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THE PARLIAMENT OF UGANDA

REPORT OF THE PARLIAMENTARY SECTORAL COMMITTEE ON EDUCATION AND SPORTS ON THE UGANDA NATIONAL COMMISSION FOR UNESCO, BILL 2012.

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1.0 Introduction

The Uganda National Commission for UNESCO Bill, 2012 was read for the first time on 7th August 2012 and referred to the Sectoral Committee on Education & Sports. The Committee has in accordance with Rules 117 and 118 of the Rules of Procedure of Parliament scrutinized the Bill and now presents its findings to the House.

The Uganda National Commission for UNESCO Bill, 2012 provides for the establishment of the Uganda National Commission for UNESCO (UNATCOM). The Commission will be established as a body corporate with perpetual succession and an official seal for the discharge of its functions.

2.0 Methodology

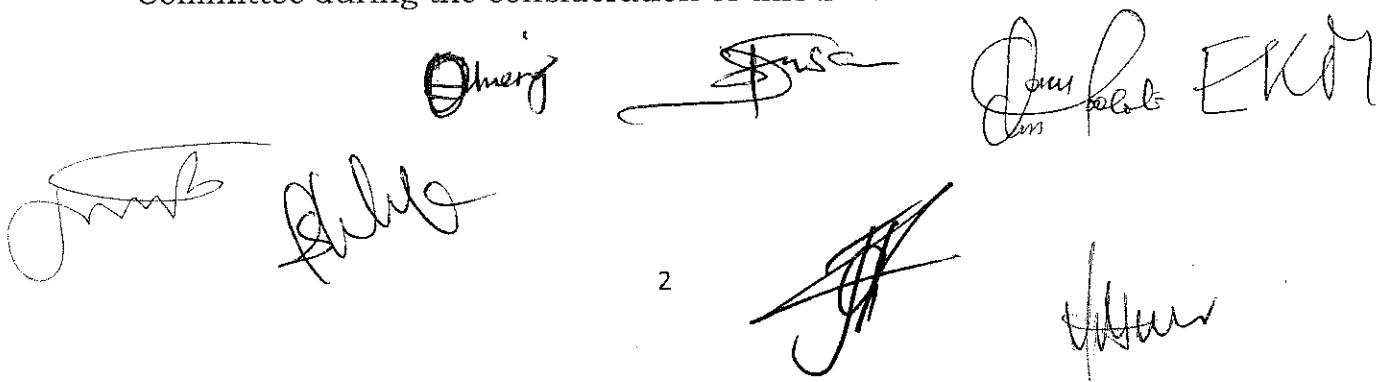
The Committee held consultative discussions and received memoranda from the following stakeholders:

- 1) Ministry of Education and Sports
- 2) Ministry of Gender, Labor and Social Development
- 3) Uganda National Commission for UNESCO
- 4) National Council for Science and Technology
- 5) National Environment Management Authority
- 6) Policy Analyst – Office of the Opposition

The Committee also undertook critical analysis of key material documents including: - the UNESCO Constitution, the 1992 Education Policy Review Commission Report, Government White Paper (1992) and the Charter of National Commissions for UNESCO.

The Committee further held a workshop to discuss the bill and some Members attended the 37th UNESCO General Conference in Paris-France in November 2013.

The Committee would like to acknowledge and appreciate the above Institutions for all the support, information and help given to the Committee during the consideration of this Bill.



Handwritten signatures of committee members are displayed, including:

- Obieng
- Spine
- Samuel EKIRUMBI
- John OBIENG
- John OBIENG
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- John OBIENG

3.0 Object of the Bill

The objects of the Bill are:

- (a) to establish a National Commission for UNESCO, for Uganda, as a body corporate;
- (b) to streamline its administration and functions; and
- (c) to outline the responsibilities of Government ministries, departments, agencies, civil society organizations and individuals interested in the activities of UNESCO.

