

# Report of the Commonwealth Observer Group



## UGANDA PRESIDENTIAL AND PARLIAMENTARY ELECTIONS

18 February 2011



**COMMONWEALTH SECRETARIAT**

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**Commonwealth Observer Group**  
**Uganda Presidential and Parliamentary Elections**  
**18 February 2011**

24 February 2011

Dear Secretary-General,

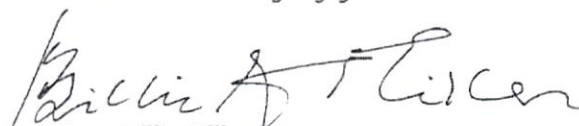
We have now completed our Final Report on the 18 February 2011 Presidential and Parliamentary Elections in Uganda and are pleased to forward it to you.

These were the country's second multi-party elections. 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. Our main concerns were about the overwhelming lack of a level playing field, abuse of incumbency 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 should be a concern to the Commonwealth that these were also highlighted by the team present for the 2006 elections.

However, it was encouraging that during the election campaign basic freedoms, including freedom of association and freedom of movement and assembly, were generally respected. Parties conducted active national campaigns which attracted large crowds.

The voter register remains a work-in-progress. While some improvements were evident many anomalies remained. The extent of these vary from area to area but the phenomena are consistent. The absence of voter cards or some other regulated form of identification together with the inaccuracies in the Voters' Register exposed the process to abuse and disenfranchisement. In addition, there is serious concern about the Election Commission's 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.

This Group will now depart from Uganda. We would very much like to thank you for this opportunity. It has been a rewarding experience for us all. I would also like to thank the Secretariat Team for all its support to the Observer Group. We hope we have made a contribution to Uganda and the Commonwealth's continuing engagement here.

  
**Dame Billie Miller**  
Chairperson

**Ms Sheila Roseau CM**

**Mr Tiro G.G.G. Seeletso**

**Mr Christopher Cobb**

**Mr Ravindra Kumar**

**Mr Aloisious A.C. Nthenda**

**Mr John Walters**

**Ambassador Pius Ayewoh**

**Ms Melanie Lee**

**Mr Collin Ruqebatu**

**Ms Vera Baird QC**

**Justice Florence N.M. Mumba**

**Mr Kevin Kitson**

# Chapter 1

## INTRODUCTION

At the invitation of the Government of Uganda, the Commonwealth Secretary-General, Mr Kamallesh Sharma, constituted an Observer Group for the 18 February, 2011 Presidential and Parliamentary Elections. In line with usual practice, the Secretary-General sent an Assessment Mission to Uganda to assess the prevailing situation as well as the pre-electoral environment, prior to his final decision on whether to constitute a Commonwealth Observer Group. The Assessment Mission was in the country from 10-15 December, 2010.

The Commonwealth Observer Group for the 18 February elections was led by Dame Billie Miller, who is a former Deputy Prime Minister of Barbados, and comprised thirteen eminent persons. The Observer Group was supported by a five-person staff team from the Commonwealth Secretariat. A full list of members is at Annex 1.

### Terms of Reference

*"The Group is established by the Commonwealth Secretary-General at the request of the Government of Uganda. It is to observe relevant aspects of the organisation and conduct of the Presidential and Parliamentary Elections which are scheduled to take place on 18 February 2011, in accordance with the laws 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 judgment whether the elections have been conducted according to the standards for democratic elections to which Uganda 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 and shall conduct itself according to the standards expressed in the International Declaration of Principles to which the Commonwealth is a signatory. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. In its Final Report, the Group is also free to propose to the authorities concerned recommendations for change on institutional, procedural and other matters as would assist the holding of future 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, political and civil society organizations and thereafter to all Commonwealth Governments."*

### Activities

The Observer Group was present in Uganda from 10 February, 2011. During four days of briefings, the Group met with the Electoral Commission, some Presidential candidates, political party representatives, the Inspector-General of Police, Human Rights Commission, civil society groups including human rights, monitoring and women's groups, youth representatives, news media, Commonwealth High Commissions, and national, regional and international observer missions.

An Arrival Statement was issued on 14 February, 2011 (see Annex 2). The Observer Group was deployed from 16-20 February. Two teams covered Kampala and its environs and others travelled to Arua, Gulu, Jinja, Kabale, Masindi, Mbale and Mbarara. Teams liaised with police, local election officials, civil society groups and party officials. Teams also met and co-ordinated with other observers, national regional and international, in their respective areas to build up a comprehensive picture of the conduct of the process.

On the basis of the Group's initial findings and observations, the Chairperson issued an Interim Statement on 20 February (Annex 3). The Group's Report was completed in Kampala prior to departure and transmitted to the Commonwealth Secretary-General on 24 February, 2011.



## Chapter 2

### POLITICAL BACKGROUND

Uganda attained self-government in 1958. In 1961 a general election returned the Democratic Party of Benedicto Kiwanuka, who became the first Prime Minister in 1962. The general election of April 1962 returned Milton Obote's Uganda People's Congress. Uganda became independent on 9 October 1962 under a Constitution that safeguarded the autonomy of Buganda and the other kingdoms, and joined the Commonwealth. An alliance between the Uganda People's Congress (UPC) and Kabaka Yekka (KY) parties won the majority of parliamentary seats and Milton Obote became the executive Prime Minister. Through the UPC-KY coalition, Kabaka Edward Mutesa II became the first ceremonial President in 1963, when Uganda became a republic.

#### Post-Independence Politics

In 1966, amid rising tensions between the Central and Buganda Governments, Milton Obote forced Kabaka Mutesa II into exile using the Uganda Army and abrogated the Constitution. Kabaka Mutesa fled to Britain. In 1967, a new Constitution stripped the kingdoms and monarchical institutions of their powers. A centralised parliamentary system of government was introduced, which abolished all federal elements and Milton Obote became both Head of State and Government. In 1969, political parties were banned after an assassination attempt on President Obote, and a state of emergency was declared.

In 1971 Milton Obote was ousted in a military coup by Major General Idi Amin. Initially popular in some circles, Amin moved quickly into brutal authoritarianism. He declared himself President-for-life and ruled by decree. His reign lasted until 1979, when he was removed by the Tanzanian army supported by the Uganda National Liberation Front (Ugandan exiles) and subsequently fled into exile.

Professor Yusufu Lule, Chairman of the UNLF, became President for two months, and was replaced by Godfrey Binaisa, who was himself replaced a year later by a Military Commission led by Paulo Muwanga, which organised elections in December 1980. Commonwealth and other observers were present. The 1980 elections were characterised by "gerrymandering, ballot-box stuffing, coercion, violence and fraud"<sup>1</sup> and resulted in Milton Obote's UPC being returned to power on a disputed mandate.

The second Obote administration relied heavily on the support of the army and soon became embroiled in a guerrilla war against Yoweri Museveni's National Resistance Army (NRA), which launched a protracted bush struggle in 1981 after accusing the government of rigging the 1980 elections. Milton Obote was overthrown in an army coup in 1985. General Tito Okello established a short-lived Military Council but in January 1986, the NRA occupied the capital Kampala, and Yoweri Museveni was installed as President. By then an estimated

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<sup>1</sup> "Uganda: Management of Elections", a review by AfriMAP and Open Society Initiative for Eastern Africa, p. 12

1 million Ugandans had been killed by war or state-sponsored killings; 2 million had been uprooted as refugees; 500,000 seriously injured; and the economy was in ruins.

### **Re-emergence of multiparty politics**

Though the Constitution (1995) provided for three different political systems<sup>2</sup>, a controversial feature of Uganda's politics since 1986 was the 'no party' political system, or Movement System. The NRM initially governed the country through a broad-based cabinet of civilians and a National Resistance Council (NRC) which functioned as a Parliament. Political party activities were suspended, though party structures were not made illegal. Uganda's 1995 Constitution provided for political participation and voting but prohibited political parties from sponsoring candidates. A Referendum in 2000 found 91% in favour of continuing the Movement system, although turnout was low and the pro multiparty side had limited opportunity to present their case. President Museveni won 74% of the vote in the 1996 Presidential elections and 69% of the vote in 2001. The 2001 elections were marred in places by violence and intimidation and Museveni's main rival, Dr Kizza Besigye, subsequently left the country to spend the next four years in South Africa.

After 2001, domestic and international pressure for the restoration of multi-party democracy in Uganda became more persistent. In July 2005 another referendum was held to decide on the political system<sup>3</sup>. This time the Government supported the change and secured a 92% vote in favour of restoring multi-partyism. The opposition boycotted the referendum, while turn-out was low.

Prior to this development, in June 2005, Ugandan Members of Parliament voted overwhelmingly in favour of a constitutional amendment to abolish term limits, thus allowing President Museveni to seek further terms in office. The Constitution had previously provided for a maximum of two terms for the President.

Dr Besigye returned to Uganda on 26 October 2005 and immediately declared his intention to contest the February 2006 elections. He was arrested and charged with treason and rape three weeks after his return. The issue of the arrest of Dr Besigye raised concern among Commonwealth leaders at the Malta Commonwealth Heads of Government Meeting (CHOGM) in 2005. While in detention, Dr Besigye was nominated as the Presidential candidate for the Forum for Democratic Change (FDC).

### **2006 Presidential and Parliamentary Elections**

Yoweri Museveni, was declared the winner of multi-party presidential elections in February 2006, the first multi-party poll in 25 years. He took 59% of the vote versus the 37% share of his main rival, Kizza Besigye. The Commonwealth observed these elections and concluded that while the results reflected the wishes of those able to vote, there were serious irregularities and shortfalls. In particular, the Commonwealth Observer Group (COG) noted the lack of a level playing field and the failure to ensure a distinction between the ruling party and state. The COG also noted harassment of Dr Besigye, lack of balance in media coverage and the use of financial and material inducements. On a positive note, when

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<sup>2</sup> Constitution of the Republic of Uganda (1995) Articles 71 & 72

<sup>3</sup> In accordance with Article 69 of the Constitution

compared to the 2001 elections, 2006 saw a slight improvement in the area of media freedom.

Dr Besigye rejected the outcome of the Presidential election and a 2006 Supreme Court ruling<sup>4</sup> criticised the EC for non-compliance with a number of critical provisions of the electoral laws in the conduct of the elections. In the presidential election petition, the Supreme Court stated in part:

*We find that there was non-compliance with the provisions of the Constitution, Presidential Elections Act and the Electoral Commission Act, in the conduct of the 2006 Presidential Elections, by the 1<sup>st</sup> Respondent [Electoral Commission] in the following instances:*

- (a) In disenfranchisement of voters by deleting their names from the voters register or denying them the right to vote.*
- (b) In the counting and tallying of results*

*We find that there was non-compliance with the principles laid down in the Constitution, the Presidential Elections Act, and the Electoral Commission Act in the following areas:*

- (a) The principle of free and fair elections was compromised by bribery and intimidation or violence in some areas of the country.*
- (b) The principles of equal suffrage, transparency of the vote, and secrecy of the ballot were undermined by multiple voting, and vote stuffing in some areas.*

In its ruling, the Supreme Court commented on four issues of "grave concern": the continued involvement of the security forces in the conduct of elections where they have committed acts of intimidation, violence and partisan harassment; the massive disenfranchisement of voters by deleting their names from the Voters' Register without their knowledge or being heard; the apparent partisan and partial conduct by some electoral officials; and the apparent inadequacy of voter education. But the Court, nonetheless, upheld the 2006 election by a majority of four to three.

Dr Besigye was acquitted of rape charges by the High Court in March 2006. In March 2007 armed security agents stormed the High Court to re-arrest six of his co-accused who had just been granted bail. In response the Judiciary and lawyers went on a one week strike. The President apologized to the Judiciary and public at large, promising that such an incident would not recur. He also publicly reaffirmed his commitment to the safety and independence of the Judiciary and rule of law.

