

**THE CONSTITUTION OF BUGANDA
UNDER
A FEDERAL ARRANGEMENT**

ARRANGEMENT OF ARTICLES

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Preamble

Whereas on _____ 1966, the Kingdom of Buganda and all its institutions were abolished

Whereas on _____ 1994, the ancient Kingdom of Buganda was restored by accession of Kabaka Mutebi Muwenda to the Namulondo

AND IT IS now desirable that the people of Buganda do exercise and enjoy full democratic and civil rights and responsibilities in the Kingdom

AND IT IS necessary to restore the ancient and modern institutions of the Kingdom

IT IS NOW expedient that this constitution be promulgated by the Kabaka and ratified by the people of Buganda by a popular vote.

Defining Buganda:

1. (1) The Kingdom of Buganda retains the same geographical boundaries as set out in the Independence Constitution of 1962 bar the counties of Buyaga and Bugangazi.
- (2) The sovereignty of the Kingdom of Buganda has always resided and shall continue to reside in the Kabakaship and the People of Buganda.
- (3) The Kingdom of Buganda has had and shall continue to have the people of Buganda organised in their clans and the leaders of the clans as the custodians of Buganda's laws, culture, traditions and norms.
- (4) Buganda shall be a federal state within the Federal States of Uganda and shall enjoy semi-autonomy with her own federal government under the Kabaka of Buganda:
 - (a) The local administrations within Buganda jurisdiction shall do away with the districts: and
 - (b) All local administrations shall revert back to Ssaza (county), Gombolola (sub-county), Muluka (borough) and Kyalo (village). Districts and Zone classifications shall no longer apply to Buganda Kingdom.

The Kabaka:

2. (1) Starting with the reigning monarch, Kabaka Muwenda Mutebi II, Buganda shall henceforth adopt an automatic order of succession through the male line and the first in line shall be known as the Crown Prince, starting with:
 - (a) The eldest son born to the reigning monarch and whose mother must belong to one of the 52 Buganda clans shall automatically succeed to the throne;
 - (b) Where the reigning monarch does not have a son to succeed him, the succession is passed to the reigning

monarch's brothers, whose mothers in each case must belong to one of the 52 Buganda clans, starting with the oldest;

- (c) Where the reigning monarch does not have a son or a brother to succeed him, the succession is passed to the reigning monarch's brothers' sons starting with the oldest brother's eldest living son whose mother must belong to one of the 52 Buganda clans;
- (d) A record of the line of succession shall be kept in the Record Commissioner's office and shall be displayed in the Upper House of the Lukiiko and updated both in event of birth or death for all those who fall under subsections (a), (b) and (c) of this article.
- (e) From the date of the assent of this constitution it shall be a requirement that all new entries on the record of the line of succession shall be notified before the fifth birthday of the new entrant.

(2) The Kabaka shall enjoy all the titles, dignities and pre-eminence that attach to the Kabakaship or Namulondo of Buganda—under the law and custom of Buganda and the Namasole, the Nnaalinya Lubuga, Ssabalangira and the other members of the Royal Family of Buganda shall enjoy all such titles and precedence as they have heretofore enjoyed.

(3) The Kabaka's cultural roles shall remain non-transferable however the Kabaka at his discretion may nominate anyone to represent him by writing to the Speaker of the Upper House of the Lukiiko.

(4) If for reasons of incapacity or abdication the Kabaka is unable to continue his duties, the next in line, the Crown Prince shall be asked by the Upper House to become the new Kabaka.

The Royal Household and the Royal Family:

3. (1) The Royal Family is from henceforward limited only to those descending directly from Ssekabaka Chwa.

(2) The Royal Household is limited to the reigning monarch, his brothers and sisters, his uncles and aunties who were brothers and sisters of the preceding monarch, namely all the people listed in the record of the line of succession as set out under article 2 (1), whose upkeep shall be maintained by the public purse to be determined by the Lukiiko.

The Buganda Clans and Their Administration:

4. (1) There are 52 clans in Buganda equal before the Ssabataka and under traditional cultural norms where each clan is led by Omutaka, an inherited title, providing:

- (a) the heir shall not be member of the clergy;
- (b) the heir shall be fluent in spoken and written Luganda;

- (c) the heir shall have a principle home in Buganda:
- (i) should the heir be appointed an ambassador or such like, he shall with immediate effect resign from the office of Omutaka, which shall pass on to the next in line;
 - (ii) should the heir choose to live abroad for whatever reason he shall with immediate effect resign from the office of Omutaka, which shall pass to the next in line;
 - (iii) should the heir be elected or nominated to become a member of the national parliament or any other state parliament or appointed a minister in the Uganda government, he shall with immediate effect resign from the office of Omutaka, which shall pass on to the next in line.
- (iii) the heir shall lose succession to the office of Omutaka when he marries in wedlock a woman who is not a member of Buganda's 52 clans.

(2) A record of the 52 Bataka of Buganda and the order of succession for each clan shall be kept in the Record Commissioner's office and shall be displayed in the Upper House of the Lukiiko and updated accordingly in event of death, birth or resignation.

(3) Where a clan leader is unable to continue for reasons of incapacity or due criminal conviction, the next in line, whose mother must belong to one of the 52 Buganda clans, shall be elevated to become clan leader.

(4) Starting with the reigning Bataka, the clans of Buganda shall henceforth adopt an automatic order of succession through the male line:

(a) The eldest living son born to the reigning Omutaka and whose mother must belong to one of the 52 Buganda clans shall automatically inherit the title;

(b) Where the reigning Omutaka does not have a son to succeed him, the succession is passed to the reigning Omutaka's brothers, whose mothers in each case must belong to one of the 52 Buganda clans, starting with the oldest;

(b) Where the reigning Omutaka does not have a son or a brother to succeed him, the succession is passed to the reigning Omutaka's oldest brother's eldest son, etc., whose mother must belong to one of the 52 Buganda clans.

(5) Each clan shall organise to elect a Clan Katikkiro (Clan Secretary General) to serve for a period of four years renewable, who shall co-ordinate all clan activities, arranges the official diary of the clan leader and submits an annual record of the clan cultural activities to the Buganda Record Commissioner under article 25 of this constitution.

Upper House of the Lukiiko:

5. (1) The Upper House or the Second Chamber of the Lukiiko shall be composed of the (*Bataka*) clan heads of Buganda's 52 clans as defined in

paragraphs (1), (2) and (3) of article 4; the Kiganda Chieftainships¹; the 20 Ssaza chiefs; 10 Kabaka appointees from the professions and public life; and the Ssabalamuzi² of Buganda.

(2) The Kabaka shall appoint a Chief Justice (*Ssabalamuzi*) who shall be a cabinet minister and the legal ex-official of the Upper House.

(3) The 10 Kabaka appointees referred to in paragraph 1 of this article shall serve a fixed term of 10 years non-renewable and may include Baganda living in the diaspora, who, when appointed shall undertake to attend no less than 3 separate daily sessions not consecutive in any calendar year.

(4) The clan head acting together with his clan councils (of *mituba* heads) may choose to nominate a clansman to represent the clan in the Upper House during a debate in his absence for whatever reason.

