accounts for 32.5 percent of all formal employment in the country (NBS, 2019). Data collection was based on a systematic review of secondary sources particularly from government reports, journal articles, textbooks, and online resources. A thorough content review of these sources helped to inform this study's analysis in two significant ways. First, an examination of these secondary sources made it possible to grasp the history, philosophy, and theoretical underpinnings of HRM and NPM and how they have shaped the organization of the public service. Secondly, they have helped the study to identify HRM practices and developments notable in the public service that are counter to the NPM ideals.

HRM and NPM: Conceptual and Theoretical Considerations

Human Resource Management

A good starting point perhaps would be: what does HRM mean? HRM is not an easy thing to define. This is particularly so because of disagreements among scholars about the nature and purpose of HRM. Some believe it is not different from personnel management except the label (Keenoy, 1990; Legge, 1995; Argyris, 1998). These scholars argue that the functions of HRM are the same as those performed in personnel management except that the name has been changed to 'mask the consequences of deregulation and downsizing of the 1980s' (Legge, 2005). To these critics, the change from personnel management to HRM simply reflects the rise to prominence of a new political ideology and imperialist competition under the aegis of globalization and public choice theory from which NPM emerged (Bratton & Gold, 1999). This is why such phrases as 'a wolf in sheep's clothing' (Keenoy, 1990), 'an emperor's new clothes' (Argyris, 1998), 'a rhetoric than reality' (Legge, 1995) became common descriptions of HRM by its critics.

Yet others consider HRM as a fundamentally unique approach to the management of people in work organizations. The enthusiastic apologists for HRM argue that its holistic, people-centred, and strategic approach to the management of people working in organizations makes HRM distinctive from personnel management (Fombrun, Tichy & Devanna, 1984; Beer, Spector, Lawrence, Quinn Mills & Walton, 1984; Guest, 1987: Henry & Pettigrew, 1986; Storey, 1992). Notwithstanding these differences, HRM is understood to mean both a field of study as well as the actual management of employees in organizations

in a way that seeks to integrate the human resource policies and practices with the business strategy so as to sustain the organization's competitive advantage through a highly committed and capable workforce (Guest, 2005; Armstrong, 2009).

Theoretically, some antecedents to HRM may be traceable to a body of organization theory ranging from Scientific Management School, the Human Relations School, behavioural studies and others such as the resource-based view of the firm, and the human capital theory. However, much of the HRM reform agenda as embedded in the NPM reform movement resonates the works of Fombrun, et al. (1984) and Beer, et al. (1984). These two groups of American scholars emphasized the strategic orientation of HRM that have continued to shape the field and profession to its present look. On the one hand, Fombrun and associates came up with the Michigan model of HRM, Beer and his associates, on the other hand, proposed the Harvard model. While both models emphasize the tight fit between the organization's business strategy and the HRM policies as well as high commitment to organizational goals, the Harvard model recognizes the need for employee involvement and the existence of multiple stakeholders (shareholders, groups of employees, government, and the community) whose interests must be recognized by and integrated into the HRM strategies and the business strategy.

The Public Service in Tanzania during the Pre-NPM Era

Since independence in 1961, Tanzania's public administration like other administrative systems in the world has been organized around the Weberian organizational form. As such, the management of people in the public sector has been largely based on permanent and pensionable terms of employment. Under this system, promotion from one position to the other in the service is strictly based on seniority and length of service. The reward system is universal and conforms not to one's performance but to the position of the office holder. Although trade unions were legally allowed to influence employment relations in the single party era, their ability to exert such influence was largely exercised at the pleasure of the state-cum-ruling party. This was particularly so because between 1965 and 1992 trade unions were affiliated to the ruling party.

Given its rigidity coupled with financial constraints, by mid 1980s the public service was inevitably caught in a crisis. The literature describes the Tanzanian civil service of the 1990s as inefficient and ineffective (Mukandala, 1993; Mutahaba & Kiragu, 2002; URT, 2013). In order to address limitations of the public service, the government of Tanzania adopted NPM initiatives in an attempt to reform the management of its workforce and ensure effective and efficient delivery of quality services. It is to the NPM initiatives that we now turn our attention.

NPM and its Effect on HRM

This section examines the nature of NPM reforms and its influence on HRM. It is argued that the Tanzanian experience with NPM reforms has been characterized by oscillation between centralization, decentralization and recentralization exhibiting inconsistencies and reversals. The section starts with a brief account of the evolution of the field of human resource management. It then looks at the way NPM has shaped HRM in the public sector in Tanzania.

The emergence of HRM is attributed to multiple forces. Some of these include the humanistic influence of pioneers such as Robert Owen and Lord Shaftesbury, among others, who criticized the hardships at

workplace created by the free enterprise. These paternalistic sympathizers advocated for better treatment of workers and improvement of their working conditions (Ling, 1965; Tyson & York, 1996). Robert Owen, for example, wondered if machines were looked after, cared for, and maintained in order to be more efficient, reliable and long lasting how much more could people be if they were well treated (Koontz, O'Donnell & Weihrich, 1983). It is recognized that such influence led to the creation of special positions in firms to take care of the welfare of workers. This movement gave rise to the establishment of welfare departments at work places, which later evolved into personnel departments handling employment relations.

Yet other influences came from organization theory, particularly the scientific management group of scholars led by Fredrick Taylor and Henri Fayol. These were concerned with how work processes and organization structures could be designed and staffed to produce maximum efficiency and productivity. Elton Mayo and his associates in the Human Relations School and other behavioural scholars such as McGregor are credited for emphasizing the human side of the enterprise and the need to consider non-mechanistic approaches to enhancing employee morale (Cole, 2004; Fry & Raadschelders, 2008). At the core of these theoretical strands is the question of how to manage employees in a way that improves organizational performance.

The literature on how NPM has shaped HRM in the public sector worldwide is burgeoning (Hood, 1991; Brown, 2004; Pollitt & Bouckaert, 2004; Kirkpatrick, Ackroyd & Walker, 2005; Bach & Kessler, 2007; Brunetto & Beattie, 2020). NPM emerged in the 1970s in Britain, New Zealand, Australia, and the United States and spread to other western countries and later on spread to other parts of the world (Hood, 1991; Osborne & Gaebler, 1992). The focus of NPM was to achieve efficiency, effectiveness, accountability and quality services. NPM emphasized, among others, the introduction of strategic planning, user fees, devolving authority to manager, transferring activities away from a single administrative centre to lower units, use of market-based service delivery models of contracting out, competitive tendering, performance-based pay, flexible employment as opposed to lifelong employment contracts (Hughes, 2003; Brown, 2004). It is no surprise that from the 1980s onwards 're-inventing government', 'doing more with less,' 'results-oriented,' 'operating at arms-length,' 'customer-focused,' 'hands-on professional management,' 'contracting out,' 'outsourcing,' and the like became dominant phrases in the NPM literature (Hood, 1991; Osborne & Gaebler, 1992).

Hood (1991:4-5) summarizes the thrust of the NPM into the following seven doctrinal components: (i) hands-on professional management, (ii) unambiguous criteria of performance, (iii) emphasis on output controls, (iv) disaggregation of units, (v) competition in public service, (vi) use of private sector management techniques, and (vii) restraint or prudence in the use of resources.

Tanzania's Experience with NPM and HRM Reforms

In this part we invoke five of Hood's (1991) NPM components, which are directly related to HRM, to examine the influence of NPM on HRM in the public sector in Tanzania, the antidotes to NPM and their implications for future HRM practices in the public sector in Tanzania.

First, hands-on professional management emphasizes the need to have managers who do not simply 'theorize' but can actually get the job done.

By extension, this is based on the assumption that managers would be more accountable and responsible when power and authority to make decisions and actions are decentralized. This embraces empowerment of HR managers at 'site points' so as to get results. Conversely, any orientation towards decreasing the role of HR Managers in decision making is tantamount to centralization (Galabawa, 2001:24). The experience of the public sector in Tanzania suggests that the influence of NPM in this doctrinal area has been insignificant because centralization tendencies remain prominent as indicated in a section discussing reversals from NPM.

Between 1991 and 2011 a number of NPM-based HRM initiatives were implemented in Tanzania under two related reform programmes namely, the Civil Service Reform Programme (CSRP) and the Public Service Reform Programme (PSRP). The CSRP sought to achieve a smaller, affordable, well-compensated, responsive, accountable efficient and effective public service (Mutahaba, et al., 2017). The implementation of the CSPR skidded into goal displacement. Rather than striving to improve the quantity and quality of services delivered to the people, the reform implementers became so obsessed with the reform for its own sake as if that were an end in itself. This narrow focus of the CSRP constrained its level of success leading to the adoption of the PSRP in 2000. It is argued that while the CSRP managed to some extent to contain the cost of running the government, it failed to improve the quality of services delivered by the public service (URT, 2013). The PSRP was a more comprehensive reform programme with three implementation phases: (i) establishing performance management systems between 2000 and 2004, (ii) promoting a performance management culture between 2005 and 2008, and (iii) initiating quality improvement cycle between 2009 and 2011 (URT, 2013; Mutahaba, et al., 2017). The privatization of public enterprises (PEs) beginning in the early 1990s was motivated by, among others, the need to improve operational efficiency of the PEs and their contribution to the national economy, reducing the financial burden of financing loss-making PEs, and expanding the role of the private sector in the economy relieving the state to focus on its 'core functions' (Mutahaba, et al., 2017). These measures had implications on human resources, as the public sector in many countries became the subject of downsizing (also called rightsizing) to enable governments become more parsimonious in order to cope with budgetary constraints. Governments had to make hard choices by adjusting to the public choice and neo-liberal preference for a lesser public workforce as 'knights' with the ability and commitment to 'do more with less' resources (Hood, 1991). On the one hand, calls were made to ensure that the "knavish" bureaucratic budget maximization behaviour is kept on check (Niskanen, 1971; Bach & Kessler, 2007). In reality, the idea of doing 'more with less' in the public sector in Tanzania has remained thorny than reformers expected.

Performance enhancement is another important feature of the NPM reform process (Bach & Kessler, 2007). The argument runs that in order to improve performance in the public sector, private sector techniques could be adopted by and applied to the public sector to inject a sense of competition and accountability for results (Brunetto & Beattie, 2020). As such, performance-related pay (PRP) based on clear performance standards was seen as an antidote to mediocrity and underperformance. In the same vein, the use of fixed-term contracts began to be adopted for certain cadres in some public institutions marking an attempt to move away from a predominantly life career (Bach & Kessler, 2007). Given this orientation, there was an attempt to shift away from "protection of employees and guarantees of security to an emphasis on performance" (Ingraham, 2003:50).

In the early 2000, the University of Dar es Salaam, a state owned university, for example, introduced a two-year fixed term employment contract (FTEC) approach for administrative staff. The idea was that renewal of their employment contracts would only depend on a symbiotic relationship between the employer and employee. A symbiotic relationship is premised on the notion that the employer and the employee are likely to hold on to their employment relationship as long as they both realize mutual benefits from the relationship (Lepak & Snell, 1999). Satisfaction by the employer on the employee's performance and the willingness of the employee to maintain his/her employment would be the compelling factor. The choice of this employment mode for this cadre was based on two assumptions. First, it was believed that administrative staff were readily available on the labour market. Although valuable, this form of human capital was perceived not to be, in Lepak and Snell's (1999:38) terminology, 'unique or firm specific.' Hence, it could easily be acquired from the labour market whenever needed. Secondly, the FTEC was perceived to create a sense of competition for continuity among job holders, which would in turn enhance performance.

However, after about eight years of implementation, it became apparent that the initial assumptions, which guided the adoption of the FTEC, were not only wrong but they also contradicted with the public service employment policy (UDSM, 2008). During its 179th meeting held in June 2008 the University of Dar es Salaam Council abolished the FTEC system except for the following 'special' circumstances: (i) posts requiring specialized skills for a limited period; (ii) posts in a one-off project or in a project that lasts for a limited term and/or is limited by funding; (iii) the contract is for continuation of employment relations even upon reaching the statutory retirement age; (iv) the post is included in the approved establishment but the selected person to fill the vacant job position is 45 years or above such that he/she cannot be employed on permanent basis; and (v) a person who at the time was holding the FTEC and opted to remain in that employment arrangement (UDSM, 2008). The UDSM cited, among others, the following reasons for abolishing the FTEC: (i) the FTEC was an ineffective tool for improving performance, (ii) there was no readily available pool of qualified personnel on the labour market as initially thought, (iii) it was in response to staff concerns whereas 61.3 per cent expressed dissatisfaction with the FTEC, (iv) the adoption of the FTEC was a deviation from the Public Service Management and Employment Policy, (v) it was not cost effective as the burden of paying gratuity to staff after every two years became unbearable to the institution. Therefore, the UDSM Council's decision marked a 'pendulum swing' away from the NPM inspired HR reform practices back to the Weberian permanent and pensionable mode of employment.

