

PARLIAMENT OF THE REPUBLIC OF UGANDA

**REPORT OF THE SECTORAL COMMITTEE ON DEFENCE AND INTERNAL
AFFAIRS ON THE ANTI- TERRORISM (AMENDMENT) BILL, 2022**

OFFICE OF THE CLERK TO PARLIAMENT

PARLIAMENTARY BUILDINGS

KAMPALA-UGANDA

AUGUST, 2022

Amogesh christina

LIST OF ACRONYMS

AML/CFT	Anti-Money Laundering and Counter Financing terrorism
EU	European Union
FATF	Financial Action Taskforce
UNSCR 1540	UN Security Council Resolution 1540 (2004)
MER	Mutual Evaluation Report

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1.0. INTRODUCTION

The Anti- Terrorism (Amendment) Bill, 2022 was read for the first time on 23rd August, 2022 and pursuant to Rule 129 (1) of the Rules of Procedure of Parliament of Uganda, the Bill was referred to the Sectoral Committee on Defence and Internal Affairs for scrutiny. In accordance with Rule 129 (2) of the Rules of Procedure of Parliament of Uganda, the Committee has exhaustively examined the Bill and hereby presents its report with observations and recommendations.

2.0 BACKGROUND

In 2004 the United Nations (UN) passed a resolution on financial provisions of UNSCR 1540. The resolution is to the effect that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them.

UN further resolved that;

- i. All States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials.
- ii. The State shall establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing

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appropriate criminal or civil penalties for violations of such export control laws and regulations.

Though the Government of Uganda has had the legal framework that deals with terrorism financing, there are no comprehensive legal framework that deals with proliferation financing of terrorism. This puts Uganda at risk and susceptible to terrorism acts. Therefore there is urgent need to comply with the UN resolutions and UN Financial Task Force standards on combating terrorism.

3.0 MEMORANDUM OF THE BILL

3.1 Policy and principles of the Bill.

The policy behind the Bill is to provide for the offence of proliferation financing and related matters.

The Financial Action Task Force (FATF) defined proliferation financing as the act of providing funds or financial services which are used, in whole or in part, for the manufacture, acquisition, possession, development, export, trans-shipment, brokering, transport, transfer, stockpiling or use of nuclear, chemical or biological weapons and their means of delivery and related materials (including both technologies and dual-use goods used for non-legitimate purposes), in contravention of national laws or, where applicable, international obligations.

3.2 Defects in existing laws

Uganda's AML/CFT Mutual Evaluation Report (MER) was adopted in 2016. The MER contains an assessment of Uganda's AML/CFT legal and regulatory regime. The MER highlighted several matters that Uganda needs to address in its AML/CFT legal and regulatory framework for Uganda to be considered compliant with the FATF Recommendations.

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3.3 Bill No. 25

Specifically, Recommendations 7 of the FATF Recommendations requires countries to implement targeted financial sanctions to comply with the UN Security Council Resolutions relating to the prevention, suppression, and disruption of proliferation of Weapons of Mass Destruction and its financing.

The UN Security Council has also called upon countries to apply Recommendation 7 and related guidance papers for effective implementation of targeted financial sanctions related to proliferation.

At present, the offence of proliferation financing as required by the FATF is not provided for in Uganda's legal system.

3.4 Remedies proposed in Bill

The intention of the Bill, therefore is to amend the Anti-Terrorism Act to provide for the offence of terrorism financing.

3.5 Provisions of Bill

The Bill has 2 clauses.

Clause 1 seeks to insert a new section 9B to provide for the offence of proliferation financing.

Clause 2 seeks to make consequential amendments to section 32A to incorporate the aspects of proliferation financing.

