

DELIVERING SAFE AND CREDIBLE ELECTIONS AMIDST COVID-19 IN UGANDA

An Analysis of Recent Developments in the Electoral Environment ahead of the 2021 Uganda Elections

November 2020

This analysis has been produced by the Public Policy Institute (PPI) with support from the National Endowment for Democracy under the Delivering Safe and Credible Elections Amidst COVID-19 in Uganda initiative. The initiative was designed to analyse and convene dialogues on the impact of COVID-19 on political and civic participation in the context of the 2021 general elections. Through analysis and dialogue, the initiative generated evidence regarding the implications of the disruptions occasioned by COVID-19 and the measures put in place to mitigate the impact on political participation and electoral integrity.



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Acronyms

ACDEG	African Charter on Democracy, Elections and Governance
ANT	Alliance for National Transformation
CCEDU	Citizen Coalition for Electoral Democracy in Uganda
CEDAW	Convention on the Elimination of all forms of Discrimination against Women
CSOs	Civil Society Organizations
EC	Electoral Commission
EMBs	Electoral Management Bodies
FDC	Forum for Democratic Change
ICCPR	International Covenant for Civil and Political Rights
IPOD	Inter-Party Organization for Dialogue
NEW-U	National Election Watch-Uganda
NGO	Non-Governmental Organization
NRM	National Resistance Movement
NUP	National Unity Platform
NVR	National Voter Register
SOPs	Standard Operating Procedures
UCC	Uganda Communications Commission
UDHR	Universal Declaration of Human Rights
UGX	Uganda Shillings



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About the Authors

Daniel Adyera

Daniel Adyera (LL.M) is the Director of the Centre for Criminology and Criminal Justice Policy (CCCJP) and Ag. Dean College of Forensics, Crime and Investigative Sciences at King Ceasor University, Kampala. Daniel holds Master of Laws degree in Forensics, Criminology and Law (Maastricht University), Bachelor of Laws (University of London) and Bachelor of Industrial and Organizational Psychology (Makerere University). His research interests are organized crime, forensic psychology and criminal justice policy.

Nyiramahoro Evangilistar

Nyiramahoro Evangilistar is a Programmes Officer at Public Policy Institute. She is an experienced Statistician with over three years' experience in both quantitative and qualitative research, analyzing and interpreting complex data with different statistical packages. She holds bachelor's degree in Economics and Statistics from Kyambogo University and MSc in Statistics from Makerere University.

1. Introduction

Following the return to multiparty politics in 2005, Uganda has made several attempts to strengthen its democratic governance. The Government has enacted a series of legal, policy and institutional arrangements to ensure free and fair elections.¹ Although the country is in high gear preparing for its fourth multiparty elections,² recent developments in the electoral environment like the novel ‘scientific campaigns and elections’ due to the global COVID-19 pandemic; emergence of the youth-led ‘People Power’ political pressure group and the violence that riddled internal party primary elections for party flag bearers especially in the ruling National Resistance Movement (NRM) party may imply plausible potential for electoral violence and related offenses if serious attention and urgent solutions are not found.

These developments are further intensified by unresolved grievances in previous elections like the unfulfilled demands for political and electoral reforms; political persecution and excessive use of force by the country’s security agencies against the opposition and deep mistrust of the independence of the Electoral Commission to organize free, fair and credible elections.

This paper therefore analyses recent developments in the electoral environment ahead of the 2021 general elections and builds plausible scenarios to depict the likelihood of electoral violence and its implications on attaining free, fair, and credible elections. It thereby attempts to map probable hot spots for violence and finally assesses the preparedness of Election Management Bodies (EMBs) to mitigate the potential for violence and deliver free, fair and credible elections.

