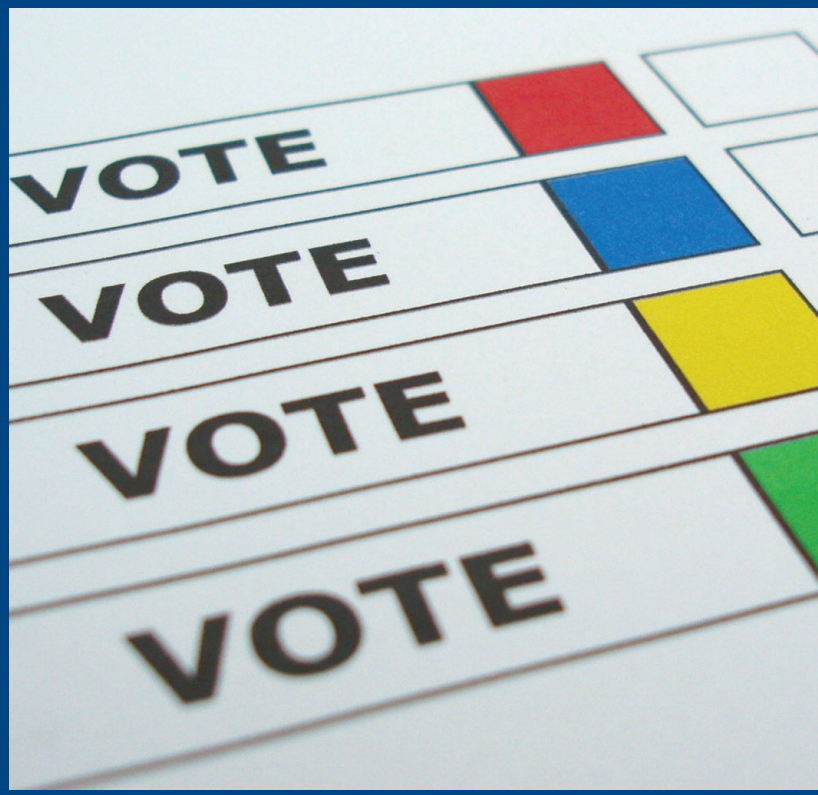
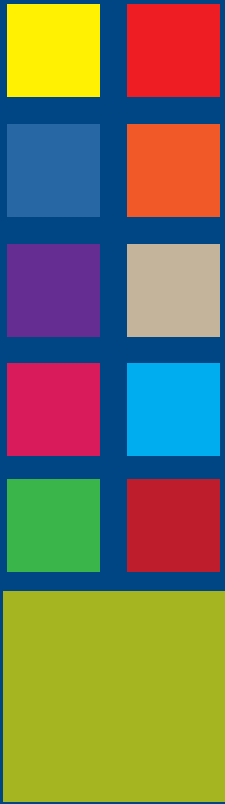


DECEMBER 2014



# ELECTORAL REFORMS IN UGANDA

A STUDY REPORT ON THE SUITABILITY OF UGANDA'S  
ELECTORAL SYSTEMS FOR THE REALIZATION OF UGANDA'S  
DEVELOPMENT GOALS

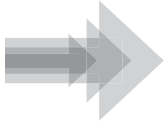


Konrad  
Adenauer  
Stiftung





## **ELECTORAL REFORMS IN UGANDA: A STUDY REPORT ON THE SUITABILITY OF UGANDA'S ELECTORAL SYSTEMS FOR THE REALI- ZATION OF UGANDA'S DEVELOPMENT GOALS**



The “Young Leaders Think Tank for Policy Alternatives” (YLLTPA) is an initiative of the Konrad-Adenauer-Stiftung to enhance youth participation in governance and policy formulation in Uganda. The Think Tank is a group of 20 highly qualified and committed young Ugandans who interact and work together on a regular basis in order to analyze policy issues and develop policy alternatives from the perspective of the young generation.

The Konrad-Adenauer-Stiftung (KAS) is a German political foundation that works worldwide in the areas of civic and political education. For over 30 years, KAS has been active in development cooperation in Uganda, undertaking programmes and activities geared towards fostering democracy, promoting respect for human rights and supporting the rule of law. The activities of KAS have in particular involved working with Ugandan partners, including civil society organizations, government institutions, the media and politicians in contributing to the promotion of democratic governance.



## EXECUTIVE SUMMARY

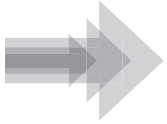
The peace and prosperity of a country is often dependent on a number of factors that include among others, a sound electoral process. The reality, however, is that in many young democracies where the culture of accountability and transparency is suppressed by regular incidents of tribal politics and other forms of corruption, it becomes increasingly difficult for the citizenry to reap the rewards of a democratic electoral process. Generally, accountability challenges of this nature often extend to electoral management bodies that are the guardians of the national electoral process, which is critical for the realization of a country's development agenda. Such bodies must therefore be transparent and carry out their mandate independently in order to successfully execute their tasks. It is also important that all stakeholders both within and outside the policy making arena closely monitor and propose areas for reform in the electoral process where necessary. It is only through this form of monitoring partnership that the contribution of the electoral process to development will be improved.

Following the enactment of the 1995 Constitution, Uganda has enjoyed regular elections during the set constitutional time frames. The electoral process has had a number of results, both positive and negative—in the pre-1995 period, many elections led to coup d'états due to dissatisfaction with electoral results whereas after 1995 some of the benefits have included the re-emergence of political parties following the 2006 referendum on the return to multi-party politics. The widening of the political space has also brought with it more logistical and electoral challenges. Oftentimes, both the presidential and parliamentary process has been challenged on different grounds ranging from electoral malpractice, fear and intimidation of voters, electoral violence et cetera. A range of actors including the Electoral Commission itself, Parliament, the Government, the Judiciary and civil society actors have all in one way or another contributed to the evolution of the electoral process and also consistently contributed to the discourse on areas for electoral reform.

Based on this background, the Young Leaders Think Tank for Policy Alternatives conducted research on the necessity of electoral reforms in Uganda and the nexus between elections and Uganda's journey to realizing its development goals.

The results of the study indicate an above average understanding of electoral issues and the role of the various stakeholders. It also finds that the existing legal and regulatory framework for elections is not sturdy enough to guarantee free, fair and peaceful elections. Additionally, from the study it is clear that the content of electoral reforms should cover both institutional, as well as legal and policy issues. The government must be at the forefront of developing a better electoral legal regime. Finally, the study finds that other factors such as poverty and tribalism, also contribute to lowering the effect of elections in promoting democracy and development aspirations.

The reforms suggested by the respondents include, but are not limited to, a new electoral body; the passage of a new act to regulate elections; the need for funding of political parties; and finally, the importance of less police and security forces involvement in the political process.



## LIST OF ACRONYMS

CCEDU	Citizens' Coalition for Electoral Democracy in Uganda
DGF	Democratic Governance Facility
DP	Democratic Party
EC	Electoral Commission
EU	European Union
FDC	Forum for Democratic Change
KAS	Konrad-Adenauer-Stiftung
MP	Member of Parliament
NDP	National Development Plan
NGO	Non-Governmental Organization
NRM	National Resistance Movement
NUDIPU	National Union of Disabled Persons of Uganda
PWDs	Persons with Disabilities
UHRC	Uganda Human Rights Commission
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
YLTPA	Young Leaders Think Tank for Policy Alternatives



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# CHAPTER 1

## BACKGROUND

### 1.0 Introduction

In this chapter, the YLPPTA highlights the main objectives of this research study on governance and provides a general overview of the state of governance in Uganda and the challenges the state continues to contend with in this area. The YLPPTA carries out its assessment by reviewing national and international literature on the subject of governance.

### 1.1 Objectives of the Study

The Think Tank conducted this research in order to study the suitability of the current electoral process for Uganda's development aspirations. The specific objectives of the study are as follows:

- a) To review the current legal, policy and institutional framework concerning electoral democracy in Uganda.
- b) To analyse perceptions around electoral reforms in Uganda
- c) To analyse strengths and gaps underlying the current electoral process in furtherance of development aspirations.
- d) To propose recommendations that guarantee free, fair and transparent elections.