4.0 METHODOLOGY

In the process of analyzing the Bill, the Committee;

(a) met and held discussions with the following stakeholders;-

- i. Attorney General;

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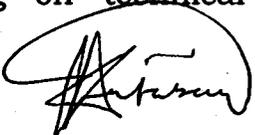
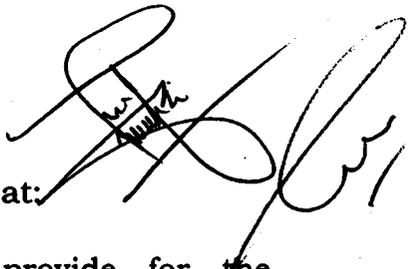
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- ii. Ministry of Justice and Constitutional Affairs
- iii. Ministry of Defence and Veteran Affairs
- iv. Ministry of Internal Affairs
- v. Ministry of Trade, Tourism and Industry
- vi. Ministry of Finance, Planning and Economic Development
- vii. Uganda Revenue Authority (URA)
- viii. Bank of Uganda (BoU)
- ix. Financial Intelligence Authority(FIA);
- x. Uganda Registration Services Bureau (URSB);

(b) reviewed the following relevant documents;

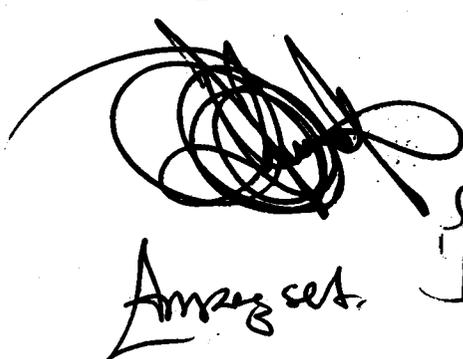
- i. The Constitution of Republic of Uganda, 1995;
- ii. The Anti- Terrorism Act, 2002
- iii. The Financial Intelligence Authority Report on Uganda's progress in complying with Financial Action Taskforce (FATF) 40 recommendations; summary of Uganda's rating on technical compliance in Mutual Evaluation, 2005 and 2016.

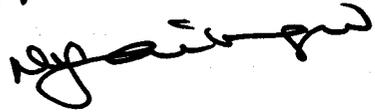
5.0 OVERVIEW OF THE ANTI-TERRORISM ACT, 2002

The Ugandan Anti-Terrorism legislation enacted in 2002 aims at:

- (a) suppressing acts of terrorism and generally to provide for the punishment of persons who plan, instigate, support, finance or execute acts of terrorism;
- (b) to prescribe terrorist organizations and to provide for the punishment of persons who are members of, or who profess in public to be members of, or who convene or associate with or facilitate the activities of terrorist organizations.



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However, terrorism actions evolve with the development of technology and require constant improvements on mechanisms provided in combating it.

Uganda and other countries across the world have been and continue to be threatened and devastated by financial crimes relating to among others, terrorist financing and proliferation financing. These crimes are perpetrated by criminals, terrorists and various terrorist organisations within and outside the country.

In February 2020, the Financial Action Taskforce (FATF) placed Uganda on the list of countries identified as having strategic Anti-Money Laundering and Counter Financing terrorism (AML/CFT) deficiencies. Scrutiny was made on Ugandan legal framework and enforcement mechanisms and identified some deficiencies.

Based on FATF's identification of Uganda as a country having strategic deficiencies in its AML/CFT regime, in May 2020, the European Union (EU) placed Uganda on its list of third countries presenting strategic deficiencies in their AML/CFT regimes which pose significant threat to the financial system of the EU. It is a requirement for Uganda to be removed from the FATF list before the EU can consider removing Uganda from its list if such deficiencies are not urgently attended to.

Hence there is a need to further strengthen the legal framework to cater for the new risks that have been brought by technological advancements in order to make it more effective. The legal framework should present Uganda's priorities and objectives in adhering to international standards and obligations set by the Financial Action Taskforce (FATF).

6.0 ANALYSIS OF THE ANTI-TERRORISM (AMENDMENT) BILL, 2022

1. Clause 1: Amendment of Section 2 of the Anti-Terrorism Act, 2002

The head note of clause 1 does not speak to the intended amendment under clause 1. Clause 1 seeks to insert a new clause after section 9A not an

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amendment of section 2 of the Anti-Terrorism Act, 2002. As a result, the head note of clause 1 should be drafted to read as follows:

"Amendment of the Anti-Terrorism Act, 2002"

The Committee further notes that in 2008 Parliament enacted "The Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act, 2008" that provides for the revision of fines and other financial amounts prescribed in written laws relating to criminal matters in order to cater for the fall of value of the Uganda currency over the years owing to inflation and other causes and to also provide for a standardized ratio between fines and related terms of imprisonment.

