

# **UGANDA PEOPLES CONGRESS**

## **REBUTTAL OF PROF. RUBAIHAYO COMMISSION OF INQUIRY REPORT**

**ON THE PRESIDENTIAL NOMINATION  
EXERCISE OF 30<sup>TH</sup> MAY 2015**

**UPC PARTY HEADQUARTERS-FLOOR SIX**

**UGANDA HOUSE**

**22<sup>nd</sup> JULY 2015**



## REBUTTAL OF PROF. RUBAIHAYO COMMISSION OF INQUIRY REPORT 22<sup>nd</sup> JULY 2015

### UPC SECRETARIAT

The Party President J.Akena, MP appointed eleven member committee at the UPC Secretariat to study, scrutinize and report back in three days on any merit of the Rubaihayo-Walubiri Commission of inquiry report that was issued on 16<sup>th</sup> July 2015 quashing the UPC District Conferences Presidential Nomination exercise of 30<sup>th</sup> May 2015. Mr. Higenyi Kemba was appointed Chairperson and Mr. Aroma Patrick Secretary to the committee.

In analyzing the report the committee scrutinized the entire document paragraph by paragraph comparing the data and facts available against the Rubaihayo-Walubiri report from appointment, methodology, background, findings, conclusions and recommendations.

#### 1. APPOINTMENT AND ASSIGNMENT

The Secretariat Committee first and foremost examined the locus standi of the appointing authority in exercising such powers and it was noted that he did so in his capacity as defacto President of UPC as pronounced by Justice Musota Court ruling of 6<sup>th</sup> May 2015. According to the Black's law dictionary-defacto is defined as **"In fact, indeed, actually. This phrase is used to characterize an office, a government, past action, or a state of affairs which exists actually and must be accepted for all practical purposes, but which is illegal or illegitimate. In this sense it is the contrary of de jure, which means rightful, legitimate, just or constitutional. Thus an officer, king or government defacto is one who is in actual possession of the office or supreme power but by usurpation.** Mr. Olara Otunnu defacto tenure ceased when Hon. J.Akena was elected PARTY PRESIDENT

It should be noted therefore that while Mr. Olara Otunnu was granted relief by court to follow his own Election Road Map that would lead to the convening of the Party Organs such as the District Conferences, National Council and delegates conference, He legally and constitutionally no longer has those powers to do anything beyond the roadmap in the name of the party. In reference to article 14.3(2) (j) invoked by Mr. Olara Otunnu to set up the Rubaihayo Commission of Inquiry, the UPC Secretariat committee basing their grounds on the Court Ruling of 6<sup>th</sup> May 2015 that declared Mr. Olara Otunnu defacto Party President since his term of office expired on 13<sup>th</sup> March 2015, recognized the Constitution of UPC as Supreme and that the defendant had already issued a roadmap, noted that Mr. Olara Otunnu as *de facto* President had no executive powers to appoint the Commission of inquiry because he is no longer a substantive Party President, therefore the Commission of inquiry itself is illegal and it's report null and void with no legal effect. **Annex 1 copy of Court Judgment attached**

## **2. MEMBERSHIP**

The Secretariat team analyzed each member of the Commission based on their historical track record in the Party as below

### **Prof. Rubaihayo**

He is now a lukewarm member of UPC with vested interest in Milton Obote Foundation. He authored an article in New Vision of 6<sup>th</sup> Dec 2006 titled "UPC has no right over Uganda House" **attached as annex 2** wherein he held the untenable position that "UPC is an *ex-gratia* tenant in Uganda House" juxtaposed with Jimmy Akena's avowed position that Uganda House is the UPC's National Headquarters Building and that should the current managers desire to mortgage Uganda House they must do so in recognition of Article 12.2(6) which gives control of all Party assets to the National Council. Furthermore in the Monitor Newspaper of 15<sup>th</sup> March 2015 **attached as annex 3** he is quoted not to have signed the report or authored a minority report protecting the suspects in the Shs

4billion Uganda House mortgage fraud which is before Court. The same MOF funded the Commission of Inquiry because UPC Party account is frozen, therefore Prof Rubaihayo fails to meet the standard required of an independent and impartial commissioner.

### **Prof. Anokbonggo**

Prof .Anokbonggo contested in the UPC Primaries in 2010, was defeated by Mr.Ogwal Adyebo as the official UPC Party Flag bearer but went ahead and contested as an independent candidate contrary to article 3.6(1) of the UPC Party Constitution. Electoral Commission results **attached as annex 4**

More so he has a son-in-law, Hon. Benson Obua-Ogwal who was one of the candidates in the UPC Presidential District Conferences Elections of 30<sup>th</sup> / May/2015, this automatically means he has a conflict of interest and could not have been independent or impartial in the Commission of Inquiry. UPC Presidential Election declaration form **attached as annex 5**.

### **Peter Mukidi Walubiri**

Walubiri's letter to the Manager Orient Bank Limited dated 18<sup>th</sup> June 2015 in reply to Hon. Patrick Mwendha's letter in regard to UPC account operations clearly stated his position that **"NO INTERNAL PARTY ELECTIONS WERE HELED ON 30<sup>TH</sup> MAY 2015"** **attached as annex 6** long before his appointment as Secretary to the Commission of Inquiry in Olara Otunnu June 21<sup>st</sup> letter cancelling the UPC Delegates Conference **attached as annex 7**

In addition Walubiri has been a member of Mr. Olara Otunnu Cabinet throughout his five year term as Party Treasurer and a Trustee in Milton Obote Foundation

Furthermore his hatred for the Obote family is well known as illustrated in the following statement: "It means that the Obote family will be like ordinary UPC members; enjoying equal status not a special status by virtue of birth," (The Observer, March 14). **attached as annex 8**.