Dr Besigye's treason trial resumed in June 2007, but was subsequently adjourned. In October 2010 Uganda's Constitutional Court quashed the treason charges against Dr Besigye, who had effectively challenged the legality of the charges he and 10 others had faced in both civilian and military courts. In a unanimous ruling, the panel of five judges said it was not possible to guarantee a fair trial.

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<sup>4</sup> Judgment passed on 6 April 2006.

## **Consolidation of Multi-Party Democracy**

Several positive steps were taken to consolidate multi-party democracy in Uganda. In his 2006 inauguration speech, President Museveni had extended an olive branch to the opposition, and called for them to play an active and constructive role in the new multi-party dispensation. A multi-party Parliament had been in existence for some years, with the formal adoption of multi-Parliamentary Rules of Procedure. The Office of Leader of the Opposition had been institutionalised with the holder being accorded all privileges and facilities of a Cabinet Minister. The opposition had also formed a Shadow Cabinet, alongside the formation of several Parliamentary Committees, with Chairmanship of the four oversight committees (Public Accounts, Statutory Authorities and State Enterprises, Local Government Accounts, and Government Assurances) being reserved for the party of the Leader of the Opposition in Parliament (the FDC).

## **Recent Developments**

### *Security concerns*

- *The Lord's Resistance Army*

The Lord's Resistance Army (LRA) led by Joseph Kony had perpetrated massacres and mutilations in the northern part of Uganda for over two decades, from bases in Sudan. Joseph Kony had claimed he wanted to run the country based on the biblical Ten Commandments. The violence had displaced more than 1.6 million people and tens of thousands of civilians were killed or kidnapped. The UN had estimated that the group had abducted 20,000 children. In 2005, the International Criminal Court (ICC) issued a warrant for Kony's arrest for crimes against humanity.

An agreement for the cessation of hostilities was signed by the Ugandan government and the LRA in August 2006, beginning a process of peace talks. As security improved in Northern Uganda, many of the internally-displaced people began returning to their homes. Though the LRA lessened their attacks in Uganda, they began to attack other regions. They spread to the Democratic Republic of Congo (DRC), Sudan, and the Central African Republic (CAR). The LRA has continued to move between these 3 regions and evaded capture despite the efforts made by joint military operations of the countries, with their only goal being survival. They raided remote locations to gather food, money and people to help sustain their rebellion.

The Ugandan government launched a Peace, Recovery and Development Plan for Northern Uganda in 2007, but implementation was delayed and did not begin until 2008. Local sentiment has often been bitter towards Mr Museveni, with feelings that the President who hails from the south-west, was not treating the security situation in the north with enough urgency.

In December 2008, Uganda, the DRC, and Southern Sudan launched a joint military operation against the LRA in northeastern DRC. As security improved, local concerns began to focus on food, agriculture, education and health services.

- *Terrorist attacks*

On 11 July 2010 suicide bombings were carried out against crowds at two locations in Kampala watching a screening of the FIFA World Cup final match. The attacks left at least 76 dead and 70 injured. Al-Shabaab, an Islamist Somali militia believed to have ties to the Al-Qaida terrorist organization, claimed responsibility for the attacks as retaliation for Ugandan support for the African Union Mission to Somalia (AMISOM). Security was stepped up in Kampala following these attacks. Alluding to this incident, and more broadly Uganda's violent history in the 1970s and 1980s under the military rule of Idi Amin and subsequently Milton Obote, President Museveni made the issue of security central to his campaign message, warning that Uganda's security could only be assured under himself and the ruling NRM.

*Inter-party dialogue mechanism*

The Political Parties and Organisations Act (2005)<sup>5</sup> provides for the establishment of a dialogue mechanism (the National Consultative Forum for Political Parties and Political Organisations) involving political parties, the Electoral Commission and the Attorney-General, to be established during elections. This forum was not established but an alternative dialogue mechanism known as the Inter-Party Organisation for Dialogue (IPOD) and sponsored by donors was formed and has been functioning to varying levels of satisfaction by political parties.

*Increase in number of Independent Candidates*

The return to multi-party democracy in Uganda ironically saw a significant increase in the number of independent candidates, most of whom were NRM members who lost their internal party primaries<sup>6</sup>. The NRM primaries conducted between July and September 2010 were alleged to have been marred by widespread vote-rigging, ballot-stuffing and violence.

Key Members of Parliament, including 17 members of President Museveni's cabinet, were voted out during the primaries. Some of them, and others dissatisfied with the primaries, entered as Independent candidates in the 2011 Presidential and Parliamentary elections. This caused speculation that the Independents could split the NRM vote and cost the party some seats to opposition candidates.

In 2010, candidates having complained that the electoral college system for selection was open to manipulation, the party moved to a system of universal suffrage. However, the new system threw up a new set of problems, with more than 600 candidates claiming that they had been cheated. The party was forced to concede that logistical preparation for the primaries was poor and that ballot-stuffing and voter intimidation was widespread. A committee was set up to hear complaints, followed by a second round of primaries in a number of constituencies, but most losers were not mollified. More than 50 of them were sitting Members of Parliament who were not prepared to sacrifice their political careers for the sake of party discipline and even ignored the threat of expulsion from the party in order to stand against official NRM candidates.

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<sup>5</sup> Political Parties and Organisations Act (2005), Section 20

<sup>6</sup> A total of 37 MPs contested the 2006 elections as independent candidates.

On 1 February 2011, the Constitutional Court ruled that it was illegal for Independent MPs to compete in the current elections on any party ticket, and that it was illegal for incumbent MPs representing parties to compete as Independents and remain serving MPs<sup>7</sup>.

The five-judge panel ruled unanimously that independent MPs should have vacated their seats before being nominated to contest on party tickets, and MPs representing political parties should have vacated their seats before being nominated to compete as independents. An appeal was dismissed by the Supreme Court<sup>8</sup>, though it allowed the names of independent candidates to remain on the ballot paper for the 2011 elections.

### *Relationship between President Museveni and Buganda Kingdom*

The relationship between President Museveni and the Buganda Kingdom soured following a number of events:

- *Riot in September 2009*

In September 2009 the government's decision to prevent the Buganda King, Kabaka Ronald Mutebi, from attending a youth ceremony in the Kingdom caused a riot, which left at least 28 people dead. This incident exposed the tension between the state and Kabaka Ronald Mutebi who had been increasingly forceful in calling for the reintroduction of *Federo*<sup>9</sup> - a quasi-federal system of government that existed before the kingdoms were abolished in 1966.

- *Destruction of Kasubi Tombs*

In March 2010, the Kasubi Tombs in Kampala were destroyed by fire.<sup>10</sup> During President Museveni's visit after the fire, security forces clashed with rioters and shot dead two civilians. This further deepened tensions between Mr Museveni and the Buganda Kingdom. In October 2010, in an attempt to build bridges with Buganda, President Museveni announced the reopening of CBS, a Kingdom of Buganda radio station shut down by the government for allegedly inciting the September 2009 riots in Kampala.

- *Enactment of the Institution of Traditional and Cultural Leaders Bill*

On 31 January 2011, the Institution of Traditional and Cultural Leaders Bill<sup>11</sup> was enacted by Parliament, which sought to ban traditional and cultural leaders from participating in

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<sup>7</sup> Constitutional Petition No 38 of 2010: a judgment of a case filed by George Owor against the Attorney General and William Okecho, the NRM flag-bearer for the West Budama North Constituency, arguing that Okecho's dual status as an independent MP and NRM flag-bearer was in contravention of the Constitutional provisions.

<sup>8</sup> On 11 February 2011, the Supreme Court ruled that independent MPs had to vacate their seats in Parliament and repay emoluments received in the preceding six months.

<sup>9</sup> Some of the 2011 presidential candidates, including Dr Besigye, promised to grant *Federo* to Buganda, which is also the region with the largest number of voters, and which holds about 17% of the population of Uganda.

<sup>10</sup> The Kasubi Tombs is the site of the burial grounds for four Kabakas (kings of Buganda), and a UNESCO World Heritage Site.

<sup>11</sup> The Act bans traditional leaders from promoting or providing direct support to a political party or to its activities and bars traditional leaders from 1) recommending to the public support for individual politician; 2) promoting a party manifesto and 3) making statements against government

partisan politics. Many opposition parties, including several Baganda MPs, and other traditional leaders objected to the bill, on the grounds that it was unconstitutional<sup>12</sup>. The Government was accused of eroding the reverence and respect accorded to traditional or cultural leaders in Uganda.

### **Engagement with the Commonwealth**

Uganda continued to play an active role in the Commonwealth. The Commonwealth had been actively engaged in promoting restoration of a multi-party dispensation, as well as in promoting economic and social development. At the request of President Museveni, in September 2007 the Commonwealth Secretary-General constituted an Expert Team to examine parliamentary processes in Uganda, so as to provide recommendations to consolidate the transition to a more conventional multi-party system.

In November 2007, Commonwealth Secretary-General Sir Don McKinnon officially opened the "Project Hope" Northern Uganda Youth Development Centre (NUYDC) in Gulu, Uganda which has since continued to provide counselling and health advice to help young people re-integrate into the community. The project was designed to address the challenges resulting from the decades-long conflict in Gulu district and Northern Uganda as a whole. It aimed to empower young people in the region who had missed the opportunity of a formal education.

Uganda hosted the 2007 Commonwealth Heads of Government Meeting (CHOGM), when President Museveni assumed the role of Commonwealth Chairperson-in-Office till 2009.

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programmes. It also provides that a traditional leader who wishes to take part or seeks elective office is required to abdicate his position not less than ninety days before nomination. According to the Act, government may withdraw its recognition to a traditional or cultural leader who is deemed to have contravened the constitution or abdicates the institution of traditional leadership.

<sup>12</sup> However, Article 246(3)(f) of the Constitution states that "a traditional leader or cultural leader shall not have or exercise any administrative, legislative or executive powers of Government or local government". The Political Parties and Organisations Act (2005), Section 16, also proscribes traditional or cultural leaders from political party or political organisation activities.

## Chapter 3

# THE ELECTORAL FRAMEWORK AND ELECTION ADMINISTRATION

### Background

Uganda is a republic with separation of powers and a multi-party parliamentary system. Executive power is vested in the President, who is the Head of State and Head of Government, as well as the Commander-in-Chief. The President appoints the Vice-President and the Prime Minister.

The President is elected for a five-year term and following amendments to the Constitution in 2005 there are no limits on how many terms a President can serve. Members of Parliament are also elected for a five-year term.

The President is elected on the basis of a majority system, requiring over 50% of the valid votes cast in order to be elected. If no candidate secures such a majority then the two leading candidates contest a second round. For the purpose of the presidential election the country is a single national constituency.

Parliament comprises 375 members, of these 350 are directly elected on a first past the post system. There are 238 single-member constituencies and 112 District-based seats reserved for women.

In addition, 25 members are elected from electoral colleges representing Special Interest Groups. These comprise five seats for youth, five for workers, five for persons with disabilities, and 10 for the Uganda People's Defence Force.

### International and Regional Commitments and National Legislation

Uganda has signed all core treaties relating to international and regional standards for 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

National legislation provides the basic conditions for competitive democratic elections. The key legal instruments for the conduct of these elections are:

- 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, the EC issued a Media Code of Conduct. Parliament did not enact a Code of Conduct for Political Parties, although it is provided for in the Political Parties and Organisations Act.

### **The Electoral Commission**

The Constitution provides for the establishment of an Electoral Commission (EC) and stipulates it shall consist of a Chair, Deputy Chair plus five other Members. Members of the EC shall be "persons of high moral character, proven integrity and who possess considerable experience and demonstrated competence in the conduct of public affairs".