2. Elections and the Electoral Legal Regime in Uganda

2.1. Elections in Uganda

The return to multiparty politics in 2005, after almost two decades under the movement system was intended to facilitate political inclusion as well as political competition and consensus. Some notable gains have been achieved. For instance, since 1996, regular elections have been held; the electoral legal regime has generally improved albeit with some serious gaps; political institutions such as the EMBs and political parties have been established and are operational and there’s increased participation of citizens in public affairs and governance among others. However, several opposition politicians have accused the NRM government of ‘shrinking [the] democratic space’ in Uganda, something that they claim has limited the development of multiparty politics in the country.³ For instance, the police have been castigated for disrupting and suffocating opposition political activities through misinterpreting and implementing the Public Order Management Act.⁴

As Uganda gears up for its fourth multiparty elections, there are serious doubts about the existence or appreciation of multipartism in the country.⁵ The prevailing political atmosphere involves political

intimidation, use of violence and abuse of human and political rights of the opposition and their supporters to sustain political power and dominance which weakens political parties and does not support the development of multipartyism.⁶ For example on 14th October 2020, security forces (the police and army) raided People Power/National Unity Platform's (NUP) headquarters in Kamwokya, Kampala. The police arrested several NUP supporters and allegedly seized items such as cameras, 'red berets' campaign posters, 23 million shillings and nomination papers.⁷ The NUP president Hon. Robert Kyagulanyi said this was a clandestine activity intended to intimidate and even attempt to block his presidential bid. The police and army however denied such allegations claiming that the operation was to stop the illegal use of army attire.⁸

The NRM government has been accused of making a mockery of political and electoral reforms.⁹ Several demands for electoral reforms by stakeholders such as civil society, political parties through IPOD and recently the Supreme Court¹⁰ have gone unanswered. Commenting on the unheeded calls for electoral reforms, Richard Ssewakiryanga the Executive Director of the Uganda National NGO Forum said that 'the absence of... meaningful electoral reforms continue to make the citizens' participation in elections meaningless...'.¹¹ Instead, unpopular legal reforms such as removal of the presidential age limit and others which undermine multiparty democracy and restrict political rights and freedoms have been passed.

2.2. Electoral Laws and Policies

Elections in Uganda are guided by national laws inspired by international standards and laws on elections. Article 60 of the 1995 Constitution (as amended) establishes the Electoral Commission with the mandate to organize regular free and fair elections in the country.¹² But this is something observers and political players contend it has failed to deliver¹³ with many questioning its independence, despite being guaranteed under s.13 of the Electoral Commissions Act Cap 140 (as amended).¹⁴ The body has adjudicative powers to hear, determine and resolve complaints at any stage of the electoral process.¹⁵ For example, in its 2015/16 election report to Parliament, the Electoral Commission reported that 37,050 parish tribunal members were appointed and deployed to determine discrepancies in the National Voters Register (NVR), though the Commonwealth Observer report indicated that only a few tribunals were established.¹⁶

Following the 2016 Supreme Court recommendations in the *Amama Mbabazi v. Museveni* case, several amendments have been proposed and others made in the electoral legal frame work. Notable, proposals have been in the Electoral Commissions Act Cap 140 (as amended) made to enable the use of technology in the management of elections.¹⁷ This will likely address previous challenges in the electoral process such as delays in relaying election results and discrepancies in displaying voter registers.¹⁸ Also, proposals include availing candidates and their parties copies of such electronic transmissions. However, this bill has not yet been passed despite elections drawing closer. Other important sources of electoral laws in Uganda are the Presidential Elections Act 2005 (as amended); Parliamentary Elections Act 2005 (as amended); Local Government Act 1997 (as amended) Political Parties and Organizations Act 2005 (as amended). Important to note is that the

general electoral legal framework discourages and penalizes all forms of electoral violence, crimes and malpractices though only a handful of perpetrators have been successfully prosecuted.¹⁹

Uganda is signatory to several international treaties on elections and democratic governance whose commitments are to hold free and fair elections based on international standards. These include the Universal Declaration of Human Rights (UDHR); International Covenant for Civil and Political Rights (ICCPR); Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the African Charter on Democracy, Elections and Governance (ACDEG). The country has made some notable progress in implementing some international standards for participatory democracy. For instance, women's political rights to participate in politics and governance have been promoted.²⁰ Nonetheless, serious challenges are experienced with fulfilling Article 21 of the UDHR which provides for the right to participate in periodic 'genuine' universal suffrage.

