

Local Governance through Decentralization Policy and Institutional Arrangement for Peace, Governance and Service Delivery in Somaliland

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Abstract: *Most African countries have started transfer of power, resources and responsibilities to their sub-national governments during the past decade. This is based on the premise that decentralized governance provides a structural arrangement and a level playing field for stakeholders and players to promote peace, democracy, and development. The Somaliland policy frameworks (the Constitution; Law 23/2002; Decentralization Policy etc) underscore the intention to devolve authority and responsibility to local governments to promote improvements in local governance quality that can contribute to peace consolidation, development and equitable services. However, a large gap exists between the Constitutional subsidiarity principles on one hand and the implementing secondary laws, institutional arrangement and government's capacity on the other hand. Therefore, this paper provides an overview of the experiences and challenges associated with the Somaliland decentralization policies and the strengthening of local governments to provide adequate service delivery. Within this context, the paper examines the government's policy framework, institutional arrangement and capacity in implementing decentralization within contexts of peace building, governance and development in Somaliland. Both primary and secondary data were used in this study. Secondary data were gathered thorough related secondary source and to gather primary data, the study followed a qualitative research design.*

Keywords: Decentralization, District Councils, Peace Building, Local Governance, Service Delivery

1. Introduction

In the past three decades, the majority of African governments have initiated decentralizing central government administrative, fiscal, and political functions to lower-level governments in the hopes of improving governance and public service delivery. [1] This is based on the premise that decentralized governance provides a structural arrangement and a level playing field for stakeholders and players to promote peace, democracy, and development. However, despite the political ideals around decentralization, many African political systems show little record of success in this sphere [2]. Nevertheless, in order to make local government play the role expected of them, they must tackle the major constraints besetting the evolution of a sound local governance system.

In Somaliland, decentralization and local governance is provided in the Constitution adopted in 2001 [3], and Local Government Law known as (Regions and Districts Law No: 23/2002 as amended 2008). These are the main pieces of legislations relevant to the local governance system and decentralized service delivery in Somaliland. However, implementation of these laws began on December 2002; when the Somaliland people went to the polls for the first time to participate district council elections. The election of district councils represented the first real chance of introducing meaningful decentralization of government authority since the mid 1960s. [4] The Somaliland decentralization reform was part of the general Somaliland governance reform policies intended to support better governance, peace and socio-economic development for the local population.

Despite the government's commitment for decentralization, little progress has been made towards implementation of decentralizing fiscal, administrative and sector functions to

districts councils. The major limitations relate to poor legislations that supports implementation of decentralized governance. For example Local government act (Law 23/2002) failed to take into account the administrative and fiscal transferring responsibilities, and institutional architecture (structure, systems, and procedures) that support the implementation of decentralization in responding to the socio-economic needs, as part of the consolidation of peace-building and development.

Another major problem relates the capacity of districts councils to provide social services to citizens, as well as promoting development and strengthening participatory governance at the local level. At the central government level, the concept of decentralization is poorly understood and there is lack of commitment from line ministries to devolve responsibilities and functions from themselves to local governments.

Therefore, the purpose of this paper is to address the above mentioned problems through analyzing regulatory frameworks for decentralization and the institutional arrangements for implementing decentralized governance. By doing this the paper examined the problems and legal gaps relating the mandate, power, structure, and resources of the local governments intended to Strengthen local level governance structures. It also examines the capacity of districts councils in providing social services to promote and contribute governance, peace building and service delivery. Finally the paper forwards recommends for the central governments in tackling problems and challenges of decentralization.

2. Definitions and Concepts of Decentralization

Several authors defined the concept of decentralization as the transfer of power from the national to sub-national government; the official powers transfer includes: political, administrative, fiscal responsibilities and territorial hierarchy.

As the UNDP states: "*Decentralizing governance is the restructuring of authority so that there is a system of co-responsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance, while increasing the authority and capabilities of sub-national levels*". [5]

The term "decentralization" embraces a complex multifaceted concept and its different types include: political, administrative, and fiscal decentralization.

