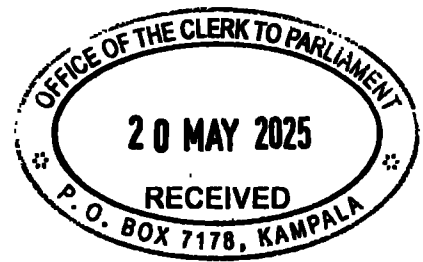




**PARLIAMENT OF UGANDA**



**MINORITY REPORT OF THE JOINT COMMITTEES OF THE COMMITTEE OF LEGAL AND  
PARLIAMENTARY AFFAIRS AND COMMITTEE ON DEFENCE AND INTERNAL AFFAIRS  
ON THE UGANDA PEOPLES DEFENCE FORCES (AMENDMENT) BILL, 2025**

**OFFICE OF THE CLERK TO PARLIAMENT  
PARLIAMENT BUILDING  
KAMPALA-UGANDA**

**MAY 2025**

A handwritten signature in black ink, appearing to be 'John'.

## **1. INTRODUCTION**

This is a Minority report in dissent, of the majority report of the Joint Committee of the Committee on Legal and Parliamentary Affairs and Committee on Defence and Internal Affairs, on the Uganda Peoples Defence Forces (Amendment) Bill, 2025. This minority report is brought **under Rule 215 of the Rules of Procedure of Parliament of the Republic of Uganda.**

## **2. AREAS OF DISSENT AND STATEMENT OF REASON FOR DISSENT**

The minority restricts the areas of dissent, majorly on; **the policy and principles, defects in existing law, remedies proposed in the bill and specific provisions** of the Uganda Peoples' Defence Forces (Amendment) Bill, 2025 touching the Courts Martial and related matters including the Schedules.

## **3. APPROACH**

In this report, the Minority presents specific thematic areas of dissent, the reasons for the dissent and explanatory statements for the reason(s) of dissent. This minority report is guided by the Provisions of the Constitution of Republic of Uganda, applicable Subsidiary legislations and the lead Judgment in the Supreme case of **ATTORNEY GENERAL V HON. MICHEAL A. KABAZIGURUKA, C.A No. 2 of 2021.** Therefore, each word, sentence, paragraph in this report has been carefully considered by the minority for of justifying the dissent from the main report of the committee. The minority prays that time be allowed for this report to be presented to the house both verbatim and seriatim, thank you.



### **Preliminary and substantive discussions on points of law.**

In this report, the minority raises several points of law, in both preliminary and substantive forms. The minority submits that meaningful debates and decisions of the Parliament can only take place after the Presiding Officer has disposed of, by way of formal ruling, with reasons all the points of law raised. The Presiding Officer should not be tempted to sweep under the carpet, fail or casually dismiss these important issues on points of law raised by the minority. In, short, the minority invites the full attention of the Presiding Officer during the presentation of this report and prays for the rulings to be delivered on record in a timely manner before debate ensue.

### **Breach of the Rule 75 of Rule of Procedure of Parliament on Sub-Judice.**

During the consideration of the Bill, the Uganda Law Society brought to the attention of the Committee (Parliament) an active Court case in the East African Court of Justice, which decisions are binding on Uganda as set out in the landmark precedence case of **AMONG A. ANITA V ATTORNEY GENERAL OF UGANDA & S Anor, REFERENCE NO.6 OF 2012**. The letter is dated 14<sup>th</sup> May 2025, and it is address to the Clerk to Parliament and reads as follows;

***"RE: THE UGANDA PEOPLES' DEFENCE FORCES (AMENDMENT) BILL, 2025***

***Greetings from the Council, management and staff of the Uganda Law Society (ULS).***



***In response to your invitation to meet the Joint committee on Defence and Internal Affairs and Legal and Parliamentary Affairs for consideration of the above captioned Bill, for which we are grateful, this is to inform the Joint Committee as follows:***

