Moving On or Business as Usual? Contemplating a Post-Museveni Uganda

By Mary Serumaga

The Western media is taking notice of growing agitation for regime change in Uganda at a level comparable to the 1980s when Yoweri Museveni was referred to as a “a young handsome guerilla” on ITV News and featured in a British documentary filmed in the Luwero Triangle. Even as the then President Milton Obote was denying the existence of a rebel threat in Uganda, British journalist William Pike was interviewing Museveni in the bush. Pike later became a mobiliser for international support for the National Resistance Army (NRA) between 1984 and 1986.

In the past two years, the international mainstream media have regularly covered the phenomenon that is the People Power movement. With the help of social media, the movement’s leader, Robert Kyagulanyi, better known as Bobi Wine, has been noted as a leader of the future by two influential Western publications and has won multiple leadership awards on the African continent. As result, the failings of the 33-year-old National Resistance Movement (NRM) government have been under the global spotlight.

In his latest interview with Al Jazeera, Kyagulanyi appealed to the international community and investors to deal with Uganda and not with President Museveni. As the 2021 presidential and parliamentary elections draw near, foreign debt is coming to the fore in Uganda’s political discourse. Where human rights abuse once dominated, managerial failures in government and poor budget outcomes are gaining increasing attention. A series of events in 2018 and 2019 highlighted the impact of debt distress and managerial incompetence on service delivery.

Corruption and incompetence are no longer simply a drag on development but are bringing public institutions to a standstill. Special audits of thirteen out of fourteen regional referral hospitals show persistent drug stock-outs, understaffing and crumbling infrastructure. (The ICU at Jinja Hospital was shut down due to lack of batteries.).

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Yet the health sector was unable to spend Shs.171 billion ($46,367,125.02) allocated to wages and construction and had to return the funds to the Treasury. Shs150 billion ($40,520,625.00) of that was external funding. Reasons given point to institutional failures, and inability to organise recruitment and procurement in time (Budget Monitoring and Accountability Unit, 2019).

In the education sector, the Makerere University strike was a reaction to the government's inability to cover operational costs, and to the university increasingly relying on fees paid by private students. Ten years ago it was estimated that Shs.600 billion ($162,191,100.00) a year was lost through government procurement fraud alone. Professor Nuwagaba, a Makerere University lecturer and author of the study, estimated that the amount lost was enough to cover all of Makerere University's student fees for two years.

The latest statistics from the primary education sector show the rate of literacy and numeracy fell from 39 per cent to 33 per cent. With a primary school drop-out rate of 60 per cent, this means that most of those who do not complete primary school education are insufficiently literate or numerate to go on to existing skills training institutions. Loans for skills training and higher education worth $100 million expired, with just a little over 50 per cent utilised and the rest returned to source. An application for a new $45 million has been tabled in Parliament.

Global climate right for change

The global climate is right for political change. By Executive Order 13818 (2017) the Trump administration declared global corruption and human rights violations "a national emergency" with respect to serious human rights abuses and corruption globally, which constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. The Magnitsky Act has since been invoked against senior army personnel while the former Inspector General of Police has been publicly designated under Section 7031(c) of the FY 2019 Department of State, Foreign Operations, and Related Programs Appropriations Act for human rights abuses.

Elsewhere in Africa, five Congolese officials of the DRC's electoral commission and one from the Constitutional Court had visa restrictions placed on them and were publicly designated for electoral fraud. Together with military officials, they have also been identified as having undermined democracy by violating Congolese citizens' rights to peaceful assembly, and freedom of expression.

Other publicly designated officials include Kenya's former Attorney General Amos Wako, Cameroon's Inspector General of the Cameroonian Gendarmerie, Colonel Jean Claude Ango, Malawi's former Minister of Home Affairs, and current Special Advisor on Parliamentary Affairs, Uladi Basikolo Mussa due to involvement in significant corruption (a charge that Wako has denied).

Exiled former president of the Gambia, Yahya Jammeh is also designated in an undated notice.

