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Of Fundamental Change and No Change: Pitfalls of Constitutionalism and Political Transformation in Uganda, 1995-2005

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Abstract

With Uganda's turbulent and traumatic post-independence political experience, the take-over of the National Resistance Movement (NRM) in 1986 ushered in a tide of unprecedented hope for political transformation and constitutionalism. NRM's ten-point programme, pledge for a 'fundamental change', climaxing in the formulation of a new constitution in 1995, encapsulated the state-social contract and hope for the new order. But ten years later, Uganda' political landscape and power architecture continued to show that political transformation and constitutionalism were still illusory. This article examines political development in Uganda during the first ten years under the new constitution and time of democratic reforms in Africa. The article shows that these years pointed to political reversals epitomised by the preponderance of abuse of human rights, state failures and loss of hope in the war-ravaged north, patrimonialism, autocratic tendencies, and manipulations which were reminiscent of the old dictatorships. The last straw came with the shocking amendment of the embryonic constitution to remove presidential term limits, which were entrenched as a lynch-pin for a smooth transfer of power. This was followed by the military siege of the High Court that crowned the reality that militarism remained the anchor of power in Uganda's body politic. The independence of the judiciary and legislature remained illusory, as together with the opposition they remained susceptible to bribery, manipulation, intimidation and repression. With an unpredictable constitutionalism and political terrain, the NRM's promise of a 'fundamental change' degenerated into 'no change'.

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Résumé

Avec l'expérience politique post-indépendance mouvementée et traumatisante de l'Ouganda, l'accession au pouvoir du Mouvement de Résistance Nationale (NRM) en 1986 a marqué la montée d'une vague d'espoir sans précédent de transformation politique et de constitutionnalisme. Le programme de gestion des ressources naturelles en dix points proposé par le NRM, qui a donné des gages d'un « changement fondamental » et qui a abouti à l'adoption d'une nouvelle constitution en 1995, a scellé le pacte Etat-Société et a été porteur d'espoir pour un nouvel ordre politique. Mais dix ans plus tard, dans quelle mesure l'Ouganda est-il sur la bonne voie vers la transformation politique dans les relations État-société et le constitutionnalisme? En conséquence, le présent document examine l'évolution politique en Ouganda pendant les dix premières années sous l'empire de la nouvelle constitution et une conjoncture de temps des réformes démocratiques en Afrique. Le document montre que ces années ont été le théâtre de bouleversements politiques incarnés par la prépondérance de l'abus de droit de l'homme, les défaillances de l'État et le désespoir dans le nord du pays ravagé par la guerre, la patrimonialisation du pouvoir, les dérives autocratiques et les manipulations qui rappelaient les anciennes dictatures. Le comble est venu avec le choquant tripatouillage de la constitution pourtant embryonnaire pour supprimer la limitation des mandats présidentiels, qui était le verrou qui garantissait un transfert en douceur du pouvoir. Cet événement a été suivi par le siège militaire de la Haute Cour qui a fini par convaincre que le militarisme est resté le propre du pouvoir politique en Ouganda. L'indépendance du pouvoir judiciaire et législatif restait illusoire, et avec l'opposition ces instituions restent en proie à la corruption, la manipulation, l'intimidation et la répression. Avec un constitutionnalisme et terrain politique imprévisible, la promesse du NRM d'un «changement fondamental» a dégénéré en un « statu quo politique ».

Introduction

In Uganda, the high expectations that came with independence gradually dissipated with the political turbulence that followed. The 1966/77 political imbroglio was followed by Idi Amin's coup and descent into bloody dictatorship during the 1970s; the liberation war and murderous transitional period of 1979 and the controversial 1980 elections and subsequent five year protracted guerrilla war. These adversely impacted on people's livelihoods, survival and rights. The NRM takeover in 1986 ushered in the euphoria of unprecedented hope for political transformation. The NRM's approach, which was couched in the pro-*wananchi* (people) revolutionary philosophy, generated a spontaneously felt state-people contract that was expressed as a 'Fundamental Change' from successive autocratic rule. This was crystallised in the formulation and promulgation of the new 1995 Constitution.

This article explores the course of Uganda's progress with political transformation during the first ten years under the new constitution, from 1995 to 2005. This was also the period that was marked as the 'third wave of democratisation' in Africa. The article shows that the hyped 'fundamental change' was absent for the war-ravaged Northern Uganda; reports of human rights violations were the order of the day; tell-tale signs of authoritarianism resurfaced; corruption and neo-patrimonialism escalated; militaristic and repression tendencies persisted; political pluralism/diversity was characteristically strangulated; old-time institutional and electoral manipulations recurred; and the last straw was the amendment of the embryonic constitution for political expediency of Museveni's rule *ad infinitum*. Such worrisome political antecedents approximated the old-time trends, signalling that NRM had veered off the course of 'fundamental change' back to 'no change', which coincidentally became President Yoweri Museveni's subsequent campaign slogan. The paper therefore shows that Uganda's rise from hopelessness to hope under the NRM was beset with significant reversals between 1995 and 2005. Subsequently, constitutionalism and political certainty remained a chimera.

Tandon reminds that a constitution is envisaged as '[A]n arrangement by which power is organised within a state so that its exercise is accountable to a set of laws beyond the reproach of those who exercise those powers' (Tandon 1994:225). Written constitutions were part of the western governance models and institutions that were grafted on traditional African systems. However, they became governance parameters for the complex political architecture of the new African state that was arbitrarily constructed at the expediency of colonial interests. Nation-building, constitutionalism and democracy remained paradoxical and superficial in post-colonial states like Uganda. In this article, we conceptualise political transformation *vis-à-vis* Uganda's previous dictatorships, while constitutionalism is conceptualised beyond a textual constitution *qua* constitution. From teleological conceptualisation, constitutionalism transcends textual and legalistic confines to encompass human worth, dignity, aspirations and interests (Katz 2000). There is a contradiction of having a constitution without constitutionalism (Okoth-Ogendo 1991). Constitutionalism encompasses legitimacy, democracy, participation and human rights as mirrored through institutions and organs of state and society.

Background to Governance and Constitutionalism Paradoxes

Uganda attained independence in 1962 after a gruelling constitution making process at Lancaster in the UK. From the process, an 'unholy' alliance emerged between Buganda's Mengo monarchists under a hastily formed party Kabaka Yekka (Only the King (KY) and Milton Obote's Uganda People's

Congress (UPC) to block the Catholic-dominated Democratic Party (DP). The UPC/KY alliance led Uganda to independence, with Buganda's King (Kabaka) doubling as President of Uganda and Obote as executive Prime Minister.

