

**AN ANALYSIS OF THE EFFECT OF BUSINESS FORMALIZATION ON THE ECONOMIC  
DEVELOPMENT OF UGANDA**

**LOKWII TOM CHOUDRY**

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**UGANDA CHRISTIAN  
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## **DEDICATION**

I dedicate this dissertation to my father, The Late Mr Uma Kenneth Choudry, my mother Ms Nabwiire Harriet Lorna, and my brothers and sisters Betty, Paul, Timothy, Joy, Martha, my nieces Miriam and Baby Sarah, Uncle Iriama Fred, plus all family and friends like Idris Kawooya, Karugaba Jeremiah, , Owole Peter, Bukenya Fred Ndyebaza and Opedes Titus who have made me reach this far in providing all that I needed for my education and survival in school.

**DECLARATION**

I **LOKWII TOM CHOUDRY** the undersigned, do solemnly declare that the material presented is my original work, both in substance and form, and that to the best of my knowledge. It has never been presented in Uganda Christian University or any other institution of learning for the award of Bachelor's degree.

Signed.....

**LOKWII TOM CHOUDRY**

Date.....

**APPROVAL**

I declare that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly dissertation in partial fulfillment for the award of Degree of Bachelor of Laws of Uganda Christian University.

Signed.....

**SUPERVISOR**

Date.....

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## ABSTRACT

This study is about business formalization in Uganda. Business formalization occurs after business formulation. Business formulation is the process of starting a new business, while Business Formalization is the process of structuring and organizing a business in a formal manner, involving registration and compliance with the law. This study shows business formalization from the year 2012 till the year 2023, and was carried out through a desk review of all laws governing business Formalization in Uganda, such as the 1995 Constitution of Uganda as amended, Business Names Registration Act cap 109, Companies (General) Regulations S.I No. 7 of 2016 , Company Act 2012, Electronic Transactions Act No. 8 of 2011 , Electronic Signatures Act No. 7 of 2011 , Finance Act 2016, Uganda Registration Services Bureau Act cap 210, Uganda Registration Services Bureau Act cap 210, Stamps Act 2014 cap 342 , Stamps (Amendment) Act 2019, and Tax Procedures Code Act 2014. This study shows that business formalization contributes to the economic development of Uganda hence an advantage, for instance it increases the tax base and tax revenue, formalized businesses have easy access to financial services, enhanced market competitiveness, improved investor confidence, job creation, and regulatory compliance. Formalized businesses have an advantage over the unformalized, hence the disadvantages of none formalization include; limited access to finance, lost tax revenue by the Government of Uganda, limited market competitiveness, informal employment and lack of investor confidence. The study concludes that it is advantageous for all businesses to be formalized in Uganda, over the disadvantages of none formalization of businesses.

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# CHAPTER ONE

## BUSINESS FORMALIZATION IN UGANDA.

### 1.0 INTRODUCTION

The term **Business** embraces everything about which a person can be employed, which occupies the time, attention and labour of men for the purpose of a livelihood or profit<sup>1</sup>. **Business formulation** refers to using standardized written rules and procedures to govern employee activities, an organizational structure and work roles extensively.<sup>2</sup> The history of businesses in Uganda is a complex narrative that has evolved over centuries, shaped by various factors including colonialism, independence, political instability, economic policies, and globalization. Here's a brief overview of the key periods and developments:

**Pre-colonial Era:** Before the arrival of European colonial powers, Uganda was home to a variety of indigenous economic activities, including agriculture, trade, and craftsmanship. Local communities engaged in subsistence farming, hunting, fishing, and bartering goods among themselves and with neighbouring regions.

**Colonial Period (late 19th - mid 20th century):** Uganda came under British rule in the late 19th century as part of the East African Protectorate. The British colonial administration introduced cash crops such as coffee, cotton, and tea, which became major export commodities. The colonial economy was largely structured to serve the interests of the British Empire, with limited opportunities for indigenous entrepreneurship.

**Post-Independence (1962 onwards):** Uganda gained independence from British colonial rule in 1962. In the early years of independence, there was a gradual emergence of local businesses, primarily in agriculture, retail, and small-scale manufacturing. However, political instability, including the rule of Idi Amin (1971-1979) and subsequent civil unrest, negatively impacted the business environment.

**Economic Reforms (1980s - 1990s):** In the 1980s and 1990s, Uganda implemented economic

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<sup>1</sup> Black's law dictionary 2<sup>nd</sup> edition.

<sup>2</sup> *ibid*

reforms aimed at liberalizing the economy and promoting private sector growth. This period saw the emergence of small and medium-sized enterprises (SMEs) across various sectors, driven by deregulation, privatization, and foreign investment.

**Recent Developments (2000 - 2023):** In recent decades, Uganda has experienced steady economic growth, supported by investments in infrastructure, agriculture, telecommunications, and services. The country has seen the rise of entrepreneurship and the formalization of businesses, with a growing number of start-ups and innovative ventures in sectors such as technology, finance, and tourism.

In addition to the above, **the medium of exchange in Uganda has also evolved**, as discussed below<sup>3</sup>; A **medium of exchange** is any item that is widely accepted in transactions as payment for goods and services and as repayment of debts. The **Black's law dictionary** also defines a medium of exchange as a measure of standard of value in commercial transactions between buyers and sellers<sup>4</sup>.

**The Barter System in Uganda:** This was a traditional method of exchange where goods and services were directly traded without the use of money. In this system, individuals or communities would exchange items they had in surplus for items they needed. Common items traded included **agricultural produce** such as grains, livestock, fruits, vegetables, and **handicrafts**. For example, a farmer might exchange a portion of their crop for a cow, or a craftsman might trade their handmade products for food. The value of items in the barter system was typically determined through **mutual agreement** between the parties involved. Factors such as scarcity, demand, and quality played a role in establishing the relative worth of different goods.

Over time, as societies evolved and economies became more complex, the barter system in Uganda gave way to the use of various forms of currency and monetary systems, enabling easier and more efficient exchanges of goods and services.

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<sup>3</sup> <https://www.ugandaholidayguide.com/the-evolution-of-money-in-uganda/?amp=1>

<sup>4</sup> Black's Law Dictionary 2<sup>nd</sup> Edition

### **Cowrie Shells in Uganda:**

Cowries are small, shiny seashells that were brought inland through trade networks. In Uganda, cowrie shells were valued for their beauty and durability, and they served as a medium of exchange. They were used for various transactions, including **trade, and payments, and as a store of value**. Cowries were particularly popular in areas near water bodies, such as Lake Victoria and the River Nile, where they were more readily available. The use of cowrie shells as currency in Uganda had several advantages. They were easily recognizable, portable, and durable. However, the use of cowrie shells as currency also had limitations. Their availability was dependent on trade routes and connections with coastal areas where the shells were sourced. This meant that their supply could be limited, and their value could fluctuate based on availability and demand. The use of cowrie shells as currency gradually diminished in Uganda today, but hold historical and cultural significance, often being used in traditional ceremonies, jewelry, or artistic expressions.

### **Arab and Indian Coins in Uganda:**

Arab and Indian coins were used as a form of currency in Uganda, particularly during the precolonial and early colonial eras. These coins were introduced through trade networks and interactions with Arab and Indian traders in East Africa. They were typically made of copper or silver and featured various designs and inscriptions that represented their respective issuing authorities, and were generally accepted and circulated alongside other forms of currency, such as cowrie shells, within the local economy.

The use of Arab and Indian coins in Uganda facilitated trade and commercial activities, as they were widely accepted in local markets. However, with the establishment of colonial rule and the introduction of formal colonial currencies, the prominence of Arab and Indian coins gradually declined in Uganda. These external currencies became the primary means of exchange, and the use of Arab and Indian coins diminished over time.

### **Colonial Period Currency in Uganda:**

During the colonial period in Uganda, the British introduced their own currency to facilitate trade and economic activities. The currency used during this time went through several changes as the region was under British rule as below;

**British East Africa Company Currency:** In the late 19th century, the British East Africa Company issued its currency specifically for use in Uganda. These early colonial currencies consisted of banknotes and coins that were introduced to standardize monetary transactions in the region.

**Indian Rupee:** Initially, the currency used in Uganda was linked to the Indian rupee, which was widely used in British India and other parts of the British Empire. The exchange rate between the Ugandan currency and the Indian rupee was maintained to facilitate trade and economic ties between the two regions.

**East African Currency Board:** In 1919, the East African Currency Board was established to issue a common currency for British East Africa, which included Uganda. The board introduced the East African shilling, which became the official currency of the region, including Uganda.

**Conversion to Ugandan Shilling:** After Uganda gained independence in 1962, the East African shilling was replaced by the Ugandan shilling as the official currency. The Ugandan shilling was introduced to symbolize the country's sovereignty and independence from British colonial rule. After gaining independence from British colonial rule on October 9, 1962, Uganda introduced its national currency called the Ugandan shilling. The Ugandan shilling replaced the East African shilling, which had been the common currency for British East Africa. The Ugandan shilling is issued in banknotes and coins of various denominations, representing different values for instance coins of 100, 500, and notes of 1000, 5000, 10,000 and 50,000.

