

Uganda General Elections

18 February 2016



The Commonwealth

**Report of the Commonwealth Observer Group
Uganda General Elections
18 February 2016**

Table of Contents

TRANSMITTAL LETTER	iv
Chapter 1	1
INTRODUCTION	1
Terms of Reference.....	1
Chapter 2.....	3
POLITICAL BACKGROUND	3
Commonwealth Observation of 2011 Elections	3
Political Developments since the 2011 Elections.....	3
Chapter 3	9
ELECTORAL FRAMEWORK AND ELECTION ADMINISTRATION	9
Background.....	9
Legal Framework and International and Regional Commitments.....	9
The Electoral Commission	10
Voter Eligibility and Voter Registration	10
Candidate Eligibility and Nomination	11
Complaints, Appeals and Election Petitions	12
Key Issues	12
Electoral Reform and the Electoral Commission	12
Electoral Preparedness	13
National Voters Registers.....	14
Candidates and Campaign Expenditure.....	15
Recommendations	16
Chapter 4.....	17
ELECTION CAMPAIGN AND MEDIA	17
Overview	17
Campaign Environment	17
Campaign Methods.....	18
Use of Money.....	19
Campaign Finances.....	20

The Candidates.....	22
Media Environment	22
Regulation of Media.....	23
Media Coverage	24
Case Study: Radio Pacis.....	26
Media Restrictions during Campaign	27
Recommendations:	28
Chapter 5	30
VOTING, COUNTING AND RESULTS	30
Background.....	30
Key Procedures for Opening and Voting.....	30
Assessment of the Opening and Voting	31
Key Procedures for Counting and Results Tabulation	33
Assessment of Counting and Results Tabulation.....	34
Overview of the Countrywide Observations	35
Presidential Results.....	39
Recommendations	39
Chapter 6	41
CONCLUSIONS AND RECOMMENDATIONS	41
Electoral Framework and Election Administration	43
Election Campaign	43
Media.....	44
Voting, Counting and Results	44
ANNEX I: Composition of the Team.....	46
ANNEX II: Deployment Plan	49
ANNEX III: Joint Declaration	50
ANNEX IV: Interim Statement.....	51
ANNEX V: Commonwealth Observe Group Recommendations - 2011 and 2006	58

TRANSMITTAL LETTER

22 February 2016

Dear Secretary-General

We are pleased to forward for your attention our Report on the 18 February 2016 Presidential and Parliamentary Elections in Uganda, for onward transmittal to the government, Electoral Commission, political parties and others in Uganda.

These were the country's third multi-party elections and we have concluded that once again, Uganda has fallen well short of meeting many of the key democratic benchmarks for the conduct of credible elections. Certain key concerns remain, namely, the increased prevalence of money in politics, the misuse of state resources and, the competence, credibility and the ability of the Electoral Commission to manage the process effectively.

All these concerns reflect those of the Commonwealth Observer Group in 2011. We wish to convey our profound disappointment that none of the previous recommendations have been substantively addressed.

Of particular concern on Election Day were the inexcusable delays in the opening of polling stations caused by the failure to deliver voting materials, and the evident inadequacy of training provided to polling staff in many instances.

While we noted that campaigns were conducted relatively peacefully, it was also of concern to us that opposition parties, candidates and their supporters faced significant disadvantages in campaigning and accessing the media.

We have strong concerns that many of the administrative and operational processes undertaken during the electoral cycle were flawed, to the extent that the election results cannot be said to ascertain fully the true will of the people of Uganda. Such concerns also extend to the restrictions placed on the free movement of key opposition members and their supporters at all stages of the elections.

We urge the Commonwealth Secretariat and other pan-Commonwealth bodies to remain actively engaged with the Government and people of Uganda, to advocate implementation of our recommendations. We hope that they will be considered in the constructive spirit in which they are intended.


HE Olusegun Obasanjo
Chairperson



Ms Selima Ahmad



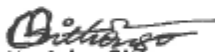
Hon Rene Baptiste



Mr Christopher Cobb



Mr Paul Dacey



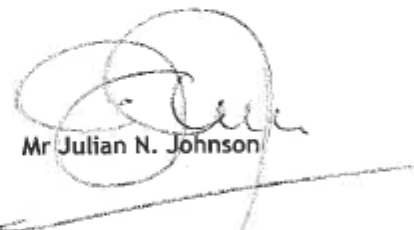
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Chapter 1

INTRODUCTION

At the invitation of Ministry of Foreign Affairs of Uganda, the Commonwealth Secretary-General, HE Kamlesh Sharma, constituted an Observer Group for the Uganda Presidential and Parliamentary Elections on 18 February 2016. The Group was led by HE Olusegun Obasanjo, former President of Nigeria, and comprised thirteen eminent persons in total. A five-member staff team from the Commonwealth Secretariat supported the Observer Group. A full list of members is at Annex 1.

Terms of Reference

“The Group is established by the Commonwealth Secretary-General at the invitation of the Ministry of Foreign Affairs of Uganda. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.

It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Uganda, the Electoral Commission, presidential candidates and the leadership of the political parties taking part in the elections and thereafter to all Commonwealth Governments.”

Activities

The Observer Group was present in Uganda from 11 February 2016. During three days of briefings, the Group met with the Electoral Commission, political party representatives, civil society organisations, media, Commonwealth High Commissioners and other diplomats, international organisations, and citizen and international observer missions.

The Observer Group deployed around the country on 16 February. Two-person teams visited eight districts located in all four regions of the country: Arua, Gulu, Jinja, Kabale, Kampala, Masindi, Mbale and Mbarara. In the field, the teams met with other

citizen, regional and international observers, as well as local electoral officials and political party representatives, police, and voters, in order to build up a comprehensive picture of the conduct of the process.

On the basis of the Group's findings and observations, the Chairperson issued an Interim Statement on 20 February. (Annex 4). The Group's Report was completed in Kampala and thereafter transmitted to the Commonwealth Secretary-General.

Chapter 2

POLITICAL BACKGROUND

Commonwealth Observation of 2011 Elections

Following the February 2011 General Elections, the second multi-party poll in 25 years, incumbent President Yoweri Museveni was declared the winner with 68.39 per cent of the vote, versus the 26.01 percent share of his main rival, Dr Kizza Besigye¹. Museveni increased his share of the vote by almost 10 per cent, and the National Resistance Movement (NRM) scored successes in new constituencies in the north of the country for the first time. Overall, the NRM won 259 parliamentary seats of the 385 available, with the Forum for Democratic Change (FDC) gaining 34.

The Commonwealth observed these elections and concluded that, while the election campaign and Election Day were generally calm, there were serious irregularities and shortfalls. In particular, the Commonwealth Observer Group (COG) noted:

- a lack of a level playing field;
- abuse of incumbency (the failure to ensure a distinction between the ruling party and state);
- the ‘commercialisation of politics’ (the use of financial and material inducements);
- the lack of campaign finance regulations;
- the lack of a Political Parties Code of Conduct;
- issues with regard to the lack of independence of the Electoral Commission and its poor management of the process, especially with respect to the administrative arrangements and timely delivery of materials, and deployment of personnel on Election Day;
- questions regarding the integrity of the Voter Register; and
- a lack of balance in state media coverage.

Consequently, the Group found that the key benchmarks for democratic elections were not fully met.

Political Developments since the 2011 Elections

Impact of an economic recession

Frustrated at his previous attempt to appeal the election results through the courts, two months after the 2011 elections, in response to spiralling food and fuel prices, Dr Besigye sought to galvanise civil disobedience nationwide through a *Walk to Work*

¹ In 2006, Mr Museveni garnered 59 percent of the vote versus the 37 percent share for Dr Besigye.

Campaign². The government had attributed the source of the crisis to the global financial crisis, a drought and instability in some oil-producing countries³, but critics alleged that the inflation originated from the management of fiscal policy, as government had increased spending substantially during the 2011 elections. It was met with a firm response from the state, with Dr Besigye arrested four times and accused of inciting violence, before all charges were dropped. In the aftermath, Dr Besigye stood down to allow for a new FDC leader to emerge. He endorsed an early internal FDC election, which took place on 24 November 2012, and was replaced by General Mugisha Muntu. Although the country's economy began to recover from the recession, the record level inflation, high levels of income inequality and difficulties faced by government in seeking to address this through effective policies, led to growing disillusionment among citizens. Northern Uganda faced particularly challenging economic circumstances, having been through years of violent conflict between the Lord's Resistance Army (LRA) and local citizens.

Political tensions ran high and the government faced public discontent on a range of issues, such as government allocation for health and education services, corruption, widespread unemployment combined with a massive youth population and the rising cost of living. Other concerns related to historical tensions between the government and Buganda over land distribution within Kampala market areas, rising inflation, university closures and strikes, harassment at opposition political party rallies and enforcement of traffic regulations, which had all led to many Ugandans showing an increased interest in engaging the political process by participating in more street-level demonstrations and protests than at any time in recent history. The massive youth population in particular felt marginalised and left out of the political process⁴.

Failed attempts to seek electoral reforms

After a prolonged period of economic stagnation, pressure from civil society organisations (CSOs) and opposition parties for constitutional and electoral reforms to be implemented prior to the 2016 General Elections began to intensify. In November 2014, a coalition of opposition parties and civil society organisations led by the Democratic Party's Norbert Mao launched the National Consultation on Free and Fair Elections. It handed over to the government 40 proposed electoral reforms, in a 'Uganda Citizens Compact on Free and Fair Elections'⁵.

Several opposition leaders Dr Kizza Besigye, Gen Mugisha Muntu, Mr Erias Lukwago, Mr Muhammad Kezaala, Mr Ken Lukyamuzi, Mr Asuman Basalirwa and others all

² The walk-to-work campaign began on 11 April 2011. A group calling itself Activists for Change (A4C) organised the demonstration, and opposition politicians, keen to show they were concerned about people's discontent over rising prices, agreed to take part.

³ The consumer price index grew by four per cent in March 2011 from the previous month and the year-on-year inflation rate stood at 11.1 per cent - up from six per cent.

⁴ According to NDI statistics, Uganda is home to the world's largest youth population, with 77 percent of its population under age 30, youth unemployment more than 80 percent - the highest in Africa.

⁵ During the 2011 elections, opposition and civil society had campaigned for the Electoral Commission to be totally reformed and new commissioners appointed before the elections in February 2011, and encouraged the electorate to rally behind this campaign.

united in pushing for what they called “meaningful reforms” ahead of the 2016 general elections, and presented their proposals before the Parliamentary Committee on Legal and Parliamentary Affairs. Their proposals included removing the President's power to appoint the Chairman and members of the Electoral Commission (EC), limiting the military's role in the electoral process, and introducing spending caps on parliamentary candidates' campaigns. They had also sought a constitutional amendment to provide for a deputy President with full authority and the mandate of the people. The main opposition party, FDC, had also demanded that the Commission enforce rules that require parties to submit reports of their annual accounts.

When the Constitutional Amendment Bill was eventually tabled in Parliament on 30 April 2015, it contained a list of just six planned amendments, only one of which related to elections. The main contentious issue - the independence of the EC - was only tinkered with by inserting ‘independent’ before the Commission’s name. In reaction, the opposition pressure group, For God and My Country (4GC), which had organised the 2011 Walk-to-Work protests, launched a new campaign called the Citizens’ Reforms Now (CIREN). The new 4GC campaign aimed to put pressure on government to withdraw the bill and introduce one that included the reforms that were proposed by a wide-spectrum of Ugandans. Following a period of parliamentary hearings, attempts to garner support for such reforms before the 2016 elections proved unsuccessful, as none of the proposed electoral reforms were taken up⁶.

Internal dissent within the NRM

President Museveni’s decision to run for another term in the 2016 elections enhanced internal fragmentation in the NRM, which had already arisen following the restoration of multi-party politics and the abolition of term limits in 2005⁷. In September 2014, President Museveni also dismissed Prime Minister Amama Mbabazi and, in January 2015, removed him from his position as NRM Secretary General, replacing him with Dr Ruhakana Rugunda (the former Health Minister) as Prime Minister. This decision was widely interpreted as an attempt to limit possible leadership challenges from within the NRM and was seen as the dissolution of a ‘gentlemen's agreement’ between President Museveni and Mr Mbabazi, which had been agreed some time before, that the latter would secure the NRM presidential nomination in 2016. Mr Mbabazi was one of the longest-standing members of the presidential inner circle and his departure from it was considered to be one of the biggest political upheavals in recent years.

It was also alleged plans that President Museveni had planned that his son, Brigadier Muhoozi Kainerugaba, would succeed him after he steps down in 2021, and this also

⁶ A proposal to add the word “Independent” before “Electoral Commission” was also dropped.

⁷ A petition was filed with the Constitutional Court by Mr Benjamin Alipanga, a supporter of Amama Mbabazi, challenging President Museveni’s candidacy on the grounds that he would have exceeded the presidential age limit if he serves a further term. Under the Uganda Constitution, a person who is aged below 35 and above 75 is not eligible to stand for presidency. The petition also sought to block Parliament from amending the Constitution to remove the age limit of 75 for eligibility of a presidential candidate. The case was, however, dismissed.

generated some dissent. Just prior to the 2016 elections, former Coordinator of Intelligence Services, David Sejusa, was arrested. The charges against him related to engaging in political activity while a serving military officer, and for being absent without leave. Sejusa's falling out with the government originated in allegations he had made in 2013 of a plot by government officials to kill those who opposed a plan for President Museveni to hand power to his son⁸.

Emergence of The Democratic Alliance and Go Forward campaign

Following months of speculation, in June 2015, Amama Mbabazi announced that he would compete for the position of chairman of the NRM and party flag-bearer in the 2016 presidential elections. In July 2015, he subsequently gave up his right to challenge President Museveni for the party's leadership by declaring that he would run for the presidency as an independent, while still maintaining his membership of the NRM. Mr Mbabazi subsequently considered to join The Democratic Alliance (TDA)⁹, a newly created coalition which was forged to offer opposition political parties an umbrella mechanism to work together as a force to unseat the NRM from power, given the latter's resistance to key constitutional and electoral reforms which opposition parties had been seeking. Following a rigorous screening of the presidential candidates by the opposition political parties in TDA, in September 2015 Mr Mbabazi was endorsed as the TDA's flag bearer by the majority parties in the alliance¹⁰. Subsequently, the FDC withdrew from the coalition and in October 2015 the campaign of Mr Mbabazi was re-branded as TDA/Go Forward.

Return of Dr Kizza Besigye as FDC flag bearer

Dr Kizza Besigye was re-elected as the FDC presidential candidate at its delegates' conference on 2nd September 2015. In the flag bearer race, Dr. Kizza Besigye polled 718 votes while his sole challenger; the incumbent party president Mugisha Muntu received 289 votes. He had also been the third candidate to be nominated for the position of TDA presidential flag bearer, after former Vice President Gilbert Bukenya and Democratic Party (DP) President Nobert Mao.

Against this background, the key issues, which dominated the period leading to the 2016 General Elections included:

Power of Incumbency and abuse of state resources: The ruling party appeared to be indistinguishable from the state. The security forces, particularly the Uganda People's Defence Force (UPDF), public institutions and local government officials - especially the Resident District Commissioners - have been singled out as being

⁸ 9 David Sejusa had applied for bail and his case was pending at the time this Report was drafted.

