Fundamental change or no change? The process of constitutionalizing Uganda


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Introduction: Fundamental change or no change in Uganda?
“Fundamental change” was the pledge with which the National Resistance Movement (NRM) seized power in Uganda in 1986 after almost two decades of civil war. And “no change” was the slogan with which its leader, Yoweri Museveni, ran his presidential campaign ten years later. There is no doubt that things have indeed changed: Uganda is currently experiencing its first longer period of relative stability and peace since independence. The government has implemented an array of economic and political reforms, and it has had one of the highest growth rates in Africa during the last decade. As a Ugandan journalist puts it: It used to be a shame to hold a Ugandan passport, and many nationals in exile changed their names to sound un-Ugandan. Uganda was a ramshackle rubble plagued by shortages and misery. A place where rampaging soldiers murdered people with impunity on the streets, and terrified citizens barricaded themselves in their homes at 5:30 pm. Museveni changed all that. Despite the armed rebellion in the north, Uganda today is one of the most “in” and “coolest” places in Africa.

But to what extent have the rules of the political game really changed? The purpose of this paper is to examine exactly that. It intends to do so by studying both formal and informal rules in Uganda and discussing first, whether the rules have changed and second, what it would take to change them further towards a widely accepted democratic constitution. In order to fulfill its purpose, the paper will start by discussing what the concepts of institutional change and institutional continuity means in an African context. It then applies these concepts to the Ugandan case and ends by pointing at a paradox that needs to be solved in order to “depersonalize” Ugandan politics: President Museveni has provided the conditions for constitutional rule, yet at the same time, he is busy undermining these very conditions.
Theoretical inquiries: Institutional continuity or institutional change in sub-Saharan Africa?

There are no functioning formal institutions in sub-Saharan Africa. This is the general message in Robert Jackson and Carl Rosberg’s *Personal Rule in Black Africa* (1982). After independence, the public realm shrank and a “world of private power” emerged (p.2). In this world, leaders are not restrained by rules; power is not checked by institutions but by other powerful individuals; and governance is not about navigation (i.e. directing a ship towards its destination) but about seamanship (i.e. staying afloat). In a system of personal rule, it is the leader’s ability to govern that matters. It matters, because this ability, rather than effective political institutions, determines whether or not peoples are provided with essential political goods such as peace, order, stability and non-material security. Political order is arbitrary and depends entirely on the ruler. This is why, say Jackson and Rosberg, it is so important to study leadership rather than constitutions in Africa. The authors develop a leadership typology ranging from princes, who rule by co-optation and private agreements over autocrats, who rule by domination and outplaying of opponents, over the idealistic and visionary prophets to the evil tyrants, who rule by creating fear. Although these four types of institution-less rule share core features such as clientelism, patronage, factionalism and succession crises, their prospects for institutionalization vary. By institutionalization, Jackson and Rosberg mean the gradual process from personal to constitutional rule (p.275-281). The conditions for institutionalization are stability and time to let actual behavior become in accordance with the rules. Princely rule, according to the authors, is the most stable and is consequently the most likely of the four types of personal rule to become institutionalized.

Because of the want to focus on the importance of leadership, Jackson and Rosberg tend to undervalue the importance of the institutions that actually do exist in an African context. The authors adopt John Rawls’ definition of institutions as “public sets of rules which define offices and positions” (p.11), and they thereby define away the existence of informal rules, codes and norms. A broader definition of institutions seems more appropriate, such as Oliver North’s (1990): “Institutions are the humanly devised constraints that shape human interaction......Institutions are both formal rules and informal codes” (p.3). Also March and Olson argue for a wide perception of institutions as embodying both “formal organizations, systems of law, social organization and identities or roles” (1995;27). Such a wide definition of institutions allows a focus on stability as well as on disruptions, because the long lasting institutions in tropical Africa tend to be informal rather than formal. Informal constraints as well as formal rules serve to reduce the costs of interaction, and although the type of personal rule matters decisively with regard to political order, order can also be preserved by informal structures, such as dense social networks (North,1990;37).

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1 Charles Onyango-Obbo, The East African, May 12-18, 1997. In this paper, quotes from newspapers or weekly’s which are longer than two paragraphs will be italicized.
The challenge which a wide definition of institutions poses is that it opens for “an unwieldy shopping list of institutions” (Bratton and van de Walle, 1997;44), and analysis risks becoming a messy affair.

