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MEMORANDUM TO PARLIAMENT

PROTECTION OF SOVEREIGNTY BILL

2026

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★ 24 APR 2026 ★
IN PRMS

TO:

The Committee on Defence and Internal Affairs, and

The Committee on Legal and Parliamentary Affairs

FROM:

The Center for Constitutional Governance (CCG) and Associates

DATE: 24 April 2026

CENTRE FOR CONSTITUTIONAL GOVERNANCE (CCG)
24 APR 2026
P O BOX 72340, KAMPALA - UGANDA

I. EXECUTIVE SUMMARY

1. We contend that the Protection of Sovereignty Bill, 2026 ("the Bill") is unconstitutional and address the grounds upon which the Bill may be challenged.
2. The Bill completed First Reading on 15 April 2026 and has been committed to a Sessional Committee of Parliament. It was introduced by the Minister of Internal Affairs and purports to protect Uganda's sovereignty by establishing a registration, regulation, and criminal enforcement regime directed at persons characterised as "agents of foreigners."
3. We recommend that the Committees agree the following provisions should be dropped as likely unconstitutional: Clause 1 definitions and Clauses 5, 6, 7, 8, 10, 11, 12, 13, 26 (vagueness; Article 28) ; Clauses 2(2)(f), 2(2)(g), 7(4), 8(3), 13, 14 (freedom of expression, association, participation; Articles 29, 38) ; Clause 20 (non-derogable fair hearing; Article 44(c)); the ministerial permission regime in Clauses 14, 17, 18, 20, 22, 25 and designation powers in Clauses 1(f), 2(2)(i) (Article 1, separation of powers, Bank of Uganda independence under Article 162) ; Clause 1(b) (citizenship and equality; Articles 10, 21); and the penalties regime throughout (disproportionate; Article 43) . Parliament should reject the Bill in its entirety and, if necessary, introduce a narrower, disclosure-based transparency regime consistent with the Constitution.
4. We assess the cumulative constitutional vulnerability of the Bill to be very high. Several of the grounds identified below, particularly those relating to vagueness, freedom of expression, and the non-derogable right to a fair hearing, are likely to succeed on the basis of existing Constitutional Court authority. Others, including the separation of powers and international law grounds, are strongly arguable. The analysis that follows sets out each ground in detail.

II. GROUNDS FOR CONSTITUTIONAL CHALLENGE

A. Violation of Article 1: Sovereignty of the People

(i) The governing principle

5. Article 1 of the Constitution is the foundational provision of Uganda's constitutional order. Article 1(1) provides that "[a]ll power belongs to the people who shall exercise their sovereignty in accordance with this Constitution." Article 1(2) declares that "[a]ll authority in the State emanates from the people of Uganda; and the people shall be governed through their will and consent." Article 1(4) provides that the people shall express their will and consent "through regular, free and fair elections of their representatives or through referenda." These provisions establish that sovereignty is not an abstraction to be defined by the executive; it is a concrete constitutional right vested in the people themselves and exercisable only in accordance with the Constitution.

(ii) Application to the Bill

6. The Bill's long title and Clause 5 both purport to give effect to Article 1. Clause 5(1) expressly states that "the people of the Republic of Uganda shall have sovereignty over the social, economic and political policies affecting the governance of the Republic of Uganda." The irony is that the Bill's operative provisions achieve precisely the opposite. Rather than protecting the people's sovereignty, the Bill transfers the practical exercise of that sovereignty to the Minister of Internal Affairs.
7. The mechanism of this transfer is as follows. First, the Minister determines who qualifies as a "foreigner," and by extension who qualifies as an "agent of a foreigner," including by declaring "any person, institution or body" to be a foreigner by statutory instrument (Clause 1(f)). Second, the Minister determines which activities fall within the Act by statutory instrument (Clause 2(2)(i)). Third, the Minister determines who may register and on what conditions (Clauses 17-18). Fourth, the Minister determines whose funding is approved (Clause 22). Fifth, the Minister may suspend or revoke registration at any time without prior notice (Clause 20). The cumulative effect is that the Minister, a single appointed official, becomes the gatekeeper of civic participation, determining which citizens may engage in policy advocacy, receive funding, or operate organisations with any foreign connection. This is not the protection of popular sovereignty; it is its displacement.
8. Clause 2(2)(g) crystallises the contradiction most starkly. It criminalises "influenc[ing] the public to oppose the policy of Government." But Article 1 requires that governance be through "the will and consent" of the people. The will of the people is formed through public debate, including debate that opposes government policy. A law that criminalises the formation of the people's will on political questions does not protect sovereignty; it extinguishes the very mechanism by which sovereignty is exercised. The Constitutional Court recognised this in *Charles Onyango-Obbo v Attorney General*, (Constitutional Petition No. 15 of 1997), holding that the free flow of information and ideas is essential to the democratic process by which the people exercise their sovereignty.
9. Clause 11 similarly purports to protect the electoral expression of the people's will under Article 1(3), but the Bill's definition of "agent of a foreigner" is so broad that it would capture domestic election observers, civic education organisations, and media outlets, all of whom are essential to the free and fair elections that Article 1(4) requires.