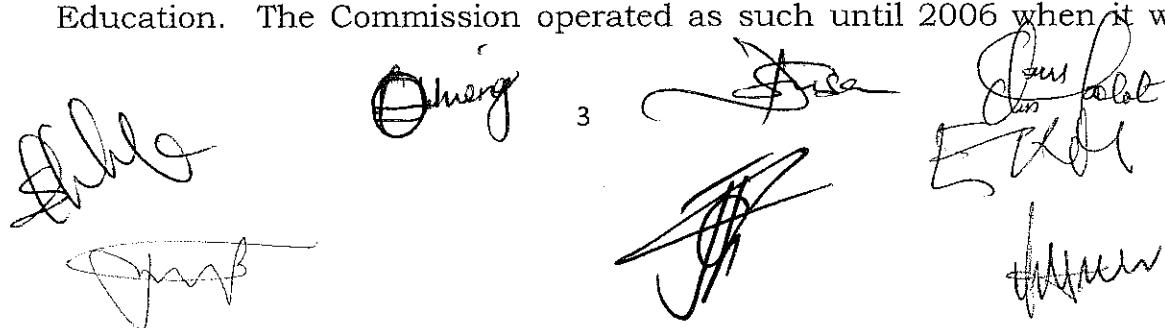
4.0 Background:

UNESCO is one of the specialized agencies in the UN system. It was established in 1946 in response to the ruthless destruction of life and environment experienced during World War II with the specific goal of laying a foundation for peace in the world.

In this regard, UNESCO's aspirations have remained as the attainment of peace through engagement in its fields of competence, namely; education, sciences, culture, communication and information.

In order to ensure permanent presence of UNESCO in Member States and also to contribute to UNESCO's efforts to promote international cooperation in the field of intellectual activities, UNESCO embedded in Article VII of its Constitution the establishment of National Commissions. The article states that; *'Each Member State shall make such arrangements as suits its particular conditions for the purpose of associating its principle bodies interested in educational, scientific and cultural matters, with the work of the organization, by formulating a National Commission with broad representation of the government and such bodies'*. It is in pursuit of this constitutional provision that Uganda, which is a Member State of UNESCO wishes to establish a legal framework; the National Commission.

By virtue of her membership of the United Nations, Uganda became eligible to the membership of UNESCO and indeed became a member of UNESCO on the 9th November 1962. In 1963, Uganda, pursuant to Article VII of the UNESCO constitution put in place a National Commission as a quasi-autonomous institution in the then Ministry of Education. The Commission operated as such until 2006 when it was



formally designated as a department and specified as one of the institutions under the Ministry of Education and Sports. Part II of the Bill, provides for the establishment of the Uganda National Commission of UNESCO and Clause 3 establishes the Commission as a body corporate.

The UNATCOM was established to perform the core functions of the National Commissions for UNESCO. However, the UNATCOM as it exists today falls short of the aspirations of Article IV of the Charter of National Commissions for UNESCO.

The Bill is aimed at establishing the UNATCOM to structure its administration, functions and responsibilities for partners of UNATCOM.

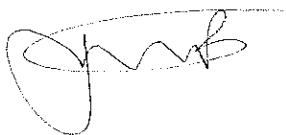
5.0 OBSERVATIONS

The Committee observed that:

1. The establishment of the Uganda National Commission as an autonomous entity is long overdue because the recommendation for its establishment was made in 1992. The lack of a legal framework is hampering the effective operations of the Commission; this would be resolved by enactment of the law.
2. The Education Policy Review Commission Report "Education for National Integration and Development" of April 1992 recommended and the government accepted the recommendation in its entirety that "*the establishment of the Uganda National Commission for UNESCO should be regularized with necessary legal provisions and its secretariat should be strengthened*".
3. Recommendation no. 196 of the Government White Paper (1992) provides the basis for the establishment of the National Commission and for its operations.
4. In September 2013, the Uganda National Commission for UNESCO marked fifty years of existence, this therefore makes the enactment of this law befitting to UNATCOM and to the people of Uganda. Furthermore, its enactment will make Uganda compliant to UNESCO's requirement.