Mr. Peter Mukidi Walubiri being part of Mr. Otunnu Cabinet and the Commission of inquiry appointed by the same Cabinet means he is the complainant, the investigator, the prosecutor, the jury

### ADDITIONAL MEDIA QUOTES

Otunnu is under intensive pressure from a group known in UPC circles as the Gang of Four which comprise of Peter Walubiri, Prof. Patrick Rubaihayo, Chris Opio and Livingstone Okello Okello and Mindra, the Corporation Secretary of the Milton Obote Foundation, who is viewed as the fifth member of the gang. They are rabidly against the Obote family. The gang succeeded in defeating the Obote family as represented by Jimmy Akena at Nambole during the UPC presidential elections," he says.

Walubiri, one of the said Gang of Four, did not mince words in expressing his opposition to the Obotes. "Our problem started when some of the Obote family members thought leadership in the party was by succession which we opposed on principle. We shall continue opposing them as long as they want to suppress democracy in the party," he said without flinching.

- See more at: <http://www.independent.co.ug/election-watch/3468-otunnu-faces-revolt-as-upc-officials-defy-call-to-boycott-2011-elections#sthash.2zcXUYkx.dpuf>

The Independent, 22 September 2010

"We agreed to continue talking and for the job, it was between me and Otunnu. I am and I will remain an active member of the party and in the next delegate's conference, I will offer myself for the leadership of the party," Akena said on Friday. But Prof. Patrick Rubaihayo, a former minister of agriculture in Obote's second cabinet and now a governor with Milton Obote Foundation, said the party will continue and do better without Mr Akena and the Obote family because UPC is not a property of the Obote's family.

"There is nothing called Obote's family stay in politics and I don't think that he (Obote) willed that in his will. His legacy is about what he did for the country and everybody can see what he did; and for UPC, he built a solid party and MOF. We have not come to an era where individual families are pegged to national contribution," Prof. Rubaihayo said.

He added: "And no vote is going to be lost because Akena is not in cabinet. He stood, he lost and it is him

who refused to be part of the cabinet. Don't waste time on him because even me I was offered a cabinet post but refused due to other commitments".

**Daily Monitor 29 March 2010**

UPC is dogged by serious internal wrangles with the move to throw out Mr. Sam Ngude Odaka as chairman for Milton Obote Foundation (MOF) on one hand and a renegade faction led by Mrs Obote's former National Chairman, Prof. Patrick Rubaihayo on the other, insisting the party president has failed and should quit.

It emerged in the press last week that, because of the ongoing court case by the UPC party president lodged against MOF governors, the foundation wouldn't be in position to extend any funding to the UPC, as that would further complicate the court process.

Ms Miria was quoted saying, the party would limp on even without funding from MOF.

**African Press International 25 May 2007**

According to Prof. Patrick Rubaihayo, a member of the Central Executive Committee, Mr Akena's latest maneuver is to block the redevelopment of Plot 8 on Kampala Road and the refurbishment of Uganda House through borrowing so that its new look could generate money for the Milton Obote Foundation that also finances the Uganda House headquartered party activities.

Prof. Rubaihayo, yesterday said Mr Akena is misleading disgruntled party members to oppose MOF's business strategy that would generate income. This move, he said, was also targeted at scaring away the party's financiers, something different from what Obote stood for.

"We have seen correspondences written by Akena to other people and their aim is to frustrate the whole plan of redeveloping and rehabilitating the project so that the blame is put on us," Prof. Rubaihayo said.

He added that this was a grand plan of what Akena and others failed to achieve when they wanted to grab MOF as a family property.

The Lira Municipality MP acknowledged to this paper authoring a dossier and letters to UPC members on the party's website urging them to discourage and resist the current MOF leadership from undertaking the project because the current interest rates on loans are high.

***Kenya Online 5 April 2012***

But Akena who is also a member of MOF charges Kakonge and his group including Peter Walubiri the party treasurer general, Okello Okello, Cidi Mindra and Chris Opio of designs to mortgage Uganda house for 18 million dollars. He insists they did not seek for permission from the party organs which have a say in whatever is done with the assets under MOF.

He explains that in 1960's political parties were not registered entities and when UPC started building Uganda house, it was realized that accessing funds and entering into contracts was a problem.

With the existence of MOF then as a corporate body, the Central Executive body of the UPC sat and agreed to transfer their interests from UPC to MOF to allow the building of Uganda House.

Along the way there developed a disconnect between MOF and the party which the current MOF leaders are trying to exploit.

However, according to Prof. Kakonge MOF is a membership organization by invitation with payment of 1000 dollars membership fee. He insists MOF was registered as a charity organization to manage financial interests of the party but not look after the financial interests of the party which people like MP Akena misunderstand.

***Red Pepper Online, Oct 18, 2013***

Now, one would be insane to expect any sense of independence or impartiality from Rubaihayo and Walubiri sitting in a commission in judgment of Jimmy Akena, Obote's son.