Section 3 of "The Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act, 2008" States that:-

"3. Ratio of fines to imprisonment.

(1) In any written law to which this Act applies and in force immediately before the commencement of this Act, where a fine is prescribed in relation to a term of imprisonment, the ratio of the fine to imprisonment shall be two currency points to each month of imprisonment.

(2) Subject to this Act, any penalties in any written law referred to in subsection (1) shall be read as if the ratio of a fine to imprisonment prescribed by this section has been applied to them".

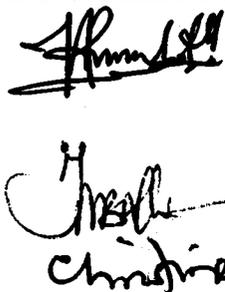
This Act implies that penalties prescribed by law shall ~~be~~ commensurate with the fines in a ratio of two currency points to one month of imprisonment.

In effect the proposed amendment to the Act would mean that for one to suffer imprisonment of twenty years, its commensurate fine would be 480 currency points. The intention of Anti-Terrorism Act 2002 is to suppress terrorism and deter any person or organization that would have been persuaded to be involved in terrorism acts.

The Committee agrees with the proposed punishment by the Minister to be deterrent and therefore the Committee recommends as follows:-

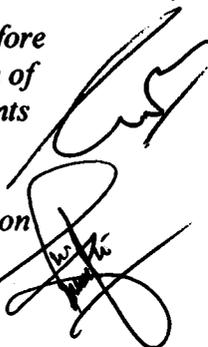
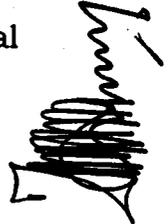
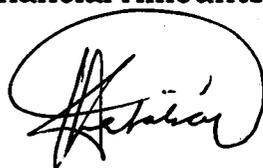


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- i) That the punishment prescribed in the Anti-Terrorism Act, 2002 should be independent from any other written law in Uganda save the Constitution of Uganda.
- ii) That Clause 1(3) The Anti- Terrorism (Amendment) Bill, 2022 be amended
- iii) Insertion of a new clause after section 9A of the Anti-Terrorism Act, 2002 as amended be passed.
- iv) Amending section 32A and include what clause 2 of the Bill proposes.

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PROPOSED AMENDMENT

1. Clause 1: Amendment of Section 2 of the Anti-Terrorism Act, 2002

a) The head note of clause 1 be amended to read as follows;-

“Amendment of the Anti-Terrorism Act, 2002”

Justification

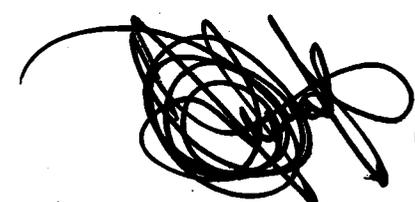
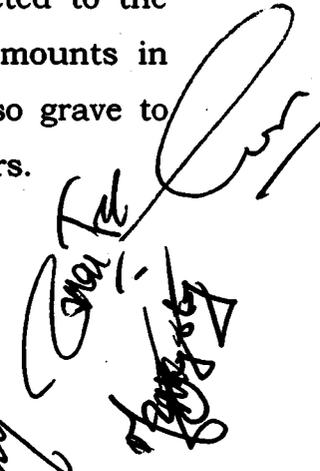
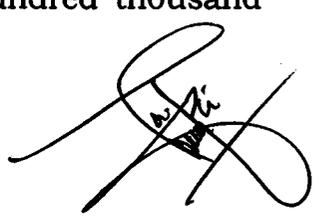
The Bill intends to insert a new clause after section 9A not an amendment of section 2 of the Anti-Terrorism Act, 2002. The head note in the bill in clause 1 does not speak to the intended amendment provided.

