


**THE INSTITUTIONAL AND LEGAL FRAMEWORK OF
ELECTORAL DEMOCRACY IN UGANDA**

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DECLARATION

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DEDICATION

This research work is a special dedication to my parents Mr. and Mrs. Matovu and my son Kisitu Moses who have sacrificed a lot of my education and tirelessly struggled to lay the foundation for my academic success. I am thankful for the endless efforts and support you have given me during the struggle for my education.

ACKNOWLEDGEMENT

The past four years of my study have involved hard work, reading, writing and rewriting. Not an easy process to considering that such that such research is individually undertaken. But, there was always a light at the end of the tunnel, presented by the end result of the hard work.

However, undertaking such step and completing it would not have been possible to do if it was not for the guidance, help, patience of my parents, and an academician Learned Friend Counsel **Patricia Okumu Ringa**. They have always been there to help and provide their invaluable advice; their cooperation has not been limited to academic matters but also present in all other aspects. For all of that I have to say thank you and I would like to express my deepest respect and gratitude.

I also want to tank my Supervisor **Patricia Okumu Ringa** who meticulously read the drafts and offered invaluable guidance throughout the drafting and writing of this research, it is through her professional guidance and advice that I was able to complete this. Any errors and omissions are entirely mine.

TABLE OF STATUES AND INTERNATIONAL INSTRUMENTS

STATUTES:

1. The Constitution of the Republic of Uganda 1995 (as at 15th February 20006).
2. The Electoral Commission Act, Cap 140 (as amended).
3. The presidential Elections Act, 20005 (as amended).
4. The Parliamentary Elections Act, 2005 (as amended).
5. The Political Parties and Organization Act, 2005 (as amended)

INTERNATIONAL INSTRUMENTS:

1. Universal Declaration of Human Rights (UDHR).
2. International Covenant on Civil and Political Rights (ICCPR).
3. International Convention on the Elimination of all Forms of Racial Discrimination (ICERD).
4. The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

ABBREVIATIONS

1. CSO: Civil Society Organization
2. UDHR: Universal Declaration of Human Rights
3. ICCPR: International Covenant on Civil and Political Rights.
4. CEDAW: International Covenant on Elimination of all forms of Discrimination Against Women.
5. ACDEG: African Chapter on Democracy, Elections and Governance.
6. IPU: Inter – Parliamentary Union
7. NRA: National Resistance Army
8. UHRC: Uganda Human Rights Commission
9. ULS: Uganda Law Society.
10. MPs. Member of Parliaments of the Republic of Uganda
11. E.C: Electoral Commission
12. NRM: National Resistance Movement
13. UPC: Uganda People's Congress
14. DP: Democratic Party
15. CP: Conservative Party
16. FDC: Forum form Democratic Change
17. RDC: Resident District Commissioner.
18. NGO: Non Governmental Organizations
19. Ibid: This means the abbreviation of the word *ibidem* , which literally means, in the same place. This usually means in the same place, in the same book, article or source, data such as author., title and other information indicated in an immediately preceding footnote.
20. Loc. cit: This is the abbreviation for *loco citation*, which means, “in the place cited”. This is where reference is made to the same page as a preceding but not immediately preceding reference. The last name of the author and the phrase *loc. cit.* are used.
21. Op.cit: This is the abbreviation for the words *opera citato*, which means in the

work previously cited. If the reference is made to the same work as a preceding but not immediately preceding reference, *op. cit.* precedes page reference but follows the author's name.

- 22. *Supra*: This means above before previously
- 23. *Infra*: This means under, within.
- 24. *p.* Pages
- 25. *pp.* for the pages in the accepted method of citing page references.

LIST OF CASES

1. **Dr. Kizza Besigye Vs. Yoweri Kaguta Museveni & Anor.**
(Supreme Court Presidential Petition No. 1 of 2001)
2. **Ibingira Vs. Uganda (1966):** E.A 306.
3. **Ex Parte Matovu: Uganda Vs. Commissioner of Prisons:** (1967) E.A.L.R 514.
4. **Zirimula Kiggundu Vs. The Democratic Party (DP) off Uganda:** (H.C.C.S No. 98 of 2008).
5. **Major General David Tinyefunza Vs. Attorney General:** Constitutional Appeal No. 1 of 1997).
6. **Dr. Paul Ssemogerere & Zachary Olum Vs. Attorney General:** (Constitutional Appeal No.1 of 2001).
7. **Col. (RTD) Dr. Kizza Besigye Vs. Yoweri Kaguta Museveni & Electoral Commission:** (Election Petition No. 1 of 2006).

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ABSTRACT

The thesis analyses the institutional and Legal Framework of the Electoral Democracy in Uganda due to the impact followed by an examination of areas thereof requiring reform particularly in view of both national laws and international treaties which have introduced change in the democracy rights.

It therefore seems pertinent to deal with the institutional and legal framework of the Electoral Democracy in Uganda under the current laws and in the light of recent development as far as democracy of Uganda is concerned. In order to achieve the aim of this study, a library based study project has been conducted and most of the court's decisions, recent or old, have been considered in order to find out how they dealt with the issue in the past and whether their attitude has changed to reflect the Institutional and Legal Framework of the Electoral Democracy in Uganda. The opinions and thoughts of scholars on this matter have also been examined in order to ascertain their opinion on the law and its development.

CHAPTER ONE

1.0 Introduction and Background of the Study

Universal benchmarks on democracy emphasize that it is a system of governance in which a country conducts free, fair and regular elections which enable governments and leaders to change peacefully; in which the basic (fundamental) human rights are consistently upheld; and in which efforts are continuously made to use the state's resources for the development of all its citizens. Other important components of a credible democratic system include checks and balances based on the doctrine of separation of power and functions among the executive, judiciary and legislative branches of government; a free, strong and independent media; vibrant CSOs¹ and active participation of ordinary folks in governance. These benchmarks are found in numerous books and documents including UDHR², ICCPR³, CEDAW⁴, ACDEG⁵, and IPU⁶ Charter of 1994.

But as already by many scholars, all post – independence national elections in Uganda from 1980⁷ have not been free and fair. Hence our conclusion that even the February 2011 elections ended in another great setback to democracy, or another missed opportunity to deepen democracy in Uganda. In addition to perpetuating the incumbent President Yoweri Kaguta Museveni's stay in power beyond 25 years he has already served, endorsing the continuation of various electoral malpractices and weakening opposition parties⁸.

This thesis attributes these problems to five negative political trends which have dominated Uganda's politics especially in her last 50 years of independence, from 9th October 1962.

¹ CSOs -Civil Society Organizations.

² UDHR – Universal Declaration of Human Rights

³ ICCPR – International Covenant on Civil and Political Rights

⁴ CEDAW – International Convention on Elimination of All Forms of Discrimination Against Women.

⁵ ACDEG – African Charter on Democracy, Elections and Governance.

⁶ IPU – Inter Parliamentary Union.

⁷ Including the 1989, 1996, 2001, 2006 and 2011 Elections, the Constituent Assembly Elections of 1994, and the Referenda of 2001 and 2005.

⁸ Nabwiso Frank “*An Assessment of the struggle for free and fair Election in Uganda from 1980 to 2010*” (Unpublished Report compiled for the Opposition in Parliament in December 2010).

Firstly, all the successive governments from 1980 have been appointing partisan and under – qualified electoral commissions which have tended to favour the ruling groups to remain in power.

Secondly, none of the said Government has been giving adequate resources to the electoral commission to provide sufficient voter education, especially to rural Ugandans who have little access to news paper, television sets, and dispassionate debates election affairs compared to their counterpart in urban areas.

