

PARLIAMENT OF UGANDA

REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS
ON THE PARLIAMENTARY ELECTION (AMENDMENT) (NO 2) BILL, 2015

OFFICE OF THE CLERK TO PARLIAMENT

PARLIAMENT BUILDINGS

KAMPALA - UGANDA

NOVEMBER, 2015

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1.0 Introduction

Parliamentary Elections (Amendment) No. 2) Bill, 2015 was read for the first time at the 11th Sitting of the second Meeting of the 5th Session of the 9th Parliament of Uganda held on 10th November, 2015. The bill was subsequently referred to the Committee on Legal and Parliamentary Affairs for scrutiny.

2.0 Background

On the 29th day of September, 2005 the Constitutional Court delivered its judgment in three consolidated constitutional petitions; 37/2010; 40/2010 and 48/2010 filed in 2010. The Constitutional Court declared the Regulations issued by the Minister void since they were not made by Parliament as required under article 78 (4) of the Constitution. Under Article 78(4) of the Constitution, Parliament is vested with powers to enact legislation prescribing procedure for election of representatives to Parliament for special interest groups. Instead of making the legislation, Parliament delegated its authority to the Minister responsible for justice and in the case of the army representatives; the Minister delegated his powers to the Army Council to make its own Rules.

The Court declared the law relating to the election of the representatives of the army, youth and workers void and declared them so in accordance with Article 2 of the Constitution.

The Court further granted an injunction against the Government, restraining it from conducting elections for special interest groups of the army, youth and workers under the law that it had found to be unconstitutional.

The Court also made a declaration that the election for the representatives of people with disabilities may go ahead as the law in relation to the same passes the constitutional muster.

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5.0 Laws in relation to the election of the representatives of special interest groups in Parliament

5.1 The Constitution

Article 78(1) of the Constitution provides for composition of Parliament which shall include among others such numbers of representatives of the army, youth, workers, persons with disabilities and other groups as Parliament may determine.

Under Article 78(4) of the Constitution, Parliament is vested with powers to enact legislation prescribing procedure for election of representatives to Parliament for special interest groups.

5.2 Parliamentary Elections Act 2005

Parliament enacted the law, the Parliamentary Elections Act, 17 of 2005, under which in section 8 it purported to comply with the above constitutional directives. The relevant provision states,

'(4) The following provisions shall apply to district women representatives and special interest groups referred to in the subsection (2)—

(a)

(b) the representatives of the Uganda Peoples' Defence Forces shall be elected in a manner to be prescribed by regulations made by the Minister under section 100;

(c) the representatives of the youth shall be elected in the manner prescribed by regulations made by the Minister under section 100 by district youth councils within the region of representation constituted into an electoral college in accordance with such regulations and the women youth representative shall be elected by a national youth conference in accordance with the regulations;

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(d) the representatives of the workers shall be elected in a manner prescribed by regulations made by the Minister under section 100;

(e) the representatives of persons with disabilities shall be elected by an electoral college of representatives of such persons from each district in a manner prescribed by the regulations made by the Minister under section 100;'

5.3 The Parliamentary Elections (Special Interest Groups) Regulations, 2001 SI No. 31

In addition to the section 8 of the Parliamentary Elections Act, Act 17 of 2005, Statutory Instrument No. 30 of 2001 provides,

(3) The representatives of the Uganda People's Defence Forces to Parliament shall be elected by the Uganda People's Defence Council in such manner and by such procedure as shall be determined by that Council.

6.0 Observations and recommendations

This section of the report states the provisions being amended, stake holder's views on the proposed amendment, a comparative analysis of similar provisions in other jurisdictions, an analysis of the proposed amendment and the recommendation by the Committee on the proposed amendment.

Clause 1 - Amendment of the Parliamentary Elections Act, 2005

The Parliamentary Elections Act 2005, in this Act referred to as the principal Act is amended in section 1 (1) by inserting the following definitions in their appropriate alphabetical order-

(a) "region" means a region specified in the Third Schedule;

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(b) "Special interest groups" means the groups referred to in article 78 (1) (c) of the Constitution;

(c) "youth" means a person aged between eighteen and thirty years of age;

Observation

The committee notes that, this is an amendment to the interpretation clause to facilitate understanding of the provisions.

Recommendation

The Committee recommends that Parliament adopts the proposed amendment.

Clause 2- Amendment of section 8 of the principal Act

Section 8 of the principal Act is amended-

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(a) In subsection (4), by substituting for the words "in a manner prescribed by regulations made by the Minister under section 100", the words "in accordance with section 8A;"

(b) In subsection (4) by substituting for paragraph (c), the following-

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"(c)"The representatives of the youth shall be elected by the district youth councils within each region of representation constituted into an electoral college in accordance with sections 8B to 8E and the woman youth representative shall be elected by a national youth conference in accordance with section 8F;"

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Clause 3- Insertion of new sections 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 8I, 8J, 8K and 8L.

The principal Act is amended by inserting immediately after section 8, the following new sections:-

"8A. Representatives of the Uganda Peoples Defence Forces

The representative of the Uganda Peoples' Defence Forces to Parliament shall be elected by the Uganda Peoples' Defence Forces Council as follows-

- (a) The Commander-in-Chief shall in consultation with the leadership of the Uganda Peoples Defence Forces or any other persons the Commander-in-Chief considers necessary, submit a list of at least twenty and not more than thirty officers or militants to the Defence Forces Council;
- (b) The Defence Forces Council shall elect the ten representatives of the army from persons nominated by the Commander-in-Chief;
- (c) The Commander-in-Chief shall not nominate a person to the Defence Forces Council unless that person is qualified to be elected a Member of Parliament under Article 80 of the Constitution and this Act;
- (d) Voting by the Defence Forces Council shall be by secret ballot.