**TERMS OF REFERENCE**

Mr. Olara Otunnu terms of reference included, massive, systematic vote buying and bribery, substitution of voters on the register. Blocking the work of the Electoral Commission and Election Review Board, Storming, hostage taking, coercion at Party Headquarters on 1<sup>st</sup> June 2015. Assault and Detention of Mr. Olara Otunnu on 5<sup>th</sup> June 2015. Forcible occupation of Party Headquarters. The secretariat Committee thus notes as follows;



- i. Allegations of massive vote buying and bribery are mere hearsay not backed by any concrete proof
- ii. What took place at the UPC Secretariat tally center on 30<sup>th</sup> and 31<sup>st</sup> of May was David Baliraine receiving, recording and tallying results from the District Conferences witnessed by candidates agents like Anyakoit Cecilia for Julius Ochen, Oluka Jimmy for David Pulkol and Ofwono Charles for Jimmy Akena among others who were patiently waiting for the results.
- iii. The Party Electoral Commission was not blocked by Party members as they produced the results and announced it openly before the press, not once but twice except members were concerned about the lapse of 48hours time stipulated in the election guidelines and an illegal body instituted by Olara Otunnu called Election Review Board which is not only a stranger to the UPC Party Constitution but packed with members who are rabidly anti-Akena.
- iv. The hostage taking could not have happened in the presence of the Police called by Otunnu to maintain law and order during the final tallying process, although members were infuriated by Mr.Olara Otunnu's action of blocking the announcement of results contrary to section 13 of the Party Elections guidelines **attached as annex 9**, The Presidential Elections Act and The National Electoral Commission Act
- v. The declaration of Hon. Akena President Elect was dictated by the Party Electoral Commission in the presence of all Party members present and the media - typed by Aroma Patrick
- vi. On invasion, hostage taking and violence on 5<sup>th</sup> June ,the Party members acted under the provision of UPC Constitution article 5.2(1) "To recognize, defend and uphold the supremacy of the Party Constitution at all times" to foil a coup against the expressed Will of Party Members by Otunnu who had summoned members of the Party Electoral

Commission, Candidates who participated in the District Conferences Elections and his appointed members of the Elections Review Board to convince them to overturn the results of the elections which was contrary to article 11.2(6) of the UPC Party Constitution "Nominate by majority vote a candidate for Party Presidency"

- vii. On the question of Assault and Detention of Party President at Uganda House on 5<sup>th</sup> June 2015-It's a complete lie as seen from the NTV footage that vindicates Party members who were acting under the provision of UPC Constitution article 5.2(5) "Fight any propaganda and disinformation detrimental to the interest of the Party and defend its values, policies, aims and programs". The scenario arose from an agreement between Olara Otunnu and Commissioners to announce the results jointly; but Olara Otunnu excused himself to go for a short call only to escape through the toilet. Olara Otunnu action attracted the media and curious Party members to follow him but no one touched him.
- viii. On forcible occupation of Party Headquarters, members invoked article 103 6(a) and (8) of the Uganda 1995 Constitution and noted that Mr. Olara Otunnu's refusal to cooperate with Hon. Patrick Mwendha's Transitional Committee was a catalyst to the 5<sup>th</sup> June take over since all avenues for a peaceful transfer of power was closed and yet the term of office of Mr. Olara Otunnu had expired on 13<sup>th</sup> March 2015, The delegates Conference on 1<sup>st</sup> July 2015 pronounced itself by approving J. Akena President in line with article 13.2(5) of the UPC Party Constitution. In nutshell therefore, Mr. Olara Otunnu's actions were in total violation of article **11.2(6)** of the UPC Party Constitution, The Presidential Elections Act and the Party Electoral Commission guidelines section 13

### **Background**

4. The Rubaihayo Commission stated that, they accepted the appointment to the Commission on the back of a crisis in the Party and that Dr. Rwanyarare failure to join the Commission was due to ill health. To the contrary, however, the secretariat committee discovered Dr. Rwanayare refused to be part of an illegality. Needless to say that there was no crisis and the Party is enjoying overwhelming stability under the leadership of J.Akena. This is the reason why a successful Delegate's Conference was held on 1<sup>st</sup> July 2015, where delegates pronounced themselves on the Commission of Inquiry and Election Review Board as illegal bodies with no constitutional mandate and as a result many Party members invited by the Commission adhered to the decisions of the delegates and refused to appear before the Commission like Party President Jimmy Akena who was invited on 30<sup>th</sup> of June 2015 and scheduled to appear on 1<sup>st</sup> July 2015 at 2pm knowing very well PP would be at the Consultative Meeting with Hon. Maxwell Akora, Mama Night Kulabako, Dr. Akomo Gideon, Hon. Lucy Ajok, Aroma Patrick and Hon. Fred Ebil. Instead the team noted that, Mr. Olara Otunnu's hardline and sworn position of not handing over power to Akena expressed in different foras like NTV Fourth Estate appearance, Cabinet meetings and informal interaction with Party members is his own crisis.

### **Methodology**

5. The secretariat committee noted that the methodology used in the Commission of Inquiry report was affected by terms of reference premised on Mr. Olara Otunnu's letter of 21<sup>st</sup> June 2015 which was full of false information and misrepresentation of events since 30<sup>th</sup> May to 5<sup>th</sup> June 2015. The Commission was meant for a fault finding mission rather than conducting an investigative job to come up with a balanced report

6. The Secretariat committee noted further that, the Commission generally relied on hearsay to gather information since they did not present any evidence of District Election Data's, Statements from Returning Officers, District UPC

Chairpersons and even evidence of forged declaration forms or direct complaints rendering the Commission report **a rumor-mongering exercise.**

7. The Commission cannot present their report to a defunct Party Cabinet as they claimed, since the Party now has a new Constitutional order with a new Cabinet, the delegate's conference took place on 1<sup>st</sup> July 2015 and only the National Council is pending where Prof. Rubaihayo's illegality cannot appear under any pretext.

#### **8. THE APPROACH TO INFORMATION GATHERINGS**

The Rubaihayo report suggests that they used public pronouncements, invitation letters in gathering information.

On the contrary the secretariat committee did extensive investigations but failed to gather evidence of any public announcements in the media.

