



Mountains of the Moon University
Occasional Papers No. 5 of

Factors constraining the implementation of the Money- lenders Act

*- Insights from a survey of public administrators and money
lenders in Fort Portal*

By Charles Musinguzi

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Mountains of the Moon University

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Executive Summary

This paper presents one of the few surveys of administrators – magistrates and advocates – of the money lending act in Uganda, as well as from money lenders. It reviews the current law and compares its evolution with other countries. Money lending acts across the former British empire all share the same roots.

The survey finds that administrators are well aware of the law’s provisions but overwhelmed by case backlogs and hence have no effective capacity to supervise money lenders. Those, in turn, see little value in the regulation; they point out that the willingness to borrow at the rates they offer is the prime determinant of their business. Several of them also unveiled that they are actually regulated by local government, although it has no legal powers to do so.

It is therefore recommended to give those regulatory powers to local governments, who are closer to the people involved in money lending business (both lenders and borrowers), and to introduce incentives for acquiring and regularly renewing the license.

The Author

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The Series

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List of Acronyms and Abbreviation

BOU	Bank of Uganda
MFI	Microfinance Institution
MLA	Money lenders act
MMU	Mountains of the Moon University
SBMS	School of Business and Management Studies

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1 Introduction

1.1 Overview

Money lending is legal in Uganda and regulated by the Money Lenders Act (MLA).

This Act requires moneylenders to obtain a certificate from the Magistrate who has jurisdiction over their area and a license from their local authority annually. Interest is regulated by the Act and cannot exceed 24% annually. The act requires written contracts between the lender and the borrower, and obliges the money lender to keep proper records of accounts.

This law is almost totally ignored: money lenders seldom apply for a license, consistently exceed the interest rate ceiling and rarely keep proper records.

Whereas there is a wide literature on the motives and labors of borrowers who frequent money lenders (see exemplarily Armendariz/Morduch 2005), there are few studies that give the perspective of the actual administrators of the money lending business, or of the money lenders themselves.

This study sought to find out whether the weaknesses in enforcing the MLA result from the magistrates not being professionally empowered to enforce prudence and rectitude on money lenders. This paper focuses on the insight won from the survey of administrators and money lenders, for a discussion of economic dynamics that shape borrowers' choices and relationship with money lenders see Musinguzi (2014).

1.2 The Money lenders Act (MLA)

The Money Lenders Act Cap 273 (MLA) was enacted in 1952 to regulate the business of money lending. Money lender includes every person whose business is that of money lending or who advertises or announces himself or herself or holds himself or herself out in a way as carrying on that business whether or not that person also possesses or earns property or money derived from source other than lending of money. The moneylenders Act does not cover the business of banking, cooperatives societies, body corporate empowered to lend money.

In Uganda money lending business took its roots during colonial times and the MLA was transplanted from England, like in many parts of the then British Empire (see e. g. Rutherford ??). Since its enactment in January 1952, the MLA has not been reviewed despite the changing socio economic circumstances. The Act gives the magistrates supervisory powers over money lenders and the power to award certificates permitting the carrying out of money lending business.



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Box 1: A brief history of money lending (regulation)

Money lending ordinarily called “usury” has its origins from Europe. However, throughout the 18th century it attracted great moral disapproval by ancient authorities particularly by the early Jewish and Roman authorities.

Jews were not supposed to lend to each other at interest. However it was considered legitimate for a Jew to lend to a Christian at interest (Ferguson, 2008).

The first country to establish a legal rate of interest was England in 1545 during the reign of Henry VIII. The rate was set at 10 percent. However, seven years later, it was repealed, and usury was again completely banned. Money lending was later legalized by enacting the Money Lenders Act in 1900. The Act was enacted as a result of the report of the House of Commons Select Committee, on money lending which revealed the existence of serious abuses on the part of those conducting money lending business (Goode, 2011).

Most recently, the criticism has been particularly pronounced from some Islamic scholars. Many microfinance clients are Muslims. Consequently, microfinance institutions (MFIs) have repeatedly found themselves confronted with queries and sometimes suspicion from Muslim community leaders (Sa-Dhan 2009).

1.3 Study area and population in a nutshell

The Western-most region of Uganda is known by its characteristic mountain range; the Rwenzori Mountains, with Mount Margherita as Africa’s third-highest peak. They mark the border between the Congo basin to the West and the rift valley to the East. About 2.7m Ugandans live in the region, out of which 0.25m in the major urban agglomerations (Niwaha/Tumuramyé 2015, with further references).