(5) The Upper House shall act as a revision chamber, reviewing and amending all legislation and recommending the changes to the Lower House, which shall be minded to consider the recommendations.

(6) The Upper House members shall be remunerated by way of subsistence and travel allowances only.

(7) The Upper House shall elect among its hereditary membership a speaker and deputy speaker to serve for terms of 4 years except in the event of death, incapacity or for bringing the good name of the House into disrepute.

(8) The Upper House shall have powers to make its own rules of procedure and shall meet no less than once every three calendar months.

(9) The Upper House shall have exclusive power to initiate the making of laws on Kiganda culture, traditions and norms.

Lower House of the Lukiiko:

6. (1) The Lower House shall consist of:

- (a) directly elected members representing each of the Gombololas (sub-counties) in Buganda both rural and urban, which shall constitute the natural permanent electoral boundaries in Buganda notwithstanding population growth;
- (b) 20 directly elected women representatives from each of the 20 Ssaza (counties) of Buganda;
- (c) the Kabaka shall appoint with the approval of the Upper House one specially elected member, who will also be a Cabinet Minister without Portfolio who shall be an ex-official of the Lower House;

¹ Kimbugwe - Keeper of the Umbilical Cord and Mujasi – Commander-in-Chief.

² The Ssabalamuzi is the Chief Judge of Buganda and Chief Legal Adviser to the Upper House.

(d) the Kabaka shall appoint with the approval of the Upper House an Attorney General who shall be ex-official of the Lower House.

(2) Members of the Lower House shall serve for fixed terms of 4 years after which fresh elections shall be held to elect a new Lower House.

(3) Whenever a vacancy exists in Lower House in the event of death or resignation or for any other reason, the Clerk to the Lower House shall notify the Buganda Electoral Commission in writing within 14 days of the vacancy occurring and the Electoral Commission shall organise a by-election within 60 days after notification except where a general election is scheduled within 6 months of the notification.

(4) The Lower House shall elect its own speaker and deputy speaker by a simple majority through a secret ballot.

(5) The Lower House shall adopt the rules of procedure as used in the Uganda National Parliament.

(6) Members of the Lower House shall be paid wages equal to the wages paid to Members of the National Parliament.

(7) On being elected member of the Lower House, the member shall declare all their assets and holdings and that of their spouses, children and other dependants.

(8) Members of the Lower House shall invest all their assets and holdings in trust during the period they serve as Members of the Lower House.

(9) To qualify to be a member of the Lower House, a candidate:

- (a) shall be over 25 years and under 75 years;
- (b) shall be a fluent speaker, writer and reader of Luganda;
- (c) shall have been a resident in the constituency he/she seeks to represent for no less than five years;
- (d) shall not have stood in any other federal state of Uganda as candidate;
- (e) shall have had an education but not necessarily an academic qualification;
- (f) shall be proposed by no less than 5 propertied residents of 10 years standing in each of the Mirukas within the constituency (Gombolola):
 - (i) each propertied resident shall only propose one candidate at any given election;
 - (ii) each propertied resident shall have his or her name displayed publicly by the Returning Officer; and
 - (iii) each propertied resident shall have one principal home.

(10) The Lower House shall have power to initiate the making of laws compatible with the constitution of Uganda on welfare, development, law and order, education, transport infrastructure, property, etc.

(11) A person is not qualified for election as a member of the Lower House if that person:

- (a) fails to swear allegiance to Buganda, Kabaka and his people and for which he or she shall be called to account;
- (b) is of unsound mind;
- (c) is a member of parliament of the National Parliament or any other state parliament;
- (d) is a civil servant with either central or state governments;
- (e) has been adjudged or otherwise declared bankrupt under any law in force in Uganda and has not been discharged;
- (f) has served or is serving a prison sentence exceeding nine months imposed by an independent competent court without the option of a fine.

(12) A member of the Lower House shall not hold any office of profit or remuneration likely to compromise serving as a member of the Lower House.

Dissolution and Procedure when the new Lukiiko meets thereafter:

7. (1) The Kabaka shall dissolve the Lower House as set out in paragraph (2) of this article.

(2) The Lower House of the Lukiiko shall continue for a fixed period of four years from the date of its first sitting after its dissolution and shall then stand.

(3) When the Lower House of the Lukiiko meets for the first time after the dissolution thereof, the resignation of the Cabinet shall be tendered.

(4) The Lower House shall then proceed to elect a speaker and a deputy speaker of the House.

(5) When the resignation of the Ministers has been tendered in accordance with paragraph (3) of this article, a Katikkiro-designate shall be elected in accordance with the procedure laid down in article 8 of this Constitution and candidates for the ministerial offices shall be elected in accordance with the procedure laid down in article 8 of this constitution.

(6) Members shall, in turn, swear allegiance to the Kabaka of Buganda.

Election of Katikkiro and Deputy Katikkiros:

8. (1) The Speaker of the Lower House of the Lukiiko shall fix a day by which nominations of candidates for the office of Katikkiro shall be submitted to him.

- (2) Any elected member of the Lower House may be nominated as a candidate for the office of Katikkiro by not less than five members of all members of the Lower House.
- (3) Nominations shall be submitted in writing signed by the members making them, to the Speaker on or before the day fixed by him in that behalf.
- (4) The Speaker shall prepare a list of the persons who have been duly nominated and shall cause copies of the list to be laid before the House.
- (5) On the fifth weekday after the list has been laid or such other day as the Speaker shall consider convenient, the Lower House shall by secret ballot elect five candidates of whom two shall be women to be forwarded to the Upper House, which shall choose three names of whom one shall be a woman to be forwarded to the Kabaka to appoint one as Katikkiro, one First Deputy Katikkiro and one Second Deputy Katikkiro.
- (6) If at any time the office of the Katikkiro is vacant, the Speakers of both the Lower House and Upper House shall keep the Kabaka informed of the progress of elections under this article.

Election of Candidates for Ministerial offices:

9. (1) When the Katikkiro has been elected, the Speaker of the Lower House of the Lukiiko shall fix a day by which nominations of candidates for the ministerial offices shall be submitted to him.
- (2) Any elected member of the Lower House may be nominated as a candidate for the ministerial offices, by not less 5 members of the House.
- (3) Nominations shall be for the ministerial offices generally and not for any particular ministerial office bar the Minister of Internal Affairs; Minister of Land, Local Government and Rural Affairs; and the Chief of the Treasury whose elections shall be referred to the Upper House who will recommend their appointment by the Kabaka. Nominations, seconded by no less than five members, shall be submitted in writing, signed by the persons making them, to the Speaker of the Lower House, on or before the day fixed by him in that behalf:
Provided that;
 - (a) no person other than the Katikkiro-designate shall join in nominating and seconding more than one candidate.
 - (b) the Katikkiro-designate shall not nominate more than five candidates.
- (4) The Speaker of the Lower House shall prepare a list of the persons who have been duly nominated for election for ministerial offices and shall cause copies of the list to be laid before the House and, if the names of fifteen nominees or more appear on the list, the Lukiiko shall on the third weekday thereafter, or on such other day as the Speaker shall

consider convenient, by secret ballot elect as candidates for the ministerial offices a number agreed by both Houses of the Lukiiko.

