

**PARLIAMENT OF UGANDA**

**REPORT OF THE COMMITTEE ON DEFENCE AND INTERNAL AFFAIRS  
ON THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES  
(CONTROL) BILL, 2023**

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**Office of the Clerk to Parliament  
P.O.Box 7178, Kampala  
JULY, 2023**

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## 1 INTRODUCTION

The **Narcotic Drugs and Psychotropic Substances (Control) Bill, 2023**, was read for the first time on 23<sup>rd</sup> May 2023 and referred to the Committee on Defence and Internal Affairs for scrutiny under Rule 128(1) of the Rules of Procedure of Parliament.

The Committee has considered the Bill in consultation with various stakeholders and now reports under Rule 129 (2).

## 2 BACKGROUND

In a bid to bolster efforts against the supply and use of illicit drugs and substances, the Government reintroduced the Narcotic Drugs and Psychotropic Substances Bill of 2023. This followed the nullification of the **Narcotic Drugs and Psychotropic Substances (Control) Act, 2015** by the Constitutional Court in the petition of **Wakiso Miira Growers and Dealers Association Vs Attorney General Const. Petition No. 1 of 2017** over lack of quorum by Parliament while passing the Bill into law.

The nullified Narcotic Drugs and Psychotropic Substances (Control) Act 2015 consolidated all laws relating to the control, possession, and trafficking of narcotic drugs and psychotropic substances and the cultivation of certain plants. Consequently, the government re-tabled the **Narcotic Drugs and Psychotropic Substances (Control) Bill, 2023**, for 1<sup>st</sup> reading on 23<sup>rd</sup> May 2023 to provide remedies intended to suppress the problems related to drug trafficking and abuse, to promote international cooperation and to provide law enforcement agencies with resources to use to curb the problem.

## 3 POLICY AND PRINCIPLES OF THE BILL

The policy behind the Bill is to adopt measures to criminalize drug-related offences under domestic law in conformity with Article 3 of the United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances and other related international conventions. The

Bill is also intended to make provision for a mechanism to generate resources for law enforcement agencies through confiscating money and properties obtained from illicit trading in drugs, provide deterrence against local drug abuse, and put in place a mechanism for rehabilitating drug addicts.

#### 4 OBJECT OF THE BILL

The Bill seeks to-

- (a) provide deterrent measures against local drug abuse;
- (b) establish mechanisms for the rehabilitation of drug addicts;
- (c) put in place measures to save Uganda from being a transit route and consumer of drugs;
- (d) facilitate cooperation with the international community in the fight against drug trafficking;
- (e) establish mechanisms for generating resources for law enforcement agencies.

#### 5 THE RELEVANCE OF THE BILL

Following the nullification of the Act, there is currently an absence of legislation to deal with the increasing cases of drug trafficking and abuse. The National Drug Policy and Authority Act, Cap 206, in relation to drug abuse, is very weak and does not adequately address cases of illicit drugs, especially in the face of Uganda risking being a transit route for drug consumers.

#### 6 METHODOLOGY

The Committee met with and received written memoranda from the following;

- i. Ministry of Internal Affairs (MIA)
- ii. Ministry of Health (MoH)
- iii. Directorate of Government Analytical Laboratories (DGAL)
- iv. Butabika National Referral Mental Hospital

- v. Criminal Investigations Department (CID), Uganda Police
- vi. National Drug Authority (NDA)
- vii. Center for Legal Aid
- viii. Wakiso Miraa Growers and Dealers' Association Limited (MIGADAW)
- ix. Uganda Medical Cannabis and Hemp Industry Association (UMCHIA)
- x. Industrial Hemp Uganda Limited
- xi. Human Rights Awareness and Promotion Forum (HRAPF)
- xii. Uganda Youth Development Link
- xiii. Legal Brains Trust
- xiv. Pearls of Africa CBD Limited.
- xv. Members of the Rastafari Community Uganda
- xvi. Hon. James Baba (Amb), MP-Koboko County
- xvii. Hon. Muwanga Kivumbi, MP-Butambala County

**6.1 Document Review**

The Committee referred to the following documents.

- i. The Constitution of the Republic of Uganda, 1995
- ii. The National Drug Policy and Authority Act, 1993
- iii. The Medical and Dental Practitioners Act, Cap. 272
- iv. Pharmacy and Drugs Act, Cap. 280
- v. Veterinary Surgeons Act, Cap. 277
- vi. Criminal Procedure Code Act, Cap. 116
- vii. The Penal Code Act, Cap 120

International instruments.

- i. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.
- ii. The Single Convention on Narcotic Drugs 1961
- iii. The Convention on Psychotropic Substances 1971

## 7 SALIENT OBSERVATIONS ON THE BILL

### 7.1 The question of whether the consideration of the Bill before the Committee is *sub judice* as provided for under Rule 73 of the Rules of Procedure of Parliament.

While considering the Bill, the Committee established that the Attorney General filed a notice of appeal (*Appendix 1*) against the decision of the Constitutional Court in *Constitutional Petition No. 1 of 2017, Wakiso Miraa Growers and Dealers Association Limited Vs the Attorney General of Uganda*, dated 5<sup>th</sup> May 2023 following the nullification of the impugned Act, after court declared the Narcotic Drugs and Psychotropic Substances (Control) Act, 2015, null and void for lack of quorum when it was passed.

The Committee wrote to the Attorney General (*Appendix 2*) seeking clarification from on the status of the appeal. The Attorney General responded (*Appendix 3*), that;

- i. The Attorney General's chambers had not yet lodged a memorandum and record of Appeal in the Supreme Court as the record of proceedings has not yet been availed by the Court of Appeal, and
- ii. A Notice of Appeal cannot be a bar to Parliament exercising its legislative function.

Following the advice of the Attorney General, the Committee proceeded to consider the Bill.

### 7.2 Rationale for the Narcotic Drugs and Psychotropic Substances (Control) Law

There is a growing legalization of drugs, in particular cannabis around the Western world and currently slowly manifesting in some parts of Africa and Asia<sup>1</sup>. Increasingly, the circulation of illicit drugs as a result of the legislation developments on narcotics and psychotropic substances across

<sup>1</sup> Report of the International Narcotics Control Board, 2022

the borders has shot up due to globalization. Illicit drug use is a global public health problem with adverse health, social and economic consequences<sup>2</sup>. In Uganda, there is increased documented drug abuse among particularly youth from wealthy families and students<sup>3</sup> as evidenced by the increasing numbers of youths at Butabika hospital.

Uganda is a signatory to the United Nations treaties like the Single Convention on narcotic drugs 1961<sup>4</sup>, Convention on Psychotropic Substances 1971<sup>5</sup>, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988<sup>6</sup>. The treaties contain obligations whose compliance with State Parties plays a significant role in controlling the illicit inflow of narcotic drugs within the jurisdictions of State Parties. The Committee finds that these treaties impose an obligation on State Parties to comply with efforts to control the illicit inflow of narcotic drugs within jurisdictions of State Parties.

Despite being a state party to the Single Convention on Narcotic Drugs 1961, Uganda still grapples with drug trafficking. The three international drug control conventions are not self-executing, and their provisions must be incorporated into domestic law by legislative acts.

The existing National Drug Policy and Authority Act does not explicitly provide for prosecution for trafficking in narcotic drugs but provides for unlawful possession. The Penal Code Act, Cap 120, contains no provisions directly related to drug use in Uganda.

<sup>2</sup>Betty et al. (2022). Illicit Drug Use among Commercial "Boda Boda" Motorcyclists in Uganda. *Taylor & Francis*, 57(10), 1545-1551

<sup>3</sup>Ouma, S.W. (2017, Nov. 21) Striking Mak Students to undergo drug test. Kampala, Uganda: Daily Monitor

<sup>4</sup>The Conference was convened pursuant to resolution 689I (XXVI)<sup>1</sup> of 28 July 1958 of the Economic and Social Council of the United Nations

<sup>5</sup>The Conference was convened pursuant to resolution 1474 (XVIII)<sup>1</sup> of 24 March 1970 of the Economic and Social Council of the United Nations

<sup>6</sup>The Conference was convened pursuant to resolution 1988/8 of 25 May 1988 of the Economic and Social Council acting on the basis of the General Assembly resolutions 39/141 of 14 December 1984 and 42/111 of 7 December 1987



The narcotic drugs are in various forms, ranging from plant leaves (*fresh or dry*) to tablets, white powders and clear liquids. Because of their pharmacological profile, controlled narcotic drugs and psychotropic substances can compromise health and human safety if used outside the structure of sound medical practice.

Consequently, the 1961 Convention calls for establishing a "drug control system" where State Parties commit themselves to accurately and responsibly managing these substances.

Therefore, the Bill will address the misuse of narcotic drugs and psychotropic substances. It essentially adopts the approach of controlling narcotic drugs and psychotropic substances concerning the possession, trafficking of narcotic drugs and psychotropic substances and cultivating certain plants.

The State seeks powers to restrain persons suspected of having committed offences under the Act from using any or all of their property; and to trace, confiscate and assume proprietary rights over persons convicted of specified offences.

**The Committee observes that if enacted, the Bill will significantly help Uganda's fight against the abuse and trafficking of illicit drugs, both internally and across borders. Additionally, it will create a regulated mechanism of usage and trade in controlled drugs and substances and hence facilitate Uganda's commitment to meet her international obligations regarding the control of drug trafficking.**

### **The mandate of the different Ministries under the Bill.**

The mandate of the Ministry responsible for Health in the control of narcotic drugs and psychotropic substances is to regulate the permissible

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use, manufacture and storage of narcotic drugs as provided for by the Single Convention on Narcotic Drugs and Psychotropic Substances 1961. The Convention recognizes that the medical use of narcotic drugs continues to be indispensable for relieving pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes.

Therefore, the Bill in clauses 9,10,11, and 14 deals with the restricted use of narcotic drugs prescribed by medical practitioners, pharmacists, dentists and veterinary surgeons and rehabilitation centres under part V regulated by the institutions under the Ministry responsible for Health.

The Ministry of Internal Affairs is responsible for enforcing the law and conducting investigations in case of breach.

**The committee posits that all licences and permits to be issued under this Act should centrally be issued by the Ministry responsible for Health since the permission to use narcotic drugs and psychotropic substances is restricted to only “medical purposes”. The Ministry of Internal Affairs should remain the enforcement arm of the Government to ensure compliance.**

#### **7.4 Highly contested narcotic drugs and Psychotropic Substances in the Bill.**

World over, there is an increasing demand to strike a balance between the management and control of Narcotics under the international conventions visa vie the overarching desire to ensure the availability of controlled substances for medical and scientific purposes<sup>7</sup> whilst preserving mentally stable societies. The Committee, from its interface with stakeholders, gathered sufficient scientific literature and evidence from both government and private experts on the pharmacology of *Catha edulis*

<sup>7</sup> The report of the International Narcotics Control Board, 2022 (E/INCB/2022/1)

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(Khat), also locally known as “miraa” or “mairungi” and Cannabis (Marijuana), which are highly contested.

One of the grounds the petitioners put to court for nullification of the law on narcotics and psychotropic substances in **Wakiso Miraa Growers and Dealers Association Limited Versus Attorney General of Uganda Constitution petition No. 001 of 2017<sup>8</sup>** was that the prohibition and criminalization of the cultivation, possession, consumption, sale, purchase, warehousing, distribution, transportation, exportation, importation, and other dealings in *Catha edulis* (Khat) and incorporation of Khat within the definition of the term “psychotropic substance” breached several provisions of the Constitution.