Thirdly, the country has never seen any of its presidents handing over power peacefully to his successor, causing many Ugandans to believe that no government can change without the active intervention of the army⁹. This belief is justified when the recall the forceful abrogation of the 1962 Constitution by Milton Obote I's Government; the bloody overthrow of the said Obote I Government in a military coup organized by General Idi Amin Dada in January 1971; the removal of Amin's regime in April 1979 by the Tanzanian troops with the assistance of the armed Uganda exiles; the palace against President Y.K. Lule in Entebbe State House in June 1979; the Military Commission's removal of President G.L. Binaisa from power in May 1980; the return to power of Obote in December 1980 through what were generally regarded as fraudulent parliamentary election backed by Tanzania and Uganda soldiers; the capture of power by Tito Okello Lutwa Junta in July 1985 and the seizure of power by the NRA¹⁰ in January 1986¹¹.

The fourth negative trend is that Uganda has been suffering from the same syndrome¹² of refusing to build strong institutions e.g. parliament, the judiciary, political parties, independent mass media houses and civil society organizations which can strengthen democracy in general. After getting independence, a number of African leaders started saying that the multi – party systems which the colonial powers such as the British and the French

⁹ Mwenda Andrew K.: 'The myths of the February 2011 Elections' in *The Independent Magazine of February 11 – 17, 2011*.

¹⁰ NRA – National Resistance Movement

¹¹ Human Rights Watch: *Violence instead of Vigilance: Torture and illegal Detention by Uganda's Rapid Response Unit (RR) in Uganda*, March 2011.

¹² (as some other Sub Saharan Countries)

had left behind were alien to "tradition African democracy". So they quickly opted for one party governance which were in turn overthrown in military coups, which made it virtually bloody military regimes for sometime, some of the citizens in those countries began agitating for free and fair elections, sometime with the support of the international donor community. It is therefore worrying to hear of some Ugandan and other African leaders who still support dictatorial rule, unlimited stay in office of some presidents, excessive political patronage and intimidation abuse of basic human rights, corruption and various electoral malpractices.

The last and most dangerous trend is that although Uganda is a signatory to the 1994 I.P.U Charter¹³ which highlights the 10 universal benchmarks for free and fair elections, they are not well known in the country. As a result of the major players in the electoral process in Uganda (including parliament, Electoral Commission, the Donor Community, the ruling and opposition parties, the media, the Uganda Human Rights Commission¹⁴, the Uganda Law Society¹⁵, Religious and Civil Society Organizations and the voters themselves) have used them to pressurize the government to adhere to them.

In short, if these trends are not reversed, the hope of holding free and fair election and building a strong institutional and legal framework of a democratic society in Uganda will for a long time remain an illusion.

1.2 Statement of the problem

There are always been controversy as regards the exact scope of the obligation of the institutional and legal framework of the electoral democracy in Uganda. This is notwithstanding scholarly and judicial opinion as well as wealth of international instruments all elucidating on the said concept. This has posed a multiplicity of question and issues especially regarding the context of institutional and legal framework of electoral democracy in Uganda and the fact the obligation of the free and fair elections, yet its actual scope still remains debatable makes analysis of the concept of institutional and legal framework of the electoral democracy in Uganda, worth consideration.

¹³ I.P.U – Inter Parliamentary Union Charter.

¹⁴ UHRC – Uganda Human Rights Commission

¹⁵ ULS – Uganda law Society

1.3 Scope of the study

The study aims to analyze the extent at which Uganda has accommodated the domestic and internationally set standards in the field of the institution of electoral democracy and what measures are in place to promote then legal framework of the electoral democracy in Uganda. The research concentrated on the Constitution of the Republic of Uganda, the Electoral Commission, and the Presidential Elections being the areas of democracy as far as institutional and legal framework of the electoral democracy in Uganda is concerned. The researcher targeted stakeholders from both the relevant government and private sector, within the radius of Kampala. Emphasis was put on the law in place in respect to institution of electoral democracy in Uganda vis a vis international legal and institutional electoral democracy instruments, instruments, institutions of enforcement in place where those bearing such ideas in democracy and the legal framework had actually benefitted, and the way forward. §

1.4 Hypothesis of the study

1. The study focuses basically on the parameter of the institutional and legal framework of the electoral democracy in Uganda.
2. The absence of both uniform international and local instruments on the nature and scope of the obligation of the institutional and legal framework of the electoral democracy in Uganda has contributed to ambiguity of the concept.
3. The varying judicial approach towards the concept of the institutional and legal framework of the electoral democracy in Uganda has further undermined efforts geared at uniformity of the concept for the progress of the institutional and legal framework of the electoral democracy in Uganda.

1.5 Methodology

The study adopted was qualitative in nature as it was based on published literature in libraries and online resources. Library research was conducted and most of the court decisions recent and old, were considered in order to ascertain the legal judicial interpretation of the relevant concepts as well as the changes in the development of the protection of the institutional and legal framework of the electoral democracy in Uganda as well as the legislative laws as

Constitution of Uganda, 1995 (amended); The electoral Commission Act. Cap 140 (as amended); the Presidential Elections Act, 2005 (as amended); the Parliamentary Elections Act, 2005 (as amended); the Local Governments Act, Cap 243 (as amended); The Political Parties and Organizations Act, 2005, (as amended), The National Youth Council Act, (as amended and regulations among others. Questionnaires were not preferred as the topic seemed political to most of the people that they could not give objective responses but rather those in favor of their respective political parties.

1.6 Significance of the study

The study provides an important background and significant recommendations of the institutional and legal framework of the electoral democracy in Uganda baring the fact that there is recognition if the electoral democracy and the interest that has grown there form to protect the institutional and legal framework of the electoral democracy in Uganda at the national and international level. However, the purpose of this research is to attempt to highlight the essence of the institutional and legal framework of the electoral democracy in Uganda as impacted on by the current rights. The research is intended to widen the existing scope of knowledge through a comparative study of the nature of electoral democracy in Uganda.

1.7 Problems in executing the study

1. Lack of funds to finance research, which is obviously costly.
2. Inadequacy of data in the Uganda Electoral Commission and the problems of retrieving the available little data because the system is largely manual.
3. Accessibility of international conventions, treaties, protocols and agreements and decided cases on principles of institutional and legal framework of the electoral democracy in Uganda.

1.8 Objective of the study

The study documented in detail is the institutional and legal framework of the electoral democracy in Uganda with particular emphasis on the available electoral laws and therein establish their suitability for development.

1.8.2 Specific Objectives

1. To ascertain the relevancy of institutional and legal regime governing the electoral democracy in Uganda.
2. To analyze the extent to which the legal regime has done to protect the institutional electoral democracy in Uganda.
3. To propose and recommend amendment to Uganda's legislature to provide for better institutional and legal framework of the electoral democracy in Uganda.

1.9 Literature Review

In Uganda, the institution and legal regime of the electoral democracy in Uganda is still at its infancy stage despite being a signatory to various international instruments, and institutions establishing the governing of the electoral democracy worldwide including the modern and 1st world countries. Thus there is little literature on the institutional and legal framework of the electoral democracy in Uganda, publication such as conferences or workshops on which will dwell in a quest to expand on the literature of the subject herein, emphasis will also be taken of foreign literature on record.

While it is evident that democracy in Uganda was under decline since the mid 1960, there has been a realization that democracy does not have a quick – fix alternative Apter has vividly noted:

*“.....in so far as there is widespread consensus that democracy is the best available political system, most comparative political enquiry show a concern with democracy: how to realize it, sustain it, adapt and improve it and how to deal with threats to its survival both from within and without.....”.*¹⁶

For this purpose it is useful to capture a precise definition of democracy.