Stake Holders views

Law Development Centre

It is pertinent to appreciate that the Constitution should be read as an integral whole with its letter and spirit as the Supreme law is respected.

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Article 78 (1) (c) of the Constitution provides for the inclusion of representatives of the Army in Parliament.

In providing for the composition of the Uganda Peoples' Defence Forces, Article 208 (2) of the Constitution provides that the forces shall be non-partisan, national in character, patriotic, professional, disciplined, productive and subordinate to the civilian authority as established under this Constitution.

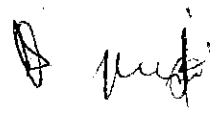
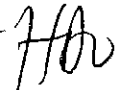
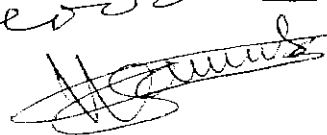
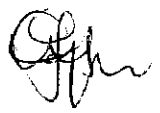
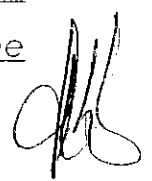
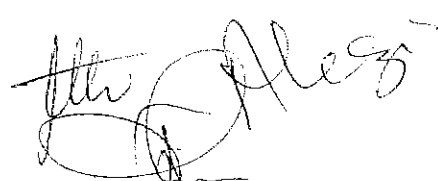
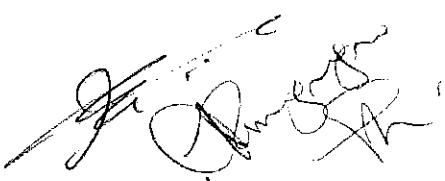
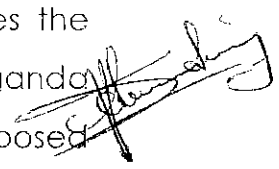
However, the fact that the serving officers in the Forces are Members of Parliament raises Constitutional challenges. Whereas they may choose to be non-partisan by choosing not to participate or vote in partisan proceedings, their presence in a multi-party legislature may raise an inference of partiality.

It may be argued that the MPs are listening posts for the forces so as to ensure peace and security, and this may indeed be true. However, the army has the opportunity to read the *Hansard* and thus be updated as to Parliament activities without physical presence. More so, the public gallery and Committees are always open for any interested person to be aware of what is taking place in Parliament.

Leader of Opposition



A serving soldier who intends to contest as a Member of Parliament representing army in Parliament is not guided on what he/she can do to access the leadership. Importing the army rules into the law violates the Article 59(1) of the Constitution that gives the right to every citizen of Uganda of 18 years of age to exercise his/her right to vote. Also the same proposed amendments are contrary to Article 1(4) of the Constitution that demands the state organs to facilitate the people to 'express their will and consent on who shall govern them and how they shall be governed through regular, free and fair elections of their representatives'.



- d) The returning officer shall avail the updated voters' register to each candidate at least five days to the polling day for purposes of soliciting votes.
- e) The returning officer shall preside over the Defence Forces Council convened for purposes of electing the representatives
- f) The returning officer shall allow each candidate at least ten minutes to address the members of the council.
- g) Voting shall be by secret ballot.

Interparty Youth Platform

It is proposed that Army representation in Parliament be scrapped since it serves no purpose and the UPDF should be non-partisan under the Constitution. However, in the Ugandan Parliament, the Army representatives sit at the Government side and seem to be sympathetic towards Government positions.

The Uganda Law Reform Commission

They found that amendment proposals as contained in the Bill adequate to address the legal gaps identified by the Constitutional Court. It is therefore, in the opinion of the Commission, appropriate in the circumstances for the Committee to recommend passing of the Parliamentary Elections (Amendment) (No.2) Bill 2015.

Uganda Peoples Defence Forces (UPDF)

The representatives of the army are elected by the Members of the Defence Council constituted under section 14 of the UPDF Act. The heads of the different organs nominates people under his organs. The names of the nominees from the various organs are submitted to the Chief of Defence Forces. The Chief of Defence Forces transmits the names of the nominees to the Commander in

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Chief who nominates thirty names. The thirty names are availed to the Members of the Defence Council thirty minutes before the actual voting. Voting is by secret ballot. The Election is presided over by the Electoral Commission.

Comparative analysis

BURMA/ MYANMAR (Army Representation in Parliament)

The Parliament features a lower house, with a maximum of 440 representatives and an Upper House, with 224 representatives. In both chambers, the army controls a fourth of all seats — a maximum of 110 military Members of Parliament in the Lower House and fifty-six in the Upper House (Articles 109b and 141b of the 2008 Constitution). All 166 military legislators are appointed by the commander-in-chief of the Army. The duration of the mandates of the military representatives is not delineated; the army commander can remove and replace them at will. The mandates of the latter are aligned with that of the legislature; they thus serve five-year terms. All replacements of military MPs are announced the day after they are made in Parliamentary publications, as well as in the state media.

China

The **National People's Congress** is the national legislature of the People's Republic of China. China's People's Liberation Army still boasts a significant contingent in the current National Legislature. The People's Liberation Army has had a large delegation since the founding of the National People's Congress (NPC). In the 12th NPC, for example, the PLA delegation has 268 members; the next largest delegation is Shandong, with 175 members.

Article 59 of the Constitution of the People's Republic of China The National People's Congress is composed of deputies elected from the provinces, autonomous regions, municipalities directly under the Central Government, and special administrative regions, and of deputies elected from the armed forces. Chinese election procedures for its highest leaders are essentially based on a

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series of representative elections that begin with a direct vote of the people for local and village elections performed by local election committees. In cities, the local elections are broken down by residential area or work units. Citizens 18 and older vote for village and local people's congresses; those congresses in turn elect the representatives to provincial people's congresses.

The provincial congresses in China's 23 provinces, five autonomous regions, four municipalities directly ruled by the Central Government, special administrative regions of Hong Kong and Macao, and armed forces, then elect the roughly 3,000 delegates to the National People's Congress.

