

Chapter 6

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

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

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

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

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

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

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

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

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

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

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

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

Recommendations

The Electoral Framework and Election Administration

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

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

Election Campaign and Media

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

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

Voting, Counting and Results

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