THE CAUSES AND IMPACT OF THE 1971 COUP AND ITS
AFTERMATH ON THE 1967 CONSTITUTION OF UGANDA: A
CRITIQUE.

A Dissertation submitted in partial fulfilment
of the requirements for the degree of Bachelor
of Laws, University of Nairobi.

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1982
DEDICATION

To my Mother whom I have never SEEN;

AND

You countless fellow Ugandans past, present and future.
Who toil daily to build a prosperous Uganda:
And get slain or persecuted beyond human endurance in the process.
Preface

Regulation L.4 of the Faculty of Law - University of Nairobi for the award of the LL.B. degree makes it compulsory for Third Years to write and submit a Dissertation/Research Paper. The latter is therefore, first, a compliance with the aforesaid regulation, and secondly a reflection or indication of the student's field of interest. But the very fact of compulsion coupled with absence of financial assistance to defray the costs of the research and subsequent typing of the script makes the Dissertation - which is otherwise a unique opportunity of creativity for the student - an abysmal drudgery.

The research itself can give the undergraduate concerned one hell of a hard time. This is especially so when assistance is denied, progress is obstructed, motive misjudged and the researcher is warily regarded everywhere he goes for help. That summarises my various attempts to verify certain information while I was in Uganda. The only open place was Makerere University - Main Library. And what it could do for me, Ghandhi's Library at Nairobi University could - and that was not much.

It is however conceded that, with the situation at home, suspicion is to be expected. But to encounter severe vigilance is rather disconcerting and yet paradoxically expected. It is only a naive researcher who will go about asking for the list of Dr. Obote's detainees when it is his government in power now. Withstanding the aforementioned, the researcher underscores his indebtedness to those lumpen proletariats and bureaucrats who assisted him. He also extends his appreciation to Ministry of Education - Kampala for its attempt to introduce him to the Bank of Uganda for the limited financial assistance
sought - although to this minute I am writing it has not been received. Besides, the Ministry's introduction for the attainment of necessary Travel Documents is appreciated. My thanks also go to my Supervisor - Professor Dietrich Kappeler whose mature scholarship made possible this submission. His constructive criticism made the exercise as painless as possible. I would also like to extend my deep appreciation to Mr. Reuben Omwakwe (Senior Assistant Librarian Incharge of Periodicals Section) who incessantly and untiringly assisted me in respect of the dissertation and in my general academic work for the year 1981/82. Finally, the list would be incomplete if I did not mention the invaluable assistance of G.S.O. Odhiambo an Assistant Engineer with V.O.K. And Ms. Esther Waithira Kung'u for typing this work.

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[NKRUMAH HALL (13)],

19 May, 1982.

ADONGA LOKOLI
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When Major General Amin (as he then was) led a coup d'etat which toppled President Obote's government, Eighteen reasons were advanced to justify the coup. The reasons rationalised the shortcomings and blunders of the overthrown regime although Amin chose to look at them as the foundation of the coup d'etat. And if the coup was founded on the Eighteen reasons, then its implication was that the shortcomings inherent thereunder should be rectified by the introduction of appropriate corrective measures in the post coup period.

The view that Dr. Obote's government had committed serious blunders needs no substantiation. The truth of the matter is that on the premise of rationalisation, Amin could have given many more reasons than just the so called Eighteen.

In a nutshell, Dr. Apolo Milton Obote's government was dictatorial. This is borne out by the fact that Uganda had been arbitrarily declared a one-party state and all other political parties banned. This was partially due to the fact that President Obote's government shirked elections. It is also for this reason, besides others, that the Premier and his cohorts overthrew the 1962 Constitution. This action not only ensured their continuity in office but also ruled out General Elections on a multi-party basis which was due.

Once established, the new order frowned on the citizen's constitutional right to freely express himself. Criticising the government, for example, made one a detention casualty. An instance was the case of Advocate Abubakar Mayanja, the brain of the defunct Kabaka Yakka. [See Salim Lone: Amin p. 18]
In short, there was a burning need to replace - not reform - Dr. Obote's government with a more progressive system. But the irony is that the dictatorial regime was rightly removed, but for the wrong reasons! If Amin had not staged a coup, he would have had to face the prospect of a very foggy future. Nevertheless, if the general had not acted first, some person(s) would have removed the dictatorial regime for the right reason.

The dissertation by examining the authenticity of the so-called Eighteen reasons, demystifies and lays them bare. The reasons are a cloak, a sham and a veil; and the veil should be lifted. Amin turned against his master because his job, future and life were in jeopardy. For personal reasons, as opposed to his assertion personified in the Eighteen reasons, the general took liberty with the Obote order and toppled it. This thesis is supported by the result of a critical analysis of the acclaimed historic reasons. The alleged Aminist foundation for the coup does not stand the result of a scrutiny of the historical facts. An interpretation based on a historical approach reveals that personal and not institutional considerations were behind the coup initiative.

Besides the historical rejection of the Eighteen reasons, the true litmus test for the alleged reasons obtain in events subsequent to 1971. These events prove that Amin would not have cared less for the failures of the deposed regime had Obote not set about axing him. Amin's considerations were therefore personal.
To the extent that the general effected no substantial remedial measures after he usurped power, his rationalisation evident in the Eighteen reasons is uncovered. The blunders of the military regime, subsequent to 1971 render the Obote blunders negligible! Hence, the alleged reasons were used to cast an aura of patriotism over the coup conspirators. But this blurs the truth. It must therefore be laid bare so that the genuine reasons are exposed. This is what the dissertation attempts to do.

The impact of the coup rocked the whole country. The nation's superstructure was shattered. The socio-economic and political aspects were disoriented and reduced to ruins. The economic legacy of the coup was Macendo. Its legal bequest was a defaced judiciary. Politically, the coup legacy was a terror regime. No wonder, then, that the country's constitution (1967) was practically ignored. Persons were denied or deprived of citizenship and fundamental rights. The Nile crocodiles grew fat on human carcass and lazed in the tropical sun. Life expectancy was reckoned on a daily basis.

Finally, a word or two about Chapters 1 and 4. Although this is a legal dissertation, both Chapters abound in extra-legal materials: Chapter 1, because it examines the Causes of the 1971 coup. And, the last chapter because it offers a General Conclusion. To that extent, their extra-legal content is not only necessary and inevitable but also provides the material that premise certain affirmations of the author which are crucial to the submission. The dissertator, however, hastens to serve a cavaet that those affirmations are not to be regarded as a slur on anybody at all. They are a necessary observation.
CHAPTER ONE

THE 1971 COUP D'ETAT: BACKGROUND AND REASONS.

The civilian government of President Apolo Milton Obote was overthrown by a section of the country's army on the morning of January 25th, 1971, in a well-framed coup led by Major General Idi Amin Dada, the Commander of the Uganda Army. The reasons that led to the coup were read out by Captain Sam Aswa, on behalf of the army, to the public and the press. The gist of his message was that the Obote government was unwanted and unpopular. Hence, the armed forces had replaced it with what the people of Uganda needed.

The Military Forces submitted eighteen reasons for the takeover as follows:

1. The unwarranted detention without trial of a large number of people many of whom were totally innocent;
2. The continuation of the state of emergency over the whole country for an indefinite period;
3. The lack of freedom of speech on both political and social matters;
4. The frequent loss of lives and property from robbery with violence and kondoism without the Government taking any measures to prevent them;
5. The proposals for National Service which were disliked by almost every citizen;
6. Wide-spread corruption in high places;
7. The failure by the political authorities to organise any general elections for more than eight years whereby the people's free will could be expressed;
8. Widespread unemployment;
9. High taxes;
10. Continually rising cost of food, clothing, and education while the wages are constant;
11. Tendency to isolate the country from East African unity;
12. The creation of a wealthy class of leaders who were always talking of socialism while they grew richer and the common man poorer;
13. Inefficiency of the Defence Council of which the President was the Chairman;
14. The Cabinet Office, by training large numbers of people, largely from Akokoro County in Lango District (where Obote came from) in armed warfare, had created a second army;
15. The Lango Development Master Plan, which decided that all key positions in Uganda's political, commercial, army, and industrial life should be occupied by people from Akokoro County in Lango District;
16. President Obote had sought to divide the Uganda Armed Forces by installing his tribesmen into key positions in the army and everywhere else;
17. The army had been the greatest loyal supporter of Obote during his period of office, but it could not tolerate seeing him divide and downgrade it by turning the Cabinet into the Army;
18. The matters mentioned above appear to lead to bloodshed but the Army only wants unity in Uganda.

For the reasons given above, the Armed Forces took over power from Obote and handed it over to their fellow soldier, Major-General Idi Amin Dada, as he then was, and they said they had done that "for God and our Country".
The aim of this chapter is to examine whether the above outlined reasons as opposed to the other reasons were behind the coup initiative. This will be attempted under three headings. The historical note gives the background facts of Uganda under Dr. Apolo Milton Obote; with particular emphasis on certain events that are crucial to an evaluation of the above outlined reasons.

'Amin's given reasons' is really the examination of the so-called reasons read out by Captain Sam Aswa. And finally, 'Amin's real reasons', the final treatment in chapter I, is an attempted elaboration by the author of what were the authentic reasons for the 1971 coup.

1.1. Historical note

The view considered here is that the above reasons outlining the socio-economic and political failures of the toppled government were not basic to why Amin staged the coup. But that they did exist is not disputed. What is objected to is their being advanced as the real reasons for the coup since this merely shrouds the truth.

Prime Minister Obote who apparently walked a tightrope in the early 1960s was concerned throughout the major point of his career with the dialectic between feudalism and democracy. A militant democrat, Obote seems to believe like most philosophers since Plato that democracy was born of the armed struggle of the oppressed people.

He applied the dual strategy of philosophical argumentation and persuasion, and being a master political
manipulator and accomodator of strife, deployed forceful and violent armed action only when absolutely necessary. This is evidenced by his handling of the 1966 crisis.³

That he forged an alliance, with Mutesa's Kabakka Yekka was most likely because it was the surest way of attaining national unity- Obote's shrewdness and insight could hardly have missed the political expediency here. The Baganda constitute to-date about one-quarter of Uganda's population and were under complete political control of the Kabaka, Mutesa II. Besides, the Kabaka, had some influence with the neighbouring Kingdoms and their Omukamas. In short Mutesa II was almost the unchallengeable spokesman of the Monarchists and feudalist order in the country. Population-wise, this constituted more than 50% of the national population. A coalition with the Kabaka's system was therefore crucially expedient for the purposes of national integration and unity. For this advantage, Prime Minister Obote tolerated Kabaka's national titularship until such a time when he could safely dispense with it.

But Mutesa and Obote were at the very onset united in their mutual fears, mistrust and suspicions. To Obote, the demise of colonialism advented the struggle against Feudalism and ethnic loyalties in the country. He set out to banish the regime of privilege in Uganda. The Kabaka, a feudalist by traditional experience and inclination, had seen the rise of the independent government as the harbinger of Republicanism which he would have to destroy first if his privilege and his kingdom had to survive. Strange bedfellows indeed, but in their astute
resort, both men agreed on a truce however temporary and precarious as they engaged in a marriage of political convenience. Mutesa and Obote acted like maestros of a grand political game. They were engrossed in a contest of wits and force at the time and after independence.  

But Obote's alignment and coalition with the Feudalistic and parochial Mengo clique, a minority in Buganda, hence his support in a sense of the obstructionist role of the Kabaka Yekka clique and corresponding failure to appreciate the liberal outlook of Benedicto Kiwanuka, leader of the Opposition Democratic Party who was clearly against such policy and trends; set the Premier on the speedway to the crisis of 1966. This situation was hastened by the fact that Uganda People's Congress soon declined in prestige and was at its organizational nadir in and about 1966 the zenith point of the retrogressive and divisive process of retribalization - a breakdown of the relative measure of national identity and solidarity that is usually attained on the eve of independence through the unifying force of the nationalist ideology and the resurgence of primordial loyalties.

The respective interests of the two parties (K.Y. and U.P.C.) at this point in history began to jar at each other with the Kabaka Yekka making claims upon the Central Government calculated to strengthen the position of Buganda and her traditions while the UPC was bent on building an apparently strong national government. That was one line of cleavage that became strained in the absence of a unifying
ideology. But even within the ranks of the modern nationalists of the UPC, the absence of a common ideology had a disruptive consequence and impact. Far from gaining strength, Obote and the UPC were being weakened by increased tempo of factional politics and power struggle.

Factionalism had tormented the UPC since early 1964 when Mr. Grace Ibingira had replaced the evicted Mr. John Kakonge as Party Secretary General. This schism brought to a head on clash especially the youthful sector of the party that aligned with either sides, with Obote's sympathy tilted toward the Ibingirist. By 1965 the confrontation had changed facet to a friction point between Obote the Party's President and leader of government and the Party Secretary General; a premise development that afforded Ibingira to construct an ethnic Bantu formation within the UPC to oust Obote a Northerner from Party Presidency and ultimately from Premiership. Mr. Obote at the material time was on a Tour of the Eastern Countries.

In Buganda a clear and unprecedented trend was discernible when Kabaka Yekka members too easily joined the party in the hope of boosting Ibingira's forces. This was a point in time when the UPC leaders and stalwarts courted D.P. and K.Y. carpet crossers in order to come and swell their ranks, purely on the sectorial basis of survival. This could hardly augur well for the Government. 1966 found the party disarrayed in such a manner that Ibingira and many other members of the party within Parliament found themselves acting alongside the K.Y. and the D.P. Opposition in a manner
glaringly inconsistent with the interest of Obote; when contrary to an earlier UPC decision made in the presence of Obote, they permitted the late Hon. Daudi Ochieng in the premier's absence (he was on a tour of northern Uganda) to successfully table a motion calling for the suspension of an army colonel then closely associated with Obote and, besides, accusing the Prime Minister, three of his key cabinet ministers and this army officer of receiving large sums in gold and ivory out of the Congo during the Congolese Rebellion (1964-1965) as well as charging that some members of the Government were planning with the army officer to overthrow the Constitution. It was debated and stunningly adopted by an overwhelming majority with, ironically and interestingly, only Hon. John Kakonge the evicted and former Party Secretary General dissenting and casting a negative vote. 

It is therefore common sense that Cabinet divisions with inherent insinuations, more than anything else made the gold-cum-ivory allegation of 1965-66 feasible. The epitome - The 1966 crisis, involving a military confrontation between the Central Government forces and the feudal armed supporters of the Kabaka was the end result. 

The time was ripe for Premier Obote to dispense with his encumbering ties with Freddie's Kabaka Yekka party and Ibingirists.

What is of importance is that this afforded Obote the opportunity of altering the character of Uganda's political environment thus making it possible for him to experiment with a new and more radical socialist - political style of development in Uganda, hitherto impracticable.
With the ushering in of the short lived Republican Constitution of 1967, Obote felt politically freer and less inhibited. The stern resistance of Buganda was now something of the past. Other forces of Opposition were now equally weakened. The 1967 Constitution strengthened his hand and removed such pockets of independently obtrusive power as were associated with and characteristic of the Federal government and the local authorities of 1962 Constitution.  

Obote now purportedly set out to remodel Uganda to his own image of national reconstruction based on the ideology of socialism as outlined in The Common Man's Charter and a mobilizational reconstruction piloted by a single party, the UPC., after the declaration of Uganda as a defacto one party state.

The President's move was not only ill advised, but also ill-timed. History has clearly proved that a socialist political inclination has no future in the country. Infact it is unthinkable that at any given time, in the near future, the electorate can mandate such a political party into office.

A contrary view, supported by the results of the December 1980 Elections, may be advanced. But, however strenously urged, the U.P.C., if it clearly indicated to the people that it was really socialist in orientation, would not have passed through. May be the coming generation of the Electorates may give it better support to this end if only for the sheer fact that the Youth in East Africa, as in the whole of the Third World, seem to relish such radicalism.
That Obote's move to the left was just as ill-fated as his declaration of Uganda a one party state is hardly worth disputing. The effect was that he reaped unpopularity in more than half of the country. And this state of affairs, to any politician is to be avoided at all costs. But Obote despite his reputed foresight, went on headlong with his programs of ostracization without sounding out public opinion, or if he did so, without heeding, it in a positive sense. The only way he showed consciousness for dissenting public opinion was through his denying the people the unique opportunities that a multi-party system offers. And it is this political tendency that is termed dictatorship.

President Obote's Government at the close of 1970 was unpopular and had become dictatorial besides ailing organizationally. In short, it was a Government that no longer held and enjoyed the people's mandate, which it received in 1962.

It would have augured well for Mr. Obote if he had sought the people's mandate after the 1966 revolution, other than just assuming that, the revolution having been a successful one, he was as the defacto ruler, justified to rule whether the common Ugandan wanted him or not.

The historical footnote, therefore, clearly highlights the major weaknesses and fallacies of the Obote Government. Obote came to power on a joint-ticket of the UPC and K.Y. This was undermined in the later part of 1964. At that point in time he should have sought a
plebiscite to sound out the Electorate's opinion. A confirmation of confidence in his Government would have morally boosted it besides giving the Premier the right to proceed with his rule.