⁹ The Democratic Alliance was launched in June 2015, and its founding parties were the Conservative Party (CP), Democratic Party (DP), FDP, Uganda Federal Alliance (UFA), Jeema, People's Progressive Party (PPP) and Pressure for National Unity.

¹⁰ The announcement of the Joint Presidential Candidate only materialised on 25th September after some delay, when the Alliance's majority parties - DP, UPC, JEEMA, Federal Alliance and PPP - endorsed former PM Mbabazi.

aligned to the ruling party. This was also a major criticism in the 2006 and 2011 elections, and the alleged use of state resources by the incumbent was seen as beyond its legal entitlement under the law (Section 27 of the Presidential Elections Act, 2005).

Use of money and the commercialisation of politics: the increased prevalence of money in politics for the 2016 elections mirrored the scenario in 2011, with the added development that an amendment made to the Public Finance Management Act 2015, which enables the Executive to access supplementary financing without parliamentary approval, raised concerns that these funds could have potentially ended up financing the incumbent's campaign. [see Chapter Three]

Constraints on freedom of expression and association: Uganda has increasingly faced intense international scrutiny and condemnation for laws which have stifled freedom of expression. Additionally, a culture of impunity attends increasingly to crackdowns on opposition voices, media and activists in the country. As Ugandans headed towards the 2016 elections, freedom of expression and association faced serious threats¹¹, in particular given the rise in protests against the prevailing security and economic situation.

Role of crime preventers: Claims had been made that there was ongoing recruitment and training of militia by the NRM, to harass and intimidate citizens in constituencies, as well as the establishment of 'vote protecting brigades' by opposition parties. Concerns were expressed about the potential threats associated with the recruitment of such forces in the absence of a legal framework to embed accountability. The police had acknowledged that crime preventers were being recruited to boost the capacity of police at polling stations on Election Day, by performing the role of 'electoral constables'¹². [see Chapter Five]

Restrictive legislation: The existence of restrictive laws, including the 2013 Public Order Management Act and the Non-governmental Organisations (NGO) Act, passed by Parliament on 26 November 2015, placed further limitations on the opposition and civil society. In May 2015, FDC leader Dr Kizza Besigye and Kampala mayor Erias Lukwago were arrested in Kampala just before the duo was due to discuss electoral reforms in a meeting with other opposition leaders. The police had claimed that no authorisation for the meeting had been sought, hence their arrest (though they were subsequently released). Presidential candidate Amama Mbabazi had also faced harassment. The 2013 Public Order Management Act, which requires police approval for gatherings of three or more persons, was the legislation cited when both Dr Besigye and Mr Mbabazi were arrested for holding meetings, allegedly without

¹¹ "Keep the People Uninformed: Pre-election threats to Free Expression and Association in Uganda", Human Rights Watch, January 2016.

¹² The 2005 Parliamentary and Presidential Elections Acts as amended, both provide for the appointment of 'Electoral Constables' by the Presiding Officer in situations where there is no police officer, and where there is actual or real threat of disturbance on elections day, or where there will be huge numbers of voters. These provisions contradict the practise of the police force rather than presiding officers recruiting electoral constables. The EC confirmed that the Electoral Constables would be unarmed.

proper police authorisation. The Chair of the EC, Dr Kiggundu, also claimed that death threats had been made against him. Several rights groups had also recorded how Ugandan journalists have also been exposed to harassment, violence and arrests.

The Non-Governmental Organisations (NGO) Act 2016 required all NGOs to de-register, and register once again, obtaining a special permit from the registration board before they could operate. It also increased the registration board's powers to reject or revoke an NGO's registration; and it stiffened the penalties for operating without official sanction, thus raising the possibility that legitimate NGO activities could be criminalised. Supporters of the Act welcomed it as a means to weed out fraudulent NGOs, while its opponents saw it as a potential tool to weed out those critical of government policies. One of the most contentious sections of the Act remained unchanged from the previous act regulating NGOs¹³. The section prohibits 'any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda'. Its critics alleged that what conduct constituted the "interests" or the "dignity" of Ugandans was not clearly defined.

Inequitable access to media coverage: The bias of State media in favour of the incumbent remained a feature of the campaign period as in previous elections. [see Chapter Four]

Other issues which became contentious in the lead up to the 2016 elections included the decision by the Electoral Commission to retire previous versions of the Voter Register in 2015, plus the early close of the Register eight months prior to the elections, the relatively late introduction of a biometric voter verification system (BVVS) in the election roadmap, and questions surrounding the adequacy of voter education in the lead up to the 2016 elections. [see Chapter Three]

¹³ It replaced the Non-Governmental Organizations Registration Statute of 1989. Under the previous law, all NGOs in Uganda had to be approved and registered by a government- appointed board composed mostly of government officials, including security officials, before they were allowed to operate. The board could refuse to register an NGO or impose various conditions when approving it, and could abruptly terminate any NGO's registration on vague grounds.

Chapter 3

ELECTORAL FRAMEWORK AND ELECTION ADMINISTRATION

Background

Executive power in the Republic of Uganda is vested in the President, who is Head of State, Head of Government and Commander-in-Chief of the Armed Forces. The President appoints the Vice-President and Prime Minister.

The presidential term is for a period of five years. In 2005, the Constitution was amended to remove limits on the number of terms that a President could serve. The term of Parliament is also five years.

A successful presidential candidate requires over 50 per cent of valid votes cast in order to be elected. In the absence of the required majority, the two leading candidates go forward to a second round of voting. Voting for the presidency is on the basis of a single national constituency.

Parliament comprises 402 members, of whom 377 are directly elected on a first past the post system. This total is comprised of 290 single member constituencies and 112 district seats reserved for women.

25 members of parliament, representing several Special Interest Groups, are elected from electoral colleges. These comprise: five seats for youth, five for workers, five for persons with disabilities, and ten for the Uganda People's Defence Force.

Legal Framework and International and Regional Commitments

Uganda's Constitution guarantees fundamentals rights and freedoms, including freedom of expression, assembly, association, and participation in elections.

The following national laws provide the legal and regulatory framework for the conduct of elections:

- The Constitution of Uganda 1995 (as amended)
- Presidential Elections Act 2005 (as amended)
- Parliamentary Elections Act 2005 (as amended)
- Electoral Commission Act 1997 (as amended)
- Political parties and Organisations Act 2005 (as amended)
- Electronic Media Act
- Press and Journalist Act

In addition, Uganda has signed, ratified or agreed to some significant regional and international instruments and commitments relevant to the conduct of elections. These include:

- United Nations Declaration of Human Rights
- International Covenant on Civil and Political Rights
- Convention on the Elimination of All Forms of Discrimination Against Women
- International Convention on the Elimination of All Forms of Racial Discrimination
- African Charter on Human and Peoples Rights
- Commonwealth Charter

The Electoral Commission

The Electoral Commission is established under article 60 of the Constitution, which states that the EC shall be independent and “in the performance of its functions, not be subject to the direction or control of any person or authority.” It comprises a Chair, Deputy Chair and five other members. Members of the Commission are required to be “persons of high moral character, proven integrity and who possess considerable experience and demonstrated competence in the conduct of public affairs.”

The President appoints members of the Commission, with the approval of Parliament. Commission members hold office for a seven-year period, with the possibility of an additional one-term renewal. The President has the power to remove EC members if they are unable to fulfil their duties or for acts of misconduct or incompetence. The current Chair of the Commission is Dr Badru Kiggundu.

The functions and mandate of the Commission are to organise, supervise and manage the conduct of elections, compile, maintain, revise and update the Voter Register, and, boundary delimitation. The Commission is also responsible for voter education throughout the country and for declaring the final election results.

Under the oversight of the Commission is a Secretariat, headed by a Secretary, which manages the operational aspect of elections. The EC also establishes national structures to administer polls. District-level offices house Returning Officers, while other offices are established at the Sub-County, Parish and Polling Station levels. Returning Officers are required to be persons of “high moral character and proven integrity.”

There are 112 administrative districts, each with a Returning Officer, who is a permanent staff member of the Electoral Commission. One Assistant Returning Officer supports each Returning Officer. 28,010 Polling Stations were established for these elections. The EC prepared a three-year Road Map to elections - commencing in 2013.

Voter Eligibility and Voter Registration

In order to vote, one must be a Ugandan citizen, at least 18 years of age, and registered to vote.

For the purpose of the 2016 Presidential and Parliamentary Elections, the Commission produced an entirely new Voters Register, which contained voters’

biometric data (photos, personal details and fingerprints). The process for compiling the data for the Register occurred in two phases.

According to the Commission, the first draft of the new Register was developed following a government-led national ID registration exercise. This National ID registration exercise was conducted between April 2014 and Jan 2015.

Following the national ID registration exercise, the Commission conducted an update of this Register, and from April to May 2015 allowed those not captured by the national ID registration exercise to register. Citizens could register to vote either where they originated from or where they lived at the time of registration.

Following the update exercise, according to the Commission, the Register was displayed between July and August 2015. At the conclusion of these exercises, all previous registers were retired. The final number of registered voters for the election was 15,277,198. This number was only confirmed on 11 February.

Parties and presidential candidates were provided with electronic and hard copies of the Voters Register, as required by law.

Candidate Eligibility and Nomination

Presidency

To be eligible as a presidential candidate, one must be a Ugandan citizen by birth, be registered to vote, be between the ages of 35 and 75, and have been formally educated to Advanced Level or its equivalent.

Candidates can be sponsored by political parties or stand as independents. They are required to submit signatures of no fewer than 100 voters from at least two-thirds of national Districts (approx. 7500 signatures) and pay a fee of 20 million Uganda shillings (UGX)¹⁴.

As in 2011, there were eight presidential candidates, although five of them were contesting the presidency for the first time, and of these four were affiliated with parties while the rest stood as independents. There was one female candidate.

Parliament

The same nationality, registration and education criteria as for presidential candidates apply to parliamentary candidates. As above, candidates can be nominated by political parties or stand as independents. They must submit signatures of not fewer than 10 registered voters in their constituency. The nomination fee was UGX 3 million¹⁵. Public servants standing as candidates must resign from office prior to submitting their nominations.

¹⁴ Approximately USD 5890 in November 2015

¹⁵ Approximately USD 885

At these elections there were 1342 candidates registered for the single member constituency elections, and 405 for the District-level reserved seats for women. From those categories, there were also total of 910 individuals contesting as independents candidates.

Complaints, Appeals and Election Petitions

Article 15 of the Electoral Commission Act empowers the Commission to resolve any complaint submitted in writing alleging any irregularity with any aspect of the electoral process at any stage. The Commission's decisions on complaints can be challenged in the High Court.

The Electoral Commission Act, the Presidential Elections Act, and the Parliamentary Elections Act contain offences relating to illegal and corrupt practices, such as bribery; treating; undue influence; personation; illegal voting; false statements; and intimidation. These offences are punishable by a fine and/or imprisonment.

These acts also outline the procedures for an election petition. Election petitions may be presented for all elections. Presidential Election Petitions are to be presented to the Supreme Court, while Parliamentary Election Petitions are presented in the first instance to the High Court. Only an aggrieved candidate may lodge a presidential petition. An aggrieved candidate may present a parliamentary petition or a registered voter in the constituency concerned, supported by the signatures of no fewer than 500 voters registered in the constituency. Presidential petitions must be submitted within ten days of the declaration of results, and the Supreme Court has 30 days to adjudicate. Parliamentary petitions must be submitted within 30 days of the declaration of official results. The court of first instance has six months to adjudicate.

More than 400 formal complaints were made to the Commission. Of these, most related to allegations over the educational qualifications of candidates, and disputes over campaign incidents.

Key Issues

Electoral Reform and the Electoral Commission

Successive Commonwealth Observer Groups have commented on the importance of enhancing public confidence in the Electoral Commission by strengthening the process for appointment of the Commission and the exercise of the Commission's powers. This Observer Group reiterates that point.

For the 2016 Presidential and Parliamentary Elections, perceptions regarding the competency and integrity of the Commission remained a challenge. This challenge was a result of the perceived or actual influence of the executive and ruling party on the Commission.

In 2014 civil society came together to convene a National Consultation on Free and Fair Elections. A Uganda Citizens' Compact on Free and Fair Elections was adopted in November 2014. It called on Parliament and the Executive to commit to establishing an independent electoral commission, to ensuring the integrity of the voting process through a number of specified measures, to separating state from ruling party, to repealing legislation that restricted the freedom to organise and assemble, and, a number of other measures seeking to enhance confidence in the electoral process.

However, in 2014 and 2015 when Parliament reviewed potential legislation, no substantive reforms relating to the electoral process were undertaken. The EC therefore went into 2016 without broad-based political trust: in fact, quite the opposite.

Electoral Preparedness

As with past elections, in 2013, the Commission published its 'Elections Road Map', an electoral cycle calendar outlining the various activities and obligation of the Commission in advance of Election Day.

On Election Day, inadequate facilities for extreme weather and temperatures, poor signage, inconsistent application of procedures by polling officials, and inadequate preparation for voting and counting into the night were some of the challenges faced by the Commission. It is important to note that many of these challenges were manageable and even avoidable, as they mirrored challenges noted in past observations.

Moreover, in meetings with the Commission, it had acknowledged some of these challenges, particularly those relating to the operational aspect of the process. The EC informed the Group during its pre-election briefing meeting that it had been working closely with district local governments and district level police forces on the logistics of delivering the elections. Three months before the election, the Commission had requested the Government to provide vehicles for local government agencies to assist with transportation of polling material. The EC Chairperson confirmed that he had been very satisfied with the Government's response to this request.

In addition to those challenges, the inexcusable delays in the delivery of voting materials, which subsequently delayed the voting process across the country, raised serious questions about the commitment of the Electoral Commission to deliver a competitive and impartial process.

In Kampala and its adjacent districts, the Group observed voting delayed by as much as two to four hours and subsequently observed polling locations where voting was delayed by as much as six to nine hours. Anecdotally, in Kampala, there were several polling stations located within minutes of the premises of the Electoral Commission that did not receive voting materials on time.

The voting hours were subsequently extended in Kampala. However, it appeared that this information was not extensively communicated, as voters and polling officials appeared confused and uncertain of the process. The EC announced that polling would continue in a number of constituencies in Wakiso and Kampala districts the following day. Turnout, however, was low on the second day - which was a working day - and it is possible that many potential voters decided not to attempt to vote, after having waited for many hours the previous day.

As a result of these challenges and others, it was apparent to the Group that the confidence reposed in the Electoral Commission has been squandered and the Commission cannot claim to enjoy public confidence. It is evident that urgent reforms are necessary to restore positive perceptions regarding the competence and ability of the Electoral Commission to deliver an impartial and credible process. Whatever the reasons may be for the Commission's failure to perform its duties effectively, the impact on Election Day was of extreme concern to the Group. Its incompetence, so pointedly exhibited on Election Day, led to allegations in some quarters that it was a deliberate act to frustrate the voters loyal to the opposition, and thereby rig the elections.

