

TRENDS IN PUBLIC ADMINISTRATION EXPENDITURE IN UGANDA

The Cost of the Executive and its Implications on Poverty
Eradication and Governance



Godber W. Tumushabe

ACODE Policy Research Series, No. 27, 2009

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ACRONYMS

ACODE	Advocates Coalition for Development and Environment
CA	Constituent Assembly
CRC	Constitutional Review Commission
DFID	Department for International Development
DP	Democratic Party
GDP	Gross Domestic Product
MC	Military Council
MPs	Members of Parliament
NCC	National Consultative Council
NPC	National Political Commissar
NRA	National Resistance Army
NRM	National Resistance Movement
PEAP	Poverty Eradication Action Plan
PLE	Primary Leaving Examinations
RDC	Resident District Commissioner
UBOS	Uganda Bureau of Statistics
UNFPA	United Nations Funds for Population Activities
UNLF	Uganda National Liberation Front
UPC	Uganda Peoples Congress
UPDF	Uganda Peoples Defense Forces
UPE	Universal Primary Education
UPM	Uganda Patriotic Movement
USE	Universal Secondary Education

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Finally, I extend special thanks to Bernard Tabaire for meticulously going through the final draft of the paper and Yusuf Serunkuma Kajura for the technical editing of the paper.

I have taken care and due diligence to ensure accuracy of information and data provided in this paper, a task that has been more than challenging because of the secrecy with which some of the information is held. In particular, I was unable to get access to detailed expenditure information on individual ministers or presidential advisors as many public officials consider such information confidential. However, I have tried to ensure that information used is fairly accurate and where information is based on hypothetical cases, I have so indicated. That being said, any errors or omissions are my responsibility as author.

EXECUTIVE SUMMARY

The promulgation of the Uganda Constitution in 1995 shone as a path across the horizon. The Constituent Assembly (CA) declared in the preamble to the constitution: “WE THE PEOPLE OF UGANDA ... committed to building a better future by establishing a socioeconomic and political order through a popular and durable national constitution based on the principles of unity, peace, equality, democracy, freedom, social justice and progress ...” This declaration of triumph was based on a sustained Growth Domestic Product (GDP) record averaging about 6 percent per annum over a number of years, the entrenchment of local governance structures through the decentralization process and, most importantly, the confidence generated through the public consultations and debates that culminated in the promulgation of the new supreme law of the land. Little did the women and men of the CA know that the new constitution would be a stillbirth. In spite of their declaration to establish a “durable” constitutional order, the 1995 Constitution was amended in 1997 to increase the number of people that could be appointed to the Cabinet. In effect, the freehand given to the president to appoint any number of ministers opened a Pandora’s box as similar appointments are made for Presidential Advisors, Presidential Assistants and Resident District Commissioners (RDC), without the oversight of the Parliament or the Public Service Commission.

This study provides detailed analysis of the factors that account for the unprecedented expansion of the executive bureaucracy in Uganda. It is this expanded political bureaucracy that partly accounts for the increase in public administration expenditure. To begin with, this political bureaucracy has led to significant diversion of public funds and resources from critical social and economic sectors. Its bloated nature has blurred the lines of accountability and responsibility hence breeding unprecedented corruption and mismanagement. The statistical evidence of this is overwhelming. In less than a decade, the size of the cabinet increased from 42 ministers originally provided for under the constitution to approximately 72. The number of Presidential Advisors increased from 4 in 1994 to 71 in 2003. Different reports suggest that there are approximately 278 presidential advisors, presidential assistants and presidential secretaries. The central argument of this paper is that an over-size cabinet, and a growing Executive bureaucracy built around the Office of the President and State House, is the single most important threat to governance, and efforts to eradicate poverty and achieve economic transformation in Uganda today.

Taking a historical approach, trends in the evolution of Uganda’s Executive branch have been analyzed and analytical goal posts in the form of political and constitutional developments highlighted. While considering the role of ethnicity in shaping the constitutional and political discourse in the composition of the Executive since independence, the paper focuses on the period from 1986 when President Museveni came to power to the present. This emphasis is important because 1986 heralded a new beginning in the political, constitutional and economic discourse in the country.

The National Resistance Movement (NRM) and President Museveni provided the leadership and governance discipline that helped turn around the fortunes of the country. The economy started growing, with social and human development indicators improving. For the first time in Uganda's post-independence history, Ugandans got an opportunity to negotiate a social contract upon which they should be governed. The negotiations culminated in the promulgation of the 1995 Constitution. Based on the review of relevant literature and analysis of empirical and qualitative data, several observations and conclusions are made.

First, the fear that a president as head of the Executive would abuse the appointing authority vested in his or her office by the constitution is the very reason why articles 113 and 114 sought to put a cap on the number of ministers to be appointed to cabinet. As shown in this paper, rather than uphold the sanctity of the constitution, President Museveni, with the acquiescence of parliament, yielded to ethnic and religious pressures that have remained the under-current of Uganda's politics since independence. By the single act of passing a resolution to increase the size of the cabinet, the president and the parliament failed the "durability" litmus test of the 1995 Constitution. But most importantly, the two institutions that were mandated to safeguard the sanctity of the constitution set off a "chain reaction" that is threatening to wreck the new constitutional order.

At the time of this study and before the February 2009 cabinet reshuffle, President Museveni's cabinet was made up of 72 ministers. The majority of these ministers are voting members of Parliament. The fact that ministers sit in cabinet meetings, formulate policy or legislation and then vote on it in parliament is clearly a subversion of the checks and balances in the legislative process. In its report to the plenary on the Onapito Ekomoloit Motion to bar ministers from doubling as Members of Parliament, the Committee on Legal and Parliamentary Affairs emphasized the fact that the current position promotes intrigue and opportunism as MPs are compromised by the desire to become ministers. Both the theory on separation of powers and the empirical evidence on the role of Uganda's Cabinet in undermining the authority and autonomy of the Legislature mean that separating the two institutions serves democracy better and Ugandans would be winners from improved efficiency and accountability of both the Executive and the Legislature.

Besides governance, the uncontrolled expansion of the Executive is imposing a toll on the national budget. Expenditure on the Office of the President and State House has skyrocketed. Expenditure on the Office of the President increased from approximately US\$6.6 billion in 1989 to an estimated US\$18.5 billion in 2008. Expenditure on State House, the official residence of the President increased from US\$14.8 billion in 1994 to US\$67 billion in 2008. The actual expenditure on ministers, presidential advisors and assistants, and resident district commissioners (RDCs) cannot be easily ascertained because much of the relevant information is held secret by government.

Since the 1995 Constitution mandates the appointment of 42 ministers, it is argued that the extra 30 ministers are an unnecessary cost on the taxpayer. Over a five-year presidential term, taxpayers spend at least US\$13.95 billion in salaries, selected allowances and vehicles for the 30 excess ministers. Considering the 2008 tuition structure for Makerere University, this money is sufficient to cover the training of 930 doctors through a five-year course in human medicine. The cost of employing a single presidential advisor over a year is estimated at US\$48 million, an amount sufficient to construct a running health care centre serving at least 5,000 people. An expenditure of approximately US\$1.9 billion on the salaries of 80 RDCs per year is enough to provide malaria treatment to at least 63,333 children over the same period.

The main conclusion of the study is that the current bloated public administration in Uganda is a direct consequence of President Museveni's regime survival strategy built around six core elements: ethnic political pluralism; political mobilization camouflaged as political supervision of government programs; championing the representation of special interest groups; shifting actual legislative authority from Parliament to cabinet and the NRM Caucus; implementing a set of welfare programs; and, for lack of a better phrase, what is referred to here as "strategic political opportunism." And therein lies the challenge of the present and any future governments: can the entrenched interests and the patronage networks that underlie this strategy be reformed to achieve more strategic and long-term national development and governance objectives?

Four specific recommendations are made as a contribution to address this complex problem.

- First, parliament must reinstate the restraints on the exercise of Executive powers of appointment. In particular, the cabinet must be trimmed back to the constitutionally mandated 42 ministers. Parliament can take at least three actions to implement this recommendation. First, any future constitutional amendment should seek to limit the powers of parliament to increase the size of cabinet by setting special conditions on the basis of which such increase may be considered legitimate. Secondly, it is clearly out of the ordinary that a nation's constitution can be amended or even modified by a mere resolution of parliament. To avoid future mutilation of the constitution through unwarranted modifications, it should be required that any such amendments be executed through an Act of Parliament. Thirdly, to create more accountability in the cabinet appointment process, it is important that parliament opens the vetting process so that the public can participate in the process and furnish information that may assist in the vetting.

- Second, it is fundamental that Cabinet Ministers should not be Members of Parliament. The fact that a minister formulates legislation, adopts it in Cabinet and then goes to vote on it in Parliament defeats any logic or rational reasoning. Parliament is clearly being held hostage as individual members perform unprecedented maneuvers to secure their spots in Cabinet. There is no evidence to show or even suggest that the appointment of Members of Parliament as Cabinet Ministers has served any positive role in the Legislature. On the contrary, this process is being used to reconstruct a strong Executive and subvert legislative authority, autonomy and accountability.
- Third, to create discipline in future parliaments, the law should prohibit MPs from benefiting from any decisions that they make which may confer to them directly or indirectly any pecuniary benefits. In principle, it is important that Parliament determines its emoluments and hence avoid being subjected to other authorities. However, the actions of the Members of Parliament in the 6th, the 7th and the 8th parliament have showed that self-interest rather than public interests are likely to drive such determinations. To mitigate such self-interests and ensure the integrity of the MPs in the face of the voters, it is recommended that any decision that results into pecuniary benefits should not benefit the sitting Members of Parliament. Such decisions should become effective upon the election of a new Parliament. Like in the case of other key offices such as the President and the Vice President, changes in the emoluments of legislators should be effected through an Act of Parliament rather than a resolution.
- Fourth, the proliferation of political and public administration institutions and diversion of key financial and other resources from critical areas such as health, education and agriculture is a fundamental challenge for government. There is need for a full functional analysis of the government so that unnecessary institutions can be weeded out and relevant ones resourced appropriately to deal with the social and economic challenges facing ordinary Ugandans.

Finally, the issue of public administration expenditure and the associated expenditure touches on the power of vested interests. There should be no illusion that achieving reform in this area is an easy task. The major challenge is how to create opportunities for reform without threatening the survival of a sitting government. It has been argued that the positive gains in terms of financial resources saved and the enhanced delivery of goods and services achieved through government efficiency and effectiveness are the major incentives for reform. This then calls for civil society organizations to take the initiative to build an all-encompassing platform together with members of Parliament and supportive members of the Executive to push for these reforms.



1. INTRODUCTION

The fundamental public policy debate in Uganda over the last decade has focused on how to reduce the number of people living in abject poverty. The debate, encapsulated in aggregate statistics such as reduction in the percentage number of people living in poverty, sustained economic growth averaging about 6 percent per annum or increased primary school enrollment, has obscured the ugly face of poverty in the country. In reality, pregnant mothers continue dying on the floors of the nation's hospitals, rural people whose lives have been disrupted by a growing malaria pandemic, or a generation of children lost somewhere between primary one and primary seven are reduced into mere aggregate statistical abstracts. To his credit, President Yoweri Museveni, more than any other president in Uganda's post-independence history, helped bring about tremendous economic progress, political stability and significant improvement in human development indicators; since his ascendance to power in 1986. However, no matter his good intentions, it is argued that a burgeoning public administration expenditure fuelled by a growing political bureaucracy is one of the key factors inhibiting policy actions to bring about more robust economic growth and dramatic changes in the socio-economic conditions of the majority of the population.

In a space of two-and-a-half decades, the number of persons employed in the Executive at ministerial level positions has increased from 53 to more than 100. From 1981 to 1985, this number included 30 Cabinet Ministers, eight ministers of state, 11 deputy ministers and four others.¹ Today, persons employed in the Executive at ministerial level include 29 Cabinet ministers,² 45 ministers of state and more than 70 presidential advisors. Besides, the Executive now encompasses a range of other constitutional and administrative appointees to the extent that it now constitutes one of the most extensive Executive bureaucracies in contemporary Africa. While the expansion in the size of the Executive could pass off as a routine way of running government business, there is a legitimate debate to be had over the desirability of an ever-increasing size of the government, the associated cost burden on Ugandan taxpayers and, the implications of such a structure on governance trends in the country.

The debate over the cost of the burgeoning size of the Executive has gained momentum over the last decade. Much of this debate, often spearheaded by the media, has only been based on anecdotal evidence and has taken place in the absence of appropriate trends data and analysis. Consequently, this study represents the first systematic and comprehensive analysis of the trends in the size of the Executive arm of the state in Uganda. To enable appropriate comparison, we take a historical approach by tracing the changes in its size from independence in 1962. In putting particular emphasis on the period beginning 1980 to the present, the study seeks to answer two interrelated questions: First, what is the

1 These included the Leader of the House, Government Chief Whip, Leader of Opposition and Opposition Whip.

2 This includes one minister without portfolio, the ruling party Chief Whip and the Leader of Opposition.

legal and administrative framework that provides the basis for the composition of the Executive and how has this framework changed over time? Second, what is the cost of an oversized Executive to the taxpayer and the citizens in terms of both money and governance?

The study was undertaken by mainly relying on primary data collected over a period of eight months and a comprehensive review of primary and secondary literature including official government reports, administrative data, inter-agency communications and archival literature.³ The evidence shows troubling but consistent trends. In just a period of 10 years, starting in 1986 when President Museveni and the National Resistance Movement (NRM) Government came to power, the Executive arm of the state in both its narrow and broad sense expanded exponentially.

The paper concludes that during the first decade of the Museveni presidency (1986-1996), there were compelling political reasons for a political broad-basedness to allow political accommodation. This accommodation was necessary to mobilize different opposition and fighting groups and the goodwill of citizens required to lift the country out of the political and economic quagmire that the past governments had created. In the absence of agreed rules and consensus, the obtaining political and economic conditions allowed President Museveni to engage in a continuous experiment in running the government. However, the promulgation of the 1995 Constitution established new contours of governance and a new national consensus upon which the people of Uganda wanted to be governed. The constitution also established new criteria upon which any form of political accommodation was to be based. Consequently, the apparent attempt to “mutilate” the 1995 Constitution is a major indictment on the durability of the impressive political and economic gains made by the NRM Government over the last two decades. The retreat into a new form of political broad-basedness premised on ethno-religious accommodation and clientalism constructed around a powerful Executive presidency undermines the very political foundation required to sustain a modern state and economy.

The paper is divided into six sections. Section 2 following this introduction is a clarification of key concepts used in the paper. Section 3 analyzes the changes in the size of the Executive from 1962 to the coming into power of the National Resistance Movement (NRM) Government in 1986. Section 4 examines the constitutional and political discourse on the structure, composition and size of the Executive since 1986 to the present. It is argued that President Museveni and his NRM government changed the political narrative in the country and sought to create a new political accommodation that mobilized human and social capital required to transform both the national politics and economy. However, as the NRM government has become challenged by other political forces in the country, it is systematically retreating to narrow political bases including ethnic accommodation and political clientalism.

3 Where the source of data was considered by the author to be highly political or security-sensitive, such sources are not cited in the report.

Section 5 is an analysis of the post-1995 constitutional practices that have seen the Executive grow to what are now seen as alarming proportions and an examination of the factors that explain this state of affairs. Section 6 presents the final conclusions from the study.

The central argument in this paper is that an oversized cabinet, and a growing Executive political bureaucracy built around the Office of the President and State House, is the single most important threat to sustained economic growth, economic transformation and good governance in Uganda. In addition to unprecedented diversion of public resources required to sustain it, the growing political administration bureaucracy has become an essential building block for patrimonial politics. In particular, the presence of over 60 members of the Executive in Parliament has undermined legislative authority and stifled debate, hence leading to the erosion of autonomy of the Legislature. In essence, the avoidance of constitutional and administrative restraint on the part of the appointing authority who is the president on the one hand, and the apparent abuse, by parliament, of constitutional flexibilities regarding restraints on the exercise of Executive authority,⁴ are undermining governance, economic growth and efforts to eradicate poverty.

2. CONCEPTUAL AND ANALYTICAL FRAMEWORK

The relationship between public expenditure and public policy in Uganda has gained significant traction over the last decade. Questions have emerged as to why, in spite of the tremendous economic achievements registered under 23 years of the Museveni administration, poverty levels have remained high, socio-economic indicators have stagnated and very limited investments have been made in public physical infrastructure, social infrastructure such as schools, hospitals and productive sectors of the economy such as agriculture and industry. Gross Domestic Product (GDP) has averaged approximately 6 per cent per annum for more than a decade. Domestic revenue has increased dramatically from US\$44 million in 1986 to approximately US\$3 billion in 2007. Over the same period, inflows of international financing through aid and loans averaged US\$600 million per annum.⁵ By any measure, while the NRM government was confronted by overwhelming social, economic and political problems, it is also reasonable to assert that it has had the biggest resource envelop compared to any previous government.

4 In all cases where parliament has been called upon to exercise its oversight role over the decisions of the Executive, including increasing the size of the cabinet, it has failed to use its powers of restraint as embedded in the constitution and call the Executive to order. Some outstanding examples include: the passing of the Referendum and Other Provisions Act, the lifting of presidential term limits, and the approval of presidential appointments.