Political decentralization normally refers to situations where political power and authority has been transferred to sub-national levels of government. It is often implies that the selection of representatives from local electoral jurisdictions allows citizens to know better their political representatives and allows elected officials to know better the needs and desires of their constituents. Political decentralization often requires constitutional or statutory reforms, the development of pluralistic political parties, the strengthening of legislatures, creation of local political units, and the encouragement of effective public interest groups. [6]

Administrative decentralization seeks to redistribute authority, responsibility and financial resources for providing public services among different levels of government. The three major forms of administrative decentralization -- deconcentration, delegation, and devolution -- each have different characteristics. However, the strongest form of decentralization is achieved by employing devolution, in which usually transfers responsibilities for services to local governments. In a devolved system, local governments have clear and legally recognized geographical boundaries over which they exercise authority and within which they perform public functions. [7]

Fiscal decentralization refers to the resource reallocation to sub-national levels of government. Experience in fiscal decentralization has led to capacity building in expenditure and revenue assignment as well as the design of fiscal transfer formulas and sub-national borrowing. [8]

Decentralization is viewed as a policy of high priority and used as an instrument of people empowerment, a platform for sustainable democratization, a structure for the mobilization of resources for economic development, a veritable instrument of reconciliation, social integration and well-being in post-conflict environments, and a vehicle for the promotion of a culture of political, economic, civic, and managerial/administrative good governance. [9] The concept of decentralization would also offer opportunities for peace

in situations where power-sharing can mitigate severe ethnic, religious, and territorial conflicts inside a country. [10]

2.1. Decentralization and the Policy Framework

Decentralization is thought to bring government closer to the people by way of introducing administrative, fiscal and electoral process at sub-national levels, and direct participation of the users of services and beneficiaries of public goods delivery. However, an efficient division of responsibilities among different levels of government requires a set of rules defining who has authority and who will be held accountable. These rules should be explicit and transparent.

2.1.1. Constitutions

The vast majority of contemporary constitutions describe the basic principles of the state, the structures and processes of government and the fundamental rights of citizens in a constitution that cannot be unilaterally changed by an ordinary legislative act. Constitutions divide or share power between different layers of government or sub-state communities. Many constitutions establish federal, quasi-federal or decentralized processes for the sharing of power between regions, districts, cities or other sub-state communities. These may be divided geographically, culturally, ethnicity or community. [11]

In decentralized governance, however, the constitutions should be enshrined the broad principles on which decentralization is to operate, including the rights and responsibilities of all levels of government; the description and role of key institutions at central and local levels; and, the basis on which detailed rules may be established or changed. [12]

2.1.2. Legal and Regulatory Framework

The legal and regulatory framework most often spelled out the constitution and they should be designed to describe in detail the decentralization principles enshrined within the constitution. The areas to be addressed by these laws and policies include: the classification and the organizational structures of the local governments, the degree of autonomy of personnel policies and administration, the taxing and fiscal administration authority, the budgeting and expenditure management, the provision of service delivery and the mechanisms for citizen participation and voice. In addition, these laws should define the specific parameters of the intergovernmental fiscal system and tasks that are shared between national and sub-national governments on intergovernmental relations [13].

2.2. Decentralization and Institutional Arrangements

Institutional Arrangements for decentralization refers to the administrative bodies, systems, and mechanisms, both in local and central governments which manage and implement decentralization. [14] This is the basic institutional foundation on which decentralization is built. Interaction among government levels must be structured to balance national imperatives with local priorities, creating incentives

for appropriate behavior and good performance by relevant actors at all levels. [15]

A decentralization and good governance success depends on institutional arrangements and implementation, so it is essential to avoid inefficiencies in the institutional arrangements. It must be part of an integrated development policy reflecting locally owned models and the country's commitment. At a minimum, most developing countries have a central agency with local government oversight responsibilities, such as a Ministry of Local Government, a Ministry of Home Affairs, or Ministry of the Interior. [16]

Without appropriately designed and implemented structures and processes, as well as adequate sub-national capacity to manage the political and fiscal functions of sub-national governments, it becomes difficult to discern whether it is decentralization-the concept that fails good governance, or the inherent institutional lapses within the design/implementation.