National Voters Registers

As in 2011, concerns about the integrity of the Register were at the forefront of preparations for these elections. In past elections the accuracy and integrity of the register was criticised by stakeholders and observers. For these elections, the accuracy of the Register remained of concern.

The 2016 Voters Register stood at 15,277,198, which according to the Commission represented approximately 99 per cent of eligible voters. However, for many stakeholders, the process of compiling the new register and the retiring of previous registers, resulted in the disfranchisement of young people who turned 18 years of age after the close of the registration exercise in June 2015 and before Election Day - as well as others who were simply not aware of the process.

A limited sensitisation and awareness campaign education around the registration exercise compounded perceptions around the accuracy and integrity of the Register. This point was highlighted by the case of a former presidential candidate, who had discovered long after the display of the Register that because he had failed to re-register, he was no longer on the Register.

In addition, following an audit by civil society, the numbers of total voters at a number of polling stations across the country were shown to not tally with the disaggregated male and female voter numbers. In some instances, voter totals were found to be different by small amounts; in others, the difference was found to be as much as 488 voters, where the total should have been 901 voters. The Commission corrected the discrepancies immediately following verification of the numbers.

For many, all of these issues together are significant enough to raise questions on the accuracy of the Commission's figures. Maintaining and improving the accuracy of the register remains an on-going process.

Candidates and Campaign Expenditure

While the financing of political parties is regulated by legislation, the existing legislation currently enables the incumbent President to make extensive use of state resources for election campaigns. For example, the Presidential Elections Act bans the use of government resources “for the purpose of campaigning for any candidate, party or organisation in the election.”¹⁶ However, it goes on to explicitly exclude the incumbent President: “...a candidate who holds the office of President may continue to use Government facilities during the campaign, but shall only use those Government facilities which are ordinarily attached to and utilised by the holder of that office.”

The Group was informed that during the campaign the President maintained four vehicle convoys, each comprising around 15 vehicles, at different locations around the country. In addition, he would fly by official helicopter to a particular district, where the nearest convoy would pick him up. No other candidate had access to such transport facilities. While legitimate questions could be asked whether such transport facilities were those “ordinarily attached to and utilised” by the President, the absence of legal clarity in existing legislation created a permissive environment for such activities.

In October 2015, the Government amended the Public Finance Management Act, which had been passed by Parliament in February 2015. The stated purpose of the amendment was to achieve budget efficiency. However, its effect, as pointed out to the Group by some interlocutors, was to enable the Government to access supplementary financing without parliamentary approval, and to move money to various ministries without scrutiny.

For a number of commentators, the timing of the amendment to this Act was suspicious, as the amendment was presented and passed just a few weeks before the filing of nominations in the presidential campaign.

With regard to the financing of political parties and parliamentary candidates, existing legislation provides for a cap on the funds that may be raised from a single source. Political parties are required to submit audited reports to the EC within six months of the expiry of the financial year. However, according to civil society groups active in the monitoring of political financing, it is unclear whether this obligation is being complied with or whether it is being actively followed up by the EC.

Under the Political Parties and Organisations Act, political parties are entitled to funding from government. The Act states that funding shall be on an equal basis, but that funding for normal day-to-day running funds should be disbursed based on the respective parliamentary strength of each party.

However, the Group learnt that the EC disbursed the entirety of the funds¹⁷ based on the parties’ numerical strength in Parliament, during the campaign period. The ruling NRM controls 80 per cent of parliamentary seats.

¹⁶ Section 27 (1)

¹⁷ UGX 10 billion, or approximately USD 2.95 million.

Recommendations

- In order to establish public confidence in the Electoral Commission, the independence of the Commission must be guaranteed. The laws on establishment and appointment of the Commission should be reviewed, with a view to enhancing its capacity to fully exercise its autonomous mandate and functions in accordance with national and international standards;
- The Register should be kept under continuous review, to maintain its integrity and accuracy;
- As in past reports, to create a level playing field, legislation limiting the use of state resources for campaign purposes - especially by the incumbent president - needs to be significantly strengthened and then actively enforced;
- Similarly, the regulatory framework for campaign financing by parliamentary candidates must be strengthened, so as to provide for greater transparency and accountability;
- The Commission should also develop a strategic communication policy to enhance communication with key stakeholders, and streamline the management of information before and during the preparations for elections.

Chapter 4

ELECTION CAMPAIGN AND MEDIA

Overview

According to the Campaign Guidelines for Presidential Candidates issued by the EC, the start of the official campaign period for presidential candidates was set for 9 November 2015, while for parliamentary candidates it was set for 7 December 2015, with all campaigns concluding on 16 February 2016. The Campaign was to be conducted in accordance with prescribed legislation¹⁸.

Campaign Environment

Certain key concerns regarding the campaign environment mirror those of the Commonwealth Observer Groups to the 2006 and 2011 elections - namely, the increased prevalence of money in politics and the misuse of state resources. While the presidential elections were competitive with regard to the number of candidates, practical restrictions on basic freedoms of assembly and movement undermined the fairness of the campaign, particularly for opposition candidates. The overall competitiveness of the campaign was compromised by a lack of transparency with regard to campaign financing. The fusing of the state and ruling party in Uganda - highlighted by previous Commonwealth observers - has deepened, with a consequent adverse impact on political freedoms, and has further undermined any efforts to level the playing field for these elections.

We received reports of some opposition candidates being harassed and not being granted permission to assemble, though permission had been sought from the police in accordance with the 2013 Public Order Management Act. Of particular note was the arrest (and subsequent release) on 15 February 2016 in Kampala of an opposition leader, with the police stating that the arrested leader and his party had not adhered to the prescribed campaign route. Also, while some presidential candidates were known to have campaigned beyond the daily cut-off time of 1800 hours, media reported that only opposition candidates faced rebuke from the police when violating this regulation.

The election campaign was relatively peaceful, fiercely contested, and marked by extensive use of social media. However, opposition parties and candidates faced significant disadvantages in campaigning on an equitable basis and in accessing the media. The campaigns were competitive, with rallies generally peaceful and spirited, though a number of instances of intimidation and violence were reported. Parties conducted extremely active national campaigns, with large crowds in attendance. The Electoral Commission was to have consulted with representatives

¹⁸ The 1995 Constitution of Uganda, the Electoral Commission Amendment Act 2015; the Presidential Elections Amendment Act 2015; the Parliamentary Elections Amendment Act 2015; and, the Political Parties and Organisations Act 2005.

of presidential candidates to coordinate the campaign programmes of parties and candidates for these elections, to ensure that no rallies overlapped. However, we noted some instances where large numbers of supporters of opposing parties were nevertheless in close proximity to each other. However, direct clashes between party supporters appear to have been avoided.

Numerous incidents of hate speech by some presidential candidates were also reported, in the absence of the lack of a Code of Conduct to guide and regulate the campaign process¹⁹. Additionally, partisan statements attributed to senior police and military officials further undermined the electoral climate.

The Uganda Police Force faced criticism for its recruitment, training and deployment of ‘crime preventers’ at community level, but maintained that they were volunteers who supplied information to the police and were to also supplement the role of the police in ensuring a safe environment over the election period. Opposition parties and civil society organisations were suspicious of this recruitment programme, and it was widely alleged that crime preventers were being misused to intimidate opposition parties and citizens at constituency level, especially during the campaign period. Several opposition parties were also alleged to have recruited ‘vote protecting brigades’. We have heard the reasons given by the authorities for the existence of crime preventers, and also that of vote protecting brigades, but do not believe that there is any place for either state-sanctioned or private militia. The absence of a clear legal framework governing their establishment and role, and the consequent lack of accountability are of concern to us.

We reiterate the recommendation made by Commonwealth Observer Groups in 2006 and 2011 that security forces should refrain from undue displays of power, since these could be interpreted by the public as intimidatory. We also recommend that political parties exercise restraint in the security measures employed in the conduct of their campaigns.

Campaign Methods

Candidates opted for different methods to reach out to voters. While posters and billboards were most in evidence in various cities, towns and villages, leaflets were also widely distributed. Extensive use of print and electronic media, rallies, roadshows, and private media advertising took place. As in previous elections, presidential candidates tended to focus mainly on rallies, while parliamentary candidates focused on door-to-door canvassing and meetings in local neighbourhoods.

Social media became much more prevalent in the elections than ever before, with Facebook, Twitter and WhatsApp being utilised extensively to allow all presidential and parliamentary candidates the opportunity to disseminate their campaign

¹⁹ A bill had been tabled in Parliament in early December 2010 to enact Section 19(1) of the Political Parties and Organisations Act (2005), which provides for a code of conduct for political parties and organisations. Amid objections from the opposition that they were not consulted on the bill, after cross-party consultations, on 5 January 2011 a decision was agreed with the Speaker to defer the bill till after the 2011 elections.

messages widely. SMS text messages were also used to invite party supporters to rallies and to meet their candidates.

Parties and candidates advertised their manifestos and other campaigning news on websites. While Section 23 of the Presidential Elections act and Section 22(6) of the Parliamentary Elections Act prohibit candidates from making false, derogatory, insulting, and abusive statement during their campaigns, we were informed that some candidates were accused of using hate speech and threatening language in their campaigns.

Of particular note were the two televised presidential debates which took place for the first time. The first debate was held on 15 January 2016, where seven out of eight presidential candidates debated their manifestos and visions for the country. While Dr Kizza Besigye had reportedly initially opted out of the debate, he eventually agreed to take part. In contrast, President Museveni opted not to join the debate²⁰. He had reportedly referred to the debate as being akin to a ‘high school debate’. However, when the second debate took place on 13 February 2016, President Museveni did attend²¹. The focus of the second debate was on peace and security in Uganda and the region; regional integration; international trade and investment; and foreign policy. Our Group was able to attend the second debate and noted the candour with which the candidates responded to questions. It was, however, also notable that the nature and tone of the debate became more focused on issues of concern to the incumbent and main opposition leader.

The main concerns regarding the campaign, and indeed mirroring the 2011 Commonwealth Observer Group’s findings, were the lack of a level playing field, the use of money and, abuse of incumbency in the process. With significantly larger resources at its command, the NRM had remained dominant in all aspects of campaigning, taking maximum advantage of government resources at its disposal, through patronage and the use of vehicles and personnel. Indeed, the “money factor” and widespread allegations of bribery and other more subtle forms of buying allegiance were key features of the political campaign. NRM also received massive positive coverage on state television and radio.

Use of Money

The ruling NRM, remains by far the largest and best-resourced political party. In research conducted by the Alliance for Campaign Finance Monitoring (ACFIM), the incumbent presidential candidate spent UGX 13 billion²² in donations between January and August 2015. In November 2015 the incumbent candidate spent a total

²⁰ According to a letter of 8th January from the NRM secretary general Justine Kasule Lumumba to Justice James Ogoola, the chairperson of the organising committee of the debate, if the busy campaign schedule did not allow President Museveni to attend, the NRM would have sent a representative to join the debate.

²¹ One of the candidates, Joseph Mubirizi, turned up late for the second debate, and cited his reason for doing as his uncertainty on its format, claiming that he had not been properly briefed beforehand.

²² USD 4m

of UGX 5.94 billion²³ and UGX 23.7 billion²⁴ in December 2015²⁵. As was the case in the 2011 elections, reports of the “commercialisation of politics” through the distribution of vast amounts of money and gifts were prevalent. Even prior to the official prescribed campaign periods for presidential and parliamentary candidates, evidence of unofficial campaign expenditure by the ruling party began to emerge. This included signs of a rise in food prices in some villages due to a sudden increase of money being spent on consumables, especially among the youth. ACFIM also reported that cash sums of between UGX 200,000 and 500,000 were being provided to campaign cells at village level, which in turn passed it on to voters in amounts of UGX 2000 to 5000. Attempts were made by some political candidates to circumvent accusations of voter bribery by doing so under the guise of “livelihood improvement initiatives’ to donate cash and other items²⁶. The incumbent was determined by campaign finance observers to have distributed UGX 9,773,000,000²⁷ in cash donations between May and August 2015.

Several allegations were made that, during the official campaign period, many candidates distributed cash and other inducements to voters (such as refreshments, food and blankets). Section 64 of the Presidential Elections Act and section 68 of the Parliamentary Elections Act prohibit a candidate from giving or providing any money, gift or any other consideration to a voter. Violation constitutes the offence of bribery, and the accused on conviction is liable to a fine not exceeding seventy-two currency points (UGX 1,440,000) or imprisonment not exceeding three years, or both. ACFIM reported that, in events/ rallies/ consultative meetings (including donations) the incumbent candidate spent UGX 8.7 billion²⁸ in December 2015 and UGX 14.2 billion²⁹ in January 2016. While the law does not distinguish between voter bribery and voter facilitation, it is noted that the latter is becoming increasingly criminalised in other jurisdictions. However, this campaign also saw a heartening innovation in the context of African elections, with the leading opposition candidate reportedly receiving an average of USD 436 per day from ordinary citizens during rallies and other meetings. In addition, citizens were noted to have also made many donations in kind, ranging from cows, goats and chickens, to bananas to this particular opposition campaign. There is no precedent that we are aware of for this in African elections.

Campaign Finances

The 2016 elections proved to be even more expensive than others before. This was attributed to the lack of limits on the amount of campaign spending for parties, plus the largest number of independents to contest any election in Uganda’s history, which increased overall campaign spending. Expenditure by Independent candidates

²³ USD 1.75 million

²⁴ Approximately USD 7 million

²⁵ ‘Monitoring Campaign Financing during the Pre-elections period’, Alliance for Campaign Finance Monitoring (ACFIM), Progress reports for July - October 2015, p8 and for November - December 2015, p14.

²⁶ These items were wide-ranging, including saucepans, hoes, seedlings, plastic chairs, tents, street lights etc.

²⁷ Approximately USD 3 million

²⁸ USD 2.6 million

²⁹ USD 4.2 million

was assessed to have increased by an average of 266 per cent³⁰. In January 2016, ACFIM reported that total campaign donations up to that point amounted to UGX 436 billion,³¹ almost four times the total approved annual budget for the Ministry of Health (2015/16).

It was reported that incumbent MPs received UGX 100 million³² each, officially for ‘fuel arrears’, and that ruling party MPs received UGX 105 million³³ to conduct advocacy on behalf of the incumbent as the party’s sole presidential candidate. These disbursements, however, raised concerns, as the funding was provided during the campaign period.

In regard to the Public Finance Management Act, as the amendment was passed just prior to the commencement of the official campaign period, concerns were raised over its timing.

For campaigning, ACFIM reported that the costs incurred for rallies in the November-December 2015 period amounted to just over UGX 10 billion³⁴. Expenditure on television advertisements, billboards and other election paraphernalia constituted a large proportion of these costs. The cost of a billboard was estimated to amount to over UGX 15 million³⁵ for exclusive use for one month, while political parties were said to be spending at least between UGX 20 million and 50 million per month³⁶ on posters, t-shirts and banners.

As in previous elections, concerns and suspicions over numerous reports of undisclosed sums of money from various sources continued to be raised. This underscored the need for the enforcement of regulations on election campaign financing and political party fundraising. This is more so given that there are virtually no checks on the levels of campaign financing and expenditure, due to the cash-based nature of the campaign and the lack of stringent campaign financing regulations, both of which facilitate the use of illicit payments to voters as inducements, and which have the potential to undermine the free expression of their will at the ballot box.

