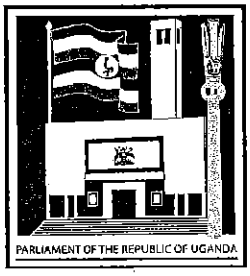

A REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS

ON

THE LEADERSHIP CODE (AMENDMENT) BILL, 2016

OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDINGS
KAMPALA
UGANDA

November 2016

EXECUTIVE SUMMARY

The Leadership Code (Amendment) Bill, 2016, was first read on 17th August 2016. The Bill shall amend the Leadership Code Act (2002), in order to give effect to Article 235A of the Constitution, which establishes the Leadership Code Tribunal. The Bill provides for the composition, jurisdiction and functions of the Tribunal, and is expected to strengthen the enforcement of the Leadership Code.

In considering the Bill, the Committee was guided by Rule 118 of the Rules of Procedure of Parliament. The Committee held meetings with stakeholders, including a public hearing, and undertook benchmarking visits to Tanzania and Nigeria. Chapter 1 of the report presents: the methodology; a background to the Leadership Code Act No.17 of 2002; and the purpose and budgetary and economic implications of the Bill. Chapter 2, a critical analysis, presents the Committee's observations, conclusions and recommendations on most of the Clauses, particularly where it calls for significant amendment. Finally, the Committee proposes amendments in Chapter 3.

Section 2(2) of the Leadership Code Act provides that the provisions of the Code shall constitute the Leadership Code of Conduct under Chapter Fourteen of the Constitution. Political leaders and Specified Officers who are bound by the provisions of the Code are listed in the Second and Third Schedules to the Act. Section 4(1)(b) of the Act requires every leader to submit a written declaration of his or her income, assets and liabilities, and the names, income, assets and liabilities of his or her spouse, child and dependant – once every two years during the month of March, to the IGG. Failure to submit such declaration without reasonable cause constitutes a breach of the Code, under section 4(8), the penalty for which, under section 35(b), is dismissal from or vacation of office.

The enforcement of the Act has however run into controversy as a result of certain court decisions, which meant that the Act could not be enforced against some of the persons it was intended to regulate.

- ***Fox Odoi-Oywelowo and James Akampumuza* v *Attorney General* (Constitutional Court Petition No. 8 of 2003)** held that sections 19(1), 20(1), 35(b) and 35(d) of the Leadership Code Act were inconsistent with and contravened the Constitution; in fettering the discretionary powers conferred on the President in disciplining his or her appointees;

- ***Hon. John Ken Lukyamuzi* v *Attorney General and the Electoral Commission* (Supreme Court Constitutional Appeal No. 2 of 2007)** held that the Inspector General of Government (IGG) is not the appropriate Tribunal envisaged under Article 83(1)(e) of the Constitution; and that it was contrary to natural justice for the IGG to constitute himself or herself into an investigator prosecutor and judge – for this denied an accused leader the opportunity to be heard by an impartial body before a decision could be taken against him or her.

The above decisions meant that the provisions of the Leadership Code Act would, if applied in its entirety, apply to *only a few* leaders in Uganda. The provisions of the Act would require significant amendment, including providing for the Leadership Code Tribunal, before it could fully meet its objectives.

The Committee finds that certain clauses –particularly Clause 4, Clause 8 and Clause 27–are misconceived, having been hinged on a wrong interpretation of the decision in ***Fox Odoi-Oywelowo's case***. While they seek to amend the principal Act to remove

the punishment of *dismissal from office* of an offending leader, the respective provisions of the Act were *not* found by Court to be purely unconstitutional and inapplicable to all leaders. Court found that they were not applicable to officers for whom the grounds for and procedure of removal from office was specifically provided for under the Constitution, and did not include breach of the leadership Code Act. The Committee therefore rejects the repeal of those provisions.

The Committee recommends, *among others*:

- With respect to declaration of a leader's property and liability, to require a leader to declare assets and liabilities in which the leader has a joint interest with any other person irrespective of their relation; to prohibit anticipatory declaration of property; to set out the procedure to be followed by the Inspectorate in verification of declarations; and to provide for a person who has reason to believe that a leader's declaration is not truthful or has information concerning a leader's property or liability – to apply for verification. Additionally, to require a person employed in the public service to make a declaration of his or her assets and liabilities to the accounting officer or to the head of the Ministry, department or agency in which he or she is employed;

- to expand the circumstances amounting to conflict of interest and de-criminalise it by taking it out of the Anti-Corruption Act, 2009 and returning it to the Leadership Code Act as a breach of the Code;

- that the Tribunal only entertains breaches of the Code; and does not exercise criminal jurisdiction. The IGG should refer offences committed under the Code for prosecution by the Directorate of Public Prosecutions;

- that where the grounds or procedure for the dismissal or removal from office of a leader is prescribed under the Constitution, the decision of the Tribunal to the authorized person shall be a recommendation to the authorized person to exercise such disciplinary action as prescribed under the Constitution;

- that where a leader is dismissed or removed from office for misbehavior or misconduct under any law, a breach of the Code shall constitute misbehavior or misconduct under that law;

- A person who is dismissed, removed from office, or convicted for breach of this Code as a result of the decision of the Tribunal, shall not hold any other public office whether appointive or elective for a period of five years from the date of dismissal, removal from office, or conviction.

The revised grand total for the estimated annual budget for the Tribunal is UGX 3,306,722,642/= *(Uganda Shillings Three billion, Three hundred six million, Seven hundred twenty two thousand, and Six hundred forty two shillings only).* It is hoped that the Tribunal will be fully established and functional by the beginning of Financial Year 2017/2018. The Committee observes that the Bill will improve the institutional mechanism for fighting corruption if fully implemented and relevant institutions strengthened to undertake their respective mandates.

CONTENTS

ACRONYMS

ACCU	Anti-Corruption Coalition Uganda
BOU	Bank of Uganda
CAO	Chief Administrative Officer
CCB	Code of Conduct Bureau *(Nigeria)*
CPI	Corruption Perception Index
DPP	Directorate of Public Prosecutions
EC	Electoral Commission
EFCC	Ethics and Financial Crimes Commission *(Nigeria)*
ESC	Education Service Commission
ICPC	Independent Corrupt Practices and Other Related Offences Commission *(Nigeria)*
IG	Inspectorate of Government
IGG	Inspector General of Government
JSC	Judicial Service Commission
LCA	Leadership Code Act
LDC	Law Development Centre
LOP	Leader of the Opposition in Parliament
MOFPED	Ministry of Finance, Planning and Economic Development
MP	Member of Parliament
NRC	National Resistance Council
PCCB	Prevention and Combating of Corruption Bureau *(Tanzania)*
PBO	Parliamentary Budget Office
PSC	Public Service Commission
UCU	Uganda Christian University, Mukono
UDN	Uganda Debt Network
UHRC	Uganda Human Rights Commission
ULC	Uganda Land Commission
ULRC	Uganda Law Reform Commission
URA	Uganda Revenue Authority
UWONET	Uganda Women's Network

1 INTRODUCTION

Rt. Hon. Speaker,

The Leadership Code (Amendment) Bill, 2016, was read for the first time during the 16th Sitting of the 1st Meeting of the 1st Session of the 10th Parliament that was held on Wednesday 17th August 2016, whereupon it was referred to the Committee on Legal and Parliamentary Affairs in accordance with Rules 117 and 118 of the Rules of Procedure of Parliament, for scrutiny and report back to the House.

The Committee considered the Bill, and now reports to the House.

The Bill shall amend the Leadership Code Act (2002), in order to give effect to Article 235A of the Constitution. To this end, the Bill provides for the composition, jurisdiction and functions of the Leadership Code Tribunal. The proposed law is expected to strengthen the enforcement of the Leadership Code.

1.1 METHODOLOGY

In considering the Bill, the Committee was guided by Rule 118 of the Rules of Procedure of Parliament.

1.1.1 Memoranda

The Committee wrote invitation letters to key stakeholders, requiring them to present their views on the Bill. It also extended an invitation to all interested parties through the media, and held a public hearing to that effect. The Committee thus held meetings and/or received memoranda from the following stakeholders[1]:

(i) The Hon. Minister of State for Ethics and Integrity;
(ii) The Inspector General of Government (IGG);
(iii) The Director of Public Prosecutions (DPP);
(iv) The Uganda Law Reform Commission (ULRC);
(v) Office of the Leader of the Opposition in Parliament (LOP);
(vi) The Law Development Centre (LDC);
(vii) The Uganda Christian University (UCU), Mukono;
(viii) The Anti-Corruption Coalition Uganda (ACCU);
(ix) Transparency International Uganda;

[1] List presented in the order of date of meetings held.

Public Hearing:

(x) The Uganda Debt Network (UDN);
(xi) Uganda Women's Network (UWONET);
(xii) Mr. Okumu Jaffer, Wakiso District;
(xiii) Mr. Semugabi Jimmy, Gabi Consulting Agency;
(xiv) Mr. Jerry K. Otieno, Children at Risk Action Network, Manafwa District.

1.1.2 Benchmarking Visits

The Committee undertook benchmarking visits to: (i) Tanzania from 3rd – 7th October 2016; and (ii) Nigeria from 31st October to 4th November 2016. The delegations of Members interacted with institutions relevant to the establishment and enforcement of the Leadership Code of Conduct in the said countries, which enriched its consideration of the Bill.

1.1.2.1 Tanzania

The delegation of the Committee to Tanzania held meetings with the following officials or institutions in Dar-es-Salaam:

1. The Ethics Commission (EC);
2. The Prevention and Combating of Corruption Bureau (PCCB);
3. The Hon. Minister for Central Establishment and Good Governance in the Ministry of Public Service Management and Good Governance;
4. The Parliamentary Standing Committee on Constitutional and Legal Affairs, and the Committee on Subsidiary Legislation.

1.1.2.2 Nigeria

The delegation of the Committee to Nigeria held meetings with the following officials or institutions in Abuja:

1. The Committee on Ethics & Privileges, of the House of Representatives;
2. The Committee on Anti-Corruption, of the House of Representatives;
3. The Economic and Financial Crimes Commission (EFCC);
4. The Independent Corrupt Practices and Other Related Offenses Commission (ICPC);
5. The Code of Conduct Bureau (CCB).

1.2 BACKGROUND: THE LEADERSHIP CODE ACT, NO. 17/2002

1.2.1 Overview

In 1992, the National Resistance Council (NRC), the then interim Parliament of Uganda, enacted a Statute called the Leadership Code. It was to be enforced by a Leadership Code Committee. This Leadership Code Committee was never constituted and so the Leadership Code was not enforced.

In 1995 a new national Constitution was enacted. The ideas of the Leadership Code 1992 greatly influenced the enactment of the provisions of the Constitution in Chapter 14 on the Leadership Code of Conduct. Article 233(1) of the Constitution provides that *"Parliament shall by law establish a Leadership Code of Conduct for persons holding such offices as may be specified by Parliament"*, and Article 234 vests the powers of enforcing the Leadership Code of Conduct in the Inspectorate of Government (IG) "or such other authority as Parliament may by law prescribe". Section 1(2) of The Constitution (Consequential Provisions) Act, 1995, provides that until Parliament prescribes any other authority to be responsible for enforcing the Leadership Code of Conduct, the Inspector General of Government (IGG) shall be responsible for enforcing the Code.

In 2002 the Leadership Code, 1992, was repealed and the Leadership Code Act, 2002, was passed. Section 2(2) of the Leadership Code Act provides that the provisions of the Code shall constitute the Leadership Code of Conduct under Chapter Fourteen of the Constitution.

Political leaders and Specified Officers who are bound by the provisions of the Code are listed in the Second and Third Schedules to the Act. Section 4(1)(b) of the Act requires every leader to submit a written declaration of his or her income, assets and liabilities, and the names, income, assets and liabilities of his or her spouse, child and dependant – once every two years during the month of March, to the IGG. Failure to submit such declaration without reasonable cause constitutes a breach of the Code, under section 4(8), the penalty for which, under section 35(b), is dismissal from or vacation of office.

1.2.2 Court decisions affecting enforcement

The enforcement of the Leadership Code Act, 2002, has run into controversy as a result of certain court decisions. The court decisions meant that the Act could not be enforced against some of the persons it was intended to regulate.

1.2.2.1 Fox Odoi-Oywelowo's Case [2]

The petition was brought under Article 137(3) of the Constitution, which provides that any person who alleges that an Act of Parliament or any other law, act or omission is inconsistent with or in contravention of a provision of the Constitution, may petition the Constitutional Court for a declaration to that effect. The Petitioners sought a declaration that the application of sections 5(2), 12(2), 13(4), 14(3), 35(b), (c) and (d) of the Leadership Code Act rendered them inconsistent with Articles 144, 56, 60(8), 120(7), 146(7)(c), 161(5), 163(10), 165(8), 167(9) and 238(10) of the Constitution.

The provisions referred to in the Leadership Code Act are the ones that provide that a leader who commits a breach of the Code, such as failure to submit a declaration without reasonable cause; failure to clarify on an omission or discrepancy in a declaration; engaging in prohibited conduct; misuse of public property; misuse of official information; failure to disclose any gift or benefit to the IG; conflict of interest or failure to disclose personal interest – is liable to *vacation* of office or *dismissal* from office. The articles of the Constitution cited are the ones which provide for the tenure of office of Presidential appointees. The cited articles of the Constitution provide that those specified officers can only be removed from Office by the President, under circumstances and procedures specified in the Constitution.

The issue for determination was whether those provisions of the Leadership Code Act were inconsistent with those articles of the Constitution; in as far as they fettered the discretion of the President in the removal of the office bearers from their respective offices. In a landmark judgment, the Constitutional Court held that sections 19(1), 20(1), 35(b) and 35(d) of the Leadership Code Act were inconsistent with and contravened the stated articles of the Constitution; in that they fettered the discretionary powers conferred on the President by the various articles of the Constitution, in disciplining his or her appointees.

The effect of the above case was that certain provisions of the Leadership Code Act, especially those whose breach results in dismissal or vacation from office, could *not* be enforced against Presidential appointees since such power was only exercisable by the President under the provisions of the Constitution. The decision in that case crippled the enforcement of the Leadership Code Act.

In 2005, Parliament amended Chapter Fourteen of the Constitution to include article 235A – establishing a Leadership Code Tribunal "whose composition, jurisdiction and functions shall be prescribed by Parliament" – although Article 234 of the Constitution vesting powers of enforcement in the IGG "or such other authority as Parliament may by law prescribe" was not changed.

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[2] *Fox Odoi-Oywelowo and James Akampumuza* v *Attorney General* (Constitutional Court Petition No. 8 of 2003)

However, to date, the envisaged Tribunal has never been actualized. This provides a backdrop to the second landmark decision, as highlighted in the subsection below.

1.2.2.2 Hon. John Ken Lukyamuzi's Case [3]

The facts of this case are that the Appellant, Hon. John Ken Lukyamuzi, a Member of the 7th Parliament, was informed by the Speaker of Parliament in 2005 that he had ceased to be a Member of Parliament because he had breached the Leadership Code Act (2002), by failing, without reasonable cause, to declare his income, assets and liabilities to the IGG. The Appellant therefore lost his Parliamentary seat and was barred from holding any other public office for a period of five years from the date of his removal, as provided under section 20(3) of the Act *(as it then was)*. The Appellant filed a petition in the Constitutional Court challenging his removal from Parliament and his being barred from standing in the 2006 Parliamentary elections. The Constitutional Court dismissed his petition with costs, hence his appeal to the Supreme Court.

In its judgment, the Supreme Court relied on Article 83(1)(e) of the Constitution which provides that,

> *"A member of Parliament shall vacate his or her seat in Parliament–*
> *(a) .....*
> *(b) .....*
> *(e) if that person is found guilty by the* ***appropriate tribunal*** *of violation of the Leadership Code of Conduct and the punishment imposed is or includes the vacation of the office of a member of Parliament."*

The Supreme Court held that the IGG is not the appropriate tribunal envisaged under Article 83(1)(e) of the Constitution. It therefore ordered that the removal of the Appellant from his seat as a Member of Parliament was null and void; that he was entitled to all the emoluments he should have earned as a member of Parliament from the date of his removal up to the expiry of his tenure in the 7th Parliament; and that his disqualification from being nominated as a candidate in the 2006 elections was null and void.

The effect of this judgment was that a Member of Parliament who breached the Leadership Code Act could not –under Article 83(1)(e)– lose his or her seat, since there was no appropriate tribunal envisaged under that article, which could recommend such vacation.

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[3] *Hon. John Ken Lukyamuzi* v *Attorney General and the Electoral Commission* **(Supreme Court Constitutional Appeal No. 2 of 2007)**

1.2.2.3 Eng. Thomas Mulondo's Case [4]

The Applicant, Eng. Thomas Mulondo, was the Chairperson of Kayunga District Local Government. He was found by the IGG to be in breach of section 8(3) of the Leadership Code Act *(as it then was)*, because of putting himself in positions that conflicted with his duties and responsibilities as a Chairperson. The IGG directed the Applicant to vacate his office pursuant to sections 31(2) and 35(d) of the Act. The Speaker of Kayunga District Local Government was directed to table the IGG's report before the Council for implementation. The Council sat and resolved that it be *adopted* and *implemented*, and the Council minutes were sent to the IG. The IGG directed the Chief Administrative Officer (CAO) of Kayunga District to inform the Electoral Commission, and accordingly the seat was declared vacant.

The Applicant applied to the High Court for Judicial Review of the decision of the IGG to remove him from office, since he was never invited to defend himself against the allegations, and the evidence on which the IGG relied was never availed to him. He sought orders of *certiorari* to quash the report of the IGG in which the decision to remove him from office was made. The issues for Court's determination were:-

(i) *Whether the IGG availed the Applicant an opportunity to be heard in the inquiry into his alleged breach of the Leadership Code Act;*
(ii) *Whether the Applicant was denied his right to appeal against the IGG's decision;*
(iii) *Whether the Applicant was entitled to a hearing before Kayunga District Council implemented the IGG's decision to remove him from office; and*
(iv) *Whether the Applicant was entitled to the remedies sought.*

The High Court held that:-

- The IGG acted in a manner similar to that in the case of ***John-Ken Lukyamuzi* v *Attorney General*** by constituting itself into an investigator, accuser and finally a judge. The IGG failed to observe the principles of natural justice when it failed to afford the Applicant an oral public hearing before directing his removal from office;

- The IGG failed to fully comply with the provisions of s.19(1) of the Leadership Code Act by not availing the Applicant a copy of its decision; hence he was never afforded the right to appeal to the High Court, as provided by s.33 of the Leadership Code Act;

[4] *Eng. Thomas Mulondo* v *IGG, Kayunga District Local Government & The Electoral Commission* (High Court Miscellaneous Application No. 007 of 2009)

- The only procedure provided for by law for the removal of a District Chairperson is that which is laid out in Article 185(1) of the Constitution and s.14 of the Local Governments Act, which provides that the Chairperson may be removed from office by the council by resolution supported by two-thirds of all members of the council on any of the stipulated grounds including abuse of office, corruption, incompetence, etc. S. 31(2) of the Leadership Code Act which makes it imperative for District Local Governments to enforce the decision of the IGG, cannot put the provisions of Article 185(1) of the Constitution out of operation. The council was therefore entitled to debate the findings of the IGG and then pass a resolution, if supported by a two-thirds majority to remove him from office. The Local Government Council was not meant to be a rubber stamp to simply implement the findings of the IGG without any debate;

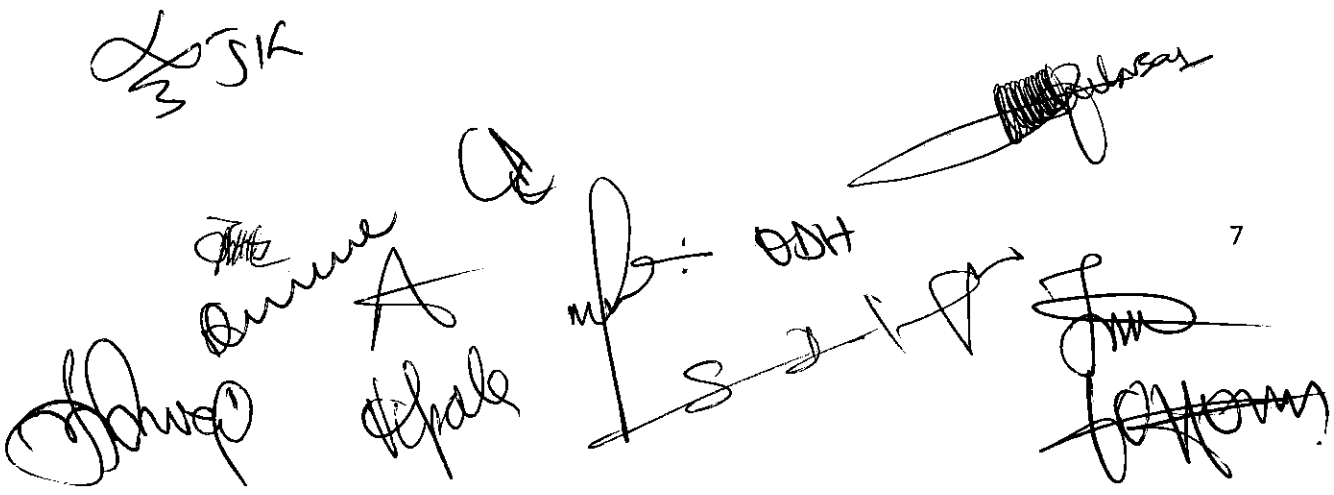
- The IGG did not have the power to act as a tribunal because of the provisions of Article 235A of the Constitution. The IGG's decision to remove the Applicant from office was therefore both *ultra vires* and an error of law. The Applicant was therefore entitled to the prerogative order of *certiorari* to quash the report of the IGG;

- The decision by Kayunga District Local Government Council to remove the Applicant from the office of District Chairperson was illegal, null and void.