Fort Portal is the second-largest municipality of the Rwenzori region (after Kasese), but it has more outlets of regulated financial institutions (FIs), probably because it is the region’s major hub for tourism. Thus, there are about 2.4 bank branches per 100,000 adults in the Rwenzori region, but 4.8 bank branches per 100,000 adults in the ‘Fort Portal region’ (i. e. Kabarole district) (Niwaha/Tumuramyé 2015, with further references).

Fort Portal was selected because money lenders are emerging at a high rate. (Information obtained from the Fort Portal Chief Magistrate Court registry for the years 2013 and 2014). The researcher considered money lenders for the years 2013 and 2014.

The survey population consisted of regulators of money lenders under the MLA and money lenders themselves.



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On the part of the regulators the researcher considered magistrates at the Chief Magistrate’s Court Fort Portal who were 4 in number, advocates in Fort Portal who were 11 in number and the Resident District Commissioner who was one. Hence the regulators total to 16 and all were considered. The advocates though not regulators of money lenders under MLA were considered because they are officers of court who in one way or the other help magistrates to reach a just decision and in the interpretation of the law.

On the part of money lenders and according to information obtained from the Court registry at Fort Portal Chief Magistrates Court 10 money lender obtained money lenders certificates for year 2013. Out of the 10 money lenders 5 money lenders renewed their certificates for the year 2014. 5 money lenders obtained new money lenders certificates for the year 2014. The researcher considered all the 15 money lenders for the years 2013 and 2014.

Hence, the respondents comprised of a census of the defined study population of regulators and money lenders in the study area (table 1).

Table 1: Study population

	Regulators	Money lenders	Total
Target population	16	15	31
Actually reached respondents*	14	15	29

* The survey was conducted in the 2nd quarter of 2014.

2 Literature review

2.1 The legal process and MLA provisions

2.1.1 Definition of money lender

The Act defines a moneylender to include every person whose business is that of money lending or who holds himself out as a moneylender whether or not he or she has other sources of income besides that of money lending (Section 1(h) MLA). There has been considerable difficulty experienced in defining precisely what is meant by the terms, “whose business ... and “carrying on that business.”

The definition creates an avenue, which can be used by money lenders either to avoid liability in case they are in contravention of the MLA or claim that they are actually moneylenders in case they seek to rely on the provisions of the Act in order to recover their credit facility.

It is notable that the definition of the phrase ‘money lender’ in legislation is generally all-inclusive, and means a person who is in the business of lending money (loans), whether as principal business or



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otherwise. The definition is ambiguous and very elastic. It represents that every person can be a moneylender just so long as a person indulges in lending money as a form of business or holds himself out as carrying on the business of money lending.

Relevant reference cases

(These are common law cases and since we are a common law country, decisions from these cases are also used in Uganda)

Mc Cardie J in the case of *Edge low vs. Mac Elwee* [1918] 1 K.B. 205 at pg 206 (case from England) stated, “A man does not become a lender by reason of occasional loans to relations, friends or acquaintances whether interest is charged or notmerely does a man become a money lender because he may up on one or several isolated occasions lend money to a stranger. Lending and the word “business” import the notion of system, repetition and continuity....”

In *Chow Yoong Hong vs. Choong Fay Rubber manufactory* [1962] A.C. Pg 209 the Privy Council noted, that to lend money is not the same thing as carrying on a business of money lending. In order to prove that a man is a money lender ...it is necessary to show some degree of continuity in his money lending transactions.

2.1.2 Money lending certificate

The Moneylenders Act requires that, for one to carry on money lending business, he or she must obtain a certificate issued by a magistrate within the jurisdiction where the business is sought to be carried on (Section 3 MLA). Where a moneylender uses a business name or operates as a firm, he must do so in his own name and the certificate is for him alone and for the address indicated.

The application for a certificate must be accompanied by a certificate of good character of the applicant and necessary evidence that the applicant is a fit and proper person, not disqualified by law from holding the certificate.

The certificate issued comes into force on the date specified in the certificate and expires on the thirty first 31st day of December.

The applicant for a certificate under the Money Lenders (Licences and Certificate) Rules SI 273-1is required to make an application to court for a certificate by motion accompanied by affidavit and a statement of particulars of that person. The application is supposed to be served upon the officer in charge of police of the area to which the premises to which the application will relate are situate. The applicant is also required to advertise the application in the gazette and in the newspaper (if any) circulating in the place to which the premises in respect of which the application will relate are situate.



