The Great Flying Crane Heist

28 March 2019 was a good day for the Ugandan people. In fact, the entire week will go down in history as the one in which Government was forced to back down from an attempted fraud. There has been a whiff of scandal in the air since the President announced plans to revive Uganda Airlines last year. Created by statute in 1976 and privatised in 2001, the plan was to revive the airline through a Public Private Partnership scheme. With the public still reeling from revelations that an intended PPP for the construction of a private hospital has been transformed into a $300 million build-and-operate contract awarded to a shady Italian firm called Finasi, and wholly financed by a promissory note from Government, last week was the wrong time to attempt the flying crane heist.

The country is notorious for disastrous PPPs. In 2017 the [Auditor General](#) reviewed the functions of the PPP Unit and reported: "The position of Director (head of the PPP Unit) had not been substantively filled despite its critical importance to the functioning of the Unit and the PPP Committee. The current Head of the Unit has been in acting capacity since 2015. In addition, the key positions of the PPP unit such as communication expert, project finance expert, legal expert, technical expert, and technical specialist were also vacant. *This means that the PPP unit cannot provide the technical, financial and legal expertise to the PPP Committee and project teams established by contracting authorities as required under the Act."* [Emphasis mine]

> *Who owns the new Uganda Airlines? It does not appear on the books of Uganda Development Corporation, the investment arm of government. The Auditor-General does not include it in his tables of State enterprises, either active or dormant.*

This writer [commented](#) at the time that keeping all the key technical positions vacant enabled the junta to override the functions of the PPP Unit and implement projects over which there has been no technical, financial or legal oversight.

> *An old rumour has resurfaced that Sam Kutesa, the President's brother-in-law and Minister for Foreign Affairs, acquired the brand 'Uganda Airlines' and required billions of shillings in compensation to surrender it to the State.*

As with the contract to build Lubowa Hospital awarded to Finasi, so with the formation and financing of Uganda Airlines. No procurement procedures were apparent when aeroplanes were ordered, two of which are to be delivered this April at a cost of UGX 280 billion ($75,380,200.00). Nobody could or would answer the question: who owns the new Uganda Airlines? It did not appear on the books of Uganda Development Corporation, the investment arm of government. The Auditor-General did not include it in his tables of State enterprises, either active or dormant, loss-making or profitable.

> *Privatisation has generally been a massive looting exercise by the junta that rules Uganda. Various family members own or owned various assets divested by the State. Caleb Akandwanaho (aka Gen. Salim Saleh), the President's immediate younger brother, was forced to resign his seat in parliament after fraudulently acquiring Uganda Commercial Bank.*

An old rumour has resurfaced that Sam Kutesa, the President's brother-in-law and Minister for Foreign Affairs, acquired the brand 'Uganda Airlines' and required billions of shillings in compensation to surrender it to the State. Kutesa's censure by parliament in 1999 for the irregular acquisition of the once State-owned cargo and ground handling service company, the only profitable part of the privatised Uganda Airlines was still fresh in people's minds. That same year, a parliamentary committee was set up to investigate the sale of the ground handling service to Kutesa's Entebbe Handling Services (ENHAS) and the sovereign routes.

Privatisation has generally been a massive looting exercise by the junta that rules Uganda. Various family members own or owned various assets divested by the State. Caleb Akandwanaho (aka Gen. Salim Saleh), the President's immediate younger brother, was forced to resign his seat in parliament after fraudulently acquiring Uganda Commercial Bank, the country's largest commercial bank.

In a report, policy researcher, Wairagala Wakabi noted:

> "At the time, the World Bank noted these and other serious flaws in the privatisation programme. It said a number of privatisation transactions had been unsuccessful and "the program has been widely criticised for non-transparency, insider dealing, conflict of interest and corruption." Besides this, the Privatisation Unit, the agency responsible for carrying out privatisation, was unable to collect many outstanding payments for firms which were sold on a deferred payment basis, and questions had been raised about the use of the funds in the divestiture account." Bringing affordable telecommunications services to Uganda: A policy narrative and analysis W. Wakabi, 2009.

The current re-nationalisation is proving to be just as opaque. The facts relating to the ownership of the resuscitated Uganda Airlines only began to emerge when the Ministry of Works had to submit a request for a budget supplement to complete payment for the planes. Although the order had been made months earlier, there was no provision for it after Export Development Canada pulled out of negotiations in September 2018. At the time, Canada's action was thought to be related to the state brutality that erupted in Arua in August. Whatever the reason, the aircraft were ready for delivery this April after payment. The public maintained pressure on government via social media and two opposition MPs Joy Atim Ongom and Winnie Kiiza led the charge in the House.

The Ministry tabled its request before a belligerent Parliament. The first objection was that the State had been allocated only two out of two million shares (0.0001%) in Uganda National Airlines Company Limited, (UNAC) the new entity that was going to run the airline. The 1,999,998 unallocated shares became the focus. To whom did they or would they belong? Is UNAC in fact a State Enterprise?