(5) Except for the candidates for the office of Minister of Internal Affairs; Minister of Land, Local Government and Rural Affairs; and Chief of the Treasury, the Katikiro-designate shall select persons for appointment to the: Ministry of Health; Ministry of Works; Ministry of Education; Ministry of Planning and Marketing; Ministry of Sports and Entertainment; Ministry of Culture and the Arts; Ministry of Trade and Commerce; Ministry of Farming and Agriculture; Ministry of Development and Cottage Industry; Ministry of Tourism and Wildlife; Ministry of Information and Public Affairs; and other Ministries as the Lower House shall decide, from the persons whose names appear on the list of successful candidates.

(6) The Katikiro-designate shall submit the names of the persons selected under the foregoing provisions of this article to the Kabaka with a recommendation that each person shall be appointed to a particular ministerial office.

(7) The nominations for the office of Minister of Internal Affairs; Minister of Land, Local Government and Rural Affairs; and Chief of the Treasury, three in each case, shall be forwarded to the Upper House for scrutiny of whom three candidates shall be recommended to the Kabaka for appointment to the three offices.

(8) If at any time the office of the Katikiro, or First Deputy Katikiro, or Second Deputy Katikiro, or Minister of Internal Affairs, or Minister of Land, Local Government and Rural Affairs or Chief of the Treasury is vacant, the Speaker shall keep the Kabaka informed of the progress of elections under this article.

(9) The Kabaka shall appoint with the approval of the Upper House a Minister without Portfolio who shall be a cabinet minister and an ex-official of the Lower House.

Tenure of Ministers:

10. (1) When the names of persons selected for the ministerial offices have been submitted to the Kabaka, the Kabaka shall appoint the Katikiro-designate to be Katikiro and, not earlier than the following day, the Kabaka shall appoint the persons selected to the ministerial offices for which they have been recommended by the Upper House and the Katikiro-designate by receiving their homage and allegiance in customary form in respect of such offices.

(2) The Upper House may recommend if it so chooses that the two Deputy Katikiros be designated as Ministerial Heads.

(3) The Ssabalamuzi; the Attorney General; the Minister of Internal Affairs; Minister of Land, Local Government and Rural Affairs; the Chief of the Treasury; and the Minister without Portfolio will serve for 4 years, the duration of the life of the Lower House, unless the Kabaka on the advice of the Lukiiko chooses to replace them with new appointments.

(4) In the event of death, incapacity, misconduct or resignation of any minister an election under article 9 (3) and (4) shall be held on the third day of such event happening.

(5) On the advice of the Katikkiro and in consultation with the Lower House with the agreement of the Upper House, Kabaka shall decide whether or not to increase or decrease the number of ministers.

Transfer of Ministers:

11. (1) The Kabaka may, on the recommendation of the Katikkiro, transfer the holder of any ministerial office appointed under article 9 (6) to another such ministerial office.

(2) When any person is to be transferred from one ministerial office to another under this article, he shall tender his resignation from one ministerial office to another under this article, he shall tender his resignation from the office that he is relinquishing to the Kabaka, who shall then receive his homage and allegiance in customary form in respect of the office to which he is being transferred.

Special Procedures for financial measures:

12. (1) If any Appropriation Bill or Supplementary Appropriation Bill of the Cabinet or any Bill or motion for making financial provision for any purpose is proposed in the Lower House by a Minister, and the Bill or motion is rejected by the Lukiiko, the Katikkiro may give notice to the Speaker that he proposes to treat the said Bill or motion as a matter of confidence in the Minister.

(2) At any time not less than fourteen days and not more than twenty-eight days after notice has been given to the Speaker in pursuance of paragraph (1) of this article, a Minister may again introduce the Bill or motion with or without amendment.

(3) If the Bill or motion is then rejected by the Lower House by the votes of not less than two-thirds of all the members of the Lower House, a vote of no confidence in the Minister shall be deemed to have been carried by the Lower House, and the resignation of the Minister shall be tendered in accordance with the provisions of paragraph (3) of article 10 of this constitution.

(4) All Cabinet proposals on public policy or expenditure shall be brought to the floor of the Lower House for consideration where failure to do so renders the decision invalid.

(5) In this article the expression “ rejected by the Lower House” means not passed by the Lower House without amendment or passed by the Lower House with amendments that are not acceptable to the Ministry or Minister or the Cabinet.

Grounds for Termination of Minister Appointment:

13. (1) The Kabaka shall terminate with immediate effect the appointment of a Minister if he or she is convicted of a criminal offence and is sentenced to imprisonment without the option of a fine.

(2) If a Minister is charged or convicted of a criminal offence and is not sentenced to imprisonment without the option of a fine, and the offence in the opinion of the Kabaka might involve moral turpitude, the Kabaka shall appoint a committee, consisting of such persons as he shall deem suitable, to enquire into the nature of the offence, and the committee shall, if it is satisfied that the offence involved moral turpitude, inform the Kabaka accordingly, and thereupon the Kabaka shall terminate the appointment of the Minister.

(3) If in opinion of the Kabaka a Minister may have become incapable of performing his functions as a Minister by reason of physical or mental infirmity, the Kabaka shall appoint a committee consisting of such persons as he shall consider suitable to enquire into the matter, and the committee shall, if it is satisfied that the Minister by reason of physical or mental infirmity, inform the Kabaka accordingly and thereupon the Kabaka shall terminate the appointment of the Minister.

(4) If in opinion of the Katikkiro any Minister has failed to carry out the policy or the decisions of the Ministry either persistently or in respect of an important matter, he may call a meeting of the Ministers, and propose that the Minister should be dismissed. The proposal shall be put to the vote, and if a majority of the votes of the Ministers are cast in favour of the proposal, the Katikkiro shall recommend to the Kabaka that he should terminate the appointment of that Minister and the Kabaka shall terminate the appointment accordingly.

(5) If there are public allegations against any Minister in the Cabinet, the Lower House shall elect a committee or shall request one of its standing committees to investigate the allegation. If in the opinion of the Lower House a censure motion is recommended and by a majority vote the Minister is defeated by the censure vote, the Katikkiro shall recommend to the Kabaka that the appointment of that Minister to be terminated accordingly.

(6) In this article, the Kabaka will take advice from the Attorney General before taking action on the Katikkiro's recommendations.

The Attorney General of Buganda:

14. (1) The Attorney General for Buganda shall be the principle legal advisor to the Cabinet and a member of the Cabinet.
- (2) The Attorney General of Buganda shall be entitled to appear on behalf of the Cabinet in all civil proceedings in which the Cabinet is a party.
- (3) The Attorney General of Buganda shall be entitled to take part in the proceedings of the Lower House, but shall not be entitled to vote.