¹⁶ David Apter (1996), “Comparative Politics, Old and New” in Robert E. Goodwin & Hans – Dieter Klingemann (eds), *A New Handbook of Political Science*, Oxford University Press, P.373.

Thus

“.....Modern political democracy is a system of governance in which rulers are held accountable for their actions in the public realm by citizen, acting indirectly through the competition and cooperation of their elected representative.....”¹⁷

Democracy can be distinguished from other forms of government by the method through which the rulers access power, their institutionalized mechanism of checks and balances and accountability. Non – democratic regimes are characterized by the restrictions they impose on participation. Democratization in the world today may be captured in Huntington’s “third wave”. He attributes the timing and growth of the transition to democracy to five factors:

“.....(1) the legitimacy crisis of the authoritarian regimes; (2) the strong economic growth of the 1960s; (3) the rise of church based opposition to authoritarian regimes; (4) the change of attitude among the super powers and (5) the emergency of model democracies and their “snowball effects....”¹⁸

The world over, the 1990s saw the resurgence of neo – liberal democracy, characterized by the collapse of former communist states, one – party states and quasi – military regimes ushering in multi – party politics. According to Bratton and Van de Walle, by the mid – 1990s a good number of single party or quasi military government had embraced multipartism.¹⁹ These changes were accompanied by popular demand for good governance. Despite the resurgence of multipartism, popular representation and political pluralism which came with activism and proliferation of civil society organization; several African states including Uganda succeeded in dogging this “third wave” of democratization.²⁰ The move towards democratization in some African countries did not prevent the state from abusing

¹⁷ Phillippe C. Schmitter & Terry Lynn Karl (1993), “What Democracy is....and is not” in Larry Diamond & Marc F. Plattner, *The Global Resurgence of Democracy*. P40.

¹⁸ Huntington S. (1993), “Democracy’s Third Wave” in Diamond L. & Plattner M. *The Global Resurgence of Democracy* p.4

¹⁹ Micheal Bratton and Van de Wall (1997), *Democratic Experiments in Africa; Regime transitions in comparative perspective*, Cambridge; Cambridge University Press. It is noted that by 1996, 29 of the sub-Saharan African countries had made a transition to multiparty politics.

²⁰ Sabiti Makara (2007), Uganda’s 2006 multiparty elections: consolidating Democracy and Peace? *East African journal of peace and Human Rights*, vol.13, No.1

power to deny the people of their liberties, human rights and freedoms. In particular, opposition politics was either circumscribed or brutally suppressed. While liberal scholars were busy celebrating the “end of history”²¹ the undemocratic category of states in Africa entrenched repressive dominant state parties or “movements”. Such movements initially tend to ride on populism but as this wanes, they narrow down to patronage, cliques and corruption.

The paper by **Oloka Onyango J.**²², has a more specific focus on two very important factors for consolidating a genuine institutional and legal framework of the electoral democracy system: thus “....(1) the existence and strength of checks and balances in the political system; (2) the existence of a level playing field....”. he argues that both factors are rather weak and worrying in the Uganda context, with one major reason being the “fusion between state institutions and the NRM party structures”. Based on this observation, he argues the ruling NRM to “realize that opposition is now part and parcel of the political disclosure in the country and should be allowed to build themselves into viable parties which can takeover political power through a democratic context...”

More problematic still is the possibility that formal processes of democratization can be in tension with substantial, actually existing forms of democracy. Indeed, contemporary research regarding democratization in Uganda observes that formal process of democratization and actual democratic reversal may happen simultaneously during complex reform process. **Burnell and Calvert**²³ in explaining Uganda’s transition to multiparty democracy, the prospect that formal processes of democratization might undermine substantive, existing democracy is raised. However, the case studies that this paper provides cannot confirm this hypothesis, as they do not address post – 2006²⁴, multi party democracy in Uganda.

Instead, the case studies are of intra – governmental conflict between Uganda’s parliament and its executive branch over financial sector reform, central bank independence, and electricity sector reform, between 1995 and the establishment of multi – party democracy in

²¹ Francis Fukuyama (1992), *The End of History and the Last Man*, London : Hamish Hamilton.

²² Oloka –Onyango , J, “Constitutional transition in Museveni’s Uganda; New Horizons or Another False start?” in *Journal of African Law*, Vol.39,No.2 pp. 156-172(1995)

²³ Burnell, P. and P. Calvert (2006) “Promoting Democracy Abroad” *Democratization* 12(4):433-8

²⁴ These case studies are based on unpublished fieldwork interviews conducted in Uganda in 2006

2006. They explain the formal process of democratization (transition to multi party democracy) as a reaction by executive branch of the government against the substantive form of democracy that existed in Uganda between 1995 and 2006, under the no – party democracy system. It helps to view Uganda as a typical post – conflict developing state, where political; liberation has occurred in the context of strong executive power.

The electoral system, determines the extent to which people are able to participate in government and hold the government accountable through the choice of leaders. The way elections are held and their regularity is an important measure of the extent to which a society has been democratized. One of the tests of a democratic society is the extent to which it enables its members to participate in the decisions affecting them. The political legitimacy that credible elections confer is essential for robust states and provides a crucial mandate if governments are to have the capacity to tackle a myriad of sustainable development challenges. In the third wave” of democratization, many countries started to reform and fashion their electoral rules to more closely meet the goals of accountability, legitimacy, representation and sustainability. Today, there are very few states in the world that do not conduct elections, although the meaning and quality of these vary enormously. However, despite the central role of elections in democratic governance, it is important to remember that elections themselves are not synonymous with democracy. As the 2002 Human Development Report: on deepening democracy in a fragmented world made clear, democracy is ultimately about voices more than votes.

Historically, Uganda’s experience of free and fair elections has been limited, and such effort for change will be needed if our electoral system is to operate truly in the interests of democracy. The country prepared other important General Elections in 2011, but several outstanding legal issues need redress.

In the petition of **Besigye Kizza Vs. Yoweri Museveni Kaguta & Anor**,²⁵ amongst the major complaints were the failure to publish a full list of all polling stations in each constituency 14 days before nomination; creating new polling stations on the eve of polling days as result of which the petitioner could not appoint agents for those new polling stations;

²⁵ Supreme Court Presidential Petition No.1 of 2001.

multiple voting and voting by those without voter cards; intimidation of voters by soldiers and other para – military personnel during campaigns and at polling stations; failure to display voters registers or rolls to each parish or ward in a public place for a period not less than 21 days. Thus, in this research all these are given audience and attention.

Electoral reform: the year 2009 witnessed incessant calls for electoral reforms to even the political playing field for different political actors in Uganda. The Inter Party Cooperation made extensive recommendation for electoral reform and civil society too made several proposals that in their view are crucial of the credibility of the electoral process is to be enhanced. By close of the year, parliament was under pressure to debate these laws, but then executive was yet to submit the necessary bills to parliament for the same. While the enactment of better electoral law does not necessarily guarantee a free and fair election as exemplified in previous court judgments, fair electoral law are an important ingredient for building trust in the electoral process. There are lingering question of undue advantages of incumbency including “use of facilities” that are ordinarily attached to his office. There is need to clarify in the law what is due top an incumbent so that incumbents don’t over stretch their boundaries.

Equal treatment of political parties; this should involve applying the same rules and the same guidelines to every political party and every candidate. In 2010, while there was evidently more space compared to previous for political parties to canvas for support for their different programs, there were still cases of harassment of political party leaders especially at district level. For instance, the president of the Democratic Party was denied access to media in Hoima, Soroti and some districts in northern Uganda with media proprietors claiming that they had instructions from above not to host the opposition leader. A few other political leaders in the opposition have occasionally been subjected to harassment by state security agencies as they went about their work especially in the communities or constituencies, examples including MPs²⁶ such Hon. Erias Lukwago(now Lord Mayor of Kampala) and Hon. Nabilah Naggayi Ssempala were allegedly arrested and tortured by state security agencies.

