



PARLIAMENT OF THE REPUBLIC OF UGANDA

MOTION SEEKING LEAVE OF PARLIAMENT TO INTRODUCE A PRIVATE MEMBER'S BILL ENTITLED "THE CONSTITUTION (AMENDMENT) BILL, 2020".

(Moved under Articles 94(4), 259 and 262 of the Constitution of the Republic of Uganda and Rules 120 and 121 of the Rules of Procedure of Parliament)

WHEREAS Article 79 of the Constitution of the Republic of Uganda empowers Parliament to make laws for the peace, order, development and good governance of Uganda;

AND WHEREAS Article 94 (4) (b) of the Constitution and the Rules 120 and 121 of the Rules of Procedure of Parliament recognizes the right of a Member to move a Private Member's Bill;

AWARE THAT Article 86(1) of the Constitution vests the High Court with original jurisdiction to determine any question relating to the validity of election of a Member of Parliament and the Speaker and the Deputy Speaker and the declaration of vacant seats;

[Handwritten signature]

FURTHER AWARE THAT Article 86 (2) of the Constitution grants a right of appeal to a person aggrieved by the determination of the High Court to the Court Appeal;

NOTING THAT the current legal framework for handling election petitions is not only time consuming with no clear timelines but also costly and therefore calls for establishment of ad hoc Election Petition Tribunals to ensure efficiency in delivery of justice ;

FURTHER NOTING THAT vesting the determination of election petitions for Members of Parliament in election tribunals and abolishing appeal processes for such election petitions would not only ensure expeditious disposal of electoral complaints but would also reduce the cost of election litigation incurred by government and individual parties;

ALSO CONCERNED THAT the perpetuation of regional , gender and other disparities in the allocation of employment and other opportunities needs to be addressed as it threatens national unity and cohesion;

RECALLING THAT there have been several calls by Parliament to have the Uganda public service reflect a national character in recruitments and appointments in order achieve equitable distribution of employment opportunities;

NOW THEREFORE be it resolved that:



This House grants me leave to introduce a Private Member' s Bill for an Act entitled "The Constitution (Amendment) Act, 2020" a draft of which is hereto attached and do order the publication of the said Bill in preparation for its first reading.

I beg to move



MOVED BY:

Hon. Mwiru Paul, MP

Jinja Municipality- East Constituency

SECONDED BY:

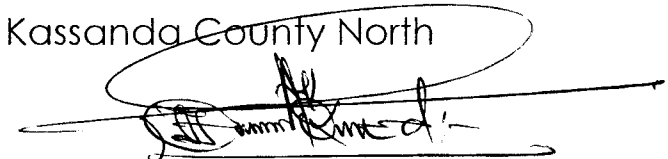
1. Hon. Asuman Basalirwa, MP

Bugiri Municipality



2. Hon. Nsamba Oshabe Patirck, MP

Kassanda County North



3. Hon. Herbert Edmond Ariko, MP

Soroti Municipality

CONSTITUTION (AMENDMENT) BILL, 2020

MEMORANDUM

1. Object of the Bill

The object of the Bill is to amend the Constitution of the Republic of Uganda in accordance with articles 259 and 262 of the Constitution—

- (a) to provide a mechanism for addressing regional imbalances in the recruitment, appointment and promotion of persons in Public offices.
- (b) to establish Election Petition Tribunals to determine:
 - (i) the election petitions arising out of parliamentary elections;
 - (ii) whether a seat of a member of Parliament has become vacant; or
 - (iii) whether a person has been validly elected Speaker or Deputy Speaker or having been so elected, has vacated that office.

2. Provisions of the Bill

PART I—AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION— PROTECTION AND PROMOTION OF FUNDMENTAL AND OTHER HUMAN RIGHTS AND FREEDOMS

Clause 1 of the Bill seeks to amend the Constitution to insert a new article 32A to provide a mechanism for addressing regional imbalances in the recruitment, appointment and promotion of persons in public offices.

PART II—AMENDMENT OF CHAPTER SIX OF THE
CONSTITUTION—THE LEGISLATURE

Clause 2 of the Bill seeks to replace article 86 of the Constitution by establishing Election Petition Tribunals to replace the jurisdiction of the High Court to hear and determine any question of validity of election or vacation of office of a member of Parliament and Speaker or Deputy Speaker.