- 1. The ULS received your invitation letter today at 1:50am, scheduling a meeting for 12:00pm on the same day. With great respect, this timeframe is manifestly inadequate for a thorough consideration of the 150-page Bill and incompatible with democratic accountability.***
- 2. Be that as it may. The ULS hereby brings to your attention Reference NO. 14 of 2025 Uganda Law Society v Attorney General of Republic of Uganda, pending before the East African Court of Justice. Discussing the Bill's provision on military courts would inevitably breach the sub-judice Rule, contrary to rule 75 of the Rules of Procedure of Parliament of Uganda (SI No. 43 of 2025) and Article 38 (2) of the Treaty for the Establishment of the East African Community, and potentially contravenes Articles 2, 20(2), 79(3), 92, 126(1), 128(2), 128 (3), and 287 of the Constitution of the Republic of Uganda.***
- 3. Given the pending litigation, we respectfully, request the Joint Committee to urge Government to pursue amicable resolution of the dispute before engaging Parliament on the contested matters. The ULS welcomes the opportunity of another invitation to discuss the rest of the Bill.***

***Yours faithfully***

***Aslimwe Anthony***

***VICE PRESIDENT***



I now beg to lay on table the copy of the letter duly received by the office of the Clerk to Parliament as well as a copy of the **Reference No. 14 of 2025 (ULS v AG of Uganda) In East African Court of Justice**, for which I pray a copy is swiftly handed over to the Presiding Officer for purpose of satisfying the conditions under **Rule 75 of the Rules of Procedure of Parliament**.

In the same vein, the Minority also draws to the attention of the Rt. Hon, and Parliament, the **C. A No. 01 of 2025, MALE MABIRIZI K. KIWANUKA V ATTORNEY GENERAL** filed in the Supreme Court of Uganda on 14<sup>th</sup> April 2025, and the same has been duly served upon Respondent who is present in this sitting. The gist of the Application is for the Supreme Court to determine whether the action of the Respondent and Parliament, of proposing and consideration of the Uganda Peoples' Defence Forces (Amendment) Bill, 2025 providing for trial of civilians in the Court Martial is contemptuous of the Judgment of the Supreme Court of Uganda in **AG v HON. MICHEAL (Supra)**.

The **C.A No. 01 of 2025 (Male Mabirizi K. Kiwanuka v AG)** filed in the Supreme Court has been duly served on the Attorney General. The AG who is the Respondent in the case is present and can confirm or deny the existence of this case.

All that is minority is belaboring by this submission, is to demonstrate by all standards that there is a live and active dispute before, not only the East African Court of Justice, but also the Uganda's highest-the Supreme Court. It will be quite embarrassing for Parliament, an institution central to democracy and rule of law



to carry on with consideration of the UPDF(Amendment) Bill, 2025 well aware of Court cases that touch on the subject matter of the clauses of the Bill.

### **Finding**

**The Minority finds that Parliament proceeding to consider the clauses of the Uganda Peoples' Defence Forces (Amendment) Bill, 2025 touching the subject matter of trial of civilians in Court Martial undermines the core tenets of rule of law and Doctrine of mutual respect for Separation of Powers between the Executive, Legislature and Judiciary.**

### **Retrospectivity of Legislation contrary to Article 92 of the Constitution of Uganda.**

Article 92 of the Constitution of Republic of Uganda on Restriction on retrospective legislation states that;

***"Parliament shall not pass any law to alter the decisions or judgment of any Court as between the parties to the decision or judgment"***

Decisions or Judgments of Court are categorized into two; in personam and rem to mean against a person and world at large. It is the considered opinion of the Minority that the Judgment in **Constitutional Appeal No.2 of 2021 (Attorney General v Hon. Michael K. Kabaziguruka)**, is firmly binding on the movers of the



Bill as well as Parliament. In short, unless Parliament is deliberately, and with utmost impunity dismissive of the Judgment of the Supreme Court of Uganda, which judgment was led by none other than Hon. The Chief Justice of Uganda, Alfonse C. Owiny-Dollo, together with his brother and sister Lordships of the Supreme Court; Hon. Lady Justice Catherine Bamugemereire, Hon. Lady Justice Monica Kalyegira Mugenyi, Hon. Lady Justice Faith Mwendha, Hon. Lady Justice Elizabeth Musoke, Hon. Lady Justice Percy Ntuhaise and Hon. Justice Mike J. Chibita.