The Ugandan shilling remains the official currency of Uganda to this day, and it plays a crucial role in the country's economy, serving as a medium of exchange for goods, services, and financial transactions. The **Bank of Uganda**, as the central bank, is responsible for managing and regulating the issuance and circulation of the Ugandan shilling, ensuring its stability and integrity within the financial system. However due to technological advancements each passing year, more mediums of exchange have emerged in Uganda, for example;

## **Digital Payments and Mobile Money Services in Uganda:**

Digital payments and mobile money have gained significant traction in Uganda, revolutionizing the way financial transactions are conducted as explained below;

**Mobile Money Services:** Mobile money refers to the use of mobile phones to perform financial transactions. In Uganda, mobile money services have become immensely popular. Companies like MTN Uganda (MTN Mobile Money) and Airtel Uganda (Airtel Money) offer mobile money platforms that allow users to send and receive money, make payments, purchase airtime, and access other financial services.

Business formalization in Uganda today is mainly carried out through incorporation, which is explained below. **Incorporation**<sup>5</sup> means the act or process of forming or creating a corporation, legal or political body, with the quality of perpetual succession and existence unless limited by the act of incorporation. It is also the process of formation of a new corporation/company effectively recognized under the law. Company registration is governed by the **Company Act 2012**, which is an act to amend, replace and reform the law relating to the incorporation, regulation and administration of companies and to make provisions for related matters. The Companies Act assented to on 27<sup>th</sup> August 2012, is the backbone of company and business registration in Uganda till today. This mode of making a company incorporated requires registration, which is governed by the **Uganda Registration Services Bureau**<sup>6</sup>.

**The Company Act 2012**<sup>7</sup> defines a company as; A company formed and registered under this act or an existing company or a re-registered company under this Act. “Existing company” under the same section means a company formed and registered before the coming into force of this Act. Company registration bestows on the company the status of a legal entity/person recognized under the law which creates various rights enjoyed by the company but also creates duties. This can be elucidated in **Salmon v Salmon**<sup>8</sup>, where the court authoritatively held that; a company or corporation is a legal entity separate and set apart

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<sup>5</sup> Black's law dictionary 2<sup>nd</sup> Edition

<sup>6</sup> URSB Act cap 210

<sup>7</sup> Section 2 of the Company Act, No. 1 of 2012.

<sup>8</sup> [1897] AC 22

from its members or shareholders. This legal personality is an artificial one which is distinguishable from natural personality. The possession of a legal personality implies that a company is capable of enjoying rights and being subject to duties, separately from its members, from its members, directors or shareholders.

According to **Professor David Bakibinga**<sup>9</sup>, he defines a company as an artificial legal entity separate and distinct from its members or shareholders. A human being is a “natural” person. A company is a “legal” person. A company thus has legal rights and obligations in the same way that a natural person does<sup>10</sup>. Business formulation is effected in a variety of ways for example to companies which include; Company Limited by shares, Company Limited by Guarantee and not having share capital, Company Limited by Guarantee and having share capital partnerships, single member company, partnerships, etc. In addition to a company, a number of businesses in Uganda can be formalized for example partnerships, sole proprietorships, none governmental organizations, cooperatives, micro finance institutions, and franchises, as will be explained further in chapter 3.

### **Company formalization prior the enactment of the current statutory laws.**

The genesis of modern company can be traced back to the middle ages, a period of European history encompassing the 5<sup>th</sup> to the 15<sup>th</sup> century<sup>11</sup>. Emerging notions of liberalization and collective administration allowed early forms of business Organizations, mainly consisting of workshops, craft guilds and trade associations such as Freemasons<sup>12</sup>.

The importance of these trade organizations was realized in the 16<sup>th</sup> and 17<sup>th</sup> centuries with the creation of the **Muscovy Company**, the first trading company chartered in 1555<sup>13</sup>. The company opened up diplomatic links and trade between England and Russia<sup>14</sup>. the success of the first chartered joint-stock company led to the creation of the East India Company in 1600, with crown privilege and a monopoly over trade with India. Other companies created

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<sup>9</sup> Company Law in Uganda.

<sup>10</sup> See section 50 of the Company Act, No. 1 of 2012.

<sup>11</sup> Guerra, M & Maria, T (1982).

<sup>12</sup> Chapter 1, 2<sup>nd</sup> paragraph Principles of company law in Uganda by Chrispas Nyombi and Alexander Kibandama.

<sup>13</sup> It has its roots in “The mystery and company of merchant adventurers for the discovery of regions, dominions, islands and places unknown” 1555.

<sup>14</sup> Willan T.S (1953) The Muscovy merchants of 1555. Manchester university press.

for the purposes of trade include the **Hudson's Bay Company** in 1670 to trade with Canada and the **Africa Company** in 1672.

In Uganda, in the middle of the 20<sup>th</sup> century, entrepreneurship was stirred forward by the Asian population who found easy access to capital and possessed impeccable business knowledge and entrepreneurship skills. In 1972 after the Asians were expelled from Uganda, they left behind a large skills gap that led to rough economic decisions<sup>15</sup>. Political instability destabilized and weakened the currency, which showed that thriving business in a state contributes to the strength of the economy.

Company law in Uganda originated from **The Indian Companies Act 1882**, the first piece of legislation designed to administer Ugandan companies. When the treaty of colonial rule was signed in 1890, Uganda adopted many British corporate laws, like in 1923 with **The Companies Ordinance No.6** which repealed the 1882 Companies Act. **The Companies Ordinance No. 12 of 1935** repealed the former, till the drafting of the Companies Act 1961 which was in line with **The British Companies Act 1948**. Till today, Uganda draws heavily from English common law and equitable doctrines<sup>16</sup>. English common law and equity is applicable in Uganda as a result of **The Judicature Act 2000**<sup>17</sup>.

The main source of company law in Uganda today is **The Company Act 2012**, which replaced **The Companies Act 1961**<sup>18</sup>, which was lagging behind market and corporate development.

Business and industry play a crucial role in the social and economic development of Uganda. Systematically, thriving businesses in Uganda help to as well reduce poverty in the state.

#### **THE CURRENT LEVEL OF BUSINESS FORMALIZATION IN UGANDA.**

**Private Sector Foundation Uganda (PSFU)** is Uganda's apex body for the private sector made up of 300 Business Associations. PSFU is a member-based organization with a core task to represent, lead and serve the private sector. Corporate bodies and the major Public

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<sup>15</sup> Saul, J.S (1981)

<sup>16</sup> Bakibinga, J.D (2004). Company Law and Business Development in Uganda No 1 *The Uganda Living Law Journal* at 31.

<sup>17</sup> Chapter 13 Revised Laws of Uganda, 2000.

<sup>18</sup> Chapter 110, Revised Laws of Uganda, 2000.

Sector Agencies that support private sector growth. Since its founding in 1995, PSFU has served as a focal point for private sector advocacy as well as capacity building and continues to sustain a positive dialogue with Government on behalf of the private sector. PSFU is also Government's implementation partner for several projects and programmes aimed at strengthening the private sector as an engine of economic growth in Uganda<sup>19</sup>. Uganda's development ambitions are guided by **Uganda Vision 2040**, which aims to transition Uganda from a low-income country to an upper middle-income country within 30 years.

**Business formalization** is the process of registering a business or company in Uganda. In addition, Julius Sserubiri in a **New Vision article**<sup>20</sup> stated business formalization to mean the graduation of business activities from the informal to the formal sector. One-way governments drive their socioeconomic development agendas is via creating a conducive environment for businesses to prosper, and consequently, create jobs, and education and skills development opportunities, allied with contributing to tax revenues and fund public services like health. It is on this basis that business formalization is of the utmost importance for socio-economic development.

The Government of Uganda sees the **private sector as playing a key role** in realizing its second National Development Plan and realizing the SDGs, particularly through public-private partnerships (PPPs) with a focus on infrastructure, energy and other projects that require substantial financial resources<sup>21</sup>.

A range of business associations exist and some efforts have been made to establish common private sector positions on key policy issues. MSMEs are less well represented and lack a common forum to effectively engage in policy dialogue. The domestic business community is fairly young with the majority of businesses 90% being micro, small and medium-sized enterprises (MSMEs) operating in the informal sector. The government is rolling out the **3rd National Development Plan (NDP III)** that reflects significant changes.

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<sup>19</sup> <https://www.psfuganda.org/about-us/who-we-are.html>

<sup>20</sup> New Vision Article of 22<sup>nd</sup> June 2022

<sup>21</sup> <file:///C:/Users/user/Desktop/Private-Sector-Engagement-through-Development-Co-operation-in-Uganda-Draft-Case-Study.pdf>

Unlike in the previous national plans, this time, the private sector has been recognized as a standalone pillar<sup>22</sup>.

**The Businesses in Uganda are divided into three broad categories<sup>23</sup>;**

**(i)Light manufacturing and agro-processing;** which includes food, textile, garments, perfumes and oils, fabrication, electronics, mills, chemicals, and machinery and equipment,

**(ii)Services,** which includes restaurant, barber and salon, mechanics and repairs, radio repair, bicycle repair, transportation, and cobbler and shoe shiners, and finally

**(iii)Trade,** which includes retail shops, produce, fish selling, eating kiosks, construction, information technology (I.T), art and crafts, flowers, and mobile money business.

