



# REFLECTIONS ON COVID-19 POLITICS IN UGANDA

12

## Life without Freedom is Lifeless: COVID-19 Pandemic and Uganda's 2021 Elections

May 2020

*Sarah Bireete\**

A publication of the Uganda Transitional Scenarios Thought Leadership Group

### Introduction

Uganda's next general elections (presidential, parliamentary, and local elections) is slated for February 2021 but several doubts have now been raised about its feasibility because of the COVID-19 pandemic. In this think-piece, we reflect on several salient questions: How has the COVID-19 pandemic affected the Electoral Commission (EC) roadmap and the much-needed electoral reforms? What are the available contingency plans and mitigating factors that may be consistent with Uganda's constitutional framework in case the pandemic is not contained sooner? Does COVID-19 pandemic deepen or challenge the legitimacy of a president who has been in power for 35 years and is seeking re-election? How can stakeholders ensure free, fair and credible elections in times of a public health emergency? What alternative scenarios do we envisage for Uganda?

From the outset, it is important to recognize that the COVID-19 pandemic presents a problematic situation for elections. The measures that have been adopted to disrupt the spread of the pandemic including lockdowns, quarantine and social distancing are inconsistent with the traditional electoral activities of campaigning and voting as we know them. In particular, social distancing guidelines may be difficult to enforce as regards the conduct of elections which involve queuing as well as manual handling of ballot papers and other related election materials. In other words, Uganda's manual electoral processes could expose voters and communities to the infection.

\*Sarah Bireete is a lawyer, human rights activist and Director at the Centre for Constitutional Governance (CCG). She is an advocate of the High Court of Uganda and an associate at Dickens Kamugisha & Co. Advocates.

## **A snapshot of what's happening with elections around the world**

Globally, 50 countries and territories have decided to [postpone national and sub national elections](#) due to COVID-19 pandemic. About 18 countries have decided to hold elections as originally planned amidst the pandemic. In Africa, [Mali held elections amidst COVID-19](#) and Burundi followed suit by holding its elections on May 20<sup>th</sup> as originally planned. However, in March 2020, International Idea reported that Kenya, South Africa and Nigeria had decided to respectively [postpone their municipal, regional and by-elections](#) because of the crisis.

Outside Africa, South Korea held their parliamentary elections on April 15, 2020 under strict safety measures including sanitizing hands, temperature checks, wearing masks and gloves to ensure voter safety. This was in addition to a national disinfection program by the government. The ruling [Democratic Party won the elections](#) with overwhelming majority.

## **Challenges for Uganda's electoral road map**

In Uganda's case, the pandemic has already disrupted the elections roadmap originally published by the Electoral Commission. According to the road map, the country should have commenced the process of conducting [elections for special interest groups](#) from April 2020. The Commission called off the elections indefinitely. It's important to note that before the pandemic struck, Parliament had directed the EC to ensure they register the more than one million voters that had been left out of the voter register because of the unrealistic timelines. The Commission is likely to use the pandemic driven disruptions of its calendar to release itself from its obligation to ensure a comprehensive credible voter register for 2021 election.

There is uncertainty surrounding the fate of electoral reforms ahead of elections. [Five election related bills](#) passed by parliament at the beginning of March 2020 have not been assented to by the president. Different political commentators opine that Mr. Museveni who stands to gain from the uncertainty and delays in the electoral process may backdate and assent to them after the lockdown or send them back to Parliament using backdated communication with reservations on the issue of independents and qualifications for local council leaders.

Another related challenge is the private member's bill seeking to amend the constitution and provide for presidential, parliamentary, and local council elections to be held on the same day as well as the position of the Deputy President, among other reforms. These proposals have considerable impact on the electoral roadmap. At the moment, the bill is stuck at committee stage and only a few selected consultations have been made with stakeholders. If the lockdown is eased up, most MPs will be engaged in party primaries and it might be increasingly difficult to get the quorum required to conduct parliamentary business, especially on important issues such as constitutional amendments.

The uncertainty over the election calendar triggered by the COVID-19 pandemic raises three potential scenarios each of which have profound political and governance implications:

### **Possible Electoral Scenarios for Uganda**

In the first scenario, the forthcoming general elections scheduled for early 2021 could be postponed. This raises both practical and legal questions. Article 105(1) provides that the tenure of the president is five years. This is an entrenched article which can only be amended via a referendum process. This effectively means that a new president must be sworn in not later May 12, 2021. The implication of this article is that elections in Uganda can only be postponed under a state of emergency under the framework provided under articles 110, 77(4), 103(3) (d), and 260(2) (f) of the Constitution. This situation, however, requires parliament to enact an elections emergency legislation allowing for the suspension or delay of elections or propose alternative means through which the mandate of a president can be sought other than universal adult suffrage in elections as provided for under Article 1(4) and 59 of the constitution.