It is undeniable that certain advantages accrue to an incumbent. However, enforceable funding limits are required. We note that the laws with respect to vote buying have been in place since before the 2011 elections, and are relatively strongly worded with clear penalties. At the very least, these need to be enforced.

³⁰ *Ibid.*, p12.

³¹ USD 128 million

³² Approximately USD 29,000

³³ Approximately USD 30,000

³⁴ USD 2.95 million

³⁵ USD 4400

³⁶ Between USD 5800 and USD 14,700

The Candidates

Uganda's third multiparty elections on 18 February 2016 were contested by eight presidential candidates (in alphabetical order):

1.	Yoweri Museveni Kaguta	National Resistance Movement
2.	Amama Mbabazi	Independent
3.	Baryamureeba Venansius	Independent
4.	Besigye Kizza Kifefe	Forum for Democratic Change
5.	Abed Bwanika	Peoples' Development Party
6.	Mabirizi Joseph	Independent
7.	Maureen Faith Kyalya Waluube	Independent
8.	Biraaro Buta Benon	Farmers Party of Uganda

A total of 1342 candidates were nominated to contest elections for the directly elected Members of Parliament and 405 candidates for district women Members of Parliament.

Main campaign issues in the manifestos of NRM, FDC and Go Forward:

NRM's Manifesto: The central theme and message was "Taking Uganda to Modernity through Job-creation and Inclusive Development", with a focus on economic development, tackling corruption, peace and security.

FDC's Manifesto: This embraced a four-point action plan: investing in the people and expanding opportunity for every Ugandan; re-engineering new sources of growth and creating well-paying and decent jobs; strengthening national security and creating a new leadership and strengthening our public service; and, building people-centred regional integration and global partnerships. The FDC Secretary-General also promised to eliminate corruption, wastage, bureaucracy and incompetence, and to then direct resources for agriculture, industry and tourism, in addition to creating healthy and competent human resources through quality education and health.

Go Forward's Manifesto: the focus of this manifesto was a commitment to the rule of law, respect for human rights and the dignity of all persons. It promised a mixed all-inclusive-economy that ensures social security, justice, equality and equity. It also sought to promote international and regional security as well as economic cooperation.

Media Environment

Uganda has a vibrant media environment with a mixture of state-controlled and private print, broadcast and online outlets. Most newspapers are printed in English but their circulation tends to be restricted to urban areas.

Following deregulation in the 1990s, private radio and television channels emerged to compete with the state controlled Uganda Broadcasting Corporation (UBC). There are now over 100 different radio stations on FM, and numerous television stations. The government controls TV stations and radio networks operated by UBC, as well as newspaper titles such as New Vision.

Radio is the primary source of information for most Ugandans, reaching some of the most remote and rural areas of the country. Private radio stations, including many owned by politicians, are the most influential media in the country. The quality of their coverage, however, is generally poor and their reporters are generally poorly paid and ill trained, producing political news and information that is one-sided and reflective of the owners' self-interest.

The Group heard that journalists in Uganda faced huge challenges in the course of their work, and this election brought many of these challenges to the fore. According to local stakeholders, journalists are severely restricted on what they can and cannot cover, owing to government controls, arrests and confiscations, pressure from party officials, proprietorial influence, intimidation, and, in some cases acts of violence. This often resulted in self-censorship. In Reporters Without Borders' 2015 press freedom index, Uganda is ranked 97th out of 180 countries.

Increasingly, Ugandans are accessing news and information through the internet and internet-enabled smartphones. According to official figures, in March 2015, of a total population of 37 million there were over 11 million internet users, 19 million mobile subscribers (up from 10.3 million for the last elections in 2011) and 1.8 million Facebook users.

Social media platforms are growing in popularity, as evidenced by the way in which they have been embraced by political parties and candidates standing for election. According to New Vision, as of 26 January 2016 President Yoweri Museveni had 173,260 Twitter followers, Amama Mbabazi had 119,414, and Kizza Besigye had 17,094.

Regulation of Media

While the Constitution guarantees freedom of speech and expression, including freedom of the press, and the right of access to information, a tightly-controlled regulatory and licensing regime means there are practical limitations on the media. Journalists are bound by the Official Secrets Act 1964, the Electronic Media Act 1996, the Press and Journalists Act 2000, the Access to Information Act 2005, the Penal Code (Amendment) Act 2007 and the Uganda Broadcasting Corporation Act 2013.

The Electronic Media Act, for example, outlines the minimum standards that provide for "equal opportunity" in coverage of presidential and parliamentary candidates, while the Press and Journalists Act requires journalists to obtain a licence from the Media Council. The Penal Code outlaws any acts, speeches or publications that "bring into hatred or contempt or to excite disaffection against the person of the President, the Government as by law established or the Constitution," and gives the

Minister of Information powers to prohibit publications deemed “injurious to the public interest”.

The country’s two main regulatory authorities, the Uganda Communications Commission and Media Council, have been accused of lacking independence and of being politicised. The Media Council, established by the Press and Journalists Act, is tasked with arbitrating disputes between both the public and the media, and the state and the media, and exercises disciplinary control over journalists, editors and publishers by enforcing a Professional Code of Ethics.

The Professional Code of Ethics states, among other provisions, that “no journalist shall disseminate information or an allegation without establishing its correctness or truth” and “no journalist shall solicit or accept bribes in an attempt to publish or suppress the publication of a story.” Where it sees that it needs to enforce the code, the Media Council can force a journalist or media outlet to apologise to a complainant, suspend a journalist’s certificate of practice for six months, or order a media organisation to pay damages to a complainant.

Shortly before the elections, the Electoral Commission issued *Guidelines for Media During the Electoral Process*, underlining the ethical standards and principles to which journalists and media houses were to adhere. These include the guideline that “the media shall hold themselves independent and free of control and direction from any of the political parties and organisations or candidates”; and that “the media shall be accurate, balanced and impartial in their election reporting and not discriminate against any political party, candidate or supporters”.

The guidelines underscore that media houses “must not be biased in favour of, or against, any party or candidate” and specify that the media shall provide “equal access, coverage and opportunity to all political parties and organisations without discrimination to purchase space to promote their respective views during the electoral process; news coverage and editorials shall be provided equally to all the candidates and their parties”.

Less than a week before Election Day, the Electoral Commission imposed a ban on the use of mobile phones within polling centres. This caused much consternation among citizen observer groups and opposition parties, who use mobile phones to monitor the electoral process. Online media outlets were also informed that any website that released results before the Electoral Commission could be taken off line.

Media Coverage

The Electoral Commission reported that it had received accreditation applications from over 700 journalists to cover the 2016 general elections, including foreign media. Despite the challenges faced by journalists, there was a genuine effort by many journalists to cover the election in a balanced way, fulfilling an important role in educating and informing voters on the electoral process.

Notwithstanding, the Group was concerned that much of the elections coverage appeared to be influenced by the political affiliations of media owners, the impact of limited human and financial resources, and a general lack of journalistic training, especially among smaller outlets. The Group was also concerned about reports of alleged intimidation of media outlets by ruling party and government officials. In one example, the television station NTV was temporarily banned from covering candidate Museveni's campaign rallies after the station's editorial team refused to run video footage taken by an NRM-operated drone of one of the President's earlier rallies.

Uganda continues to be underserved by its news media during election campaigns, with the government-controlled news outlets continuing to betray a bias towards the ruling party in both the quantity and quality of its election coverage.

Overall, the media paid far greater attention to the presidential election at the expense of the parliamentary races. The three top presidential candidates – Yoweri Museveni, Amama Mbabazi and Kizza Besigye – dominated coverage, with fewer stories devoted to the other five candidates. Notably, a second round Presidential Debate featuring all eight candidates including President Museveni was broadcast live to the nation ahead of Election Day. The Group commends both the media and the candidates for giving voters the opportunity to hear direct from the candidates, although it was troubling to hear that one of the presenters was apparently barred from questioning the President as part of the agreement which secured Museveni's appearance.

Across all media, there was a worrying blurring of the line between editorial content and advertising. The Group heard reports that political parties and their affiliates routinely pay for airtime and space, but that viewers and readers were not always informed that they were consuming paid political advertising. Journalists for smaller outlets were often poorly paid, and had little or no formal training with no contract or guarantee of work; some of these journalists were allegedly paid a stipend by candidates to, in effect, provide propaganda, in contravention of the Professional Code of Conduct and Electoral Commission guidelines.

Similarly, despite being mandated by law to provide equitable time to all presidential candidates, according to the African Centre for Media Excellence (ACME), the Uganda Broadcasting Corporation gave disproportionate attention to the incumbent candidate. In January 2016, President Museveni received 81 per cent of the airtime devoted to presidential campaigns; in contrast the state-controlled New Vision newspaper apportioned 64 per cent of presidential campaign coverage to the President that month. UBC therefore did not meet its responsibility to treat all candidates equally. Given its wide reach throughout the country and across many platforms, including 11 radio stations broadcasting in 53 languages, the broadcaster's overwhelming bias towards the incumbent candidate and ruling party was of major concern.

The Group noted comments made by President Museveni following the election, who reportedly said: "I am the one who does not have a level playing field with [Daily] Monitor newspaper." These remarks appeared to jar with the observations of the Group. Overall, the Daily Monitor was regarded to have provided broadly fair and

balanced coverage of the election despite pressure to give the President more favourable coverage. The comments were also not born out by statistics provided by the African Centre for Media Excellence (ACME).

We were also concerned about deficiencies in election coverage among the country's private radio stations, which generally lag well behind print and television media in terms of quality output. According to ACME, during January 2016 more than half of the election news reports monitored on radio did not contain any background and context; 71 per cent of the stories did not interrogate claims or promises by candidates; and 78 per cent of the reports relied on single sources.

The Group heard that radio journalists were inhibited from providing balanced political news coverage and commentary partly because so many radio stations are owned by individuals affiliated to political parties. Media ownership is therefore a major issue which needs to be addressed. A notable exception was the coverage by several church-owned radio stations, which provided more reliable and trusted reporting.

Case Study: Radio Pacis

Commonwealth Observers met with Radio Pacis, based in the town of Arua, which provides a model to which all others should aspire, due to its emphasis on good journalistic ethical principles and training of staff. According to station management, Radio Pacis is the most listened to radio station in the region, offering broadcasts in multiple languages. It employs a multi-faith staff of reporters and has won numerous awards for its work, including a 'radio station of the year' award from the BBC.

Along with several other church-owned stations, the radio station's reporting staff received pre-election training courtesy of US funding and, in turn, gave basic training in election coverage to a team of 60 non-journalists who comprised a network of 'correspondents' throughout its coverage area. Training was undertaken by the Uganda Media Development Foundation and was focused on teaching how to report facts and policies while stripping away inflammatory rhetoric from editorial reports.

In an environment where politicians were able to buy their way into news and information programming, it was especially heartening to learn that Radio Pacis has firm standards of transparency and fairness. For example, all participants irrespective of their status must sign its two-page written 'Policy for Political Talk Shows and Debates' - FDC leader Kizza Besigye was among the many who signed before appearing on air. The policy promotes fairness and balance and a professional approach to its political journalism.

There is ample empirical evidence across the world that consumers of news and information gravitate to media they trust, which makes the Radio Pacis approach not only good political journalism but also good business. While it receives donations from the church, a significant portion of its revenue is from advertising.

The station's management told the observers that their one misstep during the 2016 election campaign was not doing enough in the area of civic education, and filling what they viewed as a vacuum created by the inadequate performance of the Electoral Commission.

Media Restrictions during Campaign

The Group was especially alarmed to hear of the intimidation and harassment endured by some journalists during the election campaign. Uganda's Human Rights Network for Journalists reported that more than 40 journalists had been arrested, beaten, prevented from working or deprived of their equipment by police since October 2015.

In January 2016, Human Rights Watch published a report entitled 'Keep the People Uninformed', which details routine violations against freedoms of expression, assembly and association, which they said had led to a "chilling effect" on all media. While many print journalists enjoyed some freedom to report on the election, radio journalists were in particular challenged by harassment and threats from government and party officials, the report said. "I think government intends to keep the people uninformed," one anonymous journalist reportedly told Human Rights Watch. "You see, uninformed people are easy to manipulate."

In February 2016, Reporters Without Borders accused the government of gagging the media in the run-up to the election. "What with threats, arrests, media closures and seizure of equipment, covering the election is becoming almost impossible for news media that do not kowtow to the ruling party," it said. One incident cited by the NGO was the arrest and detention on 6 February of a team of BBC journalists, were who accused of filming a hospital in the northern town of Abim, which had been the focus of political controversy during the campaign, without permission. "Arrests and intimidation attempts of this kind are completely unacceptable in a country that claims to be democratic," it said.

On Election Day, the Uganda Communications Commission, which is responsible for telecommunications infrastructure, imposed a block on social media communications platforms including Twitter, Whatsapp and Facebook, apparently at the behest of the Government. President Museveni reportedly stated that it was a "security measure to avert lies... intended to incite violence and illegal declaration of election results." This block, which ended only late on 21 February, restricted freedom of speech and the ability of the media to report on the election, and was ill-advised and unwarranted. It also caused extreme collateral inconvenience, especially to the poor in Uganda, whose mobile money services were impacted as well.

Overall, despite the best efforts of many committed journalists, the general media environment in Uganda had a negative effect on the campaign. Opposition candidates did not receive fair and balanced coverage. As a result, much of the

voting public did not receive the quality news and information they deserved during the electoral campaign.

Recommendations:

Election Campaign

- A Code of Conduct for Political Parties should be adopted, in accordance with Section 19(1) of the Political Parties and Organisations Act (2005).
- All agencies, particularly those responsible for security, should exercise restraint in their statements, conduct and measures employed towards all aspirants during the conduct of their campaigns. Political parties should also exercise restraint in the security measures employed in the conduct of their campaigns.
- Political parties should support the enactment by Parliament of legislation in accordance with good practices for mandatory public disclosure of campaign income and expenditure. This will help to create a higher level of transparency and accountability.
- Regulations stipulating expenditure ceilings on election campaigns should also be introduced.
- The provisions in Article 64 of the Presidential Elections Act and Article 68 of the Parliamentary Elections Act on vote buying should be enforced.
- The entitlements of the President in relation to elections should be listed in a manner that increases transparency and complies with the provisions in relevant legislation, both in the letter and spirit of the law.
- Public resources must not be used to the advantage of any one political party.
- More stringent and explicit regulations limiting the use of state resources for campaign purposes should be introduced, thereby helping to create a more level playing field for the elections.

Media

- State-controlled media, as well as private media, should be held to the standards contained in the Professional Code of Ethics and the Electoral Commission's Media Guidelines, particularly the need for impartiality and equitable coverage for all candidates.
- The Uganda Broadcasting Corporation should be transformed into an independent public service broadcaster.