5 ACODE data sets on foreign aid flows to Uganda for the period 1962-2004 (unpublished).

Yet, stagnation in key human development indicators and apparent democracy inertia have cast a shadow of pessimism about the success story that had begun to emerge at the promulgation of the 1995 Constitution. For example, while poverty levels were brought down from 56 percent in 1992 to 35 per cent in 2002, the number of people living in poverty increased to 38 percent (approximately 14.4 million people) in 2004. Since then, though, the Uganda Bureau of Statistics (UBOS) suggests that poverty levels have declined again to 31 per cent.⁶ While school enrollment statistics have gone up as a result of the introduction of Universal Primary Education (UPE)⁷ and Universal Secondary Education (USE), concerns have grown over issues of standards and quality as well as lack of investment in appropriate education infrastructure. For example, it is estimated that of the 2 million children who enrolled in primary one when UPE was introduced in 1997, only 406,000 sat Primary Leaving Examinations (PLE) in 2003.⁸ Of the 463,631 children who sat PLE in 2008, only 17,021 children, representing 3.7 percent, passed in Grade 1.⁹

While the government can be applauded for pursuing policies that brought about significant improvements in infant mortality and maternal mortality rates during the period 1990-2005, the indicators have stagnated in the last three years. For example, reduction in infant mortality has stagnated at around 69 per 1000 children since 2005 in spite of having three ministers deployed in the Ministry of Health,¹⁰ or increased budget allocation to the health sector. Although it is difficult to find accurate mortality rate figures and, those that exist are considered controversial, it is estimated that between 6,500 – 13,500 women and girls die each year due to pregnancy-related complications.¹¹ In 2004, the United Nations Fund for Population Activities (UNFPA) estimated that Uganda loses 505 women out of every 100,000 live births, ranking as the 8th country with the worst maternal death rates in the world.¹²

6 Republic of Uganda (2008). Statistical Abstract. Uganda Bureau of Statistics, Kampala.

7 Total primary school enrollment increased from 3 million pupils in 1997 to 7.6 million in 2003. See Republic of Uganda (2004). Poverty Eradication Action Plan (2004/5-2007/08). Ministry of Finance, Planning and Economic Development. Kampala. Pg.155

8 USAID, 2005. USAID/Uganda Annual Report, 2005.

9 The Ministry of Education has 1 full Cabinet Minister and two Ministers of State, one for primary and the other for higher education. The fact that with only 3.7 per cent of the primary school children passing in Grade 1, and neither the minister nor the deputy minister responsible for primary education takes responsibility and resigns demonstrates the lack of accountability for poor performance of government. In a cabinet reshuffle, announced on February 14, 2009, less than a month after the release of the PLE results, Minister Namirembe Bitamazire was retained in her position while State Minister for Primary Education Peter Lokeris was transferred to be Minister of State for minerals.

10 In the cabinet reshuffle referred to in note 9, Steven Malinga was retained as Minister of Health and Richard Nduhura as State Minister for general duties. James Kakooza was brought in to replace Emmanuel Otaala as the State Minister for primary health care.

11 Futures Group (undated). Maternal and Neonatal Program Effort Index: Uganda. Glastonbury, USA.

12 Reported in The New Vision, July 7, 2004

The number of stunted children of less than five years increased from 38% in 1995 to 39% in 2001. Equally disturbing trends exist in key sectors like agriculture where output has declined consistently over the last decade notwithstanding the number of ministers deployed in the ministry of agriculture. Even in the areas of governance, key indicators show emergence of inertia evidenced by increasing corruption and bureaucratic inefficiency¹³

Indeed, the apparent stagnation in socio-economic indicators and apparent democratization inertia make the present debate on the cost of public administration expenditure, economic growth and governance one of the most legitimate public policy concerns in contemporary Uganda. Unfortunately, the debate has been less helpful in informing public policy because it lacks conceptual clarity and is largely based on anecdotal evidence. For example, there is apparent conceptual confusion between public expenditure and public administration expenditure. Although the budget process has attempted to draw this important distinction, it is apparent that the distinction has not filtered into the ongoing debate. Equally unclear is what constitutes the “Executive” for purposes of establishing the full extent of the cost of the Executive branch of government on the taxpayer. Consequently, the challenge is to identify and distinguish between these key concepts and set appropriate conceptual boundaries to enable a more focused and policy relevant analysis and debate.

The starting point to providing a conceptual framework for this paper is to define the concept of **public administration**. In this paper, public administration is used to refer to the segment of the state that is responsible for the delivery of public goods and services. It is mainly comprised of the public service and other quasi-public service institutions such as public enterprises, constitutionally mandated agencies¹⁴ and statutory bodies.¹⁵ Under the Constitution, the public service includes the “traditional public service”; the judicial service, the teaching services and other specialized services established by law. Uganda’s civil service strength, excluding the Uganda Peoples Defense Forces (UPDF), is currently estimated at 237,871 civil servants (Table 1).¹⁶

13 ICPSR (2005). Afrobarometer Round 3: The Quality of Democracy and Governance in Uganda, 2005.

14 This includes agencies created under the Constitution such as the Inspectorate of Government, Uganda Peoples Defense Forces (articles 208-210), Uganda Police Force (articles 211-214), Uganda Prisons Services (articles 215-217) and the intelligence services (article 218), etc.

15 Statutory bodies are created by the Legislature and charged with specific mandates for the effective governance of the country. Some of the major statutory agencies in Uganda include: National Planning Authority (NPA), Uganda Revenue Authority (URA), Uganda Investment Authority (URA), National Environment Management Authority (NEMA).

16 Republic of Uganda (2004). The Poverty Eradication Action Plan (2004/05-2007/08). Ministry of Finance, Planning and Economic Development. Kampala. pg. 139. According to PEAP, the following categories constitute Uganda’s public service: central ministries (6,576); Local Government (47,999); Police (15,313); Prisons (2,996); Teacher (156,782); hospitals (2,575); judiciary (1,381); other (4,249).

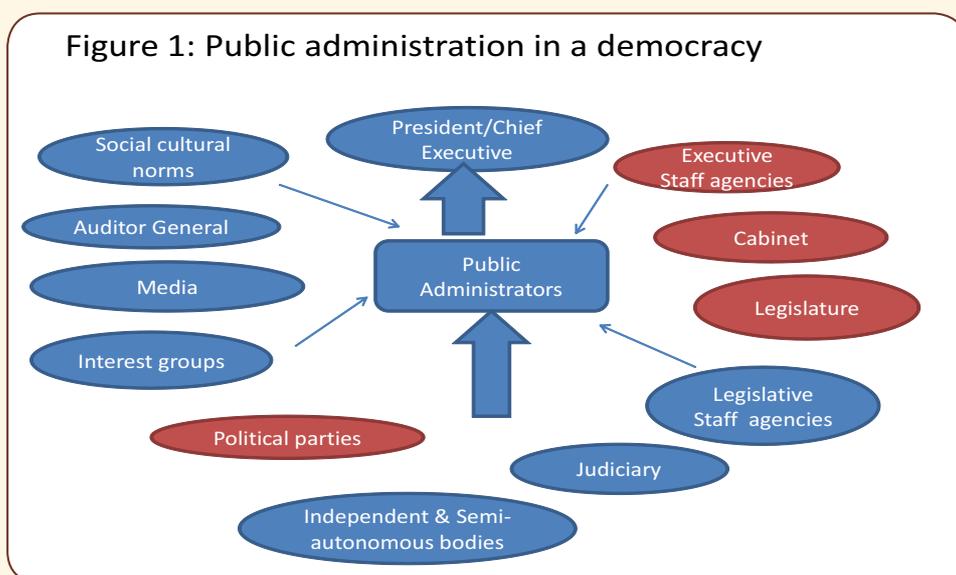
Table 1: Public Service establishment by category 2004

Category	Number
Central Government Ministries	6,576
Local Government	47,999
Police	15,313
Prisons	2,996
Teachers	156,782
Hospitals	2,575
Judiciary	1,381
Other	4,249
Total*	237,871

Source: Ministry of Public Service, 2004

* The Army is not included.

By their nature and mandate, public administration institutions are required to be non-partisan in discharging their mandates. In Figure 1 below, these institutions are shown in blue and are required to service the political institutions shown in red in a non-partisan manner. Public administrators, in a strict sense, are expected to be seen as neutral implementers of public policies shaped and designed elsewhere in the democratic process. In principle, public administrators transcend short-term political calculations, and introduce technical and rational considerations into policy and decision-making. Consequently, given the fact that politics can sometimes be a messy process, public administration institutions mitigate the potential long-term negative effect of opportunistic political decision-making. They do this by introducing rigorous analytical methodologies and decision tools that can dramatically improve both the definition of public policy problems as well as the identification and execution of scientifically proven policy alternatives.



It is also important to note that while there can be a debate about the size and cost of these institutions to the taxpayer, their desirability is generally not contested. For example, the desirability of judicial officers, or teachers or a national police force is accepted as having socially optimal tangible benefits to society. In effect, the size and quality of public service in these areas is likely to lead to optimization of certain social outcomes. For example, the net social gain of recruiting an extra judge or magistrate may be the increased number of detainees that may be prosecuted annually. Or the recruitment of one extra teacher could lead to a reduction in teacher-student ratio and hence lead to improvements in the quality of education. And when such changes in the size of the service are considered in aggregate terms, the optimization of social outcomes can be dramatic and compelling to justify public expenditure on these institutions.

However, there is another segment of governmental administration that falls outside the mainstream public service. For the purposes of this paper, we call this segment “*political administration*”. Political administration is used here to denote the segment of governmental administration that is mainly political because of the way the institutions that operate in that space are constituted and their staff selected, or appointed. Ministers, members of Parliament, presidential advisors, presidential assistants, and resident district commissioners are just but examples of the segment of the public service that falls under political administration. If political parties were funded from the Consolidated Fund, their staff would also be included under this category.

Institutions that fall under the political administration segment of the public service differ from the mainstream public service in some fundamental ways. First, their composition and structure can be altered without affecting the exercise of their aggregate mandate and potential impact on the delivery of public goods and services in the country. For example, selection of members of Parliament could shift from the present county-based constituency structure to sub-county-based or district-based constituency structure without the aggregate mandate of Parliament changing. Or the composition, structure or numerical strength of the Cabinet can change but its aggregate constitutional mandate would remain intact.¹⁷

Second and most importantly, because of the aggregate nature of their functions, the marginal value of increasing or decreasing the numerical strength of these institutions is almost zero. Consequently, their optimum numerical strength is more of a political question rather than a function of social optimization or rationalization in logic. For example, increasing the number of prosecutors or judges or teachers or doctors is predicated upon the desire to optimize certain social or economic outcomes. In this regard, society benefits directly from reduced crime, better student performance or efficiency in the delivery of health services. On the contrary, the marginal utility of having an additional minister for justice or education or health is statistically insignificant or zero.

17 Article 111(2) of the 1995 Constitution (as amended) provides for the functions of the Cabinet.

In other cases, such an increase in the number of ministers could even be in the negative especially where a big number of ministers in one ministry leads to tension, conflict and overlap.

Thirdly, in the case of non-elective offices, appointments into political administration institutions or positions are at the absolute pleasure and discretion of the appointing authority. Political loyalty is the standard criterion, no formal interviewing is required and generally meritocracy becomes a secondary consideration or is completely ignored. This is so notwithstanding the fact that political institutions or positions are established by law or by administrative discretion. In the case of Uganda, the best examples are the positions of Resident District Commissioners (RDCs)¹⁸ and Presidential Advisors where recruitment is made at the pleasure of the President and loyalty is far more important than merit.¹⁹

The other two key concepts employed in this paper are “public expenditure” and “public administration expenditure”. The term “public expenditure” is generally used to denote “the dispensation by the state [government], on non-market criteria, of economic resources”²⁰ that it has acquired from taxpayers and other public sources of finance. The traditional reference to public expenditure generally applies to public investments in key infrastructure and sectors that directly result into the production of public goods and services. In this regard, physical infrastructure such as highways and bridges, schools or hospitals, defense installations or public buildings such as courts fall under public expenditure. This is also true of investments in key productive sectors of the economy such as agriculture, industry or services.

On the other hand, “public administration expenditure” covers the administrative costs associated with the functioning of both public administration and political administration. Public policy concerns about public administration expenditure are, therefore, concerns about economic rationale, cost, efficiency and political accountability associated with the performance of public administration institutions.

Finally, this study focuses on public administration expenditure on the Executive arm of the state. This raises the question as to the appropriate boundaries of “the Executive” as a unit of analysis. The term “executive” is often used in different contexts but practice shows that it is often used at three levels. First, the term is used in a very narrow sense to refer to the President or Prime Minister of a country.

18 The office of RDC is established under Article 203 of the Constitution.

19 It is important to recognize that many of the men and women who serve in these positions are in fact highly qualified. However, in the absence of formal recruitment procedures including interviews, it is tenable to assert that their loyalty to the president or appointing authority rather than qualification is the primary consideration for their appointment.

20 David Heald and Alasdair McLeod (2002), “Public Expenditure”, in *Constitutional Law, 2002, The Laws of Scotland: Stair Memorial Encyclopedia*, Edinburgh, Betterworths, para 482.

Hence, reference to an Executive President or Executive Prime Minister exercising all Executive powers of the state. In this narrow sense, the Executive includes the public officials immediately surrounding the President including Cabinet ministers, presidential advisors and assistants and other similar officials. In a second sense, the term is used to refer to the President or Prime Minister together with the whole body of public servants in the civil and military service. In this case, the institution of public service together with the coercive instruments of state power – the army, the police and the prisons – all fall within the ambit of the Executive. Finally, when considered in the context of the doctrine of separation of powers, the term Executive assumes its broadest meaning hence referring to all governmental officials capable of exercising Executive authority either in their official capacities or on behalf of the chief executive, hence excluding those acting in a legislative or judicial capacity.

For the purposes of this paper, the term “executive” is used in its narrow sense. This study is therefore mainly concerned with the composition, structure and numerical strength of the Office of the President, the Office of the Vice President, the Office of Prime Minister, State House, the Cabinet, and the various officials that form the core of the Executive in this narrow sense. Our analysis of public administration expenditure thus focuses on the costs of these institutions to the Ugandan taxpayers and the economy on the one hand and the implications for governance on the other. In the next section, we examine how the debate over the size and composition of the Executive has changed over time and how it is emerging as one of the most complex political and public policy issues in the country.

3. THE EXECUTIVE BEFORE 1986

3.1. The Constitutional and Legal Foundations for the Executive

Several reasons can be advanced to explain the unprecedented increase in the size of the Executive since 1986. However, the starting point is to examine the constitutional and legal foundations for the nature of Uganda’s Executive authority and functions. The key question is whether the changes in the architecture and numerical strength of the Executive are predicated on clearly defined constitutional and legal grounds or whether it is a matter of political conjecture. To provide a solid intellectual foundation for the subsequent analysis, it is important to explore and examine how the Executive was organized and constituted before the coming into power of the National Resistance Movement government in 1986. This section therefore goes back to the time of independence in 1962 to explore the constitutional basis for the composition of the Executive and how the law and the practice have changed since then.

Under the 1962 Constitution, Executive authority was split between the Prime Minister and the President. The latter was also the head of state and Commander-in-Chief of the armed forces. The Constitution provided for the establishment of the offices of the President and Vice President as well as the procedure for electing

persons to these offices.²¹ Article 61 further provided, among others, that “the Executive authority of Uganda shall vest in the President and shall be exercised in accordance with the provisions of this Constitution.”²² Article 77 provided thus: “The Executive authority of Uganda shall extend to the maintenance and execution of this Constitution (other than Schedules 1, 2, 3, 4 and 5 of the Constitution) and to all matters with respect to which Parliament has for the time being power to make laws.” On the other hand, Article 62 established the Office of Prime Minister to be appointed by the President²³ and “other offices of Minister of the Government of Uganda as may be established by the President, acting in accordance with the advice of the Prime Minister.”²⁴

The 1967 Constitution resulted into the final dissolution of the 1962 constitutional dispensation by creating a central authority of government founded on an Executive President. The Office of Prime Minister was abolished and the President became the head of state, head of government and Commander-in-Chief of the armed forces.²⁵ Under the constitution, the president had unlimited powers to appoint and dismiss constitutional and many other government officers.²⁶ He therefore had limitless powers to create and appoint new cabinet ministers as well as other positions. However, as discussed later in this paper, it is important to note that Milton Obote did not use those powers to create a bloated cabinet.

The 1971 military coup by Idi Amin against President Obote changed the 1967 constitutional dispensation in dramatic ways. By Legal Notice No. 1 of 1971, Idi Amin suspended chapters IV and V of the 1967 Constitution regarding Executive and legislative powers. All powers, privileges, functions and prerogatives enjoyed by the President under the 1967 Constitution were concentrated in the President as Idi Amin became Commander-in-Chief and assumed all Executive and legislative authority in the country. As such, Amin had powers to appoint any number of cabinet ministers as he wished. Amin’s first cabinet was made up of 18 ministers.²⁷ The idea of a Defense Council which could have increased the size of the Executive was never implemented.

21 Constitution of Uganda, 1962. Articles 34, 35 and 36.

22 The Constitution of Uganda, 1962, Article 61 (1). The 1962 Constitution also made specific provisions regarding the exercise of Executive authority in Buganda and other federal states. See Article 71 (2), (3) & (4).

23 Although the Prime Minister was to be appointed by the President, Article 36(2) provided, inter alia, that the Prime Minister could move a resolution for the removal of the President by the National Assembly.

24 Article 62(2). This is one of the longest articles of the 1962 Constitution and in fact represented the basis of the 1966 constitutional crisis.

25 Republic of Uganda (1967). The Constitution of the Republic of Uganda, 1967, Revised Edition 1990. Article 24

26 Republic of Uganda (1967). The Constitution of the Republic of Uganda, 1967, Revised Edition 1990. Article 66.

27 Data as at September 1971.

From the time Amin was overthrown in April 1979 to the general elections in December 1980, Uganda had a succession of short-lived governments. Yusuf Kironde Lule, who was the chairman of the Uganda National Liberation Front (UNLF), assumed the presidency on April 12, 1979. Under the UNLF government, Executive authority was established under Legal Notice No. 1 of 1979 which nullified Legal Notice No.1 of 1971, suspended parts IV and V of the 1967 Constitution and vested executive powers in the president. The instrument also empowered the President to appoint cabinet ministers in consultation with the National Consultative Council (NCC) which was the legislative organ of the UNLF government.²⁸

In a space of two months after his swearing in, the National Consultative Council removed Lule and replaced him with Godfrey Lukongwa Binaisa. However, the constitutional instruments constituting the Executive arm of the government did not change. In May 1980, Binaisa's government was overthrown by the Military Commission of the UNLF led by Paulo Muwanga. The Military Commission collectively exercised the powers of head of government under Muwanga's chairmanship. A Presidential Commission composed of two high-ranking judges, one from the High Court and the other from the Court of Appeal, and a senior civil servant was appointed to act as the head of state with full powers and privileges of the President as provided for under the 1967 Constitution.²⁹ In reality, Executive powers rested with the Military Commission and its chairman. The commission had powers to appoint ministers and deputy ministers who functioned under its direction.³⁰

In December 1980, Uganda had its first presidential and parliamentary elections since independence. The elections, whose legitimacy was contested by the Uganda Patriotic Movement (UPM), were won by the Uganda Peoples Congress and resulted into what is now commonly referred to as the Obote II Government.³¹ With the exception of the appointment of a non-Executive Prime Minister, the Executive arm of the government functioned under the 1967 Constitution. As such, the President had powers to appoint all cabinet ministers, deputy ministers as well as other public officers.