2.3. Decentralization, Peace Building and Service Delivery

2.3.1. Peace building

Decentralization can support peace building by encouraging transparent and accountable actions by key actors, building local participation in public decision making processes, empowering communities and increasing their sense of security. It encourages social cohesion by strengthening both vertical and horizontal relationships. Making local administrations more efficient and effective enhances their credibility of the state in the eyes of the community. [17]

There are many advantages to addressing local governance in a post-conflict environment, and these advantages include: addressing the roots causes of conflicts and assist the consolidation of peace, stability and cohesion through devolution of power and resources. It is a means for central government to reach local populations and thus establish its legitimacy at the local level, through service delivery, the re-distribution of resources, more efficient communication exchange, and better maintenance of order and security. Decentralization also can give voice to the local population, and enhance their participation in the reconstruction and peace building efforts. [18]

2.3.2. Service Delivery

Around the world, developing and developed countries alike have observed that decentralized service delivery can result in quicker gains than with centralized systems. It is argued that the lower levels of government can deliver services and promote development, economic growth and poverty reduction. Sub-national governments are argued to be in a better position than the central government to ensure that services delivered match the preferences and circumstances in the jurisdiction. [19]

There are two reasons for this argument, first, because sub-national governments are closer to the people than the central government, they are considered to have better information about the preferences of local populations than the central government. Second, sub-national governments are also considered to be more responsive than national

governments to variations in demand for public goods and services.

However, it should be stated that for decentralized service delivery to succeed certain ingredients are necessary: these include; full commitment from national and sub-national governments in addition to adequate resources, and appropriate legislative framework is required which clearly defines responsibilities and powers of sub-national governments.

Therefore, local governments need to be empowered in ways that enable them to adapt and continue to innovate, even as they remain responsive to the public in the range and quality of services, and in the way citizens are engaged in service-related decisions. [20]

2.4. The Context of Decentralization in Somaliland

2.4.1. Background

Somaliland has a history of a relatively developed local government system dating back to the early 1950s. During the years of the Protectorate and the short independent State of Somaliland, the main law governing local government was the Local Government Ordinance 1953 but the first district advisory councils were established in 1951. [21] In 1963 the Local Administration and Local Council Elections Law (Law No: 19 of 14/08/1963) set out the functions and structures of the local district councils and the current Somaliland Regions and Districts Law is broadly based on this Law. The first local council election under this Law took place in November 1963. However, the democratic structures of the local government came to an end suddenly with military coup in 1969. [22]

On re-assertion of its independence in 1991, Somaliland started to rebuild its local democracy. The Somaliland national charter adopted in 1993 was the first post conflict legal framework that defined decentralization as a system of governance. The National Charter established regions and district administrations and gave the central government the power to nominate local officials until the government was able to hold local elections. The mandate of these local leaders was to plan and manage economic development and social services and to maintain security and local infrastructures in a manner that is not contradictory to the national laws and policies. [23]

The districts council election in December 2002 was the first democratic elections in Somaliland since the mid 1960s and the first step in the transition from clan based system (*beel*) to competitive multi-party democracy. The districts election was a new and hugely challenging experience, but managed with admirable transparency and engagement, which gained considerable respect and admiration, also internationally. [24] The local council election in 2002 was a significant in decentralizing the system of governance by granting local communities more power to manage their own affairs.