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The requirement for the certificate is intended to vet the person or persons involved in the business of money lending as being proper and fit persons. However, the process involved in obtaining the certificate is tedious and unnecessarily long. Whereas, the certificate expires every year, rarely do money lenders renew the certificate. Many continue to operate when the certificate has expired.

Most magistrates are overwhelmed by administration of justice and other matters of a judicial nature and as such they are not able to control and regulate money lending business.

According to Wolibwa (NY) there are a lot of case backlogs, magistrates are occupied with the administration of justice, are not professionally empowered and as such are not well placed to effectively supervise and control the money lending business and all its associated challenges.

2.1.3 Money lending licence

Upon issuance of the magistrate's certificate, the money lender becomes eligible for the grant of a money lenders licence. The licence is the permit or authority with which a person is entitled to engage in the business of money lending. By section 2(1) of the law, it's mandatory for any person intending to a carry on money lending business to obtain a licence. The money lenders licence must be taken out by the money lender in his true name otherwise it will be void, and the licence must show the authorized name and the authorized address of the money lender (Section 12 MLA).

The money lenders licence is granted by the Resident District Commissioner of the area in which he or she has been authorized to carry on business following the grant of a Money Lending certificate by a Magistrate (Rule 3 of the Money Lenders (Licenses and Certificates) Rules).

2.1.4 Interest prescribed by Statute

Interest is a fee paid by a borrower of assets to the owner as a form of compensation for the use of the assets. It is most commonly the price paid for the use of borrowed money, or money earned by deposited funds. Interest rates are generally determined by the market; however the Money lenders Act prohibits harsh and unconscionable interest rates. The Act prohibits interest rates that exceed 24% per annum (Section 12 MLA).

Prescription of interest rate in the statute is not desirable as the rate prescribed should be related to the prevailing market conditions, which would require amendment of the legislation from time to time. The Money Lenders Act does not provide a limit up on which interest can accumulate. Eventually the lender sets up unconscionable interest which accumulates and extorts a lot of money from the borrower. For example a borrower borrows 10 Million and the interest to be paid at the end of the period of the loan, the borrower pays to 50 Million.



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Relevant reference cases

Some jurisdictions such as South Africa and Kenya (Deepen Shah Walker Kontos, 2008) have adopted the *in duplum* rule to protect borrowers from exploitation by lenders who permit interest to accumulate.

The *in duplum* rule has its origins in common law and is based on considerations of public policy and is designed to protect borrowers from exploitation by lenders. The purpose of the rule is to ensure that debtors do not find themselves in an inescapable financial bind in respect of repayment of debt. It also ensures that lenders do not allow the unrestrained accumulation of interest on outstanding debts. In essence, the common law provides that the unpaid interest on a debt that is due, but has not yet been paid should not exceed the outstanding capital. As soon as the unpaid interest equals the outstanding capital, interest ceases to run.

2.1.5 Limitation of Actions in money lending

A moneylender cannot bring an action to recover money lent or any interest in respect of the loan, or to enforce any agreement or security thereof unless the action is instituted before the expiration of twelve months from the time when the cause of action fell due (Section 19 MLA).

Three main exceptions are available to this limitation. First, where the borrower makes an undertaking to pay in writing at any time before or after the time when the loan was due for repayment; time will start counting from the date of such undertaking.

Secondly, if at the time when the cause of action accrued the person entitled to take the proceedings is *non compos mentis*, and time will not start to count until that person ceases to be *non compos mentis* or the dies; whichever comes first? And thirdly, if by the time the cause of action accrues either by the original due time or by undertaking and the borrower is not in Uganda, time will not start to count until he returns to Uganda. A written acknowledgement of indebtedness or undertaking must state the amount, otherwise it is ineffective. This provision is restrictive and a disadvantage to the lenders. Most times moneylender transactions are based on contract, under the Limitations Act, recovery of causes of action based on contract are limited to seven years.

2.1.6 Issuing receipts and keeping records

Among the obligations imposed to the money lenders under the Act are issuing receipts for every transaction and keeping records. The law requires that the money lender must issue a receipt for every transaction made to him or her on account of a loan or in interest in respect of a loan; and such receipt must be issued immediately the payment is made. This provision is still very essential considering the



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ever increasing fraud in Uganda. And without it many shy lock money lenders would defraud the borrower by alleging that certain payments were not made.