6.0 Recommendation

The Committee recommends that the Bill be passed into law subject to the proposed amendments: -



PROPOSED AMENDMENTS TO THE UNESCO BILL, 2012.

1. Commencement:

Delete the words "and different days may be appointed for the commencement of different provisions of this Act."

Justification: The Act should come into commencement as a whole.

2. Clause 2.

Interpretation:

Define the following words: -

- a. "Civil Society Organization" means an aggregate of Non-Governmental Organizations, institutions and individuals in a society whose activities are independent of the government."
- b. "UNESCO fellowship holder" means a person sponsored for a UNESCO designated workshop, course, or activity in line with the UNESCO area of competency."
- c. "Government" means Government of Uganda.

3. Clause 3.

- a. Merge sub clause (2) with sub clause (3) and redraft the provision to read:

"(2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name and in doing so; enjoy or suffer anything that may be done enjoyed or suffered by a body corporate."

Justification: For clarity and to avoid unnecessary repetition.

- b. **Clause 3 (3)** Delete.

Justification: Consequential amendment. The provision is merged to sub clause (2).

4. Clause 5

- a. Delete sub clause (1) (b)

Justification: To merge with sub clause (e).

b. Redraft sub clause(1) (e) to read as “to advice government ministries, departments or agencies, civil society organizations and individuals on the resolutions, recommendations and any other matter adopted by the organs of UNESCO, and follow up on their implementation.”

Justification: To widen the scope of the provision.

c. Sub clause (1)(f)- Amend the provision by inserting the words "Government" immediately before "United Nations" and insert the word "any" immediately before "other" and add the words "or development partners" at the end of the provision, and redraft to read as follows:

“(f) to participate in the planning and execution of activities entrusted to UNESCO which are undertaken with the assistance of the Government, United Nations Agencies and any other international organizations or development partners.”

Justification: To widen the scope of the provision and to bring on board government as a primary stakeholder.

d. Insert a new provision immediately after paragraph (j) to read:
“(k) collect relevant data relating to UNESCO fields of competence for the purpose of its wide distribution.”

Justification: The data is important for the day-to-day running of the Commission.

e. Sub clause (1) (j)

Delete the word “collaborate”

Justification: The word is redundant.

f. Amend sub clause (1) (k) by inserting the words "by Statutory Instrument" at the end of the provision.

Justification: The Minister should issue these directives through Statutory Instruments.

g. In sub clause (2):

i. Delete the words “and corporate” appearing in line two.

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- ii. Substitute "shall" with "may"
- iii. delete "the greatest extent possible, and consistent with this Act" and redraft the provision to read as follows:

"(2) The Commissioner may consult and co-operate with the Government Ministries, Departments and Agencies, Civil Society Organisations and individuals carrying out duties, aims or objectives related to those of the Commission."

Justification: For clarity and to give the Commission powers to consult only when necessary.

5. Clause 6: Insert a new sub clause (2) to read:

"(2) The Minister may consult with any other related Sector Minister in formulating the policy guidelines."

Justification: To take into consideration the broader mandate of UNESCO Commission.

6. Clause 7:

- (i) Transfer sub clause (3) (e) to appear immediately before sub clause (5).

Justification: The position of the Secretary General does not form part of the membership of the Commission.

- (ii) Sub clause (3)(f)(i)(ii) and (iii) replace "appointed" with "nominated".

Justification: It's the mandate of the Minister to appoint. The organisations just nominate.

- (iii) Insert a new provision immediately after sub clause (3)(d) to read:

"(iv) a representative of persons with disabilities nominated by the National Council for Persons with Disabilities.

Justification: To cater for PWDs as one of the special interest groups.

- (iv) Insert a new provision immediately before sub clause (5) to read as follows:

“(4) There shall be a Secretary General who shall be an ex-officio member of the Commission.”

Justification: To cater for the position of the Secretary General transferred from sub clause (3)(e).

