

# **Report on Monitoring Campaign Finance during the 2006 Elections in Uganda**

Coalition for Election Finance Monitoring (CEFIM)  
c/o Transparency International-Uganda  
Plot No. 5 Dewinton Road  
P.O. Box 24355 Kampala-Uganda  
Tel: +256 41 255836  
E-mail: [secretariat@transparencyuganda.org](mailto:secretariat@transparencyuganda.org)

**May 2, 2006**

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## **Acronyms**

ACCK:	Anti-Corruption Coalition Koboko
ACCU:	Anti-Corruption Coalition of Uganda
BACNET:	Busoga Anti-Corruption Network
CC:	Constitutional Court
CEFIM:	Coalition for Election Finance Monitoring
CMI:	Chr. Michelsen Institute
CS:	Civil Society
CSO:	Civil Society Organisation
DANIDA:	Danish International Development Agency
DP:	Democratic Party
EC:	Electoral Commission
ESO:	External Security Organisation
FDC:	Forum for Democratic Change
HRW:	Human Rights Watch
IDEA:	International Institute for Democracy and Electoral Assistance
IGG:	Inspector General of Government
ISO:	Internal Security Organisation
KACCO:	Kisero Anti-Corruption Coalition
LC:	Local Council
MMBADICSOF:	Mbarara District Civil Society Organisations
MP:	Member of Parliament
NGO:	Non-Governmental Organisation
NRM-O:	National Resistance Movement-Organisation
PGB:	Presidential Guard Brigade
PPOA:	Political Parties and Organisations Act
PPS:	Principal Private Secretary
PPU:	Presidential Press Unit
SC:	Supreme Court
TAACC:	The Apac Anti-Corruption Coalition
TAC:	Teso Anti-Corruption Coalition
TI-U:	Transparency International-Uganda
TOCINET:	Tororo Civil Society Network
UBC TV:	Uganda Broadcasting Council Television
UPC:	Uganda Peoples Congress
UTV:	Uganda Television
WBS:	Wavah Broadcasting Service

## **Executive Summary**

As part of seeking to promote transparency and accountability during the 2006 elections, the Coalition on Election Finance Monitoring (CEFIM) spearheaded by Transparency International-Uganda (TI-U) and working closely with the Anti-Corruption Coalition of Uganda (ACCU) undertook a project with regards to election campaign financing and the use of public/state resources for campaign purposes. The project was about establishing sources of political party financing, gathering information regarding campaign income and expenditure and the use of public/state resources in campaigns and monitoring compliance of political parties and candidates with the law and regulations on electoral campaigns. The project expected to enhance civil society engagement in monitoring adherence to the electoral laws with respect to political fundraising, donations, expenditures and use of public/state resources during the 2006 presidential, parliamentary and local government electoral campaigns. The broad objective of the activities of CEFIM in the run-up to and during the 2006 elections was to stimulate public responsiveness to demand transparency and political accountability during the electoral process.

To that end, the project monitored the legal/regulatory environment on electoral campaign finance and use of public/state resources. Furthermore, with the aid of case studies and the use of pilot electoral areas, the project explored the extent to which the legal/regulatory environment on electoral campaign finance and use of public/state resources was adhered to or complied with in actual practice. The monitoring of electoral campaign finance and use of public/state resources has primarily been through media monitoring, as supplemented by the case studies in pilot electoral areas and findings of other monitoring bodies.

The project, and hence this report, yielded a number of findings:

- (a) The legal/regulatory framework on electoral campaign finance and use of public/state resources was inadequate to deal with these aspects during the 2006 elections.
- (b) The Electoral Commission did not satisfactorily monitor the campaign financing of political parties and candidates.
- (c) There was a systematic misuse of media resources during the campaigns as well as the misuse of *financial* resources within the context of media advertisements.
- (d) There was a systematic misuse of institutional resources, involving the use of public/state officials as well as vehicles during the campaigns.
- (e) The misuse of financial resources was in context of *financing* of media advertisements (as was the finding in (c) above).
- (f) The Electoral Commission and other law enforcement agencies (e.g. the Election Offences Squad) failed to enforce the laws and guidelines on use of public/state resources, in spite of various complaints.

From the findings, the project proffers certain recommendations regarding:

- (a) Reform of the legal/regulatory framework on electoral campaign finance and use of public/state resources.
- (b) Prohibitions on the use of public/state resources for electoral campaign purposes.
- (c) Composition and enforcement role of the Electoral Commission.
- (d) Role of courts and other law-enforcement agencies in electoral process.

The lessons from legal/regulatory framework on electoral campaign finance and use of public/state resources and the monitoring experiences with regards to these aspects during the 2006 elections can only offer arguments for a case for legal reform and new approaches to electoral campaign finance monitoring on the part of the civil society.

Coalition for Election Finance Monitoring (CEFIM)  
c/o Transparency International-Uganda  
Plot No. 5 Dewinton Road  
P.O. Box 24355 Kampala-Uganda

**May 2006**



## **Chapter 1: Introduction**

### **1.1 General Overview of Report**

#### **1.1.1 Introduction**

The 2006 elections are the third in the Uganda's post-1995 constitutional history, following the 1996 and 2001 elections. The 1996 elections had in themselves marked the first time since 1980 that the country was having general elections, particularly to elect the President. However, the 2006 elections were distinct from the 1996 and 2001 elections. Firstly, it was the first elections held under a *multi-party* format in over 25 years since 1980, as the 1996 and 2001 elections were held on the premise of *individual merit*, a feature of the Movement political system. Secondly, it was the first time since 1995 that elections at the various levels of government – the presidency, parliament and local government – were held around about the same period, if not the same day. Furthermore, perhaps owing to the fact of conducting the elections under a political party dispensation, issues of funding and financing of political parties and candidates became crucial. The legal and regulatory environment therefore sought to address not only the management of the elections but also electoral campaign financing and the use of public/state resources.

During the 2006 elections, electoral laws and regulations are put in place to ensure transparency, freeness and fairness of the elections. The role of the various organs and institutions (executive, legislature, judiciary and the Electoral Commission) in the electoral process was crucial in ensuring an environment of transparency, freeness and fairness of elections. It is therefore important that the role of these organs and institutions in the creation of the enabling environment be evaluated as well as how the political parties and candidates adhered to or complied with legal/regulatory framework during the 2006 electoral process. This therefore requires not only an exposition of the legal/regulatory framework on electoral campaign finance but also the extent to which they were adhered to or complied with in actual practice.

#### **1.1.2 Objectives**

The general objective of this report is to explore the legal/regulatory environment on electoral campaign financing. Furthermore, it reports on the monitoring of electoral campaign finance as well the inter-related use of public resources during the 2006 elections. However, given difficulties of monitoring financial aspects of elections and in obtaining the necessary information, more so throughout the country, it is rather impossible to present a comprehensive picture on campaign financing and misuse of public resources during the 2006 elections. Nonetheless, the report seeks to achieve the following more specific objectives:

- (a) To appraise the legal/regulatory environment on electoral campaign financing in Uganda.

- (b) To document and profile incidences of non-compliance with the legal and policy framework on electoral campaign financing during the 2006 electoral campaigns.
- (c) To recommend approaches towards ensuring greater effectiveness in regulating and monitoring of electoral campaign finances in Uganda.

### **1.1.3 Activities**

Given the above objectives, the following activities were undertaken:

- (a) A background study to elections in Uganda in the context of the roles of the three arms of the government (executive, legislature, judiciary) and the Electoral Commission against the backdrop of the nature of political power in Uganda since 1995. This included an overview of the 1996 and 2001 elections.
- (b) The exposition of the legal and policy environment for election campaign financing during the 2006 elections (including disclosure requirements, restrictions on electoral campaign finances and sources, use of public resources by incumbent office holders and sanctions for violation of laws and guidelines).
- (c) Analysing and presenting deductions on actual findings regarding the operation and the non-compliance with the legal and policy frameworks by political parties and candidates during the 2006 election campaigns. This included specific case studies (e.g. use of government vehicles, media resources).
- (d) Offering recommendations and lessons for future legal/policy frameworks and the methodologies for monitoring compliance by actors in electoral processes.

## **1.2 Electoral Campaign Finances and Public/State Resources**

### **1.2.1 Electoral campaign finance**

Electoral campaign finance is defined as the “resources acquired and spent by electoral candidates and political parties in election campaigns”.<sup>1</sup> This includes the following:

- (i) *Campaign income*: the means by which candidates and parties (and organisations) *obtain* resources during electoral campaigns. Campaign income constitutes the resources that are available to a political party or organisation and a candidate during elections. There are various ways of raising electoral campaign *income*, including–
  - Public funding contributions.
  - Subscription dues from registered members of political party.

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<sup>1</sup> Open Society Institute, *Monitoring Election Campaign Finance: A Handbook for NGOs* (Justice in Action Series, 2005) 14.

- Donations (including local and foreign sources).
- Loans.
- Earnings from investments in businesses and property (and other assets).
- Contributions “in kind” (i.e. goods/services offered to a candidate free of charge or at a discount).
- Personal financial resources (e.g. savings).
- Fundraising activities.

The legal/regulatory environment ordinarily addresses *sources* of these resources and means by which the political parties or candidates *obtain* those resources during electoral campaigns.

- (ii) *Campaign expenditure*: the way in which candidates and parties (and organisations) *spend* resources during electoral campaigns. The campaign expenditure constitutes the expenses incurred by the political parties or candidates to promote the party or candidate in an election. It is the manner in which a political party or a candidate *spends* resources during electoral campaigns. Campaign expenditure includes spending by–
- A political party or a candidate.
  - Other persons/entities on behalf of a political party or a candidate.

### **1.2.2 Public/state resources in elections**

Public/state resources are the resources that are attached to the public office held by a candidate (often an incumbent) in an election and the use or misuse of those resources by a candidate. The legal/regulatory environment ordinarily addresses the manner in which a candidate (or a party) *use* or *abuse public/state* resources in electoral campaigns. Generally, public/state resources can be categorised as–

- (i) Coercive resources: This involves use of coercive apparatus of the state (e.g. army, police and other law enforcement institutions, including the courts (especially criminal prosecution), intelligence agencies (e.g. ISO, ESO)) in election campaigns.
- (ii) Legislative resources: This involves using the legislature to pass laws that are favourable to the incumbents. This is usually before the elections.
- (iii) Institutional resources: This generally involves the use of the material and human resources of the government/state, including office space and equipment, vehicles, etc.
- (iv) Financial resources: This involves generally the use of public finances.
- (v) Media resources: This involves generally the use of the media, especially state-owned communication media.

### **1.2.3 Relevance and impact of campaign finances and other resources in elections**

Given the crucial need to ensure transparency and integrity in elections, the legal regulation of electoral campaign finance and the use of public/state resources become pertinent in that process. Therefore, the manner in which the political parties and candidates acquire and spend resources is of importance towards the

“fairness” of elections. The aim of every electoral process is that there is a “free and fair elections” and therefore every effort from the electoral law itself to the conduct of elections should achieve this result. The need to control and restrict the manner in which candidates acquire and use money and other resources to be used in an election becomes necessary given that (i) it may enable a candidate with more funds and resources to “buy” votes and therefore the election and (ii) a candidate who is an incumbent (i.e. holder of a public/political office) is, in using the public/state resources (e.g. vehicles, media) at an advantage over his/her opponents who have no access to such resources. The elections would not be fair where one candidate has an advantage in campaign finances and the use of public/state resources over the other candidates. Furthermore, the other basic idea of elections is “integrity” in the electoral process and the candidates. Thus there is the need to eliminate political or electioneering corruption. The basic idea about “good” government is that political/public office (be it the presidency, a ministerial position or a parliamentary seat) is not “sold” for *money* or *personal gain*. The need to regulate and restrict electoral campaign finances is therefore necessary to ensure that, firstly, the sources of campaign finances are not from certain interest groups (e.g. big businesses, organised criminal gangs) who hope for “favours” in the form of award of contracts, tenders, etc. when the candidate attains public/political office. It becomes pertinent to root out “illegal” political contributions/donations from persons or groups with “vested interests”. Second, the use of public/state resources (vehicles, personnel) does constitute in reality an “abuse of office”. This is because a candidate who is holder of a political office and has access to these resources is diverting those resources from public use to his/her personal use in an election.

### **1.3 Report Methodology**

#### **1.3.1 Desk research**

The appraisal of the legal and regulatory environment on electoral campaign financing in Uganda could only be achieved by looking at the legislative and other instruments in place in the run-up to the 2006 elections. This occasioned review of legislation such as the 1995 Constitution of the Republic of Uganda, Electoral Commission Act, Political Parties and Organisations Act, Presidential Elections Act, Parliamentary Elections Act as well as guidelines issued by the EC in terms of Campaign Guidelines for Presidential Elections and Parliamentary Elections Nomination Guidelines. Most of these instruments and documents were posted on the website of the Electoral Commission. The desk research included readings and review of existing literature on campaign finances in elections as well as the newspaper reporting and commentary on the 2006 electoral campaigns.