The lender must also keep a record of his transactions with the borrower. This record is in the form of a book which must be securely bound together so that pages cannot be removed or inserted without apparent damage to it. The book must contain records of every loan by him which record must show the date of every loan, the amount of the principle, the rate of interest, and all sums received in respect of the loan or the interest on the loan with dates of payment of the sums.

However considering the fact that most money lenders in Uganda are based in villages having a small volume of business, are illiterate, imposing a statutory obligation on them to get their accounts audited may seem impracticable.

2.1.7 Provisions of Bankruptcy

The Act provides for bankruptcy proceedings for money lender's loans (section 17 MLA). In 2011 the Insolvency Act came into force and it amended and consolidated all the laws relating to insolvency i.e. receivership, administration, liquidation, arrangements and bankruptcy. It is imperative that section 17 of the Act is harmonized with the Insolvency Act.

2.1.8 Penalties under the Act

The money lenders Act, provides for different penalties for contravening the provisions of the Act. These penalties are intended to ensure compliance with the law. However most of them do not reflect the current circumstances, the penalties for breach of provisions are exceedingly weak (Most of the fines in Act range from UGX 1000 to UGX 10,000). This has affected compliance with the law and as such the Act is totally ignored, money lenders seldom apply for a license, consistently exceed the interest rate and rarely keep books of account.

2.1.9 Repayment and repossession

The money lenders Act is silent on the mode of repayment of the money borrowed and realization of the collateral that may have been given as security by the borrower. Reports indicate that upon default in effecting payments, the money lenders often transfer the security to themselves; others sell securities without determining market value.

It is alleged that some money lenders, disappear on the due date of payment to avoid receiving final payments in the hope that the borrower defaults on payment (Byaruhanga, 2010), some money lenders persuade borrowers to sign documents of transfer of securities, yet the intention of the moneylender is to rip off the borrower's property (Charles Etukuri, 2013).



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A rapid study carried out by (Kaffu, 2003) on the money lending business in Uganda and it was reported that when a loan falls in arrears, the lender tries to collect through phone calls, messengers, or visits. Afterwards, the lender will turn to debt collectors or lawyers. If all this fails, the lender will sell the collateral. If the borrower has been cooperative and the lender is ethical, the lender sells the property, deducts the amounts owed, and gives any balance to the borrower (New vision newspaper 17th June 2013)

One notable exception among the money lenders interviewed freely shared his profit-maximizing strategies, including selling assets pledged as collateral, and then lying to the customer about the selling price, making a partial refund of the difference between the sale price and the amount due on the loan, and putting the rest in his pocket.

2.2 Comparison with other countries

In many countries (Uganda Law Reform Commission, 2014), registration or obtaining a license is compulsory; such licenses are generally valid for 12 months and can be renewed and the procedures for obtaining licenses are prescribed in the law. The license is for money lending business as a whole and restrictions generally tend to be geographical in nature, which means that the license is valid only for a particular geographical area.

Countries such as United Kingdom, South Africa, Hong Kong, Singapore, and Japan require a register of licensed moneylenders to be maintained. These registers also contain details of the license, including whether the license has been cancelled, suspended or revoked.

In the United Kingdom (Consumer Credit Act, 1974) the Office of Fair Trading maintains a Consumer Credit Register wherein the details of everyone who holds a license, or has applied for one, or had one revoked, suspended or varied is available and the same is made available to the public.

Similarly, under the Singapore law (Moneylenders' Act, 1959) the list of licensed moneylenders is published in the Gazette by the Registrar from time to time. The presence of the name of a person is evidence that he or she is a licensed moneylender and the absence there from is evidence that he or she is not licensed. Where money lending is conducted without a valid license, the lender becomes liable for criminal action and the offence can entail a fine or imprisonment or both.

In the South African law (The National Credit Act, 2005) a credit agreement is rendered unlawful and amounts paid there under non-recoverable if at the time when the agreement was made, the credit provider was not properly registered.

In addition to the above, laws are sought to be enforced by restricting legal remedies available to the moneylender. In cases where a moneylender does not possess a valid license, he or she loses the



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entitlement to recover the loans through the legal process. The Money lenders Act Cap 273 further provides for a license fee of one thousand shillings to be paid by the money lender; and where the license is taken out not more than six months before expiration of the license, the license fees payable is five hundred shillings. The license fees have been over taken by events. They no longer reflect the current economic trends.

