

BILLS SUPPLEMENT

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Bill No. 24

*Institution of Traditional or Cultural
Leaders Bill*

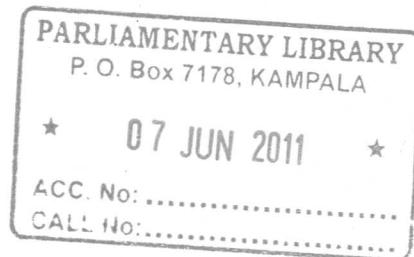
2010

**THE INSTITUTION OF TRADITIONAL OR CULTURAL
LEADERS BILL, 2010**

MEMORANDAM

The object of this Bill is to operationalise article 246 of the Constitution on the institution of traditional or cultural leader. The Bill seeks to provide for the existence of traditional and cultural leader in any area of Uganda in accordance with the Constitution. It provides for the recognition of traditional and cultural leader by the Government, and their privileges and benefits; to provide for the resolution of issues relating to traditional or cultural leaders which have not been resolved in any community; and for related matters.

GABRIEL OPIO,
Minister of Gender, Labour and Social Development.



THE INSTITUTION OF TRADITIONAL OR CULTURAL LEADERS
BILL, 2010

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A BILL for an Act

ENTITLED

**THE INSTITUTION OF TRADITIONAL OR CULTURAL
LEADERS ACT, 2010**

An Act to operationalise article 246 of the Constitution on the institution of traditional or cultural leaders; to provide for the existence of traditional or cultural leaders in any area of Uganda in accordance with the Constitution; to provide for the recognition of traditional or cultural leaders by the Government; to provide for the privileges and benefits of the traditional or cultural leaders; to provide for the resolution of issues relating to traditional or cultural leaders and for related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Commencement

This Act shall come into force on a date appointed by the Minister by statutory instrument.

2. Interpretation

In this Act, unless the context otherwise requires—

“court” means the High Court of Uganda;

“Constitution” means the Constitution of the Republic of Uganda;

“constitutionalism” means adherence to constitutional principles;

“corporation sole” means a continuous legal personality that is attributed to successive holders of certain monarchical positions such as kings;

“currency point” has the value assigned to it in Schedule 1;

“institution of traditional or cultural leader” means the throne, station, status or other position held by a traditional or cultural leader and “institution” shall be construed accordingly;

“Government” means the Government of Uganda;

“Minister” means the Minister responsible for culture;

“partisan politics” includes—

- (a) promoting a political party or political organisation or any of its activities;
- (b) rendering direct or indirect support to a political party or political organisation;
- (c) recommending a particular person to the public with a view to promoting that person politically;
- (d) promoting the manifesto, aspirations or views of a political party or political organisation;
- (e) making statements against Government policies or programs;
- (f) making statements or comments on Bills or motions under consideration by Parliament with a view to influencing their outcome;

“privilege” means a right, advantage or immunity, belonging to a traditional or cultural leader;

“traditional or cultural leader” means a king or similar traditional leader or cultural leader by whatever name called who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader.

PART II—INSTITUTION OF TRADITIONAL OR CULTURAL LEADER

3. Institution of traditional or cultural leader

(1) Subject to the Constitution, the institution of traditional or cultural leader may exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

(2) Subject to subsection (1) a traditional or cultural institution may only be established by resolution of not less than two thirds of all members of the district local government councils and the subcounty local government councils respectively in the area.

(3) For the avoidance of doubt, the institution of traditional or cultural leader existing immediately before the coming into force of this Act shall be taken to exist in accordance with the Constitution and this Act.

4. Installation of traditional or cultural leader

(1) A person may be installed as a traditional or cultural leader in any area of Uganda if that person derives allegiance from—

- (a) birth; or
- (b) descent,

in accordance with the customs, traditions, usage or consent of the people where that person is recognised as a traditional or cultural leader.

(2) A person shall not be installed as a traditional or cultural leader unless the person derives allegiance from birth or descent in accordance with article 246(1) to (6) of the Constitution.

(3) A person shall not be compelled to pay allegiance to any person installed as a traditional or cultural leader.

(4) A person who compels another person to pay allegiance to a traditional or cultural leader commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding twelve months or both.

5. Recognition of traditional or cultural leader

(1) Notwithstanding anything in this Act, a person shall not be taken to be a traditional or cultural leader unless that person is recognised as such by the Government by a notice published in the Gazette.

(2) Government may recognise a traditional or cultural leader as such of any of the existing Uganda indigenous communities in accordance with article 10 and the Third Schedule of the Constitution.

(3) For the purposes of subsection (1) the traditional or cultural leaders listed in Schedule 2 are recognised as traditional or cultural leaders for the purposes of this Act.

6. Capacity of institution of traditional or cultural leader

(1) The institution of a traditional or cultural leader is a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the people concerned.

(2) A traditional or cultural leader may hold any asset or property acquired in a personal capacity.