(iii) Recommendation

10. We respectfully recommend that the Committees agree that Clause 5, Clause 2(2)(g), Clause 2(2)(i), Clause 1(f), and the ministerial powers in Clauses 17, 18, 20, and 22 likely to be found unconstitutional as incompatible with Article 1 of the Constitution, and that these provisions should therefore be dropped. The argument that the Bill subverts the very constitutional principle it purports to protect is both textually and structurally compelling. The concentration of discretionary power in the Minister is fundamentally incompatible with Article 1's vesting of sovereignty in the people.

B. Inconsistency with the National Objectives and Directive Principles of State Policy

(i) The governing principle

11. The National Objectives and Directive Principles of State Policy, set out in the preamble to the Constitution, are given constitutional force by Article 8A, which requires all organs and agencies of the State to apply them in making and implementing policy and law. While the Constitutional Court has held that the National Objectives are not independently enforceable as standalone rights, they are binding interpretive guides that inform the scope and application of fundamental rights provisions. They establish the normative framework within which all legislation must operate.

(ii) Application to the Bill

12. Several National Objectives are in direct tension with the Bill's provisions:
13. **Objective I (democratic principles)** requires the State to be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance. The Bill's registration regime, funding restrictions, and criminalisation of policy advocacy directly undermine active citizen participation. By requiring ministerial permission before citizens may engage in activities with any foreign connection, a category that, on the Bill's definitions, encompasses almost all organised civic activity, the Bill discourages rather than encourages participation.
14. **Objective II (fundamental and other human rights and freedoms)** provides that the State shall be based on fundamental and other human rights and freedoms and that the rights and freedoms of the individual and groups enshrined in Chapter Four of the Constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons. The Bill's systematic infringement of Articles 21, 26, 27, 28, 29, 38, and 44(c), as detailed in this memorandum, is plainly inconsistent with this Objective.
15. **Objective V(ii) (access to information and independence of NGOs)** provides that the State shall guarantee and respect the independence of non-governmental organisations which protect and promote human rights. Clause 14's mandatory registration requirement, Clause 20's power of revocation without hearing, and the sweeping definition of "agent of a foreigner" all undermine the independence of NGOs and civil society organisations.
16. **Objective XI (role of the people in development)** requires the State to take all necessary steps to involve the people in the formulation and implementation of development plans and programmes which affect them. The Bill criminalises precisely this form of participation where it involves any foreign connection, which, in a country that is a significant recipient of development assistance, encompasses most development planning.
17. **Objective XXVI (accountability)** requires that all public offices shall be held in trust for the people, that persons holding public office shall be answerable for actions and omissions, and that all lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices. The Bill's concentration of unchecked discretionary power in the Minister, with no independent oversight,

no parliamentary control, and no requirement to give reasons (beyond refusal of registration under Clause 18(2)), is antithetical to this Objective.

(iii) Recommendation

18. We respectfully recommend that the Committees note the Bill's fundamental inconsistency with National Objectives I, II, V(ii), XI, and XXVI. Although the National Objectives are not independently enforceable, Article 8A gives them constitutional weight as binding interpretive principles. A court considering the proportionality and necessity of the Bill's restrictions under Article 43 would be required to have regard to these Objectives. Their cumulative effect is to demonstrate that the Bill is fundamentally inconsistent with the constitutional vision of an active, participatory, and accountable democracy. The Bill should therefore be dropped in its entirety.

C. Constitutionality of the Ministerial Permission Regime

(i) The governing principle

19. The Constitution guarantees fundamental rights to all persons (Chapter Four). Those rights are not privileges granted at the discretion of the executive; they are constitutional entitlements that may be limited only in accordance with Article 43, which requires that any limitation be "acceptable and demonstrably justifiable in a free and democratic society." The Constitutional Court in *Karamagi* held that a limitation must be prescribed by law with sufficient precision, must pursue a legitimate aim, and must be proportionate to that aim. A regime that makes the exercise of constitutional rights contingent on executive permission is the most extreme form of limitation, a prior restraint, and attracts the highest level of constitutional scrutiny.

(ii) Application to the Bill

20. The Bill establishes a comprehensive ministerial permission regime under which the exercise of multiple constitutional rights is made contingent on the discretion of the Minister of Internal Affairs. The following rights are affected:
21. **Freedom of expression (Article 29(1)(a))**: The Bill requires registration before a person may act as an "agent of a foreigner" (Clause 14). Given the breadth of that definition, this operates as a licensing regime for expression. A person who wishes to publish a report, make a speech, or conduct research that is "directly or indirectly" financed by a foreigner must first obtain ministerial registration. Unregistered expression is criminalised (Clause 14(2)), carrying a maximum sentence of ten years' imprisonment. This is a classic prior restraint: the right to speak is made contingent on executive permission.
22. **Freedom of association (Article 29(1)(e))**: Any organisation with foreign funding, foreign members, or foreign connections must register as an "agent of a foreigner." The Minister may refuse registration (Clause 18), impose conditions (Clause 17(2)), or revoke registration at any time (Clause 20). The right to associate is thereby made contingent on ministerial approval, and associations that fail to obtain or that lose approval are criminalised.
23. **Right to participate in the affairs of government (Article 38)**: Clause 2(2)(f) applies the Act to anyone who "influences the development of the policy of

Government," and Clause 7(3) requires that any person wishing to influence or propose amendments to government policy must "submit his or her proposals to the relevant ministry, department or agency of Government for consideration." This transforms the constitutional right of participation into a privilege exercisable only through approved government channels and only with ministerial registration.