In 1966, the Premier lost in fact what is constitutionally known as a motion of no confidence in the government successfully tabled by the late Hon. Ochieng Daudi.

Whatever, the stake was Obote should have as a minimal democratic gesture re-tested the position in Parliament under circumstances devoid of any undercutting current of intimidation.

Legally, his Constituent Assembly had no mandate to approve the 1966 and 1967 Constitutions. These were the people's representatives. The Constitution drafts were not initiated by the people, but by the Premier and his lieutenants. It was tantamount to forcing down the people's throat his political moves. If the masses had positively plebiscited his revolution, then the Constituent Assembly would have had the right to approve his draft Constitutions. In other words, Obote bulldozed his way through. And his position, at least to him was bolstered by the ruling in Matovu's case (1966 E.A. 514). But the argument here is that, the fact of de-factoness, does not amount to the electorate's endorsement of his moves and policy. This is sheer logic, and no amount of political lobbying can negate it.
President Obote, without the people's mandate declared Uganda a one party state and banned all other political parties. He had no right to do this. Holding the office of the country's Presidency did not and could not premise such provocative and illegal arbitrariness. Again he should have sought the people's approval. He didn't. This was the President's image of national reconstruction.

Obote's socialist policies were conducted in a similar manner. Mass discussion of it did not amount to an approval. But, the President chose to look at it that way.

The historical note, gives enough facts to lift the veil of the Obote's government and show what was really behind it. It was a cancerous regime within the context talked of.

Unfortunately, it is submitted that, this was not why Amin went ahead to stage his coup d'état. Amin's move was simply to save his own neck.

His public reasons for the coup d'état will be examined in 1.2 of this chapter. A demystification of the public reasons reveal that Amin's true reasons are far from what he gave out as the true reasons for the coup d'état. He simply capitalised on the inherent weaknesses of the overthrown regime, and thereby rationally vindicated his coup. In other words, what he claimed as being the weaknesses by and large of the overthrown regime were largely correct and true, but only in the sense that they be looked at exclusively as failures of the Obote regime, without ever wielding them as a nexus of justification-
for the 25 January 1971 coup d'etat. If that was allowed, it would simply be misleading and shrouding the truth. It should not be allowed. And the fact that Amin tried doing it, is analytically demystified in this dissertation. The thesis being advanced here should not smirk of any contradiction: the Obote policies alienated Ugandans but it is not why the coup took place.

1.2. Amin's given reasons.

Can an attempt to fit the Amin reasons as read out by Captain Aswa augur well with the above historical footnote?

Reasons 1, 2 and 3: Emergency, Detention and lack of freedom of Expression.

Under the regulations of the State of Emergency, an element of intimidation had entered Ugandan politics. Detention was deployed as a valve to the oppositional forces of the day. Thus criticism of government policy landed both Hon. Abu Mayanja and Rajor Neogy (Editor of Transition) into detention after a charge of Sedition. The detention cast a cloud of doubt on freedom to write, speak and act in the country. It is to be noted that the casualty list of detainees included Obote's five ministers who were arrested, on suspicion of using Daudi Ochieng to embarrass him. Those were Hon. Grace Ibingira, Hon. Kiriya, Hon. Magegi, Hon Mayanga and Hon. Dr. Lumu. Three of the Kabaka's favourite chiefs, of whom Matovu was one, had also been arrested. The Kabaka, Sir Frederick
Sabasajja Mpologoma Edward Mutesa II was duly relieved, of the Presidency. A state of Emergency was soon clamped over the ruins of the once glamorous kingdom of Buganda. The point here is that whereas there was a state of emergency over Buganda, and many people in detention, could it be said that this prompted Amin to stage the coup? The answer is an absolute no! Note the figure of detainees in the various prisons of Uganda which the International Commission of Jurists puts at about 50-55 and compare it with the number of 700-800 detainees in only several months of the Military regime coming to power.16

The submission here is to the effect that, the State of Emergency was indeed clamped on the country on 22 February 1966 and it continued throughout Obote's period of leadership. As a historical fact, it is irrefutable. But refutation becomes matter of fact when it is mentioned as a crucial reason for the coup d'etat, because this is a mere falsification of the underlying reasons. When Amin talks of it as being a reason, it should not be beyond human grasp to define and identify the rationalisation of the historical facts by the Military General and the latter's effective use of these facts to identify the coup with popular expectancy; hence giving it legitimacy in the eyes of the masses.

Infact one way of appreciating the Radio message about the reasons premising the coup is to look at the so-called reasons as a reflection of an elitist element in the coup initiative. Viewed this way, it is only obvious that the middle class elites would attempt to give
a national outlook to the military coup by clearly and articulately bringing out the contradictions in the Obote regime.

But post coup events hardly lend credibility to this assertion about the Emergency and detention casualties in the days ante January 25, 1971. The extent and the abundance of detainees in the few months in the post coup period is an indication that Amin could not have cared less about the Radio message. But as David Martin emphasizes in the last pages of his book - General Amin (p.236) - there is a very real danger of under-rating Amin. This should not be done at any cost.

In other words, Amin must have been aware of the reasons behind the Radio message to his fellow countrymen. It was a gimmick Amin used from the first day of his assumption of power to his fall in April 1979. But, gimmick that it is, it should and must be demystified.

Amin's assertion in his first Press Conference after the coup was that his, was a task of introducing corrective and remedial measures and reforms necessitated by the extremities of the deposed regime. Any assertion to this effect must therefore be tested in the light of post coup events. This is the true litmus test of the Radio message. And if the post coup events do not justify them - which is the position - they must be rejected. Veneration of historical realities is not enough. These facts should not be wielded to reap the acclamation of the masses. If this was allowed to be done, the agents responsible would have pulled off an effective political propaganda founded on historical truths, but otherwise used to justify a buffoonery of a decade long (mis)rule.
It is true that freedom of speech/expression is a guaranteed right in the Republican Constitution of 1967. It is also true that Obote took the questionable move of declaring Uganda a defacto one party state but it is an extreme value judgment to assert that lack of freedom of speech on both political and social matters led to the coup. As pointed out above this is merely a result of rationalisation. As a matter of fact Amin breached this very right of the citizen to speak freely.

Reason No. 4: Robbery with violence and Kondoism.

Ironically, the alleged rampant activities of Kondos in Uganda without the government taking any necessary measures to prevent them is a province which to some authors implicated Amin as a person. It is suggested that Police had arrested a number of Kondos and arms they had found with them came from the armouries of the Ugandan army. That Arms from Bamuninka which were transferred to the Ordnance depot at Magamaga where the Commander was Major Michael Ondoga, a cousin of Mrs. Kay Amin, the General's second wife, were revealed as lost (to the tune of twenty-two sub-machine-guns) and that six of these had been captured by police from Kondos. Again, the alleged Kondos named as murderers of Brigadier Pieriño Yere Okoya, later on a reconstruction of their journey to Koro, the Brigadier's home, showed the police where they had stopped to change into army uniforms collected from the barracks at Gulu: all of which 'gentlemen' said in their statements that Amin wanted Okoya killed because Obote intended to replace him as head of the army with the Brigadier. Notwithstanding the above small note, it is obvious from newspaper reports and police
figures of reported robberies that Kondoism was a scourge on Ugandan society. Armed gangs rob ginneries shops, hold up a bank convoy or even attack a train in broad day light. So, indeed, Kondoism was rampant in Obote’s decade of rule. Statistical data bears this out. But the submission is: was this one of the real reasons why Amin initiated the coup? The view is that, here, is another rationalisation of the shortcomings inherent in the Obote regime. And when they are viewed from such an angle, it is obvious as well as true that they did exist. Example, reason number 7 in Amin’s list of reasons: The failure by the political authorities to organize general elections for more than eight years. This is a material blunder and clear inclination of the Obote regime to the cancerous political disease of totalitarianism. It is perfect peri-phy background political indulgence before the declaration of a one party state and the banning of a multi-party system. And being such, it is outrightly condemnable as being contrary to legal provisions and guarantees which premise a multi-party system. The denial of effective political choice, although it began in 1966 (with the suspension of 1962 Constitution) became particularly stark in December 1969 when the UPC was defacto, if not dejure, declared the official state party and all opposition parties were discouraged.

Reasons Nos. 8,9,10; Economic conditions and Corruption.

Regarding Economic conditions at the time of the coup, the famous 60/40 nationalization programme announcement in May, 1970, had aroused some fears which resulted in capital flight, but one could not say that, by the succeeding
January, there was anything approaching an economic malaise which would provide much incentive for getting rid of the government. It was apparently poor exchange control policy that resulted in the capital flight. The salient point regarding the state of the economy is less that the 60/40 announcements would in themselves have been unsound had they received care and planning in their design, than the fact that Obote simply announced the measures on May Day without apparent former consultations with advisers or ministers. To the extent that economic conditions contributed an incentive for military intervention, it was simply in the fact that it afforded another example of an area in which the President was acting personally and arbitrarily. But this is not to say that all was chaos on the economic front.

Even as fracas prevailed on the political front, Obote attempted to focus the attention of the nation to economic and social development. In the first three years of his rule the number of primary schools in Uganda rose from 2,000 to 6,000; adult literacy was stepped up, and the state took a keen interest in the education of Ugandans, by placing Missionary schools under the government. The latter action seemed to be Obote's long-term strategy to obviate the nasty and retrogressive consequences of a future clouded by continued incursion of religious rivalry in Uganda politics. On the economic front the President allowed private investment to thrive side by side with state participation. The Uganda Development Corporation was equipped to enable the state to have shares in at least 30 major enterprises in the country. Just as
in Kenya, in 1964 foreign investment was protected, and therefore encouraged in Uganda by an Act of Parliament. 27

Of corruption it can certainly be said that it existed in the Obote government, but documenting it is another matter. Several references are, however, made to ministers who talked socialism but lived luxuriously. One might however add that Obote himself seemed to have lived a fairly spartan life and, although he had his vices, they were not of the broadly venal character that is generally meant by the term corruption. 28

Reason Nos.13,14,15,16 and 17: Nepotism and the army connection.

Reason No. 15: The Lango Development master Plan, which decided that all Key positions in Uganda's political, commercial, army and industrial life should be occupied by Akokoro County in Lango District and point No. 16 that President Obote had sought to divide the Uganda Armed Forces by installing his tribesmen into key positions in the army and everywhere else can be summarily dealt with together. By the time of the military coup, there was no problem of minority control beyond the very general cleavage of the post 1966 increase in jobs for peoples of the northern districts. The post coup rhetoric of the military regime would lead one to believe that the Langi were about to take over the country and that is why the intervention took place. Although they [Langi] were doing better of late in regard to securing strategic positions in the government and Civil Service, the rhetoric of Lango dominance had more to do with the fact that Obote himself, and Akena Adoko - the Chief of the General Service Unit, were Langi, rather than any empirical evidence that the Langi were about to take over control of Uganda. 29
Apart from the army, key cabinet as well as high Civil Service positions in Uganda had been largely manned by people from West Nile and Buganda.

The issue is whether Amin read in the way the army institution was being conducted a slight by the government. Indeed, some conspicuous features of the institution at that time could have made a commander wary. Notable here is the fact that despite its numerical growth - perhaps the fastest growing army in Africa between 1963-1967, the army was badly incapacitated by lack of vehicles, spare parts and suffered a parallel high rate of officer purges. President Obote's decision to narrow the scope of authority of the commander in October 1970, also, meant that Amin had to share power with two other army officers now designated as Chief of Staff of the Army and the same for the Airforce. This state of affairs was aggravated by the activities of the General Service Unit which was perceived and indeed behaved, as a political police which infiltrated many institutions and organisations for purposes of informing the government. The army was also infiltrated. Amin, for personal reasons, could not have liked this purposeful development. And he similarly viewed as suspect the prospect of paramilitary training for youths outside the purview of the Regular Army which was the essence of the proposed national service as embodied in the Common Man's Character.

The crux of the matter is that, the Major General (as he then was), opposed these developments as indications of possible threats to him as a person. Amin could hardly have preoccupied himself with institutional considerations.
Reason's Nos. 5 and 12: Socialism.

How about Obote's move to the left which is reflected in Amin's reasons Nos. 5 and 12 respectively dealing with National Service and alleged manifesto of socialism by a wealthy class of leaders? In November 1968 as he met with students from his old school Busoga College Mwiri, at Parliament Buildings in Kampala, President Obote announced the proposal to "move to the left" and set in train what was reported as an active public discussion about it. Obote himself personally participated in the debates which took place in the newspapers, television and radio of the country. The debate culminated in the Common Man's charter which Obote introduced to the nation on the eve of the Seventh anniversary of Uganda's independence, on 8th October, 1969. The charter to the architects amounted to a foundation document for the future policies of the country, and envisaged a new political culture, and a new way of life, where the people of Uganda as a whole are paramount. It was therefore, in theory both anti-feudalism and anti-capitalism. The Common Man's Charter was described as representing the most realistic effort to answer the biggest and most challenging question that has been hanging over Uganda, namely that given Uganda's present situation of under-development, how can we develop in a manner that is genuinely meaningful to our people?

As the ideological position and manifesto for the country, the Common Man's Charter set out principles for the ruling U.P.C.; a diagnosis of the ills of society, and a set of prescriptions or proposals for cures of the ills.
It concerned itself with the problems of tribalism, privilege and exploitation of the masses in Uganda.

Rather curiously, since it was drawn up by those in authority in the country, the Common Man's Charter lamented the tendency of foreign interests to choose leaders for us, to influence the policies of the Government of Uganda to the benefit of foreign interests and to use the sons and daughters of Uganda to advance those interests. The lament was no doubt indicative of the state of political uncertainty in the country before, and especially after President Obote's move to the left. And for some people in. and perhaps outside Uganda, this open commitment to the principles of socialism perhaps acted as a red flag before a bull.

In his brief and dramatic pronouncement on May Day 1970 at Nakivubo Stadium, Obote announced his socialization measures: the whole import-export business in the county would be nationalised; the state would acquire 60% shares of every bank, credit institution and insurance companies and of every oil and petroleum concern in Uganda. And subsequently in his document No. 2, Obote outlined his National service proposals for Ugandans, and in the middle of 1970 he took the controversial measure of repatriating non-Ugandan semi-skilled and unskilled labour from Uganda to give way to Ugandans in the same position. The move affected some 80,000 Kenyans then resident in Uganda, and it soured relations with Kenya in the East African Community. Nevertheless it was effected.
The impact of the above move is not easily discernible in Uganda since it was a shortlived experience. But obviously the case of Uganda constraints to be more cautious about the ideology of socialism. Apparently, Uganda may be barren soil on which to implant the ideology. It is wondered whether it was sheer coincidence that in December 1969, as Obote walked out of the Lugogo Stadium in Kampala where he had attended a U.P.C. conference, an attempt was made on his life by a group of assassins who lay in wait.

Conclusion

The tentative conclusion that can be drawn from the above treatment is that most of the reasons if not all broadcast through Radio Uganda after the success of the coup 25, January 1971 were a rational ensemble of the points of cleavage and contradictions inherent in the deposed regime's domestic policy. To the extent that it is a rationalisation geared at supporting the coup, it must be rejected as clouding the truth. The socio-economic and political failures of the Obote government are quite dismal within certain context. But few, if any of them at all, played a role in the coup initiative.

What then were the authentic reasons for the coup d'état, 25 January 1971? This question is answered in section 1.3. of this chapter. The dissertator, here, in detail examines, what is considered to be the major factors that led to the successful bid to oust President Obote as the ruler of the country.
And put in a nutshell, these factors were personal to Major-General Amin. They are personal in the sense that, they put him in a predicament with the Obote government. It was such a bad predicament that, Amin had his back against a wall - a cul de sac. There was no way out. It was a dead end for the General. The only way to survive was to fight back. Amin therefore hit back as the only way he was going to ensure his well being for that period of predicament and for the future.\footnote{36}

But having succeeded in ousting Obote, General Amin hit on a ruse of, if possible, screening from the world at large these factors personal to him, which almost cost him his job, future and life. This would cast an aura of patriotism about the coup. Amin as the military General who successfully led it, would be the recipient of the national halo befitting a Saviour of his people. To this end, Amin, the military elite enlisted the assistance of the middle class bourgeoisie who had fallen out of favour with the Obote Government. Herein lay Amin's implicit ruse: a repetition of what had been the tone of the political game way down from around 1964 to the present day in Uganda.

But if truth be preserved, the General's bid to confuse must be exposed, laid bare and the heart of the matter put on a platter for public consumption. Hence the following examination of the genuine reasons.
1.3. AMIN's REAL REASONS.

Events leading to Brigadier Okoya's murder.