Further, the fourth schedule of the Bill under consideration now proposes Cannabis as a prohibited plant. As such, the Committee deems it necessary to appreciate the pharmacology Cannabis and the effects of Khat and Cannabis to inform the House on the plausible way forward.

#### **7.4.1 Cannabis (*Cannabis Sativa*) commonly known as Marijuana, Hemp, ganja etc.**

The Director, DGAL, informed the Committee that cannabis was a flowering plant that produced 120 unique cannabinoids. It includes species of cannabis sativa, cannabis indica and cannabis ruderalis. These plant’s morphology contains chemical compounds that interact with the endocannabinoid system in the human body if taken. This system is critical in various physiological processes, including mood, memory, pain sensation and appetite.

The most well-known cannabinoids are delta-9-tetrahydrocannabinol (THC) and cannabidiol (CBD)<sup>9</sup>. The THC is responsible for the “high” often

<sup>8</sup>The Petitioner among others, sought the de-categorizing *Catha edulis* (khat) as a prohibited plant and psychotropic substance under the Third Schedule and Section 2 of the nullified Act.

<sup>9</sup>Industrial Hemp Pharmaceuticals: *Effects and Pharmacology of Cannabinoids: A comprehensive Analysis*

associated with its consumption. It works by binding to the CB1 receptors in the brain, which are mainly found in the central nervous system<sup>10</sup>. CBD is a non-psychoactive cannabinoid that has gained significant attention for its potential therapeutic effects. Notably, DGAL informed the Committee that Cannabis offers a rich reservoir of bioactive molecules that can be used in pharmaceutical, nutraceutical and cosmetic products. Cannabis materials include dried ground buds, flowers, stems, stalks, leaves and seeds and can be classified under four categories based on the total THC content. These include the following.

- i. Low THC cannabis, i.e., derived from cannabis strains or cultivars bred to have low levels of THC (below the legal threshold defined by each jurisdiction). This is most sought after for its higher CBD content and potential therapeutic benefits, with minimal psychoactive effects.
- ii. High THC cannabis, i.e., derived from cannabis strains bred or selected for their elevated levels of THC (typically above the legal threshold defined by each jurisdiction). This category is mainly sought after by users seeking stronger psychoactive effects and euphoria for recreational purposes.
- iii. Marijuana, i.e., mainly derived from cannabis varieties with higher THC levels and is primarily grown for recreational or medicinal use. It is rich in THC and has varying levels of cannabinoids, including CBD.
- iv. Hemp, i.e., mainly derived from cannabis strains with deficient THC levels (0.3% or less dry weight per cent total THC in the US and 0.2% THC in many EU countries). Hemp is cultivated for various industrial purposes, including fibre, seeds and CBD extraction. It has minimal psychoactive effects due to its low THC content.

Currently, the licensing of the cultivation of plants yielding narcotics in Uganda is by the Minister responsible for Health in consultation with the

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<sup>10</sup> ibid

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National Drug Authority under Section 49 of the National Drug Policy Authority Act, Cap 206. To this extent, the Committee was informed that Industrial Hemp Uganda Limited, a limited-by-guarantee company, was one such licensed company currently growing and processing medical cannabis/hemp.

Table 1: Medical pros and cons of Cannabis

Medical pros and cons of cannabis	
Pros	Cons
<ul style="list-style-type: none"> <li>• Relaxation and stress relief i.e relieves anxiety, convulsions, depression, inflammation and nausea sedative, sleep aid and muscle relaxant (pain killer)</li> <li>• Insecticidal and Pesticidal activity due to cannabinoids and cannabixepane</li> <li>• Antiviral activity; cannabidiol have good affinity with a covid-19 protease cannflavin exhibited a better score against and HIV protease</li> <li>• Anti-Inflammatory Activity</li> <li>• Anticancer Activity</li> <li>• Antiepileptic Activity</li> <li>• Dermocosmetic Activities</li> </ul>	<ul style="list-style-type: none"> <li>• Temporarily impair short-term memory, attention and cognitive function when consumed in higher doses</li> <li>• Affects coordination, balance, and reaction time, which may impair driving or operating machinery.</li> <li>• Respiratory issues such as chronic bronchitis from smoking cannabis</li> <li>• Potential mental health risks such as anxiety disorders and psychosis, particularly in individuals predisposed to these conditions</li> </ul>

Source: Directorate of Government Analytical Laboratories

The Committee noted that due to its therapeutic characteristics, the importance of cannabis in the pharmaceutical and healthcare industry is increasingly gaining traction. Many states in the US and the countries in the West have approved medical cannabis (medical marijuana), and the sector is one of the first growing markets<sup>11</sup> as more and more countries legalize it.

However, the Committee observes that whilst some jurisdictions have relaxed the restrictions on cannabis, its abuse over its psychotropic effects

Zuk-Golaszewska, K., & Golaszewski, J. (2018). Cannabis sativa L. – Cultivation and quality of raw material. Journal of Elementology, 23(3), 971-984

is more profound, and this continues to pose severe risks to public health. DGAL revealed that from its statistics of forensic casework from January 2021 to June 2023, it received 178 cases of narcotic drugs in 2021, 295 cases in 2022 and 83 cases from Jan-June 2023. From these, cannabis was the most abused drug making 68.2% in 2021, 80.1% in 2022 and 76.4% in 2023. It was found that cannabis was largely affordable and associated with criminal cases related to theft, burglaries, violence and accidents.

#### **7.4.2 *Catha edulis (Khat) also locally known as Miraa, Mairunji etc.***

DGAL informed the Committee that Khat, natively grown in East Africa and the Arabian Peninsula, was a flowering evergreen shrub abused for its stimulant-like effect. The leaves are traditionally chewed fresh and sometimes dried for tea or chewable paste. In Uganda, Khat has increasingly gained traction as a cash crop due to its associated advantages requiring less labour, a small scale of land for cultivation and a ready market for its fresh leaves. Khat's most notable phytochemical compounds include CNS stimulant properties Cathinone and Cathine<sup>12</sup> (*a mild psychoactive alkaloid*).

The Director, DGAL further noted that Khat contains several stimulant compounds, including cathinone, cathine and norephedrine, which are alkaloids primarily concentrated in the plant's fresh leaves. These are classified as phenethylamines with stimulating effects when chewed.

- i. Cathinone, i.e., Is structurally similar to amphetamines and acts as a central nervous system stimulant. Its effects include increased energy, euphoria and alertness. It is considered the main active compound in fresh khat leaves.
- ii. Cathine, i.e., Also known as d-norpseudoephedrine. Structurally related to cathinone and has similar stimulant properties, although

milder. Cathine is a Schedule III controlled substance in the US due to its stimulant effects.

Table 2: Effects of Khat

<b>The pros and cons of Khat</b>	
<p><b>The pros of Khat</b></p> <ul style="list-style-type: none"> <li>• Khat chewing is a traditional social activity embedded in the social fabric in some communities</li> <li>• Because of its cathinone and cathine compounds, it is often used to combat fatigue, increase productivity and alertness during long working hours</li> <li>• The stimulant properties of Khat suppress appetite and it is claimed to help in weight control</li> <li>• Khat is suggested to have properties that could aid in digestion, act as diuretic, relieve headaches, increase sexual performance and treat certain gastrointestinal ailments. However, these assertions are not supported by any scientific evidence</li> </ul>	<p><b>Negative Medical Effects of Khat</b></p> <ul style="list-style-type: none"> <li>• Oral health infections, i.e., tooth decay, gum disease</li> <li>• Gastrointestinal problems, i.e., stomach pain, constipation &amp; ulcers</li> <li>• Cardiovascular effects, i.e., increase in heart rate, blood pressure, heart palpitations</li> <li>• Mood swings, i.e., sleeping difficulties, insomnia, anxiety, irritability</li> <li>• Associated with increased risk of carcinoma of mouth and oesophagitis</li> <li>• Abnormal loss of appetite for food</li> <li>• Addiction and dependence</li> <li>• Impaired cognition</li> </ul>

Source: Directorate of Government Analytical Laboratories

The World Health Organisation (WHO) considers Khat a less potent or addictive stimulant<sup>13</sup> than other commonly used substances such as alcohol, cocaine, amphetamine and tobacco. The WHO Expert Committee, upon review of the compounds in Khat, determined that the potential for abuse is low and the level of threat to public health is insignificant to warrant international control.

The Committee is mindful that the highly contentious plants have a robust historical connotation, particularly in Africa, where they have been used as medicinal plants or local herbs.

<sup>13</sup> The 34<sup>th</sup> report of the World Health Organisation Expert Committee on Drug Dependence, 2006

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Additionally, from a global perspective, there is a growing debate on how a holistic approach to controlling psychotropic substances for medical purposes can be achieved without endangering the young generation.

However, the use of drugs for recreation has increased in the last century, owing to developments in science and technology. The Committee was informed by the team from Butabika Hospital that, more recently, the research and studies conducted at the hospital have shown that cannabis has increasingly become a gateway drug for the use of other hazardous substances<sup>14</sup>.

Additionally, no controlled studies or clinical trials declare Khat medicinal. Some studies<sup>15</sup> also argue that heavy khat use has been documented to be a recipe for family breakdown and intoxication among young persons. But still, there exists no concrete scientific evidence linking crime and Khat use. Also, no quantitative data is available about the prevalence of public health problems, severe or otherwise, associated with the use of Khat<sup>16</sup>.

Furthermore, the three UN conventions that form the international legal framework of global drug and psychotropic substances control, i.e., the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol, the Convention of Psychotropic Substances 1972, and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; all of which Uganda is signatory to, do not classify Khat as an illicit or prohibited substance.

However, the consumption of Khat in Uganda has not been a common phenomenon. It is a recent development attributed to the high influx of

<sup>14</sup> A 2022 study at Butabika Hospital revealed that for the year 2021-2022, 24.9% (1750) of young adults (majority male) were admitted for alcohol and substance use problems. 44.7% of these were alcohol. 31.4% on cannabis. 2.1% on stimulants such as Khat.

<sup>15</sup> Advisory council on the Misuse of Drugs. *Khat: A review of its potential harms to the individual and communities in UK*, 2013.

<sup>16</sup> E.J.M. Pennings et al. *Regulatory Toxicology and Pharmacology* 52 (2008) 199-207



refugees from the neighboring countries where Khat is traditionally consumed. This has increased the demand and market for Khat in Uganda.

From the DGAL statistics of forensic casework (January 2021 – June 2023) highlighted above, it was further revealed Khat made up 1.3%, 0.6% and 2.2% of the total drug cases received in 2021, 2022 and 2023, respectively.

**Drawing from the above, the uncontrolled consumption and distribution of cannabis, khat and other synthetic drugs continues to pause a significant public health risk to the young populace.**

**As such, the Committee deems it necessary to ensure public health by prohibiting Cannabis Sativa and Catha edulis (Khat). Under a highly controlled legal regime, the international obligations notwithstanding, the two plants (cannabis and Khat) should only be allowed for cultivation and usage strictly for medical purposes and research.**

### 7.5 Protection of the children

Clause 10 of the Bill prohibits the supply of narcotic drugs and psychotropic substances to any child by any person, including a medical practitioner, pharmacist or dentist, without reasonable grounds to believe that the child requires such substances for medical purposes. Under Article 33<sup>17</sup> of the UN Convention on the Rights of the Child, the obligation to protect children and young people from harmful drugs cannot be over-emphasized. The drug supply chain and narcotic substances puts children at risk of harm. Children are harmed through drug use, parental drug dependence, drug-related violence, exploitation in trafficking, and a range of other ways.