1.2.3 Conclusion

The above decisions meant that the provisions of the Leadership Code Act would, if applied in its entirety, apply to *only a few* leaders in Uganda. Even the Amendment to introduce Article 235A that established a Leadership Code Tribunal under Chapter 14 of the Constitution did not remedy or avert the damage caused to the Leadership Code Act, 2002. The provisions of the Act would require significant amendments before the Act could fully meet its objectives. It is important to note the following words of the Supreme Court Justice Tumwesigye on page 29 of his judgment in ***Lukyamuzi's case***:

> *"It is important that an amendment to the Leadership Code which includes the establishment of the Leadership Code Tribunal be urgently enacted by Parliament so that the Leadership Code of Conduct can be effectively enforced against specified leaders."*



1.3 THE LEADERSHIP CODE (AMENDMENT) BILL, 2016

In compliance with the above court decisions, Government proposed the Leadership Code (Amendment) Bill, 2016.

1.3.1 Purpose of the Bill

The purpose of the Bill is to amend the Leadership Code Act, Act No.17 of 2002, to give effect to Article 235A of the Constitution; to establish the Leadership Code Tribunal; to provide for the composition and functions of the Leadership Code Tribunal; to strengthen the enforcement of the Code; and to provide for other related matters. The proposal to establish the Leadership Code Tribunal is intended to enforce the values of integrity and proper conduct in the leadership of Uganda, values which are critical in the pursuit of development, democracy, good governance and promotion of the rule of law.

Hon. John Ken Lukyamuzi's Case held that the Inspectorate of Government is not the appropriate tribunal provided for under Article 83(1)(e) of the Constitution. The absence of the tribunal meant that the IGG would be an investigator, prosecutor and judge – making such a process unconstitutional for an accused leader would not be afforded an opportunity to be heard by an impartial body before a decision is taken against him or her.

Further, some provisions of the Code were declared unconstitutional by the Constitutional Court in ***Fox Odoi-Oywelowo's Case***, hence the need for repeal.

The Bill therefore seeks to operationalise Article 235A of the Constitution which gives Parliament the power to prescribe by law the composition, jurisdiction, and functions of the Leadership Code Tribunal, in order to effectively implement the Leadership Code Act, No. 17 of 2002. The Bill further seeks to repeal the provisions of the Code that were declared unconstitutional.

The amendment of the Leadership Code Act, 2002 and the establishment of the Leadership Code Tribunal will contribute greatly to the enforcement of the Leadership Code of Conduct. For instance:

- The Inspectorate of Government (IG) will be able to submit its reports following investigations over alleged breaches of the Code to the tribunal for adjudication and sanctions, where appropriate, enabling the enforcement of the Code. This will afford a leader an opportunity to be heard by an impartial body before a decision is taken against him or her.

- The establishment of the Tribunal will boost the Inspectorate's work; in that the recommendations of the Inspectorate's reports will be adjudicated upon by the tribunal. This will address several challenges that the IG has been facing, with regard to recommendations of sanctions such as confiscation and forfeiture of property obtained through breach of the Code.

1.3.2 Budgetary Implications

The certificate of financial implications indicates that the establishment of the Leadership Code Tribunal requires UGX 2,677,333,666/= *(Uganda Shillings Two billion, Six hundred seventy seven million, Three hundred thirty three thousand, and Six hundred sixty six only)* annually over the medium term. This amount is provided for under the Directorate of Ethics and Integrity vote, which implies that the Directorate will transfer the funds to the Tribunal once it is established. It is important to note that information emanating from the Ministry of Finance Planning and Economic Development together with the Directorate for Ethics and Integrity[5] is to the effect that the original itemized budget was computed several years ago, as the draft Bill was still in the offing. That due to passage of time and after review, it was found that various important items were either under-costed or omitted. Furthermore, various staff positions such as accountants, internal auditor, information scientist and registry officers were erroneously omitted, yet they are essential to the operations of the Tribunal. These additional items are costed at UGX 629,388,976/= *(Uganda Shillings Six hundred twenty nine million, Three hundred eighty eight thousand, and Nine hundred seventy six only).* Therefore, the revised grand total for the estimated annual budget for the Tribunal is UGX 3,306,722,642/= *(Uganda Shillings Three billion, Three hundred six million, Seven hundred twenty two thousand, and Six hundred forty two shillings only).*

The IGG informed the Committee that the establishment of the Tribunal would call for more funding by Government to the IG to facilitate verifications and investigations of breaches of the Code. The cost of verifying assets is on average UGX 5 million per leader. The IGG explained that while the IG's Leadership Code database had 25,000 leaders, the Inspectorate had only been able to verify the declarations of 50 leaders and had investigated only 20 breaches of the Code – due to limited resources, particularly financial and human. She requested more operational funds to enable the Inspectorate to increase the number of verifications and investigations of breaches.

[5] Vide letter dated 22/11/16 (ref: PAD 62/256/02) from the Permanent Secretary (PS) and Secretary to the Treasury, MFPED, Keith Muhakanizi to the Clerk to Parliament, wherein he referred to and attached copy of letter dated 31/10/16 (ref: LED 69/106/02) from the PS, Office of the President/Directorate for Ethics and Integrity, Charles Muganzi, to PS/MFPED.

On the revenue side, the Bill is expected to generate revenue for Government in form of fees and penalties that will arise from breach of the Code, including gifts and donations given to leaders on public occasions. The Parliamentary Budget Office (PBO) informed the Committee that it estimated revenue to Government to rise over the medium term based on the outcomes of the verification exercise conducted during the FY 2014/15. Medium term revenues would average to UGX 80,000,000/= *(Uganda Shillings Eighty million only)* per year, excluding court fees/charges.

1.3.3 Economic Implications

A report by PBO indicates the following:

- the estimated relationship between economic growth rates and the Corruption Perception Index (CPI) indicated that a 1% increase in the CPI is associated with a reduction in Gross Domestic Product (GDP) growth rates of 0.76%. This implies that assuming the Bill is passed into law and reduces the country's CPI by 1% points; economic growth will increase by 0.76% relative to current growth rate of 4.6%;

- a 1-unit rise in Uganda's CPI score reduces government tax revenues by 0.12%. Again, assuming the Bill reduces the country's CPI score by one unit over the medium term, Government tax revenues will increase by 0.12% relative to current levels;

- the estimated relationship between total investments and the corruption index score indicates that a 1% increase on the CPI increases investments by on average 0.31 percentage points. This result, it is argued, indicates that corruption in certain ways facilitates trade/investments. This could be caused by a weak public sector governance system that warrants bribery to be able to invest.

1.3.4 Conclusion

With respect to actualization of the Tribunal, the Committee received further information from the line ministry and MFPED to the effect that the revised grand total for the estimated annual budget for the Tribunal is UGX 3,306,722,642/= *(Uganda Shillings Three billion, Three hundred six million, Seven hundred twenty two thousand, and Six hundred forty two shillings only).* Furthermore, that in the event that the Bill is passed in the calendar year 2016, the process of appointments –which will be managed by the relevant service commissions– will commence shortly thereafter. They projected that the tribunal will be fully established and functional by the beginning of Financial Year 2017/2018. The Committee observes that the Bill will improve the institutional mechanism for fighting corruption if fully implemented and relevant institutions strengthened to undertake their respective mandates.

2 OBSERVATIONS, RECOMMENDATIONS, AND CONCLUSION

This section of the report provides a critical analysis of the proposed amendments to the Leadership Code Act of 2002, as contained in the Bill. It:-

(i) states the proposed amendment, and in some cases the provision being amended;
(ii) explains the effect of the proposed amendment, including on other laws or provisions in the Bill;
(iii) highlights stakeholders' views and draws comparisons with provisions in other jurisdictions;
(iv) makes a legal analysis; and finally
(v) provides the Committee's recommendation on the Clause.

2.1 CLAUSE 1: Amendment of section 2 of the Leadership Code Act, 2002.

The Leadership Code Act, 2002 in this Act referred to as the principal Act is amended in section 2–

(a) By Inserting immediately after the definition of "Government" the following–

"Inspectorate" means the Inspectorate of Government;

(b) By inserting immediately after the definition of "spouse" the following–

"Tribunal" means the Leadership Code Tribunal established by section 19A;"

Effect of the proposed Amendment

The proposed amendment defines major terms used in the Bill which were not defined in the principal Act, or those that were used in the principal Act but not defined.

Stakeholders' Views

- The Directorate of Public Prosecutions (DPP) welcomed the proposed amendment in "(a)", but noted that the definition of the word

"Inspectorate" renders redundant the word "Inspector-General" which is numerously used in the Act since it is defined as the Inspectorate of Government established under Article 223 of the Constitution. The DPP argued that if both words are left in the Act, it would lead to confusion since they relate to the same office. The DPP proposed that the word "Inspector-General" be repealed or defined differently.

- Stakeholders such as the DPP and the Law Development Centre (LDC) generally agreed with the proposed amendment to define "Tribunal" in "(b)", since it will clarify which tribunal is referred to in the Bill.

Analysis

- The Committee observes that while the word "Inspectorate" is used variously in the principal Act, it is not defined. This has posed a challenge to enforcement of the Act, since a person would not know which Inspectorate was being referred to. Therefore, the definition of the word "Inspectorate" is welcome.

- Furthermore, the proposed amendment to insert the definition of the word "Inspectorate" is intended to conform to the language used in the Constitution, particularly in Article 223, which establishes an Inspectorate of Government. It should be noted that the Inspectorate of Government is comprised of the Inspector-General of Government and such Deputy Inspectors General as Parliament may prescribe ((see: art. 223(2)). Therefore, by restricting the performance of certain acts to the Inspector-General, the performance of those acts by any other person from the Inspectorate –including a Deputy Inspector General– would be *ultra vires* since such a person would not be legally clothed with such powers to perform such acts. Therefore, there is need to grant the power to perform certain acts envisaged under the Act to be performed by the Inspector General, to the Inspectorate instead. This would ensure that such acts can be performed by the Inspector General, or any of his or her deputies.

- The Committee further observes that neither the Act nor the Bill define the term *"gift"*, and yet it is often used. Further still, the Committee will, in this report, propose certain amendments that make use of the terms *"property", "public office", "public officer", and "public service"*. These will require definition.

Recommendation/s

The Committee recommends that the proposed amendment is adopted with the following modifications:

- ***For consistency, the Committee proposes to delete the word "Inspector-General" wherever it appears in the principal Act and the Bill , and replace it with the word "Inspectorate" and to define the word "Inspectorate" to mean Inspectorate of Government established in Article 223 (1) of the Constitution.***

- ***The Committee further recommends insertion of the definitions of the following terms: "gift", "property", "public office", "public officer", and "public service".***

2.2 CLAUSE 2: Replacement of section 3 of the principal Act.

For section 3 of the principal Act there is substituted the following–

"3. Enforcement and functions of Inspectorate.

(1) The Leadership Code shall be enforced by the Inspectorate and the Tribunal.

(2) In enforcing this Code, the Inspectorate shall carry out the following functions–

(a) receive and examine declarations lodged with it under this Code;

(b) investigate or cause an investigation to be conducted into any alleged breach of this Code by a leader;

(c) make a report on any breach of this Code and refer the matter to the Tribunal for adjudication;

(d) make or recommend awards, disbursements and such payments or rewards as it may consider appropriate in connection with any assistance rendered in the enforcement of this Code;

(e) collaborate with other law enforcement agencies to facilitate the enforcement of this Code;

(f) investigate the actions or omissions of a former leader for the breach of this Code; and

(g) *carry out any other functions prescribed by or under this Code."*

Effect of the proposed Amendment

The provisions in the Bill differ from those in the Principal Act in the following ways:

- The Bill proposes that the enforcement of the Act will be by the Inspectorate *and* the Tribunal, and not by the Inspectorate alone.

- The Bill proposes to expand the functions of the Inspectorate from specific ones –such as: examining whether a leader depicts corrupt tendencies; investigating allegations of high handedness, outrageousness, infamous or disgraceful conduct– to broadly defining the functions of the Inspectorate.

- The Bill proposes that the functions of the Inspectorate cannot be delegated.

Stakeholders' Views

- The IGG was of the view that in enforcing the Code, the Inspectorate and the tribunal would play complementary roles, with the Inspectorate conducting investigations and the tribunal adjudicating matters. The IGG viewed the two mandates as mutually exclusive and not at all conflicting.

- The DPP proposed that the headnote should read: *"Enforcement of the Leadership Code Act."* – to align it to the contents of the proposed amendment that refers to both the Inspectorate and the Tribunal. The DPP proposed further that clause 3 be divided into three standalone provisions, with sub clause (1) of clause (3) relating to the enforcement of the Bill; sub clause (2) relating to the functions of the Inspectorate; and sub clause (3) relating to the functions of the Tribunal.

- The Leader of the Opposition in Parliament (LOP) proposed that the functions of the Tribunal be clearly spelled out to avoid potential conflict with the IGG. The LOP further proposed to include in the functions of the Inspectorate the power to prosecute offenses committed under the Code.

- LDC proposed that the clause –(or Part VIA)– be amended to clarify the functions of the Tribunal, which are currently only implied in the

proposed section 3(2)(c) to be adjudication of matters upon a reference by the Tribunal.

- The Anti-Corruption Coalition Uganda (ACCU) proposed that the proposed new section 3(2)(f) and Clause 12 (b) – be reconciled with section 9 of the Inspectorate of Government Act, which confines the jurisdiction of the Inspectorate to only serving leaders, and not former leaders.

- The Uganda Debt Network (UDN) proposed that the functions of the Inspectorate in the proposed section 3(2)(a) should be enlarged to include carrying out verifications lodged with the Inspectorate.

Analysis

- The proposal for the Leadership Code Act to be enforced by two agencies is welcome. The creation of the Leadership Code Tribunal implements the command in Article 235A of the Constitution. Furthermore, the establishment of the tribunal will remedy the situation alluded to in ***Hon. John Ken Lukyamuzi's case*** and ***Eng. Thomas Mulondo's case***, where Court held that it was wrong for the IGG to constitute itself into an investigator, accuser and finally a Judge. In doing so, Court held that the IGG had failed to observe the principals of natural justice when it failed to afford the Applicant an oral public hearing before directing his removal from office. It should be noted that in the past, the Inspectorate would independently investigate and direct action to be undertaken. The proposal in the Bill now requires the Inspectorate to make a report to the Tribunal, which Tribunal will then offer the accused leader an avenue to defend himself or hersfelf before it. This will act as a quality control mechanism, and will check any excesses of the Inspectorate. Indeed in ***Hon. John Ken Lukyamuzi's case***, Justice Tumwesigye, JSC held–

> ***"The Constitutional Court says that the IGG will remain the enforcement authority of the Leadership Code until another authority, perhaps the Leadership Code Tribunal mentioned in Article 235A, is appointed by Parliament. The Justices of the Court of Appeal are apparently implying here that both authorities cannot enforce the Leadership Code together. I think both authorities can enforce the Leadership Code at the same time, the IGG bringing cases of violations of the Leadership Code as the accuser and the other authority trying the cases and pronouncing a verdict on it as a tribunal. The fact that those who amended the Constitution put the Leadership Code Tribunal in***

Chapter 14 together with the IGG shows, in my view, that the two institutions were intended to be complementary to each other and not to be alternatives."

In the same case, Justice Tumwesigye held further–

"....that for a body or a person to be called a tribunal there must be an accuser and an accused person or parties with a dispute to resolve. The tribunal will then conduct a hearing and come to a decision which will then be binding on the parties. This in my view, is what the Leadership Code Tribunal under Article 235A was established in the Constitution to do.

.....Breaches of the Leadership Code are punished with severe penalties. These include confiscation and forfeiture of property; payment of compensation for loss suffered by the Government on account of a leader's breach of the Leadership Code Act; dismissal from or vacation of office, and imposition of other severe penalties provided under Section 35 of the Leadership Code. In my view such penalties should be imposed by a court of law or a tribunal established by law which observes due process".

Therefore, the establishment of the Leadership Code Tribunal will observe an accused leader's right to a fair hearing guaranteed by Articles 28(1) and 44(c) of the Constitution – by affording him or her an opportunity to defend himself or herself.

- The creation of the Tribunal also clearly agrees with international best practices, which *–from the examples presented below of Nigeria, Tanzania and South Africa–* favors a complementary arrangement were the enforcement of similar laws is a shared responsibility between the investigating body and an independent neutral tribunal that: (i) reviews the evidence against the leader; (ii) allows the leader to defend him or herself before the Tribunal; and (iii) recommends action to be taken against the leader.

- In **Nigeria**, the **Code of Conduct Tribunal** was established in 1989 by the **Code of Conduct Bureau and Tribunal Act No.1 of 1989**. Sections 20- 25 are the relevant provisions of the Act, on the tribunal. In Nigeria, it is only the Code of Conduct Bureau *–and no other body–* that can refer complaints of non-compliance with or breach of the Act to the tribunal.

The Tribunal has both administrative and criminal jurisdiction. For instance, it has jurisdiction to determine cases of abuse of power by public officers. The Tribunal has important and strategic powers to enable it fight corruption. Some of the tribunal's powers include a range of punishments it can enforce to offenders upon conviction; the tribunal can order a convicted person to vacate office; disqualify them from holding public office for a period of up to 10 years; or order the forfeiture of ill-gotten property. The Code of Conduct Bureau and Tribunal Act has been amended in some sections; the amendments seek to ensure fair hearing of an affected public officer by the Bureau taking down his statement during an inquiry. The amendments are also to empower the Bureau to conduct preliminary investigations giving the Tribunal worthwhile facts and evidence to work with.

- In the Federal Republic of **Tanzania**, the **Public Ethics Tribunal** is established by the **Public Leaders Code of Ethics Act No. 13 of 1995** and **Act No. 5 of 2001**. The Public Ethics Tribunal scrutinizes public officials to find out whether they defied the code of ethics. The tribunal, a three-member Bench, may make such recommendations as to administrative sanctions, criminal prosecutions, or further actions to be taken as it deems fit.

- In the Republic of **South Africa**, under **The Special Investigating Units and Special Tribunals Act, 74 of 1996**, an investigating body and a tribunal have been established to combat malpractices such as corruption and abuse of public office in South African State institutions.

- With respect to the proposed section 3(2)(d), the Committee observes that whereas it is commendable to award persons who have assisted in helping in the enforcement of the Code, in light of the complementary arrangement being proposed in the Bill, it is imperative that the awards be made *–not by the Inspectorate, but–* by the tribunal upon the recommendation of the Inspectorate. It is important also that an award be made upon successful proof of a breach of the Code by the recipient of the award. Moreover, an award should only be made where there is recovery of public funds from the person who breached the Code. This proposal is in line with **The Finance Act, 2014**, where the Commissioner General of URA is empowered to pay a person who provides information leading to the recovery of a tax or duty the equivalent of 10% of the principal tax or duty recovered.

- Finally, the Committee observes that whereas sub clause (1) of Clause 3 deals with complementary arrangement between the Tribunal and the Inspectorate, sub clause (2) only provides the functions of the

Inspectorate. The Committee notes the conspicuous absence of the functions of the Tribunal.

Recommendation/s

The Committee recommends that section 3 be amended as proposed in the Bill, albeit with the following modifications:-

- ***Sub-clause (1) becomes a standalone provision on the enforcement of the Act;***

- ***Sub-clause (2) becomes a standalone provision on the functions of the Inspectorate;***

  - ***Provide for the Inspectorate a function to carry out verification of the declarations received under the Code;***

  - ***Remove the word "make" from 3(2)(c) of the Bill, so that the Inspectorate does not have power to "make" awards but instead recommend the awarding of such award as it deems fit;***

  - ***Insert a provision to provide for the Inspectorate to prosecute breaches of the Code before the Tribunal;***

  - ***Insert a provision to provide for the Inspectorate to refer offences committed under the Code to the DPP.***

2.3 CLAUSE 3: Amendment of section 4 of the principal Act.

Section 4 of the principal Act is amended by substituting for subsection (3) the following–

"(3) A leader shall, before the expiration of his or her term of office, declare his or her income, assets and liabilities, the names, income, assets and liabilities of his or her spouse, child or dependent under this Code, if his or her term of office expires six months after his or her last declaration."