On 19th December 1969, as Obote walked out of the conference of his ruling Uganda People's Congress after introducing his 'move to the left' policy, an assassin rushed out of the crowd and fired a single shot which set in train a sequence of events leading directly to the Ugandan coup d'etat and the slaughter of the Amin decade. A hand-grade, which landed at Obote's feet, thrown by another of the group of would-be assassins failed to go off in the inimical Uganda way. 37

In compliance with Obote's written question: Have you told my wife, the General (Amin), Akena (chief of G.S.U.) and the Inspector General (Oryema), Lt. Col. Ojok Oyite accompanied by Bernard Olila, a senior GSU officer and an army lieutenant went to Amin's house in Kampala's Prince Charles Drive to brief the General but did not find him. 38

Lt. Col. Ojok then contacted the next most senior officer, Brigadier Pierino Yere Okoya, the forty-five-year old commander of the 2nd Infantry Brigade of the Uganda army, who though was at Jinja had his headquarters at the southern town of Masaka. He was told that Obote had been shot and Amin had disappeared. From Army Headquarters-Kampala which he reached after midnight, Okoya alerted the army throughout the country and ordered all commanding officers to attend a briefing at 6.00 a.m. the next day.
Amin reappeared at 10.00 a.m. after the commanding officers had assembled and gave the explanation that he thought the group who had come to his house the previous night were out to kill him. He had therefore fled out climbing over the fence and commandeered a television van whose driver took him to Bamunanika thirty miles north of Kampala. Amin thought there had been a coup and expressed fear for the President's life to the two television employees in the van. From Bamunanika he had telephoned senior NCOs telling them to send an armoured personnel carrier to fetch him and warned them not to take orders from their officers.

As details of the circumstances of Amin's disappearance began to emerge, Brigadier Okoya and a number of senior officers were not prepared to dismiss it lightly. Angry rumblings began among senior officers about Amin's disappearance, and Obote was finally on 17 January 1970, after discharge from hospital, forced to call a meeting of senior officers to tone it down. At the meeting many people believe Okoya was unwittingly signing his death-warrant: bluntly he accused Amin of desertion and cowardice.

In a letter after the coup in 1971 addressed to the then chief justice of Uganda, Sir Dermot Sheridan, Obote described what took place. "The exchanges at one stage were extremely hot. The officers accused Amin and gave examples of his mismanagement of the armed forces. Some of the accusations were that Amin used not to follow the proper chain of command and a number of instances were cited where Amin sent messages to NCOs in various units to do things which only the commanding officers should order."
That Amin used to promote privates and NCOs without the knowledge or recommendations of the commanding officers. That Amin effected transfers of NCOs and posted them to various units without the knowledge of commanding officers. That recruitment, a matter which was under an embargo due to lack of accommodation, was, nevertheless, being carried out by Amin from his own district and county or southern Sudan. That Amin did not allow even senior officers to know what was going on or to visit the unit then stationed in Bamunanika, north of Kampala. That Amin never consulted senior officers as to which officer or NCO should go for further training overseas but made selections alone. That Amin bypassed officers of the rank of major or captain and appointed lieutenants to be in charge of units. Two examples were cited. There was lieutenant Dodi in charge of a unit at Bamunanika and Lieutenant Ayudria in charge of Gulu Base.

On the matter of relations with the Sudan — the officers accused Amin of activities which were in direct opposition to the government policies of not giving assistance to the southern Sudanese rebels who are sometimes called Anyanya. It was alleged that from time to time Amin ordered officers in charge of units near the Sudan border to allow supplies which included weapons and that there were cases when medicine bought with the Uganda funds for Uganda armed forces were diverted on Amin's orders, to the southern Sudanese rebels. It was further alleged that Amin made many trips to visit the Sudanese rebels inside Sudan or to meet the Anyanya leaders in West Nile, and that the pilot who was always a foreigner participated together with Amin in various meetings held in West Nile or inside the Sudan between leaders of the Anyanya and Amin.
Brigadier Okoya demanded an explanation as to why and in what circumstances Idi Amin ran away from his house on 19 December 1969 and hid himself for several hours while at the same time contacting only NCOs. Amin was not able to give any explanation. The Minister of Defence, Felix Onama, proposed that since the allegations were so grave and since some of them could be dealt with administratively, the meeting should not go into them that day but that he be given the opportunity to meet senior officers in his office to sort out which of the allegations required the attention of the Defence Council or the Cabinet and the others which, he, as Minister of Defence, could deal with. The meeting ended and that was the last time I saw Brigadier Okoya alive.\textsuperscript{40}

A further meeting was scheduled for 26 January 1970, but it never took place. Just after 11.00 p.m. on 25 January at his home at Koro village a few miles from Gulu, Okoya and his thirty-year-old wife, Anna, were shot dead.\textsuperscript{41}

People living near by had heard the shots and had about that time seen a mercedes, a Peugeot car and an army Land-Rover, registration Number 66 BT 14, in the area. But beyond that, police Detectives met a blank wall despite the offer of about £3000 (U Shs.60,000 in those days) for information leading to the arrest of the killers.\textsuperscript{42}

Amin was to claim after the coup that Obote and Akena Adoko had had Okoya murdered so that they could blame it on him. But that makes no sense at all in the light
of the eight-months delay before the police inquiry began
to make any progress. Nor does it explain Amin's
desperate hunt for all the files on the Okoya murder
immediately after the coup and the murders of almost every
one of the investigating police officers and of many of
Okoya's male relatives. 43

Forty-eight hours after the General seized power
a private named Ismail who was a State House driver in
the 'close escort unit' came into Obote's former office
and said he wanted, on orders from Amin, everything on
the Okoya case. This included the complete police file
as well as memorandum from Obote to the Director of CID,
Mr. Hassan, and while the latter was away in late 1970
attending an Interpol conference in Tokyo, memorandum to
his deputy, Mr. Festus Wauyo who was in charge of the Okoya
case. Files from the office of the Attorney-General and
from the police as well as Internal Ministry were also
seized. A few days later Ismail was promoted to Captain. 44

The 400-page case file contains the statements of
ninety-six people including five Kondos who admit taking
part in the killing. They said they were briefed by
Captain Smarts Guweddeko, a pilot then stationed at
Entebbe, who, twenty-two days after the murder, was
promoted to Commander of Gulu Air Base. His rapid rise
continued ever since and he became the commander of the
Ugandan air force with the rank of lieutenant colonel. 45

The kondos said they set out for Gulu on 25 January
in a stolen Peugeot and an army Mercedes. They reconst-
structed the journey in considerable detail for police
officers showing where they had stopped for petrol and to
change into army uniforms collected from the barracks at Gulu. At the Brigadier's house they said they were accompanied by two army lieutenants and they entered the compound in two groups, one through a break in the fence and the remainder by a small gate. Once inside they fanned out. Wambuzi and the others were photographed as they demonstrated to police officers where they had been when the shooting took place and where Okoya fell.46

Although it is apparent that there was little in the way of direct evidence against Amin, as regards the murder of Okoya, there was sufficient circumstantial evidence linking the General with the Brigadier's murder. The consequence flowing from this fact must be grasped, if only to understand the urge Amin would have, to do anything to cover up any such connection.

The sentence for murder is mandatory. And it is death by hanging (Uganda Penal Code s.184). Amin therefore faced the danger of a death sentence. This alone was enough to make him take on the extreme gamble of a coup initiative.

At any rate it is arguable that if there was not enough evidence before the coup period to pin-down Amin for Okoya's death, the post coup developments such as the murder of male relatives of Okoya was rather strong incriminating evidence.

This was really a strong personal reason for executing the coup - the only emergency exit available to the General before doomsday.
Yet despite all the circumstantial evidence, Obote still found it difficult to believe the report of C.I.D. Boss - Hassan which was corroborated by the admissions *cum confessions* of the kondos. The President could not realise that his leniency stemmed from Amin's role in national domestic issues from 1966 to 1967. His closeness to Amin deadened his often quoted remarkable insight and sense of retrospect.

**Corruption in the Ministry of Defence.**

A second real reason for the coup was corruption in the Defence ministry and particularly in the Army. President Obote had this to say:

"There was a person very close to Major-General Amin as the commander of the [Jinja] depot; he ordered or is alleged to have ordered materials worth Shs. 40,000,000 (at that time about £2,000,000). There is no document, no copies of the invoices, no copies of any delivery note. On the same day I left for Singapore, I asked General Amin, on my return to give me a written report on how the Shs. 40,000,000 was to be spent."47

Michael F. Lofchie, an Associate Professor of Political Science at the University of California, Los Angeles writing in 1972 observed: "Rampant corruption within the Ugandan army during the period preceding the coup has been dramatically documented in the report of the Auditor General for the fiscal year ending 30 June 1969."48 But what Lofchie did not know, and Obote already knew when he demanded an explanation from Amin, was that the
the accounts for the fiscal year ending 30 June 1970 had revealed even grosser discrepancies.

The 1968-69 audit showed that of the government's excess and unauthorised expenditure of Shs. 45,355,067 a total of Shs. 29,955,215 was incurred by the Ministry of Defence. And the 1969-70 audit showed that of the government's total excess and unauthorised expenditure totalling Shs. 41,834,630 a total of Shs. 39,956,693 was incurred by the Ministry of Defence.

It is evident that, Okoya's murder notwithstanding, Amin's position was precarious enough because of the above outlined corruption in the Ministry of Defence. It is tempting to argue that, the Minister, i.e. Hon. Felix Onama was liable for the misappropriation and corruption. But this would be to ignore the fact that the corruption concerned matters involving Amin as the Commander of the army. And the fact that President Obote demanded for a written explanation for the loss, made matters even gloomier for the General.

The stupendous amounts involved in the financial shortage, gave Amin no opportunity to personally settle any debit. Therefore he had to find another viable alternative in order to get out of the fracas. The desperate situation called for a daring scheme, albeit desperate. Hence the coup alternative.

These are weighty factors which easily dwarf any of the so called Eighteen reasons advanced by the Military coup conspirators.
Southern Sudan Connection:

This was the third authentic reason that led to the 1971 coup d'etat. In January 1971, just before leaving for Singapore, the Ugandan Cabinet security Committee chaired by Bataringaya had decided that the West German mercenary, Rolf Steiner should be deported to Khartoum. The forty-year-old Steiner had had a chequered career fighting on the losing side in seven wars: world war II as a 'wolf club' in the Hitler Youth, French Legion membership and subsequent duty in Korea, Indochina, the Middle East and Algeria. Biafran civil war and finally in the late 1960s in southern Sudan.

Steiner's diaries showed that on at least two occasions Amin, accompanied by Israeli officers, had visited the southern Sudan. Nimery's government had said it would put Steiner on trial, which meant the details about Amin's involvement were bound to emerge publicly and which could have forced Obote to act. For it is unconceivable that President Obote would have swallowed the embarasment ensuing from the exposure of Amin resulting from the public trial of the mercenary. It is more than mere speculation that he would have kicked Amin out into the cold, if only for the sake of patching up matters with Nimery's Sudan on the international scene.

And Amin was no dummy to find this incomprehensible. He must have calculated and realised that it was only a matter of time before the fall of the executioner's axe. But before it did, he had to move. Amin therefore decided on the coup gamble, which eventually paid off.
It might then be apt to conclude tentatively that in this case, the takeover was motivated more by personal reasons than by institutional considerations. In the last days of 1970, General Amin might have concluded quite simply that if he did not act first, his removal was a foregone conclusion. Okoya was the main reason, with Obote's demands for written explanations on missing money and arms and Steiner's impending trial strong secondary reasons. Against this background, in November 1970, Amin had seen an army and airforce chief of staff appointed, thereby diluting his absolute rule over the armed forces and he would have been much less shrewd than he obviously is not to interpret all of this as a conspiracy of events which meant that time was fast running out.

Why Obote, who had detained people in the past on lesser grounds, did not act before going to Singapore remains disturbing. Obote's slowness to act must be attributable to the role Amin had played against the Baganda in the 1966 Crisis and from then on. What can however be said for him is that he did admit this error of judgement or leniency towards Amin. He acknowledges his error thus:

"I regret to say that part of Uganda's present suffering, sickness and inhumanity can be traced to the opinion I gave ... Sir Walter told me that an officer like lieutenant Idi Amin was not fit to remain in the KAR, that I was wrong to advise that Amin should not be dismissed."

The main point is that at independence on 9 October 1962, Obote was well aware of the nature of Amin, as were the British when they so happily greeted his seizure of power in 1971.
These then were the main reasons behind the coup d'etat of 25 January 1971. In other words, the coup was founded on matters of personal considerations as opposed to the patriotic twinge Amin gives it in his Radio message to the nation on 25, January 1971. This conclusion is verifiable from the post coup events. Infact in the period after January 1971, there was hardly any serious attempt on the part of the General to rectify and make good his so-called Obote shortcomings listed in the Eighteen Reasons.

The implication cum implementation of the coup ideals which are the subject of treatment in the next two chapters should leave the reader in a position to appreciate better and reach a judgement as to the exact reasons for and the import of the coup d'etat of 25 January 1971 vis-a-vis what Amin and his lieutenants claimed it to be within the contextual premise of the pre 1971 Obote era epitomised as per the Eighteen reasons.

The general impact of the coup and its specific aftermath on the 1967 Constitution will also be evident from the examination in the next two chapters.
FOOTNOTES


2. E. Philip Morgan: Military intervention in Politics: the case of Uganda (Stanford University) at p. 8.


4. Ibid at p. 44.

5. An Article in the magazine UGANDA SINCE THE WAR: some Emerging themes 1960-by Committee One at p.3 [Akin to Yoweri Museveni's view of the 1962 Coalition bet UPC & K.Y.]


8. Ibid at p. 7.

9. No. 5 supra at p. 21 it is noted that on becoming Secretary General of the Party Ibingira embarked on a deliberate policy of gradually removing the grass root support of Cbote in the U.P.C. "The Secretary-General (Ibingira) was according to this new arrangement the most important figure in the party, the only link between government, executive and the part

12. The 1966 Crisis involved a military confrontation between the forces of the Government headed by the then Colonel Amin and the armed followers of the feudal Kiganda Monarchy on 23 May 1966 at dawn. Kabaka Mutesa, in person, led his own forces. This event was preceded by Obote's Revolution of 1966 in which he overthrew the 1962 Federal Government Constitution. In May the Lukiko (Parliament) of Buganda in retaliation passed a resolution expelling Obote's government, of which the Kabaka was President, from "Buganda's soil" because of the revolution. The clash that followed resulted in a victory for the Government but with great loss of life on both sides. Mutesa assisted by the Clergy escaped out of the Country and eventually fled to Britain where he later died an exiled pauper. Significantly Amin's soldiers refused to move out of the palace which the Government of Obote had to turn into a barrack. The Buganda Lukiko Hall was also allocated to the armed forces as its headquarters, and another royal palace at Bamunamika became a military post which was later reportedly used by Amin to recruit his Nubian and Anyanya/southern Sudanese mercenaries led by lieutenant Marella Dodi that enabled him to stage the coup. From that day, Amin realised the importance of the power he wielded in the army, and it was this power which he deployed to kick Obote out of power at a time when his (Amin's) future was at its bleakest. Note that after the storming of the Royal Palace, Colonel Amin was promoted to Major-General while Brigadier Opolot who was suspected of sympathising with the collaborators of the Kabaka e.g. Ibinginists, was locked up in Murchison Bay top-security-prison at Luzira on the shores of Lake Victoria.

13. 1962 Constitution: salient features. It gave Buganda a federal status. Uganda was to consist of the federal Kingdoms of Ankole, Buganda, Bunyoro and Toro and the Territory of Busoga in addition to the "republican" districts. Matters of exclusive powers to the Buganda Lukiko (parliament) were:

a) The Kabakaship;

b) The powers, obligations and duties of the Kabaka as such;
c) the status of the Kabaka’s ministers as such and their powers, obligations and duties in addition to those conferred by or arising under a law passed by the Parliament of Uganda;

d) the public service of Buganda;

e) matters relating to taxation agreed to between the Kabaka’s Government and the central Government;

f) Buganda’s public debt, public holidays and festivals;

g) traditional and customary matters relating to Buganda alone.

Matters reserved for the Central Government included:

a) foreign affairs

b) immigration

c) National defence and Internal Security

d) The judicial system and penal law

e) Public finance, public health and public service of Uganda

Matters exclusive to Legislature of the "federal states" [Ankole, Bunyoro, Toro etc.]

a) Office of the ruler, his powers, duties and obligations

b) public holidays and festivals

c) Traditional and customary matters relating to that state alone. They could exercise jurisdiction over other matters only after arrangement with the Central Government.

Uganda was styled "The sovereign state of Uganda." The whole constitutional set up was anomalous. The Head of state was styled "President" at the national level. But to his Baganda tribe he was a king, who was the Head of state of a nation composed of four kingdoms and eleven districts. [See A. Kiapi-Theory of Government and Constitutional law in East Africa.1971 pp. 170-171, 184]

i. Republicanism (Arts. 3-4, 7 and 9)

ii. Centralism (Art. 6)

iii. Nationalism (Arts. 5, 8 and 17)

iv. Stability (Art. 15)

v. Modernisation (Arts. 11, 17-19)

vi. Egalitarianism (Art. 6)

vii. Economic justice (Arts. 21-23)

viii. Economic independence (Art. 16 and 30)

ix. Social justice (Arts. 2, 3 and 6)

x. Political justice (Arts. 41-42)

xi. Positive international co-operation (Art 5)

xii. Self reliance (Art 31)


15. Declared on 22 February 1966. Meant to limit the movement of the Ganda people who went on the rampage because of the attack on the Kabaka's Palace at Lubiri by the Obote forces. The state of emergency was renewed by the National Assembly every 6 months.