7. Withdrawal of recognition by Government

(1) The Government may in accordance with a court order withdraw its recognition of a traditional or cultural leader where the traditional or cultural leader—

- (a) acts in contravention of the Constitution or this Act; or
- (b) abdicates the institution of a traditional or cultural leader.

(2) Where the Government withdraws its recognition of a traditional or cultural leader the Government shall notify the traditional or cultural leader in writing and shall cause the notice of the withdrawal to be published in the Gazette.

8. Jurisdiction of traditional or cultural leaders

(1) The jurisdiction of a traditional or cultural leader is limited to the people within the community or area of Uganda who consent to pay allegiance to the traditional or cultural leader.

(2) For the avoidance of doubt, the traditional or cultural leader shall not limit the right of a person under article 37 of the Constitution to belong to, enjoy, practise, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in the community with others.

PART III—ROLE OF TRADITIONAL AND CULTURAL LEADERS

9. Role of traditional or cultural leader in community

(1) Where a traditional or cultural leader exists in a region of Uganda where a regional government exists, the traditional or cultural leader shall be the titular head of that regional government.

(2) Where there is more than one traditional or cultural leader in the area of a regional government the position of the titular head of the regional government shall be held by each of the traditional or cultural leaders within the area of the regional government in rotation for one year at a time.

PART IV—PRIVILEGES AND BENEFITS

10. Privileges and benefits of a traditional or cultural leader

(1) A recognised traditional or cultural leader shall enjoy the privileges and benefits specified in Schedule 3.

(2) A local government may by resolution provide privileges and benefits to a traditional or cultural leader as the local government thinks necessary.

(3) Where regional government is established in any area, then the privileges and benefits of the traditional or cultural leader may be determined by the regional government as a block.

(4) Where a traditional or cultural leader is recognised in more than one regional government, the benefits shall be paid by the regional governments in equal proportions.

(5) Without prejudice to this section, a traditional or cultural leader shall enjoy the privileges and benefits that the traditional or cultural leader is entitled to under culture, custom or tradition which are not inconsistent with the Constitution or this Act or any other law.

(6) The benefits payable under this section shall be free from income tax.

(7) The duties and responsibilities of the traditional or cultural leader may be financed through central government from the Consolidated Fund as a grant.

11. Responsibility of the community where a traditional or cultural leader exists

(1) The community where a traditional or cultural leader is installed shall have the primary responsibility of maintaining the traditional or cultural leader.

(2) Notwithstanding subsection (1), a person shall not be compelled to contribute to the cost of maintaining a traditional or cultural leader or any institution of the traditional or cultural leader.

PART V—RESTRICTIONS ON A TRADITIONAL OR CULTURAL LEADER

12. Exercise of administrative, legislative or executive powers

A traditional or cultural leader shall not have or exercise any administrative, legislative or executive powers of Government or a local government.

13. Traditional or cultural leaders not to join or participate in partisan politics

(1) A person shall not, while remaining a traditional or cultural leader, join or participate in partisan politics.

(2) A traditional or cultural leader wishing to take part and seeking elective office shall abdicate his position in the institution not less than 90 days before nomination day in respect of that election.

(3) For the purposes of this section a person joins or participates in partisan politics when that person—

- (a) becomes a registered member or card bearing member of the political party or political organisation;
- (b) provides a platform where the members of a political party or political organisation articulate the views, aspirations and interests of that political party or political organisation;
- (c) attends a rally or debate where the views, aspirations or interests of a political party or political organisation are articulated;
- (d) allows the facilities of a traditional or cultural institution to be used in the promotion of partisan politics;

- (e) allows a person in the employment of the traditional or cultural institution of which the person is a leader to engage in any of the activities referred to in paragraphs (a) to (d).

(4) The withdrawal of recognition shall be by notice published in the Gazette.

14. Prohibited customs or traditions

A traditional or cultural leader or institution shall not practise any custom, culture, usage or tradition that detracts from the rights of any person as guaranteed under the Constitution or contravenes the Constitution or any other law.

15. Relationship with foreign governments

(1) A traditional or cultural leader shall not deal with foreign governments except with the approval of the Minister responsible for foreign affairs.

(2) The Minister responsible for foreign affairs shall develop guidelines for approval to be granted under subsection (1).

PART VI—RESOLUTION OF DISPUTES

16. Resolution of disputes

(1) Any conflict or dispute within the traditional or cultural institution or within the community shall be handled by a council of elders or clan leaders or a representative body chosen and approved by the community, in accordance with the traditions, customs and norms of dispute or conflict resolution pertaining to that community.

(2) Where the community fails to resolve the conflict or dispute in accordance with subsection (1), the matter shall be referred to the court.

(3) For the avoidance of doubt, the conflict or dispute referred to in sub section (1) is a conflict or dispute relating to—

- (a) whether or not a community should have a traditional or cultural leader; or
- (b) who should be the traditional or cultural leader of the community or area of Uganda.