Since October 2019, Tanzania's opposition politician Tundu Lissu and the Justice for All South Sudanese movement have retained a Canadian firm in the area of human rights abuses. Amsterdam & Partners offered its services to the embattled Bobi Wine after the torture the state subjected him to in 2018.

During their press conference, Robert Amsterdam denounced Uganda's history of political violence and the use of $500 million worth (his figure) of US weaponry in carrying out that violence, saying the West cannot ignore it any longer.

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The language of the Executive Order implies that to be actionable, the violations must be a threat to American global interests. By implication, if those interests can be secured by means other than sanctioning human rights violators, then violators need not be sanctioned. Yet in order to end impunity African opposition politicians and activists are clamouring for sanctions on *serving* officials like foreign minister Sam Kutesa cited in the Patrick Ho bribery case.

In an interview with Aly Khan Satchu in October 2018, Amsterdam described his firm's work as "litigation in global markets" around both political and commercial matters. He portrayed foreign investor and domestic governance issues as being intertwined.

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Amsterdam described the Chinese Belt and Road Initiative (BRI) as predatory lending and neo-colonial, a choice of phrase that would appeal to post-colonial Africa and Asia. He said that the initiative had "prohibited the growth of representative democracy…and given some autocrats a new lease on life." [Amsterdam video @9:48] Explaining that China uses its surpluses from exporting manufactured goods to "colonise" the rest of the world. Amsterdam warned that "the debt trap is very real".

He mentioned Hambantota, the port that Sri Lanka lost to China as a result of a debt default in 2018. In the same year, the Auditor General revealed that Uganda too has contracted loan agreements with China that surrender sovereign immunity over territory in the event of default.

The phrase "predatory lending" had been used earlier by the sixteen U.S. congressmen who wrote to the Secretaries of State and the Treasury in August 2018, demanding action to disrupt what they described as China's bid to dominate the global economy. What is of concern to the Congressmen is that 23 out of 68 BRI countries are said to be at risk of debt distress. Defaulting BRI countries are expected to seek IMF bail-outs, meaning a portion of America's investment in the IMF (the largest shareholding) would be transferred to China.

The portrayal of Uganda's governance deficits and Western foreign political and commercial interests as organically related issues is not convincing. The exit plan being signaled for President Museveni is less about human rights abuses about which the world has known for over 30 years and more in aid of preserving existing power and trade relations between Uganda and the United States.

In his latest interview (Al Jazeera, November 2019) Kyagulanyi appealed to the international community and international investors, in particular, to hold the Ugandan administration accountable for human rights abuses and corruption. He urged them not to focus only on business relations but to be united with Uganda by values such as "democracy, respect for human rights…zero tolerance of corruption". Ugandan activists are aware of the debt-trap and welcome sanctions.

However, in his interview with Sachu, Amsterdam seemed to be suggesting that perpetrators be given a Get Out of Jail card. Apart from floating the idea of an easy exit for Museveni, he stated that sanctions would only "hand over" countries to China (because Chinese foreign policy does not enforce its anti-foreign bribery laws). He gave Myanmar as an example. Sanctioned for the Rohingya genocide, Myanmar allegedly fell profoundly under Chinese influence.

He is again at odds with African activists when he advises his clients to avoid the U.S. Foreign Corrupt Practices Act by denominating their foreign contracts in currencies other than dollars to avoid the New York-based SWIFT money transfer system. Corruption, some of the proceeds of which pass through the SWIFT system, costs the African continent billions of dollars a year. The US Department of Justice recovered $30 million from Vice President Teodorín Obiang in 2014. France recovered (and confiscated) $35 million from him in 2017.