So, there is a need to be specific about which informal institutions to look for. Although in very different ways, both Goran Hydén (1983) and Jean-Francois Bayart (1993) focus on stability rather than change in sub-Saharan Africa. They see stability because they focus on informal institutions that are deeply ingrained in African politics and society. Goran Hydén’s point of departure is the pre-capitalist mode of production which characterizes the region: A peasant economy has a rudimentary division of labor, small production-units, no product-specialization and hardly any surplus production. This means that the productive and reproductive needs of the peasants can be met without support of other classes -or of the state. The peasant can do without the state and considers it an outside intervenor. When the state is taxing the peasants, it taxes an already existing stock of goods, not a surplus as in a capitalist system: "The state sits suspended in mid-air” like a balloon with no structural or functional links with the system of production (Hydén, 1983; 7). At the same time, paradoxically, the state is penetrated (the balloon is punctured) by a characteristic pattern of social relations. By what Hydén calls "the economy of affection". This is a peculiar type of economy apparent in any society with a peasant mode of production. It "denotes a network of support, communications and interaction among structurally defined groups connected with blood, kin, community or other affinities" (p.8). The civil servant, for instance, feels loyalty to his kinship-group rather than to the national community. On a small scale, the economy of affection serves many important functions, like surviving a drought, or getting a job in the city. But combined with large-scale organizations, the economy of affection has devastating consequences because it tends to drain organizations from resources. An understanding of this is important, says Hydén, because it shows the difficulty of reforming African politics. "As long as the hidden social base of most African power-holders is the economy of affection....., the state will serve merely as an arena of rivalry among political clans" (p.60). In other words, informal institutions are so stable that changing the rules of the political game will be extremely difficult.

Jean-Francois Bayart disagrees with Hydén’s notion of African societies as being somehow incompatible with the imported Western states. He wishes to understand African politics as a set of practices that have developed over the longue duree. These practices are essentially the same as before the colonial era: They are about “eating” in a wide sense, about “politics of the belly” (Bayart, 1993.ix). Politics of the belly refers to more than corruption, it refers to a power-struggle which in the last instance is a matter of life and death. It is a struggle for social mobility and about allocating scarce resources (p.235). The long term historical trajectory has produced a distinct
political space where a man of power who is able to amass and redistribute wealth becomes a man of honor (p.242). This space has developed over a long period of time along country-specific paths and it links earlier inter-ethnic clashes with later ones. In this space, political discourse reflect and shape political praxis and vice versa, and by studying the discourse, one can identify a “field of what is politically thinkable” (p.247). The politics of the belly and its discourse are very deep-seated, and they are only marginally affected by structural adjustment programs, elections or wars, for that matter. In other words, informal institutions are so stable that changing the rules of the political game will be extremely difficult.

The three academic works outlined so far help us identify institutional continuity: Jackson and Rosberg because of their focus on leadership and personal rule, Hydén because of his sketching of affective ties and Jean-Francois Bayart because of his analysis of the stable political discourse. They also help us point at specific informal institutions instead of picking some at random. Yet, none of the three are well adopted to the analysis of change, they do not leave much room of maneuver to political actors.\(^2\) In later studies, however, Hydén emphasizes the actor dimension (Hydén, 1992). He draws attention to “the creative potential of politics”, and especially “the ability of leaders to rise above the ordinary, to ‘change the rules of the game’ and to inspire others to partake in efforts to move society forward in new and productive directions”\(^3\). From this perspective, Bratton and van de Walle notes, “the prospects for change hinge less on the constraining conditions inherited from the past than on the skills of individuals at seizing opportunities” (p.26). But the perspective expresses an excessive voluntarism that does not allow the identification of more long term trends and tendencies.

Bratton and van de Walle adopt a “polico-institutional approach” that allows the identification of both innovation and continuities in sub-Saharan Africa during the 1990’s. The innovations are elections, leadership turn-over and the end of (de jure) one-party rule. The continuities are identified as at least three informal neo-patrimonial institutions. The first is presidentialism, which implies “the systematic concentration of political power in the hands of one individual” (p.63); the second is clientelism, which denotes a system of personal favors and patronage in return for loyalty and support between patrons and clients; and the third is the use of state resources for political legitimation. The three institutions help to further narrow the identification of informal patterns of behavior. Jackson and Rosberg are mainly preoccupied with the phenomenon of presidentialism; Hydén sees the three institutions as consequences of affective ties, but I think he sees more than that. The exchange that takes place within the in-group does not necessarily have to be between

\(^2\) See Clapham, 1994 for a critique of Bayart and his lack of focus on change.

\(^3\) quoted in Bratton and van de Walle, 1997;25
patrons and clients. It could also be reciprocal, between equals. To clientelism, I would thus add “affective ties”. Bayart’s “belly-politics” brings in the focus on political discourse. If “the field of what is politically thinkable” changes, so does political behavior. I would thus add “political discourse” to the analysis. In other words, we know have four independent variables: presidentialism, clientelism and “affective ties”, the use of state resources, and the political discourse. They all denote informal institutions, and it is possible for us to analyze whether they have changed under a new political leadership, or whether they are unaltered and “out of the leadership’s reach”.