<sup>17</sup> Article 33 of the Charter provides that "States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances."

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Considering the detrimental effects of narcotic drugs and psychotropic substances, and in an attempt to domesticate the spirit of Article 33 of the UN Convention on the Rights of the Child, the Committee finds it necessary to propose more stringent measures to mitigate supply. To this extent, the Committee proposes to increase the fine and the jail term from for the person who exposes the children to drug abuse.

## 8 CONCLUSION

The Bill seeks to adopt measures to criminalize drug-related offences under domestic law in conformity with Article 3 of the United Nations Conventions against illicit traffic in narcotic drugs and psychotropic substances and other related international conventions.

The Committee reviewed the Bill and made proposals that it deemed fit to achieve the set objectives. The Committee was alive to the need for a comprehensive and responsive law that addresses supply, demand and harm reduction in the use of narcotic drugs and psychotropic substances while prioritizing public health.

The Committee recommends that the Bill be considered for second reading subject to the proposed amendments attached hereto and any other modifications the House may propose and approve.

I beg to report.

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**9 PROPOSED AMENDMENTS TO THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (CONTROL) BILL 2023.**

**CLAUSE 1: COMMENCEMENT**

Delete Clause 1.

**Justification**

*The Act should commence immediately after the assent and publication to meet the urgency required for the regulation of narcotic drugs and psychotropic substances following the nullification of the current Act by court*

**CLAUSE 2: INTERPRETATION**

Clause 2 is amended—

I. by substituting for the definition of the word “bank”, the following-

“bank” includes-

- (a) a financial institution licenced under the Financial Institutions Act, 2004;
- (b) a microfinance deposit-taking institutions licenced under the Microfinance Deposit taking Act, 2003; and
- (c) a microfinance institution licenced under the Tier-4 Microfinance Institutions and Money Lenders Act, 2015; and
- (d) the Bank of Uganda;”;

II. by substituting for the definition of the word “Catha edulis”, the following-

“Catha edulis” means the Catha edulis plant;”

III. by substituting for the definition of the word “currency point”, the following-

“currency point” has the value assigned to it in the First Schedule to this Act;”;

IV. in the definition of the word “illicit trafficking”-

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- (i) in paragraph (b), by substituting the words “*khat plant*” with the word “*Catha edulis*”;
- (ii) by deleting paragraph (c);

- V. by deleting the definition of the word “*medicinal opium*”;
- VI. by deleting the definition of the word “*ministry*”;
- VII. by substituting for the definition of the word “*produce*”, the following-

*“production” where the reference is to producing a narcotic drug or psychotropic substance, means the separation of a narcotic drug or psychotropic substances from the plant from which the narcotic drug or psychotropic substance is obtained;”*

- VIII. by Insertion the following definitions in its appropriate order-

*“Facility for treatment and rehabilitation” includes a health unit as defined under Medical and Dental Practitioners Act;*

*“medical purpose” means the use of a narcotic drug or psychotropic substance for treatment or research that is provided by a medical practitioner, dentist, pharmacist or veterinary surgeon, while acting within the usual course of professional practice and in accordance with a standard of care generally recognized and accepted within the respective profession;”*

*“khat” means the leaves, twigs or the bark of the Catha edulis plant;”*

*“substance use disorder” means a pattern of psychoactive substance use that appreciably*

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*increases the risk of harmful physical or mental health consequences to the person using a narcotic drug or psychotropic substance or others to an extent that warrants attention and advice from health professionals.*

**Justification**

- i. the amendment to the definition of the word “Bank” is intended to expand the definition to cater for all financial institutions as currently existing in Uganda;
- ii. the amendment of the word “currency point” is intended to harmonize the definition of the word with its usage in the Bill, specifically in schedule 1 where a value of a currency point is assigned instead of a meaning as indicated in the definition.
- iii. The amendment to the definition of the word “Catha edulis” is intended to harmonize the usage of the word and its definition.
- iv. The amendment proposed to the word “illicit trafficking” is intended to harmonize the definition with the definition of the word drug trafficking and also to harmonize that definition with the use of the word “khat”.
- v. The deletion of the word “medical opium” and “Ministry” is intended to remove redundant words which are not used in the Bill.
- vi. The substitution of the definition of the word “produce” for “production” is intended to harmonize the definition of the word and its usage in the Bill;
- vii. In the definition of the word “trafficking”, the deletion of the words is intended to remove criminal liability on person who holds out as possessing a prohibited drug when not since the possession of prohibited drugs is a matter of fact. Extending criminal liability and punishment to a person who has not actually trafficked a prohibited narcotic drug or psychotropic substance is harsh and absurd.
- viii. The insertion of the definition of the words “khat” and “medical purposes” is for clarity and to define words which are used in the Bill without definition.

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**CLAUSE 3: JURISIDICIION**

Clause 3 is substituted for the following-

**“3. Jurisdiction**

*(1) This Act applies to the entire territory of Uganda.*

*(2) This Act apply to conduct engaged in, insideor outside Uganda relating to the importation, exportation, manufacture, buying, sale, giving, supplying, storing, administering, conveying, delivering or distributing of a narcotic drug or psychotropic substance —*

*(a) on board a vessel or aircraft registered in Uganda;*

*(b) by a Ugandan citizen or any person ordinarily resident in Uganda;*

*(c) by a body corporate incorporated in or carrying on business in Uganda.”*

*(d) any other person relating to the supply or possible supply by that person of any narcotic drug or psychotropic substance.*

**Justification**

- i. For clarity and better drafting.
- ii. Jurisdiction of Uganda covers, the territory, the air craft registered in Uganda and a ship flying Ugandan flag.
- iii. To enumerate the actions that will create criminal liability if done in or outside Uganda.

**CLAUSE 4: PENALTY FOR POSSESSION OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES.**

Clause 4 of the Bill is amended-

(a) by substituting for sub clauses (2), the following-

*“(2) A person who commits an offence under subsection (1) is liable, on conviction,—*

*(a) in respect of a narcotic drug listed in the Second Schedule, to a fine not exceeding fifty thousand currency points or three times the market value of*

*the drug, whichever is greater or imprisonment not exceeding twenty years or both; and*

*(b) in respect of a psychotropic substance listed in the Fourth Schedule, to a fine not exceeding twenty five thousand currency points or three times the market value of the psychotropic substance, whichever is greater or to imprisonment not exceeding fifteen years, or both."*

(b) in sub clause (3) in paragraph (a), by substituting for the word "section 28", the words "section 27";

**Justification**

- i. to correct a mistake in cross referencing the relevant provision of the of the National Drug Policy and Authority Act;*
- ii. to enhance the penalty for possessing narcotic drug or psychotropic substance in order to make the provisions more deterrent.*
- iii. In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted under the Act.*

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**CLAUSE 5: PENALTY FOR TRAFFICKING IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES.**

Clause 5 is amended by substituting paragraph (a) and (b) for;

- (a) In respect of the narcotic drug or psychotropic substance to a fine not exceeding fifty thousand currency points or three times the market value of the narcotic drug or psychotropic substance, whichever is greater or imprisonment for life or both;*
- (b) in respect of any substance, other than a narcotic drug or psychotropic substance, which he or she represents or holds out to be a narcotic drug or psychotropic substance, to a fine not exceeding twenty-five thousand currency points to imprisonment for a period not exceeding twenty years.*

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**Justification**

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- i. For purposes of enhancing and prescribing the maximum punishment in compliance with Section 37 of the Interpretation Act.

**CLAUSE 6: PENALTY FOR OTHER ACTS CONNECTED TO NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES.**

Clause 6 is amended-

- (a) by substituting for sub clause (1), the following -

“(1) Subject to this Act, a person who—

(a) smokes, inhales, sniffs, chews or otherwise uses any narcotic drug or psychotropic substances;

(b) without lawful and reasonable excuse, is found in any house, room or place where persons resort to for purposes of smoking, inhaling, sniffing, chewing or in any way using a narcotic drug or psychotropic substance;

(c) being the owner, occupier or concerned in the management of any premises, permits the premises to be used for—

(i) the preparation of narcotic drug or psychotropic substance for smoking or sale, or the smoking, inhaling, sniffing, chewing or otherwise using any narcotic drug or psychotropic substance; or

(ii) the manufacture, production, sale or distribution of any narcotic drug or psychotropic substance in contravention of this Act; or

(d) has in his or her possession any pipe, tool or other utensil for use in smoking, inhaling, sniffing or administering or in any other manner of using a narcotic drug or psychotropic substance or any utensil used for the preparation of any other narcotic drug or psychotropic substance for smoking,

commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand currency points or imprisonment for a period not exceeding ten years, or both.”

**Justification**

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- i. *In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted for contravening the provisions of clause 6 of the Bill.*
- ii. *To expand the provision to include all other narcotic drugs or psychotropic substances.*

**CLAUSE 7: PROVISIONS RELATING TO CERTAIN PRESCRIPTIONS**

Clause 7 is amended-

(a) by inserting immediately after sub clause (1), the following

*“A pharmacist shall not sell or supply a narcotic drug or psychotropic substance to any person except where the narcotic drug or psychotropic substances has been prescribed by a medical practitioner or dentist.”*

(b) In sub clause (2) (b), by deleting the word the words “to any animal”;

(c) by substituting for sub clause (3), the following-

*“A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand currency points or to imprisonment not exceeding ten years, or both.”*

**Justification**

- i. *To expand the provision to include pharmacists since they sell and supply narcotic drug or psychotropic substances under prescription.*
- ii. *In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted for contravening the provisions of the Bill.*

**CLAUSE 8: REMOVAL OF NAME FROM REGISTER.**

Clause 8 is amended by inserting immediately after the word “dentist” wherever the word appears in the provision, the word “pharmacist”.