Tanzania

Tanzania's armed forces enjoyed seat reservations in the national Parliament until a new constitution curbed this prerogative in 1992.

Russia

Western liberal democracies have long since withdrawn the respective officer corps from their Parliaments. Red Army delegates long peppered the Supreme Soviet, the state legislature of the Soviet Union.

Thailand

In Thailand, between 1932 and 2000, the legislature whether unicameral or bicameral — was systematically influenced, if not fully dominated, by the Royal Army.

Indonesia

The **Indonesian military** also enjoyed legislative power until 2004, Indonesian army officers were delegated to legislative bodies as well as to the civilian bureaucracy. Between 1977 and 1997, 20 per cent of the seats in the National Assembly in Jakarta were reserved for senior army officers. The number of military representatives was however reduced from one hundred, out of 500,

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to seventy-five in 1997 and to zero in 2004, in the midst of the country's democratic consolidation.

Analysis

Military legislators are generally appointed — and removed — by the military hierarchy, particularly when soldiers do not enjoy the right to vote in elections, as was the case under the Soeharto regime in Indonesia. Sometimes, however, a predetermined military electorate selects these legislators.

According to Kornberg, Allan, and Kenneth Pittman, in their book "Representative and Military Bodies: Their Roles in the Survival of Political Systems in New States". In Legislatures in Development: Dynamics of Change in New and Old States edited by Lloyd D. Musolf and Joel Smith. Durham: Duke University Press, 1979, the representation of the military in Parliament reinforces the image of the army as a special and privileged caste of decision-makers.

According to Silverstein, Josef, Burma: Military Rule and the Politics of Stagnation, Ithaca: Cornell University Press, 1977, Very few modern armed forces bother to have a physical presence in elected Assemblies. Soldiers often construe the latter as arenas of divisive politics, in which the armed forces should not be engaged. Nevertheless, in some cases the armed forces appear willing to participate directly in legislative activity. The reservation of seats for soldiers in elected Assemblies offer in such cases a significant instrument of input into policymaking for the military's leadership.

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In the case of Uganda, Army MPs have been in Parliament since the Constitution making process in the Constituent Assembly (CA) session in 1994, as one of the five special interest groups, with Uganda being the only country in the East African region to have military representation in the House. The Defence Forces Council, the top decision making organ of the UPDF, votes for them. Ten Parliamentary seats out of 375 are reserved for army officers in Uganda's current Parliament, which was last elected in 2011.

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Parliament exercised its powers under Article 78(2) recently by reviewing the representation of special interest groups and passed a resolution that they were still relevant.

Recommendation

The Committee recommends that Parliament adopts the proposed amendment. The Committee further recommends that:

- Parliament in exercising its power to review under Article 78(2) should consider amending the representation under Article 78(1)(c) on special interest groups representatives to include all armed forces;
- The Rules and Privileges Committee amends the Rules of Procedure of Parliament to require the army representatives have free sitting in the House;
- When electing representatives of the army, the UPDF should consider the various ranks and file with in the Army;
- The UPDF is encouraged to progressively move towards gender balance where at least a third of the representation shall be composed of women.

8B. Representatives of the Youths

(1) For the purpose of election of representatives of the youth in Parliament, Uganda shall be divided into four regions namely-

- (a) the Northern Region;
- (b) the eastern Region;
- (c) The Central Region; and
- (d) The Western Region.

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- (2) The regions shall each comprise areas of the districts specified in relation to them in the Third Schedule.

8C. Electoral College within region of representation.

All the members of a District Youth Council within each region shall constitute an electoral college for the election of the representative of the youth in Parliament for that region.

8D Qualification for election of representatives of the youth

(1) A person seeking to be elected as a representative of the youth in parliament shall be aged between eighteen and thirty years and shall also be qualified to be a Member of Parliament in terms of Article 80 of the constitution and 4 of this Act .

(2) Subject to Article 80 of the Constitution and section 4 of this Act election shall be open to all youth.

8E. Election of representative of youth for each region

(1) The commission shall appoint by notice published in the Gazette three day within which the electoral college of each region shall meet in their region to elect the representative of the youth for that region.

(2) The nomination of a candidate for election under subsection (1) shall be made on a day appointed by the commission supported by two registered voters whom are members of the electoral college and shall be accompanied by the nomination fee specified to in section 81.

8F. Female Youth representative in parliament

(1) The electoral college for electing the female representative of the youth in parliament shall be the national Youth Council

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constituted in accordance with section 5 of the National Youth Council Act

(2) The commission shall by notice publish in the Gazette, appoint three days within which the electoral college for referred to in subsection (1) shall meet to elect the female representative of the Youth in parliament.

(3) The nomination of candidates for election under this section shall be made on a day appointed by the commission and on a form and in a manner approved by the commission supported by two registered voters who are members of the electoral college and shall be accompanied by the nomination fee specified in section 81.

Stake Holders views

Interparty Youth Platform

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The youth proposed that the adult suffrage method of voting should be adopted for the election of youth Members of Parliament to allow participation of most youth in the election of their leaders instead of limiting the elections to only a chosen few who are prone to manipulation.

However, they were of the view that if the current method of election through delegates' conference is maintained, then the delegates should be increased in number to include all members of the sub-county executive and the Parish executive committee.

They also proposed that the candidates be nominated by the Electoral commission and they should be confirmed as the eligible candidates for the election by the time of convening the delegates' conference to avoid manipulation.

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They also recommended that there is established a neutral committee to discuss and agree on the venue for elections to promote fairness and transparency in the process. Conducting the voting of youth Members of Parliament at night should also be stopped and the lawful time of voting should be strictly adhered to.

The youth also proposed that the constitution of the delegates' conference which elects the National female Youth Members of Parliament be widened from only three Members per district to include more District Youth Representatives as well as Municipal National Youth Council executives country wide.