#### **1.3.2 Media monitoring**

As a key aspect of elections everywhere, there was media reporting on the 2006 elections. Therefore, the methodology adopted for monitoring electoral campaign finances (especially in terms of campaign *expenditure* and the use of public/state resources) was the monitoring of the media – print and electronic (i.e. the press, television and the internet). Media monitoring was particularly relevant in the

monitoring of the use of public/state resources and was crucial in obtaining of: (i) direct information on misuse of *media* resources and (ii) reported information on misuses of the other forms of public/state resources. The media monitoring was in respect of two major daily newspapers, *The New Vision* and *The Daily Monitor* and the weekly *The Weekly Observer* as well as the state-owned television, the Uganda Broadcasting Council TV (as successor to Uganda Television) and other privately owned televisions such as Wavah Broadcasting Service (WBS) and the radios/FM stations (e.g. Monitor KfM, Radio One, etc.).

### **1.3.3 Case studies**

The monitoring of campaign finance and the use of public/state resources was also undertaken on the basis of case studies. Utilising grassroots anti-corruption civil society organisations, CEFIM monitoring the elections and electoral process in certain pilot electoral areas in the country – this included the districts of Apac, Iganga, Kampala, Kisoro, Koboko, Mbarara, Ntungamo, Soroti and Tororo. The case studies addressed the specific forms of public/state resources in terms of documentation of instances of their misuse (as contained in the findings in 4.3.2 below).

### **1.3.4 Strengths and limitations of methodology**

Given that efforts at monitoring of elections and electoral campaign finances only began in earnest at the beginning of January 2006, there was never a significant amount of time to put in place and use other methodologies such as interviews. While the basic documentation in terms of the legal/regulatory environment was available, the best that could be done with the instruments assented to sometime in November 2005 was to appraise them in the context of electoral finances and use of public/state resources. There was not much opportunity to put forward any suggestions for the betterment of the legal/regulatory framework. This can only be undertaken now in terms of legal reform. Furthermore, the case studies especially in terms of monitoring at grassroots were carried out just 2-3 weeks or so before the elections, so there was insufficient time for monitoring the electoral process that commenced with the nominations in November 2005. On the other hand, while media monitoring offered certain strengths as a methodology since it offered a reporting (visual and first-hand), too often as was the case with print-media, this has not been without problems of authenticity and proof or even bias.

It is hoped that the lessons of monitoring the 2006 elections generally and more specifically as regards campaign finance and use of public/state resources can be the basis for legal-political reforms and as offering lessons for the monitoring (and, to that end, the adoption of more effective methodology and preparation) of future elections in Uganda.

## **Chapter 2: Background to the 2006 Elections**

### **2.1 Structure of Political Power in Uganda**

#### ***2.1.1 The Executive and the Presidency***

The structure of political power in Uganda has been dominated, as far back as 1966, by a strong executive Presidency. The 1995 Constitution retained a strong executive in the Presidency. However, as opposed to the previous constitutions, the 1995 Constitution introduced a hybrid system of government, characterised by the presence of both presidential and parliamentary systems of government. Thus the President is *directly* elected on basis of universal adult suffrage<sup>1</sup> and, on that basis, since 1995, the Presidential Elections Acts of 1996, 2001 and 2005 have regulated the election of the President.

Nonetheless, in spite of the departure from the previous constitutions, and other checks introduced under it, the 1995 Constitution has retained a dominant and strong Presidency. The President retains control over the political as well as the socio-economic fortunes of the country and, to that end, has since 1995 presided over a system of political patronage and cronyism. Furthermore, aided by the absence of a formal opposition to the no-party Movement political system, there was and has been visible checks on the dominance of the Presidency over other institutions of government. The Parliament has largely been a “rubber-stamp” to the policies and political appointments of the President. This has been reflected in several areas of political power and activity in the country since 1995, including elections and electoral process. One such area has been in the appointments of the top and support staff of the electoral body, the Electoral Commission. Since 1995, the chairperson of the EC has been a Movement stalwart – from Stephen Akabway to Hajji Kasujja to Dr. Badru Kiggundu. The power of the Presidency to appoint and its attendant control over Parliament through a system of political patronage is unlikely to lead to the emergence of an electoral body whose leadership is truly “independent” in terms of article 62 of the Constitution.

#### ***2.1.2 The Legislature***

The legislative arm of the government has similarly come along way since the 1960s and the mid-1980s. The Parliament, as the legislature is popularly known as, has since 1995 in the *larger part* been constituted through elections on the basis of universal adult suffrage, with the notable situation of certain categories of parliamentarians representing interest groups who were indirectly elected by electoral colleges.<sup>2</sup> Since 1995, the Constitution and the Parliamentary Elections

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<sup>1</sup> 1995 Constitution, art. 103(1).

<sup>2</sup> Under the 2006 elections, the election of Members of Parliament (MPs) depends on the category of the representatives–

- (i) Constituency or directly elected representatives and the district women representatives are elected on the basis of universal suffrage.
- (ii) Representatives of persons with disabilities (PWDs) are elected through electoral colleges.

Acts of 1996, 2001 and 2005 together with a varied assortment of other laws have regulated parliamentary elections. The 1966-2001 and 2001-6 Parliaments were elected on the basis of the principle of “individual merit’ under the non-partisan Movement political system, which has now been abandoned following transition to a multi-party system of government. The election of the 2006-11 Parliament has proceeded on the platform of the competitive politics of multi-partyism.

As noted above, the Presidency has had extensive capacities and opportunities to control the Legislature. In addition to appointing persons to key public offices, including the EC, with approval of the Parliament, the President does *indirectly* participate in the legislative process by assenting to bills of Parliament and, in the corollary, the power to refuse to assent to the bills. Thus in 2001, the President refused to assent to a bill on local government elections which placed academic qualifications for candidates for those elections at “A” level. On the other hand, perhaps again at the behest and domination of the executive, the Parliament has been at the centre of some of the worst legislation on the political fortunes of the country in the recent years, especially since 2000 – this was the case with the Referendum and Other Provisions Act 1999, the Constitution (Amendment) Act 2001 and the Political Parties and Organisations Act 2002: the enactment or the provisions of these laws were successfully challenged before the courts.<sup>3</sup>

Of further crucial concern is the deliberate tendency of the Parliament to enact or cause the late passage of key electoral law. This is has been evident in the years since the 1995 Constitution. It was this belated approach to enacting legislation that was at the core of the rushed Referendum and Other Provisions Act in 1999 without the necessary parliamentary quorum. This was also evident in the enactment of the presidential and parliamentary elections laws and amendments to the political parties law in the run-up to the 2006 elections – all these legislation were debated and passed in August and September 2005, with the assent by the President on November 16, 2005 with just a month to nominations.

### **2.1.3 The Judiciary**

The judiciary has been involved in adjudication of disputes involving the political landscape of the country as well as petitions on elections. The Constitutional and Supreme Court have dealt with petitions on the referendum law, the movement political system and the political parties law.<sup>4</sup> On elections and electoral process, the Supreme Court dealt with a petition against the results of the presidential in

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(iii) Representatives of the youth, army and workers are to be elected in a manner and through special procedures as will be set out by Government in electoral rules.

In fact, while representative of other interest groups were elected in February and March 2006, the representatives of the youth will only be elected from May 3-9, 2006.

<sup>3</sup> See e.g. *Dr. Paul Ssemwogerere & 2 Others v. Attorney General*, Constitutional Appeal No. 1/2000 (SC)(unreported)(on the referendum law); *Dr. Paul Ssemwogerere & 2 Others v. Attorney General*, Constitutional Petition No. 7/2000 (CC)(unreported) and *Dr. Paul Ssemwogerere & 2 Others v. Attorney General*, Constitutional Appeal No. 1/2002 (SC)(unreported)(on constitution amendment law); *Dr. Paul Ssemwogerere & 5 Others v. Attorney General*, Constitutional Petition No. 5/2002 (CC)(unreported) and *Dr. James Rwanyarare & 9 Others v. Attorney General*, Constitutional Petition No. 7/2002 (CC)(unreported)(on the political parties law).

<sup>4</sup> See above note 4 and infra notes 13-17 and accompanying text.

2001<sup>5</sup>– and while, the specific issue of electoral campaign finance did not arise as a key aspect of the petition, it did touch on the problem of the use of finances in vote-buying and bribery.<sup>6</sup> The High Court has similarly dealt with petitions with regards to parliamentary elections, both after the 1996 and 2001 elections – the notable fact is that most of the petitions challenged the nomination of candidates (in terms of academic qualifications) and it was only in exceptional cases that the question of electoral campaign finance raised and, in that regard, with respect to finances expended in vote-buying and bribery.

#### **2.1.4 Dichotomy of Movement v. Political Party systems**

As noted above, the political landscape since 1995 till 2006 has been defined by the pre-eminence of the Movement political system. It was the basis upon which the elections of 1996 and 2006 were conducted. More significantly, the post-1995 political landscape was characterised by the abeyance or limbo into which the activities of political party were cast by provisions of the Constitution: articles 69, 70, 71, 73, 269 and 271(3) stifled the activities of political parties in favour of ‘no-party’ politics of the Movement political system.<sup>7</sup> Thereafter, the Movement political system was institutionalised by law<sup>8</sup> and later given a “kiss of life” by the referendum of 2000. In the meantime since Article 72(1) of the Constitution guaranteed the right to form political parties and the Parliament was enjoined under article 73 to make laws regulating political parties during the subsistence of the Movement political system, the regulation of activities of political parties was accomplished with the enactment of the Political Parties and Organisations Act in 2002.<sup>9</sup> Of note is the fact that between 1995 and 2002, the movement-political party dichotomy witnessed several petitions challenging the provisions of the Constitution and the monopolisation of political space by the Movement political system – most of these petitions were unsuccessful.<sup>10</sup> Following two constitutional petitions challenging certain provisions of the 2002 PPOA, the transition to the multi-party system of governance with fully operational political parties was completed by the referendum of 2005.

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<sup>5</sup> *Col. (Rtd) Dr. Kizza Besigye v. Electoral Commission & Another*, Election Petition No. 1/2001 (SC)(unreported).

<sup>6</sup> In fact the question of vote buying and bribery was one of the grounds for the challenge of the 2006 presidential electoral result: *Col. (Rtd) Dr. Kizza Besigye v. Electoral Commission & Another*, Election Petition No. 1/2006 (SC)(unreported). [infra]

<sup>7</sup> For an overview of the controversy over the Movement ‘no-party’ political system after the 1995 Constitution: see e.g. N Kasfir, ‘No-Party Democracy in Uganda’ (1998) 9(2) *Journal of Democracy* 49; J Mugaju & J Oloka-Onyango (eds), *No-Party Democracy in Uganda* (Kampala: Fountain Publishers, 2000).

<sup>8</sup> Movement Act, No. 7 of 1997 (now Cap. 261 revised Laws of Uganda 2000).

<sup>9</sup> Political Parties and Organisations Act, No. 18 of 2002.

<sup>10</sup> See e.g. *Dr. James Rwanyarare & Another v. Attorney General*, Constitutional Petition No. 11/1997 (CC)(unreported); *In the Matter of The Free Movement*, Complaint No. 671/1998 (UHRC)(unreported). On the other hand, see also *Dr. James Rwanyarare & Another v. Attorney General*, Constitutional Petition No. 5/1999 (CC)(unreported), in which certain provisions of the referendum law for holding the 2000 referendum on continuance of the Movement political system was challenged. Interestingly, the two dissenting justices of the Constitutional Court felt that the contested provisions of the law (i.e. sections 13(2) and (3) of the Referendum & Other Provisions Act) created a ‘one sided contest in the referendum’, and further felt that article 269 of the Constitution expired on July 2, 1999.

## **2.2 A Historical Background: 1996-2006**

### ***2.2.1 1996 Elections***

The 1996 elections were the first elections held in Uganda since 1980. Since the elections were held under the 1995 Constitution embracing the presidential and parliamentary systems of government, there were both presidential elections held in March 1996 and the parliamentary elections held in July 1996. The basis for election of the President, Parliament and the local government was “individual merit”. The elections were conducted by the Electoral Commission under the chairmanship of Mr. Stephen Akabway and under a legal framework provided by the Presidential Elections Act 1996 and the Parliamentary Elections Act 1996.

### ***2.2.2 2001 Elections***

The 2001 elections were similarly held under the 1995 Constitution and on the basis of “individual merit”, with the presidential elections being held in March 2001 and the parliamentary elections held in July 2001. The elections were conducted by the Electoral Commission under the chairmanship of Mr. Hajji Kasujja and under a legal framework provided by the Presidential Elections Act 2001 and the Parliamentary Elections Act 2001. The 2001 elections witnessed the first presidential election petition in the constitutional history of Uganda.