**Justification**

- i. *To expand the provision to include pharmacists since they sell and supply narcotic drug or psychotropic substances under prescription.*

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**CLAUSE 9: PENALTY FOR RECEIVING ADDITIONAL NARCOTIC DRUG, PSYCHOTROPIC SUBSTANCES OR PRESCRIPTION WITHOUT DISCLOSURE OF EARLIER RECEIPT**

For clause 9, there is substituted the following-

*“Penalty for receiving additional narcotic drug psychotropic substance or prescription without disclosure of earlier receipt*

*(1) A person who, in the course of treatment for a physical, dental or mental disease, or an owner or caretaker of an animal, is supplied with or receives a prescription of a narcotic drug or psychotropic substance by a medical practitioner, pharmacist, dentist or veterinary surgeon, shall disclose that fact before he or she is supplied with or receives a prescription for an additional narcotic drug or psychotropic substance.*

*(2) A person who fails to disclose the fact under subsection (1) to the medical practitioner, pharmacist, dentist or veterinary surgeon as the case may be and is supplied with or receives a prescription of a narcotic drug or psychotropic substance, commits an offence and is liable on conviction, to a fine not exceeding twenty thousand currency points or to imprisonment for a period not exceeding ten years, or both.”*

**Justification**

- i. For clarity and better drafting*
- ii. To expand the provision to include pharmacists since they sell and supply narcotic drug or psychotropic substances under prescription.*
- iii. In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted for contravening the provisions of the Bill.*

**CLAUSE 10: SUPPLY OF TOXIC CHEMICAL INHALANTS TO YOUNG PERSONS.**

For clause 10, there is substituted the following -

**“10. Supply of narcotic drugs or psychotropic substances to a child.**

*A medical practitioner, pharmacist, dentist or any other person who supplies or administers a narcotic drug or psychotropic substance to a child where the narcotic drug or psychotropic substance is not required in treatment of a child, commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand currency points or to imprisonment for life, or both.”*

**Justification**

- i. *To enhance the penalty for supplying narcotic drug or psychotropic substances to a child in order to make the provision deterrent.*
- ii. *To restrict the provision to the subject matter of the Bill since intoxicating substances are alien to the bill and are incapable of exact definition.*
- iii. *To require the supply and administering of narcotic drug or psychotropic substances to a child to be for medical purposes.*
- iv. *In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted for contravening the provisions of the Bill.*

**CLAUSE 11: PENALTY FOR CULTIVATION OF CERTAIN PLANTS**

For clause 11, there is substituted the following-

**“11. Penalty for cultivation of prohibited plants**

- (1) *The Minister responsible for health may issue a licence to cultivate or gather a prohibited plant.*
- (2) *A person shall not cultivate or gather a prohibited plant without a licence issued by the Minister responsible for health.*
- (3) *The Minister may issue a licence subject to conditions as the Minister may consider necessary.*
- (4) *A person who—*
  - (a) *cultivates a prohibited plant without a licence; or*

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(b) being the owner, occupier or manager of premises, permits the premises to be used for the cultivation, gathering or production of a prohibited plant, commits an offence and is liable, on conviction, to a fine not exceeding one hundred and twenty currency points or three times the market value of the prohibited plant, whichever is greater, or to imprisonment for a period not exceeding five years or both, and in the case of a second or subsequent offence, to imprisonment for life.

**Justification**

- i. To require the cultivation of prohibited plants to be authorised by liscence and not mere consent of the Minister;
- ii. To harmonize the provision with schedule 4 of the Bill which prescribes prohibited plants.
- iii. In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted for contravening the provisions of the Bill.

**CLAUSE 12: POWER OF ENTRY IN RESPECT OF GOVERNMENT LAND AND OTHER LAND**

For clause 12, there is substituted the following-

**"12. Power of entry in respect to land**

(1) A police officer not below the rank of Inspector or a person authorised under this Act who has reasonable grounds to believe that a prohibited plant was, or is being cultivated on any land or in any premises without a liscence may, by himself or herself or with such assistance as in his or her opinion is reasonable, enter upon and inspect the land or premises.

(2) A police officer who enters land or premises under subsection (1) may arrest or cause the arrest of the person suspected of

*cultivating the prohibited plant and confiscate the prohibited plants cultivated in contravention of the provisions of this Act.*

*(3) A person who obstructs a police officer or an authorised person in the performance of his or her functions under this section commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand currency points or to imprisonment not exceeding two years, or both.*

**Justification**

- i. To remove the distinction created by the provision relating to Government and private land;*
- ii. For completeness, to prescribe the powers that can be exercised by a police officer who enters any land, including the power to arrest a person who is suspected of cultivating the prohibited plant as well as confiscating the prohibited plant*
- iii. To ease enforcement of the provision by allowing any police officer, without distinction in rank, to enter land for purposes of ensuring that prohibited plants are not grown on the land or premises.*

**CLAUSE 14: LICENCES FOR EXPORT, IMPORT, MANUFACTURE SALE, PRODUCTION OR DISTRIBUTION**

Clause 14 is amended-

- (a) In paragraph (a), by inserting immediately before the word "issue", the words, "for medical purposes";*
- (b) by substituting for paragraph (c), the following-*  
*"prescribe the records to be kept by a holder of a licence for sale, manufacture, production, importation, exportation or distribution of specified narcotic or psychotropic substances;*
- (c) by numbering the current provision as sub clause (1) and inserting immediately after, the following-*  
*"The National Drug Authority shall-*

- (a) keep and maintain a register of persons authorised to sale, manufacture, produce, import, export or distribute narcotic or psychotropic substances; and*

(b) regulate and issue guidelines for conducting clinical trials involving narcotic drugs and psychotropic substances.

**Justification**

- i. in compliance with Article 4c of the Single Convention on Narcotic Drugs, 1961, to limit the sale, manufacture, production, importation, exportation possession or distribution of specified narcotic or psychotropic substances for medical and scientific purposes.
- ii. To prescribe additional functions for the NDA, including regulating clinical trials and registering and maintaining a register of licences to ease obtaining information pertaining to licences granted for the sale, manufacture, production, importation, exportation possession or distribution of specified narcotic or psychotropic substances.

**CLAUSE 15: PENALTY OR FAILURE TO FURNISH INFORMATION OR PRODUCE EVIDENCE**

For clause 15, there is substituted the following--

***“15. Penalty for failure to furnish information or to produce records and documents***

*A person who-*

*(a) fails or refuses to comply with any obligation to provide information or to produce a book, record, document or other material as required under this Act or any order made under this Act;*

*(b) in compliance with the provisions of this Act, gives information which is false or produces a book, record, document or other material which contains any statement which is false in a material particular;*

*(c) for the purpose of obtaining, a grant or renewal of a licence or any other authority under the National Drug Policy and Authority Act*

*(i) makes a statement or gives information which is false in a material particular; or*

(ii) produces a book, record, document or other material containing a statement which is false in a material particular;

commits an offence and is liable, on conviction, to a fine not exceeding twenty-five thousand currency points or imprisonment for a period not exceeding ten years, or both.”

**Justification**

- i. to make the provision strict liability to enhance compliance;
- ii. In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted for contravening the provision.

**CLAUSE 17: OWNER OF LAND TO INFORM POLICE OFFICER**

For clause 17, there is substituted the following-

**17. “Owner of land to report to police cultivation of prohibited plants**

(1) The owner of land or any other person with interest in land, who has reason to believe that a prohibited plant is cultivated on that land in contravention of this Act or that the land is prepared for the purpose of cultivating a prohibited plant, shall report that fact to police.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred currency points or three times the market value of the prohibited plant, whichever is greater, or to imprisonment for a period not exceeding five years or both.

(3) For purposes of this section, a reference to the owner of land or any other person with interest in land includes a holder of a lease, licence, grant, permit or other right in land, whether held individually or in association with others.

**Justification**

- i. *For clarity and better drafting, to impose an obligation on the owner or holder of a right in land to report to Police wherever prohibited plants are cultivated on the land;*
- ii. *To enhance the effectiveness of the provision by prescribing a penalty for none compliance;*

**CLAUSE 18: PENALTY FOR VEXATIOUS OR MALICIOUS ENTRY, SEIZURE, ARREST**

Clause 18 of the Bill is amended-

- (a) *In the head note, by deleting the words "vexatious or "and "etc."*
- (b) *In paragraphs (b) and (c), by substituting for the words "vexatiously and unnecessarily", the words "without reasonable cause".*

**Justification**

- i. *To remove words which are incapable of exact definition in order to enhance the effectiveness of the provision.*

**CLAUSE 19: PENALTY AGAINST A POLICE OFFICER**

Clause 19 is amended by deleting paragraph (b)

**Justification**

- i. *A drug addict has a right to life, liberty and therefore being provided with custody or accommodation is part of life.*
- ii. *The provision is ambiguous and imposes enforcement challenges since it prohibits the giving of custody to a drug addict or any other person who is charged with an offence under the Act yet it is the role of police to arrest and give custody to such persons.*

**NEW CLAUSE.**

Insert a new clause immediately after clause 19;

*"Penalty for conspiracy, inciting, aiding or abetting to commit offence.*

*A person who conspires with, incites, aids or abets another person to commit an offence under this Act commits an offence*

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and is liable on conviction to imprisonment not exceeding ten years.”

**Justification**

- i. To create an offence for any person who conspires with, incites, aids or abets another person to commit an offence under this Act.

**CLAUSE 21: FORFEITURE OF CONVEYANCE IMPLEMENTS**

Clause 21 is amended-

- (a) by substituting for sub clauses (1) and (2), the following-

*“(1) A court which convicts a person of an offence under this Act may, in addition to any other penalty prescribed under this Act, order the forfeiture to the State-*

*(a) any chemical, machinery, equipment, implement, pipe, utensil, or other article used in the commission of the offence; or*

*(b) any conveyance used in the commission of the offence or for carrying any narcotic drug or psychotropic substance or for carrying any chemical, or any machinery, equipment, implement, pipe, utensil or other article used in the commission of the offence.”*

- (b) by inserting immediately after sub clause (1), the following-

*“Notwithstanding subsection (1), the owner of a chemical, machinery, equipment, implement, pipe, utensil, conveyance or any other article which is used in the commission of an offence and was not involved in the commission of the offence, may apply to court for restoration of the chemical, machinery, equipment, implement, pipe, utensil, conveyance or any other article.”*

**Justification**

- i. For clarity and better drafting, to merge sub clauses (1) and (2) since they relate to the same subject matter.
- ii. to require the forfeiture to be ordered by Court in order to prevent abuse.

- iii. For completeness, to allow the owner of a conveyance and other implements to apply for restoration of the matters forfeited by the state.

**CLAUSE 23: APPLICATION FOR RESTRAINT ORDER**

Clause 23 is amended-

- (a) By substituting for sub clause (1), the following-

*“Where there are reasonable grounds to believe that any person has committed a specified offence and after investigations have commenced in relation to the offence, the Attorney General may apply to the court for a restraint order in respect of any of the property which the Attorney believes are proceeds of crime.”*

- (b) in sub clause (2) by substituting for the word “deposing”, the word “deponing”;

- (c) in sub clause (3), by substituting for paragraph (a) and (b), the following

- (a) *“after the investigation in subsection (1) is concluded and it is determined that no specified offence was committed by the person against whom a restraint order is sought;*

- (b) *where, after the investigation in subsection (1), the person against whom a restraint order is sought, is charged with a specified offence and a final decision for conviction is given in respect of the commission of that offence, by the court.”*

**Justification**

- i. *to restrict the restraint order to only those properties that can be proved to be proceeds of crime.*
- ii. *For clarity, to ensure that a restraint order is not granted where a person is not charged with an offence or the person if so charged with an offence, court finds the person not guilty.*

**CLAUSE 24: TRANSFER AFTER NOTICE OF APPLICATION FOR RESTRAINT ORDER**

Clause 24 is amended in sub clause (2) by substituting for the words "informs the court of an intention to appeal against the dismissal," the words "files a notice of appeal".

**Justification**

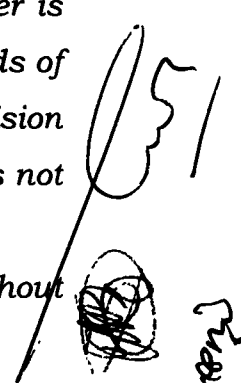
- i. An appeal is originated with the notice of appeal not the mere expression of an intention to appeal.

**CLAUSE 25: STATEMENT OF ASSETS AND EXAMINATION OF RESPONDENTS**

Delete Clause 25.