17. Art 17(1) of the 1967 Constitution.

17b. Decree 14 of 1971. The Suspension of Political Activities Decree. It made it a criminal offence for anyone to talk politics!


19. Ibid. p. 77.


22. Uganda v. Swaler Muganga and 7 others. Quoted in No. 20 supra p. 83


24. Ssekandi's Article in 20 supra p. 83

25. Will President Milton Obote duplicate this feat again, now that he is in power? Given the eruptive state of Uganda's politics for the past decade it is unlikely for the President to so act. Most likely, he will pursue a conciliatory path - at least throughout his first term in office.


27. Agola-Awola's Article. Refer to No. 3 supra p. 45.


29. op.cit. p. 5


32. See Agola-Awola's Article in No. 3 supra p. 45.


36. No. 27 supra at p. 9. Morgan notes in his paper at p. 16 that factors pointing to a personal takeover included dissidence in the officer corps before the coup over wages and promotions, highlighted by Amin's abrasive relationship with colonel Oyite Ojok; the appointment of Brigadier Hussein in October 1970 as Army Chief of Staff thus diffusing Amin's power as commander; the Auditor General's report intimating that £5M allocated to the ministry of Defence had been used improperly; evidence that Amin was possibly involved in the death of Brigadier Okoya; the small size of the armed forces nucleus which actually executed the coup; the claim by Amin after the takeover, that he had acted out of necessity upon discovering a plan to disarm the Army on a tribal basis which would have resulted in the arrest and murder of many leading officers including himself; the post coup claim that Brigadier Hussein was implicated in the above noted plot and the subsequent report that Hussein had been killed a few hours after he had surrendered on 29 January 1971; and the persistent dissidence within the military itself indicate that the takeover was not a corporate action. "It might then be apt to conclude tentatively that in this case, the takeover was motivated more by personal than by institutional considerations. In the last days of 1970 General Amin might have concluded quite simply that if he did not act first, his removal was imminent": [Emphasis mine]


38. David Martin - General Amin (Feber and Feber) 1974 at p. 67.

39. Ibid p. 70

40. Ibid at p. 71

42. David Martin: General Amin. Faber and Faber. 1974 p. 73.

43. Ibid. p. 73.

44. Op.cit. p. 74


51. David Martin. See footnote 42 supra p. 88

52. The Uganda Crisis. Refer to footnote 12 supra.

53. David Martin footnote 42 supra p. 20.
In chapter 1, the purported reasons that led to the overthrow of Obote's government were examined and the submission was that Amin was personally forced to act in order to survive the impending catastrophe in the form of the proposed murder trial in respect of Brigadier Okoya in which Amin was deeply implicated; the gross funds loss and corruption in the Army, of which Amin was commander and the implication of the government through his involvement with Rolf Steiner the West German mercenary operating with the Southern Sudanese rebels - the Anyanyas - an involvement which was contrary to and inconsistent with Uganda government's foreign policy to Nimery's Sudan.

In this Chapter, the implication of the January coup and genesis of the Military Government's Promulgations and Decrees as remedial measures is examined against the background of the Republican Constitution of 1967 as a premise to good government.

The Constitutional implications of the coup were that the government had to launch remedial and corrective measures relating to the Eighteen reasons on which the coup was founded. These corrective measures materialised into remarkable constitutional changes in the Second Republic: devastatingly shortcircuited the general principles of Constitutional law as embodied in and reflected by the 1967 Constitution.

The dissertation will now consider the major tenets of these changes under certain proposed headings. The topic choice here is deliberate. Typical subject-heads via which Aminist government'
actions can best be approached and analytically demystified, are examined in this chapter.

The thesis advanced in the dissertation is the issue of credibility as per the Eighteen Points read to justify the 1971 coup. And any analysis of those reasons should proceed from the foundation and implication of implementation of the coup ideal.

2.1. Constitutionalism, Judicial Review and Fundamental Rights

The 1967 Constitution established, regulated and imposed limitations on the powers of the principal organs of government: a universal foundational premise of most constitutions with the result that if any of the organs of government, especially the legislature and the executive exceeds its powers as therein defined, the act is declared by the courts to be invalid, null and void at law. Herein lies the concept of judicial review and supremacy of the Constitution reflected in Article 1 of the 1967 Constitution viz: the Constitution is the supreme law of Uganda and if any other law is inconsistent with the Constitution that law should to the extent of its inconsistency be void.

To highlight this, judicial interpretation will be quoted. Where, it is a judicial opinion quoted from a common-law country or Commonwealth country such a case is to be treated as nothing more than persuasive authority to the courts of Uganda; unless the case so quoted is from England and is well within the reception date - 11 August 1902.
Case-law follows closely in the wake of this provision.

In the celebrated words of Marshall C.J.:

"That the people have an original right to establish, for their future government, such principles, as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; or can it, nor ought it, to be frequently repeated. The principles, therefore, so established, are deemed fundamental. And as the authority from which they proceed is supreme and, can seldom act, they are designed to be permanent. This original and supreme will organises the government, and assigns to different departments their respective powers. It may either stop here, or establish certain limits not to be transcended by those departments." 

In the words of the East African Court of Appeal; a Deportation Ordinance was void as against the Constitution, where the appellants were arrested under the Deportation Ordinance, with no charges preferred against them; the main issue being whether the arrests were void as being inconsistent with the provisions of the Uganda Constitution.

Likewise, the legality of the Emergency Regulations of 1966 made by the Obote Government after the abrogation of the Independence Constitution of 1962 was questioned. The contention of the appellants was that since the abrogation was unlawful, and the 1966 Constitution invalid and illegal, the Government established under the latter Constitution was therefore illegal and so could not make
lawful Emergency Regulations under which the appellants were detained. The Uganda High Court held that the 1966 Constitution was valid, basing its judgement on the reasoning that there had been an effective revolution, which in juridical terms, is judged by its success, that is, if the persons assuming power have made the inhabitants of the country to conform to the new system of Government.\(^3\)

The Uganda High Court also exercised its power of judicial review and declared the Local Administration (Amendment) (No. 2) Act of 1969 void because it was retrospective legislation, which was inconsistent with chapter three of the Constitution\(^4\). These cases illustrate how the principle of judicial review was established in the Constitution and was fundamental.

The question is whether these safeguards were operative in the post 1971 period. Did the military generals preserve them or were the concepts of constitutionalism, judicial review and fundamental rights torpedoed?

When the Military Government took over, it chose to modify the Constitution that had been in operation before it assumed powers to form the legal basis of its system of Government but without following the procedure of constitutional amendment or alteration as laid therein\(^5\). These modifications were affected through the promulgation of Proclamations and Decrees\(^6\) the first of which was issued one week after the coup\(^7\). The Proclamation states:\(^8\)

"Chapters IV and V of the Constitution are suspended and all appointments and offices except public offices held immediately before the 25th day of January, 1971, pursuant to the powers contained in those chapters are hereby terminated with effect from that date."

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\(^6\) Chapters IV and V of the Constitution are suspended and all appointments and offices except public offices held immediately before the 25th day of January, 1971, pursuant to the powers contained in those chapters are hereby terminated with effect from that date."
Those chapters provided for the Executive and Parliament.

The Proclamation in effect dissolved Parliament, vested legislative powers in the Military Head of State to be exercised by promulgation of Decrees, and provided for a Council of Ministers to be appointed by the new Head of State. The Proclamation further states:

"Those provisions of the Constitution, including article 1, 3 and 63 thereof, which are inconsistent with this Proclamation shall, to the extent of such inconsistency, be void. (Emphasis mine)

Subject to this Proclamation, the operation of the Constitution and the existing laws shall not be affected by this Proclamation but shall be construed with such modifications, qualifications and adaptations as are necessary to bring them into conformity with this Proclamation".

The issue is whether in view of the provision, constitutional supremacy and judicial review were torpedoed in the second Republic. The prima facie interpretation could be that while some Articles of the 1967 Constitution were still in force, constitutional Supremacy and judicial review had been suspended temporarily, so as to enable the Military Government to change and suspend the provisions of the Constitution by Decrees and Proclamations and effect corrective measures. The basic aims of this provision seem to be four; first, to abolish the legislative power vested in the legislature under Article 63 of the 1967 Constitution; Secondly, to transfer and confer the same powers as prescribed under Article 63 to the President of the second Republic; thirdly, the abolition of Article 3 is to enable the Presi-
dent by Decrees to change the Constitution without following
the specially prescribed procedure under Article 3; and
fourthly, a seemingly polemical point, to destroy the doctrine
of judicial review and constitutional supremacy.

It is arguable that on the basis of the 18 reasons
given for the violent overthrow of the Obote regime, the primary
purpose of section 8 of the proclamation was to confer superior
eminence and importance to Decrees subsequently promulgated by
the Military Government, to enable it, without any Constitutional
impediments or hindrance to correct the alleged mistakes made by
the overthrown regime.

The better argument however seems to be that the provisions of the
1967 Constitution, which at any rate in theory were still in
force, prevailed over the ordinary non-constitution-amending Decrees
promulgated by the Military Government for the following reasons:
first, in accordance with s. 8(2), it is inerrable that the main
objective of the proclamation was not to destroy the status, basic
principles, and the operation of the Constitution and the existing
laws, but to enable the Decrees to validly and effectively come
into force.

Secondly, it was not expressly stated in the case of (Ghana) and
Nigeria where a Decree provided expressly that the existing Consti-
tution shall not prevail over a Decree and nothing in the Constitu-
tion shall prevail over a Decree and nothing in the Constitu-
tions shall render any provision of a decree void to any extent
whatever.10

Thirdly, the doctrine of severability preserved the phrase "to
the extent of that inconsistency"11 seems to import a partial
and not a complete destruction of the Doctrines of Constitution- 
alism, Judicial Review, and other important constitutional principles.

Lastly, there have been a number of Decrees subjected to the provisions of the Constitution, which implied that the Constitution was still supreme vis-a-vis certain decrees, although in certain instances where a decree surpasses a Constitution, it was expressly said so. Instances of decrees subservient to the Constitution are not lacking. But nor are the instances of decrees over-riding the Constitution lacking, example: The (Prescription of Time Limit) Decree which provides "Notwith- 

standing the provisions of clause 5 of Article 10 of the Consti- 
tution and subject to the provisions of the commission of Inquiry Act... 

Another Decree states: "This Decree shall have effect notwithstand- ing the provisions of clause (5) of Article 84 of the Constitution". This Decree enabled the appointment of Benedicto Kiwanuka as Act- ing Chief Justice although the relevant provisions of the Consti- tution were not complied with. The introduction of the decree was therefore to pave way for this appointment.

The jumble in this area could be, in part clarified by classifying decrees and statutory instruments promulgated in the second Republic into: (Emphasis mine) Constitutional Decrees and Statutory Decrees with the effect that the latter would not survive the provisions of the Constitution still in force whereas the former would inevitably prevail over the provisions of the Constitution.
Indeed to suggest that any Decree at all would prevail over the Constitution is as was stated by Marshall C.J. in *Marbury v. Madison* to reduce to nothing, what we have deemed the greatest improvement on the political institution - a written constitution - the supreme law of the land. Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the land and consequently the theory of every such government must be that an Act of the legislative body, repugnant to the Constitution must be void.\(^{15}\)

However the above is merely an attempt to introduce a distinction between the Decrees and Promulgations of the second Republic in order to enable a better appreciation because as the International commission of jurists stated: "while accepting the Constitution in principle, the government simply modifies, overrides or defies any constitutional safeguards that interfere with its current policies. The frequent official references to the Constitution, as in the Political Activities Decree, are seen to be no more than a legal formality."\(^{16}\)

Can it therefore be said that this was in any way a corrective measure when assessed against the background of the Eighteen points submitted by the Military Officers as justifying the coup?

It is to be recalled that Amin took as crucial the protection of the citizen's constitutional rights. In this respect, it is not easily appreciable how he hoped to safeguard them by promulgating proclamations and decrees that simply over-rode them.
The view that the infant government needed such measures to strengthen its limbs and make it initiate better, sweeping reforms should be suspect.

Amin, had asserted in his first Press Conference that his was going to be a caretaker government concerned with sweeping reforms. Hence, from the word "go", this should have been his pre-occupation, other than first emaciating the Constitution with his over-riding decrees, thereby making more precarious the position of the citizenry.

Human rights.

Chapter III of the Constitution which concerns the Protection of fundamental rights and freedoms of the individual is gullied to an unrecognisable form by the Decrees. This heading is extensively treated in Chapter 3. Hence to avoid any repetition it will only be dealt with there.

2.2. The major organs of the government.

The concern here is the Executive, Legislature and Judiciary and the extent to which their composition, functional utility and structure have if any, been affected by the Decrees and other statutory instruments in the first year or so of the Second Republic.

JUDICIARY

The 1967 Constitution had established a High Court for Uganda with unlimited jurisdiction throughout the country and its compositional constituent was the Chief Justice and such number of puisne judges as shall be prescribed by Parliament.
The Chief Justice was appointed by the President, while the puisne judges were appointed by the President acting in accordance with the advice of the Judicial Service Commission. Although the Constitution does not expressly state that the President is bound by the advice of the Judicial Service Commission, it is inferentially apparent that he is; this suggests a fair compromise between the need to protect public or national interests and the doctrine of Judicial independence — hence separation of Powers. Similar measures are taken in the appointment of the chief Registrar, the Deputy Chief Registrar, Assistant Chief Registrar, the Chief Magistrates and other Magistrates.

The salaries of the judges are charged on consolidated funds and a judge of the High Court, may only be removed from office for inability to perform the functions of his office, whether that inability arises from insanity of body or mind or from any other cause or for misbehaviour.

How did the Judiciary fare with the gun-wielders: was it subject to the above circumventions, or was it unscathed?

Generally the Judiciary structurally and composition-wise did remain intact in the second Republic, but its functional services was greatly undermined. That means that structurally the Judiciary was merely an anachronistic relic of a by past era veneering the husk it had become. Nevertheless, in practice, the only decree of constitutional importance relating to the Judiciary was that governing the appointment of the Ag. Chief Justice which provided that:

"This Decree shall have effect notwithstanding the provision of clause 5 of Article 84 of the Constitution."
And Article 84(5) of the Constitution states that "If the Office of Chief-Justice is vacant or if the Chief-Justice is for any reason unable to perform the functions of his office, then, unless a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, those functions shall be performed by such one of the puisne judges as may be designated in that behalf by the President."

The implication of this clause of the Constitution seems to be that for any person to be appointed an Acting Chief-Justice by the President as provided by the Constitution, that person must have been a puisne Judge of the High Court of Uganda.

The Hon. Mr. Justice Benedicto Kiwanuka, who was appointed Acting Chief-Justice of Uganda as a result of the above Decree was not a puisne Judge to whom Article 84(5) of the Constitution refers. He was a practising lawyer. It could therefore be deduced that the Appointment of the Acting Chief-Justice Decree was issued to override the provisos of clause 5 of Article 84 of the Constitution, in order to rule out the possibility of Mr. Kiwanuka's appointment as Chief Justice being challenged as being unconstitutional.

Thus, irrespective of the overriding nature of the Decree vis-a-vis the Constitution, it also served the purpose of enabling the President of the second Republic to choose someone he wanted for appointment to the Highest Office of the Judiciary. And this was a clear bud of the Aminist arbitrariness in the post coup period.
Legislature

The second organ or arm of the government treated here is the Legislature. Were its traditional institutional hallmarks rendered obsolete, or were they adopted and preserved by the Military government in the days subsequent to the coup?

Chapter V of the 1967 Constitution of Uganda, which was suspended by the Military regime, created a Parliament of Uganda. The latter consisted of the President and the National Assembly. And the National Assembly consisted of 82 elected members, on a single constituency basis and such other number of specially elected members as may be required to give the party having the greatest numerical strength of elected members in the National Assembly a majority of not more than ten of all the members of the Assembly.

President Obote had in 1970 proposed a move to change this system when he announced that the Constitution was to be amended to prune it in line with the requirements of one-party state. But this ill-fated move was never effected because it was overtaken by the 1971 events.

The Military Government permanently abolished the democratic Legislative organ of the State as it was contained in the Constitution. Besides, it created a new structure of the Legislative Organ comprising of the Head of State, who later became President, and his Council of Ministers or Cabinet-less Members of Parliament.
Of constitutional importance here was the Parliamentary Powers (Vesting) Decree, which provided that:

a) "Where the Constitution or any Act of Parliament provides for any matter, act, or thing to be authorised, approved or determined by Parliament or the National Assembly, such authorisation, approval or determination shall, during the continuance in force of this decree, be exercised by the Secretary of the Council of Ministers.

b) A certificate signed by the Secretary to the Cabinet shall be sufficient evidence of the passing of any resolution by council of Ministers in exercise of any of the powers referred to in section 1 of this Decree".

This ushered in remarkable changes in the Legislative Structure. Whereas Article 63 of the 1967 Constitution stipulated:

"Subject to the provisions of this constitution, Parliament alone shall have sole powers to make laws for the peace, order and good Government of Uganda".

The President of the Military regime exercised this power in accordance with the advice of the Council of Ministers.