28 Yusuf Lule was removed from power by the NCC after a conflict over the powers regarding the appointment of ministers. See Museveni, Y.K (1997). *Sowing the Mustard Seed: The Struggle for Freedom and Democracy in Uganda*. Macmillan Publishers Ltd, London and Basingstoke. Pg 110.

29 The three Commissioners were: Saulo Musoke, Polycarp Nyamuchoncho and Yoweri Hunter Wacha-Olwol.

30 See Ofcansky, T. (1996). *Uganda: Tarnished Pearl of Africa*. Westview Press. Boulder, Colorado. Pg.39-58.

31 For the full results of the December 1980 elections, see Commonwealth Secretariat (1980). *Report of the Commonwealth Observer Group*. Commonwealth Secretariat. London.

In the immediate period after the overthrow of the Obote II Government and before the taking over of power by the National Resistance Army/Movement of Yoweri Museveni, the composition of the Executive was based on the 1967 Constitution and the Nairobi Peace Accord.³² For its part, the Nairobi Peace Accord provided for the establishment of The Military Council made up of the different fighting factions.³³ Article 4 of the Agreement vested supreme Executive and legislative authority in the Military Council (MC). The Nairobi Peace Accord also provided for the Head of State to exercise the legislative and Executive powers of the Council “in exceptional circumstances” where such circumstances were determined by a two thirds majority vote of the Council.³⁴ The Accord did not contain any specific provisions limiting specific appointments to key positions within the Executive. In any case, the Military Council never became functional as the NRA never took up its positions and, pushed its fight towards Kampala finally overthrowing Tito Okello’s military junta on January 26, 1986.

3.2. Composition and Size of the Executive Before 1986

In the foregoing section, it has been shown that Uganda’s constitutional and legal framework prior to 1986 never contained any specific limitation as to the numerical strength of key Executive positions. It is also difficult to examine the cost of the Executive in monetary terms during this period because no reliable data exists and where it exists, it is not sufficiently disaggregated to allow a detailed examination of the cost of the Executive as a unit of analysis. However, it is possible to examine the governance implications of the key narratives that formed the basis for major political and policy decisions of the government during this period. In particular, the reliance by presidents on mobilizing ethnic constituencies as the basis for political power and legitimacy emerged at the time of independence and continues to be a major factor in the contemporary public discourse on the cost of the Executive. The key trends in this regard relate to ethnic composition and size of the cabinet.

It is important to recognize that at the time of independence, the different political forces relied on mobilizing ethnic enclaves to position themselves politically in the post-independence era. Both the Democratic Party (DP) which formed the first government just before independence and, the Uganda Peoples’ Congress (UPC) government soon after independence relied on ethnic mobilization as a source of their political legitimacy. Based on archival data, Table 2 shows the distribution of key senior positions in the Legislative Council and the major political parties between 1959 and 1967.

32 See Republic of Kenya (1985). *The Uganda Peace Talks Agreement for the Restoration of Peace to the Sovereign State of the Republic of Uganda*. Nairobi, 1985.

33 The Council was to be made up of a Head of State/Chairman, UNLA (7 members), NRA (7 members), UFM (1 member), FEDEMU (2 members), FUNA (1 member) and UNRF (1 member). *Ibid*, article 2.

34 *Supra*, note 32. Article 3(3) & (5) of the Agreement made provision for General Tito Okello Lutwa to become the Head of State and the Chairman of the Military Commission and Yoweri Museveni the Vice Chairman of the Military Commission by virtue of their positions as head of the junta and head of the rebel NRM/A respectively at the time.

Table 2: Distribution of senior positions in the legislature and major political parties by ethnic group (1959-1967)

Ethnic Census Unit	1959 Population statistics by %	September 1959	December 1961 DP	July 1963	August 1965	March 1967
		Executive Council		UPC/KY	UPC	UPC
Baganda	16.3	3	7	11	7	7
Iteso	8.1	0	0	1	2	3
Banyankole	8.1	1	2	2	3	2
Basoga	7.8	1	1	2	2	1
Bakiga/Bahroro	7.1	1	1	1	1	1
Langi	5.6	0	1	2	2	2
Bagisu	5.1	0	0	1	1	1
Acholi	4.4	0	1	1	2	2
Lugbra	3.7	0	1	1	1	1
Batooro	3.2	0	1	1	3	3
Bayoro	2.9	0	0	2	2	1
Karamajong	2.0	0	0	1	1	1
Alur	1.9	0	0	0	1	1
Bagwere	1.7	0	0	1	1	0
Bakonzo	1.7	0	0	1	1	1
Japadhola (Badama)	1.6	0	1	0	1	1
Madi	1.2	0	0	1	1	1
Samia	0.7	0	0	1	1	1
Others*	16.9	0	0	0	0	0
Total	100.0	6	16	30	34	31

Language Unit

Bantu	65.7	6 (100%)	12 (75%)	24 (80%)	23 (68%)	19 (61%)
Nilotic	14.5	0 (0%)	3 (19%)	3 (10%)	6 (18%)	6 (19%)
“Nilo-Hamitic**	12.7	0 (0%)	0 (0%)	2 (7%)	3 (9%)	4 (13%)
Sudanic	5.0	0 (0%)	1 (6%)	1 (3%)	2 (6%)	2 (6%)
Others	2.1	0	0	0	0	0

Racial Unit

Africans	98.7	6	16	30	34	31
Europeans	0.2	6	4	0	0	0
Asians	1.1	1	2	0	0	0
Total	100.0	13	22	30	34	31

Notes

Source: Central Government Organization and Government Directory, nos. 12, 19, 23, 27 and 29. Government Printer, Entebbe.

*Including Banyarwanda, Barundi, Banyole, Kumam, Kakwa, Sebei, Bagwe, Luo, Baamba, Jonam, Bakenyi, Suk, Labwor, and Lendu.

**During this period, there was always a tendency to separate the Nilotic and Nilo-Hamitic speakers.

The data in Table 2 shows that most of the government and political officials from 1959 to the late 1960s were drawn from the Buganda region. While many factors may be advanced to explain this phenomenon, some scholars have argued that from as early as 1961, the Democratic Party sought to mobilize Buganda as its ethnic

base to establish its political hegemony in Uganda.³⁵ However, evidence suggests that by 1966, Obote sought to adopt a policy of “ethnic departicipation” hence de-emphasizing reliance on ethnic cleavages as the basis for political support. It would appear that Obote’s change in policy to reduce ethnic-based political participation was dictated by a series of political events in the mid-1960s which threatened to undermine his political survival.³⁶

First, evidence of Obote’s ethnic departicipation policy may be discerned from the constitutional and administrative changes introduced in the mid-1960s. For example, the 1967 Constitution abolished the kingdom governments and declared Uganda a republic. Second, Buganda, which Obote saw as a source of trouble and a major threat to his political tenure, was split into four districts subject to the minister for regional administration on the same basis as all the other districts. In addition, the 1967 Constitution extended and tightened central government control of district administrations by giving the National Assembly the power to determine the form district administration should take.

Later in 1968, the Uganda Peoples Congress further demonstrated the Obote Government’s desire to pursue the ethnic departicipation policy by overhauling its party structures mainly to eliminate factional tendencies. The then Secretary General of UPC, Felix Onama, is quoted to have said that the new “system was intended to abolish regionalism which was encouraging differences in the Party.”³⁷ The UPC Constitution also provided that its membership was restricted to Ugandan citizens who did “not support tribalism and parochialism”.³⁸ Before he was overthrown in 1971, Obote had warned thus:

“If the pull of the tribal force is allowed to develop, the unity of the country will be endangered. To reduce it to its crudest form, the pull of the tribal force does not accept Uganda as one country, does not accept the people of Uganda as belonging to one country, does not accept the National Assembly as a national institution but as an assembly of peace conference delegates and tribal diplomatic and legislative functionaries, and looks at Government of Uganda as a body of umpires or referees in some curious game of “Tribal Development Monopoly.”³⁹

35 See generally, Nelson Kasfir (1976). *The Shrinking Political Arena: Participation and Ethnicity in African Politics, with a Case Study of Uganda*. University of California Press. Berkeley. Los Angeles. London; Asowa-Okwe, Charles (1994). “Politics in Uganda 1962-1992” in Makubuya Kiddu, Mwaka, V. M., and Okoth, P. G (Eds). *Uganda: Thirty Years of Independence 1962-1992*. Kampala: Makerere University Printery.

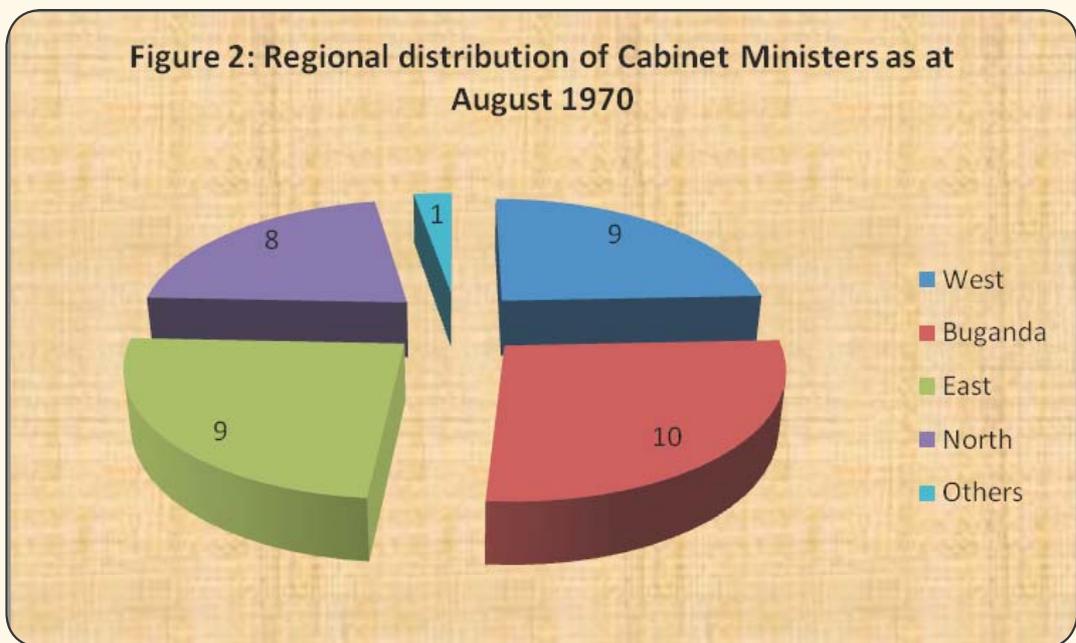
36 For a detailed description of the 1966 crisis, see Amii Omara-Otunnu (1987). *Politics and the Military in Uganda, 1890-1985*. Macmillan Press. Oxford. Chapter 5.

37 *Uganda Argus*, 28 April 1969, pg 2.

38 Constitution of the Uganda Peoples Congress, pg 11.

39 See *Proposals for New Methods of Election of Representatives of the People to Parliament: Document No.5 on the Move to the Left, 1970*. Milton Obote Foundation, Kampala. pp 6-7.

Indeed, as shown in Figure 2, cabinet appointments under the first Obote Government do not suggest in any way that they were based on specific tribal grounds or at least appears balanced in terms of ethnic representation. However, evidence suggests embedded ethnic concentrations in key institutions such as the army. For example, in his study of politics and the military in Uganda, Omara-Otunnu found incontrovertible evidence showing dominance of the army both numerically and in command positions by Ugandans from the northern region as of 1969. This is in spite of the fact that at the time, the northern region represented only 19% of the entire population compared to central region (22%), western region (27%) and eastern region (31%).⁴⁰ Omara-Otunnu's analysis of recruitment and personnel data from 1962 to 1969 showed bias towards Ugandans of northern descent suggesting that his results are not just a reflection of the colonial legacy.

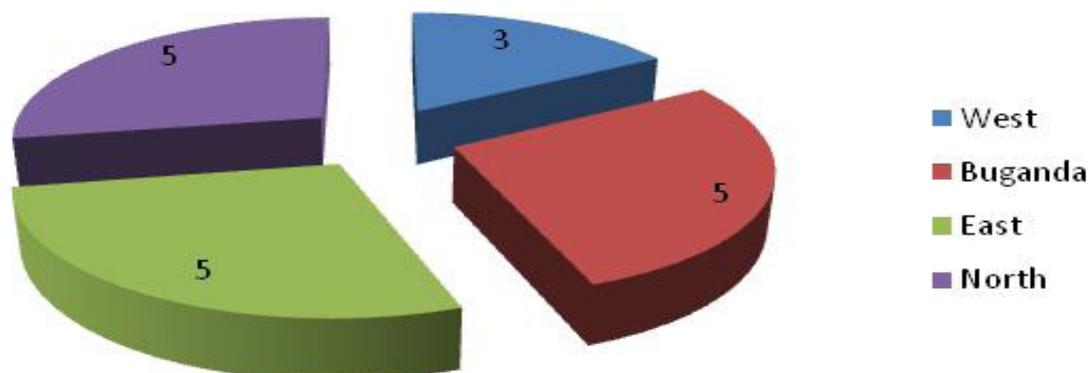


Obote's ethnic deparicipation programme was disrupted as he was overthrown in 1971. Upon taking power, Amin's initial stance suggests that he wanted to continue with the policy of ethnic deparicipation. In a 1971 speech to the nation, one month after the coup, he stated that "we want to build our country as a single united and strong nation, and not as a federation of petty and powerless tribes that are jealous of one another."⁴¹

40 Omara-Otunnu, A. (1987). *Politics and the Military in Uganda, 1890-1985*. MacMillan Press. London.

41 See "Speech to the Nation by His Excellency Major General Idi Amin Dada," *The Uganda Gazette* 64, no. 8 (February 26, 1971) pg 79.

Figure 3: Number of Cabinet Ministers by Region as at September 1971



However, subsequent practice shows that ethnicity was the undercurrent that guided several of Amin's key public policy decisions. For example, Amin released some of the Baganda detainees, held a state funeral for the Kabaka, allowed certain ceremonies to be held at Bamunanika Palace and changed the names of East and West Mengo districts to East and West Buganda – all of them important gestures to the Baganda.⁴² Amin made several gestures to other ethnicities including the Acholi and Karimojong, the Baamba and Bakonzo, that clearly showed his increasing reliance on ethnic loyalty quite contrary to his constant vilification of tribalism.

Nevertheless, it is worth observing that appointments in Amin's Cabinet do not seem to have raised public debate on the need for regional and tribal balance. Indeed, his first cabinet line-up, which consisted of 18 ministers as shown in Figure 3 above, provides no evidence of a cabinet constructed along tribal alliances and considerations. With the exception of the western region which had a representation of 17 per cent, all the three regions had equivalent representation of 28 per cent. The extent to which the appointments were based on ethnic considerations is hard to ascertain from existing information and data.

3.3. The Reign of Chaos and the Obote II Government (1979-1986)

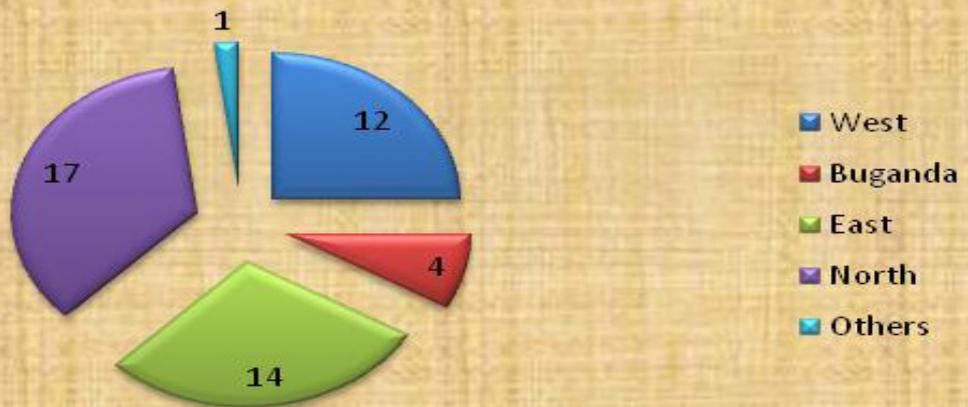
As aforementioned, the period from April 1979 to the December 1980 general elections was characterized by considerable political chaos and uncertainty in the country. In constitutional terms, the 1967 Constitution remained the key instrument that underpinned the governance of the country although it continued to be modified by the various Legal Notices that signaled the transfer of power from one group of politicians to another.

⁴² Generally see The People, 29 January 1971, p. 1; "Speech to the Nation by Idi Amin," p.80; The People, 5 April 1971, p.1

From 1979 to the 1980 elections, the short-lived governments of Y.K. Lule, Godfrey Binaisa and the Military Commission of Paulo Muwanga clearly factored in ethnicity in making major political appointments. However, this was so short a period for such consideration to emerge in a serious way. Consequently, any analysis of the distribution of key Executive positions such as cabinet ministers is unlikely to provide any clear trends in the conduct of political leaders with regard to ethnic-based political participation and how that approach affected the size and cost of the Executive.

It is only through the lenses of the Obote II Government (1981-1985) that one can examine any changes in policy that immediately predate the post-1986 Museveni government. By 1982, Obote's cabinet was made up of 48 ministers. As can be seen from Figure 4 below, 35 percent of the total cabinet positions were occupied by Ugandans of northern descent while Ugandans from the central region (Buganda) had the lowest share at 8 percent. Western and Eastern Uganda took 25 percent and 29 percent respectively. It is also important to note that during the five years of his presidency, Obote never changed his cabinet line-up as well as the number of ministries required to run the government. Yet, Uganda's economy rebounded from a negative growth rate of -7.7 percent registered for the period 1978-80 to 3.9 percent during 1980-81 and then to 8.2 percent in 1981-82. However, economic growth started on a declining trend as the NRA insurgency began to take hold sometime beginning 1983.