- The Electoral Commission should agree with UBC on the provision of dedicated free-time broadcasts for political parties on an even-handed basis on radio and television at election time.
- An independent broadcasting authority and independent broadcast complaints commission should be created to act as a regulatory body.
- Government authorities should refrain from blocking social media during future elections, as this represents an unwarranted infringement on freedom of expression and freedom of the press.
- Training should be provided to junior reporters to broaden understanding of basic journalistic principles and skills and how to report fairly and impartially during an election.
- Radio station owners and management should study and learn from the Radio Pacis model of broadcasting.

Chapter 5

VOTING, COUNTING AND RESULTS

Background

The Presidential, Parliamentary and District Elections were held on 18 February 2016. Voting was scheduled from 7:00 am to 4:00 pm in 28,010 polling stations across the country.

Polling stations were primarily located in open spaces adjacent to public facilities such as schools, churches and community centres. A Presiding Officer, supported by up to four Polling Assistants, staffed each polling station. There was also an Elections Constable (unarmed law enforcement) responsible for managing law and order. In addition, candidate agents, and accredited citizen and international observers were authorised entry into a station.

Each polling station was to contain three ballot boxes - for the President, Members of Parliament and Women Representatives. By law, campaigning had to end 24 hours before Election Day.

Key Procedures for Opening and Voting

The prescribed procedures for opening of the polls and voting are as follows:

Opening of the Polls

- Polling Officials are required to prepare the Polling Stations at least two days before polling day.
- On Election Day, voting is scheduled to start at 7:00 am.
- There must be at least five voters to witness the opening process.
- The ballot boxes are shown to all those present to confirm they are empty; the boxes are then sealed with numbered seals.
- There are three separate posts for each election; a voting basin is placed adjacent to each respective ballot box.
- Accredited candidate agents - two per candidate - are to be permitted at a polling station.
- Citizen and international observers are also allowed to be present for the opening.

Voting

- Voters approach the first polling official and voting post one-by-one. The voter may present either the Voter Location Slip or national ID. However, an ID is not mandatory.
- If functional, using the Biometric Voter Verification Kit, the official then scans the Voter Slip to retrieve the voter's information, the voter's finger (thumb or index finger). The voter is then requested to verify and confirm the information displayed.
- Once the voter's details are confirmed, the Register is marked to certify that the voter has been issued a ballot paper.
- The voter is issued the first ballot paper and proceeds to the voting basin to mark their choice. Once the choice is made, the marked ballot is folded and placed inside its corresponding ballot box. This process is repeated twice more for the other two elections.
- Prior to exiting the station, the cuticle of the voter's right thumb is to be marked with indelible ink.
- Persons requiring assistance are permitted to have a person of their choosing assist them. However, it cannot be an election official, candidate agent or observer. Each assistant can aid only one person.

Assessment of the Opening and Voting

On Election Day, our teams reported widespread delays in the delivery of voting materials, which subsequently delayed the voting process across the country. There were varying periods of delay, with the most significant delays occurring in Kampala and its adjacent districts. In Kampala, the Group observed the start of voting delayed by as much as two to four hours, and received reports of voting delayed by as much as six to nine hours. The latter reports were verified. These inexcusable delays raised serious questions about the organisational ability and commitment of the Electoral Commission to deliver a competitive and impartial process. Given that the voting materials originated in Kampala, the effect of these delays was to create a widespread perception that the elections were manipulated.

Some of the key observations of the teams were:

- In all cases observed, polling stations were not prepared the required two days in advance. In many observed cases, they were not even prepared the evening before. There was no signage to indicate the existence of a polling station. Much of the preparation of the polling area appeared to take place the morning of Election Day. In some cases, voters and party agents were present at polling stations long before polling officials, who had apparently had to travel to district centres to pick up the election materials.

- Despite the often-long delays in opening the polls, the turnout of voters was high, particularly at the start of the day, which in some instances created crowd management challenges. Overall, voters were willing to wait patiently in extremely long queues in order to exercise their franchise.
- In Kampala, however, waiting voters often became agitated as the hours passed by with no ballot papers or other key materials delivered. The army was visible, both in convoys and on foot patrol, as the day progressed.
- There were often significant variations in the number of voters per polling station. In some polling stations, particularly in urban areas, this contributed to lengthy queues and caused overcrowding in locations where several polling stations were co-located
- At most polling stations, priority was given to people with disabilities, the infirm, and pregnant women. However, it was observed that there was no clear methodology for voters requiring assistance. It was clear that the EC had not prepared polling officials to deal with illiterate voters, in particular (the majority in some rural areas). This caused confusion, delays, and compromised the secrecy of the ballot.
- Polling officials generally worked hard, often in difficult and trying circumstances, and most displayed professionalism in carrying out their role. However, their task was exacerbated by the failure of the Electoral Commission in some areas to deliver election materials on time, or to ensure that polling kits were complete.
- Candidate agents, national, regional and international observers were largely present at the polling stations observed.
- Candidate and party agents generally appeared to possess the relevant section of the Voters Register. Party agents sometimes played an active role in assisting in the identification of voters. In some instances, party agents were also seen to be taking an active role in the set up and operation of the polls, and openly participating in the counting process.
- Police and election constables were present as prescribed by law. In many areas, the army too was present on the streets and in the vicinity of polling areas. Particularly in urban areas, the presence of the army - in armoured personnel carriers - and often in riot gear, could be intimidating.
- It was encouraging to see in some constituencies a large number of young people and women polling officials, including at Returning Officer and Presiding Officer level. However, the training of these individuals remained an issue of concern.
- While there did not appear to be a deliberate attempt to subvert procedures, there were certainly inconsistencies between polling stations in the

application of procedures. Ballot boxes were not always sealed as prescribed, and in some observed cases, not sealed at all. Indelible ink was applied in varying manners i.e. not always on the cuticle but on the finger itself, for instance.

- The open layout generally provided for transparency but, as layout of stations varied, it became apparent that the secrecy of ballot was not always guaranteed. Some stations were well laid out, facilitating the flow of voters, communication between officials and scrutiny of the process. However, in other instances, in more confined spaces, the layout was quite poor, often significantly compromising the secrecy of the vote.
- The placing of the voting basin (voting booth) also varied. In some polling stations, the basin was placed on a table with secrecy protected. In a number of other polling stations, teams witnessed the basin placed on the ground, with voters required to squat or kneel while marking their ballot. This was particularly challenging for older voters. In such situations, anybody around the voter could easily see the intention of the voter.
- The absence of adequate space and facilities (electricity, sufficient camping lights, umbrellas, tables etc.) in some locations proved to be a significant challenge.
- The possibility of adverse weather had also apparently not been taken into account by the EC. In some Districts, rainstorms disrupted polling, and officials forced to remain with the ballot boxes struggled to protect voting materials from damage.

Key Procedures for Counting and Results Tabulation

The key stated procedures for the count and results process are as follows:

- The polls are officially scheduled to close at 4:00 pm. However, voters in line at the close of poll are allowed to vote, and voting continues until the last person in line has voted.
- Following the last voter, the Presiding Officer closes the station and starts preparing for the count. Party agents, citizen and international observers are permitted to witness this process.
- The ballot box seals are cut and the box is opened and emptied.
- Ballots are sorted into piles by candidates
- Each ballot paper is displayed to candidate agents and observers to confirm the vote.
- Each candidate's ballots are tallied for total votes.

- Rejected Ballots are any of which:
 - Have a mark identifying the voter
 - Is unmarked
 - The voter's intention is unclear
- The Declaration of Results form is completed and signed by the Presiding Officer, and candidates agents present may also sign form. Candidates agents are to be given copies of the form at the conclusion of the process.
- Upon completion of the process all results are posted outside of the polling station.

Assessment of Counting and Results Tabulation

Some of the key observations of the teams were that:

- The close and count process was generally transparent and inclusive, with candidates agents, citizen, regional and international observer groups welcomed to observe the process. The open-air polling stations facilitated this transparency, as voters were able to wait just outside the polling ring to observe.
- Due to the late start and long lines, many stations did not start the count until late in the evening. A single solar-powered camping lantern was provided to each polling station. With polling hours reduced by an hour for these elections, the EC apparently had not felt the need to make better provision for night-time polling or counting. However, the long delays at the outset of polling meant that in a large number of instances - voting and counting extended well into the night. Teams observed voters using torches on their mobile phones to assist polling officials during the count.
- Some polling officials were observed to be struggling both to keep order and to conduct the counting process efficiently. It was observed that election constables and party agents often took on a more directive role during the count. However, in other instances, many of the often-young polling officials coped well with the demands of the count and reconciliation.
- Counting and closing procedures were not always consistently followed at some of the polling stations observed. In particular, there appeared to be no explanation to voters over what constituted an invalid or spoilt ballot, and there was often insufficient scrutiny of these ballots. The reconciliation process was also carried out inconsistently, with the requisite paperwork not filled out as required. The Group heard subsequently from citizen observer groups of verified instances where party agents had not been provided with copies of the results sheet, which would hamper efforts to challenge particular results.

Overview of the Countrywide Observations

ARUA

- By dusk the evening before voting day, none of the designated polling stations we observed had begun preparations. All were set up on election morning.
- On Election Day, it was noted that voters were generally in good humour and patient as they queued. Depending on the size of the voting 'area' observed, it took between three and a half and five and a half minutes for each person to complete the voting process.
- The Team observed two incidents of voters' names not appearing on the list. To address the issue, polling officials phoned their superiors to confirm validity and the voters were allowed to vote without rejoining the queue.
- Polling officials - many of them young women - handled often-stressful situations very well.
- During the count process, there was confusion on several occasions at several stations about what constituted a spoiled ballot.

GULU

- Public attitudes towards the Electoral Commission are characterized by extreme low confidence and trust. On polling day Officials generally seemed impartial in the polling stations observed.
- No signs of intimidation. But there was an underlying mood of discomfiture due to the ubiquitous presence of NRM affiliated election 'observers' and 'officials. This was more pronounced at polling stations next to military barracks. NRM 'party agents' were generally more assertive and the males among them bald, fit and resembling security officials. They constituted an ominous presence that generally contributed to a climate of fear so pervasive that opposition party agents mentioned their affiliation only reluctantly in the presence of these individuals.
- The voter register appeared accurate. The Team observed no complaints or voters being turned away at polling station. Indeed, in a good number of constituencies opposition polling agents even had copies of sections of the register for their stations
- In the urban Gulu municipalities voters were generally familiar with the voting process. However, in the rural municipalities, there was a high number of illiterate voters in the rural areas and there seemed to no pre-agreed methodology for assisting them impartially which meant that the assertive NRM 'officials' were eager to step in. The secrecy of the vote was therefore compromised as the team watched.

- In the determination of rejected ballots, there was no clarity as to what constituted a rejected vote. As a result during the counting process spoilt votes were rejected by acclamation before a crowd arbitrarily.

JINJA

- Generally, voters turned out early in large numbers but at the polling station observed, voting did not start until three hours after the scheduled opening time.
- The secrecy of the ballot was not sufficiently provided for.
- Standard procedures were not always consistently applied at some of the polling stations observed.
- Where observed the closing, there was inadequate lighting. However, this did not appear to disrupt the process although it may have contributed to slowing it down.
- Police visibility at polling stations was quite noticeable. Roving armed Police teams were observed in the district.
- Varying numbers of polling agents were observed at most polling stations.
- Inconsistencies were observed in the application of the indelible ink to voters' fingers.

KAMPALA

- Openings of several polling stations were delayed by a few hours due to a lack of delivery of ballot materials in time for the scheduled opening at 07h00. Some stations had materials delivered during the course of the morning, but further delays were evident due to polling staff needing extra time to finalise arrangements of their stations. In one instance, at Wandegaya Mosque, ballot boxes were delivered at 08h50, but without all the necessary materials to commence voting. In another case, at the Caltech Academy, ballot materials were only received after 12h30, and voting began after 13h00. The delay nearly resulted in a riot at that particular polling centre.
- Inconsistent application of procedures by polling staff were evident in some polling centres e.g. a polling clerk was seen to be explaining polling procedures to voters in a haphazard manner and in some cases voters' fingers were not inked as per the prescribed guidelines.

- In general, the use of the biometric voter verification devices proceeded smoothly, with very few cases of slow processing due to polling staff's lack of awareness of how to use the system properly.
- There was an unequal distribution of voters among polling stations within some polling centres, which slowed down the voting process in a few cases. In one instance, at the polling centre located at the Kasubi Tombs, one polling station had over 900 voters on the register.
- The issue of the lack of ballot secrecy became evident at Makerere University Primary School, where the physical layout compromised the secrecy in some cases i.e. people on a hill above who could clearly see the votes being cast in the voting basins below.
- The closing and reconciliation process was noteworthy in that election constables were observed 'instructing' polling staff on their tasks.

KABALE

- On the eve of Election, none of Polling Stations had been secured or demarcated.
- On Election Day the first voter, an elderly man, was only able to vote at 8:15. However, he had to wait a further five minutes because no Pen/pencil had been received at that polling station.
- At one polling station, the Team observed two people at the voting basin at the same time - thus compromising the Secrecy Rule.
- At one polling station observed for the close and counting process, there were no street lights in the area and the crowd slowly became restless and began criticising the slow voting process. People also began to crowd around the Presiding Officer's table. The station was disorganised and was in a small and untidy area.

MASINDI

- Voters turned out early in large numbers but at the polling station observed, voting did not start until well after the official scheduled opening time.
- Polling officials - many of them young people worked diligently and conducted themselves professionally, handling often-stressful situations well.
- Inconsistencies in the application of standard procedures was observed at several polling stations.
- At polling stations observed the secrecy of the ballot was not guaranteed.

MBALE

- There were no obvious signs of intimidation by officials or party agents. The NRM party agents were, however, more assertive than others at polling stations observed. They were more involved with the setup, closing and running of the polls but were not seen to directly interfere with or view anyone's vote.
- In most cases polling officials appeared familiar with the polling procedures. However, in one polling station observed, the ballot boxes were not sealed as the polling officials believed they were to be sealed after completion of voting. They were also not using indelible ink to mark the voters. During the closing of the polls, the officials were not clear on the correct process for closing the polls and starting the count. The party agents were telling them what to do. They then checked with the adjoining polling station and closed the poll.
- Party agents were present at all polling stations observed and were actively involved in the polling process. In some stations, they were asked repeatedly by the presiding officers not to interfere in the polling process and allow the officials to complete their tasks. No domestic observers were seen at most stations observed.

MBARARA

- The Team was made to feel that the presence of the Commonwealth Observation team was genuinely appreciated.
- On Election Day, there were three polling stations within a large open field, with no tape, furniture, no signage. A small number of the electorate was already assembled, quietly observing the situation. The Team did not get a sense of clear leadership from the Electoral Commission staff present.
- At the Mbarara University Teaching Hospital polling station, the Team found that polling had not begun as at eight thirty, partly because the biometric verification system had malfunctioned and the polling officials were struggling to find a replacement.
- Some of the polling stations observed were noticeably less efficient in the closing of the polling process as well as in the commencement of the count.