The EC is appointed by the President with the approval of Parliament. Members of the EC can hold office for a period of seven years and their appointment may be renewed for one additional term. The current EC was re-appointed in 2009.. Members can be removed by the President if they are unable to fulfil their duties or for acts of misconduct or incompetence.

The Constitution 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".

The key responsibilities of the EC are to:

- Organise, conduct and supervise elections
- Demarcate constituencies
- Compile, maintain, revise and update the Voter Register
- Hear and determine election complaints
- Conduct voter education campaigns
- Ascertain and declare results

The EC appoints a Secretary and a Secretariat to perform operational aspects of the process,, including functions such as IT and logistics. In addition, the EC establishes a national structure in order to administer the poll, with offices and officers at the District (Returning Officers), Sub-County, Parish and Polling Station levels. Returning Officers are appointed by the EC and are to be persons of "high moral character and proven integrity".

The EC issued a Road Map, setting out all timelines over three years for the preparation and conduct of the 2011 elections, including Presidential, Parliamentary, Special Interest Group and Local Elections.

### **Voter Eligibility and Voter Registration**

To be eligible as a voter a person must be a citizen of Uganda, at least 18 years of age and registered to vote.

Following criticisms of the register used for the 2006 election (see below), the EC undertook a new voter registration drive and utilised IT to identify double entries and other anomalies.

The major update of the register took place in May and June of 2010 and new registrants were given a receipt for their registration. Throughout August the revised lists were displayed publicly; at this time challenges could be made to specially created Parish Tribunals. At the completion of this process the list contained some 15 million names. Following this the EC began identifying duplicate and erroneous entries and about one million names were deleted.

The final number of registered voters for these elections was 13,954,129<sup>13</sup>. This is an increase of some 30% compared to 2006 when 10.5 million persons were on the register.

In November 2010 the EC gave electronic copies of the register to presidential candidates and on 31 January 2011 it provided printed copies including photographs. The register was also placed on the EC's website.

The law provides for the issuance of voter cards, though they are not a requirement for voting. The EC decided not to issue voter cards to newly registered persons as it claimed it did not have the resources or time to do so, particularly as the Government was developing National Identity Cards. Thus the only requirement for voting in the 2011 elections was that voters had to be on the register, highlighting the importance of the accuracy of the Voter Register. Issues relating to the process and outcome of the voter registration process are discussed below.

### **Candidate Eligibility and Nomination**

Article 4 of the Presidential Elections Act stipulates that to be eligible as a presidential candidate a person must be a citizen of Uganda by birth, a registered voter, and not less than 35 years of age and not more than 75. In addition, there is a requirement for a minimum formal education of A-level or equivalent.

Candidates can be party sponsored or independent and need to submit signatures of not less than 100 voters from each of at least two-thirds of Districts (c. 7,500 signatures) and a fee of 400 "currency points"<sup>14</sup> (8 million Uganda Shillings / approx. £2,300).

For the 2011 elections there were eight presidential candidates.

To be eligible as a parliamentary candidate a person must be a citizen of Uganda and a registered voter and, as for the presidential candidates, must have a minimum formal education of A-level or equivalent.

Candidates can be nominated by political parties or can stand as independents and must submit signatures of not less than 10 registered voters of their constituency.

Public servants standing as candidates in the elections must resign from office prior to nomination.

For the 2011 elections there were 1,270 candidates registered for the single-member constituency elections and 443 for the District-level reserved seats for women.

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<sup>13</sup> EC Website

<sup>14</sup> A currency point is equal to US\$ 20,000

## **Complaints and Appeals**

The EC can hear and determine complaints. It established a National Complaints Desk in 2010 to process complaints. In addition, the EC announced that 400 local complaints tribunals, comprising a representative of the police, EC and contesting parties would be established, though there are reports that very few of these were actually established. Complaints could also be lodged at the polling station during the vote and count.

Decisions of the EC can be challenged in the High Court as can challenges to parliamentary results. Challenges to presidential results go to the Supreme Court

The EC received over 200 formal complaints. Of these, many related to disputes over candidates academic qualifications and allegations that aspirants had not resigned from public office as required by law.

## **Key Issues**

### **1. Appointment of the Electoral Commission**

There has been criticism, notably by opposition parties, that the EC lacks independence. They cite the fact that its members are appointed by the President, a decision which only requires the approval of the NRM dominated Parliament. Further, the EC's tenure of office is also a concern in that members can be re-appointed after the 1<sup>st</sup> term or removed from office at any time<sup>15</sup> by the President, who may be a contestant in the election.

This process for appointing the EC was also criticised in the 2006 Commonwealth Observer Group report, which called for the EC's independence to be protected and enhanced in all respects. This remains an imperative if the EC is to enjoy the confidence of all stakeholders.

### **2. Electoral Preparations**

The EC published its Road Map three years prior to the 2011 elections and generally adhered to it. However, the body faced the challenge of conducting a major update of the voter register and multiple elections.

Despite the challenges faced by the EC, its own Road Map had clearly identified the necessary steps required, yet it is clear that it failed to put in place adequate preparations for the 2011 elections. The poor state of readiness on the day of election, which resulted in widespread delayed opening in almost all areas, and the lack of consistent application of procedures by poll staff and even a lack of awareness of the formal requirements, highlights the EC's shortcomings in training for and organisation of the elections.

### **3. Voter Registration and Voter Cards**

The voter register was sharply criticised during the 2006 elections, with claims that it was bloated, contained duplicate entries and was generally not reliable. In order to try to address some of these shortcomings the EC unilaterally deleted more than 100,000 names. But it did this without informing those concerned and was severely criticised for this by the

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<sup>15</sup> The Constitution provides that the President can remove a member of the EC in the event of their inability to perform the functions of office, misbehaviour, misconduct, incompetence.

2006 Commonwealth Observer Group and censured by the Supreme Court. Further, the EC only distributed Voter Cards to 6.7 million out of the 10.5 million citizens on the 2006 register. Hence, for these elections the EC decided that people could vote without a Voter Card if their name was on the register.

Given the experience of 2006, the issue of the voter register became sensitive for these elections. The EC made a significant effort to provide a period of new registration, as well as a process of public verification and cleaning of the list. In addition, the register included a digital photo of most voters. However, major uncertainties and concerns over the accuracy of the register remain.

A local NGO, DemGroup, conducted an audit of the final voter register and concluded that the overall quality of the register was an improvement, with 95% of people listed being proven to exist<sup>16</sup>. DemGroup's analysis showed that the largest increase of new registrants was in Kampala and that the requisite voter information was present in virtually all cases. However, it found that the limit of 800 voters per polling station was exceeded in 17.7% of cases. In addition, despite the improvements DemGroup found various anomalies, which feed mistrust among opposition parties. For instance, they estimated over four thousand duplicate entries, more than 5,000 voters over 110 years of age, and registration levels in some areas in excess of the estimated eligible population.

As in 2006, the EC made a decision not to require people to have a Voter Card for voting. This was because Voter Cards were not produced for the four million newly-registered persons. Despite the importance of such cards in helping to prove the identity of voters it was believed to be a waste of money and resources to produce Voter Cards as the authorities would soon produce National ID Cards; but these were not produced for the election. As a consequence, mirroring the 2006 scenario, there were no ID requirements for voters beyond the name and, in most cases, photos on the register. As in 2006, this became a major point of contention.

The EC's administrative task was further complicated by the creation of 43 new Districts since the 2006 elections, more than ten of which were created by the President during the election period. In addition, new polling stations were created by the EC to take account of the increase in the number of voters<sup>17</sup> and many voters were moved to alternate polling locations as part of the restructuring. Concerns were raised before the election that some voters would not know the location of their polling station. On Election Day these concerns were shown to be valid across the country, leading to frustration and even disenfranchisement for some voters.

#### **4. State Resources and Campaign Expenditure**

The current law relating to the use of state resources enables extensive use of state resources by an incumbent President. Article 27.1 of the Presidential Elections Act states: "a person shall not use Government resources for the purpose of campaigning for any candidate, party or organisation in the election." However, Article 27.2 states: "Notwithstanding subsection (1) , a candidate who holds the office of President, may

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<sup>16</sup> There is disagreement over the total number of Ugandan citizens due to a lack of reliable data, which complicates the process of identifying the target number of eligible voters.

<sup>17</sup> For the 2006 elections there were 19,786 polling stations, whereas for the 2011 elections there were 23,968.

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”.

Further, as is discussed in Chapter Four on Election Campaign and Media, the laws on this matter also enabled other uses of state authority which gave unfair advantage to the incumbent President and the ruling party. These included the creation of new Districts in the run-up to the election<sup>18</sup>, the fact that the President appoints Resident District Commissioners (who play a crucial role in elections in the Districts and who were alleged to be active in the ruling party’s campaign in some instances), and direct payments of 20 million Uganda Shillings (approx. £5,800) to each member of parliament during the campaign for the official purpose of “monitoring government projects” (some opposition MPs returned the money). There were also allegations that the supplementary budget of 600 billion Uganda Shillings, which was passed during the campaign, may have been utilised for campaign purposes<sup>19</sup>.

There is no legal limit on campaign expenditure and the law is limited on the issue of declarations on campaign financing and expenditure<sup>20</sup>, facilitating the excessive use of money during the campaign. Presidential candidates are to disclose accounts after the elections, but it is not clear how rigorous this process is, noticeably in light of the cash-based nature of the campaign. Parliamentary candidates have no such disclosure requirement.

Overall there is a lack of clear regulation in the areas of state resources and campaign financing and expenditure, resulting in a lack of transparency and accountability. It was observed during these elections that in addition to the issue of mis-use of state resources there is a ‘commercialisation of politics’ in Uganda, with numerous reports of candidates giving vast amounts of financial inducements and/or gifts to voters.

## **5. Electoral Constituencies**

The EC is tasked with establishing electoral constituencies and Article 63.3 of the Constitution provides that as far as possible the number of inhabitants in each constituency should be equal to the population quota. However, based on available figures it appears that equal suffrage is not being respected and there are quite large disparities between constituencies. For instance, while the national average of voters per constituency is just over 58,000, totals range from some 7,000 in Moroto in the north east, to over 228,000 in Kampala.

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<sup>18</sup> The creation of new Districts is significant because it creates jobs, provides funding for the area and thereby can act as a form of patronage on behalf of the incumbent.

<sup>19</sup> Critics point to the fact that the 20 million Uganda Shillings payment to MPs was made at the time the parliament was debating the 600 billion Uganda Shillings supplementary budget.

<sup>20</sup> Under the Political Parties and Organisations Act parties are required to maintain accounts, showing sources of funds.

## 6. Candidate requirements

The law provides that both presidential and parliamentary candidates must have, and be able to prove academic qualifications to at least 'A' level or its equivalent<sup>21</sup>. This is one area where a number of complaints were lodged on the basis of alleged false documentation.

### Recommendations

- 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 personation.
- 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 fulfil 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.

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<sup>21</sup> Article 25 of the ICCPR provides for the right "To have equal access, on general terms of equality, to public service in his country".

## Chapter 4

### ELECTION CAMPAIGN AND MEDIA

#### Campaign calendar

In accordance with the Campaign Guidelines for Presidential Candidates, issued by the Electoral Commission on 25 October 2010, official campaigns for presidential candidates commenced on 28 October and those for parliamentary candidates started on 16 December 2010. The presidential and parliamentary campaigns concluded at 1800 hours on 16 February 2011. They were governed by prescribed legislation<sup>22</sup>.