The Electoral Commission

Section 8F (1) on Women Youth Representative in Parliament.

The Electoral College for electing the Woman representative of the Youth in Parliament shall be the National Youth Council constituted in accordance with **section 4** (instead of 5 as in the Bill) of the National Youth Council Act.

Law Development Center

On the qualification for election of Representatives of the Youth, Section 1 (g) of the National Youth Council Act defines a "youth" as a person between the age of eighteen and thirty years. The 2001 Uganda National Youth Policy defines a youth as a person between the ages of 12 and 30 years. The provision is thus within the confines of the law as persons who are between 12-18 years of age might be youth but may not be eligible to vote.

Comparative analysis

Kenya

The procedure for elections of representatives of special interest groups in Parliament is stipulated under Article 90 of the Kenya Constitution which shall be on the basis of proportional representation by use of party lists. The Independent

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Electoral and Boundaries Commission is mandated under Article 90(2) to conduct and supervise the elections for seats by ensuring that each political party participating in a general election nominates and submits a list of all the persons who would stand elected if the party were to be entitled to all the seats provided for under special interest groups category, within the time prescribed by national legislation;

The special interest group seats are allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election.

Rwanda

Rwanda has a bicameral Parliament consisting of the Senate or Senate (26 seats; 12 members indirectly elected by local councils, 8 appointed by the president, 4 appointed by the Political Organizations Forum - a body of registered political parties, and 2 selected by institutions of higher learning; and the Chamber of Deputies or Chambre des Deputes provided under Article 76 of the Constitution composed of 80 seats; 53 members directly elected by proportional representation vote, 24 women elected by special interest groups, and 2 selected by the National Youth Council and 1 Member selected by the Federation of the Associations of the Disabled.

Analysis

Court made the following declaration in relation to the election of youth

The impugned law in relation to the election of the representatives of the army, youth, and workers is void and we declare so in accordance with Article 2 of the Constitution.

We do grant an injunction against the respondents restraining them from conducting elections for the special interest groups of the army, youth and workers under the law that we have found to be unconstitutional.

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Article 2 of the Constitution states,

'(1) This Constitution is the supreme law of Uganda and shall have binding force on all authorities and persons throughout Uganda.

(2) If any other law or any custom is inconsistent with the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency be void.'

The Committee observes that the proposed amendments reflect the procedure for electing Youth Representatives to Parliament in the National Youth Council Act.

Recommendation

The Committee recommends that Parliament adopts the proposed amendments in the Bill.

8G. Representative of workers

(1) Four of the five workers' representative to parliament shall be elected in accordance with the following formula-

Formula for sharing workers' representative to Parliament between NOTU and COFTU-

NOTU = $\frac{N \times 4}{T}$

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COFTU = $\frac{C \times 4}{T}$

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(2) The following shall apply for the interpretation of subsection (30)-

(a) N = total verification subscribed members of each affiliated union to NOTU.

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COFTU- Central Organisation of Free Trade Unions

The constitution provides for the right of workers to representation. The constitution also provides for the right of workers to unionization. This right is operationalized by the labour laws including the Labour Union Act.

The ILO conventions and standards that legislate the international legal framework that forms the basis from which these rights have been domesticated in Uganda mandate trade unions as the vanguards for the promotion and protection of the constitution that vests the right of every worker to organize for the purpose of the promotion and protection of economic and social interests into trade unions!

This arrangement is tested internationally and under the ILO frame work any reference to workers representation is first and foremost to organize labour that in itself is a reference to unionization. It is because of this that the three constituencies under ILO are workers, government and employers meaning labour union federations, ministries responsible for labour administration and employers federations respectively.

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We cannot therefore reinvent the wheel when actually we are duty bound as a country to abide by the international legal standards for which we are signatories. The import of understanding is that the effect any formulation or frame work that creates a parallel structure for workers to undertake this same mandate or compete with legitimate workers' organizations, therefore, is to undermine trade unions and indeed the rights of workers. If for instance the view point of creating 'Workers Councils' or whatever name starting from villages as is being suggested is accepted then the implications shall be against workers interests.

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Members of Parliament Representing Workers in Parliament

The Members submitted that the interests of workers all over the world are represented through workers associations or labor unions and it is for this reason that the right of workers to associate or unionize is protected by Article 29(1)e of the Constitution. The said freedom is also recognized under Section 3 of the Labour Union Act, 2006 as follows;

Employees shall have the right to organize themselves in any labour union and may;

- a) Assist in the running of the labour union;**
- b) Bargain collectively through representatives of their own choosing**
- c) Engage in other lawful activities for the purposes of collective bargaining or any other mutual aid practice; and**
- d) Withdraw their labour or take industrial action.**

This freedom to associate allows the workers to be able to collectively influence and bargain with the employers from a position common to all.

The International Labour Organization recommends the use of the most representative organizations of workers enjoying the right to freedom of association in any consultations or discussions to implement the International Labour Standards developed by ILO. The Policy should therefore be to encourage these workers to form or join associations to collectively harness the benefits of trade or labour unions.

The Workers' representatives are also of the view that it is impracticable to expect all workers to vote especially if not unionized. Whereas Article 78(1) (c) of the Constitution refers to workers' representatives, short of creating a separate register of all workers in Uganda, it is difficult to envisage how the Electoral Commission can mobilize all workers who are non-unionized to participate in the election of five workers' representatives.

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Interparty Youth Platform

They recommended that all workers elect their representatives in Parliament as opposed to the use of trade unions that are not representative of all workers since most workers are not unionized.

