



# UGANDA'S ELECTORAL PROCESS

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## **Background to Uganda's Electoral Process**

The Constitution, which is the supreme law of this land, is a compendium of principles by which the state is governed. It is a social contract or a pact by which the citizens of this country define their fundamental and common values and aspirations and agree with their leaders on the system by which they shall be governed in pursuance of the common good to achieve their needs and aspirations, in an atmosphere of freedom, liberty and harmony.

National leaders must rise to their offices through regular free and fair electoral processes in accordance with their Constitution in order for such leaders to have the stamp of legitimacy. Once the citizens have elected leaders of their choice to implement the best national programs or manifestos presented to them, the leaders must implement such programs in a participatory and consultative manner with the electorate. It is only then that elected leaders are efficient, transparent and accountable and are always guided in their decisions by public interest. Such is what may be safely called good governance founded on Constitutionalism and the rule of law.

Constitutionalism, rule of law and good governance are the fundamental pillars of democracy. Democracy, irrespective of whatever form it takes in different national domains, must not lose its universal sense of a government of the people by the people and for the people. This is why democratic leadership in any country should only be accessed through a free and fair electoral process, which is the foundation of true democracy.

Since independence and particularly in the last decade, the quest for pluralist democracy and good governance has become a major area of concern in Africa generally and quite recently in Uganda.

In the struggle for democracy, each developing country must always take into account its own capacity and ability to shoulder the heavy financial burden that goes with the holding of an election. This can be achieved with a well-oriented electoral law and process.

Electoral laws should seek to achieve aims, which are consistent with the holding of free and fair national elections. At present, when national elections in many countries are generating international interest, particularly with respect to the application of the various procedures, up-to-date legislative schemes need to pay attention to even higher goals and aim at conceiving cost effective methods for the attainment of democracy.

## **The Right to Vote**

Basic qualifications for voting rights found across the commonwealth countries are citizenship and age, usually 18 years and above. However, other jurisdictions may have exceptions to this rule on age. Whatever system a country may opt for, it must be general to answer the questions on who should be entitled to register where and how.

The right to vote in Uganda is a statutory creation under the 1995 Constitution of the Republic of Uganda. Although universal franchise means different things in different contexts, it is common to most democratic electoral systems that all citizens over the age of 18 years, with a few exceptions, are allowed to register and to vote.

A citizen of Uganda of or above 18 years of age who is registered has the right to vote in a parish or ward where he/she is registered as a voter for public elections and referenda. That person cannot be compelled to vote in any election in Uganda under the present Constitution. A person, however, is not qualified to vote at an election if he/she is not a registered voter.

The objective of registration, therefore, remains the same, to compile an inclusive and accurate register of those entitled to vote.

### **Voter Registration**

Voter registration is a key factor to a free and fair election and the basis on which the electoral process and a person's right to participate in an election lie.

According to election experts, the compilation of a satisfactory voters' register remains perhaps the biggest test of competence that an election management body has to pass. Therefore, having a competent and well-managed voter registration system is the first step in ensuring a free and fair electoral process.

It must be a register that does not contain the names of all those not qualified to vote, the dead or non-existent. It means that every citizen who is qualified to vote is enabled to do so without any hindrances and that since no person can vote unless he/she is registered, it is crucial that each qualified voter is given a fair opportunity to register as a voter in the first place.

In Uganda, it is a Constitutional duty to register, however, this cannot be considered as an obligation against that person since it is not strengthened by a provision for a penalty against its violation and/or non-observance.

The electoral process therefore begins with the compilation, maintenance and continuous update of a credible National Voters' Register.

