

"The Constitution has restored what Obote took away from our people...."

By David Mukholi

A GOOD government is one that can accomplish the essential executive tasks of choosing and formulating policies in a way that expresses a clear symbolic direction, and guaranteeing that those policies will receive effective implementation," wrote Sergio Farbrini, an associate Professor of International relations at the Instituto Universitario Orientale in Naples.

Furthermore, Sergio says in performing the former task the executive must convey a sense of public purpose, forged through interaction with public opinion, that counteracts the inertial of well-organised minorities and other powerful interest groups.

In performing the latter task the executive must make its decisions 'stick' in order to carry out coherent policies."

Understandably the executive is not the sole state organ at the helm of governance, the legislature and the Judiciary all work independently in the management of the state.

The Executive is composed of the President and the cabinet, whose function is broadly to execute the law as passed by the legislature. In addition the executive develops policies and directs the administration of the state in accordance with the law.

On the other hand the legislature, which is the parliament elected by the people; in effect representing them acts as a check on the executive by examining its (executive) plans, policies and functions.

The legislature articulates people's interest and ensures that the executive meets the aspirations of the people and the national goals. While the Judiciary is an organ of state, administering and interpreting the law and judiciously resolving disputes.

The Judiciary should be independent in performing its functions, and the executive and the legislature should not assume judicial powers.

All these are spelled out in the new Constitution, this prompts optimism in the Constitution to regulate powers among the organs of state and create harmony. In the past conflicts in governments revolved around the executive interference in the legislature and the Judiciary. The 1967 Constitution concentrated power in the executive, which exerted its influence on the legislature and worse still interfered with the Judiciary.

This created a scenario of

From chaos to order



A gesture of power devolution. President Yoweri Museveni presenting a copy of the Constitution to the Mayor of Kampala, Christopher Iga.

fusion of powers of the state organ, consequently the emergency of dictatorship. People's voices were suffocated, laws were flouted as the executive run government as a circus enterprises without popular representation through the legislature. In such an environment, the people's rights on how they should be governed were sacrificed.

During the promulgation of the 1995 Constitution, President Yoweri Museveni said "the Constitution has restored what Obote took away from our people, enfranchising the people of Uganda."

He added that when the NRM captured power its goal was to restore Uganda on the constitutional road. Central to this path, is to provide rules of governance, and adequately defining the roles of the state organs within the precepts of separation of powers.

To symbolise power separation, President Yoweri Museveni performed a ceremony of presenting copies of the Constitution to the three organs during the promulgation. He as a representative of the executive retained one, and presented a copy to Justice Seith Muiyinda, who received it on behalf of the Judiciary, and another to the Vice Chairman of NRC Haji Moses Kigongo representing the Legislature.

As a gesture of devolution

of power to the districts all the Chairmen of the 89 district councils each received a copy of the new Constitution.

Following the abrogation of the 1962 Constitution by Obote, the powers of both the Legislature and the Judiciary were greatly tampered with. Also affected were powers of the districts and federal states to conduct their affairs.

All the powers were withdrawn and concentrated under the Central Government. A country that had been under 68 years of colonial rule, had no strong institutions. So after inde-

In the new Constitution, presidential powers have been remarkably reduced from the date of promulgation. The President has now got to take decisions with the approval of the Parliament. The Parliament has considerable powers to hold the executive accountable.

Implying that presidential appointments have to be approved by parliament. And in discharge of his duties as the executive head of state, the president has to conform to the Constitution with constant vetting of his decisions by Parliament.

The new Constitution has prominent mechanism of checks and balances of the

president, members of Parliament and local government leaders, the people will be investing in both the executive and legislature. So both the executive and legislature are accountable to the people.

The people's power is further enhanced by having the power to recall the member of parliament for failure to representing them effectively. This will make the members of parliament more accountable to the people.

Similarly the people now have the power to fight in defence of the Constitution as provided in Article 4 (a) "All citizens of Uganda shall have the right and duty at all times to defend this Constitution and in particular to resist any person or group of persons seeking to overthrow the established constitutional order."

Suspension, overthrow and abrogation of the Constitution is outlawed. The 1967 Constitution was characterised with several suspensions to allow groups of people form government by proclamation which was actually extra constitutional means.

But because the Constitution was not popular, it had been debated and enacted by a National Assembly whose term in office had expired and it alienated the people from the rulers. In this case the people did not mind about the extra constitutionalism if at all they understood it.

Even the NRM itself had to suspend parts of the 1967 Constitution to enable it establish a government in 1986. Such means of ascending to power will in future be unlikely if all Ugandans commit themselves to the rule of law.

The chequered political history of Uganda is partly attributed to disrespect and people's ignorance of the Constitution. This coupled

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pendence they could not appropriately carry the enormous powers at the centre. This was the genesis of mismanagement.

With all the power under central Government the executive was strengthened, and most especially the president who was entrusted with a lot of powers. This is one aspect that nurtured dictatorial tendencies in the leadership.

Under the 1967 Constitution the president was arrogated such powers that he would appoint and dismiss government officials at will and also decide on crucial issues without adequate consultation.

For instance the president had power to declare war, he could direct the Inspector General of Police on maintaining and securing public safety and also had powers to dissolve parliament.

executive. It requires that the president be directly elected.

In the past it was the political party that had won majority seats to present its presidential candidates to become president. Going by the obsession of political parties in Uganda, voters in real terms voted the party not the presidential candidates.

This hindered wider legitimacy of the president and certainly affected his popularity. In fact under the 1967 Constitution the president had no popular mandate to decide on important national issues especially when not subject to the scrutiny of parliament.

Now power has been given to the people to decide how to be governed through referenda or elections.

By directly electing the

with competition for power among political groups and struggle for pre-eminence integrated political order.

Since 1967 over concentration of power in the presidency attracted heated contest for the seat at the same time those in leadership hang on power aggravating the situation.

The old Constitution did not limit the presidential terms. Politicians then argued that limiting presidential terms was tantamount to denying one the right to contest for power. But it actually feathered dictatorship, fortunately the new Constitution limits a president to serve a maximum of a two five year term.

The 1995 Constitution has a strong emphasis on the people, and reflects the people's participation by submitting views to the Uganda Constitutional Commission which analysed them into a draft Constitution which was debated by the Constituent Assembly and produced the new Constitution.

According to Article 1, people have the power, and they shall be governed through their will and consent in regular free and fair elections or referenda. Government will derive its power from the Constitution which derives its authority from the people who agree to be governed constitutionally. This evokes John Locke's theory stating that Government is not legitimate unless it has the consent of the governed and that civil wars and revolutions do not often decide how a country is governed but only make it impossible to govern a country. So by the new Constitution's prescriptions, Uganda is set on a definite course from chaos to order.

- National Resistance Army (NRA) renamed Uganda Peoples Defence Force (UPDF)
- Central Government Representative (CGR) becomes District Resident Commissioner (DRC)
- Teaching Service Commission is now the Education Service Commission (ESC)
- Following the promulgation of the constitution, the Vice Chairman of NRM and his deputy are now referred to as the speaker and deputy speaker respectively.
- The political head of a district is the District Chairman
- The following districts now carry ethnic identities as:-
- Kapchorwa of Sebei; Moyo of Madi Kitgum, Gulu of A'hoi; Lira, Apac of Lang'o; Iganga, Jinja, Kamuli of Busoga; Kabarole of Toro; Hoima, Masindi of Bunyoro; Kabanga, Mukono, Luwero, Mpigi, Masaka, Rakai, Mubende, Kiboga, of Buganda. Bushenyi, Mbarara, Ntungamo of Ankole.