

# CENTRE FOR BASIC RESEARCH

**DEBATING 2016: THE ELECTIONS BOOK PROJECT**

**SEMINAR ONE**



**December 11<sup>th</sup> 2015**

**HELD AT THE CENTRE FOR BASIC RESEARCH (CBR)**

**WITH SUPPORT FROM**

**THE UGANDA NATIONAL NGO FORUM**

**AND**

**THE DEMOCRATIC GOVERNANCE FACILITY (DGF)**

**A REPORT OF THE PROCEEDINGS**

## **1. Introduction**

Centre for Basic Research is conducting a book-length study of the 2016 Election, which will examine the varied dynamics of the elections placed against the backdrop of the 30-year dominance of the political scene by the National Resistance Movement (NRM). The Book will have 20 chapters under the themes of Gender, electoral violence, the youth, Media, Interest groups, the role of civil society and the place of service delivery in the election process, among others. In preparation for eventual publication of the book and the election scheduled for February 18, 2016, CBR decided to host a series of debates built around the different chapters and designed to stimulate on-going discussion around the process, rather than simply carry out a post-mortem assessment.

The first of the six debates took place on Friday 11<sup>th</sup> December 2015 at Centre for Basic Research, with invited participants ranging from Academia, Civil Society, political parties, central and local Government, cultural institutions, the youth, Media, Development partners as well as all the authors and designated discussants.

The following chapters were discussed at the Debating Seminar One: “Prisoners’ Right to Vote in Uganda in the light of the drafting history of the Constitution and the Prisons Act,” by Jamil Ddamulira; “Representations of Electoral Violence in Ugandan Literature,” by Danson Sylvester Kahyana; “Enter the Dragon? The Contested Candidacy of John Patrick Amama Mbabazi,” authored by J. Oloka-Onyango, and “Trying to Give What is Hard to Trace: Political Party Primaries and the 2016 Uganda Elections,” by David Mpiima.

## **2. Welcome remarks: Juliet Kanyesigye Ag. CBR Executive Director**

Having welcomed the participants, Ms. Juliet Kanyesigye the Ag. ED Centre for Basic Research commented that the book process is the first of its kind that CBR was undertaking and that she was excited about the progress made so far. To this end, she thanked DGF for the support, and also extended her appreciation to the authors and the all the concerned parties for making steady progress, which has culminated. She further invited the participants to the remaining debates that CBR would be organising over the course of the election period.

### 3. Summary chapters



*"The failure for the Electoral Commission to make arrangements for prisoners to vote is Unconstitutional"*

#### 3.1 Prisoners and the Right to Vote – Jamil Damulira Mujuzi

Mujuzi began his presentation by referring to one senior Electoral Commission official who reportedly stated that prisoners would not be voting in the 2016 presidential and parliamentary elections because “the law has to be amended if they are to enjoy that right.” However, the official did not state which law had to be amended. Indeed, the

Jamil Mujuzi statement was completely erroneous. All laws relevant to elections in Uganda do not expressly prohibit prisoners from voting. For example, the Electoral Commission Act does not prevent the establishment of polling stations in prisons. The Presidential Elections Act and the Parliamentary Elections Act do not expressly state that a prisoner is prohibited from voting. The Presidential Elections Act and the Parliamentary Elections Act in fact empower the Electoral Commission to make arrangements for persons in institutions and restricted areas to cast their votes. As at this point in time, there are no indications that prisoners will vote in the 2016 presidential and parliamentary elections. What is interesting is that prisoners (including awaiting trial prisoners) may stand for election as was demonstrated by the case of Capt. Donozio Kahonda, who defeated incumbent minister Kahinda Otafiire while being held as a prisoner in Kirinya Prison in Jinja. Mujuzi concluded with the observation that there was in fact no need of creating new laws to enable prisoners to vote because their right is already established by the Constitution. Of major concern to the author was the fact that the prison population in general was very young (between 18 and 35 years of age) and in the prime of their political lives, and yet they were deprived of an essential exercise of that right. Furthermore, the majority of that population consists of those who belong in the lower levels of society, hence there is an implicit discrimination on the basis of social status at play.