Previously, there were many limitations or qualifications on the doctrine of legal sovereignty of Parliament. These limitations were imposed, by the constitution and parliamentary procedures. The first general limitation was the basic Constitutional structure particularly the inclusion of the phrase "subject to the provisions of the Constitution". The Legislature was therefore estopped from making laws contrary to and inconsistent with this Constitu-
tional procedural safeguard. Hence strict adherence to the letter and spirit of the Constitution as a matter of broad principle was observed.

Again Article 1 of the Constitution by necessary implication vested the power of Judicial Review in the Judiciary. Judicial Review therefore imposed great limitation on the legislative competence of the Parliament.\(^\text{28}\)

But under the Military Government the position was that any provisions of the Constitution may be altered by a Decree.

However, it is quite clear that, where the Constitution laid down special procedure for the exercise of the legislative or constituent function of Parliament as under Article \(^3\text{29}\), such provision was mandatory and binding on Legislature - at least before the coup.

Case law obtaining in Commonwealth countries, though only of persuasive authority in Uganda backs up this procedural mandatoriness.

In \text{Harris v. Minister of Interior} \(^3\text{0}\), Harris and certain non Europeans applied for an order declaring that the separate Representation of Voters Act 1951\(^3\text{1}\) was invalid by virtue of ss.35, and 152 of the South Africa Act 1909 as it was passed when the House of Assembly and the Senate were sitting separately. This contention was upheld at appellate level and the Appeal Court declared that, Act 46 of 1951 was invalid, null and void and of no legal force and effect by virtue of Ss.35 and 152 which required that no law which disqualified certain persons from
enjoying some franchise right on the ground of race or colour shall be invalid unless passed by two-thirds majority votes of the total membership of the Senate and the House of Assembly in joint session. The court was of the opinion that the two-thirds majority procedure were rules of law which were in force and effect inspite of the passing of the statute of Westminster in 1931 and it was the duty of the court to take cognisance of such law. This is of persuasive authority for Uganda courts.

In **Attorney-General for New South Wales v. Trethowen** the New South Wales Legislature in 1929 enacted a new Constitution which provided that the Legislative Council shall be abolished nor shall its composition and powers be altered except when the Bill is approved by the electors. If the majority approved of the Bill, it shall be presented to the Governor General for assent. In 1930 the Government wanted to alter this Section 2 of the 1929 amended Constitution. Two Bills were prepared by the Government. One abolished s.2, and another one abolished the legislative Council of New South Wales. In respect of these two Bills, an injunction was granted restraining their presentation to the Governor-General until they had been submitted to the electors under s.2, and a majority of the electors had approved of them. The Attorney-General appealed and argued that the Legislature being vested with legal sovereignty, had the full power to alter s.2 and that the section was void because the legislature had no power to bind, shackle and control its successors. The respondent argued that s.2 was a valid enactment of
and was legally binding in New South Wales.

The court held that s.2 was valid and was in force when the two Bills under consideration were being passed and the Bills could not be presented to the Governor for his assent unless and until a majority of the electors voting had approved them. Again, this is of - persuasive authority to the courts of Uganda.

The glaring absence of Constitutional Supremacy and flexibility of the British Constitution apparently makes the position slightly different. Wade and Phillips have expressed the view that in England, no Parliament can bind its successors. This position has the support of judicial decisions.

In Vauxhall Estate v. Liverpool Corporation\(^33\) it was held that a later Act repeals an earlier Act by implication in event of inconsistency. It was also stated in Ellen Street Estates v. Minister of Health\(^34\) that the legislature, according to the British Constitution, can not bind itself as to the form and procedure for enacting subsequent legislation and it is impossible for Parliament to enact that there can not be implied repeal. All that a Court of Justice can do is to look at the Parliamentary role and no Court of Justice can enquire into the mode in which a Bill was introduced in Parliament.

The Obote regime, also, overcame this procedural limitation or restriction of sovereignty by effectively abolishing or changing the required procedure in the manner prescribed\(^34\a\).

The legal Sovereignty of the Legislature in the Second Republic was subject to limitations viz:
First, the doctrine of Constitutional Sovereignty and Judicial Review. But this was of no consequence since the Military Government could, at will, over ride it by a "notwithstanding clause".

Secondly, by the fundamental rights enshrined in Chapter III of the Constitution. But, again, this was not a limitation since Chapter III was completely eroded by Decrees of the Military regime.

Thirdly, other extraneous forces as public opinion and international relations.

Hence, there was no more procedural limitation on the 'Legislature' in the exercise of its legislative functions, since Article was suspended. The Council of Ministers were not required to follow any particular procedure when exercising legislative functions.

To the extent that this was true, it becomes clear that any purported remedial action of the Government in the Second Republic had the unfortunate and undesirable result of depriving the individual of certain constitutional safeguards.

In this case, the Parliament as a representative organ of the people was not only abolished, but powers thereunder were vested in persons who at least did not know that to do with them and at worst used them arbitrarily, and more so, inorder to attain their own ends.

Was this a remedy of the pre coup blunder: (a corroded constitutional safeguard) or was it a perpetuation, if not an exaggeration of those shortcomings which the soldiers used for
justifying their coup?

Executive. The third and practically the most powerful organ of the government. Under the 1967 Constitution the executive consisted of the following political and public institutions, namely: the President, Cabinet, Public Service, public corporation, local administration and the armed forces. Political Offices in the executive structure of the local administration were that of the Secretary General and Financial Secretaries of a local administration and those of mayors of certain Municipalities such as Kampala, Jinja, Mbale and Masaka. The public sector within the executive organ of Government were the Armed forces public service, public corporations and the non political offices of the local administration, for instance the offices of the administrative Secretaries, town clerks, treasurers and other civil service posts. This distinction between political and non-political offices and bodies are crucial to an understanding of the changes on the executive in the second Republic. This distinction in the case of Uganda is quite trite in the sense that, unlike Tanzania, there was no politicization of the armed forces, public corporations and the general civil service edifice. However, this should not be regarded as a thesis to the effect that, the officers in such positions were politically docile. They could vote at the time of General Elections. But it was a silent code as it were for them to refrain from extrovert political tendencies which would interfere with their public functional services.
The major change on the executive was the removal of persons occupying political offices under the 1967 Constitution and their replacement by non-political appointees by the Military government. In this respect the Uganda coup was powerful and an effective rustication of the politicians by the soldiers.

Under the 1967 Constitution the President had wide areas of ceremonial, discretionary and advisory powers. The executive power in Uganda was vested in the President to be exercised either by him directly or through Officers subordinate to him. He appointed his own cabinet under Article 33 of the Constitution, and the Cabinet worked on the principles of parliamentary democracy, collective responsibility and could be voted out of the Office by the National Assembly.

However Chapter IV of the 1967 Constitution which provided for the Executive was included in the casualty list by the Military Government and peremptorily suspended by Proclamation No. 1 of 1971 which provided:

"1. Chapters IV and V of the Constitution are suspended and all appointments and offices excepting public offices held immediately before the 25th day of January, 1971, pursuant to the powers contained in those chapters are hereby terminated with effect from that date.

2. All the titles, privileges, prerogatives, powers, functions and exemptions formerly enjoyed or exercised by the former President of the Republic of Uganda under the Constitution are hereby vested in me with effect from the 25th day of January, 1971, and accordingly the Military Head of State shall be the Commander-in-Chief of the Armed Forces."
On the basis of s.2 of this proclamation it can be reasonably asserted that all the powers vested in the President by the 1967 Constitution were transferred to the Head of the Military Government. This was confirmed by Decree No. 5 of 1971, The Constitution (Modification) Decrees, Section 2 of which provided:

"2(1) The President shall be Head of State, Head of the Military Government and Commander-in-chief of the Armed forces of Uganda.

(2) The President shall take precedence over all persons in Uganda and shall not be liable to any proceedings whatsoever in court.

(3) The President shall be exempt from any direct taxation".

Hence, the President of the Second Republic enjoyed all the ceremonial powers, immunities, and privileges conferred upon the former President by the 1967 Constitution.

The wording of these powers, immunities and privileges are expressed verbatim as the wording in the 1967 Constitution. The discretionary powers vested in the former President under the 1967 Constitution were transferred to the Military Head of State acting generally on the advice of the Council of Ministers or the Cabinet who were appointed under s. 3 of Decree No. 5 of 1971. Although, initially most of the Ministers appointed were top civil servants, Amin later enrolled them in the army as 'officer cadets'.

The office of a Minister becomes vacant if he resigns, if the President so directs or at the first sitting of the National Assembly after a General Election (which never took place anyway!)
S.5 of the Decree established the office of the Attorney General who was designated the Minister of Justice as well as the principal legal adviser to the Government. He is a presidential appointee and can be removed at the President's pleasure.

The Cabinet has a twin function of advising the Military Head of State in the exercise of his executive and legislative powers. But in reality the Defence Council, established under Decree No. 1 of 1971, was the only effective decision making body in Uganda, for Amin treated his cabinet ministers like civil servants: and yet paradoxically the Defence Council in its resolution sometimes appeared to be merely rubber-stamping Amin's decisions.

The basic structure and compositions of the public service has remained almost the same as under the 1967 Constitution, but some officers were retired reportedly in public interests. Membership of the Public Service Commission and the Teaching Service Commission were hardly changed. The Parastatal bodies were initially not also affected by the 1971 changes. But some chairmen of these corporations were suspended, an instance was the suspension of the chairman of the National Trading Corporation.

On the local administration front, the changes affected the political stratum of the administrative structure created by the Constitution cum Local Administration Act, 1967. The Military Government abolished the offices of the Secretary General, Financial Secretaries, and Mayors with their deputies/Assistants but left intact the public structure and the offices held by purely non-political administrative personnel.

To this extent it can be submitted that the soldiers seemed to have mounted a major assault on the U.P.C. political appointees in the
Governmental structure, whether central or local. Indeed this was the position as opposed to its recruitment of other party leaders e.g. Benedicto Kiwanuka, President General of the Democratic Party and Abubakr Mayanja the articulate lawyer who masteredminded events in the Kabaka Yekka.

The fact that both Kiwanuka and lawyer Abubakr were members of consequence in their respective parties, makes Amin’s gesture reflected in their appointment rather curious, if only for the reason that, the Democratic Party and The Kabaka Yekka, as were other political parties were abolished by Decree No. 14 of 1971 (The Suspension of Political activities Decree).

But herein lay Amin’s genius. The General by so appointing these political stalwarts provided a ground for falling out with them. Kiwanuka was abducted and murdered only one year after his appointment as the country’s Chief Justice. Mayanja however, was a little too witty and managed to escape.

The point to be remembered here is that it does no good to under-estimate field marshal Amin. Obote under-rated him and ended up in a decade long political cold. Many others who made a similar mistake lost their lives.

Hence, Amin was much more conscious than he had always been taken to be. His buffooneries provided a perfect screen to his cunning qualities.

So, whatever Amin did at this juncture was effected with deliberateness.

That is why he should unhesitantly be held directly liable for his blunders.
2.3. To what extent was the 1967 Republican Constitution still in force?

The consideration here will be under two sub-headings viz: Expressly suspended Articles of the Constitution and those suspended by Implication.

Expressly suspended Chapters, Articles and Clauses:

Proclamation 1 in Legal Notice No. 1 of 1971 suspended Chapters IV (the Executive) and V (Parliament). It also suspended articles 1, 3 and 63 thereof.44

Decree No. 14 of 1971 suspended Articles 10, 17, 18 and 19 of the Constitution. The themes of these articles is the protection of the Fundamental rights and freedoms of the individual, including protection of right to personal liberty, freedom of movement, personal liberty, securing protection of the law and freedom of speech, association and assembly.

Decree No. 29 of 1971 suspended Article 84(5) of the Constitution.46

Chapters, Articles and clauses suspended by Implication:

It is only under this heading that the devastating and delimiting effect of the Amin decrees can be appreciated vis-a-vis the 1967 Constitution. From the word go, on the 25th January 1971 till his fall on 11 April 1979, the Military regime flouted Constitutional provisions and made nonsense and child-play of the concept of Constitutional sacredness. The regime simply modified, over-rode or defied any constitutional safeguard that interfered with its policies.47 Virtually the whole of Chapter III of the Constitution which provides for the Protection
of Fundamental Rights and Freedom of the Individual was downtrodden in the subsequent dust of political, social and economic repression.

Article 8, 9, 10, 12-13 and 16 were all downridden in the wake of the genocides and atrocities committed against the citizenry. Articles 12-13 which provide protection from inhuman treatment and deprivation of property were defiantly flung to the four winds when the Asian Citizens and non citizens were expelled from the country in August 1972. So was Chapter II which provided for Citizenship.

Chapter VI of the Constitution which provided for Legislative and Executive powers were dismantled and then consolidated in one person - Amin - contrary to the doctrine of Separation of Powers, a constitutional safeguard and balance provided for by the 1967 Constitution.

Finally, Chapter VII - Local Administration and article 103 (District Service Committees) were both struck off by a stroke of the pen.\(^48\)

Infact, even Chapter I of the 1967 Constitution was ruled out and Chapter VIII (The Judicature) was seriously stampeded by the soldiers.\(^49\)

This leaves only Chapters IX (Finance), X (The Public Services of Uganda) and XI (Public Land). In short, hardly any Chapter of the 1967 Constitution was left untouched by the Military regime.
FOOTNOTES

1. Marbury v. Madison 1 Cranch 137, 2 L. Ed. 60(1803)
2. Ibingira and Others v. Uganda. 1967 E.A. 306 and 445
7. Proclamation 1 - Legal Notice No. 1 of 1971
8. Ibid s. 1
9. Ibid s. 8(1), 8(2).
10. Decree No. 1 of 1971 s. 2(1)(of Nigeria).
11. s. 8(1) of Proclamation 1 - Legal Notice No.1 of 1971 (Uganda).
13. s.3 of The (Prescription of Time Limit) Decree. No.7.1971
15. No. 1 supra.
17. 1967 Constitution Article 83(1).
18. 1967 Constitution Article 83(2)
19. Ibid Article 84 (1), (2).
20. Ibid Article 91 (1), (3).
22. No. 16 supra at 20.
25. Article 40
26. Decree No. 5 of 1971
27. Ibid
27a. E.g. Article 65(3), Article 66, Article 65(1) e.t.c.
28. Part II - Procedure in National Assembly, 1967
Constitution, and Article 3 of the Constitution.
29. Provides that on the second and third reading, the bill should be supported by either a majority of all the Members of National Assembly or two-thirds of all elected members of the National Assembly.
30. (1952) 1 T.L.R. 1245.
31. No. 46 of 1951.
32. [1932] A.C. 526
33. [1932] 1 K.B. 733
34. (1934) 11 Comp. Pche 309.
34a. Article 60(1) of 1967 Constitution - (The National Assembly may regulate its own procedure).
35. Example: Decree No. 14 - The suspension of Political Activities which invalidates Article 10 (freedom from arbitrary arrest), Article 17 (freedom of expression), Article 18 (freedom of Assembly and association) Article 19 (freedom of Movement).
36. Major-General Amin (as he then was) showed little pretence as to his indifference to extraneous forces and international relations. Evidence of this is Amin's telegram to the former U.N. Secretary-General Dr. Kurt Waldheim which
informed him that the Germans were right to gas
the Jews and that the Munich Olympic slaughter of
Israeli athletes was carried out by Palestinians in
conjunction with Germans. (See Report of I.C.J. on
Violation of Human Rights and rule of law in Uganda
p. 3).

37. See Chapter IV of 1967 Constitution, Article 24(1)
   Article 33(1).

   See Chapter VII of 1967 Constitution (Local Administration)
   See also Chapter VI (Legislative and Executive Powers),
   Part II - on Executive Powers.

37a. Morris and Read: Uganda - The Development of Its Laws
   and Constitution - pp. 152, 155.

38. Ibid.

39. Article 30, see also No. 37 supra.


40. Report of I.C.J. on The Violation of Human Rights and

41. Decree No. 1 of 1971 provided for the establishment of
   a Defence Council "consisting of the Commander-in-Chief,
   who shall be the Chairman, the army chief of staff,
   the chief of the Air Staff, and such persons as the
   Commander-in-chief may, by writing under his hand appoint".
   (Decree No. 1 of 1971).

42. No. 40 supra. 42(a) See chapter X (The Public Services
   of Uganda).

43a, (b) Decree No. 2 of 1971

44. Articles: 1 provided that the Constitution is the
   supreme law of the land.
   : 3 provided procedural safeguards in altering
   certain entrenched Articles or provisions
   of the Constitution.
   : 63 provided that Parliament had absolute and
   sole powers to make laws for Uganda.
45. The suspension of Political Activities Decree which suspended all political activities, prohibits the formation of any political party, and bans all political parties in existence at the time of the issuing of the Decree as well as the use of Party slogans.

The schedule lists the Parties then in existence thus:

1. Democratic Party - D.P.
2. Uganda National Union - U.N.U.
3. Uganda Farmer's Voice - U.F.V.
4. Uganda Conservative Party - U.C.P.
5. Uganda National Socialist Party - U.N.S.P.
7. Uganda Peoples' Congress - U.P.C.
8. Kabaka Yekka - K.Y.

