



**Electoral Reform Proposals
presented by**

**The Citizens' Coalition for Electoral Democracy in Uganda
(CCEDEU)**

Submitted to:

The Committee on Legal and Parliamentary Affairs

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Room 139, Eastern Wing, Parliamentary Buildings

CCEDEU SECRETARIAT

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Introduction:

Launched on the 19th August, 2009 by the Speaker of Parliament, Hon. Edward Ssekandi and witnessed by the Chairperson of the Electoral Commission, Political Party representatives, members from the media houses, Donor Community and Civil Society representatives, CCEDU is a broad coalition currently bringing together over 487 like-minded civil society organizations to advocate for comprehensive electoral democracy in Uganda.

The overriding agenda of this coalition is to advocate and promote integrity, transparency and active citizen participation in Uganda's electoral process.

Between the period 2010 and 2011 CCEDU's action plan constitutes of: Electoral Reform advocacy, civic education, establishing a Legal Defense Fund for victims of electoral violence unable to meet costs of litigation and enhancing a platform for enhancing liaison and information sharing for Election Observers.

CCEDU has four Governing bodies which include; the CCEDU Membership platform, the Advisory Board, Executive Committee and the Secretariat.

This memorandum is based on the Durban Declaration on the Principles Governing Democratic Elections in Africa (2002). The Declaration places emphasis on conducting democratic elections freely and fairly; under democratic constitutions; by impartial, all inclusive, competent and accountable national electoral bodies staffed by qualified personnel, supported by competent legal entities. The Declaration reaffirms citizens' Rights to fully participate in the electoral processes including the Right to vote and be voted for without any kind of discrimination. In addition, the Declaration also guarantees individuals or political parties Right to freedom of movement, to campaign and to express political opinion with full access to the media.

In order to realize inclusiveness, representation and political stability in the post-conflict Uganda, CCEDU is making the following submission on the recently proposed electoral Bills.

a. Presidential Elections (Amendment) Bill, 2009

1. Insertion of new section 19A in the Presidential Elections Act, 2005

(19A) Whereas it is prudent to avoid a stalemate in cases where one of only two candidates withdraws or is disqualified through granting powers to the Electoral Commission to declare a candidate elected unopposed, *CCEDU proposes that an appeal mechanism be put in place in such an event where a candidate considers him or herself unfairly disqualified. In case of withdrawal, the candidate's decision to withdraw should be endorsed by the decision making body of his or her party.*

2 Amendment of section 56(2) (b) of the principal Act

(b) CCEDU welcomes the seven-day time frame proposed for the Returning Officer to submit the election report under 56, 2b, CCEDU however recommends that consistent with article 57 (1) in the Presidential Elections Act, 2005, the Commission declares in writing and publishes the Presidential elections results within forty eight hours from the close of polling; *that the return form, the tally sheets,*

and the declaration of results forms provided for respectively in section 56 2a, c and d be equally made available to the Commission within the forty eight-hour period.

3 Amendment of section 64 of the principal Act

(7) Whereas we understand the underlying considerations of reducing the undue influence occasioned by fundraising, for the purpose of creating free competition and considering that political party financing has not yet been institutionalized, and in view of article 27 (2) that gives the president liberty to utilize government facilities at his disposal during campaigning, *the limitation of fundraising and donation is relevant in as far as polling centers and stations are concerned. CCEDU therefore recommends that instead of banning fundraising by a candidate or his/her agent, there is need to provide for a duty to disclose the source of all resources generated through fundraising and this duty to declare sources of funds should be entrenched in the law.*

Other possible amendments relating to the Presidential Elections Bill:

Within the spirit of upholding a clean election, in the context of the Durban Declaration (2002) and upholding the principles of transparency, accountability, inclusiveness, political stability and broadening representation, we recommend:

- The reinstatement of presidential term limits through repealing of article 105 (2) of the 1995 Constitution of the Republic of Uganda as amended.

b. Parliamentary Elections (Amendment) Bill, 2009

1 Insertion of a new section 19A

19A) Like in the case of the presidential elections, whereas it is prudent to avoid the stalemate in cases where one of only two candidates withdraws or is disqualified through granting powers to the Returning Officer to declare the remaining candidate elected unopposed, *CCEDU proposes that an appeal mechanism be put in place for a candidate who may consider himself or herself unfairly disqualified. In case of withdrawal, the candidate's decision to withdraw should be endorsed by the decision making body of his or her party.*

2 Amendment of Section 58 of the principal Act

(2a) CCEDU welcomes the seven day time frame proposed for the Returning Officer to submit the election report under section 58 (2b) as well as the uniformity for the release of presidential and parliamentary election result within forty eight hours as proposed. *CCEDU however recommends that consistent with amendment 59 (1) that requires the parliamentary election result to be released within forty eight hours from the close of polling, that the return forms, the tally sheets, and the declaration of result forms provided for respectively in 56 (2a), (2c) and (2d) in the parent Bill be equally made available to the Commission within forty eight hours period.*