## **2.3 Landscape of the election year: 2005-2006**

### ***2.3.1 1995 Constitution***

The 2006 elections were marked change from the previous elections in 1996 and 2001. Firstly, although the elections were still being held under the Constitution, they were no longer based on the principle of “individual merit” with a transition from the Movement political system to the multi-party political system. In fact, the 2006 elections were the first multi-party elections in Uganda in over 25 years. Secondly, the elections at the various levels (presidential, parliamentary and the local government) were taking place almost at the same time or within the space of a few weeks. Thus given the transition from the Movement political system to the multi-party political system, it became necessary to operationalize provisions of the Constitution to give effect to that transition and the putting in place of the necessary legal/regulatory framework on the elections in 2006.

The 1995 Constitution envisaged change of a political system and, under Article 74, makes provision for the method of effecting such a change through, among others, a referendum. This resulted in the enactment of the Referendum Act 2005 and, given the transition to multi-partyism, further enactments in the Political Parties and Organisations Act 2005 (to replace the 2002 version that had been challenged before the courts). Finally, the transition to the multi-party political system necessitated operationalisation of certain provisions of the Constitution that had been redundant and unutilised during the Movement period– this would result in key constitutional provisions on electoral campaign finance and the use

of public/state resources being reflected in the presidential and parliamentary election legislation.

### **2.3.2 Referendum on political systems**

Since article 74 of the 1995 Constitution provided for the change of a political system through, among others, a referendum, the Referendum Act 2004 was duly enacted to provide for the carrying out of the referendum. The referendum was held on July 28, 2005 and was meant to allow the populace to decide whether the country should transit to a multi-party political system.<sup>11</sup>

### **2.3.3 Political parties and organisations**

As noted above, since 1995, the activities and operation of political parties had been placed into a state of limbo by the provisions of the constitution in favour of 'no-party' politics of the Movement 'political system'. With the enactment of the PPOA in 2002, it was hoped that this would herald the opening up of space and freeing of political parties to carry on their activities. However, that Act came with stringent provisions that immediately two petitions were brought before the courts to challenge the constitutionality of several of its provisions.<sup>12</sup> The courts determined that certain provisions of the Act rendered political parties 'inactive' but also negated the exercise of freedoms of assembly and association.<sup>13</sup> On the other hand, the court determined that the requirement for political parties to register within six months was a requirement that applied to all parties, both old and new.<sup>14</sup> Further, it considered the requirement that political parties be of a national character under the PPOA as requiring that parties be 'representative' in character.<sup>15</sup> The Court however regarded the provisions of the Act restricting the parties to electing members of their National Conference in the fourth year of life of a Parliament, holding of a single meeting in each district to elect members to the Conference and the ineligibility of persons who have lived outside Uganda to appointment to any office in a party as inconsistent with the provisions of articles 29(1)(e), 38, 71(c) and 73(2) of the Constitution.<sup>16</sup> In the end, given the fact that the court found the requirement for political parties to register within six months lawful, it ordered the political parties to register within six months from the date of the judgment.<sup>17</sup> Under the 2002 PPOA, the Registrar-General was the officer

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<sup>11</sup> For an overview of the 2005 referendum: see CMI Research Report, *Lessons from the referendum for the 2006 elections: The role of Parliament, courts, the political parties and the Electoral Commission* (October 2005).

<sup>12</sup> *Supra* note 4 and accompanying text.

<sup>13</sup> *Ssemwogere case*, *supra* note 4, judgments of Okello, JA, at pp. 10, 13-4; Mpagi-Bahigeine, JA, at pp. 23, 25-6; Engwau, JA, at pp. 5, 7; Twinomujuni, JA, at pp. 5-6 and Kitumba, JA, at p. 4. The implications of the impugned provisions of the PPOA upon the freedoms was stated by Mpagi-Bahigeine, JA in these terms: 'The freedoms to assemble and associate ... do not only concern the right to form a political party but also guarantee the right of such a party once formed to carry on its political activities freely', *ibid.*, at pp. 25-6 (italics for emphasis).

<sup>14</sup> *Rwanyarare case*, *supra* note 4, at p. 11.

<sup>15</sup> *Ibid.*, at p. 13.

<sup>16</sup> *Ibid.*, at pp. 18-20, 22, 24.

<sup>17</sup> *Ibid.*, at pp. 23-24.

responsible for registration of political parties.<sup>18</sup> In the aftermath of the court's decisions, both old and new parties rushed to register – as per a list of registered political parties and organisations secured from the Office of Political Parties and Organizations, Registrar General's Department, as of July 30, 2005, twenty-six (26) political parties and organisations had registered with the office.<sup>19</sup> However, it is to be noted that new parties did face hardships in registering, e.g. the FDC. At one point, the Registrar General's Department claimed that it had no funds to facilitate the registration of FDC.<sup>20</sup>

Crucially, given the court's finding that certain provisions of the 2002 PPOA were unconstitutional, the Parliament amended or repealed those provisions with the enactment of the 2005 PPOA. However, the provisions on financing of political parties were never challenged even under the 2002 Act and were wholly retained under the 2005 Act.

### **2.3.4 Electoral laws and guidelines**

The preparations for the 2006 elections were preceded, although rather somehow belatedly, by the enactment of not only the 2005 PPOA but also of the pertinent electoral laws. The latter included the Electoral Commission Act, the Presidential Elections Act and the Parliamentary Elections Act. As stated, their enactment was somewhat late, with presidential assents to these key electoral laws in November 2005, a month to the nominations. The EC would itself release its own guidelines for the various elections in early January 2006 – these included Parliamentary Elections Nomination Guidelines 2005, the Nomination Guidelines for Local Government Elections 2005 and Campaign Guidelines for Presidential Elections 2006. The guidelines largely reiterated the legal/regulatory framework contained in the main electoral laws. An area of concern addressed by the electoral laws and guidelines was electoral campaign finances and the use of public/state resources.

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<sup>18</sup> This has since changed under the 2005 PPOA with registration now being undertaken by the EC.

<sup>19</sup> See also *The Weekly Observer*, July 28-August 3, 2005, p. 14. The list of registered parties and organisations is annexed as Appendix B.

<sup>20</sup> The failure to register FDC by the Registrar-General dragged on for several months, and forced the party to threaten court action. On the other hand, the failure to register DP after a splinter group filed for registration of the party resulted in court action: see *Hon. Zachary Olum & Another v. Registrar General*, Miscellaneous Application No. 14/2005 (HC)(unreported).

## **Chapter 3: Legal and Regulatory Environment on Election Campaign Finance**

### **3.1 Introduction**

Prior to the commencement of the electoral process and campaigns for the 2006 elections, there was the necessity to put in place the appropriate legal framework. This has been highlighted in 2.3 above in terms of the landscape for the election year 2005-2006. The legal and regulatory framework for the 2006 elections (and this includes electoral campaign finance and the use of public/state resources) are contained in provisions of several legal and policy guidelines, including–

- 1995 Constitution
- Leadership Code Act
- Parliamentary Elections Act
- Political Parties and Organisations Act
- Presidential Elections Act
- and
- Parliamentary Elections Nomination Guidelines 2005
- Campaign Guidelines for Presidential Elections 2006

### **3.2 Disclosure and reporting requirements by political parties and candidates**

Disclosure entails exposure of certain facts or situation. In elections and electoral campaigns, there are certain facts or situations that electoral law and guidelines require a political party or organisation and candidates to disclose. One key area of disclosure requirements under the laws and guidelines is electoral campaign finances and the use of public/state resources.

The disclosure requirements under the laws and guidelines on electoral campaign finances and the use of public/state resources addressed two key participants in the elections and electoral process. Firstly, given the transition to the multi-party system of government following the 2005 referendum, the law and guidelines addressed disclosure requirements on part of political parties and organisations. Secondly, the law and guidelines addressed disclosure requirements on the part of candidates in the elections.

It is to be noted that, since the existence of political parties and organisations had already been affirmed under the 1995 Constitution, the Constitution has in fact provided for certain disclosures as regards finances by the political parties and organisations. Thus, under article 71 dealing with political parties, it is stipulated that: “Political parties shall be required by *law* to *account* for the *sources* and *use* of their *funds and assets*”.<sup>1</sup> In that light, the Constitution did envisage that the “Parliament shall by *law* regulate the *financing* and functioning of political parties and organisations”.<sup>2</sup> To that end, in enacting the Political Parties and

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<sup>1</sup> 1995 Constitution, art. 71(e).

<sup>2</sup> *ibid.*, art. 72(3).

Organisations Act (both in its 2002 and 2005 versions), Parliament provided for provisions dealing with the disclosure by political parties and organisations as regards finances and assets. The Act requires political parties and organisations to file with the EC certain declarations and statements as to sources and use of finances or funds. These include: (i) written declaration of assets and liabilities including “sources of funds and other assets”,<sup>3</sup> (ii) audited statement of accounts<sup>4</sup> and (iii) reporting of lawful contributions from foreign sources.<sup>5</sup> These provisions of the political parties law help in disclosing and availing information on *finances* of a political party/organisation and its *sources*.

As regards candidates, there are no *direct* legal provisions requiring candidates in election with regards to sources of electoral campaign finances. Thus, apart from the contribution, from public resources, of a sum of UShs. 20 million by the EC to each candidate in presidential elections that is to be used solely for the election, the Presidential Elections Act only provides that a candidate (or his/her agents) may raise additional funding for a candidate’s campaign through *lawful means*.<sup>6</sup> There are however certain restrictions on requesting for and receiving funds for campaigns from a foreign Government, institution, body or person.<sup>7</sup> *However, there is no requirement to disclose sources of a candidate’s electoral campaign finances* except that a candidate is to (i) account, within thirty (30) days after the election, for the use of the public resources (i.e. the UShs. 20 million) and the other facilities<sup>8</sup> and (ii) keep a record of all funds he/she asked for and received (and their sources).<sup>9</sup> It is to be noted that the requirements as to disclosure or reporting as regards campaign finance are *after* rather than *before* the elections.

With regards to candidates in the parliamentary elections, there are similarly no provisions on *pre-election* disclosure requirements on *campaign finances* under the Parliamentary Elections Act. The only disclosure requirement is on the use of public/state resources where a candidate is a Minister or the holder of a political office. Such a candidate is, during the campaign period, to restrict the “use of the official facilities ordinarily attached to his or her office to the execution of her official duties”.<sup>10</sup> The EC is required to write to the minister or the holder of a political office “to state in writing the *facilities ordinarily attached to any office held by that person ... and the candidate shall comply with the requirement*”.<sup>11</sup>

This pre-election disclosure requirement as to the public/state resources that are available to a holder of a political office extends to (a) an employee of a statutory corporation or company in which the government owns a controlling interest and (b) a member of a commission or committee established by the Constitution.<sup>12</sup>

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<sup>3</sup> PPOA, sec. 9(1) and (3).

<sup>4</sup> Ibid., sec. 12(4).

<sup>5</sup> Ibid., sec. 14(4).

<sup>6</sup> Presidential Elections Act, sec. 22(2) and (3).

<sup>7</sup> Ibid., sec. 22(4).

<sup>8</sup> Ibid., sec. 22(5).

<sup>9</sup> Ibid., sec. 22(6).

<sup>10</sup> Parliamentary Elections Act, sec. 25(2).

<sup>11</sup> Ibid., sec. 25(3).

<sup>12</sup> Ibid., sec. 25(4).

The former would be case of, for example, an employee of Uganda Broadcasting Corporation while the latter addresses a member of, for instance, the Education Service Commission.

Significantly, the pre-election disclosure of sources of electoral campaign funds by candidates in the presidential and parliamentary elections can be regarded as envisaged under the Leadership Code Act.<sup>13</sup> Under the Code, a public official or leader is required from time to time to declare his or her income, assets and liabilities and how he or she acquired them.<sup>14</sup> However, the Code only applies to candidates holding certain positions in the government or public office, e.g. the President, Minister and Members of Parliament (MPs).

The disclosures in a declaration of wealth are not required as part of the electoral law or guidelines. However, they are useful in terms of the fact that—

- (i) It serves to show whether a public official is corrupt. This is the case where there is unexplained increase in wealth (and assets) within a short period of public employment that cannot be a result of salary earnings.
- (ii) An individual who fails or refuses without good reasons to submit a declaration of wealth is not entitled to stand for elections during the next five (5) years.

The failure without good reasons to submit declaration of wealth may also result in the Inspector-General of Government (IGG) recommending that certain course of action be taken (including dismissal from a public office to which an individual has been elected, e.g. Member of Parliament).