A similar decision to abolish the FTEC was made by the Dar es Salaam University College of Education (DUCE) in 2009. DUCE is a semi autonomous institution established in 2005 as a Constituent College of the University of Dar es Salaam. In its analysis, DUCE learnt that FTEC was not cost effective. Estimates indicated, for example, that between 2010 and 2012 DUCE would be required to pay 618.7 million Tanzanian shillings to its 142 employees on FTEC who would be due for gratuity. But this amount would be cut to only 309.3 million Tanzanian shillings if arrangements were made to move employees from FTEC to permanent and pensionable contracts (DUCE, 2009).

Related to performance is the adoption of Open Performance Review and Appraisal System (OPRAS) in 2004 replacing the Annual Confidential Performance Review system. OPRAS is a product of NPM, which has been the main tool for performance assessment in the public service in Tanzania.

The idea behind the OPRAS is to ensure that the staff review process is not only transparent and participatory but it also carries measurable objectives and targets for individual employees whose progress can be tracked after six months of the performance cycle. Ideally, the OPRAS system is a form of a performance contract that is intended to enhance accountability of individual staff in the public service. The intension of this process is to provide a close fit between individual staff performance and the strategic goals of the organization (the external or vertical fit). The first decade of implementing OPRAS saw many challenges. A number of studies have cited some of the challenges that befell the implementation of OPRAS during its early years. Bana and Shitindi (2009:13), for example, cite some of these challenges including the slow pace of institutionalization in public institutions. These authors indicate that by 2009 almost half of the public institutions had not yet fully adopted OPRAS. In addition, the OPRAS forms were initially perceived to be unnecessarily overcomplicated in their design and not suiting to context-specific needs of some employees in the public service. All that said, the biggest challenge facing OPRAS is to move away from rhetoric to reality. The rhetoric continues in part because OPRAS remains unable to link one's performance and pay. Although the government has not yet made a formal communication up to the time of writing this article, some sources suggest that the OPRAS system will soon be replaced by an alternative system.

The other issue is what Hood (1990) describes as automation. By automation Hood refers to the use of information and communication technology (ICT) for delivery of public services. As part of the reform process, e-management processes and systems in facilitating the management of people, financial management including online billing and payments, as well as managing records were simultaneously adopted in the public sector (ECA, 2004). An equally important NPM-reform aspect was the introduction of customer service charter. The essence of customer service charter is to establish a contract between the service provider (public servants) and the customer (citizen) that facilitates accountability and responsiveness on the part of the former while empowering the latter to be able to know what and when service expectations will be met (Pirie, 1992).

Impressed by some aspects of the NPM reforms, some scholars have argued that HRM practices in the public sector in Africa are changing in a way that grants more autonomy to managers. They argue, "… human resource management in the public sector in Africa has been undergoing a transformation process. … Weber's hierarchical control has given way to new human resource management developments such as devolution of authority and more flexible human resource management" (Ramsigh & Nzewi, 2015:89). The foregoing appears to be an overstatement of the reality on the ground. Much as this may be true in some countries, it is not universal across Africa. While a number of NPM aspects have shaped the way public servants are managed in Tanzania as well as in other African countries, the Weberian model remains predominantly guiding the management of people in the public sector.

Some commentators have argued that the African public services have undergone a shift from personnel management to HRM (Bana, 2008). Similarly, others have argued that the adoption of NPM in Tanzania was "a major shift from traditional public administration based on classic bureaucracy and permanent employment of staff to private sector preferred best practices…" (see Kihamba, 2018:156). At face value, these arguments hold a lot of water. But when subjected to critical examination, they carry some exaggerations. There is no doubt that HRM has been in vogue in administrative systems including those of African public service since the 1980s but to suggest that the Weberian model has been replaced by

the NPM model is misleading. In Tanzania, for example, employment in the public sector, by and large, remains organized on the basis of permanent and pensionable terms. In addition, the concept of HRM itself began to feature prominently in government documents in the late 1990s. But its hype relates more to a label used in describing the offices and officials responsible for managing the people management function than the practice itself. The literature shows that there is generally a change of titles of officers and offices responsible for the management of people in organizations from "manpower administrators" or "personnel officers" to Human Resource Offices or Managers (Bana, 2008).

A change of title does not necessarily mean a complete shift from personnel management to HRM. To understand this point, three elements are closely examined. First, it is important to look at the unitaristic view of HRM. HRM is seen as unitaristic in that it prefers individualism over collectivism (Bratton & Gold, 1999). As such, the management of employment relations is seen as a prerogative of managers rather than a collective duty of managers and workers through their trade unions (Rose, 2001). That being said, employment contracts under the HRM model are theoretically understood to be the outcome of individual employee's negotiation with his/her employer as opposed to a collective bargaining process that shapes employment contracts in a way that reflects the interests of both the employer and employee.

The Tanzanian experience, just like elsewhere in Africa, indicates that the government is, to use Beaumont's (1992) terminology, the 'sovereign employer' who unilaterally determines the terms and conditions of employment relations in the public sector. This is so not because the HRM model (that opposes collective agreements – which of course are currently ineffectual), has been institutionalized. It is rather because of what Kiragu and Mukandala (2005:217) call the paternalistic model of discretionary powers that the government enjoys in determining pay awards. It must be noted that the usage of the term the 'sovereign employer' is not meant to provide a dichotomy between the 'sovereign employer' and the 'model employer' as applied by Beaumont (1992) because descriptors of both approaches are observed in the Tanzanian employment context but it is rather used to denote the locus of power in determining the terms and conditions of employment in the public sector. As such, the contracts of employment are very rigid, just reflecting the schemes of service, with little or no room for negotiating the terms of employment. Hence the idea that "the high fliers" are likely to win better pay packages has little application, if any, in the public service. The reason for this may be two-fold. First, it is because pay is hardly linked to performance in the public sector (Bana, 2008; Kiragu & Mukandala, 2005). By 2006 it became clear that even the government's objective of achieving the minimum living wage (MLW) contained in its Medium Term Pay Policy and Strategy (MTPPS) adopted in 1999 was not attainable (Mukandala, 2008; Mutahaba, 2005).

Even some of the staunch advocates of NPM have admitted the difficulty of linking pay and performance in the public sector. Owen Hughes is one of the faithful apologists of NPM. He observes: "Even if performance pay is a good idea in the abstract, it has been hard to implement in a fair and reasonable way.… It still remains difficult to measure the performance of personnel in the public sector so that problems of unfairness are not likely to be solved" (Hughes, 2003:161). Secondly, but related to the first one, is the quest for balancing transparency, accountability and fairness. The fact that any pay decisions in the public sector must be subjected to public scrutiny and political considerations, fairness becomes of paramount importance. This often leads to standardized forms of HR practices across the public sector (Bach & Kessler, 2007).

The implication of universal HR practices is that there is hardly any room or flexibility for public sector HR Managers and prospective employees to individually negotiate the pay package and other terms of employment.

Unlike HRM, which is more strategic and people-centred and takes into account an integrated approach to all components of the organization, personnel administration was essentially concerned with internal processes of recruitment, compensation, discipline and the application of rules and procedures of the civil service system (Berman, Bowman, West & Van Wart, 2010:5). Basing on this distinction, I think much of what is called HRM in public service in many African countries including Tanzania is more of personnel administration/manpower administration than actually HRM. This is partly because of the rigid nature of the organizational environment that overly emphasizes on the universal application of rules and procedures over discretion and flexibility.

Patricia Ingraham succinctly captures this when describing the distinction between administration and management. She argues: "Administration describes the neutral civil servant applying the right rule at the right time, but not questioning, at least overtly, the rule and certainly not exercising discretion in which it should be applied. Management, on the other hand, connotes considerable authority, discretion in its use, and accountability for outcomes and product rather than to rules and regulations. Civil service systems generally create administrators not managers" (Ingraham, 1995:11 emphasis is mine). If the principal is to delegate a considerable authority and discretion to the agent, the latter must also demonstrate a high degree of probity.

The challenge with most public service systems in Africa and elsewhere is how to break out of the vicious cycle of falsity. Public service systems in many developing countries often lack fair and realistic pay incentives. This, in turn, breeds tendencies that compromise such virtues as integrity and honesty as some officials resort to quick fixes to meet their life expectations. The aggregate result is a combination of questionable services, endless out-of-office trips, piles of allowances, corrupt practices in many forms including ghost workers in the payroll, and finally a bloated wage bill all of which leads to distrust and inefficiency. In a situation where the principal is not satisfied with the integrity of the agent, it is likely to attract hesitation on the principal's side to decentralize authority over HRM issues. Some scholars rightly argue that sometimes "decentralization of certain functions generates the need for greater centralization of other functions or for stronger central supervision" (Schiavo-Campo & Sundaram, 2000:4). The government of Tanzania implicitly admits that HRM decentralization has been slow but attributes such reluctance to concerns over integrity among officials. It states: "Accountability remains one of the challenges to be addressed before adopting comprehensive HRM decentralization particularly in payroll management. The recent HR and payroll audits show that the integrity of payroll in MDAs and LGAs is still a challenge" (URT, 2010:12).

NPM and HRM: Legacy and Achievements

A significant progress has been recorded since the implementation of public service reforms started. For instance, between 1991 and 1999 there was a reduction of public employees from 355,000 in 1992 to 264,000 by 1998 including 20,000 ghost workers saving about 7.2 billion shillings per year (Mutahaba, et al., 2017:206). A more transparent and consolidated pay structure was instituted reducing salary grades from 196 to 45 and from 36 to 7 allowances (Kiragu & Mukandala, 2005).

The period between 2016 and 2019 saw a number of positive developments particularly in the area of curbing fraud and unnecessary expenditure by public servants-cum-politicians. Expenditure on salaries has been reduced from about TZS 700 billion in 2015 to TZS 237 billion (equivalent to U$103.5 million) by 2018. This was made possible after measures by the government to remove from the government payroll 19,708 ghost workers costing the government monthly salaries worth TZS 19.8 billion. In addition, 14,404 workers who had forged qualification certificates costing the government TZS 15.5 billion per month through salaries were also removed from the government payroll (Karuri, 2018; URT, 2018). These measures, though primarily driven by the Magufuli's pragmatic resolve to fight corruption, very much echo the NPM doctrine that emphasizes greater discipline and parsimony in resource use.

Another area of development is the modernization and rationalization of the public service which went hand in hand with the development of policies and laws to guide the acquisition, development and deployment of HRs in the public sector. In addition, the use of ICT for managing HR matters has been enhanced. Systems such as the Human Capital Management Information System (HCMIS) designed by Lawson, OPRAS Online, and e-government generally are now common in ministries, agencies, and public institutions and have significantly reduced waste in terms of time and resources (Mutahaba, et al., 2017; Kihamba, 2018; Bwaki & Tefurukwa, 2022). Challenges, however, still exist. Kihamba's study, for example, reveals that ICT systems for managing the HR function in the public service have not been fully institutionalized as the continuity with the 'traditional administrative' approaches (files, and offline communications) still exists. The use of paper files is still dominant among officials responsible for managing the HR function in the country's public service along side the newly installed systems due to limited access to the latter and unreliability of the internet (Kihamba, 2018:7). In addition, the problem of ghost workers in the public service still defies reform efforts. There are still a few instances of ghost workers mainly due to delays in updating employee information in the HCMIS. Bwaki and Tefurukwa (2022) reveal that delays in providing updates on voluntary early retirement, deaths, and dismissal cases create room for losses in taxpayers' money in a form of salaries for workers who are actually no longer in the public service. It may be argued, therefore, that practices in the public sector in Tanzania reflect both success of and reversals from NPM.

Reversals from NPM and their Implications on HRM

Despite the achievements highlighted in the preceding paragraphs, there are reversals in the way the HRM reforms are implemented. One of the thrusts of NPM is the state rolling back in favour of the private sector as an engine of growth. The state, especially in recent years, appears to have a strong trust in state-led institutions. The explanation for a statist orientation could be twofold. First, there is a zeal for exerting national pride typically within a nationalist sentiment. This sentiment is based on the belief that the state can and is able to do better than the private sector. Secondly, the private sector in Tanzania has not been able to deliver to expectations. Fraudulent practices became almost a norm involving some public servants colluding with some members of the private sector during implementation of public projects leading to shoddy works with no value for money. The logical consequence was a distrust of the private sector by the government. As such, there has been a void in terms of services that the government feels obliged to fill lest it risk its legitimacy. This finds its expression in the derigist orientation of the state towards a closer involvement in the economy beyond the state's regulatory mandate in the market economy. It is not surprising to see more construction projects being either implemented through a 'Force Account' (implying a procuring entity using its own personnel and equipment or hired labour to execute

a construction project) or awarded to quasi-state owned companies such as the military-owned SUMA JKT, the National Building Agency –the latter, unfortunately because of capacity issues, has been in some instances unable to deliver to expectations leading to embarrassment.