### 1.2 Background to the Study

It is generally accepted that respect for the right of self-determination, recognized under Article 1 (2) of the UN Charter, requires the holding of free, regular and fair elections within the framework of a democratic society<sup>1</sup>. Elections therefore play a significant role in any democratization process.<sup>2</sup> In the Coolum Declaration of 2002, Heads of Government of the Commonwealth of Nations recognized the link between democracy and good governance on the one hand, and poverty, development and conflict on the other.

The National Development Plan (NDP), which is the main development policy document in Uganda aims at improving specific social and economic development indicators associated with overall economic transformation, such as raising average per capita income levels, improving the labour force distribution in line with sectoral GDP shares, raising the country's human development indicators, and

1 Explanation of Position by Ms. Jane Anttila, Advisor, Permanent Mission of Finland to the United Nations, on behalf of European Union; UN 61st Session; III Committee, Agenda Item 66; Universal realization of the rights of peoples to self-determination (A/C.3/61/L.46), Found at [http://eu-un.europa.eu/articles/en/article\\_6499\\_en.htm](http://eu-un.europa.eu/articles/en/article_6499_en.htm) (accessed on Nov. 04, 2014)

2 A. Kagaha & Matovu J. Isa (Uganda Youth Network), Understanding the Challenges and Opportunities for Effective Youth Involvement in Elections and Campaigns; The Cases of: Tororo, Gulu, Kampala and Bushenyi, 8





improving the country's competitiveness to levels comparable to middle income countries.<sup>3</sup> To achieve the NDP theme of "Growth, Employment and Socio-Economic Transformation for Prosperity", the framers of the policy identified a set of strategic objectives, which include, among others, strengthening good governance, defence and security.<sup>4</sup> According to the policy, this objective will be assessed based on the quality of socio-economic and political governance; economic and corporate governance; the quality of democracy and the level of security. Chauvet and Collier for example argue that by making politicians accountable to citizens, elections act as an incentive to adopt socially beneficial economic policies.<sup>5</sup> Ultimately, sustainable development requires a viable democracy.<sup>6</sup> The YLTPA relies on the content of the NDP to prove that there is indeed a causal link between Uganda's electoral process, which is a tenet of democracy, and the country's development aspirations.

### 1.3 Literature Review

#### 1.3.1 *Link between electoral democracy and development*

It has been argued in some circles that electoral politics foster short-term promises as opposed to long-term development and also reduce the efficiency of decisions, while generating instability.<sup>7</sup> Furthermore, some scholars are of the view that overall, democratic political participation reduces the degree of social order and political stability that a country needs in order to attract investments and promote industrial change.<sup>8</sup> In the context of Uganda, it is indeed true that during elections many politicians make short-term promises to the electorate, which in some instances are not fulfilled. However, democracy even in its small dosages has been one of the greatest contributors to Uganda's development over the last years. For example, political competition has been cited as one of the key reasons why the elected Ugandan government introduced vote-winning public goods policies such as universal primary education.<sup>9</sup>

#### 1.3.2 *Challenges of the Electoral Process in Uganda*

Uganda's electoral process is characterized by challenges that have been identified in reports by the Electoral Commission, which is tasked with managing the national electoral process, election observer mission reports and reports by different NGOs that carry out regular monitoring and activism on electoral reforms. The challenges range from logistical shortfalls and inadequate facilities for PWDs to electoral malpractice.

Following the enactment of the 1995 Constitution, Uganda held its first presidential and parliamentary elections in 1996. In its statement on the presidential election, the international observer group, which was assisted by the UNDP, concluded that overall, the election process was conducted in a transparent

3 National Development Plan (2010/11-2014/15), Section 119, at 38

4 National Development Plan (2010/11-2014/15), Section 120, at 39

5 L. Chauvet & P. Collier, Elections and Economic Policy in Developing Countries, Section 2 (Paper presented at an Economic Policy workshop in Paris, October 25th, 2008)

6 B. Gawanas, The African Union: Concepts and implementation mechanisms relating to human rights, 152

7 G.M. Carbone et al (2014), Are lions democrats? The impact of democratization on economic growth in Africa, 1980-2010, 4

8 Id. G.M. Carbone et al, 4

9 Stasavage, Democracy and Education Spending in Africa; Stasavage, The Role of Democracy in Uganda's Move to Universal Primary Education'; Kjaer and Therkildsen, Elections and Landmark Policies in Tanzania and Uganda.



manner and in accordance with the Interim Presidential Election Statute.<sup>10</sup> They further noted that although police officers were present at most polling stations, as required by the Interim Electoral Commission, they behaved discreetly and efficiently.<sup>11</sup> However, lack of clear rules for restricted voting, including for the monitoring and counting of votes from army personnel at mobile polling stations, was noted as a problem.<sup>12</sup> On the parliamentary polls, although the group noted some deficiencies in the process that included among others, the late distribution of voting materials, attempted under-age voting, the presence of armed soldiers at some polling stations, which intimidated monitors, et cetera, it concluded that the parliamentary elections marked a positive step within the transition process in Uganda.<sup>13</sup>

Following the 2001 presidential election, the New York Times described the election as flawed because it was marred by violence, intimidation and extensive cheating.<sup>14</sup> In the run-up to this election, Human Rights Watch, one of the leading international human rights organizations, conducted an assessment, which revealed that the electoral campaign period was marred by reported cases of violence and arbitrary arrests by army soldiers, military intelligence officers, the police, the Presidential Protection Unit and local defence units trained and armed by the government.<sup>15</sup> The report also raised concerns pertaining to the harassment of journalists and news editors and the inequality in media access by the different presidential candidates.<sup>16</sup> Additionally, the electoral process was characterized by irregularities in the registration of voters, concerns over the tendering process for the ballot papers and failure by the Electoral Commission to act on these issues.<sup>17</sup> The report also criticized the “movement” or “no party” system of government, in which individual candidates would run for elections based on their personal merit and not political party affiliation.<sup>18</sup> Today, one can argue that only one of these challenges has to a large extent been erased, namely the issue concerning the “no party” system as a 2005 referendum introduced the multi-party political system.<sup>19</sup> The rest of the highlighted challenges remain pronounced in Uganda’s electoral process.

Fast forward to the 2006 presidential and parliamentary elections, which were the first to be conducted under the multi-party political system, Human Rights Watch once again reported incidents of ballot stuffing, multiple voting and that many eligible citizens were denied their right to vote in this election, as their names were allegedly not captured in the voter register.<sup>20</sup>

10 See Statement by the International Observer Group on the 9 May 1996, Ugandan Presidential Election dated 11th May, 1996 found in IFES, Uganda: Long-Term Observation of 1996 Presidential and Legislative Elections 1996

11 Id. Statement by the International Observer Group on the 9 May 1996, Ugandan Presidential Election

12 Id. Statement by the International Observer Group on the 9 May 1996, Ugandan Presidential Election

13 Statement by the International Observer Group on the 27 June 1996, Ugandan Parliamentary Election dated 29th June, 1996 found in IFES, Uganda: Long-Term Observation of 1996 Presidential and Legislative Elections 1996

14 York Times, Flawed Election in Uganda, 16/03/2001, Found at <http://www.nytimes.com/2001/03/16/opinion/flawed-election-in-uganda.html>

15 Human Rights Watch, Uganda: Not a Level Playing Field, Government Violations in the Lead-Up to the Election, Found at <http://www.hrw.org/reports/2001/uganda/>

16 Id. Human Rights Watch

17 Id. Human Rights Watch

18 Id. Human Rights Watch

19 Y. Kiranda & M. Kamp (Eds.), Reality Check: The State of Multiparty Democracy in Uganda, 2

20 HRW, Uganda: Election Irregularities Require Judicial Probe; Government Must Not Interfere in Judiciary’s Review of Credible Allegations, Found at <http://www.hrw.org/news/2006/03/01/uganda-election-irregularities-require-judicial-probe>



Another monitoring report on this election provided a wider analysis of the pre- and post-electoral process—the report did not only look at the usual challenges, but also delved into the issues presented by the different political parties for example. It pointed out that the opposition parties' manifestos focused more on the failures of the NRM regime and issues of accountability and integrity than on independent party policies.<sup>21</sup> They attacked President Museveni for clinging to power, for failing to fight corruption and for failing to end the war in Northern Uganda.<sup>22</sup> Generally, it was noted though that the 2006 elections were more peaceful, orderly and efficient.<sup>23</sup> The new EC at the time was commended for portraying some degree of transparency and willingness to include different political interests by establishing a computerized photographic register of voters, which was intended to reduce multiple voting, barring voting in the military barracks, decreeing that people should not attend rallies while carrying arms, preventing civil servants from engaging in active partisan politics, establishing inter-party/candidates committees at national and district levels to resolve contentious issues, establishing complaints desks at both national and district levels, accrediting both national and international observers to oversee the elections, introducing transparent ballot boxes intended to reduce ballot stuffing and establishing codes of conduct for security personnel and police and for political parties.<sup>24</sup> Nonetheless, there were still allegations that the EC did not carry out its mandate in an impartial manner.<sup>25</sup>