3. Recent Developments in the Electoral Environment

3.1. Impact of COVID-19 on the Elections

In March 2020, the Government of Uganda declared a national lockdown to help contain the spread of the novel COVID-19 disease in the country. Standard Operating Procedures (SOPs) like banning social and political gatherings; imposition of curfews; maintenance of social distance; regular hand washing and sanitization and wearing of face masks were issued by the Ministry of Health. These not only affected political party activities (and funding) but also the planning and implementation of Electoral Commission activities ahead of the 2021 polls. Several programs were suspended.²¹

Despite the importance of COVID-19 SOPs, they are an infringement of established constitutional social and political rights and freedoms. The ban on political gatherings is a serious impediment to freedom of association and expressions guaranteed under the constitution and violate some provisions of the electoral legal framework which allows open air campaigns. Candidates cannot freely hold important political rallies and meetings to interact with their electorates. Even if this was remedied by the directive to use media for campaigns, there are doubts about its utility, effectiveness and fairness. The police have been accused of selective implementation of the SOPs for instance allowing NRM political gatherings and using excessive force to disperse opposition ones. To avoid interfacing the police, some politicians have resorted to hosting political meetings at their residences. Others have gone ahead to convene public meetings that have been intercepted by the police resulting into violence, running battles with security forces and destruction of property.

3.2. Emergence of the Youth-Led People Power Political Pressure Group and Others

Several political formations have emerged ahead of the 2021 general elections including the Peoples' Government headed by four-time Presidential candidate Col. Dr. Kiiza Besigye, the People Power pressure group which has since morphed into the National Unity Platform (NUP), the Alliance for National Transformation (ANT) headed by Major Gen. Mugisha Muntu and 'Renewed Uganda' among others. These groups are gearing up to participate and influence the outcome of elections in one way or other. ANT and NUP are poised to tighten political competition ahead of the 2021 polls²² while the Peoples' Government announced plan B, whose details are yet to be made public but poised to challenge the ruling party outside of the frame of elections. Having forgone the 2021 presidential race, Rtd. Col. Dr. Besigye announced his 'Plan B' that he believes will cause regime change in the country. His argument is that 'power that has been taken away from Ugandans by force will not be given back by the ballot'.²³ The contents and implication of his 'Plan B' are unknown but the slogan is 'fighting' for freedom. There are other pressure and campaign groups that have emerged including the NRM campaign task force dubbed the 'White Army'²⁴, recently launched to hunt for votes for President Museveni.

3.3. Violence and tension in the Internal Party Primaries

Internal party primaries, mainly in the ruling NRM for the selection of the 2021 nominees for parliament were marred with violence. The NRM used the adult suffrage voting system whereas other parties such as NUP and FDC used the vetting selection committee and Electoral College system respectively. Apart from the NRM, other parties' choice of internal primary voting procedures was affected by financial constraints and imposition of COVID-19 measures such as the ban on political gatherings and maintenance of social distance. Despite differences in voting style, several irregularities were cited especially in the NRM party primaries. This led to serious tension and violence. For example, in Mawogola North, voting had to be postponed for fear of violence because of the heightened tension between supporters of Shartsi Kutesa, daughter to Foreign Minister Sam Kutesa and Aine Kaguta, president Museveni's younger brother. In Rushenyi, violence erupted when Hon. Mwesigwa Rukutana was declared winner despite Naome Kabasharire's early victory announcement. Analysts believe that the internal party primaries were conducted without regard to principles of democracy enshrined under their party constitutions and the Uganda constitution. They fear that it's a reflection of what might happen in the 2021 polls leading to serious violence.²⁵

Several independent candidates emerged because of many disagreements in the internal party primary elections. They have promised to run and several have been registered as independent candidates ahead of the 2021 polls. The parties have promised to solve these internal wrangles but nothing seems to be yielding. For instance, some NRM leaning independent candidates have demanded to be compensated the sums they 'invested' in the party primaries as a condition to step

down from competing with NRM party flag bearers. This has the potential to cause further internal divisions and commercialization of politics which undermine the development of democracy and multipartyism in the country.