#### Campaign environment

It was encouraging that during the election campaign basic freedoms, including freedom of association, freedom of movement and assembly, were generally respected. The Electoral Commission worked with representatives of presidential candidates to coordinate the campaign programmes of parties and candidates for the Presidential and Parliamentary elections<sup>23</sup>. This contributed to the generally peaceful conduct of the campaign by ensuring that party rallies did not overlap, which helped to avoid direct clashes between party supporters.

Campaigns were more competitive than in 2006. Meetings and rallies were generally peaceful and spirited, though instances of intimidation and violence were reported<sup>24</sup>. Parties conducted extremely active national campaigns. All candidates drew large crowds throughout the country, in contrast to 2006. The extensive use of social media, such as Facebook, also played a role in drawing in the crowds.

In a statement dated 23 December 2010, domestic observers DEMGroup had urged the Parliament of Uganda to pass a Code of Conduct to guide and regulate the campaign process.<sup>25</sup> They also recommended to political parties to formulate and implement internal Codes of Conduct. DEMGroup noted some incidents of hate speech by presidential

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<sup>22</sup> The Constitution of Uganda, 1995 (as amended), the Presidential Elections Act, 2005[PEA] (as amended), the Parliamentary Elections Act, 2005[PAR-EA] (as amended), the Electoral Commission Act, Cap.140[ECA] (as amended) and the Political Parties and Organizations Act [PPOA] (as amended).

<sup>23</sup> As provided for in the Presidential Elections Act (2005), Section 21

<sup>24</sup> In a statement on the ongoing Presidential and Parliamentary campaigns (23 December 2010), domestic observers DEMGroup highlighted violent incidents caused by overzealous supporters of some candidates, such as in Arua where a presidential candidate's convoy was pelted with stones, and in some cases caused by police officers such as in Lira Municipality where a presidential candidate was 'roughed up' by Police.

<sup>25</sup> A bill was 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.

candidates in their campaigns, in defiance of the electoral laws<sup>26</sup>. Various human rights organisations called upon the Ugandan government to ensure that in the lead-in to the forthcoming election, those responsible for any violence were held accountable and that the media could operate free of harassment.

Generally, the Uganda Police Force and the Uganda People's Defence Forces (UPDF) appeared less intrusive. However, opposition parties accused the Uganda Police of bias in favour of the ruling party in the conduct of their duties. While these allegations were denied by the Uganda Police, they acknowledged that they were recruiting additional police officers during the campaign period, to ensure a safe environment over the election period, as well as continuing a programme of training special constables and community groups referred to as "crime preventers".<sup>27</sup> Nonetheless, opposition parties were suspicious of this recruitment programme.

Allegations were made by some interlocutors that there was ongoing recruitment and training of vigilantes by the NRM to harass and intimidate people at sub-county level during the campaign period (and this intimidation would take place on Election Day as well). The security forces had also accused opposition parties, particularly the IPC, of training paramilitia and had warned that this would be against the law. Dr Besigye denied this allegation, but acknowledged that the IPC were training "vote-protecting brigades" to spot any rigging on Election Day.

We reiterate the recommendation made by the Commonwealth Observer Group in 2006 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 used many ways to reach voters, most notably posters, leaflets, billboards, print and electronic media, debates, rallies, roadshows, effigies and private media advertising. Social media such as Facebook was also utilised extensively to allow all presidential and parliamentary candidates the opportunity to disseminate their campaign messages across a wide audience. SMS text messages were used extensively to invite party supporters to rallies and to meet their candidates. Parties also used websites to advertise their manifestos and other campaigning news.

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<sup>26</sup> Section 23 of the Presidential Elections act, Section 22(6) of the Parliamentary Elections Act and Section 7.5 of the Campaign Guidelines issued by Electoral Commission on 25th October 2010 prohibits candidates from making false, derogatory, insulting, and abusive statement during their campaigns.

<sup>27</sup> In accordance with Section 17(f) of the Constitution, which empowers the police in consultation with other agencies to cooperate with civilian authority to detect and prevent crime. This was acknowledged in a televised speech by Police Commissioner for Community Affairs, Commissioner Asuman Mugenyi, Sunday 11 December 2010. It was widely feared also that under the guise of recruiting election day polling constables, crime preventers were to be dressed in police uniform and used as election constables to build up the security presence throughout the country on election day.



Presidential candidates tended to focus mainly on rallies, while parliamentary candidates focused on door-to-door canvassing and meetings in local neighbourhoods.

The main concerns regarding the campaign, and indeed regarding the overall character of the election, were the lack of a level playing field, the use of money and abuse of incumbency in the process.

### **Use of Money**

The NRM, the ruling party in Uganda, is by far the largest and best-resourced and, after many years in power, elements of the state structure are synonymous with the party. Reports of "commercialisation of politics" through the distribution of vast amounts of money and gifts were most disturbing. Numerous allegations were made that, during campaigns, many candidates distributed cash and other direct benefits to voters (such as refreshments and food, cooking oil, salt, sugar, soap and blankets).

According to a study by DEMGroup, the use of money in elections has become a culture in Uganda and voters have become accustomed to receiving bribes for their votes<sup>28</sup>. However, 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 (1,440,000 Uganda Shillings - UGX) or imprisonment not exceeding three years or both.

### **Abuse of Incumbency**

With significantly larger resources at its command, the NRM was dominant in all aspects of campaigning, taking maximum advantage of government resources and patronage, 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.

### **Campaign finances**

The 2011 elections were Uganda's most expensive ever. There are no limits on the amount of campaign spending for parties. In terms of the Presidential Elections Act, No 16 (2010), presidential candidates may expend resources on election-related activities. Only the President in the course of his regular duties may make donations. Other presidential candidates are not allowed to make donations. The candidates for parliament are also forbidden from giving donations from fund raising for purposes other than election campaigns.

While amendments to legislation<sup>29</sup> in 2010 provided for equitable financing to all political organisations and parties for election-related activities, political parties and organizations had not been given funds to manage their election-related activities for the 2011 general

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<sup>28</sup> "Report on Money in Politics" (January 2011), Democracy Monitoring Group, p3

<sup>29</sup> Political Parties and Organisations (Amendment) Act (2010), Section 14A (b)

elections<sup>30</sup>, though all presidential candidates received UGX 20 million as a campaign contribution from the Electoral Commission, plus a car and security personnel.<sup>31</sup>

For campaigning, media reported that the costs incurred for television advertisements, billboards, t-shirts, and banners amounted to more than UGX 100 billion<sup>32</sup>. Television advertisements were estimated to cost between UGX 500,000 and 700,000 per minute and up to UGX 2 million per day. Some political parties such as the NRM, IPC and UFA were the most visible on television adverts. The cost of a billboard was estimated to amount to over UGX 15 million for exclusive use for one month, while political parties were said to be spending at least between UGX 20 million and 50 million per month on posters, t-shirts and banners<sup>33</sup>.

Political parties are required to maintain an accurate record of all contributions and contributors, including membership dues and in kind donations. They must also maintain a record of assets and property, which are to be accessible to any member of the party. In addition political parties are required to submit audited accounts to the Electoral Commission not later than six months following the close of the party's financial year<sup>34</sup>.

We also received reports that undisclosed sums of money were received by some political parties and candidates from foreign donors. If this is indeed true, it underscores 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 has the potential to undermine their free will.

While recognising that there are certain advantages to incumbency, funding limits are required. We note that the laws with respect to vote buying are already in place and relatively strongly worded with clear penalties. They are simply not enforced.

## **The Candidates**

Uganda's second multiparty elections on 18 February 2011 were contested by eight presidential candidates (in alphabetical order):

- Kizza Besigye: Inter-Party Cooperation (IPC)
- Abed Bwanika: People's Development Party (PDP)
- Beti Olive Kamywa: Uganda Federal Alliance (UFA)
- Samuel Lubega: Independent Candidate
- Norbert Mao: Democratic Party (DP)
- Yoweri Museveni: National Resistance Movement (NRM)

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<sup>30</sup> In January 2011, following parliamentary approval of a Supplementary Budget, each Member of Parliament received a disbursement of US\$ 20 million. Though the payment was intended to be allocated for the monitoring of government programmes in their constituencies and not for the elections, it engendered suspicion and was widely criticised by opposition MPs and civil society organizations. There were reports that fewer than 20 MPs, mostly from opposition parties such as the FDC, returned the money.

<sup>31</sup> As provided for in The Presidential Elections Act (2005), Section 22

<sup>32</sup> Exchange rate approximately USD 1.00 = UGX 2,300

<sup>33</sup> "Uganda votes in expensive election", East African Business Week, 14-20 February 2011, pp 1 & 5.

<sup>34</sup> Political Parties and Organisations Act (2005), Section 12

- Olara Otunnu: Uganda People's Congress (UPC)
- Jaberu Bidandi Ssali: People's Progressive Party (PPP)

In August 2010, the FDC's Dr Kizza Besigye, competing in his third successive election, was chosen as the unity candidate for an alliance of opposition political parties, the Inter-Party Cooperation (IPC), which included three smaller political parties -the Justice Forum (JEEMA), Conservative Party (CP) and Social Democratic Party (SDP). However, this alliance fragmented, perhaps owing to the presidential ambitions of other party leaders. Both Norbert Mao of the Democratic Party, the second biggest party, and Olara Otunnu, the third biggest, contested outside the IPC ticket.

A total of 1270 candidates were nominated to contest elections for the directly elected Members of Parliament and 443 candidates for district women Members of Parliament.

### **Main campaign issues**

Campaigns focused on a wide range of issues including the abuse of incumbency, harassment and intimidation, the voter registration process, voter identification cards, ghost voters and lack of civic education. Policy issues included the tackling of poverty, education, unemployment, corruption, inadequate healthcare, poor infrastructure, federalism and national debt.

The opposition also campaigned for electoral commissioners to be replaced before the 2011 elections.

Major campaign pledges of the eight presidential candidates included<sup>35</sup>:

**NRM:** NRM campaigned for unity and stability. The party also promised more industrialisation to spur economic growth; maintenance of peace, security, law and order; zero-tolerance for corruption; expansion of electricity generation; an improvement to the quality of education; and improved remuneration of health care workers.

**DP:** the presidential candidate promised a "new Uganda". The party also promised an overhaul of the education system; the establishment of 16 public universities; increased budget allocations to 15% for agriculture and health; massive investment in reconstruction of war ravaged Northern Uganda; and a transparent and citizen-centred oil and gas policy.

**Independent (Mr Samuel Lubega):** Mr Lubega sought to lead Uganda in close partnership with cultural and religious leaders, promising that he would implement federalism; tougher laws to tackle corruption; a reduction of taxes on essential commodities; an allocation of largest budget percentage to agriculture; and the restoration of presidential term limits.

**IPC:** its Presidential candidate, Dr Kizza Besigye, advocated change in his campaign. He stated in his campaign rallies that, unlike in 2006, if he were to reject the outcome of the 2011 elections he would not seek redress through the courts but that instead he would seek it through the "court of public opinion". Also promised: implementation of federalism; zero-tolerance for corruption; improved welfare for soldiers; increased teachers' salaries; and free medical care to expectant mothers.

<sup>35</sup> As reported in New Vision, 18 February 2011, pp 6-7.

**UFA:** The party's central campaign message stated that Uganda was ready for the implementation of federalism. Other pledges included the allocation of over 15% of the national budget to agriculture; the establishment of a public insurance scheme; and a minimum wage for workers.

**UPC:** in its campaign, the UPC organised a petition known as the Blue Book, signed by 1.6 million Ugandans, which called for free and fair elections, as well as the establishment of a new Independent Electoral Commission plus a new, clean Voters' Register. Also promised: reservation of 40% of all national leadership positions for women; re-establishment of cooperatives; lower taxation for small and medium enterprises (SMEs); the provision of 20% of royalties to communities with oil reserves; and to provide decent housing for police and army personnel.