From the broader perspective of the election cycle, the 2006 electoral process was criticized owing to the late finalization of the election rules, which further hampered the already weak and disadvantaged political parties, the lifting of the presidential term limit and the evident lack of effective separation between state structures and resources and those of the NRM, which provided President Museveni and the NRM limitless campaign resources.<sup>26</sup>

Fast forward to the 2011 polls, the UHRC election monitoring report once again highlighted similar challenges, which included the disenfranchisement of registered voters, inadequate assistance for vulnerable groups such as the elderly persons, PWDs, the sick, pregnant women and others, the presence of campaign materials in polling stations, insufficient training of polling station officials, overcrowding at polling stations, insufficient electoral resources, absence of political party agents at polling stations, clashes between political parties, electoral violence, unlawful interruption of the electoral process and vote-buying and bribery.<sup>27</sup> The losing candidates criticized the electoral process mainly because of insufficient voter and civic education, rigging, bribery and intimidation of voters, which to them were factors that rendered the entire electoral process illegitimate.<sup>28</sup> However, the EU election observation mission noted that notwithstanding a number of incidents of violence and intimidation, especially on election day, the electoral campaign and polling day were generally conducted in a peaceful manner.<sup>29</sup> This, to a certain extent, indicates that despite some positive feedback, there is room for further improvement in the Ugandan electoral process.

21 C. Atoo, S. Gloppen, E. Kasimbazi et al, Uganda's 2006 Presidential and Parliamentary Elections (Chr. Michelsen Institute Report), 16

22 Id. CMI Report, 16

23 Id. CMI Report, 27

24 Id. CMI Report, 27

25 Id. CMI Report, 27

26 Id. CMI Report, 28

27 Uganda Human Rights Commission, UHRC Report on the 2011 Uganda Elections, 30-32

28 Uganda Human Rights Commission, UHRC Report on the 2011 Uganda Elections, 34

29 European Union Election Observation Mission, Uganda Final Report, General Elections 18 February 2011, 10 March 2011, 5



A 2013 research study by DGF fronted the negative perception towards the EC as one of the major challenges facing Uganda's electoral democracy efforts. According to the report, many view the body as non-representative of all political interests and therefore do not believe in its capacity to conduct a free, fair and peaceful election in 2011.<sup>30</sup> Additionally, in previous elections, the Commission has been under financial and logistical constraints, which have to a certain extent had a negative impact on its ability to exercise its mandate.<sup>31</sup> One of the key features of an independent electoral management body identified by IDEA is that such a body has and manages its own budget independently of day-to-day governmental control.<sup>32</sup>

On marginalization of certain categories of voters, activist groups such as NUDIPU have openly criticized the electoral process for its failure to take into account the interests of disabled persons. For example NUDIPU complained that during the process of updating the voter register, many youth with disabilities were left out owing to the conduct of the process in inaccessible areas.<sup>33</sup>

Uganda's electoral process also involves actors from the media, who play an equally important role of informing, educating and entertaining the public.<sup>34</sup> During elections, the media provides a platform for political discussion from different angles, enables political parties to present their programmes to the electorate, provides voter education in a more technical sense, and also monitors the conduct of electoral campaigns and the elections themselves.<sup>35</sup> In one report that was designed to ensure fair coverage of elections by media houses for multiple audiences, it was noted that during the 2011 polls, media reach, periodicity and volume of coverage improved greatly.<sup>36</sup> However, some of the outstanding challenges included the dominance of the ruling party, NRM. For example, the New Vision sourced 61% of its news from the NRM as compared to 8% from FDC (the largest opposition party), in the Daily Monitor, 37% was sourced from NRM and 22% from FDC and Bukedde sourced 59% from NRM and only 16% from FDC.<sup>37</sup> In the long run, the NRM had more opportunities to be seen by the electorate than the FDC. It therefore comes as no surprise that the UHRC Report on the 2011 elections recommended that media houses should make efforts to improve freedom of speech and equal access to the media.

While all the reports cited above provide evidence of the challenges of Uganda's electoral process, they also demonstrate the positive aspects of the system, which allows the participation of external election observers.<sup>38</sup> One researcher argues that there should be a marked distinction between peace monitors and election observers in order to foster stability and democratization.<sup>39</sup> He however acknowledges that

30 G. Moran, S. Namusobya & J. Kakande, Democratic Governance Facility, DGF Baseline Study on Democracy, Human Rights and Accountability, 99 (July 2013)

31 Id. Moran, Namusobya & Kakande, 99

32 Chapter 6: Electoral Management Bodies—Structure, Functions and Independence, 77

33 A. Kagaha & Matovu J., Understanding the Challenges and Opportunities for Effective Youth Involvement in Elections and Campaigns: The Cases of Tororo, Gulu, Kampala and Bushenyi, 18

34 Id. Van Kessel, 61

35 Id. Van Kessel, 62

36 Media Monitoring Network, Uganda Media Coverage of the 2011 Elections Final Media Monitoring Report, February 2011, 2

37 Id. Final Media Monitoring Report, 4

38 Id. Section 16 of the Electoral Commission Act

39 I. Van Kessel, Stability or Democracy: on the Role of Monitors, Media and Miracles, 50 in Rethinking Democratization and Election Observation



in certain situations, peace and stability are more important considerations than the proper conduct of multi-party elections.<sup>40</sup> Suffice to note that in the case of Uganda, each of these dimensions are critical and therefore observers must have a dual mandate in the electoral process.

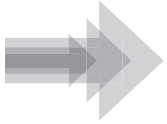
As highlighted in the preceding paragraphs, Uganda is officially under the multi-party political dispensation. Bleck and van de Walle argue that many African countries are characterized by fluid party membership and often times weaker parties form coalitions with stronger parties or 'political nomads', who are in need of short-term gains.<sup>41</sup> Uganda is no exception to this assessment. The idea of coalitions has been mooted mainly among opposition parties in a bid to defeat ruling party candidates. However, in many instances these discussions are unsuccessful, because of different party objectives and strategies. For example, in the Luwero Woman elections, DP rejected calls by the FDC President to field a single candidate, because their DP candidate was very popular.<sup>42</sup> Coalitions of this nature, if extended for example to the presidential race, have the potential to coordinate resources and foster development by coming up with joint dynamic projects that can propel Uganda to development.

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40 Id. Van Kessel, 56

41 J. Bleck & N. Van de Walle, Valence Issues in African Elections: Navigating Uncertainty and the Weight of the Past, *Comparative Political Studies* 2013 46: 1394, at 398

42 Uganda Radio Network, 10/11/2011, Brian Luwaga, DP Snubs Besigye's Call for Joint Candidate, Found at <https://ugandaradionetwork.com/a/story.php?s=38292>



# CHAPTER 2

## **ELECTORAL LEGAL AND POLICY FRAMEWORK**

### **2.1 Legal Framework**

#### **2.1.1 National Legal Framework**

The key legal document that guides Uganda's electoral process is the 1995 Constitution, whose preamble stipulates among others, that the people of Uganda are committed to building a better future by establishing a socio-economic and political order through a popular and durable national Constitution based on the principles of unity, peace, equality, democracy, freedom, social justice and progress.<sup>43</sup> It is therefore important to analyse Uganda's current model of electoral democracy and its suitability for Uganda's development.

The national electoral process is premised on Directive II of the National Objectives and Directive Principles of State Policy, which enumerates the democratic principles that all legal and policy formulation processes must conform to. They are as follows:

- i) The State shall be based on democratic principles, which empower and encourage the active participation of all citizens at all levels in their own governance.
- ii) All the people of Uganda shall have access to leadership position at all levels, subject to the Constitution.
- iii) The State shall be guided by the principle of decentralization and devolution of governmental functions and powers to the people at appropriate levels, where they can best manage and direct their own affairs.
- iv) The composition of Government shall be broadly representative of national character and social diversity of the country.
- v) All political and civic associations aspiring to manage and direct public affairs shall conform to democratic principles in their internal organizations and practice.
- vi) Civic organizations shall retain their autonomy in pursuit of their declared objectives.