Commenting on the paper, John-Jean Barya noted that what may seem like a rather esoteric and obscure issue is in fact of fundamental importance to the debate about the Right to Vote. Barya pointed out that there were two types of prisoners under the law; there were suspects who were being held in custody pending trial, and then there were the convicts who had already been tried, convicted and sentenced by the courts of law. The majority of Ugandans in prisons were suspects and not convicts which meant that looking at their right to vote was in fact a very important issue because it further relates to broader questions of participation and democracy. Indeed, the issue implicates other rights such as the right to information. It also underscores the importance of imprisonment, reformation and rehabilitation within the framework of the Criminal Justice system.

He further stated there is no need to enact a new law in a bid to create new rights for prisoners since the right exists and to this end, he did not see any reason why the Electoral Commission could not organise elections for prisoners. That being the case, the continuous disregard of this right was indeed unconstitutional. Commenting further on the paper, Prof. Barya was of the opinion that the writer should move the analysis beyond the secondary materials which had been consulted, and flavour the discussion with interviews with different actors such as the Electoral Commission and the Uganda Prisons Service. Feedback from prisoners, inspectors of prisons and the general public would also enrich the discussion. A more extensive review of the provisions of the Prisons Act was also warranted.



***“The Largest number of people in the Prisons is actually innocent, because they are suspects not yet sentenced so they still have a right to vote like any other person.”***

**John-Jean Barya**

In concluding his remarks, Barya emphasised that the right to vote for prisoners exists but the Electoral Commission has failed to operationalise it which calls for interventions of a different nature, and for practical measures to protect prisoners’ rights generally. This further

underscores the social context within which the right to vote of prisoners is being discussed: prisoners lack a strong social basis and can thus suffer state neglect and discrimination without much concern being raised. Furthermore, the lack of enforcement (or the neglect) of legal provisions points to the larger problem of institutional malaise and collapse.

### 3.2 Representations of Electoral Violence in Ugandan Literature – Danson Sylvester Kahyana



**“The subject of election violence is barely broached in Ugandan literature”**

**Dan Kahyana**

(1990).

For each of the texts, the author explored how election-related issues were narrated (for the memoir and novels) and recited (for the poems) with particular attention given to how the genre that the writer chose to use (memoir, novel and poem) influenced the choice of specific kinds of electoral violence highlighted in the text, and how generic peculiarities of each text added to the urgency of the issues portrayed. Kahyana’s study sought to demonstrate the connection between Literature and Social change, with the mechanism of Literature acting as a tool for imaginative identification, evoking either sympathy or condemnation with the characters in the text depending on the issue at hand. According to Kahyana, Literature is a laboratory for self-scrutiny: are we better than the characters who are the subject of the text; what would we do if in their shoes? Literary texts were particularly important in dealing with issues of patriarchy, impunity, women’s self-determination, the power (and pitfalls) of incumbency, and the place of language (the power of naming) in the text. Kahyana was also of the view that violence stems right from within the family and transcends through the society and is later exhibited in the electoral process. His argument was premised on the notion that family is the basic unit of society and

as such, experiences in the family such as gender based violence, child abuse and neglect will later manifest into much bigger challenges at the macro level of governance.

In responding to the presentation Prof. Barya stated that like that on prisoners, Kahyana's study also dealt with a somewhat esoteric subject, but one which was important because it provided a different, interesting and intriguing angle to the debate about election violence. However, there was a need to commence the analysis with a more contextualized framing of the issue of election violence which would help to frame the issue better. Electoral violence does not come out of the blue but is a reflection of society and of specific conditions and contradictions within that society.

He further noted that Kahyana's insistence that Electoral violence begins at the family level needs to be placed within the context of the family as an integral part of society and as an institution which cannot therefore be looked at in isolation. It was also important to underscore the broader context of the history of Uganda, especially the recent experience of the movement system and the major role that system has played in shaping the society we are in today. Furthermore, the novels chosen were partisan and needed to be looked at more critically in light of the "chameleon-like" behaviour of some of the authors. Such behaviour cannot be simply hidden in novels, drama and poetry and needed to be exposed. For a novel to be more useful it should be more critical and imaginative, which Barya found to be lacking in the selected texts, and which needed to be a focus of analysis in the chapter. The reference to the children's novels was very useful as it demonstrated the way in which society is bringing up its children. All the evil adults are doing is impacting directly on to the children such that even elections in primary school are today marred by corruption and bribery manifested by the sweets and other handouts given by the candidates for different school positions, which inducements are bought by the parents.