4. Probable Hotspots for Electoral Violence in the 2021 Elections

Basing on an examination of violence risk areas in previous elections²⁶ and an analysis of recent developments, we predict hotspots for electoral violence in the 2021 elections.

Hotspot for violence	Nature of the Violence	Why it is likely to happen	Likelihood (High Moderate, Low)
Central Region			
Kampala Wakiso Masaka Mukono Kayunga Sembabule	Excessive use of security force; Destruction of property; Political demonstrations; Torture and abuse of human rights	High urban crime rates; Unemployment and poverty; Age limit bill factor; Political protests and demonstrations; High taxes; Intimidation and involvement of security forces in elections; Political divisions and intolerance;	High
Western Region			
Kasese Rukungiri Bundibugyo Ntoroko Hoima	Excessive use of security force; Destruction of property; Political demonstrations; Torture and abuse of human rights	Intimidation and involvement of security forces in elections; Political divisions and intolerance; Age limit Bill factor	High
Buliisa	Destruction of property; Political demonstrations;	Unresolved Land question; Insecurity	Low
Northern Region			
Amuru Adjumani Arua Gulu Nwoya	Excessive use of security force; Destruction of property; Political demonstrations; Torture and abuse of human rights	Intimidation and involvement of security forces in elections; Political divisions and intolerance; Age limit Bill factor; Unresolved land question; Effects of LRA insurgency.	High
Eastern Region			
Jinja Iganga Kamuli Mbale Tororo Katakwi	Excessive use of security force; Destruction of property; Political demonstrations; Torture and abuse of human rights	Intimidation and involvement of security forces in elections; Political divisions and intolerance; Age limit Bill factor; Cultural leadership rows	High

5 Preparedness of Election Management Bodies (EMBs) to Secure the Electoral Environment and Deliver Credible Elections.

5.1. Electoral Commission

Recent reforms through legislative amendments were made in the existing electoral laws as highlighted above. Significantly, the introduction of technology in the electoral process is outstanding. This will aid in the digital display of voter registers something that will save time. Also, unlike use of paper declaration forms, Returning Officers will be able to use digital means to transmit election results from the polling station to Subcounty tally Centres and then to the Electoral Commission National Tally Centre. This follows previous complaints about vote manipulation by election officers. However, there has not been wider voter education about this new technology.

In addition, in compliance with the Ministry of Health's SOPs, the Electoral Commission issued its safety guidelines to combat the spread of COVID-19 during the electoral process. Through its guidance, the SOPs shall be observed by all election officials, candidates, agents, voters, security and other stakeholders. The SOPs include: sanitizing electoral materials, washing hands with soap, wearing hand gloves while handling materials/ documents, practicing and observing social distancing, avoiding unnecessary movement within the work premises, and limiting the number of supporters during nominations. The police are to enforce the ban on processions and other political gatherings.

The Electoral Commission disbursed funds to political parties for their activities ahead of the 2021 polls. The sharing of the UGX 15 billion, saw the Ruling NRM party take an 83% share despite contestations from opposition political parties. The Electoral Commission based its allocation decision on numerical strength of political parties in parliament. This has already caused uproar with CSOs and the opposition accusing the Electoral Commission for ignoring the 'equal basis for government financing of political parties under s.14(b) of the Political Parties and Organizations Act 2005 (as amended). The Electoral Commission can handle such and other grievances since it has adjudicative powers under Article 61(f) of the Constitution.

5.2. Uganda Communications Commission (UCC)

UCC regulates radio, television, postal services, telephony services, data communications and the airwaves used by all wireless radio devices.²⁷ Since there will be e-campaigns, the Uganda Communication Commission's (UCC) will perform supervisory role of digital content released during online campaigns. They will seek to monitor candidates' campaigns for content that infringe

on both media and electoral laws. For example, hate speech,²⁸ uttering false statements²⁹ and public incitement to violence are prohibited under the electoral legal framework.