Figure 4: Number of Cabinet Ministers by Region as at February 1981



A number of conclusions can be drawn from the above analysis. The size and composition of the Executive under the various governments did not change dramatically during the period 1962 to 1986. Even in terms of the cabinet, the various governments maintained a level of consistency both in size and numbers

of cabinet positions compared to the period after 1986. Secondly, the debate over ethnic representation at cabinet level clearly was not as intense as we have seen over the last decade. Thirdly, with the exception of the period 1966-1970 when Obote tried a deliberate policy of de-ethnicizing the political process, ethnic participation is clearly a permanent subterranean current in Uganda's political life. Today, this phenomenon continues to be exploited by politicians and partly accounts for the consistent increase in the number of ministers and other Executive appointments. Fourthly, owing to the limitations of information and data, the cabinet is the only segment of the Executive through which one can construct a basis for comparison with respect to the changes that have taken place since 1986. Finally, for both Amin and Obote, a more systematic process of "ethnic purging" took place in the armed forces rather than in cabinet composition. Indeed, the army has since then remained the primary institution that Presidents from Obote to Museveni use to consolidate and retain their political power. In the next sections of this paper, we examine how the debate has evolved since 1986; the trends in the composition and size of the Executive and the associated implications on governance and economic growth.

4. THE EXECUTIVE AFTER 1986: THE INTENSIFICATION OF DISCORD

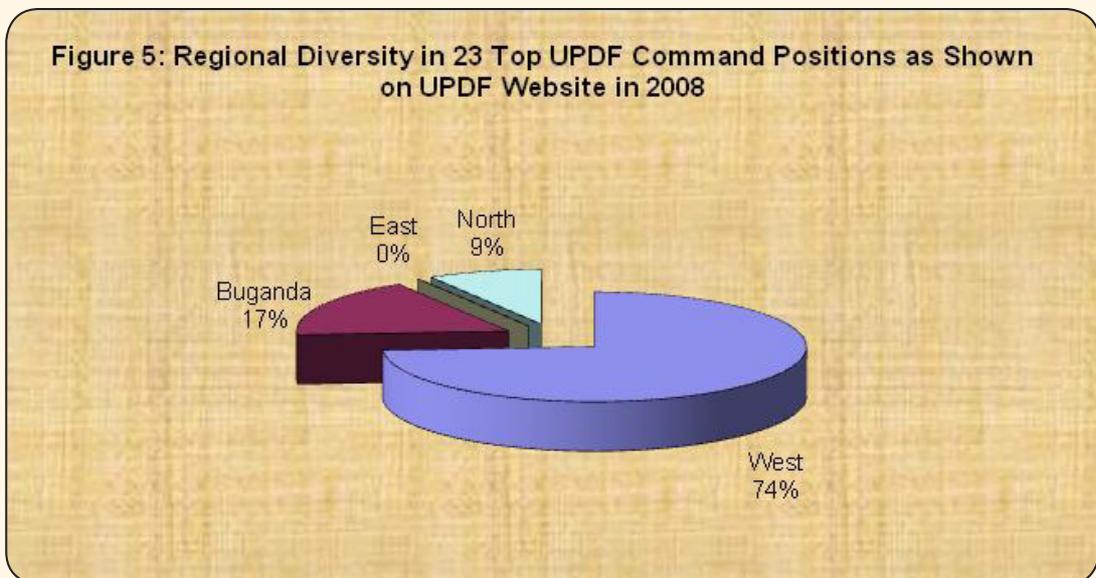
The current discourse on public administration expenditure and its implications for democracy and economic growth has shifted and intensified significantly in the post-1986 period. A number of reasons can be advanced to explain why this is happening. First, more than any of Uganda's former Presidents, Yoweri Museveni made the issue of ethnicity a central political narrative in his career and vilified previous leaders, especially Obote and Amin, for politically "profiteering" from ethnic alliances in the country. President Museveni, for example, has been consistent in his criticism of how previous Ugandan presidents used tribalism in the military to achieve the political objective of consolidating and retaining political power. His autobiography – *Sowing the Mustard Seed* – contains vilifications of Obote and other past leaders for using tribalism to stifle democracy and revolutionary action. About Obote's reliance on a tribal army, Museveni writes:

"Obote was unable to come to terms with the idea of a non-northern army because his tenure of power had been based on manipulating that factor. He had based his rule on an Acholi-Langi army with a scattering of northern peoples. They had monopolized all access to the instruments of force and thus ensured his undemocratic hold on power....."⁴³

43 Yoweri Kaguta Museveni (1997). *Sowing the Mustard Seed: The Struggle for Freedom and Democracy in Uganda*. Macmillan, London.

Indeed, previous accounts validate President Museveni's analysis of this phenomenon. For example, Omara-Otunnu provides a detailed examination of the establishment and consolidation of tribal cleavages within the army during the period 1967-1970. Based on an analysis of the 1966 Nominal Roll of Officers by Ranks of the Uganda Army, he found that the command structure of the Uganda Army was dominated by officers from the eastern and northern regions. Of the 171 command positions analyzed, 50 officers came from the eastern region and 87 from the northern region. On the other hand, only 20 officers came from the central region while only 14 came from the western region.

The key observation to be made here is that two decades after the coming into power of the National Resistance Movement and President Museveni, the composition of the command structure of the Uganda Peoples Defense Forces (UPDF) is not substantially different from the previous armies. As shown in Figure 5, an analysis of the 23 top command positions in the UPDF reveals that 74 per cent of the officers in these positions come from western Uganda.⁴⁴ This can be distinguished from 17 per cent from the central region, 9 per cent from the north and zero from the east. Based on this analysis, it is tenable to argue that to the extent that there seems to be no major differences in the regional and tribal compositions of the command structures of the army, President Museveni's continued vilification of the previous leaders only helps keep the tribalism issue at the centre of public policy discourse in the country.



Secondly, unlike in the earlier period, the debate over the size of the Executive after 1986 evolved into a fundamental constitutional question that needed to be addressed as part of a broader national constitutional architecture. As shown in the subsequent discussion, the rise of ethnic self-determination as the basis for laying

⁴⁴ Data obtained from the UPDF website as accessed in 2008. Analysis also based on a series of discussions with Andrew Mwenda of the Independent news magazine (www.independent.co.ug), during the conduct of this study.

claim to state resources became more pronounced. In many ways, the constitutional discourse on the distribution of power elevated the tribal consciousness that had been the undercurrent of Uganda's political instability since independence.

Thirdly, the levels of poverty in the country have remained high while changes in key socio-economic indicators have stagnated. The constitutional certainty and development dividends promised by the new constitutional dispensation have not materialized, while political patronage has become the main mechanism for dispensing state resources. The clamor for tribal recognition and reward is therefore a clear manifestation of the failure of the NRM government to shift Uganda from a patrimonial state where political handouts are the norm to a developmental state where citizens value work, productivity and self esteem. In this regard, questioning the cost of a huge Executive *via-a-vis* expenditure on critical social and economic sectors has increasingly become a legitimate political and economic policy issue.

Last, the role that ministers and other Executive functionaries play in the electoral process has come under heavy scrutiny over the last three election cycles. The fact that these functionaries have become an embedded signature of a sitting President's campaign infrastructure funded by the taxpayer raises the question as to the genuineness of the reasons often advanced for a big size of the Executive.

Consequently, the discourse on the size, cost and governance implications of a huge Executive has to be approached from three different dimensions. The first dimension is to interrogate the apparent thinking within the NRM government in general and that of President Museveni in particular with regard to the role played by tribalism and ethnicity in contemporary politics and the economy. The second dimension is to analyze how that thinking has shaped the post-1996 constitutional discourse that provides the basis for the composition of the Executive. From the first and second dimensions, one can then draw and examine the set of drivers that account for the increase in the size and cost of the Executive and the potential implications on governance and economic growth.

4.1 The NRM: Ethnicity and the Size of the Executive

It is important to recognize from the outset that a discussion on the role of ethnicity in constituting government under the NRM administration, especially at the Executive level, can be a highly contested and even controversial matter. From its founding documents, President Museveni as the head and chief ideologue of the NRM declared the organization's mission to work towards national unity and chastised previous leaders for using tribalism as a way of governing the country. However, over the last decade, ethnic considerations have emerged to play a dominant role in the way the Executive under the NRM is constituted. Ethnic consideration, which requires that key tribal constituencies be given ministerial positions, is perhaps the single most important reason that accounts for the increasing size of the cabinet. As a result, the role played by tribalism in constituting the Executive, the associated costs and the governance implications become important matters of public policy and debate.

From the outset, it is important to credit the NRM government in general, and President Museveni in particular, for articulating very clear positions and taking specific actions to mitigate the scourge of tribalism in Ugandan politics during the first 10 years of coming to power. Indeed, at a theoretical level, the NRM declared early enough its offensive against sectarianism. In its Ten Point Programme, it stated thus:

“Politics in Uganda has been manipulated by past politicians along sectarian, religious and tribal cleavages. The NRM asks: What enmity can there be between a Muganda peasant and a Lango peasant? Or between a Christian peasant and Muslim peasant.”⁴⁵

On his part, while declaring a “fundamental change” in his inaugural swearing-in address on January 29, 1986, President Museveni stated:

“Past regimes have used sectarianism to divide people along religious and tribal lines. But why should religion become a political matter? Religious matters are between you and your God: politics is about the provision of roads, water, drugs in hospitals, and schools for children. Don’t you see that people who divide you are only using you for their own selfish interest? Our Movement is strong because it has solved the problem of tribal and religious divisions.”⁴⁶

In his speech at the first anniversary of the NRM administration in 1987, Museveni declared that “The NRM is totally opposed to tribalism ...”⁴⁷ While castigating the use of tribalism to achieve political objectives by the past leaders, Museveni thus said:

“Take the road from here, Parliament Building, to Republic House. This road is so bad that if a pregnant woman travels on it, I am sure she will have a miscarriage! Now, does that road harm only Catholics and spare Protestants? Is it a bad road only for Muslims and not Christians, or for Acholis and not for Baganda? That road is bad and it’s bad for everyone. All the users of that road should have one common aspiration: to have it repaired. Don’t you see that people who divide you are only using you for their own selfish interest – interests not connected with that road? They are simply opportunists who have no programme and all they do is work on cheap platforms of division because they have nothing constructive to offer.”

45 NRM Ten Point Programme – reproduced in Kabwegyere, T. B. (2000). *People’s Choice, People’s Power*. Fountain Publishers. Kampala. Appendix 1 at pp. 157-164.

46 Museveni, Y. (1992). *What is Africa’s Problem? Speeches and Writings on Africa* by Yoweri Kaguta Museveni. NRM Publications. Kampala. pg. 21-25

47 *Ibid*, pg. 41. January 26, 1986.

The striking thing about this political narrative on tribalism is that similar declaratory statements were made by Milton Obote and Idi Amin.⁴⁸ Indeed, the key question is whether the practice of the NRM government under President Museveni has been different from that of the previous regimes and presidents on the issues of tribalism and religion and their influence on the composition of the Executive. Clearly, like the failed attempts by the UPC Government in the late 1960s, the NRM made positive steps to tone down on the ethnic polarization that had been creeping into Uganda's politics for decades. Two major efforts may be cited as part of the evidence.

First, during its first five years in power, the NRM sought to reinforce national unity by bringing the various contending political forces into the government. By 1989, major political forces such as the Uganda Peoples Congress and the Democratic Party had been brought into cabinet hence accounting for the first major increase in the size of the Executive. The number of full ministers increased from 25 in February 1988 to 34 in 1989, state ministers from 13 to 16 while deputy ministers increased from 25 to 27. To the credit of the NRM Government, the expansion of the cabinet at the time was undertaken more as a means of accommodating major political and fighting groups in the political process rather than the direct appeasement of tribal and religious constituencies.

As early as 1990, the NRM reported progress on the issue of national unity citing, among others, the creation of a broad-based government integrating all the political parties and military factions, establishing regional political schools for the army and civilians, enacting the anti-sectarianism legislation and the process of formulating a new constitution.⁴⁹

However, as the contestation for political power increased around 1990, the narratives of political accommodation began to expand to include tribal accommodation. In 1993, the Traditional Rulers (Restitution of Assets and Properties) Act was enacted guaranteeing the return of properties of the former Buganda Kingdom.⁵⁰ This is in spite of the fact that there are some accounts suggesting that Buganda Kingdom was fully paid compensation when its properties were expropriated in 1966.⁵¹

48 See supra, note 39 and 42

49 NRM Achievements 1986-1990. NRM Secretariat. Kampala. See also, NRM Secretariat (Undated). Political Programme of NRM: Two Years of Action. NRM Secretariat. Kampala. pg 25.

50 Republic of Uganda (2000). Traditional Rulers (Restitution of Assets and Properties) Act, Cap 247, Laws of the Republic of Uganda, Revised Edition, 2000. Also see Traditional Rulers (Restitution of Assets and Properties) Act 1993.

51 In his account of the compensation payments, Ken Davey notes as follows: "... the various assets taken over by the Uganda Government, including the Bulange and the Lubiri, were valued at market worth, and payment made to a trust account from which liabilities were met, including Buganda Government debts and retirement benefits for redundant staff. The balance was distributed to the four successor district administrations in ratio to population, the cheques being handed over personally by the Minister of Regional Administration in front of TV cameras and large, ebullient crowds. The sums were substantial enough to fund the construction of new head quarters buildings and staff housing in each district." In Brown, Douglas and Brown, Marcelle (Eds.), 1996. *Looking Back at the Uganda Protectorate: Recollections of District Officers*. Douglas Brown. Dalkeith, Western Australia. Pg 332

Indeed, it is tenable to argue that the enactment of this legislation was a turning point in the political narrative of the NRM and President Museveni regarding tribal politics in the composition of the Executive and other areas of political appointment. By circumventing the constitution-making process, Buganda emerged as the centre of ethnic construction in the post-1986 Ugandan politics. Like Idi Amin who attempted to exploit the Baganda discontent with Obote, President Museveni sought to build an alliance with the Buganda monarchy and made appeasement of the Baganda a central element in subsequent political strategy and calculation.

During the Constituent Assembly debate, the discussions on the composition of the Executive and in particular the cabinet focused more on creating an efficient and cost-effective government. As shown later in this paper, the Constituent Assembly sought to create constitutional restraint to ensure that subsequent presidents did not abuse their authority to appoint a huge cabinet that could compromise efficiency while placing an undue burden on the taxpayer.

By the time of the first elections under the 1995 Constitution, the political landscape had already shifted. After the elections, President Museveni was looking to building his own tribal and religious alliances and saw Executive appointments as one of the key platforms for executing this political strategy. Like Obote and Amin before him, tribal alliances were seen as an important vehicle for mobilizing political loyalty. Unlike the first 10 years of his presidency where he sought to create national unity by bringing the political opposition into the political process, in the post-1996 dispensation, President Museveni sought to mobilize tribal and religious interests as a bulwark for political consolidation. In effect, securing the alliances of various tribal and religious groups rather than the political opposition has become the cornerstone for a new political broad-basedness and hence made an oversize Executive inevitable.

4.2 The Executive and the Constitutional Discourse After 1986

Besides the practice that has informed and guided the composition of the Executive under the NRM government, there have been major constitutional developments on this issue. The constitutional legitimacy of the National Resistance Movement (NRM) Government from January of 1986 was established by Legal Notice No. 1 of 1986.⁵² By this Legal Notice, the NRM government accepted the authority of the 1967 Constitution but suspended portions that granted Executive and legislative powers to the president and parliament.⁵³ With regard to Executive powers, Legal

52 Legal Notice No.1 of 1986 as Amended by Legal Notice No.1 of 1986 (Amendment) Decree, 1987 and by Legal Notice No.1 of 1986 (Amendment) (No. 2) Statute, 1989 (Statute No.9 of 1989).

53 Ibid, Section 1

Notice No. 1 declared that the National Resistance Council (NRC) “shall have the supreme authority of the Government,” including the power to pass laws and to choose the national president.⁵⁴

Consequently, the Executive and legislative powers were fused into the National Resistance Council which acted as the political organ of the National Resistance Movement. In reality, Legal Notice No.1 created the Office of the President who exercised all Executive authority. Under Section 2, the NRC consisted of the following members: chairman of the National Resistance Movement; Vice Chairman of the National Resistance Movement; representatives of the National Resistance Movement; representatives of the National Resistance Army; the National Political Commissar (NPC); the administrative secretary of the National Resistance Movement, and the director of legal affairs of the National Resistance Movement.⁵⁵

Legal Notice No.1 also provided room for the further expansion of the Executive and the Legislature. The proclamation provided, among others, that the size of the NRC would be increased “from time to time” by adding members from other “political forces and districts.” The proclamation also empowered the president to appoint a Prime Minister, ministers, deputy ministers or assistant ministers “after they have been vetted by the National Resistance Council or its Committee.” Consequently, in addition to the NRC, the proclamation provided for the constitution of a Cabinet of ministers comprised of the president, the Prime Minister and ministers appointed to the cabinet. Like all the previous instruments, no limits were put on the optimum size of the Executive or cabinet appointments leaving the president with an open-ended mandate in this regard.

Given the fusion of Executive and legislative authority under the 1986-1995 NRM government, it is difficult to estimate with certainty the cost of the Executive on the public purse during this period. However, what is clear is that in 1986, the NRC had a membership of 77 people.⁵⁶ At the same time, there was a cabinet of 48 ministers—30 ministers, 6 state ministers, and 12 deputy ministers.⁵⁷ In a space of three years, the NRC had expanded by 260% to reach 277 members. On the other hand, the cabinet had expanded to 77 members – 34 ministers, 16 ministers of state and 27 deputy ministers, representing an increase of 60 per cent.

54 Ibid, sections 2, 6 and 7

55 Section 2 also provided for the ministers, deputy ministers and assistant ministers to be members of the NRC when the Council was sitting as the Legislature. Although the proclamation provided for the representation of various “political forces or groups” and districts, it never specifies whether these would sit in the meetings of the Council when constituted as the Executive.

56 For the full list of the members, see Kabwegyere, Tarsis (2000). *People’s Choice, People’s Power: Challenges and Prospects of Democracy in Uganda*. Fountain Publishers, Kampala.

57 Ministers include the Prime Minister.

By 1989, there were already concerns about the size and efficiency of the entire public service. Consequently, under Legal Notice No. 2 of 1989,⁵⁸ the minister of public service and cabinet affairs appointed a commission to review and reorganize the public service.⁵⁹ The major motivation for the reorganization of the public service was the concern that the service “hard become inefficient, ineffective, irresponsible and demoralized.”⁶⁰ Although the Commission focused its review on the mainstream public service, it made a series of significant recommendations that are directly relevant to political administration and the size of the Executive arm of the government today.