2.4.2. Legal Framework for Somaliland Decentralization

The Somaliland Constitution provides a framework for a decentralized system of government and there are strong constitutional provisions to protect local government,

although the introduction of decentralized service management is made contingent upon the existing fiscal and management capacity at district level. [25]

The decentralization principles in the Constitution were presented in the Regions & Districts Law known as (Law No. 23/2002 as amended in 2007) which was passed in 2002. This is the main local government legal framework which established the District Councils. This law provides the structures of district councils, their categories and the election processes of district councilors. Other regulatory framework relating to the District Councils are; the Unification of Local Government Taxation Law, known as (Law No: 12/2000) which currently regulate the districts councils own source revenue, and Urban Land Management Law, known as (Law No. 17/2001 as amended in 2008) which regulates the authority to plan and implement local physical planning.

However, these basic legal frameworks for the implementation of a decentralized system in Somaliland did not provide clearly the degree of local governments' autonomy, effective institutional arrangements and the provision of service delivery which are outstanding issues to be pointed out in this Paper.

3. Methodology

Qualitative research design was employed in this paper. The data used in this paper includes both primary and secondary data. The primary data was obtained using interviews with stakeholders in the crosscutting central government institutions including: the Office of the Vice President, the Ministries of Interior, Public Works and Housing, Finance, education, health etc, and the Accountant General. The focus of this interview was ascertaining the current practices regarding the decentralization governance. In addition interview with selected districts councils to complement the data collected at the national level and from secondary sources. The secondary data was obtained from secondary sources including: government laws, related documents, relevant studies and reports, internet, books and journals. The purpose of this literature scan was to scope key issues, including problems and challenges associated with regulatory framework and institutional arrangements for decentralization and local governance in Somaliland.

This paper was guided by the following research questions:

- 1) How decentralization laws and institutional arrangements put in place by the Somaliland government promoted peace, governance and development at the local level?
- 2) How are the districts council's capacities in providing adequate service delivery to legitimize local governance as part of the peace building and development effort?

4. Finding and Discussions

4.1. Legal and Policy Deficiencies of Somaliland Decentralization System

4.1.1. Legal Problems in the Administrative Decentralization on Social Services

The Somaliland Constitution provides the administrative functions of the district councils and states that: *the*

administration of community services, such health, education up to elementary/intermediate school level, livestock husbandry, internal security, water, electricity, communication etc. shall be the responsibility of the districts as far as they are able to do so. [26] It stipulates also that, the demarcation of the administrative and tax levying powers between the central government and the districts shall be determined by the regions and district law. [27]

However, the law No: 23/2002 did not adequately support the above constitutional statements. The legal deficiency associated with this law relating to administrative decentralization is the limitation of the administrative powers of the local governments. This law did not clearly define the roles, responsibilities and authorities of the local governments in terms of administration functions of social services, especially it did not demarcate the administrative powers between the central government and the districts as well as operational methods as stipulated by the constitution. As result of this administration of social services provided in the constitution is managed by regional level offices of sector ministries and not still come under the administration of district councils.

A Study on Sector Functional Assessment within Education, Health and WASH for Somaliland found that: 'the regions and districts Law No. 23/2002 did not put in place subsidiary regulations to clarify sector service delivery mandates of local governments [28].

According to the legal expert of the ministry of interior interviewed about the problems in law 23/2002, described as follows:

"Law No. 23/2002 is not in harmony with the Constitution's decentralization principles concerning functions and powers; especially article 112. He further explained that; The Constitution in principle did and pointed towards a holistic local governance system, but the law 23/2002 did not describe in detail the decentralization principles enshrined within the constitution particularly the degree of administration and fiscal authority autonomy. For example it did not specify on what services and how of these services would be handed down to the local governments based on districts councils classification". [29]

As explained by a senior official of the Ministry of Interior, about why district councils are not given their administrative and fiscal powers, The secondary laws, which are to explain the constitutional spirit of subsidiarity principle to grant adequate administrative and fiscal powers to district councils for the provision of providing basic social services and economic development to local communities, have not been enacted. Hence the current Regions and District law (law No. 23/2002) is not in accordance with the principles of the constitution [30].