Analysis

The committee observed that proposed provision of the bill in relation to the election of workers to Parliament seeks to reintroduce a procedure that was held to be unconstitutional by the Constitutional Court. When a law is condemned as being unconstitutional it ceases to have legal effect from the moment of the decision and is deemed to have been void ab initio

How the Government responds to this situation is a matter for the Government but any response by way of new legislation or administrative action must be in accordance with the Constitution and must have due regard to the decision in question of the Court. For example the Government could introduce new legislation on the same subject matter as the impugned legislation but in a form which does not conflict with the Constitution.

In Uganda Constitution, unlike in many Constitutions of countries of the Commonwealth, the provisions which guarantee the freedom of Association And the right to form and participate in trade unions is unambiguous and very clear. They are to be found in articles 29(1) (e) and 40(3) of the Constitution. Article 29(1) (e) provides:-

Every person shall have the right to freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organisation."

Article 40(3) provides: -

"Every worker has a right: -

(a) to form or join a trade union of his or her choice for the promotion and protection of his or her economic and social interests; (b) to collective bargaining and representation; and (c) to withdraw his or her labour according to law."

The Constitutional Court in the consolidated petitions No. 37/2010, No 40/2010 and 48/2010 in its judgment regarding in **paragraph 44** ruled;

".....We now must consider whether or not the said provisions contravene Article 29(1) (c) of the Constitution. The substance of the impugned provision is to create an electoral college out of members of two federations of workers, NOTU and COFTU. Only workers affiliated with the said organisations can participate in the elections of representatives of workers. Non-unionised workers cannot participate in this process.

The Constitution provides not for representation of only unionized workers but also non-unionized workers by the simple use the word "workers". Workers who are not members of the said two federations are thus excluded from participating in this process of electing representatives for workers in Parliament. Such Workers are disenfranchised contrary to Article 59(1) of the Constitution, rather than infringement of the right to associate under Article 29(1) (c) of the Constitution."

The right to associate in regard to trade unions was considered in detail in the case of **Dr. Sam Lyomoki and others v Attorney General Constitutional Petition No.08 of 2004**, where Hon. Justice Amos Twinomujuni on Article 29(1) (e) held that ...

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Hon. Safia Nalule Juuko- National Female Member of Parliament - Persons with Disabilities

Hon. Nalule Juuko agrees with the proposal in the Bill regarding the election of representatives of persons with disabilities, since Electoral Commission has already concluded the exercise of facilitating the election of the five district executive committee members of persons with disabilities, who will compose the national electoral college to elect 5 Members of Parliament representing person with disabilities.

National Council for Disability

The council takes note of the ^{VPEW} ~~fact~~ that both the National Council for Disability Act 2003 as amended and the Parliamentary Elections (amendment) Bill 2015, clause 8H does not prescribe the mode of elections for representatives of persons with Disabilities to Parliament. The council proposed the following;

4.1 A National electoral college composed of delegates from all districts shall be convened at a National venue decided by the Electoral Commission.

4.2 The National Electoral College shall be composed of 12 delegates from each district composed as follows:

- i) 3 female with disabilities
- ii) 3 female with disabilities
- iii) 3 youth with disabilities
- iv) 3 older persons with disabilities, taking into consideration the disability balance.

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4.3 The Five Executive Committee members in each sub county shall converge at the district to elect the 12 Delegates representing their District at the national Electoral College.

4.4 The provision stated above in (4.1), (4.2) and (4.3) shall override the provision in schedule A section (9) of the National council for disability amendment Act 2013.

4.5 The National Electoral College so convened under 4.1 above shall split into the four (4) traditional regional groupings of central, northern, western and eastern for each region to elect their representative.

4.6 The elected members of parliament representing Persons with disabilities shall represent the interests of the specific regional grouping in 4.5 above.

4.7 For purposes of electing the woman representative to parliament, the Electoral Commission shall place an additional ballot box in each regional grouping for delegates to cast their votes for the woman representative of their choice.

4.8 The commission shall by notice published in the gazette, appoint three days within which the Electoral college referred to in section (4.1) above meet to elect the five (5) representatives of persons with disabilities (PWDs) to Parliament.

4.9 the nomination of a candidate for election under section (4.1) shall be made on a day appointed by the Electoral Commission supported by two registered voters who are members of the Electoral college and shall be accompanied by the nomination fee specified in section (8i) of the Parliamentary Elections amendment bill 2015.

4.10 The electoral commission shall meet the costs of sign language interpreters and helpers of delegates during Elections of representatives of persons with disabilities to Parliament.

[Handwritten signatures and scribbles at the bottom of the page, including names like 'Alessi', 'Hoo', and '33']

Analysis

Parliament promulgated Act 6 of 2013 which introduces 'Part V'A' dealing with the election to Parliament of representatives for persons with disabilities. The provisions are compliant with the right to freely associate in relation to political parties. Elections shall be by way of electoral colleges which are clearly defined. The elections are managed by the Electoral Commission.

The Constitutional Court found that the current regulations for Persons with Disabilities elections comply with the provisions of the Constitution. It accordingly allowed their use for the conduct of elections of representatives of Persons with disabilities in Parliament. The proposed amendment is for purposes of giving effect to the court ruling by clarifying that the elections shall be held in accordance with the National Council for Disability Act 2003.

The Constitutional Court (Supra)held as follows:

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"With regard to the claim that the impugned provisions contravene Article 29(1) (e) of the Constitution, it is contended that since there are people living with disabilities who may not wish to participate in the National Council for Disability and it would be their right not to associate with the same, this right would be violated as they would not be able to participate in the elections.

78.The National Council for Disability Act creates a statutory body which is open to all disabled people. If one wishes to participate in elections for persons with disabilities one has to comply with what is set out in the law which Parliament has set in place for the purposes of electing representatives of people living with disabilities. This law does not contravene Article 29(1) (e) merely because an individual chooses to exercise his / her right not to participate in such statutory organisation. For as long as he / she is not compelled to participate, Article 29(1) (e) is not infringed. The law is compliant with Article 29 (1) (e) for as long it does not compel the individual to participate.