The commission, for instance, observed: “... In connection with government having grown over-sized, our view is that the present number of ministries is too large; and we recommend that the whole ministerial line up should be streamlined and reorganized to bring down the total to 20 or 21 ministries altogether. We also believe that the present array of ministers (at different levels) is largely superfluous and inconsistent with efficiency. In our view, it should not be necessary to have more than one or two ministers in a ministry.”

The commission also noted the difficulties created by what it referred to as the “attempt at using a hybrid of a Presidential and Parliamentary System of Government.” The commission was of the view that the weaknesses inherent in such hybridization can be avoided by adopting a straight presidential form of government, “with ministers picked by the president on merit and from outside parliament.” According to the Commission, “the intention is to professionalize government at that level of cabinet, undeterred by considerations of party and constituency loyalties.” The reforms that followed the publication of the Commission’s report not only led to some significant changes in the entire public service but also in the down-sizing of the cabinet. The size of the cabinet, then at 77 ministers, was cut to 42.⁶¹

4.3. The Executive under the 1995 Constitutional Framework

At the time the Public Service Review Commission was doing its work, a separate process of formulating a new national constitution was underway.⁶² The Uganda Constitutional Commission which commenced its work in 1989 sought to review

58 Published on 15th May 1989.

59 The 10 member Public Service Review and Reorganization Commission was comprised of the following persons: Nicholas T. Clerk (Chairman), Robert K. Kitariko (Vice Chairman), Sam Tulya-Muhika (Member), Joseph W. Okune (Member), Irvin D. Coker (Member), Chief Jerome Udoji (Member), James Katorobo (Member), H.K. Bigirwenkya (Member), Joseph S. Musisi (Member) and Colin Sentongo (Secretary).

60 Republic of Uganda (1990). Report of the Public Service Review and Reorganization Commission 1989-1990: Main Report, Vol. 1.

61 For a detailed discussion on the changes in the public service as a result of the public service reform process, see Mwenda, A. and Tangri, R., (2005). *Patronage Politics, Donor Reforms, and Regime Consolidation in Uganda*. African Affairs, 104/416, 449-467. Oxford University Press. London.

62 The Constitutional Commission under the Chairmanship of Justice Benjamin Odoki was established under the Uganda Constitutional Commission Statute, No.5 of 1988. The Commission presented its report to the President of Uganda on December 31, 1992 and a final constitution was discussed by a Constituent Assembly and promulgated on October 8, 1995.

Uganda's constitutional framework and make proposals for a new constitution. It carried out countrywide consultations and addressed a range of issues including the structure, composition and size of the Executive.⁶³ An analysis of the Commission's conclusions is important in understanding the outcomes of the Constituent Assembly debates and, the trends in the size and cost of the Executive in the post-1995 constitutional order.

One of the key issues that dominated the work of the Constitutional Commission was how to strike a balance in the powers exercised by the three traditional arms of the State: the Executive, the Legislature and the Judiciary. As the Commission generally observed, a central focus of the discussions throughout the consultation process was on the president's powers and how they should be exercised. Scholars, commentators and politicians alike attribute Uganda's political crisis and its attendant outcomes to the ambiguity in the powers of the president and the Prime Minister under the 1962 Constitution on the one hand, and the excessive constitutional powers granted to the president under the 1967 Constitution.⁶⁴

In its analysis of the consultations and memoranda before it, the Constitutional Commission observed that there was an overwhelming desire to ensure "greater separation of powers between the Executive and the Legislature, and an effective system of checks and balances."⁶⁵ The Commission further stated thus: "According to the people, [such separation of powers] would help in removing what they perceived to be pressures exerted on the Legislature by the Executive to approve the decisions of the Executive." In the end, the Commission decided to recommend what it referred to as "some separation of powers."⁶⁶

The fundamental question therefore is: What is the nature of "some separation of powers" that the Commission considered to be appropriate in the context of Uganda's constitutional history?

A detailed discussion of the range of powers and, the checks and balances that were recommended, some of which were incorporated into the 1995 Constitution, is beyond the scope of this paper. This discussion is therefore limited to the recommendations as well as the checks and balances that have implications for the size, cost and the efficient functioning of the Executive.

First, the Commission recommended that the president should be directly elected and should not be a Member of Parliament. The president would also have executive powers as the head of government.⁶⁷

63 For detailed background discussions on the Executive, see Republic of Uganda (1993). Report of the Proceedings of the Uganda Constitutional Commission: Analysis and Recommendations. Kampala.

64 See for example, Okello, G. (1991). The 1967 Constitution and the Contemporary Political Problems of Uganda (Unpublished presentation available at the ACODE Library of Law and Public Policy.

65 *Supra*, note 63, pg 321, para 12.45

66 *Supra*, note 63, pg 321, para, 12.45

67 *Supra*, note 63, pg 321, para 12.46

The following presidential powers would be exercised subject to a wide range of checks and balances: major constitutional appointments; senior appointments in the state services; exercise of the prerogative of mercy; command of the armed forces; and declaration of war. The Commission also recommended a series of checks and balances to the powers and functions of the president with respect to the Legislature,⁶⁸ including impeachment of the president by the Legislature.⁶⁹

Second, the Commission made wide-ranging recommendations that would in many ways have an impact on the size of the Executive. It recommended the creation of the Office of the Vice President, including a proposal that any presidential candidate should choose a running mate for the post “so that people can pass a verdict on both” through the electoral process.⁷⁰ The Commission further recommended the abolition of the post of Prime Minister which had been re-established at the time the NRM Government came to power in 1986. It observed that because the majority of Ugandans had proposed an Executive President with a Vice President and in order to avoid duplicity of work, duties and potential conflicts, there should be no post of Prime Minister or Deputy Prime Minister.⁷¹

Perhaps one of the most contentious issues that has had a direct impact on the size of the cabinet has been whether ministers should be appointed from amongst the Members of Parliament. The Constitutional Commission observed in its report that “a substantial number [of people] is opposed to ministers being members of the Legislature. They argue that once a representative of the people is chosen to be a minister, his or her position is compromised by the president and the cabinet under the principle of collective responsibility.” However, having regard to the various proposals, the Commission recommended that the constitution should allow the president to appoint ministers either from within parliament or from elsewhere.

It further recommended that ministers should not exceed 21 and that the maximum number of deputy ministers (“other ministers”) should be 21. As part of the checks and balances, the Commission recommended that ministerial appointments should be subject to approval by parliament or its committee.

Evidently, the Commission was also hostage to Uganda’s history and the increasing ethnicization of political appointments. It recommended that “ministerial appointments should take account of expertise, gender, regional and religious balance.”⁷²

68 For example, the Commission provided a series of recommendations to address potential interference of the President in the legislative process by stipulating timelines within which a Bill should be assented to or the Parliament bypassing the presidential assent where such assent is withheld.

69 *Supra*, note 63, pg 333, para 12.96. The Constituent Assembly did not take this recommendation and therefore the President appoints the Vice President after the elections.

70 *Supra*, note 63, pg 336, paras 12.102 and 12.106

71 *Supra*, note 63, pg 337, para 12.109.

72 *Supra*, note 63, pg 340, para 12.119

Like many of the recommendations that are subject to abuse, this proposal found itself in the final constitution and, in a fundamental way, largely accounts for why appointments to Cabinet have increasingly become some form of tribal or ethno-religious negotiating conferences.

It is therefore clear that Uganda's constitutional history weighed heavily on the constitutional discourse that was triggered off by the inauguration of the Constitutional Commission in 1989. By May 1994 when the Constituent Assembly convened, the question of separation of powers and the exercise of executive authority was one of the fundamental issues that needed to be resolved.⁷³ Consequently, drawing on the recommendations of the Constitutional Commission, the 1995 Constitution sought to establish broad contours of a new constitutional order that would: 1) entrench people's power, 2) create appropriate boundaries for the exercise of executive, legislative and judicial authority, and, 3) generally scale back on the excessive powers enjoyed by the president as originally enshrined in the 1967 Constitution. Indeed, the 1995 Constitution clearly demonstrates the attempt by the Constituent Assembly to create appropriate restraint on the exercise of executive authority by the president. The wide range of constitutional limitations on the powers of the president is beyond the scope of this paper. This discussion is only limited to the extent that those constitutional restraints have implications on the size of the Executive in terms of creation of new offices as well as making appointments.

Chapter 7 of the 1995 Constitution covers constitutional issues relating to the Executive. Article 98 establishes the Office of the President and provides that "there shall be a President of Uganda who shall be the Head of State, Head of Government and Commander-in-Chief of the Uganda Peoples' Defense Forces (UPDF) and the Fountain of Honour." Like the 1967 Constitution, the 1995 Constitution provides that the president takes precedence over all persons in Uganda and shall not be liable to any proceedings in court while holding office.⁷⁴

Among other things, Article 99 of the Constitution provides that "the Executive authority of Uganda is vested in the President and shall be exercised in accordance with this Constitution and the laws of Uganda." The constitution obliges the president to "execute and maintain this Constitution and all laws made under or continued in force" under it. In addition, the constitution imposes a duty on the president to "abide by, uphold and safeguard this Constitution and the laws of Uganda and to promote the welfare of the citizens and protect the territorial integrity of Uganda."⁷⁵

73 Discussions regarding the Executive were conducted in Select Committee II which also discussed the Legislature and the Judiciary. The committee was Chaired by Hon. Joseph Mulenga with Hon. Sam Ringwegi and Mr. D.M. Byakutaga as Vice Chairman and Clerk respectively. See The Constituent Assembly Report (April, 1994 – November, 1995 (Report publisher not indicated. The Report was accessed from Stanford University Auxiliary Library under reference KTW 171 A11995 U33 1995).

74 According to Article 98(5), the president can be subject to criminal or civil proceedings "in respect of anything done or omitted to be done in his or her personal capacity before or during the term of office of that person." For purposes of this article, "any period of limitation in respect of any such proceedings shall not be taken to run during the period while that person was president."

75 Constitution of Uganda 1995, Article 98.

Other specific powers or functions of the president include: assent to Bills; approval of the budget; appointments to constitutional offices; declaration of a state of war; foreign deployment of the Uganda Peoples Defense Forces (UPDF); declaration of a state of emergency; and negotiation of treaties and agreements.

However, the constitution also introduced a set of restraints intended to regulate the powers of the president in the exercise of executive authority. In general, these powers include requirement for approval of key appointments; an annual State of the Nation Address; provisions regarding impeachment of the president for abuse of office, misconduct or misbehavior, and physical or mental incapacity. For the first time in Uganda's constitutional history, the 1995 Constitution sought to create restraint on presidential powers regarding appointments.

Most important, the constitution introduced a cap on the number of ministers that could be appointed. Article 113 provides in part that "the total number of Cabinet Ministers shall not exceed twenty-one except with the approval of Parliament". Article 114 provides for the position of 'other ministers' stating that "the total number of Ministers appointed under this article shall not exceed twenty-one except with the approval of Parliament." The specification of the number of cabinet ministers that could be appointed was essentially dictated by the concern that presidents can abuse their appointing authority.

5. ROLLING BACK: THE EXECUTIVE IN THE POST 1995 ERA

5.1. Re-writing the 1995 Constitution

The adoption of the 1995 Constitution 33 years after independence may be fairly described as the epitome of Uganda's torturous three-decade journey to creating a perfect state where the people and the rule of law reign supreme. It had been a journey characterized by dictatorships, political cronyism, economic breakdown and inefficiency in government. As already alluded to, the constitutional restraints on the exercise of executive authority including powers on the appointment of the cabinet were intended as safeguards to the sanctity of the Constitution and the supremacy of the people. However, since 1995, the president and the parliament have conspired in an unholy alliance to re-write the relevant constitutional safeguards regarding executive appointments which almost tantamount to re-enacting the scenario under the 1967 Constitution. During this period, the Cabinet has been continuously expanded through resolutions of Parliament modifying articles 113 and 114 of the Constitution.

Both in 1996 and 2001, the increase in the size of the cabinet was achieved by the Members of Parliament conspiring with the Executive to amend articles 113 and 114 of the 1995 Constitution. The debate on the relevant motions teaches us two key lessons that will shape the discourse on the size and cost of the Executive. First, the requirement for parliamentary approval to vary the number of ministers clearly amounted to a form of "constitutional nuisance" for President Museveni. This explains why in the constitutional reform process that followed the 2001

elections, the NRM government sought to amend the constitution to remove the cap on ministerial appointments.⁷⁶ Second, the ease with which the resolutions passed through parliament seems to have emboldened President Museveni to solve this “constitutional nuisance” once and for all thereby “liberating” the powers to appoint any number of cabinet ministers as he sees fit. This is exactly the position that obtained under the 1967 Constitution.

The Constitutional Review Commission (CRC, also referred to as the Sempebwa Commission), which was established immediately after the 2001 presidential and parliamentary elections⁷⁷, provided the main vehicle for reviewing the constitutional restraint on the appointment of the cabinet by the president. Although the Commission was given a broad mandate to review the 1995 Constitution, it is the outcome of the process and the debate surrounding its report that clearly shows that the argument over big government is likely to intensify especially in the run-up to the next general elections in 2011. The CRC addressed a number of major issues – the Office of Prime Minister; the constitutional limitations on the size of the cabinet; and the dual mandates (ministers as members of the executive and Members of Parliament) of ministers – that have direct implications on the size of the Executive.

In particular, the Constitutional Review Commission addressed the issue of the size of the cabinet. According to the commission’s report,⁷⁸ the majority of the citizens consulted expressed a desire for a small cabinet largely on account of the need to cut down the costs associated with running a big government.⁷⁹ This finding is clearly consistent with the proposals presented to the 1989 Constitutional (Odoki) Commission. Based on its observations, the CRC recommended that the number of cabinet ministers, including the Prime Minister, be capped at 22. Ministers of State would also be capped at 22. The Commission further recommended that ministers should not be Members of Parliament.⁸⁰

The more intriguing question, however, is the relationship between what obtains in constitutional terms vis-à-vis the practice. As already discussed in the foregoing section, in theory, the executive encompasses the various constitutional offices including the following: the presidency, the cabinet, the Office of Prime Minister and a host of other agencies and offices created through executive discretion. However, in practice, the presidency has expanded to include a powerful State House, a host of presidential advisors and assistants, quasi-public service officers such as the Resident District Commissioners and a number of “special officers” including in the military and intelligence services.

76 Government White Paper on the Report of the Commission of Inquiry (Constitutional Review). Chapter 4, para 4.3(c)(ii)

77 Commission of Inquiry (Constitutional Review), Legal Notice No. 1 of 2001.

78 Republic of Uganda (2003). Report of the Commission of Inquiry (Constitutional Review) Findings and Recommendations, December 2003, Kampala.

79 Id, p.5-51.

80 For details on the Government of Uganda response to the Commission’s proposals, see Government White Paper, *Supra*, note 77.

It can be concluded, therefore, that the flexibilities built into the 1995 Constitution and a parliament that has failed to assert its own powers and authority vis-à-vis those of the Executive have combined to create room for “strategic political opportunism” that the framers of the 1995 Constitution sought to mitigate. In effect, “strategic political opportunism” has been achieved through legal reforms and targeted administrative actions facilitated by those who believe that they are positioned to benefit from the resulting political opportunities. Given the consistency in the practice over the last decade, it is legitimate to argue that “strategic political opportunism” rather than judicious governance has become the new political ball game for achieving consensus among the governing political elite.

5.2. The Financial Cost of a Bloated Executive

Since 1986, there have been deliberate attempts to reconfigure the Executive and create the necessary balance and separation of powers between the three traditional arms of Government. However, the gains that were made through the constitution-making process are progressively being eroded by an overzealous presidency. The outcome of this overzealousness has been the reconstruction of a bloated executive that translates into substantial costs on the taxpayers in particular and the citizens in general. The costs imposed by this bloated Executive can be discussed from two standpoints: financial and governance.

Ascertaining the trends and full financial cost of public administration expenditure in general and the executive in particular is a painstaking undertaking given the scantiness or unavailability, but most important the undue secrecy, of the relevant financial information. The alternative, therefore, is to build on some of the previous work that has been undertaken in the recent past. For example, 2004 edition of the Poverty Eradication Action Plan (PEAP) estimates that the combined cost of public administration covering the Legislature and the Executive is in the range of US\$34 billion per month.⁸¹

In aggregate terms, the impact of a bloated political bureaucracy on the budget and the taxpaying public is significant. Public administration expenditure continues to claim the biggest share of the national GDP rising from 2.7 per cent in 1988/99 to 3.2 per cent in 2001/2002. The total share of public administration accounted for 20.2 per cent of the budget out-turn by 2000/2001. This may be compared with a mere 7.3 per cent for health where rates of infant and maternal mortality from preventable diseases such as malaria remain at obscene levels. However, to get a better account of the cost burden imposed on Ugandan taxpayers, it is important to examine the cost of running some of the segments of the Executive. This section takes a close look at the cost of the three key segments: Cabinet, Office of the President and State House.

81 Republic of Uganda (2004). Poverty Eradication Action Plan (2004/5-2007/8). Ministry of Finance and Economic Planning. Kampala. pg. 139.

5.2.1. The Cabinet

For the many reasons discussed in the foregoing sections, cabinet is one of the segments of the executive that has expanded and become bloated over the last decade. Figure 6 shows the changes and trends in the number of cabinet ministers from 1986 to the present.⁸² Following the public service review exercise of 1990, the size of the cabinet was reduced to 22 ministers by 1994. However, after the first presidential elections in 1996, President Museveni sought the authority of parliament to increase the size of Cabinet from the constitutionally mandated 21 ministers and 21 Ministers of State hence raising the combined number of ministers to 56 and then to 67 after the 2001 elections. Today, the number of cabinet ministers stands at 28⁸³ and Ministers of State at 45.⁸⁴

Before delving into an analysis of the cost of the cabinet, it is important to examine the legal basis for determining the emoluments of ministers. This is important because of the dual personality (being MP and minister at the same time) that they possess. Ordinarily, ministers as members of the executive should be remunerated from funds appropriated for the functioning of the executive or the public service. This seems to have been the case until 1997. In June 1997 when parliament considered a resolution to determine the remuneration of its members, the issue as to whether ministers should be paid the salary and allowances of MPs was one of the hotly debated ones. Even if one were to consider the ministers who are also Members of Parliament as clearly falling within the scope of the Administration of Parliament Act, it is apparent that the remuneration of ministers who are not MPs including the Prime Minister raises a prima facie legal question.