The secretariat committee found out that after 1<sup>st</sup> July 2015 delegates conference, many Party members invited by the Commission adhered to the decisions of the delegates and refused to appear before it i.e. like Party President Jimmy Akena who was invited on 30<sup>th</sup> of June 2015 and scheduled to appear on 1<sup>st</sup> July 2015 at 2pm knowing very well PP had called a Consultative Meeting, Hon. Maxwell Akora, Mama Night Kulabako, Dr. Akomo Gideon, Hon. Lucy Ajok, Aroma Patrick. Hon. Fred Ebil plus others.

#### **10. THE FINDINGS**

The Rubaihayo Commission reports that the organ responsible for nomination process were as follows-Party Cabinet, Party Secretariat, The Party Electoral Commission set up by Cabinet and The Elections Review Board set up by Cabinet

On the contrary the secretariat committee noted that article 6 (1) & (2) of the Party Constitution defines Party Organs and Committees. The Secretariat staff are under article 20 of the Party Constitution as part and parcel of the Party Constitution as the Party Electoral Commission which is provided for under article 21(1) of the UPC Constitution, they do not fall under the category of Party Organs



as written in the Rubaihayo report, leave alone the Election Review Board which is not only an illegal body but a complete stranger to the Party Constitution.

- I. Prof. Rubaihayo issued the roadmap for nominations but the truth is that Mr. Olara Otunnu actually issued the roadmap and not the Cabinet. The documentary evidence available attest to the statement.
- II. Further still, the Presidential Elections notice was issued by Mr. Olara Otunnu contrary to article 14.2(1) which should have been done by Party Cabinet and forwarded to the National Council for approval ,therefore Mr. Olara Otunnu arrogated himself powers and hijacked the role of the National Council as stipulated in article 12.2(1-6) and 23.1 of the UPC Party Constitution.
- III. While the Rubaihayo report claims that there was a court case contesting the authority of Mr. Olara Otunnu to conduct Party affairs at the time he issued the roadmap, in reality the courts of law on 6<sup>th</sup> May 2015 ruled on the authority of the Party President that Mr.Olara Otunnu is a *de facto* Party President, upheld the Supremacy of the Party Constitution and the Roadmap he had earlier issued as an exception since he never convened any Party Organ -National Council or Delegates Conference during his five year term. The Courts of Laws therefore granted the petitioners two options-To go with Olara Otunnu roadmap or take Olara Otunnu to the Disciplinary Committee for violating the UPC Party Constitution in line with article with 24.1 and 24.2 of the UPC Party Constitution, the petitioners chose to go with Olara roadmap which he again violated by himself by postponing the National Council and Delegates Conference earlier scheduled for 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> June 2015 respectively to 10<sup>th</sup> July 2015 which he later postponed indefinitely.
- IV. On the issue of the Defacto Party President interfering with the work of the Party Electoral Commission for re-opening the nomination process on 18<sup>th</sup> May 2015, its contestable since the Party Electoral Commission is an Independent Body approved by the National Council in 2011 who could



only have been advised by Mr. Olara Otunnu and took a decision themselves to re-open since the Chairman of PEC and his team were the ones who issued nomination papers and processed them after the re-opening and not the defacto Party President Mr.Olara Otunnu.

- V. Before the nomination of J.Akena, The majority of Presidential Candidates who had picked forms never met the deadline of 17<sup>th</sup> April 2015 as per the Olara Otunnu roadmap. Only Two candidates Dan Okello and Pulkol David paid and returned forms by the closure of Friday 17<sup>th</sup> April 2015 and the roadmap was altered to accommodate other candidates who subsequently paid on 18<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> of April respectively, therefore Party members and the general public should not be deceived that the nomination process was re-opened on 16<sup>th</sup> May 2015 for Hon. Akena, the nomination process door was opened after 5:00pm on 17<sup>th</sup> April 2015. Attached are the bank receipts with dates of payments as **attached as annex 10**.
  - VI. The Rubaihayo Commission for reasons best known to them, omitted the name of Aroma Patrick from among the appointed support staff to the Party Electoral Commission preferring to mention only Okello Lucime, Gideon Twinomugisha and David Baliraine.
  - VII. The claim that Cabinet decided to use the Party Electoral Commission appointed in 2010 is wrong since they are the only Party Electoral Commission approved by National Council of 2011 at Ankrah Foundation and as such derived their authority from the Party Organ. Only they qualified to oversee the UPC Presidential Elections since NO OTHER NATIONAL COUNCIL SAT TO APPROVE ANOTHER COMMISSION
11. No Objection to the names mentioned by the Commission of Inquiry
  12. The team has no objection to the expansion of the Commission and notes with appreciation the majority of candidates were subjected to vetting and qualified as per the Election guidelines issued by the Commission except the

approval of Prof: Edward Kakonge who is 79 years old contrary to article 102 (b) of the 1995 Constitution

**13.** While the Rubaihayo committee recognizes the Election Review Board, the secretariat committee noted that apart from being an illegal body and a stranger to the UPC Party Constitution, the Election Review Board were full of campaign managers of Joseph Bossa like Muzee Byabagambe and Isiagi who campaigned for Bossa Joseph in Rwenzori and Teso respectively and an NRM supporter Mr. Okwir Jaramogi who led a delegation of UPC members from Lango to meet President Museveni in State House on 11<sup>th</sup> -12<sup>th</sup> November 2014 all these members later crossed to NRM. The Appointment of Election Review Board is dated 29<sup>th</sup> May 2015 but the properties in the computer in office of the UPC President shows that it was typed on 1<sup>st</sup> June 2015 at 5:45pm which implies that the Board was set in motion after the 30<sup>th</sup> May 2015 District Conference Elections with ill intention of annulling the elections.

#### **14. CAMPAIGN PROCESS**

The Rubaihayo commission listed the names of the candidates and the secretariat committee has No objections to the names presented.