By 1966 the alliance had crumbled over the saga of the 'lost counties'[1] between Kabaka Mengo versus Obote's 'nation-building' project. This, spiralled into acrimony and the subsequent attack and exile of the Kabaka. Thereafter, Obote pursued repression against Buganda which included imposition of a state of emergency, abolition of kingdoms and enactment of the 1967 Republican Constitution through a non-consultative process. Members of Parliament (MPs) simply found the constitution circulated in their pigeon holes amidst tension. Obote was overthrown by Idi Amin in 1971, but a short-lived relief plummeted into an unprecedented eight year bloody military dictatorship characterised by the assault on civil institutions of governance; erratic rule by decree and wanton state murders. Meanwhile, the constitution remained in abeyance until the fall of Amin in 1979, after which it was restored and often amended and patched until the formulation of a new 1995 constitution.

The fall of Amin was followed by political contestations and turbulence under the UNLF regimes, ending with Paul Muwanga presiding over the 1980 elections and the controversial return of UPC to power. The second UPC regime was characterised by a simulacrum of phoney parliamentary democracy, repression, violation of human rights and constitutional amendments at the whims of narrow political expediency. Meanwhile, a costly five year guerrilla war led by Yoweri Museveni's NRM raged on and precipitated the 1985 General Tito Okello Lutwa-led coup against the UPC regime (Karugire 1980; Mutibwa 1992; Makubuya 1994).

Instability and violation of human rights continued unabated under Tito Okello's junta, until the NRM overran the regime in 1986. From 1966, Uganda's political landscape was, therefore, characterised by unconstitutional governance; strangulation of civil institutions of governance; totalitarianism, state repression and violation of human rights that included gruesome extra judicial murders.

The NRM Regime

The new Museveni and NRM regime projected a *sui generis* revolutionary orientation that seemed to constitute a watershed in the political architecture of Uganda (Museveni 1992; Museveni 1997). At his inauguration, Museveni stated that: 'No one should think that what is happening today is a mere change of guard: it is a fundamental change in the politics of our country'

(excerpts from Museveni's take-over speech, 1986). The NRM take-over was seen as a fundamental departure from misrule to political transformation, constitutionalism, rule of law and human rights. The contractual fundamentals enshrined in the Ten-point Programme and promise of a fundamental change that was already exhibited in the discipline of the triumphant rag-tag NRA guerrilla fighters instilled an unprecedented sense of relief and confidence. Ugandans envisioned the end to state-orchestrated wanton murders; the end of the culture of political violence, torture, arbitrary arrests, the repressive modus operandi, and above all, the opportunity to freely elect and peacefully change their leadership. It was considered a dawn of a new era. The exceptions were the people of Northern Uganda region, where the defeated armies re-grouped and waged an extended war led by Alice Lakwena and Joseph Kony.

Internationally, Museveni's conversion to neo-liberalism earned him Western acclaim of a 'unique visionary, charismatic leader' and *primus inter pares* of the 'new breed' of African leaders (Oloka-Onyango 2004; Kjaer 2004). The 'new breed' trio, namely Museveni, Paul Kagame of Rwanda and Melez Zenawi of Ethiopia, gave credence to the discourse of the 'third wave of democratisation' in Africa (Huntington 1991; O'Donnell and Schmitter 1986; Linz and Stepan 1996). However, despite the resuscitation of liberal democracy with its procedural electoral systems and periodic elections, written constitutions and state institutions, countries like Uganda continued to display a discrepancy between democratic models versus realities. But to what extent was the NRM and Museveni a 'new breed' on Africa's or Uganda's political landscape? Did periodic elections and the textual formalism of the new constitution guarantee political and constitutional transformation (Hansen and Twaddle 1995).

The New Constitution

The new 1995 constitution was not made on a *tabula rasa*, but emanated out of a deeply rooted consciousness of a turbulent political past characterised by unlimited and costly abuse of powers. This time, the process of formulating the constitution involved wide consultation, participation and a specially elected Constituent Assembly (CA), hence 'a people's constitution' (Furley and Katarikawe 1997). Through a meticulous process guided by consensus, the delegates started with the preamble that succinctly reflect the tumultuous past as its point of departure.[2] There was a general desire to entrench specific parameters and mechanisms for the operation of government against the backdrop of daunting past experiences (Bazaara 2001:41-45; Nassali 2004). To ensure legitimacy and sustainability of the new constitution, the major task was to 'create viable political institutions that will ensure maximum consensus and orderly secession of government' (Odoki 2005:Chap.8).

Ever since the abrogation of the independence constitution in 1966, the executive had exercised arbitrary power through repression and extermination. Accordingly, the ultimate motif of the new constitution was the enshrinement of people's desire to restrain executive power. The new constitution sought to entrench a strong Bill of Rights and mechanisms for their enforcement and democracy-promoting and horizontal institutions for good and accountable governance. Furthermore, the new constitution reflected the need for popular representation and aspirations that transcended mere abstraction and documentary value of a constitution. But to what extent was the new constitution a guarantee for stability and transformation of state-society relations in Uganda? This paper examines the first ten years under the new constitution and pinpoints the reversals that reflected a lack of adherence to constitutionalism, both in its textual formalism and broader dynamism that reflected people's realities, fears, rights and aspirations.

In 2005, the NRM government fundamentally amended the constitution to satisfy the narrow power interests of the ruling elite, yet the population did not defend 'their' constitution. In this regard, Moehler's study noted that citizens who were active in the process of constitution-making were no more supportive of the constitution than those who stayed at home, and stressed the importance of the political elite in shaping the constitutional perceptions of the citizens (Moehler 2006). Had constitutionalism, therefore, permeated the state and the socio-political fabric of Ugandan society? We argue that Ugandans are not passive victims, but actors with agency, challenging misrule and un-constitutionalism. However, the character of the state and political machinations often shaped their strategies of engagement. In this case, the population did not have much faith in the legalistic character of the constitution as a guarantee of a new constitutional and political order in Uganda.