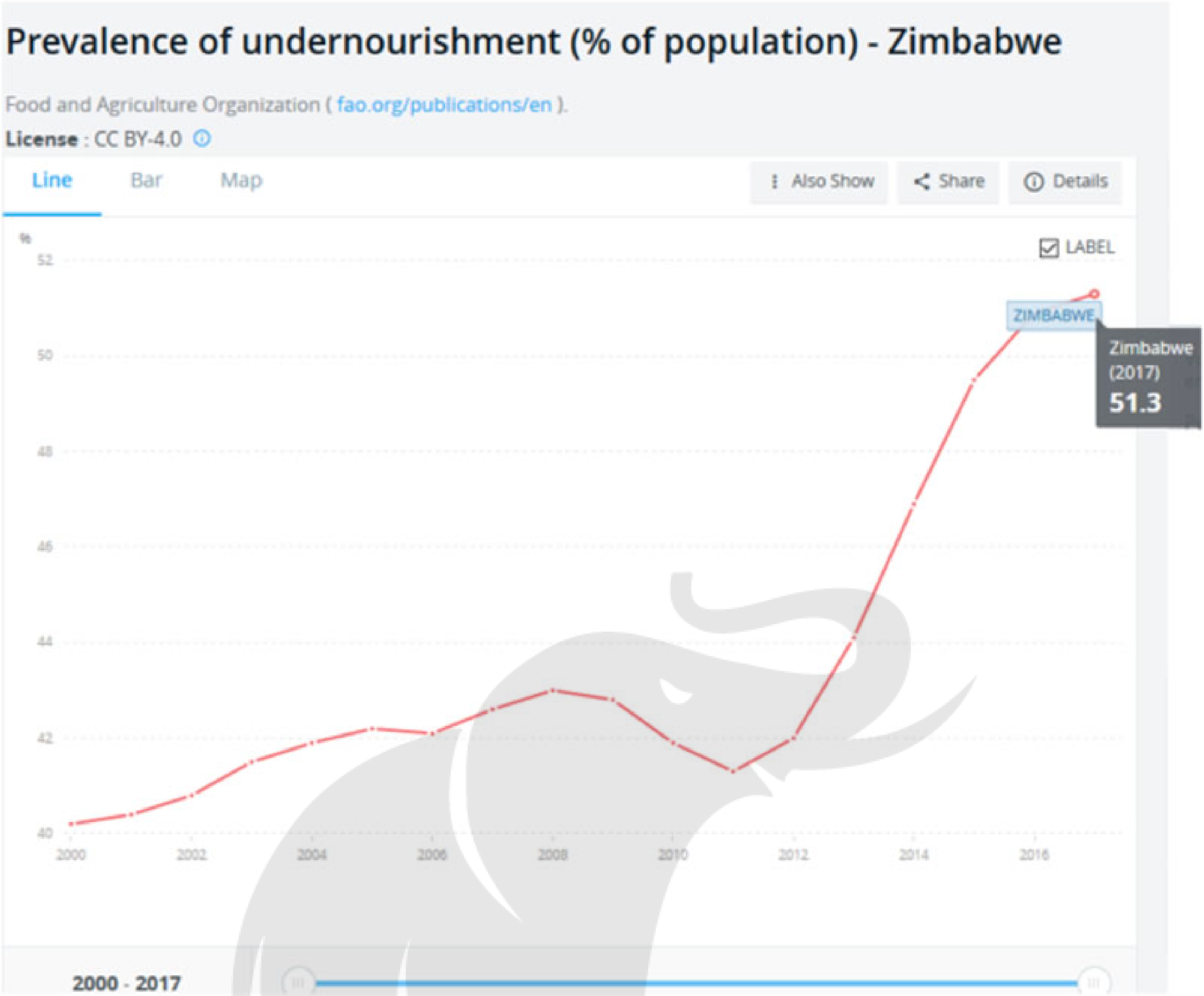
Uganda's corruption circles are at least as big as Equatorial Guinea's. There are over 100 ministries and statutory agencies and many more presidential appointees. Museveni himself is rumoured to have stashed away $5 billion in illicit earnings. This figure is difficult to confirm but following the recent '#fishrot' disclosures in which the Namibian Minister of Justice is filmed soliciting a bribe of $200,000 in return for allocating fishing rights to an Icelandic firm, Samherji, it is possible that during Museveni's thirty years at the helm – when he oversaw the country's privatisation programme – he amassed a lot of wealth.