²⁶ MPs-Members of Parliament of The Republic of Uganda

Independence of the Electoral Commission: In 2009, the President re-appointed all the commissioners of the EC amidst public outcry especially after the indictment the EC²⁷ has received in various court judgments in the past which have indicated that its not impartial in conducting its affairs. It has been pointed out that some EC officials took side and conducted themselves in a manner that is calculated to bring the commission into disrepute. Thus, this thesis has honestly addressed this concern.

Lastly, a dissertation report by **Kristin McKie**,²⁸ addressing on the question of term limits, the author laments that the presidency is the most powerful institution in Uganda, with the president being the head of state and commander-in-chief of the armed forces, and sometimes referred to as the fountain of honour as well as the head of government. Under the constitution of the Republic of Uganda, the president is given enormous powers including those to declare was, where and when necessary and concludes treaties. The president also wield considerable power with regard to appointments to public offices or state institutions. He has the power to appoint judges of the High Court and Justices of the Court of Appeal (Constitutional Court) and the Supreme Court on the advise of the Judicial Service Commission. He also appoints ambassadors, and high Commissioners.

Effective 1995, the occupancy of the office of the President was restricted to two five year terms, meaning that the extent to which he exercises the power that was limited to that period. In 2005 however, there was a major constitutional amendment which saw the presidential term limits removed, implying that the occupant of the office would stay in power so long as he or she is voted. Critics whom this thesis has observed are that this democratic reversal is intended to promote life presidency, which essentially is an abuse of democracy.

²⁷ E.C- Electoral Commission.

²⁸ Christine McKie; Reining in the Big Men: The Politics of Executive Constraints Across Sub-Saharan Africa. (also retrieved on <https://sites.google.com/a/cprnell.edu/kristin-mckie/dissertation>) last accessed last on June 10th 2013.

CHAPTER TWO

2.1 Historical and Development of the Institutional and Legal Framework of the Electoral Democracy in Uganda.

It would be hard to appreciate Uganda's Institutional and Legal Framework of the Electoral Democracy challenges without an understanding of the country's political history. This is because the challenges facing Uganda in deepening institutional and legal framework are a manifestation of her political, economic, social and military history. The country's history is tainted with civil war, dictatorship, one party rule and the violation of human rights in all its forms. When Uganda gained independence from colonial rule on 9 October 1962, expectations were high: the country had finally broken from the oppressive yoke of colonialism. Little was it known that the 1962 independence constitution was flawed and the harbinger of bad governance in the country. The constitution had created an imbalance of power between the different regions. Some regions like Buganda were characterized as kingdoms, with a federal relationship with the central government, while others remained subject to strict central government control. yet all these regions to compete for political power by producing a president vice president. Buganda would later produce the first president, who also doubled as the Kabaka (king) of Buganda. This was viewed by other regions as Buganda domination.

According to George Kanyeihamba, the constitution created a president who required no mandate from Uganda as a whole: all he needed was to be a ruler of a kingdom or district, and also only one kingdom or district could determine the qualification of this high office.²⁹ At the same time, the constitution created the office of the prime minister, who was appointed from the legislature with substantial executive powers.

It is against this background that the first Prime Minister, Milton Obote, the head of the Uganda people's congress (UPC), used political manipulation and military backing to seize power and to later abrogate the independence constitution.³⁰ The 1996 interim constitution was adopted without debate; the members of the legislature woke up to find in their pigeon holes copies of the draft constitution to be adopted. The 1967 constitution effectively

²⁹ Kanyeihamba, 2002 at 79

³⁰ See Karugire, 1980 at 196

abolished the kingdoms and created an executive president with considerable power exercised by a centralized government. The militaristic way in which Obote ousted the Kabaka and adopted the 1996 constitution meant that he would depend on the military for his stay in power this marked the beginning of the militarism of politics in Uganda: armed oppression and detention were relied on as the normal response to the opposition.³¹ Since then, in spite of its central role of maintaining security, the army has often gone overboard and fallen short of society's expectations.³² According to Amii Omara –Otunnu

*“...the usurpation of state power by the army dealt a series
Of devastating blows to democratic processes in the country.
The distinctive features of the systems of government and
Administration which became established were the devaluation
Of human lives, the use of force /social interactions, the
Presentation by the power elite of political problems as being
Essentially military in nature,...and the domination of civilian
Institution by the armed forces...”³³*

The Obote's government was extremely sensitive to criticism; it considered criticism anathema; “the only public criticism that was welcomed was the one which praised government policies and boosted minister's personal standing in the country”³⁴, after attempted assassinations on Obote on 18th December 1969, all political parties except the UPC were banned. This meant a *de facto* one – party state for Uganda.³⁵

The despotic way in which Obote administered the government and dealt with the opposition laid the foundation for his downfall, but more so was the way in which he managed the army. Discontent and the emergence of factions within the military resulted in the January 1971 coup de tat by Idi Amin. The abrogation of the 1962 constitution and the judicial endorsement of the irregular manner in which the 1966 constitution was adopted created a lasting impression that a constitution could be abrogated or ignored and or suspended. The latter is

³¹ Arnold, 2005 at 280

³² Naluwairo, 2006

³³ Omara Otunnu, 2002 at 445

³⁴ Kanyeihamba, op.cit, at 131

³⁵ See generally Willets, 1975

what Idi Amin did, via Legal Notice No. 1 of 1971 in which he suspended parts of the 1967 constitution including the supremacy clause; the constitution could be overridden by decrees passed by the military council. The country quickly degenerated into dictatorship. The government issued order prohibiting all political activity. The law prohibited any person from managing, taking part in or collecting subscriptions for any political party or organization or taking part in any public meetings or processions for the purpose of imparting political ideas³⁶.

While the overthrow of Idi Amin was lauded both within and outside Uganda it marked another era that eluded good institutional and legal framework of the electoral democracy in Uganda. The period of transition leading to the 1980 elections was characterized by unconstitutional maneuvering, which saw the overthrow of the government and hijacking of the electoral process by the pro – UPC Military Commission. The 1980 elections which were supposed to usher in a new democratic government remain contested. They were fraught with heavy gerrymandering and riddled with many irregularities and coercion, ³⁷and the fact that the process was directed by the pro – UPC Military Commission, which took over from the electoral commission, leads to the conclusion that the elections were rigged.

2.2 History of Abrogation of the Legal

Uganda's political history is also highlighted by blatant disregard of the doctrine of judicial independence. While colonialism introduced a western type of legal framework system, it did not embrace all its tenets; relegated to the background was the doctrine of separation of powers and full judicial independence. The most visible relegation of the legal framework independence was through the appointment of chiefs, who acted as agents of indirect rule; the chiefs donned executive, judicial and legislative powers.³⁸ The higher administration was not any different, the governor who was the head of the protectorate, himself exercised executive. Legislative and judicial power and a number of decisions were expressly excluded from

³⁷ Oloka Onyango, 2005, at 1

³⁸ See Monica Twesiime Kirya; The Independence and accountability of the judiciary in Uganda; opportunities and challenges available at <<http://www.kitouchakatiba.co.ug/twesiimememonic.htm>> (accessed on 26 April 2012)

judicial review. The judges and magistrates were appointed by the administration and could summarily be dismissed at will.

While independence introduced some political changes, most of the institutions of government including the judiciary remained intact. Executive domineering over the judiciary continued. Uganda's history has numerous examples of executive disregard and the overruling of court order.

