

The Citizens' Electoral Reform Agenda

BEYOND 2011



It is time.



Citizens' Coalition for Electoral Democracy in Uganda
(CCEDU)



BEYOND 2011: The Citizens' Electoral Reform Agenda

Citizens' Coalition for Electoral Democracy in Uganda (CCEDU)

Human Rights House, Block 15,
Plot 1853 Lulume Road Nsambya
P.O. Box 11027 Kampala, Uganda
Tel: +256-414-510 263
Fax: +256-414-510498
E-mail: fhri@dmail.ug
Website: www.fhri.or.ug

Table of Contents

Acronyms	iii
Foreword	iv
Acknowledgements	vi
Executive Summary	vii
The Citizens' Electoral Reform Agenda	1
Tenure of office of the president	1
Independence, credibility and impartiality of the EC	1
Accuracy and credibility of the national voter register	3
Representation of special interest groups in parliament	3
The role of UPDF and UPF in electoral security	5
Prohibition from contesting or holding public office for persons who commit electoral offences	6
Representation of runner-up presidential candidates in parliament	7
Introduction of campaign spending caps for all elective positions	7
CCEDU membership and administration (Appendix 1)	8

Acronyms:

ACODE	Advocates Coalition for Development and Environment
CCEDU	Citizens' Coalition for Electoral Democracy in Uganda
CEW-IT	Citizens' Election Watch-IT
CSO	Civil Society Organisation
DDP	Deepening Democracy Programme
DEMGROUP	Democracy Monitoring Group
EC	Electoral Commission of Uganda
FHRI	Foundation for Human Rights Initiative
HURINET	Human Rights Network
HURIPED	Human Rights and Peace Center
IPOD	Inter-Party Organisation for Dialogue
IRCU	Inter-Religious Council of Uganda
MP	Member of Parliament
NUDIPU	National Union of Disabled Persons of Uganda
NGO	Non Governmental Organisation
PWDs	Person(s) with Disability
RRU	Rapid Response Unit
UGMP	Uganda Governance Monitoring Platform
ULS	Uganda Law Society
UNNGOF	Uganda National NGO Forum
UPDF	Uganda People's Defence Forces
UWONET	Uganda Women's Network
UYONET	Uganda Youth Network

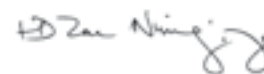
Foreword:

One of the benchmarks of democracy development is regular, free and fair elections, giving an opportunity to a country to elect its leaders. Uganda has registered success on the first characteristic – regular, since the five-year cycle has been adhered to for the last 15 years. However, there remains a lot to be done in order to achieve a resounding verdict of elections as free and fair. The key to the achievement of the latter is a sound legal and institutional framework.

The African Peer Review Mechanism Country Review Report for Uganda, released in January 2011 applauded Uganda for establishing an adequate institutional framework, provided for in the 1995 Constitution. However, it also acknowledged that the institutions were constrained in delivering their constitutional mandates due to capacity challenges. The report further points out that the country was facing the challenge of transitioning from monolithic politics that characterized the Movement era, to pluralistic politics of the current multiparty dispensation. It is not any wonder that the period before and after the 2006 and 2011 multiparty general elections was characterized by numerous tests. Freedoms of assembly and expression came under attack; there were several instances of intimidation of journalists that were critical of the government; state-owned media demonstrated bias through disproportionate coverage of the incumbent at the expense of other candidates; the composition of the Electoral Commission remained widely disputed by the citizens and acts of voter intimidation and bribery were widely reported across the country. Thus, although the 2011 elections were acknowledged by some internal and external observers to have been generally calm, the entire electoral process was marred by several challenges like: a contested voter register and voter identification system; perceptions of partisanship of the election management body; heavy military deployment in some areas during the polling period; election violence in some hotspots; commercialization of the electoral process; logistical constraints on the side of the election management body; and inadequate election education – given that the voter education programs by CCEDU and other stakeholders started late and didn't give sufficient time for behavioral change among voters. All these challenges in some way undermined citizens' full participation in electoral processes. According to the Electoral Commission, out of the 13,954,129 registered voters only 8,272,760 voters are reported to have cast their vote, representing about 59 %.