### **3.3 Restrictions on electoral campaign finance and sources**

There are a number of legal restrictions as regards campaign finances. These are in respect of political parties/organisations and candidates and are stipulated in a number of laws passed in 2005 in the run-up to the 2006 election nominations and campaigns, including Political Parties and Organisations Act, Presidential Elections Act and Parliamentary Elections Act.

As regards the political parties, it was noted above that the authors of the 1995 Constitution had envisaged the regulation by *law* of the formation and operations (including the financing) of political parties and organisations.<sup>15</sup> The Political Parties and Organisations Act provide the legal regulation and restrictions on the financing of political parties and organisations in terms of the *sources* and *use* of

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<sup>13</sup> The Leadership Code (of Conduct) is provided for under Chapter XIV of the 1995 Constitution. The Constitution recognises the role and need for code of conduct for public officials and leaders (art. 233). The Leadership Code Act enacted by the Parliament in 2002 (replacing the Leadership Code, Statute No. 8 of 1992) seeks to provide a minimum standard of behaviour and conduct for leaders.

<sup>14</sup> The declaration of wealth extends to spouses, children and dependants of the public officials and leaders. The Code, which came in force in July 12, 2002, requires those who were leaders at that time to declare their statements of income, assets and liabilities within three (3) months after the commencement date, those becoming leaders thereafter within three (3) months of one becoming a leader and thereafter every two (2) years during the month of March.

<sup>15</sup> See *supra*, notes 3-4 and accompanying text.

their *funds and assets*. This is in various ways. Firstly, under the Act, political parties and organisations are required to submit to the EC a *written declaration of assets and liabilities* including “sources of funds and other assets ...”.<sup>16</sup> Second, the political parties and organisations are required to maintain an *accurate and permanent record* of, among others–

- (i) Contributions, donations (or pledges of contributions or donations) in cash or in kind<sup>17</sup> by founders or promoters<sup>18</sup>
- (ii) Statement of accounts showing–
  - Sources of funding (and names of contributors).
  - Memberships dues paid.
  - Donations in cash and in kind.
  - Financial transactions of party/organisation conducted through or by or with national office.
- (iii) Property (including when and how it was acquired).<sup>19</sup>

Thirdly, political parties and organisations are restricted as regards *contributions from foreign sources* within any period of *twelve (12) months* in respect of the fact that–

- (i) A foreign person or body cannot make a contribution to a political party or organisation in excess of the value of US\$ 400 million.<sup>20</sup>
- (ii) A political party or organisation cannot *ask for* or *receive* a contribution in excess of the value of US\$ 400 million from any foreign source or a contribution in excess of the total value of US\$ 4 billion from one or more foreign sources.<sup>21</sup>

The contributions from foreign sources can be either (a) donation or loan or (b) in cash or in kind. Furthermore, as regards foreign sources of finances, political parties or organisations cannot *obtain, request for* or *receive* and *use for its operations* funds from–

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<sup>16</sup> PPOA, sec. 9(3). This should be done within sixty (60) days after the first year of registration of a party or organisation (unless the EC allows longer period). The written declaration should be in the format of Form 2 provided in the Third Schedule to the PPOA.

<sup>17</sup> Contributions/donations ‘in kind’ are non-monetary sources, e.g. vehicles, campaign materials, air time on radio/TV, advertisements.

<sup>18</sup> A promoter is a ‘signatory to original documents registering a political party or organisation’.

<sup>19</sup> PPOA, sec. 12(1)(a)-(c). This permanent record is to be accessible to and by any member of a political party or organisation: *ibid.*, sec 12(2). The accounts of a political party or organisation are to be audited once every year: *ibid.*, sec 12(3). A copy of the audited accounts is to be filed by a political party or organisation with the EC within six (6) months from the end of the financial year of a political party or organisation: *ibid.*, sec 12(4). The EC can also request the records of the contributions, accounts and property to be availed to it for inspection: *ibid.*, sec. 15(1). The public is entitled upon payment of a reasonable fee to inspect copies of the audited accounts: *ibid.*, sec 12(5).

<sup>20</sup> *Ibid.*, sec. 14(1).

<sup>21</sup> *Ibid.*, sec. 14(3). The “foreign sources” are listed as (a) a non-Ugandan citizen (e.g. a Canadian entrepreneur), (b) a foreign Government (e.g. United States) or diplomatic mission (e.g. United States embassy in Uganda), and (c) a non-Ugandan NGO registered under the NGO Act (e.g. AVSI, ACORD): *ibid.*, sec. 14(2). As to what constitutes a “non-citizen”, this is defined as: (i) an individual who is not a citizen of Uganda in terms of the Constitution and the laws on citizenship and (ii) a company where majority of shares (51%) are held by individuals who are not citizens of Uganda, or the decisions are made by the majority who are not citizens of Uganda, or the shares are held in trust for non-citizens: *ibid.*, sec. 14(7)-(8).

- (i) A foreign Government, institution, body or person that has shown an intention to overthrow the government of Uganda or endanger the security of Uganda.
- (ii) An organisation declared a terrorist organisation under the Anti-Terrorism Act 2002.<sup>22</sup>

As regards candidates in elections, the legal regulation of and the restrictions on financing of candidates in elections are provided under the Presidential Elections Act and Parliamentary Elections Act. With respect of candidates in presidential elections, as noted above, the Presidential Elections Act directs the EC to give to each candidate as a *contribution to be used solely for the election* a sum of US\$ 20 million.<sup>23</sup> This is a formal public funding contribution to presidential election candidates. In addition, the EC provides each candidate with such other facilities as may be approved by the Parliament. These other facilities as contributions to election campaign have been non-monetary, e.g. vehicles, police escorts. Second, the Act allows the candidate in presidential elections (or his/her agents) to raise electoral campaign finances through *lawful means*.<sup>24</sup> What is meant by “lawful means” is not defined by the Act. This can nonetheless be seen to include: (i) local donations from well-wishers, friends, etc., (ii) local fundraising activities, (iii) membership subscriptions and contributions from registered members of a political party/organisation to which a candidate belongs, (iv) personal financial resources (e.g. savings, monies or profits from businesses), loans, etc. and (v) foreign contributions/donations (except as limited by law). However, this cannot be regarded as including (a) corrupt “kickbacks” or (b) funds obtained through other illegal or criminal acts (e.g. money laundering). Thirdly, as regards electoral campaign finances, the candidate (and his/her agents) are restricted in respect of requesting for and receiving funds for campaigns from a foreign government, institution, body or person with a shown intention to overthrow the government of Uganda or endanger the security of Uganda.<sup>25</sup> As noted above, the candidates are expected to submit account for campaign finances (in terms of *income* and *expenditure*) to the EC in the immediate aftermath of the presidential elections.<sup>26</sup>

On the other hand, as regards the candidates in parliamentary elections, as noted above, there are no provisions on *pre-election* requirements to disclose sources of *campaign finances* under the Parliamentary Elections Act. The Act does not contain provisions on the financing of candidates in parliamentary elections. In fact, the Act merely mentions the sponsoring of candidates by a political party or organisation by fact of nomination of a candidate by a particular political party or organisation.<sup>27</sup> It can be assumed that the candidates can raise such electoral

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<sup>22</sup> Ibid., sec. 14(5). The Minister is required, with approval of Parliament, to list in a law the foreign governments, institutions, bodies or persons from whom a political party or organisation cannot *obtain, request for* or *receive* funds. As regards “terrorist organisations”, the Anti-Terrorism Act 2002 lists *Al-Qaeda* and Lord’s Resistance Army (LRA) as such organisations.

<sup>23</sup> See supra note 8 and accompanying text.

<sup>24</sup> Presidential Elections Act, sec. 22(3). See also supra note 8 and accompanying text.

<sup>25</sup> Ibid., sec. 22(4). See also supra note 8 and accompanying text. This provision is similar to that on restrictions on contributions to political parties: supra note 24 and accompanying text.

<sup>26</sup> See supra note 11 and accompanying text.

<sup>27</sup> Parliamentary Elections Act, sec. 10.

campaign finances (in terms of campaign income) through *lawful* means in the same way as candidates in presidential elections.<sup>28</sup> The campaign income can be regarded to include personal finances (e.g. savings, loans) and contributions from supporters and third parties and from the political party or organisation to which the candidate belongs. In fact, a particular aspect of campaign financing that the Act addresses is the contributions “in kind” (i.e. goods or services offered to a candidate). Although part of concerns on “bribery” in elections, the Act provides:

- (1) A person who, either before or during an election with intent either directly or indirectly to influence another person to vote or to refrain from voting for any candidate, gives or provides or causes to be given or provided any money, gift or other consideration to that person, commits an offence of bribery and is liable on conviction to a fine not exceeding [UShs. 1,440,000/-] or imprisonment not exceeding three years or both.
- ...
- (3) Subsection (1) does not apply in respect of the provision of *refreshments or food*—
  - ...
  - (b) *offered by any person other than a candidate or a candidate’s agent who, at his or her own expense provides refreshments or food at a candidate’s campaign planning and organisation meeting.*<sup>29</sup>

Such contributions “in kind” (beers, sodas, food, etc.) are to be seen as campaign *income* in terms of their market prices. However, it can also be seen as campaign expenditure on the part of another person on *behalf* of a candidate. On the other hand, the Act also recognises (not as a “bribe”) direct expenses on *refreshments or food* by a candidate (or his/her agent). Thus the prohibited acts of “bribery” do not apply to the provision of *refreshments or food* “offered by a candidate or a candidate’s agent who provides refreshments or food as *election expenditure* at a candidate’s campaign planning and organisation meeting”.<sup>30</sup> Nonetheless, the Act prohibits and in fact criminalizes *bribery* as a facet of campaign *expenditure*. The distribution of money (cash) and other direct benefits to voters (e.g. cooking oil, salt, sugar, soap, blankets, saucepans, etc.) is not *lawful* campaign expenditure – in fact, it constitutes “vote-buying” and therefore a form of “corruption”. The Act specifically prohibits this as an “illegal” practice.<sup>31</sup>

It is to be noted that while the law is the more specific (and at times detailed) as regards party and electoral campaign finances in terms of *income*, it is less so in respect of *expenditure*. Thus while there are several forms of electoral campaign expenditure (in terms of, for instance, advertising and publicity, operational and administrative costs, etc.), the existing legal and policy guidelines do not provide the details as to the forms of expenditure. In fact, there is only a general mention of expenditures in terms of the requirement that—

- Statements of accounts of a political party/organisation to the EC show “financial transactions of party/organisation conducted through or by or with national office”.<sup>32</sup>

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<sup>28</sup> See list of such lawful sources in 1.2.1. See also supra notes 26-7 and accompanying text.

<sup>29</sup> Parliamentary Elections Act, sec. 68(1), (3)(b).

<sup>30</sup> Ibid., sec. 68(3)(a).

<sup>31</sup> Ibid., sec. 68(1).

<sup>32</sup> PPOA, sec. 12(1)(b).

- A presidential candidate accounts to the EC for the campaign finances in terms of the *use* of the public funding of UShs. 20 million and the other facilities.<sup>33</sup>

The details of the financial transactions of a party/organisation (which will not be limited to electoral campaigns) or a presidential candidate are not spelled out. On the other hand, the only campaign expenditure that is specifically identified in the Parliamentary Elections Act is in respect of refreshments or food at election campaigns by candidates or by other persons on their behalf as not constituting bribery.

### **3.4 Use of public/state resources by incumbent office-holders**

The concern with the use of public/state resources is a recent one in electoral campaigns, even in democracies in Europe and America. The concern here is the use mainly by incumbents (i.e. those holding political offices, e.g. the President, Ministers, LC V) of the resources attached to their offices for purposes of electoral campaigns. The *misuse* of public resources to that end is a form of “corruption”. It is in fact an “abuse of office” because the candidate who is a holder of a political office and has access and use of the public/state resources (vehicles, personnel) is diverting those resources from *public use* to his/her *personal use* in an election.

The legal/regulatory framework on the use of public/state resources is in fact comprised of a variety of legal instruments, ranging from the constitution to the electoral laws. Thus the 1995 Constitution provides that: “Parliament shall make laws, regulating the use of public resources and institutions during election campaigns”.<sup>34</sup> On that basis, Parliament passed the Presidential Elections Act and the Parliamentary Elections Act with specific provisions on the use of public/state resources during electoral campaigns. The Presidential Elections Act states that:

“Except as authorised by law, no candidate shall use Government resources for the purpose of campaigning for election.

Notwithstanding the foregoing, a candidate who holds the office of President may continue to use Government facilities during the campaign, but shall only use the said facilities which are ordinarily attached to and utilised by the holder of that office.”

On the other hand, the Parliamentary Elections Act provides:

“(1) Except as authorised under this Act or otherwise authorised by law, no candidate shall use Government or public resources for the purpose of campaigning for election.