The most cited example is the case of **Ibingira Vs. Uganda**,³⁹ Grace Ibingira, a cabinet minister had been arrested by Obote's government following intelligence reports that the ministers were planning to pass a vote of no confidence in the president. The ministers were detained under deportation laws, which they successfully challenged in the Court of Appeal after losing in the High Court. The Court of Appeal held that the deportation laws were unconstitutional and ordered the High Court to consider the applicant's application for **habeas corpus**. The administration simply re-arrested the detainees under emergency laws and validated their deportation by a retrospective piece of legislation presented in parliament and passed the same day. In circumstances that depict judicial compromise, the detainees lost a Court of Appeal case challenging the validation legislation and subsequent detention. The case has been described as showing that in the new independent Uganda, Legal framework was but a myth.⁴⁰

The compromised independence of the post – independence of the legal framework in Uganda is also reflected in the case of **Ex Parte Matovu: Uganda Vs. Commissioner of Prisons**.⁴¹ In this case the court followed the positivist principles propounded by German scholar, Hans Kelsen to sanction an unconstitutional change of government.⁴² The members of the court believed that a decision that the constitution was irregular would have challenged their legitimacy, which was ultimately based on the constitution. The High Court held that:

³⁹ (1966)E.A 306

⁴⁰ According to Oloka-Onyango "Ibingira case represented the high point in the demise of the independence of the Judiciary, especially with respect to matter relating to the fundamental rights and freedoms sections of the constitution" Oloka-Onyango 1994 op.cit, at 482

⁴¹ (1967) E.A.L.R 514

⁴² For detailed discussion of this decision and its impact on the legal system, see Kirkby 2007.

“...a constitutional order can validly be swept by a revolution; if the revolution is victorious in the sense that the person assuming power under the change can successfully require the inhabitants of the country to conform to the new regime, then the revolution itself becomes a law – creating fact.....”.

According to Oloka Onyango,

“.....the court clothed the patently illegal actions of the government in a shroud of legitimacy and thus aided the erosion of its own power and authority...”⁴³

The period in-between 1971 and 1979 was characterized by absolute anarchy, many state functionaries including the judiciary were militarized; quasi – legal system powers were conferred on a number of military and Para – military bodies which resulted into the absolute marginalization of the judiciary. The sanctity of the legal framework system was defiled when the military arrested the chief justice while in his office; he was dragged in a broad day light to an unknown destination. He was never found and is presumed to have died by execution. While the period between 1980 and 1986 witnesses a re-awakening of the legal framework, the institution remained compromised and constrained by pieces of legislation that sought to expressly oust the jurisdiction of the court; several cases decided under Obote II regime (12th December 1980 – July 1985) reflected a judiciary that was struggling with laws that were patently outrageous, but was too constrained by the force of history and their own positive leanings to come completely out of the cocoon⁴⁴. One of the laws that was recouped and vigorously enforced was the 1967 Public Order and Security Act (POSA),⁴⁵ which conferred on the administration very wide powers to order the detention of any person suspected of disrupting the public order or compromising the security of the state.

By the mid 1980s, the country was beset by terror, anarchy and warlordism. There was a complete breakdown of law and order. Everything was militarized, yet the president had very limited control over the army. It is in the midst of this chaos that the National Resistance Army (NRA) seized power ending a protracted civil war in Uganda.

⁴³ Oloka- Onyango, 1994 po.cit,at 483

⁴⁴ Ibid.at 492

⁴⁵ Act 20 of 1967

2.3 The Legal Framework Connected to the Institutional Electoral Democracy in Uganda.

The conduct of free and fair elections calls for comprehensive legal framework consistent with the holding of such elections. The legal framework within which Uganda's General Elections are conducted consists the following;

2.3.1 The Constitution of the Republic of Uganda, 1995 (as amended)

The constitution provides for the right to vote⁴⁶, the composition⁴⁷, functions of the Commission in the electoral process and timeline within which to conduct the elections⁴⁸. Accordingly, **Objective II**, of the National Objectives and Directives Principles of State Policy⁴⁹, emphasizes the state to be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance. Odoki, JSC has noted in the case of **Dr. Kizza Besigye Vs Museveni Yoweri Kaguta & Anor**,⁵⁰ that

“....the right to vote is a fundamental political right. Article 59 (1) of the Constitution provides that every citizen of Uganda of eighteen years and above has a right to vote. It is further provided in Article 59 (3) that the state shall take all necessary steps to ensure that all citizens qualified to vote register and exercise their right to vote...”

2.3.2 The Electoral Commission Act, Cap 140 (as amended)

This is an Act of Parliament that makes provisions relating to the staffing⁵¹, powers and functions of the Commission⁵², appointment of tribunals⁵³, display process and other election related matters.

2.3.3 Presidential Elections Act, 2005 (as amended)

This Act provides for election of the president⁵⁴. It also spells out the requirements for qualifications⁵⁵, nomination of candidates⁵⁶, sponsorship of candidates by political parties and

⁴⁶ Article 40 of the Constitution of the Republic of Uganda, 1995 (amended)

⁴⁷ Ibid, Article 60

⁴⁸ Ibid, Article 61

⁴⁹ Constitution of the Republic of Uganda, 1995 (amended)

⁵⁰ Presidential Electoral Petition No. 1 of 2001.

⁵¹ Section 1 to 11 of the Electoral Commission Act Cap 140 (Amendment).

⁵² Ibid, Part II of the Act

⁵³ Ibid, Part V of the Act

⁵⁴ Section 2 of the Presidential Election Act 2005.

⁵⁵ Ibid, Section 4 of the Act.

organization, facilitation of candidates, campaign period⁵⁷, polling procedure, counting, tallying and declaration of results⁵⁸, as well as handling of petitions, among others⁵⁹.

2.3.4 The Parliamentary Elections Act, 2005 (as amended)

The Parliamentary Election Act, 2005 provides for the mode of elections, requirements for qualification, nomination of candidates⁶⁰, sponsorship of candidates by political parties and organization, campaign period, polling procedure⁶¹, counting, tallying and declaration of results⁶², as well as handling of petitions⁶³, among others.

2.3.5 The Political Parties and Organization Act, 2005 (as amended).

The Political Parties and Organization Act makes provisions for the financing and functioning of political parties and organizations, their formation, registration, membership and organization under Articles 71, 72 and 73 of the Constitution; the prescription of their code of conduct⁶⁴ and establishment of the National Consultative Form⁶⁵.

2.4 The Existing International Instruments in Compliance with the Institutional and Legal Framework of the Electoral Democracy in Uganda

This section considers the extent to which Uganda's domestic legal framework on election is in compliance with the relevant international standards, where then to consider the extent of this compliance in practice.

International and regional standards on election are based on three central rights: the right to take part in government; the right to vote and to be elected; and the right to enjoy equal access

⁵⁶ Ibid, Part IV of the Act

⁵⁷ Ibid, Part V of the Act

⁵⁸ Ibid, Part VII of the Act

⁵⁹ Ibid, Part VIII of the Act

⁶⁰ Part VI of the Parliamentary Election Act, 2005 (Amendment)

⁶¹ Ibid, Part VII of the Act

⁶² Ibid, Part IX of the Act

⁶³ Ibid, Part X of the Act

⁶⁴ Section 19 of the Act of the Political Parties and Organizations Act, 2005 (as Amended).

⁶⁵ Ibid, Section 20 of the Act.

to the public service⁶⁶. Within this overall framework of rights, the international standards on the rights of individuals in the election process, and standards for the elections can be placed into three basic categories – general standards on the rights of individuals in the election process, and standards that national bodies must fulfill in the electoral process.