46. Appointment of Acting Chief Justice Decree.

Hon. Benedicto Kiwanuka was not a judge of the High Court of Uganda, but he was a practising lawyer. And according to Art. 84(5) only a puisne judge of the High Court could be appointed Ag. Chief Justice.

47. No. 16 supra.

48. Decree No. 2 of 1971 which dissolved all District Councils, Municipal Councils and Town Councils and terminated the offices of Secretary General, Assistant Secretary General, and Deputy Mayor.

49. Ag. Chief-Justice Benedicto Kiwanuka was murdered by the soldiers because of his strict adherence to high Judicial standards.

An interesting incident here is when the Senior Superintendent of Police Ali Towilli head of the dreaded Public Safety Unit attempted to arrest Ddungu in court, assisted by other policemen (See Report of I.C.J. No. 16 supra at page 20).
Major General Amin came to power in January 1971 promising "I am not a politician, but a professional soldier... mine will be purely a caretaker administration". He pledged to implement the changes demanded in the 18 points which were given as the reason for the coup, one of which rightly criticized "the failure by political authorities to organize any elections for the last eight years whereby people's free will could be expressed." He emphasized that he was not interested in power: explaining that he took political control only after he was asked to do so by the soldiers. He ended the state of emergency that had existed in Uganda since 1969, following the abortive assassination of President Obote, and in May he expressed the view that a new Constitution would be published to be followed by civilian elections. The target date for such elections was March 1973. A multiparty system with a parliamentary opposition was suggested. Till his fall in March 1979, these suggested reforms remained uneffected. Amin was apparently still committed to his goal even after the abortive invasion from Tanzania. In April 1973, the government expressed the view that it would establish a supreme state council, responsible for national guidance and for framing policies, with a Prime Minister who would serve under the President. In addition, a National Forum with representatives from each county meeting four times a year to make recommendations on important prevailing issues would be set up.

Unfortunately nothing was done to implement these reforms and a return to civilian government was, as it is well known, one of Amin's bluffs to the nation, a mere
myth as opposed to reality. Is it probable that Amin was playing for time whereby he could consolidate his hold over the country?

The subsequent political and legal structure introduced by the military elite apparently aimed at remedying the situation especially on the domestic front plunged the country nose-dive into an abysmal socio-economic and political catastrophe. It was a corroding cancerous malady; the kind the herdsman prophet Amos from Tekoa incessantly tongue-lashed in his contemporary Israel.

Amin's so called corrective remedy therefore was void of any social and economic functional utility. It was not a remedy but a malady amplifying and beating on all fronts the shortcomings inherent in the Obote regime.

An examination of this will now be explored in depth to identify and illuminate their malaise.

3.1. Political and Legal Structure of the Military Government.

Amin's regime had certain conspicuous characteristics most of which were purportedly geared at achieving corrective measures as per the 18 points. It is not only appropriate but justifiable to outline and examine them and appreciate the Field-Marshal's attempt, if any, to achieve national unity and avoid bloodshed 'for God and our country'.

Political Structure - Dictatorship.

Presidential decree promulgated on 1st February, 1971, established a Defence Council consisting of the Commander-in-chief, who shall be the chairman, the army Chief of Staff, chief of Air Staff, and such persons as the Commander-in-chief may, by writing under his hand appoint. The Defence Council was appointed to help run the Provisional or caretaker government until elections were held. And although in theory the Defence Council was the only effective decision making body in the Country a cavaet, that Amin was in practice the supreme ruler, must be served. Hence it can be confidently asserted, since this was a matter of common notoriety, that the Defence Council in its resolutions more often than not merely rubber-stamped Amin's decisions. In other words, Amin ignored the Defence Council just as he did the Council of Ministers/cabinet if and when he deemed fit. This makes it interesting to recall one of the eighteen points proclaimed to justify the coup which read:

"From the time Obote took over power in 1962, his greatest and most loyal supporters has been the army. The army has always tried to be an example to the whole of Africa by not taking over the government and we have always followed that principle. It is therefore now a shock to us to see that Obote wants to divide and downgrade the army by turning the cabinet office into another army."12

And yet this is what Amin did when he enrolled his cabinet as cadet officers in the army.
One of the milestones on his speed-way to the abolition of parliamentary government was a decree imparting legislative law-making power to Amin through promulgations and proclamations. And a reference to the President under the 1967 constitution shall be construed as a reference to the Military head of state.

A remarkable feat to this end was a proclamation on 2 February 1971 which abolished Parliament, and vested full legislative, executive and military powers in General Amin himself. A subsequent consolidation of powers, here, was Decree No. 2 of 1971 which dissolved all District Councils, Municipal Councils and Town Councils and terminated the offices of Secretary General, Assistant Secretary-General, Mayor, and Deputy Mayor. These measures were to lead the country out of a bad situation of corruption, depression and slavery, after which general elections of a genuinely democratic civilian Government would be organised and supervised with the result that the soldiers would return to the barracks and take orders from such a government. But it is noteworthy that Amin through Decree No. 5 of 1971 shifted his title from Military Head of State to President, appointed his Cabinet Ministers and spelled out their duties and responsibilities. Decree No. 8 a logical follow up formally handed over certain of the parliamentary powers vested in him by virtue of Legal Notice No. 1 of 1971 to his new Council of Ministers.

Amin's recession from 25 January ideals, and a major step in entrenching his position as well as outlawing any future parliamentary government was clearly illustrated.
when he issued on 23 March 1971 a decree\textsuperscript{17} which suspended political activities temporarily to enable the military government time to reconstruct the economy, reorganise the administration and restore public order and tranquility.\textsuperscript{18} The decree suspended all political parties, stipulating specifically that no person shall organise or take part in any public meeting or procession organised for propagating or importing political ideas or information. It declared unlawful any procession of three or more persons which \textit{in the opinion of an authorised officer} is of a political nature. Political symbols and slogans were prohibited; so were political parties names, whether by spoken words or in writing or in any other form whatsoever. Violation of this carried a penalty of upto 18 months imprisonment. Besides this, it imposed very strict residence and travel restrictions on all former members of parliament, mayors, district councillors, and other public figures and stipulated that they keep close contact with the area district commissioners as to their whereabouts. The decree's initial duration was 2 years, unless repealed earlier.

President Amin impliedly recognised the unconstitutional nature of this decree and through the legal phrase "notwithstanding anything contained in the Constitution" expressly overrode constitutional provisions guaranteeing freedom from arbitrary arrest (Article 10), freedom of expression (Article 17), freedom of assembly and association (Article 18) and freedom of movement (Article 19).

\textbf{Government Organisation of the Army and the powers of the army Security forces.}

It will be remembered that both Morgan and David Martin consider as crucial in the coup incentive Amin's
This threat posed to Amin, as a person, was veiled in the diffusion of his power in the army command and management. The view seems to be backed up by the fact that Reasons 13-17 were almost exclusive to the army. This leads to a consideration of changes in the armed forces by Amin. And alongside this will be examined government move to combat armed robbery and Kondoism which was done through the agency of the armed forces.

By 1975-76 the operation of the Security Forces was at its peak. Kampala then consisted of certain forbidden places especially to civilian persons who were either Langi or Acholi. These places included the State Research (army intelligence) headquarters in Nakasero near the French Embassy, the favourite butchering spot of the military police operation at Makindye and the Public Safety Unit (ordinary police) at the notorious Naguru barracks where it had its headquarters. These facts were of such a notoriety that even a fresh hand from upcountry knew within the first few days of his residence in Kampala that the typical security forces cars to be avoided were saloon Peugeot 504 or a BMW with registration plate somewhere near UVS or UVR or UVU.

There were four principal security organisations: intelligence organisation of the army known as the military Intelligence Unit, military police, State Research/The Research Unit and the Public Safety Unit. Apart from these more or less official security units an unofficial
unit operated under Lt. Colonel Isaac Maliyamungu, a member of the Defence Council and Commanding Officer of the Ordnance Depot at Magamaga a couple of miles out of Jinja town. Maliyamungu at one time GSO No. I in charge of operations was a man who frightened even his colleagues on the Defence Council.

The common operational mode of all these organisations was systematic planned disappearances of victims and subsequent torture with or without brutal killing. Their functional coverage embraced society at large and was not in practice based on any definite operational area delineation.

These so-called security organisations were accorded a very free hand in their activities especially in mid March 1971 when the government enacted the Armed Forces (Power of Arrest) Decree which extended very broad powers of arrest to all security forces. A soldier or a prison officer may without an order from a court and without a warrant arrest any person whom he suspects on reasonable grounds of having committed or being about to commit any of the following offences: an offence against the person; an offence relating to property; or malicious injury to property. All members of the armed forces had full powers to search any person or premises and seize property. Hence the heavy reliance by the government on the military as opposed to civilian police.

The Armed Forces Power of Arrest Decree was enacted for a 12 months period and at its demise Decree No. 26 issued on 4 October, 1972 retroactively applied it as from 18 March 1972. Obviously this violated Article 11 (2) of the Universal Declaration of Human Rights as well as Article 15 (4) of the Uganda Constitution which states that:
"No person shall be held to be guilty of a criminal offence on account of any act of omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed."

President Amin repealed Decree No. 26 of 1972 and replaced it with Decree No. 19 of 1973 which limited these broad powers of arrest to the military police while in uniform.

The effect of these powers of arrest to the armed forces was the signal for unleashing a system of arbitrary repression by the army with the result that the police proper were rendered powerless in dealing with ordinary cases of assault by members of the armed forces against civilians. In a nutshell, the army and air force were terrorist organisations for the purpose of terrorising the civilian population. This at once puts to doubt assertions of any remedial action the military regime was attempting to effect at this point in time vis-à-vis some of the 18 reasons given by them to vindicate the coup.

Kondoism.

The justification given for the Armed Forces Power of Arrest was the need to deal with Kondoism or violent robbery. Therefore in conjunction with the above, the Robbery Suspects Decree was issued. It provided that where a security officer has reason to believe that any person has or is about to commit the offence of robbery within the meaning of section 272 of the Uganda Penal Code and such person refuses to submit to arrest by any
person or does any act calculated to evade arrest, then such security officer may use **any force he may deem necessary** to prevent the escape of the person. The subjective test was an invitation to the forces to mete out justice there and then on any suspect as opposed to conforming to accepted channel: police - court - prison. This was confirmed when President Amin advised that they would **shoot on sight** anyone they suspected of being a kondo. And although it was later repealed, a former cabinet minister of Amin described it as one of the most sinister decree under which individuals suspected to be participating in political activities were also to be treated like Kondos. It is estimated that over 10,000 people were killed through this anti-kondo operation.23

**The Legal Structure:**

It was corroded and shattered by an element of politicization. That is, the government through its attempts to consolidate its political hold on the country deliberately picked on the judiciary in an attempted move to reflect the legality of its actions. This had the undesirable and unbecoming result of impairing even a minimum protection of the citizen's rights. Noteworthy here is its effect on the functioning of the judiciary.

Its effectiveness was seriously undermined. Nothing could be more damaging than the abduction from the High Court and disappearance of the country's chief justice, Benedicto Kiwanuka who was an outspoken and courageous jurist (particularly concerned with the protection of individual human rights)24 which made him fall out of favour with the Government. As a result of his abduction
the legal community was left to operate under great fear and difficulty. Independence of the judiciary was no longer guaranteed. Judges and magistrates were cautious about making legal rulings which may hurt the Government's interest. Lawyers in private practice were in similar difficulties because they no longer conducted their defence as they planned. A defence counsel could be in serious trouble, notably with the Public Safety Unit (PSU), if he successfully defended an alleged criminal. It is appropriate here to examine the role of the military Tribunal which served to undermine the effectiveness of the ordinary law courts.

The jurisdiction of the Military Tribunal, which previously existed to try offenders within the armed forces, was expanded by Decree No. 3 of 1973 which gave it power to try any person, civilian or soldier, accused of a capital offence.

As to the effect of this extended jurisdiction of the Military Tribunal a former Ugandan Minister writes that:

"The setting up of military tribunals to try offences known to the Uganda penal code, with powers to pronounce sentence of death has eroded the powers and prestige of the ordinary courts of law almost to extinction. The accused is not permitted to be represented by counsel of his own choice, indeed he is not represented by anyone, because in the eyes of the regime, lawyers are a nuisance that will not be tolerated. The taking of evidence by the tribunals is an abominable abuse of legal procedure and a denial of justice that ought to be condemned in the strongest possible terms. Several people have been executed by firing squads on false evidence. The
presiding officers of the Tribunals do not possess even an elementary knowledge of the law, their only qualifications is that they are trusted friends of President Amin and can be relied upon to convict whoever is unfortunate to be taken before them."27

At its first sitting on 23 January the Tribunal sentenced five men to be executed by firing squad. Their alleged crime was participation and collaboration with guerrillas.28 On 24, the Tribunal convicted two men for the same offence. One of them, a student, had been convicted because he was staying in a house where firearms were discovered and that he was arrested at the scene of an alleged guerilla attack on the military police at Mbale on 21 January 1973.29 On 4 February five more men were convicted and sentenced to death.30 These 12 men were executed by firing squad at their respective district headquarters.31

Execution by firing squad was taken to be a lesson and a deterrent to the people of Uganda who collaborated with the guerrillas.

The Trial by Military Tribunal Decree No. 12 of 1973 gave the Military Tribunal further responsibilities in dealing with conventional criminal cases and required that any appeal from a tribunal be heard by the Uganda Defence Council with General Amin as the final arbiter. It stipulated that where the President is satisfied that the acts of a person other than a member of the armed forces were calculated to intimidate or alarm members of the public or to bring the military under contempt or disrepute, he may, by writing under his hand, order that such person shall be tried by a military Tribunal.
And on 5 September 1977, about two years before Amin's fall, the Military Tribunal tried and convicted of certain political offences nine men and executed them by firing squad at Clock Tower in Kampala. It must be pointed out that in all these cases the government could not be taken to court for any liability whatsoever. It was insulated by the Proceedings Against the Government (Protection) Decree No. 8 of 1972. The only section i.e. S.1 of this decree provided:

"Notwithstanding any written or other law, no court shall make any decision, order or grant any remedy or relief in any proceedings against the Government or any person acting under the authority of the Government in respect of anything done or omitted to be done for the purpose of maintaining public order or public security in any part of Uganda or for the defence of Uganda or for the enforcement of discipline or law and order or in respect of anything relating to, consequent upon or incidental to any of these purposes..."

The effect of this decree was the elimination of legal safeguard and means of controlling the action of the armed forces. It absolved the government from any legal responsibility for the arrests, ill-treatment and despoliation as well as murder. Hence the armed forces were situated on a pedestal outside the law of the land.

The next area of treatment shows how hollow Amin's promise of national unity was. It also shows how ready he was to ignore the letter and the spirit of the 1967 Constitution. The controversial subject is the expulsion of the Asians from Uganda. Amin's 'indophobia' was such that he refused to appreciate the distinction between Asian citizens and Asian non-citizens. Practically, Amin simply wanted the Asian lot out of the country.
3.2. Expulsion of the Asians: As an item of constitutional violation.

Many of the Indians, Pakistanis and Bengalis were brought to East Africa by the British during the colonial period, especially to build the Rail system. The majority of the Indian coolies so-called survived the man eaters-lions of Tsavo. Hence their descendants, and other immigrants who followed them, found their way into various businesses and professional positions. It is likely however, that the majority of them came after World War II. These provided technical and professional services in the East African countries. And by the 1960's Asians in Uganda enjoyed great financial success, forming a vital segment of the merchant and business sector of the economy. Besides, they occupied prominent positions as teachers, engineers, lawyers and doctors.

But because their customs and culture were totally different from those of the indigineous Africans, the Asians for no fault of their own, found it extremely difficult to integrate themselves into the society. Their social interaction with the Africans was at the professional level only.

The Asian's economic success came to be greatly resented by the native population, who rightly felt that the Asians were exploiting them. Thus when President Amin ordered all of the Asians both citizens and non-citizens out of Uganda in August 1972 there was a great deal of popular support for his action. Amin, after charging that Asians were sabotaging Uganda's economy and encouraging corruption formally issued Decree No. 17 on 9
August 1972 revoking all entry permits and certificates of residence which had been granted to any person who is of Asian origin, extraction or descent and who was a subject or citizen of the United Kingdom, India, Pakistan, or Bangladesh. The decree-required the non-citizen Asians to leave Uganda within 90 days.

What was the Government's official position?

The Government, in the wake of incessent criticisms of its action issued a report entitled British Asians in Uganda: Background information on issue. And Mr. G.S.K. Ibingira, Ambassador and Permanent Representative at the United Nations defended the move in UNO thus:

1. All foreign nationals asked to leave Uganda were being allowed to take personal belongings as well as reasonable amount of cash which is a drain on Uganda's financial resources.

2. There will be no confiscation of their property. On the basis of their inventories, their property will be sold and credited to the account of the owners of such property. Their bank accounts will remain intact.

