

Creation of New Cities - Congratulations amidst Concerns

By Drake Rukundo*

An Overview

The Local Government Act CAP 243, (section 4 a-c)¹ provides for creation of Cities with powers as those conferred upon a district council within its area of jurisdiction. And as such it becomes a body corporate as other Local Governments and may sue or be sued. According to the same Act, the Minister may, with the approval of Parliament, declare an urban area - a city - in accordance of Paragraph 32 of the Third Schedule of the Act. This is indeed what happened in Uganda as of July 1, 2020. The first batch of Local Governments elevated to cities are: Fort Portal, Gulu, Mbarara, Arua, Masaka, Jinja, and Mbale. The second batch will be Hoima, Soroti and Lira and will take effect on July 1, 2021. Entebbe will become a City on July 1, 2022. The last batch that will commence on July 1, 2023 will include: Nakasongola, Moroto; Kabale, and Wakiso².

Rationale - What is the Motive behind the creation of Cities?

Creation of Cities, is in part, purposed to give full effect to the decentralization of functions, powers and responsibilities and services at all levels of local governments. Most proponent views about the creation of Cities are aligned to the idea of decongesting the capital city, Kampala. According to the Vision 2040 (paragraph 255)³ the over concentration of development in Kampala has led to primacy putting enormous pressure on the overall functioning of the cities itself compared to other urban settlements across the country,

Other proponents link the decision of Cabinet to create cities on economic grounds for instance: Hoima (as an oil city), Nakasongola and Jinja as (Industrial cities), Fort Portal (Tourism city), Moroto (Mining city)⁴. There is wide appreciation that the politics of the day determined the timing of the creation of cities mainly for three reasons:

- i. Creation of new cities (during an election year) would give the ruling NRM the much-needed momentum and goodwill as a fulfilment of long standing 'promise' to these municipalities. However, not all were invited to the party. Some political commenters have noted that the geopolitics that pitted the Rwenzori kingdom against the establishment could have contributed to the missing out of Kasese which is both a tourist and commercial hub – just as Kabale or Mbale.
- ii. The timing has also coincided with a Cabinet decision that approved the creation of what has been called an 'affirmative parliamentary seat for women' in each of the newly created cities. This can be perceived as a modular for enhancement of the political base for the ruling party. Women MPs have been known to vote in alignment with NRM positions in Parliament.
- iii. A strong and popular deposition was presented by the Uganda Constitutional Review Commission that helped draft the 1995 Constitution on the introduction of a federal system of governance in Uganda. Creation of cities with one in each of the main sub-regions of Uganda is viewed as a pathway of institutionalisation of the regional tier system to comfort federalist advocates within the traditional kingdoms (mainly Buganda) and the Democratic Party.

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What Criteria have been followed?

It is widely ‘anticipated’ that for City ought to be an elevation from a Municipal Council Status, That it should be set up with consideration of stature, prominence, population size, level of development. Looking at the selective nature behind the creation of cities, it is easy to deduce the balancing act of the Cabinet decision in ensuring each region was represented – with at least a city selected to each of the 15 Regions of Uganda⁵ regardless of the other considerations as shown in the table below.

	Region	City
1	Acholi	Gulu
2	Akole	Mbarara
3	Buganda	Nakasongola, Entebbe, Masaka, Wakiso Cities (added to Kampala)
4	Bugisu	Mbale
5	Bukedi	no city with Tororo initially expected to attain this status
6	Bunyoro	Hoima
7	Busoga	Jinja
8	Karamoja	Moroto
9	Kigezi	Kabale
10	Lango	Lira
11	Rwenzori	no city with Kasese initially expected to attain this status
12	Sebei	no city with Kapchorwa initially expected to attain this status
13	Teso	Soroti
14	Toro	Fort Portal
15	West Nile	Arua

If indeed, cities were created with regional balancing considerations, it would have comforted other regions that missed out if for instance: Tororo (Bukedi); Kasese (Rwenzori); and Kapchorwa (Sebei) were mentioned as those coming in July 2023 with the last batch. For economic considerations, districts like Kisiro (Tourism); and Kasese (commerce) would have easily made the list but didn’t causing discontent in these districts and raising questions on the criterion followed. There is also a wide section of society that believe the reaction by Buganda Kingdom⁶ particularly on Masaka’s initial exclusion, led Government to cave-in and include Masaka on the first batch of cities in the roll-out.

