

EXPLANATORY NOTE

This is the Report of the Commonwealth Observer Group which was present for the Presidential and Parliamentary Elections in Uganda, held on 23 February 2006.

The Group's report is reproduced here in the form in which it was signed by the Observers prior to their departure from Kampala on 3 March 2006. It was transmitted to the Commonwealth Secretary-General on Wednesday 8 March. During the following week he sent it to the President of Uganda, the Chairman of the Electoral Commission of Uganda, the Secretaries-General of the main political parties and Commonwealth governments. It was placed on this web-site and released to the media on Wednesday 15 March 2006. Printed copies are available from:

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Uganda Presidential and Parliamentary Elections

23 February 2006

**REPORT OF THE COMMONWEALTH
OBSERVER GROUP**



Commonwealth Secretariat

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3 March 2006

Dear Secretary-General,

The report of the Commonwealth Observer Group on the Presidential and Parliamentary Elections in Uganda, held on 23 February 2006, is attached.

We trust that our report will be a constructive and positive contribution to the efforts of the people of Uganda to build their democracy.

In delivering this report to you we wish to recommend that the Commonwealth be an active partner in that work in the years to come.

Yours sincerely,

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Chapter One

INTRODUCTION

INVITATION

On 8 December 2005 Hon Sam K Kutesa, Uganda's Minister of Foreign Affairs, wrote to the Commonwealth Secretary-General to convey the Uganda Electoral Commission's invitation to the Commonwealth to send Observers for the 2006 Presidential, Parliamentary and Local Government Elections.

The Secretary-General confirmed his intention to constitute a Commonwealth Observer Group. However, before taking the final decision he undertook, in line with the usual procedure, to send an Assessment Mission. This consisted of four Commonwealth Secretariat officials, who visited Uganda from 16 to 21 January 2006. Its main purposes were to determine whether the Observer Group would be free to pursue its mandate and that there would be broad support in Uganda for the presence of Commonwealth Observers and to brief all concerned on the way in which such a Group would work.

The Assessment Mission met with the Electoral Commission, which provided the necessary assurances on access to polling places and counting stations, and with representatives of the political parties and civil society. As a result the Assessment Mission concluded that there would be 'broad support' for the presence of Commonwealth Observers.

On 2 February 2006 the Secretary-General wrote to the Minister to inform him of his decision to constitute an Observer Group for the Presidential and Parliamentary Elections¹. The Electoral Commission and Commonwealth Governments were immediately informed. The Observer Group consisted of thirteen Observers, supported by nine Commonwealth Secretariat staff. The composition of the Group, led by HE Sir Ketumile Masire, former President of Botswana, is set out in Annex I. A press release was issued in London on 10 February 2006 (see Annex II).

TERMS OF REFERENCE

The Terms of Reference of the Group, as set out by the Secretary-General in his formal letter of invitation to the members of the Group, were as follows:

"The Group is established by the Commonwealth Secretary-General at the request of the Government of Uganda. It is to observe relevant aspects of the organisation and conduct of the Presidential and Parliamentary Elections scheduled to take place on 23 February 2006, in accordance with the laws of Uganda. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgement whether the

¹ These would be held on 23 February. Various local government elections would be held on 28 February, 6 March and 9 March. However, the Observer Group would cover only the Parliamentary and Presidential Elections.

conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people.

The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Uganda, the Electoral Commission, the leadership of the political parties taking part in the elections and thereafter to all Commonwealth governments”.

Letters to all members of the Observer Group made clear that the Observers were invited by the Secretary-General in their individual capacities and that the views they expressed regarding the elections would be their own and not those of their respective governments or of the Commonwealth Secretariat.

ACTIVITIES OF THE GROUP

One member of the Group, Dr Rupert Roopnaraine, accompanied by a member of the staff support team, Ms Adaora Ikenze, formed an ‘Advance Team’ which began its work ten days before the main Observer Group.

The Chairperson issued an Arrival Statement (Annex III) at a press conference in Kampala on 14 February. Over the next three days the Group was briefed by its own Advance Team, the Electoral Commission, political parties, media organisations, the domestic observers of the Democracy Monitoring Group, a gender group, Commonwealth High Commissioners and representatives of other international organisations. The Group’s Schedule of Engagements is at Annex IV.

Five parliamentary seats were reserved for ‘special interest groups’ including workers and young people, and a further five for people with disabilities. On behalf of the Group Advance Observer Dr Rupert Roopnaraine observed the voting on 16 February by the electoral college covering the workers (the youth vote having been postponed). A further ten seats were reserved for members of the Uganda People’s Defence Force (the army), for which voting took place on 17 February.

On 18 February the Observers and Secretariat team members deployed across Uganda, in ten two-person teams. Their deployment is shown at Annex V. The Chairperson, accompanied by the leader of the Staff Support Team, Mrs Betty Mould-Iddrisu, was based in Kampala and also undertook visits to Jinja and Mityana, districts which are respectively east and west of the capital, where he was briefed by election officials, police, domestic observers and electors.

At the beginning of the deployment period the teams visited the police, district election officials, local representatives of the political parties and domestic observers. They familiarised themselves with their area of deployment, observed the final stages of the campaign including rallies, saw the transport

and storage of polling day materials and the training of officials, and met with electors.

On polling day – Thursday 23 February – members of the Group observed voting at 218 polling stations and counting at 15 counts across the country. The teams then followed the results, the ballot boxes and papers and other materials from the polling/counting stations to the district collation centres, via the sub-county centres. Our teams were present at 8 sub-county centres and 9 district collation centres. Where possible our Teams met representatives of the political parties afterwards to hear their reactions to the poll, count and results process. In Kampala the Chairperson met the presidential candidates and their representatives, with the same purpose. During deployment the Observers were assisted by Observation Notes and Checklists (see examples at Annex VI).

On Friday 24 February, following consultation with members of the Group, the Chairperson issued an Interim Statement (Annex VII). On Monday 27 February members of the Group convened in Kampala for a debriefing and began to prepare the Group's Report for transmission to the Commonwealth Secretary-General. Having finalised the Report, the Group issued a Departure Statement (see Annex VIII) and left Uganda on Friday 3 March.

Chapter Two

POLITICAL BACKGROUND

HISTORICAL BACKGROUND

Early History

Uganda, one of the key countries in East Africa, has a long political history. In the fertile south and west powerful social and political orders developed, including the Bunyoro, Buganda, Busoga, Ankole and Toro kingdoms. Buganda controlled the territory bordering Lake Victoria from the Victoria Nile to the Kagera River. By the 1840s, Buganda was engaging in trade with Muslim traders from the Indian Ocean coast, exchanging slaves and ivory for firearms, cloth and beads. In 1862 British explorer John Hanning Speke became the first European to visit Buganda. In 1875 Kabaka Mutesa I invited Christian missionaries into his kingdom, with members of the British Missionary Society arriving in 1877, followed two years later by members of the French Roman Catholic White Fathers. These competing interests split Buganda loyalties into the "Inglesa", "Franza" and Muslim factions.

Colonial History of Uganda

Buganda became a British protectorate in 1894. The protectorate was extended to other traditional kingdoms in 1896 and the rest of the country was brought under central administration by 1914. British administration followed the principles of indirect rule, which included special measures of autonomy for Buganda, enshrined in the 1900 Buganda Agreement. In 1902 the Eastern Province of Uganda was transferred to Kenya. A Legislative and an Executive Council exclusively composed of Europeans were created in 1921; however African representation in government increased steadily after 1945.

Independence

Uganda became independent on 9 October 1962 under a Constitution that safeguarded the autonomy of Buganda and the other kingdoms, and joined the Commonwealth. Milton Obote, leader of the Uganda People's Congress (UPC), was elected Prime Minister. Kabaka Edward Mutesa II became the first (non-executive) President in 1963, when Uganda became a republic.

POST-INDEPENDENCE POLITICS

Amid rising tensions between the Central and Buganda Governments, Prime Minister Obote abrogated the Constitution and moved against the Kabaka, who fled into exile in Britain. A new Constitution stripped the kingdoms and monarchical institutions of their powers and centralised political authority, with Obote as Head of State and Head of Government. In 1971 Milton Obote was ousted in a military coup by Major Idi Amin. Initially popular in some circles, Amin's regime descended quickly into brutal authoritarianism. He declared himself President-for-life, and his reign of murder and terror lasted until 1979. His regime was finally toppled by the Uganda National Liberation Front, with the active support of the Tanzanian army. Amin fled into exile.

Professor Yusufu Lule, a former Commonwealth Assistant Secretary-General and Chairman of the UNLF, became President for two months, and was replaced by Godfrey Binaisa, who was himself replaced a year later by a Military Commission led by Paulo Muwanga, which organized elections in December 1980. Milton Obote's UPC was returned to power on a disputed mandate. After the highly disputed election results, the Uganda Patriotic Front (UPF), a left-wing movement formed primarily to contest the 1980 elections, abandoned politics and started operations as a rebel movement under the command of Yoweri Museveni. The UPF became the National Resistance Army (NRA), which is today the Ugandan People's Defence Force (UPDF). Its political supporters formed the National Resistance Movement (NRM) which today is called "Movement". Other rebel forces which formed in opposition to Obote, such as the Federal Democratic Movement (FEDEMO) and the Uganda National Resistance Front, have since been absorbed into the NRM.

President Obote was again overthrown in an army coup in 1985. General Tito Okello established a short-lived Military Council, but in January 1986 the NRA occupied the capital Kampala, the Military Council was replaced by the National Resistance Council (NRC) and Yoweri Museveni was installed as President. By then an estimated one million Ugandans had been killed by war or state-sponsored killings; two million had been uprooted as refugees; 500,000 were seriously injured; and the economy was in ruins. In 1989 the NRC was expanded from 98 appointed members to 278 elected representatives (68 of whom were nominated by the President) and became the Constituent Assembly. A new Constitution was promulgated in September 1995 and the first Presidential elections held in May 1996. Elections to the legislature took place one month later, in June, with 214 elected and 62 nominated members. Members of the legislature were elected under the "individual merit" system promoted by the NRM government.

POST-1986 POLITICS

Even though the Constitution of 1995 recognised and provided for three different types of political systems in the country², the sole system of governance was the 'no party' political system, or Movement system. Through this system, the NRM governed the country through a broad-based Cabinet of civilians and a National Resistance Council (NRC), which functioned as a Parliament. While alternative political parties were permitted to exist, political activity such as campaigning and the sponsoring of candidates was prohibited². In 2000, a referendum found 91% in favour of continuing the Movement system, although turnout was low and the pro-multiparty side had limited opportunity to present their case. President Museveni won 74% of the vote in the 1996 Presidential elections and 69% of the vote in 2001. Further elections in 2001 were marred in places by violence and intimidation and Mr Museveni's main rival, Dr Kizza Besigye, subsequently left the country to spend the next 4 years in self-imposed exile in South Africa.

² Article 69 (2) defines these as: (a) the Movement political system, (b) the multiparty political system and (c) any other democratic and representative political system.

² Constitution of the Republic of Uganda (1995) Articles 71 & 72

RECENT POLITICAL AND CONSTITUTIONAL DEVELOPMENTS

After 2001 domestic and international pressure for the restoration of multi-party democracy in Uganda became more persistent. In 2003 the Constitutional Court ruled that sections of the 2002 Political Parties and Organizations Act (PPOA) which prevented political parties from operating while the Movement system remained in place, were unconstitutional. The Court went further in 2004 to declare sections of the PPOA which restricted political meetings and the registration of political parties also unconstitutional. In July 2005, in accordance with the provisions of Article 69 of the Constitution, a second referendum was held to decide which political system to employ in the governance of the country. Despite the opposition boycotting the process and a low turn-out nationwide, the government supported the change and secured a 92% vote in favour of restoring multi-party elections. Parliament also voted controversially, in August 2005, to lift the constitutional two-term limit on the office of the President to allow unlimited terms.

Several political parties emerged, or were revived, in expectation of the change to a multi-party dispensation. Parties such as the Uganda People's Congress (UPC), Democratic Party (DP) and Conservative Party (CP) which prior to 1986 had been permitted to exist, but not to contest elections under the Movement system, became fully operational. The National Resistance Movement-Organisation (NRM-O) became the political party created by the Movement system. New opposition groups also included the Reform Agenda (RA), now part of the Forum for Democratic Change (FDC), and cross-party pressure groups such as the Parliamentary Advocacy Forum (PAFO). There are other smaller political parties, but these do not make any significant electoral impact³.

POLITICAL RIGHTS

Under the 1995 Constitution, Ugandan citizens have the right *inter alia* to change both the system of political governance, and the government through referenda or the electoral process⁴.

INDEPENDENT CANDIDATES

Another important aspect of the return to multi-party democracy in Uganda has been the impetus that the change generated for a significant increase in the number of independent candidates. Most of them were originally NRM members who lost their primaries in internal NRM-O elections; they subsequently contested the 2006 elections as independent candidates.

HUMAN RIGHTS

In the last century and a half prior to independence Uganda endured brutalities during rule by both the traditional monarchies and the colonists. It is arguable that this set the trend for the unenviable human rights record that has occurred during its recent independent dispensation. It can be stated without question that the violation of human rights in Uganda reached its climax under the dictatorial regime of Idi Amin. This included a situation in which thousands of Ugandans were dispossessed and driven into exile, a tragedy which the Movement government has made commendable efforts to redress.

³ The Constitutional Amendment Act of 30 September 2005 states that the organs under the Movement political system remain in force until first Parliamentary elections are held.

⁴ Constitution of the Republic of Uganda, Article 74

The recent atrocities committed by the rebel Lord's Resistance Army (LRA) have also shocked international public opinion, leading to the indictment of its leaders by the International Criminal Court (ICC) in 2005. Additionally, the number of Ugandan refugees and internally displaced persons has increased significantly, to approximately two million civilians in recent years, due directly to the ongoing conflict in the Northern regions. These human rights violations and the effects of the ongoing rebellion significantly influenced the current elections as far as the attainment of free and fair objectives were concerned.

YOUTH

It is noteworthy that the government of Uganda under the Movement system has made distinct efforts to promote the participation of the youth in political activity through overt affirmative action policies. These include dedicated seats for youth in the national parliament and support for youth candidates at local and district level. The current situation with the youth in Uganda is of significance in relation to the 2006 elections, since the majority of Ugandan voters would be young citizens, many born after 1986 and whose political experiences have been wholly under the Movement style of governance. As the elections were a contest between two prominent flag bearers and less about issues, the youth were expected to be crucial in the determination of the winner of these elections.

WOMEN IN POLITICS

Until the introduction of the Movement system, Ugandan women had limited impact in domestic politics mainly due to illiteracy and outmoded cultural traditions. During the past twenty years, the Movement system has deliberated and visibly promoted political affirmative action in favour of women, including the creation of dedicated seats for one woman MP in each district. This has ensured the presence and retention of girls and young women in the classrooms, while increasing women's understanding of and participation in national politics. The net effect of these policies has been the catapulting of women into leadership positions in many spheres of life, especially in political leadership. The gain has also been evident in the preparations preceding the 2006 elections, in which an unprecedented number of women entered their candidatures for elections into Parliament and local council positions.

Members of the Observer Group were encouraged by the significant numbers of women who participated in the electoral process across local and national stages. They demonstrated through this participation the changing role of women in political life in Africa. The Group also noted the role played by the spouses of prominent political leaders in Uganda, some of whom participated in the current elections.