**PDP:** With a promise to make Uganda self-reliant, Dr Bwanika promised free medical care for pregnant women and children; a minimum wage for workers; a reduction in the size of Cabinet and Parliament; and relocating the capital to Nakasongola.

**PPP:** Dr Ssali promised to lead Uganda for only one term, with core messages that his party would implement federalism; restore presidential term limits; develop a comprehensive land policy; promote heavy investment in science and technology; and re-establish cooperatives, along with an increase in the agriculture budget.

### **Media Coverage - Background**

Uganda has 41 operational television stations, with the UBC, NTV Uganda, WBS and NBS the main news channels.

It also has 244 radio stations, many of them regional and community, making electronic media critical in the coverage of elections. Many radio stations have links to political parties, religious or ethnic groups. While the UBC radio, which has a national reach, gave the bulk of its coverage to the incumbent, this was not balanced by the other radio broadcasters outside the capital.

Increasingly the internet is an important tool in electioneering, with the laying of a fibre optic cable having resulted in the jump in Internet users to more than 3.5 million in 2010, from less than a tenth of that in 2006.

Uganda also has 10.3 million cellular phone subscribers, and parties used short text message services (SMS) for mobilising while they were used by the Electoral Commission in feeding district results into the national grid.

Newspapers in Uganda account for combined daily sales of about 100,000, with an estimated total readership (owing to multiple users for each copy) of about 1.5 million or about 5 per cent of the population. In contrast, an estimated 64 per cent of the population rely primarily on the electronic media (largely radio), while 34 per cent rely on word of mouth, according to the Uganda Broadcasting Council data.

## **Print media**

The Group received briefing from editors of major English language publications – the majority government-owned *New Vision* newspaper, the privately-owned *Monitor* and the proprietor of an independent magazine.

Observers noted that the English language daily newspapers, especially the *Monitor*, made an effort to give balanced reporting to all presidential candidates.

But the *New Vision*, which has the largest circulation, gave by far the most comprehensive coverage to the election. It largely carried the incumbent President's campaign rallies on the front page, but it nevertheless reserved space for other candidates in the inner pages.

Local language newspapers owned by the same groups took the same stance.

## **Television**

There was clear bias in the coverage of the state broadcaster Uganda Broadcasting Corporation (UBC). However the privately-owned NTV Uganda and Wava Broadcasting Service (WBS) Television made efforts to have a balanced coverage of all the candidates but ended up focusing their coverage on the two main presidential candidates. The remaining six candidates received minimal coverage.

The privately-owned NTV Uganda appeared to give an ample free platform to all candidates during the coverage of campaign rallies, although it has to be noted that advertising was dominated by the ruling National Resistance Movement, reinforcing the perception that it was by far the best funded group. For example, NTV Uganda carried a live broadcast of the incumbent president's last campaign rally in the capital – more than 90 minutes – as an advertiser's event.

NTV Uganda and WBS TV also carried extensive coverage of the campaigns, with correspondents reporting live on location from several campaign rallies. Both gave a great deal of airtime to debate on the election issues as well as analysis of the manifestoes of the two main contenders. But they gave demonstrably less news time to the six other candidates.

The UBC which has the widest reach in Uganda, failed to comply with its statutory obligation to provide equal access to all parties. Rather, it gave overwhelming coverage to the incumbent. By the accounts of media monitors from the European Union, some 90 percent of electoral airtime by UBC went to President Museveni and the NRM while the other 7 presidential candidates shared the balance of 10 percent. That 10 percent included incidents when the opposition groups were criticised by elements from within the ruling party.

The blatantly partisan role played by the UBC which is supposed to provide equitable time for all presidential candidates to air their agenda to the people, needs to be addressed.

## **Radio**

The closure by the government of four FM radio stations following unrest in 2009, including the popular CBS owned by the powerful Buganda Kingdom, appeared to have forced FM radio stations to tread carefully in the run-up to this election.

Although the radio stations had been reopened, journalists who spoke to Observers said they believed a clear message had been sent by the government that dissent on radio would not be tolerated, and this resulted in self-censorship by radio presenters who wanted to avoid problems. FM stations, especially community-based ones, shunned debate and analysis of issues ahead of the elections.

Overall, as in 2006, monitoring by national observers showed that media coverage of the NRM was positive while that of the opposition was neutral or negative.

## **Information Technology**

Technology is playing an increasingly important role in Uganda. Four radio stations -- Simba FM, KFM, Hot 100, Beat FM and Capital FM – can be accessed live via online distributor JumpTV, which also carries content from UBC TV, WBS and Record TV allowing Ugandans, including those in the diaspora, to follow the electioneering. Political parties used SMS messages to appeal directly to voters. President Museveni also used his re-mix of folk stories known as "You Want Another Rap", widely viewed on YouTube.

Other political parties used cellular phones for mobilisation and to monitor the electoral process and, importantly, the counting and tabulation processes.

## **Laws and regulations**

The Electronic Media Act of 1996 details the minimum standards that provide for "equal opportunity" in coverage of presidential and parliamentary candidates. The UBC has tended to ignore these provisions of the law and it does appear that there have been no efforts to enforce it in any case.

The regulatory framework governing media and elections is contained in the Press and Journalists Act (1995) which established the Media Council; the Electronic Media Act (1996) which established the Broadcasting Council and Includes the 'Minimum Broadcasting Standards' referred to above; the Electoral Commission Act (1997); and the Uganda Broadcasting Corporation Act (2005), which consolidated UTV and Radio Uganda as Uganda Broadcasting Corporation (UBC TV and UBC Radio).

UBC TV and UBC's radio stations have the widest reach in Uganda and therefore need to be made to act within the provisions of the law in order to keep all Ugandans rightfully informed of the political players and their manifestos before they make the critical decisions of who their leaders should be.

## **Media freedom**

Uganda enjoys a plural media and the airwaves have been liberalised. Freedom of expression, including freedom of the press and other media, is guaranteed under the Constitution. Uganda's print and broadcast media represent a range of political viewpoints and allegiances, and for the most part appear able to present the free expression of these viewpoints.

By many accounts, media in Uganda were free to express their views and opinions in this election and to the extent that they did not, it was a problem of self-censorship or a lack of required analytical skills that impeded them.

## **RECOMMENDATIONS**

- 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.



## Chapter 5

### VOTING, COUNTING AND RESULTS

#### Background

On Friday, 18 February 2011, Presidential and Parliamentary elections were held in Uganda. There were 23,968 polling stations set up in the 112 districts of the country. At many places, clusters of polling stations were set up within the same area, often a school ground or an open space, and designated as Polling Centres.

Each polling station was staffed by up to four polling officials under the authority of a Presiding Officer. Copies of the Voters' Register in respect of the Polling Station were supposed to have been made available by the Electoral Commission to Presiding Officers, and by political parties to their polling agents. Each polling station was required to have an Election Constable for law and order duties and each cluster of polling stations an Orderly Officer to direct voters to the proper polling station within that cluster.

#### Opening and Voting

Polling was scheduled to take place between 0700 and 1700 hours. According to rules for the conduct of the election<sup>36</sup>, the following features and safeguards for preparation of the poll, opening of the poll and conduct of polling were prescribed:

- Presiding Officers (POs) were required to prepare the Polling Station at least two days before polling day.
- POs were required to collect the polling kit from the Sub-county headquarters at least 48 hours before polling day and ensure security of the kit.
- On polling day, POs were required to ensure that polls opened at 0700 hours, open ballot boxes, turn them upside down to establish they were empty and to do this in the presence of the public and candidates' agents present at the polling station.
- They were then required to seal the ballot boxes.
- POs were required to open the sealed polling kit, empty contents, check inventory, and hold up bundles of wrapped, sealed ballot papers indicating to those present that they had not been tampered with.
- POs were directed to place an asterisk against the names of the first five voters in the Voters' Register who witnessed the opening of the poll.
- They were told to assign duties to the Election Constable and Polling Assistants.
- POs were required to establish the identity of the voter after he/she had audibly pronounced his/her name for identification, check the right thumb to ensure that the person had not already voted, advise the voter on how to mark and fold the ballot paper, issue the voter with a ballot paper according to serial numbers, and ensure that a voter's thumb had been inked before he/she left the polling station.
- Polling Assistants were required to understand the role of the Presiding Officer and to assist him/her in the conduct of the poll, especially in checking the identity of voters,

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<sup>36</sup> As provided for in the Parliamentary Elections Act, Presidential Elections Act and EC Regulations for Polling Staff

issue of ballot papers, and marking the Register to indicate a voter had been given a ballot paper.

According to Voter Education Messages issued by the EC, the illiterate, the blind and people with disabilities could report at the polling station with someone to assist them, or request any person, but not an election officer, agent, accredited observer or monitor, to do so.

### **Assessment of Opening and Voting**

Overall, Commonwealth Observers reported significant deviations from the prescribed features and safeguards enumerated by the EC. Voting was generally calm and orderly, but there were some localized incidents that occasioned concern. While party agents were present at polling stations, not all were aware of procedures. Many possessed the relevant abstract of the Voters' Register for their respective polling stations, and some assisted polling officials in identification of voters but others did not. This variance was because some agents did not possess a copy of the register or were positioned too far from the PO. In at least one case, Observers noted a difference between the Voters' Register supplied to the PO and the one with the agent.

Many polling stations opened late and this trend was noted in all regions. The situation was exacerbated by Presiding Officers not having prepared polling stations two days or even a day before polling. In almost all cases this preparation took place on polling day and often commenced after polling was to have opened. As polling kits were despatched from districts to sub-counties on the day before the poll, it would have been impossible for POs to collect the material 48 hours in advance as stipulated.

Polling kits were often incomplete and amongst the problems observed were (i) delayed arrival of ballot boxes, on occasions after the rest of the kit had reached; (ii) short supply of ballot boxes in some cases; (iii) material in the inventory list not being found in the polling kit, and (iv) ignorance of polling staff about what they were supposed to do with some of the supplied material. Ballot boxes were not sealed with tamper-proof tags in many polling stations, and at places voters were even observed lifting the lid off the ballot box to place the ballot paper inside.

As a consequence of these shortcomings in preparation and training, delays of between an hour and five hours were observed in commencement of polling. In some cases this had the effect of reducing the number of hours available for polling while in others polling was extended. With nearly one in five polling stations around the country having more than the prescribed 800 registered voters, and with three balloting processes to be completed by each voter, Observers noted it might have been difficult for every voter to cast his/her ballots had turnouts been higher, especially given the lack of light.

These problems were compounded by shortcomings in the Voters' Register especially in respect of missing names but also due to the creation of new polling stations as a consequence of the increase in total number of voters and the formation of new districts. Voters had been moved to alternate poll locations evidently without their having been adequately educated or informed. At clusters of polling stations, Orderly Officers were present but quite unable or unequipped to do one of the primary tasks assigned to them – direct voters to the correct polling station within the cluster. In addition, the signage at the polling station was inadequate. These factors resulted in many voters moving from one

polling station to the other within the Polling Centre searching for their names. And where names were missing from individual polling stations, especially in rural areas, frustrated voters – often with their Voters' Card or registration slips – were advised to try the next polling station, sometimes located several kilometers away. Problems with the Voters' Register led to delays in processing voters, sometimes of up to five minutes per case<sup>37</sup>.

The delays in opening of polling stations and problems with the Voters' Register led to considerable disenchantment, and consequent disenfranchisement. While it is not possible to quantify the number of disenfranchised voters, the numbers were significant enough to cause concern. In the face of these challenges, voters by and large were seen by Commonwealth Observers to be calm, even resigned.