Some of the elected mayors and councilors interviewed on their behalf ascertained that; their administration powers is equivalent to municipality level and not districts level administration power as a result of poor legal framework [31].

Therefore little or none of these social services provided by the constitution were come under the responsibility of the district councils and in practice local governance is limited to political decentralization in elected councils districts.

4.1.2. Legal Problems on Local Physical Planning Powers

There is some confusion and contradictions about the Local Physical Planning authority between the central government and the district councils. Law No. 17/2001 as amended in 2008) provides Urban Land Management and local physical planning. According to this law the implementing authority is the Ministry of Public Works, and it gives to the Ministry the responsibility to develop the Master Plan for urban centers of districts [32]. However, according to the senior official of the Ministry, it lacks the capacity to develop the master plans for urban centers in districts and as a result of this there is no single master plan developed by the ministry of public works. [33]

On the other hand, district councils claim responsibility for planning, control and administration of land management, but they lack clearly defined authority, capacity and guidance in dealing with this issue. As a result of this, disputes frequently arise over ownership of land due lack of physical plan as well as inadequate procedures for land titling and registration.

Even though The Somaliland constitution provides land is a public property which the government is responsible [34], in practice land is owned by individuals or community based on custom or tradition, and therefore, land has become a major economic resource and profitable commodity in Somaliland, and as a result of this Disputes over land ownership and access to are the most important contemporary source of conflicts in Somaliland.

According to an interview with the mayor of Borama district council, because in the absence of a clear definition of district and regional boundaries, the territorial domains of different administrations usually overlap and cause conflict.

the mayor of Borama district Council, stated that; "*land landlords or land owners usually sell the plots of land to the people, and whenever a person want to have a land, he should go first to the landlord and sell from him before he comes us for registration.*" this is because he said; *there is no physical plan of the town which is prepared by the ministry of public works, and as a result of this town is planned by the staff of department of public works and land of the district council, and they plan when land owners mostly farm land comes to our office and demand physical planning for their farm land.* The mayor further indicates that, *there are incidents in which land owners sell a same plot of land for more than one person, or sometimes you can see confusion about plots sold as a result of demarcation disputes between farmers.* He further indicts that, *there are many people who have legal documents in a same plots of land which issued by the local government in different times* [35].

According to the Hargeisa Regional Court, the majority of the civil cases that come before courts are land related disputes. Overlapping individual claims of land ownerships

are the most common nature of such cases and it is often difficult to resolve these disputes quickly due to the easily forged property documents and corruption in the land registration system. [36]

Apart from the judiciary, the local councils have a legal authority in the resolution of land issues. [37] However, in practice, much of these tasks are actually not fulfilled properly and the ability of local councils to solve conflicts and manage land issues seems to be very limited. [38]

A local government expert interviewed [39] explained inappropriate physical planning and lack of local authority and capacity is one of the major problems relating to land administration decentralization. Therefore, inadequate land registration and land titling is the major causes of disputes and conflicts in district councils.

4.1.3. Legal Problems on Districts Councils Fiscal Autonomy

Local government own source revenues is governed by Law Lr: 12/2000 which is called the unification of local government taxes law. This law provides the categories of taxes available to districts and indicates the tariff rates. It authorizes all the districts in the country to collect these taxes in a unified manner and in a same rate whether they are districts in grade A, B, C or D. [40]

On the other hand Law 23/2002 states that; since the districts are different in social, economic and income, every local council is free to set its tariffs and promulgate it into by-laws. [41] Therefore, there are contradictions relating to the taxation powers granted to local governments between these two laws, and as a result of this most of the district councils own revenue is collected by the ministry of finance.