3. There will be no physical maltreatment of the Asians by the Uganda government.

4. Those non-citizen Asians who inadvertently remain after the ninety days through no fault of their own will not be maltreated but must make an effort to leave.
The Asians in Uganda fell into two categories - citizens and non-citizens. In the examination that follows, this categorisation will be adhered to. The position of the Asian non-citizen will be dealt with first, after which the citizens' fate will be considered. The categorisation is simply for the sake of simplicity and clarity. Otherwise, Amin did not care much about it. All he wanted was Asians out of Uganda.

Asian non-citizens - what was their position?

These were stricto sensu citizens of countries like India, Pakistan, U.K. etc. And as the above decree put it, held passports of such countries. President Amin therefore could expel them. But what is objected to is the clumsy way the whole exercise was executed besides giving it an overtly racist implication.

The decree initially meant to apply to non-citizen Asians of the merchant community, was extended to even the professionals. The expulsion order amounted to a gross violation of the basic principles of non-discrimination, as expressed in the Universal Declaration of Human Rights, Article 2 which states:

"Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

The decree as pointed out, clearly discriminated against Asian non-citizens, who were at first distinguished from other non-citizens in the country. The basis of this
distinction was clearly racial or cultural in outlook. And on 25 October, the government's policy became even more explicitly rascist, when a decree amending decree No. 17 of 1972 was made applicable to any other person who is of Indian, Pakistan or Bangladesh origin, extraction or descent.

Next on Amin's list were the Uganda Asian citizens. Most if not all of them had the national passport. This fact alone would give the impression that they were beyond Amin's decrees. The issue of whether Amin respected their citizenship or not is dealt with next.

Uganda Asian citizens position.

The position of these Asians was quite desperate and deplorable since they underwent intolerable hardship when the government undertook an elaborate operation to examine thoroughly all documents of citizenship in an obvious effort to deny citizenship to as many Asians as possible. The hoax made the torture and suspense most excruciating. It was up to the official examining a particular set of documents to say whether or not the individual concerned was a citizen without paying much attention to the provisions of the citizenship law and Chapter II of the 1967 Constitution.

In addition to the arbitrary and often improper way in which this verification process was conducted, there was no right of appeal available to those who had been improperly denied citizenship. For those Asians who passed this painstaking scrutiny of verification, President Amin's chilling directive on 2 November 1972 to the effect that they should go to the villages and mix up with the other Ugandans, was tantamount to an expulsion order.
Such persons, according to Amin, would only remain in the country after 9 November as farmers in the remote region of Karamoja, an arid region near the Sudan border, and in other similar areas where the government would allocate land to them, but on no account would they be permitted to live in towns or do business in places of their own choice. The President's announcement did not even try to give them any form of security of tenure if they agreed to work on the land. Consequently they suffered, perhaps, more than those Asians who had not opted for Uganda citizenship and who were accepted as citizens by Britain, India, Pakistan and Bangladesh. This group had no where to go, because it consisted of citizens of Uganda. It was only through the untiring efforts of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and the humanitarian reaction of several nations that these Ugandan citizens were accepted to settle in certain countries around the globe. Thus, they stood to lose more than anybody else because they had been duped to believe that being citizens they would continue to enjoy the rights and duties as do all Ugandan Citizens.

The interim period prior to leaving Uganda.

This transitory period was pure hell on earth for the Asians. It was a time of bottled tension and utmost desperation. But things were made worse by the fact that during this gap in time, they underwent ill-treatment from the Ugandan soldiers who ruthlessly confiscated whatever property the Asian was allowed to carry along. Besides, Amin soon reduced the 90 days limits and literally told the Asians to pack-up and get out of the country.
And yet when Amin took over power from the regime ante 1971, it was to ensure the protection of the citizen's constitutional rights as per the 1967 Constitution which he accepted in theory. And when he referred to citizens in 1971, there was no distinction at all – and that is how it should be. But barely one year after his assumption of power, Amin was making this distinction and as a result ejecting out one section of the citizenry. A consideration of the interim events will now be given under ill-treatment, confiscation of property and delimiting the 90 days period.

**Ill-treatment of Asians.**

In its report on the Violation of Human rights and rule of law in Uganda, the International Commission of jurists reports how members of the Uganda armed forces massacred an Asian family at night, plundered girls, tore the passports of the departees, cut their beards with broken beer bottles, arrested Asians arbitrarily and demanded ransom money for their release. And when soldiers found 100 shillings in the turban of a sikh, he was stripped clean and made to crawl through the train, as were 30 other sikhs on the train who were hiding nothing. And in a detailed statement, C.L. Gheevela, Honorary Secretary of Shrihad Bharatiya Samaj, further describes the ill-treatment suffered by the Indians. The Binhad Bharatiya Samaj is a public trust working for the welfare of Indians living outside India. Because of its position, this organisation was in close contact with the arriving exiles. Mr. Gheevela's report describes the physical abuse suffered by the Asians en route to India, aboard the train headed for the port at Mombasa, Kenya. The report
corroborates that of the International Commission of Jurists.  

Confiscation of Asian property.

In Decree No. 27 of 1972, the Government gave an undertaking that no property of the departing Asians would be confiscated. Indeed it made it clear in the Decree that the property would be held by the Departed Asians Custodian Board which after selling such property would through the Government work out the best way and means of compensating these Asians. And of course, no compensation has been made to date. In any case President Amin vested ownership of the property in the government and distributed the property of Asians among certain sections of the Ugandan citizens.

Despite government assurances that the repatriates would be permitted to carry with them personal effects to the value of 10,000 Uganda shillings and 1,000 U.Shs. in cash, these were often confiscated by the Aminist Ugandan soldiers manning check-points and road-blocks.

Failure to Abide by the 90 Day Limit.

The government's order of 9 August gave the Asians 90 days to leave the country. Yet during the 3 months from August to November, a number of subsequent government orders cut this to an even shorter period for many of the expatriates. An illustration in point is a publication announcing that members of the Uganda security forces had been directed by the government to ensure that all British Asians who had been cleared by the Bank of Uganda must not remain in the country for more than 48 hours (2 days); and that with effect from the date when such Asians were given permission to return to their home country their work permits and trading licences were
automatically cancelled. 48

Hence, it can be summarily said that, the denial of Ugandan nationality to those Asians who were entitled to it was a violation of Article 15 of the Universal Declaration of Human Rights which states that:

"Everyone has a right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

The banishment of all recognised Asian-citizens to a remote and unfamiliar rural life was an act of racial discrimination which had the intended effect of driving almost all of them out of the country.

The expulsion of Asian-non citizens was an act based on an explicit policy of racial discrimination, and the failure to provide adequately for compensating those who had been expropriated was a violation of Article 17(2) of the Universal Declaration of Human Rights which states that:

"No one shall be arbitrarily deprived of his property."

And the sudden and brutal manner in which the mass expulsion of Asian-non citizens took place was a breach of the principles of good neighbourliness, enshrined in the Charter of the United Nations. All which violations are contrary to the Aminist ideals embodied in the historic Eighteen Points besides infringing the very letter of the Constitution 1967 and the relevant Citizenships law - in respect of Asian citizens deprived of their right of citizenship.
The next topic of consideration shows how blatanly Amin derogated the fundamental rights of the Ugandans en masse. Such a development seriously stakes the credibility of the so called eighteen reasons, which by and large were meant to be the starting point of reforms tending to the nation's good.

3.3. The reign of terror.

President Idi Amin of Uganda became a world known figure not because of his noble and astute leadership but because of his repression and indiscriminate slaughter of those who posed even the slightest opposition to his regime. Soon after the coup, Amin realised he had no nation-wide power base. Ugandans denied him their support. Hence the General resorted to the massacre of his countrymen, thus turning the beautiful River Nile - which had become a dumping place - into a river of blood and floating corpses.

There was a systematic and selective liquidation of the top brass of the army, then, comprised mostly of the Acholi and Langi officers. This was a contradiction in Aminist policy: the coup was effected to promote national unity and avoid bloodshed. Therefore, Amin had cast aside his coup 'ideals'. But more important, this was an overt violation of the provisions of the 1967 Constitution which guaranteed right to life and freedom from torture and inhuman treatment. Besides, the most elemental form of justice would, likewise, condemn unflinchingly this disregard for human life.

The general body of the country's population which was affected by this reign of terror can be categorised into two: members of the forces and the civilians. A brief account will be given to each of them.
Purges in the army and police.

According to Judith Listowel, the series of bloody events started when an Acholi sergeant, fearing that a group of mainly Kakwa recruits were going to kill him mowed them down with a machine gun. But what lady Judith failed to comprehend was that the killing, especially directed against the Acholi-Langi component of the army was a major drive, to achieving absolute control of the army by Idi Amin. Hence, whenever convenient and possible he encouraged the elimination.

These killings came to a head about the time that President Amin left for Israel and Britain on 11 July 1971. In almost all the barracks army officers belonging to the twin-tribes and others identifiable with the latter were ruthlessly massacred. The International Commission of Jurists in its report - The violation of human rights and rule of law in Uganda [Geneva, 1974] cites cases of mass killings in the barracks of Moroto, Jinja, Magamaga, Simba Battalion-Mbarara, Artillery Regiment-Masindi, Soroti, Kifaru Battalion, Chui Battalion-Gulu, Fort Portal, 2nd Infantry Brigade - Masaka, 1st Infantry Brigade-Mbale, 3rd Battalion-Mubende and Malire Mechanised Reconnaissance Regiment. These purges claimed a minimum of 1000 lives. And that this was a violation of the fundamental rights as entrenched in the 1967 Constitution, Chapter III is undeniable. The act was a negation of Amin's claims at the time of the coup which was to the effect that his would be a bloodless and a nationally unified Uganda. But Amin had turned the country into one huge slaughter-house with sub-centres in Makindye, Mutukula, Naguru and Nakasero depicting scenes of gruesome murders.
How did the police fare?

Amin viewed the functional role of the disciplined police as essentially obstructionist especially to his short-cut measures, via murder, of consolidating his hold, hence rule over the country. By the end of February, basically one month after the coup, there were nine policemen killed, five injured, four missing, eight in detention and thirteen had fled the country out of sheer fright caused by this assault on the organisation.\(^{54}\)

On 15 July, a directive was issued ordering the Special Force Units to disband, hand over their arms and report for duty at the nearest army post. A contemporary account of the July directive has this to say:

"The way in which this is being done is a cover for splitting the Special Forces so that Acholi and Langi [therein] can be killed in army camps in relatively small numbers, and more conveniently."\(^{55}\)

One way of demystifying Amin's brutal onslaught against the police is to regard the act as vengeance against the force that had through the CID spearheaded the year-long investigation into the murder of Brigadier Okoya. Evidence mustered by the police incriminated Amin in a number of ways. This is therefore one way of explaining Amin's outburst against the police.

Civilian Slaughter.

The highest casualty and death-toll in Amin's decadent rule was recorded here. The great tragedy in Uganda [then] was that innumerable innocent and harmless citizens on whom suspicion had fallen were senselessly and brutally murdered.\(^{56}\)
Generally, the victims as a rule fell out of favour with the government of the day. This happened through one of many ways. They could have been innocent naïvetes like the harmless Asian who got shot near the High Courts and fell into a municipal wastepaper basket. Or they were innocent obstructionist who found themselves in a predicament by virtue of the services they rendered. Most of these were civil servants or persons engaging in businesses of their own. An instance is the African Advocate who very nearly became a fatal case when he accompanied an Asian client to explain to the immigration officials the citizen status of his client. Or for that matter, Advocate Enos Ssebunya who was picked up, tortured and detained at Makindye for his defence of an alleged criminal.

Another category of deceased were those who out of humanitarian considerations housed or assisted fugitives from Amin's assassins. An example was Dr. George Ebine, a consultant gynaecologist at Mulago who housed Lieutenant Colonel Ogwal. Ebine died when his house was shelled by half-tracks and tanks.

Yet another category were those persons who sympathised with anti-government forces and organisations. A good example is the student who was tried and convicted by Amin's Military Tribunal on 24 January 1973. He was suspected of having ties with the guerillas.

Mention should be made of judicial officers who risked their lives by giving holdings which the military government regarded as outrageous. Hon. Benedict Kiwanuka, the then Acting Chief Justice is a typical instance here.
The list of breakdown could be lengthened: for example the case of the foolhardy Americans-Stroh and Sieddle — who were killed by top ranking intelligence resident at Simba Battalion - Mbarara.61

Observation.
What, then, is the conclusion that can be drawn from this chapter?

During the rule of the soldiers, the Uganda government under the leadership of President Amin either suspended or violated most of the fundamental human rights. By a series of decrees overriding all constitutional safeguards, and by a system of arbitrariness operating outside any legal framework, there had been a total breakdown in the rule of law. Amin's Government, at best, was a caricature of the Nazi Government lead by Adolf Hitler. The Acholi and Langi of Uganda, besides others e.g. the Bagishu, were the Ugandan "Jews" whom Amin wanted to rid the country of.

Though some emergency may have been justified, particularly in the aftermath of the coup in January 1971, and at the time of the abortive invasion from Tanzania in September, 1972, there are certain minimum judicial safeguards for the protection of human rights which are to be respected even in a time of emergency. These safeguards were tossed to the four winds.

While the Government normally affirmed the Ugandan Constitution, its principles have been overridden expressly or by implication by a series of arbitrary decrees. All political activity were suspended and stood suspended till April 11, 1979 when the Uganda National Liberation Army took Kampala. The National Assembly and the local elected authorities suffered the same fate. No initiatives
were taken to restore democracy and hold a general election where the people's free will could be expressed. Amin did not seek popular ratification of his coup by a referendum. No mandate has been sought from the electorate to validate the seizure of power on that fateful day of January 1971 which many families in Uganda remember with a shudder.

All the basic freedoms of association and assembly, freedom of the press and freedom of expression, freedom of education and trade union freedom were in complete abeyance. The independence of the judiciary had been undermined by direct attacks on individual judges, by the repeated interference of the armed forces, and above all by the arrest and subsequent murder of the country's chief justice Benedicto Kiwanuka, in September, 1972. The authority of the civilian court had been further undermined by the transfer of important parts of their jurisdiction to try civilians to a Military Tribunal that had no sense of the most elementary procedure of justice and due process of the law.

The armed forces had been put above the law and had been given unlimited powers of arrest and search without any form of judicial control. These powers, allegedly, granted in order to decimate kondos, had in practice, been largely used to arrest, detain, torture and kill in cold blood thousands of civilians from all walks of life, who for one reason or another - most of it very frivolous and vexatious - had been suspected of opposition to the Military junta in power. Only a very small percentage negligible - of those arrested on those grounds were
given any form of trial. The Military Tribunal was a farce, composed of illiterate creatures who rose up from the dust of the streets of the various towns in Uganda. These grown-up street urchins who did not know anything about justice, ironically sat as a panel of judges to decide cases.

The repeatedly announced investigations by the Ugandan security authorities to trace those responsible for disappearances and deaths, never throughout Amin's rule, resulted in bringing the culprits to trial and subsequent justice. Of course, Amin could not be expected to try himself! Some of those whom the complaint had most frequently been made were transferred to other posts, or occasionally, had themselves disappeared and reported killed without trial. The failure to bring the offenders to justice had itself contributed to the state of lawlessness. For one reason, fear of public betrayal by his assassins Amin dared not bring them to justice. The master had taught the disciple to so act, hence he could hardly be revolted or horrified by their deeds. And secondly, Amin created and bred a monster in his house over which he completely lost control. He continuously kept it engaged, if only to safeguard his position from it. The State Research Bureau was the monstrous creature that had gone completely berserk. It was a security force within the general security organisation; an ultra-rightist ensemble of very tall, slender, blue-black men who donned gold-rimmed goggles and entertained insatiable lust for spilt human blood. These were Amin's special recruits from Southern Sudan; his version of Hitler's S.S. Their favourite sport was bundling up their victims in the boot of saloon cars before the inevitable subsequent interrogation.
and torture adeptly executed to give as much excruciating
pain as is possibly perceivable to the human senses
before death.

**About the Asians:** the expulsion of Asians non-
citizens was an act based on an explicit policy of racial
discrimination. But these Asians, for all we know, were
lucky to have got away with their lives, for they could
have been the ideal 'jews' to be gassed by Amin.

The failure to provide adequately for compensating
those who had been expropriated was a violation of Article
17 of the Universal Declaration of Human Rights. The
sudden and the brutal manner in which the mass expulsion
of these non-citizens was carried out amounted to overt
breach of the principles of good neighbourliness enshrined
in the Charter of the United Nations.

The denial of Ugandan nationality to many Asians
who were entitled to it was a violation of the right to
nationality under Article 15 of the Universal Declaration
of Human Rights. And the banishment of all Asians
recognised as Ugandan citizens to a remote and unfamiliar
rural life was an act of racial discrimination which had
the no doubt intended effect of driving almost all of them
out of the country.

The overall effect of these massive and continuing
violations of human rights as entrenched in chapter III
of the 1967 Constitution of Uganda had been to create a
reign of terror from which thousands of people from all
walks of life, Africans as well as Asians, sought refuge
in voluntary exile. Those who could not afford this, and they are the majority of the common man, were in a constant state of insecurity looking to providence for sheer survival.