Presidential Results

Candidates	Affiliation	Votes	Percentage
Abed Bwanika	PDP	86,075	0.93
Amama Mbabazi	Independent	132,574	1.43
Baryamureeba Venansius	Independent	51,086	0.55
Benon Buta Biraaro	FPU	24,675	0.27
Kizza Besigye Kifefe	FDC	3,270,290	35.37
Mabirizi Joseph	Independent	23,762	0.26
Maureen Faith Kyalya Waluube	Independent	40,598	0.44
Yoweri Kaguta Museveni	NRM	5,617,503	60.75

Total Votes	10,329,131	67.61 per cent of total voters
Invalid Votes	477,319	4.62 per cent
Spoilt Votes	29,005	
Valid Votes	9,851,812	

Voter Turnout 67.61 per cent

Recommendations

- The number of voters registered at a single polling station be capped at 400-500, particularly in urban areas, to maximise the ability of polling officials to process voters in a timely manner.
- Improved training of polling officials be undertaken to ensure greater consistency in the application of electoral procedures and to minimise inconsistency in practices. In particular, two officials at each polling station should be trained in the use of the biometric voting kits, in case one was indisposed on the day. The team observed some instances where delays were caused by the absence of the only official trained to use the kit.
- The EC should carry out a more effective programme of civic awareness and voter education, in order to strengthen voter confidence and better understanding in the electoral process.
- Greater attention be paid to the selection of polling station facilities, to cater for extreme temperatures and weather, and to ensure ease of access for disabled, elderly, and pregnant electors. Adequate signage must be provided, and better arrangements made for night-time counting.
- The secrecy and integrity of the vote must be protected. The EC may also wish to consider the use of collapsible and portable voting screens.
- A clear process through which illiterate voters can cast their ballots should be articulated and disseminated, allowing them to choose who will assist them in the voting process.

- The results collation and tabulation process should be strengthened to minimise human errors, increase transparency, and instil confidence in the electoral process.
- The highly visible presence of the military on the streets and around polling stations and tallying centres could be intimidatory and should be reviewed. There is no place for the military in any part of the electoral process.
- Rather than relying on their well-publicised three-year roadmap, the EC should be encouraged to establish a five-year roadmap. This may assist in alleviating the organisational and operational shortcomings evident at these elections.

Chapter 6

CONCLUSIONS AND RECOMMENDATIONS

The 18 February 2016 Presidential and Parliamentary Elections in Uganda were the country's third elections held since the reintroduction of multi-party politics. Once again, these elections fell well short of meeting many key democratic benchmarks relating to the conduct of fair and credible elections.

The Electoral Commission did not meet its obligations to the voters of Uganda during this electoral process. Its failure to ensure that voting materials reached polling stations just minutes from the Commission's headquarters is inexplicable and inexcusable. The Teams observed similar failings across the country. In many other respects, the EC's planning for these elections was deficient. This includes inadequate staff training, the lack of contingency planning in the event of adverse weather and night-time voting, communicating with the public and political parties with respect to polling arrangements, and, ensuring sufficient transparency at all stages and levels of the process.

Certain key concerns remain, namely: the increased prevalence of money in politics, the misuse of state resources - which led to significant advantages for the incumbent, and, the competence, credibility and ability of the Electoral Commission to manage the process effectively and impartially. These mirror those concerns expressed by the Commonwealth Observer Groups to the 2006 and 2011 elections.

The presidential elections were competitive with regard to the number of candidates. However, practical restrictions on basic freedoms of assembly and movement affected the fairness of the campaign, particularly for opposition candidates. Moreover, the overall competitiveness of the campaign was compromised by a lack of transparency with regard to campaign financing. The Group noted with concern that the fusing of the state and ruling party in Uganda - highlighted by previous Commonwealth observers - had deepened, with a consequent adverse impact on political freedoms, and further undermining any efforts to level the playing field for these elections.

The election campaign was relatively peaceful, fiercely contested, and marked by extensive use of social media. However, opposition parties and candidates faced significant disadvantages in campaigning in accessing the media.

Media coverage of the elections requires particular highlighting. The state owned broadcaster, the Uganda Broadcasting Corporation (UBC), did not meet its responsibility to treat all candidates equally. Given its reach throughout the country and across many platforms, including 11 radio stations broadcasting in 53 languages, UBC's overwhelming bias towards the incumbent candidate and ruling party was of concern to us.

The legal framework provides the basic conditions for competitive elections. However, concerns about the independence, credibility and ability of the electoral management body to manage the process plagued these elections. Despite support and repeated calls from many national and international stakeholders, there were no substantive electoral reforms adopted by the government in advance of these elections. The members of the Electoral Commission are still appointed by the President, though subject to Parliamentary confirmation. The integrity and accuracy of the Register remained an issue of concern up to the eve of elections because of the early close and retiring of previous registers. The secrecy of the ballot is still not adequately provided for, in that the voting basin is still utilised. The results, tally and reconciliation process remains ambiguous and therefore of concern. The transmission of results process from the polling station to the National Tally Centre does not appear to be adequately protected or transparent.

The Group was told that the commercialisation of elections and politics generally was at a level that should concern everyone. Previous Commonwealth observers have criticised the lack of a level electoral playing field in Uganda, caused by the abuse of incumbency and the widespread use of money to buy votes.

This election was no different. We were told that the sums involved in buying votes and support had increased significantly. The lack of transparency in campaign financing is of grave concern to us, and we repeat the recommendation of previous Commonwealth observers that existing legislation prohibiting vote buying should be enforced. Explicit regulations limiting the use of state resources for campaigning, and including greater clarity on the entitlements of the President during election time, should be introduced. We urge that regulations on expenditure ceilings be adopted, and neutrally and vigorously supervised so as to enhance accountability in the process.

On Election Day, our teams reported delays in the delivery of voting materials, which subsequently delayed the voting process across the country. There were varying periods of delays, with the most significant occurring in Kampala and its adjacent districts. This raised serious questions about the competence and commitment of the Electoral Commission to deliver a credible, competitive and impartial process.

The Group has strong concerns that many of the administrative and operational processes undertaken during the electoral cycle were flawed to the extent that the election results cannot be said to fully ascertain the true will of the people of Uganda. Such concerns also extend to the restrictions placed on the free movement of key opposition members and their supporters at all stages of the elections.

In previous chapters we have set out our recommendations under the relevant headings. Here we have sought to bring them together for ease of reference. We hope that these recommendations will receive the consideration they merit and that they will be implemented.

Many of the recommendations set out below reflect those of the Commonwealth Observer Groups in 2011 and 2006. They can be found at Annex V. We wish to state our profound disappointment that none of these previous recommendations have been substantively addressed.

Electoral Framework and Election Administration

- In order to establish public confidence in the Electoral Commission, the independence of the Commission must be guaranteed. The laws on establishment and appointment of the Commission should be reviewed, with a view to enhancing its capacity to fully exercise its autonomous mandate and functions in accordance with national and international standards;
- The Register should be kept under continuous review, to maintain its integrity and accuracy;
- As in past reports, to create a level playing field, legislation limiting the use of state resources for campaign purposes - especially by the incumbent president - needs to be significantly strengthened and then actively enforced;
- Similarly, the regulatory framework for campaign financing by parliamentary candidates must be strengthened, so as to provide for greater transparency and accountability; and,
- The Commission should also develop a strategic communications policy to enhance communication with key stakeholders, and streamline the management of information before and during the preparations for elections.

Election Campaign

- A Code of Conduct for Political Parties should be adopted, in accordance with Section 19(1) of the Political Parties and Organisations Act (2005);
- All agencies, particularly those responsible for security, should exercise restraint in their statements, conduct and measures employed towards all aspirants during the conduct of their campaigns. Political parties should also exercise restraint in the security measures employed in the conduct of their campaigns;
- Political parties and candidates should enact legislation in accordance with good practices for mandatory public disclosure of campaign income and expenditure. This will help to create a higher level of transparency and accountability;
- Regulations stipulating expenditure ceilings on election campaigns should also be introduced;
- The provisions in Article 64 of the Presidential Elections Act and Article 68 of the Parliamentary Elections Act on vote buying should be enforced.

- The entitlements of the President in relation to elections should be listed in a manner that increases transparency and complies with the provisions in the relevant legislation, both in the letter and spirit of the law;
- Public resources must not be used to the advantage of any one political party; and,
- More stringent and explicit regulations limiting the use of state resources for campaign purposes should be introduced, thereby helping to create a more level playing field for the elections.

Media

- State-controlled media, as well as private media, should be held to the standards contained in the Professional Code of Ethics and the Electoral Commission's Media Guidelines, particularly the need for impartiality and equitable coverage for all candidates;
- The Uganda Broadcasting Corporation should be transformed into an independent public service broadcaster;
- The Electoral Commission should agree with UBC on the provision of dedicated free-time broadcasts for political parties on an even-handed basis on radio and television at election time;
- An independent broadcasting authority and independent broadcast complaints commission should be created to act as a regulatory body;
- Government authorities should refrain from blocking social media during future elections, as this represents an unwarranted infringement on freedom of expression and freedom of the press;
- Training should be provided to junior reporters to broaden understanding of basic journalistic principles and skills and how to report fairly and impartially during an election; and,
- Radio station owners and management should study and learn from the Radio Pacis model of broadcasting.

Voting, Counting and Results

- The number of voters registered at a single polling station should be capped at 400-500, particularly in urban areas, to maximise the ability of polling officials to process voters in a timely manner;
- Improved training of polling officials should be undertaken to ensure greater consistency in the application of electoral procedures and to minimise inconsistency in practices. In particular, two officials at each polling station

should be trained in the use of the biometric voting kits, in case one is indisposed on the day;

- The EC should carry out a more effective a programme of civic awareness and voter education, in order to strengthen voter confidence and better understanding of the electoral process;
- Greater attention should be paid to the selection of polling station facilities, so as to cater for extreme temperatures and weather, and to ensure ease of access for disabled, elderly, and pregnant electors. Adequate signage must be provided, and better arrangements made for night-time counting;
- The secrecy and integrity of the vote must be protected. The EC may wish to consider the use of collapsible and portable voting screens;
- A clear process through which illiterate voters cast their ballots should be articulated and disseminated, allowing them to choose who will assist them in the voting process;
- The results collation and tabulation process should be strengthened to minimise human errors, increase transparency and instil confidence in the electoral process;
- The highly visible presence of the military on the streets and around polling stations and tallying centres could be intimidatory and should be reviewed. There is no place for the military in any part of the electoral process; and,
- Rather than relying on a three-year roadmap, the EC should be encouraged to establish a five-year roadmap. This may assist in alleviating the organisational and operational shortcomings evident at these elections.

ANNEX I: Composition of the Team

HE Olusegun Obasanjo served as President of Nigeria from May 1999 to May 2007. In 2008 he was appointed by the United Nations as a special envoy for Africa. In 2008, he was also appointed special Envoy on the Great Lakes region by UN Secretary-General Ban Ki-moon, and continues to be an integral actor in mediation efforts in eastern Democratic Republic of the Congo. HE Obasanjo has also served as the African Union's Special Envoy for Togo's 2010 Presidential elections, as well as South Africa's presidential polls in 2009. As the Special Envoy for ECOWAS, his role in defusing the crisis that threatened civil war in Cote D'Ivoire 2011 was vital. He is also an advocate for investment into Nigeria, and through his Foundation works on issues critical to advancement across Africa.

Amos Wako (Kenya) is a former attorney General of Kenya and the first senator for Busia County in Western province of Kenya from 2013 to 2017. A lawyer by profession Amos Wako served as the Attorney General of Kenya for 20 years (from 13 May 1991 to 26 August 2011). During his tenure as Attorney General, Senator Wako was an Advocate of the High Court of Kenya, a member of the International Commission of Jurists, the Council of Legal Education, and the Council of the International Bar Association. Mr Wako earned a Bachelor of Science in Economics at the University of London, a Bachelor of Laws at the University College of Dar es Salaam, and a Master of Laws at the University of London.

Paul Dacey (Australia) was a career Public Servant in Australia for over 40 years. He spent the last 28 years of his public sector career in senior positions in the Australian Electoral Commission and held the post of Deputy Electoral Commissioner from 2000 until his retirement in December 2011. Mr Dacey has served on many overseas electoral missions, including Sri Lanka, Sierra Leone, South Africa, Indonesia, East Timor, Papua New Guinea, Solomon Islands, Fiji and Thailand. He has presented papers and facilitated discussions for the Commonwealth and the United Nations on numerous occasions. In 2006/7, Mr Dacey held the office of Vice Chair for the International Mission for Iraqi Elections.

Selima Ahmad (Bangladesh) is an activist who promotes democracy, gender equality, anti-corruption and women's entrepreneurship. She is the founder of the Bangladesh Women's Chamber of Commerce and Industry (BWCCI) and Vice Chairperson of the Nitol-Niloy Group. She founded BWCCI in 2001 to empower women into business, and helped support more than 7,000 women entrepreneurs. Ms Ahmad is a leading member of the Women's Democracy Network's Bangladesh chapter and a Global Ambassador of the International Alliance for Women. She also teaches Entrepreneurship Development in a renowned private university in Dhaka, and was awarded with the prestigious Oslo Business for Peace Award in 2014.

Chris Cobb (Canada) is a communications specialist, journalist, teacher and author. He is International Vice-President of the Commonwealth Journalists Association and a member of the informal Canadian group Media and Democracy, which has helped pioneer Conflict Sensitive Journalism - a guide to the use of neutral, non-inflammatory language during coverage of election campaigns. A member of the

Canadian Parliamentary Press Gallery, he has travelled throughout the developing world as both a journalist and facilitator of numerous training workshops. He was communications advisor to the Independent Electoral Commission of Lesotho before and after that country's elections in 2015.

Julian Johnson (Dominica) was Chairman of Dominica's Integrity Commission for seven years ending in December 2015. He has held acting appointments in the office of Registrar General of the Supreme Court in Dominica and in the British Virgin Islands. He entered the public service in September 1964, was appointed a Permanent Secretary in 1979 and held the offices of Chief Personnel Officer, Secretary to the Cabinet, and Head of the Public Service for 13 years under five administrations before his retirement in August 2004. He is a Mediator of the Eastern Caribbean Supreme Court since 2004 and has served on the Executive Board of UNESCO for two years. In November 2002 he was awarded the Sisserou Award of Honour for meritorious public service to the Commonwealth of Dominica.

Ambassador Patrick Hayford (Ghana) retired from the United Nations in August 2012 after approximately forty years of public service. Between 1999 and 2005 he was Director, Regional and African Affairs, Executive Office of United Nations Secretary-General Kofi Annan. Ambassador Hayford was Ghana's High Commissioner to South Africa (1997-1999); Acting High Commissioner to the UK (1996-97); and over the years held several senior positions at Ghana's Foreign Ministry. Through the year 2013, Ambassador Hayford was the Commonwealth Secretary-General's Adviser on Swaziland.

Rubina Singh (India) is a human rights activist working in the field of gender and youth rights in India. She established the Chandigarh chapter of Hollaback!, an international movement against street sexual harassment, in 2011. She also set up Chandigarh's first safe space for the city's LGBTQ (Lesbian, Gay, Bisexual, Transgender, and Queer) community - YOUnique. Previously she worked with the Commonwealth Youth Programme, Asia Centre. She has also worked with organizations like Centre for Social Research, Lawyers' Collective (Women's Rights Initiative) and The Pixel Project. She is also a proud member of Global Shapers Chandigarh. Currently, she is working on a joint project between the UNDP, UNV and Ministry of Youth Affairs and Sports, India.

