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THE REPUBLIC OF UGANDA

**COMMISSION FOR THE CONSTITUENT
ASSEMBLY**



**THE DRAFT CONSTITUTION
SELECTED PROVISIONS**

CIVIC EDUCATION SERIES

**THE DRAFT CONSTITUTION
SELECTED PROVISIONS**

CIVIC EDUCATION SERIES

THE CONSTITUTION

Q. What is a Constitution?

Why are people making so much ado about the new Constitution?

Ans. A nation's constitution is the highest law of the land. All the laws of the country must conform to it and institutions that make laws, or interpret and enforce the laws are governed by it. Everything done within the country must be in agreement with the Constitution.

The type of government, and how the leaders are selected, and the general objectives of the nation are prescribed by the constitution. The constitution determines citizenship of the country and affects all its citizens as well as other nationals living or working in the country. A good constitution is expected to last for many generations.

When the new constitution which is about to be determined for Uganda comes into force, it will affect the lives of all Ugandans - e.g. in their economic activities, land ownership and use, conflict resolution, the conservation of their environment and their rights and duties as citizens, including the rights of women, children and the disabled. The constitution will affect not only our generation, it will affect several generations to come.

This is why it is important that the constitution should be acceptable to the great majority of Ugandans.

This is why all eligible Ugandan citizens should take part in the determination of the New Constitution.

Q. How can this be possible?

You take part by getting to know what is provided in the Draft Constitution, and choosing an appropriate candidate to represent you in the C.A, where the Draft Constitution will be debated, amended or added to if necessary, and a New Constitution will be finally drawn for Uganda.

Q. The Draft Constitution—who made it? i.e. who is responsible for the provisions contained in it?

Ans. The Draft Constitution was developed from the ideas collected from the public by the Uganda Constitutional Commission at various fora throughout the country from 1988 to 1992. Again this was to ensure that the Constitution would be based on the wishes of the people.

The draft has been made, and now we are all being given the chance to choose people to review it on our behalf at the Constituent Assembly, and come out with the final document to be adopted as the New Constitution of Uganda.

It is the right and duty of every eligible Ugandan to take part in this national exercise of choosing appropriate delegates to the Constituent Assembly.

What are delegates?

Candidates for the Constituent Assembly elections who get elected, that is, get chosen by the majority of the people of their respective Electoral Areas, become the delegates to the Constituent Assembly (214 in number). There will be additional delegates chosen by special groups. One woman from each district to be elected by Women Councillors and RC III Councillors; 10 people to be elected by the N.R.A.; 2 by the National Organization of Trade Unions; 2 by each political party (CP, DP, UPM, and UPC); 4 by the National Youth Council; 1 by the National Union of Disabled People of Uganda; and not more than 10 to be appointed by the President.

A delegate is a representative of the people of his/her Electoral Area, or the special group that elects him/her. As a representative, he/she speaks and acts on behalf of the people he/she represents, and is expected to reflect as much as possible the views of his/her electors.

CHOOSING YOUR DELEGATE TO THE CONSTITUENT ASSEMBLY

A. The Constituent Assembly has a unique function, i.e. to provide a good Constitution for Uganda. The Constituent Assembly delegates will therefore review the Draft Constitution, deliberate on it, and if necessary amend, or add to it, and finally come out with the New Constitution for Uganda. When this is done the Assembly will be dissolved and the delegates will go back to their normal businesses.

Your chance to bring your views to bear on the New Constitution is through your delegate, the candidate who gets elected to the Constituent Assembly from your Electoral Area.

You should therefore make sure that you vote for the right candidate, the one:

- (a) whose ideas about the various provisions of the Draft Constitution are generally like yours, especially on questions you consider important, and
- (b) Who is capable of taking an active part in the deliberations of the Assembly, getting his views across, and thus making an impact on the decisions of the Assembly.

It is no use sending a delegate who will just sit down and listen to others. You want a delegate who will push your views and try to have them reflected in the New Constitution.

Since the Constituent Assembly is not a regular parliament, the delegates will definitely NOT be engaged in debates over such matters as the allocation of government funds for development, or the fixing of prices of petrol, etc. or the siting of projects. Hence, for the Constituent Assembly elections, you will NOT be selecting the Candidate who promises to provide roads, hospitals or schools for your area, or bring in projects that will provide jobs in your community.

Q. How can you assess the Candidates?

Ans. (a) You may personally know the candidates and their views and capabilities.

(b) You may learn about them through posters and handouts; through trusted friends and people you respect who know them; or through general reports on their reputation.

(c) The candidates for your Electoral Area will be going round your parish introducing themselves to voters. You may meet some of them individually and find out from them their views on the various provisions in the Draft Constitution to enable you to assess them. You also have the right to let them know your views.