Some of the developments alluded to above suggest a trend towards a reversal of what NPM envisaged. In human resource terms, there is a move away from decentralization of the HR function to line organizations (meant to give more managerial autonomy to managers/agencies to have flexibility and discretion over HR matters) toward more centralization tendencies whereas most HR decisions are made at the centre - Utumishi (a Swahili name referring to the Ministry responsible for the management of the public service). All key HR decisions must first be approved centrally before implementation. Before the past decade, public institutions had powers to manage contracts of their staff, to promote and re-categorize their staff. Current practice shows that unless Utumishi centrally approves any of these HR issues on the Lawson system, no acquisition, promotions, or re-categorization can be effected. Staff members who meet qualifications for promotion after all procedures and processes are observed and decisions have been made to that effect in respective institutions will have to wait until Utumishi approves those decisions. While it is a good practice to ensure the HR processes and practices in the public service are managed according to procedures, Utumishi approvals have two implications. First, the approvals often take time causing delays that affect not only staff morale and effectiveness but also seniority in the respective organizations. Secondly, they emphasize a centralized approach to the management of people in the public service, which runs counter to a decentralized approach envisaged by NPM, i.e. empowering managers with the autonomy to manage.

Even the size of the public service, which initially became the target of the reforms, has defied the initial neo-liberal prescriptions. By the 1998 the Public Service had been reduced to 264,000 employees from 355,000 in 1992. The reduced workforce included 20,000 ghost workers (Mutahaba, et al., 2017). Of course, the National Employment Policy of 1997 suggests a different figure. It indicates that by 1997 employment in the public sector stood at 500,322 (URT, 1997). Most recently, statistics show that employment in the public sector has risen. According to NBS, employment in the public sector by 2017 stood at 850,616 (NBS, 2019). Of course, this is an inevitable reversal. The urgent need to expand access to services in line with the Sustainable Development Goals (SDGs) and Millennium Development Goals (MDGs) does not only point to the indispensability of the government but it also calls for a rethinking about the appropriate size of the government proportionate to its basic responsibilities.

Another area that has experienced a reversal is related to the pay reform reflected in the MTPP and MTPRS. Reform efforts focused on, among others, consolidating allowances into the basic salary of workers in the public service and ensuring fairness through "equal pay for equal value of work across the public service" (URT, 2010:9). It is noted that the objective of ensuring a competitive pay structure has remained illusive despite salary increases in the years of reform. A comparative salary survey done in 2006 indicated that "none of the salary groups in the public service received more than 49 per cent of the average pay in the labour market for their comparators" (URT, 2010:8). To make things worse, salary increases for public servants have been on halt for seven consecutive years since 2016. In May 2022 when the government announced that it would raise the minimum wage by 23.3 per cent effective July 2022, workers in the public sector became excited. However, when implementation started in July 2022, some workers got shocked and dismayed by the low level of salary increase (The Citizen, 2022a).

The President of the Trade Union Congress of Tanzania (TUCTA), Tumaini Nyamhokya, described the increase as a surprise. He stated: "It is surprising to increase someone's salary by a net of TZS 8,000 and this happens to be a person who has not had an increase for seven years" (The Citizen, 2022b). These sentiments underscore the need to look at the level of motivation among public servants and the importance of a predictable incentive system in the public service. In addition, employment allowances have grown by nearly 373 per cent, contradicting the spirit of the reforms, which sought to control this surge of allowances.

As previously indicated in this article, there has been a preference, in recent years, for the use of what is called the 'force account' in implementing public projects. The fact that this approach produces more results with fewer resources it is likely to be the dominant model. On the one hand, the approach is likely to strengthen not only the skills and competences of public human resources but also their role in responding to citizen needs through public projects. It also encourages participation in and ownership of projects by beneficiaries reflecting the governance model of public administration. This in turn provides the potential for project sustainability. On the other hand, the use of force account is an antidote to NPM reform ideals of private-public partnership, contracting out and competitive tendering.

The Public Service Management and Employment Policy (1999) introduced competitive promotions. People from within and outside the public service could apply for vacant positions and be subjected to competition. This practice reflected the NPM emphasis on performance and demonstrated potential rather than longevity of one's service as the basis of recognition. In 2008 the policy was amended to reverse this arrangement. More preference was given to those in the service who met required qualifications. This shift was dictated by the need to motivate those already in service. The new policy expressed a new thinking that believed consideration for promotion on competitive basis without regard to experience and seniority tends to "demoralize staff who are already in the public service" (URT, 2008:29).

Conclusions and Implications

The NPM movement has left a legacy in Tanzania. This legacy continues to shape the management of employment relations in the public sector. The NPM legacy manifests in terms of modernization and rationalization of the public service through an increased use of ICT for managing HR matters, the use of OPRAS, though not in its envisaged outcome, among others. However, the NPM movement has not been able to transform the management practices in the public sector in Tanzania to meaningfully reflect the HRM thinking. Decision-making regarding the management of public sector employees is centrally done. Performance-related pay has largely remained an empty rhetoric. Attempts towards competitive promotions and recruitment by fixed contracts have not been sustainable. In addition, there have been reversals from the NPM orientation towards central bureaucratic controls erasing even the little autonomy that public institutions previously enjoyed over HRM matters.

These reversals have implications for future workforce profiles of public institutions as well as the motivation of staff. It has been noted that, on the one hand, some of the measures undertaken by the government are meant to enhance accountability in the public sector. On the other hand, re-centralization of HRM may lead to reduced morale and efficiency. Past experience teaches that many public institutions suffered a great deal of staff shortages due to employment freezes in the late 1990s to early 2000.

This is likely to manifest in terms of scarcity of seniority and institutional memory between now and in the next decade due to a temporary halt on promotions and acquisitions between 2016 and 2020.

All that being said, it is important to emphasize that the curbing of ghost workers and forgery is an imperative HR practice that should be carried out regularly. The practice enhances integrity and accountability in the way human resources are managed in the public service. The biggest challenge is how to sustain these practices in a way that does not affect the rights of employees in the public sector which may in turn affect employment relations. These issues will continue to attract future discussions about HRM in the public sector in Tanzania and elsewhere.

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Judicial proceduralism: the application and exploitation of the substantiality rule in presidential election petitions in Africa

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Abstract

Presidential candidates who have faith in judicial supremacy often turn to the courts for redress when they lose presidential elections, because the courts often rely on technicalities and the substantiality test to determine the elections. One such technicality is the substantiality test. This paper examines, with the use of selected examples, the application and exploitation of the materiality, otherwise known as the substantiality test, by courts while adjudicating presidential election petitions in Africa. The paper first examines the meaning and origin of the substantiality test before venturing into the legal and constitutional provisions for this rule in selected countries. The paper then turns to the key Supreme Court decisions on presidential election petitions in Africa, focusing on evaluating how the substantiality test has been applied or misapplied. Finally, the paper examines legal and policy implications before making the concluding remarks.

Key words: Electoral democracy, Presidential elections, Petitions, Court decisions, Substantiality test, Africa

Introduction

The hope of achieving good governance calls for improvements in all aspects of the public sector (Grindle, 2002:1). There are however critical state institutions and structures embodying the governance process that must be functioning well and effectively if this desire is to be achieved (Basheka, 2020). One such state structure, whose role is to promote good governance and democratic ideals, is the judiciary and how it adjudicates disputes. It is undeniable that the African continent has seen exponential growth in the number of elections due to the increase in multiparty political dispensations that characterised the continent since the 1990s because of the donor-driven liberal democratic and economic agenda. Political and economic liberalisation were considered as the minimum benchmarks by the development partners such as the World Bank, the IMF, and western countries before any economic aid could be advanced to developing countries, especially in the sub-Saharan Africa region.

Electoral results contestation is not a phenomenon limited to the African continent. The "*Bush v. Gore, legal case*" on 12 December 2000 is just one example of elections that have been decided by a court in western democracies. In this case, 'the Supreme Court of the United States reversed an order by the Florida Supreme Court for a selective manual recount of that state's U.S. presidential election ballots' (Britannica, T. Editors of Encyclopaedia, 2021:1). It is argued that 'the five to four per curiam (i.e., unsigned) decision effectively awarded Florida's 25 Electoral College votes to Republican candidate George W. Bush, thereby ensuring his victory over Democratic candidate Al Gore' (Britannica, T. Editors of Encyclopaedia 2021:1).

The increase in multiparty democracy in less developed and aid dependent countries have resulted in increased political contestations and disputed election results, which end up being challenged in these countries' courts. Political parties, especially those of the incumbent candidates, have used many tricks to steal the elections in the past. It is worth noting that lately there has been an increase in the use of technologies to tamper with election outcomes around the world. According to Kaaba and Fombad (2021:1), '*in the last ten years, almost all presidential election disputes in Africa have revolved around failure or alleged tampering with the ICT facilities during the election process*'. The consequences of manipulating the election results have been catastrophic. In some cases, as Kaaba and Fombad (2021:1) put it, '*challenging the results of presidential elections in courts in many African countries is largely a phenomenon that accompanied the fall of dictatorships and one-party regimes across Africa in the late 1980s and early 1990s*.'

The role of the judiciary in election adjudication is summed up into two main functions: 1) resolving disputes over rules; and 2) ensuring that the rules create 'a level playing field – they are rule-evaluating' (Gloppen, 2007:2). The rules governing the conduct of elections should be in line with the dictates of the constitution. In *Ashby v. White* (1703)[1], Lord Holt laid down the important principle that, where there is injury in the absence of financial loss, the law makes the presumption of damage and that it is sufficient to demonstrate that a right has been infringed. The petitions have only succeeded in some countries, including the Ukraine, Kenya, and Malawi for example. In other countries like Ghana, Nigeria, Sierra Leone, the DRC, Uganda[2], Zambia, and Zimbabwe petitions have failed. Where presidential election petitions have been unsuccessful, the courts declined to invalidate the election results based on the substantiality test (Azu, 2015:151).

Whenever a country organises presidential elections, five likely outcomes are possible. The first likely outcome is for the losers of the elections to congratulate the winner and concede defeat (acceptance outcome). The second outcome which is likely to occur is for the losers to resort to the vigorous mobilisation of supporters for violent street protests the decisions of the electoral body (the protest outcome). The third possible outcome of presidential election results is the decision of petitioning the courts of law (the court petition outcome). The fourth outcome of presidential election petitions is waging full-scale war against the government (the civil war outcome). The likely fifth outcome has been the military takeover of government especially when protests or the waging of war has proved disastrous. The African continent has lived through all the above possible outcomes. However, for this paper, the focus is only on the court petition outcome.

[1] *92 ER 126*

[2] *Besigye v Electoral Commission, Yoweri Museveni (2007) UGSC 24; Besigye Kiiza v Museveni Yoweri Kaguta, Electoral Commission (2001) UGSC 3.*

In recent decades, the African continent has witnessed an increase in the number of presidential elections and ultimately in the increase in the number of electoral petitions (Murison, 2013)[4].

Candidates in several countries who have lost presidential elections have dashed to courts with several electoral offenses and malpractice claims seeking the intervention of courts. They have exploited provisions in the Presidential Election Acts and the provisions of their countries' constitutions. On this subject, Azu (2015:151)[5], reminds us of how approximately 58% of presidential and parliamentary elections' losing political parties have failed to accept electoral results and have moved to the courts for redress, although most of these election petitions have not been successful. While the petitioners have often coherently provided, what they call, sufficient evidence in relation to failure to respect and comply with election laws, the judiciary has always ruled that the malpractices have not been substantial enough to have had any adverse impact on the validity of disputed presidential election results (Kanyeihamba, 2012:333). Legal minds have teased out weaknesses in the decisions of judges in presidential elections, especially regarding the application or exploitation of the substantiality rule.

Peaceful resolutions of electoral disputes enhance democracy (Adams and Asante, 2020) and the independence of the judiciary. In addition, the decisions made equally support the growth and functionality of a constitutional state. While the increase in election petitions has been considered a democratic boom because it signals the losers' willingness to work within the constitutional framework to resolve election-related conflict (Adams and Asante, 2020)[6]. The decisions made by courts, whenever they have been seized with such rare opportunities of adjudicating a political contest, appears to have had unintended consequences of undermining democracy. This is because of the wrongs that have been committed by the courts themselves. For example, there are alleged instances where judges have been manipulated to rule in a particular way, and often against the democratic and constitutional parameters (Onapajo and Uzodike, 2014)[7]. In other instances, courts have assumed roles that were not intended for them, and this has fundamentally affected a '*credible and competent electoral administration*' (Suberu, 2007:104)[8]. In the 2022 Presidential Elections in Kenya, for example, an appellant court made a ruling on the eve of elections on not using manual election registers alongside the electronic election technologies (Mosero, 2022).