A high percentage of women were able to recognize a business opportunity compared to men<sup>24</sup>. The main reasons or motivation for starting businesses in the informal sector include; lack of employment opportunities in the formal sector, and wanting to take advantage of existing business opportunities<sup>25</sup>.

### **1.1 STATEMENT OF THE PROBLEM**

Prior to the enactment of the Companies Act, which came into effect in 2012, business registration in Uganda was governed by a patchwork of outdated laws and regulations inherited from the colonial era. The lack of a unified legal framework created ambiguity and uncertainty regarding the rights, obligations, and legal status of businesses operating within the country. As a result, entrepreneurs and business owners encountered significant barriers when attempting to register their businesses, leading to delays, inefficiencies, and a lack of confidence in the formal registration process.

The enactment of the Company Act and other relevant statutory laws represented a significant milestone in modernizing Uganda's business registration process, providing greater legal clarity, certainty, and protection for businesses operating within the country.

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<sup>22</sup> 2.2 <https://psfuganda.org/psf-media-centre/233-psfu-strategic-plan-2020-2025/file.html>

<sup>23</sup> <https://doi.org/10.1080/23322039.2020.1843255> at p.10

<sup>24</sup> Ibid

<sup>25</sup> Ibid

All statutory laws, which for purposes of this research derive authority from the Companies Act 2012, have created avenues and an opportunity for quick and easy registration of companies and businesses that has a vast number of benefits. In Uganda, the process of business formulation and registration is intended to be a catalyst for economic development by providing a legal framework for businesses to operate within. However, the current state of business registration in Uganda presents significant challenges that hinder the country's economic growth potential. Despite the existence of registration procedures, a substantial portion of businesses and companies operate informally, without proper registration or legal recognition. This phenomenon has led to a multitude of negative consequences that impede economic development in Uganda.

### **Business formalization in Uganda.**

At present, the process of business registration in Uganda is typically carried out through the **Uganda Registration Services Bureau (URSB)**<sup>26</sup>, with additional oversight from various government agencies such as the **Uganda Revenue Authority (URA)**<sup>27</sup> and the **Kampala Capital City Authority (KCCA)**<sup>28</sup>. However, despite the availability of these registration channels, many entrepreneurs and business owners opt to operate informally due to several reasons. These include the perception of the registration process as **complex, time-consuming, and costly, as well as a lack of awareness about the benefits of formalization**. As a result of widespread informal business operations, Uganda faces numerous challenges that hinder its economic development.

In summary, the failure to register companies and businesses in Uganda has significant implications for the country's economic development. Informal businesses face numerous barriers that limit their growth potential, hinder innovation, and undermine the integrity of the formal economy. Addressing the challenges associated with business registration is therefore essential to fostering a conducive environment for entrepreneurship, attracting investment, and promoting sustainable economic development in Uganda, hence the purpose of this study.

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<sup>26</sup> Uganda registration services bureau chapter 210

<sup>27</sup> Uganda Revenue Authority Act chapter 196

<sup>28</sup> Kampala Capital City Act, 2011 Act 1 of 2011

## **1.2 OBJECTIVES OF THE STUDY**

The objective of the study is to show the advantage of business formalization, through incorporation to the development of the economy of Uganda.

### **1.2.1 GENERAL OBJECTIVE**

The general objective is to examine the impact of business formalization on the economic development of Uganda.

### **1.2.2 SPECIFIC OBJECTIVES**

- a) To assess the current level of business formalization in Uganda.
- b) To analyze the relationship between business formalization and economic growth in Uganda.
- c) To identify the challenges hindering the formalization of businesses in Uganda
- d) To explore potential strategies for enhancing business formalization in Uganda.

## **1.3 RESEARCH QUESTIONS**

- a) What is the current level of business formalization in Uganda?
- b) How does business formalization affect the economic growth of Uganda?
- c) What are the main challenges faced by businesses in formalizing their operations in Uganda?
- d) What strategies can be implemented to promote business formalization in Uganda?

## **1.4 SIGNIFICANCE OF THE STUDY:**

The significance of my dissertation, "An analysis of the effect of business formalization on the development of Uganda," offers several benefits for you as a reader:

- a) **Policy Implications:** The study will provide policymakers with evidence-based insights into the effectiveness of business formalization policies in Uganda. By understanding the impacts of such policies, policymakers can tailor interventions to better support formalization efforts, thereby fostering economic growth and development.
- b) **Economic Growth Perspective:** Readers will gain a comprehensive understanding of

how formalizing businesses can contribute to economic growth in Uganda. This includes creating a more conducive environment for investment, stimulating entrepreneurship, and enhancing productivity through access to formal markets and resources.

- c) **Social Impact:** This analysis highlights the social implications of business formalization, such as its effects on employment generation, income distribution, and poverty alleviation. This understanding is crucial for designing inclusive development strategies that promote equitable growth and societal well-being.
- d) **Legal and Regulatory Framework:** By examining the relationship between business formalization and regulatory frameworks in Uganda, this study informs you on discussions of legal reforms aimed at simplifying business registration processes, reducing bureaucratic barriers, and enhancing compliance among entrepreneurs.
- e) **Foreign Investment Attraction:** Insights from this study show business formalization attracts foreign investors by demonstrating the benefits of investing in a formalized business environment. This can lead to increased foreign direct investment (FDI), technology transfer, and knowledge exchange, which are essential for sustaining long-term economic development.
- f) **Capacity Building Opportunities:** Understanding the challenges faced by informal businesses during the formalization process informs capacity-building initiatives targeting entrepreneurs. By addressing these challenges through training, mentorship, and access to support services, stakeholders can facilitate smoother transitions to formalization, thereby maximizing the developmental benefits.

### **1.5 SCOPE OF THE STUDY:**

The scope of this study, "**An analysis of the effect of business formalization on the economic development of Uganda,**" holds significant value for readers interested in understanding the dynamics between formalization efforts and economic growth in Uganda. By delving into this topic, the study sheds light on the potential impacts of formalizing businesses on various aspects such as employment opportunities, tax revenues, access to

finance, and overall economic stability. Readers will gain insights into the challenges and opportunities associated with formalization initiatives, enabling policymakers, academics, and stakeholders to make informed decisions aimed at fostering sustainable development in Uganda. This study focuses on businesses operating within Uganda across all sectors of the economy. It examined the formalization process and its impact on economic indicators such as GDP growth, employment rates and income distribution.

### **1.6 Literature Review:**

Literature review encompasses studies, reports and academic articles related to business formalization, and economic development within Uganda's context, to provide a comprehensive understanding of the subject matter.

In the article by **Salmon Mugoda et al**<sup>29</sup> business formalization is explained to classify an economy into 2 sectors, that is a formal sector and an informal sector. In this study on page 4, he used the concept of **informal sector or informal economy** to mean all market-based legal production of goods and services by business units that have no tax identification number (TIN) but may or may not have business permits (trading licenses) issued by local authorities in areas where they operate from.

Finance minister **Matia Kasaija**<sup>30</sup> stated that government efforts to formalize the informal sector are futile because the informal sector is mobile, for most of these businesses have no fixed address to follow up during registration.

Informality is linked to the inability of the formal sector to generate sufficient jobs to absorb excess workers<sup>31</sup>. They are quoted to have stated that the high registration cost and licensing fees by the Uganda Registration Services Bureau (URSB), Uganda Revenue Authority (URA), and the local authorities have exacerbated the problem. This is further worsened by bureaucratic inefficiency in the registration process due to long duration and

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<sup>29</sup> (2020) The portrait of Uganda's informal sector: What main obstacles do the sector face? Cogent Economics & Finance,8:1, 1843255, DOI:10.1080/23322039.2020.1843255

<sup>30</sup> <https://www.monitor.co.ug/uganda/business/prosper/why-formalising-informal-sector-is-a-song-with-no-end-1717144>

<sup>31</sup> <https://eprcug.org/blog/unlocking-the-potential-of-the-informal-sector-in-uganda-through-business-formalisation/>

delays in obtaining trading licenses upon submitting all requirements and payment of requisite fees<sup>32</sup>.

However, **this study disagrees with the above**, because the Government of the Republic of Uganda has implemented digitization of business registration and tax processes, along with harmonization of registration forms to ease the burden for example, **Ibrahim Bbossa, URA's Assistant Commissioner of Public and Corporate Affairs**, explains that the tax body has resorted to intercepting customers due to the high levels of non-compliance with value-added tax. He goes on to explain that **"it is not the intention of URA to go around closing businesses because we need them to thrive for us to effect our mandate. However, it is also on us to ensure compliance and level the tax-paying field."**<sup>33</sup>

Formal firms are significantly more productive than their informal counterparts as per **Aterido et al**<sup>34</sup>; Gelb et al. 2009. **Gelb et al**<sup>35</sup> found that access to public services, owner education and access to finance, among other variables, determine the rate of formality. The determinants of formality and non-formality is one of pioneering papers in this strand of the literature is **Djankov et al**<sup>36</sup>, who found a strong correlation between the degree of regulation and corruption. High costs of registration, regulatory and tax compliance lead to businesses being excluded from the formal economy (**De Soto; Friedman et al; Floridi et al**)<sup>37</sup>.

