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**REPORT OF THE UNDP PROJECT  
SUPPORT TO THE ELECTORAL PROCESS IN UGANDA  
(UGA/95/003)**

***CAMPAIGN FINANCE LAWS***

**PRESIDENTIAL AND PARLIAMENTARY ELECTIONS  
REPUBLIC OF UGANDA  
1996**

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**REPORT OF THE UNDP PROJECT  
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**CAMPAIGN FINANCE LAWS: REVIEW AND RECOMMENDATIONS**

**1996 PRESIDENTIAL AND PARLIAMENTARY ELECTIONS  
REPUBLIC OF UGANDA**

**HARRIET ROBNETT**

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**I. INTRODUCTION**

The Presidential Elections (Interim Provisions ) Statute, 1996, not only provides the basic framework for nominating and electing the President of Uganda, it also affords partial public financing of the presidential election and authorizes disclosure of funds obtained from both public and private sources. No parallel provisions for public funding and disclosure of campaign finances are found in the Parliamentary Elections (Interim Provisions) Statute, 1996.

Consequently, except with specific references to other related aspects of both statutes, this report primarily covers the public funding and financial disclosure statutory requirements applicable to presidential candidates since parliamentary candidates are neither entitled to public funds nor required to report their campaign funds and expenditures. The report concludes with suggested legislative revisions or regulatory modifications put forth for consideration.

**II. PUBLIC FUNDING AND FINANCIAL DISCLOSURE  
STATUTORY PROVISIONS**

With legislative approval, the Interim Electoral Commission, under Section 7 of the Presidential Elections (Interim Provisions) Statute, is required to offer presidential candidates such facilities and funds as it finds appropriate following consultation with the Ministry of Finance. Public resources that will be made available for presidential candidates must be made known by the Commission before nomination day.

In addition to any public funds and facilities given to them, candidates and their agents are authorized to raise any other lawful assistance. However they are under a duty not to obtain, receive or solicit financial support or any other assistance from any foreign government , institution or person who has demonstrated an intention either to overthrow the Government or to endanger the security of the country. Candidates are directed to obtain the identity of any prohibited sources of campaign assistance from the Commission.

### **III. RECORD KEEPING AND REPORTING BY CANDIDATES**

In line with these provisions governing campaign resources for election, presidential candidates are obligated under the Act to report and account for their financial campaign affairs. Every candidate must maintain a record of all assistance obtained or solicited under Section 7.

Within thirty days after the election, each presidential candidate is required to account to the Commission for any public facilities given under subsection (2) of Section 7 and also to submit a report to the Commission disclosing all public and private assistance obtained.

Additionally, presidential candidates are required to maintain records not only of all assistance obtained as well as those organizations and persons from whom they have solicited campaign resources. In turn, the Commission is given statutory authority to demand the production of these records or any information in their regard.

One additional reporting provision bears mention. A person seeking nomination as a presidential candidate is required to include in his nomination paper a statement of his or her income, assets and liabilities as specified in the Third Schedule of the Presidential Act. (Subsection (7)(b) of Section 4).

The Third Schedule, now included in the statute, provides for an account of a nominee's assets and liabilities: income from salary or self employment, amounts of rewards and other emoluments, the approximate value of land, buildings, farms, ranches, vehicles, boats, shares of stock, and investment income. Liabilities cover similar subjects.

Finally, potential presidential candidates are required to disclose what, if any, interests they have which might conflict with official duties.

### **IV. PENALTIES FOR OFFENCES**

Failure to comply with particular financing and disclosure provisions of the Act can result in monetary fines and imprisonment. For example, a presidential candidate who violates the provision covering prohibited foreign sources of campaign financing is subject to a maximum fine of ten million shillings or five years imprisonment or both. Penalties of up to three million shillings or three years imprisonment accrue for those who refuse or neglect, without lawful excuse, to keep records or to produce such records as the Commission requires.

A person who knowingly makes a false statement in maintaining or producing records required by the Commission is also subject to a fine of three million shillings or three years imprisonment or both.

Section 13 of the Presidential Statute imposes a penalty of one million shillings or two years imprisonment or both for any candidate who makes a material false declaration of assets and liabilities or who makes a false entry without reasonable ground to believe it true.

#### **V. RELEVANT PROVISIONS - CAMPAIGN USE OF GOVERNMENT RESOURCES**

In addition to the preceding outline of the major provisions governing presidential campaign finances and their disclosure, there are two other significant and related sections.

First, the Presidential Elections (Interim Provisions) Statute, 1996 as well as the Parliamentary Elections (Interim Provisions) Statute, 1996 have provisions concerning use of government resources for campaigning. Section 8 of the presidential Act and Section 52 of the Parliamentary Act prohibit use of Government resources for campaign purposes. These sections explain however the prohibition does not apply when incumbent officeholders seeking election use those Government facilities which ordinarily attach to their office so long as they are used for official purposes.

There is a second provision in both Acts which is similar but not identical. Subsection (5) of Section 6 of the presidential statute states that all candidates shall be given equal time and space in State-owned media while subsection (1) of Section 50 of the parliamentary statute provides that no parliamentary candidate should be denied reasonable access to and use of State-owned communication-media.