Contestation over the Right of Association and the Referendum

The first major constitutional problem revolved around the right of association that was entrenched in the new 1995 constitution. Since independence, the political space has been restrictive through one party dominance, repression and military dictatorships. Chapter Four of the Constitution spelt out human rights and freedoms which it categorized as fundamental and inherent for individuals, hence not granted by the State. Article 29:1 (e) specifically stated that every person shall have the right to: 'freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organizations' (*The Constitution of the Republic of Uganda*, 1995:Chapter 4). The NRM had singled out political parties for blame as the cause of polarization along ethnic and religious lines, which had allegedly exacerbated political turbulence in Uganda. Accordingly,

it had been grudgingly enshrined in the constitution that political parties had to remain in abeyance in order to enable the 'non-party' Movement system to consolidate an all-embracing political culture of national unity. This was tantamount to constitutional strangulation of diversity through a one-party-tight-jacket model, reminiscent of the post-independence nation-building legacy that was couched in the 'one nation' rhetoric.

Owing to internal and external pressure, the NRM sought to subject the right of association to a referendum. Contestations emerged over the legitimacy of the proposed referendum, as the right to associate was constitutional and inalienable, hence could not be subjected to the vote. Conversely, government argued that it was necessary to consult 'the people', who alone had the prerogative of deciding how they were to be governed. Subsequently, the Constitutional Court in Constitutional Petition No. 3 of 1999 nullified the referendum.

The nullification prompted Parliament to pass the first amendment to the 1995 Constitution entitled the Constitution (Amendment) Act No. 13 of 2000. The import was to legitimize voting on the right to associate. In Constitutional Petition No. 7 of 2000 the Constitutional Amendment was challenged as unconstitutional. Technicalities were pointed out, for instance, that the Amendment was passed by Parliament without the required quorum. However, the Constitutional Court in a majority judgment of three to two dismissed Petition No. 7 which challenged the amendment, and maintained that the Constitutional Amendment Act No. 13 of 2000 had properly amended Articles 88, 89, 90, 97 and 257 of the 1995 Constitution (See Constitutional Petition No 7/2000). This Constitutional Court judgment was appealed against in Constitutional Appeal No. 1 of 2002 to the Supreme Court. Subsequently, on 29 January, 2004 the Supreme Court declared the Constitutional (Amendment) Act No. 13 of 2000 as unconstitutional and accordingly struck it out as null and void (See SC Appeal Judgment in Const Appeal No. 1/2002).

President Museveni was reportedly annoyed with the Judges over nullifying the referendum and he was quoted as ridiculing the judiciary thus: 'the major work for the Judges is to settle chicken and goat theft cases but not determining the country's destiny' (Ssuuna, *The Monitor*, 30 June 2004; *The New Vision*, 30 June, 2004). This illustrated how the executive undermined the judiciary (International Bar Association 2007). It is noteworthy that the executive in Uganda continued to wield overwhelming formal and informal power and influence over the institutions and arms of government, which continued to undermine any checks and balances. Such influence and control inter alia came through powers to appoint heads of institutions like the judiciary,[3] the IGG, Auditor General, Director, Criminal Investigations Department (CID), Director of Public Prosecutions (DPP), Chairpersons of

Uganda Human Rights Commission and of Commissions of Inquiry. Owing to the executive's capacity to influence and manipulate the legislature, major and contentious amendments would be passed without much ado.

Accordingly, although the Supreme Court had declared the Constitutional (Amendment) Act No. 13 of 2000 as unconstitutional, Parliament succeeded in passing the referendum law amidst stiff resistance from the opposition. The G6, an alliance of six major opposition parties comprising Forum for Democratic Change (FDC), Democratic Party (DP), Conservative Party (CP), Justice Forum, The Free Movement (TFM), and the Uganda Peoples' Congress (UPC) and some civil society organisations opposed the referendum. The opposition insisted that the referendum was an infringement of the constitutional and inalienable right of association. It thus vowed to boycott the referendum (*New Vision* 6 May 2005). They maintained that owing to its irrelevance, it was not justifiable to spend an estimated $13m (£7.4m) on the referendum (Masiga *HURINET*, 17 June 2005). Through their lawyers, the G6 sought an injunction against the plebiscite in the Supreme Court. The petitioners asked the Constitutional Court to block the referendum saying it was worthless, illegal, unconstitutional, too expensive and violated peoples' basic rights and freedom (*The New Vision* 21 June 2005).

Government was later accused of initiating the formation of hitherto unknown surrogate opposition parties with which it negotiated to legitimise the referendum. The new 'opposition' parties were often at variance with the common opposition stand, for instance, 30 of the parties registered to participate in the controversial referendum. This bolstered the Government's position that a national referendum had to be organised to decide whether to retain a No Party system or revert to a Multi-party political dispensation. On 12 July 2005, President Museveni himself launched a 'Yes' campaign in favour of the return to multi-party politics. Parliamentarians were allegedly bribed to support the 'Yes' vote. Alice Alaso (Soroti women MP) was quoted thus: '...we burst into the office and got them off-guard. They were giving out money in envelopes. When we asked him (Suleiman Madada) for our share, he refused to give us any money' (*The Daily Monitor* 21 July 2005).

Presumed Constitutional 'Deficiencies' and the Constitutional Review Commission (CRC)

In response to the Supreme Court ruling, the NRM leadership pressed for a review of the new Constitution under the pretext that it had several defects and areas of inadequacy. Government cited various complaints, for instance, Buganda's Mengo persistent demand for 'federo' (a federal system of government) and clarification of the functions of traditional leaders. The contentious 'federo' debate was used to showcase how the new constitution

had not addressed 'contentious' issues, thus the justification to review it. It was further advanced that government faced enormous internal and external pressure to open up political space, hence the need to review some articles in the constitution that pertained to political systems. Accordingly, by legal notice No. 1 of 2001, government established a Constitutional Review Commission (CRC) headed by Prof Fredrick Ssempebwa.

In the course of the CRC consultations, Cabinet submitted proposals which were canalised into the 2005 Omnibus Bill, which heaped together up to 120 articles of the new Constitution for amendment. This was notwithstanding the different modes of amending the specific articles as stipulated in the very 1995 constitution. In their submission, Cabinet proposed increasing the powers of the president over parliament, including the power to dissolve it in case of a stalemate. Additionally, Cabinet wanted Article 99 (on the executive authority of Uganda) to be amended to give the President powers to issue executive orders, which should have the force of law. Cabinet also sought to reduce powers of Parliament over the President's nominations to ministerial posts. The powers of the MPs to censure ministers were also curtailed under the Cabinet proposals. The most controversial proposal was to repeal Article 105 (2) of the new Constitution to remove the two five-year term limit on the office of the president. Cabinet argued that:

> The reason for removing the limit is to allow the people to decide the number of times a person may serve as President by their support or rejection at the polls in consonance with Article I of the Constitution, which provides that all power belongs to the people (omnibus Constitutional (Amendment) Bill 2005).