An easy exit for Museveni in the interests of a "smooth transition" could jeopardise the hoped for recovery of stolen funds. Robert Mugabe estate includes $10 million in cash, not an insignificant amount in a country where child delivery in hospitals is done by candlelight and a unit of blood costs $120.00, the equivalent of a doctors' monthly salary or just over two month's pay for a teacher.

Service delivery default or debt default?

More divergences of interest can be expected post-Museveni. A key issue for Ugandans in the inevitable transition will be the status of Uganda's foreign debt. By 2021 debt servicing will have risen to at least 65 per cent of revenue (Auditor General 2018).

In the event that the NRM regime is dislodged in the 2021 elections, expectations for more and better service delivery will be high as they were in post-apartheid South Africa. South Africa elected to pay the apartheid debt and as a result, twenty years later, 40 per cent of the population lives below the poverty line. Access to social housing, electricity, running water and other services in the quantities and to the standards promised during the anti-apartheid struggle is still limited for at least half the population.



An easy exit also implies the inheritance of unsustainable debt, whether or not contracted in return for bribes, and regardless of whether it was put to developmental use or stolen. Without a debt audit carried out by an independent body, the repudiation of illegal, illegitimate and odious debt, and the recovery of misappropriated funds, the new government will not be able to meet service delivery expectations without taking on yet more debt. Service delivery will be the casualty. Zimbabwe cleared its debt to the IMF circa 2016. However latest statistics show undernourishment in Zimbabwe is 51.3%, up from 50.9% in 2016 when the IMF debt was cleared.

Post-Mugabe Zimbabwe discovered that it was unable to get new IMF financing without clearing the $5 billion owed to the African Development Bank and World Bank, and without securing financing commitments from development partners to whom money is owed.

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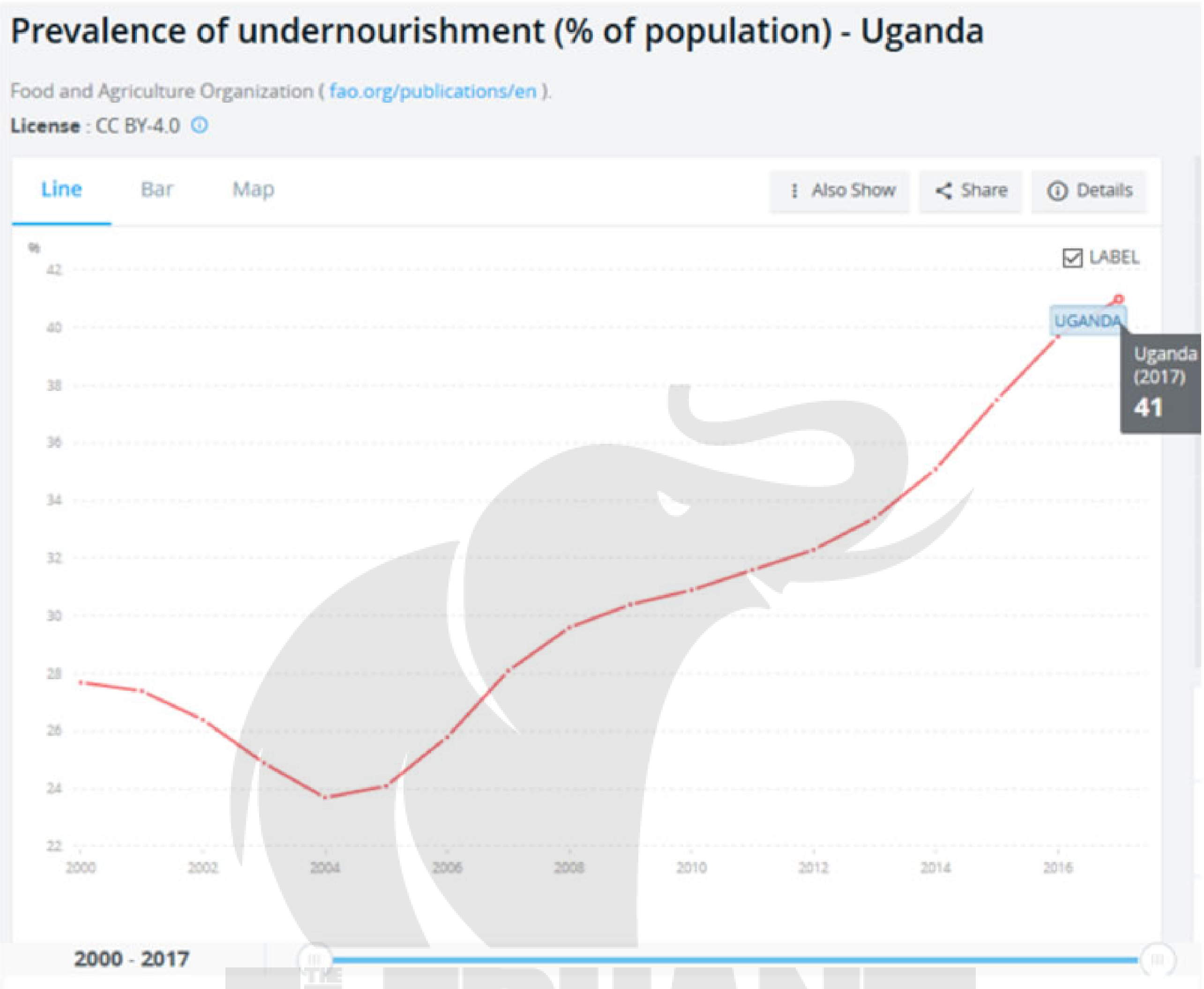
The legal status of the Museveni debt, and therefore the obligation to repay it, has been challenged by Dr Kizza Besigye on the grounds that it is odious – contracted at a time when the government was waging war against the people of Uganda. There is ample legal precedent for repudiation of odious debt.

