

Chapter 5

VOTING, COUNTING AND RESULTS

Background

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

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

Opening and Voting

Polling was scheduled to take place between 0700 and 1700 hours. According to rules for the conduct of the election³⁶, the following features and safeguards for preparation of the poll, opening of the poll and conduct of polling were prescribed:

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

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

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

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

Assessment of Opening and Voting

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

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

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

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

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

polling station to the other within the Polling Centre searching for their names. And where names were missing from individual polling stations, especially in rural areas, frustrated voters – often with their Voters' Card or registration slips – were advised to try the next polling station, sometimes located several kilometers away. Problems with the Voters' Register led to delays in processing voters, sometimes of up to five minutes per case³⁷.

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

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

Several other shortcomings were observed in the voting process.

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

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

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

Counting and Results Aggregation

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

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

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

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

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

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

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

Assessment of Counting and Results Aggregation

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

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

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

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

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

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

Overview of the Countrywide Observation

Arua

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

Gulu

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

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

Jinja

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

Kabale

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

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

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

Kampala

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

Masindi

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

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

Mbale

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

Mbarara

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

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

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

Presidential Election Results

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

Recommendations

- The EC must review both its training and operational plans. It is imperative that polling staff are adequately trained with regard to their responsibilities, the purpose of their role and the prescribed procedures, in order to ensure that they can provide improved service to voters and a more consistent application of the procedures for voting and counting. With regard to the EC's operational plans, it must ensure that materials are delivered in a more timely manner, avoiding undue and avoidable delays in the opening of polling.
- While security needs to be provided for the election period, there should not be an undue presence of police. In any event security forces should exercise restraint. Ideally the military should not be visible.
- There is a need to provide for a sheltered location for polling and counting wherever possible, thereby protecting the process from undue interference, the weather and a lack of adequate lighting at the end of the process.

- The secrecy of the vote must be adequately provided for and therefore the current practice of using basins for the marking of ballots should be reconsidered. Many reasonable and cost-effective alternatives are available, including small cardboard screens or booths.
- The regulations for polling officials should require a full and proper reconciliation of voters and ballots prior to the commencement of the count.