Electoral Commissioners:

15. (1) The Kabaka on the recommendation of the Upper House shall appoint a Chief Electoral Commissioner to serve for a period of 6 years non-renewable.
- (2) The Kabaka on the recommendation of the Upper House shall appoint four Electoral Commissioners to serve for a period of 6 years non-renewable.
- (3) The Administrative Secretary of the Gombolola Council, nominated by the Gombolola Council and recommended by the Ssaza Council and appointed to that office by the Kabaka, shall be the constituent electoral returning officer for a period not exceeding 7 years.
- (4) A Gombolola as stated in paragraph (1) of article 6 shall be the natural Lower House constituency of the Lukiiko and there shall be no need for a Boundary Commission in Buganda.
- (5) The Electoral Commission shall be responsible for the annual update of the electoral register, which shall take place in the month of November and for this reason there shall not be any general elections in Buganda in the months of November and December.
- (6) The Federal Government at the centre shall contract the Buganda Electoral Commission to run federal elections in Buganda on behalf on the Uganda Electoral Commission.

Determination of questions as to membership of the Lukiiko:

16. (1) The High Court of Buganda shall be the court of first instance to hear and determine any question whether any person has been validly appointed, dismissed, selected or elected as a member of the Lower House of the Lukiiko.

(2) Any member of the Lukiiko convicted of a criminal offence without the option of a fine shall be stood down.

Speaker and Deputy Speaker:

17. (1) When the Lower House first meets after any dissolution thereof under article 8, the members present shall, before transacting any other business, elect a Speaker and a Deputy Speaker of the Lower House.

(2) As often as the office of Speaker and Deputy Speaker fall vacant otherwise than by reason of dissolution of the Lower House, the members thereof shall as soon as practicable elect a person to the office.

(3) No person shall be elected to be Speaker unless he is an elected member of the Lower House.

(4) No person shall be elected as Deputy Speaker unless he is an elected member of the Lower House.

(a) The Speaker shall receive a salary as may from time to time be determined by the Lower House.

(b) The office of the Speaker or the Deputy Speaker shall become vacant:

- (i) upon a dissolution of the Lower House;
- (ii) if the holder of the office resigns his office by writing under his hand addressed to the Kabaka;
- (iii) in the case of the Deputy Speaker, if he ceases to be a member of the Lower House otherwise than by reason of a dissolution thereof; or
- (iv) if his appointment is terminated by a resolution of the Lower House upon a motion proposed by not less than two thirds of members of the Lower House..

Presiding in Lower House:

18. There shall preside at meetings of the Lower House;

(a) the speaker;

(b) in the absence of the Speaker, the Deputy Speaker;

(c) in the absence of the Speaker and the Deputy Speaker, such person as may be elected by the Lukiiko from among the elected members of the Lukiiko.

Standing Orders for Lukiiko:

19. Subject to the provisions of this Constitution, the Lukiiko may make Standing Orders for the regulation and orderly conduct of its own proceedings and for the passing of Buganda's laws.

Determination of questions in Lower House:

20. (1) Save as otherwise provided in this Constitution;
- (a) all questions proposed for decision in the Lower House shall be determined by a majority of the votes of the members present and voting;
 - (b) neither the Speaker, nor the Deputy Speaker, nor any member of the Lower House while presiding therein, shall have a vote or be entitled to take part in debate;
 - (c) if on any question the votes are equally divided, the motion shall be lost.
- (2) No business except that of adjournment shall be transacted in the Lower House if there are present (beside the Speaker or other person presiding) less than sixty members of the Lukiiko.

Legislature of Buganda:

21. (1) The Legislature of Buganda shall consist of the Kabaka acting with the advice and consent of the Lukiiko.
- (2) The power of the Legislature of Buganda to make laws shall be exercised by bills passed by both houses of Lukiiko and assented to by the Kabaka.
- (3) After review and where principle differences appear between the two Houses of the Lukiiko, the Upper House may only once refer any bill back to the Lower House for reconsideration., and upon such reconsideration, The Upper House pass the bill.
- (4) The Kabaka may choose not to assent and the bill shall be referred to the Lukiiko with the Kabaka's objections in writing for reconsideration and upon such reconsideration, the Kabaka shall assent to the bill.
- (5) When a bill has been passed by the Lower House it shall be reviewed by the Upper House and upon approval submitted by the Katikkiro to the Kabaka, who shall sign the same in token of the same.
- (6) A law enacted by the Legislature of Buganda shall be published in Luganda and in English in *Akiika Embuga* and the *Uganda Gazette* respectively and shall come into operation on the date of publication or on such other dates as may be provided in the law.

Authorisation of expenditure:

22. (1) The Chief of the Treasury (*Omuwanika*) shall cause to be prepared and laid before the Lower House in each financial year estimates of the revenues and expenditure of Buganda for the following financial year.

(2) The heads of expenditure contained in the estimates shall be included in a bill to be known as an Appropriation bill, providing for the issue from the funds of the Cabinet of the sums necessary to meet that expenditure and the appropriation of those sums specified therein.

(3) If in respect of any financial year it is found that the money appropriated by the Appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the appropriation law, a supplementary estimate showing the sums required shall be laid before the Lower House and the heads of any expenditure shall be included in a supplementary Appropriation bill.

(4) Before submitting estimates to the Lower House the Omuwanika shall cause those estimates to be sent to the Minister of Finance of the Uganda Government and the Cabinet shall consider the comments of that Minister on those estimates.

Audit of Accounts:

23. (1) The public accounts of the Cabinet shall be audited and reported to the Lukiiko by the Auditor General of Buganda or by such other auditor as may be approved by the Lukiiko and for that purpose the auditor or any person authorised by him in that behalf shall have access to all books, records, reports, and other books relating to which they refer.

(2) The Cabinet shall send to the auditor the accounts of that Government duly made up within 14 days of the conclusion of the period to which they refer.

(3) The Auditor General of Buganda shall submit his report to the Lukiiko for debate, which after the Lukiiko's resolution shall make recommendations to the Kabaka to decide a course of action if any.

(4) Let it be recorded that the annual Auditor General's report shall be presented to the Lower House on the last working day of July and the budget of Buganda shall be presented to the Lower House on the last working day of March.

Taxation:

24. (1) Income Tax, Graduated Tax, Motor Licensing and Excise & Duties are acknowledged as national taxes and their fair dispersal is the responsibility of the Federal Treasury for the benefits of all states.

(2) Trade licences, Service Rates charges, Property taxes shall be set by the Lower House with the agreement of Upper House and presented to the Kabaka by the Katikkiro for his assent.

(3) The Ethnic Tax shall be a voluntary tax for development to be enforced by clan heads and collected by the Buganda Treasury from every working Muganda wherever he or she may happen to reside. The Chief to the Treasury shall keep a record of Ethnic Tax collection by clan to be read out during the annual budget speech.

(4) No local tax shall be imposed except under the authority of an Act of the Lukiiko.

The Records Commission:

25. (1) The Records Commission shall store all official records on Buganda, its institutions and its people and shall be answerable to the Upper House, where the Head of the Records Commission shall present an annual report running from 1st April to 31st March the following year.

(2) The Kabaka on the advice of the Upper House and in consultation with the Katikkiro shall appoint the Head of the Records Commission to be known as the Records Commissioner to serve for a fixed term of five years renewable.