**Justification**

- i. Clause 25 contravenes clause 23 since in clause 23, the Attorney General must be possessed with information relating to the property sought to be included in a restraint order before an application is made.
- ii. This provision will therefore have the effect of reversing that duty by imposing an obligation on a person against whom a restraint order is made to prove that his or her property are not obtained from proceeds of crime before he or she is charged or convicted of an offence. This provision will allow a person to be put to his or her defence yet he or she has not yet been convicted of an offence.
- iii. Clause 25 will also allow the confiscation of a person's property without that person having committed an offence.



**CLAUSE 26: SERVICE OF NOTICE OF APPLICATION FOR RESTRAINT ORDER**

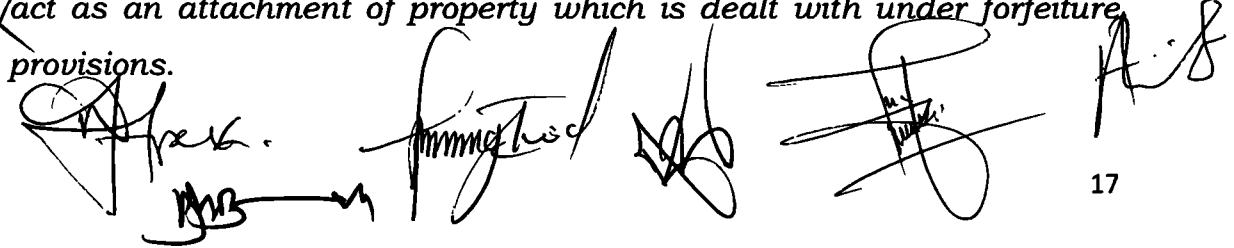
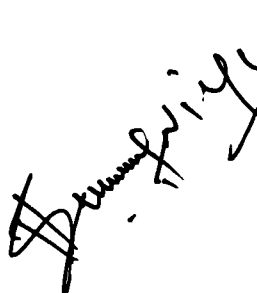
Clause 26 is amended by deleting sub clause (4).

**Justification**

- i. Clause 26 (4) contravenes clause 23 and the spirit behind issuance of a restraint order by converting restraint proceedings into proceedings of attachment of a person's property before conviction of an offence. By their nature, restraint proceedings only prevent dealing in property and do not act as an attachment of property which is dealt with under forfeiture provisions.



N. T. ...



- ii. *The provision goes beyond the spirit of a restraint order, which is to prohibit dealing in the property when criminal proceedings are pending.*
- iii. *Attachment of property is allowed when there is a final decision of court.*

**CLAUSE 27: RESTRAINT ORDER**

For clause 27, there is substituted the following-

*"27. Restraint order*

*(1) Where an application for a restraint order is made under section 23 and Court is satisfied of the matters referred to in that section in relation to the respondent, the court may make a restraint order prohibiting the respondent or any other person acting on his or her behalf, from disposing of, or in any way dealing with the property specified in the order or any interest in the property except in the manner that may be specified in the order.*

*(2) without prejudice to subsection (1), a bank shall not pay to a respondent, or any other person, on the order of, or on behalf of the respondent, any money from sums held in any account by the bank in the name of the respondent.*

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**Justification**

- i. *The restraint order only caveats any dealing in property but does not vitiate ownership. The purpose of the restraint order is to preserve the status quo. The property remains the property of the accused.*
- ii. *The proposal to transfer the property affected by a restraint order to the official receiver has the effect of interfering in the proprietary interest of the owner of the property before the person is convicted of an offence. This goes beyond the effect of a restraint order.*
- iii. *This provision is therefore misplaced and should only apply where court convicts a person of an offence and orders for the forfeiture of the property or proceeds of crime to the state.*

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**CLAUSE 29: EFFECT OF RESTRAINT ORDER**

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Clause 29 of the Bill is amended-

(a) In subsection (1), by substituting for the words "transfers of", the words "dealings in";

(b) by substituting for sub clause (2) (a), the following-

*"(2) Nothing in subsection (1) shall prevent court from enforcing a mortgage, charge or any other transaction against any property in respect of which a restraint order is made, where the court is satisfied that-*

*(a) the mortgage, charge or transaction was registered or executed before the restraint order was granted;*

*(b) the mortgage, charge or transaction was created bona fide for valuable consideration without notice of the application referred to in section 23; and*

*(c) the person in whose favor the mortgage, charge or transaction was created and registered was not concerned with, or privy to, the commission of a specified offence by the person against whom the restraint order is made.*

**Justification**

- i. *To expand the provision to prohibit all dealings in land as opposed to prohibiting transfers in land as proposed in the Bill since the word dealings covers more than transfers.*
- ii. *In order to protect the sanctity of restraint orders from abuse, to allow court give effect to mortgages, charges and transactions that were entered into before the restraint order was made.*
- iii. *To harmonize clause 29 with clauses 23 and 24.*

**CLAUSE 30: DURATION OF RESTRAINT ORDER**

For clause 30, there is substituted the following-

**"30. Duration of restraint order**

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*Subject to this Part, a restraint order in respect of any property shall remain in force until the restraint order is revoked by the court.*

*A person may apply to court to revoke a restraint order on any of the following grounds;*

- (a) Where the charges against the person in respect of whom the restraint order was made are dismissed or discontinued or the person against is discharged or acquitted;*
- (b) Upon death of the person against whom the restraint order is made; or*
- (c) Where the property in respect of which it is made, is forfeited to the State.*

**Justification**

- i. to expand the provisions relating to termination of the restraint order to include other grounds including dismissal by court and the death of the accused person which abates criminal proceedings.*
- ii. To harmonize clause 30 with clauses 33 and 35.*

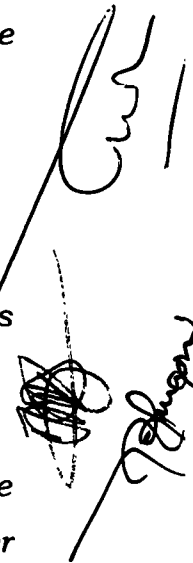


**CLAUSE 31: OFFENCES IN RESPECT OF RESTRAINT ORDER**

Clause 31 of the Bill is amended by substituting for the words "for not less than", the words "for a period not exceeding".

**Justification**

- i. In compliance with section 37 of the Interpretation Act, to prescribe the maximum penalties that may be suffered by a person convicted under the Act.*

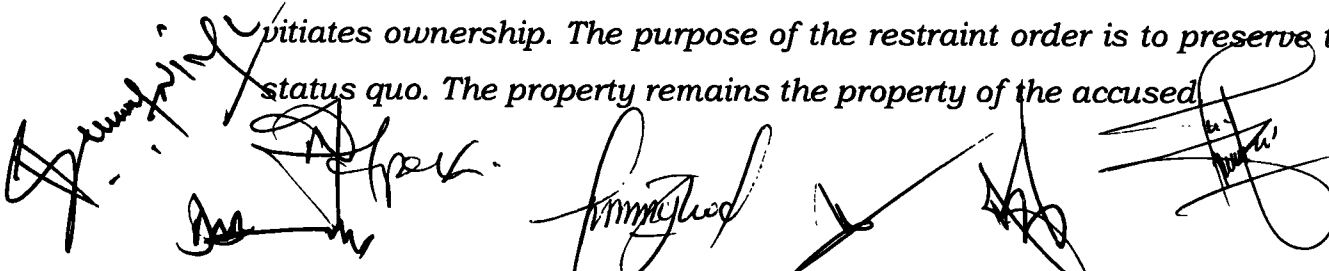


**CLAUSE 32: MANAGEMENT OF PROPERTY BY THE OFFICIAL RECIEVER**

Clause 32 be deleted

**Justification**

- i. The restraint order only caveats any dealing in property but does not initiate ownership. The purpose of the restraint order is to preserve the status quo. The property remains the property of the accused.*



- ii. *The proposal to transfer the property affected by a restraint order to the official receiver has the effect of interfering in the proprietary interest of the owner of the property before the person is convicted of an offence. This goes beyond the effect of a restraint order. This provision is there misplaced and should only apply were court convicts a person of an offence and orders for the forfeiture of the proceeds of crime to the official receiver.*

**CLAUSE 33: EXCLUSION OF PROPERTY, RECOGNITION OF CLAIMS, AND REVOCATION OF RESTRAINT ORDER**

Clause 33 is amended in sub clause (4) (a) by-

- (a) substituting for the word “before”, the word “after”;
- (b) substituting for the words “complaint is made or information is”, the words “charge is preferred”.

**Justification**

- i. *For clarity, to adopt a nomenclature used to refer to criminal complaint under the laws of Uganda.*
- ii. *To determine the duration of the expiry of the restraint order*

**CLAUSE 34: STAY OF HEARING OF APPLICATION**

For clause 34, there is substituted the following-

*“Where an application has been made to the court under section 23 for a restraint order and the person against whom the restraint order is sought is charged with specified offences, court may, on the application of the Attorney General or the respondent, stay the hearing of the application made under section 23 until a final decision is made in respect of the criminal charges.”*

**Justification**

- i. *To remedy an ambiguity in clause 34 since currently, the provision is not clear as to the application it is referring to.*

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**CLAUSE 35: DEATH OF A PERSON TO WHOM THE RESTRAINT ORDER IS MADE**

Delete Clause 35

**Justification**

- i. *Clause 35 proposes to continue proceedings against an accused person who dies before or after a restraint order is made in contravention of clear and known principles of law that criminal proceedings abate or terminate upon the death of the accused as was laid out in the case of R v Ssenyonga, 1993 CanLII 14680 (ON SC). The death of an accused person should terminate the restraint proceedings or orders made since the accused person has not been found guilty of an offence by court to warrant the continued attachment of his or her property.*

**CLAUSE 37: FORFEITURE OF PROPERTY**

Delete Clause 37

**Justification**

- i. *Clause 37 is redundant since it is a duplication of clauses 41 and 42 of the Bill. The provision Clause 37 has been incorporated in Clause 42*
- ii. *The provision unfairly attaches all property of the person, present and future irrespective of whether the properties were proceeds of crime or not.*

*Conrad*

*Johnston*

**CLAUSE 38 Certain liabilities to the forfeited property**

Clause 38 is amended by-

- (a) Substituting the Headnote for "Certain liabilities to the forfeited property"
- (b) By substituting for the words "section 37 shall not" words "the restraint order shall not affect"

**Justification**

- i. *Consequential amendment as a result of deleting clause 37*

*And N.T.H.*

**CLAUSE 39 PROVISION FOR PAYMENT OF MONEY OWED**

*James ...*

*W.B.M.*

*[Signature]*

*[Signature]*



Clause 39 is amended in sub clause (1), by substituting for the words "section 38", the word "section 42";

**Justification**

- i. *Consequential amendment as forfeiture is provided by clause 42;*

**CLAUSE 40: CLAIM BY PERSON WHO COMMITS A SPECIFIED OFFENCE**

Clause 40 is amended-

- (a) In sub clause (1)-
  - (i) In paragraph (a), by inserting immediately after the word "succession", the words "or that the property is held by him or her in trust for the benefit of another person";
  - (ii) In paragraph (b), by substituting for the word "relations", the words "any person";
- (b) in sub clause (2), by substituting for the words "section 37", the words "section 42";
- (c) by deleting sub clause (3).