To sugar-coat the controversial proposals, Cabinet made proposals on articles 69 (on political systems), 70 (on the Movement political system), 71 (on the multiparty political system) and 72 (on the right to form political organisations). The intent was to open political space, which would be a lure for multi-party advocates in parliament to pass the Omnibus Bill off-guard and an appeasement to the pressing Western donors. Then Cabinet hoped to appease Buganda's monarchists by proposing a more nationally acceptable regional tier system as an alternative to their long-time demand for 'federo'. As the Omnibus Bill was intended to be passed expressly and holistically, Cabinet hoped to amend one of the most controversial articles in a disguised manner. The rationale of the Bill was to subsume the most contentious amendment proposals within the Bill, while carefully juxtaposing them with 'friendlier' proposals. Once passed, the Omnibus Bill would have enabled passing of the articles *en masse*, without meticulous and rigorous reflection on contentious articles such as 105 on the Presidential term limits.

First, both the Cabinet proposals and the President being the appointing authority of the CRC raised concern about conflict of interests and the independence of the CRC (Ngozi 2003:31-38). Secondly, the NRM's National Executive Committee (NEC) rather preposterously claimed that Article 105 (2) of the Constitution that restricted the president's tenure to two five-year terms, alleging that it had been 'contentious', yet it had neither been tested nor was it raised in the Commission's consultations. Cabinet further proposed to reduce the powers of horizontal institutions like the ombudsman, the Inspector General of Government (IGG), and also proposed scrapping the Uganda Human Rights Commission (see Cabinet Proposals, *The Monitor*, 26 September 2003). The NRM Cabinet's proposals intended to re-create presidential omnipotence which was the very cause of Uganda's post-independence political turbulence and the gross abuses of power and violations of human right. Fundamental principles that were enshrined in the constitution, particularly on checks and balances and protection of human rights were being undermined by the very government that initiated the formulation of a new constitution for 'fundamental change'.

As it emerged, the *raison d'être* for establishing the CRC was to serve the unconstitutional interests of the NRM government as it realised constitutional encumbrances to its omnipotence. In December 2003, the CRC presented two reports, a major and a minority report, which pointed to earlier public suspicions of a division among the Commissioners. The CRC schism was precipitated by the nature of the Omnibus Bill, particularly the disguise of scrapping the presidential term limits, which was beyond the original intent of the CRC. Some members of Parliament challenged the Omnibus Bill, with some like Miria Matembe, Ben Wacha and Abdu Katuntu taking it up to the Constitutional Court. Consequently, government formally withdrew the Bill on 7th April 2005 before the Court passed a verdict. However, government changed its strategy, and owing to the power of influence and control of the executive, the presidential term limits were willy-nilly scrapped as presented below.

Amending the Presidential Term Limit

Article 105 of the new constitution had clearly ring-fenced the five-year term limits for the office of a President, owing to Uganda's experience of personality cult presidents and totalitarianism. The Article 105, 1 & 2 succinctly stated thus:

(1) A person elected President under this Constitution shall, subject to clause (3) of this article, hold office for a term of five years.

(2) A person shall not be elected under this Constitution to hold office as President for more than two terms as prescribed by this article.

Repeal of Article 105 (2) so as to give the president a third term (*kisanja*) and open-ended tenure was the most controversial and contentious amendment of Uganda's young constitution. The *kisanja* amendment proposal generated heated debates, protests, despondency and a deep sense of betrayal. Conversely, advocates of *kisanja* and open-ended tenure harped on the need for Museveni's continued stewardship and his 'progressive and visionary leadership' for the transformation of Uganda and for unity in East Africa (see *Sunday Vision*, 6 February 2005). To opponents, Museveni, the celebrated revolutionary fighter of past dictatorships, architect of the new constitution and on record for identifying Africa's problem being leaders overstaying in power (Museveni 1989) was back-tracking to manipulate the constitution. But the proponents of lifting the term limits espoused the concept of a constitution as a 'living tree' that grows and adapts to contemporary dynamics, rather than that 'cast in stone' of textual rigidities like executive term limits that were not even in the Magna Carta. Bunya West MP Willian Kiwapama, for instance, reported that 'his people' saw in President Museveni a 'redeemer', hence the need to waive the restrictive term limits. Opponents like Betty Among (MP Apac women) retorted that MPs needed to transcend the simplistic reasoning of their rural constituents and contemplate why term limits were enshrined in the constitution (*The New Vision* 10 February 2005:5). Advocates replied that *wanainchi* (citizens) should exercise their constitutional power to retain or change a leader, provided there were regular 'free and fair elections'. Museveni reiterated that: 'The issues of who leads Uganda is up to the people in regular elections' (*The Daily Monitor* 4 July 2005).

As earlier noted, the post-independence period had witnessed executive totalitarianism, misuse and abuse of unlimited power. Consequently, consensus emerged for a universally elected president, with reduced or limited powers and an explicit two-term restriction (Odoki 2005:173). Unlimited rule was still vivid from the Idi Amin era concept of a 'Life President'. After a two-day workshop on the Constitution Amendment Bill, 2005, a consortium of about 90 local NGOs opposed lifting of the presidential term limits. One of their leaders noted thus: 'It is to ignore the lives lost and persons displaced through misrule ... Power that is unchecked is fatal' (Masiga 7 March 2005). The former American Ambassador to Uganda pointed out that:

> Charismatic and affable, Museveni is regarded as one of the most influential leaders in Africa. However, his thirst for power and quest for a controversial third presidential term may return Uganda to its dictatorial past ... Many observers see Museveni's efforts to amend the constitution as a re-run of a common problem that afflicted many African leaders – an unwillingness to follow Constitutional norms and give up power. Museveni's reluctance to

> move aside may also be motivated by a desire to protect those around him, including his son and half brother, from charges of corruption for alleged involvement in illegal activities (Carson Johnnie *Boston Globe*, 1 May 2005).