4 Amendment of section 68 of the Principal Act

(7) Whereas we understand the underlying considerations of reducing the undue influence occasioned by fundraising, for the purpose of creating free competition and considering that political party financing has not yet been institutionalized, *CCEDU recommends that the limitation of fundraising and donation is relevant in as far as polling centers and stations are concerned. CCEDU further recommends that instead of banning fundraising by a candidate or his/her agent, there is need to provide for a duty to disclose the source of all resources generated through fundraising, and this duty to declare sources of funds should be entrenched in the law.*

Other possible amendments relating to the Parliamentary Elections Bill:

- *CCEDU recommends the amendment of article 113 (1) of the 1995 Constitution of the Republic of Uganda to provide that any Member of Parliament appointed to the position of a Minister shall cease to be an MP forthwith and a by-election shall be held by the Electoral Commission to fill the vacant position.*
- *CCEDU recommends the amendment of article 78 (1) (c) of the Constitution of the Republic of Uganda to abolish the representation of special interest groups in parliament through direct elections or electoral colleges, and prohibit Parliament from making any law that gives special advantage to particular groups or interests other than through political parties.*

c. Electoral Commission (Amendment) Bill, 2009

1 Amendment of section 5 of the Electoral Commission Act

(3a) Providing for the tenure of the office of the Secretary to the Commission is important in the promotion of the independence and efficiency of the Secretary's office. *However the law should also provide for a minimum threshold for the office holder in terms of academic qualifications and experience. CCEDU also proposes that the appointment of the Secretary be undertaken by the Public Service Commission.*

2 Amendment of section 25 of the principal Act

(1a) Aware of the cost implications and pressure that the Electoral Commission experiences in the voter registration and display process, but considering that the centrality and credibility of an election process lies in the accuracy of the voters register, *CCEDU proposes that the period of display of the voter's roll be maintained at twenty one days and an additional fourteen days be provided to allow for any objections or complaints to the inclusion or deletion of names as recommended by the tribunal. The Commission should also explore innovative ways of voter register display for instance through serialized newspaper pull outs, web based displays and register updating through text messaging. In addition a voters' complaints mechanism needs to be provided for such as; hotlines, text messaging, as well as allowing for forwarding of display complaints to the nearest Electoral Commission office in case of people who may have their names missing on the voters register.*

(1b) For purposes of uniformity, *CCEDU maintains that a period of twenty one days and an additional fourteen days be provided to allow for any objections or complaints to the inclusion or deletion of names as recommended by the tribunal. Recent trends in the by-elections show that voter turnout has been very low and this has been attributed to the short periods of voter register display.*

(c) Going by the 2006 experience where there were a number of complaints of missing names on the voters register on recommendation of the tribunal and parish councils, *CCEDU recommends as a minimum, that a tribunal should reflect the diversity of political interests represented in that area. CCEDU also recommends that the National Consultative Forum as proposed in this Bill be expunged from the proposal on grounds that it is not duly constituted.*

3 Amendment of Section 27 of the Principal Act

(3) To avoid disenfranchisement of voters, *CCEDU recommends that the period of issuing duplicate voters' cards be varied from the proposed ninety days to thirty days before polling day.*

Other possible amendments relating to the Electoral Commission Bill:

- Consistent with the Durban Declaration Principle that obliges member states to establish impartial, all inclusive, competent and accountable national electoral bodies, and aware of the current controversy surrounding the appointment of the current Electoral Commission and also to ensure the legitimacy of the 2011 election, *CCEDU recommends the immediate operationalization of the National Consultative Forum, broadening consultations with political parties and consideration of political party demands in the conduct of the electoral process in the run up to 2011 elections.*
- *To avoid any undue influence in the electoral process, no candidate or his agent shall privately meet the Chairperson and Commissioners of the Electoral Commission without the presence of other candidates or their agents during the campaign period.*

d. Political Parties and Organizations (Amendment) Bill, 2009

2 Insertion of a new section 20A

(i) For political party development, *the National Consultative Forum should be regularly convened and chaired by a person democratically elected by representatives of all registered political parties at the forum.*

Other possible amendments relating to the Political Parties and Organizations Bill:

- In the interest of accountability and internal democracy among political parties, *CCEDU recommends the prohibition of any political party that does not submit its annual audited accounts within the prescribed time under the law from registering for subsequent elections or by-elections until the relevant provisions have been complied with.*

- *CCEDU also recommends the prohibition of the Chairperson and Secretary General of a political party that fails to comply with the requirements under the law from holding a public office.*
- *Upon ascertaining the polling station results, the same shall be publicly tallied at the Sub County with the different agents present who yet again shall sign the Sub County tallied result sheet.*
- *CCEDU recommends that election results be displayed at the Sub County and district after tallying publicly.*
- *CCEDU also proposes that the media be given the freedom to announce election results at any stage upon verification by the area Returning Officers.*

Done this 16th Day of February 2010, Kampala.