(d) YOU WILL DEFINITELY HAVE A CHANCE OF ASSESSING THEM AT THE CANDIDATES MEETINGS to be held in your parish. There each candidate will be given an opportunity to introduce himself/herself to the public, and express his/her views on the various provisions of the Draft Constitution, and what he/she intends to do if elected as a delegate to the Constituent Assembly. You will also have the opportunity to ask them questions.

MAKE SURE YOU ATTEND THE CANDIDATES' MEETINGS IN YOUR PARISH. DON'T MISS THIS IMPORTANT OPPORTUNITY TO ASSESS THE CANDIDATES YOURSELF AND MAKE YOUR OWN CHOICE. DON'T DEPEND ON OTHERS. MAKE YOUR OWN ASSESSMENT AND VOTE FOR THE CANDIDATE FOR YOUR CHOICE!

THE DRAFT CONSTITUTION - SOME SELECTED PROVISIONS

CITIZENSHIP - WHO IS A UGANDAN?

The Draft Constitution provides that Ugandan Citizenship can be by BIRTH, or be acquired by REGISTRATION, ADOPTION or any other means that Parliament may declare.

NOBODY CAN BE A UGANDAN CITIZEN AND AT THE SAME TIME BE A CITIZEN OF ANOTHER COUNTRY.

The following persons shall be Citizens of Uganda:

(a) Any person who is already a citizen of Uganda on the date the new Constitution comes into force.

- (b) Any person born in Uganda whose parents or grandparents belong to any local community or tribe existing in Uganda when the boundaries of Uganda were finally drawn in 1926.
- (c) A person one of whose parents was a citizen of Uganda at the time of his/her birth. (Whether he/she was born in or outside Uganda).
- (d) A child of not more than 7 years old found in Uganda whose parents are not known.
- (e) A child of not more than 16 years who is adopted by a Ugandan.

2. *Citizenship by Registration*

The following may be registered as citizens of Uganda on application to the Citizenship and Immigration Board:

- (a) Any person born in or outside Uganda who has lived in Uganda for at least 20 years.
- (b) A foreigner legally married to a Ugandan for at least three years and the marriage is current.
- (c) A person born in Uganda whose parents or grandparents were not diplomats or refugees at the time of his/her birth and who has lived continuously in Uganda since 9th October 1962 shall, on application be entitled to be registered.

3. *Conditions of Ugandan Citizenship*

- (a) No Ugandan can hold citizenship of another country at the same time.
- (b) A person may lose his/her Ugandan citizenship if he/she acquires or keeps the citizenship of another country; serves in the armed forces of an enemy country; spies against Uganda, or acquires his/her Ugandan citizenship by unlawful means like fraud, deceit, or bribery.

Q. Many Ugandans are now living and working in other countries, and some of them have, for convenience, acquired citizenship of the respective countries. Do they lose their citizenship even though they return home regularly, send money to their relatives and even have property or businesses here?

Ans. Yes, they will lose their Ugandan Citizenship because the Draft Constitution prohibits any Ugandan Citizen from acquiring or holding the citizenship of any other country. They may regain their Ugandan citizenship when they give up the citizenship of the foreign country.

Q. Can a Munyarwanda or Samia, or Lugbara be a Ugandan by birth?

Ans. Yes, so long as his/her parents or grandparents were living within the boundaries of Uganda when the boundaries were formally drawn up in 1926. The same

applies to all transborder ethnic groups such as the Iteso, Acholi, Kakwa and Alur whose parents or grandparents lived within the boundaries drawn for Uganda in 1926. All such people are Ugandans by birth.

Q. According to the Draft Constitution is it true that any child at all up to 7 years of age found in Uganda with unknown parents will automatically become a Ugandan Citizen? What if such a child looks obviously of alien origin like a Muzungu?

Ans. All such foundlings are presumed to be Ugandans. They are treated as orphans and become the responsibility of the Ugandan society which takes care of them, and so to speak, "adopts them". Yes, they are all accorded the status of citizens, whether or not they appear to be of foreign parentage. This is a practice observed by several countries.

Q. Supposing a Ugandan goes and adopts a foreign child under 16, will that child automatically become a Ugandan citizen?

Ans. Yes, so long as the adoption is legal and recognized under Uganda law.

THE DRAFT CONSTITUTION - SELECTED PROVISIONS

POLITICAL SYSTEMS

According to the Draft Constitution, 2 types of Political Systems can operate in Uganda - Movement and Multi-Party.

The Draft Constitution guarantees the right to form political parties, but prohibits the establishment of the One-Party-System.

Under the Draft Constitution, Ugandans have the right to choose by referendum every 5 years, under which of the 2 political systems - Movement or Multi-Party they prefer to elect their leaders and be governed for the ensuing 5 years.