2.3 The concept of financial regulation

2.3.1 Definition

Financial regulation, which is the focus of this chapter, is a sub-set of regulation. In this regard this section first defines regulation as a set of enforceable rules that restricts or directs the actions of market participants and, as a result, alters the outcomes of those actions. These rules are binding on the entities and individuals involved. Carmichael and Pomerleano (2002) define financial regulations as rules that govern commercial behavior in the financial system, while Ledgerwood (1999) defines it as a body of principles, rules, standards and compliance procedures that apply to financial institutions.

2.3.2 Economic benefits and costs of regulating the financial system

Economists generally agree that the scarcity of resources in relation to the demand for them can be adequately addressed in perfectly competitive markets. Chaves and Gonzalez-Vega (1994) identify three basic goals for government intervention in the financial sector;

- (i) ensure solvency and financial soundness of all intermediaries in order to protect payments system;
- (ii) protection of depositors and
- (iii) ensure efficient system performance and competition.

We do not discuss issues of deposit protection here, they are exhaustively covered in the literature, see among others Armendariz/Morduch (2005), Ledgerwood (1999).

According to Issa Ssekito the Kampala City Traders Association spokesperson, businesses have closed and some businessmen and women are performing poorly because the traders use what they could have earned as profit to pay back the interest rates – it is not specified if these are owed to money lenders or to other financial institutions.

In India for example the money lenders who double as land lords discourage the adoption of new agricultural technologies that would improve the poor farmers since it would make the farmers richer and reduce the demand for loans (Armendariz/Morduch, 2010). This distorts development.



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Dunford (2012) discusses the advantage money lenders have over the microfinance institutions. He says that moneylenders have a much easier time gathering personal and business references in order to make an assessment about willingness or ability to repay a loan. Relative to formal lenders, informal lenders pay more attention to the general financial health of a borrower and less attention to the borrower's investment plans. The informal lender is, however, generally more directly familiar with the borrower's business and therefore more able to spot a "bad" business plan. Money lenders seek non-traditional means for identifying trustworthy clients. Group guarantees helps with this. Also, incremental lending (starting with small loans until the borrower is better known) minimizes the need for extensive up-front credit risk analysis. Money lenders accept e. g. a TV as a guarantee relative to those used by formal lenders.

3 Study Findings

(All data presented in this chapter are primary from the survey outlined in 1.3, unless otherwise indicated)

3.1 Administrators' survey

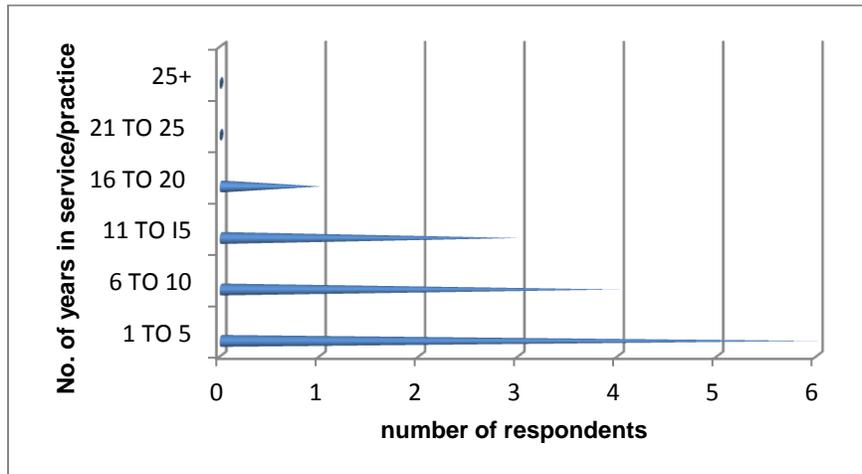
10 out of 14 regulators interviewed had been in practice or service for more than 1 year. Of the 4 magistrates at Fort Portal Chief Magistrate's Court three had been newly posted.

The survey studied the following factors that might inhibit magistrates from fulfilling the regulatory role prescribed by the MLA in Uganda: Knowledge of purpose and operational requirements of MLA, knowledge of provisions of the MLA, experience with cases under the MLA, and their perception of factors limiting their effective implementing of the MLA.