Museveni's wife responded to Carson's comments thus: '… serving Uganda is not a bed of roses and believe me, my family has paid a big price for our homeland that we all love so much ... Museveni does not need a job. It is Uganda that needs liberation, and he and other Ugandan patriots are willing to give all the sacrifice it will take to eradicate fascism and bring about economic liberation' (*The New Vision* 13 May 2005). Concern about Museveni's 'Life Presidency' was echoed in neighbouring Tanzania, where Moshi urban MP Philemon Ndesamburo was quoted thus: 'Tanzania should not co-operate with an undemocratic country that wants to have a president for life ... We are respected the world over as a democratic country that upholds the principles of democracy and good governance. We should protect this honour at all costs if it means quitting E.A.C.' (Juma *The Guardian*, www.ipp.co.tz/ipp/guardian/2005/07/02/43483.html; see *The Daily Monitor*, 6 July 2005; Karamagi *The Monitor*, 12 July 2005).

Periodic constitutional changes pointed to arbitrary political expediency for short-term interests, thus sowing seeds of future contestation. Parliamentary debate on the constitutional amendment was preceded by an amendment in rules of procedure that substituted secret with open voting, which some believed was intended to manipulate and intimidate MPs to tow the NRM line (*Sunday Vision*, 9 January 2005:7). This was followed by allegations of bribery which presumably compromised MPs and weakened Parliament as an independent institution. It was reported that over 200 MPs were each given a five million 'facilitation' allowance. Bribery and patron-clientalism became the hallmark of the Museveni regime. The 'facilitation' was, however, given outside the premises of parliament and to only those MPs who supported government position. Colonel Kahinda Otafiire was quoted as having said: '... yes, I received the money, I drank some of it because it was facilitation, I ... used the rest to fuel my car to my constituency' (*The Monitor* 11 January 2005).

Apart from weakness through alleged bribery, there were views that the government took advantage of special interest groups who owed their position in Parliament to the NRM. Army and women representatives were particularly singled out as often voting for government positions (MP Ken Lukyamuzi, *The New Vision*, 24 January 2005). Some women NGOs were reported to have expressed support for the third term project, with Kampala women MP Margaret Zziwa announcing that: 'without Museveni, we women cannot exist' (*The New Vision* 1 February 2005). However, the support of women

cannot be generalised as some women in Museveni's own home district of Mbarara were reported to have advised him to respect the constitution and step down (*The New Vision* 24 January 2005). The Third-Term controversy led a sizeable number of legislators to form an anti-third term pressure group, the Parliamentary Advocacy Forum (PAFO). This was followed by the widening of cracks within the inner circle of NRM leadership. Prominent long-term ('historical') NRM leaders, notably Augustine Ruzindana, Eriya Kategaya and Jabel Bidandi Ssali either resigned or were purged through 'Baleke Bagende' (good riddance) reshuffles and were replaced by new Movement enthusiasts. PAFO's endeavours internally to mobilise against the third term were stifled by intimidation and repression. Nonetheless, some MPs presented the government White Paper to their electorate, and some Districts like Nebbi were reported to have rejected the removal of presidential terms (*The New Vision* 5 January 2005:7).

Parliamentary contestations over the removal of presidential term limits were bolstered by internal civil society and external pressures. On 23 March 2005, opposition groups organised a protest against the Third Term Bill, appealing to donor countries to exert pressure on the NRM government, which was accused of attempting to establish a 'dictatorial presidential monarchy'. Foreign criticism mounted and Ugandans in the Diaspora organised conferences and demonstrations against lifting presidential term limits. There were conferences in London, Sweden (27 August 2005) and North America (*The Daily Monitor* 27 September 2005). The US warned that: 'Democratisation could suffer a setback if the NRM succeeds in removing presidential term limits from the constitution' (US State Department, Report, 2004/2005). The US Ambassador to Uganda, Jimmy Kolker, reportedly pointed out that President Bush had advised President Museveni about the Third Term and the need for a peaceful political transition in Uganda.

While appearing on Andrew Mwenda live talk show on 93.3 KFM on Thursday 7 July 2005, the US Ambassador was quoted as having said: 'I was at the meeting and I am comforted in what I say that peaceful transition is important to term limits because I know what my president believes and I know what he said'. The Ambassador added that he had offered his own advice to the president whenever asked, ending that: 'I don't broadcast that advice over the radio. But I agree that Africa's problem is leaders hanging on to power' (*The Daily Monitor* 12 July 2005). The Ambassador's comments were vehemently opposed by Prime Minister Apolo Nsibambi (*The New Vision* 13 July 2005). The Commonwealth Secretary General Don Mckinnon, equally pointed to the respect the Commonwealth accorded to term limits (*The New Vision* 19 February 2005).

Political Party Operations

The eventual opening of political space was a protracted process whose landmark was the November 2004 Constitutional Court ruling against some sections of the Political Parties and Organisations Act (PPOA). The Court pinpointed the unconstitutional infringement of some PPOA sections on fundamental civil and political rights, for instance, freedom of association and assembly. With the opening, new political parties emerged. The Forum for Democratic Change (FDC), a merger of the Parliamentary anti-third term group (PAFO) and Dr Kiiza Besigye's Reform Agenda that contested the 2001 presidential elections, was the most prominent of the new parties. Traditional parties like DP and UPC considered FDC as a credible and trusted party, and forged a common working relationship with it under the G6 framework. Establishment of grassroots networks and infrastructure was not smooth for parties like the FDC. The NRM had an elaborate village to District level Local Council system that combined administrative functions with championing grassroots Movement interests. This was overseen by political appointees like Chief Administration Officials (CAO), security operatives and Movement cadres. Additionally, the police served the establishment, and para-military units like the Kalangala Action Plan were reminiscent of the old-time UPC's National Security Agency (NASA). This elaborate apparatus aimed at weakening competing political parties through a combination of indirect and direct strategies like co-option, harassment, sabotage, repression or even elimination. Claims of sabotage were made, for instance, in Gulu, Hoima, Masindi and Kisoro (*The New Vision* 9 August 2005; *The New Vision* 27 June 2005; *The New Vision* 18 July 2005).

Human Rights

The Amin government's flagrant human rights violations were followed by the second UPC government's actions, of which the gruesome Luwero Triangle murders were still vivid in people's minds. In their wide consultations, the Constitutional Commission tells us that one of the issues on which people were largely unanimous was the need to protect and promote human rights (Odoki 2005:173). One of the greatest achievements of the NRM was some degree of discipline in the armed forces, especially in the Southern belt of the country. This achievement was viewed favourably when contrasted with the magnitude of human rights violations by the previous regimes. However, some significant weaknesses under the NRM were beginning to pile up.