When new leaders come to power in Africa, they usually discard the old constitution in order to craft another. Making up new rules tend to be easier than to make them last long. This is why informal rules normally represent continuity in Africa while change occurs in formal rules. But could it not be imagined that some formal rules remained the same while some informal rules gradually changed? Or that both changed simultaneously? Oliver North points out that “formal rules can complement informal constraints (by lowering information, monitoring and enforcement costs), but they can also modify them” (1990;46, emphasis added). Likewise, Robert Putnam finds evidence to support his hypothesis that institutional reform affects political behavior. The setting up of regional councils in Italy gave more power to the regions and facilitated the struggle for more financial autonomy (Putnam, 1994;17ff). Further, the reform gradually changed the political culture of the regional elites to becoming more tolerant and more prone to compromise than before the reform. As Putnam puts it: “the regional reform nurtured a new way of doing politics” (p.38), or in other words, changing the formal political organization has consequences for informal patterns of behavior as well. An analytical framework should allow for all possible directions and interactions of change and continuity.

For purposes of analysis then, when the desire is to find answers to the question: “How much have the rules of the political game really changed?”, there should be a focus on formal, as well as informal rules; on change as well as continuity. With regard to formal rules, the present paper focuses at the constitution, how it might differ from the previous Ugandan constitution and whether it reflects some of the informal institutions in Uganda. With regard to informal rules, the following analysis will attempt to identify changes and continuities pertaining to presidentialism, clientelism and “affective ties”, the use of state resources for political legitimation, and the related political discourse.

**Empirical inquiries: Change or continuity in Uganda?**
In Uganda, change has to be seen in relation to before and after 1986 when the National Resistance Army (NRA) and its leader, Yoweri Museveni, won the civil war. Since then, relative peace and stability has been established. Relative, because there is still an armed rebellion in the North and there is also a rebellious group operating in Western Uganda. Nevertheless, the last 13 years have been calm compared to the preceding two decades of civil war and chaos. This condition was achieved primarily by maintaining a high military discipline, and by co-opting fractions from the enemies’ armed groups into the NRA (Kjær and Svensson;1997). As the introductory quote indicates, Ugandans now have a leader who, in Jackson and Rosberg’s phrasing, is able to provide political goods, but whether he can also provide lasting political institutions is another matter. It is a question of analysis whether Uganda has moved along the continuum of personal rule from less capable rulers to a more capable one; or whether it has indeed made a qualitative jump towards more institutional rule.

After a brief period in power, the National Resistance Movement (NRM) government soon initiated a comprehensive reform package based on a broad vision to fundamentally change both state and civil society (Regan, 1995). The government adopted an economic reform program supported by the international financial institutions which consisted of liberalization and privatization strategies (Langseth, 1996). It started a process of decentralization and introduced “grassroots-democracy” built on resistance councils (now called local councils) which were elected at five levels ranging from the village level to the district level (Mugaju, 1996). A donor-supported demobilization effort began, and also, the president appointed a commission to review the public service and to draft a report which made recommendations for radically changing the service. Finally, a long process to craft a new constitution was initiated; a process that culminated in 1996 where national parliamentary and presidential elections were held. The NRM won a majority of the seats in parliament, and Museveni won the presidency with nearly three quarters of the vote.

**Formal institutions: The 1995 Constitution of Uganda compared**

The present constitution is Uganda’s fourth. The first was the independence constitution. It was never really adopted by Ugandans as their own, both because of the way it was crafted (under influence from the British), and because it had an inbuilt tension. The tension was due to the fact that the constitution gave the Buganda kingdom a special federal status which was not granted to the other three kingdoms within Uganda’s borders. The second constitution from 1966 was a result of the brake between Milton Obote’s UPC-party and the Buganda kingdom. It abolished kingdoms and

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4 According to a member of the commission who I interviewed during a research-visit in the spring of 1997, the commission was more hesitant with regard to some radical reform steps than was the president. Museveni was very suspicious towards the civil service, because it had served under previous corrupt regimes. The commission mentions in the report how exceptionally wide its terms of reference were (PSRRC, 1989).
effectively consolidated UPC-rule. Milton Obote’s rule became a dictatorship not because of, but in spite of the constitution (Furley, 1997). Still, the informal institution of presidentialism was clearly reflected in the third Ugandan constitution, crafted by Obote in 1967. It left most powers to the executive: The president was allowed all appointive powers and all powers to discipline or remove persons from public office without consulting anybody and without the approval of parliament or a parliamentary body.⁵ Oloka-Onyango states that “the 1967 constitution severely undermined and eroded the powers and operation of a host of public offices and of the legislature and the judiciary. Parliament became publicly known as ‘the house of parrots’, a tradition which has remained largely intact ever since” (Oloka-Onyango, 1996;193).