**Justification**

- i. *It is a consequential amendment arising from the deletion of clause of clause 37.*
- ii. *To include property held in trust among properties that can be freed from forfeiture.*
- iii. *To expand the list of persons who can gift property.*
- iv. *The deletion of sub clause (3) is a consequential amendment arising from the amendment of sub clause (1)(b).*

**CLAUSE 41: PROCEDURE IN RESPECT OF FORFEITURE**

For clause 41, there is substituted the following-

"Procedure in respect of forfeiture

- (1) Where a person is convicted of a specified offence under this Act, the Attorney General may, after conviction, apply to the High Court for an order to forfeit to the State any property owned by the convicted person that is ascertained to be proceeds of a crime under this Act.

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- (2) Notwithstanding subsection (1), the Attorney General may apply to the High Court for an order to forfeit to the State any property held by any person that is ascertained to be proceeds of a crime committed by the convicted person under this Act.
- (3) The application referred to in subsection (1) and (2) shall contain a description of the property, in respect of which the forfeiture order is sought.
- (4) Court shall before making an order to forfeit the property of a convicted person, comply with rules of natural justice.

**Justification**

- i. To streamline the process for applying for forfeiture orders.
- ii. The amendment proposed in sub clause (2) is for clarity and to harmonize the provision with clause 42 which duplicates the notices that are issued by the High Court.

**CLAUSE 42: FORFEITURE ORDER**

Clause 42 is amended-

(a) by substituting for sub clause (1), for the following-

“(1) At the conclusion of the proceedings under section 41, the court may, where satisfied that the property is a proceed of a crime under this Act, make an order for forfeiture of the property to the State.

(b) by substituting for sub clause (2), the following-

“(2) The forfeiture order referred to in subsection (1) shall specify-

- (a) the property to which the order applies;
- (b) any mortgage or charge secured by or over the property;
- (c) the property excluded from forfeiture under section 40;
- (d) the property forfeited to the State; and
- (e) the extent to which any property forfeited to the State is liable for arrears of revenue due to a local government.”

(c) By substituting sub clause (3), the following-

“The Attorney General shall, where court makes an order for forfeiture under subsection (1), publish in the newspaper of wide circulation in

*Smart*

*Supp 10/10*  
*N.T. 1/15*  
*Rid*

*Amendment*  
*Att. Gen. M. M. Pringuel*  
*[Signature]*  
*[Signature]*

*Uganda and the Gazette the particulars of the property for which an order for forfeiture has been made.”*

(d) by inserting immediately after sub clause (3), the following-

*“A person who has title to any property or who claims any interest in any property in respect of which a notice is published under subsection (3) may apply to court for release from forfeiture of any of his or her property within thirty days from the date of publication of the notice stating the particulars of his or her claim.*

*Where the court is satisfied that the person making an application under sub section (4) has title to the property or any interest and was not a party to the commission of the specified offence or any other offence under this Act, court may make an order for release of the property from the forfeiture.”*

(e) by inserting immediately after sub clause (4), the following-

*“Where the court has made an order for forfeiture of property under this section, the Minister may in consultation with the Minister responsible for finance, sell the property forfeited to the State and remit the proceeds of the sale to the National Fund for Narcotic Drug and Psychotropic Substances Control established under section 72 of this Act.”*

**Justification**

- i. *for clarity, to harmonize clause 41 and 42.*
- ii. *To specifically require Court to make a forfeiture order.*
- iii. *To make provision for the recovery of property by persons who are not concerned with, or privy to, the specified offence with reference to which the application for forfeiture is made in order to protect the proprietary rights of innocent persons*
- iv. *To merge clause 37 and 42 since they relate to the same subject matter.*

**CLAUSE 43: EFFECT OF FORFEITURE ORDER**

Clause 43 is amended by deleting sub clause (2).

**Justification**

*Swab*

*Agenda*

*AND*

*N.L.H.*

*And*

*Samuel...*

*MS*

*[Handwritten signature]*

- i. *Sub clause (2) is a duplication of clause 42 (4), thereby making it redundant.*

**CLAUSE 47: ARRANGEMENT REGARDING TRACING, REALISATION, ETC. OF PROPERTY IN UGANDA.**

Clause 47 is amended-

- (a) In sub clause (2) by inserting immediately after the word “by” the word “statutory”
- (b) In sub clause (3) by substituting for the words “without unreasonable delay” the words “within three months from the date the Statutory Order was made”.

**Justification**

- i. *To clarify what order the Minister can make under clause (2)*
- ii. *For clarity of provision, to remove ambiguous words*

**CLAUSE 49: CONCEALING OR TRANSFERRING PROCEEDS OF DRUG TRAFFICKING**

Clause 49 of the Bill is amended

- (a) by deleting the word “drug” wherever the word appears in the provision;
- (b) in sub clause (3), by deleting the word “no consideration or for inadequate consideration”;
- (c) by substituting for sub clause (7), the following-

“(7) A person who commits an offence under this section is liable, on conviction, to imprisonment for a period not exceeding twenty years.”

**Justification**

- i. *the deletion of the word “drug” is to harmonize the provision with clause 2 which define the word “trafficking” and not “drug trafficking” which is used in the provision.*
- ii. *The amendment to sub clause (3) is intended to prohibit the dealing in tainted property rather than prohibit undervaluation of tainted property as proposed in the provision.*

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*Large handwritten signatures and scribbles at the bottom of the page.*

- iii. *Sub clause (7) is amended in order to comply with section 37 of the Interpretation Act, which requires criminal provisions to prescribe the maximum penalties that may be suffered by a person convicted of the offence.*

**CLAUSE 50. PROHIBITION OF HOLDING ILLEGALLY ACQUIRED PROPERTY**

Clause 50 is substituted for, the following-

A person who aids in the concealment, disguise, conversion or transfer of proceeds of crime commits an offence and is liable, on conviction, to imprisonment for a period not exceeding five years.

**Justification**

- i. *Clause 50 is ambiguous since it does not define what amounts to “illegally acquired property”.*
- ii. *The provision did not create an offence and prescribe a punishment.*

**CLAUSE 53 REHABILITATION CENTERS**

For clause 53, there is substituted the following-

**“53. Treatment and rehabilitation centers**

- (1) *The Minister may establish a facility for treatment and rehabilitation of persons with substance use disorder in accordance with the Medical and Dental Practitioners Act, Cap 272.*
- (2) *Notwithstanding subsection (1), a person may establish a private facility for treatment and rehabilitation of persons with substance use disorder in accordance with the Medical and Dental Practitioners Act, Cap 272.*
- (3) *The object of the facility for treatment and rehabilitation of persons with substance use disorder shall be to provide for the care, treatment and rehabilitation of persons with substance use disorder.*

**Justification**

- i. *There is need for the Minister to establish treatment and rehabilitation centers to increase access to medical treatment and set standards by all stakeholders providing treatment and rehabilitation of narcotic drugs, psychotropic substances and any other related substances abuse.*

**CLAUSE 54 REHABILITATION FUND**

Clause 54 is amended by inserting in subsection (2), the following-  
 “money provided by medical insurance”

**Justification**

- i. *Some clients under treatment and rehabilitation centers have insurance policy covering such conditions and therefore in case of admission, the insurer shall pay that money to the rehabilitation fund to take care of the patient.*

**CLAUSE 59: COMMITTAL OF PERSONS TO CENTERS**

Clause 59 is amended-

- (a) By substituting in the head note with the words “Committal of persons to facility for treatment and rehabilitation”;
- (b) In sub clause (1), by deleting the words “and that he or she is in possession of a narcotic drug or psychotropic substance only for his or her personal consumption
- (c) By inserting immediately after sub clause (1), the following

“Notwithstanding subsection (1), a medical practitioner or parent or guardian of a person who is satisfied that that person is addicted to a narcotic drug or psychotropic substance may refer the person to a facility for treatment and rehabilitation of persons with substance use disorder.”

“A court, parent or guardian shall not order or refer a person to a facility for treatment and rehabilitation of persons without the medical opinion of a medical

*Swati*

*NO*

*Dr. N. S. ...*

*...*

*...*

practitioner confirming that a person is addicted to a narcotic drug or psychotropic substance.”

(d) By inserting immediately after sub clause (2)(b)(vi), the following “agriculture”

(e) By inserting immediately after sub clause (2)(f), the following “a consultant in psychiatry and mental health”

**Justification**

- i. *To delete redundant words and ensure that only addicts are referred for rehabilitation.*
- ii. *To enable a medial practitioner, parent or guardian to refer a person addicted to narcotic drug or psychotropic substance for treatment and rehabilitation.*

**CLAUSE 68 ESTABLISHMENT OF NATIONAL COORDINATION COMMITTEE FOR DRUG CONTROL**

Clause 68 is amended-

(a) substituting for clause (1), for the following-

“There is established a Committee to be known as the National Co-ordination Committee for Control of Narcotic Drugs, Psychotropic substances and other substances.”

(b) in sub clause (2)-

(i) in paragraph (a), by inserting immediately after the word “Ministry” words “of Internal Affairs”;

(ii) by inserting immediately after paragraph (f), the following-  
“a consultant in Psychiatry and Mental Health;  
a senior agricultural research officer”.

**Justification**

- i. *A committee established under this clause is for purposes of controlling the use of narcotic drugs, psychotropic substances and other substances.*
- ii. *The Ministry coordinating the committee is the Ministry of Internal Affairs.*
- iii. *There is need to include in the committee a person knowledgeable about psychoactive issues and research about agricultural products produced from the prohibited trees.*

N.T.L.A

**CLAUSE 69 FUNCTIONS OF THE COMMITTEE**

Clause 69 is amended in sub clause (1), by substituting for the words "drug abuse and trafficking", the words "narcotic drugs and psychotropic substances"

**Justification**

- i. *The mandate of the committee is limited to the control of narcotic drugs, psychotropic substances and other related substances not all drugs.*

**CLAUSE 72 ESTABLISHMENT OF NATIONAL FUND FOR DRUG CONTROL**

Clause 72 is amended in sub clause (1), by substituting for words "drug control" the words "control of narcotic drugs and psychotropic substances"

**Justification**

- i. *The mandate of the committee is limited to the control of narcotic drugs, psychotropic substances and other related substances not all drugs.*

**CLAUSE 77 POWER TO QUESTION AND REQUEST PRODUCTION OF DOCUMENTS**

Clause 77 is amended by substituting for words "police officer" wherever it appears in that clause with words "police officer at the rank of Inspector or a person authorised"

**Justification**

- i. *The police officer at the rank of Inspector is an authorised officer who can search at any time as provided for by Police Act and a person authorised is the person officially recognized by this Act.*

*Swati*

*[Signature]*

*[Handwritten notes and signatures on the right margin]*

**CLAUSE 79 INSPECTION**

Clause 79 is amended by substituting for words "any police officer" wherever it appears in that clause with words "police officer at the rank of Inspector"

**Justification**

- i. *The police officer at the rank of Inspector is an authorised officer who can search at any time as provided for by Police Act*

*Ms - m*

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**CLAUSE 80 POWER TO SEARCH PERSONS, VEHICLES**

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*[Handwritten notes and signatures at the bottom center]*



Clause 80 is amended by substituting for words “any police officer” the words, “police officer with a search warrant”

**Justification**

- i. To clarify who should conduct a search to a person, vehicle, premises as provided in clause 81(1).