One of the best indicators of progressive democracy is respect for the rule of law which includes respect for Judgments of Courts. If this Parliament, in the full glare of right-thinking Ugandans and the entire world proceeds to disobey the Supreme Court, then this **day, date and year will go down as the official birthday of the dreaded Military dictatorship in Uganda. We surely don't wish to be the midwives to deliver this 'baby' at all.**

Let it also sink in our minds, that at any one point soon in our lifetime, Uganda will have another President other than H.E Museveni. The next President as per the law shall be the Commander in Chief (Boss of the Court Martial). This House may have already noticed the following names, in no particular order of chances being discussed in the public domain as potential future Presidents starting 2026 and beyond; Hon. Akena Jimmy James Michael Obote, Hon. Kyagulanyi Sentamu Robert, Hon. Amuriat Oboi Patrick, Gen. Kainerugaba Muhoozi, Gen (Rtd) Mugisha Muntu Gregory, Hon. Nobert Mao, Rt. Hon Anita Among Annet, Col (Rtd) Dr. Warren Kizza Besigye, Hon. Nandala Mafabi Nathan, etc.?



Please reflect carefully on each one of them; their soberness, fidelity to the law, ideology, actions, sentiments, service record etc. and imagine what each one of them is capable of, using such provisions proposed in the Bill.

### **Finding**

**The Minority finds that legislating on clauses of the Bill that touch on the decision of the Supreme Court, specifically enacting clauses to try civilians and soldiers who commit civilian crimes in Court Martial contravenes Article 92 of the Constitution of the Republic of Uganda in the light of AG v Hon. Michael K. Kabaziguruka, C.A No 2 of 2021.**

### **Understanding of the Judgment of Supreme Court in A.G v Hon. Michael. K.**

During the consideration of the Bill in the Committee, an issue arose as to whether there was a lead judgment to inform the consideration of the bill, or all judgments of the Coram mattered. The Hon. Attorney General informed the Committee that the Judgment of Hon. The Chief Justice as the lead judgment, whose final orders and recommendation guided the drafting of the Bill.

Whereas the minority considered the other Judgments as equally important, in as far as the several rulings therein, the minority, for purpose of harmony agreed with the Attorney General to restrict discussions around the Lead Judgment of Hon. The Chief Justice, Alfonse C. Owiny-Dollo who listed six specific issues that the Supreme Court was required to resolve, and the issues were: -





1. Whether the Court Martial are Courts established under the Constitution or are mere tribunals?
2. Whether the Court Martial can be/or are independent and impartial within the meaning of Art. 28 (1) of the Constitution?
3. Whether Civilians can legally be liable to face trial in the Court Martial for disciplinary offences (herein called military, disciplinary or service offences) stipulated in Part VI of the UPDF Act?
4. Whether civilians can constitutionally or legally be tried in courts Martial for civil offences not comprised in Part VI of the UPDF Act; but are instead provided for in other legislations?
5. Whether it is constitutional for persons subject to military law to be tried in the Court Martial, for offences outside the UPDF Act (herein called Civil offences)?
6. Whether it is constitutional for civilians to be tried by the Court Martial as principals for offences under the S.119 (1) (h) of the UPDF Act; yet these also exist in civilian offences?

The Minority has found it necessary to briefly highlight the decision of the Supreme Court in each of the questions, as this will be extremely important in firstly, refreshing the memory of the members, then secondly and most importantly, guiding the members to properly direct their minds during the debate on the principles and justifications of the Bill.



**On Issue No 1. Whether the Court Martial are Courts established under the Constitution or are mere tribunals?**

In answering this question, which answer was agreeable to the rest of the panel, Hon. The Chief Justice, Alfonse C. Owiny-Dollo wrote on page 44, para 15 as follows; -

**"I would therefore hold that the General Court Martial is not merely a complimentary court to 'civil' Courts. It is established as a Court: which is however seized with specialized jurisdiction"**

The take home from this answer is therefore two-fold, one is that the Supreme Court recognized the existence of Court Martial as creature of law and secondly but most importantly its special status implying it is meant for SPECIALCASES ONLY.