Compared to its predecessor, the constitution from 1995 is more democratic in the sense that it gives parliament and the judiciary more autonomy. The most important rules for democratic control with the executive are there, namely “...no person or body other than (the elected) parliament shall have power to make provisions having the force of law in Uganda”⁶ and “It shall be the duty of the president to abide by, uphold and safeguard this Constitution and the laws of Uganda”⁷. Neither does the president have the full range of appointive powers as he did in the 1967 constitution, because he must seek the advice of various commissions, for example the Judicial Service Commission when appointing the Chief Justice, and he must have the approval of parliament as well.⁸

The 1995 constitution contains a number of innovations (in comparison with the earlier constitutions) which are worth mentioning: It provides for a more comprehensive diffusion of powers than the previous constitutions. Chapter Eleven on local government codifies decentralization as a principle: “the system shall be such as to ensure that functions, powers and responsibilities are devolved and transferred from the Government to local government units in a coordinated manner”⁹. It also has provisions that ensure elected local councils and financial independence for the local authorities.¹⁰ In addition, the authority to recruit, promote or fire personnel is divided from having been concentrated in one public service commission to several

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⁵ For example, Article 64 of the 1967-constitution provides that “the president may promulgate such ordinances as the circumstances appear to require ‘upon the advice of the Cabinet and when the legislative Assembly is not in session’” (Oloka-Onyango, 1992;54).
⁶ CoU, Art 79(2)
⁷ ibid;Art 99(3)
⁸ According to the 1995 Constitution of Uganda, the president appoints the Public Service Commission (art 165(2)), the Education Service Commission (art 167(2)), the Judicial Service Commission (art 146(2)) and the Chief Justice (art 142(1)), but only with the approval of parliament.
⁹ CoU;Art 176(2)
¹⁰ Art 176 (2) (d): “There shall be established for each local government unit a sound financial base with reliable sources of revenue”. Articles 190-197 establishes the details of the finances of local government, and article 180 is about local councils.
commissions; for instance a new health commission.\footnote{Chapter Ten of Uganda’s constitution.} This power-diffusion contrasts with the 1966 and 1967 constitutions which were used by Obote to tighten his hold on power. They thus contained provisions for the centralization of power and they abolished kingship (Mutibwa;1992). Other innovations in the 1995 constitution are a leadership code of conduct and an “Ombudsman” - the inspectorate of government.\footnote{Chapter 13 of Uganda’s constitution deals with an inspectorate of government, and Chapter 14 with a leadership code of conduct, which among other things, requires “specified officers to declare their incomes, assets and liabilities, and how they acquired or incurred them” and “prohibits conduct (i)likely to compromise the honesty, impartiality and integrity of specified officers; (ii)likely to lead to corruption in public affairs; or (iii)which is detrimental to the public good or welfare or good governance” (Art 233 (2)).} Both are expressions of an attempt to combat corruption by building institutions that ensure accountability.

The process in which the 1995 constitution came into being was in itself innovative. It tried to avoid earlier errors by making the process more inclusive. In 1988, the government set up a 21-member constitutional commission\footnote{Chapter Ten of Uganda’s constitution.} which was to “seek the views of the ordinary citizen through the holding of public meetings, debates, seminars and workshops throughout the country” ……, thus ”enabling the people to participate in the making of their own constitution and, arguably, having been actively involved, the people would respect and uphold the new constitution and in the long run prevent its subversion” (Furley, 1997;246-7). In the time that followed, the commission held a series of public meetings in all sub-counties (Regan, 1995). In 1993, the commission’s work culminated in a draft constitution which all observers agree had been widely debated. In March, 1994, nation-wide elections for a Constituent Assembly were held, and in September 1995, this assembly enacted the new constitution. Whether the peoples views were in fact taken into consideration or whether the constitution-making process was dominated by an NRM-elite is an important question, but for the present papers purpose, suffice it to say that the process was indeed an innovation compared to the way in which the 1966 and 1967 constitutions came into being.

Then, there was not much public debate. As Phares Mutibwa puts it: “The 1966 constitution was more or less dictated to parliament” (Mutibwa, 1992;58). The 1967 constitution was more debated but it was passed by an assembly whose electoral mandate had already expired (Mugaju, 1996).

In spite of all the innovations, however, there are certain provisions in the constitution which give the executive more power than is usually accepted in democratic political systems, and which can be seen as reflections of the long informal tradition for presidentialism in Uganda. Art 98 (5) says that “civil or criminal proceedings may be instituted against a person after ceasing to be president” (emphasis added). According to Oloka-Olyango, this is unfortunate, since Ugandan presidents have shown a tendency towards staying in office for as long as they can (!!), and therefore, potential
criminal proceedings may be postponed for a long time (Oloka-Olyango, 1996:200). Critics in fact allege that the long constitution-process reflects, not the wish for democracy, but rather an excuse for Museveni to stay in power for as long as he can. The NRM initially declared that it would only stay until elections in accordance with a new constitution could be held. This would take two to four years (in 1988 or 1990). But due to a prolonged constitution-making process, elections were postponed and finally held in 1996, after 10 years of NRM rule. This long process in itself reflects the informal institution of presidentialism in Uganda.