Effect of the proposed Amendment

The proposed amendment will require a leader whose term of office expires six months after his or her last declaration, to *not only* declare his or her income, assets and liabilities, *but also* the names, income, assets and liabilities of his or her spouse, child or dependent.

Stakeholders' Views

- The IGG informed the Committee that the major aim of asset declarations includes, but is not limited to the following:

    - *To increase transparency and the trust of citizens in public administration, by disclosing information about assets of politicians and civil servants that shows they have nothing to hide;*

    - *To help heads of public institutions prevent conflicts of interest among their employees and to resolve such situations when they arise, in order to promote integrity within their institutions;*

    - *To monitor wealth variations of individual politicians and civil servants, in order to dissuade them from misconduct and protect them from false accusations, and to help clarify the full scope of illicit enrichment or other illegal activity by providing additional evidence.*

The IGG, recognizing that **Article 26 of the Constitution** provides for the right to own property either individually or in association with others, informed the Committee that the declarations submitted to the IGG by leaders since 2002 to date show show that in most cases, leaders make joint investments and acquisitions with or in the names of their immediate family members including their spouses and children. That in fact, most of the assets, incomes and liabilities of spouses and children that are declared are those in which the leaders have an interest such as where they have made contributions towards their acquisition or developments and those held in trust of the children or dependants.

The IGG further noted that **Section 9 of the Anti-Corruption Act** provides for the offence of conflict of interest and goes ahead to define "**personal interest**" to include the personal interest of a spouse, child, dependant, agent, or business associate of which the person has knowledge or would have had knowledge if he or she has exercised due diligence having regard to all the circumstances. The IGG was of the view that since personal interest stretches to the interest of spouses and children, it is only fair that their incomes, assets

and liabilities too be declared, in order to promote and maintain honesty, probity, impartiality and integrity in public affairs.

- The DPP supported the substitution of s.4(3) of the Act, on the basis that the proposed amendment covers the lacuna in the Act that had omitted declaration of the names and assets of a leader's spouse, children and dependants, where the leader's term expires six months after the leader's last declaration.

- Whereas the Uganda Law Reform Commission (ULRC) agreed with the principle of the amendment, it was concerned about confidentiality of information about the assets, liabilities and transactions of individuals. The Commission further raised concern that the provision imposes an obligation on the leader to disclose information regarding the affairs of other persons, which may not be within the leader's means to discharge. The Commission proposed that declaration should be limited to gifts or other transactions made by the leader in favor of his or her spouse, children, dependent or other family members during the period relevant to the declaration.

- The LOP was concerned that section 4 of the Principal Act infringes on Article 27(2) of the Constitution, particularly with respect to the right to privacy of a leader's spouse and child.

- Uganda Christian University (UCU) Mukono welcomed the proposed amendment and informed the Committee that there is an increasing number of countries around the world that have similar provisions such Tanzania, South Africa, Brazil and the United States of America (USA). UCU asserted that infringement of Article 27 (2) does not arise since the declaration is not published or made available to everyone. UCU therefore recommended that clause 3 is retained as proposed in order to prevent leaders from hiding ill-gotten property in the names of their children, spouses and dependents.

- The Uganda Debt Network (UDN) agreed to the proposal.

Analysis

- The Committee observes that the amendment does not *generally* seek to extend the requirement for declaration of name, income, assets and liabilities to spouses, children and dependants – this requirement is already provided in the law [(for instance under sections 4(1), (2) and (4) of the Act]. It should be noted that whereas all the provisions in section 4 require a leader to declare his or her income, assets and liabilities and those of his or her spouse, children or dependants, section 4(3) limits the

declarations to the leader alone. This is a disconnect considering that up until that time, a leader is required to declare his or her assets and liabilities and those of his or her children, dependant, and spouse. The Bill merely seeks to include this in the final declaration of a leader whose term expires 6 months after his or her last declaration. Thus, the proposed amendment is welcome since it enhances consistency in the Bill.

- The declaration of assets belonging to a leader's spouse, children and dependents is in line with international best practice. Similar provisions can be found in the laws of the following jurisdictions:

  (i) Public Leaders Code of Ethics Act No. 13 of 1995 and Act No. 5 of 2001 of Tanzania;
  (ii) The Nigerian Code of Conduct Bureau and Tribunal Act No. 1 of 1989;
  (iii) The Public Officer Ethics Act of Kenya; and
  (iv) The Code of Conduct and Ethical Standards for Public Officials and Employees of the Philippines –
  to mention but a few. In all those legislations, a leader is required to declare his or her assets and liabilities as well as those of his or her children, dependant, and spouse.

Whereas provisions requiring the declaration of a leader's assets and liabilities and those of his or her children and dependents are a mainstay in most countries, there is need to be mindful of Article 27(2) of the Constitution of Uganda. This guarantees a person's right to privacy by prohibiting interference with a person's home, correspondence, communication or other property. It appears that section 4 of the Leadership Code Act and the proposed amendment might infringe that right, especially the declaration of assets and liabilities of a leader's children, spouse or dependants without any restriction. Therefore, there must be a balancing of the conflicting interests, being the need to ensure that a leader does not put his ill-gotten assets in the names of the spouse or children or dependents but at the same time observing the right to privacy of those people who are not leaders.

This has been done in some countries such as:-

- In **Tanzania**, where **section 9(3) of the Public Leaders Code of Ethics Act No. 13 of 1995** and **Act No. 5 of 2001** prohibits the declaration of property if–
  (a) it is not matrimonial property;
  (b) it is not jointly owned with the public leader's spouse or spouses;

(c) there is no allegation that a public leader appears to have suddenly and inexplicably come into possession of extraordinary riches in relation to his observable sources of income.

In subsection 9(1) of the same Act, a leader only declares assets of minor unmarried children he or she stays with or of spouse or spouses he or she stays with.

- In **Nigeria, section 15 of the Code of Conduct Bureau and Tribunal Act No. 1 of 1989** requires the declaration of assets and liabilities of a leader's spouse or unmarried children under the age of twenty one years.

- In the **Philippines, section 8 of The Code of Conduct and Ethical Standards for Public Officials and Employees of the Philippines** requires the declaration of assets and liabilities of a leader's spouses and of unmarried children less than eighteen (18) years of age living in their households.

Recommendation/s

- ***The Committee recommends that the proposed amendment is adopted with the following modifications:***

  - ***redraft the entire clause;***

  - ***expand the provision to require a leader to declare assets and liabilities in which he or she has a joint interest with any other person irrespective of their relation;***

  - ***expand the provision to ensure that a leader declares all property and liabilities in which she or he has interest;***

  - ***define the word "interest".***

- ***The Committee further recommends the following:***

  - ***To insert a new clause setting out the procedure to be followed by the Inspectorate in verifying a declaration made by a leader under the Code;***

  - ***To insert a new clause providing for a person who has reason to believe that a leader's declaration is not truthful or has information concerning a leader's property or liability – to apply for verification;***

- ***To prohibit anticipatory declaration of property and liabilities – to prohibit leaders from making declarations of property or liability they do not own or have not yet incurred.***

- ***To require a person employed in the public service to make a declaration of his or her assets and liabilities to the accounting officer or to the head of the Ministry, department or agency in which he or she is employed every two calendar years.***

2.4 CLAUSE 4: Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by repealing subsection (2)(b).

Current provision

> *"(2) A leader who, without reasonable cause, fails to comply with the Inspector-General's request for clarification within thirty days after receipt of notice, commits a breach of this Code and is liable to–*
> .....
> *(b) dismissal; or"*

Effect of the proposed Amendment

The Bill seeks to amend the principal Act so that the option for *dismissal* is no longer available as a punishment that a leader may suffer in case the leader does not, within 30 days, provide any clarification sought by the Inspectorate in connection with a declaration submitted by him or her.

Stakeholders' Views

- The IGG and the LOP were both of the opinion that s.5(2)(b) of the Act should not be repealed. They argued similarly that that the proposal in the Bill to repeal these sections of the Act is based on a misconstrued interpretation of ***Fox Odoi Oywelowo's Case*** and ***Hon. John Ken Lukyamuzi's case***. That the provision in the Act should not be deleted, but should remain because the courts ruled that vacation of office and dismissal under the Act are unconstitutional only to the extent that they are applied to officers or persons whose mode of dismissal or vacation of office is specifically provided for by the Constitution – i.e. persons appointed by the President such as Judges, the IGG, IGP, etc, who are removed by procedures given in the Constitution.

- The DPP agreed to the proposed amendment reasoning that it is in line with Court's decision in ***Hon. John Ken Lukyamuzi's case***.

Analysis

The Committee finds that the proposed amendment is misconceived, having been hinged on a wrong interpretation of the decision in ***Fox Odoi-Oywelowo's case***. Whereas certain provisions of the Leadership Code Act were declared unconstitutional, section 5 (2)(b) was not among them. Indeed, Court in that case held:-

> ***"It is clear to me that sections 5(2), 12(2), 13(4), 14(3) and 35(c) do not create any new causes for removal from office different from those contained in Articles 144, 56, 60(8), 120(7), 146(7)(c), 161(5), 163(10), 165(8), 167(9), 169(9) and 238(5) of the Constitution. I agree with Mr. Okello Oryem that the causes stated in these sections amount to nothing more than misconduct or misbehavior. They are already contained in these Articles of the Constitution. They are accordingly not inconsistent with those Articles of the Constitution."***

It is was also recognized by Court in Hon. John Ken Lukyamuzi's case where court held:-

> ***"Breaches of the Leadership Code are punished with severe penalties. These include confiscation and forfeiture of property; payment of compensation for loss suffered by the Government on account of a leader's breach of the Leadership Code Act; <u>dismissal</u> from or vacation of office, and imposition of other severe penalties provided under Section 35 of the Leadership Code."***

Therefore, dismissal or vacation from office are still perfectly legal punishments that can be met on a leader who breaches the Leadership Code Act.

It should be noted that the decision in ***Fox Odoi Oywelowo's case*** only sought to protect the distinctiveness of appointments and removal from office made by the President under the provisions of the Constitution. This was because the framers of the Constitution thought that in order to protect democracy in Uganda, Presidential appointees should be protected from dismissal or removal from office by persons who did not appoint them. It is for this reason that Court declared sections 19(1), 20(1), 35(b) and 35(d) as inconsistent with Articles 144, 56 and 120(7) in that they created distinct procedures for removal

from office of such bearers of those offices as well as restricting the discretion given to the President by the said Articles of the Constitution.

Essentially, section 19(1), 20(1), 35(b) and 35(d) of the Leadership Code Act are *not* in contravention of the Constitution if they are applied to a leader who is *not* appointed by the President and whose mode of removal from office and the reasons thereof are *not* specifically provided for under the Constitution. Indeed, the decision of Mukasa-Kikonyogo, DCJ, concurring with Okello J.A was no different when she ruled as follows:-

> ***"In short where a specific mode of removal or where the appointing authority is given a discretion by the Constitution, the impugned sections of the Leadership Code are inconsistent and contravene the Constitution. However, where no specific mode of removal is laid down and where the President's discretionary powers are not restricted there is no contravention of the Constitution.***
>
> ***On the other hand where the provisions of the law purport to amend "or restrict" the powers of the appointing authority as shown by the affidavit of H.E The President in support of this petition, the said provisions of the law would be inconsistent and in contravention of the above stated Articles of the Constitution."***

Furthermore, Kitumba J.A (as she then was) also threw more light on the decision in the lead judgment when she stated and ruled as follows:-

> ***"It is appreciated that The Inspector General of Government is a constitutional office with the mandate to check on others. However, he is not above the President who is the Fountain of Honour. The provisions of sections 19(1), 20(1), 35(b) and 35(d) are obviously inconsistent with Articles 60(8), 146(7)(c), 161(5), 163(10), 165(8), 167(9), 169(9), and 238(5) of the Constitution. The constitution provides that the President may remove a member from the office. This implies that the President has the discretion whether to remove a member or not. The example of restricting the President's discretion is amply evidenced in his affidavit. He had to relieve his advisor of his duties because, as he averred, he had to comply with the recommendation of the Inspector General of Government. In the result I would hold that sections 19, 20, 35 (b) and (c) are "inconsistent with Articles 56, 60(8), 120(7), 144, 146(7), 161(5), 163(10), 165(8), 167(9), 169(9), 172(1)(a) and 238(5) of the Constitution."***

Thus, sections 19, 20, 35(b), (c) and (d) were *not* found by Court to be totally unconstitutional and inapplicable to all leaders. Court found that they are not applicable to Presidential appointees and those the President has discretion to punish. By that decision, section 5(2) (b) of the principal Act is not in any way unconstitutional. Therefore, the proposed amendment is misconceived.

Recommendation/s

The Committee recommends that the proposed amendment be dropped with the justification that section 5(2)(b) of the principal Act was never declared purely unconstitutional, and is therefore still good law.

2.5 CLAUSE 5: Replacement of section 6 of the principal Act.

For section 6 of the principal Act there is substituted the following–

"6. Failure to submit correct information.

A leader who knowingly or recklessly submits a declaration or gives an account of any matter which is false, misleading or insufficient in any material particular commits an offence."

Effect of the proposed Amendment

S.6 of the principal Act provides that a leader who knowingly or recklessly submits a declaration or gives an account of any matter which is false, misleading or insufficient in any material particular commits "a breach of this Code". Clause 5 proposes to *criminalize* the matter.

Stakeholders' Views

- Noting that the Bill creates breaches on the one hand and offences on the other, the DPP could not draw a line between conduct that amounts to one or the other.

- ULRC agreed with the principle of the amendment but cautioned that it might be difficult to enforce since it may pose interpretative challenges arising from the fact that the provision does not provide for what constitutes sufficient information. ULRC argued that it might even infringe Article 23 (12) of the Constitution in so far as it creates an offence whose ingredients are not clear, certain and defined.

- The LOP supported the proposed amendment; reasoning that it will ensure that leaders are cautious and careful when making declarations to the Inspectorate.

Analysis

- Whereas the provision creates an offence, it does not prescribe the punishment for that offence, in contravention of Article 28(12) of the Constitution. Article 28 (12) is to the effect that a person cannot be convicted of a criminal offence unless the offence is defined and the penalty for it prescribed by law. If an offence were to be maintained in the provision, there would be need to prescribe an appropriate penalty in case of breach.

- The Committee observes that the proposal actually deviates from the overall Act. It can be discerned from the principal Act that in most if not all cases, it is only persons who are not leaders that are charged with offences under the Act. Leaders who breach provisions of the Act are taken to have breached the Code, whereupon investigations would be undertaken by the IGG and a report submitted to the Tribunal for action. Moreover, the mandate of the IGG in the Bill is limited to breaches of the Code and does *not* cover criminal matters. The proposed amendment will create an ambiguity in the law which might create confusion since it doesn't define the criteria for creating offences on one hand and breaches of the act on the other.

- It should be noted that in most countries with a complimentary system, the relevant laws create offences against third parties and not leaders. For instance, under the Public Leaders Code of Ethics Act No. 13 of 1995 and Act No. 5 of 2001 of Tanzania; and the Code of Conduct and Ethical Standards for Public Officials and Employees of the Philippines – offences accrue to third parties and not to leaders. The only exception is Nigeria where under the Code of Conduct Bureau and Tribunal Act No. 1 of 1989, the tribunal is clothed with criminal jurisdiction. Again, this is the exception rather than the rule. Therefore, where offences are created, they should relate to third parties and not to a leader.

- The creation of offences under the Leadership Code Act, attaching to a leader, will lead to some enforcement challenges. For instance, there will be a challenge on deciding who will prosecute those offences before the Tribunal. It should be noted that the jurisdiction of the DPP is limited under Article 120 of the Constitution to prosecution of offences in courts of law. This means that the DPP will not be constitutionally mandated to prosecute those offences before the Tribunal, since doing so will be

unconstitutional for expanding the powers of the DPP under Article 120 of the Constitution. The extension of criminal jurisdiction to the Tribunal will be an affront to Articles 126, 128 and 129 of the Constitution which limits the exercise of judicial power to courts of law and prohibits the interference in such exercise by any person or body.

- Moreover, the Committee finds that there is no mischief being remedied by the proposed amendment.

Recommendation/s

The Committee recommends that the provision as contained in the principal Act is retained and the proposed amendment be rejected.

2.6 CLAUSE 6: Amendment of section 7 of the principal Act.

Section 7 of the principal Act is amended–

(a) By renumbering section 7 as section "7(1)";

(b) By substituting for the word "shall" appearing in the second line, the word "may";

(c) By inserting immediately after subsection (1) the following–

"(2) The Inspectorate shall, in considering an application under subsection (1) take into account whether or not the information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any person."

Effect of the proposed Amendment

This provision seeks to amend Section 7 of the Principal Act to give the Inspector General of Government discretionary powers to decline an application to access the contents of a declaration in the interest of the security or sovereignty of the state or the right to privacy of any person.

Stakeholders' Views

- Agreeing with the proposal to give the IGG discretionary power, the IGG proposed that *"The Minister may in consultation with the Inspector*

General make regulations for the applications made under subsection (1)." The IGG reasoned that setting specific criteria to guide the IGG while exercising his/her discretion to accept or reject an application would remove arbitrariness of decisions, and also guide applicants about the requirements for consideration of their applications by the IGG. Additionally, that the criteria set out in the provision would also provide clarity of the process to any leaders that may be aggrieved by the decisions of the IGG in this regard. Finally, that the provision would give effect to Article 41 of the Constitution and the provisions under the Access to Information Act, 2005.

- The DPP agreed with the amendment to restrict access to declarations by members of the public for privacy, and security reasons. However, that disclosure to law enforcement agencies such as the police, DPP, etc. should not be subject to this discretion. The declarations should be provided to such Government bodies on application, as they are vital for asset tracing, verification and recovery, and satisfaction of court compensation orders.

- LDC agreed with the proposed amendment but proposed further that access to contents of a declaration should be made upon payment of a prescribed fee of about twenty currency points.

- The Uganda Christian University (UCU) advocated mandatory disclosure of what it deemed public information in public interest; where the public interest outweighs the harm contemplated in refusing such disclosure – in view of Article 41(2) of the Constitution and s.34 of the Access to Information Act of 2005.

- The LOP argued that introducing discretionary power to the IGG to grant an application for disclosure of contents of a declaration – is a claw back detrimental to the fight against graft and corruption – in that it would shield leaders from public scrutiny. The LOP argued that leaders are public figures; and that there is no evidence that personal property or information on property held by any leader – can prejudice the security or sovereignty of the country.

- ACCU proposed that in a bid to build public trust and confidence, the Bill should clearly define what constitutes security or sovereignty since it might be used to restrict the declarations. They argued that giving the discretion to grant access to the declarations to the IGG in the first place would cripple access since the IGG has in the past denied access to such documents. ACCU advised that the Bill should contain a standard form for access to declarations since the lack of a form envisaged under section 7 has always been advanced as one of the reasons for refusal to

grant access to the declarations. ACCU *further informed the Committee that countries where the contents of declarations by leaders were treated as public information tend to score better in the Corruption Perception Index (CPI).*

- The Uganda Debt Network (UDN) observed that the proposed amendment gives the IG unlimited discretionary powers to decline an application to access the contents of a declaration, which in itself contravenes the spirit of Article 41 of the Constitution which provides for the right of access to information. UDN further highlighted the need to expedite the process of developing a standard form envisioned by the Act to enable people access the declarations. UDN lamented that without public access to such information, it would not be easy to verify whether the information declared to the IGG is correct, or for a whistle-blower to come forth with evidence.

Analysis

The proposed amendment in sub clause (2) is redundant since access to public documents is guaranteed under Article 41 of the 1995 Constitution of the Republic of Uganda as well as the Access to Information Act, 2005. The same limitations proposed in sub clause (2) are contained in the Access to Information Act and therefore the Bill does not add value.

It is also important to note that since the enactment of the principal Act in 2002, the form referred to under section 7 has not been prescribed. This is a major hindrance to accessing information of the nature envisaged under the Act. Indeed, the lack of a form under section 7 prompted the filling of case before the High Court; vide ***Ssekyewa Edward and another v AG* (High Court Miscellaneous Cause No. 354 OF 2013)**, for an order of mandamus, for the Attorney General to develop the form envisaged under section 7 of the principal Act. However, the Plaintiff lost this case.

Recommendation/s

The Committee therefore recommends that the proposed amendment be rejected, and that:

- ***the current provision in the principal Act be amended to remove the requirement for a form subject to which declarations may be accessed by the public;***

- ***the provision be amended to provide for a leader to be informed when his or her declaration is accessed;***

- ***provision be made for granting access to declarations. by law enforcement agencies such as the DPP and the Uganda Police Force.***

2.7 CLAUSE 7: Replacement of section 10 of the principal Act.

"10. Gifts or benefits in kind

(1) A gift or donation to a leader at any public or ceremonial occasion shall be treated as a gift or donation to the Government or the institution represented by the leader and shall be declared to the Inspector General; but Government or the institution shall keep an inventory of the gift.

(2) Where a leader declares a gift or donation under subsection (1), the gift shall be disposed of in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

(3) A leader may accept a personal gift or donation from a relative or personal friend to such extent and on such occasion as is recognized by custom.