(3) The Records Commission shall be an independent body not falling under any ministry of the Cabinet

(4) The Records Commission shall be the custodian of the Buganda register of birth and death by clan deposited annually by the respective Clan Katikkiros of the 52 clans of Buganda.

Public Accounts Committee:

26. (1) The Lower House shall appoint a Public Accounts Committee from amongst its members whose duties shall be to consider the accounts of the Cabinet in conjunction with the auditor's report and to report to the Lower House;

(a) in the case of any excess or unauthorised expenditure of funds and the reasons for such expenditure: and

(b) any measures it considers necessary in order to ensure that the funds of the Cabinet are properly and efficiently spent.

(2) The Public Accounts Committee shall investigate and take evidence from professionals, public officials, politicians and members of the public.

(3) The Public Accounts Committee shall be entitled to see any observations made by the Minister of Finance of the Government of Uganda under the provisions of paragraph 4 of article 22 of this Constitution.

Committees of Lower House:

27. (1) The Lower House may establish committees and *ad hoc* committees, consisting of members of the Lower House, for any purpose.
- (2) The Lower House may establish standing committees to investigate and advise Ministers in the following areas of government;
- (a) finance and commerce;
 - (b) public order;
 - (c) public works;
 - (d) education;
 - (e) health;
 - (f) natural resources;
 - (g) local government and community development;
 - (h) tourism and wild life.
- Provided that the Lower House may by resolution vary the subjects specified in this paragraph.
- (3) Each standing committee established under paragraph (2) of this article shall have powers to summon ministers, civil servants and members of the public. Failure to appear will be treated as contempt and the Lower House shall choose the form of punishment for those who treat the House with contempt.

Ministerial Responsibilities:

28. (1) Collective responsibility binds ministers to take a similar position publicly on all Government policies -
- (a) public disagreement over Government policy by ministers shall be investigated by the Public Accounts Committee which may in its wisdom advise on the dismissal of a minister.
 - (b) ministers shall not be contradicted by their civil servants, who shall not make any public announcements without the express permission of their ministers.
- (2) Whereas ministers are free to make comments on any political issues they shall avoid making public announcements on issues outside their ministries.
- (3) Ministers representing fellow ministers shall strictly limit themselves to the official brief.
- (4) For personal conduct, and for purely departmental aspect of his or her duties, each minister is individually and collectively responsible to the Lower House.

The High Court of Buganda and her subordinate courts:

29. (1) Buganda High Court shall exercise supreme jurisdiction in all matters relating to the laws, customs and traditions of Buganda except in such matters where the courts of the Federal Union of Uganda have a

concurrent jurisdiction. The head of the Buganda High Court will be the Buganda Chief Justice (*Ssabalamuzi*) who shall be responsible for the implementation and administration of justice in Buganda assisted by the Buganda Court Services as the support service.

(2) The High Court shall have three divisions; each headed by a President who shall be responsible for organising the listings of judges

- (a) the Criminal Division;
- (b) the Civil Division; and
- (c) the Commercial Division

(3) There shall be County Courts below the High Court, one at every county (*Ssaza*) administrative area.

(4) There shall be Magistrates' Courts below the County Courts, one at every sub-county (*Gombolola*) administrative area, sitting either with a panel of three lay magistrates or one stipendary magistrate.

(5) The Kabaka shall appoint the Chief Justice and all High Court and County Court judges by Royal Warrant to be prepared by the Public Service Commission at the advice of the Upper House.

(6) The Public Service Commission shall appoint magistrates through an open competition, run and supervised by the Public Service Commission.

(7) The Chief Justice shall serve a term of 10 years not renewable or as the Lukiiko shall determine through an Act of the Lukiiko.

(8) Members of the Judiciary shall serve up to the age of 65 or as the Lukiiko shall determine through an act of the Lukiiko. And members of the Judiciary shall be barred from practising after their retirement from the Bench.

Arbitration in cultural and clan disputes:

30. (1) Inter-clan and internal clan disputes shall be settled in the cultural court where the Ssabataka's or his nominee's ruling shall be binding and not open to appeal.

(2) Matters of inheritance shall be referred to the cultural court before any application to the High Court can be entertained.

- (a) the cultural court shall have two levels:
 - (i) the ordinary cultural court; and
 - (ii) the cultural court of appeal otherwise known as Kisekwa's court;

(b) there shall be court facilities at every Saza to hear cultural petitions.

(c) a panel of cultural judges will be nominated by the Upper House and appointed the Kabaka on a part-time basis.

(d) the cultural judges will be remunerated per each day sat at a rate set by the Lower House in consultation with the Ssabalamuzi.

(3) Matters of traditional marriage and family shall be referred to the cultural court before any application to the High Court can be entertained.

(4) A list of cultural court judges or commissioners who shall be appointed on a temporary part time basis per case shall be kept in the Ssabalamuzi's office:

- (a) they shall be versed in cultural norms and procedure
- (b) they shall be over 35 years and shall retire at 75 years
- (c) they shall be of high integrity and social standing
- (d) they shall sit either as judges or expert commissioners without a jury or assessors:
 - (i) cultural court sessions shall take place with the arrangement of Buganda Court Services to make available accommodation for cultural court sessions at any Saza.
 - (ii) the Cultural Commissioner shall consult as widely as possible before making his or her decision.
 - (iii) the decision of the cultural court shall be given within 21 from completion of the hearing.

Buganda Public Service Commission:

31. (1) There shall be established a Buganda Public Service Commission (hereinafter in this article referred to as "the Commission") with an administrative secretariat, and the Commission shall be nominated by the Cabinet shall consist of:

- (a) a Chairman who shall be appointed by the Kabaka in consultation with the Lower House for a fixed term non-renewable; and
- (b) four persons of exceptional character who shall be appointed by the Kabaka in consultation with the Lower House for a fixed term non-renewable.

(2) The Commission shall be responsible for all appointments and supervision of Buganda's career civil service and the judiciary.

(3) The Cabinet shall nominate only those candidates with experience of 7 years standing in public affairs or 10 years practise in a recognised profession.

(4) The office of a person appointed to be a member of the Committee in pursuance of sub-paragraphs (a) or (b) of paragraph (1) of this article, shall become vacant;

- (a) in case of the Chairman, at the expiration of 7 years from the date of his appointment;
- (b) In the case of a member of the Commission other than the chairman, at the expiration of 6 years from the date of his appointment;
- (c) if he resigns;

- (d) if his appointment is terminated under paragraph (5) of this article.
- (5) (a) The Kabaka shall terminate the appointment of a member of the Commission if he is convicted of a criminal offence and is sentenced to imprisonment with the option of a fine.
- (b) If a member of the Commission is convicted of a criminal offence and is not sentenced to imprisonment without the option of a fine, and the offence in the opinion of the Kabaka might involve turpitude, the Kabaka shall appoint a committee chaired by a judge and consisting of 3 persons as he shall consider suitable, to enquire into the nature of the offence; and the committee shall, if it is satisfied that the offence involves moral turpitude, inform the Kabaka accordingly, and thereupon the Kabaka shall terminate the appointment of the member.
- (c) If in the opinion of the Kabaka a member of the Commission may have become incapable of performing his functions as a member of the Commission by reasoning of physical or mental infirmity, the Kabaka shall appoint a committee chaired by a judge and consisting of 3 persons as he shall consider suitable to enquire into the matter; and the committee shall, if it is satisfied that the Commission by reason of physical or mental infirmity, inform the Kabaka accordingly, and thereupon the Kabaka shall terminate the appointment.

