

**GUIDING QUESTIONS
ON
CONSTITUTIONAL ISSUES**

**BY
UGANDA CONSTITUTIONAL
COMMISSION**

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GUIDING QUESTIONS ON CONSTITUTIONAL ISSUES

An Explanation on writing and submitting memoranda

The guiding questions contained in this document are drawn from the Guidelines on Constitutional Issues which have been prepared by the Uganda Constitutional Commission.

1. The aim of the questions is to assist RCs, groups and individuals in the preparation of their memoranda to be submitted to the Commission.
2. It is not necessary for each RC, group or individual to answer all the questions herein contained. It suffices to respond to those questions and issues which are found by each RC or group to be of vital importance and relevance both to Uganda as a whole and to the particular area or group.
3. The public is totally free to add on the list of Constitutional issues and guiding questions any aspect which may have been left out.

4. Language

In order to facilitate the work of analysing views, the Commission recommends that wherever and whenever possible, English should be used in the writing of memoranda, otherwise any indigenous language of Uganda may be used.

5. Need to keep to the order of issues

The Constitutional Debate has so far identified 29 Constitutional Issues which people should take into account when preparing and writing memoranda. It would greatly assist the Commission in the computerization of data if the number and title of each Constitutional issue were to be kept by the RCs and groups in writing their memoranda.

6. Procedure in preparing memoranda

RC I Memorandum

- (1) The RC I Executive calls a meeting of all residents of the RC to specifically discuss Constitutional issues and prepare a memorandum.
- (2) On the fixed day, members identify the Constitutional issues they want to discuss and freely offer their views and recommendations on each of them.
- (3) The entire proceedings of the meeting are duly recorded by the Secretary or Secretaries.
- (4) Either on the same day or on another agreed upon day, the members meet again to listen carefully to the report compiled from their views and recommendations. They approve the report, point by point. Thereupon the RC I Executive signs the memorandum, attaches on the list of all the members who participated in the discussion and forwards the memorandum to the Chairman of RC II.

RC II Memorandum

- (1) Once the RC II Executive has received the memoranda from the respective RC Is, it calls a meeting of all the RC II Councillors.
- (2) These Councillors listen carefully to each and every memorandum from the RC Is and agree on the common points and recommendations to put in the RC II memorandum.
- (3) The Executive of RC II sign the memorandum which the Chairman RC II submits to the Constitutional Commissioners, together with all memoranda of RC Is in the parish, when they come to collect views at the sub-county level.

7. Particulars required on memoranda

A. Memoranda from RC I

- (1) Name of RC I
- (2) Name of Parish/Muluka
- (3) Name of Sub-county
- (4) Name of District
- (5) Date of Approval of Memorandum
- (6) Names and Signatures of RC I Officials
- (7) List of people who participated in the discussion and approval of the memorandum
- (8) Full address of the RC I

B. Memoranda from RC II

- (1) Name of RC II
- (2) Name of Sub-county
- (3) Name of District
- (4) Date of approval of memorandum
- (5) List of RC Is which have submitted memoranda to RC II
- (6) Names and Signatures of RC II Executive members
- (7) List of the RC II Councillors who participated in the discussion and approval of memorandum
- (8) Full address of RC II

C. Memoranda from other levels of RC

- (1) Name of RC
- (2) District
- (3) Date of approval of memorandum
- (4) Names and Signatures of Executive members
- (5) List of members who participated in the approval of the memorandum
- (6) Full address of RC

- D. Memoranda from Individuals/Groups, etc.
- (1) Names in full
 - (2) Occupation
 - (3) Age
 - (4) District of residence
 - (5) Sub-county
 - (6) Parish/Muluka
 - (7) RC I
 - (8) Full Address
-

GUIDING QUESTIONS AND POINTS ON CONSTITUTIONAL ISSUES:

(1) THE NEED FOR A NEW NATIONAL CONSTITUTION FOR UGANDA

1. What ideas, institutions or arrangements from the 1962 Constitution would you like to be retained in the new Constitution?
2. What ideas, institutions or arrangements from the 1967 Constitution would you like to be retained in the new Constitution?
3. Which are the new problems and challenges of Uganda which demand a new Constitution?
4. What attitudes and methods used in the making of the past Constitutions, must we avoid in the making of the new Constitution?
5. How can we ensure that the new Constitution becomes and is truly regarded as a people's Constitution?