A total of 5,681,369 of the registered voters (40 %) didn't turn up to vote. Of the 8,272,760 votes cast, 334,548 were declared invalid, a figure that largely remains unprecedented in the history of Uganda's elections. All this, in spite of the various proposals for electoral reform by the Electoral Commission, civil society groups and political parties after the 2006 General Elections.

It is therefore commendable that CCEDU has come up with clear proposals for electoral reform, which seek to address the major gaps that the 2011 General Elections brought to the fore. It is also commendable that this process is driven by concerns and aspiration of the citizens – and not just the political class. It is noteworthy that some of the same proposals put forward after the 2006 General Elections, are put forward again, including: the restoration of the presidential term limits; recommendations to guarantee a clean and credible voters register; the need to streamline the army's involvement in providing electoral security; the need to institute punitive measures for those who commit electoral offences; proposals to introduce an instrument that institutes a framework for possible representation of the presidential runner-up candidate in parliament and a call for the introduction of campaign spending caps for all elective positions. The proposals made in this Handbook are critical to safeguarding the electoral processes from the susceptibility of manipulation and ensuring that subsequent elections are freer and fairer. It is also anticipated that the enactment of the proposals contained herein will provide a strong building block for citizen participation in electoral processes in Uganda.



Bishop Zac Niringiye

Chairperson, African Peer Review Mechanism (APRM)

National Governing Council – Uganda

Acknowledgement:

This Citizens Electoral Reform Agenda Handbook is a product of the tireless works of a technical team of experts who carefully studied the recommendations and proposals made by various election observer groups and individuals in the aftermath of the 2011 general elections. The technical team was drawn from CCEDU's strategic institutions including the Uganda Law Society (ULS), Uganda Governance Monitoring Platform (UGMP), Uganda National NGO Forum (UNNGOF), Inter-Religious Council of Uganda (IRC), Human Rights Network (HURINET), Human Rights and Peace Center (HURIPEC), Foundation for Human Rights Initiative (FHRI), Advocates Coalition for Development and Environment (ACODE), Uganda Women's Network (UWONET), Uganda Youth Network (UYONET), Democracy Monitoring Group (DEMGROUP), National Union of Disabled Persons of Uganda (NUDIPU) and Citizens' Election Watch-IT (CEW-IT). The technical team also benefited from the powerful insights of the Inter-Party Organisation for Dialogue (IPOD). CCEDU leveraged from the partners' previous election observation and/or electoral reform advocacy endeavors.

CCEDU would like to pay special tribute to its Advisory Board, Executive Committee and Secretariat for the invaluable support and feedback provided during the drafting of this Handbook.

The publication of this Handbook has been made possible with the financial and technical support from the Deepening Democracy Programme (DDP).

To the men and women of honour, strength and great aspiration that make up the Republic of Uganda, we dedicate this Handbook to you; not for a mere read-through but as a contribution to illuminate the future of our beloved country.

Executive Summary:

In 2010 CCEDU submitted electoral reform proposals to the Legal and Parliamentary Affairs Committee for consideration. Key amongst the proposals included: the call to reinstate presidential term limits; a proposal to provide for representation of different political party interests in the Electoral Commission; a recommendation to provide that any Member of Parliament appointed to the position of a Minister ceases to be an MP forthwith; and that where a candidate has been declared unopposed, the law should establish a minimum percentage of votes that the candidate should garner before they are declared winner.

The Coalition together with the Inter Party Cooperation and other stakeholders managed to secure some minimal administrative electoral reforms later on in 2010; notable among these was making provision for a ten-day period during which names of voters proposed for inclusion or deletion from the voters roll are raised. Although key reform proposals were not adopted by parliament, the secured reforms were a step in the right direction. However, limited consideration of the key proposals possibly impacted on the integrity and outcome of the 2011 election. In short, the low voter turn-out, the unprecedented numbers of spoilt ballot papers, the observable voter apathy, the wide spread vote buying and misuse of money during campaigns could have been averted had key electoral issues been reviewed and/or incorporated into the law.

In its post 2011 election activities, CCEDU identified a technical team of experts who carefully studied the recommendations and proposals made by various election observer groups and individuals. The team came up with eight key proposals which herein form the basis for CCEDU's electoral reform advocacy efforts for the period, 2011 – 2016.