**CLAUSE 81 POWER TO PREMISES**

Clause 81 is amended in sub clause (3) by deleting paragraph (a) and (b)

**Justification**

- i. Consequential amendments having deleted clauses 27 and 37

**CLAUSE 90 REGULATIONS**

Clause 90 is amended in sub clause (2) by inserting the following-

- (a) Quality and quantity of narcotic drug or psychotropic substance an authorised person may be in possession with;
- (b) The terms, conditions and durations of the licence issued under this act;
- (c) Class of drugs to be managed by the treatment and rehabilitation centers
- (d) Personnel and standards to be observed by the treatment and rehabilitation centers.
- (e) Fees payable under this Act”

**Justifications**

- i. The minister responsible needs to have controls and measures to protect members of Ugandan society from the dangers of easy access of narcotic drugs and psychotropic substances.

**INSERT A NEW CLAUSE.**

Insert a new clause after Clause 98, the following-

“Repeal of Narcotic Drugs and Psychotropic Substances Act, 2016.

- (1) The Narcotic Drugs and Psychotropic Substances Act, 2016 is repealed;
- (2) The Statutory Instrument made under the Act repealed under this section which is in force immediately before the commencement of this Act shall remain in force, so far as it is not inconsistent with the provisions of this Act until it is revoked by regulations made under this Act;”

“Saving Provision.

A liscence issued under the Narcotic Drugs and Psychotropic Substances Act, 2016 which is in force immediately before the commencement of this Act-

- (a) shall have effect from the commencement of this Act as if <sup>it was</sup> granted under this Act; and
- (b) in the case of a liscence for a specified period, subject to this Act, shall have effect for the remainder of the period which falls under the commencement of this Act.

Justification

- (a) To provide for the Repeal of the Narcotic Drugs and Psychotropic Substances Act, 2016.
- (b) To give effect the Statutory Instruments under the repealed Act.
- (c) To give effect the licences issued under the repealed Act

**10 APPENDICES**

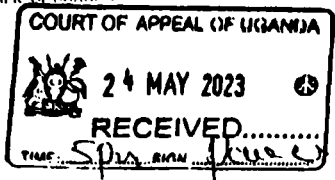
**Notice of Appeal against Constitutional Petition no. 1 of 2017, Wakiso Miraa Growers and Dealers Association Limited V the Attorney General of Uganda**

Telegrams  
Direct Lines  
MINISTER'S OFFICE  
ATTORNEY GENERAL'S OFFICE  
SECRETARY GENERAL'S OFFICE  
UNION SECRETARY'S OFFICE  
GENERAL LINES  
Fax  
In any correspondence on this subject please quote No. CP/01/2017

"ADMINISTER"  
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011-11401  
011-11201  
011-11401  
011-11401  
011-11401

THE REPUBLIC OF UGANDA

MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS  
P.O. BOX 7181,  
KAMPALA, UGANDA



21<sup>st</sup> May 2022

The Registrar,  
Court of Appeal  
Courts of Judicature  
P.O. Box 7085,  
Kampala-Uganda.

**RE: CONSTITUTIONAL PETITION NO. 1 OF 2017; WAKISO MIRAA GROWERS AND DEALERS ASSOCIATION LIMITED V THE ATTORNEY GENERAL OF UGANDA.**

Reference is made to the captioned matter.

The Attorney General is dissatisfied with the ruling and orders in the captioned matter by the Constitutional Court presided by Hon. Mr. Justice Richard Buteera-DCJ, Hon. Mr. Justice Stephen Musota-JCC, Hon. Mr. Justice Muzamiru M. Kibecedi-JCC, Hon. Lady Justice Irene Mulyagonja-JCC and Hon. Lady Justice Monica K. Mugenyi, JCC and issued on 5<sup>th</sup> May 2023. The Attorney General is desirous of appealing against the said Judgment to the Supreme Court.

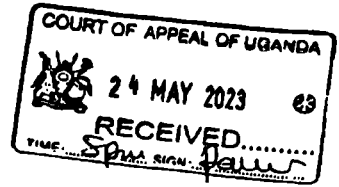
The purpose of this letter is to request you to provide a certified copy of the ruling and record of proceedings in *Constitutional Petition No. 1 of 2017; Wakiso Miraa Growers and Dealers Association Limited v The Attorney General* to facilitate the conduct of the Appeal by the Attorney General.

Yours faithfully,  
  
Franklin Uwizera  
FOR: SOLICITOR GENERAL

CC: M/S Centre for Legal Aid  
M/S Maxim Advocates



PRN: 22 300143 15596



THE REPUBLIC OF UGANDA  
IN THE CONSTITUTIONAL COURT OF UGANDA HOLDEN AT KAMPALA  
CONSTITUTIONAL PETITION NO.1 OF 2017

WAKISO MIIRA GROWERS AND DEALERS' ASSOCIATION  
LIMITED =====PETITIONER

VERSUS

THE ATTORNEY GENERAL =====RESPONDENT

NOTICE OF APPEAL

TAKE NOTICE that the Attorney General, being dissatisfied with the ruling/Orders of the Constitutional Court (*Coram: Richard Buteera-DCJ, Stephen Musota, Muzamiru M. Kibeedi, Irene Mulyagonja & Monica K. Mugenyi, JCC*) dated May 5<sup>th</sup> 2023, intends to appeal to the Supreme Court against the Judgment.

The address of service of the intended Appellant is the Attorney General's Chambers, Directorate of Civil Litigation, 1<sup>st</sup> Floor, Baumann House, Plot 7, Parliament Avenue P.O. Box 7183, Kampala.

It is intended to serve copies of this Notice on M/S Centre for Legal Aid 2<sup>nd</sup> Floor, Teacher's House, Plot 28/30 Bombo Road, P.O. Box 29285, Kampala Uganda

Dated at Kampala this 24<sup>th</sup> day of May 2023

*[Handwritten signature]*

COUNSEL FOR THE RESPONDENT/APPELLANT

LODGED in the Court of Appeal/ Constitutional Court Registry at Kampala on the .....day of ..... 2023.

REGISTRAR



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Clarification on the Notice of Appeal against Constitutional Petition no. 1 of 2017, Wakiso Miraa Growers and Dealers Association Limited V the Attorney General of Uganda

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WEBSITE: www.justice.go.ug  
In any correspondence on this subject  
please quote CS/209/2020



ATTORNEY GENERAL'S CHAMBERS  
P.O. BOX 7183,  
Kampala, Uganda

THE REPUBLIC OF UGANDA

4<sup>th</sup> July 2023

The Clerk to Parliament,  
The Parliament of Uganda  
KAMPALA

CLARIFICATION ON THE NOTICE OF APPEAL AGAINST THE CONSTITUTIONAL PETITION NO. 1 OF 2017; WAKISO MIRAA GROWERS AND DEALERS ASSOCIATION LIMITED V THE ATTORNEY GENERAL OF UGANDA

Reference is made to the captioned matter and to your letter dated 4<sup>th</sup> July 2023 Ref. AB: 287/481/01 over the same subject.

Please note that a notice of appeal against the decision of the Constitutional Court in the captioned Constitutional Petition was lodged in the Court of Appeal on 24<sup>th</sup> May 2023, alongside a letter requesting for the record of proceedings. Please further note that the Attorney General's Chambers have not yet lodged a memorandum and record of Appeal in the Supreme Court as the record of proceedings has not yet been availed by the Court of Appeal.

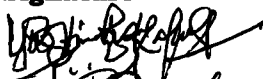

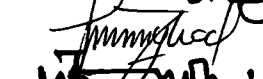
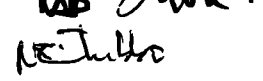

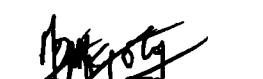
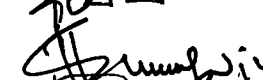
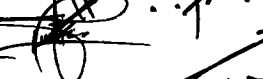


















In any case, the filing of a Notice of Appeal cannot be a bar to Parliament exercising its legislative function.

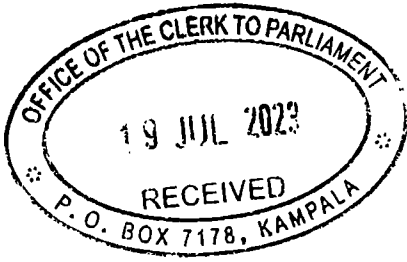
Therefore, we advise that you may proceed to consider the bill.

  
Kafuuzi Jackson Karugaba (MP)  
DEPUTY ATTORNEY GENERAL

cc Hon. Attorney General  
The Solicitor General  
The Deputy Solicitor General

**MEMBERS OF THE COMMITTEE ON DEFENCE AND INTERNAL  
AFFAIRS, 3<sup>RD</sup> SESSION, 11<sup>TH</sup> PARLIAMENT**

No	Name	Constituency	Signature
1	Hon. Wilson Kajwengye-C/P	Nyabushozi	
2	Hon. Ngompek Linos-D/CP	Kibanda North	
3	Hon. Lubega Bashir Sempa	Mubende Municipality	
4	Hon. Wakooli Godfrey	Buiiru County	
5	Hon. Okeyoh Peter	Bukooli	
6	Hon. Nakwang Christine Tubo	DWR-Kaabong	
7	Hon. Opolot Simon Peter Okwalinga	Kanyum	
8	Hon. Ssekikubo Theodore	Lwemiyanga	
9	Hon. Kyoto Ibrahim Mululi	Budiope West	
10	Hon. Kauma Sauda	DWR-Iganga	
11	Hon. Niyonsaba Alex	Bufumbira South	
12	Hon. Mugabe Donozio Kahonda	Ruhinda South	
13	Hon. Ochero Jimbrick Noman	Labwor	
14	Hon. Kintu Alex Brandon	Kagoma North	
15	Hon. Lokii Peter Abrahams	Jie County	
16	Hon. Nyamutoro Phiona	National Female Youth	
17	Hon. Ssebikaali Yoweri	Ntwetwe	
18	Hon. Katabaazi Francis K	Kalungu East	
19	Hon. Kiwanuka Abdallah	Mukono County North	
20	Hon. Nambooze Betty Bakireke	Mukono Municipality	
21	Hon. Namanya Naboth	Rubabo	
22	Hon. Okot Moses Junior Biteke	Kioga	
23	Hon. Olanya Gilbert	Kilak South	
24	Hon. Odur Jonathan	Erute South	
25	Hon. Lamwaka Margaret	Chua East-Kitgum	
26	Hon. Komol Emmanuel	Dodoch East County-Kaabong	
27	Hon. Arinaitwe Rauben	Isingiro West-Isingiro	
28	Hon. Museveni William	Buwekula South-Mubende	
29	Hon. Lt. Gen. Elwelu Peter	UPDF	



**OFFICE OF THE  
LEADER OF THE OPPOSITION**

**MINORITY REPORT ON THE REPORT OF THE COMMITTEE ON DEFENCE  
AND INTERNAL AFFAIRS ON THE NARCOTIC DRUGS AND  
PSYCHOTROPIC SUBSTANCES (CONTROL) BILL, 2023**

**(UNDER RULE 205 OF THE RULES OF PROCEDURE OF PARLIAMENT)**

**JULY 2023**

## 1.0 INTRODUCTION

The Committee on Defence and Internal Affairs scrutinised the Narcotic Drugs and Psychotropic Substances (Control) Bill, 2023 following its first reading in accordance with Rule 129(1) of the Rules of Procedure of Parliament.