(2) THE CONSTITUTION AND ITS OBJECTIVES

6. In the light of our Constitutional history, what methods do you suggest for amending the Constitution?
7. What suggestions do you give for making the new Constitution easily studied and understood by the ordinary people?
8. What principles, values, aspirations and needs of Uganda do you want to be addressed by the new Constitution?

9. What suggestions do you give to enable all categories of Ugandans to fully recognize and respect the supremacy of the National Constitution?
10. Who should be the members of the Constituent Assembly to discuss the draft Constitution?
11. How should they be chosen?
12. When should the new Constitution come into force?
13. Should the period within which the draft Constitution is to be debated and approved be prescribed by law?
14. Should the period within which the approved text of the Constitution is to be drafted also be prescribed by law?

(3) THE NATION-BUILDING PROCESS IN UGANDA INCLUDING NATIONAL LANGUAGE AND CULTURAL VALUES

15. What suggestions for making Ugandans increase their love and respect for the nation and national unity?
16. What suggestions for making Ugandans appreciate better the beauty of unity in legitimate diversity?
17. What factors should unite us as Ugandans and how should they be promoted?
18. What are the advantages of having a national language?
19. Suggest, with reasons, which language you would like to be our national language.

(4) CITIZENSHIP

20. Who should be a citizen of Uganda in the New Constitution?
21. How are citizens to be easily identified?
22. What conditions should be put on those who wish to apply for Ugandan citizenship?

23. What procedures should such applications follow and who should approve registration of new citizens?
24. Should Uganda allow a citizen to retain citizenship of another country?
25. On what grounds should a registered citizen lose his/her citizenship?
26. What action should be taken to persons who may have acquired registered citizenship unlawfully?
27. How should Uganda treat refugees: put them in special settlements or let them live among the population?
28. What suggestions do you give on improving the procedures of giving passports to citizens?
29. Should Uganda set up a specialized Court to handle Immigration, citizenship and related cases?

(5) FUNDAMENTAL RIGHTS AND FREEDOMS OF INDIVIDUALS AND GROUPS

General

30. What fundamental human rights and freedoms would you like to see in the new Constitution?
31. What steps do you suggest should be taken to safeguard Human Rights and fundamental freedoms in Uganda?
32. Should there be an Institution to deal with cases of interference with Human Rights?
33. What should be the structure and power of such an institution?
34. How can Ugandans be taught and made to defend their fundamental rights?
35. Should Human Rights spelt out in the Constitution be watered down by exceptions and limitations as is the case in the 1967 Constitution?
36. Suggestions on how to to strengthen and ensure the independence of the Judiciary.

37. Views on whether a citizen should be given a Constitutional right to appeal to international fora to lodge complaints about breaches of the rule of law and violation of Human Rights.
38. Views on how Ugandans can cultivate a culture for Constitutionalism, Human rights, justice and peace.
39. Views on how tribe, religion, sex, political association may not be used to create sectarianism and abuse of Human rights.

Women

40. Views on specific rights of women to be included in the new Constitution.
41. Views on cultural, religious and traditional practices which discriminate women. What position should the new Constitution adopt on them?
42. Views on institutions within the Constitution which can effectively promote the equal treatment of women.

Family

43. Views on family rights which should be contained in the Constitution.
44. Views on institutions within the constitution which should promote such rights and promote them.
45. Views on constitutional resolutions to family conflicts.

Children

46. Views on children's rights which you consider should be included in the new Constitution.
47. Views on free and compulsory primary education.
48. Views on how best Uganda should care for its orphans in order to educate them as useful members of society.
49. Views on child abuse and mistreatment and the constitutional institutions to deal with them.

(6) PARTICIPATORY DEMOCRACY

50. Should RCs be permanently part of our new political system?
51. If so, and in view of the present experience, should RC powers be reduced, left as they are, or increased?
52. What is your opinion of RC Courts?
53. Should RCs control the behaviour of NRC members?
54. Should RCs have the right to recall their representatives in NRC?
55. If you find the RC system inadequate, what alternative system do you suggest which can ensure participatory democracy at all levels?
56. What type of political system should we have in Uganda that ensures national unity and promotes development?
57. What is the most effective way of making the people (the masses) participate actively in the day-to-day affairs of the country?