(2) Where a candidate is a Minister or holds any political office, he or she shall during the campaign period, restrict the use of the official facilities ordinarily attached to his or her office to the execution of her official duties.

(3) For the purposes of enforcing this section, the Electoral Commission shall, by writing require any candidate to state in writing the facilities ordinarily attached to any office held by that person to which subsection (2) applies and the candidate shall comply with the requirement.

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<sup>33</sup> Presidential Elections Act, sec. 22(6).

<sup>34</sup> 1995 Constitution, art. 67(4).

(4) This section applies with necessary modifications to an employee of a statutory corporation or company in which the government owns a controlling interest and a member of a commission or committee established by the Constitution as it applies to a public officer”.<sup>35</sup>

From the above, it is clear that the incumbent as *President can continue to use Government facilities during the campaign*. However, he *shall only use the said facilities that are ordinarily attached to and utilised by the holder of that office*. The exact meaning of this latter part of the provision of the law is not clear.<sup>36</sup> In real and practical terms, the import of the law is that an incumbent President can continue to use *all* public resources that have been available to him as President, including the press unit (PPU), protection unit (PGB), administrative personnel (e.g. PPS and advisers).<sup>37</sup>

On the other hand, in parliamentary elections, a Minister or holder of a political office was *restricted* in the use of public/state resources.<sup>38</sup> This is especially the case of those resources ordinarily attached to his or her office for the execution of her official duties. In fact, he/she is required to avail a list of the public/state resources attached to the office. There is vagueness here to. Firstly, there is the problem as what these resources constitute – are they vehicles, personnel, office equipment, etc? Secondly, what guarantee is there that a Minister or the holder of a political office will list all the public/state resources attached to the office?

In fact, overall the legal/regulatory framework on use of public/state resources is riddled with vagueness, especially that it does not define or detail what constitute public/state resources. Therefore, since the incumbent President is allowed the continued use of the resources “*which are ordinarily attached to and utilised by the holder of that office*”, as noted above, this would include the press unit (PPU), protection unit (PGB), administrative personnel (e.g. PPS and advisers). Yet, on the other hand, the law only restricts (as opposed to prohibiting) a Minister or holder of a political office in the use of public/state resources ordinarily attached to his/her office to the execution of her official duties, it is left upon the Minister or the holder of a political office to list the public/state resources attached to his/her office when requested by the EC.

In general terms, public/state resources take various forms or can be categorised as (i) coercive resources, (ii) legislative resources, (iii) institutional resources, (iv) financial resources and (v) media resources.<sup>39</sup> It is to be noted however that the legal/regulatory framework in fact addresses the use of media resources as public resources in elections, especially in the context of state-owned media. Thus the 1995 Constitution provides that:

“(2) No candidate in an election shall be denied reasonable access, and use of State-owned communication media.

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<sup>35</sup> Parliamentary Elections Act, sec. 25(1)-(4).

<sup>36</sup> See Deepa Verma, ‘Presidential Act is vague, flouted’, *Sunday Monitor*, 22 Jan. 2006, p. 10.

<sup>37</sup> See also *infra* pp. 27-8.

<sup>38</sup> It is to be noted that the Act uses the phrase “restricted” which is however not the same as “prohibited”.

<sup>39</sup> See 1.2.2 above.

(3) All presidential candidates shall be given equal time and space on the State-owned, media to present their programmes to the people”.<sup>40</sup>

Clause (2) seems to be directed to candidates in elections generally while clause (3) is specific to presidential candidates (and includes concerns over *equal time and space* on state-owned media). These provisions of the Constitution were the basis for the provisions on use of state-owned media in the electoral laws. Thus the Parliamentary Elections Act provides that: “A candidate in an election shall not be denied access, and use of State-owned communication media”.<sup>41</sup>

### **3.5 Sanctions for violation of electoral laws and guidelines**

Sanctions are essentially penalties (punishment) imposed for the not observing or following the provisions of a law. A person or entity (e.g. political party) who fails to observe or follow certain requirements or undertake an act stated in law is often considered to “commit an offence” under the particular provision of the law. The provision of the law then states the sanction or penalty for the “offence”. Under most of the existing laws, there are sanctions or penalties for “committing an offence” and they include (a) *finer* (not exceeding certain stipulated sums of money),<sup>42</sup> (b) *imprisonment* (for specified term of months or years), (c) both the *fine* and *imprisonment* and (d) other sanctions/penalties (e.g. for a political party the sanction of: (i) deregistration (i.e. removing name of party/organisation from the register kept by the EC) and (ii) forfeiture of property/assets to the State). These penalties however require an order of court.

The PPOA and the electoral laws have provisions specifying the sanctions or penalties in terms of *finer* or *imprisonment* or both. The PPOA also has the other sanctions/penalties on deregistration of a party/organisation and the forfeiture of property/assets of party/organisation to the State.

There are specific sanctions/penalties for the failure to fulfil or undertake certain disclosure requirements as regards party/electoral campaign finance and use of public/state resources (see Table 1 below). However, the sanctions and penalties under the electoral laws go beyond failure to observe or adhere to the disclosure requirements as to campaign finance and the use of public/state resources.

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<sup>40</sup> 1995 Constitution, art. 67.

<sup>41</sup> Parliamentary Elections Act, sec. 22(1).

<sup>42</sup> The fine is often stipulated in what is referred to as “currency points”. A currency point corresponds to UShs. 20,000/=. Thus a provision of a law mentioning a “fine not exceeding 72 currency points” refers to a “fine not exceeding UShs. 1,440,000/=”.

**Table 1: Sanctions in relation to certain disclosure requirements on campaign finance and use of public/state resources under PPOA and electoral laws**

	Disclosure requirement	Law	Provision	Person/entity filing	Period within which to file	Agency	Sanctions/Penalties for non-compliance			
							Provision of Law	Fine (UShs) (Not to exceed)	Imprisonment (Not to exceed)	Other
1.	Written declaration of assets and liabilities	PPOA	s. 9(1)-(4)	Political party or organisation  (declaration to be authorised by the executive committee members)	60 days after the first year of registration (unless EC allows a longer period).  Thereafter annually	EC	s. 9(6)-(8))	1,440,000/= (false declaration)  1,440,000/= (member of executive committee)	-  3 years	De-registration of party or organisation
2.	Audited statement of accounts	PPOA	s. 12(4) s. 15(1)-(2)	Political party or organisation	6 months from end of financial year of the party of organisation	EC	s. 15(3) and s. 21(2)(b)	960,000/= (party or organisation)  960,000/= (officials)	-  2 years	De-registration of party or organisation (on committing the offence more than 3 times)
3.	Reporting of lawful contributions from foreign sources	PPOA	s. 14(4)	Political party or organisation	21 days from date of receipt of contribution	EC	s. 14(9)-(10) and s. 21(2)(a)	1,440,000/= (party or organisation)  1,440,000/= (member of executive committee)	-  3 years	Forfeiture of contribution to State  De-registration of party or organisation
4.	Account for the use of allocated public contribution (UShs. 20 million) and other facilities	Presidential Elections Act	s. 22(6)	Presidential candidate	30 days after elections are held	EC				
5.	Record of all funds asked for and received (and their sources).	Presidential Elections Act	s. 22(6)	Presidential candidate	30 days after elections are held	EC				
6.	Written statement of the facilities ordinarily attached to political office held by a person	Parliamentary Elections Act	s. 22(3)-(4)	Parliamentary seat candidate who is Minister or holder of a political office	-	EC	s. 23(5)	480,000/=	1 year	-

## **Chapter 4: Monitoring and Findings**

### **4.1 Introduction**

The previous chapter addressed and set out the legal/regulatory framework on electoral campaign finance and the use of public/state resources in elections. The practical application and compliance with the legal/regulatory framework during the 2006 elections is considered in the present chapter. At the outset, it is to be noted that the monitoring the compliance and the findings considered the extent to which parties and candidates responded to disclosure/reporting requirements and the reported and observed incidents involving campaign expenditure and the misuse of public/state resources.

Of further note is the fact that given that the disclosure/reporting requirements are essentially documentary in character, for purposes of monitoring compliance with those requirements long before, immediately before or after the elections, a basic source for determination of compliance was the declarations, statements, records or reports filed with the EC (and any other public body, e.g. the IG or the Election Offences Squad). Crucially, under the political parties and electoral laws, the declarations, statements, records or reports are a “public record” available for inspection by the members of the public upon payment of a prescribed fee.<sup>1</sup> The right to access and inspect various declarations, statements, records or reports also arises from the general right of access to information in the possession of agencies of government (e.g. the EC) as stated in article 41 of the Constitution.

The monitoring of compliance with the electoral laws, especially as regards use of public/state resources, was undertaken through media monitoring and on the basis of case studies as set out in the methodology in 1.3.1 and 1.3.2.

### **4.2 Party and Electoral Campaign finances**

#### ***4.2.1 Compliance with disclosure/reporting requirements***

As laid out in 3.2, the political parties and electoral laws call for the disclosure and reporting of party and electoral campaign finances. The major disclosure requirements can be summarised as follows–

Firstly, the political parties and organisations are required to submit to the EC:

- (i) Written declaration of assets and liabilities.
- (ii) Audited statement of accounts.
- (iii) Reporting of lawful contributions from foreign sources.<sup>2</sup>

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<sup>1</sup> Thus the declaration of assets and liabilities of political party or organisation is accessible to the party members and the public: PPOA, sec. 9(5). Similarly, the audited accounts of a party is to be accessible to and by any member of a political party or organisation: *ibid.*, sec. 12(2) while the public is entitled, upon the payment of a reasonable fee, to inspect copies of the audited accounts: *ibid.*, sec 12(5). On the other hand, the contents of the declarations of income, assets and liabilities are available to the public upon similar payment of a fee: Leadership Code Act, sec. 7.

<sup>2</sup> See *supra* 3.2 at p. 13.

The submission by political parties to the EC of written declaration of assets and liabilities was to be accomplished within sixty (60) days after the first year of registration (unless the EC allowed for a longer period).<sup>3</sup> Given that although the parties began registering as early as October 2003 (as was the case with NRM-O), a significant number of the parties were registered in late 2004 and into 2005, with DP being registered in July 2005. Thus while an organisation like NRM-O would have been expected to submit the declaration with the Assistant Registrar General (Political Parties) by January 2005 (as was the position then), political parties such as UPC (registered in March 2005) and DP could not be expected, as per the law, to submit their declarations until probably May 2006 and September 2006 respectively. FDC registered in December 2004 would likewise have filed the declaration in February 2006. The challenge of the 2002 PPOA and delays in registering parties has resulted in their being no declarations on the part of the key parties with either the Assistant Registrar General (Political Parties) or the EC (after November 2005). In reality, compliance with disclosure requirements on party financing by parties such as the old parties DP, UPC and new party FDC was, in light of the provisions of the 2002 PPOA, impracticable. Furthermore, the transfer of the role of receiving such declarations from the Assistant Registrar General (Political Parties) to the EC under the 2005 PPOA found the EC in the midst of organising the February 2006 elections that they did not really pay any serious attention to the party financing disclosure requirements under the law.

The audited statement of accounts of the party is to be submitted to the EC within six (6) months from the end of the financial year of a party.<sup>4</sup> Once again, this legal requirement, as that on declaration of finance, seems to have fallen foul of a new PPOA and transfer of the obligation to receive such statements to the EC. In that respect, the obligation on the reporting of lawful contributions from foreign sources within 21 days of the receipt of contributions<sup>5</sup> seems to have suffered the same fate.

Secondly, the candidates involved in the presidential elections are required to submit to the EC:

- (i) An account or return on the use of allocated public resources (UShs. 20 million) and other facilities.
- (ii) A record of all funds mobilised and received (and their sources).<sup>6</sup>

As pointed out in 3.2, the EC allotted, as a contribution from the public resources, the sum of UShs. 20 million to each of the candidates in presidential elections, a sum to be used solely for the election. Each of the candidates was then required to: (i) account, within thirty (30) days after the election, for the use of the public resources (i.e. the UShs. 20 million) and the other facilities and (ii) keep a record of all funds he/she asked for and received (and their sources). While these in fact constitute *post*-election reporting requirements, as of the end of April 2006, over 60 days after the elections, all the presidential candidates have yet to submit to

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<sup>3</sup> PPOA, sec. 9(4).

<sup>4</sup> *Ibid.*, sec. 12(4).

<sup>5</sup> *Ibid.*, sec. 14.