Constitutional theories and the origins and principles of the substantiality test

Judicial adjudication may be invoked at any stage of the electoral process (Nkansah, 2017:99)[9]. Electoral laws of several African countries make room for dispute resolution of election complaints and appeals (Fall, Hounkpe, Jinadu, & Kambale, 2011). The judiciary's involvement comes under the judicial review doctrine, whose debates took place in the early stages of the American Republic in the State of Kentucky. The Kentucky judicial review saga evoked the augment as to where the ultimate decision making should be posited in a body polity.

[3] *Amama Mbabazi V Museveni, 2016*

[4] *Murison J (2013) Judicial Politics: Election Petitions and Electoral Fraud in Uganda. Journal of Eastern African studies 7(3), 492–508.*

[5] *M Azu 'Lessons from Ghana and Kenya on why presidential election petitions usually fail' (2015) 15 African Human Rights Law Journal 150-166 http://dx.doi.org/10.17159/1996-2096/2015/v15n1a7*

[6] *Adams S and Asante W (2020) The Judiciary and Post-Election Conflict Resolution and Democratic Consolidation in Ghana's Fourth Republic. Journal of Contemporary African Studies 38(2), 243–256.*

[7] *Onapajo H and Uzodike UO (2014) Rigging through the Courts: The Judiciary and Electoral Fraud in Nigeria. Journal of African Elections 13(2), 137–168.*

[8] *Suberu RT (2007) Nigeria's Muddled Elections. Journal of Democracy 18(4), 95–110.*

[9] *Lydia Apori Nkansah, Dispute Resolution and Electoral Justice in Africa: The Way Forward, Africa Development / Afrique et Development, Vol. 41, No. 2 (2016), pp. 97-131*

The Supreme Court of the Unites States of America, in Marbury and Madison in 1803[10], attempted to resolve this question. The case is judiciously regarded as a landmark U.S. Supreme Court case that established the principle of judicial review in the United States. The principle meant that American courts had the power to strike down laws and statutes that were found to violate the Constitution of the United States (Ruger, 2004)[11].

Constitutional theories

The substantiality test: The substantiality test is also called the **materiality test**, and is connected to what some authors have labelled judicial proceduralism. The rule provides that elections should not be nullified for minor irregularities or infractions of rules, and it originates with the court's decision in the *Medhurst v Lough Casquet* (1901)[12] case. J. Kennedy, in his decision, observed that election results should not be declared void just because there had been inadvertent breaches of the law by Election Management Board (EMB) officials, provided that, in spite of the breaches, the court is satisfied that the elections were conducted in compliance with the electoral laws, and that the breaches could not adversely impact the success of one candidate over the other(s). These views by J. Kennedy have been adopted by several African courts in determining presidential election petitions.

Since the introduction of the substantiality rule and the earliest decision of the court, the idea behind the rule has been that flimsy mistakes, omissions, and commissions should not lead to the annulment of an election, provided that, overall, the fairness of the election was not vitiated. In later years, Lord Denning in Morgan and Simpson (1975)[13], identified the following three strands to the substantiality rule:

1. If the election was conducted so badly that it was not substantially in accordance with the law as to elections, the election is vitiated, irrespective of whether the result was affected or not.
2. If the election was conducted in accordance with the law as to elections, it is not vitiated by a breach of the rules or a mistake at the polls - provided that it did not affect the results of the election.
3. Even if the election was conducted in accordance with the law as to elections, if there was a breach of the rules or a mistake at the polls – and it affected the results– then the election is vitiated.

The above are regarded as the ingredients of the rule. Other countries have also applied the rule in their decisions. The position applied in the case of Shri Kirpal Singh v Shri VV Giri (1970)[14], where the court, on invitation by petitioners, held that allegations of corrupt practices had to be proven beyond any reasonable doubt. In M Narayan Rao v G Venkata Reddy & Another[15], the Indian Supreme Court also explained that this requirement was necessary because allegations of corrupt practices are quasi-criminal in nature and, accordingly, they must be proven according to the criminal standard.

The known position of the standard of proof in a criminal proceeding is historically associated with the Woolmington v. D.P.P (1935)[16] case, where Viscount Sankey made his famous "*Golden thread*" speech as follows:

[10] *5 U.S. 137 (1803)x.*
[11] *Ruger, T.W., 2004, 'A question, which convulses a nation', The early republics greatest debate about the judicial review power, Harvard Law Review, 117(3), pp. 827-897.*
[12] *[1901] 17 LTR 230.*
[13] *Morgan v Simpson [1975] 1 QB 151.*
[14] *1970 (2) SCC 567*
[15] *1977 (AIR) (SC) 208.*

> "Throughout the web of the English Criminal Law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt subject to... the defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case, there is reasonable doubt, created by the evidence given by either the prosecution or the prisoner... the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained".

He spent much time contrasting the position under the criminal law at the time when the decisions relied upon in Foster's Crown Law were handed down, and the latest precedent. The argument at the time was that an accused person was not even entitled to be represented in court if charged with a misdemeanour. Moreover, it was not until 1898, in the post-Civil War system, that the accused who was not a peer or barrister was permitted to give evidence on their own behalf. Lord Justice Avory had earlier refused leave to appeal, relying on a passage of *Foster's Crown Law* (1762):

> In every charge of murder, the fact of killing being first proved, all the circumstances of accident, necessity, or infirmity are to be satisfactorily proved by the prisoner, unless they arise out of the evidence produced against him; for the law presumeth the fact to have been founded in malice, until the contrary appeareth. And very right it is, that the law should so presume. The defendant in this instance standeth upon just the same foot that every other defendant doth: the matters tending to justify, excuse, or alleviate, must appear in evidence before he can avail himself of them.

A lower standard, that of the balance of probability is applied in civil litigation. Even though the standard of proof is lower in civil cases, it is no reflection of the seriousness of the allegations in question. The rationale behind the use of such a standard is that, in some cases, the question of the probability or the improbability of a happening is an imperative matter to be considered in deciding whether that event has actually taken place or not. Whereas in Kenya a presidential election dispute must be established to a degree between the civil and criminal standard. In Ghana, the correct position of the law is proof on the preponderance of probabilities, except when a crime is alleged (Anin Yeboah JSC in Azu 2015)[17].

The applicability of the substantiality rule-selected countries in Africa

Periodic elections which are regulated by laws made by the legislative body appear to be a fundamental element of a functioning democracy (Nkansah, 2017)[18]. Elections in Africa have not been flawless, let alone perfect since the democratic wave of the 1980s and 1990s (Davis-Roberts, 2009). Where results have been disputed, aggrieved parties have looked to the judiciary as a last resort for redress (Kaaba, 2015)[19]. Electoral Dispute Resolution mechanisms have however not received much analysis and attention (Davis-Roberts, 2009:3)[20]. Voter registration and the actual voting alongside the counting of votes tend to attract much more analysis and interest. In countries like Nigeria, it is estimated that a presidential election petition takes about two years to finalize, which is actually half of the presidential tenure[21].
In other countries, the petitions are resolved within a few months.

This is the case with Uganda where the period has been extended from one month to now three months. What appears consistent across the board in all the petitions is the presence of judicial politics.

[17]*Nana Akufo-Addo (n 1 above) 62 459-460.*
[18]*Lydia Apori Nkansah, Dispute Resolution and Electoral Justice in Africa: The Way Forward, Africa Development / Afrique et Development, Vol. 41, No. 2 (2016), pp. 97-131*
[19]*O Kaaba 'The challenges of adjudicating presidential election disputes in domestic courts in Africa' (2015) 15 African Human Rights Law Journal 329-354 http://dx.doi.org/10.17159/1996-2096/2015/v15n2a5.*
[20]*Davis-Roberts, A., (2009), Electoral Dispute Resolution Discussion Paper for Experts Meeting, Atlanta GA - February 2009.*

Murrison (2013), reports incidences of judicial politics in Uganda after the 2001 and 2006 presidential elections, where the Forum for Democratic Change (FDC) presidential candidate, Kizza Besigye, lodged an election petition with the Supreme Court against President Museveni.

There are few selected cases where the substantiality test has been used by courts to nullify presidential elections. This is what we considered to be the genuine applicability of the rule. The Kenyan Supreme Court's decision of 2017, and that of Malawi illustrate this class of countries. In 2020 constitutional court in Malawi nullified the election President, Peter Mutharika, who won last May, citing massive irregularities during the process (Voice of America, 2020).

The court called for fresh elections within 150 days. Evidential value is what courts should rely upon to make decisions. The substantiality rule thus relates to the quality and quantity of the evidence presented to the court. Courts are swayed by what petitioners submit during the pleadings and evidence, the burden of proof of corrupt practices/electoral malpractices, and the standard of proof as required for the petitioner to succeed in an election petition, with a view to ascertaining whether the evidence required affords electoral justice (Okolie, 2019:25)[22]. Compliance with election rules determines the magnitude of the substantiality rule. Following are the brief facts relating to each of the two cases above.

In August 2017, Kenya's Supreme Court made a ground-breaking decision when it annulled the election of Uhuru Kenyatta by a majority of four to two justices. The court on invitation by the petitioners held that the presidential poll was not conducted in accordance with the constitution and the applicable laws, rendering the declared result invalid, null, and void. The Court also ruled that the irregularities and illegalities in the election were substantial and affected the legitimacy of the elections. The country's elections management body-the Independent Elections and Boundaries Committee (IEBC) was directed by the court to conduct fresh presidential elections in strict conformity with the constitution and applicable electoral laws within 60 days.

President Kenyatta, had been re-elected with 54% of the vote, easily surpassing the 50% threshold needed to avoid a runoff. Raila Odinga, the opposition candidate who had petitioned the Supreme Court to nullify the election, had received about 44%, a difference of about 1.4 million votes. The Independent Electoral and Boundaries Commission, which was in charge of the vote was ruled by court to have 'failed, neglected, or refused to conduct the presidential election in a manner consistent with the dictates of the Constitution'. The six-judge Supreme Court found no misconduct on the part of the president, but it found that the commission 'committed irregularities and illegalities in the transmission of results and unspecified other issues. These irregularities were confirmed by court to have affected the integrity of the poll in a substantial manner.

The same issues were repeated after the 2022 elections where former Deputy President William Ruto and Raila Odinga contested Presidential elections and Odinga once again petitioned the Supreme Court to nullify the election 2022 elections claiming that they were not free and fair. Once again, The Supreme Court found no misconduct on the part of the president elect William Ruto and Raila Odinga lost both the court case and the elections. In the words of Walsh & Dahir, 2022:1) 'in a lengthy judgment that rejected accusations by Mr. Ruto's rival, Raila Odinga, that the vote had been rigged, Chief Justice Martha

[21] *Buhari v Obasanjo Suit SC 133/2003 17 NWLR 587*

[22] *E.Q. Okolie Esq, Evidential Imperatives in Election Petitions in Nigeria, World Journal of Innovative Research (WJIR), Volume-6, Issue-4, April 2019 Pages 25-34.*

Koome swept aside claims of stuffed ballots, hacked computers, and falsified results that she variously described '*sensationalism*', '*hot air'* and *'a wild-goose chase that yielded nothing of value*.'

Following the jurisprudence set by the Kenyan example on the African continent, a similar presidential election petition against Malawi's 2019 presidential election results was lodged in court. The court in this country found that election results forms, which were used to tabulate national figures, were pervasively altered unlawfully and based on adduced evidence, court again applying the substantiality rule concluded that a substantial number of the official result sheets had results altered using a correction fluid, known as Tippex (Gewde, 2022). The court found that the country's electoral commission had failed to preside over a free and fair election and that the electoral process was compromised and was conducted in a manner that violated electoral laws and the constitution. The court subsequently nullified the election and ordered a new election to be held within 150 days. In Malawi, the re-run saw opposition candidate Lazarus Chakwera win 58.6% of the vote to comprehensively defeat incumbent, and winner of the 2019 poll, President Peter Mutharika (Gwede, 2020).

Some incumbents in Africa have attempted to divert the will of the people whenever it has dawned on them that they have lost elections. In the presidential election of Malawi in 2014, the then President, Joyce Banda, announced that she was exercising her constitutional powers to nullify the presidential election that she had contested because of irregularities for a fresh election to be conducted in 90 days (Gwede, 2020). The rival in that election had won 40% of the 30% votes that had at the time been counted, while the incumbent appeared with 23%. The head of the Electoral Commission rejected the announcement by the incumbent president as she did not have the power to annul the election. The Electoral Commission proceeded with the counting despite the problems associated with it. The High Court of Malawi also rejected the decision of the president.

In the same country, in February 2010, the Malawi High Court upheld its original decision to nullify the country's May 2019 presidential election and decreed that the poll must be rerun within 150 days. Malawi followed the footsteps of Kenya to be the second African country to have annulled presidential elections by the courts. In this election, the incumbent Peter Mutharika won Malawi's one-round presidential election with 38.6% of the vote. The result prompted widespread protests and a nine-month court case led by the opposition, which alleged that there had been massive irregularities, including the use of Tipp-Ex correction fluid to alter the results sheets. The Malawi High Court also recommended that the new election takes place under a 50%-plus-one majority system.