The right to vote is accorded to every Ugandan citizen of eighteen years and above under Article 59 (1) of the Constitution. While citizens in this age bracket have a duty to register as voters for public elections and referenda,<sup>44</sup> the state is equally required to take all necessary steps to ensure that they register and exercise their right to vote.<sup>45</sup>

<sup>43</sup> Paragraph 2, 1995 Constitution of the Republic of Uganda

<sup>44</sup> Article 59 (2), 1995 Constitution

<sup>45</sup> Article 59 (3), 1995 Constitution



The national electoral process is managed by the Electoral Commission established under Article 60 of the Constitution. Members of the Commission are appointed by the President with the approval of Parliament,<sup>46</sup> a process that has been heavily criticized by various stakeholders, who argue that it vests appointing power majorly in the hands of the President and consequently risks undermining the impartiality of the Commission.<sup>47</sup> The process does not appear to safeguard the commissioners from any potential influence from the incumbent authorities, who often have a direct interest in the result of an election.<sup>48</sup> Article 60 (3) further stipulates that the members of the commission shall stay in office for seven years and their appointment may be renewed for only one more term.

Despite the above mentioned allegations, it is important to note that Article 62 provides that “subject to the provisions of this Constitution, the commission shall be independent and shall in the performance of its functions not be subject to the direction or control of any person or authority.”<sup>49</sup> It is difficult to reconcile this provision with the commission appointment process. Opposition politicians therefore continue to advocate for the appointment of an independent electoral commission along with the removal of the military in the monitoring of elections.<sup>50</sup>

It is important to note that election financing is critical in every democracy, particularly in a multi-party dispensation.<sup>51</sup> Article 66 (2) of the Constitution stipulates that the Commission is a self-accounting institution and shall deal directly with the Ministry responsible for finance on matters relating to its finances. Furthermore, under Article 66 (3) of the Constitution, the administrative expenses of the commission, including salaries, allowances and pensions payable to or in respect of persons serving with the commission, are to be charged on the consolidated fund.<sup>52</sup> Parliament has a duty to ensure that adequate resources and facilities are provided to the commission to enable it to perform its functions effectively.<sup>53</sup>

Under Article 61 of the Constitution, the Commission is tasked with ensuring that regular, free and fair elections are held; organizing, conducting and supervising elections and referenda in accordance with the Constitution, demarcating constituencies in accordance with the Constitution, ascertaining, publishing and declaring in writing under its seal the results of the elections and referenda, compiling, maintaining, revising and updating the voters register, hearing and determining election complaints arising before and during polling, formulating and implementing voter educational programmes relating to elections and performing such other functions as may be prescribed by Parliament.<sup>54</sup>

46 Article 60 (1), 1995 Constitution

47 CCEDU, Towards Reforming Uganda’s Electoral Commission; critical areas and reform options, 8

48 CCEDU, Towards Reforming Uganda’s Electoral Commission; critical areas and reform options, 8

49 Also see Section 13, Electoral Commission Act Cap. 140

50 J. Butty, Voice of America, 27/01/2010, Uganda Opposition Leader Demands Reforms Ahead of 2011 Elections, Found at <http://www.voanews.com/content/butty-uganda-politics-29jan10-83002687/152980.html>

51 Human Rights Network Uganda, Towards peaceful, free, fair and democratic 2011 elections in Uganda; An Analysis of Uganda’s Electoral Laws, 14

52 Also see Section 9 (2), Electoral Commission Act Cap. 140

53 Article 66 (1), 1995 Constitution

54 Also see Section 12 (1), Electoral Commission Act Cap. 140 for additional functions



As highlighted above, Uganda is under a multi-party political dispensation provided for under Article 69 (2) and 71 of the Constitution. According to the latter provision, political parties must have a national character, their membership must not be based on sex, ethnicity, religion or other sectional division, the internal organization of the political party must conform to the democratic principles enshrined in the Constitution, members of the national organs of a political party must be regularly elected from citizens of Uganda with due consideration of gender, political parties must also account for the sources and use of their funds and assets and no person should be compelled to join a particular party by virtue of belonging to an organization or interest group. Article 72 guarantees the right to form political parties and any other political organizations.<sup>55</sup>

The Political Parties and Organizations Act, 2005 places the duty to register political parties on the Electoral Commission.<sup>56</sup> Section 6 of the same law requires the registration of all political parties and organizations. In relation to campaign funding, Article 72 (5) of the Constitution requires Parliament to regulate the manner of participation in and financing of elections by individuals seeking political office and independent candidates. According to Section 14A of the Political Parties and Organizations Act as amended the Government is required to contribute funds or other public resources towards the activities of political parties or organizations represented in Parliament in accordance with the following principles:

- (a) Registered political parties or organizations shall be funded by government under this act in respect of elections and their normal day to day activities
- (b) In respect of elections, government shall finance political organizations and parties on equal basis
- (c) In respect of normal day to day activities, funding shall be based on the numerical strength of each political party or organization in parliament
- (d) The funds provided to political parties and organizations under this Act, shall be subjected to audit by the Auditor General.

The most problematic aspect of this provision lies in the fact that day to day financing is only based on the number of representatives a particular political party has in Parliament. It therefore follows that some political parties regardless of their progressive programs may not have sufficient funds for implementation, due to their small representation in Parliament. It is also important to note that Section 25 of the Parliamentary Elections Act No. 17 of 2005 provides for non-use of government resources for election campaigning.

As a way of making the transition to multi-party politics smooth, Section 20 of the Political Parties and Organizations Act as amended provides for the establishment of a national consultative forum for political parties and organizations, whose functions among others, include communicating complaints and grievances to the Electoral Commission, resolving of disputes among political parties and organizations et cetera. This can provide a good platform for electoral reforms that can trigger development.

The laws of Uganda also provide for the election of special interest groups such as the disabled, women and youth. Article 78 (1) of the Constitution provides that Parliament must consist of members directly

55 Also see Section 3 (1), Political Parties and Political Organizations Act, 2005 which accords every citizen the right to form or join a political party or organization of his or her choice.

56 Section 4, Political Parties and Organizations Act, 2005





elected to represent constituencies, one woman representative for every district, army representatives, youth, workers, persons with disabilities and other groups as Parliament may determine.<sup>57</sup> While the representation of the other groups has not presented any serious controversies, representation of the army in Parliament has been criticized for being contrary to Section 16 of the Political Parties and Organizations Act, 2005 which forbids army officers from participating in partisan politics.<sup>58</sup>

One of the most controversial aspects of the electoral legal provisions is Article 105 (2) which removed the presidential term limits by providing that a person may hold office as President for one or more terms as prescribed under the Constitution. This caused alarm, especially since bush fighters like President Museveni himself in the past, identify the unwillingness of incumbents in power as a key sign of dictatorship and therefore legitimation of their rebellion<sup>59</sup> Furthermore, the elimination of term limits may have implications on Uganda's development agenda, since a country under the leadership of one individual for a long period of time does not easily adapt to changes in development policies. However, it is important to note that in many instances, the opposition has also not presented a viable alternative development agenda.<sup>60</sup>

In relation to the electoral process and freedom of expression, guidance can be found in Article 29 of the 1995 Constitution that deals with the right to freedom of speech and expression, which also includes freedom of the press and media and access to information. These are supplemented by the Press and Journalist Act Cap. 105, the Electronic Media Act Cap. 104 and the Access to Information Act of 2005, all of which address the issues of media freedom and the right of citizens to access information. According to Article 67 (2), no candidate in an election shall be denied reasonable access and use of state-owned communication media. Furthermore, under Article 67 (3), all presidential candidates must be given equal time and space on state-owned media to present their programs to the people.<sup>61</sup> Candidates enjoy complete and unhindered freedom of express themselves and access information in the exercise of the right to campaign. As highlighted in the literature review, freedom of expression remains a major challenge in every electoral process.

Secondary laws such as the Parliamentary and Presidential Act are particularly significant in any discourse on democracy, because they also penalize persons, who commit acts that affect the democratic process such as tarnishing the credibility of elections.