(4) Where a gift or donation is in form of money it shall be deposited in the consolidated fund by the authorized person of the institution represented by the leader."

Effect of the proposed Amendment

- The proposed amendment seeks to *do away* with the following provisions:
  - the provision is silent on what should be done with a commission given to a leader on any transaction;
  - s.10(3) which provides that a leader may accept a souvenir or ornament that does not exceed five currency points in value;
  - s.10(4) which also provides a threshold of time and monetary value; to the effect that where a leader receives any gifts or other benefits of a value of ten currency points or above from any one

source in a twelve consecutive months period, the leader shall disclose that gift or benefit to the Inspector General;

- s.10(5) which provides for a leader to consult the IG for advice when the leader is in doubt as to the need for a declaration or the appropriateness of accepting an offer of a gift, hospitality or other benefit;

- s.10(6) which provides that a leader who fails to comply with the provisions of the section commits a breach of the Code.

- The proposed amendment introduces the following new provisions:

  - where a leader declares a gift or donation, it shall be disposed of in accordance with the Public Procurement and Disposal of Public Assets Act, 2003;

  - where a gift or donation is in the form of money, it shall be deposited in the Consolidated Fund by an authorized officer.

Stakeholders' Views

- The LOP was against the proposed amendment owing to the fact that it will be difficult to implement. The LOP argued that the requirement to declare each and every gift a leader receives, including small and insignificant values will clog the office of the IGG. The LOP found that while the existing law has a threshold beyond which value gifts should be declared, there is no *lacuna* to be cured by the new proposed amendment

- The UCU agreed with the principle of the amendment but proposed that since the intention of the amendment was to control a possible conflict of interest rather than monitoring the wealth of the leaders, then the subsections 5 and 6 of section 10 should be retained.

Analysis

- Whereas it is important to declaring gifts and donations, the provision needs to establish a minimum threshold for the gifts to be declared. In that regard, the current subsection (3) should be retained since it establishes a nominal value for the gifts to be declared. This will mean that only gifts above the threshold will be declared. JK

- The provision requires that Government or the institution shall keep an inventory of the gifts received by the leader. In the circumstance, since the term Government is amorphous and there is no dedicated office

charged with keeping such, these gifts should be kept by the accounting officers of the receiving institutions since they are required under the Public Finance Management Act, 2015 to have asset registers.

- For consistency, gifts should be declared to the Inspectorate and not the Inspector General.

- Subsections (3), (4), (5) and (6) of the principal Act should be retained. This is necessary for clarity as well as prescribing a threshold for gifts to be declared.

Recommendation/s

The Committee recommends that the proposed sub clause (2) and (4) be adopted and incorporated in the existing section 10 of the principal Act; and sub clause (1) and (3) be deleted.

2.8 CLAUSE 8: Amendment of section 12 of the principal Act.

Section 12 of the principal Act is amended by substituting for subsection (2) the following–

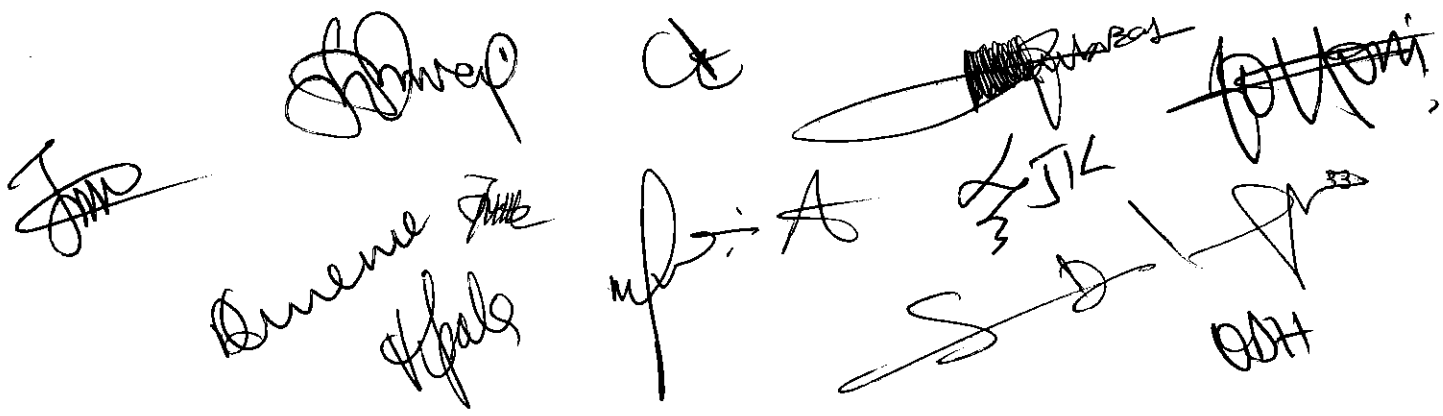
"(2) A leader who contravenes subsection (1) breaches this Code and is liable to vacate office."

Section 12 of the Act is about *prohibited contracts* and the current provision *out of which* is proposed an amendment is as follows:

(2) A leader who contravenes subsection (1) breaches this Code and is liable to–
(a) vacate office; or
(b) be dismissed from the office.

Effect of the proposed Amendment

The proposed amendment is to the effect that a leader who breaches the provision in the Code on prohibited contracts is only liable to *vacate office.* The amendment seeks to *do away with dismissal from office* as a sanction in this case.



Stakeholders' Views

The IGG and the LOP both rejected the proposed amendment on the ground that it was based on a wrong interpretation of the judgments in ***Fox Odoi Oywelowo's case*** and ***Hon. John Ken Lukyamuzi's case***.

Analysis

As is the case with Clause 4 that seeks to repeal section 5(2)(b) of the principal Act, the Committee finds that Clause 8 that seeks to repeal section 12(2)(b) of the Act – is misconceived, having been hinged on a wrong interpretation of the decision in ***Fox Odoi-Oywelowo's case***.

The Committee proposes that Section 12(2)(b) of the Act *should be retained,* as the courts ruled that vacation of office and dismissal under the Act are unconstitutional only to the extent that they are applied to officers or persons whose mode of dismissal or vacation of office is specifically provided for by the Constitution – i.e. persons appointed by the President such as Judges, the IGG, IGP, etc, who are removed by procedures given in the Constitution.

Reference is made to the detailed analysis provided under Clause 4. The Committee holds the same reasoning with respect to Clause 8.

Recommendation/s

The Committee recommends that the proposed amendment be dropped with the justification that dismissal from office is still good law under the Act, since it was not declared to be unconstitutional with respect to all other persons (aside from Presidential appointees).

2.9 CLAUSE 9: Insertion of section 12A in the principal Act.

"Conflict of interest

(1) A leader who, in the course of his or her official duties, deals with a matter in which he or she or his or her immediate family has a direct or indirect interest or is in a position to influence the matter directly or indirectly and who knowingly, fails to disclose the nature of that interest and votes or participates in the proceedings of a public body, board, council, commission or Committee, commits a breach of this Code.

(2) A conflict of interest shall arise where–

(a) a leader deals with a matter in which he or she has a personal interest where he or she is in a position to influence the matter, directly or indirectly, in the course of his or her official duties;

(b) the position the leader holds and the services he or she gives to a person or private body is in conflict with his or official duties;

(c) a leader participates in the deliberations of a public body, board, council, commission or Committee of which he or she is a member at any meeting at which any matter in which he or she has a personal interest is to be discussed ; or

(d) A leader attends a meeting of a body, board, council, commission or Committee and fails or neglects to disclose the nature and extent of his or her personal interest.

(3) "Personal interest" in this section in relation to a leader, includes the personal interest of a spouse, child, dependant, agent or business associate of which the leader has knowledge or would have had knowledge if he or she had exercised due diligence having regard to all the circumstances"

Effect of the proposed Amendment

- This amendment seeks to insert a new section 12A to introduce the concept of conflict of interest which originally existed under section 8 of the principal Act –although in a different form– but had been repealed by the Anti Corruption Act.

- The amendment prohibits a leader in the course of his or her official duties from dealing with a matter in which he or she has, or his or her immediate family have a direct or indirect interest in a matter to be decided upon. It requires the leader to declare that interest before the commencement of the proceedings of a public body, board, council, commission or Committee.

- It creates a breach of the Code where a person takes part in a decision where he or she has personal interest.

Stakeholders' Views

- The IGG, arguing that conflict of interest is a matter of misconduct that is difficult to prove as a criminal offence due to the high standard of

proof – was of the view that the offence be taken out of the Anti-Corruption Act and returned to the Leadership Code Act as a breach of the Code. The IGG was concerned that prosecution of public officials has not been effective to deter them from acting in conflict of interest.

- The DPP objected to the proposed amendment since it is a replica of section 9 of the Anti-Corruption Act. The DPP argued that the latter provisions are wider in application as they cover not only leaders but all employees or members of a public body and amount to criminal offences. On the other hand, the proposed amendment creates a parallel mechanism for handling the same conduct but this time treating it as a breach of the Code. This, the DPP reasoned, provides an easy way out since a breach of the Code creates lesser sanctions than breach of the provisions of the Anti-Corruption Act. The DPP therefore proposed that the amendment should be deleted from the Bill, so that the provisions of the Anti-Corruption Act apply.

- The LOP agreed with the proposed amendment, and further advocated for inclusion of a provision to cover nepotism which the LOP found to be a big hindrance to the fight against corruption. Specifically, the LOP was concerned with the situation where a leader uses his/or office to appoint the leader's family members and relatives into positions.

- UCU cautioned that the proposed amendment needed to be harmonized with the provisions on conflict of interest under the Anti-Corruption Act – so that the sanction is the same under both Acts.

- LDC agreed to the proposed amendment but proposed that conflict of interest should be extended to cover conflict in relation to property.

- UDN was of the view that the provisions on conflict of interest, disclosure of interest and abuse of public property –that were repealed from the Leadership Code Act– fit better under the Anti-Corruption Act where they currently sit.

Analysis

- It is evident that the proposed amendment is a replica of section 9 of the Anti-Corruption Act[6], albeit with limitations to apply to leaders only. While it is criminalized under the Anti-Corruption Act, the amendment of the Leadership Code Act in the Bill proposes to treat it as a breach of the

[6] Note that section 8 (on conflict of interest) and section 9 (on disclosure of interest) of the Leadership Code Act were repealed by section 70(a) of the Anti-Corruption Act (Act No.6 of 2009) and replaced by section 9 thereof, which provides for the offence of conflict of interest.

Code. That being the case, there shall be created duplicity in legal provisions; whereby there is a parallel mechanism for handling the same conduct, leading to a conflict that might be abused. Section 39 of the Interpretation Act (Cap.3) states:

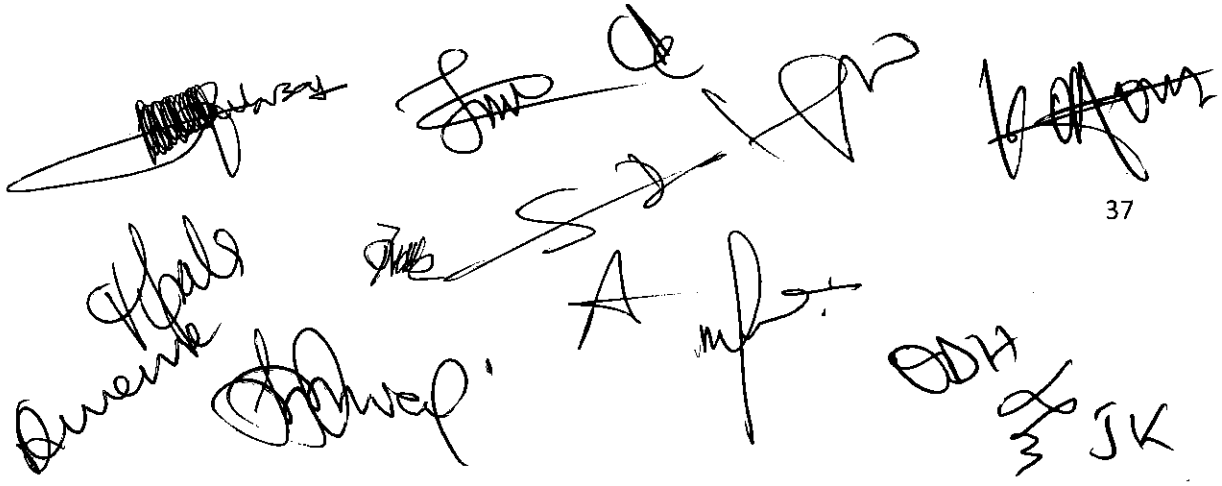
> *Where an act constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.*

Thus, if both provisions are allowed to stand in their respective laws, it will allow the prosecution to window shop, and go for the the lesser or higher of the two offences, depending on its interests. For the foregoing reasons, the Committee finds that it is best to provide for conflict of interest under only *one* of these two Acts, not both at the same time.

- The Inspector General informed the Committee that while conflict of interest is a matter of *misconduct*, prosecution of public officials has not be effective to deter them from acting in conflict of interest – because of the need to prove that the officer indicted had a pecuniary benefit from the situation in which he/she is alleged to have acted in conflict of interest. She averred that the burden in criminal proceedings, being proof beyond reasonable doubt, is too high for this misdeed, thereby necessitating its decriminalization. The DPP informed the Committee that since the enactment of the Anti-Corruption Act, provisions on conflict of interest have been prosecuted once, in the case of ***Uganda* v *Patricia Ojangole*** **(Criminal Session No 3 of 2014)**, where the case was lost because of failure to prove the case beyond reasonable doubt. If conflict of interest is reinstated in the Leadership Code Act, the standard of proof shall be above that of civil courts but below that required in criminal matters. Based on the foregoing, the Committee is in agreement with the proposal to decriminalize conflict of interest by removing its provision from the Anti-Corruption Act.

- The Committee however notes that there is need to expand the circumstances amounting to conflict of interest. However, for the case of nepotism, the Committee finds that the conduct is already prohibited under Section 15(1)(d) of the Act.

- Furthermore, there is need to create a specific provision repealing section 9 of the Anti-Corruption Act in order to decriminalize conflict of interest.



Recommendation/s

- ***The Committee recommends that the amendment is adopted, with the following modifications:***

    - ***Expand the circumstances amounting to conflict of interest;***
    - ***Repeal s.9 of the Anti-Corruption Act.***

2.10 CLAUSE 10: Amendment of section 14 of the principal Act.

Section 14 of the principal Act is amended by repealing subsection (3)(c).

Section 14 of the Act is about *misuse of official information* and the current provision *out of which* is proposed an amendment is as follows:

(3) A leader who contravenes the provisions of this section commits a breach of this Code and is liable to–
(a) be warned or cautioned;
(b) demotion; or
(c) dismissal; or
(d) vacate office.

Effect of the proposed Amendment

Clause 10 proposes the repeal of s.14(3)(c) of the Code, which is to do with misuse of information obtained in office to further one's private interests, where such information has not yet been made available to the public. Breach of the section makes a culpable leader liable to, among others, dismissal and vacation of office.

The proposed amendment is to the effect that a leader who breaches the provision in the Code on misuse of official information is only liable to a warning or caution; or a demotion or vacation of office. The amendment seeks to *do away with dismissal* as a sanction in this case.

Stakeholders' Views

- The IGG was of the view that this provision should not be repealed because the proper interpretation of ***Fox Odoi Oywelowo's Case*** and ***Hon. John Ken Lukyamuzi's Case***, on which the repeal was premised, is that the provision can still apply to leaders who are not appointed by

the President under the Constitution, and whose removal from office is not specifically provided for by the Constitution. The IGG averred that the provision is only unconstitutional when it is applied to persons whose removal from office is specifically provided for by the Constitution.

The IGG proposed that the provision be retained and that the opening phrase in the provision be amended to read:

> *"A leader who contravenes the provisions of this section commits a breach of this Code and shall be subjected to the Tribunal and if found to be in breach shall be liable to: (a) be warned or cautioned; (b) demotion; or (c) dismissed or; (d) vacate office."*

The IGG justified the above proposal with the reasoning that establishment of Tribunal rectifies the original defect in implementation of the provision of section 14(3) (c) of the LCA by the Inspectorate of Government.

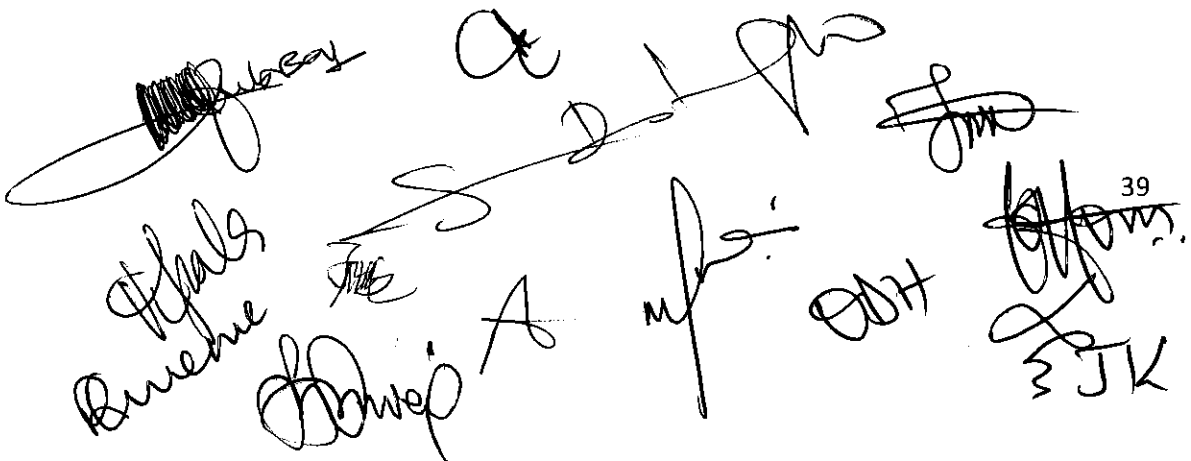
- The LOP opposed the amendment, arguing that it was based on a misconstrued interpretation of ***Fox Odoi Oywelowo's case***, in which Court never declared section 14(3)(c) of the Act unconstitutional.

Analysis

As was the case with Clause 4 that sought to repeal section 5(2)(b) of the principal Act *and* Clause 8 that sought to repeal section 12(2)(b) of the Act –the Committee finds that– Clause 10 that seeks to repeal section 14(3)(c) of the Act is *also* misconceived, having been hinged on a wrong interpretation of the decision in ***Fox Odoi-Oywelowo's case***.

The Committee proposes that section 14(3)(c) *should be retained*, as the courts ruled that vacation of office and dismissal under the Act are unconstitutional only to the extent that they are applied to officers or persons whose mode of dismissal or vacation of office is specifically provided for by the Constitution – i.e. persons appointed by the President such as Judges, the IGG, IGP, etc, who are removed by procedures given in the Constitution.

Reference is made to the detailed analysis provided under Clause 4. The Committee holds the same reasoning not only with respect to Clause 8, but also Clause 10.



Recommendation/s

The Committee recommends that the proposed amendment be dropped with the justification that dismissal from office is still good law under the Act, since it was not declared to be unconstitutional with respect to all other persons (aside from Presidential appointees).

2.11 CLAUSE 11: Amendment of section 15 of the principal Act.

Section 15 of the Principal Act is amended–

(a) in subsection (1)(a) by repealing the word "improperly";

(b) in subsection (1)(b) by inserting immediately after the words "public body" the words "or any other person"

(c) by inserting immediately after paragraph (e) the following–

"(f) engage in highhanded, outrageous, infamous, indecent, disgraceful conduct or other conduct prejudicial to his or her status in Government or in the public body."

Effect of the proposed Amendment

The proposed amendment:-

- removes the requirement, from sub clause (1)(a), to prove the element of *impropriety* in the matter of a leader using his or her office to obtain property or other assets;
- extends sub clause (1)(b) by including a leader's liability to any other person (in addition to government or any other public body);
- introduces a prohibition of highhanded, outrageous, infamous, indecent, disgraceful conduct or other conduct prejudicial to a leader's status in Government or in a public body.

Stakeholders' Views

- The LOP and the UDN observed that the provision is ambiguous since it does not define highhanded, outrageous, indecent, disgraceful conduct.

They proposed that unless the proposed amendment defines the terms, it should be deleted.

Analysis

- The Committee welcomes Clauses 11(a) and (b) as amendments that clarify the subsections in the Act to which they refer.