It is clear now, if it was not at the time of the coup, that Amin's so called reasons were mere gimmicks. A mere rationalisation of the contradictions inherent in the Obote regime. To that end, Amin sought popular acclaim for having rid his countrymen of the Obote ills. His assumption of power was a leap from the frying pan to the fire. The General's sole concern when he organised the coup was to save his own neck from Obote. But he did not have the insight to realise as a matter of fact that for the next decade he would fight against the very country he had purported to save if only for his precarious survival. In short, Amin seized power in January 1971 to survive. He killed throughout his rule for the same reason.
FOOTNOTES


2. Uganda Argus 26 January 1971

3. Point No. 7 on the list of 18 points. See footnote 2 supra.


5. Answer to both reason 3 and 7 on the 18 points.


7. Decree No. I of 1971 established the Defence Council of which Amin was Chairman. Decree No. 5 of 1971 S.3 established the Council of Ministers. Hence it is not clear what supreme body the Government had in mind.

8. Decree No. 5 of 1971 S.1 changed Amin's title from 'Military Head of State' to 'President'.


10. Reason No. 18 for Obote's overthrow.


12. Reason No. 17.


14. Decree No. 5 of 1971 S.7

15. Proclamation in Legal Notice No. 1 of 1971


17. Decree No. 14 - The Suspension of Political Activities Decree.
18. Answer to reasons: 8 (Wide spread unemployment), 9 (High taxes) and 10 (continually rising cost of food)

19. See 36 supra (chapter 1,) and also David Martin's General Amin at 89.

20. Nc. 13 of 1971

21. See Reasons: 1 - Detention without trial
   3 - lack of freedom of speech
   13 - Inefficiency of the Defence Council
All of which were being flouted at this time.

22. Decree No. 7 of 1972.


25. Ibid at p. 20. The incident of Mr. Samson Ddugu, a former President of the Uganda Guide Post and a businessman is illustrative here. During the allocation of businesses left by expelled Asians, he had acquired a Cinema together with an army man who later alleged that Ddungu had stolen Shs. 50,000/- from the business. Mr. Ddungu, arrested and taken to court by Public Safety Unit, was successfully defended by a Kampala lawyer, Mr. Enos Ssebunya whereupon senior Superintendent Ali Towilli, the head of the PSU, and his men attempted to arrest Ddungu in the court. The Magistrate warned that the acquitted man should not be arrested in court. Advocate Ssebunya was later picked up and tortured by the PSU for defending the accused had to flee the country. And Mr. Ddungu on leaving the court came under gunfire, hid at YWCA nearby from which he was dragged and sprayed with bullets.

26. The Tribunal's increased jurisdiction was in response to some extent, to the emergence in late 1972 of a guerrilla organisation - FRONASA ("The Front for National Salvation") which aimed at eradicating fascism, misgovernment, religious bigotry and corruption
and to ensure peace, security, dignity and enlightened government for the people of Uganda through armed struggle and any other necessary means. But FRCNASA was a small and poorly organised group that had little impact on the security or stability of Uganda, and never posed any serious threat to the government. Yet the constant disappearance of people from all walks of life in Uganda have frequently been attributed by the authorities to the activities of guerrillas, but proof of the assertion is not credible.

27. No. 24 supra at 22-23.

These persons were:

a) John Kabandiza
b) Mutabaazi
c) B. Nsereko
d) Lt. Ben Ogwang (a former Intelligence Officer in Obote's regime)
e) Y.Y. Okot (Chief Inspector of Schools)
f) J. Olobo
g) A.S. Okidi Menya (He was the Chairman of the Soda bottling Co., Entebbe. Mr. Okidi was from my Parish)
h) Abdalla Anyuru (former Chairman of Public Service Commission - Ug)
i) Ben Ogwal (Kampala businessman)
This was Amin's version of economic reconstruction and Africanisation of the Commercial sector of the economy. It received nationwide publications through the press and radio as well as on tea-shirts bearing the Economic War Souvenir with inscriptions such as the 'Departure of Asians', 'Allocation of Businesses', 'Operation Mafuta Mingi', 'Loans Office' and 'Economy in our hands' besides others. But the officials of the bureaucracy who effected these Government measures were misguided enthusiasts. They ended up creating a fracas on the national scene which in turn was reflected by international criticisms especially as regards the way the expulsion of Asians was effected. Naturally it strained Uganda's relations with other countries on the international scene. Britain which had hastened to lend legitimacy to the Military Junta after it usurped power soon closed down its High Commission in Kampala and called back its Diplomatic Staff from the country. The United States followed suit.

An assessment of the relative success of the Economic war is simply an account of the economic disaster in the period subsequent to Asians departure. If Amin thought this was a measure geared at remedying the rising costs of consumer goods and clothing (see reason No. 10 of the 18 points for the coup) then he was in for a rude surprise. More than ever in the history of the country, a minority of the military personnel and a few elitist civilians who enjoyed the goodwill of the Junta was created who always asserted they had the good of the people at heart. They grew richer and the masses poorer. They squandered the country's meagre foreign exchange reserve by living in style and uncalled for luxury and carried out a weekly whisky-run from Britain through Heathrow Airport and imported dazzling Benzes limousines and cars from West Germany. No wonder West Nile Province in North-western Uganda was dubbed 'West Germany' since the majority of the cars went there.

Inflation set in at a rocketing per-centange of 1000. This was the benefit the people were bequeathed by the Africanization of the Commercial sector of the economy. Todate it is Amin's notorious economic legacy. It therefore made nonsense of reason No. 12
on the list of 18 points submitted by the military which stated: "The creation of a wealthy class of leaders who were always talking of socialism while they grew richer and the common man poorer". This perfectly described in advance the social and economic opulence and sleekness of the Aminist bureaucrats in the post coup period and for the whole of the decadent decade of the Junta's (mis)rule.


35. Refer to the 1959 boycott in Buganda, followed by similar ones in other parts of Uganda. These were aimed against the exploitation of Africans by Asian dukawallahs (p. 47 - Constitutional law and Government in Uganda: G.W. Kanyeihamba - 1975).

36. The Immigration (cancellation of Entry Permits and Certificates of Residence) Decree No. 17 of 1972.


38. Ibid p. 4.

39. The deIndianization of Uganda 1972-Ali Mazrui p. 3

40. No. 37 supra p. 3.


42. No. 37 supra p. 8.

43. Ibid p. 5.

44. Ibid p. 6.

45. The Declaration of Assets (Non-Citizen Asians) Decree No. 27 of 1972.

46. No. 39 supra p. 19

47. No. 37 supra pp. 6-7.

48. No. 39 supra p. 3.
49. General account can be found in the following publications.


vii. Letters of resignation to Amin by:
   a) Wanume Kibedi - Minister of Foreign Affairs.
   b) Edward Rugamayo - Minister of Education.
   c) Grace Stuart K. Ibingira - Permanent Representative at the United Nations.
   d) John D. Barigyo - Ambassador to West Germany and The Holy See.


52. AMIN. Edited by Salim Lone 1979 pp. 26-27.
54. Ibid pp. 27 and 30.
55. Ibid p. 33.
56. Ibid p. 52.
57. Ibid p. 6.
58. Ibid p. 20.
61. See footnote 59 supra p. 32.
CHAPTER FOUR

CONCLUSION

In the preceding chapters of the dissertation, the foundation and implication of 25 January 1971 coup d'etat were examined. The submission made is to the effect that whereas the regime prior to 1971 had blundered in so many ways, this was not the reason for the coup. The primary reasons for the coup were personal to Amin. The argument is supported by an examination of both the foundation, and implication of the aforesaid coup. The litmus test for the vindication of the Eighteen Reasons is to be found in events subsequent to the coup. And because the latter does not vindicate the alleged reasons, historical vindication is immaterial. It only made it easier for Amin to recruit some support for the coup, but it was no ground or foundation for it.

It is also evident from the foregoing chapters that Ugandans have not had the best their rulers could have offered them, in the two decades which so far make up the post independence period. It is in light of this that the propositions in the conclusion will be premised. It logically follows that the propositions attempt to solve the problems that have in a wider context, plagued the country to date. The proposed factors should ensure a more helpful and lasting Constitution for Uganda as a developing country. The three factors are the Army factor, the Political trend and Unity. The order of the factors has nothing to do with their significance inter se. The dissertator does not pretend that these factors are exhaustive.
4.1. The Army factor.

The army has generally played a crucial role in Uganda's history. It has shown beyond reasonable doubt that it is an instrument of violence. It demonstrated this in 1964, 1966, 1971, 1979 and 1980. It is therefore imperative to dwell on the generality of its nature and composition.

The institution should never be patronised by a person, tribe, region or a party. Any such contact subjects the military to manipulation. The army should never at any cost be politicized. Giving it a political outlook turns the soldiers into party partisans and bootlickers of the party stalwarts. It is therefore unfortunate that the U.P.C. has nominated high ranking military officers as Members of Parliament. The U.P.C. is clearly forming a coalition with the army elite. But the army is a national institution, whereas the U.P.C. is not. The latter therefore seeks perpetuation by acquiring such a power base.

If the army was not subject to allegiance, it would not easily have reduced to ruins the Kabaka's heritage in 1966. Army patronage enabled Mr. Obote to overthrow the 1962 Constitution and bulldoze through Parliament his 1967 Constitution. Army patronage ushered Amin into office and ejected Binaisa out of it.

So long as political parties have a following in the army, there is hardly going to be any peace in the country. The three prominent political parties - Democratic party, Uganda Peoples' Congress and Uganda Patriotic Movement
have a following in the army. There is therefore no national army. There are armies of the various political parties. These form the National army. D.P. and U.P.M. followers in the army therefore have different interests from that entertained by members of the U.P.C.

It would therefore be wise to explore the possibility of changing the structure of the defence system of the country by either creating a peoples army or by ensuring that the army is not a haven for school dropouts, illiterates or other failures in life. This will make it more resistant to the above cited adverse extraneous pressures. The Educational, hence discipline, standards for recruitment into the army must be raised as a contingent plan in the event of another military rule since experience on the continent has shown that the temptation for the army to step in and remove civilian rule is preponderant. Uganda must prepare itself for this possibility by raising the calibre of army personnel so that when the army votes itself into power by bullets at least the leadership will be knowledgeable. Also this way, the army will maintain an up-to-date standard of discipline. An army which is ill-disciplined is like a band of robbers. It is trite military etiquette that an order must be executed to the word. Any ill-disciplined army may not appreciate this. It will add to or diminuate from such a command.

The government could also direct its mind to balancing the tribal composition of the army. This proposition which is artificial in the sense that certain persons are more inclined to military service than others could be countered if the government could remodel the army and make it competitive to other means of earning a living. There is no reason why an Acholi should be taken to be a better soldier than a Uganda. Persons of limited learning should never be promoted to assume vast command in the military.
Balancing the tribal or regional composition of the army would act as a deterrent to any one tribe in the army overthrowing a civilian government or aiding an individual politician to overthrow the Constitution as happened in Binaisa's and Obote's case respectively.

The crucial step is to leave the army unpoliticaised. Party leaders and stalwarts should not maintain pockets of violence within the rank and file of the army. Once the army is neutral the repeat of the 1966 crisis and Amin's decade of rule is not likely.

4.2. The Political Trend.

The art of governing should be such that it does not derogate from the individual's rights. What is at stake is not so much a choice of ideology; be it capitalism or communism. This is really axe-grinding and slogan shouting. What the Ugandans want now and for the future is a pragmatic and productive approach which can reconstruct and rehabilitate the looted and prostituted nation in the shortest possible time. There is the need for mature, capable and non-partisan leadership. There is the need for leaders with a truly conciliatory approach to issues, rather than those who tend to selfishly thrive politically by inserting wedges among ethnic groups. The political device of divide et impera has no place in Uganda. It is a cul de sac and does not help. Uganda needs leaders who are willing and able, through persuasion and examples and not force, to forge national unity without which the salvation of the country is clearly utopian.

There is the vital need for a representative government. Political lobbying can never help any politician in Uganda.
It may temporarily help, but it ultimately boomerangs. The Kabaka was kicked out in 1966, Ibingira came to a dead end in 1966 and by the close of the 1960s, Obote's days were numbered.

Any governmental system or political party which engages in perverse electioneering can never hope to rule a peaceful Uganda. Elections must not be a dupe, they must be elections. To this end, Uganda must forcefully reject the Kenyan or Tanzanian option for a One Party State. At best this is an overt dictatorship, at worst it is an intolerable evil. The Constitution of Uganda must embody a multiparty system unless the Ugandans themselves opt for a one-party state. And to the best of my assessment this will never be condoned by the majority of Ugandans. History proves this. If Amin had not removed Obote for the wrong reason, some other person would have removed Obote for the right reason - declaration of a one party state thus founding a dictatorial regime. Amin was removed on 11th April 1979 precisely for this reason. In a way, the Ugandans have learnt a most precious lesson - never to tolerate any tyrant in whatever form. It may not be right to resolve disagreements by use of force. But if force is the only language dictators understand then fight on Uganda until you have secured a footing.

Any political choice or trend that indulges in harassment, intimidation, arbitrary arrests and revenge is doomed. The politicians must learn not to force their choice of priorities down the throat of Ugandans or any one section of it. In 1966, the Baganda peasants lost their lives. From 1971-1979 the peasantry of Acholi and Lango extraction lined up for their turn. In 1980, the peasant population of West-Nile shifted the Acholi and Langi.
This state of affairs must be avoided at all costs. It leads the country nowhere. Failure to understand this will create unrest, civil strife, waves of guerilla attacks and a national schism fashioned on tribal, ethnic, regional or religious basis.

The political choice must accommodate, tolerate and protect the rights of the citizen irrespective of his tribal or ethnic origin, irrespective of his religious or political inclination and irrespective of whether he is brown or black, whether/has large eyes or small eyes. Any political choice which does not take stock of this is futureless. Whether one is a member of the bench, a politician in an opposite camp, a teacher or a senior State Attorney working for the government, he has the inherent right to constructively criticise the government of the day. Thou shall not detain a political opponent, or a Magistrate because of his criticism. If every member of the ruling party is allowed to shout at the rest of the Ugandans who don't belong to that party, then, that party is destined to perdition.

This is what should concern the rulers of Uganda. It should concern the ideological importers who have not directed their attention to the appropriateness of such imports. Whichever party goes into office as the government of the day may not be a matter of concern. What should cause a furore is a misguided choice of priorities. The party which has formed a government must work for national progress as opposed to trapping members of other political parties. That is a luxury which Ugandans will never be able to afford. Once party stalwarts understand this, we may be assured of peace, order, security and national prosperity.
4.3. **Unity as a prerequisite factor for a bright future.**

There is a burning need for unity of all Ugandans if they wish to lead a more meaningful life for now and the future. That this unity is lacking in contemporary Uganda is irrefutable. The springboard of this disunity may be largely categorised as religious (catholics vs. protestants), tribal, regional (northerners vs. southerners), political (socialists vs. right wingers) besides others. The fact is that such points of differences are not peculiar to Uganda as a developing nation. So, if other states can ignore it, there is no reason why Ugandans should not.

The heart of the matter is that the apparent differences are fueled and manipulated by the politicians to gain their own ends. There is no ground for the belief that a Langi peasant would be killed if he visited rural Buganda. Nor should there be any threat to an Acholi's life, if he had penetrated deep into rural West Nile. In other words, it is the politicians who are wrecking havoc in the country by pitching one section of the population against the other. If it was not for this, why should an Acholi peasant who has never been to Buganda, or for that matter never seen a Muganda, fear for his life in case he ever found himself there? It is because the politician has brainwashed him.

There is a real need for national unity. It must be a genuine desire for the purposes of rehabilitation, reconciliation and reconstruction. It is not enough to preach reconciliation when acts of terrorism or vandalism are escalating with the tacit approval of persons at the nation's helm. Reconciliation must be reflected in our conduct. Ugandans owe each other a national duty to reconcile, unify in order to make feasible the mammoth task of reconstruction and reabilitation. This is only possible by
tapping the potential of all Ugandans regardless of tribe, religion and ethnic extraction. As long as a Makerere University student who belongs to a particular tribe or party can wield a gun against other students alien to his world, the country has no future. So long as an armyman is privileged because he is black, the country's footing is precarious. And as long as job opportunities are available to 'certain' persons only, the seeds of discord will be sown, germinate and burst into flowers and bear fruits.

Therefore a government in Uganda that does not work to achieve the above goals must be rejected by the electorates. A government which derogates the fundamental rights of the citizen must be opposed. To this end the paradoxically desirable and undesirable fact that violence has been institutionalised as a means of solving political problems in Uganda is Uganda's unique experience. Bad as it is, it forms the high water mark of the country's experience in the two decades since independence. It is as if the Uganda constitution provides that every five or six years there shall be an election through bullets instead of ballots. In 1966 Obote lead a revolution against the legitimate government of the day, only to be ejected out of office 5 years later. Amin suffered a similar fate in 1979.

In spite of the people's right to take to arms for the purposes of removing out of office a dictatorial regime, Ugandans must be conscious of the lesson that killing is not the surest way of dealing with an opponent. Amin tried it for a long time but failed. In short, there is need for a national identity. Uganda is big enough to contain every Ugandan, his views and inclinations. Once this is realised, the country will have cleared a very crucial hurdle. It can then look forward to the future.