**Dr. Bbosa Science**<sup>38</sup> states that **the advantages of the informal sector** in an economy include; Widens tax base and increased government revenue, promotes development of entrepreneurial skills/abilities, facilitates the process of industrialization/increased output/ GDP / Economic growth, promotes resource utilization, produces cheap goods/ at

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<sup>32</sup> ibid

<sup>33</sup> <https://ura.go.ug/en/enforcement-is-a-last-resort-to-recovery-of-tax-ura/>

<sup>34</sup> Aterido, R., Hallward-Driemeier, and C. Pages. (2007). Investment Climate and Employment Growth: The Impact of Access to Finance, Corruption and Regulations across Firms, Working Paper.

<sup>35</sup> Gelb, A., T. Mengistae, V. Ramachandran and M.K. Shah. (2009). To Formalize or Not to Formalize? Comparisons of Microenterprise Data from Southern and East Africa, Center for Global Development, Working Paper.

<sup>36</sup> Djankov, S., R. La Porta, F. Lopez-de-Silanes, and A. Shleifer. (2002). The Regulation of Entry, *Quarterly Journal of Economics*, 117(1), 1-37.

<sup>37</sup> De Soto, H., (1989). *The Other Path: The Invisible Revolution in the Third World*, Harper and Row, New York.

<sup>38</sup> <https://digitalteachers.co.ug/advantages-of-informal-sector-in-an-economy/>

affordable prices, reduces income inequality, promotes commercialization of economy/reduce subsistence production, widens consumer choices/produces a variety of product, provides employment to local population and promotes development of technology/technical innovation and invention.

**Despite its contributions**, informality has negative implications for tax revenue, sustainable development, gender equality, and overall economic growth. My study, therefore, is contrary to the Articles quoted above, for it explains, using relevant examples such as Statutory laws, and case law, how the government has implemented fair policies to guide all Businessmen and Entrepreneurs, easy registration and maintenance of companies and businesses.

### **1.8 Methodology:**

Methodology refers to a body of methods, rules and postulates employed by a discipline. It refers to a particular procedure or set of specific procedures or techniques used to identify, select, process, and analyze information about a topic. In a research paper, the methodology section allows the reader to critically evaluate a study's overall validity and reliability. This part attempts to define the methods and procedures that are to be followed in order to achieve the objectives of the study.

**Data collection:** data collected in this study is through a desk study of all the laws governing business formalization in Uganda. This study is also shall substantially make use of primary legal materials such as statutes, case law and Regulations. Further, it shall employ secondary sources of material including textbooks and internal sources.

In conclusion, chapter 1 through a review of relevant literature, and an examination of the current state of business formalization efforts, this chapter has highlighted a broad introduction to the history and evolution of business formalization, the history and evolution of the mediums of exchange in Uganda, highlighting the complexity of the topic. Moving forward, the subsequent chapters will delve deeper into this study topic, to inform policy interventions to foster entrepreneurship and drive sustainable economic progress in

Uganda.

## **1.9 Chapter synopsis**

### **CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY.**

Chapter 1 discusses the introduction, and background to the study and includes the statement of the problem, study objectives, methodology, and literature review among others

### **CHAPTER 2: NON-LEGAL ASPECTS RELATED TO BUSINESS FORMALIZATION IN UGANDA.**

Chapter 2 includes an Introduction, the Benefits of Business Formalization in Uganda Today, the Disadvantages of Non-Business Formalization in Uganda Today and a Conclusion.

### **CHAPTER 3: LEGAL ASPECTS GOVERNING BUSINESS FORMALIZATION IN UGANDA.**

Chapter 3 includes an Introduction, Considerations of Business Formalization in Uganda, discussions of all Legal Aspects Governing Business Formalization in Uganda, and a Conclusion.

### **CHAPTER 4: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS**

Chapter 4 includes an Introduction, Summary of findings, Conclusions and Recommendations.

## **CHAPTER 2**

## NON-LEGAL ASPECTS RELATED TO BUSINESS FORMALIZATION IN UGANDA.

### 2.0 INTRODUCTION

In Uganda's business landscape, the journey towards formalization transcends more legal obligations. However, this chapter embarks on a more comprehensive exploration of the non-legal aspects intertwined in the process of business formalization in Uganda. Beyond the legal requisites, lie cultural, social and economic factors that significantly influence the formalization process. As we navigate through this chapter, we will unravel the interplay of non-legal aspects, mainly sighting the advantages and disadvantages of business formalization in Uganda.

### 2.1 BENEFITS OF BUSINESS FORMALIZATION IN UGANDA TODAY.

Business formalization has many benefits to the economic growth of Uganda. Registration of a business or company is essential because<sup>39</sup>;

- a. **Easier access to capital and investment;** Registration is typically required for businesses seeking capital from formal financial service providers who are safer and less expensive options than informal lenders in the market. Investors particularly large or international ones - often only invest in registered companies, mainly because they know that there is a formal structure in place to accept their investment. By registering your business, you position yourself for the kind of business growth that only an influx of capital can provide.
- b. **Limiting your personal liability;** Having an unregistered business means you are legally responsible for all aspects of your business, including debts and losses. Additionally, you will be personally liable if you sell a bad product or poor service. This can be risky because your reputation and assets might be affected. Registering a business means it is recognized as a separate legal entity, which can protect your personal assets.

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<sup>39</sup> <https://www.stanbicbank.co.ug/uganda/business/business-info-hub/insights-for-business/Unsure-of-whether-to-register-your-business%3F-Here%27s-why-you-should!>

- c. **Better business reputation;** Registering your company enhances the reputation and perception of your business in the market. A company is its own entity, which operates separately from you as the business owner. Corporate clients are more attracted to a registered business because they feel secure in dealing with a legally registered entity rather than one that is not. In time, this can have a tangible impact on your bottom line.
- d. **Supporting your participation in the bidding process for the provision of goods and services;** Only registered businesses are allowed to participate in the many bidding processes. You will miss out on opportunities as a business owner if your business is not registered. This applies to both public and private tenders.

Below are some other examples of how it benefits both a registered owner, a registered business or company, and the economy<sup>40</sup>;

- a. **Competitive:** Registration makes it easy for you to bid for provision of goods, works and services as well as marketing and cross border trade (imports and exports)
- b. **Growth and continuity:** Enhanced business reputation leads to a broader and loyal clientele, which is essential for business expansion and growth.
- c. **Ease of accessing investment license and related incentives:** Being formal makes you visible hence more opportunities and support from the government.
- d. It helps distinguish one's business from other similar businesses hence building brand loyalty and strength.
- e. It gives the owner of the business a sense of ownership and identity with the registered name.
- f. In case of a company, liability lies with the entity and not the owner(s) of the business.
- g. Easy access to acquisition of a Tax Clearance Certificate from URA.
- h. Better access to financial services e.g. bank loans and other Government financial interventions that are essential for business expansion.

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<sup>40</sup> <https://ura.go.ug/wp-content/uploads/2023/07/BUSINESS-FORMALISATION.docx>

- i. Credibility: Failure to have formalized business operations means a lack of credibility. Formalizing your business builds trust with your clients e.g. selling products that are not branded/registered cannot make you compete favorably on the market.
- j. Attracting investors: You may have struck gold in a niche market and others venturing into the same market may want to buy into your establishment but that will require you to be formally registered.
- k. Acquiring a TIN helps you process land transactions and eases payment of stamp duty on land transfers and motor vehicle applications.
- l. Formalization helps you claim tax refunds where you could have paid excess taxes.
- m. Acquiring a trading license from a Local Government/ KCCA helps you to undertake business in the respective jurisdiction.

## **2.2 DISADVANTAGES OF NON-BUSINESS FORMALIZATION IN UGANDA TODAY.**

Some business owners wish not to formalize with the intention of evading taxes and carrying out substandard business practices. It is in business' interest to formalize and benefit from the limited liability status which protects owners from being held personally liable for the operations and debts of their businesses<sup>41</sup>.

**Firstly**, informal businesses are often excluded from accessing formal financial services such as loans and credit, limiting their ability to invest in growth opportunities and expand their operations. This lack of access to finance stifles innovation and entrepreneurship, preventing informal businesses from reaching their full potential.

**Secondly, informal businesses typically operate outside the purview of government regulations and tax obligations.** This not only deprives the government of much-needed revenue but also creates an uneven playing field for formal businesses that adhere to regulatory requirements. The presence of a large informal sector undermines the integrity of the formal economy and discourages foreign investment, as investors are wary of engaging in markets characterized by high levels of informality and regulatory uncertainty.

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<sup>41</sup> [https://www.newvision.co.ug/category/business/business-formalization-for-socio-economic-dev-NV\\_136876](https://www.newvision.co.ug/category/business/business-formalization-for-socio-economic-dev-NV_136876)

Moreover, the absence of formal registration **deprives businesses of legal protection and recourse in the event of disputes or conflicts.** Informal businesses are vulnerable to exploitation and are often unable to enforce contracts or safeguard their intellectual property rights. This lack of legal recognition undermines investor confidence and deters both domestic and foreign investment, perpetuating a cycle of economic stagnation and underdevelopment.