- However, the Committee takes issue with the proposed insertion of paragraph (f), which is likely to pose implementation challenges - since it does not define what amounts to highhanded, outrageous, infamous, indecent, disgraceful conduct or other prejudicial conduct. When, in the case of ***Eng. Thomas Mulondo v IGG, Kayunga District Local Government and the Electoral Commission***, Court attempted to apply those terms in the circumstances of that case, it noted that:

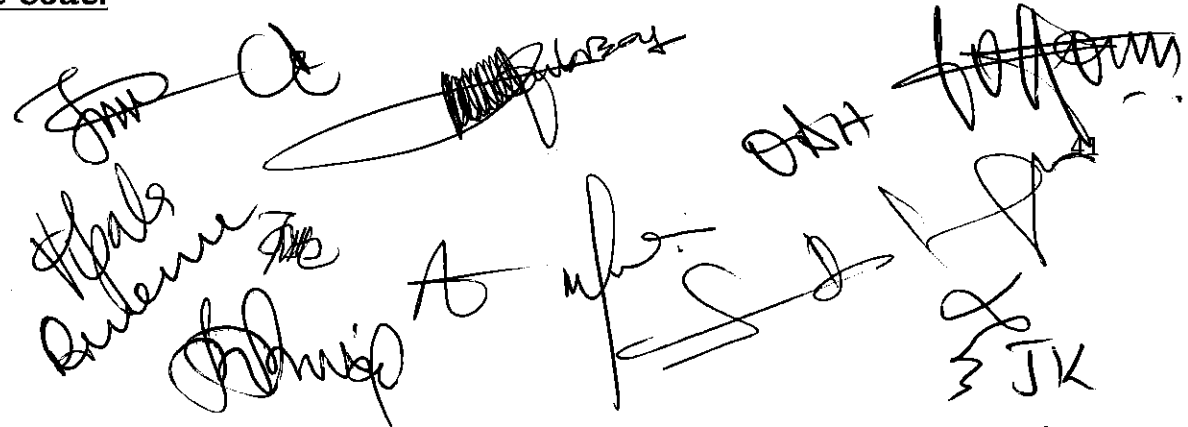
> **"the Minister has not made any regulations under the Act to define what is meant by highhanded, outrageous, infamous, indecent or disgraceful conduct as was envisaged by the Act. Indeed I found no previous decisions where court dealt with cases falling in this category."**

The above illustrates that whereas those words had been used in section 3(2) (d) of the Act, the provision could not be enforced because the words are ambiguous. (Indeed, the Committee has omitted those words in its proposal with respect to the amendment of Section 3, in Clause 2). Now this proposed amendment under Clause 11(f) seeks to repeat the same mistake by not defining the words, meaning that the provision will not be capable of enforcement.

Recommendation/s

- ***The Committee agrees to the proposals in clause 11(a) and (b).***

- ***However, the Committee rejects the proposed insertion of the said new paragraph "(f)" and thus recommends that it be dropped, with the justification that the terms it employs are ambiguous. The Committee finds that it may not be possible to prescribe an appropriate working definition for any of the terms "highhanded", "outrageous", "infamous", "indecent", "disgraceful" – conduct, or "other conduct prejudicial...", that would promote enforcement of the Code.***



2.12 CLAUSE 12: Amendment of section 17 of the principal Act.

Section 17 of the principal Act is amended-

(a) by substituting for subsection (2) the following–

"A former leader shall not give advice to his or her client using information that is not available to the public concerning the programs or policies of the Government, a public body or department with which he or she had a direct or substantial relationship, during the period of ten years immediately prior to ceasing to be a leader."

(b) by inserting immediately after subsection (2) the following–

"(3) A former leader who contravenes subsection (1) or (2) commits an offence."

Effect of the proposed Amendment

- It increases the duration of time of employment dating back to which a former leader (upon vacation of office) is prohibited from using information that he or she was exposed to in offering advice to a client – from one (1) year to ten (10) years

- It creates an offence for a former leader who breaches sub clauses (1) or (2).

Stakeholders' Views

The LOP rejected the proposed amendment on ground the grounds that: (i) it was in restraint of trade; and (ii) it may hinder those who have information on corruption from exposing corrupt tendencies, and yet such information ought to be made public.

Analysis

- The proposed amendment is welcome and should be supported. The Committee notes that the amendment does not depart from the original provision in the Act, but only increases the duration of time from 1 (one) year to 10 (ten) years. The provision prohibits the use of confidential information acquired by a leader in the course of his employment, to advise clients after he or she has left office.

The prohibition is in line with similar prohibition under the Access to Information Act (2005), as well as the Uganda Public Service Standing Orders (2010), and is intended to prevent a former leader from unjustly gaining an unfair advantage by utilizing *(ideally for economic/financial gain)* confidential information not known to any other person.

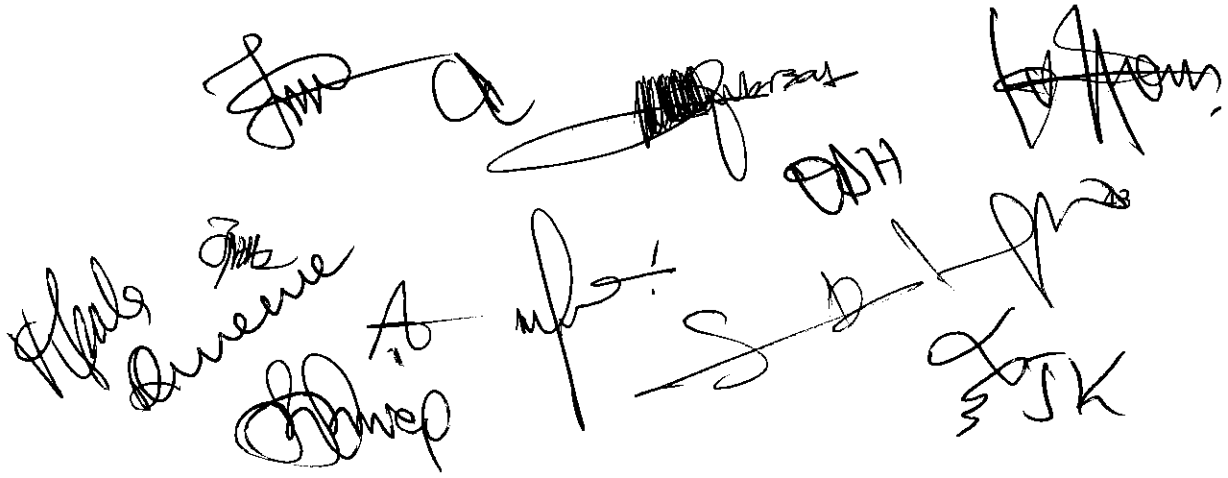
Indeed, paragraph 4.8.1 of the Code of Conduct and Ethics of the Uganda Public Service Commission as contained in the Public Service Standing Orders (2010) imposes an obligation on a former public or civil servant to continue to maintain secrecy and confidentiality of official information even after he or she has left the Public Service. Furthermore, section 28 of the Access to information Act prohibits access to confidential information held by anybody and only grants access to public documents as defined under section 73 of the Evidence Act (Cap 6). Therefore, the proposed amendment is welcome since it will prevent former leaders from using information that is not known to the public for their own benefit.

- It should be noted that the proposed amendment does not in any way prohibit a former leader from exercising his or her profession. A restraint of trade occurs were an individual's liberty of action in trading is restricted. In the famous case of ***Nordenfelt* v *Maxim Nordenfelt Guns and Ammunition Co Ltd* [1894] AC 535**, Lord Macnaghten held that a restraint of trade arises when a person is restricted from carrying on a trade or business in respect of a given area or time. In this case, a former leader is not prohibited from carrying on any trade; what is prohibited, is using confidential information that the leader acquired during his/her employment for his own benefit.

- The Committee observes that whereas the provision creates an offence, it does not prescribe the punishment for that offence, leaving the provision ambiguous. The Committee thereby proposes to prescribe a punishment, which punishment should require that the former leader accounts for the benefit that he/she obtained to Government – considering that Government is the owner of the proprietary interest in its policies and programs.

Recommendation/s

The Committee recommends that the proposal be adopted; and a penalty be prescribed for breach.



2.13 CLAUSE 13: Amendment of section 18 of the principal Act.

Section 18 of the principal Act is amended–

(a) In subsection (2)–

(i) by substituting for the words "inquire into" the word "investigate"; and

(ii) by substituting for the words "inquired into" the word "investigated"

(b) In subsection (3)–

(i) by substituting for the words "inquire into" the word "investigate";

(ii) by substituting for the words "inquired into" the word "investigated";

(iii) by substituting for the word "inquiry" the word "investigation".

(c) In subsection (4) by repealing the words "and shall be afforded a hearing".

(d) By inserting immediately after subsection (4) the following–

"(4a) A leader against whom a complaint has been lodged shall be given an opportunity to respond to the complaint made against him or her."

Effect of the proposed Amendment

- To change the terminology used from being an inquiry to being an investigation;
- To require that a complainant is merely informed of the action to be taken by the Inspectorate in respect of the complaint made and *not* to be given a fair hearing.
- To require a leader to be afforded an opportunity to respond to the complaint made against him or her.

Stakeholders' Views

The IGG and the LOP welcomed the proposed amendment since it affords an accused leader the opportunity for a fair hearing. The IGG proposed further that the amendment in 4(a) be amended to provide for the nature and time limit of the response; for instance, that the leader should respond in writing to the complaint made against him or her within 30 days after receipt of the written request for the response.

Analysis

- The proposed amendment is welcome because it is intended to create harmony in the terminology used to describe the functions of the Inspectorate. It is observed that originally the words used to express the actions of the inspectorate in the principal Act generally, and specifically in sections 3 and 18 had led to confusion as to whether the function of the Inspectorate was to inquire into, examine or investigate. This was considered in ***Eng. Thomas Mulondo's Case***, where Court observed that the use of different expressions regarding the actions of the Inspectorate, viz: "examine", "inquire" and "investigate" interchangeably, both in the Inspectorate of Government Act and in the Leadership Code Act – led to confusion in the implementation of the latter since the IGG wrongly believed that the procedure for investigation in Part IV of the Inspectorate of Government Act applied to inquiries under the Leadership Code Act. Therefore, the proposed amendment is intended to remedy this confusion and to align the provision with the functions and mandate of the Inspectorate.

- The amendment also proposes that a complainant is not afforded a hearing, but is instead informed of the actions taken by the Inspectorate. This amendment recognizes that a complainant is not an accused person, but merely one who volunteers information. Therefore, the requirement to afford such a person a hearing would appear as if the complainant is himself or herself being investigated. The Committee welcomes this amendment for the clarification it serves.

Recommendation/s

The Committee recommends that the proposal be adopted and that a format and time limit for a leader's response be provided.

2.14 CLAUSE 14: Replacement of section 19 of the principal Act.

For section 19 of the principal Act, there is substituted the following–

"19. Report of the Inspectorate.

(1) Upon the completion of an investigation under section 18, the Inspector General shall, in case a breach make a report and refer the matter to the Tribunal for adjudication.

(2) The report of the Inspector General under subsection (1) shall state whether the leader is or is not in breach of this Code in respect of the matters investigated, and shall set out–

(a) the nature of the breach or offence which the leader has been found to have committed;

(b) the circumstances of the breach or offence;

(c) a brief summary of the evidence received during the investigation of the breach or offence; and

(d) the findings."

Effect of the proposed Amendment

- Whereas the principal Act required that upon completion of an investigation, the IGG makes a report to the authorised person requiring the authorized person to implement his or her decision, the amendment proposes that the report is made to the Tribunal for adjudication.

- Whereas the principal Act required that the report of the IGG must contain a decision, the amendment proposes that the report to the tribunal contains findings.

Stakeholders' Views

- The DPP was against the proposed amendment in sub clause (2) reasoning that it will be redundant given that the Inspectorate should only report breaches of the Code to the Tribunal.

- The LOP agreed with the proposed amendment since section 19 of the principal Act had been declared null and void.

Analysis

- There is a conflict between sub clauses (1) and (2) of proposed amendment. Whereas sub clause (1) requires that IGG makes a report to the Tribunal only were the investigation reveals a breach of the Code, sub clause (2) implies that even when there is no breach of the Code, a report is made to the Tribunal for adjudication. This appears redundant to the Committee since the role of the Tribunal is to adjudicate breaches of the Code and where no breach of the Code is found after investigation, the referral of the report to the Tribunal would not serve any purpose. Indeed, section 22 (2) **of the Public Leadership Code Of Ethics Act Cap 389 of Tanzania** requires that it's upon a *prima facie* case being made that a leader is in breach of that Act, that a report is made to the appropriate person or body.

- There is inconsistency in the use of certain terms in the provision. For instance, whereas it is a function of the *Inspectorate* to carry out the investigation upon a complaint for breach of the Code, the proposed amendment in clause 19 bestows the obligation to report on the outcome of the investigation on the *Inspector General.* Given that the Code is enforced by the Inspectorate, which comprises of the IGG and Deputy IGGs, there is need for the report to be produced by the *Inspectorate* instead of the *Inspector General.*

- The proposed amendment may infringe on the right to a fair hearing of the leader against whom a report is referred to the Tribunal. It should be noted that Article 28 of the Constitution of Uganda guarantees a person's right to a fair hearing. This requires that such a person is informed of the allegations against him or her to enable him prepare his or her defense. The provisions of clause 19 are silent on whether or not the leader against whom a report is made to the Tribunal, is entitled to be notified of such reference in order to prepare his or her defense.

- The proposed amendment is not broad enough to cover all the salient matters that are necessary for its implementation. For instance the Bill does not prescribe-

    - What happens when the investigations point to commission of a crime. Under the **Public officer ethics Act of Kenya,** where an offence is revealed to have been committed, the report is sent to the Attorney General for action. In our case, the Committee proposes that a report be made to the DPP to consider preferring charges against the leader or any other person.

- The time within which the report of the Inspectorate is supposed to be referred to the Tribunal for adjudication. This is important to ensure that justice is not delayed.

Recommendation/s

The Committee recommends that the amendment:

- ***be redrafted for consistency;***
- ***put in place a timeline for complying with the Act;***
- ***provides for the report of the Inspectorate to be availed to the leader before it is sent to the Tribunal;***
- ***complies with Articles 98(4) and (5) of the Constitution that prohibit criminal or civil proceedings from being instituted against a seating President.***

2.15 CLAUSE 15: Insertion of Part VIA – LEADERSHIP CODE TRIBUNAL

2.15.1 19A: Establishment of Tribunal.

Recommendation/s

The Committee recommends that the proposed amendment be adopted, with the following modifications:

- ***redraft for clarity;***
- ***provide for a Deputy Chairperson;***
- ***The provision to be gender sensitive and provide for one third of members to be women;***
- ***Provide for the functions of the Tribunal;***

2.15.2 19B: Appointment of Chairperson of Tribunal.

19B. Appointment of chairperson of Tribunal

(1) The President shall, in consultation with the judicial service commission and with the approval of Parliament, appoint the Chairperson of the Tribunal.

(2) A person is not qualified to be appointed Chairperson unless he or she is qualified to be appointed a Judge of the High Court.

Effect of the proposed Amendment

- The proposed amendment requires that the Chairperson is appointed by the President, on the recommendation of the Judicial Service Commission, with the approval of Parliament.

- A Person to qualify for appointment as Chairperson must be qualified to be appointed a judge of the High Court.

Stakeholders' Views

- The DPP proposed that all members of the tribunal should be appointed by the President on the recommendation of the Judicial service Commission.

- The LOP proposed to merge clause 19B and 19C so that the members are appointed by the President on the advice of the Judicial Service Commission. The LOP further proposed that all Members should be appointed on the advice of the Judicial service Commission and that the head note should change to read as "appointment of tribunal Members" the LOP further proposed that the 1/3 of the Membership of the tribunal should be women.

Analysis

The appointment of the Chairperson in the manner prescribed in the Bill will not only enhance their independence but is also in line with best practice. For instance:-

In **South Africa**, whereas the Special Investigating Unit and tribunal are not permanent, they are appointed by the President of South Africa under section 2 of the Special Investigating Units and Special Tribunals Act, 1996. Furthermore, the special investigating unit

is headed by a Judge or acting judge of the Supreme Court, who in turn appoints other staff of the Tribunal.

In **Nigeria**, the 5th Schedule to the Constitution, under Paragraph 15 establishes a 3 member Code of Conduct Tribunal, with the chairperson being a person who has held or is qualified to hold office as a Judge of a Court of record in Nigeria and appointed by the President on the recommendation of the National Judicial Council (equivalent to the Judicial Service Commission of Uganda).

In Tanzania, the members of the tribunal are appointed by the President of Tanzania from among persons who hold or have held the office of Judge of Appeal or of Judge of the High Court, while the other two are appointed upon advice by the Commissioner of Ethics (equivalent to the IGG in Uganda).

Recommendation/s

The Committee recommends that the proposed amendment be adopted with the following amendments:

- ***provide for a Deputy Chairperson, who should have the same qualifications as the Chairperson.***
- ***Provide that the President shall appoint the members on the advice of the Judicial Service Commission, and not merely in consultation with the same.***
- ***The provision to be gender sensitive and provide for one third of members to be women.***

2.15.3 19C: Appointment of other members of Tribunal.

19C. *The other Members of the Tribunal shall be appointed by the President in consultation with the Public Service Commission and the approval of Parliament.*

Effect of the proposed Amendment

The effect of the proposed amendment is that unlike the Chairperson of the Tribunal who is appointed in consultation with the Judicial service

Commission, the other members are appointed in consultation with the Public service Commission

Analysis

- There is a conflict between clause 19C and 19D, specifically because of sub clause (2) and (3) of Clause 19D. This conflict arises from the fact that whereas clause 19C requires that the other members of the Tribunal are appointed in consultation with the Public Service Commission, sub clause (2) and (3) of clause 19D require that two of the members, other than the Chairperson, shall be qualified in law, with at least ten years' experience as advocates. Considering that these are not necessarily public officers, and, should they be public officers, they would be required to resign under Clause 19F, the Public Service Commission, therefore, would not be the appropriate body to consult.

  The Committee therefore proposes that the appointment of all the members of the Tribunal should involve the Judicial Service Commission, since the qualifications of the majority of the constituting members of the Tribunal are of the legal profession. Moreover, the two members mentioned in sub clause (3) of clause 19D are equal in status to the Chairperson of the Tribunal, because for a person to be qualified for appointment as a Judge of the High court, he or she should have been an advocate for a period of at least ten years before a court having unlimited jurisdiction in civil or criminal matters[8]. These two members therefore, should also be appointed with the involvement of the same body, being the Judicial service commission.

- The Committee further proposes that the President appoint each of the members, not only in consultation with the Judicial Service Commission, but on its advice, with the approval of Parliament.

- Lastly, the Committee proposes at least a third of the members of the Tribunal are female.

Recommendation/s

The Committee recommends-

(a) That the proposed amendment be adopted;

(b) Clauses 19B and 19C be merged for better drafting;

[8] Article 143 (1) (e) of the Constitution of Uganda, 1995

(c) Provide for the President to appoint all the members on the advice of the Judicial Service Commission, with the approval of Parliament;

(d) The provisions should be gender sensitive.

2.15.4 19D: Qualifications for appointment.

(1) A person may be appointed as a member of the Tribunal if the person-

(a) is of high moral character and proven integrity;
(b) has not been convicted of any offence involving moral turpitude;
(c) is of sound mind;
(d) has not been declared bankrupt; and
(e) Is a citizen of Uganda;

(2) A member of the Tribunal shall be a person qualified in law, administration or finance.

(3) Of the four members of the Tribunal other than the chairperson, two shall be persons qualified in law, with at least ten years' experience as advocate.

Effect of the proposed Amendment

The proposed amendment lists qualifications for appointment as a member of the Tribunal.

Stakeholders' Views

- Most of the stakeholders that the Committee interfaced with took issue with the term "moral turpitude" in the proposed section 19D (1) (b). For instance, the DPP noted that *all* offences tend to involve moral turpitude; and therefore questioned what kind of offence specifically involves moral turpitude. Both the DPP and LDC recommended that the word be defined, to avoid confusion. The DPP proposed adoption of the dictionary definition: *"conduct considered contrary to community standards of justice, honesty, or good morals".* ACCU proposed that the section be broadened to take into account all offences of a criminal nature.
- The LOP proposed that for a person to be appointed to the Tribunal, he or she should have a defined education level, preferably a Bachelor's degree from a reputable institution, be of high calibre, and of reasonable age, preferably not less than 30 years of age.

- With respect to the proposed new section 19D (3), LDC proposed that one of the members be the Secretary to the Tribunal.

Analysis

There is need to align the qualifications for appointment of the Inspectorate with that of the members of the Tribunal. This is based on the fact that whereas they each carry out specific functions, their offices are not only similar but complementary. A person eligible to be appointed to the Inspectorate as IGG or deputy IGG is similarly qualified to be appointed a member of the Tribunal. Therefore there is need to adopt the qualifications that guide the appointment of the Inspectorate to apply to the appointment of members of the Tribunal. For instance, as prescribed under section 3 (4) (c) of the Inspectorate of Government Act, 2002, it should be a requirement for the member of the Tribunal to possess considerable experience and demonstrated competence and is of high caliber in the conduct of public affairs.

Recommendation/s

- ***The Committee recommends that the proposed amendment be adopted with the following modifications:***
    - ***redraft sub clause 1;***
    - ***remove any reference to crimes of moral turpitude and refer to conviction for any offence;***
    - ***add that a person must possess considerable experience and demonstrated competence in the conduct of public affairs;***
    - ***require that aside from the Chairperson and Deputy Chairperson, a member of the Tribunal may be appointed from outside the legal fraternity.***

2.15.5 19E: Tenure of office.