(7) POLITICAL SYSTEMS AND POLITICAL PARTIES

58. Given the history and performance of political parties in Uganda which political system would promote peace and stability?
59. What is your opinion about the NRM type of broad-based political movement?
60. Should Uganda have a multi-party, one-party, or a non-party political system?
61. How can dictatorship be avoided in Uganda?
62. How should political leaders conduct themselves?

(8) TRADITIONAL RULERS

63. Should Uganda have traditional rulers at all? If so,
64. What role should they play?

65. Would it be in the best interest of democracy to revive the political authority of traditional rulers? If so, give reasons. If not, give reasons.
66. Does the Constitution need to address itself to the issue of traditional rulers or should it be left to the social status acceptable among the respective groups affected?
67. In case traditional rulers are constitutionally recognized, what should be their powers and privileges, their duties and limits in relationship with the State?
68. Should the revival of traditional rulers affect the geographical administrative boundaries of the areas affected? If so, in which ways?
69. In case of the revival of traditional rulers, who should bear the costs of maintaining them? the State, or their respective groups?
70. What would happen to a member of a group or one who comes from outside the group who refuses to pay allegiance, including paying taxes and other contributions to maintain the traditional ruler?
71. If a traditional ruler wants to participate in national politics, would he/she have to give up his/her position as a traditional ruler?
72. (a) Would the immediate relatives of a traditional ruler be financially maintained? If so how and by whom?
(b) Would they be allowed to stand for political posts? If so, how can you ensure that other candidates are not disadvantaged?
73. What measures do you suggest to avoid clashes between a traditional ruler and the Government both local and central?
74. What should be the qualification of a traditional ruler?
Age - education - moral and ethnic standards - national feeling - public image - leadership qualities.

75. How should a traditional ruler be chosen and by whom?
76. On which grounds could a traditional ruler be removed?
77. What institutions should handle complaints against a traditional ruler from his/her people and from the government both local and central?

(9) FORMS OF GOVERNMENT:

78. In the light of our history and the present aspirations of Uganda, what should be the best form of government for the nation?
79. Views on whether one form for the entire country or several forms of government according to the desires of each particular area.
80. Views on the geographical division of the country for local government.
81. Views on constitutional powers and limitations of the central and local government.

(10) LOCAL GOVERNMENT

82. What criteria should be used in dividing the country for purposes of local administration?
83. What powers, responsibilities and functions would you like to see performed by the Local Government and Urban Authorities?
84. How should representatives at various levels of Local Government be elected?
85. What should be the relationship between civil servants, appointed officials and elected representatives from the village to the District level?
86. What should be done to make Local Government more effective?
87. What should be done to avoid uneven development between the various areas of local administration?
88. To what extent should the central government control the Local Government and authorities?

89. Who should appoint members of the district Service Committees and what should be their qualifications, duties and tenure of office?
90. Who should be the political head of the District and how should he/she be chosen?

(11) THE ELECTORAL SYSTEM

91. What measures in the new Constitution can ensure free and fair elections at all levels, all the time?
92. What constitutional or legal control should be put on campaigning?
93. For which elections should secret ballot be used?
94. Should the President be directly elected by all or indirectly elected?
95. How should members of Parliament be elected?
96. Which method should be used: single constituency method or proportional representation?
97. Views on Electoral Commission: who should be the members, their qualifications? Who should choose them? Their powers and terms of service?
98. How should election complaints be dealt with?
99. How can the new Constitution ensure and enforce regular general elections?
100. What is your opinion about proportional representation?

(12) LEGISLATURE

101. In light of Uganda's political development, should we have one or two houses of parliament?
102. What should be the minimum qualification for members to the legislature as regards:
: Age and citizenship

- : Education
- : Conduct and performance before presenting himself/herself as a candidate
- : Honesty - integrity
- : Level of nationalism and patriotism
- : financial standing

103. What should be the composition of Parliament?

- : What criteria for fixing numbers of members of Parliament?
- : Should there be specially nominated members of Parliament?
- : Should security forces be represented in Parliament?
- : If so, by how many people?
- : Should there be interest groups representation in Parliament?
- : Should the electors have a right to recall their members of Parliament and hold fresh elections?
- : Grounds for electors' recall of their member of Parliament?
- : Should a member of Parliament have the right to cross the floor?