(6) A person is not qualified for appointment as a member of the Buganda Public Service Commission if he or she is:

- (a) a member of the Lukiiko; or
- (b) a member of the national Parliament; or
- (c) a member of any federal state or any other local government unit; or
- (d) a member of the executive of a political party; or
- (e) a public officer.

(7) The Chairman and members of the Commission shall be remunerated from the public purse:

- (a) The Chairman shall be a Grade 2 office only second to the permanent secretaries; and
- (b) Members of the Commission shall be remunerated at Grade 4 level.

Buganda Land Board:

32. (1) (a) There shall be a Buganda Land Board responsible for all land transactions in Buganda whose Chairman shall report to the Minister of Land, Local Government and Rural Affairs who is responsible to the Lukiiko.
- (b) The Land Board shall have 4 other members to be nominated by the Cabinet, appointed by the Kabaka upon consultation with the Upper House.
- (c) The Land Board shall be an Executive Agency under the Ministry of Land, Local Government and Rural Affairs.

(2) The Buganda Land Board shall deposit a record of titles with the Records Commission

(3) The Buganda Land Board shall keep a public register of all land transactions in Buganda and publish whatever charges it seeks to make for every category of work carried out by the Buganda Land Board.

(4) The Chairman and Board members shall be appointed for a fixed term and under conditions of services as set out above for the Buganda Public Service Commission and shall be similarly remunerated.

Buganda Prison Service Commission:

33. (1) Buganda Prison Service shall be an Executive Agency under the Ministry of Internal Affairs responsible for the administration and running of all prisons under the Cabinet.

(2) The Cabinet, after consultation with the Uganda Prison Service Commission, may make regulations, to be known as the Buganda Prisons Staff Regulations, for all or any of the following purposes relating to persons in or desiring to enter the service of the Buganda Prison Service;

(a) the manner in which the Buganda Prison Service Commission shall carry out its functions;

(b) the maintenance of discipline;

(c) the regulation of appointments (including appointments on promotion and transfer), remuneration, termination of appointments and leave;

(d) providing for suspension from duty and salary to be paid during such suspension;

(e) regulating the payment of allowances, the making of advances and other terms and conditions of service; and

(f) such other matters relating to departmental procedure and the duties and responsibilities of chiefs, officers and employees, as the Cabinet considers can be best regulated by such regulations.

(3) The Buganda Prisons Staff Regulations in so far as they relate to discipline, may without prejudice to the generality of the provisions of paragraph (2) of this article, provide for;

(a) withholding or deferring increments either permanently or for a specified period;

(b) reduction in rank or salary either permanently or temporarily; and

(c) deductions from salary in respect of damage to property caused by misconduct or breach of duty.

(4) The Buganda Prisons Staff Regulations as from time to time in force shall except as otherwise provided in such regulations or in any contract of service form part of the terms of service of any person to whom they apply.

(5) The Chairman and 4 Board members shall be appointed for a fixed term and under conditions of services as set out above for the Buganda Public Service Commission and shall be similarly remunerated.

Buganda Police Service Commission:

34. (1) Buganda Police Service shall be an Executive Agency under the Ministry of Internal Affairs responsible for the administration and running of all policing under the Cabinet.

(2) The Cabinet, after consultation with the Buganda Police Service Commission, may make regulations, to be known as the Buganda Police Staff Regulations, for all or any of the following purposes relating to persons in or desiring to enter the service of the Cabinet;

(a) the manner in which the Buganda Police Service Commission shall carry out its functions;

(b) the maintenance of discipline;

(c) the regulation of appointments (including appointments on promotion and transfer), remuneration, termination of appointments and leave;

(d) providing for suspension from duty and salary to be paid during such suspension;

(e) regulating the payment of allowances, the making of advances and other terms and conditions of service; and

(f) such other matters relating to departmental procedure and the duties and responsibilities of chiefs, officers and employees, as the Cabinet considers can be best regulated by such regulations.

(3) The Buganda Police Staff Regulations in so far as they relate to discipline, may without prejudice to the generality of the provisions of paragraph (2) of this article, provide for;

(a) withholding or deferring increments either permanently or for a specified period;

(b) reduction in rank or salary either permanently or temporarily; and

(c) deductions from salary in respect of damage to property caused by misconduct or breach of duty.

(4) The Buganda Police Staff Regulations as from time to time in force shall except as otherwise provided in such regulations or in any contract of service form part of the terms of service of any person whom they apply.

(5) The Chairman and Board members shall be appointed for a fixed term and under conditions of services as set out above for the Buganda Public Service Commission and shall be similarly remunerated.

Appointment of Ssaza and Gombolola Chiefs:

35. (1) At the head of each Saza in the Kingdom of Buganda there shall be a Saza Chief, appointed by the Kabaka on the advice of the Cabinet. The Saza Chief, who shall be a member of the Upper House by virtue of his

office, shall chair the Saza Council meetings of elected officials. The Saza Chief shall be head of Saza Administration and shall be guided by the Saza Council in the administration of the Saza.

(2) Each Saza shall be divided into Gombololas and each such Gombolola shall be the charge of a chief who shall be styled a Gombolola chief to be appointed by the Kabaka on the advice of the Cabinet. The Gombolola Chief shall chair the Gombolola Council meetings of elected officials. The Gombolola Chief shall be head of Gombolola Administration and shall be guided by the Gombolola Council in the administration of the Gombolola.

(3) Each Gombolola shall be divided into Miruka, and in each Muluka there shall be a chief styled as the Muluka Chief, who shall be the elected chairman of the elected Muluka Council by popular suffrage

(4) Each Muluka shall be divided into Village administrations, and in each Village there shall be a chief styled as the Omutongole, who shall be the elected chairman of the elected Village Council by popular suffrage.

(5) Responsibilities:

(a) The Saza (County Hall) Council shall be responsible for local health needs; roads and transport; marketing and development;

(b) The Gombolola (Town Hall/Sub-County) Council shall be responsible for schools; community centres; youth programmes;

(c) The Muluka (Parish Hall) Council shall be responsible for investigating and resolving local disputes on land, new residents, taking forward cultural disputes, community associations

(d) The Village Council shall be responsible for good neighbourliness and family disputes

Election of Ssaza, Gombolola, Muluka and Parish Councils:

36. (1) The Saza Council made up of elected officials and chaired by the Saza Chief shall decide policy and the Saza Chief shall be responsible for implementing that policy.

(a) The Saza Council shall have a maximum of 35 councillors but not less than 25.