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Where the Parliament has determined that the structures of such statutory organisation provide the most practical avenue for choosing the Electoral

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College that will elect the representatives of the people with disabilities, it is important that such structures be open to the voluntary participation of all people with disabilities. Once the structures are open to all members of the special interest group, there can be no question of disenfranchisement under Article 59 of the Constitution"

Court concluded by making a declaration that:

"The election for representatives of people living with disabilities may go ahead as the law in relation to the same passes the constitutional muster."

Recommendation

The Committee recommends that Parliament adopts the proposed amendment in the Bill.

81. Nomination fees

A candidate for election to parliament under this part shall pay a non-refundable nomination fee of one hundred and fifty currency points.

Stakeholder's views

Interparty Youth Platform

The Youth recommend that the 200, 000 nomination fees should be reinstated. The forum view that the passing of the amendment targeted special interest groups who cannot afford.

HON. ASAMO HELEN GRACE – Member of Parliament representing Persons with Disability.

The nomination fees for PWDs should be 25 currency points for affirmative action.

mbaka

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Analysis

Parliament revised the fees for nomination for Members of Parliament to three million shillings when it passed the Parliamentary Elections (Amendment) Act 2015.

Recommendation

The Committee recommends that Parliament adopts the proposed amendment.

8J. vacancies not affect election result.

Any vacancy occurring in any office the holder of which is required to be a member of an electoral college under this act for the purpose of any election shall not affect the result of the election.

Analysis

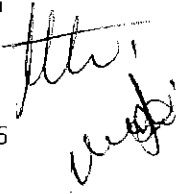
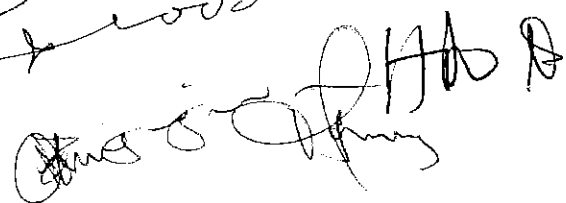
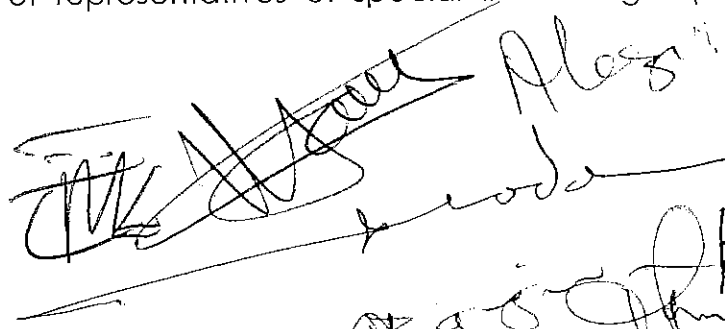
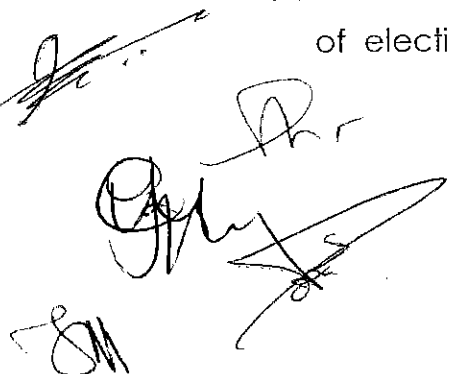
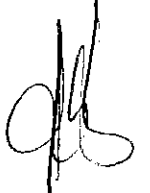
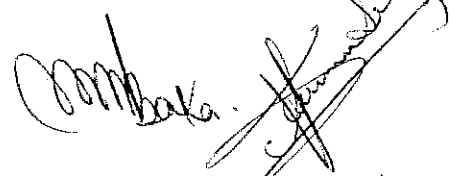
The purpose of this provision is to avoid frivolous petitions on ground that the Electoral College was not fully constituted.

Recommendation

The Committee recommends that Parliament adopts the proposed amendment.

8K. Notification of results

- (1) As soon as the election of a representative of a special interest group is completed under this Act, the name of the representative elected in the form specified in the Fourth Schedule to this Act.
- (2) The Commission shall as soon as possible after receiving the results of elections of representatives of special interests groups under



subsection (1), publish the results in the Gazette and communicate the results to the Clerk to Parliament.

Analysis

The proposal provides for a requirement for the Electoral Commission to publish the results of elections of representatives of special interest groups for notice.

Recommendation

The Committee recommends that Parliament adopts the proposal.

8L. Commission to facilitate elections

The Commission shall provide reasonable financial and other necessary assistance for purposes of conducting elections under this Part.

Recommendation

The Committee recommends that Parliament adopts the proposal.

1. Insertion of new Third and Fourth Schedules to the principal Act.

The principal Act is amended by inserting immediately after the Second Schedule the following new schedules-

"Third Schedule

Section 8B (2)

REGIONS

(1) Northern Region

1. Arua
2. Maracha
3. Moyo
4. Nebbi
5. Zombo
6. Gulu

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7. Nwoya
8. Kitgum
9. Agago
10. Lira
11. Dokolo
12. Lamwo
13. Amuru
14. Alebtong
15. Apac
16. Kole
17. Oyam
18. Otuke
19. Moroto
20. Napak
21. Kotido
22. Kaabong
23. Abim
24. Koboko
25. Adjumani
26. Yumbe
27. Pader
28. Nakapiripirit
29. Amolatar

(2) **Eastern Region**

1. Soroti
2. Ngora
3. Serere
4. Bukedea
5. Amuria
6. Kumi
7. Kapchorwa
8. Kween
9. Bukwo
10. Mbale
11. Bududa
12. Manafwa
13. Tororo
14. Butaleja
15. Jinja
16. Pallisa
17. Kibuku

A collection of handwritten signatures and scribbles in black ink, scattered across the right side of the page. Some signatures are clearly legible, such as 'Mwinyi', 'Cumbaka', 'Alexis', and 'HOD'. There are also several large, stylized scribbles and lines that appear to be initials or marks.