In the case of Uganda, like in many commonwealth countries, the entire electoral process including the compilation, maintenance and continuous update to the national voters' register is governed by the following electoral laws:-

- The Constitution of the Republic of Uganda, 1995
- The Political Parties and Organisations Act, 2005
- The Presidential Elections Act, 2005
- The Presidential Elections (**Election Petitions**) Rules, 2001
- The Parliamentary Elections Act, 2005
- The Parliamentary Elections (Special Interest Groups) Regulations, 2001 (**Covers Election of Youth, Workers and the Army Representatives to Parliament**)
- The Parliamentary Elections (**District Women Representatives**) Regulations, 2001
- The Parliamentary Elections (**Election Petitions**) Rules, 1996
- The Local Governments Act, Chapters 243, (as amended)
- The Local Governments (Amendment) Act, No. 13 of 2001
- The Local Governments (Amendment) Act, No. 17 of 2001
- The Electoral Commission Act, Chapter 140
- The National Youth Council Statute, 1993
- The National Youth Councils and Committees (Elections) Regulations, 1993
- The National Youth Council (Amendment of Schedule) Instrument, 2001
- The National Women Council Statute, 1993
- The National Women Council Statute and Committee (Elections) Regulations, 1993
- The National Women Council Statute and Committees (Elections) Regulations, 1993
- The National Women Council (Amendment) Act, 2002
- The National Women Councils and Committees (Elections) (Amendment) Regulations, 2001
- The National Women Councils and Committees (Elections) (Amendment) Regulations, 2003
- The Movement Act, Chapter 261
- The Movement (Elections) Regulations, 1997

N.B: Presently, there is no substantive law governing the conduct of Referenda. Referendum is the process of referring a political question to the electorate for a direct decision by a general vote.

### **Briefs on the Electoral Process**

- ✓ **Update of the Voters' Register:** This is by law, a continuous process unless there is a cut off of registration prior to a pending election/by-election. For the 2006 general elections a 30 day period was announced as a concentrated

time for all eligible voters who were not yet on the register to get registered as voters. The cut-off period for the update exercise was 30<sup>th</sup> October 2005.

- ✓ **Cut-off of Registration:** This is done by a Statutory Instrument by the Electoral Commission or the Minister of Justice depending on the election being conducted.
- ✓ **Display of the Voters' Register:** This is usually for a period of at least 21 days to determine eligibility and/or ineligibility of a voter in Local Government Council Elections, Presidential, Parliamentary (except District Women Representatives where Display is for at least 7 days) as per current law.

Display in law is not applicable in elections at administrative units – village, Parish and the other elections conducted, but administratively the registers/list of voters/members of the Electoral College in these elections undergo a verification process to determine the eligibility of voters.

For purposes of the 2006 general elections, the Display exercise commenced on 22/12/2005 and is set to end by 11/01/2006 at all polling stations countrywide.

- ✓ **Polling Stations:** These are established taking into account the distances to be travelled by the voters, the number of voters and the geographical features in a given area except for the election of District Women Representatives (current law) where the polling stations are at the respective Parishes.  
For purposes of the 2006 general elections, the Commission had re-organised its polling stations countrywide and the total number that was gazetted in Gazette No. XC viii No. 78 of 30<sup>th</sup> November 2005 is 19,788.
- ✓ **Nomination of Candidates:** This exercise usually covers 2 days but can be extended at the discretion of the Electoral Commission according to circumstances for the Presidential, Parliamentary and Local Government Council elections except for Representatives of the Youth, Workers and Army Representatives to Parliament, elections at Administrative units, the youth, Women Councils and Committee elections where one day is appointed for nomination, campaign and polling.

**N.B: Nomination and Elections during the National Youth and Women councils is administratively given more than one day.**

For the 2006 elections the nominations of the different electoral positions were programmed as follows:

- Presidential - 14 – 15/12/2005
- District Chairpersons and Councillors, District/City

Chairpersons and Councillors, Municipality/City  
Division Chairpersons and Councillors,  
Sub County/Town/Municipality Division Chairpersons  
and Councillors, - 27 – 30/12/2005  
- Parliamentary - 12 – 13/01/2006

- ✓ **Inspection of Nomination Papers:** This is prescribed by law for purposes of verifying the qualification of a nominated candidate. For the 2006 elections, the following provisions have been made:

- Presidential (21 days) at the EC Headquarters  
w.e.f 21/12/2005 – 13/01/2006
- District Chairpersons and Councillors, District/City  
Chairpersons and Councillors, Municipality/City  
Division Chairpersons and Councillors,  
Sub County/Town/Municipality Division Chairpersons  
and Councilors (7 days) w.e.f. 30/12/2005 – 5/01/2006
- Parliamentary (7 days) at the Returning Officer's  
Office, w.e.f 13/01/2006 – 19/01/2006

- ✓ **Candidates' Meeting/Campaigns:** This is individual for Presidential and Parliamentary elections and joint for Local Council Elections and other elections conducted by the Electoral Commission. However, under the multiparty political dispensation, the Commission is likely to use its discretion to allow individual campaigns.