**15.** The Rubaihayo Commission raise the issue of registering through the window. This should not arise as many candidates picked forms but never returned them like Ivan Rwakabogo and Sospater Akwenyu. Extension of nomination exercise was done on 17<sup>th</sup> April 2015 at 5:00pm evidenced in the attached bank receipts and Olara Otunnu roadmap that clearly stated the exercise was subject to court injunction and processes automatically nullifying the issue of window candidates. The language of window have a negative connotation and the roadmap was not set nor approved by the National Council but J. Akena took exception to follow it because of 6<sup>th</sup> May 2015 Court Ruling that approved it.

**16.** The Rubaihayo Commission stated that candidates requested for funding from the Party. The secretariat Committee noted that those intending to vie for the Presidency of the Party must have human and financial capacity to do so as

opposed to being dependant on the Party. Hon. J. Akena was not a Party to this request.

**17.** The Rubaihayo commission under this heading noted that the candidates complained of the limited time but the most disadvantaged candidate J. Akena nominated after one month and thirteen days to the District Conferences Elections- when the campaign was already underway did not complain about time

**18.** The Rubaihayo report asserts that candidates complained that there were no registers of voters at the Electoral Commission Offices and Districts. However the secretariat committee noted that, registers issued by the Party Electoral Commission on 28<sup>th</sup> and 29<sup>th</sup> of May 2015 were compiled from the Party District Branch, Parish, Sub county, Constituency and District returns of 2010, 2011 and 2014 in line with the 21<sup>st</sup> February Cabinet interpretation on the composition of National Council and Delegates Conference of which the Court in its ruling of 6<sup>th</sup> May 2015 endorsed-Cabinet decision attached here **as annex 11**. Therefore it is total dishonesty on the part of the Commission to claim that there were no registers.

**19.** The Rubaihayo Commission reports of interference in the Party Electoral Commission work by Mr. Olara Otunnu. It should be noted however, that the Party Electoral Commission derives their authority from National Council who approved them in 2011 and as such very independent, that's why they were able to defy Mr. Olara Otunnu on 1<sup>st</sup> June and 5<sup>th</sup> June 2015 who instructed them not to announce the results of the District Conferences Elections of 30<sup>th</sup> May 2015 but went ahead and announced them in full view of the Media.

**20.** The Rubaihayo report claims that some candidates complained about a candidate who had unlimited resources to influence the outcome of the elections. The secretariat committee finds these claims baseless because no evidence was adduced to substantiate the allegations of lavish spending in the campaigns.

**21.** The Rubaihayo report alleges that voters received between 10,000- 1,500,000 to influence their decisions, they also allege that certain female members of



Parliament received 450 million shillings on the orders of a government official. It further claims that use of money was exhibited in the districts of Kyenjojo, Bushenyi, Luwero, Kiboga, Kampala, Jinja, Soroti. They also allege that in Otuke District a certain 2010 National Council member was prevented from voting.

The secretariat committee notes that, all the female members of Parliaments are UPC'S i.e. Hon. Ruth Aceng Ogweng, Hon. Lucy Ajok, Hon. Santa Alum Ogwang and Hon. Betty Amongi - **NOW WHICH LADY MEMBER OF PARLIAMENT IS THE COMMISSION REFERRING TO???**

On 450 million shillings can the Commission adduce evidence TO PROVE THEIR CASE???. Can they substantiate??? And in Otuke according to the Election guidelines section 1, disqualifies members of the 2010 delegates from voting where elections had taken place in 2014 like in Otuke Elections were held up to sub county level in 2014 and when the delegates met, they elected their chairperson and fully constituted themselves into a District Conference before the voting exercise could begin, failure to do so meant Otuke voters would have been disenfranchised of their rights to participate in the UPC Process.

**22.** The Party President J. Akena on several occasions as way back in March 2015 wrote to the Party Secretariat demanding for a clean and verifiable register to no avail **YET THE PARTY SECRETARIAT HAD ALL THE LIST OF VOTERS IN THE DISTRICT FILES.** However the voters in the District Conferences Elections are well known to each other and NO impersonation can take place.

### **23. INFORMATION FROM THE INTERVIEWS**

The Rubaihayo report asserts that the offices of the Secretary General and the Party Electoral Commission were awfully ill prepared for the nomination process and to organize elections. They support their assertions that proper registers were not available anywhere countrywide and that in majority of cases polling stations were not known to the voters, electoral commission failed to appoint returning officers and left the role partisan district chairpersons and that the

Party Secretary General stated that both the Party Secretariat and PEC had no capacity to conduct a proper electoral exercise. On the contrary, however the secretariat committee found out as follows;

- a. All the registers produced by the Party Secretariat were verified, approved and endorsed by the District Chairpersons and Oyam specifically completed their elections a week before the District Conferences, therefore Aroma Patrick as a CO-Lango Subregion Election Coordinator appointed by Chairperson Electoral Commission supervised Oyam and authenticated the results. The Party President J. Akena voted in the same polling Station with Dan Okello in Lira District using the register compiled and produced by the Party Secretariat, therefore engineering, impersonating a voter in the UPC District Conference Elections is not only impossible but suicidal since voters know themselves within the Electoral College.
- b. Polling centers were known to the voters e.g. Kampala voted from the National Theater, Oyam voting took place at the District Headquarters, **attached as annex 12**
- c. The Party Electoral Commission appointed Sub-regional Coordinators for Elections and District Returning Officers as evidenced from the signed declaration forms, appointment letters and attached documents of Sub-regional Coordinators. **attached as annex 13**
- d. The claim that the Secretary General and PEC did not have resources are false because the Party got money from nine candidates, MOF and Electoral Commission of Uganda. Where did Otunnu get money from to move Countrywide campaigning for Joseph Bossa disguised as a consultative meetings??? 111 Million shillings withdrawn within nine days from UPC Party account between 23rd May 2015 to 2<sup>nd</sup> June 2015??? Can you imagine!!! **attached bank Statement as annex 14**

#### **EVENTS ON 30<sup>TH</sup> MAY 2015(NOMINATION DAY)**

- 24.** The Rubaihayo report reveals the following;



That in majority of cases there was no convening of the District conferences to check on the quorum before voting.