CIVIL SOCIETY

Since independence Uganda has produced a vibrant domestic civil society, which is very representative of all sectors of populace. It has been particularly supportive of special interest groups such as women, the youth and the disabled. In general, civil society has become significantly more vocal and visible since the move towards multi-party democracy in Uganda. Within the context of the current elections, it has played a prominent role as domestic agencies, individually and in coalition groupings, and provided essential services to citizens

in civic education, voter mobilisation and education. It also played a key role in the monitoring and evaluation of the electoral process, including political party funding, conduct and media coverage of campaigns, as well as the administration of the elections during the poll, count and declaration stages.

OVERALL POLITICAL, SOCIAL AND ECONOMIC CONTEXT OF THE 2006 ELECTIONS

The Constitutional change from the Movement system to multi-party governance in Uganda was effected in a national atmosphere of great political expectation all round, social discontent brought about by growing poverty, especially in the rural areas, and an economy whose earlier brilliance had been dimmed by the diminution of national revenues and overspending by government. There was nevertheless the general expectation that this historic transition would bring faster economic growth rates and significant rises in living standards generally.

Chapter Three

ELECTORAL FRAMEWORK AND PREPARATIONS FOR THE ELECTIONS

ELECTORAL FRAMEWORK

Introduction

The legislative framework of the Republic of Uganda is found principally in the 1995 Constitution, inclusive of amendments up to 21 November 2005. In terms of Article 2, the Constitution is the supreme law of Uganda and has binding force on all authorities and persons throughout the country. Under this legal system, Parliament's legislative powers and all the other organs of government are subordinate to the supremacy of the Constitution and the rule of law. The legal implication is that Parliament cannot override any fundamental principles of administrative law enshrined in the Constitution.

The significant feature of the Constitution is its promotion of public participation in the process of governmental decision making. It also ensures openness and fairness, features which are vital to the legitimacy of and public confidence in the administration. The Constitution also stipulates a process for the establishment of government and confers a right to the electorate to choose a political system of their choice through free and fair elections or referenda. In this regard there are three constitutionally permissible political systems from which to choose. These are: the movement political system; the multi-party political system and any other democratic and representative political system. While Articles 70 & 71 of the Constitution stipulate the principles to which the Movement political system must conform, as well as the fundamental features and principles of the multi-party political system, the Constitution is silent with regard to the features and principles attaching to the third political system provided for in the constitution.

Article 71.2 of the Constitution enjoins Parliament to prescribe by law a code of conduct for political organisations and political parties and provide for the establishment of a national consultative forum for political parties and organisations. Regrettably, Parliament has to date not complied with this Constitutional prescript. Notably, while Article 74 leaves room for the emendation of the multi-party political system currently in force Article 75, in contradistinction, prohibits Parliament from enacting a law establishing a one-party state. In our considered view, the jurisprudential soundness of these provisions is open to doubt.

In July 2005 the electorate decided on the multi-party political system, through a referendum. As a result, the elections held on 23 February 2006 were the first multi-party elections to be conducted since 1980.

The relevant legislation governing the conduct of these elections, qualifications for the candidacy for Presidential as well as qualifications for Parliamentary election and the management of these elections are found in the following: the

Presidential Elections Act (2005), the Parliamentary Elections Act (2005), Political Parties and Organisations Act (2005) and the Electoral Commission Act (1997). Other relevant legislation and regulations include the Press and Journalist Act (1995), the Electronic Media Act (1996), Parliamentary Elections Petitions Rules (1996) and Parliamentary Elections Appeals Rules (1996). Most of the electoral legislation came into effect only three months before the elections.

The Electoral Commission

Article 60 of the Constitution provides for the establishment of an independent Electoral Commission consisting of a Chairperson, a Deputy Chairperson and five other members appointed by the President with the approval of Parliament. All members of the Commission shall be persons of high moral character with proven integrity and possessing considerable experience and demonstrable competence in the conduct of public affairs. They hold office for seven years and their appointment may be renewed for a further term.

In the interest of ensuring the credibility of the Commission we are of the view that consideration ought to be given to having the members of the Electoral Commission appointed by the President acting on the advice of the Judicial Service Commission and following the approval of Parliament, as observed in the appointment of judicial officers. Another method is through a 'Search Committee', in consultation with the Chief Justice of the Supreme Court and the Leader of the Opposition. This, we believe, will enhance public confidence in the Electoral Commission.

Whereas in terms of Article 60.8 of the Constitution a member of the Electoral Commission may be removed by the President by reason of inability to perform the functions of her/his office arising out of physical or mental incapacity, misconduct or incompetence, we believe that consideration ought to be given in this instance to use the procedure set out in Article 144.3 & 144.4.c applicable to the removal of judicial officers, in order to ensure the independence and impartiality of the Commission.

Similarly, we believe that the envisaged extension of the tenure of Commission members for a second term has a potential to create a conflict of interest and is liable to influence the independence of the Commission. Consideration ought therefore to be given to increasing the length of tenure of the members of the Commission to ten years to enable them to conduct two General Elections, but their appointment should be limited to one term only. Notwithstanding this arrangement, there is, in our view, a compelling argument for further renewal, on rotational basis, of the Chair and two members of the Commission in order to maintain institutional continuity.

Functions of the Electoral Commission

Article 61.1 empowers the Electoral Commission to organise, conduct and supervise elections in accordance with the Constitution. We believe that the Commission's management function should not be taken over by a candidate or any other authority. The Commission should exercise its authority to get the electoral regulations and laws implemented by the government prior to elections.

We believe that on the whole the Electoral Commission played an independent and non-partisan role in the elections. Its acceptance of the nomination of a Presidential candidate who was at that time under arrest and against the opinion of the Attorney-General manifested its impartiality. The Commission remained resolute in its decision, even after the Attorney-General launched an application to the Constitutional Court.

In our view there were inadequate resources at the disposal of the Electoral Commission to enable it to effectively perform its functions and discharge its concomitant obligations. For instance, the supply of materials to/from the polling stations was hampered due to serious shortage of transport. Similarly, it was noted that there were little resources available for training of staff and conducting voter education. We recommend that funds must be obtained as early as possible to begin the requisite training of personnel.

Election of the President

The President is the Head of State, Head of Government and Commander-in-Chief of the Defence Forces. He is eligible to hold office for one or more terms and is directly elected every five years by universal suffrage and by a simple majority. The election of the President is through a secret ballot.

Section 4 of the Presidential Elections Act sets out the qualifications for Presidential candidates while Section 10 adequately outlines the nomination process. Section 11 sets out factors which may invalidate a nomination. Section 13 allows for the inspection of nomination papers and lodging of complaints, but falls short of determining the timeframe during which complaints must be lodged with the Electoral Commission. This oversight could lead to disruption of the campaigns of candidates who might be victims of unfounded complaints against them. It is recommended that a window not exceeding two weeks be allowed for the lodging of complaints and their resolution, after which no more complaints should be entertained. This will allow candidates to campaign without being disrupted by protracted hearings of complaints lodged against them.

Election of Parliament

The Constitution provides for a unicameral legislature (Parliament) with a total of 308 members, 214 of whom are directly elected in constituencies throughout the country every five years by adult suffrage and by secret ballot. The rest are elected from special interest groups by electoral colleges. The major change from the last Parliament is the recent creation of 13 additional districts, meaning that 13 more women will have been elected as district MPs.

Section 8.2 of the Parliamentary Elections Act (2005) further provides for the representation of women from each of the special interest groups identified in Article 78.1(c) of the Constitution.

The representation of the members of the Uganda Peoples Defence Forces as provided for in Article 8.2 of the Parliamentary Elections Act (2005) and covered in Article 78.1(c) of the Constitution is a delicate issue and has been a matter of debate in the country. However, we believe that in a democracy, the institutions of the state must be subservient to elected institutions. The presence of the serving members of the Uganda Peoples Defence Forces in Parliament, even

though elected by an electoral college, seems to be in violation of Article 208.2 of the Constitution which states that "the Uganda Peoples Defence Forces shall be non-partisan, national in character, patriotic, professional, disciplined, productive and subordinate to the civilian authority as established under this Constitution." In a multi-party system it is not possible for MPs representing the army to maintain neutrality and articulate issues affecting their constituency. We believe that the President of Uganda symbolises the Uganda Peoples Defence Forces and represents their interest in his capacity as the Commander-in-Chief of the Defence Forces.

We hope that when Parliament considers Article 78.2 of the Constitution in order to review the representation in terms of Article 78.1 (b) & (c) for the purposes of retaining, increasing, or abolishing any such representation, it would look at this matter in the light of Commonwealth best practice.

The Judiciary

The legal system in the Republic of Uganda is based on English common law and customary law. Uganda accepts compulsory ICJ jurisdiction, with reservations.

The judicial power of Uganda is exercised by the Courts of Judicature which consist of the Supreme Court, the High Court and such subordinate courts as Parliament may by law establish, including Qadhis' courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by Parliament.

It is expressly provided in the Constitution that in the exercise of judicial power, the courts shall be independent and shall not be subject to the control or direction of any person or authority. Judges are appointed by the President with the approval of Parliament.

Political Parties

Prior to the 28 July 2005 referendum on a multi-party system, political party activity in Uganda was regulated by the directives of the Inspector General of Police and the Head of the civil service. Following the referendum a number of legislative instruments were passed by Parliament, including the Political Parties and Organisations Act of 21 November 2005.

The Political Parties and Organisations Act defines and regulates how political parties are to operate in the new multiparty dispensation. The law states that any Ugandan is free to found a political party or organisation, which must be registered with the Electoral Commission, and gives precise regulations. Ethnic or religious political organisations are prohibited, as are certain symbols.

The above law makes provision for the declaration of assets and liabilities, internal organisation of parties or organisations, and requires the same to notify the Electoral Commission of changes or alterations to constitution and leadership. Non-Ugandans are not permitted to hold offices in political parties and certain persons, such as members of the armed forces, are not permitted to participate in political party activities. The above Act also provides for the mergers of, and alliances between, political parties and organizations.

In addition, the Act also provides for a Code of Conduct for political parties and organisations; specifies sanctions for non-adherence with this Act; provides for appeals; and provides for ways in which organisations may be wound up. Notwithstanding the failure of the legislature to enact a Code of Conduct, it is our view that the powers conferred on the Electoral Commission in terms of Article 61.1(a) of the Constitution are sufficient to empower the Commission to provide for a code of conduct and take appropriate measures for its enforcement. In particular this power finds emphatic articulation in Sections 12.1. (e), (f), (j) & (h) of the Electoral Commission Act to ensure compliance by all election officials and candidates.

We observed that the Political Parties and Organisations Act does not include any provision for regulating the financing and functions of political parties in accordance with Article 72.3. We recommend that Parliament enact some benchmarks to enable eligible political parties to receive State contributions on an equitable basis, to be used solely for election campaigning.

Articles 71 and 72 of the Constitution uphold the right of entities to form political parties and regulate their activities. Section 10 of the Political Parties and Organisations Act imposes internal democracy on political parties. We believe that all the political parties participating in the elections complied with this requirement and went through primaries for the selection of candidates. In a number of the political parties many of their leading members who were not selected opted to stand as independent candidates on the basis of individual merit. This attitude is a feature to be expected in the process of transition. It is yet to be determined what accommodation will be made for independent members to sit in Parliament in accordance with the law.

Electoral System

The electoral system currently used in Uganda is "First Past the Post". This system is similar to other electoral systems operating in some other Commonwealth countries. Every registered political party has the right to sponsor one candidate for Presidential, Parliamentary and Local Elections. A candidate who wins votes is declared elected. There is also provision for independent candidates. In respect of the Presidential Election, as stated earlier, if no candidate obtains 50% plus one of the vote, a run off election is held to determine the winner within thirty days.

Electoral Constituencies

The whole country is demarcated into 214 geographically demarcated constituencies and 94 special interest constituencies. Each constituency elects its representative to Parliament. The delimitation of electoral constituencies is provided for in Article 63 of the Constitution and further elaborated in Section 8 of the Parliamentary Elections Act. Section 36 of the Electoral Commission Act provides for the right of appeal to any person aggrieved by a decision of the Commission in respect of a demarcation of a boundary, and which is to be heard by a tribunal established under this Act within thirty days after the decision is published in the Gazette and media.

Right to Vote

Article 59 states that every citizen of Uganda of eighteen years of age or above has a right to vote. It imposes a constitutional duty on them to register as voters for public elections. In order to give effect to these rights and obligations Article 59.3 specifically enjoins the State to take all necessary steps to ensure that all citizens qualified to vote register and exercise their right to vote. The Constitution further mandates Parliament to make laws to provide for the facilitation of citizens with disabilities to register and vote.

As alluded to elsewhere, the right to vote and the qualification of a voter is a fundamental constitutional right. It cannot be denied to a voter on the whim of an official, without any notice being issued citing reasons for the envisaged disqualification. The Act should therefore prescribe measures consistent with the principle of a "fair hearing" before taking away these rights, as these are constitutionally guaranteed. Ultimately, whatever action is envisaged by a tribunal must be open to review by a High Court and/or a Court of Appeal. This proposed process would be in harmony with the Constitution of Uganda.

PREPARATIONS FOR THE ELECTIONS

Voter Registration

Section 18 of the Electoral Commission Act enjoins the Commission to compile, maintain and update a National Voters Register with details of all persons entitled to vote in any public election.

According to Section 19.1 of the Electoral Commission Act, a person aged at least 18 years and is a citizen of Uganda may register as a voter in a parish where they originate or reside. Thus, a voters' roll for each polling station in a parish is compiled and only persons whose names appear on the roll are entitled to vote at an election (Section 19.2 of the Electoral Commission Act 1997).

Section 25 of the Electoral Commission Act stipulates a period during which a copy of the voters' roll for each parish shall be displayed for public scrutiny, during which objections or complaints in relation to the names reflected in the roll shall be raised or filed.

According to domestic observers, the display exercise did not begin until 3-7 days after the stipulated period. Display Officers reportedly stated that the exercise was delayed because the registers and other materials were received late. In many polling stations various districts had been merged and/or divided. The merging of polling stations without prior notification frustrated voters as they had to move from one polling centre to the other to find out where their names were registered.

Section 25.3 of the Electoral Commission Act provides that during the period of display of the voters' roll any person may raise an objection against the inclusion in the voters' roll of any name of a person, on the ground that such a person is not qualified to vote or to be registered as a voter in the constituency, parish or polling station, or that the name of the person qualified to vote or to be registered has been omitted. The manner in which the display was conducted

deprived registered voters of an opportunity to raise any objection contemplated in terms of the relevant legislation.

In instances where voters were able to raise an objection contemplated in the relevant legislation and the tribunal envisaged in terms of Section 25.5 of the relevant legislation met to determine the objections laid before it, we are not aware if the decisions taken by the tribunals were reviewed by the Electoral Commission, as required by Section 25.8 of the Act.

There were no arrangements provided for the election staff on duty and the police to vote prior to the Election Day. In this regard we were informed that at the last election postal ballots were provided for the staff and police, but these were challenged by the opposition in the court on suspicion of rigging. However, in order to avoid a repeat of the last election experience, it was not proper to do away entirely with the voting right of the election staff and police. The Electoral Commission should ensure that the right of all citizens to vote in a General Election is fully protected by law. We recommend that for future elections the Electoral Commission may set a date well ahead of the polling day for electoral staff and police on duty to participate in a special vote in advance of the general voting. These votes should be counted only on the polling day together with other votes.