According to the ministry of finance, districts councils are allowed to collect taxes provided by the unification of local government taxes law no: 12/2000, and This is because they said; regions and districts law of 23/2002 failed to demarcate taxation powers between central and district councils [42]. Hence in practice districts own source revenue actually comes from a few revenue sources.

Most of the grade (A) districts mayors interviewed explained The most important source of own revenues are Livestock taxes (taxes on sales of livestock), property taxes (buildings and land value tax), slaughterhouse fees, trade licenses tax, service charges and service levies (for collection of garbage) and Street markets tax (daily collection tax). [43] Hence the generated revenue does not cover the provision of the required services. Local councils attributed this financial shortfall to the existing revenue collection to the existing poor legal framework, particularly Law Lr; 12/2000. [44] According to them, this law undermines the fiscal autonomy of the local governments since it limits their authority to generate revenue through taxation at local level.

Inter-governmental fiscal transfer is another source of income for most of the local governments, and it is the ministry of interior which is the central government organ vested the power to allocate this fund to the districts However, the allocation formula for the fiscal transfer is not

systematic and predictable and whenever a new minister is appointed to this ministry, the transfer fund is changed or altered without based on objective and transparent criteria and consideration of the differences in the classification of the local government, geographic and physical factors, populations, and socio-economic conditions. For example the new minister of the ministry of interior has recently issued a ministerial decree dated 06/03/2017 in which he made a new allocation to the districts according to the following;

Grade (A) district councils which are 7 out of the 23 districts councils 6 of them namely: Hargeisa, Burao, Borama, Gabilay, Eerigabo and Lasanod district councils, receive 24%, 11%, 6%, 5.5%, 1.5% and 1.74% respectively of the total subsidy, excluding only Berbera district council which is the only main port of the country. Grade (B) district councils which are five out of the 23 districts councils, 2 of them receive 1.45%, another 2 receive 0.95%, while the remaining district receives 1.51% of the total subsidy. Grade (C) district councils which are 11 out of the 23 districts councils, receive central government transfer of 0.95% up to 1.16%. 19 Grade (D) districts with only appointed Mayors plus 25 out of the newly created grade (D) districts receive negligible transfers in the order of 0.85% and 0.4% of the total amount of transfers respectively. In other words 52 grade (D) Districts which have appointed mayors, only 44 of them receive small amount of central government transfer, while the rest 8 grade (D) districts are left in a state of helplessness. [45]

According to the above mentioned allocation, districts receive insufficient amount of transfers to cover their expenditure needs and obligations and there is no horizontal transfer mechanism in place to equalize the different expenditure needs and revenue potentials between districts.

Therefore, Inter-governmental fiscal transfer does not reflect need, because it does not distinguish between Grade B, C and D Councils, and also it does not reflect the administrative capacity of local governments to effectively spend the transfer or of the accountability relationships in place to monitor local government spending.

4.1.4. Legal problems on local governments' legitimacy to Provide Service Delivery

In Somaliland decentralization system, there are legal challenges which relates to the legitimacy of local governments. The Regions and Districts Law (Law No: 23/2002) established six regions in which each region is subdivided into districts graded A, B, C and D [46]. The total number of these district councils established by this law is 42 district councils.

The number and category of these district councils in each region is summarized the following table.

Table 1: Number and Categories of Districts of Somaliland

Regions	Grade (A) Districts	Grade (B) Districts	Grade (C) Districts	Grade (D) Districts	Total
Awdal	1	1	2	1	5
Marodi-Jeeh	2		2	6	10
Sahil	1		1	3	5
Sanag	1	2	3	4	10
Sool	1		3	2	6
Togdher	1	2		3	6
Total	7	5	11	19	42
%	17%	12%	26%	45%	100%

Source: law no; 23/2002

According the above table, the total number of district councils in Somaliland is 42 in which 7 of them are grade (A), 5 districts are grade (B), 11 districts are grade (C) while the remaining 19 districts are grade (D) districts. Therefore, there are 6 regions and 42 districts which are legally established and approved by the parliament.