From the above cases, there are some lessons to draw:

1. Chief Justice Role. The Chief Justices and heads of appellant courts have a critical role in defending the integrity of the courts.
2. Democratic considerations. The Judiciary weights and balances the interests of the country and democracy against the wishes of politicians
3. Jurisprudence. The decisions of courts and justices are influenced by their jurisprudential values
4. Evidential value. Election petitions require evidential value of a high standard to move courts make appropriate decisions.

The exploitation of the substantiality test by courts in Africa – Selected examples

The exploitation of the substantiality test by courts in Africa is where the authors of this paper believe procedural technicalities have been relied upon to make decisions regarding the presidential election petitions. While the researchers of this paper concur with Ndulo (2011) that to safeguard democracy, the judiciary must be competent, honest, learned, and independent[23], we also argue that such judicial independence connotes that power should not be concentrated at any point in the political sphere (Nkansah, 2017)[24]. Decisions made by the executive, legislature (parliament), and judiciary should be independent of one another, and decisions by one branch are respected and upheld by the others (Murrison, 2013)[25].

Courts have sometimes been seen to refrain from making any meaningful decisions. In some cases, they have even deferred the actual decision to the executive (Kaaba,2015). In the **Nigerian case of Buhari**[26], the losing candidate, Muhammadu Buhari, sought and was granted an injunction by the court restraining Obasanjo and his running mate from presenting themselves for swearing-in into office pending the determination of the main election petition. The respondents, in violation of the court order, went ahead and were sworn in. An appeal to the Supreme Court was then lodged by the applicants for a determination on whether the president had been validly sworn in when it was done in violation of a valid court order. The Supreme Court instead held that the appeal was no longer of any relevance since the respondents had already been sworn in and, therefore, the injunction would only be an academic exercise. The Court felt that the injunction was not directed at the Chief Justice not to swear in the respondents and the court argued that the applicants would not suffer any loss as the courts would still go ahead and determine the main election petition objectively and on its merits.

In Côte d'Ivoire, the country had held elections in 2010 where the first round failed to produce an outright winner hence a run-off election according to the country's constitution. The run-off pitted incumbent Laurent Gbagbo and main opposition candidate Alassane Dramane Ouattara. As an outcome of the run-off, the Chairperson of the Independent Electoral Commission, announced Ouattara as the winner, with 54,1 % while Gbagbo's obtained 45,9 %. Gbagbo made a prompt appeal to the Constitutional Council to annul the election of Ouattara based on claims that the elections had been rigged in the northern stronghold of Ouattara. Without giving audience to the other party, the Constitutional Council hastily invalidated about 600 000 votes from Ouattara's stronghold and declared Gbagbo the winner of the election with 51,45 %. Some of the grounds on which the Constitutional Council based its decision to annul the election of Outtara included that the results were announced from a hotel instead of the offices of the Independent Election Commission and that the results were not announced within the prescribed time of three days. There was actually no evidence presented to the Council in support of the serious claims of ballot-stuffing and tampering with results.

The Côte d'Ivoire story appears to have recently reappeared in legal circles and become even more complex. In mid-September, the **Ivorian Constitutional Council rejected Gbagbo's presidential candidacy**, which was submitted by his supporters, as Gbagbo himself refrained from making a pronouncement

[23] *M Ndulo 'Judicial reform, constitutionalism and the rule of law in Zambia: From a justice system to a just system' (2011) 2 Zambia Social Science Journal 1-27.*
[24] *Lydia Apori Nkansah*
[25] *Jude Murison (2013) Judicial politics: election petitions and electoral fraud in Uganda, Journal of Eastern African Studies, 7:3, 492-508, DOI: 10.1080/17531055.2013.811026*
[26] *Muhammadu Buhari & Others v Olusegun Obasanjo & Others SC 133/2003 17 NWLR (2003).*

on the subject. According to the Ivorian authorities, the Council's ruling was in keeping with Gbagbo's 20-year prison sentence handed down by an Ivorian court in the case involving the "*robbery*" of funds from the Central Bank of West African States (BCEAO) during the 2010-2011 post-electoral crisis. The Constitutional Council also justified its decision by arguing that Gbagbo's presidential candidacy application had not contained a statement bearing his signature. In addition, the Council said he was unable to stand for election since he had failed to relinquish his position as ex-officio member of the Constitutional Council by virtue of his status as former president of the Republic. Gbagbo subsequently filed an application instituting proceeding with the African Court on Human and Peoples' Rights, based in Arusha, **Tanzania, which has since made orders to the Ivorian State** to '*suspend the reference to the criminal conviction from the criminal record*'. **The African Court on Human and Peoples' Rights** ordered Côte d'Ivoire to reinstate the ex-president on the electoral roll for the 31st October presidential election, thus disavowing the country's position on the matter.

Following the election in Kenya in 2013, the Independent Electoral and Boundaries Commission (IEBC) announced Uhuru Kenyatta as the outright winner, with 6 173 433 out of a total of 12 338 667 votes (50,07%), while Raila Odinga, had received 5 340 546 votes (43,31%). The percentage by which Uhuru was declared the winner was based on the number of valid votes, contrary to the constitutional provision that required it to be based on 'all votes cast in the election'. The importance of the difference was that, if the computation was based on the percentage of all votes cast, then that would consider all votes, including the invalid. The consequence would have been that Uhuru would have had less than 50%of overall votes to prevent a run-off and that, therefore, he would not have been declared the winner of the election.

The Supreme Court stated that it was interpreting the Constitution purposefully and held that 'all votes cast in the election' actually 'refers only to valid votes cast', and does not include rejected votes. The historical source of purposive interpretation is the mischief rule established in **Heydon's Case (1584)**[27]. This is considered a landmark case as it was the first case to use what would come to be called t**he mischief rule for statutory interpretation**. The ruling was based on an important discussion of the relationship of a statute to the pre-existing common law. The court concluded that the purpose of the statute was to cure mischief resulting from a defect in the common law. Therefore, the court concluded, that the remedy of the statute was limited to curing that defect.

From another African Country, in **Rally for Democracy and Progress & Others v Electoral Commission of Namibia & Others** (2010)[28] the petition concerned an election brought by the opposition following the 2009 presidential and parliamentary elections in Namibia. The petition sought to void the presidential election for non-compliance with electoral laws. Section 10 of the Electoral Act, 1992 of Namibia required that election petitions could only be presented within 30 days of the results being announced. The petitioners presented their petition on the thirtieth day at 16:30 and, therefore, within the statutory requirement. The Registrar of the High Court accepted the petition. However, a rule of the court did not allow the filing of a process on any day after 15:00. Because the petition was filed after 15:00, the Court held that the petition was invalid for being filed out of time. This is another classic example of how courts in Africa have relied on technicalities to subvert the wishes of the people and in the process maintain the status coup of the incumbents.

27(1584) 76 ER 637
28[High Court] Case A01/2010.

John Opong Benjamin & Others v National Electoral Commission & Others (2012)[29] is yet another case in the African continent to demonstrate the extent to which courts have attempted to maintain the status quo of the incumbents by relying on technicalities to throw out election petitions. In this case, the petition was brought by the losing opposition leader, John Opong Benjamin, and other opposition leaders against the election of Ernest Bai Koroma during the Sierra Leone elections of 2012. Article 55(1) of the Constitution of Sierra Leone provided that anyone with a grievance in a presidential election should petition the Supreme Court within seven days of the results being declared. The election was held on 17 November 2012 and the results were declared only on 23 November 2017. The petitioners filed their petition on 30 November, the seventh day after the declaration of results. There were rules of court that required that petitioners leave the names of the advocates acting for them at the court registry in a separate notice, and that, within five days of filing the election petition, the petitioners were to make payment for the security of costs. The petitioners' lawyers had indicated their contact details by endorsing these on the petition, but not in a separate notice, and made the security of cost payments on 5 December 2012. The Court, however, struck out the petition, holding that it had been filed out of time due to a delay in payment for costs and for not complying with the requirement of lawyers' contact details to be in a separate notice.

In **Atiku Abubakar & Others v Umaru Musa Yar'adua & Others (2008)**[30] in The Supreme Court of Nigeria, the presidential election dispute was also dismissed by court because of procedural technicalities without consideration of the merits of the case. The petition arose from the 21 April 2007 Nigerian elections. The petitioner, Atiku Abubakar, had polled 2637848 votes against the winner, Umaru Musa Yarsa Ya, who had received 24638638 votes. Prior to the election, the Independent Electoral Commission of Nigeria (INEC) had disqualified the petitioner from the election and his name had been excluded from the ballot papers. This was based on the INEC's erroneous view that the petitioner had been indicted for corruption and embezzlement-related criminal offenses and was therefore unsuited for presidential office. His name was finally printed on the ballot papers, only four days before the election, through a ruling to that effect by the Supreme Court. In the view of the majority, the use of the word 'or' meant that the petitioner had to choose between the alternatives and could, therefore, only plead one set of grounds. Having considered the fact that the petitioner's name was on the ballot paper, the Court declined the invitation to consider whether his initial disqualification may have constituted constructive exclusion from the election as it had left him with barely four days to campaign.

Fred Sekindi (2017)[31] has argued that the post-1995 constitutional reforms in Uganda were aimed at averting violent struggles for political power and the introduction of direct presidential elections was one of the significant features of the Constitution of 1995. Uganda has had numerous Supreme Court decisions on Presidential election results. The state called Uganda did not exist before 1894 (Kanyeihamba, 2002) and Britain organised the first general elections in Uganda in 1962 to prepare the country for self-rule. The elections were contested by the Democratic Party (DP), Kabaka Yeka (KY) and the Uganda People's Congress (UPC). Although the DP received a majority in the National Assembly, the KY and UPC merged to become the KY-UPC and became a majority. The transfer of power from the Colonial Governor, Sir Walter Coutts, to President Mutesa II after the 1962 general elections is the only non-violent and undisputed transfer of government in the country's history (Sekindi, 2017).

[29] *SC 2/2012 [Supreme Court of Sierra Leone Judgment of 14 June 2013].*
[30] *SC 72/2008 Supreme Court of Nigeria Judgment of 12 December 2008.*
[31] *PRESIDENTIAL ELECTION DISPUTES IN UGANDA: A Critical Analysis of the Supreme Court Decisions*

Uganda later witnessed another election in 1980. The 1980 elections were contested by the Conservative Party (CP), DP, Uganda Patriotic Movement (UPM) and UPC. The election was characterised by several malpractices. For example, Sekindi (2017) reports how it was a common occurrence during election campaigns for the armed forces to harass, torture and kill UPC's political opponents, and to disperse political rallies organised by its political opponents. By this time, Obote had distorted the ethnic composition of the armed forces in favour of members of his own tribe, the Langis (Mukasa, 1980). Events before, during and after the elections suggest that the elections were neither free nor fair. During the elections the chairman of the military commission, Paulo Muwanga, usurped the powers of the electoral commission by decree, Legal Notice No. 10 1980, which authorised him to assume responsibility for announcing the results. Mudola claims that this decree was issued for Muwanga to reverse the DP's victory once it became apparent that they were on the verge of winning the majority of seats in the National Assembly (Mudola, 1980:291). The same decree removed from the courts the authority to adjudicate any disputes arising out of the elections.

The credibility of the 1980 elections was tainted with numerous illegalities and has been described by Perrot; Makara; Lafargue; and Fouéré (2014) to have been nothing but sham elections. The UPC under Obote took power while the DP, which had garnered the most votes but lacked military might, formed the opposition. Yoweri Museveni, then the UPM party leader, declared that the elections were fraudulent and unacceptable. Museveni formed a political organisation, the National Resistance Movement (NRM), which contested the validity of the elections through a popular and bloody armed conflict. In an armed coup, Obote was removed from power in 1985 by Tito Okello Lutwa. In 1986, Museveni's NRM seized power from Lutwa following a bloody civil war. Thus, since independence, Uganda has had eight heads of state, seven of whom came to power by overthrowing the previous government.

In the Nigerian case of **Obasanya v. Obafemi (2000:324)** the court defined an election petition as a 'complaint about election or the conduct of election'. That they were not to be regarded as ordinary complaints. In **Orubu v. NEC (1988) and Abdulahi v. Elayo (1993)**, the Nigerian courts held that election petitions were not ordinary petitions because of the importance of elections for the well-being of democracy. Court warned because of this special nature, they should not be subjected to procedural delays, because the rules of procedure in civil cases will not serve their purpose. This can only be maintained by a truly independent judiciary.

Anderson Kambela Mazoka & Others v Levy Patrick Mwanawasa & Others[33] was a case brought before the Supreme Court in Zambia following the 2001 Zambian general elections. Unlike other countries where the substantiality rule is provided for in Presidential election statutes and the Constitution, in Zambian, this was effectively legislated into existence by the Supreme Court in the first-ever presidential election petition that followed the 1996 general election. The Supreme Court then admitted that there had been many flaws in the electoral process, which included the use of the national intelligence service in a partisan way, the unlawful use of public resources by the incumbent party, and the abuse of resources from para-statal companies. The Supreme Court held that it could not grant any remedy or interfere with the result of the election because, considering the national character of the presidential election, 'where the whole country formed a single electoral college', it could not be said that the proven 'defects were such that the majority of the voters were prevented from electing the candidate whom they preferred'.