(b) Each Gombolola Council through college elections shall elect no more than 5 councillors depending on the number of Gombololas in a Saza to represent the Council at the Saza Council

(c) The Buganda Electoral Commissioner shall decide on the ward boundaries for every Gombolola, which shall have no more than 30 wards but no less than 20 wards

(d) The Buganda Electoral Commission shall organise in every Gombolola to hold elections for:

(i) three seats reserved for women; and

(ii) three seats reserved for the youth

(e) The Muluka Council shall have a maximum of 24 councillors but no less than 15, elected through Village college elections where each Village council is represented at the Muluka Council

by no more than 3 councillors depending on the number of villages in a Muluka.

(f) The Village Council shall have a maximum of 15 councillors but not less than 9 of whom two are women and one is a youth.

(2) Councils shall meet no less than twice a year:

(a) Saza Councillors shall be paid a fee to be decided by the Lower House whenever they attend a council meeting

(b) Gombolola Councillors shall be paid a wage to be decided by the Lower House

(c) Muluka Councillors shall be paid a monthly allowance for research and warts and all to be decided by the Lower House

(d) The Lower House shall decide whether or not Village Councillors shall receive a gratuity for their service to the community.

Kampala's nominal rights:

37. (1) Kampala is the currently the capital of Uganda and, from hereon will refer specifically to the administrative area of the Federal (Central) government of Uganda:

(a) Kampala's boundaries shall run from the Clock Tower on Entebbe Road past Kampala Fire Brigade, along the old car par into Bombo Road. At the Wandegeya junction the boundary will run along Kira Road all the way to Kamwokya junction past the Kamwokya Police Post. The boundary then turns right into the road separating Naguru hill from Kololo hill and running into Jinja Road. The boundary then turns left into Jinja Road and then turns right into the road going into Luzira all the way to Lake Victoria. The boundary shall run along the shore up to where it turn into a road that lead into the Sixth Street that runs past the Monitor Newspapers. At the top of Sixth Street the boundary runs into the road that rings back to the Clock Tower on Entebbe Road;

(b) The area to the right of the boundary as described in clause (a) of this article shall constitute the capital of Uganda known as Kampala and shall be an enclave independent of the Buganda administration;

(c) The Kampala enclave as described in clause (b) of this article shall have permanent borders as described in clause (a) of this article;

(d) The area to the left of the boundary as described in clause (a) of this article shall fall under the Buganda State, which shall decide on a new name of 'Outer Kampala' or the creation of new townships around the Kampala enclave;

(e) The township referred to in clause (d) shall form new urban Gombolalas of Buganda;

- (f) All the Gombololas falling within 'Outer Kampala' shall enjoy Gombolola status and shall also enjoy the status as the Lower House electoral boundary as per Article 6 (1) above.

Permanent Secretaries and the Buganda Civil Service:

38. (1) Permanent Secretaries and the Buganda Civil Service shall be have as their appointing authority the Buganda Public Service Commission as outlined under section 31 of this constitution.

(2) All recruitment to the Buganda Civil Service shall be either by internal competition or by open competition.

(3) The Cabinet, after consultation with the Buganda Public Service Commission, may make regulations, to be known as the Buganda Staff Regulations, for all or any of the following purposes relating to persons in or desiring to enter the service of the Buganda Civil Service;

(a) the manner in which the Buganda Public Service Commission shall carry out its functions;

(b) the maintenance of discipline;

(c) the regulation of appointments (including appointments on promotion and transfer), remuneration, termination of appointments and leave;

(d) providing for suspension from duty and salary to be paid during such suspension;

(e) regulating the payment of allowances, the making of advances and other terms and conditions of service; and

(f) such other matters relating to departmental procedure and the duties and responsibilities of chiefs, officers and employees, as the Cabinet considers can be best regulated by such regulations.

(4) The Buganda Staff Regulations in so far as they relate to discipline, may without prejudice to the generality of the provisions of paragraph (3) of this article, provide for;

(a) withholding or deferring increments either permanently or for a specified period;

(b) reduction in rank or salary either permanently or temporarily; and

(c) deductions from salary in respect of damage to property caused by misconduct or breach of duty.

(5) The Buganda Staff Regulations as from time to time in force shall except as otherwise provided in such regulations or in any contract of service form part of the terms of service of any person to whom they apply.

Political Appointees and other temporary appointments:

39. (1) The Katikkiro and Cabinet Ministers shall be allowed to appoint no more than one political assistant each, who shall be paid from the public purse at the Grade 6.
- (2) The Upper and Lower Houses shall be allowed to recruit through the Buganda Public Service Commission, researchers on temporary appointment if and when there is a need for investigating any subject.
- (3) Cabinet shall make a business case to Buganda Public Service Commission if and when they need any matter researched and Buganda Public Service Commission shall, depending on the importance and urgency, arrange to recruit temporary staff for the project.

Honours, Salutations and Decorations:

40. (1) Buganda shall have an annual honours list to recognise the contributions of the gallant sons and daughters of Buganda, past and present, to the welfare, wellbeing and development of Buganda.
- (2) Nominations by any Muganda of another for an honour shall be by petitioning the Kabaka of Buganda, describing whatever feat the nominee may have accomplished.
- (3) The Kabaka shall appoint a Royal Honours Committee, which will investigate all nominations and make recommendations to the Kabaka.
- (4) The Royal Honours Committee shall be composed of 7 members and shall serve a term of 2 years:
- (a) each member shall belong to a different clan and no two members or more shall be of the same clan; and
 - (b) the chairmanship of the Committee shall rotate every two years until all 52 clans of Buganda have had one of their own serving as chairman of the Royal Honours Committee and it will take 102 years before another member of the same clan shall be appointed chairman.
- (5) The honours and decorations shall be announced in the Kabaka's New Year's message.
- (6) Non-Baganda who have contributed and whose service to Buganda are recognised shall from time to time be awarded honours by the Kabaka on the recommendation of the Upper House.

Amending this constitution:

41. (1) Subject to the provisions of this Constitution, the Lukiiko may amend by way of addition, variation or repeal, any provision of this Constitution in accordance with the procedures laid down in this article.

(2) This Constitution shall not be amended except by an Act of the Lukiiko -

- (a) the sole purpose of which is to amend this Constitution; and
- (b) the proposal to amend shall have been initiated in accordance with article 5 (9).

(3) A bill for an Act of the Lukiiko seeking to amend any part of this Constitution shall not be taken as passed unless:

- (a) it is supported at the second and third readings by no less than three quarters of the members Lukiiko during its passage in each of the two Houses of the Lukiiko.
- (b) it has been ratified by no less than two-thirds of all Ssaza councils of Buganda.

Interpretation:

42. (1) The Kabaka shall derive sovereignty of the Kingdom of Buganda by virtue of his accession to the Namulondo.

(2) Kabakaship shall mean the Namulondo of Buganda.

(3) Federal States shall be the Federal States defined in the Federal Constitution of Uganda.

Transitional Provisions:

43. The foregoing provisions of this constitution shall have effect subject to such transitional provisions as may be agreed between the Federal Government and the Kabaka's Federal State Government.

Ancient Titles:

44. (1) Titles awarded to office holders shall be strictly ceremonial and shall not carry their literal meaning:

- (a) 'Kamalabyonna', 'Kabaka owe bweru', and such like cease to carry their literal meaning
 - (b) The powers of all office holders in the Buganda Government shall be defined in statute and any ancient titles, salutations and honours that go with that office shall not carry the powers envisaged by the ancient regime of Buganda.
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Some of the issues we have to look at to consolidate the ideas that we have set out in this draft constitution of Buganda are set out below.