UCC issued guidelines on the expected practice by broadcasting media houses regarding campaigning and elections reporting for the 2021 general elections.³⁰ The guidelines provide basic requirements to achieve balance and fairness in election coverage as well as political advertising, equitable access to talk-shows, equal coverage to candidates and media sponsorship on both private and public media during election period. The key principles in its guidelines are: reasonable access to media houses for all candidates; equal opportunity for all candidates; and non-discrimination of any candidate.³¹ However, the challenge for UCC is to ensure that all candidates and media houses adhere to these guidelines.³²

5.3. Civil Society Organizations (CSOs)

A total of 46 Civil Society Organizations (CSOs) were accredited by the Electoral Commission to carry out voter education in the country.³³ For example, the Citizen Coalition for Electoral Democracy in Uganda (CCEDU) reported that it had trained and dispatched 60 election observers to the field already.³⁴ However, many of the CSOs are faced with the challenge of inadequate funds to run their activities.³⁵ In addition, their voter education programs are likely to be affected by COVID-19 due to restrictions on mass gatherings. Consequently, many voters including the deaf and blind might miss key information on new laws and policies that were passed ahead of the elections. Due to COVID-19 pandemic, international election observation missions are likely to be affected. However, the National Election Watch-Uganda (NEW-U), a coalition of 60 local election observers in Uganda has committed itself to monitor the electoral activities throughout the country. However, at the time of writing, their activities were suspended by the Uganda NGO bureau.³⁶ This might affect election observations in the country, something that might have helped to promote electoral vigilantism, fairness and ensure credibility of the electoral process and outcomes.

6. Conclusion

Elections in Uganda are seen as one-way traffic and considered rigged *ab initio*, yet the return to multipartism was supposed to be a fair balance of political rights and freedoms. The current political and electoral environment does not inspire and offer hope for peaceful and credible elections next year. Therefore, some of the questions which require urgent attention and solutions are;

1. How feasible are 'scientific' campaigns and elections in the 2021 polls? What are their impacts on the future of multiparty democracy in the country?
2. Are the Election Management Bodies adequately prepared to hold free, fair, peaceful, and credible 'scientific' election?

- 3 With many independent party leaning Member of Parliament aspirants, how will political parties deal with this problem of 'concurrent' candidatures?
- 4 What is the implication of independent 'party leaning' candidate on the future of multiparty democracy and politics in Uganda?
- 5 What lessons can be learned from the NRM violent party primaries to avoid scenes of violence in the probable hot spots and around the country ahead of, during and after the 2021 polls?
- 6 Given the increased youth interest in the 2021 elections, what is their likely impact on the polls?
- 7 What means can be exploited to involve youth as peaceful participants in the electoral process?

¹ Several amendments intended to streamline the electoral process were made in the country's electoral laws. E.g. the use of technology was introduced by an amendment to the Electoral Commission Act Cap 140 (as amended). Other amendments made include: Presidential Elections Act 2005 (as amended); Parliamentary Elections Act 2005 (as amended); Local Government Act 1997 (as amended) Political Parties and Organizations Act (as amended).

² General elections are scheduled to take place in January and February 2021

³ <http://www.monitor.co.ug/uganda/news/national/political-parties-decry-shrinking-space-in-uganda-1851262?view=htmlamp>.

⁴ The Public Order Management Act 2013 was enacted to provide a regulatory framework to control public gatherings. In particular, s.8 required organizers of public gatherings to seek permission from the police before congregating. This section was declared unconstitutional by the Constitutional Court in *the Human Rights Network and four others v Attorney General, Constitutional Petition no. 56 of 2013* whose judgment was delivered on 26 March 2020.