I now quote the Learned Attorney General of Uganda in a letter which I beg to lay on table, written 3rd February, 2025 addressed to; the Hon. Minister of Defence, the Chief of Defence Forces, the Chief of Joint Staff and the Director of Public Prosecutions in para 2 on page 2 and para. 9 on page 3 reproduced below;

***'Section 197 (now s.195) of the UPDF Act, which establishes the General Court Martial is duly established under the law as a competent court, is constitutional.***



**Our understanding of the above declaration is that the general Court Martial is duly established under the law and its existence is consistent with the Constitution. However, it must be clothed with the following attributes.**

**(a) Members of the General Court Martial must be persons with requisite legal qualifications.**

**(b) The Members of the General Court Martial should be independent of the command and have security of tenure.**

**(c) There should be adequate time and facilitation in the preparation of the defence by an accused person, as well as the right of an accused person to due process, and of appeal in capital cases.**

**(d) The convening authority must lie with the General Court Martial which guarantees institutional independence from the authority prosecuting the case.**

**"Sections 2, 179, 119(1) (h) and (g) (now respectively ss.1, 177, 10(x), 117(1)(h) and (g) of the UPDF Act are unconstitutional since they confer blanket jurisdiction on Courts Martial to try civilians.**

**Our understanding of this declarations 7, 8 and 9 by the Court is that civilians cannot be tried in military courts."**

The Minority recognizes the mandate of the office of the Attorney General as the under Article 119(3) and (4) of the Constitution of the Republic of Uganda, to wit; shall be the principal legal adviser of the **Government**, and to give legal advice



and legal services to Government on any subject. of the Constitution of the Republic of Uganda.

It may also be recalled, that in both the original **Constitutional Petition No. 45 of 2016, Hon. Michael A. Kabaziguruka v Attorney General in the Constitutional Court** and the **Constitutional Appeal No. 2 of 2021, A.G v Hon. Michael A. Kabaziguruka**, the Attorney General diligently and professionally offered legal services (Representation) in Court and lost on all arguments except the legality of existence/creation of the Court Martial.

How then does the Executive and even Parliament expects the learned Attorney General to again go back to Constitutional Court and Supreme Court to defend the same issues argued and lost.

It must be very burdensome, tiresome, hopeless and frustrating to be a lawyer to the Government in such scenarios. Sympathies to the Learned Attorney General, Hon. Kiryowa Kiwanuka and the team of Learned friends in the Chambers of the Attorney General who prosecuted the case. Can they even dare face the same Court again, on the same issues already decided by Court?

### **Finding**

**The minority finds that there is no legal basis to provide for trial of civilians in the military court as decided by the two highest Courts of Uganda; Constitutional Court and the Supreme Court. The minority further finds that the political, ideological and security narration to justify enactment to provide for trial of non -**



**military offences in the Court Martial is shallow, unreasonable and unconstitutional.**

**Courts martials as found by the Supreme Court are already established legally hence no need to RE-ESTABLISH it. The RE-STRUCTURING of the Courts Martial is necessary but as shall be later pointed out, no possible through the provisions proposed in the Bill.**

### **Subordination of the Court Martial**

The Hon. The Chief Justice Alfonse C. Owiny-Dollo in his judgment found as quoted below;

***"Additionally, as already noted, the GCM and other military Courts are all subordinate Courts. See A.G v ULS Constitutional Appeal No. 1 of 2006. However, I do not agree with Mulenga JSC's finding where he held that the GCM is subordinate but not lower than the High Court. According to the Black's Law Dictionary, Brayan A. Garner, Eighth Edition, 'subordinate' means "Placed in or belonging to a lower rank, class or position" or subject to another's authority or control" Assigning the ordinary English meaning to the word 'subordinate', all courts martial as subordinate courts created under Article 129 (1) (d) can only have jurisdiction that is lower than the High Court. Saying that it is subordinate but not lower than the High Court is contradictory and has potential to create an absurdity when it comes to hearing of capital Offences. If Parliament desires to grant them jurisdiction to handle capital cases, then it would need to do so in line with the Constitution"***



The minority observes that **Article 129 of the Constitution of Republic of Uganda** provides for the Courts of Judicature as stated in the judgment.