> *The first objection in Parliament was that the State had been allocated only two out of two million shares (0.0001%) in Uganda National Airlines Company Limited, (UNAC) the new entity that was going to run the airline.*

The risk was that having passed UNAC off as a State enterprise thereby securing State funding, the drivers of the project – who remain unknown – could then allocate shares to 'investors' via the usual middlemen. The experience of Uganda Telecoms is indicative of this modus operandi.

In the beginning, the State held a 49 percent stake in UTL, selling 51 percent to investors. UTL also retained residual rights to license value added services. Currently the State holds only a 31 percent stake. Furthermore, no value-added service provider can operate without getting past MTN, a potential competitor allowed to begin operating before UTL , formerly the telecoms segment of the old state-owned Uganda Posts and Telecommunications Company, had been relaunched. With its history, infrastructure and brandname, MTN therefore holds a massive advantage in the telco market.

> *Minister Azuba Ntege gave an uncharacteristically embarrassed response for the NRM government and withdrew the submission to 'correct the errors.' The Speaker allowed her a day. The following morning the Minister arrived with fresh forms, updated to allocate 100 percent of UNAC shares to government.*

"The sale of the 18 percent public holding was queried by the

Public Accounts Committee not least because it flouted the requirement that the shares be valued by at least three qualified valuers (and not a mere broker) and advertised for sale to attract the best offer," explains Wakabi in his report.

The Uganda Airline operators, whom the Ministry of Works is fronting, have been less fortunate. Minister Azuba Ntege gave an uncharacteristically embarrassed response for the NRM government and withdrew the submission to 'correct the errors.' The Speaker allowed her a day. The following morning the Minister attended the Budget Committee with fresh forms, updated to allocate 100 percent of UNAC shares to government. At that point the registrar of companies, Uganda Registration Service Bureau (URSB), announced that the updated articles and memo of the company were null and void. One reason for this was that the share allocation did not reflect the history of the initial allocation of two shares.

> *During the UNAC debate, Movement MPs pleaded that the State was days away from penalties for non-payment; an earlier deadline had been missed in December and the $27 million deposit stood to be lost.*

It seems the effect was that a new entity was being formed with an initial allocation of 100 percent of the shares to the State. If so, that would have raised the question: who ordered the Bombardiers in 2018? It could not have been a company formed in March 2019. The question remains unanswered. Another mystery centres on the entity called Uganda Airlines Limited registered in 1999 and which has had no operations since. URSB even wrote to government in 2017 advising them that Uganda Airlines Ltd could be operationalised. Government preferred to register the new entity, UNAC Limited, in January 2018.

During the UNAC debate, Movement MPs pleaded that the State was days away from penalties for non-payment; an earlier deadline had been missed in December and the $27 million deposit stood to be lost. None addressed the issue that the State was in fact not liable in the event of UNAC defaulting.

A third set of papers was presented with effusive apologies from both ministers: "The registration process had gaps and I regret on behalf of myself, ministry and government. I beg to withdraw those documents," apologised Minister Ntege. They now held all the shares in their capacities as public servants and not individuals. The government had no option but to accept radical amendments to the report of the Budget Committee that had spearheaded the defence against this latest attempt to raid the Treasury.

> *We are not out of the woods yet. There remains the issue of the two Airbus A330 aircraft ordered from Rolls Royce. It must be pointed out that the vendor, Rolls Royce has a long record of engaging in the kind of business practices for which Patrick Ho was convicted.*

The ownership issue was sorted out with a resolution to transfer UNAC to Uganda Development Corporation. Ground handling services are to be re-nationalised regardless of the fact that Kutesa has allegedly sold ENHAS to NAS, allegedly a Kuwaiti entity. It is worth noting that there were rumours of this transaction around the same time that one Patrick Ho was being indicted in a New York court in 2017 for bribing both Kutesa and the President for oil and other business rights. (When Enhas was mentioned in parliament, Beatrice Anywar MP, who recently deserted the Opposition front bench for the NRM, was seen to leave her seat and in highly unorthodox fashion, whisper in to the ear of the Deputy Speaker. He waved her away).

We are not out of the woods yet. There remains the issue of the two Airbus A330 aircraft ordered from Aerospace and powered by a Rolls Royce engine.

In this case there should be more time to scrutinize the business case for the investment, something not done with the earlier ones because of the payment deadline. It must be pointed out that Rolls Royce, which issued a press release welcoming Uganda's decision and looking forward to developing its relationship with Uganda Airlines, has a long record of business practices for which Patrick Ho was convicted.