The most important reflection of presidentialism, however, is that the constitution severely restricts the freedom of association. It lines up a lot of rules and regulations regarding political parties at the same time as it tends to “under-regulate” the movement system. Art 29(e) guarantees the right to “freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organisations”. But Art 269 severely restricts that right. It says that “until parliament makes laws regulating the activities of political organisations … political activities may continue except (a) opening and closing branch offices (b) holding delegates conferences; (c) holding public rallies (d) sponsoring or offering a platform to or in any way campaigning for or against a candidate for any public elections; (e) carrying on any activities that may interfere with the movement political system for the time being in force”. This provision has in fact been used by the NRM government to draft a movement bill and a political parties bill - where the latter is much more restrictive than the former. The reason why these articles are a reflection of presidentialism is that they serve to mitigate opposition and thus to consolidate Museveni’s power. Whether the “multiparty-system” or the “movement-system” shall be in the constitution will be subject to an election in mid-2000. The National Resistance Movement was successful in creating a broad-based consensus among various factions after the civil war, but the attempt to constitute the NRM might create future constitutional crises, since the parties and fractions continue to exist nonetheless.

In sum, there are both innovations and continuities in Uganda’s new constitution. The most important innovation is the stronger control with the executive and the relatively less power which is concentrated in the executive. The most important continuity is that, in spite of this control, the informal institution of presidentialism has its clear imprints on the constitution and its making, especially when one considers the prolonged period of NRM-rule and the severe restriction on political party activities.

13 The setting up of the constitutional commission was passed as a bill in parliament on december 21, 1988 (Furley, 1997).
Informal institutions: Continuity or change?

Presidentialism

The informal institution of presidentialism has already been shown to be reflected in Uganda’s constitutional rules. But it is also reflected in government actions, particularly with regard to repressing the opposition: There are frequent and continuous reports of government harassment of opposition members (Dicklitch; 1995/96). The Internal Security Organization has repeatedly visited private meetings by party adherents, and government officials have been trying to prevent the parties from raising funds by selling party cards. The minister for Justice and Constitutional Affairs has declared these party activities unconstitutional although the constitution says nothing on the issue of party cards. Another example is that some opposition groups are forced to have their meetings abroad. The Acholi tribe cannot have its assembly inside of Uganda, because “if some of the Acholi exiles traveled to attend it they would be arrested for sponsoring rebellion against the Museveni government”\(^\text{14}\). Donor countries have for a long time expressed their concern with this state of affairs. A particularly vocal critic has been the (former) American ambassador, Michael Southwick: “Mr Museveni’s vision for the country is one where the monopoly on power stays and the opposition forces can’t compete”.\(^\text{15}\) This treatment of the opposition has led some to argue that the NRM rule in principle is no different from the way Uganda has been ruled by one party in earlier periods. Omara-Otunnu, for instance, argues that “Museveni’s ‘no-party’ democracy is a deceptive formula for the monopolisation of state authority by one powerful group in Uganda” (1992:462).

Power is concentrated in the hands of Museveni: He doubles as the leader of the Movement and the head of government. He controls parliament because the NRM has a big majority among its members. Presidentialism can thus be established as a continuing feature of Ugandan politics. But are there changes? The above clearly indicates that there has not been a qualitative jump from personal to institutional rule. The person still matters more than the institutions, and it is uncertain whether the current system will continue to exist when Museveni retires. Yet there has been a change towards “a milder degree of presidentialism”. The Inspectorate of Government (IGG), the Public Accounts Committee (PAC) and a largely free press all contribute to increasing the level of accountability, even in spite of the fact that the chief of the IGG and the members of the PAC are said to be strong NRM supporters. The parliament has gained strength since the elections in 1996. It is more “assertive and quarrelsome”\(^\text{16}\), and it gives the cabinet more homework than it is used to. Museveni ran into resistance when wanting parliamentary approval of one of his most recent proposed cabinet reshuffles. The appointments committee demanded that the president explained

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\(^\text{14}\) The EastAfrican, July 6 -12, 1998  
\(^\text{15}\) The Economist, April 13, 1996  
\(^\text{16}\) as Onyango-Obbo puts it in the EastAfrican, May 14 -20, 1998
the criteria he used in selecting the new ministers. Even though parliamentarians spend “most of the time discussing their own allowances”, they do not constitute the same “house of parrots” as under Obote.

Use of state resources for political legitimation
When the NRM took power in 1986 it followed a co-optation strategy to obtain a broad consensus and establish political stability. This was clearly a use of state patronage for the purpose of legitimation. In 1989, the Public Service Review and Reorganisation Committee stated that 32 ministries with 32 ministers, 16 ministers of state and 21 deputy ministers were too many. It pointed out that “the spoils system is widened to embrace all NRC members (i.e. members of parliament) not otherwise holding substantive ministerial jobs”, and that the government was “bloated to accommodate all shades of political opinion and former military might” as well as a “regional, ethnic and religious balancing in the interest of national unity” (RoU, 1989;30). The necessity of satisfying everyone by way of patronage has not changed since 1989. The constitution puts a limit to the number of ministries, and it has been reduced to 21. But there are now a lot more ministers than there are ministries. After the election in 1996, President Museveni appointed as many as 61 ministers. A majority of them is said to belong to the old guard in Ugandan politics, and they are unpopular because they are known to be corrupt and incompetent. The reason why such a high number was necessary was -with Museveni’s own words- to satisfy a promise he made to tribes, religions and other groups during his election campaign. Read the Monitor April 9, 1997: “…In Kisoro, Museveni is considered a liar as far as cabinet appointments are concerned…He promised to give Kisoro a ministry, and the people are looking forward to that (a local politician) said sending members cracking with laughter”.