**Art. 129 (1) The Judicial power of Uganda shall be exercised by the courts of Judicature which shall consist of-**

**(a)the Supreme Court of Uganda;**

**(b)the Court of Appeal of Uganda;**

**(c)the High Court of Uganda; and**

**(d)such subordinate courts as Parliament may by law establish, including qadhis' courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by Parliament.**

**Article 139 of the Constitution of Uganda** is on jurisdiction of the High Court and states as follows;

***(1) The High Court shall, subject to the provision of this Constitution, have unlimited original jurisdiction in all matters and such appellant and other jurisdiction as maybe conferred on it by this constitution or other law.***

In the light of the Judgment of the Supreme Court, any court created by Parliament is inherently subordinate to the High Court. For any Court to be created with either same or higher jurisdiction to the High Court, it has to be directly created in the Constitution under **Article 129 (1)** and listed either in same



**Clause 1 (c)** with the High Court or immediately before **Clause 1(d)** to exclude it from the subordination.

The Minority also observes further that conferring unlimited jurisdiction on Courts created under Art 129 (d) of the Constitution is equivalent to amending by infection Article 139(1) of the Constitution to the extent of creating exceptions 'limiting' the unlimited original jurisdiction conferred by the Constitution. Is it allowed to amend the Constitution through amendment of an Act of Parliament? the answer is no. The Constitution can only be amended in conformity to **Chapter Eighteen; Articles 259-263 of the Constitution of the Republic of Uganda**. The minority submits that the UPDF (Amendment) Bill is not a bill for an act to amend the Constitution and therefore cannot attempt, by trickery and fraud purport to amend **Art. 139(1) of the Constitution of the Republic of Uganda**.

The Advisory Order/Recommendation of the Supreme Court are stated in para. 10, on page 199, bullet (e) of the Judgement of Hon. The Chief Justice Alfonse. C Owiny-Dollo as follows

***(e) Amend the Constitution to establish superior courts within the military court system under Art. 129; and clothe them with the requisite jurisdiction and guarantee of independence and impartiality to try specific military offences under existing laws, committed by military personnel. Or;***

***(f) Provide in the UPDF Act for the High Court to sit as a Court martial with power to try all criminal capital offences within the High Court jurisdiction, and those unique to the military that attract maximum of life and death***



**sentences. Grant the Chief Justice powers to assign Judges to the military courts. A select number of military personnel can act as assessors. Appeals to Court Martial Appeal Courts would follow the same format, with the Court of Appeal sitting as such. Magistrate's Courts would assume the jurisdiction over all other offences of a subordinate Court.**

**(g) Make provisions in the UPDF Act for trial of civilians in the military courts to be only under limited circumstances; and only after the State has concretely demonstrated to the Court by verifiable facts, and by objective and serious reasons, the need and justification to recourse to the military court. This must only apply where in relation to the specific class or category of persons and offences in question, ordinary courts are not in position to undertake.**

The understanding of the Minority on those advisory orders (e), (f) and (g) above, is that they are premised on the fact that all trials of both civilians and military personnel who commit non-service/military offences MUST BE BEFORE CIVILIAN COURTS. In other word, the current Civilian Courts (Magistrate, High Court, Court of Appeal and Supreme Court) are all competent by all standards required under **Article 28 and 44 of the Constitution of the Republic of Uganda** to try any offence in the law books of Uganda. A question was put to the Attorney General on where his trust, confidence and belief would lie in delivery of Justice on offences proposed in the bill, were the trials to take place premised on same facts before





either of the Court; Civilian or Courts Martial? The Learned A.G answered that both Courts can or would deliver justice.

The understanding of the minority on this answer, is that the learned A.G confirmed that the Civilian Courts in existence now is capable of conducting any trial of criminal nature in Uganda without need to waste time and resources on the Courts Martial which has Unconstitutional structure incapable of delivering a free, fair and impartial justice to any accused persons.

Even is this answer is denied, the question to the Government and mover of the Bill is; Is the Government of NRM, in power for 39 years and who virtually recruited and appointed all the Cadres; the Investigators (Police), the Prosecutors (ODPP), the Arbitrators (Judicial Officers) justified to complain on the incompetence/weakness in the justice system in Uganda?