[32] *Uganda had as a British colony, earlier held its first indirect elections in 1958 and first direct elections in 1961 that ushered in Democratic Party as the ruling party with Benedicto Kiwanuka as the Chief Minister.*
[33] *SCZ/EP/01/02/03/2002*

In **Nana Addo Dankwa Akufo-Addo & Others v John Dramani Mahama & Others**[34], the case arose from the 2012 Ghanaian elections. Ghana is variously regarded as an African democracy that has steadily reached some maturity, especially when compared to other countries on the same continent as far as elections and change of presidency is concerned. The main issue raised by the petitioners' included allegations of over-voting; voting without biometric verification as required by law; absence of signatures of presiding officers on some results sheets, contrary to the law; and the occurrence of the same serial numbers for different polling stations. The argument was that had it not been for the election anomalies, then the president-elect, Mahama, would not have had the 50% +1 vote constitutionally required majority to be considered the elected President. Although the majority of the justices gave various reasons for upholding the election, the common theme was that, even if there were these noted anomalies, the election itself was 'conducted substantially by the Constitution and other laws. Adinyira, JSC, for example, made it clear that in her view, 'public policy favours salvaging the election and giving effect to the voter's intention'. The decision is in sharp contrast with the guidance of Lord Denning, to the effect that even if an election is substantially held by the law but is assailed with minor infractions that affect the result, the election is vitiated and voidable.

Movement of Democratic Change (MDC) v. The Chairperson of the Zimbabwe Electoral Commission (2008) is a Zimbabwean Presidential election petition where the main opposition party-the MDC instituted an action to the effect that the Zimbabwe Electoral Commission had delayed in releasing the results of the presidential election and applied to the High Court to release the presidential results. The Court admitted that the EC had inordinately delayed in releasing the results, but that the Court did not have jurisdiction in the matter because the decision of the EC was not to be subjected to appeal by Section 67A (7) of the Electoral Act of that country. Court had been invited to use its judicial review power and the argument that it did not have jurisdiction raises concerns as far as the independence of the judiciary is concerned. If we compare it with Uganda, every court is vested with jurisdiction to construe, apply and enforce provisions of the constitution regarding any dispute before it (**Ssekana, 2019:463**). This position was also stated by the country's supreme court in the case of **Kyamanywa Simon V Uganda, SC Criminal Appeal No.16 of 1999** (UR) in a dissenting judgment of Justice Kanyeihamba.

In the case of **Rtd. Cl. Kizza Besigye v. The EC Yoweri Kaguta Museveni (2006)**[35], the incumbent Museveni was declared the winner by the Electoral Commission body with 59% against Besigye who got 37%. Besigye filed a petition on 7 March which was heard from 22-30 March and a decision was given by the Supreme Court on 6 April 2006 within 30 days from the filing of the petition, as required by Article 104 of the Constitution and Section 59 of the Presidential Elections Act. In his petition, Besigye had alleged that Museveni was not validly elected and asked the court to order a re-run or a recount of the vote. The grounds of the petition were:

- That the conduct of the elections contravened provisions of the constitution, Electoral Commission Act, and the Presidential Elections Act;
- Non-compliance with the principles of the Presidential Elections Act substantially affected the results;
- Section 59(6)(a) of the Presidential Election Act, says that an election can be nullified if it is inconsistent with Article 104(1) of the constitution providing that 'any aggrieved candidate can

[34] *J1/6/2013.*
[35] *Presidential Election Petition 01 of 2006*

petition the Supreme Court for an order that a candidate was not validly elected;
- Museveni personally committed electoral offences by making 'malicious, abusive, insulting, misjudging, derogatory and defamatory statements against Besigye, the FDC, and other candidates.

The Supreme Court of Uganda found that the Electoral Commission failed to comply with the Presidential Elections Act and the Electoral Commission Act in the conduct of the elections, in that people were disenfranchised; and serious issues emerged in the counting and the tallying of the results. The Supreme Court also found that the election was not conducted on a free and fair basis because of the incidents of intimidation etc. A definition of a free and fair election in the case of Uganda had been given in an earlier case. The principles of a free and fair election were laid down by Chief Justice Odoki in his judgment of the Presidential election petition number 1 of 2001 (R**td. Col. Dr. Kizza Besigye V Yoweri Museveni and Electoral commission**). He stated that the principles of the act can be summarised as follows: -

i. The election must be free and fair.
ii. The election must be universal adult suffrage, which underpins the right to register and vote.
iii. The election must be conducted by the law and procedure laid down by parliament.
iv. There must be transparency in the conduct of the elections.
v. The result of the election must be based on the majority of the votes cast.

While these were clear principles laid down and the court found problems with the election which were being challenged, the court in a majority of four against three ruled that 'it was not proved to the satisfaction of the court that the failure to comply with the provisions and principles affected the results of the presidential election in a substantial manner. The claim against Museveni and his agent's impropriety in conduct during the campaigns were dismissed by a majority of five against two. But it is worthy to note that in holding out its decision, the Court criticized the conduct of the election and expressed concern for the continued involvement of the security forces in the conduct of elections where they have committed acts of intimidation, violence, and partisan harassment; the massive disenfranchisement of voters by deleting their names from the voters' register, without their knowledge or being heard: the apparent partisan and partial conduct by some electoral officials; and the apparent inadequacy of voter education (Gloppen, 2007:16). The court further expressed disappointment at the EC'S inability to provide reports from returning officers to the court on the basis that the EC did not have them. These were mandated by law to be submitted to the EC. Again, it came out that the laws on elections were contradictory and inadequate (Gloppen, 2007).

Legal and policy implications

The substantiality test that is applied all over the commonwealth in resolving election disputes is founded on British colonial law. [36]It can therefore be argued when this rule is applied on the African continent, the courts must be alive to the fact that this test must be adapted to suit the governance circumstances of Africa.

The courts' misapplication of the substantiality test can cause social and political instability in society. If electoral candidates who lose presidential elections lose trust and confidence in the court system due to

[36]*"Nyane H "A critique of Proceduralism in the Adjudication of Electoral Disputes in Lesotho" Journal of African Elections 1 DOI: 10.29040/ JAE/2018/v17i2a1., also see Morgan v Simpson [1974] 3 All England Law Reports 722.*

the misapplication of the substantiality test, they will not file their electoral petitions in the courts. They will instead vent their anger through street protests and possibly armed rebellion[37].

To avert a situation where the country is plunged into social and political instability, substantive electoral justice must be upheld by the courts, to enable petitioners to have confidence in the court system. This confidence in the courts will enable the petitioners enthusiastically file their electoral petitions before the courts. Unlike other countries on the continent, Uganda has constitutional guarantees for the administration of substantive justice[38]. This administration of substantive justice should include presidential election petitions, to avert social and political instability[39]. This approach to resolving presidential election petitions resonates with the doctrine of legal realism. Legal realism rejects the legal formalism of relying on technicalities to thwart the administration of substantiative justice by the courts[40].

The other recommendation to resolve the misapplication of the substantiality test is for courts handling presidential election petitions to adopt an inquisitorial approach rather than an adversarial approach given what is at stake – the social and political stability of a country. The inquisitorial approach enables the courts to resolve the presidential electoral petitions on their merits and not merely based on procedural formalism and technicalities. For example, while gathering evidence to present in a petition, the petitioners face difficulties in obtaining the evidence that can prove electoral malpractices because the evidence is in the possession of the electoral management body, who are the respondents. If the courts adopt an inquisitorial approach, they will order the respondents to provide the required evidence to the courts. This would include used ballot papers and electoral forms. If the courts adopted the adversarial approach, the burden would be on the petitioner, which may present significant challenges.

Conclusion

The paper has discussed the effect of the exploitation of the substantiality test in resolving election disputes in Africa. One of the challenges that may be presented, is the petitioners losing confidence in the court system and resorting to street protests or worse, to armed rebellion, if presidential petitions are resolved based on procedural formalism and technicalities. This can cause significant social and political instability in a transitional democracy in Africa. To ameliorate those challenges, the paper suggests that the courts should abandon legal formalism and administer substantial electoral justice. This should include the courts adopting an inquisitorial posture in presidential election petitions given what is at stake, the social and political stability of a country.

[37]Nyane H (2018) "A critique of Proceduralism in the Adjudication of Electoral Disputes in Lesotho" Journal of African Elections 17(2) 20., 1 DOI: 10.29040/JAE/2018/v17i2a1.

[38]Countries like Lesotho do not provide for this constitutional guarantee. Countries like Zambia and Kenya that provided for this constitutional guarantee.

[39]Section 59 (6) (a) of the Presidential Elections Act, Laws of Uganda provides for the substantiality test in resolving presidential petitions.

[40]The persuasive case of National University of Lesotho v Motlatsi Thabane C of A (CIV) No.3/2008).

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Effect of student's involvement in fees policy implementation on learner's stability in public universities in Uganda: the case of Makerere University

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Abstract

The study examined the effect of student involvement/participation in fees policy implementation on learner's stability in Makerere University that has had a number of student unrests in the past whenever fees policy changes are considered for implementation resulting into a number of disruptive consequences. The study aimed at examining how student involvement/ participation in fees policy implementation affect their stability with a view of proposing strategies capable of enhancing order in the university. The study adopted a case study design in collection and analysis of data using questionnaires and interview guide from a sample of 368 consisting of students, their leaders and selected university administrators. Results indicated that there is a gap on the part of student leaders to consult extensively from their constituents because they lack advocacy and lobbying skills, management rarely put into consideration student's views while making decisions, and that protests are seen by students as a mobilization structure for airing out their voices on fees policy changes. The study concludes that the level of student involvement in fees policy implementation depends on the nature of student leadership and willingness of management to incorporate their views in decision making. The study recommends that individual student awareness and empowerment to participate in fees policy implementation is important and must be cultivated by university management and the need for capacity building on the part of student leaders to boost their representation skills.

Key words: Educational policy Implementation, Higher education costs - Sub-Saharan Africa

Introduction

Institutional stability is key for organisational performance in any sector including higher education since people are the lifeblood of any institution and for the university, these are primarily students whose stability is necessary for efficient execution of the university mandate of teaching, learning, research and innovation. Conversely, student instability has negative results like university closures, introduction of harsh measures, delay of completion of academic programmes (Kasozi, 2015). In Uganda, public universities have historically suffered student instability over policy matters since the 1950s (Kasozi 2015 & New Vision 2019) putting to question whether implementation of such policies takes into account the voices of key stakeholders (students). This study therefore sought to examine how student involvement in fees policy implementation can help avoid instability in public universities in Uganda and Makerere

University chosen because it has had numerous student unrests whenever changes in fees policy is implemented resulting into disruption of learning activities.

Students have historically had deep suspicion of higher education institutions which they perceive as centres of bureaucracy, and thus needed to assert their social role in order to get management listen to their concerns. For example, in 1966 City College of New York students demanded increase in their decision making in campus politics due to inadequate involvement in decisions that affect their stay in college. Other student movements include demonstrations in Germany which led to a policy on free public university education while protracted student protests in Chile caused major education reforms and rolling-back of the tuition fees policy (Altbach & Klemencic, 2014). Regionally, student unrest in Africa became widespread in the 1970s and 1980s with major protests occurring in 29 African countries (Kiboiy, 2013). More protests occurred from 1980 to 1989 in response to new World Bank/ International Monetary Fund higher education reforms, particularly introduction of cost sharing policies.
Nationally, Uganda's independence in 1962 ushered in new policies aimed at social, economic and political transformation, with more government investment in higher education (Marcucci, Johnstone, & Ngolovoi, 2008). Government provided free University education to students who met the criteria but this trend changed by the late 1980s. There was then need for new revenue sources to support provision of quality education for eligible students, amidst the newly imposed higher education reforms allover Africa. Consequently, the dual-track fees policy was initiated at Makerere University in 1992, under which students who meet the merit-based minimum requirements are Government funded and others who qualify can pay their own fees. While the policy is predominant in both regional and global public universities, its evolution and implementation continue to challenge institutional stability with students contesting its utility and legitimacy. Indeed, Kasozi (2015) notes that in cases where Government typically paid the greater portion of higher education fees, the introduction of/or increment in fees or any other kind of cost sharing becomes a contentious issue.

The 2016 Visitation Committee on Makerere University noted that students were highly discontented with respect to the fees policy and that the University experienced student unrest following the pronouncement to implement fees policy changes. The Committee ranked policy formulation processes and dissemination methods, as well as policy rejection as the two top causes of student discontent. Policy making is thus crucial in enhancing institutional stability and necessitates the contextualised involvement of all concerned parties. Thus, the study sought understanding of the relationship between fees policy implementation and student stability at Makerere University with a view of devising solutions that can support her long-term institutional stability.