We noted that adequate arrangements were made by the Electoral Commission for voting by the defence forces.

As already stated, one of the functions of the Electoral Commission is to compile and maintain an accurate Voters' Register to be used to conduct free and fair elections "(Article 61(e) of the Constitution)". There are three types of voters' registers, namely:

- (a) Voter registers for residents in each village governed by the Local Government Act (1997), including non-citizens of Uganda who are resident in a village;
- (b) Voter registers for Special Interest Groups - that is women, youth, workers, Uganda Peoples Defence Force (UPDF) and persons with disabilities.
- (c) National Voter registers which are used in elections by universal adult suffrage.

The draft voters' register was initially to be displayed from 21 December 2005 to 11 January 2006. On 6 January the Commission announced that the display date would be extended up to 17 January 2005. This extension was intended to give voters more time to file challenges against any alleged deletions/additions in the register.

According to figures released by the Electoral Commission a total of 10,450,788 voters were registered for the 23 February elections. The total number of polling stations was 19,786.

Preparations for Elections

Our observation found no evidence of any direct interference by the authorities in the work of the Electoral Commission in managing the electoral process. However, a number of instances were noted which undermined the authority of the Electoral Commission as the sole independent authority for the conduct of elections. It should be the prerogative of the Electoral Commission to request the deployment of the army to enhance the security of the poll or to issue notices about compliance with its regulations.

We note the laudable attempts made by the Electoral Commission to provide extensive public briefings on the preparations made for the elections and disseminating posters and electoral material in time for the benefit of voters. It also performed admirably in providing accreditation, briefings and material to thousands of domestic observers, as well as several hundred international observers. We were, however, unable to determine if this was also replicated at the district and parish levels.

We noted that an inter-party electoral liaison committee was established at the national level to enable the parties to meet periodically with a view to peacefully resolving election-related disputes.

In providing for election materials, the Electoral Commission introduced a number of innovations which were both cost effective (an important factor in any developing democracy) and which contributed to enhancing the transparency of the process on the polling day. These included, *inter alia*, open spaces for polling stations, use of translucent plastic ballot boxes for the Presidential and Parliamentary vote, photographs of voters on the register, and serialised declaration of result forms. The efficacy of these arrangements on polling day is assessed in Chapter Six.

Training

The training of the many thousand election staff presented a formidable challenge for the Electoral Commission in the execution of its mandate. Finally, the efficacy of the training cannot be determined until polling day. This is further dealt with in Chapter Five.

The Role of Human Rights Commission

The Human Rights Commission has a statutory responsibility to conduct civic education, which goes beyond voter education. For the Human Rights Commission to be truly effective its work needs to be streamlined with the Government's literacy and gender awareness programmes, as well as with programmes delivered by non governmental organisations. The funding for the Human Rights Commission is jointly provided by the Government and the donor community. The Commission must be empowered to become fully resourceful and independent in carrying out its mandates.

We believe that the Electoral Commission and the Human Rights Commission could work in tandem through their programmes to conduct voter education and promote the development of human rights in Uganda.

Polling and Counting Procedures: Presidential and Parliamentary Elections

The relevant provisions governing the conduct of elections on polling day and the procedure set out for counting of votes are in our view sufficiently detailed, practically logical and replete with procedural safeguards. Moreover this voting system is rendered transparent by the right of the candidates to have party agents present up to the point the result is finally determined. In our considered view, if the relevant provisions were meticulously followed by the election personnel, bolstered by the adequacy in their training, there would be no room for electoral impropriety. However, we are of the view that whatever inconsistencies in the process we have observed were largely occasioned by lack of proper comprehension by the polling officials of these provisions as they are in a legal language. The Electoral Commission should consider how it may be able to help, including through comprehensive guidelines, replete with graphic pictorial illustrations of the pertinent issues dealt with in the relevant provisions of the Act. This would facilitate easy comprehension of the legal technical language employed in those provisions. For the same reasons, party agents would benefit from such information as they were not aware that they were allowed restricted entry in the Tallying Centre.

Chapter Four

THE CAMPAIGN

In pursuance of Section 21 of the Presidential Elections Act, the Electoral Commission worked with party representatives in the inter-party liaison committee to coordinate the campaign programmes of parties and candidates for both the Presidential and Parliamentary elections. The coordination of the campaign programmes, at the national as well as at the district level (where liaison committees were supposed to be established), was a positive step and went a long way towards preventing unnecessary conflict, confusion and violence in the course of the campaign.

The attention of our teams was drawn to a number of issues pertaining to the conduct of campaigns in the run up to the elections. Such issues related to the period of campaign, the methods of campaigning, campaign resources, security and the use of language during the campaign period.

The Group felt that the pre-election environment did not provide a level playing field for the campaign. The NRM-O unfairly exploited its position as the governing party during the period of campaign.

THE PERIOD OF THE CAMPAIGN

Political parties became legal entities on 21 November 2005, when the Political Parties and Organisations Act was gazetted. The delay in establishing the legal framework for the elections meant that the period for campaigning was reduced to 61 days. The Government of Uganda, in its White paper on the report of the Constitutional Review Commission, made a commitment to enact all electoral legislation six months prior to the holding of the elections. The truncation of the campaign period, in our view, placed the newly emerged political parties at a disadvantage to the newly constituted NRM-O, which could still rely on the established structures of the Movement system that remained operational throughout the campaign.

Arguably, the severest limitation was that placed on the campaign of the FDC presidential candidate, who was forced to attend 27⁵ hearings in the High Court, as well as the General Court Martial, to answer a variety of charges, thereby reducing even further the time he could spend on the campaign trail.

The Electoral Commission issued a directive that restricted parties and candidates to campaigning between the hours of 7 am to 6 pm. While the 6 pm deadline was generally adhered to by all parties, there were occasions when it seemed to be selectively enforced by the police, to the detriment of the FDC. A particular example was observed by our team in Jinja on 21 February when tear-gas was employed at 6.05 pm by the Anti-Riot and Military Police to disperse the large, jubilant but peaceful crowd that had gathered at Busoga Square to await

⁵ Reported in EU Observation Mission Statement of Preliminary Conclusions and Findings, 24 Feb 2006

the arrival of the FDC Presidential candidate. Our team in Kampala witnessed a similarly violent dispersal of FDC supporters.

CAMPAIGNING METHODS

Various methods were employed during the campaign to reach the people, most notably the use of posters, leaflets, billboards, print and electronic media, debates, rallies, roadshows, effigies and private media advertising.⁶ With vastly more resources at their command, the NRM-O was predictably dominant in all aspects of campaigning. Rallies were held throughout the country as parties and candidates worked to mobilise their supporters in towns and villages. Campaign meetings and rallies were generally peaceful and high-spirited, with few instances of confrontation and violence. Schedules of rallies were extensive and well noted by the Police in each district. Candidates and district party executives were seen moving around in their private vehicles with public address systems, although we noticed that government vehicles were sometimes in use for NRM-O candidates travelling around their districts.

We noticed that among other communication devices SMS texts were used extensively to invite party cohorts to rallies and to meet their candidates. Parties also used websites to advertise their manifestos and other campaigning news.

A national television debate was organised by an NGO but was not as useful as it might have been, because of the absence of the two Presidential candidates from the leading parties. This denied those who watched the debate on national television or listened to it on radio the opportunity to compare the skills, competencies and vision of the Presidential candidates. We hope that in future elections all the Presidential candidates will agree to be present and debates become a part of the formal campaign process.

Contrary to the Parliamentary Elections Act of 2005, Section 22 (7) & (8), and additionally contained in the Electoral Commission's *Campaign Guidelines for Presidential Elections, 2006*, we noted that campaigning, while enthusiastic and generally free of violence in most places, was not free of the use of personal attacks and defamatory language. For example, we observed one television advertisement by the Ugandan Police Force which took some words of the FDC presidential candidate out of context and juxtaposed them with images of burning cars. We felt that the message, while purporting to warn against and prevent violence, could equally be interpreted as provocative. These images were then repeated in the national newspapers.

We noted that candidates for the women's district parliamentary seats were at a disadvantage in that they had to campaign for the entire district while the directly elected parliamentary candidates needed to cover only a single constituency. We recommend that more thought be given to providing support for their campaigning. This is not only a voter education issue, but also one of resources. We urge that more effort be put into promoting and providing resources for these campaigns in advance of the next election. It may be that these women's parliamentary campaigns could benefit by being held separately.

⁶ Advertisements promoting NRM-O were in both national newspapers, next to government progress reports on Movement achievements.

CAMPAIGN RESOURCES

Section 22(2a) of the Presidential Elections Act provides that each presidential candidate is entitled to an accountable fund of US\$ 20 million. The Electoral Commission provided this sum, in addition to a vehicle and security, to each presidential candidate who had fulfilled the nomination requirements.

We noted that the four opposition parties complained that their security detail was changed in the last days of campaigning without prior consultation or notification. We felt this was regrettable, because it is essential that candidates and especially Presidential candidates are confident of the security arrangements made for them. It was explained that these changes were made because their security detail had become exhausted. This could have been avoided if it had been anticipated and rotation of the detail could have been planned for with the prior knowledge of the candidates.

As public resources were not allocated to parties, the four recently organised parties were further disadvantaged as the nomination process was expensive. They were unable to nominate sufficient candidates to have national representation due, reportedly, to the cost involved. On the other hand, the NRM-O was able to field candidates in every seat as they could afford the nomination and campaigning costs.

In our view, Parliament ought to give consideration to changing the law to enable eligible political parties to receive donations to augment their resources.

The NRM-O, taking maximum advantage of the existing and operational Movement structures, used government resources, vehicles, and personnel and received overwhelming coverage on state television and radio⁷. It was noted that the NRM-O and the Movement with its organs share many of their senior personnel. Our teams observed that in Mbale and Kisoro they operated out of the same offices. This office-sharing arrangement has been noted in other districts, such as Isingiro, Kyenjojo, Bundibugyo, Kamwenge and Kabarole in the Western Region.

Notwithstanding those provisions of the Presidential and Parliamentary Elections Act that restrict the use of state resources for election campaigns, it was not uncommon to find that the NRM-O presidential candidate and many parliamentary candidates availed themselves liberally of the facilities and resources which only government could provide. The conditions governing the use of government resources are set out in Section 27 of the Presidential Elections Act 2005.⁸ On 2 January 2006, in compliance with the Act, the Deputy Prime Minister and Minister of Public Service laid before parliament the entitlements of the President which read: "The usual transport facilities provided

⁷ Demgroup report on coverage in the media by party.

⁸ Presidential Elections Act, [16 of 2005]: (1) Except as authorized under this Act, or otherwise authorized by law, no candidate shall use Government resources for the purpose of campaigning for election. (2) Notwithstanding subsection (1), a candidate who holds the office of President, may continue to use government facilities during the campaign, but shall only use those Government facilities which are ordinarily attached to and utilised by the holder of that office. (3) For purposes of subsection (2), the Minister responsible for public service shall lay before Parliament a statement of those Government facilities which are attached to and utilized by the President.

to the President, the usual security detail facilities provided to the President, the usual personal staff and their facilities attached to the President, the usual information and communication facilities attached to the President."

In this regard, concern was expressed by DEMGROUP that since not many people know the "usual facilities" attached to the President, it "was difficult to monitor what one doesn't know." We recommend that the entitlements of the President be listed in a manner that increases transparency and complies with both the spirit and the letter of the law. There need to be clearer rules for the use of state resources by any party in power at election time. Public resources must not be used to the advantage of any one political party. In our view the election management body is sufficiently empowered to ensure the enforcement of these rules.

In recognising that there are advantages to incumbency, we feel strongly that limits are required in order to secure more of a level playing field for future elections. Article 61 of the Constitution makes provisions for this and the Electoral Commission has a duty to address the issue. We strongly urge that this is done before the next election.

BRIBERY AND INDUCEMENTS

During the campaigns, government pronouncements were routinely made at NRM-O rallies, mixing the NRM-O platforms and manifesto with government affairs in a way that was indistinguishable from bribery.

Bribery is incompatible with free and fair elections. Our team in Mbale specifically observed the distribution of cash to voters on the eve of polling day. The NRM-O Presidential candidate spoke out against the practice of inducing voters with gifts of soap, sugar and salt. This practice was not restricted to any one political party, although the most well-resourced party was the most frequent offender.

DEMGROUP noted that cases of bribery were "rampant" during the campaign and on polling day, although many cases were not reported to the police. On polling day the incumbent MP in Arua district was arrested on allegations of vote buying, as was the incumbent district woman MP in Yumbe District.

We recommend to the Electoral Commission that since this practice diminishes the fairness of the process, they should take firm action to prevent this in future.

VIOLENCE, INTIMIDATION AND HARASSMENT

Generally, the campaign was peaceful and the freedoms of association, assembly and expression were respected. Although widespread allegations of intimidation and harassment were reported to our group, it was noted that violence appeared not to be systematic or national in scope. However we observed that incidents of violence increased as the polling day came close.

According to the Electoral Offences Squad Summary of January 30, 2006, cases under investigations relating to threats, incitement and assault by members of NRM-O, or army or state officials against opposition candidates and supporters were; six in Hoima, four in Soroti, Nakapiripiriti and Mbale, two in Kampala,

Palisa and Kapochorwa, one in each of the following Mubende, Nakasongola, Rakia, Mbarara, Kanungu, Adjumani, Kumi, Sironko, Toror, Kitgum and Apac.

There were also complaints against the opposition parties. According to the summary, the Electoral Offences Squad was investigating seventeen cases in Kampala, six in Busia, four in Mbale and one in each of the following: Soroti, Ntungamo, Iganga, and Sironko.

On the same day two incidents took place: FDC supporters were reported to have burnt a 12 tonne lorry after an accident involving one of their colleagues, and two FDC supporters were injured after allegedly being knocked down by military trucks in Anthony zone, Mukono. On February 1, a senior NRM-O Secretariat organiser and members of the Local Defence Unit were arrested after supporters wearing NRM-O yellow T shirts and carrying AK47 guns clashed with members of FDC in Iganga district. Another major incident occurred on 15 February 2006 where three FDC supporters were shot dead by a security officer in Kampala. There were also other minor skirmishes between FDC and NRM-O supporters in other districts such as Kibuye, IKibonga and Bugiri district.

The Group noted reports of the widespread use of intimidation and harassment tactics by the security forces and some armed NRM-O supporters against the opposition party executives, supporters and district representatives at national and district level. The security environment worsened as polling day approached. The air was filled with charges and counter-charges that had the effect of increasing the feelings of insecurity among the population.

In his final campaign rally as a candidate, at Kalolo Airstrip in Kampala, the President directed that an additional 12,000 soldiers be deployed in all sub-counties to boost security on election day amid claims that some people had been planning to disturb the voting process.

Generally, the majority of the Police and the Uganda Peoples' Defence Forces respected their Code of Conduct throughout the campaign period.

The arrest and prosecution of the FDC leader limited his ability to campaign. It was widely viewed as designed to harass and intimidate him in the run-up to the election. Other cases of prosecutions were the murder charges against two FDC MPs who were subsequently acquitted by the High Court. This had the same effect of limiting the time the candidates had for campaigning. The Group noted with concern this two fold strategy aimed at distracting the candidates during their campaign, while also attempting to undermine their legitimacy as political leaders.