<sup>6</sup> *See supra* 3.2 at p. 13.

the EC an account of the use of the US\$ 20 million.<sup>7</sup> Furthermore, in spite of the fact that there is *no pre-election requirement to disclose sources of a candidate's electoral campaign finances* under the Presidential Elections Act, as of the end of April 2006, all the candidates had yet to comply with the requirement to submit a record of all funds mobilised and received (and their sources). The only existing information on electoral campaign expenditures is speculative, with one of the top NRM ideologues claiming that President Museveni spend US\$ 50 billion for his re-election,<sup>8</sup> although the party disputes this, Amama Mbabazi reported as putting the figure at US\$ 10 billion.<sup>9</sup> On the other hand, the FDC spokesperson, Wafula Oguttu is reported as putting the amount spent by Dr. Kiiza-Besigye at US\$ 740 million.<sup>10</sup> As regards the failure to account for the finances (and their sources) during the elections within 30 days, Amama Mbabazi is quoted as saying that: *"We are required by law to account for the money spent on elections within 30 days after the elections. As far as NRM is concerned, elections are not yet complete"*.<sup>11</sup> The Minister's view is based on the argument that elections of youth MPs were still due in May 2006. However, this reasoning does not reflect the law – the *post-election* requirement in the Presidential Elections Act pertains to the presidential elections and is not conditional upon the completion of the electoral process in its entirety.

Thirdly, as regards candidates in parliamentary elections, those candidates who are ministers or the holders of political offices are required to submit to the EC a written statement of the facilities ordinarily attached to the office held by that candidate.<sup>12</sup> This requirement however necessitates the EC to *initially* write to the various ministers or holders of political offices, who are then required to provide in writing a list of facilities attached to their offices.<sup>13</sup> However, perhaps again owing to the timing of the enactment of the Parliamentary Elections Act and the pressures on the EC in carrying out nominations and organising for the elections, this aspect of the electoral law seems to have gone unnoticed. The EC did not write to the various ministers and holders of political offices, and there is no evidence at its offices that it did so. The findings, from media monitoring, show that ministers were in fact involved in using of official government vehicles for their electoral campaigns. These are addressed in 4.3 below.

#### **4.2.2 Sources of campaign financing**

As we pointed out in 3.2, the electoral laws – both the Presidential Elections Act and the Parliamentary Elections Act – do not prescribe the sources of electoral

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<sup>7</sup> It is to be noted that one of the candidates, Hajji Nasser Ssebagala, withdrew from the race and returned to the EC the US\$ 20 million and the official vehicle he had been given for the campaigns.

<sup>8</sup> See Nyanzi, P & E Lirri, 'Museveni spent Shs. 50 b on re-election', *The Daily Monitor*, April 26, 2006, pp. 1-2; Kajoba, N, 'Cheeye raps Media over Poll Coverage', *The New Vision*, April 26, 2006, p. 3.

<sup>9</sup> Mutumba, R, 'President only spent Shs 10b in re-election – Mbabazi', *The Daily Monitor*, April 28, 2006, p. 4.

<sup>10</sup> Nyanzi & Lirri, supra note 8, at p. 2.

<sup>11</sup> Mutumba, supra note 9, at p. 4.

<sup>12</sup> See supra 3.2 at p. 13.

<sup>13</sup> Parliamentary Elections Act, sec. 25(3).

campaign finances (except, with respect to presidential elections, contributions from hostile governments or organisations).<sup>14</sup> The laws basically allow candidates to raise campaign finances from and through *lawful* sources and means. It may be noted that the findings in this regard determined that parties and candidates accessed the traditional sources of campaign finance, i.e. personal funds (savings and returns on business/investments), third party contributions, etc. In fact, it has been common to find parties contributing towards the campaign finances of the candidates standing in the party's name – thus NRM-O made contributions ranging from US\$ 2 million to US\$ 25 million towards electoral campaigns of its candidates for parliamentary and other seats.<sup>15</sup>

Invariably, the findings reveal other pertinent concerns about campaign finances. The major one was the imbalance in the campaign resources as between NRM-O as the party of the incumbents and the opposition – for as Human Rights Watch noted: “The funding and infra-structural imbalance between the NRM-O and the opposition parties is a severe impediment to equal campaigning opportunity.”<sup>16</sup>

#### **4.2.3 Campaign expenditure**

The extent of campaign spending is yet unclear, with the failure on the part of the parties and candidates to disclose exact sums spent. As we observed in 4.2.1, the presidential candidates have not complied with reporting requirements in filing returns on campaign finances in terms of both *income* and *expenditure*, although FDC puts the expenditure at US\$ 740 million and NRM-O at US\$ 10 billion.<sup>17</sup>

As noted in 3.2 above, the electoral law are silent and non-specific on campaign expenditure on the part of parties and candidates, save for criminalising bribery as a form of expenditure. Therefore, the exact ends to which the US\$ 20 million contribution from public resources to electoral campaign finances of presidential candidates can only be ascertained from returns they were expected to submit to the EC. These are not readily available at the moment. However, from the figures banded around by the key parties in the 2006 elections – NRM-O and FDC – it is apparent that the US\$ 20 million contributions was only a tiny percentage in terms of the campaign expenditure.

From observations of the elections, it is however evident that electoral campaign expenditure took two major forms, that is, (i) advertising and publicity and (ii)

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<sup>14</sup> See supra 3.2 at p. 13.

<sup>15</sup> This is for instance evident from the payment voucher issued by the Executive Committee of the party to the Chairperson, Jinja District, for the figure of US\$ 87,850,000. The voucher dated February 17, 2006 was attached to President Museveni's affidavit in reply to the election petition filed by Dr. Kiiza-Besigye. From the voucher, it is discernable that NRM-O made campaign finance contributions to the candidates for parliamentary seats (US\$ 2 million), women MP seat (US\$ 3 million), municipality chairperson seat (US\$ 2 million), etc. The party had itself promised the candidates contributions between US\$ 5 million to US\$ 10 million: see Ssemuju Nganda, I, 'NRM Candidates to get Shs 10m', *The Weekly Observer*, January 12-16, 2006.

<sup>16</sup> HRW, 'In Hope and Fear: Uganda Presidential and Parliamentary Polls', accessed at <http://hrw.org/backgrounders/africa/uganda0206/5.htm>.

<sup>17</sup> Supra note 9-10 and accompanying text. See however, 'Museveni campaign cash being tallied', *The Daily Monitor*, April 27, 2006, p. 2.

operational and administrative costs. Once again, in the absence of the parties and candidates submitting returns of party and campaign finances, it is difficult to ascertain the breakdown of these two key campaign expenditures or even the nitty-gritty of the finer details of the expenditure. The present findings can only be drawn from observations and instances of media reporting and case studies.

It is clear that advertising and publicity was a dominant cost in the campaigns. This was manifested in advertisement especially in the mass media (television, radio, newspapers and, for some candidates, billboards).<sup>18</sup> In addition, publicity was manifested in the provisions of posters, T-shirts, caps, mobile media (in form of trucks fitted with audio equipment). The major areas of the advertising and publicity as campaign expenditures that were most visible and for which the monitoring could be done included–

- (i) Production (i.e. printing and designing) of program and *manifestos* (and other documents, e.g. books, leaflets, pamphlets) of candidates.
- (ii) Political advertising/publicity in–
  - *Electronic* media (TV, radio, inter-net).
  - *Print* media (newspapers, magazines).
  - *Out-door* media (posters, billboards).
  - *Mobile* media (trucks fitted with audio equipment).
- (iii) Design and the production of other campaign promotional materials (e.g. logos, posters, car stickers, cards, T-shirts, caps, pocket tags).

In respect of operational costs, until the parties and candidates make the returns, it can only be said that operational and administrative costs constituted a big part of campaign expenditures. From the observations, the operational expenditures generally consisted of–

- (i) Rent for office space for electoral purposes. It was common for the parties to open up office branches in the various towns or even trading centres. These became the contact point between the party, supporters and the candidates involved in the various elections.
- (ii) Payments for cost of utilities (water, electricity, etc).
- (iii) Cost of communications (telephone, fax, inter-net).
- (iv) Office supplies (pens, paper, computers, furniture, etc).
- (v) Salaries for administrative and other staff.
- (vi) Rallies, meetings, events and direct contact with voters. These remains a key aspect of electoral campaigns and organising them cost money, from hiring venues and equipment to paying people to do so.
- (vii) Transport and accommodation costs.<sup>19</sup>

The key concern during the elections and for which there are significant findings from both media monitoring and the case studies pertains to the *distribution of*

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<sup>18</sup> The mayoral candidates for Kampala District, Hajji Nasser Ssebagala and Peter Sematimba, took out huge billboards around the city.

<sup>19</sup> The instance can be taken of NRM-O operational costs for Jinja District. The voucher issued to release electoral finances indicates provision for “pens, writing pass and refreshments during meetings to enhance campaign effort” in the sum of UShs. 19.8 million, while salaries for the Task Force in carrying out the campaign effort was costed at UShs. 2.4 million. The voucher was attached to President Museveni’s affidavit in reply to the election petition: *see supra* note 15.

money and other direct benefits to voters. During the course of the campaigns, various candidates were reported or observed distributing money (in cash) and other direct benefits to voters (such as refreshments and food, cooking oil, salt, sugar, soap, blankets, saucepans, etc). In fact, apart from expenditure in publicity (posters, etc.) and operational costs (hiring offices, agents, etc.), cash payments to the electorate formed a significant part of electoral campaign expenditure. This was notwithstanding that this constituted “vote buying” and “bribery” and was specifically prohibited under the electoral laws as an “illegal” practices. In fact, the cases and incidence of bribery and vote buying were rampant throughout the country. In Apac district, TAACC was able to observe and document several cases and incidences of candidates giving out to the electorate monies in the sums of between UShs. 1,000/= to UShs. 100,000/=.<sup>20</sup> In Ntungamo district, there was evidence of financial payouts to the electorate, with the CMI researchers finding that the NRM-O took advantage of the local government structures to finance the elections in terms of money, sodas and other “logistics”.<sup>21</sup> In Tororo, TOCINET similarly observed incidences of voter bribery and cash handouts across various constituencies in the district.<sup>22</sup> In Mbarara, incidents of monetary payouts by the NRM-O candidate for Kashari, Urban Tibamanya, were reported.<sup>23</sup> In Iganga, similar incidents that involved the incumbent LC V chair-man, Asuman Kyafu, were reported by BACNET.<sup>24</sup> In Kisoro, KACCO documented incidents of monetary payments in Bufumbira South by the incumbent NRM-O candidate, Sam Bitangaro, and the independent candidate, Tess Buchanayandi.<sup>25</sup> At the national level, and while the judgment of the court is tentatively a summary judgement, the Supreme Court was *unanimous* in finding that there was non-compliance with the Constitution and the electoral law, as the result of *bribery* and intimidation or violence and in multiple voting and vote stuffing, which compromised of the principle of ‘free and fair elections’.<sup>26</sup>

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<sup>20</sup> TAACC, *Election Finance Monitoring Report: January-March 2006* (March 2006).

<sup>21</sup> CMI Research Report, *Report on election observation in Western Uganda, Ntungamo District* (authors: Sabiti Makara & L Rakner)(February 2006) 4-5. CEFIM received several e-mails at its offices from field monitors on incidents of monetary payments and distribution of iron-sheets, mattresses, blankets, etc. by Hon. Mwesigwa-Rukutana and the First Lady, Janet Museveni.

<sup>22</sup> TOCINET, *Report on monitoring the Presidential, Parliamentary and Local Councils Campaign Rallies in Tororo District* (March 2006) 10-11.

<sup>23</sup> E-mails from its field monitors are on record with CEFIM. See also MBADICSOF, *Progressive Report-Mbarara on Speaking out for a Clean, Accountable and Transparent Electoral Process* (February 24, 2006).

<sup>24</sup> E-mails from the BACNET Secretariat sent on January 15, 2006 and January 16, 2006 are on record with CEFIM. Apart from monetary payments, BACNET reports the candidate as distributing bags of cement, iron sheets, bicycles, water-tanks and promises of footballs and construction of a 4-classroom school.

<sup>25</sup> KACCO, *Report of the Kisoro Anti-Corruption Coalition (KACCO) on Election Finance Monitoring* (March 2006).

<sup>26</sup> *Dr. (Rtd. Col.) Kizza-Besigye v. Electoral Commission & Another*, Election Petition No. 1/2006 (SC)(unreported), summary judgment of the Court of April 6, 2006. Notably, by 5-2, the Court found that it was *not proved to its satisfaction* that electoral malpractices (including bribery) were committed by the presidential candidate and/or his agents with his *knowledge and consent or approval*. As of the end of April 2006, the full judgment of the Court had yet to be presented.