## 1.1 BACKGROUND

The **Narcotic Drugs and Psychotropic Substances (Control) Act, 2015** was annulled by the Constitutional Court upon the petition of **Wakiso Miira Growers and Dealers Association Vs Attorney General, Const. Petition No. 1 of 2017** for lack of quorum of Parliament while passing the Bill into law.

On 23<sup>rd</sup> May, 2023, Government tabled the **Narcotic Drugs and Psychotropic Substances (Control) Bill, 2023** before it was referred to the Committee on defence and Internal Affairs for scrutiny.

**The Bill seeks to-**

- a. provide for and criminalise drug related offences in Uganda;**
- b. make provision for the generation of resources for enforcement agencies;**
- c. provide for deterrence against drug abuse; and**
- d. put in place a mechanism for rehabilitation of drug addicts, among others.**

Following Committee public hearings and deliberations, a Report was made upon which the following dissent points are made-

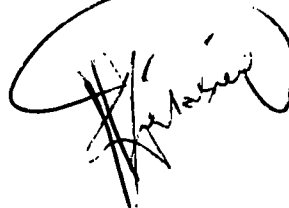
## 2.0 POINTS OF DISSENT

The Minority Report strongly disagrees with the majority's report on the following grounds -

- 1. Abuse of the sub-judice rule contrary to Rule 73 of the Rules of Procedure;*
- 2. Classification of Catha edulis as a prohibited plants.*

## 2.1 Sub-judice Rule

Constitutional Court annulled the Narcotic Drugs and Psychotropic Substances Act, 2015. The Attorney General, being dissatisfied with the decision of the Constitutional Court, lodged a notice of intention to appeal. The Notice of Appeal is attached on the Report. The Committee embarked on considering the Bill. On the 04<sup>th</sup> day of July, 2023, the Committee wrote to the Attorney General seeking for clarification on the said Notice of Appeal to which the Deputy Attorney General replied stating that; **'...the Attorney General's Chambers have not yet lodged a memorandum and record of Appeal in the**





**Supreme Court as the Record of Proceedings has not yet been availed by the Court of appeal...**' the Attorney General went on to note that **'the filing of a Notice of Appeal cannot be a bar to Parliament exercising its legislative function'**.

Under Rule 73 of the Rules of Procedure of Parliament, a matter shall be considered sub-judice if it refers to active criminal or civil proceedings. Under 73(3)(d), active civil proceedings are deemed to be active from the time when they are commenced by application for leave to appeal or by notice of appeal until the proceedings are ended by judgement or withdraw.

Under the Rules of Procedure, only the Speaker, as defined, has powers to rule on whether a matter is sub-judice or not, and this ruling is made before debate or investigations can continue.

It is our considered view that this Bill is sub-judice since the AG has not formally withdrawn the Notice of Appeal as stipulated, and neither has the Speaker made a ruling to the effect.

Rt. Hon. Speaker and Colleagues, we are considering this Bill following the nullification of the Narcotic Drugs and Psychotropic Substances Act, 2015 on procedural impropriety. The Act was passed without quorum which is a technical matter. Parliament again risks another Constitutional Petition that would most likely lead to annulment.

### **Recommendations**

- i. We recommend that the AG formally withdraws the said Notice of Appeal before debate can ensue on this Bill, moreover a Government sponsored Bill.
- ii. We further recommend that, moving forward, the Principal Adviser of Government – the AG, as mandated under Article 119 of the Constitution of Uganda diligently advises Government, including this House. We, however, note that Parliament is not bound to take erroneous advice from the AG. In **Hon. Ssekikubo Theodore & 4Others V AG, Constitutional Petition No. 01 of 2015**, the Supreme Court held that Parliament is an independent arm of Government and in its performance of her functions, Parliament cannot and should not be bound by erroneous opinion or advice of the Attorney General, a member of the Executive.

## 1.2 Classification of *Catha edulis* as a prohibited plant under the Fourth Schedule of the Bill.

The main Committee Report recommends that *Catha Edulis* is maintained as a "prohibited plant". A prohibited plant is defined as a plant specified in the Fourth Schedule of the Bill. By implication, the whole plant is forbidden from being cultivated, consumed, traded and dealt with in whatsoever.

The Committee observed that *Catha edulis*, commonly known as 'khat' or 'Miraa' or 'Mairungi' is currently cultivated extensively in Yemen, Ethiopia, Kenya, Northern Madagascar, South Africa, Uganda, among other countries, majorly for its commercial benefit. Khat cultivation in Ethiopia and Kenya dates back at least 150years. The Khat plant (*Catha edulis*) grows widely, either wildly or is cultivated in highland regions throughout Africa.

In Uganda it is grown by 7,997,100 farmers<sup>1</sup> distributed across the country in Wakiso, Buikwe, Butambala, Mpigi, Kampala, Bundibugyo, Kasese, Arua, Busia, Mbale, Iganga, Mubende, Mityana, Mukono, Masaka, Kalungu, Lwengo, Lira, Maracha districts among others.

The leaves and stems of *Catha edulis* are consumed by chewing. The plant has developed an attraction as a cash crop that requires lesser labour input on a small scale of land.

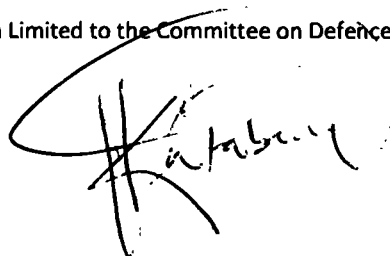
The Committee learnt that in countries where Khat is grown, it has increasingly contributed to the economic prosperity of the communities. The Minister for Internal Affairs ably categorised the economic value of Khat. Hon. Kahinda Otafiire informed the Committee that Kenya itself gains US \$120Million from exporting Khat to Somalia alone.

The Government Analytical Laboratory, and the Ministry of Internal Affairs informed the Committee that Khat leaves and shoot are currently not scheduled or controlled under international Conventions based on the recommendation of World Health Organisation Expert Committee on Drug Dependence (ECDD). The ECDD determines that the potential for abuse and dependence on Khat is low due to the low potency of Cathinone.

The Committee was informed by Butabika National Referral Mental Hospital that Khat contains stimulant compounds that produce Amphetamine-like (but not necessarily Amphetamine) effects and euphoria. The Committee was further informed that the severe negative effects of Khat are only realised after long addiction to chewing the leaves.

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<sup>1</sup> Presentation of Wakiso Miraa Growers and dealers' Association Limited to the Committee on Defence and Internal Affairs, 12<sup>th</sup> July, 2023.



Indeed, from the study conducted at Butabika Hospital in 2022, of the 7,035 total admissions, 44.7% were on alcohol use disorders, 31.4% on cannabis and 2.1% on other stimulants like Khat and others. This means that Khat is among the least worries and should not be categorised as a psychotropic substance per se.

The World Health Organisation Expert Committee on Drug Dependence thus recommends that national Educational Campaigns be adopted to discourage use of Khat that leads to adverse consequences. This is particularly how we currently regulate other stimulants like alcohol, tobacco and others in Uganda.

Whereas, like anything else, Khat has negative effect, studies and research are scattered, Government Analytical Laboratory, Ministry of Internal Affairs and most other witnesses before the Committee informed the Committee that regulation of Khat industry requires **striking a balance between public health, social considerations, economic opportunities, and effective regulation to ensure the responsible use and management of Khat.**

Despite the foregoing, the main Committee Report classifies Catha edulis as a prohibited plant under the Fourth Schedule of the Bill.

### **Observations**

We observe that the classification of Khat as a prohibited plant means outright banning of the cultivation, consumption, and transaction. Under Clause 2 of the Bill, 'illicit trafficking' is defined to, among others include Khat.

Prohibiting Khat will disadvantage the millions of growers, and others who transact in the same as well as their families that draw a source of livelihood from the same. With hardly any other tangible source of livelihood carried out on a small piece of land, and with ready market like Khat, the immediate prohibition of Catha edulis will breed social problems like accelerated theft and robberies, school drop-outs, family break-ups, hunger, desperation and unrest.

Further, regulating Catha edulis under this Bill means that it is regulated for medicinal purposes which is the only exception for prohibited plants. Whereas studies and research findings presented to the Committee showed that Khat has numerous nutritional advantages and mineral components, studies as to its medicinal use is not extensive. It is therefore better off a commercial or cash crop than a medicinal plant. Secondly, offences created under the bill and penalties prescribed thereto are too severe and intended to curb real narcotic drug use like hemp, heroine, meth among others. These are far much potent and highly psychoactive, addictive, and dangerous drugs that are dealt in by

the world's wealthiest cartels. On the other hand, Khat is grown by common people who only are searching for a source of livelihood. Therefore, regulating Khat under this Bill is impracticable. There is need to free-up and liberalise cultivation of Khat for the millions of Ugandans instead of creating monopolistic tendencies of a few rich people who afford billions of shillings for a license.

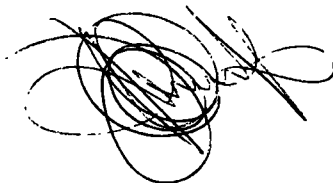
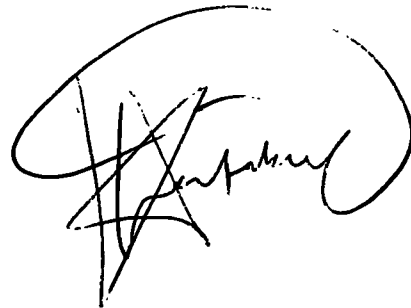
Khat can be a source of tax revenue and foreign exchange for the country. Uganda could greatly benefit by tapping the socio-economic and commercial benefits that accrue from the cultivation, consumption, and trading in khat. In Kenya, Ethiopia and Somalia, Catha edulis is a major source of livelihood for farmers and tax revenue and forex.,

We also observe that the potential for abuse, addiction, and dependency on Khat is low owing to its low potency on Cathinone and Cathine.

In Catha edulis is regulated under a distinct Act of Parliament, not under a law on narcotics like the current Bill.

We therefore recommend that –

- I. Khat be declassified as a Prohibited Plant;
- II. That the cultivation, consumption, and transaction in Catha edulis be regulated under another policy and legal regime, but not as a Psychotropic Substance under the current Bill. Khat should be regulated the same way Uganda regulates Tobacco or alcohol.
- III. That the said Policy and legal regime ought to treat this as a public health concern, emphasizing wide-spread campaigns and sensitisation of the negative effects of Khat like long-run dependency and addiction that may cause other medical conditions;
- IV. That Government puts in place measures to enhance trading in and exportation of Catha edulis to the glaring international market in order to enhance income and tax revenue generation as well as augmenting foreign exchange earnings of the country.

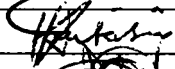
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**CONCLUSION**

It is our considered position, based on evidence examined by the Committee that there is no medical or scientific justification to conclusively classify *Catha edulis* as a prohibited plant to be outrightly banned in Uganda. It cannot even be regulated under this Bill for medicinal purposes, the only exception allowed. Additionally, its low potency does not lead to quick addiction and other adverse medical and mental effects. It is therefore devoid of moral and medical justification for its banning. Instead, we call upon this House to consider the commercial benefit *Khat* has and devise strategic means of enhancing household income and tax revenue from the same. Uganda, ought to regulate *Catha edulis* under a separate legal regime instead of the current Bill.

**We beg.**

Signed by

S/N	Name	Signature
1	Katobangi Francis Kuyale	
2	Rwizambwa Pauline	