### **2.3 CONCLUSION**

In conclusion, chapter 2 provides a comprehensive examination of the non-legal aspects surrounding the effect of business formalization on the economic development of Uganda. The advantages including access to formal financial services, increased market opportunities and enhanced credibility, underscore the potential benefits of formalization for individual businesses and the broader economy. However, the discussion also highlights disadvantages such as regulatory burdens and potential exclusion of informal enterprises. As we proceed to subsequent chapters, we are to build upon this foundation and explore the legal frameworks, implementation strategies, and broader implications of business formalization for Uganda's economic development.

## CHAPTER 3

### LEGAL ASPECTS GOVERNING BUSINESS FORMALIZATION IN UGANDA.

#### 3.0 INTRODUCTION

In Uganda's economy today, the quest for business formalization is governed by legal frameworks that govern business operations. This chapter elucidates the legal framework that entrepreneurs must navigate to transition from informality to formality. To embark on this, it is important to note that Business formalization refers to the process of establishing and implementing formal rules, procedures, and guidelines within an organization. It involves the creation of clear and defined structures and processes that guide employees' behavior and activities. Formalization is seen as a key aspect of bureaucratic companies, with a positive correlation between the degree of formalization and the effectiveness of business activities<sup>42</sup>.

#### 3.1 CONSIDERATIONS OF BUSINESS FORMALIZATION IN UGANDA

The **URSB Registrar General Mercy K. Kainobwiso** says URSB continues to make commendable contributions towards facilitating public and private sector development by enhancing easier, faster and timely registration services. So far 800,000 entities are formally registered. We have 334,800 companies, and 392,279 business names registered in sectors like agriculture, manufacturing, construction, mining, hotel, real estate, amongst others<sup>43</sup>.

##### **What is a Formal Business?<sup>44</sup>**

A formal business is one that has registered with Uganda Registration Services Bureau (URBS) and obtained a business or company name; registered for taxes with URA and obtained a Tax Identification Number (TIN) and has secured permission to trade in any desired area/place through obtaining a trading license.

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<sup>42</sup> <https://typeset.io/questions/what-is-business-formalization-3y9xhrylb0>

<sup>43</sup> [https://www.newvision.co.ug/category/business/business-formalization-for-socio-economic-dev-NV\\_136876](https://www.newvision.co.ug/category/business/business-formalization-for-socio-economic-dev-NV_136876)

<sup>44</sup> <https://ura.go.ug/wp-content/uploads/2023/07/BUSINESS-FORMALISATION.docx>

**Note:** If your business is not registered by these agencies, then you are informal.

The Business Formalization process begins with the URSB where one will get a **Certificate of Registration** (business) or a **Certificate of Incorporation** (company). Businesses can be registered as local, public or foreign entities. The business types vary from partnerships, sole proprietorships, Limited Companies, Trustees to mention but a few. To register with URSB;

1. A search will be conducted to find out if the business/company name is under use.
  2. The name will thereafter be reserved. For a Local Limited Company by shares, the cost depends on share capital.
  3. After name reservation, file the following documents with the Registrar of Companies in case what you are registering is a company.
    - Form S18 (in case of a Local company limited by shares or limited by guarantee)
    - Memorandum and Articles of Association (in case of Local company limited by shares or limited by guarantee)
    - Form A1- Statement of Nominal Capital.
1. Following submission and payment of assessed fees, payment of registration fees and stamp duty, a certificate of incorporation is issued specifying the name, place and date of incorporation or registration.
  2. A certificate of Registration is issued where a business is registered in one's own names or incorporated outside Uganda. A company is however issued a Certificate of Incorporation since it is a separate legal entity with its own identity under law.

Apply to register for a TIN on the URA website; <https://ura.go.ug> . You can opt to apply as an individual and get your TIN instantly using a simplified web-based form that does not require you to print and submit. URA will issue you with a TIN through your email address and telephone number given at the point of application.

**A TIN:**

1. Is a unique 10-digit numeric number that should be used for all tax purposes.

2. Differentiates one taxpayer from another and is supposed to be quoted on all business transactions of that person.
3. Is sent to one's telephone number (if applied for instantly) or via email (if applied for through downloading an excel form) indicating the effective date of registration and password. These are used to create an account on the URA website.

**NOTE:** Any person engaged in any income generating activity is required to register for taxes.

### What do you need when registering for a TIN?

Type of registration	Category	Documents required
Individual applications	i) Individual	A National Identity Card or any two IDs such as Passport, Voters Card, Drivers Permit, NSSF Card, Employment ID, Bank Statement, Village ID, Work Permit, Local Council ID
	ii) Sole proprietor	Certificate of registration, Statement of particulars in addition to a National ID or any two in (i) above
Non-Individual applications	Company	TIN of Directors, Company Form 7 or 20, Certificate of incorporation

### Step 3 – Registration with the Local Council Authority (e.g. KCCA)

A Trading license is permission granted by a controlling authority to someone upon application to do something in a prescribed manner, usually after fulfillment of certain conditions and/or payment of a fee.

- a. At the local council authority, upon approval of a Trading License application, you will be given a trading license to enable you operate your business in a delineated Local Authority country wide.
- b. **“Trade” or “trading”** means the selling of goods and services for which a license is required in any trading premise. **A trading «premise»** includes any structure attached to the land, whether of a permanent or temporary nature.

- c. A trading license is valid for twelve months from the date of issue and expires immediately at the lapse of the twelve months after which it must be immediately renewed.

**What are the requirements for trade license application?**

<b>Nationals</b>	<b>Non-Nationals</b>
Identification: A National ID or Any 2 of the following - Passport/Driving Permit/ / Employment ID/Financial Card for individuals and for Directors in the case of non-individuals	<ul style="list-style-type: none"> <li>• Clearance from Ministry of Trade, Industry and Cooperatives for non – East Africans.</li> <li>• Clearance from OPM for refugees</li> <li>• Identification of the sole trader</li> </ul>
URSB Registration Certificate for individuals/ original certificate of incorporation of the company for the new business	
Statement of particulars for individuals and Company forms 7/Company for 20 for non individuals	
A Tax Identification Number (TIN)	
Original Trading License for the previous year for an already existing business	
Original KCCA receipt for the previous year for an already existing business	
Original rental receipt and tenancy agreement from the land lord for the new business.	
The client must be of at least 18 years of age and if a minor, should be in partnership with a person above 18 years of age.	

### 3.2 LEGAL ASPECTS GOVERNING BUSINESS FORMALIZATION IN UGANDA

However, note that in the formalization of a business, registration of a business or company name is key as explained below, based on the different statutory laws applicable;

#### **BUSINESS NAMES REGISTRATION ACT CHAPTER 109.**

**Section 2 (1) (b)** requires registration of a business name by all individuals **carrying on business in Uganda**, which does not consist of a true surname or his or her true christian names. To determine whether or not a foreign business organization, be it a corporation or firm, is carrying on business in Uganda<sup>45</sup>, the court must inquire into whether that entity has some direct or indirect presence in Uganda, accompanied by a degree of business activity that is sustained for a period of time.

#### **UGANDA REGISTRATION SERVICES BUREAU CHAPTER 210**

**Section 3**<sup>46</sup> establishes the Uganda Registration Services Bureau, a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name. The bureau has an **objective**<sup>47</sup> to administer and give effect to the relevant laws and to provide registration services and collect and account for all revenue provided for under those laws.

To administer this objective, the bureau has the following **functions**<sup>48</sup> ; to carry out all registrations required under the relevant laws; to maintain registers, data and records on registrations affected by the bureau and to act as a clearing house for information and data on those registrations.

The bureau shall act as the **agent of the Uganda Revenue Authority** in the collection of stamp duty under the Stamps Act in respect of any documents or other matter on or in respect of which stamp duty is required to be paid and connected with the functions of the bureau<sup>49</sup> .

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<sup>45</sup> Simba Properties Investment Company Limited and Another v Kirunda and 3 Others (Miscellaneous Application 671 of 2022) [2022] UGCommC 161 (15 June 2022)

<sup>46</sup> Uganda Registration Services Bureau Act chapter 210

<sup>47</sup> Section 4 (1) (a) URSB act

<sup>48</sup> Section 4 2 (a) and (b) Uganda Registration Services Bureau Act

<sup>49</sup> Section 4 (3) ibid

In addition to the statutory laws as per the URSB act above, registration of documents is also mandated by the statutory law below;

### **REGISTRATION OF DOCUMENTS ACT CHAPTER 81**

The registrar of documents, for the purpose of this study being the Registrar of Companies<sup>50</sup>, shall keep a register of documents<sup>51</sup>, in line with section 4 (2) (b)<sup>52</sup>.

### **THE COMPANIES ACT 2012 AS AMENDED.**

This is the main law that governs company law in Uganda today. The word company is derived from *compagnia*, a compound of 2 Latin words (*cum* and *panis*) meaning “breaking bread together”<sup>53</sup>. The first key step in formalization is name reservation<sup>54</sup>, which is made to the registrar of companies<sup>55</sup> at URSB as discussed above. A reserved name remains in force for a period of **30 days**<sup>56</sup>, hence during this period no other company is entitled to be registered under this name.