(1) The Chairperson and members of the Tribunal shall hold office for three years and are eligible for re-appointment for one further term.

(2) The Chairperson and members of the Tribunal may be appointed on part time or full-time basis.

Effect of the proposed Amendment

The proposed amendment requires that the term of members of the Tribunal be three years, but that they are eligible for re-appointment for one more term. It also provides that the Chairperson and members of the Tribunal may be appointed on full time or part time basis.

Stakeholders' Views

- The Inspectorate of Government and the Directorate of Public Prosecutions both proposed that the tenure of office be enhanced.
    - The IGG proposed seven years instead of three years, and subject to re-appointment for one further term. The justification was that the turnaround of appointments takes a number of years; therefore, in order to have an effective Tribunal, seven years would be appropriate.
    - The DPP recommended that renewal of the tenure of members should be on satisfactory performance, and that there should be no term limit.
- The Law Development Centre proposed that if appointment [in 19E (2)] is on part-time basis, then the Chairperson and members should not be required to resign their offices [under 19F(2)]. However, if the appointment is on full time basis, then it is fair to expect them to resign. LDC further proposed that, in order to avoid backlog and laxity, there should be a specified period within which the Tribunal should hold sittings, for instance, in a period of 4 months.
- Anti- Corruption Coalition Uganda proposed that the tenure of office for the Chairperson and members of the Tribunal be set at 4 or 5 years to facilitate continuity in adjudication of cases. ACCU further proposed that all members of the Tribunal should be appointed on a full time basis to curb accumulation of case backlog. They further proposed that the appointment of new members of the Tribunal or renewal of tenure should be made at least three months before the expiry of the term of the Tribunal.

Analysis

- The duration of the appointment of members of the Tribunal proposed in the amendment does not enhance or guarantee security of tenure of the Members. The duration of three years is too short and this is even made worse by the fact that a person might be required in clause 19F to resign

his or her office upon appointment if that person is a Member of Parliament, a member of the local Government or a public servants. Therefore there is need to increase the duration of the appointment from three years to at least five years and to provide for re-appointment for one more term only.

- In order to ensure equity, *all* members of the Tribunal, and not only the Chairperson, should serve full time. This would enhance their terms of service including remuneration, and enhance their security of tenure. Moreover, by working part time, the Tribunal would likely have a huge case backlog since members would not be committed to their work. Therefore, the Committee proposes that all members are be full time.

- The provision does not take into account the importance of institutional memory since it appears that all of the Members attain office on the same day and leave on the same day. This may potentially erode the institutional memory of the Tribunal, thereby affecting the quality of adjudication of cases before it.

- Lastly, the Committee proposes to impose a time period within which the President has to appoint new members or renew the tenure of members of the Tribunal, so as to avoid a vacuum.

Recommendation/s

The Committee recommends that the proposed amendment be adopted, with the necessary modifications:

- ***Provide for members to hold office for five years with eligibility for reappointment for one more term only;***
- ***Provide for a member to be appointed on full-time basis;***
- ***Provide for appointment or reappointment of a member to be made at least 3 months before the expiry of the current term;***

2.15.6 19F: Conditions of appointment.

(1) Subject to this Act, the Chairperson or a Member of the Tribunal shall hold office on such terms and conditions as may be prescribed in his or her letter of appointment.

(2) A person shall resign his or her office on appointment as Chairperson or member of the Tribunal, if that person is –

(a) a Member of Parliament
(b) a member of a local Government Council; or
(c) a public officer.

Effect of the proposed Amendment

- The terms and conditions of the members of the Tribunal are to be determined in their appointment letter;

- A requirement for specified persons to resign their offices on appointment to the Tribunal

Stakeholders' Views

The Law Development Centre proposed that if appointment [in 19E (2)] is on part-time basis, then the Chairperson and members should not be required to resign their offices [under 19F(2)]. However, if the appointment is on full time basis, then it would be fair to expect them to resign.

Analysis

- The provision needs to protect the terms and conditions of members of the Tribunal by ensuring that where a person is appointed while he or she is serving in a different body with specified terms and conditions, he or she should continue enjoying the same terms and conditions while on the Tribunal. For instance, where a person so appointed is a Judge, he or she should continue getting the same or better entitlements he or she was getting while serving as a Judge. This would ensure that the terms offered to him or her do not in any way reduce his or her remuneration or status. Section 7 of the Tax Appeals Tribunal Act is instructive in this matter in that it requires that the appointment of a judge as chairperson shall not affect his or her tenure of office as a judge, or his or her rank, title, status, precedence, salary and allowances, or other rights or privileges as the holder of the office of judge of the courts of judicature and, for all purposes, his or her service as chairperson shall be taken to have been service as holder of the office of such a judge. This agrees with Article 128 (7) of the Constitution.

- The Committee observes that while the inclusion in sub clause (2) of a list of persons who are required to resign their offices on appointment to the Tribunal is intended to remove a possible conflict of interest, the list is not comprehensive. The Committee therefore proposes to enlarge the list to include all persons who are mentioned in the second and third schedule of the principal Act.

Recommendation/s

The Committee recommends that the proposed amendment should be adopted, with the following modifications:

- ***the list of those who have to resign their offices on appointment as members of the Tribunal be enlarged to include all leaders subject to the Leadership Code;***

- ***provide for the terms and conditions of service of a Judge appointed to the Tribunal to not be negatively affected by such appointment.***

2.15.7 19H: Termination of appointment.

(1) The Chairperson or a member of the Tribunal may resign his or her office upon giving notice of one month in writing to the President.

(2) The Chairperson or a member may be removed from office by the President for—

(a) inability to perform the functions of his or her office arising from infirmity of body or mind;
(b) misbehavior or misconduct;
(c) incompetence;
(d) being an undischarged bankrupt; or
(e) conviction of an offence and sentence to imprisonment for six months or more by a competent court in Uganda or other jurisdiction.

(3) The President shall remove the Chairperson or a member of the Tribunal if the question of his or her removal has been referred to a Committee appointed under subsection (4) and the Committee has recommended to the President that the member ought to be removed from office on any ground described in subsection (2).

(4) The question whether the Chairperson or a member of the Tribunal should be removed, shall be referred to a Committee appointed by the President consisting of three persons who are or have held office as judges or who are advocates of at least ten years' standing.

(5) The Committee appointed under subsection (4) shall inquire into the matter and report to the President, recommending whether or not the Chairperson or member ought to be removed under this section.

(6) Where the question of the removal of the Chairperson or a member of the Tribunal is referred to a Committee under this section, the President shall suspend the Chairperson or member from performing the functions of his or her office.

(7) Where the Chairperson is suspended under subsection (6), the President shall nominate one Member of the Tribunal to act as Chairperson.

(8) A suspension under subsection (6) shall cease to have effect if the Committee advises the President that the Chairperson or member suspended should not be removed from office.

Effect of the proposed Amendment

The amendment provides for circumstances through which a member of the Tribunal may be removed from office, and the procedure.

Stakeholders' Views

- The DPP noted that the provision that one may be removed from office if convicted of an offence and sentenced to imprisonment for six months or more – provides a new benchmark and is inconsistent with the proposed new section 19D (1)(b) that bars one to be appointed if convicted of an offence of moral turpitude. The DPP recommended that if one is convicted of an offence of moral turpitude while in office, this should constitute a ground for removal from office. The provision of conviction and sentence for more than 6 months should be discarded.

- ULRC proposed that the Chairperson is deputized by a person whose qualifications are similar to those required of a Chairperson to ensure that if the President removes the Chairperson, the deputy automatically takes over.

- ACCU proposed that the President should not be given the discretion to remove a member of the Tribunal where the member has committed any of the prohibited acts but instead require that such member be removed forthwith. ACCU further questioned why the President has to establish a Committee for the removal of such a member who has committed a prohibited act. They proposed that in such a case, the President should automatically remove the member.

- Proposed that the Committee should not merely inquire into the conduct of a member, but it should investigate that conduct.

Analysis

The Committee finds this to be a good proposal since it enhances the job security of members of the Tribunal by ensuring that they cannot be removed from office except by the President and on the recommendation of the Committee.

Recommendation/s

The Committee recommends that the proposal be adopted with amendment:

- ***Include a ground to provide for breach of any of the provisions of the Code;***
- ***Replace "Chairperson" in subclause (7) with Chairperson;***
- ***redraft sub clause (8) for clarity.***

2.15.8 19I: Disclosure of Interest.

(1) A member of the Tribunal who has an interest, pecuniary or otherwise on a matter before the Tribunal that could conflict with the proper performance of his or her functions, shall disclose the nature of his or her interest to the parties to the proceedings at any stage of the proceedings.

(2) A member who makes a disclosure under subsection (1) shall not take part in any decision of the Tribunal with respect to that matter.

Effect of the proposed Amendment

The proposed amendment is intended to require a member of the Tribunal who has interest in any matter before the Tribunal to disclose it and not to take part in the proceedings.

Analysis

The proposed amendment is well intentioned since it will prevent a member of the Tribunal from taking part in a decision where he has an interest. However, the proposed amendment should contain a penalty for breach, which may include removal from office.

Recommendation/s

The Committee recommends that the proposed amendment is adopted, and that a punishment for non-disclosure be prescribed.

2.15.9 19M: Remuneration.

The Chairperson and a member of the Tribunal shall be paid such remuneration as may be determined by the Minister in consultation with the Minister responsible for public service and the Minister responsible for finance.

Effect of the proposed Amendment

To provide that the minister responsible for ethics and integrity shall determine the remuneration of members of the Tribunal in consultation with (i) the Minister responsible for public service; and (ii) the Minister responsible for finance.

Analysis

The Committee recalls its recommendation that all members of the Tribunal be appointed on the advice of the Judicial Service Commission. Therefore, the minister responsible for public service would not be relevant in the matter of their remuneration.

Recommendation/s

The Committee recommends that the clause be amended to provide that only the Minister responsible for finance be consulted.

2.15.10 19N: Funds, accounts and audit.

(1) The funds of the Tribunal shall consist of-
- *(a) money appropriated by Parliament for the functions of the Tribunal;*
- *(b) fees and fines levied by the Tribunal;*
- *(c) grants received by the Tribunal with the approval of the Minister; and*
- *(d) any other money as may with the approval of the Minister, be received by or made available to the Tribunal for the purpose of performing its functions.*

(2) The funds of the Tribunal shall be administered and controlled by the Registrar.

(3) The Tribunal shall keep proper books of accounts which shall be subject to audit by the Auditor General.

Effect of the proposed Amendment

The proposed amendment lists the funds of the Tribunal to *include* fees, fines and grants.

Analysis

The Committee observes that the funds proposed under sub clause (1)(b) can not be legally retained by the Tribunal unless specifically appropriated by Parliament in accordance with the Public Finance Management Act, 2015. Section 29 of that Act requires that: *all revenue collected by a body is deposited in the consolidated fund or other special fund as established and can only be retained where it is in the form of levies, licenses, fees or fines and the vote, state enterprise or public corporation is authorized through appropriation by Parliament to retain the revenue or is a monetary grant exempted by the Minister under section 44.* By this provision, the proposal to have fees and fines levied by the Tribunal retained to be spent at source thereby forming part of funds of the Tribunal - is contrary to section 29 of the Public Finance Management Act. The Committee proposes that it be deleted or made subject to Parliamentary appropriation.

Recommendation/s

The Committee recommends that paragraph (1) (b) be deleted with the justification that it infringes section 29 of the Public Finance Management Act, 2015.

2.15.11 19Q: Jurisdiction of the Tribunal.

The Tribunal shall have jurisdiction to hear and determine all breaches and offences under this Code.

Effect of the proposed Amendment

The proposed amendment extends criminal jurisdiction to the Tribunal.

Stakeholders' Views

- The DPP, ULRC and LOP objected to the grant of criminal jurisdiction to the Tribunal. They reasoned that whereas criminal proceedings follow prescribed laws and procedures and must meet a requisite standard of proof, the Tribunal would follow its own procedures and is not

necessarily bound by the rules of evidence. They therefore proposed that any offenses created should be tried in courts of law.

Analysis

- The Committee observes that the proposed amendment may be challenged in courts of law for extending criminal jurisdiction to the Tribunal, contrary to Articles 120, 126, 128 and 129 of the Constitution, which essentially require criminal jurisdiction to be exercised by courts of law.

- Article 120 of the Constitution specifically mandates the DPP to prosecute offences only in courts of law, except in a court martial. This therefore means that the DPP can not prosecute any offence before a Tribunal. Article 126 (1) of the Constitution requires that judicial power is only exercised in courts established under the Constitution. Article 257 (d) of the Constitution defines court to mean courts of judicature established by or under the authority of the Constitution. Article 129 (1) lists the courts of judicature to include the Supreme Court, Court of Appeal, the High Court and such other courts as may be established by Parliament for specified purposes. Therefore, any attempt at granting criminal jurisdiction to a Tribunal would be contrary to the Constitution.

- The Committee found that it was a rare occurrence, as in the case of the Code of Conduct Tribunal of **Nigeria**, for such a Tribunal to have both administrative and criminal jurisdiction. In the Federal Republic of **Tanzania,** the Public Ethics Tribunal does *not* have criminal jurisdiction, but may make such recommendations as to administrative sanctions, criminal prosecutions or further actions to be taken as it deems fit. Therefore, granting criminal Jurisdiction to the Tribunal may not only infringe the Constitution, but appears *not* to be in line with best practice.

Recommendation/s

The Committee recommends that the Tribunal should have jurisdiction to adjudicate breaches of the Code and not offenses.

2.16 CLAUSE 16: Replacement of section 20 of the principal Act.

For section 20 of the principal Act, there is substituted the following-

"20. Action on decision by Tribunal

(1) The Registrar of the Tribunal shall inform the authorised person in writing, of the decision of the Tribunal, within thirty days after the date of the decision.

(2) The authorised person shall upon receipt of the decision under subsection (1) take action within thirty days.

(3) The authorised person shall report to the Tribunal in writing within fourteen days after the expiration of the thirty days referred to in subsection (2) of the action taken by him or her."

Effect of the proposed Amendment

The proposed amendment-

- reduces the time within which to comply with the decision of the Inspector General, from sixty days to thirty days, *now with respect to decisions of the Tribunal;*

- A conviction for breach of the Code no longer bars a person from holding public office.

Analysis

- The Committee notes that section 20 (1) was declared unconstitutional by the Constitutional Court in the case of **Fox Odoi-Oywelowo and James Akampumuza Versus Attorney General, Constitutional Court, Constitutional Petition No. 8 of 2003**, for being inconsistent with Articles 144, 56 and 120 (7) in that they create distinct procedures for removal from office of such bearers of those offices as well as restricting the discretion given to the President by the said Articles of the Constitution.

Whereas the proposed amendment is intended to replace section 20 (1) that was declared unconstitutional in so far as it applies to specific offices whose bearers are punished or removed by the President or any other body for specified grounds as outlined in the Constitution or enabling legislation, the proposed amendment does not entirely remedy those issues. The Bill still retains some of its elements that were found to be unconstitutional.

Section 20(1) of the principal Act states:

"(20) (1) Upon receipt of a report under section 21 containing a finding of a breach of this Code, the authorised person shall

effect the decision of the Inspector General in writing within sixty days after receipt of the report."

The above provision, especially as far as Presidential appointees are concerned, imposes an obligation on the President to fulfill the directives of the Tribunal. This, court reasoned, fettered the discretion of the President granted under the Constitution to discipline his appointees.

The amendment commits the same mistake since it does not take into account the discretion of the President to discipline such persons as well as the distinctiveness of the grounds under which such persons may be removed from office. The proposed amendment still requires the President to comply with the order of the Tribunal within thirty days. This means that the President cannot refuse to comply with that order yet the President is granted the discretion under the Constitution to remove such a person he or she appointed.

Furthermore, the proposed amendment expands the provisions of the Constitution relating to the ground under which a Presidential appointee or any other person whose removal from office is prescribed under the Constitution may vacate or be removed from office, to include breach of the Leadership Code Act. In all cases under the Constitution, there is no circumstance under which a presidential appointee or for that matter, a district Chairperson maybe removed from office for breach of the Act.

Therefore, unless the proposed amendment recognizes the discretion of the President to discipline the persons he appoints as well as the circumstances under which such persons may vacate office, it is likely that the proposed amendment will be declared unconstitutional.

- The proposed amendment assumes that the report of the Tribunal will be binding on the authorized person and must be implemented yet this is not the case. It ignores the fact that in some circumstances, the order of the Tribunal must be subjected to the procedure prescribed under the applicable law for the removal of such a person. For instance, under the Local Government Act, section 14 (1) sets out the circumstances under which a district Chairperson may be removed from office and subsection (2) prescribes the procedure to be followed, which requires a resolution of the Council to be supported by 2/3 of the members of the Council.

Indeed, in **Eng. *Thomas Mulondo's Case***, Court held that the only procedure provided for by law for the removal of the District Chairperson is that which is laid out in Article 185(1) of the Constitution and s.14 of the Local Governments Act, which states that the Chairperson may be removed from office by the Council by a resolution supported by two-thirds of all members of the Council on any of the stipulated grounds including abuse of office, corruption,

incompetence, etc. The Council was therefore entitled to debate the findings of the IG and then pass a resolution, if supported by 2/3 majority to remove him from office. The Local Government Council was not meant to be a rubber stamp to simply implement the findings of the IGG without any debate since such would amount to usurping the powers of the Council by the IGG.

The import of the above decisions is that were the law prescribes a procedure for the removal of a leader, that must be followed and such a body is not merely a rubber stamp of the Tribunal's decision.

Recommendation/s

The Committee recommends that the proposed amendment be modified to:

- ***comply with Fox Odoi-Oywelowo's Case and Eng. Thomas Mulondo's Case.***
- ***require that the prescribed disciplinary procedures are undertaken upon receipt of the Tribunal's recommendations.***
- ***allow the authorized person to comply with the procedure prescribed under the law that applies to that leader.***

2.17 CLAUSE 26: Amendment of section 34 of the principal Act.

Section 34 (2) of the Principal Act is amended-

(a) By substituting for the word "inquiry" the word "investigation"

(b) By repealing paragraph (b)

Effect of the proposed Amendment

By deleting paragraph (b) of the section 34, it means that the report of the Inspectorate can then be reviewed and quashed by way of judicial review.

Analysis

The Committee observes that the protection granted to the reports of the Inspectorate is no longer necessary since they are no longer final decisions, in view of the Tribunal's mandate.

Recommendation/s

The Committee recommends that the proposed amendment be rejected. Instead, that subsection 2 of the principal Act is deleted.

2.18 CLAUSE 27: Amendment of section 35 of the principal Act.

Section 35 of the principal Act is amended by repealing paragraphs (b), (c), (iii) and (d).

Effect of the proposed Amendment

The proposed amendment is to the effect that a leader who breaches the Code in specified circumstances is not, unlike in the principal Act, liable to be dismissed from office.

Analysis

As is the case with Clause 4 that sought to repeal section 5(2)(b) of the principal Act, and Clause 8 that seeks to repeal section 12(2)(b) of the Act, the Committee finds that Clause 27 which seeks to repeal paragraphs *b), (c), (iii) and (d) of Section 35* – is misconceived, having been hinged on a wrong interpretation of the decision in ***Fox Odoi-Oywelowo's case***.

The Committee proposes that Section 35 be maintained in its entirety, as the courts ruled that vacation of office and dismissal under the Act are unconstitutional only to the extent that they are applied to officers or persons whose mode of dismissal or vacation of office is specifically provided for by the Constitution – i.e. persons appointed by the President such as Judges, the IGG, IGP, etc, who are removed by procedures given in the Constitution.

Reference is made to the detailed analysis provided under Clause 4, that was extended to Clause 8. The Committee holds the same reasoning with respect to Clause 27 as well.

Recommendation/s

The Committee recommends that the proposed amendment be dropped with the justification that section 35 of the principal Act was never declared purely unconstitutional, and is therefore still good law.

2.19 CLAUSE 28: Transitional provision.

Recommendation/s

- ***The Committee recommends that the proposal be adopted with the following modification:***

  a new sub clause (2) should be inserted to allow the Inspectorate complete investigations commenced and uncompleted at the time of commencement of the proposed law, as if the investigations had been initiated under this proposed law.

2.20 CLAUSE 29: Amendment of Second Schedule.

Analysis

- **Clause 29 (b) (iii):** An officer at the rank of Major and above is considered by section 2 of the UPDF Act, 2005, to be a senior officer, while a captain is a junior officer. With the restructuring and professionalizing of the Forces, control and management of resources has been left in the hands of senior officers.

- **Paragraph 25 of the Second Schedule to the LCA:** An officer of the rank of Assistant Superintendent of Police and above is considered by Section 2 of the Police (Amendment) Act, 2006, to be a senior police officer, while an Inspector of Police is a subordinate officer. In light of this therefore, such an officer is equivalent to a head of department/section/unit, and in this position of Assistant Superintendent of Police there is likelihood of control of resources and decision making, unlike the case of the position of a subordinate officer.