104. Powers, limitations and procedures of Parliament.

- : What powers would you give the Legislature?
- : What limitations would you put on the Legislature?
- : How should the Speaker and Deputy Speaker of Parliament be elected or nominated?
- : How should Parliament be dissolved and in which circumstances?
- : How is Parliamentary immunity to be used and protected?
- : What committees and their powers would you suggest in Parliament?
- : Views on ideal relationship between a member of Parliament and the people of the area he/she represents.

(13) THE PRESIDENCY

105. What should be the qualification of a Presidential candidate as regards:
- : Citizenship
 - : Age
 - : Personality - integrity
 - : Education
 - : Previous experience and record
 - : Financial status
106. What should be the term of office of a President?
107. Views on whether it is necessary to fix maximum terms beyond which no President can continue in office.
108. Which appointments should be made by him/her alone?
109. Which appointments need approval of the legislature?
110. Which appointments need an independent Commission or direct election?
111. Should the election of the President be direct or indirect?
And how?
112. What are the grounds on which a President may be removed from office before his/her completion of the term of service? Which procedures should be taken?
113. What ought to be the benefits and privileges for a person who has been President and who retires or honourably completes the term of service or is democratically defeated in the election?
114. Should the President be above the jurisdiction of the courts of law?

(14) THE EXECUTIVE

115. What should be the size of the cabinet?
116. What should be the qualifications of the Ministers?

117. Should the appointment of Ministers be submitted to the legislature for approval?
118. Should Ministers be appointed from elected members of Parliament or from outside the Parliament?
119. Should there be a Vice-President, and if so, what should be his/her functions?
120. What should be the functions of the Prime Minister(s)?
Qualifications?
Procedure for appointment?
121. Should Permanent Secretaries be political appointees?
122. Should civil servants be partisan?

(15) THE ARMY

123. What should be the size of the Army?
124. What should be the qualifications for entering the Army?
125. What should be the character or nature of the Army?
126. Views on the training, formation and motivation of the Army?
127. What should be;
 - (a) the methods of recruitment?
 - (b) the internal organisation?
 - (c) the duties of the Army?
 - (d) the retirement and benefits of members of the Army?
 - (e) the relations between the Army and the civilian population?
128. How should appointments and promotions in the Army be handled?
129. Should the Army play any role in politics, and if so, what role should it be?
130. What role should the security forces play in politics in case of a multi-party system?
131. What should be the Code of Conduct of the Army?

(16) THE POLICE

132. What should be;
- (a) the size of the Police?
 - (b) the qualifications?
 - (c) the methods of recruitment?
 - (d) the training, specialisation and formation of the Police?
 - (e) the internal organisation and discipline?
 - (f) the conditions of service?
 - (g) the duties of the Police?
133. How should promotions, demotions and appointments of top officials be handled?
134. What should relations between the Police and the civilians be?
135. Views on retirement and benefits.
136. What should be their Code of Conduct?
137. What role should the Police play in politics?
138. Views on Police methods of crime investigation and interrogation of suspects and criminals.

(17) THE PRISON SERVICES

139. How should the Organisation of Prisons be so as to ensure humane conditions and treatment?
140. What should be:
- (a) the qualifications of the Police?
 - (b) the institutions that would ensure that prisoners can present their complaints?
 - (c) the form of training for the prison officers?
 - (d) the measures for the discipline and control of the prison officers?
141. How would you ensure that nobody interferes with the work of the Prison services?

142. Views on the proper place for people on remand and proper place for sentenced prisoners.
143. Views on any other aspect which can improve the prisons situation and the Prison services.

(18) INTELLIGENCE ORGANISATIONS

144. What type of persons should be selected to work in intelligence organisations?
145. What laws can restrict the activities of such organisations?
146. What restrictions should be imposed against security organisations, so that they do not infringe the fundamental rights of the individual?