2.4.1 International Standards

Of significance international are the Universal Declaration of Human Rights (UDHR, Article 21), the International Covenant on Civil and Political Rights (ICCPR, Article 25), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, Article 25), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, Article 7). Uganda is a party to the three treaties: the ICCPR, ICERD, and CEDAW⁶⁷. In 1996, the UN Human Rights Committee (HRC), responsible monitoring compliance with ICCPR, adopted a General Comment on the (Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service:, which provides an authoritative interpretation of states duties under Article 25 of the Covenant⁶⁸.

There are numerous other non – binding standards at the international level. Two in particular, which were adopted by the Inter-Parliamentary Union (IPU), can be highlighted here⁶⁹. In 1994, the IPU adopted Declaration criteria for free and fair elections, setting out standards on the rights and responsibilities of voters, candidates, parties and the state. This was supplemented in 1997 by a Universal Declaration on Democracy, which provides additional guidance on appropriate standards at international level.

⁶⁶ International Covenant on Civil and Political Rights (ICCPR), Article 25. See also the Universal Declaration of Human Rights (UDHR), Article, 21.s

⁶⁷ Uganda Acceded to the ICCPR in 1995, to the ICERD in 1980 and to the CEDAW in 1985.

⁶⁸ UN Human Rights Committee, “The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service (Article, 25): CCPR/C/21/Rev1/Add.7, General Comment No. 25, 12 July 1996.

⁶⁹ The IPU is the International Organization of Parliaments, established in 1889.

CHAPTER THREE

METHODOLOGY

3.0 Introduction

This chapter consists of ways and means of how the research was conducted and these included research design, study area, study variables, sampling procedures and methods, data collection methods, data handling methods, reliability and validity, and then the anticipated limitations.

3.1 Research design

The research was based on qualitative and quantitative research designs.

3.1.1 Qualitative Design

The qualitative design was descriptive in nature and this enabled the researcher to meet the objectives of the study, statements were used to assign variables that are not adequately measured using numbers and statistics assigned to variables that cannot easily be measured using statements or theme.

3.1.2 Quantitative Design

Quantitative approach to data collection and analysis was also used. This design was selected due to the appropriateness in terms of flexibility and time.

3.1.3 Rationale

The rationale was to get different opinions directly from the community members.

3.2 Study Area

The study focused on voters found in Kampala district located in Makindye division. The study selected especially adults that participated in the previous presidential elections and those who wish to participate in the 2016 elections.

3.3 Study population

The researcher obtained information from quite a number of registered voters around Makindye division. The study population therefore composed of respondents from different

areas of the division for example Nsambya, Katwe, Lusaka, kansanga, kabalagala, Lusaka. The population includes the adults both educated and uneducated, rich and poor, those with jobs and those that do not work but participated in the previous elections and/or would participate in the next elections and also those who had not attained the age of 18 in 2011 but are now 18 or above and would wish to participate in the forthcoming elections come 2016.

3.4 Sample Size and selection

The study will be carried out using simple non-random sampling. The researcher will divide her respondents mainly clients into two groups, 15 men and 15 women of which were divided in different groups respectively.

3.5 Sampling methods

The study employed stratified sampling since the population is divided into different categories where by these categories acted as strata. And there after simple random sampling was used to obtain the sample size from each stratum since each category may have equal chances of being selected.

3.6 Data collection methods

To obtain the information, the researcher will use the following methods; questionnaires, observation, interviews.

Both primary and secondary data were considered. Primary data was collected from people using

3.6.1 Interview method:

This was a presentation of oral-verbal stimuli and reply in terms of oral-verbal responses. This was through personal interviews in form of face to face interviews and it also involved personal interactions between the researcher and the respondents.

Another form of interview method was written answers to the designed questions put to those who could read and write.

3.6.2 Questionnaire method:

Questionnaires refer to a list of carefully formulated written questions to be administered to a selected group of people for purposes of gathering information in a survey research. Both open-ended and closed questionnaires were used. The questionnaire was the main instrument of collecting primary data and was administered to the different people eligible to vote in Uganda. The questionnaire easily solicited information from several respondents since they were allowed to fill it in thus giving them freedom to give answers to sensitive questions.

3.7 Data Presentation Analysis

Data handling was done as follows;

3.7.1 Data editing; Editing involved sorting of the collected information in order to get information that is relevant to the study variables. At this stage all the responses were edited by the researcher while writing the useful information and ignoring the useless as provided by the respondents.

3.7.2 Data presentation; After the data had been edited, it was then presented in form of frequency tables after which the data was ready for interpretation. Graphs and pie-charts were developed by the use of computer packages such as; Micro Soft Word and Micro Soft Excel. However, qualitative data was analyzed by developing themes (headings) or sub themes that were derived from the study objectives.

3.7.3 Data analysis; Both quantitative and qualitative methods were used during data analysis. Quantitative data involved use of frequency tables against their percentages. While qualitative information involved quoting responses from the respondents.

3.8 Data Collection Procedure

A pilot study was first made .This was the first journey to the area of research. The researcher also got some reports of the recent experiences of election management in Uganda.

Questionnaires were distributed to the respondents and the interviews were conducted randomly. Secondary data was gathered from text books, research reports and internet

because they contain information that was already published and this information was vital to be included in the study.

3.9 Limitations of the study

Limited resources in terms of money to cater for activities such as transport and secretarial services were a great study limitation, but the researcher tried to get some financial support from relatives.

Failure of respondents to understand the questionnaires in the form they are meant to be understood was challenge. This was because the respondents politicalised the questions while others were not well conversant with the English language with their responses that the researcher had to seek a helping hand to help her in explaining the questionnaires to the different respondents on the guide of the researcher.

Respondents at first were not willing to respond to the questions due to fear of being spied on. Other respondents were too busy to give the researcher adequate time thus providing half information.

CHAPTER FOUR

PRESENTATION, ANALYSIS AND INTERPRETATION OF FINDINGS

4.0 Introduction

This chapter presents the research findings. The results of the findings are fully analyzed, discussed and interpreted to meet their total coherence in line with the research objectives. The findings from the study are presented and analyzed in line with the study objectives as were formulated earlier in chapter one of this report.

Here, both the qualitative and quantitative data is presented in frequency tables and graphs. The demographic characteristic of the respondents is presented first and then other research questions.

4.1 Demographic characteristics of the respondents

4.1.1 Gender of the respondents

The table below represents the gender of respondents. This was based on female and male.

Table 1 showing the Gender of respondents

Gender	Frequency	Percentage (%)
Male	15	50
Female	15	50
Total	30	100

Source: Primary Data

From table 4.1.1 above, both males and females represented the same percentage of 50%. This implies that the research population was equally dominated.

4.1.2 Marital Status

Table 2 showing the respondent's marital status

Sex	Frequency	Percentage (%)
Single	6	20
Married	14	46.67
Widowed	7	23.33
Divorced	3	10
Total	30	100

Source: Primary Data

The table above shows that the majority of the respondents were married and their views contributed to a 46.67% widowed ones contributed 23.33 and divorced ones also contributed to a 10% of the entire respondents while 20% were single. This implies that majority of the respondents were responsible citizens as reflected by their role as citizens; married and widowed or divorced. This also means that they are responsible in ever icing their rights for example involving in the general elections.

4.1.3 Age of Respondents

Table 3 showing the age brackets of the respondents

Responses	Frequency	Percentage (%)
18-25 years	5	16.67
25-35 years	15	50
35-45years	5	16.67
Above 45 years	5	16.67
Total	30	100

Source: Primary Data

The table above illustrates that most of the respondents were in the age bracket 25-35 accounting for to a 50% of the entire respondents. Those in the age bracket 18-25 years accounted for a 16.67%, those in age bracket 35-45 accounted for a 16.67% of the entire respondents while those above 45 years also accounted for 16.67% of the entire respondents. This implies that majority of the respondents were in the adult stage and with reasonable information and experience about voting in Uganda.