### **4.3 Misuse of public/state resources in elections**

#### **4.3.1 Generally**

As noted in 3.3, the electoral laws address the use of public/state resources by the candidates in presidential and parliamentary, especially on the part of incumbent holders of offices. The problem, as we noted, is that the provisions of the laws are generally vague – with the President being allowed to *use the facilities that are ordinarily attached to and utilised by the holder of office of the President* while ministers and other holders of political office are only *restricted* in the use of the resources ordinarily attached to his/her office for the execution of his/her official duties. What is meant by “*ordinarily attached*” to an office is not clear – for as Human Rights Watch observes: “This works as a loophole for the incumbent who has all government facilities at his or her disposal”.<sup>27</sup> In fact, one of the ministers was reported to boast that:

There is no way Museveni is going to lose the elections. Not with all the government machinery at his disposal. I am in government and I know what I am talking about.<sup>28</sup>

This vagueness in the electoral law was in fact evident when, on January 2, 2006, in compliance with the Presidential Elections Act, the First Deputy Prime Minister and Minister for Public Service, Hon. Henry Muganwa Kajura put before the Parliament the entitlements of the President. According to the Deputy Prime Minister, the sitting President was entitled to: (i) *the usual transport facilities provided to the President; (ii) the usual security detail facilities provided to the President; (iii) the usual personal staff and their facilities attached to the President and (iv) the usual information and communication facilities attached to the President*. This is a wide range of facilities. As we noted above, in real and practical terms, the import of the law is that the incumbent President continues to use *all* public resources that have been available to him as President, including the press unit (PPU), protection unit (PGB), administrative personnel (e.g. PPS and advisers). This is indeed what was to be observed during the course of the electoral campaigns, with the additional scenario where the President was seen to use other forms of administrative and financial resources.

As regards ministers and other holders of political office (e.g. mayors, LC V chairpersons), as noted in 4.2.1, there was a failure on the part of the EC to write to the candidates in question to provide in writing a list of the facilities attached to their offices. The findings from media monitoring and cases studies provide evidence that ministers and incumbent LC V chairpersons were using official government vehicles for their electoral campaigns.

#### **4.3.2 Case studies**

The following case studies are based on media monitoring and the observation of incidents on part of researchers and election-monitors in specific pilot electoral areas in the country.

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<sup>27</sup> Supra note 16. See also Deepa Verma, ‘Presidential Act is vague, flouted’, *Sunday Monitor*, 22 Jan. 2006, p. 10.

<sup>28</sup> Odong, J, ‘Besigye can’t win –Oryem’, *The New Vision*, January 16, 2006.

*(i) Misuse of coercive resources*

This involves the use of coercive apparatus of the state in election campaigns. The misuse of these resources includes, for instance, use of the army, police and the intelligence/security agencies to harass or intimidate supporters of other candidates. It also includes the use of other law enforcement institutions, for instance, courts to frustrate efforts of another candidate and foster the electoral of the incumbent. Although there is no direct link of the rape trial of Dr. Kiiza-Besigye (and other judicial woes that he faced, e.g. challenging of his nomination) to the incumbent, it was clearly an example of the misuse of coercive resources. More significant though is the fact that in their summary judgment, the Supreme Court noted with concern “the continued involvement of the security forces in the conduct of elections where they committed acts of intimidation, violence and partisan harassment”.<sup>29</sup> Given the breadth of the “facilities ordinarily attached” to the office of the President, it is apparent that a sitting President could use his position, as Commander-in-Chief, to deploy the army against his challengers, as the Court seems to imply. In fact, the use of the army and intelligence/security agencies to harass and intimidate supporters of other candidates was a feature of the 2001 elections.

*(ii) Misuse of legislative resources*

This involves using legislature to pass laws favourable to the incumbents. This is usually before the elections.<sup>30</sup> The example during the 2006 elections can be the provision that appears in the electoral law requiring a “public officer or a person employed in any government department or agency or an employee of a local government or any body in which government has a controlling interest, who wishes to stand for election as a member of Parliament” to resign his/her office at least 90 days before the nomination day.<sup>31</sup> While this was intended do deal with elections in the era of a multi-party political system, there was the feeling that this was a trick by incumbent MPs to try to stop other public officials contesting in elections, as those officials would have to debate whether to leave a permanent job to contest in an election whose result is not clearly known.

*(iii) Misuse of institutional resources*

This involves the use of the material and human resources of the state, including office space and equipment, vehicles, etc. The findings from media monitoring and case studies show that the abuse of public/state resources is greatest in the area of institutional resources. The findings indicate the misuse of institutional resources arise where incumbent office holders (the President, ministers, the LC

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<sup>29</sup> Supra note 23.

<sup>30</sup> It is not too common but the misuse of legislative resources has occurred, for instance, in Zimbabwe, where a law was passed that political parties were to have a certain number of MPs in the current Parliament to be able to qualify for public/state funding. This law was successfully challenged before the Supreme Court in Zimbabwe: *United Parties v Minister of Justice, Legal and Parliamentary Affairs & Others* [1998] 1 LRC 614 (SC).

<sup>31</sup> Parliamentary Elections Act, sec. 4(4)(a).

V chairpersons) uses *institutional* public/state resources they control to promote their *individual* electoral interests. This includes use of public premises, office equipment, vehicles and public officials/employees for campaign purposes. The examples include–

- Engaging senior state officials in their capacity as *public* employees in publicly endorsing candidates.
- Engaging public officials/employees through requiring them to attend campaign events (e.g. rallies) of candidates.
- Engaging public officials/employees in campaigning for candidates during *official* working hours.
- Using government premises for campaign purposes (e.g. voters meetings, rallies, concerts) by one candidate (which is not the case for the others).
- Using and making available other logistical resources of public office (e.g. computers, fax, telephone, internet) to candidates.
- Using public/official vehicles for campaign purposes, e.g. to transport the candidates, supporters, campaign materials, etc.

Media monitoring shows incidents in which the President has involved ministers, local council officials and other public officials in his electoral campaigns, either in directly campaigning for him or being in attendance at his rallies. This in fact constitutes a misuse of administrative resources – the use and presence of public officials cannot in fact be regarded as “facilities ordinarily attached” to the office of the President. As regards the use of official vehicles, there are several witness accounts of government vehicles being used for campaigning. The findings in this regard are from testimonies of witness and, in certain instances, media reporting and monitoring and documentation (in print and visual form) by the accredited election monitors. Media monitoring shows that the Vice President, Hon. Gilbert Bukenya was using an official government vehicle, whose official number plates he had replaced with private number plates to carry his campaign materials.<sup>32</sup>

In Apac district, TAACC observed and documented (in print and visual form) the incidents in which the incumbent district chairperson, Mr. Ben Olwaa, used his official vehicle, reg. No. LG 0121-02, while campaigning at Anwangi Primary School on January 25, 2006;<sup>33</sup> and the incumbent MP for Maruzi county, Hon. Jovino Akaki, used his official government vehicle, reg. No. UG 0204T, while campaigning at Ayumi Primary School on February 18, 2006<sup>34</sup> and at Angayiki Primary School on February 21, 2006.<sup>35</sup> In Iganga, the incumbent LC V chairman, Asuman Kyafu, was cited by BACNET field monitors using a government vehicle, reg. No. LG 0019-11, while campaigning at Butyaye Primary School at Nakalama sub-county on February 16, 2006.<sup>36</sup> In Kisoro, KACCO reports of the use by the incumbent MP for Bufumbira South, Hon. Sam Bitangaro, of his official vehicle, reg. No. UG 0154Y, throughout the campaigns “although he lost

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<sup>32</sup> Atuhaire, A, ‘VP uses Government car to Campaign’, *The Daily Monitor*, February 6, 2006.

<sup>33</sup> *Supra* note 20, at pp. 9-10.

<sup>34</sup> *Ibid*, at p. 13.

<sup>35</sup> *Ibid*, at pp. 16-7.

<sup>36</sup> E-mail from the BACNET Secretariat on record with CEFIM.

the elections to an independent candidate”.<sup>37</sup> KACCO also reports of the use by the incumbent LC V chairman, Philemon Mateke, of his official vehicle, reg. No. LG 0085-21, throughout the campaign period campaigning for NRM-O and its candidates.<sup>38</sup> In Ntungamo, although the field monitors could not place which incumbent office-holders were using the facilities in question, they were able to pinpoint the vehicles reg. Nos UG 0177R, UG 0432R, LG 0031-39 and a motor-cycle reg. No. UG 1028S.<sup>39</sup> In Mbarara, a field observer reports of the incumbent LC V chairman, Fred Ibabaza Kamugira, using his official vehicle, reg. No. LG 0173-39, on February 18, 2006 while campaigning for President Museveni in Mbarara and Isingiro districts.<sup>40</sup> In Soroti, TAC reports of use by the incumbent MP for the Municipality, Hon. Mike Mukula, of a government hospital ambulance for his campaigns.<sup>41</sup>

The misuse of institutional resources was also evident in the use of and engaging public officials/employees in campaigning for candidates during *official* working hours. The case of the Mbarara LC V chairman, Fred Kamugira campaigning for President Museveni in Mbarara and Isingiro districts is one illustration of misuse of administrative resources.<sup>42</sup> In Ntungamo, although the field monitors report of a “big number of civil servants” involving “themselves in partisan politics”, including accountants, probation officer, employees of the water department and tender board, a records officer and a cashier.<sup>43</sup>

*(iv) Misuse of financial resources*

This involves generally the use of public finances. The misuse of such public resources in electoral campaigns includes (a) distribution to voters of goods and services bought with public funds and (b) institutional advertising, i.e. boosting the image of incumbent by increasing advertising of government activities.

Media monitoring shows instances of misuse of financial resources in the context of institutional advertising. This was particularly the case with the use of public resources to publish in print-media, particularly the government-owned paper, *The New Vision*, supplements on the progress on incumbent’s 2001 presidential manifesto. CEFIM wrote a complaint to the EC with regards to what it perceived as a misuse of public/state resources to boost the image of the incumbent. Other instances of misuse of financial resources are the creation of the Media Council (which included committing funds) and the efforts to boost the image of Uganda through the “Gifted by Nature” adverts.

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<sup>37</sup> Supra note 25, p. 1.

<sup>38</sup> Id.

<sup>39</sup> E-mail from its field monitors dated February 10, 2006 on record with CEFIM.

<sup>40</sup> E-mail on record with CEFIM.

<sup>41</sup> E-mail from the Coordinator, TEC Soroti on record with CEFIM.

<sup>42</sup> Supra note 40 and accompanying text.

<sup>43</sup> Supra note 39 and accompanying text.

*(v) Misuse of media resources*

This involves generally the use of the media, especially state-owned media. As we noted in 3.4, there are legal provisions addressing the use of state-owned media by candidates in elections. Media monitoring revealed instances of the misuse of media resources as public/state resources in a number of ways. Notable was the fact that in spite of the Constitution and the electoral laws providing that state-owned media is to provide equal access to all presidential candidates, this was not the case during the elections. The Uganda Journalists Safety Committee (UJSC) that monitored the print and broadcast media coverage of the main parties and their candidates from January 16-29, 2006 found that in the print media, both state and private, Dr. Kizza-Besigye and FDC received slightly more coverage than NRM-O (49.2% to 47.4%), with the other parties only 3.4%.<sup>44</sup> This was attributable to his on-going trials. However, the UJSC found that on the Uganda Broadcasting Corporation Television (UBC-TV), the coverage was heavily in favor of the ruling NRM-O, which received almost ten times as much coverage as FDC (62.4% NRM-O compared to 6.4% for FDC, and 0% for all other parties).<sup>45</sup> In effect, the findings show that, in spite of the law, there was *unequal access and coverage* on the state-owned media with respect to the incumbent and the other candidates.

#### **4.4 General observations on laws on campaign finances and use of public/state resources**

It is evident that there are concerns as regards the laws on campaign finances. Firstly, the laws are open-ended as to the sources of electoral campaign finances, in allowing candidates to raise such finances from *lawful* sources. Even where the law debars a source, as in the instance of foreign contributions from hostile governments and organisations, the law was not operationalised. Under both the PPOA<sup>46</sup> and Presidential Elections Act,<sup>47</sup> the Minister is required, with approval of the Parliament, to list in a law the *hostile* foreign Governments, institutions, bodies or persons from whom the political parties cannot obtain, request for or receive funds. This law was to be put before Parliament *three (3) months before the nomination day for the presidential candidates*. This was never done.<sup>48</sup>

Secondly, there has been a flagrant failure on part of the parties and candidates in the presidential elections to submit an account for electoral campaign finances (and their sources) during the elections within 30 days. In the corollary, the EC has not been vigilant in enforcing compliance with the post-election reporting on electoral finances. In fact, a scathing attack on the non-compliance on the part of parties and candidates with the legal provisions on party and campaign finances was voiced in the Editorial of *The Daily Monitor*:

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<sup>44</sup> UJSC, *Preliminary Report on the state of Media Coverage of the 2006 elections* (January 2006).

<sup>45</sup> *Id.*

<sup>46</sup> PPOA, sec. 14(6).

<sup>47</sup> Presidential Elections Act, sec. 22(5).

