It stuck to the police statement. It did not

Beyond the ballot: Uganda's Judiciary as final arbiter

The 2026 elections are over, and candidates who are dissatisfied with the results are gearing up to file election petitions in court. The Judiciary, tasked with delivering electoral justice, should be undertaking extensive preparations to handle these disputes.

The Electoral Commission (EC), which is the other body mandated with resolution of election disputes, has largely completed its task, however shabby it might have appeared. Let us not forget the unprecedented denominations and declaration of some candidates unopposed. The stage is now set for the Judiciary to play its role in advancing democracy in Uganda.

The Judiciary often dons the hat of the umpire, standing as the guardian of legality and the enforcer of the rule of law. It is the referee in the grand game of politics, wielding its gavel to ensure fair play and justice between feuding parties. However, one could ask; what happens when the referee is accused of stepping onto the field of play, or worse, scoring the winning goal? That is where the Judiciary's role in electoral disputes comes into the spotlight. By their very nature, the conduct of elections under the principle of universal adult suffrage, in a pluralist political party system such as the one adopted in Uganda, imposes enormous responsibilities on the institutions of State constitutionally mandated to adjudicate electoral disputes that arise from the conduct of general elections.

The 2016 and 2021 election cycles exposed the Judiciary to a lot of criticism...



Robert Okot
Election petitions

The petitions expose several challenges that our democracy faces, including voter bribery, ballot stuffing, violence, intimidation and non-compliance with the electoral laws. It is, therefore, not surprising that the voter turnout has consistently been on the decline in the last four general elections. Key areas of focus for the Judiciary will include ensuring impartiality, transparency, and timely resolution of disputes. These issues have been a characteristic in almost all elections held under the 1995 Constitution.

The courts will need to balance the need for speedy resolution with the requirement for thorough investigation and due process.

The Judiciary's role in shaping political landscapes for good or for bad is evident. In emerging democracies like Uganda, these challenges are particularly acute because judicial independence is often compromised by a cocktail of political interference, systemic corruption, and inadequate infrastructure.

Additionally, politicisation of judicial appointments, coupled with the reliance on rigid proceduralism potentially undermine the Judiciary's credibility as an impartial arbiter.

Ideally, the Judiciary should occupy an undeniably pivotal position in the democratic framework as the arbiter of electoral justice, standing as both a shield and a sword in the pursuit of free and fair elections. When courts become the final arbiters of electoral outcomes, they may unintentionally eclipse the electorate's will.

In such scenarios, public trust in the Judiciary and the electoral process can erode, creating a perception that legal institutions, rather than voters, determine who holds power. We have live examples of politicians who wanted to use the courts to get into Parliament in the just concluded elections.

The 2016 and 2021 election cycles exposed the Judiciary to a lot of criticism, most especially on the lack of consistency in adjudication of election disputes. The inconsistency certainly distorts jurisprudence that had been built during the 2001, 2006 and 2011 election cycles. Therefore, the Judiciary's handling of the 2026 election petitions will be a critical test of its ability to deliver electoral justice and uphold the integrity of Uganda's electoral process.

Mr Robert Okot is a human rights and non-profit law attorney.

erence will be given to insightful articles rather than generalised polemic observations. Attach a portrait and send to editorial@ug.nationmedia.com

CamScanner