(v) Insert a new sub clause at the end of the provision to read:
“(8) at least one third of members of the board shall be women.”

Justification: For affirmative action and to conform to Articles 32 and 33 of the 1995 Constitution of Uganda.

7. Clause 8.

(a) Amend sub clause (2) by substituting “three years” with “four years”.

Justification: For harmonization with other existing laws.

(b) Amend sub clause (4) by deleting the words from the beginning of the provision up to word “where” appearing on line three. And transfer the rest of the remaining provision to appear immediately after sub clause (6).

Justification: For clarity and for proper flow of the provision.

(c) Delete sub clause (5).

Justification: This is usually an administrative arrangement.

(d) Insert a new provision immediately after sub clause (6) to read as follows:

“(7) where the office of an appointed member becomes vacant, the Minister may, in consultation with the nominating body, appoint another person qualified to perform the functions of that office for the remaining period.”

Justification: To cater for the provision as transferred from sub clause (4) and to mandate the Minister to consult the nominating body before appointment.

(e) Delete Sub clause (6) appearing in page 10.

Justification: The provision is misplaced but even if it were to be placed in its proper position under clause 7, the provision as it is can easily be a subject of abuse by the nominating authority.

(f) Amend sub clause (7) by inserting the words "under which he or she was nominated" immediately after the words "upon ceasing to hold that office".

Justification: For clarity.

8. Clause 9.

a. Delete the word "annual" appearing in paragraph (c).

Justification: To cater for the wider scope of the functions of the board.

b. Delete the word "generally" appearing in paragraph (f).

Justification: For proper wording of legislation and to avoid ambiguity.

c. Insert another function of the board immediately after paragraph (f) to read as follows-

"(h) to consider and approve plans of the Commission."

Justification: This should be one of the cardinal functions of the Board.

9. Clause 10.

Amend sub clause (1) by inserting the words "at least once" immediately after the word "meet".

Justification: For clarity and precision.

10. Clause 14.

a. Amend sub clause (2) by substituting "three years" with "five years".

Justification: To cater for the transition period from one board to another.

b. Insert a new provision in sub clause (3) to read:

“(e) advising the board on any relevant matter relating to the functions of the Board.”

Justification: To cater for any eventuality and this should be the cardinal role of the Secretary General.

c. Amend sub clause (5) by inserting the words “of not less than two thirds of members” immediately after “recommendation”.

Justification: To involve the majority of members of the board to participate in decision making.

d. Insert a new paragraph in sub clause (5) to read as-
“(d) being convicted of a criminal offence.”

Justification: To broaden the grounds of removal.

11. Clause 15.

Amend sub clause (2) by substituting “three years” with “five years”

Justification: To harmonize the term with that of the secretary, general as amended.

12. Clause 16.

Amend sub clause (1) by deleting the words “on the advice of the Secretary General”

Justification: Recruitment of staff is the mandate of the Board.

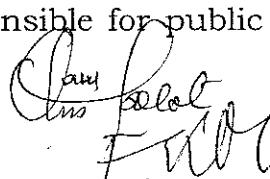
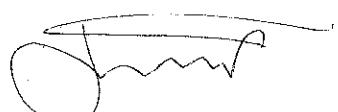
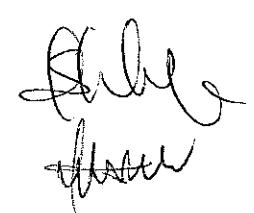
13. Clause 17.

Amend the provision by inserting the words “and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003,”

Justification: The appointment of consultants should be subjected to the PPDA Act to avoid abuse of the process.

14. Clause 22.

Amend the provision by inserting the words “and in consultation with the Minister responsible for finance and the Minister responsible for public service” immediately after the word “Minister”.


Sam
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Justification: To involve the core Ministries in determining the salary structure of employees.

15. Clause 23.

Amend the provision by inserting “in consultation with the Minister responsible for Finance and the Minister responsible for Public Service” immediately after the word “may”.

Justification: To provide for the core Ministries in determining the salary structure of employees.