Remuneration of MPs is provided for under Article 85(i) which states thus: “A Member of Parliament shall be paid such emoluments and such gratuity and shall be provided with such facilities as may be determined by Parliament.”⁸⁵ Article 82(8) provides for the remuneration of the Speaker and Deputy Speaker. However, the motion for the resolution to determine the emoluments of MPs included a proposal for the payment of salaries and allowances for ministers.⁸⁶ Consequently, on top of the remuneration of US\$1.1 million for MPs, MPs who are ministers would be paid an additional monthly consolidated allowance of US\$1.8 million by virtue of their positions as ministers. This motion, therefore, raises two inter-related legal questions: First, why should the parliament budget be used to pay for the services of a member who is exercising the functions of the Executive? Second, although the Vice President and ministers who are not MPs are considered ex-officio MPs

82 The data used include the Vice President, the Prime Minister and the deputy prime ministers. The position of deputy ministers stopped in 1995 after it was not included in the 1995 Constitution.

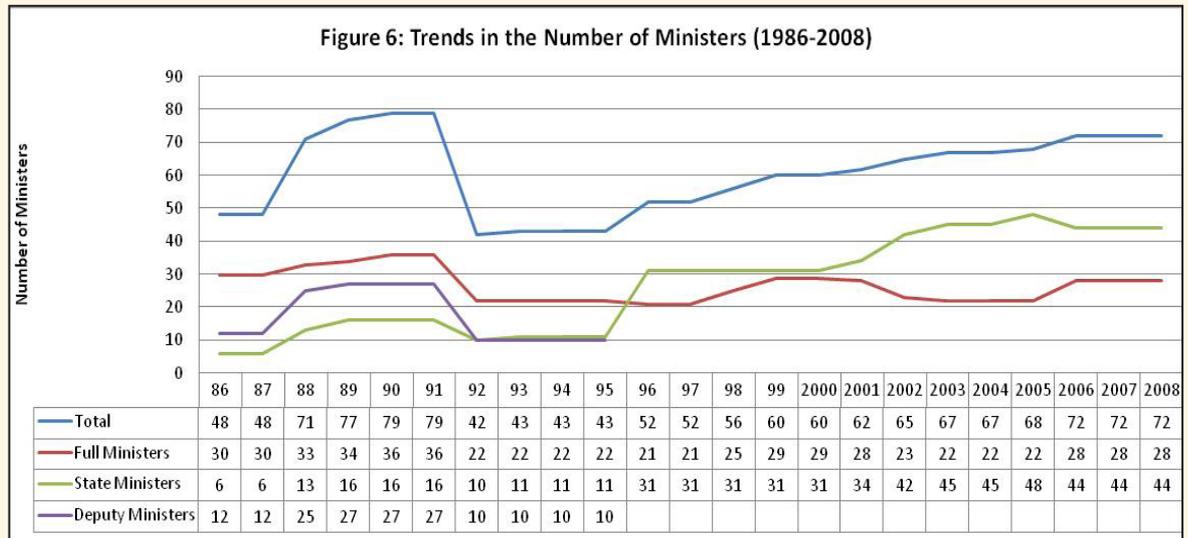
83 This number includes the ruling NRM Chief Whip. At the time of writing, the Chief Whip was Kabakumba Matsiko

84 For purposes of this paper, each ministry is considered in its own right and therefore where a minister holds two positions, such as 2nd Deputy Prime Minister and Minister for Public Service, these are treated as two ministries.

85 See also Administration of Parliament Act, Cap 257, Laws of Uganda

86 Parliament of Uganda (1997). Hansards, June 10, 1997, Pg 1841.

by virtue of Article 78 (1) (d), their being in parliament is purely to perform their duties as members of the Executive branch. This interpretation, adopted by parliament, is clearly suspect because of the doctrine of separation of powers. It is suggested here that this position is a gross misrepresentation of the law, one of the many cases where parliament continues to abuse its authority to accommodate the interests of its members and those of the Executive at the expense of the rule of law.⁸⁷



Since 1997, the parliament has consistently adjusted its remuneration upwards and by implication the remuneration of ministers. However, this only captures part of the picture because ministers also draw a wide range of allowances and other benefits from their ministries. Although it is difficult to ascertain with precision the amount of money spent on each minister because of the secrecy with which the government and the Ugandan public service operate, available indicative figures can provide a fairly rough picture of the current situation. These include a monthly basic salary of US\$2.6 million as well as a monthly subsistence allowance of US\$4.5 million. In addition, a minister is entitled to a free government vehicle estimated at US\$123 million, a ministerial monthly allowance of US\$650,000 and a host of other allowances and benefits.

However, to determine the level of wastage, it is important to determine the optimum number of ministers required to assist a president run the government efficiently and effectively. Another consideration is the opportunity cost forgone by having an extra cabinet minister. Put differently, it is possible to determine the cost of a bloated cabinet by considering the alternative services forgone or, the volume of public goods and services that would be purchased if the funds were not spent on paying and facilitating a cabinet minister.

87 For a detailed discussion on this issue, see Id, pg 1844-1853.

The various studies and consultations that have been undertaken since 1990 suggest that the optimum number of ministers required to assist a president run an efficient and effective government is 42.⁸⁸ This means that any number beyond 42 is excess baggage and there is no marginal utility derived by the taxpayer for any extra minister beyond that number. Consequently, for a total of 72 ministers, the extra 30 ministers are what constitute wastage. This wastage can, therefore, be computed in monetary terms based on the current remuneration packages for a minister and then aggregated either annually or over a five-year presidential term. The combined basic salary (US\$2.6 million), monthly subsistence allowance (US\$4.5 million) and ministerial allowance (US\$0.65 million) totaling US\$7.75 million per minister per month adds up to an expenditure of US\$2.79 billion per year for the 30 excess ministers. With the cost of training one doctor estimated at US\$15 million, cutting this excess baggage from Cabinet means that Uganda can be able to train 186 doctors for every year of saving. Over a five-year presidential term, the country would have spent at least US\$13.95 billion which is equivalent to the cost of training 930 doctors.

However, other estimates have put the consolidated monthly remuneration of a minister in the range of US\$10.6 million. This means that every year, Ugandan taxpayers spend approximately US\$3.6 billion in unnecessary expenditure on the emoluments of 30 excess-load ministers which translates into an estimated expenditure of US\$18 billion over a five-year presidential term. Using the example of training doctors above, reducing the size of cabinet by the 30 ministers would save enough money to train 1,200 doctors over the five years. US\$18 billion is also enough to construct and fully furnish a three-room science laboratory in 128 secondary schools across the country.⁸⁹

In addition to these direct payments, ministers also get facilitated in the form of office operations, vehicles, aides, security and other forms of allowances paid directly from their ministries' budgets. Again, the information about these emoluments is either unavailable in disaggregated terms or held in secret by the relevant ministries. It is clear that the taxpayers are carrying a heavy burden to fund political patrimony in the form of an oversize cabinet. Table 3 below shows the savings that would be made on selected expenditures on the Cabinet assuming its size was reduced to only 42 ministers as mandated by the Constitution.

Expense	Monthly	42 Ministers Over 5 Years	30 Ministers Over 5 Years
Basic Salary (Over 5 Yrs)	2,600,000	6,552,000,000	4,680,000,000
Vehicle (at US\$123 million/vehicle)	N/A	5,166,000,000	3,690,000,000
Monthly Allowance	4,500,000	11,340,000,000	8,100,000,000
Air Time	150,000	378,000,000	270,000,000
Ministerial Allowance	650,000	1,560,000,000	1,170,000,000

88 See Report of the Public Service Review and Reorganization Commission, id note 60; Report of the Uganda Constitutional Commission, 1993, id, note 63; Constitution of Uganda, article 113 and 114; Report of the Commission of Inquiry (Constitutional Review), id, note 79.

89 The estimates are based on the actual cost of constructing such a laboratory at Nyakyera Secondary School, Nyakyera Sub-county, Ntungamo District, which was built at a cost of US\$138 million provided by the Japanese Embassy in Kampala. The laboratory was commissioned in August 2008.

5.2.2. Presidential Advisors, Presidential Assistants and Resident District Commissioners

Consistent with the tendency towards building political patrimony through cabinet appointments, the Museveni Government has sought to use other forms of politically based appointments to reward regime supporters or manage political dissent. This has been achieved through appointments of a network of presidential advisors, presidential assistants and Resident District Commissioners⁹⁰ since the numbers and roles of these appointees defy any possible rationalization.

In 1994, Uganda had only four known presidential advisors. In 1997, their number was reported to have increased to 18. During the debate on the motion to determine the emoluments of MPs, MP Winnie Byanyima suggested that this was a redundant group of political elites and observed that the government could save money if the President load-shedded this “political excess baggage.”⁹¹ By 2003, the number of presidential advisors (excluding presidential assistants) had increased to 71.

Although it is difficult to ascertain the current number because of the secrecy of the information surrounding these offices, an official list published by the Office of the President showed that President Museveni had a combined 109 presidential advisors and presidential assistants as of August 2006.⁹² Writing in “Inside Politics” section of The Daily Monitor newspaper in 2006, Angelo Izama estimated that these advisors and assistants cost the Ugandan taxpayer at least US\$2.6 billion every year, which translates into approximately US\$13 billion over a five-year presidential term.⁹³

The “obscenity” of the number of presidential advisors and assistants is not only in terms of the cost to the taxpayer but also in terms of the structure and hence the areas where a president requires advice and assistance. According to the official list published by the Office of the President, the President has advisors or assistants on a range of mundane issues such as religious affairs, literary affairs, household and presidential farms. These issues are mundane from the perspective of the taxpayer because they are either outside the ambit of areas that require public investment or simply there is no marginal value or utility to the taxpayer in having persons specifically designated to advise the president on those issues. In any case, the fact that the president maintains a bloated cabinet designed around similar issues clearly shows that the Ugandan taxpayer is being short-changed through double payment and lack of value for money. As already pointed out, the marginal gain to the taxpayer of an additional advisor is clearly non-existent. On the contrary, the marginal loss to the taxpayer can be computed in the form of shillings lost or goods and services forgone. For example, it is estimated that the cost of a single

90 Although the office of RDC is provided for in the Constitution under Article 203, appointment of RDCs is largely based on political loyalty and does not follow standard public service recruitment procedures.

91 Hansards, June 10, 1997. Pg 1845

92 See “Inside Politics”, The Daily Monitor, August 16, 2006.

93 The monthly salary of a presidential advisor, excluding allowances and other privileges, is estimated by the Public Service at US\$2 million.

presidential advisor at US\$48 million (salary plus benefits) per year is equivalent to the cost of constructing a running health care centre providing services to at least 5,000 people.⁹⁴

An analysis of the cost of the executive on the public purse is incomplete without analyzing the cost implications of the position of Resident District Commissioners. The office is created under Article 203 of the Constitution as amended. Accordingly, the functions of RDCs are to: a) coordinate the administration of government services in the district; b) advise the district chairperson on matters of a national nature that may affect the district or its plans and programs and particularly the relationship between the district and the government; and c) to carry out such other functions as may be assigned by the president or prescribed by parliament. Like the cabinet and presidential advisors, the number of RDCs has continued to grow both by design and by default.

By design, the positions have been increased through the creation of numerous offices of deputy RDCs and assistant RDCs. By default, the number of RDCs has increased as a result of the increase in the number of districts. In 2003, there were at least 56 RDCs, 48 deputy RDCs and 38 assistant RDCs representing the 56 districts that existed at the time. A 2008 list announcing the appointment of RDCs showed that taxpayers were paying for the services of 80 RDCs and 59 deputy RDCs.

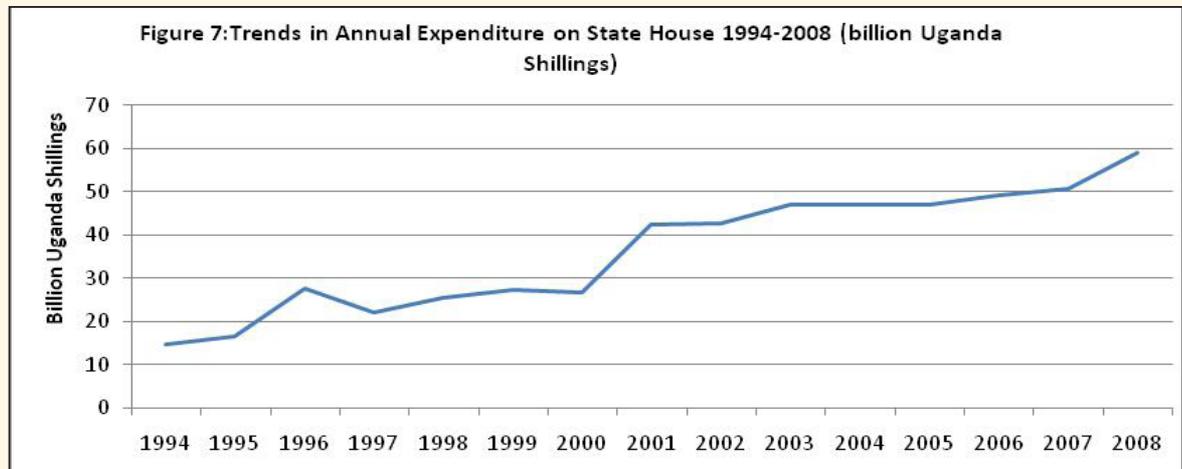
The financial cost of RDCs to the taxpayer can also be examined in the light of the amount of public funds expended on their salaries and other operational expenses, as well as the desirability or relevance of the office. From the outset, it may be argued that the poor functioning of key government institutions at the local level has made the presence of the RDC's office necessary. Beyond the constitutional functions outlined above, RDCs cover up for key institutions such as the police and community development offices because these institutions are either malfunctioning or are not properly facilitated to discharge their duties. Considered from this perspective, it is possible to sympathize with those who argue that RDCs play an important role in the delivery of public goods and services.

However, given that there are already public institutions mandated to perform these functions, the presence of RDCs, and more so in terms of the current numbers, creates an unjustifiable expenditure burden on the taxpayer. For example, at a monthly salary of approximately US\$2 million, the 80 RDCs (excluding deputy RDCs) take at least US\$160 million per month or at least US\$1.9 billion per year. Over a five-year presidential term, the total expenditure on the salary of RDCs amounts to US\$9.6 billion. This figure does not take into account the operational costs including transport, fuel and security entitlements of the person holding the office of RDC. Independent analysis of public service pay shows that an RDC earns at least three times the gross monthly salary of a newly recruited doctor

94 Mugasha F., C. Kassami, B. Van Arkadie and A-M. Berger, 2002. Final Report of the Committee to Advise the President on More Effective Public Administration Budgeting, Kampala: Office of the Prime Minister and Ministry of Finance, Planning and Economic Development.

(US\$626,181), or 10 times the gross monthly salary of the men and women who serve in the military at the rank of private (US\$200,000) or 11.5 times the gross monthly salary of a police constable (US\$174,000).

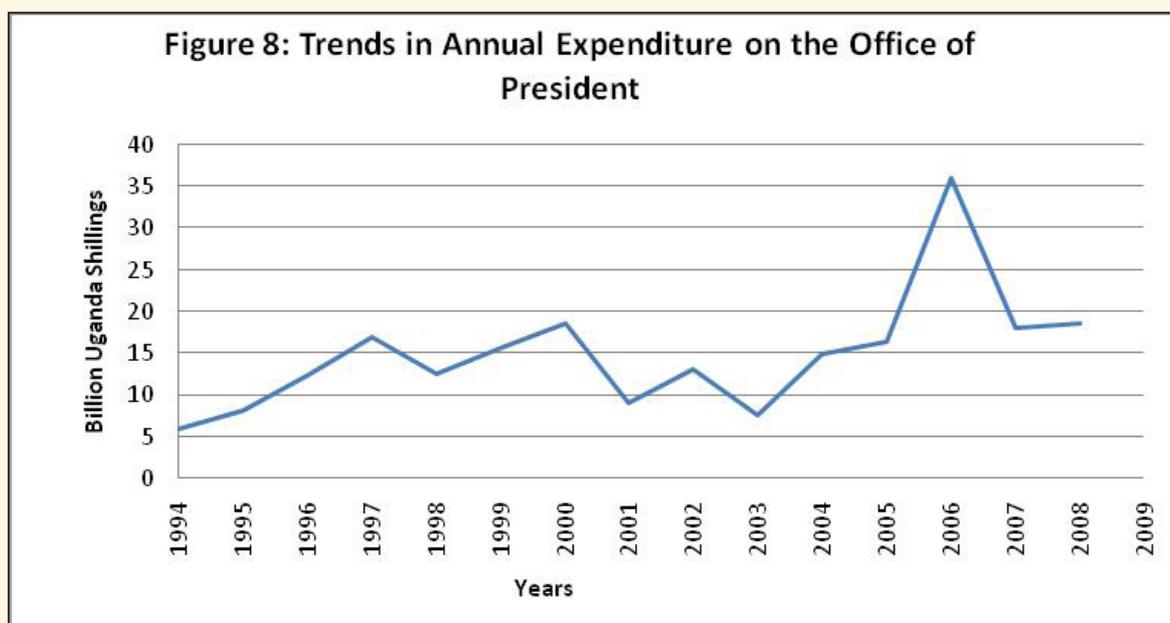
The bloatedness of the Executive is also reflected in the growing expenditure on the Office of the President and State House over the last two decades. For example, expenditure on State House – the official residence of the president – has increased from US\$14.8 billion in 1994 and was projected to reach an estimated US\$58.8 billion in 2008. Figure 7 shows the trends in expenditure on State House from 1994 to the present.



During the same period, expenditure on the Office of the President grew from US\$5.9 billion in 1994 to US\$16.42 billion in 2005 and then increased twofold to US\$36 billion in 2006.⁹⁵ As shown in Figures 7 and 8, there is a huge disparity in budget allocations between the Office of the President and State House with the latter receiving the lion's share of financial allocations under the national budget. Based on annual population and budget data, every Ugandan today, including children, spends at least US\$1,989 on funding the official residence of the president compared to a per capita expenditure of US\$791 in 1994.⁹⁶ Yet, while the Office of the President is a constitutional office that symbolizes Uganda's presidency and should therefore be the locus of executive authority, State House is merely the official residence of the president. In the absence of any constitutional or legal justification for this bias, it can be argued that the shift in the balance of power from the presidency to State House is essentially evidence of the informality with which the government often functions and hence the desire for a bloated Executive.