Theory

The study was guided by the Political Process Theory advanced by Doug McAdam (1982) whose theory asserts that social movements are political and aimed at resolving legitimate grievances rather than psychological phenomena and that while a few may control the wealth of power in the political sphere, excluded groups have capacity to bring about structural change. The theory identifies three key elements that shape the behavior of actors: political opportunities/ threats, organisation and cognitive liberation. However, the study focused on the political opportunities/ threats that are events or broad social processes that serves to undermine calculations and assumptions on which the political establishment is structured. This element aided understanding of the aspects of fees policy implementation that influence student

stability, and therefore provide opportunities/ threats that lead to seeking change among students who feel disgruntled by their university management.

Problem Statement

Student stability is indispensable for success of educational institutions and the reverse threatens their administrative and academic efficiency, as well as institutional reputation. Semata (2019) and Kafeero (2019) note the endless strikes at Makerere University over the past years, citing unfair and oppressive fees policies among the causes. Indeed, a high incidence of student instability over fees at Makerere is reported by Mande & Nakayita (2015), with noted protests in 2009, 2011, 2012, 2013 and 2014. This recurrent instability has had negative outcomes like property destruction, violence, university closure, delay of completion of academic schedules and delayed higher education reform (Kasozi, 2015). Notably, appropriate policy involving exhaustive consultation is necessary for stability of universities (Kiboiy, 2013). Makerere University is cognizant of this as evidenced by its approval of an independent review by a Special Guild Committee to inform proposed tuition increment in 2018. The study therefore examined the gap between intent and outcome of fees policy implementation and its effect on student stability in Makerere University that has had perennial student unrests whenever fees policy changes are considered by management. The study was conducted to establish the effect of student consultations in fees policy implementation, assessing the effect of student representation in fees policy implementation, and examining the effect of student mobilization structures in fees policy implementation on student stability in Makerere University, Uganda.

Conceptual Framework

This section illustrates the assumed effect of student involvement in fees policy implementation on their stability in Makerere University taken as the case study.

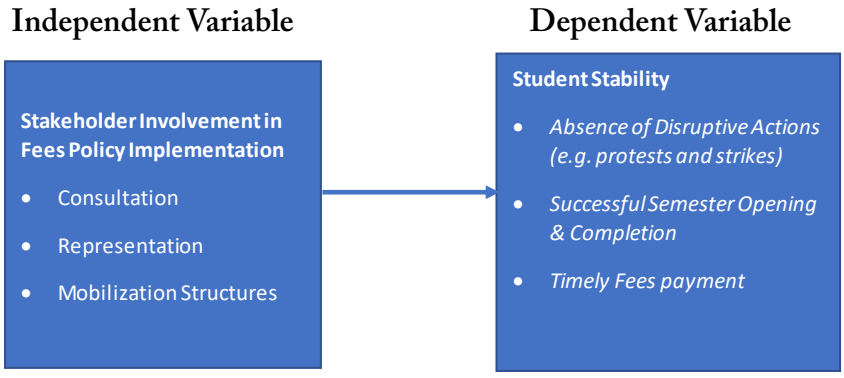

***Figure 1**: Conceptual Framework indicating the relationship between involvement in fees policy implementation and student stability (Source: Researcher developed based on Doug McAdam's Political Process Theory, 1982).*

Figure 1 illustrates the relationship between involvement in fees policy implementation and student stability among public universities in Uganda. The independent variable (involvement in fees policy implementation) is measured in terms of (consultation, representation, and mobilization structures) assumed to have a significant relationship to the dependent variable measured in terms of (absence of disruptive actions, timely regular semester opening and completion, & timely fees payment). From the assumed relationship above, the study hypothesized that involvement in fees policy implementation has a significant relationship to student stability among public universities in Uganda.

Literature Review

Fees are a concern of students worldwide against which they have collectively protested as proven by the Fees Must Fall movement in South Africa, Côte d'Ivoire, Burundi and Kenya (Raghurama, Breinesa & Gunterb, 2020). At the heart of the movement is the call for free education, with students arguing that education is an entitlement and not a commodity (Langa, 2017). On the other hand, university management is not in position to meet the demands for free education because of increasingly insufficient funding from government. This situation presents questions around the definition of the traditional university as a provider of public education on an egalitarian, affordable and accessible basis. Indeed, the idea that higher education is an economic good aimed at reducing inequity and advancing development has made fees policies a topical matter and the cause of continuing student discontent.

Consequentially, universities dubbed as "public" remain challenged on how they can legitimately restructure their administrative and financial systems to meet the overall cost of higher education provision, while ensuring student stability. This can only be achieved with support of all stakeholders (government, parents and students), who must be convinced to pay higher fees for quality higher education in line with increasing costs of living (Kasozi, 2015). A starting point would be the recognition that students should be involved in the management of their institutions, and should be aware of the reasons behind implementation of policies that affect their welfare. This is especially important because university students are highly conscious of their immediate social and political environment, which places them in the unique position to demand for democratic spaces and accountability in the management of public matters (Kiboiy, 2013). It also means that the management of public universities should avoid centralised decision making and actions that do not take into consideration the internal and external operational environment.

Brown (2017) notes that public participation in policy making and subsequently in governance processes at higher educational institutions is achieved through collective student action. This involves the use of existing student leadership structures (Guild and GRC) to engage with university management at formal institutional (e.g., Council and Senate) meetings, through which system the general student voice and agency is supposed and expected to be relayed. The matter of representation (collective student action) is however complicated and yet highly relevant in understanding the extent of students' involvement in policy making processes.

Mugume (2015) argues that the autonomy, competence and commitment of the representative to the interests of the represented is very important, and that the represented must be involved in policy processes in whichever way possible. It is observed, however, that there is a general trend for student instability to occur and intensify during the tenure of zealous, idealistic and non-compromising leaders. Some student leaders work through confrontational approaches, while others may not be aware of the structures through which to make their case, and still others believe that due to their limited number on key decision-making organs, their views do not count. Indeed, most student instability at Makerere University coincides with the students' guild electoral cycle.

On the other hand, unexperienced leaders cannot ably perform the representative role. Kiboiy (2013) points out that poor student leadership and management styles contribute to the communication gap where university management remain largely unaware of critical issues that are of concern even while

elaborate structures to facilitate effective student representation on critical decision-making bodies of the university exist. It is thus important that student leaders as representatives of the student body are adequately empowered to participate in policy processes through capacity building to gain knowledge and leadership competencies. There should be clarity on the tasks and expectations of the representative role, as well as guidance on how they can achieve balance and negotiate mutually beneficial outcomes for their constituencies and the university as an entity.

Effective representation of the student voice requires processes, mechanisms and networks that are not only inclusive but well institutionalised in order to enable sustainable and independent deliberations, as well as foster self mobilisation (Klemencic & Park, 2018). Structured student representation on departmental committees is argued to be a very strategic and useful participatory mechanism (Lizzio & Wilson, 2009). Therefore, the student mobilisation structures through which their involvement in fees policy implementation takes place should exist at the local decentralised student level and the centralised institutional level. The potential of this mechanism rests on the effectiveness of student self mobilisation and subsequent representation in a well institutionalised and independent bottom-up structure. For this study, it was important to understand how the existing hybrid structure works to enable effective involvement of students in fees policy implementation.

Methodology

The study was conducted using a mixed method approach that applied both quantitative and qualitative methods in collection and analysis of data. A case study design was adopted to enable detailed contextual analysis of the research problem with a focus on Makerere University. The cases were defined within the dimensions of the conceptual framework as existing in public universities in Uganda, with specific focus on their prevalence. Makerere University was selected because it is the oldest, largest and premier public university in Uganda with perennial student instability amidst fees policy implementation.

The study population included undergraduate continuing students, student leaders, and selected university administrators. According to Makerere University Fact Book 2018-2019 a total of 30,863 undergraduate students enrolled into various programmes in the ten (10) Colleges in the 2018/2019 academic year. The study targeted the College of Humanities and Social Sciences that covers a wide selection of courses of the Arts comprising of 6382 students and the College of Agricultural and Environmental Sciences with a total of 2005 students to represent the sciences because it is more holistic with courses covering the major branches of science (physical, earth & life). Overall, the target population (N) comprised of 8387 students, 38 student leaders, and 19 university administrators from where a sample size of 368 was derived using Krejcie and Morgan Table for Sample Size Determination (Amin, 2005). Both students and their leaders answered a questionnaire whereas the key informants (university administrators) were interviewed. Quantitative data was analysed with the use of descriptive statistics (frequencies, percentages and means) and content analysis used for qualitative data.

Findings

This section presents the empirical findings of the study generated from the samples population consisting of students, their leaders and university administrators identified as key informants.

Effect of student consultations in fees policy implementation on stability in Makerere University

The study sought to establish the effect of student consultations in fees policy implementation on stability at Makerere University whose results are summarized in Table 1 below:

Table 1: Students' Responses on consultations in Fees Policy Implementation

Items on contribution to fees policy content and process	Response (%)						
	SA	A	SLA	SLD	D	SD	Mean
My school life is affected by lack of involvement in the fees policy making process	35.7%	35.7%	11. 6%	3.9%	7.5%	5.6%	5.28
Implementation of the fees policy without consultation is the major cause of student protests at the university	51.0%	28.0%	9.7%	2.7%	5.0%	3.6%	5.63
Academic activities of the University are greatly affected by lack of student engagement which leads to protests	39.5%	29.0%	8.8%	6.2%	7.7%	8.8%	4.40
The University administration considers and adopts students' views regarding fees policy changes and implementation	22.7%	22.8%	9.2%	6.1%	12.8%	26.4%	3.57
Average Mean							4.72

Note. SA is Strongly Agree (6), A – Agree (5), SLA – Slightly Agree (4), SLD – Slightly Disagree (3), D – Disagree (2) while SD is Strongly Disagree (1). Source: Field Data (April, 2021)

Results in Table 1 indicate that majority of students responded in the affirmative regarding their school life being affected by lack of involvement in the fees policy making process (83%) while 88.7% believed that implementation of the fees policy without consultation is the major cause of student protests at the University; 77.3% agreed that academic activities of the university are greatly affected by lack of student engagement which leads to protests and 54.7% opined that the university administration considers and adopts their views regarding fees policy changes and implementation indicating that whereas they are consulted a good number remained sceptical (45.3%). An average Mean of (M=4.72) further illustrate that students are not fully engaged on matters regarding fees policy changes at the University. The views of students are not far apart from those of their leaders as presented in Table 2 below:

Table 2: Student Leaders Responses on being consulted in Fees Policy Implementation

Items on contribution to fees policy content and process	Response (%)						
	SA	A	SLA	SLD	D	SD	Mean
The major cause of student unrest is lack of consultation on the fees policy	66.7	6.7	20.0	0.0	6.7	0.0	5.27
The university management regularly consults me on fees policy implementation	0.0	0.0	13.3	6.7	20.0	60.0	1.73
My views concerning fees policy implementation are often reflected in the decisions of University management	14.3	7.1	14.3	7.1	14.3	42.9	2.71
Academic activities of the university (like semester opening, teaching, learning and examinations) are greatly affected by student protests	13.3	26.7	26.7	6.7	20.0	6.7	3.87
Inadequate involvement in fees policy making is among, the major cause of student unrest	26.7	13.3	40.0	0.0	6.7	13.3	4.13
Average Mean							3.54

Note. SA is Strongly Agree (6), A – Agree (5), SLA – Slightly Agree (4), SLD – Slightly Disagree (3), D – Disagree (2) while SD is Strongly Disagree (1). Source: Field Data (April, 2021)

Student leaders upheld findings in Table 1 with 93.4% agreeing that the major cause of student unrest was lack of consultation on the fees policy and 87% affirming that they were not regularly consulted by university management on fees policy implementation. In addition, 64% of student leaders reported that their views were rarely reflected in decisions of management. Overall, the results show that students' stability is highly influenced by their perception of the level of consultation in the fees policy implementation process. The average Mean of (M=3.54) further indicate that student leaders remained skeptical about being involved in fees policy implementation in the university and this explains why there are rampant student unrests.