### **2.1.2 Regional Legal Framework**

The Constitutive Act of the African Union 2002 lists as one of its major objectives the promotion of democratic principles and institutions, popular participation and good governance.<sup>62</sup> The objectives also include the promotion of sustainable development at the economic, social and cultural levels.<sup>63</sup> The African Charter on Human and Peoples' Rights also espouses different rights, some of which are linked to electoral

57 Also see Section 8, Parliamentary Elections Act No. 17 of 2005

58 Human Rights Network Uganda, Towards peaceful, free, fair and democratic 2011 elections in Uganda; An Analysis of Uganda's Electoral Laws, 15

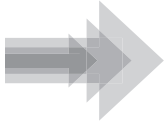
59 D.E. Kiwuwa, Democracy and the politics of power alternation in Africa, *Contemporary Politics*, 19:3, 262-278, 263

60 N. de Torrente, Understanding the 2011 Ugandan elections: the contribution of public opinion surveys, 534: While opposition party manifestos have outlined alternative policies on a range of issues, the main thrust of the opposition's message has been that of any hope for improvement depending on the ouster of Museveni and the NRM.

61 Also see Section 22, Parliamentary Elections Act No. 17 of 2005

62 Article 3 (g)

63 Article 3 (j)



process. For example, Article 8 provides for freedom of conscience, which can be extended to cover the right of an individual to follow a freely chosen political ideology. Article 9 covers an individual's right to receive information and to also express and disseminate his opinions within the law. In relation to elections, it follows that individuals have the right to hold, receive and disseminate information on different political views to various audiences. Article 10 provides for the right to free association, which extended to the electoral process means that persons have a right to subscribe to different political parties.

The Declaration of Principles on Freedom of Expression in Africa 2002 that was adopted by the African Commission as a reaffirmation of Article 9 of the African Charter on Human and Peoples' Rights, clearly states that freedom of expression and information is a fundamental and inalienable human right that is an indispensable component of democracy. Under Article VI, the declaration calls on state and government controlled broadcasters to operate on among other principles, that of politically balanced reporting. This is in line with the national legal requirements for media houses to have a balanced coverage of all political candidates.

The most important regional legal instrument on electoral democracy is the African Charter on Democracy, Elections and Governance, which has been signed and ratified by only 10 States. 28 States including Uganda have signed but not ratified the treaty.<sup>64</sup> Article 3 of the Charter calls on parties to implement this Charter in accordance, which include among others, respect for human rights and democratic principles, promotion of a system of government that is representative, holding of regular, transparent, free and fair elections et cetera.

Under Article 4, state parties undertake to commit themselves to the promotion of democracy, the principle of the rule of law and human rights and also recognize popular participation through universal suffrage as the inalienable right of the people. Although the Charter is essentially about democracy, Article 9 nonetheless provides that state parties shall undertake to design and implement social and economic policies and programmes that promote sustainable development and human security. From this provision, one can rightly aver that there is a commonly assumed nexus between development and democracy.

Under Article 17, state parties further undertake to regularly hold transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa. In this regard, the state parties undertake to establish and strengthen independent and impartial national electoral bodies responsible for the management of elections; establish and strengthen national mechanisms that redress election-related disputes in a timely manner; ensure fair and equitable access by contesting parties and candidates to state controlled media during elections and also ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels. Political pluralism is also recognized as vital in the Charter—therefore, under Article 3 of the Charter, states undertake to strengthen political pluralism and recognize the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.

64 Ratification Table: African Charter on Democracy, Elections and Governance, Found at <http://www.achpr.org/instruments/charter-democracy/ratification/>



At the East African level, it is critical to point out that Article 6 (d) of the Treaty Establishing the East African Community, as amended, lists good governance, which includes the principles of democracy and rule of law, as one of the fundamental principles that shall govern the achievement of the objectives of the community by the partner states.

### **2.1.3 International Legal Framework**

Democratic principles are also provided for in international laws. Article 21 (3) of the Universal Declaration of Human Rights provides that the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. Article 19 on the other hand provides for the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Article 9 of the Windhoek Declaration on Promoting an Independent and Pluralistic African Press adopted by the General Assembly of UNESCO in 1991 provides for the establishment, maintenance and fostering of an independent pluralistic and free press is essential to the development and maintenance of democracy in a nation.

Specifically with regard to elections, Article 25 of the International Covenant on Civil and Political Rights accords every citizen the right and opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors and to have access, on general terms of equality, to public service in his country. Suffice to note that the inter-parliamentary council declaration on criteria for free and fair elections clearly states in Article 1 that in any state the authority of the government can only derive from the will of the people as expressed in genuine, free and fair elections held at regular intervals on the basis of universal, equal and secret suffrage.<sup>65</sup> Article 4 of this Declaration calls on States to take the necessary legislative steps and other measures, in accordance with their constitutional processes to guarantee the rights and institutional framework for periodic and genuine, free and fair elections, in accordance with their obligations under international laws.

## **2.2 Policy Framework**

### **2.2.1 Vision 2040**

Interestingly, Uganda's Vision 2040, which is a key national development policy document, does not seem to include any political factors as some of the possible impediments to Uganda's development. The factors listed only include low competitiveness, weak public sector management and administration, ideological disorientation, low industrialization and value addition, corruption, limited Government investment, slow accumulation of modern infrastructure, inadequate human resource, low level of saving and inadequate revenue collection and unfavourable demographics.

Although it contains this gap, Section 240 of the policy provides that "Uganda will consolidate a secure

<sup>65</sup> Declaration on Criteria for Free and Fair Elections, Unanimously adopted by the Inter-Parliamentary Council at its 154th Session (Paris, 26 March 1994) found in G. S. Goodwin-Gill (Inter-Parliamentary Union 2006), *Free and Fair Elections New Expanded Edition*.



and stable society operating on the principles of justice, equality and the rule of law. In addition, good governance will be fostered through democracy, equal representation, equity, tolerance, constructive dialogue and openness towards others at local, national and international levels".<sup>66</sup> In the section dealing with governance, the policy framers undertake to strengthen the traditions and institutions by which authority is exercised. This will include:

- a) the process by which governments are selected, monitored and replaced
- b) the capacity of the government to effectively formulate and implement sound policies
- c) the respect of citizens and the state for the institutions that govern economic and social interactions among them; and
- d) the protection of human rights in the country.<sup>67</sup>

The policy must be commended for including political and electoral processes as some of the tenets of a sound democracy.<sup>68</sup> According to the policy, the will of the people of Uganda shall be the basis of the authority of the government and shall be expressed through periodic and free and fair elections which shall be by universal and equal suffrage and shall be help by secret vote.<sup>69</sup> Regular free and fair elections are rightly listed as one of the principal means for ensuring popular participation in the formation of government and the monitoring of its performance.<sup>70</sup>

Within the vision, Uganda undertakes to focus on enacting and operationalizing the necessary legal and institutional frameworks to support issue-based political processes. To achieve this, the government will adopt the following strategies: enhance the legal and regulatory framework covering the electoral process; review composition and structure of the Electoral Commission to ensure that non-partisan, independent and professional people are selected; develop an informed and active population through conducting of regular civic education programmes and enrich the quality of parliament's debates; and strengthen the laws on non-discrimination to promote inclusion of women, the youth and other disadvantaged groups in electoral and political processes.<sup>71</sup> The policy is therefore aware of some of the challenges of the electoral process such as the independence of the electoral commission that have been raised by different actors. However, the policy does not specifically mention building the capacity of political parties as one of the strategies the government will adopt in the course of enacting and operationalizing necessary legal and institutional frameworks to support issue-based political processes. The explanation behind this gap could be the fact that in the next decade Uganda may not be under a multi-party political dispensation.

It is also important to note that under Vision 2040, the policy makers also undertake to strengthen the use of ICT in the electoral processes including; ultra-high speed pervasive internet connectivity, biometric authentication mechanisms, electronic voting and updating the voters' register.<sup>72</sup> The ICT aided electoral process shall be linked to the national identification system. Although the policy recognizes the need to

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66 Vision 2040, 84

67 Vision 2040, 106

68 Vision 2040, 106

69 Vision 2040, 110

70 Vision 2040, 110

71 Vision 2040, 110

72 Vision 2040, Section 332



develop an informed and active population through conducting of regular civic education programs, it does not envisage the use of ICTs in civic education programs.