4.1.4 The level of education of the respondents

Table 4 showing the level of education of the respondents

Education level of the respondents	Frequency	Percentage (%)
Above Bachelors level	2	6.67
Bachelors	3	10
Diploma	6	20
Secondary level	10	33.3
Below secondary level	9	30
Total	30	100

Source: Primary Data

The table above can be interpreted that most of the respondents had at least reached secondary level of education and some had even acquired, diplomas, Bachelors and even above. this means that the respondents had the capacity to interpret questions put forward to them.

4.1.5 Number of times respondents have voted.

Table 5 showing the number of times the respondents have participated in presidential elections in Uganda since the 1996 presidential elections.

Number of times	Frequency	Percentage (%)
none	5	16.67
1	15	50
2	6	20
More than 2	4	13.33
Total	30	100

Source: Primary Data

Most of the respondents had at least ever voted.

4.1.6 Political Party affiliation

Responses	frequency	Percentage %
NRM	16	53.33
Opposition	11	36.67
None	3	10
Total	30	100

Source: Primary Data

From the above information the NRM participants/respondents were slightly more than the opposition respondents.

4.2 Perception of democracy according to respondents

Table 6: Showing whether the respondent see democracy in the presidential elections.

Perceptions	Frequency	Percentage %
Positive	20	66.67
Negative	10	33.33
Total	30	100

Source: Primary Data

As seen in the table 4.2 above, the bigger percentage does agree that electoral democracy does exist in Uganda. However most of the respondents that replied negatively to the question were opposition and educated.

4.3 Perception of the electoral commission

Table 7: Shows the respondents perception of the electoral commission of Uganda

Impact	Frequency	Percentage
Positive	12	40
Negative	18	60
Total	30	100

Source: Primary Data

It was seen that the majority of the respondents had a negative view about the electoral commission especially the opposition respondents.

CHAPTER FIVE

SUMMARY, DISCUSSION, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

In this chapter, the summary, discussion, conclusions and recommendations are made basing on the findings from chapter four. The discussion, conclusions and recommendations were done according to major study themes in relation to the study objectives.

5.1 SUMMARY; STRENGTHS OF THE ELECTORAL COMMISSION UGANDA

Constitutionally established and constituted Staffed with competent technical personnel at Headquarter, Regional level and in all 112 Districts of Uganda Guided by a comprehensive legal framework fairly good electoral system (National Elections after every 5 years) Uganda adopted a new system of Multiparty Political Governance following the 2005 National Referendum (with 38 parties registered) Formulates a 5-year Strategic Plan out of which a Roadmap to General Elections is derived – to aid implementation of election activities (currently launched the 2013-2017 Strategic Plan and Roadmap to 2016 General Elections) Strong adherence to the legal framework subscribes, recognizes and adheres to the International canons of free and fair elections believes in and promotes multi-stakeholder responsibility to achieve free, fair and peaceful elections

5.2 DISCUSSION OF THE STUDY FINDING

Despite the numerous measures/strategies that put in place to ensure peaceful, free and fair electoral activities, the Commission still encounters challenges while delivering its mandate and these include:-Delayed enactment/amendment of the electoral laws leading to inadequate voter education, requisition of supplementary funding and crisis management of some electoral activities Delayed and inadequate funding therefore low wages for field staff which leads to engagement of low caliber officials prone to easy compromise Voter apathy negative perception of the Commission by the public, losing parties/candidates uneasy dealing with political parties some do not comply with legal requirement to declare assets/liabilities, sources of funding, and change of addresses which are not communicated to the EC Lengthy

procurement procedures Unconfirmed position of handling ICT initiatives e.g. a complete biometrics voters' register versus the National Identity Card project prior to 2016

From 19-26/08/2013 the Electoral Commission decided to re-demarcate electoral/polling stations

The Electoral Commission deriving its mandate from section 12(1)(d) of the Electoral Commission Act, has powers to put in place polling stations and to control such places. This process involves dividing, changing, renaming and converging polling stations. This is done through the different meetings at the constituent level.

The re-demarcation is to be done around the country before the 2016 elections to enable voters to vote with no inconveniences. This will be done in the following ways;

- making sure that every polling station has a reasonable number of voters (not more than 900 voters)
- re-demarcating polling stations that are stationed in private land especially in compounds, drinking points to avoid suspicion.
- confirming newly demarcated voting areas in their alphabetical order for example Nabisho in Mooni sub county in Mbale (A-M),(N-Z)
- converging polling stations with very few voters
- dividing voting stations with big numbers of voters into two or more polling stations
- creating new polling stations
- making sure voters' names are placed in their correct voting stations
- making sure that the voting stations are in placed in strategic places that can be easily accessed by voters
- making sure that at least every sub parish has a voting station

Since the 2011 National voting there has been creation of new constituencies by the local government and according to the 2007 amendment of the laws governing elections in Uganda it is a legal requirement that every parish has a voting station.

Officers responsible for this process include;

- District Returning Officers
- Deputy District Returning Officers
- Officers appointed to demarcate or re-demarcate polling stations

- Parish leaders
- Agents of the different political parties at parish level
- community members

This work will be headed by the Electoral Commission together with the citizens of Uganda regardless of their political parties.

Voters have the following responsibilities;

- To participate in the meetings as scheduled
- To find out the designated polling stations
- To confirm the demarcated polling stations
- To help in renewing their particulars in the voting registers
- To help- the Electoral Commission as required in any way

Agents of the different Political Parties have the following responsibilities

- to participate in the meetings scheduled
- to protect the interests of their respective political parties
- to see to it that there is transparency
- to witness whatever is done for their respective political parties
- to confirm the need of the creation of new polling stations
- to look into the works of the commission responsible for the electoral commission

Officers responsible for the redemarcation of polling stations are responsible for the following;

- to make sure that the correct villages are written against the voters' names
- to make sure that village leaders confirm the village names
- to give reasons for the creation of new polling stations
- to give names of both the old and new sub parishes
- to sign on all official documents
- to submit in time all documents to the district registrar

The purpose of the redemarcation includes;

- to cut short the distance between the voters and the polling stations
- to give a reasonable number of voters to the different polling stations to enable all voters to vote in time
- to enable voters get to know their polling stations in time

- to avoid previous mistakes like voters not finding their names on the voters' register, voting at night and such others.

5.3 MAJOR DEVELOPMENTS RESPONSIBLE FOR THE COMMISSION'S SUCCESS IN ELECTION MANAGEMENT IN UGANDA

a) Compliance with the Electoral Legal Framework during the implementation of its Constitutional mandate, the Commission is guided and controlled by an elaborate legal framework. Stakeholders including the Commission regularly propose amendments and new legal enactments arise. The electoral laws that guide the Commission's planning and execution of its mandate include among others;

The Constitution of the Republic of Uganda, 1995 (as amended)

The Presidential Elections Act, 2005 (as amended)

The Parliamentary Elections Act, 2005 (as amended)

The Local Governments Act, Cap. 243, (as amended)

The Political Parties and Organisations Act, 2005 (as amended)

The Electoral Commission Act (as amended), and

Numerous regulations/guidelines

b) The National Voters' Register (NVR)

During the 1990's and before, elections were conducted using handwritten registers which were easy to manipulate resulting to such anomalies as multiple voting. For the 2001 and 2006 General Elections, the Commission acquired technology to computerise, update and maintain the NVR with photos subsequently included to ease identification of the voter. There were more improvements on the NVR in 2011 when the Commission added the biometrics component to its computerised register. The new biometric registrants (over 4 million) were combined with the already existing photo bearing register (over 10 million) and one register was produced. The Commission is in consultation with various stakeholders to ensure that the NVR for the 2016 General Elections is fully biometric to completely weed out any cases of double registration/voting which may not have been yet discovered during the cleaning of the register/duplicate analysis.

c) Handling of Election Results and Transmission

In Uganda, voting takes place from 7:00 a.m. to 5:00 p.m. at every polling station.