The Group noted that in some instances the security forces' behaviour increased the tension during some of the rallies of the FDC generating violence. In contrast, the NMRO rallies were entirely free of intimidatory behaviour by the security forces. For example, as has been noted earlier in this chapter, without speaking to the crowd the police fired teargas and water canons to disperse a huge FDC crowd of supporters who had been waiting for their Presidential candidate on the streets of Jinja and at Busoga Square on the evening of 20 February. Two days later, a similar episode was observed by our team at the FDC rally at Old Rugby Field, Jinja Road, in Kampala.

It was widely feared that under the guise of recruiting election day polling constables, army reservists were dressed in police uniform and used to build up the security presence throughout the country on election day. These security preparations, which some people reported as a form of intimidation (particularly in the districts where security had not been an issue), played on the understandable fear that Ugandans have of a descent to war. We recommend that the police and army avoid displays of military power which cannot be justified on operational grounds, since these can be interpreted by the public as intimidatory.

The campaigning ended peacefully 24 hours prior to the election, as was required by law. However, some private FM stations continued news and reports promoting mainly NRM-O candidates until and through election day.

Chapter Five

THE MEDIA

BALANCE IN NEWS COVERAGE

Members of the Observer Group listened to Ugandan radio stations, watched television news and election programmes, and read the English-language national newspapers. During deployment, each two-person team was accompanied by a translator, who translated news programmes and newspapers produced in vernacular languages.

Our purpose was both to acquire information and to assess the balance of the media coverage of the elections. The Group observed that both the state-owned *New Vision* and the privately owned *Daily Monitor* (the two daily newspapers with the largest circulations) made some efforts to provide a degree of balance in their coverage of the elections. Where treatment of a story in one paper displayed slant or bias this was often counterbalanced by the treatment of the same story in the other. So coverage in the print media as a whole was somewhat balanced.

The electronic media were more demonstrably biased. The Group observed, for example, that news coverage on UBC TV was overwhelmingly focused on the incumbent, with the other four candidates not receiving equitable treatment. The tone and portrayal of the incumbent's coverage also tended to be far more positive than that of other candidates. WBS TV was more balanced in its coverage of the two most prominent candidates, which nonetheless far exceeded that of the other three.

Media monitoring carried out by other international and domestic observer groups broadly confirmed our own assessment.⁹ The European Union Election Observer Mission's data shows that the *New Vision* gave more positive and neutral coverage to the incumbent, and more negative coverage to the Forum for Democratic Change (FDC) presidential candidate, than to any other candidate. The *Daily Monitor* gave more negative coverage to the incumbent than to any other candidate. Data provided by the Uganda Journalists Safety Committee (part of the DEMGroup) shows that in the electronic media as a whole coverage of the National Resistance Movement (NRM-O) tended to be more positive while that of the FDC was more neutral or negative.¹⁰

REGULATION AND LAWS

The principal legal provisions regarding "equal opportunity" for presidential and parliamentary candidates to appear on programmes in the State-owned

⁹ Both the Democracy Monitoring Group (DEMGroup) of domestic observers and the European Union (EU) international observers carried out detailed monitoring of the electoral coverage in the print and broadcast media in the run-up to the elections. A summary of their findings is presented in Annex XI.

¹⁰ The UJSC examined whether media coverage from 1 – 21 February 2006 was positive or negative, considering both the explicit judgement (or bias) of the report, and the subject's framing or context (portrayal).

electronic media are provided in the *Minimum Broadcasting Standards*, which are included in the Electronic Media Act (1996).

This provides that “where a programme that is broadcast is in respect to a contender for a public office, then each contender is given equal opportunity on such a programme.” Enforcement of this provision is vested in the Broadcasting Council. However, the Council lacks the capacity to monitor and enforce this provision. It has only an arm’s-length oversight role. It may respond to complaints, but as of 17 February it claimed to have received none.

The observations of the Group, and analysis of the media monitoring data, indicate that the Uganda Broadcasting Corporation has not lived up to the requirements of the Electronic Media Act.

No formal standards or regulations appear to exist for the print media, other than the relevant sections of the Penal Code (see below). The Group was informed that both the *New Vision* and *The Daily Monitor* sought to uphold proper journalistic standards.

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

GUIDELINES

There were no enforceable codes of conduct or guidelines. On 1 December 2005 the Electoral Commission issued a code of conduct in the form of *Campaign Guidelines for Presidential Elections, 2006*. This provided for equal treatment to be given by the State-owned media to all candidates and their agents. Candidates would enjoy freedom of expression. Provision was made for the imposition of penalties, but the code of conduct has not been enacted.

On 4 January 2006, the Electoral Commission issued *Campaign Guidelines for Parliamentary Elections, 2006*. These stated that candidates should not be denied reasonable access to and use of State-owned communication media. It did not make provision for penalties.

MEDIA FREEDOM

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

However, there have been some exceptions. Radio station KFM was temporarily closed in August 2005 because of an alleged breach of the Minimum Broadcasting Standards. The same station was jammed from 24 to 26 February 2006 after it broadcast independent vote tallies. Access to the website of KFM and the *Daily Monitor* was blocked on 24 and 25 February.

Sections 36-40 of the Penal Code, CAP 120 of the Laws of Uganda, restrict the publication, sale and distribution of publications which, on the discretion of the Minister, are injurious to public interest.

Human Rights Watch and the Uganda Human Rights Commission have alleged Government intimidation of the media during the arrest and trial of the FDC presidential candidate. They documented a Government directive issued on November 23, 2005, banning media outlets from running stories on him on the basis that this might prejudice his trial. The press largely ignored the ban.¹¹

BACKGROUND

Newspapers in Uganda account for combined daily sales of about 100,000, with an estimated total readership (owing to multiple users for each copy) of about 1.5 million, or about 5 per cent of the population.¹² In contrast, an estimated 64 per cent of the population rely primarily on the electronic media (largely radio), while 34 per cent rely on word of mouth.¹³

Television

Uganda Broadcasting Corporation Television (UBC TV) is a State-controlled commercial television service. Formerly Uganda Television (UTV), it was merged with Radio Uganda in 2005 to form the Uganda Broadcasting Corporation. It broadcasts mainly in English, but also in Swahili and Luganda. UBC covers a radius of 320 km from Kampala.

Wavah Broadcasting Service (WBS TV) is a privately owned commercial TV station. WBS TV covers an area of 120 km centered on Kampala. It also broadcasts, or is planning to broadcast in Jinja, Masaka, Mbarara and Mbale.

There are also regional television stations and interest-driven broadcasters where religious programming is prominent.

Radio

The liberalisation of the airwaves provided for the establishment of many private, commercial and community radio stations, mainly on the FM waveband. The state-owned radio service is UBC Radio, operating five stations nationwide. There are also about 100 privately owned radio stations across the country. The Group was informed that about one in four of these has a link to a political party, one in six to a religious organisation, and one in eight to an ethnic group. Some 46 per cent of advertising revenues are derived from government or parastatal sources.¹⁴

The Group was informed that many radio stations are owned by known government officials, political party members, sympathisers or candidates, some of whom contested the 2006 elections. This enabled them to promote their policies on their radio stations.

¹¹ Human Rights Watch: *In Hope and Fear: Uganda's Presidential and Parliamentary Polls*, Human Rights Watch Briefing Paper, February 2006.

¹² Information provided by *New Vision*.

¹³ Information provided by Broadcasting Council.

¹⁴ Figures provided by Uganda Radio Network.

Print media

The *New Vision* is a daily newspaper founded in 1986. Originally entirely government-owned under the Ministry of Information, it was listed for privatisation in November 2004. The Government remains the majority shareholder, with 80 per cent of the newspaper's shares held by the Ministry of Finance. Its English language circulation is about 35,000 (Monday to Saturday) and 37,000 (Sunday). There is also a Luganda language edition, *Bukedde*.

The *Daily Monitor* is a privately owned daily founded in 1992, publishing in English. Its circulation is 32,000 (Monday to Saturday), 33,000 (Sunday). The product portfolio of Monitor Publications Ltd also includes 93.3 K FM. The paper claims to be 'free from the influence of Government, shareholders or any political allegiance'.

CONCLUSIONS AND RECOMMENDATIONS

We were concerned at the lack of balance in media reporting during these elections, especially on the part of State-owned media.

We recommend:

- that balance be promoted through:
 - the transformation of the Uganda Broadcasting Corporation into a genuine public service broadcaster; and
 - the creation of an independent broadcasting authority, which would act as a regulatory body. Among this authority's responsibilities would be the development of guidelines for the media during elections;
- the current Media and Broadcasting Councils should become media practitioners' self-regulatory organisations;
- there should be agreed arrangements for direct access broadcasts (free time, or 'party political broadcasts') by the political parties on radio and television at election time.

Chapter Six

THE POLL, COUNT AND RESULTS PROCESS

This crucial part of the overall electoral process began with polling day on Thursday 23 February and concluded with the declaration of the final results two days later.

On polling day each of our teams was present for the opening of a polling station or a group of stations in the same location. They then visited as many others as possible during the day, observed the closing procedure, the count and the rest of the process, through to the declaration of the results. Our teams visited a representative range of polling places – large and small, urban and rural. They recorded the results at the counts at which they were present and then checked to see whether these were faithfully transmitted to the Returning Officers at the district centres and entered into the computerised results system correctly.

POLL

According to the Electoral Commission, there were 19,786 polling stations – more than 16,000 of which were in the rural areas. There was an average of just over 500 voters on the register at each polling station.

Since three elections would be taking place at the same time there would be three ballot papers and three ballot boxes – one for the Presidential election, one for the Parliamentary election and one for the election of the female Member of Parliament returned by each district. At each station there would be a Presiding Officer and five other officials, a voters' register and up to two agents per candidate per election. All the stations were outdoors, in open ground and were clearly marked off with white tape (which made them easy to identify).

In the following paragraphs we describe the prescribed procedures. Later we report what we actually saw on election day on the ground and highlight key points of assessment and evaluation.

Opening Procedure

Before the stations opened and once five voters were present the Presiding Officers were required to brief those present on arrangements at the station, show them the ballot papers, voter register and other materials to be used and demonstrate that the three ballot boxes were empty. The station would then be set up, the boxes would be sealed, the voters would form a line under the control of the Presiding Officer and the voting would begin. The stations were scheduled to open at 7.00am.

Voting Procedure

The stipulated procedure was that the voter would present their voters' card or registration slip to the polling station staff, who would check the register. If the name was found there the official would issue a ballot paper for the Presidential election (which would show the candidates' names, photographs, party names

and party symbols) and tick the voters' register¹⁵. A plastic basin would be provided for each election to ensure secrecy of the ballot. The ballot paper would be marked inside the basin either by a thumbprint or a tick - no other mark was acceptable – folded long-ways and placed in the appropriate box. After depositing the ballot paper for the Presidential election in the relevant transparent ballot box, the voter would collect a ballot paper for the parliamentary elections and repeat the procedure, ending with the vote for the woman MP (in which case one of the old black metal ballot boxes would be used). On leaving the station the voter would have their right thumb marked across the cuticle with indelible ink, administered by a special pen. Voters with disabilities, the blind and the illiterate would be entitled to have someone – but not an election official, agent, or observer - with them to help them to vote. Where a voter had spoilt their ballot paper before placing it in the ballot box they would be able to return it to the presiding officer and be given another. (See Annex IX for Electoral Commission poster showing polling station flow chart).

Provision would be made for agents and voters to complain to the Presiding Officer about the voting procedures; the Presiding Officer would be required to record the complaint.

Closure

Voters present at the polling stations at closing time (5.00pm) would be allowed to vote: the police officer would stand at the back of the queue so late-comers could not vote. The Presiding Officer would then close the station, according to a set procedure. The key steps in this procedure would be accounting for all the ballot papers, used and unused, and the reconciliation with the number of voters who had been marked off the voters' register.

COUNT AND RESULTS PROCESS

The counting of the votes would take place in public at the polling station, immediately following the closure. The results would then be taken to the sub-county centre and, finally, the Returning Officer at the district collation centre, to be entered into the computerised results system.

Counting of Votes

This would begin with the ballot papers used for the Presidential poll, then move on to the Parliamentary ballot papers and conclude with the papers cast in the election of the woman MP. The ballot papers would be emptied from the ballot box onto a table or a plastic sheet on the ground and then sorted by candidate. Then each pile would be counted in turn, with the papers being shown to all present. Votes declared invalid by the Presiding Officer would be set aside and counted separately, all the figures agreed with the party agents and the Declaration of Result Form signed, with copies for each of the candidates' agents. The materials would then be put back into the ballot box, the result of that election read out and the count would move on to the other elections. At the end of the three counts the results sheets would be sealed into special tamper-proof envelopes for transmission to the sub-county. The parties would be allowed to have agents throughout this process.

¹⁵ If the voter had no card but was on the register they would be allowed to vote so long as their identity could be confirmed.

Sub-County Centre

After the count the results from all the polling stations in the sub-county would be brought to the sub-county centre (known in urban areas as the retrieval centre). This was a collection and transmission point: the tamper-proof envelopes would not be opened and the results would not be aggregated. The ballot boxes and ballot papers would also be sent from the polling stations to the same sub-county centre – usually a local government office – where, in most cases, they would remain. Party agents and domestic/international observers would be allowed to be present at this stage as well.

District Collation Centre

From the sub-county centres the Declaration of Results Forms would be taken to the district collation centres, where the tamper-proof envelopes would be opened and the results entered into the Electoral Commission's computerised system¹⁶. Results from each election were entered twice for verification purposes. The results would be faxed progressively from the district centre to the National Tally Centre.

The results of the parliamentary elections would be declared at the district collation centres by the Returning Officers. The results of the Presidential election in that particular district would be announced at the district centre, but no declaration would be made since this was a national issue.

National Tally Centre

The Electoral Commission established a National Tally Centre at the Nelson Mandela Stadium, Nambole, in Kampala, to which the results from the district centres would be sent. After the entry of the results into the computer system and their aggregation periodic announcements would be made by the Chairman of the Electoral Commission. Observers and candidates' agents would be allowed to be present.

OBSERVATION OF THE PROCESS

Our Teams, including their interpreters, had free and complete access to the process wherever they went and were able not only to observe but also to speak to the officials, the party agents and the voters themselves. We co-operated closely with other international and domestic observers, who had similar access to our teams. Domestic observers from the Democracy Monitoring Group were present at the vast majority of polling stations we visited. We believe that they performed an invaluable service and commend the organisations involved.

Our observations and recommendations are as follows.

¹⁶ The Declaration of Results Form signed by the Returning Officer provided full details of the results of each election, including a reconciliation of ballot paper numbers (issued, spoilt, invalid etc). Agents signed the results for their candidate. Copies were distributed as follows: (a) in the sealed envelope; (b) in the ballot box with the ballot papers; (c) to each candidate or agent; (d) posted at the polling place.

Poll

In the vast majority of places the voters appeared to us to be free to vote as they wished. With one exception (see below) we did not come across any large-scale or systematic attempt to manipulate the voting process. We noted that despite the atmosphere of tension prior to the poll, almost everywhere we visited the day itself was peaceful and the people were calm and disciplined. The turnout was good, with long and orderly queues in many places early in the day and a large number – sometimes a majority – of women voters.