That the District Conferences ignored structured voting time between 12:00-3:00pm

That Chairpersons/returning officers did not display voters register

That a number of Districts constructed voters register on the day of voting

That there was tinkering with the voters register citing Buikwe, Kiryandongo, Soroti and Kyenjojo

On the contrary, the secretariat committee found otherwise as outlined below;

a. The allegations of no convening of District Conferences does not tally with the results received from the districts since 110 Districts voted and only Mubende and Kiryandongo did not raise quorum as per article 11.4 of the UPC Constitution-  
**attached here are the results from the District Conferences annex 15**

b. The National Laws on voting is very clear on extension of voting time (**Get specific quotes**)

c. These are malicious allegations without proof since no evidence attached and is only stated in generalities.

d. These are lies. Soroti register was in place, Oyam never constructed voter register on 30<sup>th</sup> May 2015 except Ouke whose 2014 Elections had stopped at the sub county level and being a single constituency District, when they met elected their Executive and proceeded with the voting as per election guidelines and article 11.4 of the Party Constitution.

e. The UPC New Party Constitution is very clear on who constitutes the District Conference in line with the Party Cabinet Interpretation of 21<sup>st</sup> February 2015 endorsed by court ruling of 6<sup>th</sup> May 2015 in Olara Otunnu Roadmap, therefore the case of Soroti and Buikwe does not arise

## EVENTS ON AND AFTER THE VOTING DAY

The Rubaihayo report makes several wild allegations against some UPC MP'S in respect of their role during the tallying and verification of results from 30<sup>th</sup> May 2015-5<sup>th</sup> June 2015. They allege among others that Hon. Betty Amongi, Hon. Maxwell Akora, Hon. Ebil Ebil, Hon. Lucy Ajok stormed the tally center in the afternoon of 30<sup>th</sup> May 2015. To the contrary the secretariat committee cross checked and unearthed the following;

**25.** Hon Betty never appeared at the Party Headquarters in the afternoon as alleged by the commission, Hon. Maxwell Akora was in Lango and voted in Apac, then travelled to Kampala on 1<sup>st</sup> June 2015, The same applies to Hon. Fred Ebil. Only Hon. Lucy Ajok and Ofwono Charles were the official agents of Hon. Akena Jimmy at the Tally Center UPC Secretariat together with agents of other candidates like Cecilai Anyakoit for Julius Ocen, Oluka Jimmy for David Pulkol etc.

**26.** Only David Baliraine's phone was used to receive results and these can be verified from the MTN and Airtel Telephone Companies upon securing a Court Order to get a print out as clear proof and by close of polling all candidates knew the results since they were in touch with their agents Countrywide

**27.** Can the Commission submit the name of the agent instead of engaging in hearsay since there was no harassment of any candidate's agent at the tally center? Aroma Patrick was instructed by the Chairman Electoral Commission to call all the candidates on 1<sup>st</sup> June 2015 to send in their agents, the phone was on loud mode for all the Commissioners to listen in and all most all the Candidates conceded on phone that Akena had won the Elections and no need to waste time sending in their agents again

**28.** The statement is misleading and incorrect since results were signed on 31<sup>st</sup> May 2015 by all the agents of the candidates present and posted on UPC NET the same Sunday. These results were announced on Monday 1<sup>st</sup> June 2015 and the text dictated by the Commission typed by Aroma Patrick.

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**29.** According to PEC guidelines section 13 results were supposed to be declared within 48hours which had already lapsed and members had come to hear the final results. They were not a riotous mob as portrayed by the Commission. All these was done in the presence of the Police who were maintaining Law and Order

**30.** The term "President Elect" is invoked from article 13.2(5) of the UPC Party Constitution and articles 103(6.A) &(8) of the 1995 Constitution where upon the nomination of one candidate only that candidate gets nearly 2/3 and is unopposed like J. Akena case since the guideline only talks about 1/3 such a candidate should automatically be declared President Elect contrary to Olara Otunnu intentions of summoning PEC, Candidates and members of the illegal Elections Review Board so that they annulled the elections and smuggle in their desired candidates to the Delegates Conference without following the constitutional process.

**31.** This is an absolute lie-The PEC chairman threw his card on the table not at J. Akena in the presence of all the stakeholders i.e. Candidates, PEC members and the Illegal ERB and Olara Otunnu, that's why his card ended up in Olara Otunnu notebook.

What the Party members and the general public should appreciate is that, historically Olara Otunnu and his Chairman of Electoral Commission Buzu Adroa have been very dishonest and trickery on UPC Internal Party Primaries Elections of 2011, The election of a UPC member Chris Opoka to EALA where Olara Otunnu refused to accept the results and the verdict of Ugandan Parliament since he preferred Mr.Okello Lucima for EALA and now UPC Presidential elections where he prefers Joseph Bossa as opposed to J.Akena. So Otunnu always goes in elections with a vested interest but does not believe in the process of Free and Fair Elections-JUST LIP SERVICE!!!