If the minority was granted more time, it would have produced a record of all cases (Murder, Aggravated Robberies, Terrorism etc.... proposed in the Bill) against Accused persons, including military personal prosecuted successfully in the Civilian Courts and the convicts are now serving their respective sentences. The minority invites the attention of members, especially those familiar with Court papers to reflect on the proposal which captures the spirit of the Advisory Orders by the Hon. The Chief Justice in the lead judgment.

**THE REPUBLIC OF UGANDA**



**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(COURTS MARTIAL/MILITARY DIVISION)**

**Finding**

The minority finds that the proposals in the Uganda People's Defence Forces (Amendment), 2025 purporting to re-create the Court Martial with unlimited original jurisdiction is unconstitutional as it inadvertently amends Article 139 of the Constitution of Uganda, without following the procedures of amendment under Chapter 18 of the same Constitution of the Republic of Uganda.

The minority further finds that it is administratively viable to provide for specialized Court within the Civilian Courts for purpose of trial of criminal offences committed by military persons.

**Limited Circumstances**

The Minority recognizes the discussion in the Judgment on the limited circumstances of trial of civilians, and or military persons in the Court Martial in Uganda. In the judgment, the minority understands that those circumstances appear to be strictly in reference to a situation where;

- (1) the Constitution is not in force (Military rule like during Amin's regime)



(2) Courts of law have no capacity to try the offences (Shortage of Judicial Officers)

(3) Soldiers/Civilians are on duty/deployed in foreign land and there is no possibility of returning them for trial in Uganda or there is no other Court in that Country to try the Accused.

The scenario of Karamoja which was presented in the Committee as success story of the Courts Martial was unjustified. It was claimed that Judicial Officers had feared to be deployed in Karamoja to hear cases because of insecurity.

- Were other Courts in neighboring District also unavailable to try the cases?
- Didn't the same Government demonstrate to Ugandans that Courts in Karamoja were fully functional when Col. (Rtd) Dr. Kizza Besigye was flown to Moroto and charge in the Civilian Courts?
- Who is mandated to ensure law and order in Uganda, and why not deal with the root cause of it all, which is security of Judicial Officers than recourse to Court martial.
- Were the trials free and fair in Karamoja (presumption of innocence, charge sheets, proper pleas, evidence as per Evidence Act, prima facie, defense, convictions, mitigations and sentencings)?

In the opinion of the Minority, it is foolish to legislate to provide for Un constitutionalism; like providing for scenarios where Constitution/laws are not in force, as the very law providing for such won't as well be in force.



To make all Ugandans liable for trial in the Military Justice System, first all Ugandans must become militants and officers with proper training in all aspects of militarism, with each one of them being formally passed out by the Commander in Chief and kept as members of the Reserve Force. The laws of Uganda can then be amended accordingly to provide concrete legal basis for such an arrangement.

### **Finding**

**The Minority finds that there are no limited circumstances existing in Uganda and as the Constitutional framework and other legislations in force are adequate to deal with all criminal matters before the civilian courts. The minority further finds that military Disciplinary offences as provided in the Part VI of principal Act. Can be exclusively tried in the Court Martial or other Disciplinary mechanisms within the Command structure of the UPDF.**

***On Issue No 2 on Whether the Court Martial can be/or are independent and impartial within the meaning of Art. 28 (1) of the Constitution?***

The answer to this question, to which the other 6 Learned Justices agreed to, some albeit with different discussions, is found in para. 20 on page 117 of the Judgment of Hon. The Chief Justice, Alfonse C. Owiny-Dollo whose conclusion is reproduced below;

**"Having regard to what I have discussed above on this issue in the light of the rights to a fair trial enshrined in our Constitution, I find that the safeguards for**



**Independence and impartiality of the military Court system in Uganda, and their procedures for trial do not guarantee a fair trial. It is evident that the GCM lacks the independence and impartiality required under the Constitution for it to subject the Respondent to a fair trial"**

The observation of the minority is that the principles of the Bill and the provisions therein falls short of the finding of the Supreme Court, as there are no procedures for trial, no safeguards for independence and impartiality of the proposed Court Martial which can guarantee the fair trial envisaged by their Lordships.