However, based on interviews with the officials of the Ministry of Interior, the present number of "legitimate" 42 districts, only 23 districts Graded A-C, have elected districts councils. This means elections have only been held in 23 local district councils graded A-C and only these 23 districts have real government structure. The remaining 19 Grade (D) districts established under this law have central government appointed Mayors, and they do not have elected District Councils. Hence the population in 19 (D) districts does not have local representation and governance structure in their areas [47].

Furthermore, Presidential Decrees have created additional 52 more new grade (D) districts based on political considerations mainly during elections and encouragement from traditional leaders [48]. These additional districts have also not yet been approved by Parliament, and they have appointed, rather than elected Mayors. As explained by central government officials [49], at present, there are 94 districts, of which 23 districts only have local councils.

The structural arrangement for decentralization therefore, is inadequate which indicates only 23 out of 94 districts have local councils while 71 districts have neither governance structure nor the capacity to service delivery to local community.

Therefore, the issue of increasing the number of grade (D) districts and their legitimacy is one of the most serious challenges faced by the Somaliland decentralization system. It created the absence of local representation, lack of accountability, inequity in the allocation of resources and inefficiency of service delivery. Furthermore it established corruption, miss-management, and public service inefficiency, while at the same time, undermined the capacity to contribute peace building, governance and service delivery to the citizens.

4.1.5. The Nomination of District Authorities as a Type of Recentralization and Its Effect to Localized Governance and Service Delivery

The regions and district law, law No; 23/2002 defines the geographical area of the district council's jurisdiction in

which they are elected [50], and vests them with the exclusive authority to make decisions in the area of their jurisdiction [51]. The constitution and law No; 23/2002 also stated the situation in which the government can make changes to the number of regions and districts or can create new ones. These laws stated that; whenever The Government wants to create new districts it should bring up reasoned proposals for that and submit to the joint session of the parliament for approval, [52]

However, several Presidential decrees established or created new grade (D) districts within existing grade A-C district council's boundaries without demarcation and defining their jurisdictions. This creates overlapping and competing claims for jurisdiction between district councils of grade A-C and the newly established grade (D) districts administrations. According to local government experts interviewed, the establishment of these new districts and appointment of their mayors by the central governments is one of the most serious challenges facing the Somaliland decentralization and the process of devolving authority and responsibility to local elected district councils [53].

The district council interviewed on their behalf argued that, the establishment of these new districts within their jurisdiction amounts recentralization of their political power, fiscal resources, and administrative control. They argued these new districts limited their administration boundaries and in practice elected councils are confined within the capital cities in their districts and they cannot go beyond the jurisdiction of the city administration and they cannot provide service delivery in most localities of their constituency [54]. Therefore, confusion over this issue has left huge population, particularly rural areas without social service and without representation.

4.2. The Capacity of District Councils to Provide Service Delivery in Legitimizing Local Governance as Part of the Peace Building Strategy

4.2.1. Service Delivery and Capacity of Local Governments in Somaliland

Although Somaliland has applied a decentralized governance model, in which the districts are given the primary responsibility for service delivery [55], there are major constraints in implementing this system by districts, including inadequate regulatory frameworks, the lack of own-source revenue, insufficient state transfer fund, extremely limited human resources capacity, and an underdeveloped local government, while on the expenditure side, recurrent and operational costs account for above 90 percent of the district budget.

According to an interview made with the Executive Secretary of Somaliland Local Government Association (ALGASAL), the main services currently provided by Grade (A) districts councils which are (7) districts only and are financially stronger than other grade B, C and D districts include: construction of urban roads, markets, urban land management; sanitation, hygiene and solid waste management. He indicated also some of these projects in (5) grade (A) districts (Borama, Gabilay, Hargeisa, Berbera and Burco) is largely financed by donor agencies through UN

Joint Programme on Local Governance and Decentralized Service Delivery (JPLG) [56].