However, some incidents were reported, notably in Sironko where security forces opened fire injuring a journalist. Notwithstanding this incident in the vast majority of places the process, despite some technical problems and delays, was orderly. Given the generally calm environment in most places, Commonwealth Observers were dismayed at the large scale presence of armed police and military on the streets throughout the day in some areas. While security for the process is important it was felt that the level and nature of the security presence, notably on behalf of the military, was not warranted and may have intimidated some voters.

Several other shortcomings were observed in the voting process.

- The ink supplied for use in polling stations varied. In some cases it was indelible and in others it was not. For instance, one Observer got her finger marked and found that the ink came off after a couple of washes.
- In some cases methods employed to ferry polling kits and ballot boxes to polling stations left much to be desired. Sometimes they were brought by Presiding Officers on motor-cycles or bicycles yet in others the Presiding Officer was not present. At the completion of the polling process, they were taken away similarly.
- The basins supplied by the EC to ensure secrecy of ballot were inadequate for the purpose. Against sunlight, the lighter coloured ones turned translucent making it easy for a bystander to determine the voter's choice. In many cases, because of the awkward positioning of the stools on which basins were placed, voters found it convenient to fold the ballot paper outside the basin and thus revealed their choice during the few moments it took to accomplish this task. This was especially so in the case of the Presidential ballot paper, which had eight names and was thus of considerable length. Further the basins were very low, making it difficult for some elderly voters and voters with a disability to bend down.
- The ballot paper had the name of the incumbent placed at the bottom, for no discernible reason as the sequence was not alphabetical either on the basis of first names or surnames. Further, on the Presidential ballot paper the incumbent was the only one to be photographed in a hat. The ballot paper order and the acceptance of the incumbent's photograph as offered raised questions about the integrity of the process.

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<sup>37</sup> The COG was informed that the EC had been provided funds by a democracy support programme to include an extra copy of the register for each polling station, to be used by the official outside the station to help guide voters as to their proper place of poll. However, after initially agreeing to this, a late decision was taken by the EC not to include the extra copy.

- At some places, pregnant women and voters with a disability were not advised of the manner in which they could obtain assistance and were seen struggling to complete the walk mandated by the EC whilst stipulating the layout of a polling station.
- While a few Presiding Officers undertook to explain the voting procedure to voters, where required, many did not.
- In some instances, the Election Constable arrived well after polling had commenced. It was also observed that many Election Constables took on a wider role than envisaged, helping identify voters and, later, helping to determine invalid ballots. While this may have proved helpful in some instances it was unhelpful in others and was outside their legally prescribed role.

### **Counting and Results Aggregation**

According to the procedure laid down by the EC, voting was scheduled to end at 1700 hours. The Election Constable was required to stand behind the last person in the queue at that time. Polling would continue until all persons in the queue had exercised their vote.

The procedure outlined for counting of votes required the Presiding Officer to take the following steps:

1. Arrange the station for counting;
2. Open the ballot box;
3. Empty the contents carefully on a plastic sheet provided in the polling kit;
4. Arrange and unfold the ballot papers into piles;
5. Sort the ballot papers per candidate in full view of those present, including agents, observers and voters, and
6. Put aside invalid ballots.

The EC stipulated four stages for the counting of votes, which entailed the PO (i) unfolding ballot papers, and counting them to determine the total number of votes cast; (ii) sorting the ballot papers according to the candidates; (iii) counting the ballot papers and tying them in bundles of 50, while rejecting those that were invalid after indicating his reasons to polling assistants and agents; and (iv) recording the outcome in the Declaration of Results Form (Form DR) and the Accountability of Ballot Papers (Form ABP) form. Once these stages were completed, rules stipulated that the PO would allow polling agents to sign Form DR if they so wished, and thereafter to announce the results by reading the votes polled by each candidate.

If an agent refused or failed to sign he/she was at liberty to record on Form DR the reasons for the refusal or failure to sign, and if an agent was absent the PO was required to record this fact on the form. Refusal or failure to sign the form or the absence of an Agent would not by themselves be reasons for invalidation of the results.

Finally, the PO was required to place Forms DR and ABP, and the Official Report Book, in tamper proof envelope and to deliver it to the nearest collection centre for transmission to the Returning Officer. It was stipulated that no votes would stay uncounted overnight and where necessary the PO would provide lanterns or any other source of adequate light for the purpose.

At the District Tallying Centre, the Returning Officer was required to open tamper-proof envelopes received from each polling station, and to post the results on computer, for electronic transmission to the National Tally Centre at Kampala.

### **Assessment of Counting and Results Aggregation**

Commonwealth Observers found the process of counting votes at Polling Stations to be generally transparent and reasonably well conducted. There were some inconsistencies in adhering to stipulated procedures, as in the matter of sorting ballot papers, but these delayed the process without distorting it.

But Observers noted one significant departure from generally accepted principles of vote counting in that there appeared no requirement for Presiding Officers to reconcile the ballot satisfactorily in the presence of polling agents and others. Rules did not require an announcement of the number of ballot papers received or the number of persons having voted at the commencement of the counting process, or an announcement on the reconciliation of unused ballot papers with those used or declared invalid at the end of the process. It was noted further that while Agents could sign Form DR, there was no such stipulation in respect of Form ABP.

According to information given to COG by the EC, counting for the Presidential election was to be taken up first, then for the Constituency MP, and finally for the woman MP. This was not followed uniformly. It was also observed that during the counting process party agents were involved in handling the piles of ballots as they were being counted. There were also inconsistent practices in terms of how the ballots were organized for the count. In some cases ballots were tipped onto the plastic sheet as provided for in the regulations and in other cases ballots were pulled from the ballot box individually and counted.

POs were supplied one or two lanterns with their polling kit. As the sun set, the process of counting became cumbersome especially in the matter of determining invalid votes. The process could have been conducted with greater integrity in an illuminated covered space, using portable generator sets where electricity supply was either erratic or unavailable. Further, it was observed that many Pos were unfamiliar with how to properly complete the results paperwork.

Some District Tally Centres were well organised, with facilities for projection of results. But not all of them were so equipped. At well organised centres, as at Gulu, the tallying process was transparent. The tamper proof envelopes were opened in view of party representatives and observers, and the posted results could be viewed on the wall used for projecting the screen image. However, the experience of observers was mixed. At other District Tally Centres party agents were positioned in a manner which did not enable the proper scrutiny of result sheets. In addition, it was noted at at least one District that some result sheets were not in their tamper-proof envelope and the results for one polling station were nullified as the number of ballots in the box was greater than the number of persons voting.

At the National Tally Centre the process was transparent and observers and party agents had access to information in a timely manner. The EC announced the final result within the legally prescribed timeframe.

## Overview of the Countrywide Observation

### Arua

- The atmosphere in Arua before during and after the elections was peaceful and no incident of violence or harassment of supporters was observed or reported to us
- Although polling stations did not open on time voting was conducted in a calm and orderly manner and the process was reasonably well managed. In our view, counting at polling stations was transparent as well as tabulation at the tally centre. The co-operation between polling staff and party agents deserves praise.
- However the following concerns need to be raised:
  - A large number of voters were disenfranchised because their names were missing from the Voters' Register even though they were in possession of valid voter cards
  - One polling station did not open at all although it was indicated on the list of polling stations
  - At some polling stations ballot boxes were not sealed
  - The use of plastic basins instead of voting booths compromised the secrecy of votes
  - It appears that some polling staff were not adequately trained – one polling assistant left his desk for more than five minutes leaving the ballot papers unattended
  - The same applies for party agents- they did not question the presiding officers about the unsealed ballot boxes.

### Gulu

- The most serious issue with the electoral process was the Voters' Register. The team received complaints at each of the 16 polling stations it visited. At these stations, between 5 and 12 per cent of voters were turned away because their names were not on the register. Other observers reported cases where 25 per cent of voters found their names missing from the Register. At some polling stations, copies of the Register with polling agents varied from the ones with Presiding Officers. This indicates serious problems with the core document used in the poll. Many polling officers were poorly trained, and lacked knowledge of rules and procedures.
- There were reports of intimidation by security agencies in several areas of Gulu district, but especially at those polling stations that were in proximity to Army barracks. At Kasubi, where seven polling stations were located, turnout ranged from 20 to 25 per cent against the district average of 47 per cent. The team reported that mostly soldiers voted at these stations, and were told by civilians that they stayed away out of fear. The results from these stations registered sweeps for the ruling party. The team received specific complaints about the role of the Fourth Division, which was reported to have intimidated Opposition activists and voters in the build-up to polling day. The presence of Army patrols on polling day was intimidating to voters.
- While polling was calm, the stations opened well past 0700 hours. The polling station at Christ the King TTC opened at 8.29 a.m. and the Election Constable reached at 8.35 a.m. Similar and worse delays were reported to the team from all four parliamentary constituencies they visited. The team noted that ballot boxes were not sealed with tamper-proof tags at one-half of the polling stations visited. Material was found missing from polling kits and at one polling station only two, and not three, ballot boxes were received.
- The counting process was generally fair, orderly and transparent, as was work at the District Tally Centre. Presiding Officers were consistent in their decisions and consulted agents and stakeholders to reach consensus. Note must also be made of the appalling conditions under which polling staff are expected to function. Welfare measures need to be in place to facilitate their efficient functioning.

- There were widespread complaints of bribery from all areas, with cash and salt being the most common offerings. Some voters were told that a satellite would be observing them as they marked ballot papers, and would face consequences if they chose not to favour the bribe-giver's candidate. NRM and FDC were the two parties accused of indulging in bribery.

### **Jinja**

- The Jinja and Iganga Districts abound in allegations of ballot stuffing and election rigging. This is compounded by lack of clear accounting procedures for ballot papers issued to a polling station, particularly ballot papers in excess of the number of registered voters on the roll. Section 28(a)(b) of the Presidential Elections Act (Act 16) attempts to address this but falls short of requiring a ballot paper account. The account would show ballot papers issued, the number of ballot papers used, the number of spoilt ballots and the balance (number of unused ballots). This can help bolster up appreciation of what happens to each ballot paper issued and minimise any suspicion of ballot stuffing.
- Timely and adequate training of poll staff is imperative to ensure consistency in executing election tasks and increased confidence. More often than not officers at different polling stations do things differently. In some instances, result forms and other election documents were filled wrongly and in others ballot boxes were not secured.
- The use of basins for voting compromises the secrecy of the ballot. Consideration must therefore be given to using something better.
- While the counting process appears to be transparent some improvements are necessary. This could include using a fast-drying felt pen to mark the ballot paper such that the mark could be visible from a distance, particularly with the poor lighting at polling stations. In addition receptacles should be provided into which to separate the ballots of respective candidates. The transparency of the electoral process must be enhanced at all levels. A monitor must be provided, at the tally centre to project the results so that they are visible as they are captured.

### **Kabale**

- Of the 11 polling stations we visited, only one opened on time. The latest opening time we heard was 0945 hours. Polling officers cited the late arrival of ballot materials as the reason for the late opening.
- Our biggest concern was the apparent lack of training for the party agents and polling officers. At two polling stations, ballot boxes were not sealed even though party agents, polling officers and even a local election observer were present. In other instances where the ballot boxes were sealed, it was evident that they were not sealed securely and could allow for tampering. At a polling station in Kabale Central sub-county, a voter was seen to lift the ballot box lid to insert his vote.
- It was of concern to us that presiding officers regularly turned to the crowd to decide which ballot was valid and invalid. It seemed to us on this issue that standards used to decide what was an invalid vote were arbitrary and depended on the confidence of the Presiding Officer.
- The security situation was generally calm during the days leading to the election and on election day itself.
- At the counting stage, there was an attempt at ballot stuffing from the Nyaeukoro polling station at Bufundi sub-county that was exposed. When the declaration form was taken out of the ballot box, it was not in the tamper proof envelope and the form was missing the vote tally figure for the NRM candidate, although the other candidates had their vote tally figures filled in. The form was signed by all party agents. The election

officer proceeded to count the votes in the box, after which he declared the results invalid because the total number of votes from that station outstripped the number of registered voters.