#### **VI. IMPLEMENTATION DURING THE 1996 ELECTIONS**

Now we turn to a discussion of how these various provisions were implemented during the recent elections for both the president and for parliament.

Fewer than ten individuals in the beginning sought nomination for election to the office of the President. In accordance with the Third Schedule, the Commission required the filing of a statement of assets and liabilities of each potential candidates. All seeking the office who ultimately qualified as candidates complied by filing the Third Schedule, including a detailed report of assets and liabilities. Some expressed the view that they should not be required to disclose their resources, only their views on issues and their educational

attainments. Nevertheless all candidates complied with this first financial requirement inasmuch as it was a condition of qualification and nomination..

In accordance with the statute and on adoption of a legislative resolution and following consultation with the Ministry of Finance, the Commission, after further discussion among themselves, determined that each of the three presidential candidates should receive 15 million shillings for campaign purposes. On the day after nomination each candidate was given an automobile and its key.

An accounting of the use of public funds is called for under the statute thirty days after the election. Although the allowed time had not expired at the time of writing this report, nearly all reports had been received. The Commission plans to review these reports after the July 9, 1996 filing deadline.

Although the Commission had authority under subsection (7) of Section 7 to demand production of any document or information concerning sources of private as well as public funds, the Commission did not require additional reports.

The Commission was prepared to provide names of foreign governments and persons who constituted the prohibited sources of campaign funds but no candidate made any inquiry of the Commission about the possible illegality of governments or persons from whom contributions might be received or solicited.

## **VII. COMMISSION'S ENFORCEMENT POWERS**

It should be pointed out that the Commission is not authorized to enforce those offences which carry penalties in fines and imprisonment.. The Commission however under paragraph (f) of Subsection (1) of Section 12 of the parliamentary statute is authorized to hear and determine election complaints arising before and during polling.

Numerous complaints were brought to the Commission during all four elections held during 1996. As many as 50 were resolved by the Commission during the course of these elections. Many complaints were received involving use of government facilities by incumbent officeholder candidates.

The Commission determined to handle complaints through on-site proceedings. Four regions were designated and to each of those a single Commissioner was assigned. When complaints were made, the assigned Commissioner determined the need for an on-site proceeding in order to resolve the problem.

### **VIII. EQUAL TIME ON GOVERNMENT - OWNED MEDIA**

The “equal time” on publicly-owned media applicable to presidential candidates was carried out successfully on radio and television. The Commission arranged for five minute television time periods nightly following the news which was shared equally by the three presidential candidates and for 30 minute weekly radio periods. No similar arrangements were made with publicly owned print media . Newspapers expressed the views that they were only interested in printing “news” and did not wish to offer free campaign space to candidates.

### **IX. CONSIDERATION OF STATUTORY AND REGULATORY MODIFICATIONS**

The Commission is not given regulatory authority under either statute. It may recommend regulations to the Minister responsible for presidential and parliamentary elections. Regulations however cannot take effect unless proposed by the Ministry of Finance and approved by Parliament. See section 16 of the Presidential Elections (Interim Provisions) Statute, 1996 and Section 123 of the Parliamentary (Interim Provisions) Statute, 1996.

During the course of the 1996 elections, the Commission did issue “guidelines” which helped in clarifying what was required of candidates. However the Commission may wish to consider seeking full regulatory authority to enhance its ability to fully implement, interpret, clarify and seek compliance with the statutory provisions.

In addition or in the alternative the Commission may wish to consider the following possible recommendations under current statutes for regulatory provisions or statutory modifications:

1. Pre-election day reporting of use of public funds by presidential candidates and of the donors of private funds by both presidential and parliamentary candidates.
2. Pre-election and post-election reporting of the amount of space and time made available in publicly owned communications media for presidential as well as parliamentary candidates.
3. Authority for the Commission to refer to the Director of Public Prosecution apparent violations of both statutes. (As earlier discussed the Commission has current authority to hear and resolve complaints. Appeals from its decisions in these matters may be taken to the High Court. However it does not appear that the Commission is authorized to make

referrals of offences involving fines and imprisonment to the Director of Public Prosecution.)

4. Provisions for incumbent officeholders to file with the Commission a description of the facilities normally used in carrying out official functions.
5. Authority to prescribe a regulation to require incumbent candidates to account for use of public facilities that serve both public and campaign purposes.
6. Authority for the Commission to make available to the media financial reports filed by all candidates.

The Commission may also wish to consider making recommendations directly to the Parliament proposing fundamental changes in the Electoral statutes or in the Constitution. Based on the experiences in the 1996 elections, the Commission may wish to relay proposals to reduce the number of elections in any one year. For example, the Commission may wish to consider the administrative advantages that might accrue in having a uniform election day every two or three years. Members of Parliament could be elected for staggered terms. In that way, elections for women and the disabled could occur in years separate from other parliamentary elections. Such modifications in basic laws might serve to ease the administration of the elections for all who are involved, both voters and administrative personnel. Staff would become better trained and more efficient. It could enhance the civic education and interest of citizen voters.

**Attachments:**

Text of referenced sections: The Presidential Elections (Interim Provisions) Statute, 1996: Subsection (5) of Section 6, Section 7, Section 8, Section 13, Section 16.  
The Parliamentary Elections (Interim Provisions) Statute, 1996: Section 12 (1)(f)Section 50, Section 52.