### **2.2.2 National Development Plan (2010/11-2014/15)**

According to the NDP, the vision of Uganda is "A transformed Ugandan society from a peasant to a modern and prosperous country within 30 years."<sup>73</sup> Democracy and the rule of law are listed as one of the vision attributes. The two are required, because Uganda needs to consolidate and enhance the democracy so far attained to provide a solid foundation for transformation into a modern and prosperous society.

One of the ways envisaged, through which Uganda will attain development, will be through the East African Community. However, this could mean that to a certain extent, the countries in the community will have to adopt similar democratic ideals. For example, in the aftermath of the electoral violence in 2010, Kenya adopted a new constitution which has a transformative approach. Uganda however still has the same Constitution. The Kenya Electoral Commission appointment process now allows for public participation<sup>74</sup>, whereas Uganda's is still appointed by the President with the approval of Parliament. The framers of the NDP seem aware of this, since they recognize that one of the constraints to political federation listed is the heterogeneity of political systems as different partner states subscribe to different political systems and are at different levels of democracy.<sup>75</sup>

Electoral reforms are listed as some of the outstanding issues of reform in Uganda's political landscape.<sup>76</sup> The others are political parties, donors and democratic agenda in Uganda; state institutions and democracy;<sup>77</sup> the armed organs and their relationship in a multi-party dispensation, local governance, foreign policy and democracy. Furthermore, the weakness of the electoral system is listed as one of the major constraints affecting the performance of the public administration sector.<sup>78</sup>

The policy has also included deepening democracy by strengthening citizens' participation in political and economic governance as one of the key government objectives.<sup>79</sup> This intervention shall include expediting the amendment of electoral laws, conducting adult suffrage elections at national and local government level, strengthening institutional capacity of the Electoral Commission and improving the quality of the voters' register.

The other strategy included in the policy is strengthening institutional and regulatory framework for political party activities. This intervention shall include reviewing the existing legal mechanism and implementing necessary legal reforms, conducting national political dialogues, establishing an institutional framework for party activities, developing and implementing the consultation code and institutionalizing the political parties' code of conduct. The third strategy of the policy will be a focus on clarifying the role of donors

73 NDP, Section 115

74 K. Kanyinga, Kenya: Democracy and Political Participation, A Review by AfriMAP, Open Society Initiative for Eastern Africa and the Institute for Development Studies (IDS), University of Nairobi, 35 (March 2014)

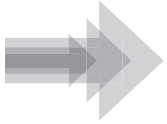
75 NDP, 372

76 NDP, Section 869

77 NDP, Section 869

78 NDP, 376

79 NDP, 377



in Uganda's democratic agenda by developing and implementing a framework for donor participation in the democratic process, conducting periodic government-donor dialogues and developing a donor engagement strategy.

The NDP has the capacity to respond to Uganda's development challenges given its direct recognition of the underlying electoral democracy issues that continue to affect the country. However, although the policy highlights the different strategies that will be adopted to deepen democracy in Uganda, civic and voter education that are critical to the electoral process are not listed as some of the interventions that will be adopted to realize democracy in Uganda



# CHAPTER 3

## FIELD RESEARCH ON THE NEED FOR ELECTORAL REFORM IN UGANDA

### 3.1 Methodology

#### 3.1.1 Introduction

The proposed research was designed as both qualitative and quantitative, involving collection of primary and secondary data, using statistical, as well as thematic perspective analysis, with the main objective of analysing the need for electoral reform. Data was collected through key informant interviews and phone interviews. The qualitative data helped the researchers to elicit personal views of the respondents concerning the need for electoral reforms in Uganda in order to prepare an informative report for future programmatic, policy, and legal advocacy on the improvement of election management process. On the other hand, quantitative data was relevant in order to indicate the frequency, with which the variables are relevant in the reform process. This combined approach enabled the researchers to benefit from the strengths of each method while ensuring the validity and reliability of output. The method of the study was descriptive in order to get the data as presented by the respondents in the research area. The entire research process and report was as per the attached research plan. (See Appendix I)

#### 3.1.2 Scope and Limitation of the study

The study was limited in geographical area, time scope and content. The geographical area of study was limited to the five regional district headquarters of Kampala, Gulu, Mbarara, Lira, and Mbale. The time limitation was the period from the emergence of NRM in power, in 1986 to 2014. The research was conducted within the months of October, 2014. The content scope of the study on the other hand was limited to the objectives of the program, as well as expected outcomes, namely, the relevance of electoral reforms in Uganda.

#### 3.1.3 Sampling and Sampling Techniques

The study used a multi-stage sampling process involving different sampling techniques for different respondent groups and different individual units within the respondent group. In selecting the respondent groups, purposive sampling was used by identifying their titles. Expert purposive sampling was also used at this stage to identify the key informants for purposes of administering the key informant interviews.

#### 3.1.4 Target population

The study was conducted in 5 districts in Uganda, namely, Kampala, Gulu, Mbarara, Lira, and Mbale. The respondents were selected from program participants, aggregated as below:



**Table 1: Respondent Categories**

<b>Respondent Category</b>	<b>Persons</b>	<b>Numbers involved</b>
Religious Leaders	Imams, priests, and traditional religious leaders	23
Youth Leaders	Political, civic, and social organizations (sports, arts, etc)	4
Politicians	District based, as well as national politicians	9
Corporate Citizens	Middle class employees in the corporate world	34
Youth	Youth aged between 18 and 35	5
Rural Folk	Farmers, teachers, etc., based in rural areas.	11
<b>TOTAL</b>		<b>86</b>

## **3.2 Data Collection**

### **3.2.1 Types of Data**

The type of data collected for analysis, which was the basis of this study was obtained from both secondary and primary sources. The primary data was collected from the above stated area of study through questionnaires. Secondary data was obtained from literature reviews of writings on the same topic from various sources including desk-top research, textbooks, journals, newsletters and newspapers.

### **3.2.2 Data Collection Instruments**

The research assistants used the following instruments and modes of administration in data collection:

- i) Key Informant Interviews: These are expert sources of information, who given their personal skills, or position within a society, are able to provide more information and a deeper insight into what is going on around them. They are “natural observers” and are interested in the behaviour of those around them, they observe the development of their culture and often speculate, or make inferences. (See Appendix II).
- ii) Structured Questionnaires: The researcher used structured questionnaires which were thematically based on the research questions and objectives. The questionnaires were constructed for collecting quantitative data. (See Appendix II).
- iii) Focused Group Discussion: The research will also make use of focused group discussions to elicit group views, and collect opinion from collective groups that shape opinion. The structured questionnaire was used for the group discussions, with questions phrased as discussion points.
- iv) Review of Documents: This method was used to collect primary data retrieved from government records and publications, as well as secondary data from project reports and activities.

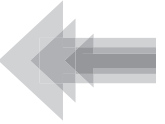
### **3.2.3 Data Quality Control**

The questionnaires were self administered to individual respondents, guided and supervised by a research assistant. A deadline for completion was given as per the schedule below. To avoid disrupting respondents' schedules, appointments were secured well in advance for the interviews.

### **3.2.4 Data Analysis Procedure**

Data from questionnaires was entered into the computer using a basic word document sheet for analysis.





The key informant interviews, observational notes and document examination were reduced into categories or themes.

### 3.3 Demographic Data

#### 3.3.1 Districts of Research

The research sought to offer a country wide focus to the people's perception of electoral reforms in Uganda and five districts were chosen for the study, namely: Kampala, Mbale, Mbarara, Lira, and Gulu. Of the 150 respondents sought to be interviewed, the study only managed to get responses from 86 respondents distributed as shown below:

District	Respondents
Mbale	24
Kampala	13
Lira	24
Mbarara	12
Gulu	13
<b>TOTAL</b>	<b>86</b>

#### 3.3.2 Respondents by Sex (Male or Female)

The research sought to get views of both sexes, so as to provide results which were gender inclusive. The respondents interviewed by sex were as below:

Sex	Respondents
Males	39
Females	47
<b>TOTAL</b>	<b>86</b>

#### 3.3.3 Respondents by Occupation

The research also sought to have a cross section of the public being interviewed to provide a representative sample of response for purpose of recommendation and advocacy strategies. The respondents were as below:

Occupation	Respondents
Corporate Citizens	23
Religious Leaders	4
Rural Folk	9
Youth	34
Political Leaders	5
Youth Leaders	11
<b>TOTAL</b>	<b>86</b>



### 3.4 Thematic areas

#### **3.4.1 In your view, what is the purpose of an election?**

The research study sought to analyse the respondents' understanding of the purpose of elections. The first category of respondents looked at elections as an opportunity to choose leaders that can represent their interests at the national level. Elections were also seen as a platform to select competent persons with the capacity to change the lives of the electorate and also contribute to development. These responses demonstrate the high level of expectation that voters have in their elected leaders. Such leaders, in order to demonstrate their competence to the masses, must be at the helm of the electoral reform process that will eventually enable Uganda to realize its development goals. Other respondents linked elections to democracy, which is a tenet of good governance. Elections were also looked at as some form of citizen empowerment process, which enables the ordinary man to participate in the affairs of his country. Still in this regard, to another respondent, elections serve as a leadership accountability tool since it is during such a process, that voters are able to evaluate their leaders and either vote for their stay or removal from any political positions.