A reserved name must not be similar to an already existing business name; for instance, in **Ewing v Butter Cup Margarine Co Ltd**<sup>57</sup>, the plaintiff who carried on business under the trade name of buttercup diary was held entitled to restrain a newly registered company from carrying on business under the name Buttercup Margarine Co. Ltd on the ground that the public might reasonably think that the registered company was connected with his business.

A **private company**<sup>58</sup> is ideal for business men, women and entrepreneurs, for it restricts the right of transfer of shares, and limits the number of members to 100. A private company is either a **Company limited by shares**<sup>59</sup>, **Company limited by guarantee**<sup>60</sup>, or an **Unlimited**

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<sup>50</sup> Section 17 Business Registration Act chapter 109

<sup>51</sup> Section 3 Registration of Documents Act chapter 81

<sup>52</sup> Uganda Registration Services Bureau Act

<sup>53</sup> Company law in Uganda, A Casebook Guide to Companies Act 2012, Rukundo Solomon, Foreword by Justice Geoffrey Kiryabwire, p. 11, para 1.

<sup>54</sup> Section 36 company Act

<sup>55</sup> Section 3 *ibid*

<sup>56</sup> Section 36 Companies Act

<sup>57</sup> [1917] 2 Ch.1

<sup>58</sup> Section 5 *ibid*

<sup>59</sup> Section 4 (2) (a)

**company**<sup>61</sup>. A name search is therefore essential to ensure no use of a misleading name<sup>62</sup>. For example, in **Halifax plc & others v Halifax Repossessions Limited & others**<sup>63</sup> court held that the three companies Halifax Repossessions Limited, Halifax Second Mortgages Ltd and Halifax Business Finance Ltd were ordered by the court to change their business names, which constituted the offence of passing off of the plaintiff's business name. Upon confirmation of the name; necessary company documents, such as a memorandum of association<sup>64</sup>, and articles of association<sup>65</sup>, should be filled and presented to the Register of Companies.

**The memorandum of association** is special, for it states the name of the company<sup>66</sup>, the registered office of the company to be situated in Uganda<sup>67</sup>, objective or main work to be carried out by the company<sup>68</sup>, the liability of its members<sup>69</sup>, the amount of share capital a company proposes to be registered with<sup>70</sup>, the names and signatures<sup>71</sup> of the subscribers (shareholders) and the number of shares they have. For the purpose of this research, the memorandum should state that the objective of the company is to carry on business and all such things as are incidental or conducive to the carrying on of any trade or business<sup>72</sup>.

An **Article of association**<sup>73</sup> sets out the rules and regulations of the company as the company may deem fit. If it's an unlimited company<sup>74</sup>, the articles of association must state the number of members with which the company proposes to be registered, and amount of share capital if any.

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<sup>60</sup> Section 4 (2) (b)

<sup>61</sup> Section 4 (2) (c)

<sup>62</sup> Section 37 *ibid*

<sup>63</sup> [2004] 2 BCLC 455

<sup>64</sup> Section 7 *ibid*

<sup>65</sup> Section 11

<sup>66</sup> Section 7(1) (a)

<sup>67</sup> Section 7 (1) (b)

<sup>68</sup> Section 7 (1) (c)

<sup>69</sup> Section 7 (2)

<sup>70</sup> Section 7 (4) (a)

<sup>71</sup> Section 7 (4) (c)

<sup>72</sup> Section 7 (5) (a) and (b)

<sup>73</sup> Section 11 Companies Act

<sup>74</sup> Section 12 (1) *ibid*

The contractual effect of a company Article of Association is it constitutes a contract between the individual member and every member. In **Rayfield v Hands**<sup>75</sup> articles of a private company provided that if a member is intending to transfer his shares to another should inform the directors, and it was held that the article bound the defendant directors to buy the plaintiff's shares and related the relationship as one between members, and not between directors and members. If it's a company limited by guarantee<sup>76</sup>, the articles must state the number of members with which it proposes to be registered. However, Articles of Association may be adopted from the Regulations in Table A<sup>77</sup> of the Act.

Upon registration, a limited liability company shall add the initials "**LTD**" or the word "Limited" at the end of its name<sup>78</sup>. A **Certificate of incorporation**<sup>79</sup> shall be given by the registrar as conclusive evidence of incorporation. The effect of this is a registered company is a legally recognized person and exists separate from its members.

For example, in **Re Kondoli Tea Company**<sup>80</sup> certain persons transferred a tea estate to a company and claimed exemption from *ad valorem* on the ground that they themselves were the shareholders and therefore it was a transfer to themselves from one name to another. It **was held** that the company was a separate person therefore tax was due as if two different persons.

It should be noted that an unregistered company is a nonexistent entity<sup>81</sup>. An unregistered company cannot maintain an action in court because it did not have legal existence<sup>82</sup>.

With authority from **section 5(2)**<sup>83</sup>, a **single member company** can also be registered, where 2 or more members hold one or more shares jointly, with authority explained below;

## **COMPANIES (GENERAL) REGULATIONS 2016.**

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<sup>75</sup> [1958] 2 All ER 194

<sup>76</sup> Section 12 (2) *ibid*

<sup>77</sup> Section 13 *ibid*

<sup>78</sup> Section 36 (1) (3) *ibid*

<sup>79</sup> Section 22 *ibid*

<sup>80</sup> (1886) ILR 13 Cal 43

<sup>81</sup> V.G Keshwala & sons v M.M Sheik Dawood HCMA No.543 of 2011.

<sup>82</sup> Fort Hall Bakery Supply Co. v Fredrick Muigai Wangoe [1959] EA 474

<sup>83</sup> Companies Act

These provide for a single member company, defined<sup>84</sup> to mean a private company which has only one member. Upon compliance with all requirements in the company act 2012, a certificate of incorporation is issued<sup>85</sup>.

### **PARTNERSHIP ACT 2010, PARTNERSHIP REGULATIONS 2016, AND THE PARTNERSHIPS (AMENDMENT) ACT 2022.**

In the case of **Asingwire Alex Willy & Biryabarema Deo v. Rwakojo Grace**<sup>86</sup>, counsel for the Plaintiffs referred to **Section 2(1)**<sup>87</sup> which defines a partnership as the relation which subsists between persons carrying on business in common with a view point of profit and can be formed informally or by conduct of the parties as per the case of **Dr. Okello N. David versus Komakech Stephen**<sup>88</sup>. A partnership may be governed by a partnership contract, a written agreement, agreed positions between partners either from their express or implied conduct or overriding prohibitions entrenched within the Act unless if expressly negated by the written partnership agreement. In the above case, parties did not plead any exemption which made them not to fulfil the contract precondition or not to comply with the mandatory provisions of **section 2(2)**<sup>89</sup> which requires business names to be registered whether partnership or otherwise. Registration of partnerships is is therefore compulsory<sup>90</sup>.

### **ELECTRONIC TRANSACTIONS ACT, 2011**

This act was drafted to provide for the use, security, facilitation and regulation of electronic communications and transactions; to encourage the use of e-Government services and to provide for related matters<sup>91</sup>. This Act involves the exchange of data. **Data**<sup>92</sup> means electronic representations of information in any form. These are usually data messages<sup>93</sup>. The **main objective** of this act is to provide a legal and regulatory framework to enable and facilitate electronic communication and Transactions, remove and eliminate the legal and

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<sup>84</sup> Section 2 Companies (General) Regulations 2016

<sup>85</sup> Section 6 (2) Companies' General Regulations 2016

<sup>86</sup> HCT -01 -CV -CS NO. 001 OF 2014

<sup>87</sup> Partnership Act 2010

<sup>88</sup> H.C.C.S No. 30 of 2004

<sup>89</sup> Business Names Registration Act cap 109

<sup>90</sup> Section 4 partnerships Act 2010

<sup>91</sup> Long title Electronic Transactions Act 2011

<sup>92</sup> Section 2 *ibid*

<sup>93</sup> *ibid*

operational barriers to electronic transactions<sup>94</sup>. Where an act, a document or information, is required to be in writing, produced, recorded or retained, it may be written, produced, recorded or retained in electronic form<sup>95</sup>.

Where a law requires a signature or provides for consequences where a document is not signed, the requirement is fulfilled if an electronic signature is used<sup>96</sup>. Where a law requires information to be presented or retained in its original form, the requirement is fulfilled by a **data message**<sup>97</sup> if the integrity of the information from the time when it was first generated in its final form as a data message or otherwise has passed assessment.

Uganda Revenue Authority is currently enforcing the EFRIS system, which is an **electronic records system**<sup>98</sup>, and includes the computer system or other similar device by or in which data is recorded or stored and the procedure for recording and storing of electronic records.

Through this, electronic transactions occur. **Electronic transactions**<sup>99</sup> means the exchange of information or data, the sale or purchase of goods or services, between businesses, households, individuals, governments, and other public or private organizations, conducted over computer-mediated networks.