The conduct of the Electoral Commission (EC) over the period of the current lockdown suggests that it no longer has control over the election agenda and has not issued a single official statement to guide on the matter save for the suspension of the SIGs elections which were due in April. We have found no evidence that Cabinet has even paid attention to the election calendar. Sources indicate that during the April 29 2020 meeting with clergy leaders, Mr. Museveni was non-committal and indicated that he will most likely decide on the elections sometime in June 2020. More recently, there have been [media reports](#) suggesting this decision will depend on the advice of scientists. The uncertainty about the electoral calendar implies that relevant decisions will largely be made by Mr. Museveni as incumbent president - the same man who controls the decisions when to lift the lockdown, when to make the decisions on the election calendar and who stands to be the sole beneficiary from a delayed calendar.

The second scenario entails a situation where the COVID-19 pandemic is contained, and the situation allows for free movement of persons within the country as well as holding of public meetings. Given the early success of Uganda's response, this is a more likely scenario. In fact, in his televised 14<sup>th</sup> address on May 18, the president eased some lock-down measures. However, the recent surge in infections, driven largely by cross-country truck-drivers creates a different dynamic to contend with as asymptomatic transmission could trigger potential flare-up of infections.

At the moment, the dominant narrative that Mr. Museveni's handling of the public health emergency dimension of the COVID-19 crisis combined with his monopolization of the public space and the opportunity to deploy his security and campaign infrastructure

has given him advantage over his potential opponents. A close to 1 trillion-shilling supplementary budget mainly going to the ministry of defense, State House, and Office of the President in form of classified expenditure puts considerable financial resources under Mr. Museveni's control. All these factors held constant, the resources at Mr. Museveni's disposal give him considerable electoral advantage. Consequently, this may act as an incentive to make decisions in favor of holding elections on schedule hence making this scenario more plausible.

In a possible third scenario, elections may proceed with major adjustments in the election calendar. In this scenario, there are a number of significant adjustments that would be made that require legislative enactments. The first such adjustment is to push the elections of Special Interest Groups (SIGs) - for youth, persons with disabilities, old persons, UPDF and workers - to after the parliamentary and presidential elections. In this case, these elections could be organized in February, March or April 2021 which would be before the expiry of the term of the current parliament or local councils. In the same way, since parliamentary elections are not bound by the tight time lines of presidential elections, and it's possible under Article 77(4) to extend the tenure of parliament, adjustments in the calendar for parliamentary elections can be made, and keep the overall time table for elections on schedule.

## **Conclusion**

There remains considerable uncertainty about the full implications of COVID-19 on several aspects of life. While the economic consequences have already been dire and could worsen leading to the progressive easing of some lockdown measures across the world, concerns have been raised about a potential surge in re-infections as already witnessed in some countries.

Regarding the potential impact of the pandemic on Uganda's electoral roadmap and the 2021 general elections, we have already seen some disruption of the Special Interest Groups elections that should have started in April. We are also now witnessing intense speculation about the feasibility of the 2021 general elections coming out of the ruling NRM party suggesting that it all depends on what scientists advise. It is our strongly held view however that the future of the 2021 elections will depend more on Mr. Museveni's calculations rather than scientific advice. Depending on what implications the first and second scenario portend for his re-election, the elections could either be postponed or go ahead. After all, general elections in Uganda have largely been about Mr. Museveni, his stay in power and control of the political and economic situation of the country.

In essence, the projected disruptions in the performance of the economy, decline in government revenues, the burgeoning fiscal deficit combined with a mounting foreign and domestic debt inevitably shrinks the policy space within which Government has to



take remedial measures. A population exhausted by 35 years of Mr. Museveni's presidency, a restive young population looking for jobs and economic opportunity and a growing unemployed urban youth population could still disrupt his political COVID-19 lockdown political calculations. Indeed, the way his administration balances the scales on the economic side of the pandemic may significantly affect the election outcomes or what happens after the elections.

For Ugandans, this COVID-19 pandemic should be a wake-up call about the changes that need to be pursued to strengthen our governance practices as well as the foundation and pillars for an enduring democratic and credible electoral system. With greater digitization of the electoral process, it is possible that we would be worried less about whether elections should take place. Finally, it is important that other actors across the political and civic divide raise their voices so that the future of the 2021 elections is not left to Mr. Museveni's discretion and political calculations. The Electoral Commission should be held accountable for its current deafening silence and its apparent failure to keep citizens updated on what strategies and actions are being considered to ensure a credible, free and fair election. A coherent alternative narrative is required for Ugandans to have a major say on the future of the forthcoming general elections specifically and the Uganda's democratic journey in generally. It is also important to appreciate that given the politics of the lockdown and Uganda's constitutional journey, elections should be held as planned with minimal adjustments to cater for the time lost.

#### About the Uganda Transition Scenarios Thought Leadership Group – UTSTLG

We are a network of independent multi-disciplinary professionals committed to critical inquiry on contemporary and emerging governance and public policy issues in Uganda. UTSTLG is driven by a desire to be intellectually thought provoking and asking questions behind the answers. UTSTLG is hosted by the Great Lakes Institute for Strategic Studies ([www.glissafrika.org](http://www.glissafrika.org)). The views expressed in UTSTLG publications and think pieces do not represent the views of GLISS or the collective thinking of individual members but are the views of the authors.

For more information, please contact: Great Lakes Institute for Strategic Studies, P.O Box 398, Kampala. Tel. +256 414 660439