- During the counting session, we witnessed another case where declaration forms were not in their tamper proof envelopes.

### **Kampala**

- As was the case across much of Uganda the arrival at polling stations of materials and polling officials was late. Most polls opened after 8.00 a.m.
- Lack of training and inefficiencies of polling agents of the Electoral Commission and candidates was widespread.
- They muddled through management of the opening of the poll, the count and especially the documentation of the results of the poll. There were inconsistencies at every step of the day's processes and procedures.
- Despite the many irregularities it was essentially a calm and mostly orderly day and the sight of people going to the polls to vote was impressive. Although it was a public holiday shops and business places were open and people were going about their daily affairs. There was a military presence but people just went on with their business and seemed unaffected in the city and it was similar on the outskirts of Kampala.
- There were instances of disenfranchisement of many voters either because their names could not be found on the register or because they could not find the correct polling station, even though other family members were able to vote. It was very frustrating and visibly upsetting. There was the successful use of voter cards and some registration receipts.
- There is still a great deal of clean-up work to be done on the Voters' Register by the Electoral Commission. Their improvements outweighed the shortcomings but there is an overall feeling of dissatisfaction. It was a pity that the National Identification Card was not made ready for use in these elections.

### **Masindi**

- On 16 February at the District Electoral Commission office, the day prior to the distribution of ballot materials, it was noted that two boxes containing materials were not sealed. On 17 February, the distribution of ballot materials commenced late and in one instance a polling station did not receive sufficient lids for ballot boxes.
- Polling day was calm, with voters queuing patiently to vote. Generally, incidents of voter bribery were reported.
- Several procedural inconsistencies were evident on polling day, including a delay in the opening of polls at Masindi Public School, when a party agent was denied access to one of the polling stations because she was dressed in party colours. Some voters were disenfranchised when they turned up with ID cards but their names were not on the Voters' Register. The close of polls at Masindi Stadium was conducted in a cordial atmosphere, with people in the vicinity allowed to be in very close proximity of the count. Though the transparency of the count was commendable, the Presiding Officer was confused by several of the prescribed procedures. He allowed a party agent to handle ballot papers, in particular during the determination of valid and invalid ballots. When completing the declaration of results forms, the presiding officer was assisted by a party agent and all paperwork took an inordinately long time to complete. The delay was compounded by poor lighting and extra lighting had to be supplied by party agents.
- Besides the fact that voting basins did not always ensure secrecy of the ballot, the low positioning of the basins made it difficult for disabled voters to cast their ballot: in one



instance a voter could not bend to reach the basin and opted to vote outside it and in another, a man with disabilities struggled off his wheelchair to reach the basin.

### **Mbale**

- The Mbale team focused on three polling stations – two urban, one rural. Due to the late arrival of voting materials, the earliest opening witnessed was 8.15 a.m. at Namatala Primary School where there were five stations. The latest opening was 12.45 p.m. at the rural station Musoola Trading Centre in Busano sub country.
- In all cases, voters had arrived on time and some had left. While impossible to quantify how many did not return to vote, logically the late arrival of material in all cases prejudiced the vote. The delay at Musoola was compounded by a district election official who announced that the station would be three boxes short because they had broken. Local officials refused to begin voting at any of the stations until they saw the broken boxes which they suspected had been stuffed. The district official traveled to Imbale district headquarters and returned with the broken boxes.
- At Namatala, there was an afternoon skirmish involving a young man allegedly handing money to voters standing in line. The man was chased away shortly before troops arrived to calm the situation which they did in a firm but restrained manner. Voting was not disrupted.
- While traveling to Namatala and Wambwa schools, we noticed that the nearby station at Maluku Hall was already closed. Upon inspection at Maluku Hall at 14.30 hours were told that an armed gang had raided the polling station, scared away polling officials and stuffed the ballot boxes. Police arrived later, took the station's two ballot boxes and the station was closed. The ballots legitimately cast prior to the attack were wasted.
- We witnessed the count at Wambwa Primary School. The presiding officer was calm and competent despite constant interruptions from the audience. Wind and torrential rain forced the count indoors where it was concluded with the aid of two lanterns. Despite the setbacks, the count appeared fair and transparent.
- The day after polling day, we witnessed a disturbing series of incidents the day after polling day when heavily armed police dispersed a crowd of young men standing peacefully outside the Mbale Tally Centre waiting for the result of the Woman MP race. The crowd suspected rigging. Elections officials told our team that the Women MP vote covered a larger area – hence the delay.
- The crowd scattered and re-grouped an hour later. This time the police were more violent. Tear gas was used and police struck young men with batons. A water cannon truck was driven to the scene but not used. One soldier carried a rocket launcher. Police and military police spent at least an hour chasing the scattered crowd and firing tear gas at them. The police action was unnecessarily heavy-handed and undertaken without any attempt at prior negotiation.

### **Mbarara**

- Polling day was peaceful and orderly.
- All 30 polling stations we visited opened on average an hour late. We were told that this was caused by difficulty in transporting polling materials. At 3 stations the ballot boxes were left unsealed until, in two of them, it was drawn to officials' attention. Generally, the Voters' Register caused delay; locating voters was slow. A few people, perhaps 1 in 60, were refused a vote because they were not on the register; some photographs were dark or missing and we saw people who looked under age but were on the register and were allowed to vote.
- In Lubiri, 6 polling stations were provided for military personnel from nearby Makenke Barracks. On 4<sup>th</sup> February 2011 the High Court found that Makenke was in Kashiri and

prohibited the Electoral Commission from allowing its voters to vote in Mbarara. Nonetheless the Commission did allow it. So those of the 4400 people on the register at Lubiri who voted were counted into Mbarara, a seat the NRM then won by 2887 votes. FDC officials complained to us angrily and predicted trouble. There was a heavy police presence at the count and this was the only place where we saw polling constables taking part in decisions about spoilt votes. A few questionable votes were allowed in for President Museveni whilst similar ones for Dr. Besigye were excluded.

- At other stations we saw no such partiality but did see an over-rigid approach of excluding "spoilt" ballot papers even when the voter's intention was clear.
- In most of the polling stations, especially in the rural areas, only the 2 main political parties had agents and we were told that we were the only observers who had been.
- At the District Tally Centre, it would have enhanced transparency if results had been projected onto a screen, as they were received.

### **Presidential Election Results**

Registered Voters	13,954,129
Yoweri Museveni (NRM)	5,428,369
Kizza Besigye (IPC)	2,064,963
Norbert Mao (DP)	147,917
Olara Otunnu (UPC)	125,059
Beti Olive Kamywa (UFA)	52,782
Abed Bwanika (PDP)	51,708
Bidandi Ssali (PPP)	34,688
Samuel Lubega (Independent)	32,726
Total Valid Votes Cast	7,938,212
Invalid Votes	334,548
Total Persons Voting	8,272,760 (59.3%)

### **Recommendations**

- 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 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 personation.
- 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.

## **ANNEX 1: Biographies of COG Members**

### **Dame Billie A. Miller - Chair (Barbados)**

Dame Billie Miller is a former Deputy Prime Minister and Minister of Foreign Affairs and Foreign Trade of Barbados now retired from elective politics in 2008 after 32 years of service. She is an Attorney-at Law by profession. Dame Billie has a long record of work in the fields of the advancement of women and sexual and reproductive health. She was selected the Laureate for the United Nations Population Award for 2008. She is the only woman to have chaired the Commonwealth Parliamentary Association in the hundred years of its existence.

Dame Billie was the Vice-Chairperson of the Commonwealth Ministerial Action Group from 2000-2002. She has been a member of several international election observation missions. She was Head of Mission of the Organisation of American States Election Observer Mission to Antigua and Barbuda in 2009 and Deputy Head of Mission of the Caricom Election Observer Mission to Trinidad and Tobago in 2010. She is presently Deputy Chairperson of the Electoral and Boundaries Commission of Barbados.

### **Ms Sheila Roseau, CM (Antigua and Barbuda)**

Sheila Roseau is a gender and human rights expert, working in the public sector and civil society to advance gender equality and women's empowerment in democratic processes. She presently serves as the Executive Director of the National Gender Machinery for Antigua and Barbuda since 1995. Her work is strongly focused on strengthening the participation of women in politics, leadership and decision-making. She is a co-founder of the Caribbean Institute for Women in Leadership (CIWIL), a non-partisan organisation working to break the proverbial glass ceiling limiting women's access to leadership roles by providing training, advocacy and support to women entering politics and contesting elections. She works with national, regional and international organisations including UN agencies and the Organisation of American States (OAS) and leads initiatives to advance good governance and democracy, through promoting women as equal partners in social development. She has also observed elections in the Fiji Islands, Guyana, and Nigeria and has worked with women contesting the general elections in several countries in the Caribbean.

### **Mr Kevin Kitson (Australia)**

Kevin Kitson, First Assistant Commissioner of the Australian Electoral Commission, has more than 30 years experience in public administration in the United Kingdom and Australia. His role in the Australian Electoral Commission includes corporate leadership of the Commission's international outreach programs and the Commission's commitment to improving electoral participation by Australia's indigenous communities.

### **Tiro Seeletso (Botswana)**

Tiro Seeletso is a career public servant, first appointed in 1979. He has been Secretary to the Independent Electoral Commission of Botswana since May 1998. Prior to this he served at several ministries in different capacities including District Commissioner, Director of Wildlife and National Parks, Deputy Permanent Secretary to the Delimitation Commission and Clerk of the National Assembly.



Mr Seeletso has observed elections in various SADC and Commonwealth countries. He has also assisted in the orientation of newly appointed Electoral commissioners in the SADC region.

**Mr Christopher Cobb (Canada)**

Mr. Cobb is a journalist and author and International Vice-President of the Commonwealth Journalists Association (CJA). A member of the Canadian Parliamentary Press Gallery in Ottawa, he has written extensively on politics, political communication and media ethics. He has travelled throughout the developing world both as a journalist reporting on development issues and as coordinator of numerous training workshops for reporters and editors.

**Mr Ravindra Kumar (India)**

Ravindra Kumar is Editor and Managing Director, The Statesman, a liberal newspaper he has been associated with for 31 years. He serves on executive boards of the Indian Newspaper Society (and chairs its Press Freedom Committee), Media Research Users' Council, Nachiketa Publications Ltd. and Asia News Network (a consortium of 21 Asian newspapers). He is a trustee of the C R Irani Foundation, which runs The Statesman Print Journalism School where he teaches regularly, and a member of the Advisory Board of the Asian Center for Journalism, Manila. He served on the board of a national wire agency - United News of India - from 1992 to 2008 and was twice its chairman, and was for some time a member of the Central Board of Film Certification. He writes on the politics of India, South Asia and South-east Asia and extensively on media issues. He won the Durga-Ratan award for investigative journalism in 1986.

**Mr Aloisious A C Nthenda**

Aloisious A.C Nthenda has for the past 15 years worked with civil society organizations and communities in Malawi and Southern Africa (SADC region) in the field of human rights, democracy, elections and governance. He has organized, supervised, monitored and observed elections in Africa and the United Kingdom. He was a member of the first ever team of election observers for the 2010 UK elections. He is an Election and Governance Expert. He is the Executive Chairman for Malawi Electoral Support Network (MESN) and SADC Electoral Support Network (SADC ESN).