(19) CIVIL SERVICE

147. How and who should appoint civil servants?
148. Should the supervision, control and discipline of the civil service remain under one central governing body or should it be localised?
149. Should there be an age at which a person could join the service and if so, what is the age?
150. What are the criteria on which one can join the service?
151. What should be the guiding principles in determining the terms and conditions of service?
152. What facilities should be in place so that the integrity of the civil servant is not a subject of speculation?
153. What form of in-service training should the civil service have?
154. To what extent, if any, should civil servants be independent in the execution of their duties?
155. Could the remuneration and welfare of a civil servant be improved by the restructuring of the government set-up for instance, by making local authorities responsible for offering facilities to the civil servant?

156. Should a civil servant be allowed to join trade unions or other form of negotiating machinery? If so, what role should the negotiating machinery play in determining the interests of the civil servant? If no, why not?
157. To what extent should a civil servant be allowed to participate in matters pertaining to a community in which he/she is a member?
158. Should a civil servant be allowed to have partisan interests?
159. If a civil servant decides to join politics, should he/she retain his/her post in civil service?
160. Should there be promotions based on mere length of service rather than merit?
161. Are the present criteria for promotions in civil service satisfactory?
162. Do you find the practice of recruiting persons who have not been in civil service into high ranking posts acceptable? Or would you rather have a system whereby only persons who have been working in the service can be promoted to those offices?
163. What should be the retirement age?
164. Should there be a period of service at the end of which a civil servant could be retired even before attaining the compulsory retirement age?
165. Should there be any retirement benefits at all? If so, in what form should they be?

(20) JUDICIARY

166. What guarantees and arrangements do you think, can ensure the real independence of the Judiciary?
167. Is the present structure of the Judicial system satisfactory?
168. How should Judges and other Judicial Officers be appointed and who should appoint them?

169. At present, the proceedings of a court martial, i.e. the Military Court, are not usually made known to the public.
- What should be done to ensure that proceedings in the Military Courts are just and fair?
170. Should a person convicted and sentenced by a Military Court have a right of Appeal to a Civil Court?
171. What should be the qualifications of the officers of a Military Court/Court martial?
172. How should judicial proceedings at RC village level be regularized or standardized?
173. What steps can be taken to ensure that Justice is done at village RC 'courts'?
174. Should village RC officials who hear cases be trained in basic law regarding procedure, evidence, etc.?
175. Should Grade II Magistrates be left to hear and determine all cases starting from village level?
176. Should a fully qualified Grade I Magistrate hear and determine all cases which are now given to village RCs?
177. What should be the structure and powers of the Industrial Courts?
178. What should be the qualification of officers of Industrial Courts?
179. How may a judge of the Industrial Court be removed and on what grounds?
180. Is it necessary to have a constitutional court to deal with matters concerning unconstitutional behaviour of Government or its officials?
If yes:
181. Should the constitutional court also entertain cases regarding violations of Human Rights?
OR
Should Human Rights violations be dealt with by a Permanent Human Rights Commission with extended powers?

182. Should there be a family court to deal with cases of marriage, divorce, custody of children, affiliation proceedings and inheritance?
If yes:
183. What should be the qualifications of officers of the family court?
184. What can be done to make the system of settling disputes understandable and fair?
185. Should the Judiciary be democratised by having judges and/or magistrates elected?
186. Which measures should be taken to eliminate corruption and inefficiency in our administration of justice at all levels?
187. Views and suggestions on providing Legal Aid and Education to all Ugandans.
188. Should the right of an accused not to give evidence on his/her own behalf be retained?
189. Should every suspected offender always be presumed innocent until proved guilty?
190. Should the standard of proof in criminal cases be always beyond reasonable doubt?

(21) PUBLIC FINANCE - MANAGEMENT AND CONTROL

191. Who should control Public funds?
192. What role should the following officers play?
- (a) Secretary to Treasury.
 - (b) Commissioner/Treasury Officer of accounts.
193. Should we continue to have Accounting Officers who do not have relevant qualifications in Financial Management?
194. Should Chief Accountants be posted in each Ministry to be Accounting Officers?

195. Should Ministers also account for Public funds of the Ministries they have been appointed to run?
196. Should everybody who handles Public funds appear before the Public Accounts Committee?
197. Which should be the punishments of those who fail to account for Public funds?
198. How would you like to strengthen the Public Accounts Committee?
199. Should experts and professionals be invited to assist Public Accounts Committee?