b) Clause 1(3) be amended to read as follows

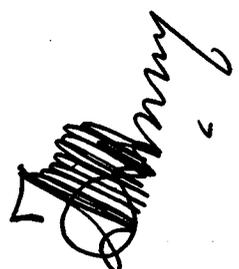
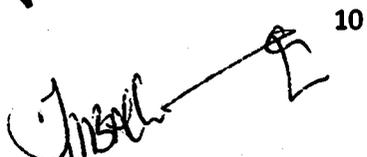
“Notwithstanding any other written law, a person or organization that contravenes subsection (1) is, on conviction, liable to imprisonment not exceeding twenty years or a fine not exceeding five hundred thousand currency points or both.

Justification

The application of Anti-Terrorism Act 2002 should not be subjected to the application of “The Law Revision (Fines and Other Financial Amounts in Criminal Matters) Act, 2008” since the offences of terrorism are so grave to mankind and the purpose of punishment is for deterring the offenders.



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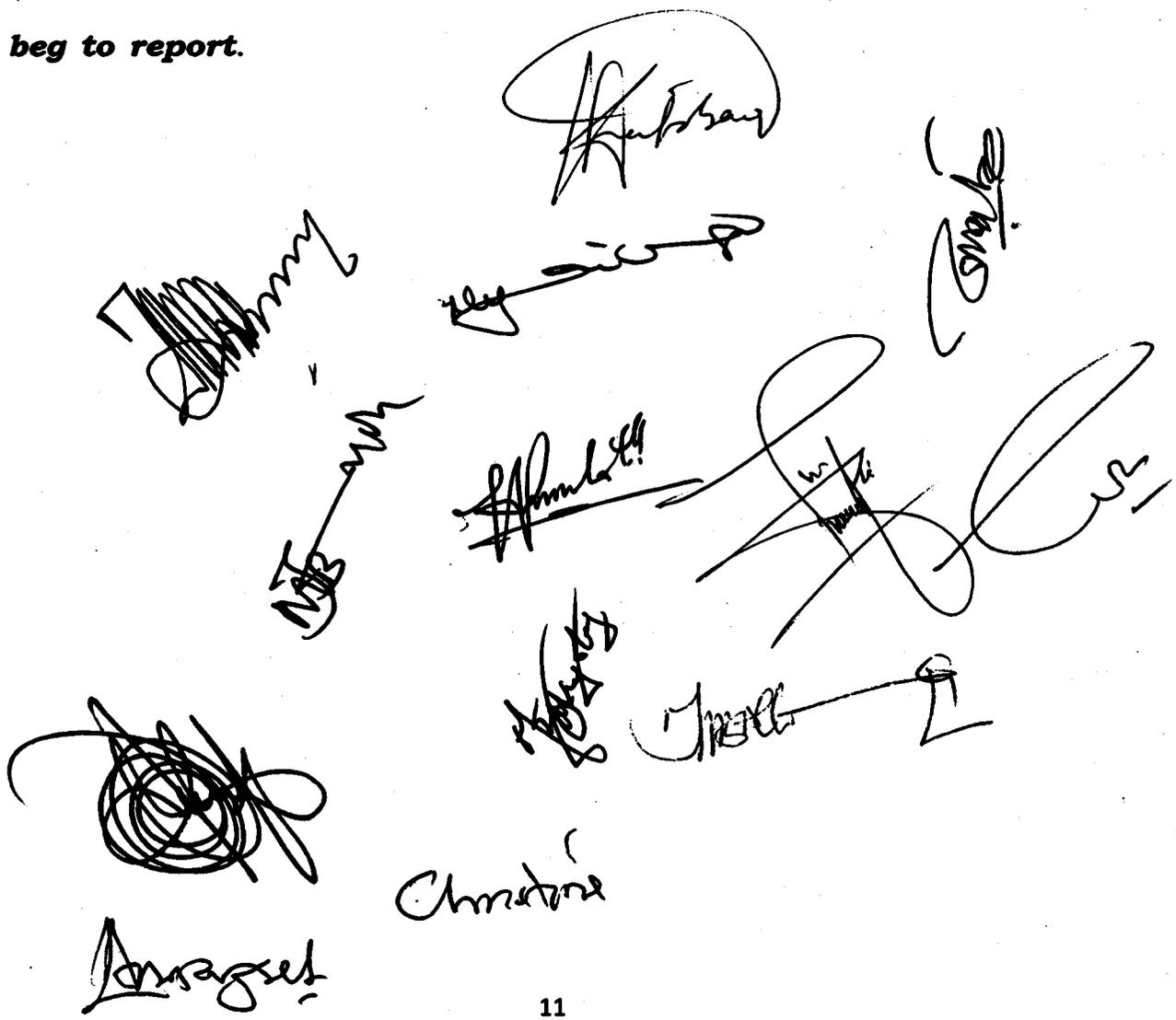