The proposals include:

1. Provision for two five-year term limits for the tenure of office of the president;
2. Independent, credible and impartial Electoral Commission;
3. A clean, accurate and credible National Voter Register;
4. Rationalisation of representation of Special Interest Groups in parliament;
5. Strict principles governing the professional involvement of the Uganda Peoples' Defence Forces in the maintainance of electoral security and the impartiality of the Uganda Police Force;

6. Prohibition from Contesting or Holding Public Office for Persons who Commit Electoral Offences
7. Representation of the runner-up presidential candidate in parliament; and
8. Introduction of campaign spending caps for all elective positions.

The process of developing this Citizens' Electoral Reform Agenda Handbook has largely been driven by a distinct enthusiasm for citizens to provide answers to the 'unresolved issues' from the 2006 and 2011 elections and lay a firm ground for subsequent election cycles in Uganda.



Livingstone Sewanyana

Chairperson, CCEDU Executive Committee

Beyond 2011: The Citizens' Electoral Reform Agenda

1. Provision for Two Five-Year Term Limits for the Tenure of Office of the President

Current position:	Article 105 (2) of the Constitution of the Republic of Uganda states that a person may be elected under the Constitution to hold office as President for one or more (five-year) terms.
Review Proposal(s):	CCEDU recommends the amendment of Article 105 (2) of the Constitution in order to provide for a limited presidential tenure of a maximum of two five-year terms.
Rationale:	<p>Term limits eradicate the tendency by an incumbent President to manipulate systems in order to perpetuate one's hold of power.</p> <p>Free elections are not only premised on real possibilities for change through the expression of the free will of the people, but also on a realization by the political leadership through a command of the law that there are fixed terms of tenure.</p> <p>At an East African regional level, only Uganda has unlimited presidential term limits. Rwanda, Kenya, Tanzania and Burundi, the other members, have varying term limits.</p>

2. Independent, Credible and Impartial Electoral Commission

Current position:	<p>Article 60 (1) of the Constitution provides for an Electoral Commission consisting of a chairperson, a deputy chairperson and five other members appointed by the President with the approval of Parliament.</p> <p>Articles 60 (1), (2), (3), and (4) of the Constitution define the number of members to the Commission and the appointing authority, the qualifications of a commissioner, their tenure and the possibility of renewal of tenure. The Constitution is silent on the pool of candidates from which commissioners should be drawn.</p>
-------------------	--

Review Proposal(s):	<p>CCEDU proposes a more participatory and transparent process of appointment of the members of the Electoral Commission. In this regard CCEDU recommends that the Chairperson and Commissioners of the Commission be appointed by the President from a pool of names submitted to him or her by the Judicial Service Commission. For avoidance of doubt, any citizen can under this procedure submit proposal names for Chairperson and Commissioners of the EC to the Judicial Service Commission.</p> <p>CCEDU recommends that the security of tenure of the members of the Commission is enhanced so that the process of their removal should not be solely vested in the President on grounds of: inability to perform, the functions of his or her office arising from infirmity of body or mind; misbehavior or misconduct; or incompetence but subject to such provisions for the removal of judicial officers under Article 144 (1), (2), (3) and (4) of the Constitution.</p>
Rationale:	<p>The Independence of the Electoral Commission is crucial in ensuring a free and fair election. Although Article 62 of the Constitution broadly provides for the independence of the Commission, the appointment process, the lack of security of tenure for commissioners (possibility of summary removal by the President) and the limited consultation of various stakeholders in the appointment of the Commissioners, undermines the credibility of the Commission by the public. If the confidence of the people in the Commission and democratic processes are to be restored, there is a need to amend and/or reform the Constitution, the Electoral Commission Act and other related laws.</p>

3. A Clean, Accurate and Credible National Voter Register

Current position:	<p>According to Article 61 (1) (e) of the Constitution, the Electoral Commission is mandated to compile, maintain, revise and update the voters register.</p>
Review Proposal(s):	<p>CCEDU proposes the amendment of the Constitution and other related laws to provide for the synchronization with, and extraction of the voter registry from the national identification database.</p> <p>The proposed national ID card system has an integrated secure central information repository on birth, marriage, adoption and death about each citizen, this should be used to aid the Electoral Commission to constantly and effectively update the new register.</p>
Rationale:	<p>A transparent, accessible, accurate and constantly updated register is important for the organisation of a free and fair election. The process of compilation and the final register have in past elections been a sticking point that has dented the credibility and accuracy of the voter register. These shortfalls on the voters register have in previous elections rendered election results susceptible to questions.</p>