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Figure 1: Years in service/practice



3.1.1 Knowledge of purpose and operational requirements of MLA

When the magistrates and advocates were asked the purpose of the MLA most Magistrates and advocates replied that the MLA is intended to regulate money lending in Uganda and indeed this is the purpose as to why the MLA was enacted.

When the magistrates and advocates were asked the requirements for one to operate a money lending business, 8 out of 14 indicated that it is a certificate from the magistrate and a license from the RDC. Under sections 2 and 3 the Money Lenders Act it is a requirement for any person to operate a money lending business he or she should have a certificate from a magistrate and a license from the RDC. In South Africa for example under the National Credit Act, 2005 a credit agreement is rendered unlawful and amounts paid there are non-recoverable if at the time when the agreement was made, the credit provider was not properly registered. Similarly in Singapore under the Money Lenders' Act 1959, the list of licensed money lenders is published in the Gazette by the Registrar from time to time. The presence of the name of a person in the Gazette is evidence that he or she is a licensed money lender and the absence there from is evidence that he or she is not licensed.

Table 2: Responses from the regulators on the purpose of the MLA

NO.	RESPONSE	FREQUENCY
1	Protect money lenders from fraudsters	2
2	To regulate money lending business in Uganda	8
3	To protect the borrowers	4
	Total	14



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3.1.2 Knowledge of provisions of the MLA

When the magistrates and advocate were asked what a money lender is prohibited from doing under the Money Lenders and what happens if the violate the Act. The responses included, not to advertise their businesses, not to charge high interest rates, not to charge immovable property as security. The Money Lenders Act prohibit high and unconscionable interest rates. The Act prohibits interest rates that exceed 24% per annum.

Magistrates also indicated that the Money Lenders Act provides for different penalties for contravening Act. These penalties are intended to ensure compliance with the law. However most of them do not reflect the current circumstances, the penalties are weak. This has affected compliance with the law and as such the Act is totally ignored.

3.1.3 Experience with cases under the MLA

When the magistrates and advocates were asked whether they had handled any cases involving money lenders in the year 2013 and 2014. 11 regulators out of 14 responded that they handled cases involving money lenders. This shows that the regulators were aware of the conflict between borrowers and money lenders.

And in those cases handled the licenses and certificates of money lenders were either cancelled or withdrawn. Magistrates are under the Money Lenders Act permitted to cancel the certificate and license of the money lender if he or she goes against the Act. This has been shown in various studies from different jurisdiction as indicated above.

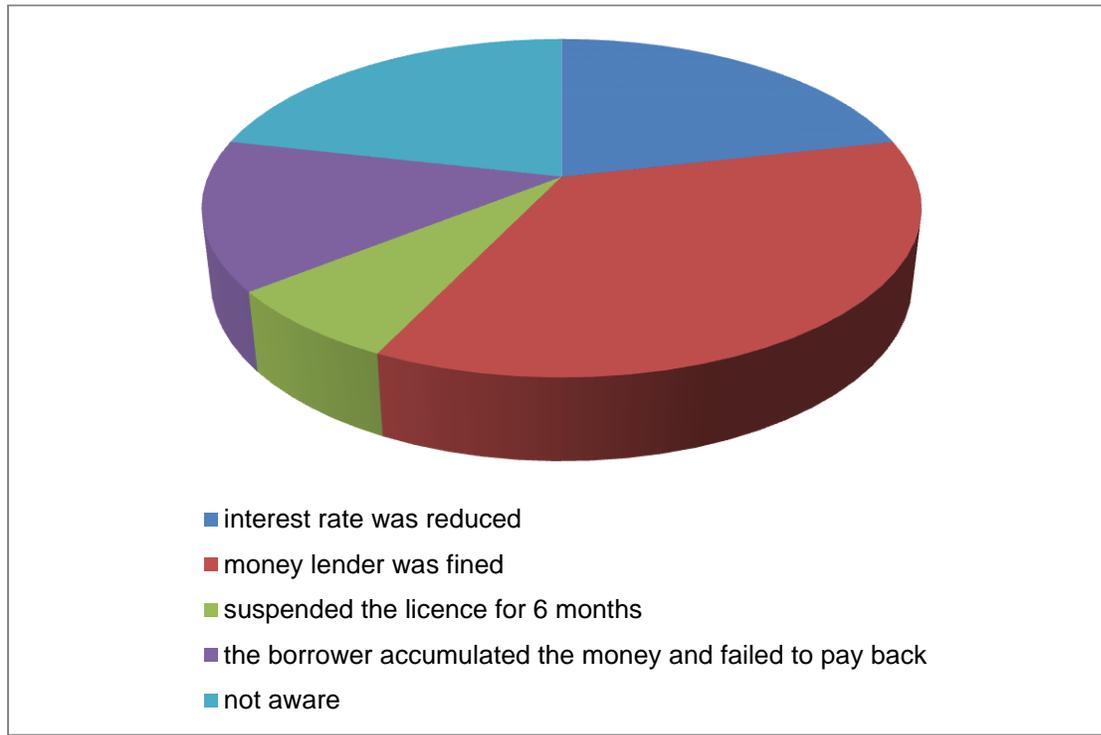
On the number of cases handled the response was that at least each magistrate handled 2 cases. This is a very low number and it could be attributed to the fact that most magistrates at the time of the interview were new at the station.