Of the above responses, 15 drew a connection between elections and democracy, 47 were of the view that elections serve the purpose of choosing leaders. 4 shared the view that elections provide societies with pro-development leaders. Some of the other individual responses included the fact that elections can also provide an opportunity for persons to vote for a particular political interest and additionally, that it is through elections that countries are able to enjoy peaceful transitions of government.

#### **3.4.2 What do you understand by electoral reforms?**

Many of the respondents looked at electoral reforms as amendments or changes aimed at improving electoral processes. To the greater percentage, electoral reforms are intended to ensure that elections are not only free and fair but also more organized and foster peace. It is through electoral reforms that loopholes in the electoral process can be identified and addressed. The changes adopted can streamline electoral processes and thus be accepted by all parties.

Other respondents noted that the process of electoral reforms also involves the revision of existing electoral laws and policies to ensure that they fit the current needs and interest of society. Some respondents who looked at electoral reforms from the bigger picture saw it as one way of entrenching democratic values in society.

From the above, it is clear that the respondents saw a clear connection between electoral reforms and democratisation of the political process; free and fair elections; and the need for legal reform.

#### **3.4.3 Do you think the current model of electoral democracy is suitable for Uganda's development aspirations?**

The survey also sought to know the percentage of the respondents, who thought that the current electoral democracy in Uganda is suitable for achieving Uganda's development aspirations. Of the 86 respondents, 24 believed that the system was suitable for development and 62 believed that it was not.



Some of the reasons advanced to justify the suitability of the current system included the already existing level of development in many sectors, the comprehensive political system, which seems to appreciate Uganda's political diversity and allows the involvement of all citizens, the freedom accorded to all Ugandans to participate in politics either as voters or candidates to elective posts, the free and fair electoral process et cetera. Although their responses may not be in tandem with the realities of Uganda, in which elections are often marred by violence, they also represent the different perceptions held by citizens on the link between elections and development. To them, the mere presence of a few schools, hospitals et cetera, is proof enough that the electoral system works—however, such persons must recognize that in the wake of realizing the ambitious development agenda Uganda has committed itself to in its policy documents, there is need to improve the electoral processes in order to realize these goals.

As earlier stated, the majority of respondents stated that the current electoral system is not suitable for Uganda's development aspirations, because of among others, the absence of a free and fair electoral process, increased incidents of electoral malpractice, limited civic and voter education to empower citizens, the gross incompetence of the Electoral Commission, which is also looked at as a non-independent institution, legal loopholes such as the scrapping of presidential term limits under the 1995 Constitution et cetera. These responses are evidence of the main challenges that continue to characterize Uganda's electoral process and also negatively affect its progress towards development.

#### **3.4.4 Do you think Uganda needs electoral reforms?**

The respondents were also asked whether Uganda needed electoral reforms. Interestingly, 10 were of the view that this was not necessary whereas 75 indicated that indeed Uganda needs electoral reforms. This justifies the need for electoral reforms to be at the forefront of Uganda's national agenda. It is also clear that some of the 24 respondents, who were of the view that the electoral system is suitable for the realization of Uganda's development aspirations, nonetheless still believe that Uganda needs electoral reforms.

#### **3.4.5 Who should guide the electoral reform agenda?**

The research also sought to ask the respondents who they thought was more equipped to guide the electoral reform process.

The key responses were as follows:

Body	Number of People
Government	9
Parliament	20
Civil society	22
Everyone	29
Others	4
No answer	2
<b>TOTAL</b>	<b>86</b>

From the above, it is clear that a multi-stakeholder approach will be required to guide the electoral reform agenda. The benefits of this approach are that it can bring on board different actors, who can effectively complement each other's efforts. Civil society, according to one respondent, can play a neutral role by



representing the interests of all parties regardless of their political leaning. Parliament can also participate actively in the legal reform process. The least number of people placed the role of guiding the electoral reform agenda on the government, perhaps because its role should merely revolve around being the general overseer of the reform process by providing an enabling environment for the discourse and other financial and logistical support.

Other responses included handling of the reform agenda by a team of eminent foreign nationals, citizens, political leaders and opposition parties.

#### **3.4.6 What do you think needs to be reformed in the electoral management process and how should the electoral system look like?**

Some of the areas of reform proposed by respondents in the electoral management process included the appointment of an independent electoral commission, increased transparency in electoral processes, allocation of equal funding to all political parties, introduction of electronic voting and counting, conducting of civic and voter education campaigns to raise awareness, demilitarization of electoral processes, re-introduction of presidential term limits, updating of the voter register, putting in place stronger penalties for persons who commit electoral malpractices et cetera. It is evident that many respondents envisage a system that ensures that elections are free and fair and that the citizen's right to elect a leader of his or her choice is upheld. This process should be managed by an independent and representative electoral commission that inspires confidence in the electoral process.

#### **3.4.7 Who do you think is most responsible for electoral reforms?**

On who has the responsibility in the electoral reform process, the following were listed: citizens, political parties, CSOs, the Electoral Commission, parliament, government and other actors such as religious leaders. Although at this point, respondents did not have an opportunity to indicate whether these actors should operate independently or collectively, it is evident from a previous question asked on the actors that should guide the electoral reform process, that a multi-stakeholder approach will be more beneficial.

#### **3.4.8 What are the possible challenges to electoral reforms?**

Respondents were also consulted on some of the possible challenges to the electoral reform process. The main challenge raised by the majority revolved around the limited political will by the government to support a reform process, since this may not be in the interest of the incumbent's political agenda. Additionally, an electoral reform process may be too costly given Uganda's budget constraints. Still in this regard, there were respondents, who were of the view that with the rampant levels of corruption, it may be nearly impossible to push for electoral reforms. Some respondents also argued that harassment from security agencies such as the police and military may also stand in the way of electoral reforms through intimidation of persons agitating for changes.

Another possible challenge to the process raised by respondents is the timing of the reform discussion, because with the 2016 elections fast approaching, it is clear that the reforms may not be implemented before this period and thus be rendered redundant.

Many respondents did not trust the capacity of the parliament, which plays a key role in the law reform



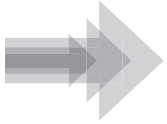
process to undertake the electoral reform task effectively, given the internal dominance of members of the NRM ruling party.

#### **3.4.9 How can we ensure effective electoral reforms in Uganda?**

To the respondents, one of the key ways through which effective electoral reforms can be ensured in Uganda is through strategic mass consultations with different stakeholders to identify the loopholes in the electoral process and how these can be addressed. Citizens, whether young or old, must first and foremost be educated on their rights and the critical role they play in the electoral process. It is through this that they will be empowered to push for electoral reforms in order to make the process more representative of their interests.

Pressure must also be put on the government and parliament to support this process despite its potential to negatively affect their political interest. Respondents noted that the electoral reform process will be incomplete without the involvement of the different registered national political parties. As participants in the electoral process, representatives of different political interests have first-hand experience and are able to use this to identify the pros and cons of the current electoral process. There must be some form of consensus building on the subject of electoral reforms among all interested parties. Thus far, electoral reforms are perceived as an opposition political party agenda and yet in reality, as evidenced above, they are an impetus for development.

The creation of an independent Electoral Commission is also at the forefront of ensuring effective electoral reforms in Uganda. Without it, it is highly likely, that any milestones made in this regard will be rendered irrelevant. Other respondents proposed that the electoral reform process should be led by an independent body tasked with carrying out a nation-wide survey on the loopholes in the system and how these can be addressed prior to the upcoming 2016 election. Although this may be a credible proposal, it is important to note that civil society coalitions such as CCEDU have already carried out such studies and perhaps their reports may be used to complement the work of the established body.