4. Rationalization of Representation of Special Interest Groups in Parliament Based on the Sustenance of Affirmative Action

Current Position:	<p>Article 78 (1) of the Constitution of the Republic of Uganda states that parliament shall consist of one woman representative for every district, and such numbers of representatives of the army, youth, workers, persons with disabilities and other groups as parliament may determine.</p>
-------------------	---

Article 78 (4) of the Constitution of the Republic of Uganda states that parliament shall, by law prescribe the procedure for elections of special interest representatives such as women, army, youth, workers, persons with disabilities and other groups as it (parliament) may determine.

Currently, parliament is comprised as follows:

CATEGORY	NUMBER
Directly Elected	238
Women Representatives	112
Uganda Peoples' Defence Forces	10
Youth Representatives	5
People with Disabilities (PWDs)	5
Workers	5
TOTAL	375

For each of the special group representatives, 20% must be women, i.e. UPDF (2); youth, PWDs and workers (1).

Review Proposal(s): CCEDU recommends that through Article 78 (2) of the Constitution of the Republic of Uganda, parliament reviews its composition with a view of abolishing the representation of the UPDF and workers in parliament. CCEDU proposes that special interest representatives to parliament such as the youth MPs and the PWDs MPs be directly elected on the basis of universal adult suffrage and that their elections conform to the rules and regulations of the Electoral Commission.

Rationale: Whereas the army is supposed to be non-partisan in nature, its interests are covered by the executive arm of government of which it is part. The army is also a service agency just like the Uganda Police Force and the Uganda Prison Force, of which the latter are not directly represented in parliament.

Considering that Uganda is a multi-party democracy, it is prudent that the representation of workers is institutionalized with in respective political parties.

CCEDU appreciates the continued need for affirmative action to correct historical gender imbalances and thus the need to make the above proposal an exception to district female MPs, youth MPs and PWDs MPs.

5. Strict Principles Governing the Professional Involvement of the Uganda Peoples' Defence Forces in the Maintainance of Electoral Security and the Impartiality of the Uganda Police Force

Current Position: Article 42 of the Uganda People's Defence Forces Act, 2005 provides for the availability of the Defence Forces, and any officer or militant to be called for service in aid of the civil power (such as Uganda Police Force). This provision is in the probable event of a riot or disturbance of the peace which is likely to be beyond the powers of the civil power (Uganda Police Force) to suppress or prevent.

Review Proposal(s): CCEDU recommends that Section 42 of the Uganda People's Defence Act, 2005 be amended to include clear, specific benchmarks and principles that warrant and govern the Defence Forces' professional involvement in the management of public order while aiding the civil power. These should include the extent to which the UPDF is involved in the management of electoral security.

Rationale: CCEDU also proposes that a clause be introduced in the Constitution of the Republic of Uganda providing for the non-partisanship of the Uganda Police Force just as is the case for the Uganda People's Defence Force (c.f. Article 208 (2) of the Constitution of the Republic of Uganda).
 Although CCEDU recognizes the important support role provided by the army to the police in the management of public order, it is important to adopt clear principles that warrant and govern the army's involvement in the management of electoral security. Judging from past elections in Uganda, the Police Force has not yet embraced its constitutional role as an impartial enforcer against breaches of the electoral law. In past elections, the observable police partiality has only served to frustrate citizens' expectations of compliance with the legal framework.

6. Prohibition from Contesting or Holding Public Office for Persons who Commit Electoral Offences

Current Position: The December, 2009 Human Rights Watch report on Uganda documented the fact that politically-motivated violence, intimidation, and the bribery of voters have marred previous national elections in Uganda. However, accountability for such crimes has been very weak. Impunity for past electoral violence has been a major barrier to free and fair elections in Uganda. Perpetrators from all sides of the political spectrum have very rarely faced justice for crimes committed in past elections.