SM

- 18. Budaka
- 19. Iganga
- 20. Luuka
- 21. Namutumba
- 22. Kamuli
- 23. Buyende
- 24. Kaliro
- 25. Katakwi
- 26. Bugiri
- 27. Namayingo
- 28. Busia
- 29. Mayuge
- 30. Sironko
- 31. Bulambuli
- 32. Amudat
- 33. Kaberamaido

(3) Central Region

- 1. Kampala City
- 2. Mukono
- 3. Buikwe
- 4. Buvuma
- 5. Mpigi
- 6. Gomba
- 7. Butambala
- 8. Masaka
- 9. Kalungu
- 10. Lwengo
- 11. Bukomansimbi
- 12. Kalangala
- 13. Rakai
- 14. Lyantonde
- 15. Mubende
- 16. Mityana
- 17. Luwero
- 18. Nakaseke
- 19. Kiboga
- 20. Kyankwanzi
- 21. Sembabule
- 22. Nakasongola
- 23. Kayunga
- 24. Wakiso

Handwritten signatures and scribbles:
 - Top right: "ambava" with a signature above it.
 - Middle: "Alagzi" with a signature above it.
 - Bottom right: "mudi" with a signature above it.
 - Large diagonal scribbles across the bottom half of the page.

Handwritten initials/signatures:
 - "SM" on the left.
 - "John" in the middle.
 - "TK" on the right.

Handwritten initials/signatures:
 - "HAD" on the left.
 - "A" on the right.

(4) Western Region

1. Kabale
2. Ntungamo
3. Rukungiri
- 4.
- 5.
6. Kisoro
7. Mbarara
8. Ibanda
9. Isingiro
10. Kiruhura
11. Bushenyi
12. Mitooma
13. Buhweju
14. Rubirizi
15. Kasese
16. Sheema
17. Bundibugyo
18. Ntoroko
19. Kabarole
20. Hoima
21. Buliisa
22. Masindi
23. Kiryandongo
24. Kibale
25. Kamwenge
26. Kyenjojo
27. Kyegegwa
28. Kanungu

DECLARATION OF RESULTS

THE PARLIAMENTARY ELECTIONS ACT, 2005.

TO:

The Chairperson Electoral Commission

ELECTION OF SPECIAL INTEREST GROUP REPRESENTATIVES.

2. WHEREAS elections were held by theto return.....representatives to Parliament as provide as in **Amendment of the Parliamentary Elections Act, 2005.**

DECLARATION OF RESULTS

PROPOSED AMENDMENTS TO THE PARLIAMENTARY ELECTION (AMENDMENT) (NO 2)
BILL, 2015

1. Amendment of clause 3(8A)

Substitute for the proposed clause 3(8A)(b) in the Bill, the following:

- (a) The Defence Forces Council shall elect the ten representatives of the army from persons nominated by the Commander-in-Chief; a third of whom shall be women.

Justification

To address the gender imbalance which is in line with Article 21 of the Constitution which gives Parliament powers to enact laws that are necessary for implementing policies and programmes aimed at redressing social, economic, educational or other imbalance in society.

2. Amendment of clause 3 (8F)

Clause 3, 8F is amended by replacing the word 'woman' where ever it appears in the provision with the word 'female'

Justification

It's more appropriate.

2. Amendment of clause 3 (8G)

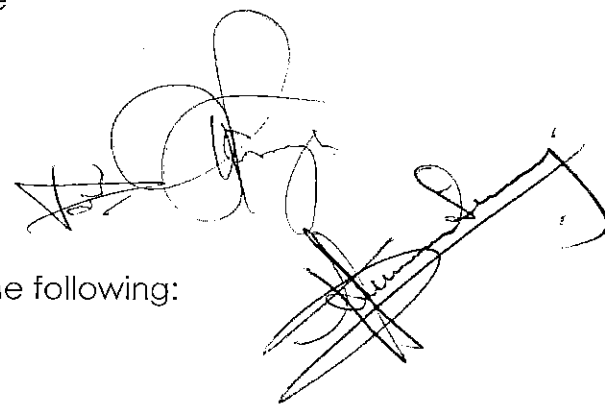
Substitute for the proposed clause 3(8G) in the Bill, the following:

"8G. Representatives of workers.

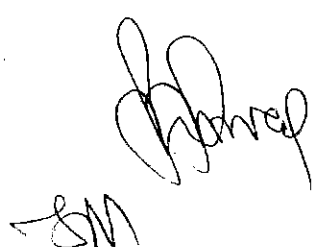
(1) The five workers' representatives to Parliament shall be elected by an electoral college constituted by the Electoral Commission as follows—

- (a) the Chairman General, Vice Chairman General, Secretary General,

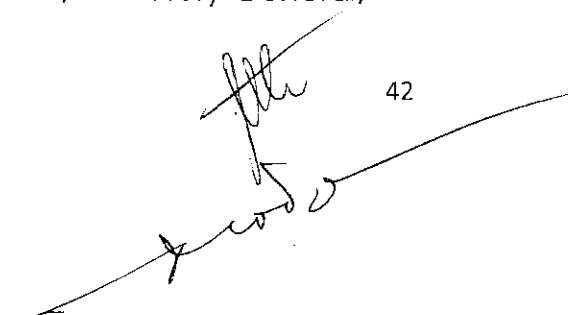
Amended



unop.