# CHAPTER 4

## RECOMMENDATIONS

### 4.1 GOVERNMENT

- A clear set of standards should be set up to guide the appointment process of the members of the Electoral Commission. Currently the appointment process lacks sufficient stakeholder participation since the task is only carried out by the President and parliament. Every Commissioner appointed must have a minimum academic qualification of a degree, at least a 10 year track record in management of public affairs and also be a person of high repute and integrity. Persons who have held political party positions or are closely associated with the appointing authority and incumbent political structures should not be eligible for appointment to the commission. The Public Service Commission should also be involved in the appointment process by conducting a public call for application, the initial interviews with members of the commission and a public hearing on the short-listed candidates. The names of all the successful candidates should be forwarded to the President, who must appoint and forwards a list to Parliament for approval.

In South Africa the Independent Electoral Commission is composed of five members, one of whom must be a judge.<sup>80</sup> A member must not have a high party-political profile.<sup>81</sup> Members are appointed by the President on the recommendation of the National Assembly, following nominations by the National Assembly Inter-party Committee, which examines a list of at least eight nominations submitted by a panel consisting of the President of the Constitutional Court and representatives of the Human Rights Commission, the Commission on Gender Equality and the Public Prosecutor.<sup>82</sup> The complexity of this appointment process, to a certain extent, ensures that credible candidates that inspire confidence in the electoral process are selected.

- The Government should increase its commitment to facilitate the activities of the Electoral Commission so as to enable it to carry out its mandate.
- Additionally, the Government should expedite the process to enact a national legislation for the national ID process in order to legally back up the development of the EC nominal roll.
- Government should facilitate the civic education mandate of the Human Rights Commission (from Article 52 (1) (g) of the 1995 Constitution) to be implemented alongside Uganda Electoral Commission's Voter Education Exercise in the run up to every democratic general elections and by-elections.
- Government must also consider increasing the standard of education of MPs beyond the requirement of a minimum qualification of an advanced certificate in

80 South Africa: Independent Electoral Commission, found at <http://www.content.eisa.org.za/old-page/south-africa-independent-electoral-commission>

81 Id.

82 Id.



order to increase representatives' ability to meaningfully participate in the legislative process. MPs have in the past demanded that lower local councillors must have a minimum qualification of an A-level certificate.<sup>83</sup> There should be a similar demand for a change in academic qualifications at the parliamentary level.

#### 4.2 PARLIAMENT

- Parliament must push for the expedited completion of the national identification system. Although the voter eligibility rules set by the Constitution are clear, their application is difficult in the absence of the national identification system which will provide credible information and greatly improve the electoral process.
- Due consideration should be given to reform citizenship requirement in order to allow non-citizen residences to vote – specify a minimum period of time you should have been in Uganda.
- The presidential term limits that were scrapped from the Constitution must be reintroduced in order to provide for regular and democratic changes in the leadership structure.
- Parliament must conduct an exhaustive review of special interest seat provisions beyond just voting to continue their existence in parliament and lower administrative councils. It is advisable that parliament's review address the following issues: Adequate representativeness and accountability issues of, especially, the Youth and Worker, by considering adult suffrage elections of Youth MPs in the regional constituencies or their nomination by political parties based on an EC gazetted party list that addresses representativeness and accountability concerns in one common mechanism, and finally the option of introducing a term limit to curtail the inappropriate advantages of incumbency among Worker and Woman MPs on affirmative action.
- Due consideration must be given to scrapping the representation of the army in parliament since as earlier stated in the legal review, participating in partisan politics appears contrary to the Political Parties and Organizations Act. Additionally, it is difficult to hold army representatives accountable due to the army structures within which they operate and their impartiality, which is critical for a good and progressive democracy is difficult to prove since often times it is dictated by the military leadership. Furthermore, it is important to point out that the process of their appointment is not transparent, since it takes place in closed door meetings. It is therefore difficult to determine the leadership qualities of the individuals selected.

#### 4.3 ELECTORAL COMMISSION

- The Electoral Commission should carry out its mandate of effectively regulating, monitoring and reporting on the activities of all political parties in the country.
- The Electoral Commission should ensure easy electronic access to the voters' nominal roll to all stakeholders ahead of elections. The display of this register should not coincide with the period when students are in school so as to provide young eligible voters with the opportunity of confirming the presence of their names on the register.
- The Electoral Commission should use the census data to redraw constituencies so as to improve the voting process and reduce the incidents of disenfranchisement of voters.

83

C. Odongtho (Uganda Radio Network), MP wants academic qualifications set for lower LCs, dated 29 Jul 2011



#### **4.4 POLITICAL PARTIES**

- Political parties must adhere to their legal obligation to provide regular reports to the EC on any changes to their legal and constitutive documents, provide report of audited accounts et cetera.
- Political parties must also pro-actively carry out their role of shadow monitoring of government programs.
- Civic and voter education programs must also be one of the priority areas covered by each political party in order to complement the work of the Electoral Commission and Uganda Human Rights Commission in this area.

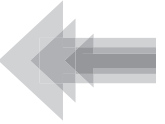
#### **4.5 CIVIC GROUPS**

- There must be gazetted media spaces that provide all political parties with equal access to media. In the U.S.A for example, during the election period, public presidential debates and associated publicity and press matters are managed and regulated by an independent body, the Commission on Presidential Debate (CPD).<sup>84</sup> This could potentially address the challenges related to access to equal media opportunity that opposition parties regularly face during the election period.

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84 [www.debates.org](http://www.debates.org)





## APPENDICES

Activity No.	Detail
1.	Development of Research Tools
2.	Pre-testing of Research Tools
3.	Reviewing of Research Tools
4.	Document/Literature Review
5.	Data Collection
6.	Data Analysis
7.	Report writing
8.	Review of Work in Progress (By Thematic Group)
9.	Compilation and presentation of report to the Think Tank

### Appendix II: Questionnaire / Key Informant Interview Guide

QUESTIONNAIRE / KEY INFORMANT INTERVIEW GUIDE FOR YLTT Governance Group on the study whether ‘the current model of electoral democracy suitable for Uganda’s development aspirations?’

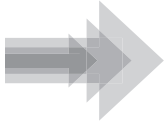
#### PURPOSE OF INTERVIEW

Since independence, elections in Uganda have always brought about series of disastrous and unintended consequences, culminating into military coups, dictatorships, and violent riots. During this time, there have been various efforts to reform the design and delivery of the election management process, and this has led to various efforts, culminating in the current call for a new law by the civil society. The purpose of this interview, carried out by Young Leaders Think Tank for Policy Alternatives, a group of young leaders from academia, civil society, public, and private practice, sponsored by Konrad Adenauer Stiftung, is to collect information on the need for electoral reforms in Uganda in order to prepare an informative report for future programmatic, policy, and legal advocacy on the improvement of election management process.

Thank you!

#### PART 1: DEMOGRAPHIC DATA

District:             Mbale                             Gulu                             Fort Portal  
                            Kampala                             Mbarara  
 Sex:                     Male                             Female  
 Occupation:         Political Leaders             Rural Folk                     Religious Leader  
                            Youth                             Corporate Citizens         Youth Leader



## **PART 2: ON CURRENT MODEL OF ELECTORAL DEMOCRACY SUITABLE FOR UGANDA'S DEVELOPMENT ASPIRATIONS**

What do you understand by electoral reforms?

.....  
Do you think the current model of electoral democracy is suitable for Uganda's development aspirations?  
 Yes  No

Please explain why you think it is suitable or not?

.....

Do you think Uganda needs electoral reforms?  
 Yes  No

Who should guide the electoral reform agenda?  
 Government  Parliament  Civil Society  
 Everyone  Other (please explain)

.....

## **PART 3: ON THE CONTENT OF ELECTORAL REFORMS**

What do you think needs to be reformed in the electoral management and how should it look like ideally?

.....

Who do you think is most responsible for electoral reforms?

.....

What are the possible challenges to electoral reforms?

.....

How can we ensure effective electoral reforms in Uganda?

.....

## **PART 4: ANY OTHER COMMENTS**

Do you have any other comments concerning electoral reforms?

.....





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