Taking 2004 as a case study, the year was characterised by reports of violations of human rights in un-gazetted places of detention ('Safe Houses'), which were operated by state security agencies. There were reports of torture

and arbitrary arrests of political opponents and suspects of an alleged rebel group, the People's Redemption Army (PRA) (Human Rights Watch *Report* April 2004; *Amnesty International Report* 2005; Human Rights Watch *Report* April 2009). In addition to the Army, agencies that were reported to be in the lead in violating human rights included The Chieftaincy of Military Intelligence (CMI); Internal Security Organisation (ISO); District Security Organisations (DISO); Joint Anti-Terrorism Task Force (JAT) an arm of CMI; Violent Crime Crack Unit (VCCU) and the Police's Criminal Investigation Department (CID). JAT's Kololo-based 'Safe House' was singled out as one of the most notorious torture chambers. For Ugandans, mention of torture chambers ruptured the healing wounds that had for decades been inflicted by pre-NRM dictatorships. The Human Rights Watch reported continuation of abuses that included beating with electric cables, tying hands and feet behind the victim (*kandoya*), piling detainees in underground halls, inflicting injury to genitals and denying suspects medical care. It was reported that common criminals and political opponents, particularly of FDC's alleged People's Redemption Army (PRA) rebel group were the major victims of torture (*Human Rights Watch* May 2005). HRW reported that four people died of torture by JAT. For instance, Hamza Tayebwa was repeatedly punched in the chest and as a result died at Mulago Hospital. The report further said that the whereabouts of five people last seen in the Unit's custody was unknown (Human Rights Watch *Report* April 2009). However, the army spokesman, Felix Kulayigye, accused HRW of trying to tarnish the image of the Ugandan People's Defence Forces (UPDF).

Human rights violations were more pronounced during the election period, especially hotly contested elections between President Museveni and Col. Kiiza Besigye. Para-military organisations like the Kalangala Action Plan (KAP), a pro-Museveni youth militia group under Major Roland Kakoza Mutale, was one of the controversial and notorious state security agencies. In July 2000, the Uganda Human Rights Commission (UHRC) tribunal charged Mutale and found him guilty of torture and illegal imprisonment. On 3 March 2001, Presidential Protection Unit (PPU) soldiers shot live bullets as supporters of President Museveni and Dr Besigye clashed, killing Vincent Beronda in Rukungiri District. On 12 January 2001, two men were allegedly killed in two separate villages in the east while putting up posters for presidential candidate Besigye. In February 2001, four Besigye supporters were killed by a truck driven by an UPDF solder. On 11 April 2001, a Local Defence Unit operative allegedly shot dead two people at Rwenkuba sub-county, Burahya, Kabarole District.

On 20 July, 2002, Patrick Mamenero and his father were arrested on accusations of having connections with a renegade UPDF officer, Col. Samson Mande, who had purportedly formed the shadowy PRA rebel group. Mamenero was reportedly tortured by the Chieftaincy of Military Intelligence (CMI) operatives (Bagala *The Monitor* 28 June 2009). Mamenero died. On 15 February 2006, Lt. Ramathan Magara opened fire on FDC supporters at Bulange, Mengo and killed two people. There was persistent pressure through local and international exposure leading to some improvement or possibly concealment of abuses during the second half of 2005. The 'sensitive' thus classified as 'confidential' findings by Parliamentary Commissions added to the Uganda Human Rights Commission's (UHRC) vigilance to pressurise government. In one case, for instance, the UHRC ordered the Attorney General to pay USh. 40 million as compensation to Mr Idris Kasekende who was illegally detained for 125 days and tortured by the police (*The Monitor* 21 January 2005).

The IDP Camps and Human Rights

From the perspective of human rights as basic need, entitlements and capabilities, the population of the war-ravaged northern Uganda districts of Pader, Gulu, Kitgum and Lira considered the NRM government as a failure. The situation had prompted 50 International Aid Agencies to appeal to the United Nations to protect the civilians. The Deputy Director of Save the Children Fund in Uganda aptly stated thus: 'The UN Security Council must take firm action and challenge the Ugandan government to protect its own people. If the government cannot do this, then the Security Council must agree to a resolution which commits the international community to protect the millions suffering in sub-Saharan Africa's longest-running war' (Reinstein John IRINnews.org, 11 November 2005).

The government established Internally Displaced Person's Camps (IDCs) in which to protect civilians from Joseph Kony's Lord Resistance Army (LRA) rebels. However, there was insufficient protection and cases of laxity in the protection of the camps leading to occasional attacks and continued insecurity (Mamdani *The New Vision* 5 December 2005). Apart from continued insecurity, long stays in IDCs under appalling conditions due to the scarcity of basic necessities compounded despair and destitution, as people's whole livelihood had been disrupted (Finnstrom 2005 a&b; Ojwee Nahaman IRINnews.org 11 November 2005). Hunger, congestion and perceived governmental failure to provide services like health care, had horrific consequences, with an estimated 1,000 excess civilian deaths per week, with curable malaria as the leading killer (Ministry of Health *Report* July 2005:ii). Worse still, some undisciplined elements within UPDF were accused

of committing abuses, which led to a sense of betrayal and hatred of IDP 'confinement' among the population. A Catholic Missionary in Kitgum enlightened the public regarding the despair in the IDCs as follows:

> Life in the camps is such a miserable experience. The quality of life is zero. Now we are receiving reports from Pabbo camp of three suicides a week. Suicide was extremely rare among the Acholi people. Now when people start taking their lives, then they have lost hope (Rodriguez Carlos IRINnews.org 11 November 2005).
>
> The Uganda Government, however, strongly denied the findings of human rights organisations, accusing them of degenerating into propaganda mouthpieces for the opposition during the run-up to the 2006 elections (UG, 'Press Statement', Minister of Defence, 23 September 2005). Nonetheless, the US-based Human Rights Watch in particular stood by its findings (*Human Rights Watch* 30 September 2005).

Arrest of Opposition Leaders

It was during the time of competitive elections that most human rights abuses took place. Politics became a zero-sum game, as ruling political elites strove to stay in power, and used the state machinery to strangle competition. The year 2005, for instance, was the eve of elections, and opposition politicians faced a gruelling struggle. During 2005, there were continued arrests and delayed trials of people associated with the opposition on allegations of being connected to the rebels of the PRA.