**32.** The statement is totally dishonest - At the meeting all Candidates present rejected Election Review Board and preferred the matter be taken to National Council and the Delegates Conference to resolve. Pulkol David one the candidates



actually addressed the Press and stated that the results as received should not be tampered with or changed less it would be a recipe for disaster

**33.** The Party President was petitioned by Party members with the lead petitioner being Mr. Osinde Michael who invoked article 5.2(1) of the UPC Party Constitution on the basis of Olara Otunnu postponement of the Delegate's Conference indefinitely in his 21<sup>st</sup> June 2015 letter. The members consequently realized the Party could not afford to operate in a vacuum, elections are around the corner and other Parties have already moved ahead of UPC necessitating the Consultative Meeting where delegates constituted themselves into a Delegates Conference.

#### **34. Analysis of the Facts (HEARSAY RECEIVED)**

Typical of a mercenary force, The Rubaihayo Commission goes ahead to claim that the UPC Party had no capacity, time, credible registers, malfunctions, participation of non-members in the voting and above all claiming that the process of 30<sup>th</sup> May 2015 district conferences elections were not meant to produce a desired winner. However the secretariat committee found the Ruabaihayo analysis not only absurd but misleading, totally empty and an absolute disinformation.

- i. The allegation that the Secretariat was not adequately well prepared to organize elections is not only misplaced but farfetched and meant to satisfy a few selfish interests since it's not originating from the Districts who effectively carried out their constitutional mandate under article 11.2(6) of the UPC Constitution in 110 Districts with the exception of Mubende and Kiryandongo who never realized quorum. Walubiri as Secretary to the Commission and a former Cabinet member in Mama Miria Kalule Obote and Mr. Olara Otuunu government knows very well that UPC Has structures Countrywide since he personally participated in setting up those structures under National Organising Committee ,Constitutional Review Committee ,Mama Miria Presidency and Mr. Olara Otunnu Presidency



- ii. It is incredulous for the Commission to allege that the District Executives and the Constituency Executives were not known yet the Party Secretariat compiled all the registers for 112 Districts from election returns files of 2010, 2011 and 2014 available at the Party Headquarters. The claims that some of the officials got compromised is completely unfounded since Mr. Olara Otunnu appointed only his trusted staff to support the Party Electoral Commission and Denyeko a Commissioner was part of his campaign apparatus in 2010 leave alone being his own brother –then how do you compromise such a person?
- iii. All Candidates had adequate time except the winner Hon. J. Akena who joined the race thirteen days to the District Conferences Elections of 30<sup>th</sup> May 2015.
- iv. To claim that voters didn't know what happened-Then what about the District returns and results received from the districts conferences in line with article 11.2(6) of the Party Constitution-**WERE THOSE GHOSTS WHO VOTED AND SUBMITTED RESULTS TO RETURNING OFFICERS, THEN TO SUBREGIONAL COORDINATORS AND EVENTUALLY PARTY SECRETARIAT???** The Party constitution under article 5.1 empowers every UPC member to
- v. All Candidates met the Legal and Constitutional requirements that's why they were cleared by PEC
- vi. The Commissioners should read article 103(6A) and (8) of the 1995 Constitution and take Hon. David Bahati **as a case study** who was nominated unopposed in his constituency and immediately declared MP Elect in 2011Parliamentary Elections. NOW FOR UPC INCASE OF ONE CANDIDATE BEING THE ONLY NOMINEE-HOW DO YOU TERM THAT??? **"President Elect"**.

## CONCLUSIONS

In their conclusions, the Rubaihayo Commission claims some District party structures were sidelined during nomination process, the district conferences did not produce anticipated results for the party, a candidate splashed money, the process disheartened members of the party, indiscipline of party members before, during and after the nomination process, heavy involvements of non-party members in the exercise, use of threats and violence, total disregard to the Party Constitution, forceful takeover of UPC Headquarters and property, tribal sentiments playing a leading role in the nomination exercise and taking offence on the declaration of Hon. J Akena President Elect .

The secretariat committee draws completely contrary conclusions to the above as stated below;

- i. That indeed 110 Districts voted in line with article 11.2(6) of the UPC Party Constitution except two Districts that never realized quorum i.e Mubende and Kiryandongo, therefore claims that districts structures were sidelined does not hold.
- ii. That the anticipated results were not realized, Was it supposed a stage managed exercise for them to know the results in advance??? What were the anticipated results for the Party then??? Two or more candidates going to the Delegates Conference or none at all so that Mr. Olara Otunnu's term is extended indefinitely???The anticipation was **NO CANDIDATE WOULD GET 1/3 AS PER THE CONSTITUTIONAL REQUIREMENTS in article 13.2(5) OF THE UPC CONSTITUTION SO THAT MR. OLARA OTUNNU IS EXTENDED** .This unfortunately backfired when candidate J. Akena swept 67 districts representing nearly 2/3 of all District conferences that was not foreseen at all by the Mr. Olara Otunnu strategists and MOF group.
- iii. On the claims of lavish spending, If you contrast the 2010 elections where Mr. Olara Otunnu raised a lot of expectations of Party members with dollars from the USA, In this election bank record show that Mr. Olara Otunnu withdrew 111 million shillings from UPC accounts to support Mr. Joseph Bossa's Presidential Campaigns, therefore it's the biggest irony of all

ironies to accuse any other candidate in the 2015 UPC Presidential race of splashing money to voters apart from Mr. Olara Otunnu himself and clique.

- iv. To claim that Party members are disheartened by J.Akena Administration is redundant to say the least since the same Party members attended the delegates conference and happily approved their President
- v. The claims that voters were In disciplined and demoralized, to the contrary the PEC report is clear on the entire Election exercise ,video and photographic evidences are available on how members happily participated in the process
- vi. The Legal and Constitutional arrangements are very clear as defined in the Party Constitution and Elections guidelines
- vii. No evidence adduced to this effect
- viii. To the Contrary if there is anyone who have flouted the Party Constitution, it is Olara Otunnu who operated outside the Party Constitution in the last five years without convening any Party Organ
- ix. The Party members acted in defense of the Party Constitution under article 5.2(1) of the Party Constitution
- x. What is the rationale of 1/3 under the UPC Party Constitution???To the Contrary the candidate who won J. Akena was voted in 67 Districts and the only candidate who enjoyed a tribal and regional vote was David Pulkol who got Karamoja and part of Eastern Uganda.
- xi. The Delegates Conference of 1<sup>st</sup> July 2015 never endorsed the decision of the District Conferences.