⁹⁵ It was not possible to establish the exact reasons for this dramatic change during 2006. However, the possible explanation could be that 1996 was a presidential and parliamentary elections year when substantial funds are spent on election engineering.

⁹⁶ In 1994, the population of Uganda was estimated at 18.7 million people and the budget allocation to State House was US\$14.8 billion. In 2008, Uganda had an estimated population of 30 million people and expenditure on State House was projected to be US\$58.8 billion.



Generally, ascertaining the full financial cost to the taxpayer of supporting a bloated executive bureaucracy is complicated by the secretive nature of government agencies and officials. It is therefore only possible to construct these expenditures based on very limited information and data. What is clear from the above evidence is that Ugandans and Ugandan taxpayers are carrying a huge financial burden sustaining a bloated executive made up of a network of offices and officials that overlap and duplicate each other. As already argued, the size of the Cabinet, the number of presidential advisors and assistants, Resident District Commissioners and their deputies can be cut down without causing any loss in terms of service delivery and the effective functioning of the government. Indeed, financial savings from scaling down this bureaucracy can provide much needed resources to support the delivery of key services such as education, sanitation, water and health care. For example, at an estimated cost of malaria treatment of US\$30,000, US\$936 million spent on paying the basic salary of 30 extra ministers could provide malaria treatment and save the lives of at least 31,200 children every year. Expenditure of US\$1.9 billion spent to cover the salaries of 80 RDCs per year is enough to provide malaria treatment to at least 63,333 children over the same duration.

Consequently, the argument about scaling down the Executive bureaucracy and channeling the saved financial resources into important economic and social service sectors is simply an economic and common sense argument. Unfortunately, taking the action required to address this problem is more a question of governance than a question of economics or common sense.

5.3. The Governance Costs: Political Expediency under the NRM

Since 1986, President Museveni adopted a political strategy regarding appointments to the executive which could be used to explain the need for an oversized and expensive government especially in terms of the Executive and the Legislature.

On the face of it, this political strategy was legitimate and facilitated a process of political accommodation. However, the manner in which it has been pursued especially in the post-1995 constitutional dispensation is both questionable and suspect. In the last 10 years, this political strategy has been used to achieve short-term tactical gains rather than enhance the long-term objectives of democratization, government efficiency and national unity. Based on the foregoing analysis, this political strategy has four specific components: ethnic political pluralism; political supervision; promotion of national unity; and political representation of marginalized groups.⁹⁷ The way these elements of the strategy have been pursued to achieve short-term political gains imposes substantial costs in terms of governance.

5.3.1. Ethnic Political Pluralism

One of the major political objectives pursued by the NRM Government is what we may refer to as ethnic political pluralism. In the post-1995 political discourse, the NRM government attempted to justify the need for more cabinet positions as being necessary to achieve the constitutional objectives regarding “unity, non-discrimination and government reaching every part of this country.”⁹⁸ For example, while presenting a motion seeking a resolution of parliament to increase the number of “other ministers,” the then Vice President Wandira Kazibwe argued that “we must make sure that the mirror that is held by the executive has a reflection of every part of this country, every gender, every group, every political thinking, and all the interests of the people of this country.” Indeed, Executive appointments in general and appointments to the cabinet in particular have become the vehicle within which ethnic self-determination can be recognized and rewarded.⁹⁹ The various MPs who contributed to the debate emphasized the need to ensure that each of the 56 districts that made up the country at the time needed to have their share of ministerial positions.¹⁰⁰

As already noted, during the first decade of the NRM Administration, deliberate attempts were made to bring a broad range of interests into the political process. Before 1990, these efforts took the form of a broad-based government that allowed the participation of key political parties and fighting groups in the political process. The NRC provided another platform through which various other interests could be represented.

97 For additional analysis on the changing governance trends under Yoweri Museveni, see Ambassador Johnnie Carson, *A Legacy in Danger* and Joel D. Barkan, *An African “Success” Past its Prime in Challenges and Change in Uganda: Presentations Made at a Conference held on June 2, 2005 under the theme “Uganda: An African ‘Success’ Past its Prime?”*. Woodrow Wilson International Center for Scholars.

98 Hansards Thursday July 12, 2001.

99 Hansards, Thursday 12 July, 2001.

100 See for example contributions by: Aainumu Angupale (Woman, Arua); Kibaale Wambi (Budadiri District, Sironko).

In the case of the former, belonging to a particular political or fighting group provided the criteria for being co-opted into the political process.

In the case of the latter, the NRC representatives were selected through an electoral process hence ensuring the objectivity and neutrality of the selection process. However, ethnic pluralism in the post-1995 constitutional order could only be achieved by an immediate modification of the constitution.

The Museveni-Kazibwe motion sought to rely on the National Objectives and Directive Principles of State Policy as the foundation for promoting ethnic self-determination and argued that increasing the number of cabinet positions was necessary for a president to meet these constitutional objectives and principles.

However, it is important to observe that the National Objectives and Directive Principles of State Policy are meant to be executed within the limits set by the constitution. It is superfluous to suggest that constitutional amendments are the only way to implement the provisions of the constitution. In any case, the entrenchment of ethnic political pluralism has only worked to undermine national unity rather than enhance it and may remain one of the major foundations for building and sustaining political patronage in the country. It can be argued that ethnic political pluralism partly accounts for the ever-increasing size of the executive and its associated costs. Ethnic political pluralism and ethnic self-determination as practiced through ministerial appointments and promoted through the creation of ethnic-based district units are also emerging as the main threats to long-term national unity, political stability, and economic prosperity.

Ethnic political pluralism as a building block for political patronage is equally evident in the creation of new districts. While this issue is a subject of a different study, it is worth mentioning here for two important reasons: First, it drives the process of increasing the size of the executive by putting demands on a president in return for electoral votes. As shown in Table 4 below, evidence shows that newly created districts were more likely to vote for the sitting president compared to old districts. In the absence of any contrary explanation, the granting of district status which is often made before elections is the main reason for such voting patterns. Second, economically unviable districts with their standard and huge administrative and civil service infrastructure impose a significant burden on the taxpaying sections of the population. While the creation of these districts has been consistently justified as a practical mechanism for increasing local governance and improving local service delivery, it is its extreme nature that makes it an issue of contemporary public policy debate in Uganda.¹⁰¹

101 The first explosion of administrative units took place under Idi Amin when he created 10 provincial administrations in 1974 and increased the number of districts from 19 to 37. The provinces were subsequently dissolved and the number of districts reduced to 33. For additional information, see Report of the Commission of Inquiry into the Local Government System 1987.

Election Year	Type of District	President Yoweri Museveni	Other Presidential Candidates
1996	New Districts (6) ¹	89.2	10.8
	Ugandan Average	74.3	25.7
2001	New Districts (16) ²	72.5	27.5
	Ugandan Average	69.4	30.6
2006	New Districts (13) ³	73.6	26.4
	Ugandan Average	59.3	40.7

Source: Electoral Commission data for the respective years

The shooting up of the number of districts from 30 in 1990 to 80+ in 2008 is unprecedented in the history of public administration in any country. For example, at 80+ districts,¹⁰² Uganda surpasses Thailand to become the fourth country with the largest number of the highest level sub-national administrative units in the world.¹⁰³ The trend in the creation of districts in Uganda even comes more into question when compared with other larger African countries as shown in Table 5 below.

Country	Unit Ref	# of Units	Est. Pop./Unit	Population* (Million)	National GDP*
Uganda	District	80	377,500	32.0	\$13bn (PPP: \$54bn)
Kenya	Province	8	4,692,250	36.9	\$25bn (PPP: \$63bn)
Tanzania	Region	26	1,555,923	40.4	\$14bn (PPP: \$57bn)
Sudan	State	26	1,483,077	42.2	\$62.19bn (PPP:88.95bn)
South Africa	Province	9	5,397,444	47.8	\$261bn (PPP:\$695bn)
Ghana	Region	10	2,347,800	23.0	\$14.89 (PPP:\$31.23bn)
Mozambique	Province	10	1,945,182	29.9	\$8.132bn (PPP:17.82bn)
Nigeria	States	37	3,563,784	149.5	\$152bn (PPP: \$212bn)

Source: US Census Bureau; CIA Factbook 2007 and 2008; Wikipedia Online; The Economist, 2008; World Development Indicators.

102 This number could vary if one counted districts whose physical boundaries and leaders have not been established.

103 Russia with has 83 federal subjects, Philippines has 82 provinces while Turkey has 81 provinces

Table 6: Trends in the Creation of Districts from Independence to the Present

Year	# of Districts	Population/District
1962	17	456,365
1968	18	513,711
1971	19	526,853
1974	37	292,211
1979	33	368,115
1990	34	513,412
1991	38	476,474
1994	39	514,256
1997	45	455,718
2000	56	427,786
2005	70	402,843
2006	79	383,071

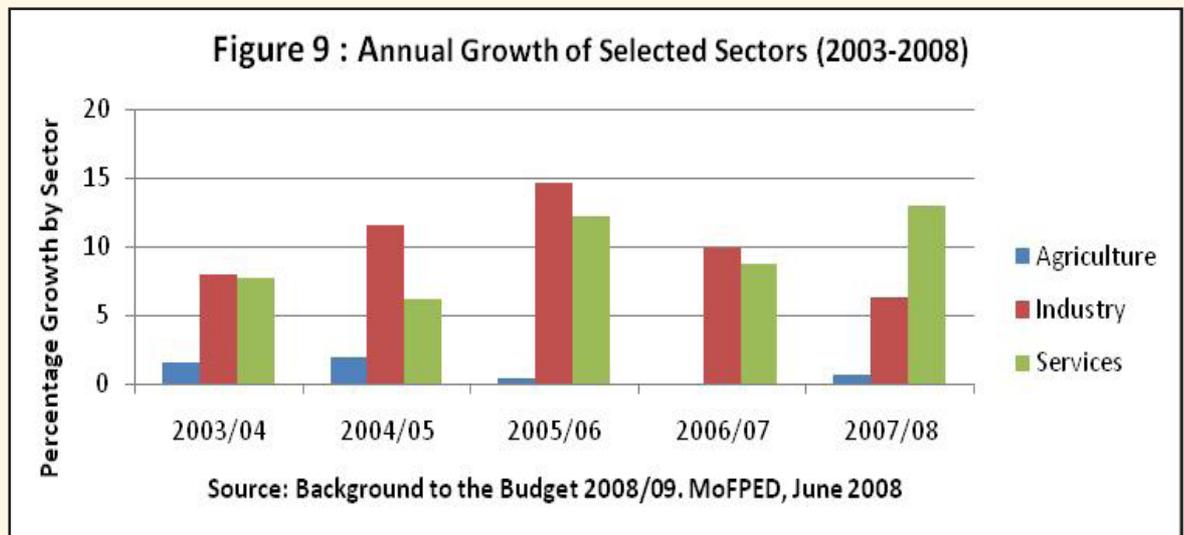
5.3.2. The Myth of Political Supervision

Since 1996, both President Museveni and NRM political operatives in cabinet and parliament have continued to justify an oversize executive as necessary to enhance political supervision to ensure effective delivery of government programmes. However, the key question is to what extent the oversize cabinet or the network of presidential advisors and assistants improve political supervision. Is there value addition to the taxpayer when a new ministry is created or when another minister is added to cabinet?

The evidence clearly suggests no correlation between sector performance and the number of ministers in the sector. Take the example of the Ministry of Agriculture, Animal Industry and Fisheries. The first Museveni cabinet in 1986 had four ministers including two full ministers and two deputies.¹⁰⁴ In 1989, four ministers were deployed to the Ministry of Animal Industry and Fisheries comprising a full minister, a minister of state and two deputy ministers each responsible for research, and disease control and marketing. A full minister and a deputy minister were still in charge of the Ministry of Agriculture and Forestry, making a total of six ministers in this sector. Following the 1992 reforms, the two ministries were merged to form the Ministry of Agriculture, Animal Industry and Fisheries headed by one minister and a deputy minister. Four years later, in 1996, the number of ministers increased to three and then to four in 1998. Since then, this ministry has had four ministers: a full minister and three ministers of state each responsible for fisheries, animal industry, and agriculture.

104 At this time, there were two ministries: Ministry of Agriculture and Forestry and Ministry of Animal Industry and Fisheries. Each of these ministries had a deputy minister.

However, the number of ministers has not helped reverse the declining trends in agricultural productivity and overall sector performance. For example, as shown in figures 9 and 10 the contribution of agriculture to GDP has declined from 50 per cent during the early 1990s to 21.4 percent in 2008 and annual sector growth ranged between 1.6 percent in 2003/04 and 0.7 percent in 2007/08.¹⁰⁵ There have been arguments that this declining trend in the agriculture share of GDP is in fact healthy and may be accounted for by the continuing growth in the industry and services sector, hence signifying some structural transformation of Uganda's economy.¹⁰⁶ Yet, other statistics clearly show that this argument is untenable. For example, 77 percent of Uganda's population aged 10 years or more is employed in the agriculture sector.¹⁰⁷ According to 2002 data, an estimated 75 per cent of Uganda's 5.13 million households were engaged in agriculture while an estimated 68 percent derived their livelihoods from the agricultural sector.¹⁰⁸ Consequently, the suggestions that the contraction of the agriculture sector is an indicator of the structural transformation of the economy, when agriculture still employs the largest percentage of the population, are clearly unfounded. In addition, "political supervision" has not helped stem off the most notorious cases of mismanagement, inefficiency and corruption in the ministry. Cases of mismanagement and corruption such as the infamous Valley Dams Scandal clearly render the "political supervision" argument less intellectually or politically compelling."¹⁰⁹



105 Uganda Bureau of Statistics (2008). 2008 Statistical Abstract, June 2008: Kampala.

106 See for example Keizire, Boaz (2008). CAADP Process in Uganda: Country Study (Final Report). Kampala. pg 9.

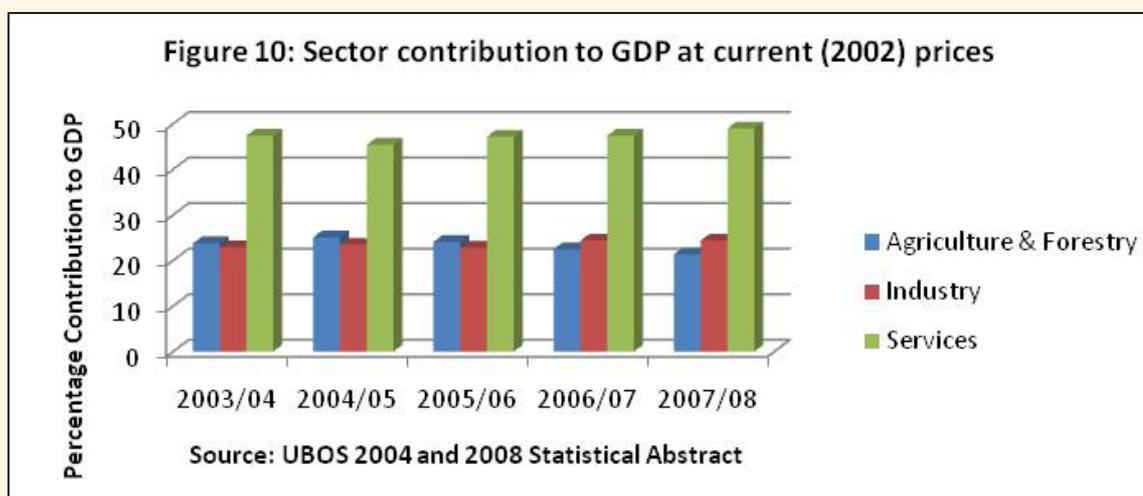
107 Uganda Bureau of Statistics (2005). 2002 Population and Housing Census: Main Report. March 2005.

108 See also, Uganda Bureau of Statistics (2007). Uganda National Household Survey 2005/06: Report on the Agriculture Module. April 2007. UBOS estimates from the survey showed that there were 4.2 million agriculture households, constituting 78.8 percent of all households in the country.

109 The Valley Dams Scandal refers to the inquiry and parliamentary debate on the misuse of money meant for the construction of valley dams across the country. The scandal, which revolved around Vice President Wandira Kazibwe as the senior agriculture minister at the time, almost led to her censure by parliament during 1997-2001.

During the first five years of the Museveni government, special ministries were created for Karamoja, Luwero and Northern Uganda. However, this has not stopped Luwero war veterans from camping at the Parliament Buildings claiming compensation and reparations every election cycle. The fact that Karamoja remains under developed to the extent that the Nation's First Lady has to be deployed as the minister of the region again points to the uselessness of these appointments. Northern Uganda has been embroiled in an insurgency for as long as the Northern Uganda Ministry has been in existence and the development indicators for the region remain depressing.¹¹⁰

Cabinet positions have been established for special interest groups such as the youth, the elderly, the disabled, etc. The ministry responsible for gender has five ministers covering gender, the elderly, the youth, the disabled and culture. Yet, this has not led to any significant gains in key human development indicators and the government has not provided any compelling evidence to demonstrate that political supervision would not be achieved in a normal cabinet line-up. The cabinet reshuffle announced in February 2009 generated excitement because of the appointment of the First Lady and Ruhaama County Member of Parliament Janet Museveni as the Minister of State for Karamoja. The excitement has obscured the fact that in spite of the undisputed compassion and commitment of the First Lady, these kinds of appointments have not delivered transformative changes to the targeted regions.



It is imperative to note that the “political supervision” argument has no merit whatsoever especially because the marginal gain of adding a minister to any sector cannot be ascertained. While the taxpayer foots the bill associated with the office of minister, it is only the appointing authority who gains by appointing an additional minister to a sector since the only net gain is in terms of political loyalty rather than improvement in the performance of the ministry concerned.

110 UBOS and ILRI (2005). *Where are the Poor? Mapping Patterns of Well-being in Uganda*. Uganda Bureau of Statistics. Kampala; UBOS (2009). *Spatial Trends of Poverty and Inequality in Uganda: 2002-2005*. Uganda Bureau of Statistics. Kampala.

Indeed, through a carefully orchestrated plan sustained through strategic political opportunism, the current president has constructed and entrenched the most significant tribal political network known in Uganda's political and constitutional history.

The economic viability and political relevance of this enterprise cannot be in the long-term interest of nation building. On the contrary, President Museveni has increasingly become a hostage of this same network and is unable to change the composition and numerical size of the cabinet.¹¹¹ It is also apparent that unless appropriate constitutional and other safeguards are put in place, the current and future presidents will continuously be held hostage tribal networks as they increasingly become the fundamental building block for political legitimacy and survival.