While there were some serious irregularities and significant shortcomings on election day, and arrangements can and should be improved in many ways for the future, the conditions were generally such as to enable the voters to freely express their will. The elections were organised in a very short period of time and in difficult circumstances. We commend the effort made by the Commission and, while we recognise that there is scope for substantial managerial improvement, we believe that these elections represent a significant step forward.

Irregularities

So far as the irregularities were concerned, we have direct evidence of multiple voting at one polling station and attempted under-age voting by a large number of school-girls in uniform at another¹⁷. Other observers – in particular the domestic observers of the Democracy Monitoring Group – have documented other serious irregularities.

We are deeply concerned about arrangements on voting day in Mbale, where a ballot box went missing (preventing voting on that day), the results from four polling stations were voided because more people voted than were on the voters' list and there was evidence of intimidation and bribery. Our observers were present and have provided their evidence to the Electoral Commission.

Shortcomings

There were also election management shortcomings on polling day, some of which were significant. Some related to inadequacies in implementation by local officials, some resulted from policy decisions taken at national level by the Electoral Commission. We wish to highlight seven in particular:

- **Voters' List:** we were concerned about three matters:
 - (a) the mass removal of names from the registers which formed the basis for the voters' lists used at some of the polling stations;
 - (b) the smaller – but still significant - numbers of 'missing names' elsewhere; and
 - (c) the manner in which those who had been removed from the register were treated.

¹⁷ While we had no evidence of irregularities there, we had serious misgivings about one particular polling station near an abandoned military barracks where no soldiers or – it appeared – other voters were present. One party agent was present. Our Team was present for 90 minutes in the morning and no one voted.

MASS REMOVALS - We were present at one polling station where the names of two hundred people had been removed by the Electoral Commission *after* the display period. The people concerned had registered and had voters' cards or certificates from voter registration indicating that they were eligible to vote at the polling station. They had not been informed that this was no longer the case. We were informed by the Electoral Commission of two other polling stations which were similarly affected. Another international observer group identified a further polling station at which an even greater number of names had been removed. Our observers saw for themselves that the people affected were deeply concerned when they arrived on polling day and found that they were no longer registered at that particular polling station¹⁸.

OTHER MISSING NAMES - at other polling stations the number of 'missing names' was smaller and the reasons were no doubt different. However, again the people involved did not know that they were no longer on the register. Those whose names were removed from the register were often, we were told, added to the registers to be used at other stations.

TREATMENT OF VOTERS – however, because they did not know the specific polling stations, the voters who had been removed had to visit several before finding their names – if they managed to do so at all. Inevitably some voters will have given up altogether, especially given the rain and the approach of the time for the closing of the stations.

We are also concerned at the role of the local tribunals, which worked with the Electoral Commission to remove certain names from the register. We are not convinced that these tribunals were in all cases free from excessive influence of particular political parties. There also appears to have been no contact with the voters, no explanation and no right of appeal following decisions taken by these tribunals. It is important that names should be removed from the register as and when appropriate. However, great care must be taken not to disenfranchise voters.

We have no evidence that these circumstances benefited any one particular political party. However, we believe that what happened was deeply unfair to the voters, whose rights and interests the process is supposed to uphold and protect. Across the country the numbers of people who had registered but who on the day were missing from the register will have added up to what we described in our Interim Statement as "a significant number". On the conservative estimate that there were about ten missing per polling station this would amount to around 200,000 voters.

¹⁸ The mass removal of these names appears to have been a result of the change in the law which was made in 2000 so that only those who live in or originate from a particular area may register there. Previously those working in the area were also able to register there.

This is an issue which the Electoral Commission needs to address. We recommend that:

- well in advance of the next election the Electoral Commission should look again at all aspects of the voter registration process – including the operation of the local tribunals - to ensure that such problems do not recur and that public has confidence in the way in which the voters list is drawn up;
- where names are deleted from the register and/or transferred to another polling station those involved should be informed, at least by posting a notice at the place of registration;
- **Seals:** in the majority of polling stations we visited there was a problem with the sealing of the ballot boxes and therefore potentially with the security of the ballot papers. Plastic numbered seals were issued. But they were not issued in sufficient numbers and the Presiding Officers and staff had not been properly trained in their use. Where they were applied only one or two were attached to each box making entry to the box possible, and in many places they were not used at all. Several of our teams also noted that the lids to the ballot boxes were not used. Because the ballot boxes were in full public view many of those we met were relaxed about this. We are not. We believe that from the beginning of voting the ballot boxes should in every case be properly sealed, with the numbers noted by the officials and the agents.

We urge the Electoral Commission to ensure that adequate materials and training are provided, so that all ballot boxes are properly sealed in future.

- **Consistency of Procedures:** we noted that procedures were not always applied consistently (see 'indelible ink' below and 'seals' above). As one example, we noted that different fingers were marked with indelible ink in different places. Apart from the small handbook available to Presiding Officers we saw no evidence of the field managers having available documentation of processes and instruction, which are essential if such a large-scale and complex event is to be managed competently by many thousands of election officials across the country.

We recommend that the Commission review best practice in this area – for instance by developing a comprehensive operations manual to guide Returning Officers and their staff in carrying out their tasks. Such an operations manual needs to cover not just polling day procedures but the total management and processes required during the entire electoral process from initial planning right through to the final results and close down of activities. A specimen outline of such a manual is at Annex X.

- **Training of Election Staff:** most Presiding Officers and polling station staff were diligent and committed, but they were often not sufficiently resourceful to cope with unforeseen circumstances and not as well trained as they should have been. The training of election staff in the field is a major task for any election management body, especially in Uganda given the very large number of polling stations. The variation in the level of

knowledge of Presiding Officers – from very competent to quite inadequate – suggested to us that training processes should be reviewed. We recommend that the Electoral Commission review its programme for training in light of international best practice and the experience gained in this election.

- **Candidates' Agents:** although not all candidates were represented agents were present at all the polling stations we visited. The behaviour of agents varied: in some places they interfered in arrangements, in others they did not. We have four main concerns regarding the agents. First, in many places their seating arrangements meant that they were too far away to observe the checking of the register and identity documents properly. Secondly, in some places they were too close. Thirdly, even where arrangements were clearly wrong – as where there were no lids or seals on ballot boxes – the agents rarely complained: additional training would help for the future. Finally, in general the agents did not have copies of the list; where they did these were not always accurate. We regret the fact that the agents did not have accurate voters lists. We recommend that in future copies of the voters lists in use at the polling stations should be provided by the Electoral Commission to candidates in each constituency¹⁹.
- **Contingency Planning:** we were concerned about the lack of contingency planning in the field: for example, when adequate supplies of materials were not received and the lack of 'fall-back' arrangements in a number of polling stations when polling was interrupted or affected by the weather. Protecting ballot papers from the rain should be a priority.
- **Indelible Ink:** we noted that there was no check on voters' fingers before they were issued with ballot papers, to see whether they had been marked with the indelible ink which is designed to prevent multiple voting. We believe that the check is important and hope this can be added next time. The ink itself was administered by a special pen. Voters were sceptical as to the indelibility of the ink. We were satisfied, but noted that sometimes polling station staff did not realise that the 'pen' was for the purpose of inking. Sometimes the stamp pad ink, whose ink was not indelible, was used instead. There is significant scope for improvement in this area.

SECURITY - security provided by the police at the polling stations was effective and generally low-key. The regular police establishment was inadequate to cover all the polling stations. The police therefore brought in prison officers, local administration police and more than 4,000 special constables, some of whom were recruited from local militia. We also noted the use of military reservists in police uniform. The use of the members of the local militia aroused concern prior to election day, but we have no evidence to suggest that they interfered with the process.

We did note that the Uganda People's Defence Force (the army) and the riot-police were highly visible in some places on election day – in certain towns, for

¹⁹ These must be clearly distinguishable from those used by the Presiding Officer.

instance, they conducted high-profile tours in their armoured vehicles. This added to the tension that had been building up in the days prior to the poll: we believe that in the context of elections such as Uganda held on 23 February unnecessary displays of military power can be interpreted by the public as intimidatory and should be avoided.

WOMEN - we did not discover any open obstacles to the participation of women and noted that many of the voters, party agents and polling station staff were female (although in the latter case not at the most senior levels). We noted that there were fewer female election officials in rural areas. We commend the Electoral Commission for providing Presiding Officers with a form to monitor the number of women voters: we regret that this was often left blank.

OTHER PROBLEMS - there were other problems, to do with the management of the process. Many polling stations opened as much as 90 minutes late, usually because of the late delivery of materials. Signage at the polling stations – for instance to indicate alphabetic queues - was not always adequate. So far as the voting process was concerned, we believe that the use of plastic basins for the marking of the ballot papers does not provide adequate screening and that for future elections arrangements should be brought into line with international practice through the use of a separate cubicle or other screened voting area.

Presiding officers were required to provide voter education on the spot as necessary. This was not always done, in part because of the pressure they were under. This meant that voters did not always know what to do.

COUNT

We found that the counting of votes at the polling stations was transparent and generally well conducted. We were especially impressed by the public nature of the process – it all took place in full view and often with the involvement of the voters and their party agents. It was 'participatory'. We were pleased to see that party agents signed and were given copies of the Declaration of Result, a vital measure in ensuring the integrity of the process. However, we also noted that many stations did not 'post' their results after the announcement: we believe that in future Presiding Officers should identify a place to post the results and make this known as widely as possible.

At the same time there were some shortcomings, especially in urban areas. Some of these had to do with the infrastructure and facilities and the lack of back-up arrangements. Poor lighting, inadequate protection against the rain and power cuts made the counting process difficult in many places. Some of the problems had to do with managerial factors: in some places, for instance, the Presiding Officer was not in full control and there was disorder. At many there was no reconciliation of those who had voted against the number of ballot papers in the box and the number of unused papers.

We were concerned about the number of invalid ballots. According to the Electoral Commission, in the Presidential election as at 4.00pm on 25 February these averaged 4% across the country – 292,757 voters – and in one constituency rose to 11% of total votes cast. The law is clear. A vote is invalid if any mark other than a tick or a thumbprint is used. It is also clear that if a tick or thumbprint is placed outside the box but against the name or picture of

the candidate the vote is valid. Some Presiding Officers, however, were too rigid in their decisions - for instance, when the tick strayed into the next box or when the ink was smudged. In those cases regard should have been had to the clear intent of the voter. We recommend that fresh guidance and training is needed for the future to ensure the necessary consistency of decision making regarding invalid votes.

Although there was much to commend in the counting process improvements are needed in some areas. We recommend that the Electoral Commission review procedures prior to the next election.

From Counting Centre to District Centre

Again there were inconsistencies in procedure. In some places we noted that the police did not accompany the ballot boxes. We were also disappointed to find that the party agents generally were not present when the ballot boxes, papers and results sheets were transported from the count to the sub-county and district centres and at those centres themselves. Even though they had the figures from the count their presence would have guarded against and provided reassurance concerning interference in and manipulation of the process. We urge the parties to review their arrangements for next time: the rights they have are important and in our view should be exercised.

So far as arrangements are concerned, we commend two features of the results arrangements. First, the separation of the task of transmitting the results from that of transporting the ballot boxes. Secondly, the requirement in law to place one copy of the Declaration of Results in the ballot box and the separate transmission of another. However:

- there were often long delays in transporting the results sheet and the other materials from the count to the sub-county and then the district centre. Some of this was unavoidable - for instance, the state of the roads. But some had to do with election organisation: in such cases part of the solution would be improved administrative arrangements. We recommend that the Electoral Commission consider what can be done to speed up the process, and as part of this analyse the three-tier process for the transmission of the results (count/sub-county/district) and see if this can be streamlined.
- in most district centres there were no back-up arrangements for power failure;
- we also noted that the inputting of the results data at the district collation centres was very slow and that there were long delays before the results were announced. We recommend that improved procedures for keying the data be considered.
- security for the boxes containing the registers, ballot papers and other important materials was often poor and sometimes lacking altogether. Again, we recommend that the Electoral Commission review its security arrangements.

As during the voting, there were variations in practice – there was no provision at one major district Collation centre, for instance, for the announcement of the parliamentary results.

We should add that it was quite difficult to observe properly at the district collation centres: often there was no room, and the computer screens were located in such a way that observers could not see them.

Given these factors we believe that improvements could be made to the process for the transmission of results. However, we have no grounds for believing that the process was abused. As noted above, our Teams made a point of collecting results from the counts at the polling stations and tracking them through the process to see whether the same figures were entered into the computers at the district collation centres. In every case except one they found that the figures had been transmitted faithfully²⁰.

National Tally Centre

The arrangements at the National Tally Centre were adequate for compilation of the results for the Presidential Election. However, there was no indication of any urgency. When our Teams visited the Centre after midnight on voting day it was closed, because no results were expected until much later that morning. We recommend that the Electoral Commission should consider ways of speeding up the transmission of results from the district centres.

We noted that there was no public electronic display of the progressive totals on a large screen at the National Tally Centre or elsewhere. We believe that such an innovation would be worthwhile for the future.

²⁰ In that one case the figures for the candidates had been conveyed accurately, but the figure for the invalid votes had been dropped altogether. Officials said that this was a result of variations in practice. Even though the figure for invalid votes was read out at the count some Presiding Officers simply did not enter this on the official form, so the district collation centre dropped the figures for invalid ballots from all the returns.

Chapter Seven

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

On the basis of our observations we have two main conclusions:

- we believe that the poll, count and results process provided for conditions which enabled the will of the people to be expressed and that the results of the elections reflected the wishes of those who were able to vote. There were some serious irregularities and significant shortcomings and there is scope for substantial improvement. Nevertheless, we commend the effort made by the Electoral Commission and the determination of the people of Uganda to exercise their democratic rights.
- the environment in which the elections were held had a number of negative features which meant that the candidates were not competing on a level playing field: the failure to ensure a clear distinction between the ruling party and the State, the use of public resources to provide an advantage to the ruling party, the lack of balance in media coverage (especially on the part of the State-owned media), the harassment of the main opposition Presidential candidate, the creation of a climate of apprehension amongst the public and opposition party supporters as a result of the use of the security forces, and the alleged use of financial and material inducements.

These elections represent a significant step forward. They are an important part of the transition from a single-party system to a multi-party democracy. That transition is by no means complete.

We wish Uganda well as it seeks to embrace a new multi-party system and works to remove the single-party culture. We urge the Commonwealth to work in partnership with the government and people of Uganda to those ends.

RECOMMENDATIONS

Our Group wishes to put forward the following recommendations, which emerge from the preceding chapters of this Report:

Major Recommendations

Our major recommendations are:

- **Separating State and Party**
We believe that the State and the ruling party should be completely separate. Accordingly, we recommend that the Movement Act should be

repealed as soon as possible and that all other laws and practices should be amended so that there is no ambiguity on this point.

▪ **Preventing the Abuse of Incumbency**

Public resources should not be abused to give the ruling party an advantage over the other political parties. The election management body must have the powers it needs to ensure that they are not.

▪ **Electoral Commission**

We recommend that the independence of the Electoral Commission should be protected and enhanced in all respects and that the resources allocated to it should be sufficient for it to manage elections in line with the best international practice.

▪ **Ensuring a Level Media Playing Field**

We recommend the creation of a strong and independent media regulatory authority, one of whose responsibilities would be to produce a code of conduct for the media. We further recommend that the government consider promoting balance in media reporting by ensuring that the Uganda Broadcasting Corporation becomes a public service rather than a State broadcaster. There should also be agreed arrangements for direct access broadcasts by the political parties on radio and television at election time.