Legal Contradictions that have emerged

The Minister of Local Government Act has rightly used his powers under Section 95 of the Act to issue guidelines on June 30th 2020- the eve of the coming into force of the first batch of cities. However, the

Minister’s guidelines alone are not cover for a host of legal challenges that face the implementation of the same. These include four contradictions below among others:

- i. Cities were created without a supportive Constitutional Amendment Bill and institutionalized a level of governance without sworn-in political and technical officials at that level. This is also the gist of petition served before the Constitutional Court by former Bufumbira East Member of Parliament Hon. Eddie Kwizera (who is also the former special assistant to the President) on July 28, 2020. It remains to be seen, if this petition is too little too late for the 10 cities that came into effect on July 1, 2020⁷.
- ii. In the absence of an alternative definitive law, the Minister used his powers under the Local Government Act to declare an urban area a City. However, the creation of areas in areas that constituted divisions for a municipality is a function of District Councils according to 2(A) of Section 7 of the Local Government Act. There is currently discontent on the criterion used in mergers of urban areas to set up new divisions. Another area of concern is what the structure of the Municipalities where cities were created would be, and if created, divisions would each have a Division Mayor and Member of Parliament as is the case for the capital, Kampala.
- iii. While Article 78 (1) (b) of the Constitution⁸ establishes woman member Parliament representing a district, no clause in the Constitution provides for this representation at a City level. Cities are being created in districts already represented by a woman MP. Cabinet by creating another woman representative at City level has essentially machinated a double representation of the same women electorate.
- iv. New Cities are gearing up to collect taxes from untapped areas now annexed to be part of the Cities. Arua Mayor Ramadhan expects the new City to collect UGX 5 billion annually from various sources including licences for businesses, approvals for buildings, local service tax, hotel tax, among others. What tax collection will be done by the Municipalities and Local Governments where the some of the areas have been annexed to the Cities and what will be the inter-governmental fiscal re-alignment?

Proposals to Support the Process of Establishment of Cities

Cities are essentially set up to support an enduring policy of urbanization a precursor for human and national development. Government will in the medium term be required to demonstrate a paradigm shift in the fortunes of citizens where

Cities have been created. The expectation will be to see modernity, prosperity and a transition towards good infrastructure, modern services and centres of excellence in education, leisure and hospitality, tourism and a general rise in the quality of life. In so doing, the exodus to Kampala ‘for every good thing’ would be curtailed, easing the pressure on the Capital City while encouraging citizens to settle in Cities created across the country. Creation of cities would also enhance regionally balanced development, a sense of nationalism and pride and spread social economic opportunities. That include the potential for agriculture and mineral development that these cities can harness for investment and trade hubs.

For these benefits to accrue, there is need to look at this new development through four lenses presented below by way of recommendations:

- i. Creation of cities ought to resonate with the National Urban Policy and respective physical and urban planning guidelines for city management. This will require substantial initial investment in urban infrastructure like street lights, stadiums, leisure green parks, recreational centres, city headquarters, fire brigade, Court houses, and related amenities befitting a city stature.
- ii. To add key clauses in the LG Act (now to be reviewed further following the objection for its assent by the President in May 2020) to include the Ministerial Guidelines under attendant schedules clearly stating the reviewed and structured Local Government and requisite staffing levels;
- iii. Illustrating the various positions both at technical and political levels and how they will be constituted and filled in lieu of the impact that would have on lower governance levels;
- iv. Providing a clear distinction at both technical and political level of what the creation of new cities would mean for the transition towards a regional tier (upwards) and the shape former municipalities and created divisions would take including local revenue collections and the impact that will have on LG expenditure assignments under the new Fiscal Decentralization Architecture. Re-adjustments will be required in the Medium Term Expenditure Framework (MTEF) to support the financing of these new cities informed by Six Schedule and needs on the ground⁹.

Congratulations to the newly created cities are in order but on the order-but serious concerns hover in the air.

References

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