⁵ Sabit Makara, 'The Challenge of Building Strong Political Parties for Democratic Governance in Uganda: Does multiparty politics have a future?', *Les Cahiers d'Afrique de l'Est / The East African Review* [Online], 41 | 2009, Online since 07 May 2019, connection on 07 May 2019. URL: <http://journals.openedition.org/eastAfrica/580>

⁶ <https://theconversation.com/heavy-handed-police-tactics-raise-concerns-about-democracy-in-uganda-55517>

⁷ <https://thedronemedia.ug/police-accused-of-stealing-sh23-millions-from-nup-offices-in-kamwokya-kampala/>

⁸ <https://www.theguardian.com/world/2020/oct/14/ugandan-security-forces-raid-campaign-office-of-opposition-leader-bobi-wine>

⁹ <https://freedomhouse.org/article/baby-steps-toward-electoral-reform-uganda>. See more at <https://freedomhouse.org/article/ugandas-sham-electoral-reforms>

¹⁰ See *Amama Mbabazi v Museveni & Ors (Presidential Election Petition No. 01 of 2016)* [2016] UGSC 3 (31 March 2016).

¹¹ <https://nilepost.co.ug/2020/01/08/csos-task-parliament-to-pass-the-delayed-electoral-reforms/>

¹² See Article 61 for further functions of the Electoral Commission.

¹³ <https://www.fhri.or.ug/index.php/pages/whats-new/item/74-uganda-s-hope-for-free-and-fair-elections-dashed>

¹⁴ <https://thedronemedia.ug/police-accused-of-stealing-sh23-millions-from-nup-offices-in-kamwokya-kampala/>

¹⁵ S.15, Electoral Commission Act (as amended)

¹⁶ 2015-16 Commonwealth Observers Report

¹⁷ s.2(1a), Electoral Commission (Amendment) Bill, 2019

¹⁸ <https://www.monitor.co.ug/uganda/oped/commentary/will-technology-help-bring-transparency-in-2021-elections-2455884>

¹⁹ Burnett, Maria. E. *Preparing for the Polls*. New York, Human Rights Watch, 2009.

²⁰ Article 7, CEDAW guarantees women equality in political and public life with a focus on equality in voting, participation in government, and participation in "non-governmental organizations and associations concerned with the public and political life of the country."

²¹ For example, the Electoral Commission was completing the public display of the national voters' register in preparation for the elections of SIGs in categories of Older persons, Persons with

Disabilities and youth Committees from village to national level which were earlier on scheduled to commence in April 2020.

²² <https://nilepost.co.ug/2019/12/02/bobi-wine-ugandans-shall-not-accept-rigging-in-2021/>

²³ <https://nilepost.co.ug/2020/08/28/besigye-unveils-his-plan-b-says-it-involves-fighting-for-all-the-oppressed>

²⁴ <https://nilepost.co.ug/2020/10/25/musevenis-advisor-bobi-wine-could-cause-big-political-shock/>

²⁵ Ssejjoba, E. (2020). Clerics decry violence in NRM primaries. Retrieved 15 October 2020, from <https://www.newvision.co.ug/news/1526653/clerics-decry-violence-nrm-primaries>

²⁶ CCEDU (2018). Risk Areas Mapping: The July 2018 Local Government Elections; Okello, L. (2015). A study on the Potential Risks of Election-Related Violence Before, During and After 2016 general Elections in Uganda

²⁷ Uganda Communications Commission (UCC) is a corporate body established under Section 4 of the Uganda Communications Act 2013 (Act) as the regulator in the development of a modern communications sector in Uganda.

²⁸ s.24(5)(b)(i) Presidential Elections Act 2005 (as amended)

²⁹ Ibid., s.24(5)(a)(i)

³⁰ <https://kampalapost.com/content/ucc-issues-tough-guidelines-media-houses-ahead-scheduled-digital-campaigns>

³¹ Ibid.,

³² <https://kampalapost.com/content/ucc-issues-tough-guidelines-media-houses-ahead-scheduled-digital-campaigns>

³³ <https://www.independent.co.ug/46-csos-accredited-to-conduct-2021-voter-education-in-uganda/>

³⁴ Ibid.,

³⁵ <https://www.independent.co.ug/2021-general-elections-accredited-csos-decry-lack-of-funds/>

³⁶ <https://www.independent.co.ug/ngo-bureau-suspends-operations-of-national-election-watch-uganda/>



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