John Githongo (Kenya) is an economist and editorialist. He has been involved in the anti-corruption field in Africa for two decades. He is the founding executive director of Transparency International-Kenya, served as a director on Transparency International's Board in Berlin and is Chairman of the Africa Centre for Governing with Integrity. He previously served as Permanent Secretary in charge of Governance and Ethics in the Office of the President in Kenya and as Vice President of World Vision. Currently he is CEO of a governance-focused NGO, Inuka Kenya Nisisi Ltd.

Michael Flood (St Lucia) has served as Commissioner for Saint Lucia's Electoral Commission for the past 10 years. He is a former Senator in the Saint Lucia Parliament and was Director of the Saint Lucia Solid Waste Management Authority. He was formerly Chairman of the United Workers Party and Regional Coordinator for the Inter-American Union of Electoral Bodies. He has been an electoral observer with

over 40 observer missions around the world. Mr Flood has also been a businessman for the last 26 years and Managing Director of Floods Transportation Service.

Rene Baptiste (St Vincent and the Grenadines) is a Barrister-at-Law of almost 40 years standing at the Eastern Caribbean Supreme Court, St. Vincent and the Grenadines Bar. She is a former television news anchor of 15 years. Miss Baptiste served as Minister of Tourism and Culture and also held the Ministerial Portfolio of Urban Development, Culture, Labour and Electoral Matters up to 2010. She was elected as the first Speaker of the Assembly of the Organisation of the Eastern Caribbean States in 2012. She is President of the Women's Arm of the governing Unity Labour Party in St Vincent and the Grenadines and continues to practice law with Baptise & Co.

Lindiwe Mokate (South Africa) is a Human Rights Commissioner in South Africa. She has wide ranging experience in the areas of human rights, development and international relations. Her work involves working with multilateral institutions such as the Commonwealth, UN Human Rights Council and the African Commission on Human and Peoples' Rights to strengthen the capacities of National Human Right Institutions. In her previous portfolio as Head of International Relations for the parliament of South Africa she also worked with the Commonwealth Parliamentary Association on a number of areas, including governance and elections.

Mark Robinson (United Kingdom) worked early in his career for the United Nations and Commonwealth Secretaries-Generals. He became a Member of Parliament twice, serving as a Minister in the Wales Office and a Parliamentary Private Secretary to the Minister of Overseas Development and the Secretary of State for Foreign and Commonwealth Affairs. Since leaving Parliament, he has been Executive Director of the Commonwealth Press Union, Executive Chair of the Council for Education in the Commonwealth, Chair (UK) of the Commonwealth Consortium for Education, and a Trustee of the Commonwealth Human Ecology Council. He has been Hon. Treasurer of The Round Table since 2010.

Commonwealth Secretariat Staff Support Team

Nishana Jayawickrama, Team Leader

Linford Andrews, Political Adviser

Clara Cole, Political Adviser

Will Henley, Media and Communications Officer

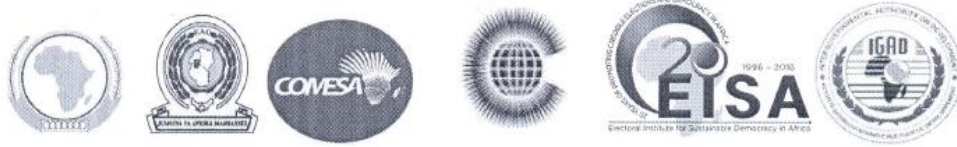
Zippy Ojago, Executive Officer

ANNEX II: Deployment Plan

NO.	TEAMS	LOCATIONS
1	HE Olusegun Obasanjo (Nigeria) Ms Nishana Jayawickrama Mr Will Henley	KAMPALA
2	Mr Linford Andrews Ms Zippy Ojago	KAMPALA
3	Mr Christopher Cobb (Canada) Ms Selima Ahmad (Bangladesh)	ARUA
4	Mr John Githongo (Kenya) Ms Lindiwe Mokate (South Africa)	GULU
5	Ms Clara Cole	JINJA
6	Mr Julian Johnson (Dominica) Mr Amos Wako (Kenya)	KABALE
7	Mr Michael Flood (Saint Lucia) Mr Mark Robinson (United Kingdom)	MASINDI
8	Mr Paul Dacey (Australia) Ms Rubina Singh (India)	MBALE
9	Mr Patrick Hayford (Ghana) Ms Rene Baptiste (St Vincent and the Grenadines)	MBARARA

ANNEX III: Joint Declaration

INTERNATIONAL ELECTION OBSERVER MISSIONS FOR UGANDA GENERAL ELECTIONS 2016



STATEMENT BY THE INTERNATIONAL OBSERVERS TO THE UGANDA ELECTIONS

WE the Heads of International Election Observer Missions in the Republic of Uganda,

While Appreciating preparations by political parties and personalities concerned with the election,

Noting some events that could raise tensions that had happened on 15th February, 2016,

Hereby appeal to all functionaries, electoral commission, political parties, candidates and personalities to refrain from any act, statement or dissemination of information that may cause tension, ill-will, disturbance, intimidation and adversely affect the peaceful and orderly conduct of elections on Thursday 18th February, 2016.

We therefore urge voters to turn out to perform their civic responsibility peacefully, orderly and lawfully.

16th February, 2016

Handwritten signatures in blue ink, likely representing the African Union and ECOWAS.

A. Rasheed
(COMESA)

Handwritten signature in blue ink, likely representing EISA.

ANNEX IV: Interim Statement



The Commonwealth



Interim Statement

Chairperson of the Commonwealth Observer Group
His Excellency Olusegun Obasanjo

Kampala, 20 February 2016

This is the Interim Statement of the Commonwealth Observer Group, and is issued with the results process yet to be formally completed. The Group has been in Uganda since 11 February 2016. During our time here, we have met with the Electoral Commission, political party representatives, civil society organisations, media, security agencies, Commonwealth High Commissioners, and other international and citizen observers.

Our teams were based in eight districts. We observed the voting, counting and results aggregation, and met with electoral officials, citizen and international observers, and other stakeholders at the local level to build up a broader picture on the conduct of the electoral process.

We will issue a final report at a later stage, containing our detailed conclusions on the entire process.

Key findings:

- The 18 February Presidential and Parliamentary Elections in Uganda were the country's third elections held since the reintroduction of multi party politics. Once again, these elections fell short of meeting some key democratic benchmarks.
- Certain key concerns remain, which mirror those of the Commonwealth Observer Groups to the 2006 and 2011 elections. Namely, the increased prevalence of money in politics, the misuse of state resources - which led to significant advantages for the incumbent - and the competence, credibility and ability of the Electoral Commission to manage the process effectively and impartially.
- While the presidential elections were competitive with regard to the number of candidates, practical restrictions on basic freedoms of assembly and movement affected the fairness of the campaign, particularly for opposition candidates. Moreover, the overall competitiveness of the campaign was compromised by a lack of transparency with regard to campaign financing. The Group noted with concern that the fusing of the state and ruling party in Uganda - highlighted by previous Commonwealth observers - had deepened, with a consequent adverse impact on political



freedoms and further undermining any efforts to level the playing field for these elections.

- The election campaign was relatively peaceful, fiercely contested, and marked by extensive use of social media. However, opposition parties and candidates faced significant disadvantages in campaigning on an equitable basis and in accessing the media.
- Given that there are reserved seats for women, and that there was a civil society campaign to increase the number of women competing for directly elected seats, it was disappointing that only one of the eight presidential candidates was a woman. We note that a substantial increase in nomination fees for these elections deterred many aspirants, particularly women and youth, from nomination.
- The Group commends the Women's Situation Room, a valuable mechanism to monitor potential hotspots, incidents of violence, harassment and intimidation. Women are our natural peacemakers, and I commend the eminent women observers from across the African continent and all Ugandans involved for undertaking this important task.
- Media coverage of the elections requires particular highlighting. The state owned broadcaster, the Uganda Broadcasting Corporation (UBC), did not meet its responsibility to treat all candidates equally. Given its reach throughout the country and across many platforms, including 11 radio stations broadcasting in 53 languages, UBC's overwhelming bias towards the incumbent candidate and ruling party was of concern to us.
- The Group heard that journalists in Uganda faced huge challenges in the course of their work, and this election brought many of these challenges to the fore. Local stakeholders reported how journalists are severely restricted on what they can and cannot cover, owing to government controls, pressure from party officials, proprietorial influence, intimidation and, in some cases acts of violence. This often resulted in self-censorship.
- Previous Commonwealth Observer Groups to Uganda have urged that the independence of the Electoral Commission be enhanced through strengthened legal provisions. It is regrettable that civil society and political party initiatives to garner Parliamentary support for such reforms before these elections were unsuccessful.
- The Electoral Commission established a new Voters Register for these elections, following a national ID registration exercise conducted by the government and an updating of the register. At the conclusion of those exercises, all previous registers were retired. Some concerns were expressed to the Observer Group regarding this decision, which was claimed



had not been communicated effectively and adequately to voters. According to some reports, this resulted in the unfortunate disenfranchisement of some voters.

- We laud the adoption of a National Identification Card as a tool for identification at polling stations, and that the Electoral Commission sought to ensure that no voter was disenfranchised by not making it a mandatory requirement for voting. We also note the innovation of voter location slips to assist voters in locating their polling stations, however, some confusion existed as to whether these documents were mandatory. This was attributed in part to insufficient voter education. Concerns were also expressed about the late introduction of the voter location slips, with claims that there was insufficient time to sensitise voters.
- Despite initial concerns about potential operational challenges with the inclusion of the biometric voter verification system, our Group observed that in most cases they were utilised effectively. There were a few reports of machine failure in some areas. In other areas, due to uncertainty among some polling officials on how to operate the Biometric Voter Verification Kits, this slowed down the process.
- On Election Day, our teams reported delays in the delivery of voting materials, which subsequently delayed the voting process across the country. There were varying periods of delays, with the most significant delays occurring in Kampala and its adjacent districts. This raised serious questions about the competence and commitment of the Electoral Commission to deliver a competitive and impartial process.
- In Kampala, the Group observed voting delayed by as much as two to four hours and received reports of voting delayed by as much as six to nine hours, which were verified to be correct. This understandably led to a tense atmosphere outside those polling stations where voters had begun queuing up at 0600 hours. Despite these developments, a reasonably calm atmosphere prevailed. Some incidents of violence were reported, when incomplete materials were added to long delays. These led to elections going into a second day in parts of Kampala, and consequent poor turnout. Despite these challenges, the determination of voters to exercise their franchise was notable.
- The Group commends the Electoral Commission for extending the hours of voting following the delays. However, the lack of clear, consistent and extensive messaging on the extension and other issues was another area of concern for the Group.
- Inadequate facilities for extreme weather and temperatures, poor signage, inconsistent application of procedures by polling officials, instances of



voters being at the wrong polling station after waiting in a long queue, the scale of which varied, inadequate preparation for voting and counting into the night all point to deficiencies that could have been easily avoided.

- Displaying the Register in a polling station for voters to check their names on the list would have obviated voters standing in the queue for hours, and then being told when it was their time to vote that their name was at a polling station elsewhere.
- The open layout generally provided for transparency, but it was also apparent that the continued use of the voting basin compromised the secrecy of the ballot in more confined polling locations.
- Overall, the polling station count process was transparent, and our teams followed the process at several polling stations in a number of constituencies. However, inconsistencies were observed with the reconciliation process and, notably, in the completion of documentation.
- In addition to the participation of older voters, we welcome and commend the large numbers of women and youth who participated in the electoral process, not only as voters, but also as polling staff and party agents.
- We heard many concerns regarding the use of so-called ‘crime preventers’ during the electoral process, and that many of them would support the police as election constables at polling stations. We have heard the reasons given by the authorities for the existence of such a force, but do not believe that there is any place for such a state-sanctioned militia. The absence of a clear legal framework governing their establishment and role, and the consequent lack of accountability are of concern to us. On Election Day, we observed and received reports of some instances where election constables sought to influence the work of polling officials.
- I issued a joint statement with other heads of international observer missions, in which we called for all participants in the electoral process to refrain from any acts or statement that could cause tension or intimidation, and adversely affect the peaceful and orderly conduct of the elections. Despite the regrettable incidents of violence that have been reported, I reiterate my call to all Ugandans to allow the process to conclude in an atmosphere of peace, and urge that any challenges should be conducted through legal and lawful process.
- The arrests over the past few days of some leaders of the opposition have been seen as unnecessary intimidation that could intensify tensions.

- We will continue to follow the process. Our Final Report containing our detailed conclusions and recommendations will be made public in a few weeks time.
- For now, it suffices to state that the inexcusable delays of supply of materials to polling stations, particularly in Kampala and its environs, and other deficiencies in the process to and conduct of the elections, would have seriously detracted from the fairness and credibility of the results of the elections.

Electoral Framework and Election Administration

The legal framework provides the basic conditions for a competitive election. However, concerns about the independence, credibility and ability of the electoral management body to manage the process plagued these elections. Despite support and calls from many national and international stakeholders, no substantive electoral reforms were adopted in advance of these elections. The Electoral Commission is still appointed by the President, though subject to Parliamentary confirmation. The integrity of the Register remained an issue of concern up to the eve of elections. The secrecy of the ballot is still not adequately provided for. The results tally and reconciliation process remains ambiguous and therefore of concern. The transmission from the polling station to the National Tally Centre is not adequately protected. The figures from each polling station are not being disaggregated at the National Tally Centre.

It is noted that for these elections the Electoral Commission undertook efforts to improve the quality of the Register with the use of data from the government's national ID registration process, an update, inclusion of the National ID and innovations such as the Voter Location Slips and the Biometric Voter Verification Kits. Overall the Register showed improvement, but it is clear that it remains a work-in-progress.

Election Campaign and Media

The Group was told that the commercialisation of elections and politics generally was at a level that should concern everyone. Previous Commonwealth observers have commented strongly on the lack of a level electoral playing field in Uganda, caused by the abuse of incumbency and the widespread use of money to buy votes.

This election was no different. We were told that the sums involved in buying votes and support had increased significantly. The lack of transparency in campaign financing is of significant concern to us, and we repeat the recommendation of previous Commonwealth observers that existing legislation prohibiting vote buying should be enforced, and that explicit regulations limiting the use of state resources for campaigning, including greater clarity on the

entitlements of the President during election time, should be introduced. We urge that regulations on expenditure ceilings be adopted, and neutrally and vigorously supervised to enhance accountability in the process.

We were told of an amendment to the Public Finance Management Act 2015, which enables the Executive to access supplementary financing without parliamentary approval. Concerns were expressed that these funds could have potentially ended up financing the incumbent's campaign.

The use of public resources, including cash, vehicles and officials in support of the incumbent, has become more pervasive. This has had a deleterious effect on public confidence in governance institutions.

Despite the challenges faced by journalists, there was a genuine effort by many to cover the election in a balanced way. Many media outlets fulfilled an important duty in helping to educate and inform voters on the electoral process.