And when they were asked about how they get to know that the money lender is going against the Money Lenders Act. 10 out of the 14 regulators interviewed responded that they get know that money lenders are going against the MLA when the aggrieved party reports to case to court.



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Figure 2: Results from the cases handled by administrators in 2013 and 2014



3.1.4 Perception of factors limiting their effective implementing of the MLA

When the magistrates were asked the factors that inhibit them from fulfilling their regulatory role under the Money Lenders Act, most magistrates responded that case backlog and underfunding were among the factors that limit them from fulfilling the regulatory role. That the magistrates have many pending cases and most of time are adjudicating cases and cannot get to monitor money lenders. That also the funds they receive are not enough to enable them do work effectively.

3.2 Money lenders' survey

The money lenders interviewed included the business owners, managers, accountants. Out of the 15 money lenders interviewed 8 were business owners and had spent more than 1 year in the business. This distribution is due to the fact that most money lenders were found to be managing the business themselves. This was shown by Kaffu, (2003) in a research carried out in Kampala about the operations of money lenders.



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On the number of customers they had for the year 2014, 10 out of 15 money lenders at the time of interview had between 21-25 customers. This number shows that there are many people accessing credit facilities from money lenders.

9 out of 15 money lenders interviewed said that the loan size they give per customer is between 50,000= - 400,000=. They fear to give big sums of money to customers. This was also discovered by Kaffu (2003) where it is indicated that many small scale money lenders said that they did not have enough good clients, so they end up lending to riskier clients. They complain of problems in managing repayments. He further indicated that money lenders in this category typically have five to ten loans outstanding and the loan sizes ranging from 50,000= - 200,000=.

The survey studied the challenges faced by money lenders: Repayment risks and inflation, acquiring a license and supervision.

3.2.1 Repayment risk and inflation

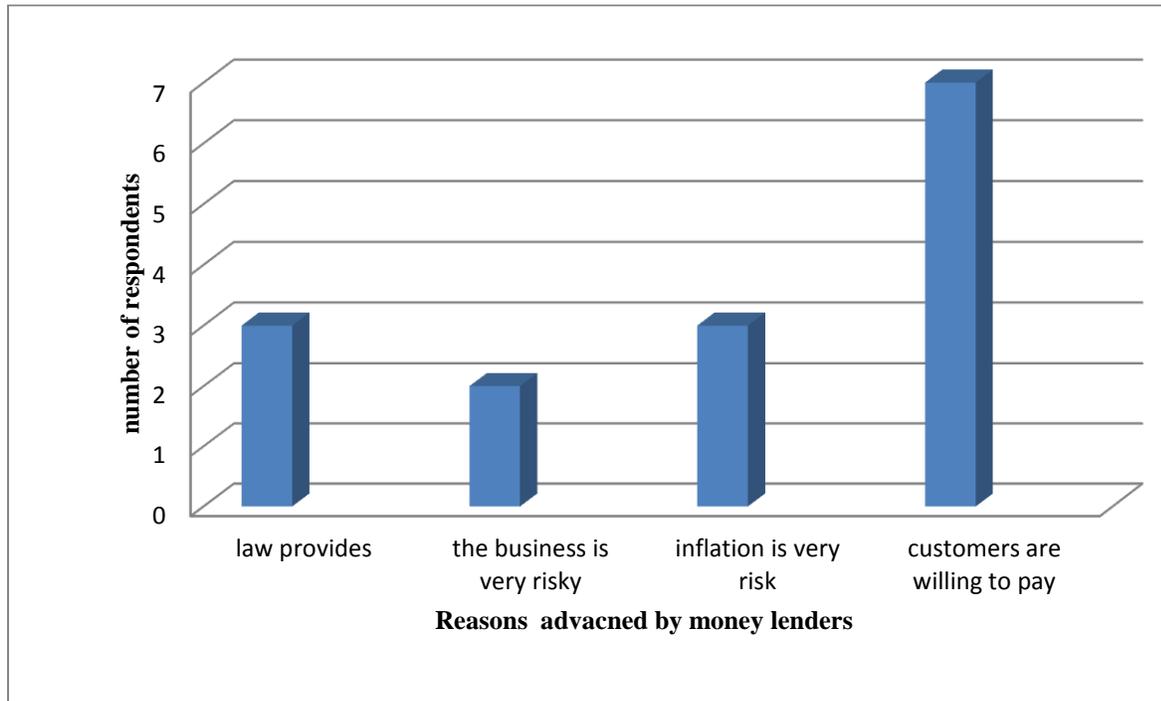
The money lenders surveyed indicated that they charge interest rates between 10%- 30% per month.