PART VII—MISCELLANEOUS

17. Publication of list of traditional or cultural leaders

The Ministry responsible for culture shall once in every calendar year cause to be published in the Gazette a list of all traditional or cultural leaders in Uganda whom Government facilitates.

18. Liability of traditional or cultural leaders

(1) A traditional or cultural leader is personally liable for any civil wrongs or criminal offences committed by the traditional or cultural leader or the agents or persons in the employment or acting under the authority of the traditional or cultural leader.

(2) A person who purports to act on behalf of the traditional and cultural leader without authority or knowledge of the traditional and cultural leader is liable for any civil or criminal acts committed by him or her.

19. Symbols and seals of institution of traditional or cultural leaders

(1) Institutions of traditional or cultural leaders may have flags, anthems, seals and logos.

(2) Flags, anthems, seals and logos of traditional or cultural leaders existing before the coming into force of this Act shall continue to be in use.

20. Power of Minister to amend Schedules

The Minister may, by statutory instrument, with the approval of Cabinet amend any Schedule to this Act.

21. Regulations

(1) The Minister may, with the approval of Parliament, by statutory instrument, make regulations for the better carrying into effect of the provisions of this Act.

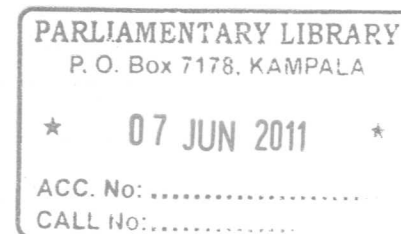
(2) Regulations made under this section may prescribe in respect of contravention of the regulations, penalties not exceeding a fine of forty eight currency points or imprisonment not exceeding two years or both.

SCHEDULE 1

Section 2

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.



SCHEDULE 2

Section 5

LIST OF TRADITIONAL OR CULTURAL LEADERS RECOGNIZED
BY GOVERNMENT

	<i>Name of Cultural Institution</i>	<i>Title and Name of Traditional or Cultural Leader</i>
1	Ker Kwaro Acholi	Rwot David Onen Acana II
2	Ker Alur	Rwot Ubimu Phillip Olarker Rauni III
3	Obukama bwa Bunyoro	Omukama, Solomon Gafabusa Iguru I
4	Buruuli Chiefdom	Isabaruli Constantine Butamanya Mwogezi Mwatyansozi I
5	Obwakyabazinga Bwa Busoga	The Kyabazinga of Busoga No Name
6	Obwakamuswaga Wa Kooki	Kamuswaga Apollo Sansa Kabumbuli II
7	Lango Chiefdom	Won Nyaci Yosam Odur
8	Obusinga bwa Rwenzururu	Omusinga Charles Wesley Mumbere Iremangoma
9	Obwakabaka bwa Buganda	Sabasajja Kabaka Ronald Muwenda Mutebi II
10	Teso Chiefdom	Emorimor Papa Augustine Osuban Adugala
11	Tieng Adhola Chiefdom	His Highness, Kwar Adhola Moses Stephen Owor
12	Obukama bwa Tooro	Omukama Oyo Nyimba Kabamba Iguru Rukidi IV
13	Inzu ya Masaaba	Umukuuka Wilson Weasa Wamimbi

Section 12

SCHEDULE 3

PART I

PRIVILEGES AND BENEFITS OF TRADITIONAL OR CULTURAL LEADERS

<i>Official vehicle</i>	<i>Support vehicle</i>	<i>Honorarium</i>	<i>Educational allowance</i>	<i>Travel</i>	<i>Arrangements upon death</i>	<i>Security</i>
Official vehicle: 4165cc, 4 wheel drive, 6 cylinder diesel and 5 speed manual transmission	Support vehicle: 2800cc, 4 cylinder diesel engine, water cooled with OHC, 5 speed manual transmission	Government may provide an annual unconditional honorarium as tax free allowance to be reviewed from time to time by the Ministry responsible for public service.	For two biological children up to university level within Uganda.	To travel by first class	Contribution by Government for burial arrangements in accordance with existing policy on handling past and present leaders and other dignitaries after their death.	For self and family with training provided by a competent authority determined by Government.

PART II

Section 12

BENEFITS OF INSTITUTIONS OF TRADITIONAL OR CULTURAL LEADERS

<i>Rehabilitation of residence</i>	<i>Maintenance of gazetted cultural sites</i>	<i>Support for research and documentation</i>	<i>Establishment and maintenance of website</i>	<i>Publication of official list of traditional/cultural leaders</i>	<i>Support of co-operation</i>
A contribution by Government towards the cost of rehabilitation of existing institutional or official residence to a standard determined by the Ministry responsible for works, housing and communications.	Maintenance of gazetted cultural sites at the cost of Government to a standard determined by the Ministry responsible for culture.	Support for research and documentation at the cost of Government for the traditional history and cultural heritage through the Ministry responsible for culture.	Establishment and maintenance of website through the Ministry responsible for culture.	Publication through the Ministry responsible for culture.	Government to support cooperation among the traditional or cultural institutions.