16. Clause 24.

- Insert a new provision after sub clause (1) (b) to read:
“(c) earnings from investments”

Justification: Earnings from investments will form part of the funds of the Commission.

- Delete sub clause (2).

Justification: The provision violates article 154 (1) (b) of the Constitution.

17. Clause 25.

Substitute the words “sound financial principles” with “the laws on the management of Public Finance and Accountability.”

Justification: To avoid ambiguity and to maintain clarity and precision.

18. Clause 26.

Amend sub clause (2) by deleting the “last three words.”

Justification: To avoid unnecessary repetition.

19. Clause 27.

Amend sub clause (1) by deleting the word “given”

Justification: The word “given” is redundant.

20. Clause 29.

Amend sub clause (1) by:

- Deleting the words “within three months” and

b. Inserting at the end of the provision the words "in accordance with the Public Finance and Accountability Act.

Justification: For clarity and precession.

21. Clause 31.

Amend the provision by substituting "accepted accounting principles" with "the Public Finance and Accountability Act, 2003.

Justification: The provision lacks clarity as it stands and can easily be subject of abuse.

22. Clause 32.

Amend sub clause (3) by replacing the words "and any" with the words "or an"

Justification: Grammatical correction and for clarity.

23. Clause 33.

a. Amend sub clause (2) by deleting the words "and the report of the Auditor General on those statements." appearing at the end of the provision.

Redraft sub clause (2) to read as follows:

"(2) The Commission shall submit to the Minister the audited financial statements of the Commission, together with the report referred to in sub section (1)."

Justification: For clarity and to correct procedural anomaly. It's not the duty of the board to submit the report of the Auditor General.

24. Clause 34.

a. Amend sub clause (3) by inserting the word "and" immediately after the word "corporate" and punctuate the provision by inserting a "comma" after the words "official seal".

Justification: Grammatical correction and for clarity.

25. Clause 35.

Insert immediately after the word "post" the words "or through electronic modes of communication."

Justification: There are now other recognised modes of communication through which notice or documents can be served.

26. Clause 36.

Insert a new sub clause (2) to read:

"(2) A Statutory Instrument made under this section shall be laid before Parliament."

Justification: For information.

27. Clause 37.

Amend sub clause (2) by:

a. replacing the word "Ministry" with "Minister"

Justification: It's the Minister who approves.

b. Deleting "and in his or her opinion" appearing in sub clause (2).

Justification: The Minister should always act in relation to the provisions of the Act.

c. Amend sub clause (3) by inserting the words "of this Act" immediately after the word "commencement" appearing in line three.

Justification: For clarity.

d. **Sub clause (4)-** Delete

Justification: To avoid retrospective application of the law.

28. Clause 38.

a. Insert a new sub clause at the beginning of the provision to read as-
"(1) The Minister may, in consultation with the Board, transfer employees of the Ministry responsible for education who are currently directly responsible for the day to day activities of UNESCO, to the Commission, at the commencement of this Act."

Justification: To cater for the transfer of employees.

- b. Amend the current sub clause (1) by substituting the words "similar or better terms to those enjoyed by those employees before the transfer" with the words "terms determined by the Board."

Justification: The Act grants powers of determining the terms of service to the Board.

29. Schedule.

- a. Amend sub clause 1(1) by substituting the words "three times in a year" with the words "at least once every three months"

Justification: consequential amendment, and for clarity.

- b. Redraft sub clause (2) to read:

"(2) The Chairperson may, at any time, convene a special meeting of the Board, if requested to do so in writing by at least five members of the Board."

Justification: To grant the board some level of autonomy.

- c. Redraft sub clause (3) to read:

"(3) Meetings of the Board shall be convened by a two weeks' notice in writing except that a shorter notice may be given for a special meeting."

Justification: For clarity

- d. Amend clause 5 by deleting all the words appearing after the word "member" on line three.

Justification: To avoid endorsing illegality.

e. Clause 6.

Amend sub clause (1) by deleting the words "which falls" appearing on line three.