The character of the state which forms the backdrop to the literary texts should also be contextualized. The law is in place but the practise is different. People are violent because they believe that state power is important since their livelihood seems to solely depend on political power as they believe that "power is a do or die thing" and as such, people live a parasitic life. It is also necessary to revisit the rather negative characterization in some of the literary texts of peasants as "weak." Indeed, it is quite clear that peasants make informed choices dictated by the context with which they are operating, i.e. collapsed social

institutions, and a State which only interacts with them episodically and in a mainly coercive fashion. Indeed, the choices which they make are supremely rational.

## Plenary Discussion

The lively general discussion which followed is captured in point form without attribution:

- There was a need to transport the papers under discussion into the current election cycle, and to extend the analysis to the debates on Social Media (e.g. Ann Mugisha’s blog) which are going to be of considerable influence in this election cycle. What about *Kinauganda*—the local drama on both stage and screen?
- Statistics (some quantitative analysis) were needed to demonstrate the magnitude of the phenomenon of deprivation in relation to the right to vote, e.g. what is the current number of prisoners—on remand and under sentence? What practical measures have

other States (especially those in the region such as Kenya) taken for prisoners to exercise their right to vote?

- Other factors that exacerbate the phenomenon of electoral violence should be looked at rather than focusing on the family alone.

It is also necessary to consider feminist literature

which makes connections between the personal and the political.

- There is a need to make a critical evaluation of the function of prisons within the present context: are prisons a location for the ‘internal exile’ of the political opposition? If there is indeed a connection between incarceration and political



*“Prison is a social institution and as such those in prisons should be able to vote.”*

*Richard Ssewakiryanga*

competition, how and who will the prisoners vote in such a case? And don't the authorities in power know who the vote will favour? In other words, prisoners are not only marginalized because of social status, but also on account of political opinion or preference.

- Kahyana's chapter needs to provide a more thorough analysis of the authors and not just their texts as such analysis would greatly enrich the understanding of the perspectives which have been adopted and to understanding what messages are being pervaded and why.
- Any examination of election violence needs to comprehend the way in which the Police handles women at different levels and its implications for women's representation in the political arena
- It was further noted that there seems to be selective application of rights as some few individuals are denied their freedoms such as the right to vote that is a fundamental right where the prisoners have now been isolated, discriminated and denied the right to enjoyment of their freedom.
- Institutionalised visits made to prisons (by religious actors) should also be looked at within the context of the rights prisoners exercise: if they can exercise social rights like that to the practise of religion, or indeed, if prisoners can be let out of prison in order to dig and perform other forms of manual labour, why not for the right to vote?
- Literary analysis/deconstruction needs to be distinguished from empirical examination, and in Kahyana's paper there is an overlap between the two; any recommendations should flow from the empirical analysis.
- If the law does not prohibit something does it mean the right exists? In other words, because the law does not directly state that prisoners do not have a right to vote, does this mean they have the right?

### 3.3 Enter the dragon: the contested Candidacy of JPAM – J. Oloka Onyango

Playing on the movie title, the chapter investigates the phenomenon of myth, narrative and practicality in Mbabazi's challenge for the presidency: was this indeed the entrance of a 'dragon' onto the Ugandan electoral scene?, or a candidacy

doomed to failure? The chapter questions whether Mbabazi could triumph against the odds in order to

overturn a dominance that has subsisted for 30 uninterrupted years, or did it instead signal Mbabazi's political swan song and ultimate fall into obscurity? What political paradoxes arose from Mbabazi's candidacy given that he was known to be Museveni's 'blue-eyed boy' and 'right-hand wizard'? Is Mbabazi Dr. Karyaburo or Mr. Karyasosegi? Mr. Clean or Mr. Corrupt? Mr. Cool or Mr. Violent? An independent Secretary General or a Museveni pawn (the NRM software or merely a flashdisk?); Movement ideologue or party apparatchik? Enigma or open page?