Many of the party leaders who could have constituted a strong opposition have been co-opted into the government. Dani Nabudere states that they “were very eager to take whatever office was offered to them” and that they are now “well kept and feathered in the ‘broad-based’ structures of the movement” (1996;148). They are not interested in losing the benefits which a position in government offers, and therefore, they do not function as representatives of the opposition. A more recent cabinet reshuffle in August, 1998 is also an expression of the president’s use of patronage for political legitimation. The reshuffle promoted all ministers of state to the ranks of cabinet. It also

17 EastAfrican, August 3 - 9, 1998
18 As one Ugandan political science professor expressed it to me in an interview in the spring of 1997.
19 The Monitor, August 21-23, 1996
nominated two important opposition members for ministerial posts, one of them an old UPC-veteran, and another a vocal multiparty-ist; both from Northern areas.\textsuperscript{20}

State resources other than patronage are used for political legitimation. It is widely known that during the last three elections (the CA-elections in 1994 and the parliamentary and presidential elections in 1996), the NRM campaigned by using public funds. In 1996, for example, the Economist wrote that “state support for the president’s campaign was over the top”, and that the president “dips into his $3m presidential fund to hand out new four wheel drive cars to church leaders across the country”.\textsuperscript{21} The independent newspaper, The Monitor, reported that presidential pledges and donations made to the public were in arrears and that the president had gone beyond his budgetary provisions (April 9, 1997). He was advised to stick to cash donations rather than physical materials like iron sheets, vehicles and bricks, because these latter pledges were harder to fulfill.

The use of state resources for political legitimation is an institutionalized feature of Ugandan politics and it continues under Museveni’s rule. Yet this use is of a milder degree than before 1986. While outright looting of public resources was the order of the day during Amin to the extent that it lay the economy in ruins, conditions were not much better during Obote’s second rule from 1980 to 1985, where the elite, with Phares Mutibwas words, was “busy milking the cow”, and the economy did not recover at all (Mutibwa, 1992;152). Again, a change in degree rather than in form can be observed.

\textit{Clientelism and “affective ties”}

The use of patronage for political legitimization also exists on a tribal basis: Museveni has been observed to recruit mostly from Western Uganda, his own home-area. For instance, a reshuffle in the army in 1996 resulted in 35 new appointments out of which 23 were from the west; 8 of these 23 were from Rwakitura (Musevenis area of birth).\textsuperscript{22} This is against Article 210 in the constitution (from 1995) which says that the members of Uganda Peoples’ Defence Forces should be recruited from every district of the country. Charles Onyango-Obbo asks the question, “\textit{Does it matter that one is from the west}”? And answers, “\textit{Yes, it does...being from the West allows a backdoor entrance into the Movement and an opportunity to negotiate your way up. Thus, if you are from Mbarara, you are likely to have a good reason to go to Mbarara funerals, to Mbarara weddings, to birthday parties of the Mbarara elite and get to present yourself with some of the most powerful men in the land}”.\textsuperscript{23}

\textsuperscript{20} The EastAfrican, August 3-8, 1998
\textsuperscript{21} The Economist, April 13, 1996
\textsuperscript{22} The Monitor, August 21-23, 1996
\textsuperscript{23} The Monitor, April 30, 1997
Large parts of the Ugandan population think of the government as Western and consider it to favor the Western region when it comes to allocating resources. The Ugandan newspapers often print letters by angry readers who feel that their area is not getting its part of the cake. An observer notices that there is no infrastructure in West Nile and that West Nilers believe there is a deliberate (NRM) policy to marginalize the area; that there is a deep-seated mistrust between the government and the people of West Nile: “West Nile bridges remain unrepaid even though there is donor money for the job. But there is no will to do it, and the area lacks the necessary political clout to push government bureaucrats to act. But the Masaka-Mbarara bridge (the West) was quickly fixed because the Minister for Works has pushed for action here, and because the big men in their Pajero’s and Nissan Patrols pass through here”. 24 Another observer reports more or less the same conditions in Arua, also a Northern district where there is still an armed rebellion. 25 And further: “The Acholi are viewed by many (southerners) as killers. For all NRM’s 11 years in power there has been that silent but conspicuous ‘us and them’ attitude in dealing with the Northern question. The predominantly Western NRM government and the Acholi still can’t talk frankly and honestly with each other -even to simply agree to disagree. Northerners feel that the system treats them unfairly”. 26