▪ **Harassment of Candidates**

We recommend that candidates in elections should be able to campaign freely and without impediment. There should be respect for the independence and integrity of the judicial and law enforcement authorities.

▪ **Use of Security Forces**

We recommend that action by the security forces during the election period should not be such as to add to tension and that it must be sensitive and proportionate to the nature and scale of the threat to public order.

▪ **Inducements**

We recommend that the authorities strengthen their capability to deal with the distribution of money and goods to gain votes, since this diminishes the fairness of the process.

We have grouped our further recommendations under the headings of the relevant chapters:

Electoral Framework and Preparations for the Election

We recommend that:

- members of the Electoral Commission be appointed by the President only after the advice of the Judicial Service Commission has been obtained and following the approval of Parliament;

- members of the Commission be removed by a procedure which is in line with that for the removal of a High Court Judge;
- the tenure of the members of the Commission be increased to ten years, to enable them to conduct two general elections, but that their appointment should be limited to one term only;
- objections relating to a presidential candidate's nomination be subject to a time limit of two weeks from the date of nomination, after which no objections should be entertained;
- Parliament should change the law to enable eligible political parties to receive State contributions for the election campaign on an equitable basis;
- for future elections the Electoral Commission set a date well ahead of polling day so that election staff and police on duty may vote in advance, with the votes to be counted on polling day together with the others;
- there should be more and early voter education in future and guidelines to enable electors to understand the law concerning elections.

The Campaign

We recommend that:

- the inter-party liaison committees should be sustained and be allowed to continue making a positive contribution to the building of the new multi-party democracy;
- in future elections all the presidential candidates agree to be present for the national televised debate and that such debates become a part of the formal campaign process.
- more thought be given to providing support for the campaigns of candidates in the election of a female MP for each district;
- the provisions requiring a listing of the facilities usually available to the President should be more transparently set out;

The Media

We recommend that:

- the current media and broadcasting councils should become media practitioners' self-regulatory organisations.

The Poll, Count and Results Process

We recommend that:

- the Electoral Commission should look again at all aspects of the voter registration process – including the operation of the local tribunals - to

ensure that problems do not recur and that the public has confidence in the way in which the voters list is drawn up;

- where names are deleted from the register and/or transferred to another polling station those involved should be informed;
 - adequate materials and training be provided, so that all ballot boxes are properly sealed in future;
 - copies of the voters' lists in use at the polling stations should be provided to candidates in each constituency;
 - the Electoral Commission should:
 - review best practice in the conduct of elections to ensure improvements across the board;
 - review its programme for training in light of international best practice and the experience gained in this election;
 - improve planning to meet unforeseen circumstances;
 - provide fresh guidance and training to ensure the necessary consistency of decision making regarding invalid votes;
 - consider what can be done to speed up the process of transmitting the results from the count to the Returning Officer;
 - speed up the inputting of the results data at the district collation centres and ensure proper back-up facilities;
 - review its physical security arrangements during the post-count process;
 - consider providing a public electronic display at the National Tally Centre.
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ACKNOWLEDGEMENTS

We wish to acknowledge and thank the many people who helped us during the course of our time in Uganda.

We are especially grateful for the assistance and co-operation of the Uganda Electoral Commission and the police service. We thank the political parties, non-governmental organisations and others who briefed us in Kampala and during our deployment, and the domestic and other international observers with whom we worked closely in the field. Without our translators and drivers we would not have been able to accomplish this mission. We wish to record a special note of appreciation to them for their help.

Above all, we thank the people of Uganda for their kindness and the inspiration they provide through their determination to exercise their democratic rights and their commitment to democracy.

Without the efforts of our team from the Commonwealth Secretariat we could not have travelled to all corners of Uganda and met such a cross-section of voters. They looked after us well and we are most grateful.

Finally, we wish to record our appreciation to the Commonwealth Secretary-General, Don McKinnon, for constituting this Observer Group.

ANNEXES

Annex I

COMPOSITION OF THE COMMONWEALTH OBSERVER GROUP

HE Sir Ketumile Masire – Chairperson, Botswana

HE Sir Ketumile Masire was President of Botswana from 1980 to 1998, having previously been Vice-President and Minister of Finance and Development Planning, and a Member of Parliament since 1966. He co-founded the Botswana Democratic Party in 1962. During his period as President Sir Ketumile was Chairman of the Southern African Development Community (SADC) and he co-founded the Global Coalition for Africa. He retired from public office in 1998 but continues to be involved in humanitarian and development issues. From 1998 to 2000 Sir Ketumile was Chairman of the OAU international panel of eminent personalities which investigated the circumstances surrounding the 1994 Rwanda genocide. From 2000 to 2003 he was facilitator for the national dialogue in the Democratic Republic of Congo. During 2005 he was the African President in Residence at Boston University.

Frances Fortune – Sierra Leone

Ms Fortune is Chairperson of the Sierra Leone domestic election observation coalition National Elections Watch and West Africa Regional Director of Search for Common Ground. Prior to that she was Regional Director for Conciliation Resources. Ms Fortune was born in Canada and has lived and worked in Sierra Leone for the past twenty years.

Ambassador James Victor Gbeho – Ghana

Ambassador Gbeho is a retired career diplomat and former Member of Parliament who served as Ghana's Minister of Foreign Affairs and Permanent Representative to the United Nations. In the course of his career he was the Special Representative of the United Nations Secretary-General in Somalia, Special Envoy of the UN Secretary-General to The Gambia and Guinea-Bissau and Ghana's representative on the Commonwealth Ministerial Action Group.

Mr David Henry – New Zealand

Mr Henry is Chief Electoral Officer in the Ministry of Justice and is the statutory officer responsible for the conduct of parliamentary elections, by-elections and referenda. He is a member of the Assurance Board of the Department of Corrections. Until 1995 Mr Henry was

Commissioner and Chief Executive of the Inland Revenue Department, responsible for the collection of direct and indirect taxation. He has also been an international management consultant.

Justice Sisi Sibongile Khampepe – South Africa

Justice Khampepe has been a Judge of the High Court in South Africa since 2000. In 2005 she was appointed as Chairperson of the Commission of Inquiry into the Mandate and Location of the Directorate of Special Operations. Earlier that year she was made Vice-Chairperson of the National Council for Correctional Services. She was previously Deputy National Director of Public Prosecutions and served from 1995 to 2002 as a Commissioner on the Truth and Reconciliation Commission and presided over the Commission's Amnesty Committee. Before that she was in private practice as a human rights and labour lawyer.

Hon Farouk Muhammad Lawan - Nigeria

Mr Lawan has been a member of the Nigerian House of Representatives since 1999 and is Chairman of the Appropriations Committee. He has previously chaired the Finance Committee, the Information Committee, the Inter-Parliamentary Relations Committee and the Ethics and Privileges Committee. He is also a member of the ECOWAS Parliament and a member of the Executive Committee of the Commonwealth Parliamentary Association Africa Region. Before entering the House of Representatives Mr Lawan was a lecturer and an educational administrator. He was educated at Bayero University, Kano, Nigeria.

Mr T S Krishna Murthy - India

Mr Krishna Murthy was Chief Election Commissioner of India until May 2005, having been appointed a member of the Election Commission in 2000. He joined the civil service in 1963, held various positions in the Ministry of Finance and rose to become Permanent Secretary prior to his appointment to the Election Commission. Mr Krishna Murthy has observed elections in Russia, Mexico, Zimbabwe and Palestine. He studied for his first degree at the University of Mysore and undertook post-graduate studies in India and the UK.

Mr John J Musukuma - Zambia

Mr Musukuma is Secretary-General of the Southern African Broadcasting Association, which brings together public service and other broadcasters in the sub-region. He has been a journalist for over thirty years, has served in all editorial departments and has trained other journalists in Africa, Europe and the United States. Mr

Musukuma was educated at the University of Indiana, the University of Wales, the University of Kenya and the University of Lyons. He also attended the Henley Management College in the United Kingdom and the Institute of Management Development at the University of Lausanne, Switzerland.

Mulako Mwanamwalye - Zambia

Ms Mwanamwalye works for the National Youth Development Council of Zambia. From 2000 to 2003 she was the first elected female Chairperson of the Commonwealth Youth Caucus, prior to which she served as the Regional Youth Co-ordinator for the Commonwealth Africa Regional Youth Forum from 1997 to 1999. Ms Mwanamwalye was a member of the Commonwealth Observer Group which was present for the 2002 Zimbabwe Presidential Elections.

Mr Mark Robinson – United Kingdom

Mr Mark Robinson is a Senior Associate Member of St Antony's College, Oxford University. He was Parliamentary Under-Secretary of State for Wales from 1985 to 1987 and was twice a member of the British House of Commons, representing the Conservative Party. From 1997 to 2002 he was Executive Director of the Commonwealth Press Union and from 1999 to 2005 Executive Chair of the Council for Education in the Commonwealth. Before that he worked for twelve years in the United Nations and the Commonwealth Secretariat, in the offices of their respective Secretaries-General. This is the fifth election observer mission in which he has been involved.

Dr Rupert Roopnaraine – Guyana

Dr Rupert Roopnaraine served as a Member of Parliament in Guyana from 1991 to 2001. He is a founder member and co-leader of the Working People's Alliance and has taken part in five election campaigns. As a member of the Commission for the Reform of the Constitution established after the 1997 General and Regional Elections Dr Roopnaraine took part in drafting Guyana's new reform Constitution. He was also a member of the Parliamentary Inter-Party Committee on Electoral Reform established after the 1992 General and Regional Elections, in which capacity he worked closely with the Guyana Electoral Commission on the reform of the electoral system. Dr Roopnaraine is a poet, film-maker and literary and cultural critic who has held teaching positions at Cornell and Columbia Universities in New York and at the University of Guyana. He was a member of the Commonwealth Observer Groups to the elections in Zanzibar, United Republic of Tanzania, in 2000 and to Zimbabwe in 2002.

Mr T G G G Seeletso – Botswana

Mr Seeletso has been Secretary to the Independent Electoral Commission of Botswana since 1998. He joined the Botswana public service in 1979 and has been Clerk of the National Assembly and before that Director of Wildlife and National Parks and a District Commissioner. Mr Seeletso has also been Deputy Permanent Secretary in a number of Ministries and Secretary to the Delimitation Commission.

Mrs Adimaimalaga Tafuna'i – Samoa

Ms Tafuna'i is the Chairperson of the Pacific Islands Association of Non-Governmental Organisations, the regional NGO umbrella organisation, and Executive Director of Women in Business Development Inc, based in Samoa. She is originally from Fiji Islands, but lives in Samoa.

Staff Support Team

The Observer Group was assisted by a Staff Support Team as follows:

Mrs Betty Mould-Iddrisu (Team Leader)

Mr Syed Sharfuddin

Mr Christopher Child

Ms Adaora Ikenze

Mr Jarvis Matiya

Mr Daniel Woolford

Ms Julie Broadbent

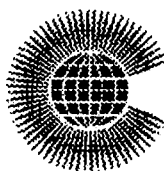
Ms Zippy Ojago

Ms Mary-Anne Cushion

Annex II

**PRESS RELEASE ISSUED IN LONDON BY
COMMONWEALTH SECRETARIAT**

10 FEBRUARY 2006



COMMONWEALTH

NEWS RELEASE

ANTIGUA AND
BARBUDA
AUSTRALIA
THE BAHAMAS
BANGLADESH
BARBADOS
BELIZE
BOTSWANA
BRUNEI DARUSSALAM
CAMEROON
CANADA
CYPRUS
DOMINICA
FIJI ISLANDS
THE GAMBIA
GHANA
GRENADA
GUYANA
INDIA
JAMAICA
KENYA
KIRIBATI
LESOTHO
MALAWI
MALAYSIA
MALDIVES
MALTA
MAURITIUS
MOZAMBIQUE
NAMIBIA
NAURU
NEW ZEALAND
NIGERIA
PAKISTAN
PAPUA NEW GUINEA
ST KITT'S AND NEVIS
ST LUCIA
ST VINCENT AND
THE GRENADINES
SAMOA
SEYCHELLES
SIERRA LEONE
SINGAPORE
SOLOMON ISLANDS
SOUTH AFRICA
SRI LANKA
SWAZILAND
TONGA
TRINIDAD AND
TOBAGO
TUVALU
UGANDA
UNITED KINGDOM
UNITED REPUBLIC OF
TANZANIA
VANUATU
ZAMBIA

06/03

10 February 2006

Former President of Botswana to lead Observers for Uganda Elections

Commonwealth Secretary-General Don McKinnon today announced that the Commonwealth Observer Group for the Presidential and Parliamentary Elections in Uganda will be led by Sir Ketumile Masire, former President of Botswana. The elections are scheduled to be held on 23 February 2006.

Mr McKinnon said that the Observer Group has been established in response to an invitation from the Government of Uganda. The Observer Group will consist of the following 13 eminent Commonwealth citizens:

Sir Ketumile Masire (Chair)
Former President
Botswana

Ms Frances Fortune
Chair, National Elections Watch
Sierra Leone

Dr Victor Gbeho
Former Foreign Minister
Ghana

Mr David Henry
Chief Electoral Officer
New Zealand

Justice Sisi Khampepe
High Court Judge
South Africa

Mr T S Krishna Murthy
Former Chief Election Commissioner
India □

Hon Farouk Lawan
Member, House of Representatives
Federal Republic of Nigeria

Mr John Musukuma
Secretary-General
Southern African Broadcasting Association
Zambia
□

Ms Mulako Mwanamwalye
Former Chair
Commonwealth Youth Caucus
Zambia

Mr Mark Robinson
Former Minister and Member of Parliament
United Kingdom
□

Dr Rupert Roopnaraine
Leader, Working People's Alliance,

Mr T G G Seeletso
Secretary

1/3 □

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and former Member of Parliament
Guyana

Independent Election Commission
Botswana

□

Mrs Adimaimalaga Tafunai
Chairperson, Pacific Islands Association of
Non- Governmental Organisations
Samoa

□

An advance group, consisting of Dr Roopnaraine and a member of the staff support team, has been present in Uganda since 4 February.

The Observers have been invited in their individual capacities and the views they express regarding the elections will be their own and not those either of their respective Governments or of the Commonwealth Secretariat.

They will be backed by a nine-strong Secretariat staff support team led by Mrs Betty Mould-Iddrisu, Director of the Legal and Constitutional Affairs Division of the Commonwealth Secretariat.

The full Observer Group will start work on 14 February 2006. The Chair will hold a press conference at the Sheraton Kampala Hotel, Kampala, on Tuesday, 14 February at 2.30 pm.

Note to Editors:

The Commonwealth Secretary-General sent a Commonwealth Secretariat Assessment Mission to Uganda in January 2006. This established that there would be broad support from the political parties and civil society for the presence of Commonwealth Observers.

The Terms of Reference for the Observer Group are as follows:

“The Group is established by the Commonwealth Secretary-General at the request of the Government of Uganda. It is to observe relevant aspects of the organisation and conduct of the Presidential and Parliamentary Elections scheduled to take place on 23 February 2006, in accordance with the laws of Uganda. It is to consider the various factors impinging on the credibility of the electoral process as a whole and to determine in its own judgement whether the conditions exist for a free expression of will by the electors and if the results of the elections reflect the wishes of the people.

"The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

"The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Uganda, the Electoral Commission, the leadership of the political parties taking part in the elections and thereafter to all Commonwealth Governments."