- **Paragraph 39 of the Second Schedule to the LCA:** An Internal Auditor and Procurement Officer in a Government department play a major role in the control and management of Government processes and decision making. They are required to provide assurance on the efficiency and the effectiveness of the Government processes under the Public Finance Management Act (2015) and the Public Procurement and Disposal of Assets Act (2003) respectively.

Recommendation/s

The Committee recommends that:

- ***Clause 29 (b) (iii) be amended by replacing the word "captain" with the word "major".***

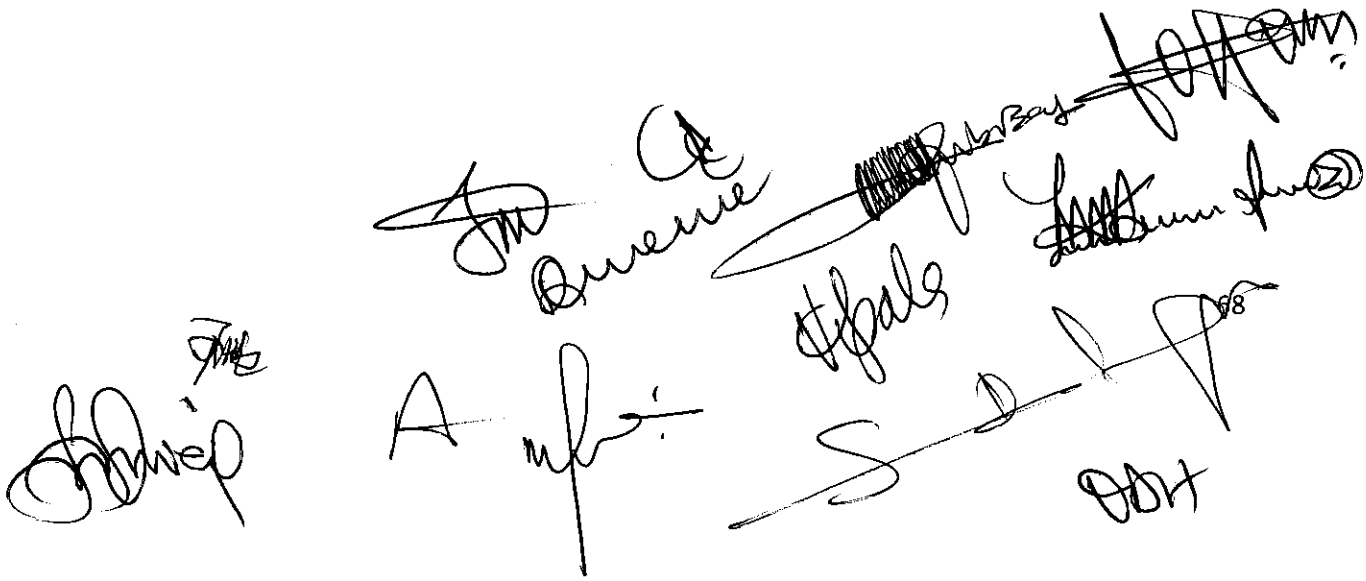
- ***the words "Inspector of Police" at the end of paragraph 25 of the Second Schedule to the principal Act be replaced with the words "Assistant Superintendent of Police".***

- ***Lastly, the Committee recommends that paragraph 39 of the Second Schedule to the principal Act additionally includes: internal auditor and procurement officer.***

2.21 Overall Conclusion and Recommendation

Rt. Hon. Speaker and Hon. Members,

The Committee proposes that the Bill is passed with the following amendments:



3 PROPOSED AMENDMENTS

PROPOSED AMENDMENTS TO THE LEADERSHIP CODE (AMENDMENT) BILL, 2016

1. AMENDMENT OF CLAUSE 1:

(a) Insert the following new definitions-

"gift" means anything of value or benefit given to a leader directly or indirectly, gratuitously or solicited in his or her official capacity at a public or ceremonial occasion.

"property" includes money, income, assets of every kind whether corporeal or incorporeal, moveable or immovable, tangible or intangible and legal documents or instruments evidencing title or interest in such assets.

"public office" means an office in the public service.

"**public officer**" means a person holding or acting in any public office;

"**public service"** means service in a civil capacity of the Government or of a local government;

JUSTIFICATION

- ***To define the words that are numerously used in the Bill.***

2. AMENDMENT OF CLAUSE 2:

For Clause 2 of the Bill, there is substituted the following-

"3. Enforcement of the Code

The Leadership Code shall be enforced by the Inspectorate and the Tribunal.

3. INSERT A NEW CLAUSE 3A IMMEDIATELY AFTER CLAUSE 3 AS FOLLOWS-

"3A. Functions of the Inspectorate

In enforcing this Code, the Inspectorate shall carryout the following functions-

(a) receive, examine and verify declarations lodged with it under this Code;

(b) investigate or cause an investigation to be conducted into any alleged breach of this Code by a leader;

(c) make a report on any breach of this Code and refer the matter to the Tribunal for adjudication;

(d) prosecute breaches of the Code before the Tribunal;

(e) make a report to the Directorate of Public Prosecutions on offences committed under the Code;

(f) recommend awards, disbursements and such payments or rewards as it may consider appropriate in connection with any assistance rendered in the enforcement of this Code;

(g) collaborate with other law enforcement agencies to facilitate the enforcement of this Code;

(h) investigate the actions or omissions of a former leader for breach of this Code; and

(i) carry out any other functions prescribed by or under this Code.

JUSTIFICATION

- ***For clarity and better drafting;***
- ***To require the Inspectorate to refer offences committed under the Code for prosecution by the DPP;***
- ***To provide for the Inspectorate to prosecute breaches of the Code before the Tribunal***

4. AMENDMENT OF CLAUSE 3;

For clause 3 of the Bill, there is substituted the following –

4. Declaration of Property and liability

(1) A leader shall-

(a) within three months after the commencement of this Code; and

(b) thereafter every two years, during the month of March,
–submit to the Inspectorate a written declaration of the leader's property and liability in the prescribed form.

(2) A person shall-

(a) within three months after becoming a leader; and

(b) thereafter every two years, during the month of March,
–submit to the Inspectorate a written declaration of the his or her property and liability in the prescribed form."

(3) A leader shall before the expiration of his or her term of office declare his or her property and liability, if his or her term of office expires six months after his or her last declaration.

(4) A leader shall state how he or she acquired or incurred, as the case may be, the property or liability included in a declaration submitted to the inspectorate.

(5) Notwithstanding anything to the contrary, a leader shall only declare property or liability-

(a) in which he or she has an interest, or

(b) which is owned by any other person but was, with or without consideration, bequeathed, donated, sold, assigned, transferred by the leader having been declared as his or her property in a preceding declaration.

(6) In this section, a leader shall be taken to have an interest where:-

(a) In case of property-

(i) it is matrimonial property;

(ii) it is owned by the leader;

(iii) it is jointly owned by the leader with any other person;

(iv) it is held in trust by the leader for any other person; or

(v) it is contained in a joint account for the benefit of the leader and any other person.

(b) In case of a liability, it was acquired, guaranteed or is payable by the leader on his or her behalf or on behalf of any other person.

(7) A leader shall ensure that all the information contained in a declaration submitted to the Inspectorate is true and correct to the best of his or her knowledge.

(8) Where possible, a declaration shall be accompanied by proof of ownership of the property contained in the declaration.

(9) A leader, who without justifiable cause, submits a declaration to the Inspectorate any time after the period prescribed under subsection (1) and (2) of this section commits a breach of the Code.

JUSTIFICATION

- ***For clarity and better drafting;***
- ***To expand the provision to require a leader to declare assets and liabilities in which he or she has a joint interest with any other person irrespective of their relation;***
- ***To expand the provision to ensure that the leader declares all property and liabilities in which she or he has interest;***
- ***To define "interest".***

5. Insert a new clause 4A immediately after clause 4 as follows-

"4A. Verification of declaration

(1) The Inspectorate may verify the contents of a declaration submitted by a leader under this Code.

(2) The Inspectorate shall, within seven days of making the decision to verify the contents of a declaration under subsection (1) and by notice in writing, inform a leader of the decision, appointing a date on which the verification shall commence.

(3) The Inspectorate may, in verifying the contents of a declaration submitted by a leader-

(a) access any document relating to the asset and liability declared by the leader and in possession of him or her or any other person or institution;

(b) access the physical location of all immovable property declared by a leader;

(c) require the production of any document relating to the asset and liability declared by a leader;

(d) access bank accounts or any other financial records relating to a declaration made by the leader;

(e) do any other act necessary for the enforcement of the Code.

(4) A leader whose declaration is being verified may, during the verification process be present personally or be represented by any person of his or her choice.

(5) The Inspectorate shall within three months of carrying out a verification of the contents of a declaration, submit to the leader, a report of the findings of the verification.

(6) The Inspectorate shall, during the verification process comply with the rules of natural justice.

(7) Where the verification reveals a breach of the Code, the Inspectorate shall take any action as authorised by with this code.

(8) The Inspectorate shall ensure that the verification process is carried out within a reasonable time, in any case not later than sixty working days from the date of commencement.

JUSTIFICATION

- ***To set out a procedure to be followed by the Inspectorate in verifying declarations made by a leader.***

6. Insert a new clause 4B immediately after clause 4A as follows-

"4B. Declaration of Property and liability to Accounting Officer

(1) A public officer, to whom section 4 of this code does not apply, shall-

(a) within three months of commencing work in the public service; and

(b) thereafter, every two years,

–submit to the accounting officer or the head of the Ministry, department or agency, a written declaration of his or her property and liability.

(2) Notwithstanding subsection (1), a public officer shall only declare property and liability in which he or she has an interest.

(3) In this section, a public officer shall be taken to have an interest where:-

(a) In case of property:-

(i) it is matrimonial property; or

(ii) it is owned by the public officer;

(iii) it is jointly owned by the public officer with any other person;

(iv) It is held in trust by the public officer for any other person;

(v) it is contained in a joint account for the benefit of the public officer and any other person;

(b) In case of a liability, it was acquired, guaranteed or is payable by the public officer on his or her behalf or on behalf of any other person.

(4) A public officer making a declaration under this section shall ensure that all the information contained in the declaration to the accounting officer or the head of the Ministry, department or agency submitted is true and correct to the best of his or her knowledge.

(5) The accounting officer or the head of the Ministry, department or agency to whom a declaration is made under subsection (1) shall keep the information contained in the declaration confidential and shall not disclose it to any person.

(6) The accounting officer or the head of the Ministry, department or agency to whom a declaration is made under subsection (1) shall examine the declaration and if he or she has reason to believe that the public officer is in possession of pecuniary resources or property disproportionate to his or her known sources of income, make a reference to the Inspectorate.

(7) The accounting officer or the head of the Ministry, department or agency shall, prior to making a reference to the Inspectorate under subsection (6), require the public officer to account for any matter contained in a declaration submitted to him or her.

(8) The Inspectorate shall, within thirty days of receipt of the reference in subsection (6), investigate the reference and take any action as authorised by this Code.

(9) The accounting officer or the head of the Ministry, department or agency shall, in taking any decision under this section, comply with the rules of natural justice.

(10) A public officer aggrieved by the decision of the accounting officer or the head of the Ministry, department or agency may apply to the High Court for redress.

(11) Notwithstanding anything to the contrary, no action shall be taken against a public officer based on any matter set out in the reference under subsection (6), until it has been adjudicated by the Tribunal or as the case may be, as directed by the Inspectorate.

(12) In this section, accounting officer means a person who is-

(a) designated or appointed in writing, as Accounting Officer, by the Secretary to the Treasury, to be responsible for a vote; or

(b) appointed as Accounting Officer under an Act of Parliament or under an instrument of appointment made under an Act of Parliament, to be responsible for a vote;

JUSTIFICATION

- ***To require persons employed in the public service to make declarations of their assets and liabilities to the accounting officer or the head of the Ministry, department or agency to which they are employed every two calendar years.***

7. Insert a new clause 4C immediately after clause 4D as follows-

"4C. Request for verification of a leader

A person who-

(a) having obtained a declaration under section 7 of this Code, or

(b) has reason to believe that the declaration made by a leader does not reflect the leader's actual property or liability, or

(c) has information concerning a leader's property or liability,

–may, by notice in writing, avail such information to the Inspectorate and the Inspectorate may verify the declaration made by a leader.

JUSTIFICATION

- ***To allow any person who has reason to believe that a leader's declaration is not truthful or has information concerning a leader's property or liability to apply for verification.***

8. Insert a new clause 4D immediately after clause 4C as follows-

"4D. Prohibition of anticipatory declaration of property and liability

It shall be a breach of this code for a leader to include in a declaration submitted to the Inspectorate, property or liability that he or she does not own or has not yet acquired or has no interest in, at the time he or she makes a declaration under this code.

JUSTIFICATION

- ***To prohibit leaders from making declarations of property or liability they don't own or they have not acquired.***

9. CLAUSE 4: Delete Clause 4

JUSTIFICATION

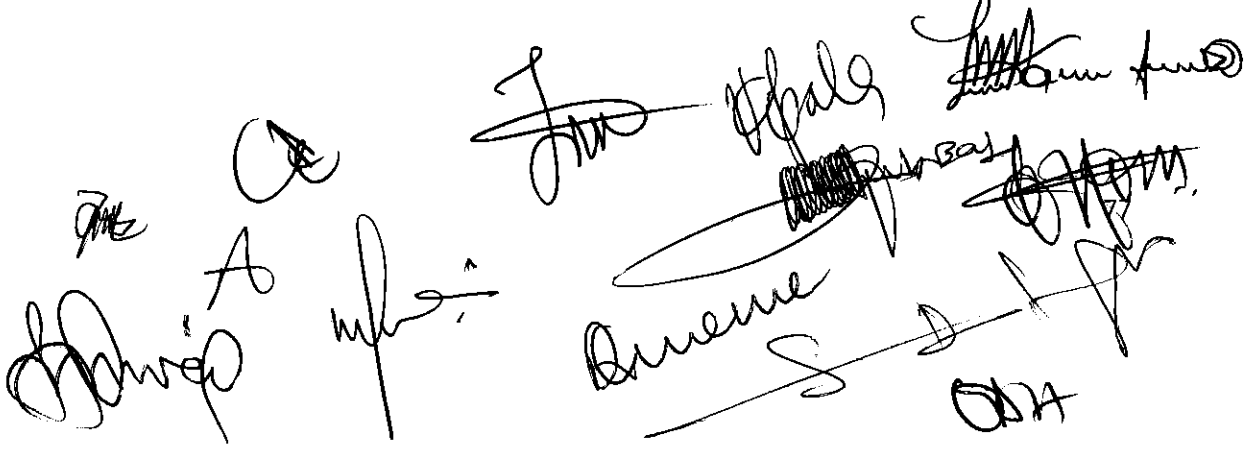
- ***The proposed amendment is misconceived having been hinged on a wrong interpretation of the decision in the case of Fox Odoi-Oywelowo and James Akampumuza versus Attorney General. In the case of Hon. John Ken Lukyamuzi Vs AG and the Electoral Commission, court held that dismissal and vacation from office are still legal punishments since they were not entirely declared unconstitutional.***

10. CLAUSE 5: Delete Clause 5

JUSTIFICATION

- ***The proposed amendment does not define the criteria for creating offences on one hand and breaches of the code on the other. Therefore it will create an ambiguity in the law, which would in turn create confusion;***

- ***There is no mischief being remedied by the proposed amendment.***



11. AMENDMENT OF CLAUSE 6

For Clause 6 of the Bill, there is substituted the following–

"7. Declaration to be Public

(1) The contents of a declaration under this Code shall be treated as public information and shall be accessible by the public in accordance with this section.

(2) A person intending to access a declaration submitted by a leader shall make a written application to the Inspectorate, accompanied by the prescribed fee.

(3) The application in subsection (2) shall contain-

(a) the particulars of the Applicant;

(b) the physical address of the Applicant;

(c) the name of the leader whose declaration the Applicant seeks to access;

(d) a statement that the Applicant will not disclose the contents of the declaration to any other person; and

(e) a list of the property or liability the Applicant reasonably believes was not included in the declaration submitted by a leader.

(4) The Inspectorate shall only grant access to a declaration submitted under this Code on being satisfied that:-

(a) accessing the declaration will help in the enforcement of the Code or any other law; and

(b) the Applicant will not disclose the contents of the declaration to any other person.

(5) The Inspectorate shall, within twenty one days of receipt of the application in subsection (2),-

(a) submit a certified copy of declaration to the Applicant; or

(b) avail the Applicant an opportunity to view the declaration form submitted by the leader; or

(c) reject the application and communicate the reasons to the Applicant.

(6) The Inspectorate shall within seven days of submitting a certified copy of the declaration to the Applicant under subsection (5), inform the leader who made the declaration, of the grant.

(7) Where the Inspectorate rejects the application or does not grant access to the declaration within the time prescribed under subsection (5), the Applicant may apply to a Magistrate court for redress.

(8) The Inspectorate shall upon request, grant access to a declaration submitted by a leader to the Director of Public Prosecutions and the Uganda Police Force.

(9) The fees prescribed under subsection (2) shall be prescribed by the Minister and shall not exceed twenty five currency points.

JUSTIFICATION

- ***To remove the requirement for the development of a form, subject to which the declarations may be accessed by the public.***
- ***To ensure that declarations are accessible by the public without hindrance.***
- ***To ensure that a leader is informed when his or her declaration is accessed.***
- ***To ensure that declarations are accessed by law enforcement agencies upon request.***

12. Amendment of CLAUSE 7:

For Clause 7 of the Bill, there is substituted the following-

"Insert the following new clauses immediately after subsection (5) as follows-

(6) Where a leader declares a gift or donation under subsection (1), the gift shall be disposed of in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

(7) Where a gift or donation is in form of money it shall be deposited in the consolidated fund by the accounting officer of the institution represented by the leader."

JUSTIFICATION

- ***The proposal to replace section 10 of the principal Act with the proposals in clause 7 of the Bill did not, save for the sub clauses (2) and (4), add value to the provisions of the principal Act.***

13. CLAUSE 8: Delete clause 8

JUSTIFICATION

- ***The proposed amendment is misconceived having been hinged on a wrong interpretation of the decision in the case of Fox Odoi-Oywelowo and James Akampumuza versus Attorney General. In the case of Hon. John Ken Lukyamuzi Vs AG and the Electoral Commission, Court held that dismissal and vacation from office are still legal punishments since they were not entirely declared unconstitutional.***

14. AMENDMENT OF CLAUSE 9 OF THE BILL;

1. Insert immediately after sub clause (2), the following new sections-

(3) A public officer whose personal interest conflict with his official duties shall-

(a) declare the personal interest to his superior or other appropriate body and comply with any direction to avoid the conflict; and

(b) refrain from participating in any deliberation with respect to the matter.

(4) Notwithstanding any direction to the contrary under subsection (3)(*a*), a public officer shall not award a contract, or influence the award of a contract, to-

(a) him or herself;

(b) any person related to him or her by blood or marriage;

(c) a business associate, agent or partner,

(d) a company, partnership or other entity or body in which the leader, any person related to him or her by blood or marriage, has an interest.

(2) Renumber sub clause (3) as sub clause (5) and redraft it as follows-

"(5) In this section, personal interest, in relation to a leader, includes the personal interest of any person related to the leader by blood or marriage, or any agent, business associate or partner of which the leader has knowledge or would have had knowledge if he or she exercised due diligence having regard to all circumstances."

JUSTIFICATION

- ***To expand the circumstances amounting to conflict of interest;***
- ***To decriminalize conflict of interest since it is very difficult to prove as an offence.***

15. CLAUSE 10: Delete.

JUSTIFICATION

- ***The proposed amendment is misconceived having been hinged on a wrong interpretation of the decision in the case of <u>Fox Odoi-Oywelowo and James Akampumuza versus Attorney General. In the case of Hon. John Ken Lukyamuzi Vs AG</u> and the Electoral Commission, Court held that dismissal and vacation from office are still legal punishments since they were not entirely declared unconstitutional.***

16. CLAUSE 11:

Delete paragraph (f)

JUSTIFICATION

- ***The provision is ambiguous since the words used to wit: highhanded, outrageous, infamous, indecent, disgraceful conduct or other conduct prejudicial – are incapable of exact definition.***

17. AMENDMENT OF CLAUSE 12 OF THE BILL;

(a) Redraft subsection (2) as follows:

"(2) A former leader shall not use or divulge to any person, body, entity, or association, information that is not available to the public concerning a program or policy of government or a public body or department with which he or she had a direct or substantial relationship during the period of ten years immediately prior to ceasing to be a leader."

(b) In sub clause (3), insert immediately after the word "offence" the following

"and is liable on conviction to a fine not exceeding twenty five currency points or imprisonment for a period not exceeding one year, or both."

(c) Insert the following new sub clause immediately after sub clause (3) as follows-

"(4) Where a former leader has obtained any monetary benefit from the disclosure, Court may, in addition to the penalty prescribed under subsection (3), order that benefit to be forfeited to Government.