Furthermore, lack of the administrative and fiscal authority of the other grade B, C and D districts makes the execution of the administrative functions provided by the constitution unaffordable. According to (ALGASAL) Executive Secretary [57], The capacity of other Grade B, C and D districts are in a poor in both human and financial resources and thus, the services provided by these districts is limited to sanitation and hygiene in urban centers, and they are unable to provide social services like education, health, security, water etc. he added also that, almost all grade (D) districts lack the political level of decentralization to effectively respond to citizen needs [58].

According to the arguments of the central sector ministries, districts councils lack the capacities to meet their assignments. They added also that confusion over the roles of top-down central ministries and horizontal local government due to poor legislation [59]. Therefore, this indicates that is no laws which clearly define the roles between the central ministries and the district levels in managing these services. Furthermore the majority of the local Governments staff is in the Administration Departments rather than service delivery, and there are no sector specialist departments like education, health, security etc, and there is no much capacity for the planning, management and oversight of service delivery.

Therefore, The delivery of social services such as education, health, Security, urban and rural water supply, livestock husbandry and agricultural development etc are managed by sector ministries though regional level offices.

While there are great limitations of the capacity of the districts to deliver services, this is compensated for by a private sector, NGOs Diaspora and donors that are very active in providing social services mainly health and education at the district level. This is also well developed with regard to the use of Public Private Partnerships (PPP) in some sectors, such as water in particular. As a result, services are highly decentralized by default [60].

5. Conclusion and Recommendations

5.1. Conclusion

The policy frameworks for the Republic of Somaliland (including the Constitution; Law 23/2002; Law No. 17/2001 and Law Lr: 12/2000) underscore the intention to devolve authority and responsibility for local services to local governments. However, a large gap exists between the constitutional principles one hand and legal provisions implementing decentralization on the other as they failed to explicit the administrative and financial functions of districts councils. Therefore, the legal and regulatory framework for local governance is currently inadequate.

Law 23/2002 provides political and administrative structures of districts councils and specifies 42 districts councils graded A-D. However, these structures are only in place for 23 grade A-C districts with the elected councils. The rest of

the 19 grade D districts together 58 newly created grade D districts do not have elected councils rather they have appointed mayors. Therefore the institutional arrangement of local governments in Somaliland is not adequate to manage and implement decentralization.

In practice District Councils provide standard municipal functions, like: urban roads, solid waste management, slaughterhouses, markets and land management, and the majority of the staff at the districts are in the administrative, rather than the service delivery. Hence the service delivery is centralized local governments' service delivery cannot contribute peace, governance and development in Somaliland.

5.2. Recommendations

To rectify the above mentioned challenges and problems relating legal and Institutional arrangements for Somaliland decentralization system, the central government should take necessary steps including the following;

- 1) A clear legal framework that defines the roles and responsibilities of district councils is essential to achieve effective and efficient decentralization. For this reason local government regulatory framework, especially law No: 23/2002 should be amended to include greater clarity with regard to the administrative and financial authority for districts councils to provide local public service delivery.
- 2) One of the most crucial dimensions of decentralization for peace building is political decentralization. Therefore, the power of the central government to nominate district authorities should be entirely revoked and political decentralization must be fully implemented, where citizens elect their district councils are part of the decision-making process.
- 3) The central government should redefine the grades of the districts, define their geographic boundaries and determine their capacities and then assign specific service delivery functions based on their classifications.
- 4) The central government should develop intergovernmental fiscal transfer allocation formula on an objective criteria basis and consideration of the differences in the classification of the local government, geographic and physical factors, populations, and socio-economic conditions.
- 5) Capacities of districts councils and staff should be increased to strengthen their capacities in local democratic governance to promote peace and human development.
- 6) There must be willingness at national level to transfer authority to local level, and the central government should ensure that the services provided at the decentralized level are planned through a participatory, transparent and accountable process.

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