In reaction to the above, Mwambutsya Ndebesa stated that the author's choice of subject was timely and relevant today as the metaphor concisely captured the nature of the candidature of Mbabazi. It was nevertheless necessary for the author to take a look at the politics of Ankole-Kigezi and how they have influenced Mbabazi's candidature together with the political genealogy of the candidates such as:

- Amama is NRM-UPC
- Museveni is NRM-DP



*"Mbabazi has now discovered that there is in fact no queue (following Museveni)."*

*Oloka-Onyango*

- Besigye was NRM–UPC and now FDC which is also devolved from UPC

All these historical rootings have considerable bearing on the current politics and must feature in any analysis of the Mbabazi candidature and what it represents.

It should be noted that the Amama vs. Museveni battle is in many respects a re-enactment of a long-standing battle between NRM–UPC and NRM–DP which has been the story of Uganda’s political development since even before independence. There is also a sub-ethnic point of contention between the two camps, which can in part be uncovered through looking at the infamous “Mbabazi tapes” released mid-2015 as they are significant when discussing the Mbabazi candidacy.

Prof. Ndebesa stated that the dragon metaphor depicts an apocalyptic kind of politics that the world is coming to an end and that shapes behaviour and expectations from those in power (Museveni) and those (Mbabazi and Besigye) seeking to grasp it. Ndebesa thus characterised the context of the politics around Amama Mbabazi as the following:



*"Our politics have been bastardized, vulgarized and securitized."*

*Mwambutsya Ndebesa*

- Militarism
- No principles (politics of the ‘void’)
- The Politics of ring fencing (single-candidacy), and
- The politics of individual rule.
- Prof. Ndebesa further called upon the author to probe the role of women in the politics of their husbands. Jacqueline Mbabazi, Janet Musveni and Winnie Byanyima are not publically seen joining their husbands on the campaign trails but yet they have influenced the politics of their husbands and such, their role cannot be underestimated. He further noted that organisational structures determine the winning

candidate and not the political structures. Ndebesa further agreed with the main thread of the chapter that given the obstinate refusal to give up power, change was most likely to come through unconventional means.

### **3.4 Political Party Primaries and the 2016 Uganda Elections – David Mpiima**

This chapter assesses the state of internal democracy within the main political parties in Uganda during the party primary elections which took place during the latter part of 2015, specifically considering the NRM, FDC, UPC and the DP. Mpiima pointed out that primaries serve several purposes including popularizing party candidates with the party faithful, and affording the candidates a chance to understand and appreciate voter preferences instead of pandering to the wishes of the party leadership. Party primaries are most productive in a political process in terms of participation, representation, responsiveness and competitiveness.



*"The party primaries were marred by voter bribery, forgery and intimidation which poses a serious threat to the general elections."*

*David Mpiima*

The author stated that the violence in the primary elections were premised on a number of reasons both stemming from the weak internal party structures and from the failure to transparently resolve disagreements between the different contestants. This has led to the massive exits from one party to another and in some

instances resulted in violent eruptions. He further stated that

events happening in the political parties were a manifestation of what may happen in the general elections. If the vices that caused so much trouble in the primaries were not curbed, we could end up with similar problems in the general election.

In discussing Mpiima's draft, Ndebesa stated that most Ugandans misunderstand or are ignorant of the concept of primaries and once they vote during primaries they think that is the end of it which explains why sometimes there is a low voter turn up on the polling day than there was during the primaries. According to Ndebesa this necessitated for those in charge of civic education to do more especially in the area of sensitizing masses about the reason for primaries. He also stated that the author should take a look at the 1970 elections primaries in UPC which were overly violent, and signalled the termination of the regime.

### **3.5 Plenary Discussion**

- In responding to the draft chapters, the general audience raised the following issues for further consideration: In a bid to understand the Mbabazi Candidacy it might be useful to delve into the different psycho-social traits and political drives of the candidate and that of President Museveni, which may also form the trajectory of the challenge.
- There is a need to further investigate the question of those within NRM that support and do not support Amama Mbabazi and how this has affected his candidacy
- As we near the polls, there is a need to interrogate which register will be used in the general election? Is it the national identity card or the National voter register? This has a bearing on the electoral process that should not be overlooked.
- What is the place of political symbolism in understanding the Mbabazi candidacy: Why, for example was there so much contention over the visit of Pope Francis and about Mbabazi's role in it?
- In light of the violence of the party primaries are we headed for the same in the general election?