(22) LEADERSHIP CODE OF CONDUCT

200. Should Ugandans have a Leadership Code and for what reasons?
201. What should be included in such Leadership Code?
202. What categories of leaders should be subjected to such Code?
203. What punishments should accompany each breach of Code of Conduct?
204. What machinery and/or institutions would be effective in enforcing the Leadership Code?
205. How can the contents of the Leadership Code become part of the culture of the Ugandans?
206. Any other suggestions, besides the Leadership Code, for ensuring that only good leaders get into public office and for punishing those who abuse public office.

(23) THE INSPECTOR GENERAL OF GOVERNMENT (IGG)

207. Should the office of the IGG be included in the Constitution?
208. What powers should be given to the IGG?
209. Who should appoint or elect the IGG?
210. Should the office of the IGG be turned into an anti-corruption squad?

211. How should it be made more accessible to all the people of Uganda?
212. Should the name of the IGG office be changed?

(24) THE ECONOMIC BASIS OF THE STATE

213. Is it desirable for the new Constitution to spell out the economic and social objectives of the state? If so, what should these be?
214. What should be the role of the citizens in the planning and implementation of policies and programmes for development?
215. How can the state promote the economic and social development?
216. Is there need to plan and direct the process of development?
If so, why?
217. Should the state regulate the ownership of important resources?
If so, how?

(25) SOCIAL SERVICES

218. Should the issue of social services be addressed by the new Constitution or should it be exclusively dealt with in statutes or laws passed by Parliament?
219. If you think it should be included in the Constitution, what principles would you like to see in the new Constitution concerning social services?
220. What system of taxation would you suggest for funds for such vital social services?
221. What proposals would you like to give on the specific areas of social services: education, medical care, social welfare, special concern and assistance to needy categories of people in Uganda?
222. What other aspects of life would you want included in the social services?
223. What measures do you suggest to improve the retirement schemes i.e. pensions, social security funds etc.?

224. What role could the NGOs play in our social services?
225. How should the NGOs be controlled?

(26) LAND

226. Should the "LAND REFORM" have a uniform system of land tenure?
Why or why not?
227. Who should be the ultimate Landlord - the state or the individual?
228. Should Uganda have a uniform system of land tenure? Why or why not?
229. If you prefer a uniform system of land tenure, which one should Uganda have?
- : Customary tenure
 - : Freehold or mailo land
 - : Lease hold
230. Should non-citizens of Uganda, foreign companies, multi-national corporations, have unrestricted, unconditional access to all types of land in Uganda?
231. Should land owners in Uganda have a duty to put their land to economic use, pay a tax for non-use and, ultimately forfeit the land to the state for non-use?
232. Should land holding, in itself be a taxable item?
233. Should the Administrative set up of Uganda Land Commission, District Land Commission for land matters remain the same?
234. Should there be a limit to the size of land an individual or organization may acquire?

(27) ENVIRONMENT PROTECTION

235. Would you like the Constitution to address Environmental issues?
If so, which ones?
236. What should be done to preserve and protect the Environment?

237. How can we balance the need of the poor against Environment protection?
238. What would you like our Environmental Legislation to contain?
239. How can Ugandans from all walks of life be made aware of the need to preserve and protect our Environment?

(28) FOREIGN RELATIONS AND INTERNATIONAL CO-OPERATION

240. Views on how Uganda can promote and protect its National interests.
241. Views on principles and objectives to govern Uganda's relations with neighbouring countries and regional co-operation.
242. Views on Uganda's relations with the Organization of African Unity (OAU).
243. Views on Uganda's relations with the United Nations and other international organizations.
244. Views on Uganda and the respect for international law generally.
245. Views on Uganda and the ratification and honouring of international conventions, treaties and resolutions.
246. Views on how Uganda can promote international peace and co-operation generally.

(29) SAFEGUARDS FOR THE NEW CONSTITUTION AND AMENDING THE CONSTITUTION

247. How do you propose a Constitution should be amended?
248. What constitutional matters should be changed by holding a referendum?
249. What should be the safeguards of the New Constitution?
250. Which court of law should try constitutional cases politically?
251. Views on providing constitutional and political education to all.
252. How can the citizens themselves effectively protect their Constitution?
253. Views on how the Army and political rulers ought to respect and up-hold the Constitution.