PART III—AMENDMENT OF CHAPTER EIGHT OF THE
CONSTITUTION—THE JUDICIARY

Clause 3 of the Bill seeks to consequentially repeal Article 140 of the Constitution

HON. PAUL MWIRU

Jinja Municipality, East Constituency

ARRANGEMENT OF CLAUSES

Clause

PART I— AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION— PROTECTION AND PROMOTION OF FUNDMENTAL AND OTHER HUMAN RIGHTS AND FREEDOMS

1. Insertion of new article 32A.

PART II—AMENDMENT OF CHAPTER SIX OF THE CONSTITUTION—THE LEGISLATURE

2. Replacement of article 86 of the Constitution.

PART III- AMENDMENT OF CHAPTER EIGHT OF THE CONSTITUTION—THE JUDICARY

3. Repeal of article 140 of the Constitution.

A Bill for an ACT

ENTITLED

THE CONSTITUTION (AMENDMENT) ACT, 2019

An Act to amend the Constitution of the Republic of Uganda in accordance with articles 259 and 262 of the Constitution; to provide a mechanism for addressing regional imbalances in the recruitment, appointment and promotion of persons in Public offices; establish an Election Petition Tribunals to replace the jurisdiction of the High Court to hear and determine the validity of elected members of Parliament or a declaration of a vacant seat of a member of Parliament; or validity of an elected Speaker or Deputy Speaker or vacation of office; and for related matters.

BE IT ENACTED by Parliament as follows:

**PART I— AMENDMENT OF CHAPTER FOUR OF THE CONSTITUTION—
PROTECTION AND PROMOTION OF FUNDMENTAL AND OTHER HUMAN
RIGHTS AND FREEDOMS**

1. Insertion of new article 32A.

The Constitution is amended by inserting immediately after article 32, the following—

“32A. Affirmative action in distribution of employment opportunities.

- (1) The state shall put in place affirmative action to promote equitable distribution of employment opportunities for any office established by this Constitution, by an act of Parliament or within the Public service based on the different regions of the Country.
- (2) The Equal Opportunities Commission shall submit annual reports to Parliament on the progress made by the state for the purpose of giving effect to clause (1).”

PART II—AMENDMENT OF CHAPTER SIX OF THE
CONSTITUTION—THE LEGISLATURE

2. Replacement of article 86 of the Constitution.

Article 86 of the Constitution is substituted for the following—

“86. Determination of question of membership.

- (1) The Chief Justice shall, in consultation with the Deputy Chief Justice and the Principal Judge, by notice in the gazette, appoint Election Petition Tribunals, to serve for a term not exceeding two years.
- (2) Each Election Petition Tribunal shall be headed by a Justice of the Court of Appeal, who shall be the chairperson and four other members appointed from Judges of the High Court.
- (3) In case there is a vacancy in the membership of any Tribunal, the Chief Justice shall fill the vacancy after consultation with the Deputy Chief Justice, in case of the Chairperson, or the Principal Judge, in case of a member.
- (4) An Election Petition Tribunal shall have jurisdiction to hear and determine any question whether:
 - (a) a person has been validly elected a member of Parliament; or
 - (b) a person has been validly elected as Speaker or Deputy Speaker or having been so elected, has vacated that office.

- (5) The decision of the Election Petition Tribunal shall be final and not subject to any appeal.
- (6) The following shall apply to parliamentary elections petition hearings by the Election Petition Tribunal;
- (a) An Election Petition Tribunal shall hear and determine the petition expeditiously and shall declare its findings not later than forty-five days from the day the petition is filed;
 - (b) An Election Petition Tribunal may give summary judgment pending full judgment;
 - (c) Where an Election Petition Tribunal gives a summary judgment, it shall deliver its full judgment within six months from the date of delivery of the summary judgment;
 - (d) Each member of the Election Petition Tribunal shall be required to produce an independent judgment;
 - (e) Where an election petition has been filed before an Election Petition Tribunal, a person against whom the petition is filed shall not be gazetted for purposes of being sworn in as a member of Parliament until the final disposal of the election petition;
- (7) After the hearing a parliamentary election petition, the Election Petition Tribunal may;
- (a) dismiss the Petition; or
 - (b) declare a validly elected candidate; or
 - (c) annul the election.

- (8) Where an election is annulled, a fresh election shall be held within thirty days from the date of the annulment.
- (9) Parliament shall make such laws as may be necessary for the purposes of giving effect to this Article including laws setting out grounds of annulment of elections and laws prescribing rules of procedure for the conduct of election petitions and handling questions regarding validity of election of Speaker or Deputy Speaker or vacation of such office.”

PART III—AMENDMENT OF CHAPTER EIGHT OF THE
CONSTITUTION—THE JUDICARY

3. Repeal of article 140 of the Constitution.

Article 140 of the Constitution is repealed.