Whenever the Movement System is in operation, Parties shall not sponsor or support candidates for election for any position. Candidates will have to stand on their own merit.

When the Multi-Party system is chosen, the Movement system shall not operate.

The Draft Constitution however states that for the first 5 years of constitutional rule, the Movement system shall be the system to operate and that during the 5th year, the 1st referendum to determine which of the two systems should follow, will be held.

The Movement System According to the Draft Constitution:

Every Ugandan is entitled to participate in the Movement.

The movement shall be for all Ugandans and shall be democratic and answerable to the people.

All posts in the movement at all levels will be filled through elections, for which every eligible Ugandan can stand.

Political Party System The Draft Constitution guarantees the right of Ugandans to form political parties.

Political parties shall be free to campaign to influence public opinion on political, economic and social programmes and issues.

They are free to sponsor candidates for elections when the Movement system is not in operation.

Every political party must have a national character: Its membership must not be based on ethnic, religious, district or other sectional divisions.

A political party cannot operate unless it is registered by the Electoral Commission. A party shall not be registered unless it has members and branches in at least two-thirds of the districts in Uganda. Its name, colours, and symbols should not have tribal, religious or sectional connotation or appearance.

The internal organization of a party must be democratic and the party's aims and actions must be lawful and constitutional. The leader or an executive member of a party must be qualified to be elected as a member of parliament.

The members of the Executive Committee of a political party shall as far as practicable be chosen from a cross section of the people of Uganda, including women.

Political parties shall be required to declare their funds and assets to the public. Only Ugandans can contribute funds to a political party.

Q. According to the Draft Constitution, can political parties as such, publicly criticize government policies or programmes when the Movement system is in operation?

Ans. Yes, it states that parties are free to inform the public on political ideas, social and economic programmes, etc. What they cannot do is to support or in any way sponsor any candidate standing for any public office when the Movement is in operation.

Q. Under the Movement system, can the leader of a political party such as U.P.C. or D.P. or C.P. stand for the presidency?

Ans. Yes, so long as the person stands in his/her own right, on his/her individual merit and not on a party's platform, or is in any way sponsored by a party.

Q. What if such a party leader should win? Will the Movement still be on?

Ans. Yes. According to the Draft Constitution once one system is on, it will operate for the full period of 5 years. No individual or group of people can change what the

Constitution has laid down. It is only by referendum during the 5th year of a regime that the people can decide whether or not to change the system.

Q. What would happen if the people should decide that the party system should operate; can Mr. Museveni run for the Presidency?

Ans. Yes. He will be free to do so as any eligible Ugandan under the Constitution.

Q. Can he re-impose the Movement if he should win?

Ans. No, he would have no power to go against the Constitution. The party system would have to operate for the stipulated 5 years. During the 5th year, the people would again decide by referendum which of the two systems they would prefer to have in the subsequent 5 years.

THE DRAFT CONSTITUTION - SOME SELECTED PROVISIONS

LAND

ACCORDING TO THE DRAFT CONSTITUTION:

1. All land in Uganda belongs to the people of Uganda.
2. The use of land will be regulated by the Land Commission to ensure that:
 - (a) People who acquire and use land lawfully can be assured of their tenure.
 - (b) People can register their land and get certificates for their title.
 - (c) Land will be distributed fairly among the people.
 - (d) The land will be used to the maximum.
3. Government can acquire land for public use.
4. All systems of land ownership and use existing in Uganda at the time the New Constitution comes into force may stand, provided they do not conflict with laws that Parliament may pass under the New Constitution.
5. Parliament may make laws to set up Land Tribunals whose functions will include the settling of land disputes, and compensation for land acquired compulsorily by government.

Parliament may also make laws:

- (a) On the land tenure system;
- (b) The regulations of size of land granted to an individual or authority by the Uganda Land Commission.

- (c) The extent to which non Ugandan Citizens may control, own and transfer land.

Minerals

All minerals and mineral ores found in Uganda will be vested in the Government. (These will not include clay, murrum or stone commonly used for building or similar purposes).

Functions of the Uganda Land Commission

- (a) To allocate land which is not occupied or owned by anybody.
- (b) To regulate the use of land.
- (c) To advise Government and Local authorities on how land should be acquired and managed.

**NEW
DOCUMENT**

THE REPUBLIC OF UGANDA

**COMMISSION FOR THE CONSTITUENT
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SELECTED PROVISIONS**

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F Clifton White Resource Center
International Foundation for Election Systems

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- (b) To regulate the use of land.
- (c) To advise Government and Local authorities on how land should be acquired and managed.



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**Uganda 1994
Constituent Assembly Elections**

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