### **36. RECOMMENDATIONS**

The secretariat committee finds the commission recommendations glaringly wanting as here in explained

1. The commission claims that the exercise was inconclusive contrary to as per section of the election guidelines where results were declared at the District Conferences venue
2. The recommendation that the candidates who failed flat at the District Conferences be smuggled into the delegate's conferences is not only absurd but unconstitutional. This is a total violation of article 11.2(6) of the UPC Party Constitution and section 11 of UPC election guidelines.
3. The Commission recommendation that Party members who acted under article 5.2 (1) of the Party Constitution be subjected to disciplinary proceedings and accountability has been fulfilled when accountability of events at the Party headquarters was given to the organ of the Party on 1<sup>st</sup> July 2015 at UMA Show ground Lugogo.
4. For the commission to recommend that Akena group should vacate the party headquarters is completely redundant and instead the Commission must recognize that there is a new Party Administration in place and a new Constitutional Order at Party Headquarters since 1<sup>st</sup> July/2015
5. The Commission's recommendation on the use of 2010 delegates register is contrary to UPC Cabinet interpretation of the Constitution of 21<sup>st</sup> February 2015, which was endorsed by the Court Ruling of 6<sup>th</sup> May 2015. The same registers were used during the 30<sup>th</sup> May 2015 District Conferences as directed by court, therefore the issue of 2010 delegates does not arise since Court approved Mr. Olara Otunnu roadmap. The idea of 2010 delegates is meant to manipulate the register and is not only illegal but unconstitutional and ultravires to the UPC election guidelines
6. The recommendation that "PARTY PRESIDENT" Mr. Olara Otunnu should regional committees to come up with a register as opposed to the known registers used on 30<sup>th</sup> May 2015 **smacks of very undemocratic tendencies**



**which have unfortunately punctuated his Political legacy. He believes in appointing rather than elections.**

7. The commission's recommendation of constituting committees to review the constitution with a view of amending it to bring back the central executive committee, review of size of National Council and delegate's conference points to another sinister motive since neither in the term of reference nor in the findings is documented that the above recommendations affected the 30<sup>th</sup> May 2015 District Conferences Elections. The secretariat committee therefore finds these recommendations rather diversionary.
8. The commission recommendation that the National Council and delegates conference sits is redundant and points to the fact they are not in touch with the reality of the state of affairs in the Party. The delegate's conference sat on 1<sup>st</sup> July 2015 and the National Council is underway which a ground breaking record is since Mr. Olara Otunnu in his five year term never convened any delegate's conference.
9. The recommendation to strengthen the Party Secretariat and the Party Electoral Commission immediately is the biggest propaganda and in any case it doesn't call for an illegal commission to make such as a suggestion. This a preserve of the National Council on recommendation by the Party Cabinet

#### **10.POINTS OF CONCERN FOR PARTY MEMBERS TO TAKE.**

1. The whole idea of the commission is a fallacy since Mr. Olara Otunnu as a *de facto* Party President does not have EXECUTIVE powers whatsoever to appoint a commission and in any case even his defacto presidency expired
2. The Delegates Conference of 1<sup>st</sup> July 2015 pronounced itself on the Commission rendering its report redundant, illegal, unconstitutional and a total nullity.



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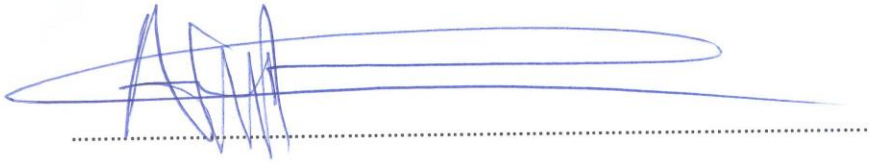
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3. The secretariat committee noted that these are **Coup plotters** who over threw the UPC Government in July 1985 e.g. 'Prof. Edward Kakonge , Mr.Olara Otunnu with his relatives Tito Okello Lutwa , Bazillio Olara Okello etc.
4. Walubiri personally drove the party in a crisis in 2010 while acting in bad faith when he refused to submit the UPC 2008 gazetting not until 13<sup>th</sup> /Jan/2012
5. For the last five years Mr. Olara Otunnu never called any Party organ and for him to pretend now to call one is really laughable.
6. There are people in MOF who believes in killing UPC to **SAFEGUARD THEIR PERSONAL INTEREST** Walubiri , Kakonge , Rubaihayo who are all part of MOF, therefore the purpose of the commission to Cover up the looting of the UPC Properties under MOF



Higenyi Kemba











Chair, UPC Chief Administrative Secretary and Delegate, Bunyole East  
Constituency, Butalega District



Aroma Patrick

**Secretary and Former UPC National Youth Leader in Olara Otunnu  
Government**

Members Present:

1. Amon Bagarukayo ..... 
2. Ofwono Charles ..... 
3. Omino Tom ..... 
4. Richard Angweri ..... 
5. Lwanga Christopher Apolo ..... 
6. Andrew omara ..... 
7. Arthur Tewungwa ..... 
8. Dr. akomo Gldeon ..... 
9. Higenyi kamba ..... 
10. Kulabako Janefer night ..... 
11. Aroma Patrick..... 