On Issues 3-6 summarized here as to whether civilians can be tried in the Court Martial for any offences and whether soldiers who commit civilian offences (Murder, Terrorism, Aggravated Robbery, Cattle rustling, misprision of treason, kidnap with intent to murder).

The answer to questions 3-6 is found on para 10, pages 142 and 145 of the Judgement of Hon. The Chief Justice Alfonse C. Owiny-Dollo who wrote;

***"The general rule is that ordinary courts alone have jurisdiction to try civilians. I am unable to find any rational or justifiable link between the need to maintain discipline in the army or the maintenance of security of the Uganda borders, and trial of civilians in the military tribunals generally. This position is bolstered further in the light of my finding that trials in the court martial are devoid of independence, fairness and impartiality in the conduct of proceedings therein, and the reasons given by the various Commissions referred to that discourage trials of civilians by military courts"***

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**"The result of my finding is that a case where a civilian and military personnel have committed a crime, both should be tried in the civilian courts".**

**"In Conclusion, the provisions for the blanket trial of civilians in the military courts either as principals in S. 117 (1) (h) or as accomplices in s 117(1) (g) does not satisfy the limitation requirements of Article 41 of the Constitution. They are unconstitutional"**

The offences proposed in the Bill (Murder, Aggravated Robbery, Kidnap with intent to murder, treason, misprision of treason and cattle rustling) have all been provided for already in our law books (Penal Code Act). The other offences in the difference pieces of legislations including; - traffic offences, electoral offences, wildlife offences, environmental offences etc. that the Bill seeks to bring under the unlimited original jurisdiction of the Courts Martial is irrational. Unless these offences shall have different definitions/ingredients, in which case Parliament will be legislating for completely new offences, the minority finds no mischief at all in the proposals in the Bill.

Take an example of the offence of Murder under the Penal Code Act; all that is required is: -Death of a person, unlawfully caused by another person, the person causing death had malice/intent to kill. Where is the exceptional circumstance in the above offence of Murder to warrant trial of an accused in Courts martial?



Is there confusion in the understanding what constitute an offence of murder in a different way than what is provided for in the PCA? In 2020, at the height of COVID 19, the President wrote a letter accusing MPs of attempted murder when MPs sought to partake of the COVID Bonanza by smuggling 10bn which was paid to each MP UGX 20M to isolate themselves from COVID-19 in the lockdown.

### **Finding**

**The provisions of Bill on the Courts Martial falls acutely short of the standards required for fair trials and impartiality envisaged under Article 128 of the Constitution of the Republic of Uganda and judgment of Hon. The Chief Justice Alfonse C. Owiny-Dollo.**

### **Conclusion and Recommendations.**

The Uganda Peoples' Defence Forces belongs to Ugandans, it is a People's Army which must not deviate from the aspirations, trust and respect of the people of Uganda which is well documented in reports to the Constituent Assembly and reduced into provisions of the Constitution of the Republic of Uganda.

The UPDF(Amendment) Bill, 2025 is an extremely important Bill in as far as; - the provisions for the alignment of command, control and administration; welfare of officers and militants; management of military veterans; management of pensions, gratuities and compensations of disabilities.

The provisions for Courts Martial in the current substance and form are not properly well thought out, misconstrued and extremely dangerous for Uganda as



it seeks to undermines the aspirations of Ugandans as expressed wholly in the Constitution of the Republic of Uganda.

Parliament should not allow it to be exploited into being accomplices in overthrowing the Constitutional Order of Uganda by creating a Superior 4<sup>th</sup> Arm of Government-**The Courts Martial** which will take over Criminal Justice and leave Judiciary with Civil cases only.

The Minority makes the following recommendations to Parliament on the Uganda Peoples' Defence Forces (Amendment) Bill, 2025: -

1. Parliament restricts consideration and passing of clauses 1-28, 76 and 80 of the Bill touching remedies (a), (b), (c), (d) and (e).
2. Parliament severs and refer all clauses 29-75, 77, 78, 81 and all Schedules thereto back to Executive to Comply with the Constitution of the Republic of Uganda and the Judgment of the Supreme Court in **C.A No 2 of 2021 A.G v Hon. Michael A. Kabaziguruka and live Reference cases in the East African Court of Justice and Supreme Court of Uganda.**
3. Parliament requires the Government to tables before Parliament the **UPDF Establishment** made under UPDF Act for scrutiny to test its conformity the UPDF Act.
4. Parliament proposes to the Executive to provide all necessary support to justice chain actors; - the Police, Office of the DPP and Judiciary to enable expeditious disposal of criminal cases.