7.0. CONCLUSION

Rt. Hon. Speaker and Honourable Members, the Committee has considered the Anti-Terrorism (Amendment) Bill, 2022 and recommends that it is passed into law subject to the amendment attached to this report.

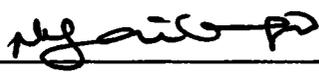
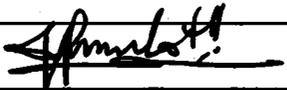
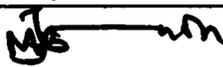
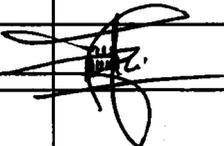
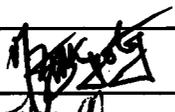
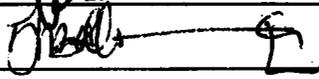
The Committee observes that this Bill, when passed into law will strengthen the legal and regulatory framework that will address some of the Anti-Money laundering and Counter Financing terrorism deficiencies identified by AML/CFT and the Financial Action Task Force.

I beg to report.



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**REPORT OF THE COMMITTEE OF DEFENSE AND INTERNAL AFFAIRS ON
ANTI-TERRORISM (AMEDMENNT) BILL 2022**

NO	NAME	PARTY	SIGNATURE
1	Hon. Nyakikongoro Rosemary C/P	NRM	
2	Hon. Milton Muwuma D/CP	NRM	
3	Hon. Wakooli Godfrey	NRM	
4	Hon. Ocheri Jimbricky	NRM	
5	Hon. Niyonsaba Alex	NRM	
6	Hon. Opolot Simon Peter <i>Okwalinge</i>	NRM	
7	Hon. Aeku Patrick	NRM	
8	Hon. Tubo Nakwang Christine	NRM	<i>Christine</i>
9	Hon. Okeyoh Peter	NRM	
10	Hon. Byamukama Nulu Joseph	NRM	
11	Hon. Mugabe Donozio	NRM	
12	Hon. Kauma Sauda	NRM	
13	Hon. Acibu Agnes	NRM	
14	Hon. Kintu Alex Brandon	NRM	
15	Hon. Kyoto Ibrahim	NRM	
16	Hon. Lubega Bashir	NRM	
17	Hon. Lokii Peter Abrahams	NRM	
18	Hon. Mwesigwa Robert Rukaari	NRM	
19	Hon. Ikojo John Bosco	NRM	
20	Hon. Ssekikubo Theodore	NRM	

21	Hon. Namanya Naboth	FDC	
22	Hon. Okot Moses Junior Bitek	FDC	
23	Hon. Lt. Gen. Elwelu Peter		
24	Hon. Odur Jonathan	UPC	
25	Hon. Katabaazi Francis Katongole	NUP	
26	Hon. Kiwanuka Abdallah	NUP	
27	Hon. Nambooze Bakireke Betty	NUP	
28	Hon. Museveni William	NUP	
29	Hon. Kangwagye Stephen Rwakanuma	INDEP.	
30	Hon. Arinaitwe Rauben	INDEP.	
31	Hon. Lamwaka Margaret	INDEP.	