The **assessment for authenticity**<sup>100</sup> is confirmed if that information is capable of being displayed or produced to the person to whom it is to be presented, considering whether the information has remained complete and unaltered, except for the addition of an endorsement and any change which arises in the normal course of communication, storage or display.

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<sup>94</sup> Section 4 (a) and (b) Electronic Transactions Act 2011

<sup>95</sup> Section 5 (3) *ibid*

<sup>96</sup> Section 6 *ibid*

<sup>97</sup> Section 2 *ibid*

<sup>98</sup> *ibid*

<sup>99</sup> *ibid*

<sup>100</sup> Section 7 *ibid*

Applications at URSB, involves the use of **electronic signatures**<sup>101</sup>, defined in this act to mean data in electronic form affixed to or logically associated with a data message, which may be used to identify the signatory in relation to the data message and indicate the signatory's approval of the information contained in the data message; and includes an advanced electronic signature as well as a secure signature.

For **consumer protection**, a person offering goods or services for sale, hire or exchange through an electronic transaction shall provide to the consumers on the website or electronic communication where the goods or services are offered, the following<sup>102</sup>; the full name and legal status of the person, the physical address and telephone number of the person, and the website address or e-mail address of the person among others.

### **KAMPALA CAPITAL CITY ACT 1 OF 2011**

This act was implemented to provide, in accordance with **Article 5**<sup>103</sup> for Kampala as the capital city of Uganda; to provide for the administration of Kampala by the Central Government; to provide for the territorial boundary of Kampala; to provide for the development of Kampala's Capital City; to establish the **Kampala Capital City Authority**<sup>104</sup> as the governing body of the city<sup>105</sup>. The Authority has the mandate to **charge, collect and appropriate fees and taxes**<sup>106</sup> in accordance with any law enacted by Parliament under **Article 152**<sup>107</sup>. The fees and taxes levied, charged, collected and appropriated under this section shall consist of rent, rates, royalties, stamp duties, **trading licenses**, fees from registration and other fees and taxes that Parliament may by law prescribe<sup>108</sup>. For the purposes of business formalization, it is key to obtain a trading license, for any business to operate within Kampala city. Licensing is governed by the Trade Licensing Act<sup>109</sup>.

### **TRADE (LICENSING) ACT CHAPTER 101**

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<sup>101</sup> Section 2 Electronic Transactions Act 2011

<sup>102</sup> Section 24 ibid

<sup>103</sup> 1995 constitution of Uganda as amended.

<sup>104</sup> Section 5 KCCA Act No.1 of 2011

<sup>105</sup> Long title KCCA Act No.1 of 2011

<sup>106</sup> Section 50 ibid

<sup>107</sup> 1995 constitution of Uganda as amended

<sup>108</sup> Section 50 (2) KCCA Act No 1 2011

<sup>109</sup> The trade (licensing) Act cap 101

This Act was drafted to amend and consolidate the law relating to trading and other matters connected therewith<sup>110</sup>. The Minister responsible for local administrations and urban authorities may, by statutory order declare any specified area in Uganda a trading centre by an administration of a district, to be **a trading centre** for the purposes of this Act<sup>111</sup>. This is essential in business and trade since it fortifies legal spaces within which traders can legally carry out business today. no person may erect any shop or carry on any trade in a shop in any area within a radius of two miles outside the boundary of any trading centre<sup>112</sup>.

After full registration of a company or business under URSB, a trader ought to apply for a trading license<sup>113</sup>, since trading is prohibited without a trading license<sup>114</sup>. A trader **does not qualify**<sup>115</sup> to be granted a trading license if they are **disqualified from holding a trading license** under an order made by the court, have **not attained the apparent age of eighteen years** unless they trade in partnership with one or more persons all of whom have attained the apparent age of eighteen years; or **if the granting of the license contravenes any other provision of any written law.**

The **Duration of trading license**<sup>116</sup> is for 1 year, ending each year on the 31<sup>st</sup> of December, which should always be exhibited in a conspicuous place of his or her trading premises<sup>117</sup>.

Examples of licenses include; **a hawker's license**<sup>118</sup>, **a travelling wholesalers license**<sup>119</sup>, and **a trading license**<sup>120</sup>.

**Conditions for licensing**<sup>121</sup> are set out in as follows<sup>122</sup>;

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<sup>110</sup> Long title trade licensing act cap 101

<sup>111</sup> Section 2 (1) (a) ibid

<sup>112</sup> Section 2 (3) ibid

<sup>113</sup> Section 10 (1) The Trade Licensing) Act cap 101

<sup>114</sup> Section 8 ibid

<sup>115</sup> Section 12 ibid

<sup>116</sup> Section 13 ibid

<sup>117</sup> Section 14 ibid.

<sup>118</sup> Section 16 ibid

<sup>119</sup> Section 20 ibid

<sup>120</sup> Section 8 supra

<sup>121</sup> <https://ura.go.ug/en/what-are-the-general-conditions-for-licensing-of-a-company/>

<sup>122</sup> Section 145(1) of the EACCMR, 2004 and Regulation 150 of the EACCMR, 2010

1. **An established office** with a computer capable of connecting to the customs computer system,
2. **Physical location** of which shall be indicated in the application form for customs verification purposes;
3. **Have at least two employees** in charge of clearance with a diploma, or certificate in customs training from a recognized institute or a minimum of five years' experience in customs operations.
4. **Have legal company documents** such as;
  - (i) the memorandum and articles of association of the company;
  - (ii) the certificate of registration/incorporation of the company;
  - (iii) the Tax Identification Numbers of the company and of the director;
  - (iv) the current tax clearance certificate;
  - (v) copies of identity cards, passports or other forms of identification of the directors and staff proposed to directly handle or sign customs documents;
  - (vi) recent passport size photographs of directors and staff duly certified by a Notary Public or a Commissioner for Oaths
  - (vii) proof of affiliation to or membership of a recognized clearing and forwarding association;
  - (viii) valid tenancy agreement for suitable office accommodation or proof of ownership.
  - (viii) Work permit of non-national employees and Directors.
5. Details of bankers and bank account
6. Payment of application fee of \$50.
7. License Fee of \$400.
8. Any other requirement as the Commissioner may deem fit.

#### **UGANDA REVENUE AUTHORITY ACT CHAPTER 196**

This act mandates the establishment of the Uganda revenue authority<sup>123</sup>. Under company registration, it is essential for payment of stamp duty, governed by the stamps act. Its functions among many, for purposes of this study, is to assess, collect and account for all

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<sup>123</sup> Section 2 URA Act cap 196

revenue collected<sup>124</sup>. All this revenue collected shall be credible and **payable to the consolidated fund**<sup>125</sup>.

**Revenue** means taxes, duties, fees, fines and other monies imposed by or collected under the laws in the first schedule<sup>126</sup>. During company and business registration, all fees and fines fall under the Stamps Act and all other laws and non-tax revenue as the treasury shall prescribe<sup>127</sup>.

### **THE STAMPS ACT 2014 CAP 342**

This is an Act to consolidate and amend the law relating to stamp duty and to provide for related matters<sup>128</sup>. It is implemented by the **Revenue Authority**, which means the Uganda Revenue Authority established under the Uganda Revenue Authority Act<sup>129</sup>. Every instrument, other than a bill of exchange, cheque or promissory note, mentioned in Schedule 2, is chargeable with duty<sup>130</sup>. Under the second schedule of this Act, **a memorandum of association of a company**<sup>131</sup> is charged a stamp duty of 15,000 ug shs, **articles of association of a company**<sup>132</sup> is charged a stamp duty of 15,000 ug shs.

### **THE FINANCE ACT 2016**

This act was drafted for a number of reasons, but for the purpose of this study, specifically **to provide for the Uganda Revenue Authority to issue certificates of origin, as required by the East African Customs Management Act**<sup>133</sup>.

### **THE TAX PROCEDURES CODE ACT 2014**

All traders and businessmen in Uganda are liable to pay taxes and bear a duty to register their businesses or companies upon registration, to the Commissioner for Registration<sup>134</sup>,

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<sup>124</sup> Section 3 (1) (a) ibid

<sup>125</sup> Section 14 ibid

<sup>126</sup> Section 2 URA Act Cap 196

<sup>127</sup> First schedule ibid

<sup>128</sup> Long title stamps act 2014 cap 342

<sup>129</sup> Section 2 ibid

<sup>130</sup> Section 3 (c) ibid

<sup>131</sup> Instrument 41, 2<sup>nd</sup> Schedule ibid

<sup>132</sup> Instrument 10 ibid

<sup>133</sup> section 111(2) the East African Customs Management Act, 2004.

<sup>134</sup> Section 4(1) Tax procedure Code Act 2014

accompanied by the prescribed evidence of their identity. Upon registration, the Commissioner shall issue to the registered person a **Tax Identification Number**<sup>135</sup>. Such TIN number, as mandated under the law, ought to be stated on each return, notice, communication or other document furnished, lodged or used for purposes of tax<sup>136</sup>.

### **3.3 CONCLUSION**

In conclusion, above is a thorough explanation of the whole registration process, and all statutory laws with relevant sections, to elaborate how the rates and processes applicable to the Registration of businesses or companies, or for formalization of the informal sector, is favourable to foster economic development, unlike the article contrary to this in the literature review above.