JUSTIFICATION

- ***For clarity and better drafting***
- ***To prescribe a penalty for breach of the provision.***

18. AMENDMENT OF CLAUSE 13

Clause 13 of the Bill is amended in –

(a) Insert a new sub clause (2a) immediately after subsection (2) as follows:

"(2a) The Inspectorate shall, upon completion of an investigation, and, being satisfied with the circumstances set out under subsection (2) (a) and (b), inform a leader that a complaint has been made against him or her.

(b) Redraft sub clause (4a) as follows-

"(4a) A leader shall, within thirty days of receipt of the notification under subsection (2a), respond in writing to the complaint made against him or her."

JUSTIFICATION

- ***To harmonize the terminology used in reference to the functions of the Inspectorate.***
- ***In recognition of the rules of natural justice, to avail a leader against whom a complaint is lodged, the right to respond to such complaint.***

19. AMENDMENT OF CLAUSE 14

(a) Redraft clause 19 (1) as follows-

"19. Report of the Inspectorate

"(1) Upon completion of an investigation under section 18, the Inspectorate shall-

(a) in case of findings disclosing an act or omission constituting a breach of this Code, make a report and refer the matter to the Tribunal for adjudication;

(b) in case of findings disclosing no act or omission constituting a breach of this Code, make a report to the complainant or any other person as the Inspectorate deems fit;

(c) in case of findings disclosing an act or omission constituting an offence under this Code or any other law, make a report to the Directorate of Public Prosecutions.

(b) In clause (2)-

(i) Substitute for the words **"Inspector General"** appearing in the first line, the word **"Inspectorate".**

(ii) Delete all the words appearing after the word "**state**" in the second line.

(c) Insert the following new clauses immediately after subsection (2) as follows-

(3) The Inspectorate shall, within seven days of completing investigations but before submitting a report to the Tribunal under subsection (1), avail the report to the leader against whom it is made and all such persons as the Inspectorate deems fit.

(4) Notwithstanding subsection (1), where the investigation in section 18 relates to a seating President, the Inspectorate shall only comply with subsection (1) (a) or (c) in accordance with Article 98 (4) and (5) of the Constitution.

JUSTIFICATION

- ***For consistency and better drafting***
- ***To put in place a timeline for complying with the Act.***
- ***To ensure that the report of the inspectorate is availed to the leader before it is sent to the Tribunal***
- ***To comply with Article 98 (4) and (5) of the Constitution which prohibits criminal or civil proceedings from being instituted against a seating President.***

20. AMENDMENT OF CLAUSE 15

(a) IN CLAUSE 19A,

Redraft sub clause (2) as follows-

"(2) The Tribunal shall consist of a Chairperson, Deputy Chairperson and three other members, one third of whom shall be female."

JUSTIFICATION

- ***For better drafting and clarity***
- ***To provide for a Deputy Chairperson***
- ***To make the provision gender sensitive***

(b) INSERT A NEW CLAUSE 19AA AS FOLLOWS-

"19AA. Functions of the Tribunal

In enforcing this Code, the Tribunal shall, in addition to any other functions under this Code, carry out the following functions-

(a) receive, examine and adjudicate any breach of the Code referred to it by the Inspectorate;

(b) make a report on any matter referred to it by the Inspectorate and submit it to the authorized person and the Inspectorate;

(c) make recommendations to the authorized person on disciplinary action to be taken against a leader;

JUSTIFICATION

- ***To provide for the functions of the Tribunal.***

(c) AMENDMENT OF CLAUSE 19B

For Clause 19B, there is substituted the following–

"19B. Appointment of Members of the Tribunal

(1) The Chairperson, Deputy Chairperson and the other members of the Tribunal shall be appointed by the President, acting on the advice of the Judicial Service Commission and with the approval of Parliament.

(2) A person is not qualified to be appointed Chairperson or Deputy Chairperson unless he or she is qualified to be appointed a judge of the High Court.

(3) The Deputy Chairperson shall preside over meetings of the Tribunal in the absence of the Chairperson.

JUSTIFICATION

- ***To provide for a Deputy Chairperson.***
- ***To require that all Members of the Tribunal are appointed on the recommendation of one body, the Judicial Service Commission.***
- ***For clarity and better drafting***

(d) CLAUSE 19C: Delete.

JUSTIFICATION

- ***Consequential amendment since clause 19C was merged with clause 19B.***

(e) Amendment of CLAUSE 19D:

1. Redraft sub clause (1) as follows:-

(1) A person shall qualify to be appointed a member of the Tribunal if he or she–

(a) is of high moral character and proven integrity;

(b) has not been convicted of any offence;

(c) is of sound mind;

(d) has not been declared bankrupt;

(e) is a citizen of Uganda; and

(f) possesses considerable experience and demonstrated competence in the conduct of public affairs.

2. Redraft sub clause (2) as follows:

"A member of the Tribunal, other than the Chairperson and Deputy Chairperson, shall-

(a) be a holder of a degree granted by a university in Uganda or outside Uganda, that is recognized as a degree by Uganda National Council for Higher Education, and

(b) possess ten years' work experience."

3. Delete sub clause (3).

JUSTIFICATION

- ***To ensure that members possess experience and are competent in conducting public affairs.***
- ***To remove any reference to crimes of a moral turpitude since they are incapable of exact definition.***
- ***To ensure that the Tribunal is also composed of professionals other than lawyers.***
- ***To prescribe the qualifications of the other members of the Tribunal.***

(f) AMENDMENT OF CLAUSE 19E

(i) Redraft Sub clause (1) as follows:

"(1) A Member of the Tribunal shall hold office for five years and shall be eligible for reappointment for one more term only."

(ii) Redraft Sub clause (2) as follows:

"(2) A member of the Tribunal shall be appointed on full-time basis."

(iii) Insert the following new sub clause immediately after sub clause (2):

"(3) The appointment of a new member of the Tribunal or the re-appointment of a current member of the Tribunal shall be made at least three months before the expiry of the current term of a member of the Tribunal or within 3 months from the date on which the Judicial Service Commission notifies the President of the existence of a vacancy."

JUSTIFICATION

- ***To enhance the security of tenure of the members of the Tribunal.***
- ***To require that the Tribunal operates on full-time basis.***
- ***To ensure institutional memory.***
- ***To ensure continuity of the Tribunal.***

(g) AMENDMENT OF CLAUSE 19F

(1) Redraft subsection (2) as follows:

"(2) A person appointed as a member of the Tribunal shall resign his or her office if he or she is serving in an office listed under the second or third schedule to this Code."

(2) Insert a new sub clause (3) after sub clause (2) as follows-

"(3) Not withstanding subsection (2), the appointment of a Judge as a member of the Tribunal shall not affect his or her tenure of office as a Judge, or his or her rank, title, status, precedence, salary and allowances or other rights or privileges as the holder of the office of Judge of the courts of judicature and for all purposes, his or her service as a member of the Tribunal shall be taken to have been service as holder of the office of such a Judge."

JUSTIFICATION

- ***To enlarge the list of persons who have to resign their offices on appointment as members of the Tribunal.***

- ***To ensure that the terms of service of a Judge appointed to the Tribunal are not affected by that appointment.***

(h) AMENDMENT OF CLAUSE 19H,

(1) In sub clause(2) insert a new paragraph (f) immediately after paragraph (e) as follows:

"(f) breach of any provision of the Code.

(2) In sub clause (5), insert immediately after the word **"removed"** appearing in the last line, the words "**from office**".

(3) In sub clause (7),

Substitute for the word "**Chairperson"** appearing in the first and last line with the word "**Deputy Chairperson**"

(4) Redraft sub clause (8) as follows-

"(8) A suspension under subsection (6) shall cease to have effect if the President, upon recommendation of the Committee not to remove the member from office, lifts the suspension, by written notification to the Tribunal.

JUSTIFICATION

- ***To include among the grounds for removal of a member of the Tribunal, breach of section 19(i) on conflict of interest.***

- ***For better drafting.***

(i) AMENDMENT OF CLAUSE 19I

Insert a new sub clause, (3) immediately after sub clause (2) as follows-

"(3) A member of the Tribunal who fails to disclose any interest in a matter before the Tribunal and participates in the proceedings of the Tribunal commits an offense and is liable on conviction to a fine not exceeding one hundred and fifty currency points or to imprisonment for a term not exceeding three years."

JUSTIFICATION

- ***To prescribe a punishment for non-disclosure of interest by a member or Chairperson of the Tribunal***

(j) AMENDMENT OF CLAUSE 19L OF THE BILL

(1) Substitute for the head note, the following-

"Quorum of the Tribunal"

(2) Redraft sub clause (1) as follows-

"(1) The quorum of the Tribunal shall be three members."

(3) Delete sub clauses (2), (3), and (4).

JUSTIFICATION:

- ***For clarity and better drafting;***
- ***Sub clauses (2), (3), and (4) are redundant.***

(k) AMENDMENT OF CLAUSE 19M.

Clause 19M is amended by deleting the words **"the Minister responsible for public service and"** appearing in the third line.

JUSTIFICATION:

- ***To require that only the Minister responsible for finance is consulted.***

(l) AMENDMENT OF CLAUSE 19N

Delete sub clause (1) (b)

JUSTIFICATION

- ***All revenue collected by a public body is required to be deposited in the consolidated fund in accordance with Section 29 of the Public Finance Management Act, 2015.***

(m) AMENDMENT OF CLAUSE 19P

Substitute for the word "**its**" appearing in the third line the words "**the Tribunal's**"

JUSTIFICATION

- ***For better drafting***

(n) AMENDMENT OF CLAUSE 19Q

(a) Delete the words "**and offences**" appearing in the second line.

(b) Insert immediately after the word "**Code**", the words **"referred to it by the Inspectorate in section 19 of this Code.**

JUSTIFICATION

- ***It will be contrary to Article 120, 126, 128 and 129 of the Constitution for the Tribunal to exercise jurisdiction over criminal matters.***
- ***For better drafting.***

(o) AMENDMENT OF CLAUSE 19R

Insert in sub clause (1) a new paragraph (d) immediately after paragraph (c) as follows-

(d) may make any order which it deems appropriate to give effect to its orders.

JUSTIFICATION

- ***To enhance the powers of the Tribunal***

(p) AMENDMENT OF CLAUSE 19U

(1) Insert the words **"in writing"** immediately after the word **"decision"** appearing in the second line.

(2). **Insert the following new provision and renumber accordingly**

"(2) The Tribunal shall within seven days of making a decision in subsection (1), avail it to the Inspectorate, the leader against whom the proceedings were instituted and any other person as the Tribunal deems fit."

JUSTIFICATION

- ***To require the decisions of the Tribunal to be in writing.***
- ***For better drafting***

(w) AMENDMENT OF CLAUSE 19V

Substitute for sub clause (1) the following-

(1) A party who is aggrieved by the decision of the Tribunal may, within thirty days after being notified of the decision in section 19U, appeal that decision to the High Court.

JUSTIFICATION

- ***For clarity and better drafting.***
- ***Parts of the provision were redundant.***

21. AMENDMENT OF CLAUSE 16

Clause 16 of the Bill is amended in-

(a) redraft sub clause (2) as follows-

(2) The authorized person shall, within thirty days of receipt of the decision under subsection (1), take action as directed by the Tribunal.

(b) Insert the following new sub clauses immediately after sub clause (3) as follows-

(4) Notwithstanding subsection (2), where the grounds or procedure for the dismissal or removal from office of a leader is prescribed under the Constitution, the decision of the Tribunal to the authorized person shall be a recommendation to the authorized person to exercise such disciplinary action as prescribed under the Constitution.

(5) Notwithstanding anything to the contrary, where a leader is dismissed or removed from office for misbehavior or misconduct under any law, a breach of this Code shall constitute misbehavior or misconduct under that law.

(6) Where any disciplinary action is recommended by the Tribunal, the authorized person shall ensure that the disciplinary action is carried out in accordance with the procedure prescribed in the law under which such a leader is disciplined.

(7) A person who is dismissed, removed from office, or convicted for breach of this Code as a result of the decision of the Tribunal, shall not hold any other public office whether appointive or elective for a period of five years from the date of dismissal, removal from office, or conviction."

JUSTIFICATION

- ***To comply with Fox Odoi-Oywelowo's Case and Eng. Thomas Mulondo's Case.***
- ***To require that the prescribed disciplinary procedures are undertaken upon receipt of the Tribunal's recommendations.***
- ***To allow the authorized person to comply with the procedure prescribed under the law that applies to that leader.***

22. AMENDMENT OF CLAUSE 17 OF THE BILL

Clause 17 of the Bill is amended-

(a) In sub clause (1), insert the words "**of the Tribunal**" immediately after the word "**decision**" appearing in the fifth line

JUSTIFICATION

- ***For clarity and better drafting***

23. AMENDMENT OF CLAUSE 23:

In sub clause (6b), insert immediately after the word **"tribunal"** appearing in the second line, the words **"and any other person appointed by the President"**

JUSTIFICATION

- ***For clarity.***

24. AMENDMENT OF CLAUSE 26 OF THE BILL

For Clause 26 of the Bill, there is substituted the following-

"Section 34 of the principal Act is amended by deleting subsection (2)."

JUSTIFICATION:

- ***The report of the Inspectorate is no longer final and therefore cannot be appealed against. The protection extended to such reports under section 34(2) is no longer necessary.***

25. AMENDMENT OF CLAUSE 27 OF THE BILL

Subsection 35 of the principal Act is amended by inserting immediately before the words "A leader", the following words-

"Subject to section 20.....,"

JUSTIFICATION

- ***To ensure that the provision is in line with the case of Fox Odoi-Oywelowo and James Akampumuza Versus Attorney General, Constitutional Court, Constitutional Petition No. 8 of 2003.***

26. AMENDMENT OF CLAUSE 28 OF THE BILL

Insert a new sub clause (2) as follows-

"(2) The Inspectorate shall continue any action or investigation commenced and not concluded at the commencement of this Code as if the action or investigation had been initiated under this Code

JUSTIFICATION

- ***To cater for investigations commenced but not completed before the amendment of this Code.***
- ***For continuity.***

27. INSERT A NEW CLAUSE 28A AS FOLLOWS-

"28A. Repeal of section 9 of the Anti-Corruption Act, 2009

Section 9 of the Anti-Corruption Act, 2009 is repealed.

JUSTIFICATION

- ***To decriminalize conflict of interest***
- ***Consequential amendment.***

28. AMENDMENT OF CLAUSE 29 OF THE BILL

(a) In part B (III), Substitute for paragraph 22, the following

"22. all officers of the Uganda people's defense forces of or above the rank of major and officers in charge of the payroll."

(b) Substitute for paragraph 25, the following-

"25. Inspector General of Police, Deputy Inspector General of Police and an officer of or above the rank of Assistant Superintendent of Police"

(c) Substitute for paragraph 39, the following

"39. Accountant, internal Auditor and Procurement officer in a Government department or parastatal, Constitutional Commissions and all other statutory bodies set up an Act of Parliament"

JUSTIFICATION

- ***To be consistent with section 2 of the Uganda People's Defence Forces Act, 2005 which considers an officer at or above the rank of Major to be a senior officer while a captain is a junior officer.***

- ***To be consistent with section 2 of the Police Act 303 which considers an officer of or above the rank of Assistant Superintendent of Police to be a senior officer while an inspector of Police to be a junior officer.***

- ***To include some of the major persons in government departments and parastatal who manage and control of government processes and decision making***

Rt. Hon. Speaker,

Hon. Members,

I beg to move.

APPENDICES:

A: References

Principal Legislation:
The Constitution of the Republic of Uganda (1995)
The Access to Information Act, 2005
The Anti-Corruption Act
The Children Act, Cap.59
The Constitution (Consequential Provisions) Act, 1995
The Evidence Act, Cap.6
The Finance Act, 2014
The Leadership Code, 1992
The Leadership Code Act, No.17 of 2002
The Local Government Act, Cap. 243
The Police Act, Cap 303
The Police (Amendment) Act, 2006
The Public Finance Management Act, 2015
The Public Procurement and Disposal of Assets Act, 2003
The Tax Appeals Tribunal Act, Cap. 345
The Uganda People's Defence Forces Act, 2005

Subsidiary Legislation:
The Rules of Procedure of Parliament of Uganda;
The Uganda Public Service Standing Orders, 2010.

Other laws:
The Constitution of Nigeria;
The Special Investigating Units and Special Tribunals Act, No.74 of 1996 (Republic of South Africa);
The Public Leaders' Code of Ethics Act, No. 13 of 1995; and No.5 of 2001 *(Tanzania);*
The Public Officer Ethics Act *(Kenya)*;
The Code of Conduct Bureau and Tribunals Act, No.1 of 1989 *(Tanzania);*
The Code of Conduct and Ethical Standards for Public Officials and Employees of the Philippines;
The Special Investigating Units and Special Tribunals Act, 1996 *(South Africa).*

Case Law:
Eng. Thomas Mulondo v *IGG, Kayunga District Local Government & The Electoral Commission* (High Court Miscellaneous Application No. 007 of 2009)
Fox Odoi-Oywelowo & James Akampumuza v *Attorney General* (Constitutional Petition No. 8 of 2003)
John Ken Lukyamuzi v *Attorney General & Electoral Commission* (SCCA 2/2007)
Nordenfelt v *Maxim Nordenfelt Guns and Ammunition Co Ltd* [1894] AC 535
Ssekyewa Edward & Anor. v *Attorney General* (Misc. Cause No. 354 of 2013)
Uganda v *Patricia Ojangole* (Criminal Session No. 3 of 2014)

B: List of Minutes of Committee Meetings

1) 30/08/16: Meeting with the Hon. Minister of State for Ethics and Integrity;
2) 31/08/16: Meeting with the Hon. Minister of State for Ethics and Integrity, and the Inspector General of Government;
3) 31/08/16: Meeting with the Directorate of Public Prosecutions (DPP);
4) 01/09/16: Meeting with the Uganda Law Reform Commission (ULRC);
5) 06/09/16: Meeting with the Anti Corruption Coalition Uganda (ACCU);
6) 06/09/16: Meeting with the Law Development Centre (LDC) Kampala; and Uganda Christian University (UCU) Mukono;
7) 07/09/16: Meeting with the Leader of the Opposition in Parliament (LOP);
8) 15/09/16: Public hearing;
9) 21/09/16: Internal Committee meeting;
10) 26/09/16: Workshop to discuss zero draft;
11) 27/09/16: Workshop to discuss zero draft;
12) 04/10/16: Meeting with the Ethics Secretariat *(Tanzania)*;
13) 05/10/16: Meeting with the Prevention and Combating of Corruption Bureau (PCCB), *(Tanzania)*;
14) 05/10/16: Meeting with the Hon. Minister for Central Establishment and Good Governance in the Ministry of Public Service Management and Good Governance, *(Tanzania)*;
15) 06/10/16: Meeting with the Parliamentary Standing Committee on Constitutional and Legal Affairs, and the Committee on Subsidiary Legislation, *(Tanzania)*;
16) 31/10/16: Meeting with the Committee on Ethics & Privileges, House of Representatives, *(Nigeria)*;
17) 02/11/16: Meeting with the Committee on Anti-Corruption, House of Representatives, *(Nigeria)*;
18) 03/11/16: Meeting with the Economic and Financial Crimes Commission (EFCC), *(Nigeria)*;
19) 03/11/16: Meeting with the Independent Corrupt Practices and Other Related Offenses Commission (ICPC), *(Nigeria);*
20) 03/11/16: Meeting with the Code of Conduct Bureau (CCB), *(Nigeria)*;
21) 23/11/16: Internal committee meeting;
22) 24/11/16: Internal committee meeting.

C: Signatures/List of Committee Members

	NAME	PARTY	SIGNATURE
1.	**Hon. Oboth Jacob Marksons**	INDEP	
2.	**Hon. Rwakoojo Robina Gureme**	NRM	
3.	Hon. Achia Remigio	NRM	
4.	Hon. Adeke Anna Ebaju	INDEP	
5.	Hon. Agaba Abbas Mugisha	NRM	
6.	Hon. Akamba Paul	INDEP	
7.	Hon. Amoding Monicah	NRM	
8.	Hon. Azairwe Nshaija Kabaraitsya Dorothy	NRM	
9.	Hon. Bitangaro Sam Kwizera	NRM	
10.	Hon. Gafabusa Richard Muhumuza	NRM	
11.	Hon. Isala Eragu Veronica Bichetero	NRM	
12.	Hon. Kafuuzi Jackson Karugaba	NRM	
13.	Hon. Kajara Aston Peterson	NRM	
14.	Hon. Katuntu Abdu	FDC	
15.	Hon. Lubega Medard Sseggona	DP	
16.	Hon. Mpuuga Mathias	DP	
17.	Hon. Mugoya Kyawa Gaster	NRM	
18.	Hon. Niwagaba Wilfred	INDEP	
19.	Hon. Nsereko Muhammad	INDEP	
20.	Hon. Obua Denis Hamson	NRM	
21.	Hon. Ongalo-Obote Clement Kenneth	NRM	
22.	Hon. Otto Edward Makmot	INDEP	
23.	Hon. Ssemujju Ibrahim Nganda	FDC	
24.	Hon. Tumwine Elly Tuhirirwe (Gen.)	-	