For media information, please contact Daniel Woolford, Commonwealth Observer Group, at the Sheraton Kampala Hotel, Tel: +256 41 344 590/6; Fax: +256 41 256 696; Mobile +256 (0)772 181 904 (from Sunday 12 February).

Annex III

ARRIVAL STATEMENT

14 FEBRUARY 2006



Commonwealth Observer Group

Uganda Presidential and Parliamentary Elections
February 2006

News Release

Arrival Statement by HE Sir Ketumile Masire, Chairperson of the Commonwealth Observer Group

On behalf of the Commonwealth Observer Group, may I say how pleased we are to be here in Uganda. Three of our members are yet to arrive, but most are here and we begin work today.

The Commonwealth Secretary-General has sent us here at the invitation of the Government, and after a visit by a Commonwealth Secretariat Assessment Mission last month.

That Mission concluded that there would be broad support from the political parties for the presence of Commonwealth Observers. It said that we would be able to observe all stages of the process.

Our Terms of Reference from the Commonwealth Secretary-General state that we are here:

- to consider the various factors impinging on the credibility of the electoral process as a whole;
- to assess whether, in our own judgement, the conditions exist for a free expression of will by the electors; and
- to determine if the results of the elections reflect the wishes of the people.

We will be neutral, impartial, objective and independent.

We cannot visit every polling station or be present everywhere. But we can and will attempt to take a representative sample of the process, so that we can arrive at a broad overview.

We will see the end of the immediate pre-election period – the final preparations for the election and the campaign. We will visit as many polling stations as we can. And we will see the results process through from the counts to the collation at the District Centres.

We will travel extensively, consult widely and take every opportunity to see the process for ourselves. We look forward to meeting as many people of this country as possible. We will co-

operate closely with other international and domestic election observers. We will, of course, abide by the laws of this country.

Each of us has been selected by the Commonwealth Secretary-General to participate in our individual capacities. We represent the whole Commonwealth. We are independent of our governments and any organisations to which we belong. Our concern is purely with the electoral process and its credibility.

One of our observers and a member the staff support team have already been here for almost two weeks, observing the electoral environment. They will be briefing us shortly. We will then be briefed by members of the Electoral Commission, political parties, non-governmental organisations, Commonwealth High Commissioners and others. On Saturday we will deploy around the country to begin our observation.

After we have observed the results process we will return to Kampala to consider our report. We will take into account our direct observations of the polling and results process. We will also consider the electoral environment as a whole – the legal framework, the voter registration process, civic and voter education, the media, the freedom of the parties to campaign, and the freedom of the voters to vote as they wish. We will write the report here and sign it before we depart on 3 March.

When we leave we will submit our report to the Commonwealth Secretary-General. He will in turn forward it to the Government, the Electoral Commission, the leadership of all the political parties and then to all Commonwealth governments. The report will then be made publicly available, here and throughout the Commonwealth.

You will, I am sure, want to know when you may hear from us again. I should tell you therefore that we will not be producing a running commentary on the election, day by day.

We may issue an interim statement after the polls close on 23 February. We may make further statements after that, on the results process – a part of the whole to which we attach particular importance. We are also likely to make a 'departure statement'. I am the Group's spokesman and will speak on behalf of the Group as a whole.

We wish the people of Uganda well as they approach the conclusion of this electoral process.

14/02/06

Annex IV

SCHEDULE OF ENGAGEMENTS

The Commonwealth Observer Group met the following in Kampala prior to its deployment:

- **Electoral Commission of Uganda:** Dr Badru M Kiggundu (Chair), Sister Margaret Magoba (Deputy Chair), Mr Sam Rwakoojo (Secretary) and members of the Commission.
- **Political Parties:**
 - **National Resistance Movement Organisation:** Dr Ruhakana Rugunda (Minister of Internal Affairs and Chairman), Mr Muzamiru Kibeedi (NRM Electoral Commission), Mr Samuel Kyomukama (Legal Assistant to Ministry of Internal Affairs), Mr Ofwono Opondo (Director Information), Mr Paul Ejangu and Mr Moses Kizige (Member of Parliament);
 - **United People's Congress:** Professor Patrick Rubaihayo, (National Chairman), Mr Benson Ogwang Echonga (National Youth Leader);
 - **Democratic Party:** Mr Abil Ottoo (Secretary-General);
 - **Forum for Democratic Change:** Major Rubaramira Ruranga, (Secretary for Electoral Affairs) and Mr Sam Akake (Spokesperson);

The Group also met a representative of Mr Abel Bwanika, who stood as an independent candidate in the Presidential Election: Mr Okiror Gabriel (National Campaign Manager);

- **Human Rights Bodies:** Justice Margaret Sekagya (Chair, Uganda Human Rights Commission), Mr Nathan Byamukama (Director, Uganda Human Rights Commission) and Mr Aliro Omara (Commissioner, Uganda Human Rights Commission); Mr Ben Rawlence and Mr Fred Abrahams (both of Human Rights Watch);
- **Gender Issues:** Ms Salome Nakaweesi Kimbugwe (Uganda Women's Network);
- **Domestic Observers:** Rev Canon Grace Kaiso (National Co-ordinator, Democracy Monitoring Group);

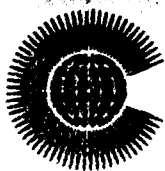
- **Media Organisations:** Mr Godfrey Mutabazi (Chairman, Uganda Broadcasting Council), Ms Ruth Bakiirak (Research Officer, Uganda Broadcasting Council), Mr David Sseppuuya (Editor-in-Chief, New Vision), Mr Samuel Gummah Nabaasa (Country Director, Uganda Radio Network), Mr Mohles K S Fegululigamba (Project Director, Uganda Journalists Safety Committee), Mr Koshin M Aden (Media Expert, Uganda Journalists Safety Committee);
- **International Entities:** Mr Simon Osborn (Programme Manager, Election Support Programme), Mr Ralph-Michael Peters (Country Expert, EU Election Observation Mission), Ms Smydge Perry (Senior Programme Officer, National Democratic Institute), Mr Jeremy Liebowitz (Country Director, International Republican Institute), Mr Robina Namusisi (Programme Officer, International Republican Institute), Ms Maureen Farrell (Programme Officer, International Republican Institute), Mr Vic Butler (Consultant, IFES) and Ms Léone Hettenbergh (Country Director, IFES);
- **Commonwealth High Commissioners:** HE Mr Francois Gordon (British High Commissioner); HE Mr Japheth R Getugi (High Commissioner for Kenya), HE Mr Rajab H Gamaha (High Commissioner for the United Republic of Tanzania), HE Mr Sibabrata Tripathi (High Commissioner for India), Mr E Gazi (representative of the High Commission for the Federal Republic of Nigeria).

Sir Ketumile Masire also met Mr Victor Tonchi, the leader of the African Union Observer Group. After the election the Chairman and some members of the Group met the Speaker, Rt Hon Edward Ssekandi Kiwanuka. The Group met President Yoweri Kaguta Museveni and the Chair met with Mr Abed Bwanika, Dr Kizza Besigye, Ms Miria Kalule Obote and Mr Kizito Ssebaana – the five candidates in the Presidential Election. A small group of the Observers met Mr Matovu Isa (Executive Secretary) and Ms Nanteza Catherine Kimuli (Programme Officer) of the Uganda Youth Network.

Annex V

DEPLOYMENT OF COMMONWEALTH OBSERVERS

PRESS RELEASE ISSUED ON 18 FEBRUARY 2006



Commonwealth Observer Group

Uganda Presidential and Parliamentary Elections
February 2006

News Release

Saturday 18 February 2006

Commonwealth Observers Deployed

Members of the Commonwealth Observer Group deployed across Uganda today.

The two-person Observer Teams, each with an interpreter, will be based in all regions of the country. Chairperson HE Sir Ketumile Masire will be based in Kampala but will also visit Observer Teams based elsewhere. The teams are deployed as follows:

Chair's Team

*HE Sir Ketumile Masire
Mrs Betty Mould-Iddrisu*

South

Kampala: two teams

*Mr T S Krishna Murthy
Mr Daniel Woolford*

*Mr John Musukuma
Mr Syed Sharfuddin*

North

Gulu team

*Judge Sisi Khampepe
Ms Julie Broadbent*

Lira team

*Mr David Henry
Ms Mulako Mwanamwalye*

East

Mbale team

*Ms Adimaimalaga Tafuna'i
Ms Zippy Ojago*

Jinja team

*Dr Rupert Roopnaraine
Mr T G G Seeletso*

West

Mbabara team

*Mr Farouk Lawan
Mr Jarvis Matiya*

Kabale team

*Mr Mark Robinson
Ms Adaora Ikenze*

Holma team

*Dr Victor Gbeho
Ms Frances Fortune*

The Observer Teams have been briefed in Kampala by the Electoral Commission, political parties, non-governmental organisations and other observers. They will now observe the final preparations for the election and the campaign. They will observe the voting at polling stations on 23 February, and see the results process through to its conclusion.

On their return to Kampala the Observers will write their report, which will be signed and sent to the Commonwealth Secretary-General before they leave Uganda.

Note to editors:

Further information, as well as digital photos of the Observer Teams preparing to depart, are available from Daniel Woolford, Commonwealth Observer Group, at the Sheraton Kampala Hotel (Mountain Room), Tel: 041 344 590/6; Fax: 041 256 696; Mobile 0772 181 904.

Annex VI

OBSERVATION NOTES AND CHECKLISTS

COMMONWEALTH OBSERVER GROUP

Uganda Presidential and Parliamentary Elections

23 February 2006

OBSERVATION NOTES FOR POLL, COUNT AND RESULTS PROCESS

PART A

The Observers may focus particular attention on the following aspects of the conduct of the election:

THE CAMPAIGN

1. Balance of TV/radio election coverage and extent and nature of access by party and other candidates.
2. Print media: nature of coverage and extent of access by the political parties
3. The tone and content of material put out by the candidates, access to printing facilities
4. The conduct of political meetings/rallies (permits for public meetings?)
5. The conduct of house-to-house canvassing of voters.
6. Nature, scale and effectiveness of Electoral Commission and other voter education on radio and television, in the print media and by other methods.
7. Activities/measures to encourage the participation of women, breakdown of candidates by gender.
8. Access to funds and sources of funds
9. Evidence of the abuse of the advantages of incumbency (use of public resources, civil servants etc for party purposes)
10. Election violence/malpractices (corruption etc): potential and actual
11. What are candidates saying about gender/women's issues?

THE POLL

1. The location of polling stations
2. Distances travelled by voters to polling booths, particularly in rural areas.
3. The procedure followed at the opening of the poll, including voter identification.
4. The length of time voters wait to cast their votes: especially the old, and pregnant and breast-feeding women.
5. The adequacy or otherwise of facilities at polling stations and their state of readiness.
6. Availability of adequate supplies, e.g. ballot papers, official stamps, stamp pads etc and, in rural areas especially, lighting facilities
7. The performance of electoral officials at the polling stations visited
8. The procedures in place to ensure proper security of ballot papers, ballot boxes and official seals
9. Arrangements to facilitate voting by women
10. The steps taken to ensure that the secrecy of the ballot is assured.
11. The general atmosphere at the polling stations visited.
12. Access of party agents and domestic observers to polling stations
13. Whether illiterate voters are assured of a vote in secret
14. Whether voters with disabilities are assured of a vote in secret
15. Whether the ballot boxes are properly sealed at the start and end of the voting, and their security ensured.

THE COUNT

1. Inspection of seals
2. The process of reconciling the number of people who voted with the number of ballots in the boxes
3. The determination of invalid ballots

4. Do voters understand the procedures properly? If not, are the procedures being explained fully and impartially? Are attempts being made to suggest how voters should vote?
5. Does the turnout indicate that women have been deterred from attending to vote?
6. How long are voters waiting to vote? If a long time, are some being put off?
7. Will all parties be represented at the polling stations throughout voting and the count? Are agents adequately trained and vigilant?
8. Will domestic and international observers have free access to all stages of the process?
9. Is the security effective/oppressive?
10. Were the proper procedures followed at the end of the day?

THE COUNT

1. Are the boxes kept safe until opened? Are all parties present when they are opened?
2. Does the number of used ballot papers tally with the record of those who voted?
3. Are the papers counted properly? Are counting agents present? Are they satisfied with the procedures of the count?
4. Are the proper procedures followed for declaring votes as invalid?
5. Are the sealing, transport and security arrangements in order?
6. Is the result of the count posted on the wall of the polling station?
7. Is the result transmitted to the Returning Officer accurately?

4. The facilities for party agents and their representatives to witness and verify the count and overall transparency: do they sign the results, are they given a copy?
5. Access by domestic and international observers: are they given a copy?
6. The conduct of election officers: do they follow procedures, do they display the results at the station?
7. Transport arrangements for the boxes, documentation and other material and arrangements for transmission of the polling station results to the Sub-County level and then to the District.

PART B

Questions that may be put and which you may ask yourself:

1. Was the Voters' Register compiled in a satisfactory way? Were people missed out? Were the names of dead people or "phantom voters" included? Did these "phantom voters vote"?
2. Who are the election officials? How were they chosen? Are voters confident that they will be impartial?
3. Is the person in the street satisfied with arrangements? Will he/she vote? If not, is he/she afraid to do so? Were there any attempts to discourage/encourage the participation of women and were they effective?
4. Have all parties been able to campaign freely? Has the campaign been free of intimidation etc? Have all parties had full access to the mass media?
5. Is there freedom to advertise and distribute posters, leaflets etc? Is there potential for violence/manipulation/intimidation?

ON POLLING DAY

1. Before polling starts, are the ballot boxes empty? Are they properly sealed? Are all procedures being adhered to?
2. Are all the parties/candidates represented at polling stations? Are they satisfied with the process?
3. Are the voters apparently voting freely? Are they enthusiastic? Do they talk freely? Do they exhibit signs of fear or intimidation?

THE COLLATION OF THE POLLING STATION RESULTS AT DISTRICT LEVEL

1. Do the Statements of Result (and the boxes?) arrive at the District level in good order?
2. Are party agents and observers present and are they able to do their job?
3. Are the procedures followed as set out in the law and regulations and are they appropriate? In particular, do the figures as shown in the Statements of Result as taken to the next level tally with those given at the polling station?
4. What determinations does the official in charge make and do they have a bearing on the overall constituency result? How long does the process take?

COMMONWEALTH OBSERVER GROUP

Uganda Presidential and Parliamentary Elections

23 February 2006

CHECKLIST FOR POLLING STATION VISITS

Please refer as necessary to the legislation and instructions issued by the Electoral Commission and check against the procedures used.

Team Member(s):

Constituency/District:

Polling Station:

Times of Arrival/Departure

Voters in Queue: Rate of Processing:

Voters on Register: Votes cast:

1. Set up prior to Poll

Orderly? In line with procedure?

2. Opening of Poll

On time?
Queues?
Yes/No
Details:

Procedures followed?
Yes/No

All materials
available?
Yes/No?