Review Proposal(s): CCEDU proposes the prohibition of any person, political candidate or electoral official or party agent who has been adjudged to have been involved in any electoral fraud or malpractice or who has conspired in such fraud or malpractices from contesting any electoral office or holding a public office for at least a period of ten years from the date of the judgment of any court unless a decision is overturned by a superior court. This prohibition specifically concerns a candidate who was a defendant in a petition and whose election was annulled due to electoral malpractices in which they have been directly implicated.
 Rationale: The threat of a penalty will produce the effect of general and specific prevention, making prospective offenders think twice before attempting to interfere with the electoral process. This will also protect the freedom of expression of the voter and the free and peaceful execution of the entire electoral process.
 Recent elections have been marred by various electoral offences committed by candidates, electoral officials or party/candidate agents. Although some of these have been somewhat reprimanded, many of them have been left to go scot-free.

7. Representation of the Runner-Up Presidential Candidate in Parliament

Current Position: The current electoral laws in Uganda do not provide for any framework for the representation of the runner-up presidential candidate in the parliament despite the significant vote margins that some of them attain after a presidential election.

Review Proposal(s): CCEDU proposes that through Article 78 (2) of the Constitution of the Republic of Uganda, parliament reviews the composition of parliament with a view of creating a provision for the runner-up presidential candidate who has obtained a minimum threshold of one third of the total valid votes cast in a presidential election to be represented as an ex-officio in parliament.

Rationale: The proposal seeks to redefine new national benchmarks as regards to representation in parliament by a nationally, representative alternative voice. This proposal will serve to deepen representative governance.

8. Introduction of Campaign Spending Caps for All Elective Positions

Current Position: The Presidential Elections (Amendments) Act 2010, the Parliamentary Election (Amendments) Act 2010 and the Political Parties and Organisations (Amendment) Act, 2010 are silent on candidates' financial expenditures during campaign period.

Review Proposal(s): CCEDU recommends the review of the necessary electoral laws with a view of introducing campaign spending caps for all elective positions.

Rationale: Introducing campaign spending caps for all elective positions will serve to reduce the gross monetization of politics and elections as has been the case in previous elections.

Appendices

Appendix 1

No.	Configuration	Representative
1.	Development Workers	David Pulkol
2.	Workers Union	Irene Kaboole
3.	Elderly	Peter Nyakatura
4.	Farmers	James Waiswa
5.	Faith Based Networks	Philip Fred Kato
6.	Media	Moses Kajangu
7.	Youths	Peter Barongo
8.	PWDs	Simon Bazekuketa
9.	Private Sector	Apollo Nyabwongo
10.	Women	Mary Natukunda
11.	Human Rights	Yusuf Makweta
12.	Health	Samuel Kibanga

The CCEDU Executive Members

1. Advocates Coalition for Development and Environment (ACODE)
2. Action Aid International Uganda (AAI-U)
3. Uganda National NGO Forum (UNNGOF)
4. Foundation for Human Rights Initiative (FHRI)
5. Uganda Association of Women Lawyers (FIDA)-U
6. Development Network of Indigenous Voluntary Association (DENIVA)
7. Inter-Religious Council of Uganda (IRCU)
8. Uganda Muslims Supreme Council (UMSC)
9. Uganda Joint Christian Council (UJCC)
10. Community Development Resource Network (CDRN)
11. Uganda Women Network (UWONET)
12. Uganda Youth Network (UYONET)
13. Action For Development (ACFODE)
14. Forum for Women in Democracy (FOWODE)
15. National Association of Women Organizations in Uganda (NAWOU)
16. National Union of Disabled Persons of Uganda (NUDIPU)
17. Uganda Law Society (ULS)
18. Human Rights and Peace Center (HURIPEC)
19. Uganda Media Development Foundation (UMDF)
20. Human Rights for Journalists Network (HRJN)
21. Uganda Parliamentary Press Association (UPPA)
22. Uganda Journalists Association (UJA)
23. Democracy Monitoring Group (Dem Group)
24. National Union for Persons Living with HIV /AIDS in Uganda (NAFOPHANU)
25. International Community of Women Living with HIV and AIDS Eastern Africa (ICWEA)
26. Uganda National Association of the Deaf (UNAD)
27. African Leadership Institute (AFLI)
28. East and Horn of Africa Human Rights Defenders Project (EHAHRDP)
29. Rwenzori Civil Society Consortium (RWECO)
30. Community Empowerment for Rural Development (CEFORD)
31. Agency for Cooperation and Research Development (ACORD)
32. Public Affairs Centre (PAC)
33. Born Again Faith Federation (BAFFE)
34. Uganda Civil Society Council for Development (UCCD)