But not only are many northerners full of mistrust towards the government. Some Baganda (from the largest Southern kingdom), who formed the alliance with the NRM, express the same views. They are of the opinion that the government has let them down, and they feel deceived because they supported Museveni and his National Resistance Army and facilitated his winning the civil war in 1986. Thus, one Luganda expresses his remorse: “the Baganda are ostracized by the very regime they helped bring to power and they are now selling off their land to make ends meet” and “Buganda’s interests are not catered for in Museveni’s regime”. 27 Although Museveni did restore the kingdoms, many Baganda are disappointed that they did not get a federal constitution. They see the current unitary state and its decentralization provisions as undermining their kingdom because it is split into smaller administrative units with their own resource base. “The 1995 constitution was written to dismantle the Buganda Kingdom just like the 1967 constitution did to Obote’s government”. 28 It should be noted that whether these perceptions are true or not does not matter as much as the fact that many people do have these opinions.

24 The Monitor, April 3, 1997  
25 The Monitor, April 4, 1997  
26 The Monitor, April 8th, 1997  
27 The Monitor, April 5th, 1997  
28 The Sunday Monitor, June 27, 1997
Corruption is an expression of continuing “affective ties” to the extent that it is the use of public funds for the purpose of favoring persons within the same ethnic group or clan. The recent reports of a corrupt privatization program belong to this category of corruption. Museveni’s brother, Major General Salim Saleh had to resign from his post as the president’s security advisor, following his confession that he had secretly bought the state-owned Uganda Commercial Bank using funds from the Greenland Bank whose chief executive was then removed from his post. Journalist Joachim Buwembo expresses his concern that the ones who fought the bush war from 1981-86 and were everybody’s heroes have now become thieves. There is corruption and favoritism on behalf of ones in-group on the highest political level, but also down through the system. Hydén calls it “the economy of affection”. Onyango-Obbo calls it “the Ugandan village mentality”: “Where what is right is what serves best one’s self, his family, village, county or district. A politician who steals from government and gives to his village is a hero who is difficult to unseat in an election”.

Clientelism and affective ties are thus continuing features, but they have gone through a change of character: Various Ugandan observers report that tribalism appears to have become stronger under Museveni’s rule. Under the headline “tribalism resurfaces in Ugandan life and politics”, Joachim Buwembo observes that “the speed at which Ugandans are today moving back to reidentifying themselves with their tribes is amazing. Just when we thought that the enlightened post-1986 age would help them become more broad-minded, do they instead turn to their smaller communities of origin”. Charles Onyango-Obbo also takes notice of the “new fascination with tribe” and mentions that the tribes even have their own chat forums on the Internet, such as Bagandanet or Acholinet. This strengthening of tribal identification may have many reasons, but it is likely that the government under Yoweri Museveni could have avoided it by not outlawing party politics and tribalism (the so-called Anti-Sectarian Act), and by not itself giving the impression that it practices recruitment on a regional and tribal basis rather than on merit. Although all Ugandans are in principle members of the Movement and that the Movement is meant to be a uniting force, it is perceived as representing only one or a few of Uganda’s various groupings. Onyango-Obbo says that “apart from the churches, there is no single country-wide institution which brings together over 500.000 Ugandans voluntarily. There is no such political party, no co-operative movement, no such trade union, no such youth movement, or business organisation. There is nothing to compete against tribe”.

31 The EastAfrican, August 3 -9, 1998  
32 The EastAfrican July 6 -12, 1998  
33 Ibid
**Political discourse**

Obbo tells a story about Museveni and Obote and the way they mutually accuse each other which illustrates that the “regionalist” or “tribalist” way of thinking goes quite deep. Obote had provoked Museveni by alleging that he was not really a Ugandan but a refugee from Rwanda and that his father was not really Mr. Amos Kaguta but some unknown foreigner. In return, Museveni had commented that Obote -with his long and bushy white hair- looked like a ghost when appearing at a public event. These remarks were not accidental on either side, Obbo explains, because westerners have had the reputation of being nomads, wandering cattle keepers with no stable sexual relationships and with many loose women. Northerners (and non-Bantus), on the other hand, have traditionally been viewed upon by southerners and westerners (Bantus) as being ugly, beastly and “animal-like” in appearance, hence Museveni’s reference to a ghost! These stereotypes still thrive today, and the symbols have, as this example shows, found their way into the political discourse.