**Mr John Walters (Namibia)**

Mr Walters is the Ombudsman of Namibia since July 2004. The Ombudsman has national jurisdiction to investigate complaints relating to maladministration, violations of human rights, the environment and misappropriation of public money. Previously, Mr Walters was a public prosecutor and magistrate for several years and also spent some years in private practice. Before his appointment as Ombudsman, he was the Acting Prosecutor-General of Namibia. The Ombudsman is ex-officio member of the Law Reform and Development Commission.

**Ambassador Pius I Ayewoh (Nigeria)**

Pius Ikpefuan Ayewoh retired from the Nigerian Foreign Ministry after 35 years of continuous service. In the course of his career he held various positions and worked in different locations in Africa, US and Europe. He was a member of the Nigerian delegation to several sessions of the United Nations General Assembly, New York. He also participated in many UN conferences, in Bangkok, Singapore, India, Mexico, Colombia and Addis Ababa.

At a stage in his career he was Nigeria's Consul General in San Francisco and later Ambassador to Algeria. He retired from service as Nigeria's Ambassador and Permanent

Representative to the UN offices in Geneva. In Geneva he served as co-ordinator in the Human Rights Commission and was a member of the Bureau that organised the UN conference on Racism in Durban, South Africa.

From time to time he is invited by the African Union to participate in its observer missions, including to Rwanda, Algeria, Mozambique, Zimbabwe, Zambia and Tanzania.

### **Ms Melanie Lee (Singapore)**

Melanie Lee is Singapore's deputy youth representative to the Commonwealth and in 2007 she co-wrote a book on youth issues in Southeast Asia. She works as a journalist for Reuters in Shanghai where she covers the technology beat.

### **Collin Rugebatu (Solomon Islands)**

Mr Rugebatu is the General Secretary of the Development Services Exchange (DSE), the umbrella body for non-governmental organizations in Solomon Islands. He is a former school teacher and was involved in setting up the Solomon Islands National Teachers Association in 1985. Mr Rugebatu was the first Secretary of Solomon Islands National Teachers Association (1985-1987). He is also a former Secretary of Solomon Islands School Principals' Association (1998-2005). He was involved with organizing the domestic observer group during the Ninth Solomon Islands Parliamentary General Election in August 2010.

### **Ms Vera Baird, QC (United Kingdom)**

Vera Baird QC was Solicitor-General in the United Kingdom Labour Government from 2007 to 2010 and Under Secretary of State for Constitutional affairs from 2005 to 2007. She was MP for Redcar from 2001 to 2010 and before that was a practising barrister. She is a Visiting Professor to 3 Universities, the author of works on criminal law and on gender issues and a Director of Astraea Research and Training, a company to be registered as a charity which works primarily on issues of violence against women and more generally on equalities.

Ms Baird has observed elections in Kenya, Botswana, Democratic Republic of Congo and Sierra Leone.

### **Madam Justice Florence Ndepele Mumba (Zambia)**

Justice Mumba is former Chairperson of the Electoral Commission of Zambia. She has observed elections in Mozambique in 2009. For the most part of her career, she has served as a Jurist. She served as Judge of the Appeals Chamber of the UN International Tribunal for the former Yugoslavia and Rwanda. She served as Vice President of the UN ICTY, Vice President of the International Ombudsman Institute Board, having served as Ombudsman in her country. She is currently an International Reserve Judge in the Extra-Ordinary Chambers in the Courts of Cambodia. Justice Mumba is well versed in women's rights, having served on the UN Commission on the Status of Women.

### **Commonwealth Secretariat Staff Team**

Ambassador Ayodele Oke, Head, Africa Section – Team Leader

Mr Mark Stevens, Adviser and Head Democracy Section

Mr Manoah Esipisu, Media and Communications Adviser

Mr Linford Andrews, Political Adviser, Africa Section

Ms Zippy Ojago, Administration Officer, Democracy Section

## ANNEX II: COG Deployment Plan

<b>Team</b>	<b>AREA</b>	<b>NAMES</b>
1	KAMPALA	Chair - Dame Billie Miller (Barbados) Ayo Oke & Manoah Esipisu
2	KAMPALA	Mark Stevens Zippy Ojago
3	JINJA	Tiro Seeletso (Botswana)
4	MBARARA	Vera Baird (UK) Amb. Pius Ayewoh (Nigeria)
5	KABALE	Melanie Lee (Singapore) Aloisious Nthenda (Malawi)
6	MBALE	Justice Florence Mumba (Zambia) Chris Cobb (Canada)
7	MASINDI	Kevin Kitson (Australia) Linford Andrews
8	GULU	Sheila Roseau (Antigua & Barbuda) Ravindra Kumar (India)
9	ARUA	John Walters (Namibia) Collin Ruqebatu (Solomon Islands)

## **ANNEX III: Arrival Statement**



### **Commonwealth Observer Group**

#### **Uganda Presidential and Parliamentary Elections 2011**

#### **NEWS RELEASE**

#### **Arrival Statement by Dame Billie Miller Chairperson of the Commonwealth Observer Group**

Commonwealth Secretary-General Kamallesh Sharma constituted an Observer Group for the 2011 Uganda Presidential and Parliamentary Elections, following an invitation from the Minister of Foreign Affairs of Uganda.

It is therefore my pleasure and privilege to have been asked to lead this Commonwealth Observer Group and to be here in Uganda for these important elections. The Commonwealth was present for the first multi-party election in the country in 2006 and we are pleased to honour the invitation to observe these elections.

As Uganda continues to consolidate its multi-party democracy, the Commonwealth hopes to see further improvements in the country's electoral process. It is imperative that the electoral process is transparent, fair and credible.

Democracy and good governance are core Commonwealth principles which our Group promotes and upholds.

Our task as the Commonwealth Observer Group is to observe and report on relevant aspects of the organisation and conduct of the elections and also on the environment in which the elections are held.

We will consider all the factors impinging on the credibility of the electoral process as a whole, and assess whether the elections have been conducted according to the standards for democratic elections to which Uganda has committed itself, with reference to its own election-related legislation as well as relevant regional, Commonwealth and other international commitments.

We will consider whether conditions exist for free and competitive elections; the voter register provides for universal suffrage; state apparatus and public media are impartial;

there is fairness in the campaign and conduct of the process; freedom of expression is provided for; voters are free to express their will; and, the results process is transparent.

We will be impartial, objective and independent. We are present here in our individual capacities as eminent Commonwealth citizens. The assessment by the Group will be its own and not that of any Commonwealth member government. Our views, comments and observations will be constructive, with the intent to help further strengthen the democratic process in Uganda.

The team of Observers comes from across the Commonwealth, and includes former politicians, members of election commissions, and representatives of civil society, academia and the media.

In the pre-election period we are meeting a wide range of stakeholders, including the Electoral Commission, representatives of political parties, civil society, the police and media, as well as High Commissions and representatives of other international and national observer groups.

Prior to Election Day, Commonwealth teams will deploy to a variety of locations around the country to observe the voting, counting and results processes. We will issue an Interim Statement after the election and a final report at a later stage.

Following the 2006 election, the Commonwealth team called for a substantial improvement in the electoral environment that was marred by irregularities and shortcomings. We will reflect on how far those concerns have been addressed. This is an election in which Uganda can show that its transition to a multi-party democracy is complete.

I wish the people of Uganda well and hope that these elections serve to strengthen the democratic process in the country.

Kampala, 14 February 2011

**Note to Editors**

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## **ANNEX IV: Interim Statement**



### **Commonwealth Observer Group**

#### **Uganda Presidential and Parliamentary Elections 2011**

#### **INTERIM STATEMENT**

**Dame Billie Miller**  
**Chairperson of the Commonwealth Observer Group**

The Commonwealth was invited by the Government of Uganda to observe the 2011 elections, and the Secretary-General of the Commonwealth constituted an Observer Group supported by a staff team from the Secretariat. I am honoured to have been asked to Chair the Group, which has been present in the country since 10 February 2011. During this period we have met with the Electoral Commission, some presidential candidates, representatives of political parties, civil society, media, the police, Commonwealth High Commissions as well as other international and national observers.

Commonwealth teams were based in eight locations around the country. Our teams observed the voting, counting and results aggregation and also met with electoral officials, national and international observers and other stakeholders at the District level in order to build up a larger picture regarding the conduct of the process. This is an interim statement and it is issued prior to the formal declaration of the election results. We will issue a Final Report containing our conclusions on the entire process at a later stage.

#### **Key Findings**

- The 18 February Presidential and Parliamentary Elections in Uganda were the country's 2<sup>nd</sup> multi-party elections. 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 regrettably marred by localised incidents of violence.
- However, some serious concerns remain which mirror findings highlighted after the 2006 elections. Of particular note is the lack of a level playing field and the "commercialisation of politics", both of which will need to be addressed.

- It is encouraging that during the election campaign basic freedoms, including freedom of association, freedom of movement and assembly, were generally provided for. Parties conducted extremely active national campaigns which attracted large crowds. The campaign was generally peaceful, though some localised incidents were reported. The Electoral Commission (EC) coordinated the campaign schedules and thereby contributed to the generally peaceful conduct of the campaign by ensuring party rallies did not overlap.
- The 2011 elections were contested by more candidates compared to previous polls. But the lack of a level playing field and strong advantage of incumbency compromised the competitive nature of the polls. 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 are most disturbing.
- The EC undertook to improve the voter register with an extensive update and cleaning exercise aided by the use of Information Technology. Overall the register shows some improvement, but it is clear that it remains a work-in-progress with some names still missing and some voters lacking awareness of their place of poll. 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 followed 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.
- We continue to follow the process and our Final Report containing our conclusions and recommendations will be made public in a few weeks.

## **Election Campaign**

The election campaign was generally calm, with Presidential and Parliamentary candidates holding meetings across the country. The Electoral Commission's coordination of campaign schedules to help to avoid direct clashes between party supporters was a great help in this regard. While a number of isolated incidents were reported these were the exception and not the norm, which is heartening. However, media monitoring reports indicate that the ruling party enjoyed a large advantage in coverage by state-owned radio and TV.

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. 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.

## **Electoral Framework and Management of the Electoral Process**

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 late changes to the legal framework for the elections impacted on some of the Election Commission's preparations. But overall it stuck to its published road map. The Election Commission held numerous meetings with stakeholders from political parties and civil society, but there were still complaints of lack of information on all issues. Further, the poor voting and counting procedures showed that the Election Commission had not adequately trained its staff.

The voter register remains a work-in-progress. While some improvements have been made following cleaning of the list and public verification exercises, many anomalies remained. 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.

## **Voting, Counting and Results**

Reports received from Commonwealth Observers indicate that, in general, the voting and counting at the polling station levels were conducted in a largely calm and orderly manner. There were reports of localized disturbances, such as in Sironko near Mbale, but overall things were calm. Our teams reported that many polling stations opened late, several hours



late in some instances. Once opened, polling was conducted calmly with agents and observers present. The open layout provided for transparency, but it became clear that polling officials had different and varying levels of understanding of procedures. For instance, in quite a few cases ballot boxes were not sealed, ink was being applied differently and the count was handled in varying ways.

With regard to the voter register, 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 vast 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 extent of this problem did vary between areas, but in Gulu for instance Observers reported a higher frequency of missing names, causing serious inconvenience or disenfranchisement. Also in Gulu, there was concern in areas where the military was prevalent that turnout was noticeably lower than other areas.

The method for counting votes in front of a crowd provides for a high level of transparency so long as the crowd remains orderly. 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.

This Statement reflects improvements which were welcome and encouraging. However there remain shortcomings which must be addressed.

**Kampala, 20 February 2011**

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### **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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