5.3.3. Representation of Marginalized Groups

Another major factor that has been consistently advanced as a justification for an oversized cabinet is the representation of marginalized groups such as women, the youth, the disabled and workers. The representation of these groups through affirmative action is provided for under the constitution.¹¹² In parliament and at different levels of local government, these groups are guaranteed special status in terms of positions and numerical representation.

It should be recognized that the NRM government has executed the policy of affirmative action with commitment and steadfastness. Indeed, the increased profile and visibility of these special interest groups in the political process is to its credit. Nevertheless, it is still valid to question the usefulness of having specific ministries and ministers and designated officers and advisors within the Office of the President to cater to the interests of the various interest groups. The value-addition of having a minister for labor who may also be an MP, and workers representatives in parliament cannot be easily ascertained. Even if one could argue that this gives psychological satisfaction, this can be achieved in other areas such as employment and education, rather than creating a logjam within the executive.

In addition, there is need to move the debate on representation of marginalized groups beyond the current discourse so that such a debate is anchored within the overall governance frame of the country. Like ethnic interests, marginalized groups are another core constituency that can be manipulated to achieve narrow and short-term political objectives at the expense of long-term national interests.

In carrying out executive appointments, there are no known lines of accountability and responsibility on the part of the represented interests and the persons holding interest group-based positions. In any case, these representatives hold their positions at the pleasure of the appointing authority and hence owe no accountability to the represented interests.

111 In the February 2009 Cabinet reshuffle, all the five former ministers who were dropped from cabinet were redeployed as Senior Presidential Advisors, another ministerial level appointment that is not subject to parliamentary approval and is generally believed to be irrelevant to the effective functioning of the government.

112 See for example Article 78 providing for representation of special interest groups in Parliament.

The above are the apparent reasons that are often advanced to justify a bloated Executive whose collective performance is less than certain at best and clearly wanting at worst. However, these justifications should be weighed against four major factors that explain why the pursuance of the above political strategy is a major threat to creating the democratic foundations for a stable state and prosperous country.

5.3.4. Shift in the Locus of Legislative Authority

The current practice, both inside and outside parliament clearly shows a strategic shift in the exercise of legislative authority from the Legislature to the Executive and the NRM party caucus. It is not difficult to understand how this shift has been achieved while giving a semblance of a functioning Legislature.

First, the executive is responsible for the formulation of national policies that guide the conduct of state business. Second, the executive originates all the major bills given the fact that the Members of Parliament have constitutional limitations on the nature of private members' bills they can originate.¹¹³ Third, key legislative decisions are taken within the NRM Caucus whose decisions are then endorsed by the Legislature. In parliament, the executive is assured of almost 60 votes even before the debate starts. Naturally, cabinet ministers cannot be expected to vote against a bill or motion introduced by the government of which they are a part. This is in addition to the ruling NRM Party having an absolute majority in parliament and the apparent tendency of all the members of special interest groups to vote with the ruling party.

In this context, it can be argued that Uganda is in fact operating in the 1967 constitutional mode while maintaining a semblance of separation of powers articulated in the 1995 Constitution. An oversize cabinet is one of the strategies that have been used to hijack and undermine the authority and autonomy of parliament. Changing this power dynamic therefore requires either scaling down the size of the cabinet or creating restraints that prohibit ministers from voting on the bills they have already endorsed in cabinet.

5.3.5. A Strategic Emphasis on Welfare Programs

It is also important to recognize the relationship between the economic philosophy of the NRM government and the politics of appeasement on one hand and political consolidation on the other. During its first decade, the NRM pursued a robust

113 Article 93 therefore provides thus: Parliament shall not, unless the bill or motion is introduced on behalf of the Government – (a) proceed upon a bill, including an amendment bill, that makes provisions for any of the following: (i) the imposition of taxation or the alteration of taxation otherwise than by reduction; (ii) the imposition of a charge on the Consolidation Fund or other public fund of Uganda or the alteration of any such charge otherwise than by reduction; (iii) the payment issue or withdrawal from the Consolidated Fund or other public fund of Uganda of any monies not charged on that fund or any increase in the amount of that payment, issue or withdrawal; or (iv) the composition or remission of any debt due to the Government of Uganda; or (b) proceed upon a motion, including an amendment to a motion, the effect of which would be to make provision for any of the purposes specified in paragraph (a) of this article.

economic strategy emphasizing macro-economic stability, private sector-led growth and economic efficiency.

However, as poverty levels remained high and the political landscape shifted towards electoral politics, there has been a deliberate effort to develop and maintain political support from the rural masses and the private sector. This has been achieved through executing a socially responsive but politically strategic rural economic strategy comprising four key elements: welfarism – emphasizing social welfare programmes such as UPE, USE, primary health care; tax relief – entailing abolition of local tax regimes which in effect is impairing local government revenue-generating capacity and making them clients of the central government; administrative engineering – entailing the creation of multiple and mostly unviable administrative units including the creation of new districts; and private sector clientalism – entailing selective allocation of “incentives” including land and tax exemptions. In effect, an oversize cabinet and other political jobs dispensed through favors is a delivery mechanism for these welfare programs.

These welfare programmes are well aligned with the populist agendas of any government that puts regime survival above long-term national development strategies and transformation. UPE for example is a popular programme that appeals to the rural and urban poor but it does not produce the next generation of scientists or entrepreneurs that Uganda needs to compete not only in Africa but also globally. Creating new districts is popular with local political elites but that is no strategic investment in the countries strategic sectors such as education, agriculture or industry. Even abolishing taxes for the majority rural population provides a basis for political support. However, overloading the taxes on the emerging middle class undermines savings and stifles the creation of small businesses and jobs. In effect, an economic strategy built on populism and welfare perpetuates welfarism and poverty no matter how much sloganeering any government makes about economic transformation.

5.3.6. “Strategic Political Opportunism”

Over the last two decades, Uganda’s political landscape has shifted tremendously. During the first decade of the NRM government, President Museveni was never subjected to any elections whether through universal adult suffrage or electoral colleges. As a result, the president often tried to do what was in the best interest of the country without having to worry about building and sustaining political alliances often needed to win elections in Africa’s quasi democracies. However, as the political landscape shifted towards electoral politics, both the president and the political elite sought to forge a new alliance that guarantees their perpetual political survival. Hence we have witnessed a new “strategic political opportunism” that is built around party allegiance rather than national interest. In this new alliance, strategic political opportunism has a supply and demand correlation to it. On the demand side, different political interests including ethnic groups represented by local political elites who see politics as an employment “safe haven” are driving this process from below.

On the supply side, the president who needs to build a patronage and client network continues to supply these positions. This is what we call strategic political opportunism.

This is called strategic political opportunism because either party involved in the bargain stands to benefit personally from the outcome of the process. This personal benefit rather than national interest consideration is the primary motivation for arriving at an agreement. For example, when a ministry is created, MPs who support the president are potential candidates for appointment into cabinet while the president benefits by capturing the tribal constituency represented by the appointed minister. When a new deal to increase salaries for MPs is reached, the same MPs who vote to increase salaries benefit from the same package and the executive supports the motion because of the backing guaranteed for its legislative and spending programmes.¹¹⁴ This is mainly possible when there are no legal or administrative restraints to the creation of new political and administrative positions or where such restraints are negotiated away as part of a grand political bargain as was the case when parliament voted on several occasions to increase the number of ministers.

6. CREATING WIN-WIN OPTIONS: AN AGENDA FOR REFORM

The issue of a bloated executive – and the associated financial and governance costs – has emerged as public policy issue number one in today’s Uganda. However, the problem affects different stakeholders in different ways. Ugandan taxpayers are shouldering a huge tax burden footing the bill needed to finance this bloated executive. Indeed, although local revenue collection has, for example, increased from US\$5.01 billion in 1986 and is projected to reach US\$3,850.7 billion in 2008, taxpayers in formal employment have not experienced any reduction in their payroll taxes. The majority of ordinary Ugandans are also shouldering a significant economic and social burden through loss of lives, lack of access to health care, a poor education system, lack of clean water and, limited economic and employment opportunities. On the other hand, the other actors who have the constitutional and political responsibility and mandate to address the problem, in particular the president, the cabinet and Members of Parliament, have vested interests in keeping the status quo. Consequently, the challenge is to find common ground and actions that address these vested interests while maintaining a focus on the need to implement key reforms to build a durable democratic dispensation as the primary foundation for socio-economic transformation and prosperity for all. The set of reforms below will be needed to achieve this broader strategic objective.

114 In some countries such as the United States, the law prohibits people from directly benefiting from decisions that may result into an advantage if they participate in making such decisions. For example, because Senator Hillary Clinton voted to increase the salary of the Secretary of State when she was a Senator, the decision had to be reversed to pave way for her being Secretary of State in the new Barack Obama Administration.

6.1. Executive Powers of Appointment

One of the major outcomes of the current structure and size of the executive is that accountability for results is sacrificed through the diffusion of responsibilities among several institutions and individuals. None of these individuals and institutions has a clear-cut command of the resources required to justifiably take responsibility for performance of the whole task. Constitutional restraints on the powers of appointment exercised by a president would benefit both the country and the appointing authority through the creation of an efficient government and bureaucracy. An efficient government that is able to provide the broad range of goods and services would guarantee its electoral fortunes through legitimate citizen support rather than being held hostage by fortune-seekers and ethnic enclaves. Consequently, parliament should introduce legislation to provide a new formula for establishing cabinet positions. A rational approach is to base such a formula on population so that all the other considerations such as ethnicity and religion become subject to this overarching criterion. Such an approach would help reduce the size of cabinet while creating a sense of national responsibility in the persons appointed to cabinet positions. In addition, positions such as those of presidential advisors which are at the level of a minister should be limited substantially and subjected to the process of parliamentary vetting and approval.

6.2. Separate Cabinet from the Legislature

The question as to whether cabinet ministers should also be MPs remains valid today as it was during the work of the Odoki Commission, mainly because of the reasons that have been advanced in this paper. Both the Odoki Commission and the Sempebwa Commission clearly noted that the majority of Ugandans are firmly of the view that there should be clear separation of powers between the Executive and the Legislature. A large cabinet is a key tool that can be used to undermine parliamentary autonomy and hence the oversight powers of parliament. The current situation where ministers originate bills, debate and endorse them in cabinet meetings, and then appear in parliament to vote on them clearly defeats any logic or rational discipline. Indeed, it is unlikely that the independence of parliament can be achieved when ministers are also MPs and allowed to vote on legislative matters. The blurring of the lines of accountability between the Legislature and the Executive is a fundamental governance issue that can be addressed through bold and selfless actions from the MPs. The objective for such reform is to ensure that cabinet ministers become national public servants and are not held hostage to potential ethnic cleavages. On the other hand, parliament would regain its independence, autonomy and authority so as to help the sitting president in demanding accountability and performance on the part of the ministers.

6.3. Emoluments for Legislators: Legislate Against Conflict of Interest

Under the 1995 Constitution, the Legislature in general and MPs in their individual capacities are vested with the responsibility to safeguard the public trust by upholding constitutional discipline. It is largely parliament that has the duty to tame the insatiable tendencies of the executive that result into a bloated government and the associated inefficiency and wastage. However, MPs naturally have vested interests which motivate them to enter into strategically opportunistic alliances with the executive. In the absence of appropriate restraints, MPs are motivated to make demands for increased payments and other benefits. Since the constitutional limits on the terms of a president were removed from the constitution, presidents will continuously pay off MPs so that they support their presidential bids. Consequently, it is important that new rules be enacted to prohibit MPs from directly or indirectly benefiting from decisions they participated in passing, provided that such decisions, directly or indirectly benefits the MPs. For example, the law should prohibit an MP who votes in favor of increasing the number of cabinet ministers from taking up a cabinet position even if an offer of appointment was made. Equally important, it should be made illegal for an MP who votes in favor of a decision to increase the emoluments of MPs from directly or indirectly benefiting from such a decision during the same parliament. This means that a sitting parliament can only make a decision for increasing the emoluments of the subsequent parliament but not the one that is making the decision.

6.4. Functional Analysis of Government Agencies

Clearly, the government has over the last decade created a whole range of institutions and offices which partly account for the increasing financial burden on the taxpaying public. Beyond the essential logic of creating institutions to run the government, many of these have been established as knee-jerk responses to institutional failure and malfunctioning of existing public institutions. The major result is that overlapping institutions with diffuse responsibilities have been created leading to increase in inefficiency and corruption. Changing the current trend to reverse the bloatedness of the government, increase accountability and improve governance requires a substantial reorganization of the government and its institutions. In the past, government ministries have been required to undertake a functional analysis to enable them redefine their mandates and institutional structure. However, it is apparent that it is the entire government that requires a functional analysis rather than knee-jerk interventions focusing on individual government ministries, departments or agencies.

6.5. The Role of Civil Society: Third Party Force for Reform

Members of the Executive and individual MPs have vested interests in the status quo because they benefit politically and in pecuniary terms. However, consultations during the course of this study revealed that there are many MPs both within the ruling NRM and the opposition parties who are concerned about the current trends

and the growing cost of public administration expenditure on the taxpayers and their constituents. In any case, there is potential to create convergence involving MPs, the executive and the public by refocusing attention on the need for “smart government” and the political dividends that accrue to politicians when the government responds to the economic and social demands of the population. However, the MPs need the support of the public in pursuing the necessary reforms and creating incentives for the executive to support such reforms. Civil society organizations can play a meaningful role in brokering such a working relationship motivated by the desire to identify and pursue win-win options for all the concerned parties. It is therefore important that a working group of members from the civil society and parliament be created to provide a platform for pursuing these recommendations.

7. CONCLUSION

This paper has examined the financial and governance implications of a bloated executive that has emerged since the ascendance to power of the National Resistance Movement government in 1986. It has been argued that despite the constitutional restraints on the appointing powers of the president, the Executive and the Legislature have over the years conspired in a mutually beneficial relationship to remove those restrictions and allow the sitting president to construct one of the most extensive executive bureaucracies ever in Uganda’s near-half a century of independence. Based on a detailed analysis of both quantitative and qualitative data, the paper makes four broad conclusions. Firstly, a bloated executive epitomized by an oversize cabinet, an extensive network of presidential advisors and presidential assistants and a host of quasi-public service appointments such as RDCs is undermining good governance and cost-efficient government. Unrestrained appointments are used to construct an embedded political patrimony network, while mandate overlaps and diffusion of institutional responsibility have clearly undermined efficiency, accountability and fiscal discipline. Secondly, although the NRM Government brought about a rebound in the economy maintaining an average growth of 6 per cent over the last decade, the increased government revenue has mainly gone into sustaining networks of political patronage instead of improving socio-economic conditions of the ordinary Ugandans. As argued in the paper, this is evident from the fact that socio-economic indicators have stagnated over the last decade, payroll taxes for people employed in the public sector have not reduced and, corruption has grown into a cancer that is consuming the fabric of society.

Thirdly, there is still a window of opportunity to change course and reverse the current trends. However, this is largely achievable if the sitting government focusses on the strategic long-term transformation of the country rather than short-term regime survival considerations. It is important to recognize that President Museveni, the NRM party and Parliament have consistently expressed commitment to good governance and efficient government. However, tapping this potential goodwill requires the participation of third parties. In this case, organized civil

society will be essential in creating the momentum for reform. Finally, the issue of public administration expenditure is not only associated with the executive. There are a number of other areas that should be studied to provide evidence that can support necessary actions and reforms. Another study focusing on the cost of the Legislature was undertaken as part of this series of studies. Future studies should focus on enhancing the understanding of public administration expenditure at the local government level and the cost of key processes such as commissions of inquiry.

SELECTED REFERENCES

Amii Omara-Otunnu (1987). *Politics and the Military in Uganda, 1890-1985*. Macmillan Press. Oxford.

Brown, D. and Brown, M. (Eds.), 1996. *Looking Back at the Uganda Protectorate: Recollections of District Officers*. Douglas Brown. Dalkeith, Western Australia.

David Heald and Alasdair McLeod (2002), "Public Expenditure", in *Constitutional Law, 2002, The Laws of Scotland: Stair Memorial Encyclopedia*, Edinburgh, Betterworths.

Harvey, C., and Robinson, M., (1995). *Economic Reform and Political Liberalization in Uganda*. IDS Research Report 29, Institute for Development Studies.

Human Rights Watch, (1999). *Hostile to Democracy: The Movement System and Political Repression in Uganda*. New York.

Kabwegyere, T. B. (2000). *People's Choice, People's Power*. Fountain Publishers. Kampala.

Makubuya, K., Mwaka, V.M., and Okoth, P.G., (1992). *Uganda: Thirty Years of Independence*. Kampala: Makerere University.

Mugasha F., C. Kassami, B. Van Arkadie and A-M. Berger, 2002. *Final Report of the Committee to Advise the President on More Effective Public Administration Budgeting*, Kampala: Office of the Prime Minister and Ministry of Finance, Planning and Economic Development.

Museveni, Y. (1992). *What is Africa's Problem? Speeches and Writings on Africa by Yoweri Kaguta Museveni*. NRM Publications. Kampala.

Museveni, Y. K (1997). *Sowing the Mustard Seed: The Struggle for Freedom and Democracy in Uganda*. Macmillan. London.

Mwenda, A. and Tangri, R., (2005). *Patronage Politics, Donor Reforms, and Regime Consolidation in Uganda*. *African Affairs*, 104/416, 449-467. Oxford University Press. London.

Nelson Kasfir (1976). *The Shrinking Political Arena: Participation and Ethnicity in African Politics, with a Case Study of Uganda*. University of California Press. Berkeley. Los Angeles. London.

Obote, M., (1970). Proposals for New Methods of Election of Representatives of the People to Parliament with the President's Memorandum. Kampala: UPC National Headquarters.

Ofcansky, T. (1996). Uganda: Tarnished Pearl of Africa. WestviewPress. Boulder, Colorado.

Republic of Kenya (1985). The Uganda Peace Talks Agreement for the Restoration of Peace to the Sovereign State of the Republic of Uganda. Nairobi.

Republic of Uganda (2004).Poverty Eradication Action Plan (2004/5-2007/08). Ministry of Finance, Planning and Economic Development. Kampala.

USAID, 2005. USAID/Uganda Annual Report, 2005.

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