It is disappointing that despite clear media guidelines urging broadcasters to be balanced, UBC flouted these professional ethical principles. We therefore reiterate the recommendation of the 2011 Commonwealth Observer Group that UBC should be transformed into an independent public service broadcaster. In addition, the Electoral Commission should agree with UBC dedicated free-time broadcasts for political parties on an equitable basis on radio and television at election time.

Media ownership is a major issue which needs to be addressed. Aside from state-controlled media which were clearly partisan, private radio stations also carry enormous influence, with a majority of Ugandans relying on radio for their news. However, with many radio stations owned by individuals affiliated to political parties, employed journalists were inhibited from providing balanced political news coverage and commentary.

Across all media, there is a worrying blurring of the line between editorial content and advertising. The Group heard reports that political parties and their affiliates routinely pay for airtime and space, but that viewers and readers are not always informed that they are consuming paid political advertising. Journalists for smaller outlets are often poorly paid, and have little or no formal training, and no contract or guarantee of work; some of these journalists were sometimes paid a stipend by candidates to, in effect, provide propaganda.

It was clear to the Group that regulatory authorities the Media Council and Uganda Communications Commission are not fully trusted by the media, who believe them to be politicised. On Election Day, the Uganda Communications Commission imposed a block on social media communications platforms including Twitter, Whatsapp and Facebook, apparently at the behest of the Government. We believe this decision to restrict freedom of speech and information was ill-advised and unwarranted.

Overall, despite the best efforts of many committed journalists, the general media environment in Uganda had a negative effect on the campaign. Opposition candidates did not receive fair and balanced coverage. Much of the voting public did not receive the quality news and information they deserved during the electoral campaign.

Voting, Counting and Results

The turnout of voters was reasonably high, with long queues at many polling places prior to the opening of polls at 07.00 hours. However, the delays in the delivery of voting materials, which subsequently led to delays in voting, generated a tense atmosphere outside those polling stations where voters had been queuing for many hours. It also reduced the number of voters, as some went home and chose not to return to vote.

However, in other places, a reasonably calm atmosphere prevailed. Once polling commenced, it was conducted in an orderly manner, with agents and observers present. Most polling officials worked hard under trying conditions.

The open layout provided for transparency, but it was also apparent that the secrecy of the ballot was not always guaranteed and that polling officials had different and varying levels of understanding of procedures. For instance, in a few instances ballot boxes were not sealed properly, and indelible ink was applied in different manners.

Our teams followed the count at polling stations and tabulation in a number of districts. The method of counting votes in front of a crowd provides for a high level of transparency. However, while poll officials undoubtedly worked hard over a long period, the manner in which the paperwork from the polling station count was completed was inconsistent and lax.

The security presence around polling stations was visible. Given concerns expressed to the Group on the politicisation of the police and army, we believe that there is scope to review their role and engagement on Election Day.

ENDS

ANNEX V: Commonwealth Observe Group Recommendations - 2011 and 2006

Chapter 6

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The 18 February 2011 Presidential and Parliamentary Elections in Uganda were the country's second multi-party elections and it is clear that in some respects the country is still in the process of consolidating its multi-party political system. There was a largely peaceful campaign and a reasonably calm Election Day in most areas but this was regrettably marred by localised incidents of violence and poor management by the Electoral Commission. Some serious concerns remain. Of particular note are the overwhelming lack of a level playing field and the "commercialisation of politics". As a result, the 2011 elections in Uganda did not fully meet national, regional and international standards for democratic elections.

It is encouraging that during the election campaign basic freedoms, including freedom of association and freedom of movement and assembly, were generally respected. Parties conducted extremely active national campaigns which attracted large crowds. The campaign was mostly peaceful, though some localised incidents were reported. The Electoral Commission (EC) coordinated the campaign schedules to make sure party rallies did not overlap and thereby help to ensure the generally peaceful conduct of the campaign.

The main concern regarding the campaign, and indeed regarding the overall character of the election, was the lack of a level playing field, the use of money and abuse of incumbency in the process. The magnitude of resources that was deployed by the ruling National Resistance Movement (NRM), its huge level of funding and overwhelming advantage of incumbency, once again, challenged the notion of a level playing field in the entire process. Media monitoring reports also indicated that the ruling party enjoyed a large advantage in coverage by state-owned radio and TV. The ruling party in Uganda is by far the largest and best-resourced party and following many years in power, elements of the state structure are synonymous with the party. Further, reports regarding the "commercialisation of politics" by the distribution of vast amounts of money and gifts were most disturbing.

Indeed, the 'money factor' and widespread allegations of bribery and other more subtle forms of buying allegiance were key features of the political campaign by some, if not all, the parties. By all accounts, the 2011 elections were Uganda's most expensive ever. It is therefore important that for the future serious thought be given to election campaign financing and political party fundraising. This is more so given that there are virtually no checks on the levels of campaign financing and expenditure due to the cash-based nature of the campaign and the lack of stringent campaign financing regulations, both of which facilitate the use of illicit payments to voters as inducements and has the potential to undermine their free will.

The legal framework provides the basic conditions for a competitive election. However, in some ways it still reflects the pre-multi-party era. For instance, EC and senior District officials are directly appointed by the President. This has raised questions about their ability to be independent.

The EC undertook to improve the voter register with an extensive update and cleaning exercise aided by the use of Information Technology. Observers reported that the list was present in all cases, many agents had a copy and the photos seemed to be of a reasonable standard. The main concern with the list was the instances of missing names, with voters being denied the vote or re-directed to try elsewhere. While the majority did find their name, we received numerous reports of people searching from place to place for their name despite having registered or despite other family members being registered and allowed to vote at the same place.

The Voters' Register remains a work-in-progress. While there were some improvements many anomalies remain. The extent of this varies from area to area but the phenomena are consistent. The absence of voter cards or some other regulated form of ID together with the inaccuracies in the Voters' Register opened the process up to abuse and disenfranchisement. It is regrettable that the National Identification Card was not made ready for use during these elections.

On the day of the elections, our teams reported a reasonably calm process in the majority of areas, but with some localised incidents. We also noted reports of some other serious incidents of violence, which is deplorable. Our teams reported that in most areas the voting process proceeded reasonably well. The main problems encountered related to the widespread late delivery of materials and late opening of many polling stations; inconsistent application of procedures by polling officials and instances of voters not finding their names on the list, the scale of which varied. In some areas the nature of the presence of security forces, particularly the military, was a concern.

Our teams observed the count at polling stations and tabulation in a number of Districts. Overall, the polling station count was transparent, but again inconsistencies were observed, notably in the completion of documentation. At the District level, the process was again transparent and proceeded smoothly, but the poor completion of paperwork at polling stations became evident.

The new results aggregation system is welcomed as it helps increase transparency and the National Tally Centre provided access to timely and transparent information. During the tabulation, Observers did report tensions in Mbale outside the District office, reflecting tensions encountered in the area during voting, but elsewhere the process was calm.

Overall, there is serious concern at the EC's poor management of and preparation for the polls, with a poor level of organisation in the delivery of materials and many polling station officials seemingly ill-prepared for their duties.

Recommendations

The Electoral Framework and Election Administration

- The EC needs to be independent and must enjoy the confidence of all stakeholders. To help achieve this, the appointment mechanism of EC members needs to be changed, ensuring a more inclusive, broad-based process and the dismissal process needs to protect members from any vested interest.

- There needs to be a renewed effort to ensure an accurate Voters' Register and better information to voters on their place of poll and polling procedures.
- There needs to be a reliable ID document for voting, to help mitigate against impersonation.
- There needs to be more stringent and explicit regulations limiting the use of state resources for campaign purposes, thereby helping to create a more level playing field for the elections
- A requirement for candidates to provide detailed accounts of funding and expenditure for the campaign will help to create a higher level of transparency and accountability and will also help to address the current mis-use of money on the political campaign.
- The EC should fulfill its duty to review election constituencies and this should be done to ensure equal suffrage is provided for in accordance with Article 63.3 of the Constitution.

Election Campaign and Media

- The entitlements of the President related to elections should be listed in a manner that increases transparency and complies with both the letter and spirit of the law.
- Public resources must not be used to the advantage of any one political party.
- More stringent and explicit regulations limiting the use of state resources for campaign purposes should be introduced, thereby helping to create a more level playing field for the elections.
- Current legislation with respect to vote buying should be enforced.
- Regulations stipulating expenditure ceilings on election campaigns should also be introduced.
- Parties and candidates should be required to provide more detailed accounts of funding and expenditure for the campaign, which will help to create a higher level of transparency and accountability. This will also help to address the current mis-use of money on the political campaign.
- Legislation providing for a Code of Conduct for political parties and political organisations should be enacted.
- Security forces must avoid undue displays of power, since these could be interpreted by the public as intimidatory.
- Political parties must exercise restraint in the security measures employed in the conduct of their campaigns.
- The Uganda Broadcasting Corporation should be transformed into an independent public service broadcaster.

- An independent broadcasting authority and independent broadcast complaints commission should be created to act as a regulatory body.
- The Electoral Commission should agree with UBC specific free-time broadcasts for political parties on radio and television to ensure their agenda and programmes are relayed to the people.
- There remains a need to develop programmes to build the capacity of the media in reporting effectively on elections.

Voting, Counting and Results

- The EC must review both its training and operational plans. It is imperative that polling staff are adequately trained with regard to their responsibilities, the purpose of their role and the prescribed procedures, in order to ensure that they can provide improved service to voters and a more consistent application of the procedures for voting and counting. With regard to the EC's operational plans, it must ensure that materials are delivered in a more timely manner, avoiding undue and avoidable delays in the opening of polling.
- While security needs to be provided for the election period, there should not be an undue presence of police. In any event security forces should exercise restraint. Ideally the military should not be visible.
- There is a need to provide for a sheltered location for polling and counting wherever possible, thereby protecting the process from undue interference, the weather and a lack of adequate lighting at the end of the process.
- The secrecy of the vote must be adequately provided for and therefore the current practice of using basins for the marking of ballots should be reconsidered. Many reasonable and cost-effective alternatives are available, including small cardboard screens or booths.
- The regulations for polling officials should require a full and proper reconciliation of voters and ballots prior to the commencement of the count.

Chapter Seven

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

On the basis of our observations we have two main conclusions:

- we believe that the poll, count and results process provided for conditions which enabled the will of the people to be expressed and that the results of the elections reflected the wishes of those who were able to vote. There were some serious irregularities and significant shortcomings and there is scope for substantial improvement. Nevertheless, we commend the effort made by the Electoral Commission and the determination of the people of Uganda to exercise their democratic rights.
- the environment in which the elections were held had a number of negative features which meant that the candidates were not competing on a level playing field: the failure to ensure a clear distinction between the ruling party and the State, the use of public resources to provide an advantage to the ruling party, the lack of balance in media coverage (especially on the part of the State-owned media), the harassment of the main opposition Presidential candidate, the creation of a climate of apprehension amongst the public and opposition party supporters as a result of the use of the security forces, and the alleged use of financial and material inducements.

These elections represent a significant step forward. They are an important part of the transition from a single-party system to a multi-party democracy. That transition is by no means complete.

We wish Uganda well as it seeks to embrace a new multi-party system and works to remove the single-party culture. We urge the Commonwealth to work in partnership with the government and people of Uganda to those ends.

RECOMMENDATIONS

Our Group wishes to put forward the following recommendations, which emerge from the preceding chapters of this Report:

Major Recommendations

Our major recommendations are:

- **Separating State and Party**
We believe that the State and the ruling party should be completely separate. Accordingly, we recommend that the Movement Act should be

repealed as soon as possible and that all other laws and practices should be amended so that there is no ambiguity on this point.

- **Preventing the Abuse of Incumbency**

Public resources should not be abused to give the ruling party an advantage over the other political parties. The election management body must have the powers it needs to ensure that they are not.

- **Electoral Commission**

We recommend that the independence of the Electoral Commission should be protected and enhanced in all respects and that the resources allocated to it should be sufficient for it to manage elections in line with the best international practice.

- **Ensuring a Level Media Playing Field**

We recommend the creation of a strong and independent media regulatory authority, one of whose responsibilities would be to produce a code of conduct for the media. We further recommend that the government consider promoting balance in media reporting by ensuring that the Uganda Broadcasting Corporation becomes a public service rather than a State broadcaster. There should also be agreed arrangements for direct access broadcasts by the political parties on radio and television at election time.

- **Harassment of Candidates**

We recommend that candidates in elections should be able to campaign freely and without impediment. There should be respect for the independence and integrity of the judicial and law enforcement authorities.

- **Use of Security Forces**

We recommend that action by the security forces during the election period should not be such as to add to tension and that it must be sensitive and proportionate to the nature and scale of the threat to public order.

- **Inducements**

We recommend that the authorities strengthen their capability to deal with the distribution of money and goods to gain votes, since this diminishes the fairness of the process.

We have grouped our further recommendations under the headings of the relevant chapters:

Electoral Framework and Preparations for the Election

We recommend that:

- members of the Electoral Commission be appointed by the President only after the advice of the Judicial Service Commission has been obtained and following the approval of Parliament;

- members of the Commission be removed by a procedure which is in line with that for the removal of a High Court Judge;
- the tenure of the members of the Commission be increased to ten years, to enable them to conduct two general elections, but that their appointment should be limited to one term only;
- objections relating to a presidential candidate's nomination be subject to a time limit of two weeks from the date of nomination, after which no objections should be entertained;
- Parliament should change the law to enable eligible political parties to receive State contributions for the election campaign on an equitable basis;
- for future elections the Electoral Commission set a date well ahead of polling day so that election staff and police on duty may vote in advance, with the votes to be counted on polling day together with the others;
- there should be more and early voter education in future and guidelines to enable electors to understand the law concerning elections.

The Campaign

We recommend that:

- the inter-party liaison committees should be sustained and be allowed to continue making a positive contribution to the building of the new multi-party democracy;
- in future elections all the presidential candidates agree to be present for the national televised debate and that such debates become a part of the formal campaign process.
- more thought be given to providing support for the campaigns of candidates in the election of a female MP for each district;
- the provisions requiring a listing of the facilities usually available to the President should be more transparently set out;

The Media

We recommend that:

- the current media and broadcasting councils should become media practitioners' self-regulatory organisations.

The Poll, Count and Results Process

We recommend that:

- the Electoral Commission should look again at all aspects of the voter registration process – including the operation of the local tribunals - to

ensure that problems do not recur and that the public has confidence in the way in which the voters list is drawn up;

- where names are deleted from the register and/or transferred to another polling station those involved should be informed;
 - adequate materials and training be provided, so that all ballot boxes are properly sealed in future;
 - copies of the voters' lists in use at the polling stations should be provided to candidates in each constituency;
 - the Electoral Commission should:
 - review best practice in the conduct of elections to ensure improvements across the board;
 - review its programme for training in light of international best practice and the experience gained in this election;
 - improve planning to meet unforeseen circumstances;
 - provide fresh guidance and training to ensure the necessary consistency of decision making regarding invalid votes;
 - consider what can be done to speed up the process of transmitting the results from the count to the Returning Officer;
 - speed up the inputting of the results data at the district collation centres and ensure proper back-up facilities;
 - review its physical security arrangements during the post-count process;
 - consider providing a public electronic display at the National Tally Centre.
-

Declaration of Principles for International Election Observation

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of Conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.

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