Hoo



Deputy Secretary General, Treasurer General and Deputy Treasurer General of NOTU and four other persons nominated by NOTU at least one of whom shall be a woman;

(b) the Chairman General, Vice Chairman General, Secretary General, Deputy Secretary General, Treasurer General and Deputy Treasurer General of COFTU and four other persons nominated by COFTU at least one of whom shall be a woman;

(c) the Chairperson, General Secretary and Treasurer of every registered labour union;

(d) seven delegates nominated directly to the Electoral Commission by every registered labour union at least three of whom shall be women;

(e) ten delegates at least three of whom shall be women, nominated by the non-unionised workers in each of the following regions-

- (i) Central;
- (ii) Eastern
- (iii) Northern; and
- (iv) Western.

Amber...

(2) The ten delegates referred to in subsection (1) (e) shall be elected as follows-

[Signature]

(a) the Minister responsible for workers shall convene all willing non-unionised workers at every sub county in Uganda and the Electoral Commission shall organize and manage the elections at the sub county and district conference.

(b) every sub county non-unionised workers conference shall nominate ten delegates, at least three of whom shall be women, to the district non-unionised workers conference.

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(c) each district non-unionised workers conference shall nominate ten delegates, at least three of whom shall be women to the regional non-unionised workers conference for the purposes of nominating the delegates referred to in subsection (1)(e).

(3) For the purposes of the elections, the Registrar under the Labour Unions Act, 2006 shall submit to the Electoral Commission a list of the registered labour unions.

(4) The Commission shall appoint nomination and polling days for election of workers representatives to Parliament.

(5) A union registered within six months before a general election shall not be taken into account by the Electoral Commission for the purposes of electing workers' representatives to Parliament.

(6) For purposes of this section—

"COFTU" means the Central Organisation of Free Trade Unions;

"non-unionised worker" means a worker who is not a member of a labour union;

"NOTU" means the National Organisation of Trade Unions.

Amended

Justification

Clause 3, 8G is a replica of the provisions in the Parliamentary Elections (Special Interest Groups) Regulations, 2001 SI No. 31 relating to election of workers representatives to Parliament that were declared unconstitutional by the Constitutional Court.

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3. Amendment of the third schedule

The third schedule to the Bill is amended as follows:

- a) Insert "Amudat" after Amolatar under the Northern Region
- b) Delete "Amudat" from the Eastern Region

Justification

Amudat is situated in the northern region.

Amudat

SWA

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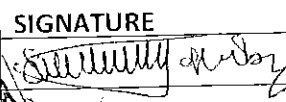

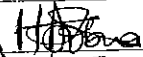
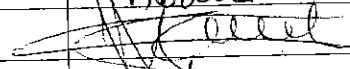
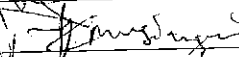
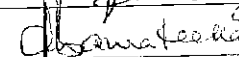
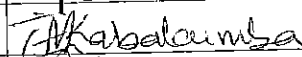
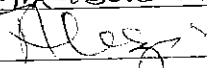

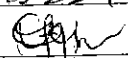
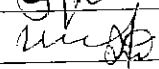
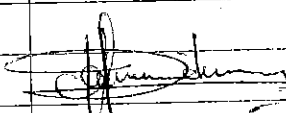
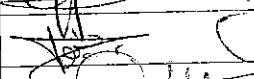
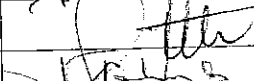
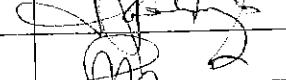
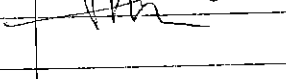
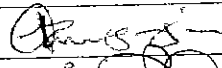

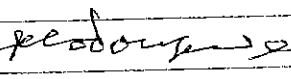

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COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS

SIGNATURES FOR THE PARLIAMENTARY ELECTIONS AMENDMENT (NO.2) BILL, 2015

NO	NAME	CONSTITUENCY	PARTY	SIGNATURE
1.	Hon. Tashobya Stephen	Kajara	NRM	
2	Hon Baka Stephen M	Bukooli North	NRM	
3	Hon. Achia Remigo	Pian	NRM	
4	Hon. Obua Denis H	Ajuri	NRM	
5	Hon. Timbigamba Lindah	Kyenjonjo	NRM	
6	Hon. Musinguzi Yona	Ntungamo	NRM	
7	Hon. Kamateka Jovah	Mitooma	NRM	
8	Hon. Kabakumba Masiko	Bujenje	NRM	
9	Hon. Ndeezi Alex	PWDS	NRM	
10	Hon. Nyakecho Okwenye	Otuke	NRM	
11	Hon. Byarugaba Alex B	Isingiro South	NRM	
12	Hon. Nakayenze Connie	Mbale	NRM	
13	Hon. Amoding Monicah	Youth National	NRM	
14	Hon. Mbabazi Betty	Rubirizi	NRM	
15	Hon. Todwong Richard	Nwoya	NRM	
16	Hon. Simbwa John	Makindye East	NRM	
17	Hon. Ntabazi Harriet	Bundibugyo	NRM	
18	Hon. Lowila CD Oketayot	Pader	NRM	
19	Hon. Kakooza James	Kabula	NRM	
20	Hon. Abdu Katuntu	Bugweri	FDC	
21	Hon. Medard Lubega S	Busiro East	DP	
22	Hon. Joseph Balikuddembe	Busiro South	DP	
23	Hon. Namayanja Florence	Bukoto East	DP	
24	Hon. Paul Mwiru	Jinja Mun. East	FDC	
26	Hon. Ayena Chrispus	Oyam East	UPC	
27	Hon. Otada Sam Amooti	Kibanda	Indep.	
28	Hon. Fox Odoyo Owelowo	West Budama North	Indep.	
29	Hon. Mujungu K. Jennifer	Ntoroko	Indep.	
30	Hon. Sarah Mpabwa (Lt. Col)	UPDF		
31	Hon. Niwagaba Wilfred	Ndorwa East		