The most high-profile arrest was of Kiiza Besigye, leader of the FDC. The return of Kiiza Besigye on 26 October 2005 won the parliamentary commendation of the NRM as a politically mature government that exercised principled reconciliation (*The Daily Monitor* 26 October 2006). However, Besigye was later arrested at Busega near Kampala, which action drew internal and external protests. Internally, the arrest sparked off public riots of significant magnitude in Kampala, which spread up-country, especially in the Northern Uganda Town of Arua and Besigye's birth place of Rukungiri. The turmoil prompted the police and army to deploy heavily to supress the riots (*The Daily Monitor* and *The New Vision*, 15 November 2005). The arrest at the height of the campaign was largely seen as politically motivated; intended to block Besigye from competing with Museveni for the presidency. Although the Electoral Commission ruled that Besigye was eligible for nomination while in prison, on 7 December 2005, the Attorney General issued a directive to the Electoral Commission against the nomination of Besigye (*The Daily Monitor* 10 December 10 2005:3). Owing to the absence of a legal bar, the government rescinded its stay on the nomination and Besigye was nominated in custody.

While Besigye's arrest generated pressure and was considered a political boomerang that forced the government to yield to his release, his politically unknown co-accused 'rebels' remained in custody and were denied bail. In April 2005, two Members of Parliament of the opposition FDC, namely, Okumu Reagan (Aswa County) and Ocula Michael (Kilak County) were arrested for allegedly murdering Alfred Bongomin, a Local Council[3] Chairman of Pabbo, Gulu District on 12 February 2002. The army had earlier intimidated the two MPs when they visited Pader District in Northern Uganda. Their lawyer, opposition colleagues and leading human rights activists maintained that the charges were politically motivated (*The Daily Monitor* 21 April 2005; Human Rights Watch 27 April 2005). Prominent opposition leaders complained of harassment, including allegations of tapping their phone calls; constant surveillance by security agents; plans to use housemaids to poison them, and drivers planting incriminating seditious material in their vehicles (*The Daily Monitor* 25 July 2005). G6 leaders demanded that government expedite the inquiry into the reportedly over 1,000 political detainees in jail (*The New Vision*, 6 May 2005).

Some top army officers who had shown a tendency to oppose the lifting of presidential term limits were also threatened. Prominent among these was Army MP Brigadier Henry Tumukunde, who was forced to resign from Parliament, incarcerated, and charged with 'spreading harmful propaganda' by the General Court Martial. There was a ban against the army's involvement in politics, which contradicted their continued representation in parliament. Although some senior army officers like Major Roland Kakoza Mutale and Brigadier Kasiryegwanga had been openly involved in politics in favour of the president, they had neither been prosecuted nor reprimanded. On this note, Besigye pointed out the double standards in the application of army policies and regulations (Mutaizibwa *The Monitor* on-line, 20 June 2005; Cummins Scott 22 June 2005).

The Judiciary and Separation of Powers

After wide consultation, the Constitutional Commission noted a consensus among people in favour of a constitution that protected the independence of the judiciary as a guardian of basic human rights and constitutionalism. Consensus also emerged on the need for constitutional entrenchment of the principle of separation of powers and mechanisms of checks and balances with regard to the judiciary, executive and legislative arms of government (Odoki 2005:174).

As the year 2005 came to a close, the judiciary grappled with the challenge of handling high-profile political cases. Before Besigye's return from exile, President Museveni reportedly wrote a confidential circular to Cabinet,

drawing attention to outstanding criminal cases against Besigye. However, some sections of the public perceived the circular as imputing criminality, thus *prima facie* evidence of the president's intent on imprisoning him. This was aggravated by the take-over of the case by the Military General Court Martial (GCM), although the case was already before the High Court. It was believed that as a retired solder, Besigye was a civilian, hence within the jurisdiction of the High Court. A parallel trial in a Military Court, it was asserted, bordered on double jeopardy. The insistence on trying Besigye in the GCM was seen as intended to serve the purpose of circumventing civil courts that could by law grant him bail, which would enable him to challenge Museveni for the presidency. Besigye's legal team challenged the legality of the GCM and its concurrent trial, and managed to obtain an injunction, pending the ruling of the Constitutional Court (*The New Vision* 3 December 2005). Museveni's fervent defence of the GCM to handle the case tended to give credence to speculations of his interference in the judicial process (*The New Vision* 30 November 2005). In one incidence, Besigye was intercepted on his way to the High Court and forcefully taken to the GCM at Makindye for a parallel trial. During the trial, the GCM Chairman, General Elly Tumwine, sentenced Besigye's defence lawyers to military detention for contempt of his Military Court and ordered the mainly Western diplomats out of the Court Martial (*The New Vision* 25th. November 2005). Meanwhile, President Museveni continued to castigate and warn diplomats for their continued meddling in Uganda's 'internal affairs'.

On 16 November 2005, there was what was described as an infamous siege of the High Court by armed men dressed in black ('Black Mambas') from a reportedly special Urban Hit Squad unit of Military Intelligence. It was reported that as 14 suspected PRA rebels were being granted bail, the 'Black Mambas' took position and tried to force their way into court cells, allegedly to wrest the suspects back into detention. This epitomised the powerlessness of the judiciary *vis-à-vis* state security functionaries, which drew international and local condemnation (*The Daily Monitor* 17 and 18 November 2005:1; *The New Vision* 17 and 18 November 2005). The Principle Judge, Justice James Ogoola, unequivocally described the events as 'a day of infamy' and the incident as 'naked rape, defilement, desecration and a horrendous onslaught' on the Judiciary.

The blatant affront to the judicial arm of the state pointed to the weakness of institutions and of the vulnerability of justice, hallmarks of the Amin dictatorship when Chief Justice Benedict Kiwanuka was kidnapped from his chambers in 1972. The incident compelled Justice Lugayizi to withdraw from handling Besigye's treason case (*The New Vision* and *The Daily Monitor* 19 November 2005). The Uganda Law Society condemned military interference

in the independence of the judiciary and demanded the resignation of the Attorney General, who ignored the demand (*The Daily Monitor* 29 November 2005). Not surprisingly, the UPDF spokesperson, Major Felix Kulayigye, justified the widely condemned act as follows: 'The UPDF had a legitimate and legal right to re-arrest them and have them answer the charges under the UPDF Act' (*The Daily Monitor* 17 and 18 November 2005). Although Besigye was later granted bail by the High Court Principle Judge, he was forcefully taken back to prison by order of the General Court Martial (*The Daily Monitor* and *The New Vision* 30 November 2005). There were also allegations by FDC leaders of bribery of senior judges for the sake of denying Besigye bail so as to eliminate him from the presidential race (*The New Vision* 31 December 2005).