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<sup>135</sup> Section 5 *ibid*

<sup>136</sup> Section 5 (4) *ibid*

## CHAPTER 4

### SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

#### 4.0 INTRODUCTION

Chapter 4 provides a comprehensive overview of the findings, conclusions, and recommendations derived from an in-depth analysis of the effect of business formalization on the economic development of Uganda. Through thorough research and analysis, this chapter aims to instill key insights and draw meaningful conclusions, and propose actionable recommendations to enhance the understanding and practical implications of formalizing businesses in Uganda's economic landscape. By examining various dimensions of formalization and its impact on economic growth, this chapter offers valuable insights for policymakers, entrepreneurs and stakeholders striving to foster sustainable development and prosperity in Uganda.

#### 4.1 Summary of Findings

The COVID-19 pandemic and global recession of 2020 brought Uganda's previous four years of rapid growth to a sudden halt. The recessionary forces emanating from the global economy undercut Uganda's export growth, dried up tourism revenues, curtailed incoming foreign investment, and blew a hole in the nation's fiscal accounts. It also exposed underlying drags on Uganda's pre-COVID growth trajectory inefficiencies in public expenditures, stagnating agricultural productivity, high costs of doing business and slow growth in globally competitive industries. As a result of the global recession, Uganda faces a much-changed international environment<sup>137</sup>.

**The private sector has been increasingly contributing to employment.** The private sector created more than 800,000 jobs between 2012 and 2016<sup>138</sup>. **Private wage employment is an important source of employment for people aged 20 to 34.** Access to jobs differs widely across age groups since workers in the youngest age category mainly work in the family business or farm but this proportion decreases with age<sup>139</sup>.

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<sup>137</sup> <https://mepd.finance.go.ug>

<sup>138</sup> Page 5 <https://documents1.worldbank.org>

<sup>139</sup> *ibid*

**Mercy K. Kainobwiso**<sup>140</sup> the Registrar General of the Uganda Registration Services Bureau states that the National Development Plan III (NDP) highlights informality among the factors that deny the economy up to 40 per cent of the annual revenue targets. Several interventions have been implemented in the bid to ease the process of formalization.

The **Parish Development Model (PDM)**, launched by H.E President Yoweri Museveni in Kibuku district at the start of the year 2022, was specifically crafted to spread prosperity, especially among the majority subsistent rural households outside the formal money economy into the money economy to fasten socio-economic transformation.

Public entities like the Uganda Registration Services Bureau (URSB) were mandated to support government in the delivery of registration services with the core aim being formalization of the economy to propel social economic development, and enhance the implementation of national development plans to complete the Vision 2040 cycle.

***The Uganda Vision 2040 envisages “a transformed Ugandan society from a peasant to a modern and prosperous country”.***

Improving access to credit to capitalize businesses and improvement in financial services using individual and collective assets among informal economy players is part of URSB’s Mandate for example In 2020, the **Security Interest in Movable Property Registry System (SIMPO)** was launched to effect the use of movable properties like vehicles, stock, agricultural produce, household furniture, intellectual property, cheques among others as collateral to secure credit through licensed lenders<sup>141</sup>.

SIMPO is already improving productivity of households and enterprises at the parish level including growing of incomes for special vulnerable groups, like women, youth, and people

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<sup>140</sup> <https://ursb.go.ug/ursbs-formalization-agenda-will-enhance-economic-transformation-through-the-parish-development-model-18th-may-2022-1659514974.pdf>

<sup>141</sup> ibid

with disabilities (PWDs), who are prioritized under PDM. So far, 12,000 registrations have been lodged on the Chattels Registry by borrowers across the country<sup>142</sup>.

## **4.2 CONCLUSIONS**

The following conclusions provide a comprehensive summary of this analysis of the effect of business formalization on the economic development of Uganda;

Business formalization in Uganda has shown a significant positive impact on economic development, as evidenced by increased access to credit, higher levels of investment, and improved productivity among formalized businesses.

The process of business formalization has contributed to the creation of a more conducive business environment in Uganda, fostering entrepreneurship, attracting foreign investment, and stimulating economic growth.

Policy interventions aimed at simplifying regulatory processes, providing incentives for formalization and enhancing business support services are crucial for encouraging more business to formalize and further driving economic development in Uganda.

In conclusion, Uganda needs good corporate governance for prosperity and economic growth to occur. Uganda has the potential to promote good business formalization because the necessary mechanisms are in place. However, at the heart of these mechanisms are several challenges such that they outweigh the strengths. The government of Uganda should strengthen the legal and regulatory systems with more emphasis on implementation and enforcement to ensure proper compliance.

## **4.3 RECOMMENDATIONS**

Uganda's economy hinges on fostering a vibrant formal business sector. While the country boasts of a diverse entrepreneurial landscape, a significant portion of businesses operates informally, limiting their access to essential resources and impeding economic growth.

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<sup>142</sup> supra

**According to the Ministry of Finance**<sup>143</sup>, Planning and Economic Development (MoFPED) informality costs the economy about 40 per cent of GDP annually due to tax evasion. A recent assessment by the Economic Policy and Research Center (EPRC) found that informal businesses in Uganda withhold about UGX 474 billion in potential tax revenue by operating in legally or fiscally informal ways.

This analysis **presents recommendations** to address key barriers to formalization and actionable steps that policymakers, stakeholders and entrepreneurs can take to promote a more conducive environment for business formalization in Uganda. By implementing these measures, Uganda can unlock new opportunities for sustainable development and prosperity for its citizens. They include;

**A streamlined Registration Process.** This can simplify and expedite the process of registering businesses. This involves reducing payment fees for paperwork, and online registration options.

**Reduce costs and fees.** The government ought to lower registration fees and taxes associated with business formalization in Uganda, most especially for small and medium enterprises. (SMEs).

**The government ought to raise awareness.** This can be through launching campaigns to educate entrepreneurs about the benefits of formalization; including access to credit, legal protection and eligibility for government contracts.

**The government can improve access to finance.** This can be through facilitating easier access to credit and financial services for formal businesses through initiatives like credit guarantee schemes and partnerships with financial institutions.

**The government may enhance business support services.** This includes training,

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<sup>143</sup> <https://eprcug.org/blog/unlocking-the-potential-of-the-informal-sector-in-uganda-through-business-formalisation/>

mentorship, and advisory services to help informal businesses transition to the formal sector.

**The government of Uganda should enforce regulations fairly.** This may be through implementing regulations consistently and fairly to create a level playing field for formal businesses and deter informal activities.

**The government of Uganda should invest in infrastructure.** This may be through improving the state of roads, electricity, and internet connectivity to support business growth and attract investment in formal years.

**The government of Uganda should collaborate with stakeholders.** This may be through working closely with business associations, chambers of commerce and other stake holders to identify the barriers to formalization and develop solutions.

The government of Uganda should **monitor and evaluate** the impact of politics and initiatives aimed at encouraging formalization to assess their effectiveness and make necessary adjustments.

**Develop technical assistance and financial support structures for businesses in early stages** to provide technical assistance and funding to incubators, support research centers to foster innovation, centralize information on a web platform and provide financial support to young firms to grow. For example, the government should **Support research centers to foster innovation.**, support entrepreneurs' access to these research center, and **Centralize information on a web platform.** This includes financial and non-financial support to start ups, promising markets, and supporting structures, which in turn encourages business formalization.

**Provide financial support to young firms to grow.** In the short term, and in the absence of financial sector reform, business plan competitions could support high-growth, financially constrained firms. This business plan competition could be open businesses existing for at least three years in sectors with the potential to generate more jobs, but with a requirement of being a formalized business, in order to encourage business formalization.

**Inclusive too is developing a supplier database.** This has been tried in many countries with mixed evidence. This database should be properly designed to offer benefits to SMEs (access to clients but also preferential access to finance with partnering banks, information about the reliability of the client in terms of payments) and to offer benefits to potential clients (information about the quality of the products as well as the reliability of the SME) for formalized business only. This can in turn encourage business formalization in Uganda today.

**Improve logistics and trade facilitation.** Modernizing to improve supply chain lead times and trade logistics reliability and infrastructures is important for attracting investment, and jobs, in global value chains. To improve logistics, GoU should: **Build capacity of institutions charged with inspection and sanitary standards and international quality certification.** Because involvement of businesses in this requires a business to be formalized, it in turn encourages business formalization.

**Support SMEs transition to exporting.** SMEs typically lack knowledge about, (i) regional and international markets, (ii) potential market requirements, and (iii) relationships abroad to find customers. Access to exports boost demand for SME products and allow SMEs to grow, only if they are formal businesses, hence encouraging business formalization in Uganda.

#### **4.4 CONCLUSION**

In conclusion, fostering business formalization in Uganda requires a concerted effort from the government of Uganda, the private sector foundation of Uganda, and the civil society. By implementing the recommendations outlined above, Uganda can create an enabling environment for entrepreneurs to formalize their businesses, leading to greater economic stability, increased revenue generation, and improved access to opportunities for both businesses and individuals. With collaborative action and the above policies, Uganda can move closer to realizing its vision of a thriving formal economy.

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