Another aspect of the political discourse is when the talk is about democracy. The definition of democracy is far from agreed upon and neither are the rules of the political game. For instance, Cecilia Ogwal, leader of the Uganda Peoples Congress (the party of Milton Obote) says: “We stand for true democracy, we are here to support a democratic system, not a military-backed monopolistic dictatorial system (as the present one)”, and she goes on: “The government seems to have given the wrong impression that it is moving towards true democracy. It is fake! I have been telling people openly that it is not true. This man, Museveni, is entrenching himself daily militarily. The whole country is being militarised to support a dictatorial system. The more Museveni is given time the more he will entrench himself and it will be very difficult for us to uproot him. The sooner the outside world can help us get rid of him the better it will be for Uganda”. Cecilia Ogwal denies that the UPC has ever supported a one-party state, not even after the 1966 crisis where Obote abolished the kingdoms. Museveni expresses a very different understanding of democracy: “Uganda could not possibly be more democratic…….There is a world of difference between a no-party democracy, which we have proclaimed, and the one-party state which used to exist in Africa…….In our system we let all trends contend within the Movement: there are rightists, leftists, Marxists, feudalists, etc. No tendency is excluded”. UPC clearly feels that it is not allowed to compete for power, but its rhetoric also reveals that it is doubtful whether UPC would allow others to compete if it came to power. The fact that the rules of the game is still so strongly contested reveals that politics to a certain extent still is a matter of the winner taking it all. In this sense, the political discourse is still about “politics of the belly” to use Jean-Francois Bayart’s expression.

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34 The Monitor, July 27, 1997
35 The Courier no. 141, Sept-Oct, 1993;27
36 ibid;25
In sum, presidentialism, clientelism and “affective ties”, the use of state resources for political legitimation and their related political discourse continue to exist in Uganda. But the informal institutions are not static and they are not “out of the government’s reach”. They have changed during the last 13 years of NRM-rule. Presidentialism and the use of state resources are not as strong features of Ugandan politics as they used to be: “...Museveni differs fundamentally from his predecessors like Idi Amin (and) Milton Obote....in the dignity he has brought to the presidency. When Museveni came in, out went arbitrariness, gluttony, drunkenness, the public clowning, and irrational public utterances and actions that had marked most past presidents.37 There is more control with the executive, and systematized robbery of public funds no longer takes place. One could say that from Idi Amin’s tyranny over Obote’s autocracy, Museveni’s rule comes closer to Jackson and Rosberg’s princely rule: The prince rules with rather than against other oligarchs and shares power with them by co-opting them, he manipulates clients, rules by making pacts and agreements and presides over the struggle for preferments (1981;78). But the type of rule is still personal rather than institutional. And the tribalist element have become stronger during Museveni’s rule. This is paradoxical, since the very purpose of the Movement-system was to avoid tribalism and sectarianism.

Future perspectives: towards constitutional rule?

This paper has identified institutional structures so deeply ingrained in Ugandan society and politics that they cannot be changed within a decade or two. These institutional continuities inhibit change towards constitutional rule, and as such, they function as constraints on the current leadership. The government cannot ignore the pressure for patronage and the expectations from various ethnic, tribal and regional groupings that they also get a slice of the cake. In order to legitimize itself, the government is forced to take these pressures and expectations seriously. Yet, given the structure of institutions inherited from the past, president Museveni has showed a remarkable ability to create a larger room of maneuver for himself, and his government has been innovative: Under President Museveni, the consequences of personal rule has not been as harsh as under his predecessors. Ugandan citizens currently enjoy more political goods than ever before. But they cannot yet profit from institutional rule. And the current movement-government has not only changed the rules of the political game for the better: tribalism has become more marked during Museveni’s rule. This indicates that the government could do more to improve the conditions for constitutional rule.

Uganda has come a long way. Yet as the millennium draws to a close, the risks of sliding back into chaos seem as big as the chances for further institutionalization. The analysis above has pointed at a paradox: The present government has created unique conditions for constitutional rule: stability,

37 The Monitor, January 1, 1998
peace and “princely rule”. Yet it is simultaneously undermining these conditions by recruiting on a tribal basis in a larger degree than the underlying institutional imperatives demand. The Ugandans’ perception of the government as Western will be difficult to remove. In order to remove it, the government must make moves to build infrastructure and improve services in the North, and it should become better at the art of “regional balancing”. The Ugandan leadership also needs to give the Baganda the impression that their cooperation with the NRM was worthwhile. Many Ugandans are of the opinion that the Movement-Buganda alliance has already broken down, and that Buganda might switch to the UPC once again. This would probably mean the beginning all over of a new constitution building exercise. The government should not officially ignore that tribalism and sectarianism exist by incorporating all groups into the Movement. The attempt to constitutionalize the Movement system is likely to create even more sectarianism and unrest. In order to ensure stability, Museveni would do best to not run for the next presidential elections due in 2001. That way, he could monitor a peaceful leadership succession, he could stay backstage in the political scene as a stability factor, a bit like Julius Nyerere in Tanzania. By doing this, he would give the impression that the Movement is truly committed to democracy and he would be able to make sure the army stayed out of politics under a new leadership. Donors and financial institutions would do well to try to avoid that their funds get used to favor the West. They could channel their funds directly to the districts, and they could try to put more pressure on Museveni to crack down on corruption and to allow political party activity.

Fundamental change or no change? Fundamental change because there is now peace and stability. No change, because there is still personal rule. For the first time since independence, the conditions for constitutional rule are there. Within the institutional constraints identified in this paper, it is up to the government to either build its constitutional house on quicksand by “going tribal” or to search for a more solid foundation.

References