Justification: To correct grammatical error and for proper wording of legislation.

f. Insert a new provision immediately after sub clause (3)(b) to read:

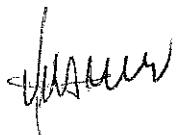
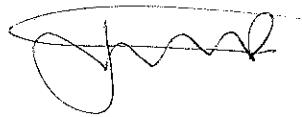
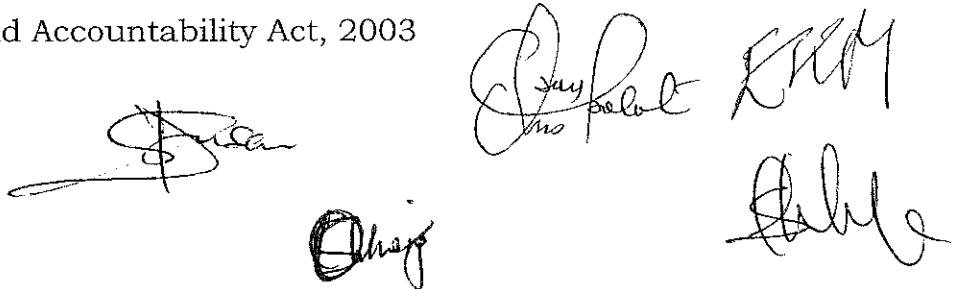
"The failure of any member of the board to disclose an interest in any contract or proposed contract or any matter before the board, shall render the decision void and that member shall be relieved of his or her duties as a member of the Board."

Justification: To provide for penalties for non-disclosure.

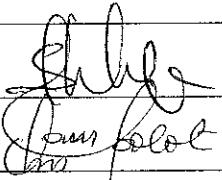
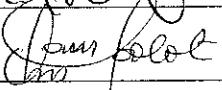
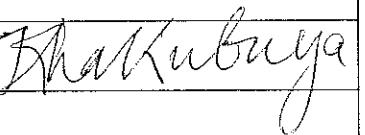
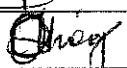
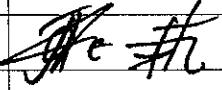
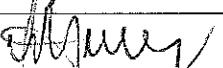
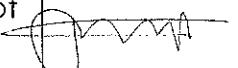
g. Add at the cross reference the following:

The Budget Act, 2006

Public Finance and Accountability Act, 2003



REPORT OF THE SECTORAL COMMITTEE ON EDUCATION AND SPORTS ON UNESCO
BILL, 2012 – SIGNATURE SHEET

No	Name	Constituency	Party	Signature
1	Hon. Ssinabulya Sylvia Namabidde	Mityana	NRM	
2	Hon. Opolot Jacob Richards	Paliisa	NRM	
3	Hon. Gudoi Yahaya	Bunghoko North	NRM	
4	Hon. Chekwel Lydia	Kween	NRM	
5	Hon. Ndeezi Alex	PWDs	NRM	
6	Hon. Nakabira Gertrude	Lwengo	NRM	
7	Hon. Khiddu Makubuya	Katikamu South	NRM	
8	Hon. Aleper Margaret	Kotido	NRM	
9	Hon. Acayo Christine Cwiny Ai	Nebbi	NRM	
10	Hon. Kamara John Nizeyimana	Bufumbira North	NRM	
11	Hon. Amero Susan	Amuria	NRM	
12	Hon. Lanyero Sarah	Lamwo	NRM	
13	Hon. Osegge Angelline	Woman Rep. Soroti	FDC	
14	Hon. Sewungu Joseph	Kalungu West	DP	
15	Hon. Kasibante Moses	Rubaga North	Indep	
16	Hon. Kwemera Ngabu William	Kyaka county	NRM	
17	Hon. Nalubega M. Tuunde	Workers Rep	Indep	
18	Hon. Iriama Rose	Woman Rep. Nakapirini	Indpt	
19	Hon. Maganda Julius	Samia Bugwe South	Indep	