> *Due diligence demands that Ugandans ask: Who negotiated with Rolls Royce for the Airbus aircraft? Did they receive a bribe? Having interrupted a burglary in progress, they need to be on the lookout for other attempts to milk the Treasury.*

Following an investigation by the UK's Serious Fraud Office, it was found that Rolls Royce exchanged bribes for business with officials across the globe. The operation continued for 24 years before Rolls Royce reached a Deferred Prosecution Agreement (DPA) in 2017 under which individual officials would not be prosecuted but Rolls Royce would pay penalties of US$800 million for bribery in Angola, Nigeria and South Africa as well as Azerbaijan, Brazil, India, China, Indonesia, Iran, Iraq, Kazakhstan and Saudi Arabia.

The judge found:

> *"v. […] substantial funds being made available to fund bribe payments.*
>
> *vi) The conduct displayed elements of careful planning."*

Due diligence demands that Ugandans ask: Who negotiated with Rolls Royce for the Airbus aircraft? Did they receive a bribe? Having interrupted a burglary in progress, they need to be on the lookout for other attempts to milk the Treasury through this enterprise. The greatest weakness is that private operating capital will have to be found because Isimba and Karuma Dams are ahead of the airline in the financing queue and have not yet found the public funds needed to transmit the power they will generate. There is also the proposed oil pipeline and refinery for which investors are either not forthcoming or remain cautious. How the shares are sold and to whom is key.

Regarding any compensation for ground handling, if this service was illegally carved out of Uganda Airlines and in fact led to its collapse and sale, there should be no obligation to compensate NAS. It would be interesting to find out if in fact NAS is not Sam Kutesa in disguise.

With respect to the Airline, parliament adopted a business plan that they have not seen and whose profitability is questionable. It may have made sense for private individuals to own 99 percent of it, and operate a business for which all funding and liabilities are borne by the government, but it may not make sense for government to own 100 percent, and operate an airline when other regional airlines are struggling. Previous efforts by private entities in Uganda have not been successful, all but one failing for lack of cash, a shortage of which, incidentally, is also haunting Government.

In 2020, the grace period on 19 loans (including for the Entebbe Airport expansion and the Expressway) will expire requiring government to allocate 65 percent of her revenues to debt servicing. With 44 percent of revenues currently being devoted to debt service, the economic situation is already untenable for the majority who use neither the airport nor the expressway. The fiscal crunch is characterised by drug-stock-outs in health centres and lack of teaching materials in State schools. Feeder roads by which smallholders (80 percent of the population) transport their produce are in a dire state. Their maintenance requires UGX 800 billion ($215 million) a year but the government was only able to manage a fixed amount of UGX 417 billion for the three years up to June 2018.

In A brief chronological history of Uganda Airlines, Kikonyogo

Douglas Albert gives an insight into the vicissitudes of the air transport sector. In 2001 Africa One opened and closed within the year owing to limited capitalization; East African Airlines with a single ageing Boeing 737-200 running flights within East Africa, to Dubai and South Africa lasted five years before an investment shortfall forced it to close in 2007. Royal Daisy Airlines founded in 2005 lasted five years.

Government ventured back into the industry in 2006, investing in a 20 percent share of Victoria International Airlines regular flights to South Africa, Sudan and Nairobi. This venture too suffered from inadequate capitalization and closed after only 2 months. Finally, the Aga Khan Group's Air Uganda started regional operations in 2007 and stopped in 2014 after the International Civil Aviation Authority Organization November raised technical queries.

Signs of incompetent management have manifested sooner than expected. Although the [Ministry states 12 pilots have been recruited at UGX 42m ($11,307) a month and 12 co-pilots] at UGX 38 m ($10,230.17), and promised Parliament to table their professional records, on 31 March it transpired the airline may actually not have pilots. Documents were leaked to NTV Uganda investigative journalist, Raymond Mujuni, showing that owing to a dispute over pay, they have not reported to work objecting to salaries apparently lower than those of Kenya Airways and Rwandair pilots. The pilots also want permanent terms (which would make them eligible for massive pensions – Uganda has no public service pensions fund and billions are owed to Uganda Communications Employees Contributory Pensions Scheme (UCECPS) pensioners in arrears).

The airline immediately tweeted a disclaimer urging the public to ignore the report. Given the choice of R. Mujuni, a competent investigative journalist, and the shady airline company, a vigilant public might be more inclined to believe the pilots are on strike. Now that it is a public enterprise, the Auditor General and Inspector General of Government will need to pay particular attention to the Flying Crane. An important line of enquiry is whether the jobs were advertised and whether or not the recruits are beneficiaries of the controversial State House scholarship scheme, the educational arm of the junta.

As it is, the airline is to be launched in April. So far there has been no marketing of the maiden flight. The challenges ahead notwithstanding, after 33 years of fiscal abuse by Yoweri Museveni’s regime, Uganda was able to stop another heist of public funds. What made it even more beautiful was the fact that the methods used were parliament and the media.