Immediately, votes are counted and announced by the Presiding Officer of that polling station. They are transported to the Sub County which is the collection centre and thereafter delivered to the District. The District Returning Officer tallies and declares the outcome for that level. The presidential results are announced only at the District and transmitted to the National Tally Centre for the general tally and final declaration within 48 hours after closure of polls(as per Article 103(7) of the 1995 Constitution of Uganda)

The manner of results transmission has evolved over the years. For the last General Elections (2011), Development Partners supported the Commission and installed a new technology, much quicker and more transparent in transmitting results from the Districts to the National Tally Centre. This wireless transmission system enabled the stakeholders like political party/candidates' representatives, observers and the media, present at the National Tally Centre to check on-line and get information about the results as they progressively trickled in from the Districts.⁶

d) Enhancing Stakeholder Participation, Transparency and Accountability

Throughout the preparations of implementing election activities, the Commission has found it rewarding to be open and transparent throughout the election cycle. Various stakeholders including the Political Parties, Local and international Observers, and the Media, are allowed to observe all the activities right from the re-organisation of polling stations, to the printing, packing and dispatch of the polling materials to the Districts, the polling stations and to the tally centres. Prior to the display and polling activities, agents of political parties/candidates are called upon to be trained together with the field election officers so as to move in tandem with whatever is to be done.

The Commission by law issues a polling registers to participating political parties/candidates for each polling station to ease identification of voters between the polling officials and agents and also to ensure that anyone missing is not allowed to vote. Results are announced in clear view of the voters at polling stations and before observers and agents at tally centres.

e) Regular dialogue with the Media

It is a well known fact that the media can make or break you. This is why the Commission through regular dialogue urges the media to act responsibly in their operations. Media coverage of the electoral process is at three levels i.e. during the pre-election, during elections and post-election periods. The major role to be played by the media is also embedded in its traditional roles of:-informing; Educating; Mobilizing and, Entertaining. The Commission is conscious that the media in a changing society has taken on new roles including: Agendasetting; Changeagent; Socialisation; Watchdog; Interpreter; Surveillance; Companion etc.

f) Regular dialogue with the Police

Annually, the Commission engages the Police Training School students to inform them about their duties and responsibilities during elections. Regular dialogues also take place between the two institutions prior to any election/by-election to ensure that there is neutrality emphasized by professional conduct of the Police. Section 12 (f) of the Electoral Commission Act (1997) (as amended), requires the Commission to take steps to ensure that there are secure conditions necessary for the conduct of any election. The Police is the lead agency and other security organs can be called in by the Police as and when need arises to ensure that there is:-Security of persons (life) and election materials conducive atmosphere for all stakeholders throughout the entire electoral process Freedom of movement, assembly, association and expression Proper investigation of electoral offences/malpractices Respect for the Rule of Law as contained in the electoral guidelines

5.4 RECOMMENDATIONS

Basing on the study findings as well as study conclusions, the researcher recommends the following;

Development of Strategic Plans and General Elections Roadmaps to ensure phased funding and implementation of electoral activities (at least in 3 FYs) phased implementation and funding of electoral activities, hence the 2011 Holding of regular consultative meetings, seminars, workshops with all stakeholders e.g. political parties/candidates, Government,

Police, Parliamentary Committees, media, civil societies, Close partnership with the Police
Establishment of a National Information Desk and District Complaints Desks during election
periods Integration of voter education into the school and functional adult literacy curricular
Intensive monitoring and supervision of all electoral activities Transparent identification,
recruitment and training of election officials Timely display of lists of recruited temporary
election officials for verification by public and political parties Zero tolerance for
undisciplined electoral officials behavior (black listing culprits)

Decentralization of election administration Timely identification and submission of areas for
electoral reform to stakeholder straining of party/organization/candidates agents with electoral
officials prior to demarcation, display and polling activities Secondary display of lists of
voters' particulars recommended for deletion from the voters register (natural justice)
Provision of serialized Declaration of Results Forms for each polling station
organized and proper packing of the electoral kits at all levels Issuance of Statement of ballot
papers indicating the quantity and serial numbers of ballot papers per polling station for easy
tracking Use of transparent ballot boxes at all polling stations Use of tamper evident
envelopes for sealing and retrieval of election results from polling stations Computerized
tallying of election results Development of software to reject any result returns

5.4 CONCLUSION

The level of achievement of free and fair elections is dependent on the level and timely
participation of all stakeholders, recognition and adherence to the legal framework by all
stakeholders, and level of execution of respective roles by all stakeholders.

Despite the diverse experiences both good and challenging in administering elections in
Uganda, the Electoral Commission should always remain committed to serving Ugandans in
line with the legal procedures and devising new strategies to improve service delivery.

EC Vision "To be a Model Institution and Centre of excellence in Election Management"

EC Mission "To Efficiently Organise, Conduct and Supervise Regular Free, Fair and
Transparent Elections and Referenda to Enhance Democracy and Good Governance

FOR GOD AND MY COUNTRY

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APPENDIX: QUESTIONNAIRE

Dear Respondent,

I am a student carrying out research titled “*THE INSTITUTIONAL AND LEGAL FRAMEWORK OF ELECTORAL DEMOCRACY IN UGANDA*” with a Case Study of KAMPALA, MAKINDYE DIVISION as partial fulfillment of the requirement for the award of a Bachelors Degree of laws of KAMPALA INTERNATIONAL UNIVERSITY. You are kindly requested to respond to this questionnaire by filling the required information to the best of your knowledge. The information you give will be purely for academic purposes and all responses will be treated with utmost confidentiality

Thank you for your cooperation.

.....
NABUKEERA MILLY

(Researcher)

SECTION A: BIO-DATA.

Please tick the box that corresponds with your answer in the boxes provided

1. Gender: Male ☐ Female ☐
2. What is your marital status?
(a) Single ☐ (b) Married ☐ (c) Widowed ☐ (d) Divorced ☐
3. Kindly indicate your age group
(a) 18-25 years ☐
(b) 35-40 ☐
(c) 35-40 ☐
(d) Above 45 years ☐
4. Kindly indicate your level of education.
(a) Below Secondary level ☐
(b) Secondary level ☐
(c) Diploma ☐

- (d) Bachelors ☐
- (e) Above bachelors level ☐

SECTION B; VOTING EXPERIENCE AND POLITICAL AFFILIATION

5. Have you ever participated in any presidential elections?

- (a) Yes ☐ (b) no ☐

6. If yes, how many times?

- (a) More than 2 times ☐
- (b) Once ☐
- (c) None ☐

7. Do you support any political party?

- (a) Yes ☐
- (b) No ☐

8. If yes specify if you support the ruling party or the opposition

- (a) NRM ☐
- (b) Opposition ☐

SECTION C: DEMORACY OPINION/VIEW

Please take the most appropriate response to the following statements; SA (Strongly Agree), A (Agree), NS (Not Sure), SD (Strongly Disagree), D (Disagree)

		SA	A	NS	D	SD
1	Ugandan elections are free and fair					
2	The electoral commission is impartial					
3	As a citizen you do have the biggest role in electing your president					
4	It is only through voting that a citizen should exercise his/her right to elect a president					