2. Party Agents

Present – please specify which and indicate gender:

- ☐
- ☐
- ☐
- ☐
- ☐

Domestic observers
International observers

Others: please state

- | | | |
|-----|--|--|
| 3. | Register | State of the register?
Are voters names easily found?
Any voters turned away? How many? Why?
Please identify by gender
Are parties/agents/observers complaining?
Details: |
| 4. | Polling Station Layout and Facilities | Good? Adequate? Poor? |
| 5. | Polling Staff | Adequate? Efficient? Satisfactory? Poor?
Please indicate gender of staff |
| 6. | Security Presence | Police present? Active? Passive?
Discreet? Intrusive? Oppressive?
Other security forces present? Comments? |
| 7. | Complaints by Party Agents | Any complaints? Yes/No?
Details:

If complaints, were they dealt with/resolved?
By whom? |
| 8. | Complaints by Voters | Yes/No Details:

If complaints, were they dealt with/resolved?
By whom? Please indicate gender of complainants. |
| 9. | Presence of unauthorised persons | Yes/No Details: |
| 10. | Atmosphere at Station? | Orderly? Tense? Chaotic? |
| 11. | Secrecy of Ballot | Assured? Poor? Uncertain? Assisted voters (if so how many)? Please explain: |

12. Voting

- (a) Personation attempts alleged: Yes/No
Details:
- (b) Multiple voting attempts alleged: Yes/No
Details:
- (c) Women deterred from voting: Yes/No
Details:
- (d) Is the voting procedure (register/ID check, ink application etc) being followed? Yes/No
- (e) Are procedures being followed re illiterate and incapacitated voters? Yes/No
- (f) Speed of processing?
- (g) Estimated length of time voters in polling places?

13. Geographical Station Limits – are they being observed? Yes/No

- 14. Numbers** - any voting not on register?
- any voting without ID?
- estimated percentage of women voters in queue?

- 15. Closing of Poll** On time? Numbers still in queue and how long to process?
Did voting continue for 10 hours? Any voters turned away after 5pm: why?
Adequate seals applied?
Procedure followed? Yes/No

16. Other Remarks

COMMONWEALTH OBSERVER GROUP

Uganda Presidential and Parliamentary Elections

23 February 2006

THE COUNTING OF VOTES

Please refer as necessary to the legislation and instructions issued by the Electoral Commission and check against the procedures used.

1. The Count

Time count started?
Opening of ballot boxes/ Yes/No
breaking of seals/
counting of votes: are
procedures observed?

Detail:

Are police present? Yes/No
Who else is present?
Invalid votes: how dealt with?

Indicate any inappropriate behaviour:

2. Party Agents

Are party agents present? Yes/No
Which parties?

- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

Others: please state

Are there any major challenges to the Presiding Officer's rulings?

Do the party agents have any complaints or comments?

Name of agent:
Party:
Substance of complaint

- | | | |
|----|--------------------------------|--|
| 3. | Statement of Result | Is a copy of this given to all Party Agents?
Have the relevant certificates/forms been completed?
Do they all sign?
Any fabrication alleged at this point?
Do any of the agents object? If so why? |
| 4. | Transport Arrangements | What arrangements are there for the transport of the results to the Sub-County and District levels?
What happens to the ballot papers at the end of the count? Was the transportation process observed? |
| 5. | Transmission of results | (a) are the results displayed at the polling station?
Yes/No

(b) how are the results transmitted to the Sub-County and then the District level? |
| 6. | Fairness overall | Good? Acceptable? Questionable? |

7. Adherence to the rules, speed, accuracy and transparency

Is the procedure in line with that stipulated by Electoral Commission? If not please explain:

Are the officials efficient and well-trained?

How long does the count take?

Does it seem to be accurate?

Is it transparent?

Other Comments

COMMONWEALTH OBSERVER GROUP

Uganda Presidential and Parliamentary Elections

23 February 2006

COLLATION OF RESULTS AT DISTRICT

Please refer as necessary to the legislation and instructions issued by the Electoral Commission and check against the procedures used.

1. **Who is present?**
Election officials?
Candidates/election agents?
Domestic/international observers?
Security officers?
Others? Please state:
2. **Are procedures followed?**
Does the official in charge act in line with the procedures? Yes/No?
If no please give detail:

Are there any major challenges to his/her announcements?
If so please explain:
3. **Transmission of results?**
Are the results from the count at which you were present conveyed accurately to district level and the district results conveyed accurately to the national level? Yes/No? If not please explain:
4. **Adherence to the rules, speed, accuracy and transparency**
Is the procedure in line with that stipulated by the Electoral Commission?
If not please explain:

Are the officials efficient and well-trained?
How long does the process take?
Does it seem to be accurate?
Is it transparent?
How are valid/invalid votes dealt with?
5. **Overall, is the process fair and in line with stipulated procedures?**
6. **Was the collation process:**
 - ☐ well organised
 - ☐ unsatisfactory
 - ☐ chaotic

Annex VII

INTERIM STATEMENT



Commonwealth Observer Group

Uganda Presidential and Parliamentary Elections, February 2006

News Release

INTERIM STATEMENT

24/02/06

The following statement was issued this afternoon by the Chairperson of the Commonwealth Observer Group, HE Sir Ketumile Masire:

"The results process is still continuing, so it is too soon to make an assessment of the entire voting and results phase. Nevertheless, I do not want this historic moment – the first multi-party elections in 26 years – to pass without a statement from the Commonwealth Observer Group.

Our Group deployed ten two-person teams on 23 February to observe the voting phase of Uganda's Presidential and Parliamentary Elections. There were three teams in Kampala and one each in Gulu, Lira, Mbale, Jinja, Mbarara, Kabale and Hoima, each with an interpreter. Together our teams sought to obtain a representative sample of the process, to enable us to arrive at a broad overview.

We were present for the opening of the polling stations and then observed throughout the day at as many others as possible, ending with the counting of the votes. We then tracked the polling station results from the counts through to the district centres, to determine whether they were transmitted accurately. In Kampala our teams have been - and are still - present at the national results centre to observe the final stages of the process.

There were some shortcomings on voting day. Many stations opened late. Voters did not always know what to do, reflecting deficiencies in voter education. To a large extent, the party agents were too far away to observe the checking of the register and identity documents properly. Rain disrupted the process badly in some places and there was inadequate alternative provision. Poor lighting, rain and power cuts made the counting process difficult in many places. Most seriously, a significant number of names were missing from the register and seals were often not correctly applied - in several places they were not used at all.

On the positive side, we were pleased to find that despite the atmosphere of tension prior to the poll almost everywhere the day itself was peaceful: we congratulate everyone on that. So far as the process was concerned, the voters appeared to us to be free to vote as they wished; most election staff were diligent and committed; security was effective but generally low-key; party agents and domestic observers were present. We came across no cases of intimidation at the polling stations. Only a few serious irregularities were reported to us. At this point we have not come across any large-scale or systematic attempts to manipulate the voting process. The counting of votes at the polling stations was transparent and generally properly conducted.

We congratulate the people for their determination to exercise their democratic rights. We believe that, in general, the Electoral Commission's arrangements on the day reflect their commitment to transparent election management.

Now our teams will observe the rest of the results process, so that we can see if that phase as a whole has been conducted properly and whether the results of the elections reflect the wishes of the people. Because we await the completion of that key part of our observation we are not yet able to give our overall assessment on the poll, count and results process. We may therefore issue a further statement after our Teams return to Kampala on 27 February.

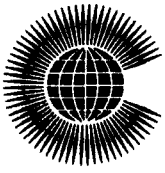
We will then consider our final report to the Commonwealth Secretary-General. We will need to take into account not only our direct observations of the polling and the results process but also the electoral environment as a whole. As we said in our Arrival Statement, that means the legal framework, the voter registration process, civic and voter education, the fairness of media coverage and the campaign. We will also need to consider the impact of action in the courts and the violence in the days immediately prior to the poll. As our Terms of Reference say, we need to consider "all the various factors impinging on the credibility of the electoral process". Having completed our report we will leave Uganda on 3 March.

In the meantime I want to pay tribute to those who have worked so hard for democracy in Uganda and whose efforts I hope will come to fruition in a peaceful transition to multi-party politics in the days to come. I urge all Ugandans to continue to be calm and to conduct the rest of the process in the conditions of peace which prevailed on 23 February".

Note to Editors: For media information please contact Daniel Woolford on 0772 181 904; email d.woolford@commonwealth.int

Annex VIII

DEPARTURE STATEMENT



Commonwealth Observer Group

Uganda Presidential and Parliamentary Elections
February 2006

DEPARTURE STATEMENT BY HE SIR KETUMILE MASIRE, CHAIRPERSON OF THE COMMONWEALTH OBSERVER GROUP Kampala, 3 March 2006

In our Interim Statement on 24 February we withheld our final assessments of the poll, count and results phase of these elections and of the electoral process as a whole. We are now in a position to provide both, since we have finished observing and have had the time to consider the various factors impinging on the credibility of the electoral process as a whole.

Having now completed our observation of the results process we believe that the poll, count and results process provided conditions which enabled the will of the people to be expressed. We further believe that the results of the elections reflected the wishes of those who were able to vote. There were some serious irregularities and significant shortcomings and there is scope for substantial improvement. Nevertheless, we commend the effort made by the Electoral Commission and the determination of the people of Uganda to exercise their democratic rights.

So far as the electoral process as a whole is concerned, it is clear that the environment in which the elections were held had several negative features which meant that the candidates were not competing on a level playing field:

- the failure to ensure a clear distinction between the ruling party and the State;
- the use of public resources to provide an advantage to one particular political party;
- the lack of balance in media coverage (especially on the part of the State-owned media);
- the harassment of the main opposition Presidential candidate;
- the creation of a climate of apprehension amongst the public and opposition party supporters, as a result of the use of the security forces; and
- the alleged use of financial and material inducements.

These elections represent a significant step forward. They are an important part of the transition from a single-party system to a multi-party democracy. That transition is by no means complete.

We leave Kampala today, having completed our report to the Commonwealth Secretary-General. We wish Uganda well as it seeks to embrace a new multi-party system and works to remove the single-party culture. We urge the Commonwealth to work in partnership with the government and people of Uganda to those ends.

Sheraton Kampala, Ternan Avenue, Kampala, Uganda Tel: 041 344 590/6

Further information: Daniel Woolford on 0772 181904

Annex IX

**ELECTORAL COMMISSION POSTER SHOWING
POLLING STATION FLOW**



POLLING STATION LAYOUT FOR MULTIPLE VOTING



Annex X

SPECIMEN OUTLINE OF OPERATIONS MANUAL

Operations Manual for Field Managers and staff- Outline of Contents

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Annex XI

MEDIA MONITORING BY ELECTION OBSERVERS

Domestic and international observers carried out monitoring of the electoral coverage in the print and broadcast media in Uganda in the run-up to the elections.

Uganda Journalists Safety Committee

The Uganda Journalists Safety Committee was part of the Democracy Monitoring Group (DEMG) of domestic observers. The UJSC measured the area provided by the print media (in cm²) in the election-related pages and the total time (seconds) in the electronic media for candidates, political parties, the Electoral Commission, the Police, UPDF, and the Executive.²¹

In the print media they examined the *New Vision*, *Daily Monitor*, and *Weekly Observer*, as well as *Bukedde* and three other vernacular titles. Broadcast media in the study included UBC TV and WBS TV (Prime News), UBC Radio (News Hour), CBS FM, KFM, Radio West, and three other radio stations (News Hour and talk shows).

In January 2006 UBC TV gave 88.5 per cent of its Prime News time to President Museveni, and 11.5 per cent to Dr Besigye. The other three Presidential candidates received negligible coverage in the same period. It gave 62.4 per cent of its January 2006 coverage of major political institutions to NRM-O, compared with 6.4 per cent to the FDC. The UPC received no coverage.

UBC Radio News Hour devoted 61.0 per cent of its time to President Museveni and 9.7 per cent to Dr Besigye in January. Mrs Obote received 29.3 per cent of the coverage in the same period.

In January 2006 CBS Radio Prime News gave 33.5 per cent of its relevant coverage to Mr Ssebaana, 32.4 per cent to President Museveni, 22.1 per cent to Dr Besigye and 12 per cent to Dr Bwanika. Mrs Obote received no coverage. In the same period Radio West devoted 52.6 per cent of its coverage to Dr Besigye, 39.0 per cent to President Museveni, 5.5 per cent to Mr Ssebaana and 2.9 per cent to Dr Bwanika.

²¹ The results were published in DEMG/Uganda Journalists Safety Committee: 'Report on the State Media Coverage of the 2006 Elections, January 2006' and 'Report on the State Media Coverage of the 2006 Elections, 1-21 February 2006.'

The UJSC also examined whether media coverage from 1–21 February 2006 was positive or negative, considering both the explicit judgement (or bias) of the report, and the subject's framing or context (portrayal). In the print media, bias for the NRM-O was 12.26 per cent positive but mainly neutral, while for the FDC it was 7.63 per cent positive and mainly neutral. Portrayal of the NRM-O was fairly balanced between positive, neutral and negative, while for the FDC it was more negative.

The UJSC's analysis of the electronic media indicates that for the NRM-O bias was predominantly positive, while for the FDC it was balanced between positive and neutral bias, with less than 10 per cent seen as negative bias. Portrayal of the NRM-O was predominantly positive, while for the FDC it was largely negative or neutral.

European Union Election Observer Mission

The European Union Election Observer Mission to Uganda presented an analysis of amount and tone of coverage in the broadcast and English-language print media.²²

UBC TV gave 79 per cent of its Prime News time to President Museveni, 13 per cent to Dr Besigye and 5 per cent or less to the other three candidates.

WBS TV access for the Presidential candidates was 43 per cent for President Museveni and 41 per cent for Dr Besigye, with 7 per cent or less for the other candidates.

UBC Radio access for the candidates was 56 per cent for President Museveni, 27 per cent for Dr Besigye, and 13 per cent for Mrs Obote, with the others receiving 3 per cent or less.

CBS Radio provided 41 per cent access for Dr Besigye, 26 per cent for President Museveni, 20 per cent for Mr Ssebaana, 10 per cent for Dr Bwanika and 3 per cent for Mrs Obote.

The EU observers also provided qualitative analysis, measuring the 'tone' of coverage on a scale of -1 (negative) to +1 (positive). The *New Vision* gave considerably more neutral or positive coverage to President Museveni than to Dr Besigye or the other candidates, but more negative coverage to Dr Besigye than to President Museveni. The

²² EU EOM Uganda 2006: 'Media Monitoring Preliminary Results', www.eueomuganda.org.

Daily Monitor gave significantly more negative coverage to President Museveni than to any other candidate, with neutral and positive coverage of Dr Besigye and President Museveni more balanced.

The EU's figures indicate that UBC TV provided significantly more positive coverage of President Museveni than of Dr Besigye, while WBS TV's coverage was more or less balanced. UBC Radio provided mainly positive or neutral coverage of President Museveni, with smaller amounts of positive or neutral coverage of Dr Besigye. KFM provided significantly more negative than neutral or positive coverage of President Museveni, but the majority of their coverage of Dr Besigye was neutral.

Commonwealth Observer Group

Our Group carried out a comparative study of the Luganda-language *Bukedde*, published by *New Vision*. The study found that *Bukedde* differed from *New Vision* in both selection and presentation of election-related stories. *New Vision's* coverage was more national while *Bukedde's* focus was more local or regional. Generally *New Vision* was more restrained in tone than *Bukedde*, which tended to favour 'shock' headlines and stories.

For example, *Bukedde* reported on 20 February that an FDC campaign leader in Busia had been murdered and his wife raped. The story did not appear in *New Vision*. There were also discrepancies in the two papers' reporting on 16 February of the facts surrounding the killing of FDC supporters in Mengo the previous day.