The following campaign programs have been drawn up for the 2006 general elections:-

- Presidential - 16/12/2005 – 21/02/2005
- District Chairpersons and Councillors, District/City  
Chairpersons and Councillors, Municipality/City  
Division Chairpersons and Councillors,  
Sub County/Town/Municipality Division Chairpersons  
and Councillors, - To be announced soon
- Parliamentary - to be declared after nominations

**N.B: For the presidential elections, an agent/political party members, etc. may hold campaigns on behalf of their candidates.**

- ✓ **Polling Day:** Only one day is appointed as polling day. For parliamentary elections, it should not be later than 45 days after the nomination days while for presidential elections, not later than 90 days. For other elections, it is not prescribed but is subject to statutory deadlines save for elections at administrative units (Local Councils) which depend on the term of office.

The Presidential polling day will be on 23/02/2006. Legally, the polling day for Parliamentary elections is announced after nominations.

- ✓ **Tallying of Results:** This is done by the Returning Officer with the assistance of tally clerks at a venue, which must be officially gazetted by the Commission. In Uganda today, immediately after polling, the results are counted and declared at each polling station. Tallying is then done at the District and at a national tally centre.
- ✓ **Possible Recount of Votes:** This is applicable, upon request in writing, in instances of equality of votes or where the vote difference between candidates is less than fifty. This is applicable after the official addition of votes by the Returning Officer, and is done in the presence of a Senior Police Officer.

Where the recount results in yet an equality of votes, a run off election shall be held involving the candidates with equal votes; and the election shall take place not later than 30 days from the date of the re-count.

- ✓ **Declaration of Results:** This is done by the Returning Officer who thereafter transmits the results to the Electoral Commission Headquarters, which then tallies all the Districts' results, ascertains and declares them within 48 hours. Under its seal, the Commission publishes the results in the Gazette.

The Commission's mandate on any complaint on elections stops at declaration of results. Thereafter, any re-dress is through the Courts of Law.

The Commission is expected as soon as practicable after each general election, to produce a detailed report on the conduct of the election and submit it to the Minister of Justice and Constitutional Affairs who shall in turn lay it before Parliament.

- ✓ **Reporting Vacancies:** This is made by the respective Clerks to the Local Government Councils and Clerk to Parliament. There is no prescribed procedure for reporting vacancies at the administrative units (Local Councils).

- ✓ **Constitutional Deadlines/Term of Office**

- Presidential Elections (Article 103 (3) of the 1995 Constitution
- Parliamentary Elections (Article 81 (1) of the 1995 Constitution
- Local Government Council Elections (every 4 years and Article 181 (5)
- Local Council Elections (Administrative Units) – every 4 years
- National Women & Youth Council Representatives – every 4 years
- The Movement Elections – every 5 years

- Referenda – subject to the Constitution

## **CONCLUSION**

Any serious cost effective approach to the planning and managing of elections has to begin with the design of a legislative scheme. Policy framers of electoral laws must also take into account the need to safeguard the integrity of the electoral system and manipulation of the electoral process.

I would like to reiterate the Commission's commitment to uphold the provisions of the electoral laws in order to deliver peaceful, transparent, free and fair elections. We appeal to all stakeholders to cooperate with the Commission in its quest to fulfil this mandate so that we can jointly continue to nurture the principles of democracy in our motherland Uganda.

During the 2006 election cycle activities, on behalf of the Commission, I appeal for calm and tolerance particularly during campaigns, polling and the period thereafter. Uganda belongs to all of us, in spite of differences in opinion. We should therefore seek to put the peace, tranquility, unity and cohesion of the Nation above our individual and organizational/political aspirations!

**FOR GOD AND MY COUNTRY**

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**CHAIRMAN, ELECTORAL COMMISSION**