MEMORANDUM OF UNDERSTANDING:

FEDERAL STATES GOVERNMENTS v FEDERAL GOVERNMENT

It is proposed that individual ministries of the Uganda Government should enter bilateral concordats with their counterparts in the federal states.

The concordants should be voluntary without any legally enforceable rights, obligations or restrictions.

The concordants are intended to promote constructive co-operation and communication. The primary aim is to ensure that if either party (the federal state governments or the federal government) is planning action impinging on the responsibilities of the other, it gives adequate forewarning.

The administrations will exchange information and inform or consult each other on a wide range of situations.

The concordants are not intended to be exhaustive or to preclude any other arrangements. In all the principal channel of communications between the administrations should be bilateral contact at either official or ministerial level.

Where formal consultation required in law is concerned notification shall be in writing.

***** This is an area we need to develop in a more detailed form and we need to find formal protocols in law stipulated in the Constitution of Uganda*****

We have now moved on to look at the Uganda Constitution concentrating on those articles that directly contradict our position.

THE JUDICIARY

Relationship with the administration

1. Judges are one of the three arms of the constitution – the Government, Legislature and the Judiciary. Judges have independence, which means that the Government is subject to the law of the land as determined by judicial decision (subject only to appeal to higher courts and legislative intervention by Lukiiko).

2. Judicial independence is a key principle of any constitution. The purpose of judicial office is to administer the laws of Buganda in particular and Uganda in general. In the words of the judicial oath, administer “without fear or favour, affection or ill-will”. The overriding interests of justice require that judges remain independent of and not subject to the views or control of the Executive.

3. The Executive determines the resourcing of the courts and judicial numbers, but there are no powers for Ministers to direct judges in their independent sphere. The actions of judges are governed by:

- Statute law
- Case law
- Rules and regulations
- In house practice directions by senior judiciary
- Adherence to their judicial oath.

4. Judicial accountability requires that the public must be able to see that justice is being done by independent and impartial courts free of executive interference and that the Lukiiko and the public at large should be satisfied with the overall efficiency and effectiveness of the system of justice. A hearing must not only be fair, but also normally takes place in public.

5. To avoid undermining the courts, it should be the convention that members of the Lukiiko and the Government to avoid criticising particular judicial decisions, although the Lukiiko shall have the power to reverse the general effect of judicial decisions through legislation. Any challenge to judicial decision properly lies through the appropriate courts.

6. Judges should be paid directly from the Consolidated Fund, thus making payment to the judiciary free from Government pressure. Security of tenure should be assured until retiring age and subject to removal only in limited circumstances by a humble petition to the Lukiiko, or on grounds of incapacity or misconduct

THE LOCAL GOVERNMENT ACT, 1997

ARTICLE 9 – Co-operation among Districts

9(1) Two or more District Councils may, in accordance with Article 178 of the Constitution –

- (a) co-operate in areas of culture and development; and
- (b) for the purpose of the co-operation, from and support Councils, Trust Funds or Secretariats.

9(2) A Local Government Council may concur with any other Local Government Council in appointing a joint Committee for any matter in which they have a common interest.

ARTICLE 31 – Functions, Powers and Services of Council

31(1) Subject to the Constitution a Local Government Council shall, within its area of jurisdiction –

- (a) exercise all political and executive powers and functions;
- (b) provide services as it deems fit with the exception of functions, powers and services listed under Part 1 of the Second Schedule;
- (c) protect the Constitution and other laws of Uganda and promote democratic governance; and
- (d) ensure the implementation and compliance with Government policy.

31(2) Without prejudice to the generality of subsection (1) a District Council shall perform and carry on the functions and services specified under Part 2 of the Second Schedule.

31(3) Urban Councils shall have autonomy over their planning and financial management when carrying out the functions and services under Part 3 of the Second Schedule.

31(4) Subject to subsection (5), in rural areas, a Local Government Council may devolve to a Lower Council some of the functions and services specified under Part 4 of the Second Schedule and, in Urban areas, functions and services specified under Part 5B of the Second Schedule.

31(5) A devolution under subsection (4) of this section shall not be effected unless –

- (a) both parties are in agreement;
- (b) the necessary resources are made available for the exercise of those functions and powers, services and responsibilities; and

(c) appropriate measures are taken to bring the change to the attention of the Public.

31(6) A Local Government shall monitor the performance of persons employed by the Government or a higher Local Government to provide services in its area of jurisdiction and monitor the provision of Government services or the implementation of projects in the area.

31(7) A Local Government shall protect the Constitution and other laws of Uganda and shall promote democratic governance of the area under its jurisdiction.

PART VII – RESIDENT DISTRICT COMMISSIONER

ARTICLE 71

71(1) There shall be for each District a Resident District Commissioner who shall be a Senior Civil Servant appointed by the President.

71(2) A person shall not be eligible for appointment as Resident District Commissioner unless that person –

- (a) is a citizen of Uganda;
- (b) is a person of high moral character and proven integrity; and
- (c) possesses considerable experience, demonstrated competence and is of high calibre in the conduct of public affairs.

ARTICLE 72 – Functions of the Resident District Commissioner

72(1) The Resident District Commissioner shall –

- (a) represent the President and Government services in the District;
- (b) co-ordinate the administration of Government services in the District;
- (c) advise the District Chairperson on matters of a national nature that may affect the District or its programmes, and particularly the relations between the District and the Government;
- (d) monitor and inspect the activities of Local Governments and where necessary advise the Chairperson
- (e) carry out such other functions as may be assigned by the President or prescribed by Parliament.

72(2) The Resident District Commissioner may –

- (a) sensitise the populace on governmental policies and programmes, and in so doing shall liaise with the District Chairperson;
- (b) advise the Chairperson to instruct the Chief Internal Auditor to carry out special audit and submit to the Council;
- (c) draw the attention of the Auditor General to the need for special investigation of the Local Government Council;
- (d) draw the attention of the Inspector General of Government to a need to investigate any cases of mismanagement or abuse of office;

- (e) draw the attention of any relevant line Ministry to the divergence from or non-compliance with Government policy by any Council within his or her area of jurisdiction;
- (f) in consultation with the Speaker or Chairperson of a Council, as the case may be, address the Council from time to time on any matter of national importance.

72(3) The expenses of the office of the Resident District Commissioner including salaries, allowances and pensions shall be charged on the Consolidated Fund.

ARTICLE 88 – Audit of accounts

88(1) The accounts of every Local Government Council and Administrative Unit shall be audited by the Auditor General or an auditor appointed by him

88(2) The Auditor General shall give the report of the audited accounts to –

- (a) the parliament;
 - (b) the Minister responsible for finance;
 - (c) the Minister [of Local Government];
 - (d) the Local Government or administrative unit to which the audit relates;
 - (e) the Local Government Public Accounts Committee;
 - (f) the Local Government Finance Commission;
 - (g) the Inspector General of Government; and
-
-