<sup>48</sup> See Deepa Verma, *supra*, note 24.

The opaque veil over where political parties get their money to campaign and how they spend it needs to be removed. It only fuels corruption but also gives unfair advantage to those who access big money from either private or public coffers. Supporters, foreign donors and the business community who sponsor parties lose because they remain in the dark regarding their contributions yet this is big money. At one point, a leading DP official was reported to have solicited Shs. 8 billion from American supporters, while the anti-corruption watchdog, Transparency International, accuses President Yoweri Museveni's party of using state resources to campaign.<sup>49</sup>

Reflecting on the question of returns on campaign finances in the 2001 and 2006 elections, the editorial further chastised:

Up to now, the returns from the 2001 elections have not been published and although the 30-day mandatory limit for the parties to file reports for the 2006 elections to the EC have lapsed, no party has complied. Instead, some of them, like the Forum for Democratic Change (FDC) have paid lip service to accountability ... Complying with the law on filing returns would provide the FDC with the moral authority to challenge other parties.<sup>50</sup>

As regards the EC dragging its feet on the post-election reporting requirements on campaign finances, the editorial was furious:

It is not enough for the Electoral Commission secretary, Mr. Sam Rwakoojo, to swivel around in the EC offices and claim the commission is planning to write to the various political parties "to remind them". Even his claim that the "legal requirement of 30 days is impracticable" is totally unacceptable. ... It should also make it clear to the parties that filing returns is not optional; it is the law.<sup>51</sup>

It is notable that for all the provisions contained in the electoral laws, the post-election reporting requirement on campaign finances, under section 22(6) of the Presidential Elections Act, is *the only requirement that is not backed by sanction and penalty*.<sup>52</sup>

Thirdly, the EC failed in its duty to write to the ministers and the other holders of political office to provide in writing a list of the facilities attached to their offices. Fourthly, as a probable consequence, findings demonstrate numerous incidents of misuse of public resources, especially *institutional* resources. In concluding its report, KACCO observed as regards its experiences with the campaigns in Kisoro:

In general, the NRM party and its candidates encroached much on public facilities such as vehicles, motorcycles and offices to facilitate their campaigns since they had access to such facilities. This was in breach of section 27 of the Presidential [Elections] Act 2005 and section 25 of the Parliamentary Elections Act 2005, which restrict use of public resources in partisan politics by those who have access to them.<sup>53</sup>

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<sup>49</sup> Editorial, 'Enforce laws on campaign money', *The Daily Monitor*, April 28, 2006, p. 10.

<sup>50</sup> Id.

<sup>51</sup> Id.

<sup>52</sup> See Table 1 above, at p. 21.

<sup>53</sup> Supra note 25, p. 4.

## **Chapter 5: Conclusions and Recommendations**

### **5.1 Main findings**

The main findings of the project reveal that in spite of the existence of a legal/regulatory framework on electoral campaign finance and the use of public/state resources, that framework was vague and was in certain instances never effected through required action on part of certain bodies (e.g. Ministers, EC) and was in several incidents never complied with by the parties and candidates at the various levels of the elections.

#### ***5.1.1 Legal and regulatory framework***

The following are the key findings as regards the legal/regulatory framework on electoral campaign finance and the use of public/state resources.

- (a) The provisions of the electoral laws did not prescribe the sources of electoral campaign finances (except, with respect to presidential elections, outlawing contributions from hostile governments or organisations) given that the laws basically allowed candidates to raise campaign finances from and through *lawful* sources and means.
- (b) The provisions of the electoral laws on the use of public/state resources were vague, as they did not define or detail what constituted “facilities ordinarily attached to the office” of the incumbent office-holders.
- (c) The disclosures in the declarations of wealth were not part of the electoral laws or guidelines, yet this should be crucial in ascertainment of sources of electoral campaign finance.
- (d) There was no sanction or penalty imposed upon candidates in presidential elections for non-compliance with a post-election requirement to submit account on use of public funding contribution of UShs. 20 million as well as a record of all funds mobilised and received (and their sources).

#### ***5.1.2 Compliance with legal and regulatory framework***

The key findings as regards compliance with the legal/regulatory framework on electoral campaign finance and the use of public/state resources are as follows:

- (a) Given that a significant number of political parties were registered from late 2004 to mid-2005, it could not have be expected, as per the political parties law, that the political parties would submit their declarations on finances before the nominations and campaigns for the 2006 elections.
- (b) The transfer of the role of receiving declarations on party finances from the Assistant Registrar General (Political Parties) to the EC under the 2005 political parties law in the amidst of preparations for the February 2006 elections resulted in the EC not according serious attention to the party financing disclosure requirements under the law.

- (c) There was a failure to operationalize the provisions of the political parties and electoral laws debarring sources of party and campaign finance from foreign contributions from hostile governments and organisations, since a law was never put before Parliament three (3) months before nomination day for the presidential candidates.
- (d) As of the end of April 2006, in spite of the 30-day mandatory limit for the filing of returns, all the presidential candidates have yet to submit to the EC an account of the use public funding contribution of UShs. 20 million as well as a record of all funds mobilised and received (and their sources).
- (e) Although the electoral law required the EC to write to various ministers and holders of political offices contesting in the parliamentary elections to provide in writing a list of the facilities attached to their offices, the EC did not do so.
- (f) There were great imbalances in campaign resources as between the NRM-O as the party of the incumbents and the opposition, which constituted a severe impediment to equal campaigning opportunity.
- (g) There were numerous incidences of bribery and vote buying throughout the country as attested to by civil society field monitors, media reporting and the courts.
- (h) There was a systematic misuse of institutional resources especially by the incumbent office holders involving the use of public/state officials as well as vehicles during the electoral campaigns.
- (g) There was the misuse of financial resources in the context of institutional advertising, i.e. *financing* of media advertisements.
- (i) There was, in spite of the law, *unequal access* and *coverage* on the state-owned media with respect to the incumbent and the other candidates.
- (j) The EC and other law enforcement agencies (e.g. the Election Offences Squad) failed to enforce and ensure compliance with the legal framework on party and electoral finances and use of public/state resources, in spite of various complaints.

## **5.2 Recommendations**

From the findings, the key recommendations are the following:

- (a) The electoral laws (and any other laws pertinent to elections) should be enacted in time to allow for civil society input and the operationalisation of key provisions on campaign finances and use of public/state resources by the appropriate authorities.
- (b) The legal/regulatory framework on electoral campaign finance and use of public/state resources needs to be reformed to–
  - (i) Provide clarity as to sources of finances for candidates in elections.
  - (ii) Delimit and provide a ceiling to the amount of campaign finances candidates must obtain.

- (iii) Provide clarity as to the public/state resources an incumbent office holder in the presidential elections can access and use during the electoral campaigns.
  - (iv) Prohibit (as opposed to restrict) the use of public/state resources by incumbent office holders in parliamentary elections during the electoral campaigns.
  - (v) Provide sanction or penalty for non-compliance with post-election requirement to submit returns campaign income and expenditure (including use of public funding contributions).
- (c) The EC should be provided clothed with a prosecutorial capacity under the law to prosecute in its own right non-compliance with electoral laws.<sup>1</sup>
- (d) Declaration of wealth should be a feature of electoral laws or guidelines as a means of ascertaining sources of electoral campaign finance.

### **5.3 Mobilising civil society and the public**

There is greater need to mobilise the civil society and the public in ensuring and promoting transparency, integrity and accountability in the electoral process and campaigns. While it was commendable that CEFIM was able to mobilise and get grassroots anti-corruption and civic organisations to monitor election finances during the 2006 elections, a number of the organisations in the pilot electoral areas expressed concerns on the need for “timely planning for monitoring of the electoral process”.<sup>2</sup> There is therefore the need to plan ahead for monitoring of the legal framework, compliance with it and the practical use of campaign finance in elections and the electoral process. This will enable the development of more concrete and detailed methodologies to sensitisation and monitoring by the civil society and civic groups.

### **5.4 Achieving reform**

The 2006 elections are concluding in May. There are five (5) years before the next elections in 2011. It is an opportunity for civil society and civic groups to push for key reforms in political party and electoral laws generally and more specifically as regards party and campaign financing. The reforms suggested in 5.2(b) are just but few areas of reform needed as became evident from the experiences during the 2006 elections.

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<sup>1</sup> This right already exists with regards to, for instance, the IGG.

<sup>2</sup> See ACCK, *Report of the Anti-Corruption Coalition Koboko on Election Finance Monitoring* (March 8, 2006) 6.

## **Chapter 6: Lessons for the future**

### **6.1 Methodological lessons**

The monitoring of the 2006 elections offers key lessons on the methodological approaches adopted. The monitoring of the elections began sometime in January 2006 once CEFIM has secured funding and mobilised grassroots anti-corruption groups under the networking of anti-corruption activities by ACCU. The timing of the monitoring exercise and the methodologies adopted may have produced as satisfactory results from a first-time effort. However, the methodology was not sufficiently adequate for a number of reasons–

- (a) Desk research could only avail a basic outlining of the legal/regulatory framework in the form of a handbook. There was no opportunity to put forward suggestions for bettering of the legal framework.
- (b) Given the timing of the planning for the monitoring of campaign finance, use other methodologies such as interviews was never effectively utilised.
- (c) The monitoring elections and electoral process in certain pilot electoral areas in the country was limited. Furthermore, because of lack of timely preparation, the training of monitors was not sufficient and this is evident in the reports submitted from the grassroots civic groups – while some endeavoured to address the key concerns of electoral campaign finances and the use of public/state resources, others did so in the passing while dwelling on the elections and electoral process generally.
- (d) While the media monitoring offered visual and first-hand reporting on the electoral process, it remained problematic in terms of verifying what was reported especially if it was the views of candidates or the reporter of what he/she was being told in an interview.

### **6.2 Monitoring election finance and use of public resources: guidance for future monitoring**

The experiences of the 2006 elections offer lessons for the monitoring (and, to that end, the adoption of more effective methodology and preparation) of future elections in Uganda. There will be need for monitoring bodies and civic groups (national and grassroots) to rethink methodological approaches to monitoring electoral campaign finances. While desk research will remain a key methodology, it will have to entail research beyond the legal/regulatory framework in Uganda and be widely embracing to offer study into the experiences in other countries in terms of law and good practices. There should be extensive research into country approaches to the legal regulation of party and campaign financing, as has been in, for instance, South Africa.<sup>1</sup> Additionally, with prior and timely preparation for monitoring, the methodologies on media monitoring, case studies, pilot electoral areas, interviews, focus-group discussions, etc. should avail more comprehensive monitoring results. The timely preparation would also offer the opportunities for training of election monitors and observers.

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<sup>1</sup> See Idasa Position Paper, *Regulation of Private Funding to Political Parties* (October 2003).

## **Appendix A: Legislation and Guidelines**

### ***Legislation***

Anti-Terrorism Act No. 7 of 2002  
Constitution of the Republic of Uganda 1995  
Election Commission Act Cap. 140  
Electronic Media Act Cap. 104  
Leadership Code Act Cap. 168  
Local Government Act Cap. 243 (as amended in 2005)  
Non-Governmental Organisations Registration Act Cap. 113  
Parliamentary Elections Act No. 17 of 2005  
Political Parties and Organisations Act No. 18 of 2005  
Presidential Elections Act No. 16 of 2005

### ***Guidelines***

Nomination Guidelines for Local Government Elections 2005  
Parliamentary Elections Nomination Guidelines 2005  
Campaign Guidelines for Presidential Elections 2006

**Appendix B: Registered political parties as of July 2005**

(parties/organisations listed in light of date of registration)

1. National Resistance Movement-Organisation (NRM-O)
2. National Progressive Movement (NPM)
3. Peoples Independent Party (PIP)
4. Forum for Integrity in Leadership (FIL)
5. Republican Women and Youth Party (RWYP)
6. National Peasants Party (NPP)
7. Movement for Democratic Change (MDC)
8. Action Party (AP)
9. Uganda Economic Party (UEP)
10. Forum for Democratic Change (FDC)
11. National Unity Reconciliation and Development Party (NUCDP)
12. National Peoples' Organisation (NPO)
13. National Convention for Democracy (NCD)
14. Farmers Party of Uganda (FPU)
15. Liberal Democratic Transparency (LDT)
16. Uganda Peoples' Congress (UPC)\*
17. Justice Forum (JEEMA)
18. Uganda Mandate Party (UMP)
19. Reform Party (RP)
20. Uganda Peoples Party (UPP)
21. Movement Volunteer Mobilisers Organisation (MVMO)
22. Conservative Party (CP)\*
23. Progressive Alliance Party (PAP)
24. National Patriotic Movement (NPM)
25. Uganda Patriotic Movement (UPM)\*
26. Democratic Party (DP)\*

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\* Pre-1995 existing parties

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