35. Coalition of Uganda Private Schools Teachers Association (COUPSTA)
36. Rwenzori Peace Bridge of Reconciliation (RPBR)
37. Harambe Girls' Forum – Africa (HGF-A)
38. Mission for Youth Rights (MYRIGHTS)
39. Uganda National Civic Education Consortium (UNACECO)
40. Celebrate Africa (CA)
41. Makerere University Office of the Human Rights Commissioner (MUOHRC)
42. East African Law Students Platform (EALSP)
43. Conflict Resolution by Youth (CRY - Uganda)
44. Advocacy for Violence Free Elections (AFOVE)
45. Rural Recreation Development Programme (RDP)
46. Centre for Public Interest Litigation (CEPIL)
47. Youth Net (YN)
48. National Alliance For a Free and Fair Election (NAFFE)
49. Democracy and Human Rights Foundation (DEHUFA)
50. Young and Powerful Initiative (YAPI)
51. Awake Ankole (AA)
52. Renewed Effort to Alleviate Poverty (REAP)
53. Buganda Maama Kwekulakulanya (BUMAKWE)
54. Kumi District Union of Persons with Disability (KUDUP)
55. Association for Integrated Community Development (AICODE)
56. National Women Association for Social and Educational Advancement (NWASEA)
57. Women and Child Advocacy Networking (WACANE)
58. Community Initiative for the Empowerment of the Vulnerable People (CIFOVUP)
59. Participatory Initiative for Real Development (PIRD)
60. Agency for Promoting Sustainable Development (ASDI)
61. Apac Disabled Persons' Union (ADIPU)
62. People's Anti Corruption Organization (PACO)
63. Entebbe Youth HIV/AIDS Malaria Prevention Organisation (EKYAMPO)
64. Human Rights Defenders Solidarity Network (HRDSN)
65. Youth After School Initiative (YASI)
66. Masindi District NGO Forum (MDNGOF)
67. Wakiso Youth Alliance (WYA)
68. Sports Eye Foundation Uganda (SEFU)

69. Namutumba District Civil Society Network (NDNGOF)
70. Iganga District NGO Forum (IDNGOF)
71. Kapchorwa Civil Society Organisations Alliance (KCSOA)
72. Bidhampola Community Development Organisation (BICODA)
73. Nakaseke Redeemed Church (NRC)
74. Obukadde Kulaba Eldery Persons Association (OKEPA)
75. Kick Corruption out of Kigezi (KICK)
76. Inter Christian Born Again International Ministries (ICABAIM)
77. African Youth Peace Initiatives (AYPI)
78. Human Rights Target (HURITA)
79. Human Rights Defenders (HRDS NET)
80. Community Initiative for Empowerment of Vulnerable People (CIFOVUP)
81. Mukono Youth Development Initiative (MUYODI)
82. Bazeeyi Kwagalana Developent Group
83. Action Group for Human Rights and HIV / AIDS (AGHA)
84. Bidhampola Community Development Association (BICODA)
85. Kamuli District NGO Forum (KADINGOF)



Launched on August 19th, 2009, the Citizens' Coalition for Electoral Democracy in Uganda (CCEDU) is a non-partisan, non-profit broad civil society coalition. Currently, it brings together over 500 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. CCEDU brings together various interest configurations including, the Elderly, the Workers' Union, the Farmers, the Faith Based networks, the Media, the Development workers, Youths, Persons with Disabilities, the Private Sector, the Women, Human Rights activists and Persons Living with HIV/AIDS in Uganda.

In the run-up to the 2011 general election, the CCEDU platform carried out two visible and effective voter education and engagement initiatives branded '*Honour Your Vote*' and '*Face the Citizens*' media forums. The success of these multimedia voter engagement campaigns is largely attributed to CCEDU's broad membership across the country.

CCEDU is currently working on formulating effective and more innovative ways of engaging with the citizenry in the electoral democracy field.



Citizens' Coalition for Electoral Democracy in Uganda
(CCEDU)

It is time.