To the extent that payment of the Museveni debt would force the State to continue to default on its obligation to meet the basic needs of its citizens, it is illegitimate. As in Zimbabwe, undernourishment in Uganda has been rising for over a decade. Infant and maternal mortality remain high.



Legally, if the Museveni debt can be shown to be odious or that it was contracted with the lenders' knowledge or expectation that the government lacked the capacity to manage or repay it and was in any case inclined to steal it (as with the Mozambique tuna bonds), a case can be made for repudiation.

There are several examples of debt being successfully repudiated. In 2007 Norway established the precedent for repudiating debt which is neither illegitimate nor odious on the grounds that "repayment may be subject to broader considerations of the equities of the debtor-creditor relationship" (UNCTAD).

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The Tsarist debt owed by Russia was significantly reduced after payment demands were repudiated. The German and Prussian debt used to colonise Poland was repudiated in 1919. Commercial loans made by the Royal Bank of Canada to fallen dictator Tinoco were repudiated by Costa Rica. Germany repudiated Austrian debt in 1938, and the Franco–Italian Conciliation Commission ruled that Italy was exempt from debt incurred during war waged by a previous regime (1947). (Source: *The Concept of Odious Debt in International Law*, UNCTAD.)

Debt mismanagement continues in Uganda. The long-awaited health insurance scheme – the National Minimum Healthcare Package (NMHCP) – was tabled in Parliament in August 2019. The maternal health component of it will be financed under the World Bank's Health Systems Strengthening Project through a loan of $130 million even though $45 million was wasted when the first attempt to design the NMHCP scheme in 2003 came to nothing. The World Bank's evaluation stated the reasons stemmed from failures within the World Bank itself, including unrealistic design timetables, lack of a monitoring and evaluation (M&E) framework, and little appreciation of the political economy of the reform programme.

There are tens of projects such as these dating back to the initial Economic Recovery Programme of 1987 for which loans were contracted, commissions were paid, disbursements often not completed, some money stolen and outputs only partially delivered, if at all.

The recovery of public funds lost in this way provides ample scope for alliances between opposition groupings across Africa. It remains to be seen whether Ugandans will be able to leverage the West's new-found willingness to put the well-being of her citizens on the table and negotiate agreements that will prioritise service delivery over investor interests after Museveni's departure. The pressure on them to do the opposite will be massive.

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