Interview Results from University Administration

Most of the University Officials interviewed reported that students were appropriately involved in fees policy making processes through engagement of their leaders at various levels, which opinion is comprehensively represented by the following direct quote from participant one:

> The students are represented at all levels of the fees debate. At the Hall/ College level, there is a Guild Representative Council; elected by and among the students; then there is the Student's Guild with various positions of student leadership. At Management level, there is a student representative to the University Senate, and ultimately, the Guild President is the student representative to the University Council. With this structure, students discuss fees issues through: Collection of memoranda; Discussion of student views at Guild, Senate and Council levels; Feedback to students and; Most importantly, periodic review of the fees policy…

The above quotation shows that there are established institutional avenues through which the student voice is supposed to be heard. The assumption on the side of University officials is that the represented views arise out of consultation processes between the student leaders and their constituents. Interesting to note is an assertion by one of the University officials that "Their involvement in Senate and Council is not representative enough; it does not represent views of all students." The implication is that despite the established avenues of student involvement, they are not sufficient to capture the entire student voice. On why the University continues to suffer student discontent/protests in response to fees policy implementation efforts, University officials provided more insight as follows:

> Excerpt 1; It is because the University is a Government Institution operating as a pseudo-Private Institution, (agreeably to increase revenue, meet operational costs, and be financially autonomous.) Students know this and tend to take advantage of the founding ideology of Makerere: a university meant to increase access to higher education, accommodate the bright but "poor or disadvantaged students", and is funded or subsidised by Government. If this is true, then why the pressure to pay fees? I guess it's the question in the mind of students, and the reason why they protest.
>
> Excerpt 2; "… the value for money aspects can't be ignored… the students on the other hand demand improved services in terms of teaching space, lecturer commitment, book banks, cleanliness and hygiene in halls of residence, ICT facilities, lighting on campus, etc. (Implementing fees policy but where does our money go? asks the students!)"

Excerpts 1 and 2 above reveal that there is more at play with regard to student stability at Makerere University than the reported lack of involvement in fees policy implementation. The perceived traditional role of a public university as a provider of affordable and accessible higher education as well as the

expectation of better services amidst rising fees are considered by University officials as major factors in student instability. Nonetheless, consultation in terms of contribution to the fees policy content and process was still highlighted as being related to student stability. One university official stated that "… when feedback is received and not considered, the students go on strike and the University listens!"

Effect of student representation in fees policy implementation on stability in Makerere University

This section presents findings on the effect of student representation in fees policy implementation on learner's stability at Makerere University. Results are summarized in Table 3 below:

Table 3: Student Leaders Responses on representation in Fees Policy Implementation

Items on Representation (Capacity and Empowerment)	Response (%)						
	SA	A	SLA	SLD	D	SD	Mean
Student leaders receive regular training in leadership and advocacy skills	10.2	6.7	26.7	6.7	13.3	46.7	2.33
It is important to ensure a right balance between students' opinions and institutional needs when discussing fees policy	66.7	20.0	6.7	0.0	0.0	6.7	5.33
The Guild Executive has an effective working relationship with university management	7.7	30.8	30.8	15.4	0.0	15.4	3.85
Upon assumption of my leadership position, I received orientation on the tasks and expectations of this role	25.0	41.7	8.3	0.0	0.0	25.0	4.17
I am a member of at least one institutional policy making body/ organ	15.4	38.5	0.0	7.7	23.1	15.4	3.69
The institutional fees policy making setting is conducive for effective negotiation in line with students' expectations	20.0	0.0	13.3	0.0	6.7	60.0	2.47
My voice as a student leader has some impact in the making of fees policy	25.0	8.3	25.0	0.0	8.3	33.3	3.42
Average Mean							3.60

Note. SA is Strongly Agree (6), A – Agree (5), SLA – Slightly Agree (4), SLD – Slightly Disagree (3), D – Disagree (2) while SD is Strongly Disagree (1). Source: Field Data (April, 2021)

Table 3 reveal that 56.4% of the respondents disagreed about receiving regular training in leadership and advocacy skills, implying that they don't have the capacity to ably represent student issues in senate and University Council with 66.7% also indicating that the institutional fees policy making is conducive for effective negotiation in line with student expectations. This shows that student expectations regarding fees policy changes is not well catered for by their leaders. However, they agreed about ensuring a balance between student opinions and institutional needs, having an effective working relationship with management, receiving orientation on expected roles, and their voice having impact in fees making policy. These findings give the indication that whereas management has put in place mechanisms to involve student leaders in fees policy changes and implementation, they (student) leaders are not effectively doing their work either because they lack negotiation and lobbying skills or they do not consult extensively with their constituents before meeting management as reflected with the average Mean of (M=3.60).

Interview results

Two varying opinion on the representation capacity and empowerment of student leaders were noted from the key informants (university officials) as illustrated by the excerpts below:

> Excerpt 1; "The Office of Dean of Students provides orientation/induction for new leaders, during which other university officials including the Academic Registrar are invited to talk to them. The Guild Cabinet are also involved during orientation week for first year students with the aim of giving them opportunity to talk to their fellow students and impart necessary information related to their academics and welfare."
> Excerpt 2; ""Empowering" student leaders? Not quite. Empowerment would involve a lot. At best, the student leaders are given policy agendas especially on matters that concern students, at various levels (Halls, Colleges, Schools, or Guild) …"

Excerpt 1 indicates some level of capacity building for student leaders. However, it is observable that there are only two regular programmes for this; once during induction of new leaders and during orientation week for fresh students. Excerpt 2 highlights the inadequacy of existing capacity building efforts as they do not ably empower student leaders. Further interesting to note, majority of university officials indicated student politics as a major hindrance to effective representation of student interests. The quote below speaks to the nature of student representation:

> "… And at a certain point, students who make "kavuyo" become the leaders. These leaders are boosted and sponsored by people to cause havoc- part of politics. Some students have hooliganism in themselves, and think only of strikes. They prefer using force, and expect the University to only say yes to their demands. They do not care whether their popularity is on negative or positive side. Even then outsiders fuel the strikes because it covers them looting peoples' things and destroying property."

The above quotation portrays limits to the efficacy of student representation with regard to their involvement in fees policy implementation. Additionally, the University Officials noted the need to improve the student leadership transition process with one University official stating:

> "This is because there are always different student governments and there is no proper transition/ handover to ensure continuity of previous ideas and decisions of student representatives. For instance, each Guild Cabinet comes with its own perspectives…"

The above statement shows poor institutional mechanisms for capacity building and empowerment of student leaders to be able to sustain longstanding policy decisions.

Effect of student mobilization structures in fees policy implementation on stability in Makerere University

The study further sought to examine the effect of student mobilization structures in fees policy implementation on learner's stability at Makerere University. Results are summarized in Table 4 below:

Table 4: Student Responses on their mobilization structures in Fees Policy Implementation in Makerere University

Student mobilisation structures							
Items	**SA**	**A**	**SLA**	**SLD**	**D**	**SD**	**Mean**
My College has systems dedicated to student concerns on fees policy implementation	12.2%	16.4%	9.1%	10.2%	18.7%	33.4%	2.92
Students mostly discuss fees policy issues using social media	28.2%	40.4%	17.9%	4.6%	3.8%	5.2%	4.69
I belong to an institutionally recognized student group/ organization/association	30.8%	37.8%	12.1%	4.3%	6.3%	8.7%	4.56
Individual student views are easily transmitted through the institutional channels for the University administration's attention	19.3%	30.3%	13.0%	9.6%	10.5%	17.3%	3.86
I believe that student associations provide students opportunity to share views regarding matters like fees policy implementation	20.3%	16.6%	13.0%	6.8%	15.5%	27.9%	3.35
Average Mean							3.87

Note. SA is Strongly Agree (6), A – Agree (5), SLA – Slightly Agree (4), SLD – Slightly Disagree (3), D – Disagree (2) while SD is Strongly Disagree (1). Source: Field Data (April, 2021)

Table 4 indicate that 62.3% of students disagreed on their college having systems dedicated to their concerns on fees policy implementation. 87% of the student leaders confirmed this assertion (Table 5 below). On the contrary, 62.6% of students agreed that individual student views were easily communicated through the institutional channels for the University administration's attention. This was supported by the student leaders, 73.3% who stated that they regularly interacted with student groups/associations to share policy information and receive feedback. Within the student community, mobilisation structures for discussion of fees policy issues were thus believed to be adequate. Social media was confirmed by students (86.5%) and student leaders (93%) as a major mobilisation channel through which they discuss fees policy.

It is notable that 80.7% of students belonged to an institutionally recognised student group, although only 49.9% of them believed that these bodies provided them opportunity to share views regarding fees policy implementation. Overall, the data indicates relatively good mobilisation structures on the part of students reflected by an average Mean of (M=3.87). It is also important to note that all student leaders 100% (Table 6 below) reported that protests give students an opportunity to participate in fees policy matters, which implies that they (protests) are a mobilisation tool.

Table 5: Student Leader's Responses on mobilization structures in Fees Policy Implementation in Makerere University

Items on Mobilisation Structures	**Response (%)**						
	SA	A	SLA	SLD	D	SD	Mean
The Colleges have systems dedicated to student concerns on fees policy implementation	6.7	0.0	6.7	0.0	26.7	60.0	1.80
I regularly interact with student groups/organisations/associations to share policy information and receive feedback	20.0	33.3	20.0	6.7	20.0	0.0	4.27
Students mostly mobilise through social media regarding fees policy issues	50.0	28.6	14.3	0.0	0.0	7.1	5.07
I believe that protests give students an opportunity to participate in fees policy matters	69.2	23.1	7.7	0.0	0.0	0.0	5.62
Average Mean							4.19

Note. SA is Strongly Agree (6), A – Agree (5), SLA – Slightly Agree (4), SLD – Slightly Disagree (3), D – Disagree (2) while SD is Strongly Disagree (1). Source: Field Data (April, 2021).

The interviews with University officials pointed to a need for further linkage between student and institutional mobilisation efforts regarding involvement in fees policy implementation. This would alleviate the use of student mobilisation structures as protest rallying avenues.

Discussion

The study results correspond with existing scholarly literature, which highlights that students' participation in the decisions that affect their welfare builds a sense of ownership and incentive to accept set rules (Mati, Gatumu & Chandi, 2016). In the absence of adequate involvement as evidenced by the reported low level of consultation in the fees policy implementation process, student stability is threatened. It is important to note that the perceived lack of consultation presents opportunity for students to seek change/go against set rules (McAdam, 1982) in various ways including protests and other forms of disruptive actions.

The findings also resonate with the Special Guild Committee (2018) report which states that University Council's previous attempts to increase fees were resisted by students because of inadequate consultation. The findings also concur with Brown (2017)'s argument that there is verified demand among students for involvement in the aims-setting process; the choice of university strategies; and the choice of actions. This is evidenced by the expressed student discontent where majority expressed that their views were rarely reflected in decisions of management. The finding that student protests are majorly caused by lack of consultation on the fees policy is in agreement with Raghurama, Breinesa & Gunterb (2020)'s assertion that fees are a concern of students worldwide against which they have collectively protested as proven by the FeesMustFall movement. It is thus evident that students expect to be included in the fees policy implementation making process, which would then build their confidence and trust in subsequent decisions and set rules.

Based on the findings, it appears that student leaders may actually not effectively represent the views of their constituents, despite existence of consultative structures and processes. Indeed, the argument that the University continues to suffer student discontent in response to fees policy implementation efforts due to student politics becomes valid. It also explains why student discontent is usually around student election cycles, and creates doubt about the commitment of some student leaders to their constituents' concerns. The study results thus portray a contrary situation to Mugume (2015)'s view of a representative who must not only be autonomous and competent, but also committed to the interests of the represented. The study findings agree with existing literature that effective representation of students' voice and agency requires processes, mechanisms and networks that are not only inclusive but well institutionalised in order to enable sustainable and independent deliberations as well as foster self mobilisation (Klemencic & Park, 2018). A high level of student mobilisation structures was observed especially through social media where students are able to organise for desired change as defined in McAdam's political process theory. Unfortunately, a disconnect was observed between student mobilisation structures and the institutional structures. Mobilisation structures can therefore be used by University officials to ensure meaningful engagement with students and dispel negative propaganda that could lead to student discord.

Conclusion

The study observes that the level of student involvement in fees policy implementation depends on the nature of student leadership and how this ensures appropriate representation of students' views in fees

policy decisions and actions. There is a gap in student leaders' capacity and empowerment to represent their views and their overall perception that university management does not consult them in fees policy implementation processes. Besides, student instability in the university seem to be politicized by their leadership and inadequate management of the student guild structure. In addition, a weak link between the students' and institutional mobilisation structures is a major hindrance to achieving shared meaning and understanding during fees policy implementation.

Recommendations

Public Universities in Uganda should rethink their mode of engagement with students as the existing model has proven ineffective. Individual student awareness and empowerment to participate in fees policy implementation processes is important and must be cultivated by university officials and student leaders for shared understanding.

Related to the above, there should be coordination between student and institutional mobilisation efforts regarding involvement in fees policy implementation. Effective use of mobilisation structures would require capacity building for student leaders as representatives of the student body to enable them balance their roles and expectations.

The leadership of public universities should also maintain close interactions with student leaders across all levels and not only the Students' Guild Executive. The interactions would also provide opportunity for University management to ensure smooth transition of different student governments where continuity of previous decisions and ideas are legitimised.

The Guild Offices should be administered by an institutionally appointed Secretariat to ensure day-to-day guidance, consistency and permanency of documentation, as well as smooth transition between student governments which happens annually.

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