The Police and Security Agencies

During the Constitutional Commission consultations, consensus emerged about the need for a professional police force to be largely responsible for internal security, and for intelligence agencies to be regulated by law and accountable for their actions. A general view also prevailed that the army should be under civilian control. Its duty was to defend and protect the constitution and democratic institutions, and its main responsibility should be to defend the sovereignty and territorial integrity of Uganda (Odoki 2005:174-175). During 2005, Kalangala Action Plan (KAP) under Kakoza Mutale, remained a controversial state security agency. KAP was formed by a group of NRM functionaries and gained notoriety for its intimidation and repression of the opposition during the 2001 presidential elections under the guise of 'ensuring sanity'. KAP operated under the cloak of an NGO, and for further camouflage and legitimacy, mutated into a 'Civic Education for Development Organisation' (CEDO) (Karamagi *The Monitor* 3 May 2005). Paramilitary groups like KAP continued to be a threat to a smooth political transition in Uganda.

The image of the police force had been slowly improving, but increasingly it now became seen as a militarised and repressive instrument of the regime. After their siege of the High Court, some members of the Military Police Hit Squad Unit were pictured dressed in police uniform (*The Daily Monitor* 25 November 2005). This seemed to confirm allegations that state security agencies sometimes disguised themselves as regular police officers to legitimise their repressive operations. The continued appointment of soldiers to head the police force raised concern among opposition Members of Parliament (*The Daily Monitor* 26 October 2005).

Freedom of the Press and Speech

Compared to other regimes in Uganda, the Movement government can be credited with an improvement in the freedom of the press. The year 2005 witnessed relative improvement in this respect, but amidst threats of closing some media outlets 'for endangering regional security' and reporting 'lies' about the government. In the Press Freedom Survey of 2005, Uganda was rated 13th as regards freedom of the press among 48 sub-Saharan countries. This improvement was against a backdrop of struggle, the turning point of which was the February 2004 Supreme Court Judgement, which ruled the offence of 'publication of false news' as void and unconstitutional. Ever since 1997, a number of journalists had been charged and prosecuted for this offence, contrary to Section 50 of the Penal Code Act. Although the Supreme Court annulled the offence, in August 2005 the government arrested and charged journalist Andrew Mwenda and suspended the licence of KFM Radio, alleging the broadcasting of 'seditious news'. It was alleged that while on his talk show, Mwenda portrayed the Ugandan government as being responsible for the death of Southern Sudan leader and Sudan Vice President Dr John Garang through its carelessness.

With the agitation that followed the arrest of FDC's Besigye, government slammed a ban on public rallies, demonstrations, assemblies, seminars, talk shows and media debates related to his trial (*The New Vision* 23 November 2005:1-2). While government maintained that the measure was taken in the interest of social order and the security of people, many saw it as gagging the public. On 18 November 2005, over 20 police and state intelligence operatives searched the *Daily Monitor* offices, which was suspected of being the source of posters soliciting for contributions to the Dr Besigye Human Rights Fund. Government maintained that such fundraising was illegal. Meanwhile, government operatives sustained threats to the press and media, particularly *The Daily Monitor*, which was construed to be anti-establishment. Accordingly, Luzira prison officials were reportedly censoring newspapers sent to Besigye, especially *The Daily Monitor*, thus denying him the right to uncensored information (*The Daily Monitor* 23 November 2005:3).

Conclusion

In addition to a sense of security, the political hope the NRM government gave Ugandans was the formulation of a new constitution that would presumably transform constitutionalism, state society relations and human rights in Uganda. Constitutionalism encompasses the whole spectrum of good governance which Uganda had lacked for a long time. This article has assessed constitutionalism during the first decade of the new 1995 Ugandan

constitution. During this time, the political landscape was freer relative to previous regimes. However, there were continuities with the past, some of which were in different forms and magnitude. Hence constitutionalism remained elusive, leaving many Ugandans in suspense and with a sense of pessimism. Within the first ten years, the new constitution had undergone reviews and amendments aimed at serving the narrow interests of the ruling elites. The constitutional amendment process, particularly regarding the removal of the untested presidential term limits, was a chilling awakening to the capricious realities of Ugandan politics. The ten years were characterised by corruption, a poor human rights record with continued reports of abuse, shattered livelihoods for the people of Northern Uganda, a struggling press, a harassed opposition, a manipulated constitutional amendment process, and interference in the judicial system. On the whole, meaningful constitutionalism was absent, as civil institutions of the state remained weak and civil society continued to be vulnerable to state manipulation and repression. Meaningful transformation of the Ugandan political landscape was work in progress that needed specifically to address asymmetrical power structures so as to deepen democratic rule and enforce checks and balances. Society's agency will be vital for bringing about meaningful political transformation and constitutionalism.

Notes

1. During colonisation, the British rewarded Buganda with the Bunyoro Kingdom counties of Buyaga and Bugangeizi in return for collaboration with the authorities and as punishment for Bunyoro's resistance. Against Buganda's will, Prime Minister Milton Obote implemented the order in council that recommended a referendum for resolving the thorny problem of the 'lost counties', which wrecked the UPC and Buganda's Mengo KY alliance, spiralling into the 1966 Kabaka Crisis, the subsequent abrogation of the independence constitution and kingdoms and imposition of a state of emergency in Buganda until the 1971 Idi Amin coup.
2. The preamble started: WE THE PEOPLE OF UGANDA: Recalling our history which has been characterised by political and constitutional instability; Recognising our struggles against the forces of tyranny, oppression and exploitation; Committed to building a better future by establishing a socio-economic and political order through a popular and durable national constitution ... Do Hereby, in and through this Constituent Assembly solemnly adopt, enact and give to ourselves and our posterity, this Constitution of the Republic of Uganda, this 22nd day of September, in the year 1995 ('Preamble', Uganda Constitution, 1995).

3. Supreme Court Judge George Kanyeihamba has clearly pointed out the executive's influence over the judiciary through appointments (*The Daily Monitor* 10 October 2009). The President also enjoyed great influence over the ruling MPs in parliament, where very few of his appointments have not been approved.

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