5. Parliament proposes to Government to make special arrangements to facilitate convening of special court sessions for purpose of disposing off all the cases ordered by the supreme Court to be transferred from Courts Martial to the civilian Courts of law.
6. Parliament proposes to Executive to respect the rights and freedoms of all Ugandans as enshrined in the Constitution including rights to belong to Political Parties of their choices.
7. Recruit and train all civilians in Uganda into the military, arm them with all the items that are a monopoly of UPDF and then introduce a law for trial of all in the Courts Martial since all Ugandan will have the knowledge and workings of the military.


Without prejudice to the recommendations proposed above, should Parliament insist on proceeding on the on the bill, the Minority shall propose amendments to clauses 29, 30, 31, 35, 38, 45, 57, 63 and Schedules 7A and 7B.

It is trusted that this Parliament is appointed for the welfare of society and just government of humanity, and we the servants here assembled, are being looked upon with abundant favour, to perform such important trust of Ugandans. Do not betray that trust.

I humbly pray and beg to report

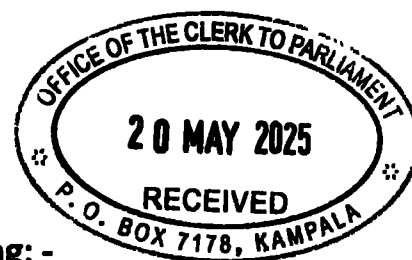


**SIGNATURE SHEET FOR THE MINORITY REPORT OF THE JOINT COMMITTEE OF LEGAL  
AND PARLIAMENTARY AFFAIRS COMMITTEE AND DEFENCE/INTERNAL AFFAIRS ON  
THE UGANDA PEOPLES' DEFENCE FORCES (AMENDMENT) BILL, 2025.**

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# **AMENDMENTS TO THE UPDF (AMENDMENT) BILL, 2025 IN SUPPORT OF**

## **MINORITY REPORT**



### **1. Long title is amended by substitution for the following: -**

**"An Act to amend the Uganda Peoples' Defence Forces Act, Cap 330 to streamline the composition of the organs and structures of the Defence Forces; to provide for the autonomy of the management of pensions of officers and militants of the Defence Forces and to establish a Pensions Appeals Board; to establish a Health Care services for officers and militants of the Defence Forces; to establish the Medical Board; to provide for the management of veteran affairs; to repeal the Uganda Veterans Assistance Board Act, Cap 221 and for related matters."**

**Justification: to align the title with Judgment of Court**

### **2. Clause 1-Delete the following paragraphs**

**"d", "f", "o"**

### **3. Clause 2: amend as follows;**

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**Either delete the word “Command” (c), or insert immediately the word “Command” after the word “Force” on (a), (b) and (d).-Possible consquential.**

- 4. Clause 3: number as 4 (a) the current 4 and insert new provision under 4(b) the following:**

**4 (b) The Minister shall lay the regulations before Parliament at least 14 days before the date of commencement.**

- 5. Clause 4: Possible consequential amendments on the word “Command” arising out of Clause 2.**

- 6. Clause 7: Delete “e” to avoid personalizing, founder members syndrome and UPDF has transitioned.**

- 7. Clause 19: Regulations under 70B & 70K to be tabled in Parliament by the Minister within 14 days prior to commencement,**

- 8. Clause 29: Delete in light of Court Judgment**

- 9. Clause 30: Delete in light of Court Judgment**

- 10.Clause 31: Delete in light of Court Judgment**

- 11.Clause 35: Delete in light of Court Judgment**

- 12.Clause 36: Delete in the light of Court Judgment**

- 13.Clause 38: Delete in light of Court Judgment**

- 14.Clause 45: Delete in the light of court Judgment**

**15. Clause 57: Delete in the light of Court Judgment**

**16.Clause 63: Delete in the light of Court Judgments**

**17.Schedules 7A & 7B.**