Figure 3 shows that repayment risk is one of the motives, however less pressingly perceived than inflation – which had been soaring in Uganda in 2011 and 2012 (Kyalisiima 2013). The main reason is, however, that customers are willing to pay these rates. This indicates institutional conditions of the Ugandan credit market, like lack of systemic trust, cost of access to formal credit (Muzigiti 2012).



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Figure 3: Reasons why money lenders charge the interest above indicated



Source; Primary Data.

3.2.2 Acquiring a license and supervision

8 out of the 15 money lenders interviewed did not have a license four had licenses from the Magistrate and RDC, three had licenses obtained from Council offices. This contravenes the MLA which provides that for a person to operate a money lending business he or she should be in possession of a money lender's license obtained from the magistrate and RDC of the area where the business is being operated.

Given that most of them had spent many years in the money lending business, most of them have ample experience. It simply means that they know what they are doing and many (7 out of 15 respondents) deliberately avoid applying for the licenses.

The money lenders were asked whether they are supervised in their businesses and if they are who supervises them. 11 out of 14 money lenders responded that they are not supervised. The 4 who are supervised said that they are supervised by Council officials. Council Officials are not authorized by the MLA to supervise money lenders.



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Money lenders made the following suggestions to improve the money lending business. They include normalizing interest rates, increasing money in circulation, increasing capital, sensitization of clients, reduction on license fees being paid, shortening the procedure of obtaining licenses.

4 Recommendations and conclusion

Case backlog and underfunding of the magistrates are among the factors identified that inhibit magistrates from fulfilling their regulatory role under the MLA. The magistrates are overburdened by several cases and spend most of the time in court deciding cases and do not get time to supervise money lenders.

Money lenders are not supervised and most of them operate without a license. Money lenders charge interest rates contrary to the MLA and this is so because borrowers are willing to pay that interest.

Box 2: Recommendations to improve regulation of money lending

1. Considering the nature of the office of the Magistrates and of the Resident District Commissioners, such offices have limited capacity to effectively supervise the business of money lending. It is recommended that the authority and power to issue money lenders licenses be transferred to local government authorities particularly at the Sub-County level. The local government authorities are nearer the money lenders and borrowers and can easily know what is happening.
2. A person applying for a money lending certificate should disclose all information pertaining to his character, identification, recommended capital investment, area of operation. The application should be accompanied by a reference from a person of good standing in society.
3. The money lending certificate should be issued by the local government in consultations with police to confirm the character and integrity of the person seeking to establish a money lending business.
4. To ensure compliance the regulatory institution should publish names of licensed moneylenders in newspaper.
5. Also to ensure compliance, the law should provide sanctions by way of fines, to persons who carry out money lending business without a license.
6. The law should specifically prohibit sale of the security to the money lender or his or her spouse, children and close relative.

From the money lenders' survey, it was found that market demand is the main driver of their business, and they see little value in the current regulation. Their views how to improve the money lending business point to macro- or sector-wide factors: If formal access to credit gets cheaper by reducing suppliers' costs as well as increasing transparency, issues of exploitation in the money lending segment will fade.



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These long-term objectives notwithstanding, the processes and provision of the MLA could be improved as summarized in box 2, to curb some of the excesses of the current money lending business in Uganda.

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