24. **Right to property (Article 26)**: Clause 22 prohibits the receipt of foreign funding above the threshold without the Minister's "written approval." Clause 25 prohibits banks from paying out funds to an agent of a foreigner without proof of ministerial authorisation. The right to receive and use property is thus made contingent on ministerial permission.

25. The constitutional objection is not merely that these rights are limited (Article 43 permits proportionate limitations) but that they are made subject to a discretionary permission regime that lacks the safeguards necessary to prevent arbitrary interference. The Minister's discretion is unguided: there are no published criteria for granting or refusing registration beyond "fit and proper person," which is itself undefined (Clause 18(1)); no prescribed timeline for decision-making; no independent review body; and, critically, no requirement that the Minister act proportionately or consider the applicant's fundamental rights before making a decision. The only procedural safeguard is the right to seek judicial review after refusal (Clause 18(3)), which is inadequate protection against a system that criminalises the exercise of rights pending determination.

26. The regime is also constitutionally defective because it criminalises the exercise of rights during the period before permission is granted. A person who applies for registration but whose application has not yet been determined is in criminal breach of Clause 14(2) if they continue to engage in any activity captured by the definition of "agent of a foreigner." The constitutional right exists from the moment the Constitution confers it; it cannot be suspended pending executive approval.

27. The proportionality analysis is fatal. Even if the protection of sovereignty is accepted as a legitimate aim, the ministerial permission regime fails the necessity and proportionality limbs of the Article 43 test. Less restrictive means are readily available: a disclosure-based transparency regime (as distinct from a permission-based regime) would achieve the stated objective of transparency without conditioning the exercise of constitutional rights on executive approval. Uganda's existing NGO Act already provides a registration framework with procedural safeguards, including thirty days' notice before adverse action; the Bill's regime is more restrictive, less transparent, and less accountable than the framework it purports to supplement.

(iii) Recommendation

28. We respectfully recommend that the Committees agree that Clauses 14, 17, 18, 20, 22, and 25, which together constitute the ministerial permission regime, are likely to be found unconstitutional and that these provisions should therefore be dropped. The constitutional impermissibility of making fundamental rights contingent on executive permission is well established in comparative constitutional law. The South African Constitutional Court in *Minister of Home Affairs v National Institute for Crime Prevention and the Re-*

Integration of Offenders (NICRO) [2004] held that a law that makes the exercise of a constitutional right dependent on administrative approval constitutes a limitation that must satisfy strict proportionality scrutiny. The Indian Supreme Court in *K.S. Puttaswamy v Union of India* (2017) similarly held that prior executive approval requirements for the exercise of fundamental rights are the most intrusive form of restriction and require the most compelling justification. Uganda's Constitutional Court has not yet considered this precise question, but its proportionality jurisprudence in *Karamagi* and the absolute terms in which Article 44(c) is framed strongly support the conclusion that a blanket ministerial permission regime for constitutional rights is constitutionally impermissible.

D. Unconstitutional Vagueness and the Rule of Law

(i) The governing principle

29. Article 28(12) of the Constitution provides that no person shall be convicted of a criminal offence unless the offence is defined and the penalty prescribed by law. The rule of law, which underpins the entire constitutional order, demands that criminal prohibitions be defined with sufficient precision to enable a citizen to know in advance what conduct is prohibited. The Constitutional Court has articulated this principle in unequivocal terms. In *Andrew Karamagi v Attorney General*, (Constitutional Petition No. 5 of 2016), the Court held that the "doctrine of vagueness" requires that a law must not be "so devoid of precision in its content that a conviction will automatically flow from the decision to prosecute." The Court further warned that vague laws "encourage arbitrary and discriminatory enforcement because vague laws delegate enforcement and statutory interpretation to individual government officials."
30. This principle was reinforced in *Francis Tumwesige Ateenyi v Attorney General*, (Constitutional Petition No. 36 of 2018), where the Constitutional Court struck down the Penal Code's "rogue and vagabond" provisions as void for vagueness, holding that a criminal offence "must be specifically defined that it should be clear to all what its elements are" and that the elements "should not be ambiguous or vague or too broad as to defy specific definition." Similarly, in *Onyango-Obbo*, the Court struck down the offence of publication of false news, holding that "laws which do not state explicitly and definitely what conduct is punishable are void for vagueness."

(ii) Application to the Bill

31. The Bill's three foundational definitions, "agent of a foreigner," "foreigner," and "disruptive activities," are each afflicted by a degree of vagueness that is, in our view, constitutionally fatal.
32. **"Agent of a foreigner"** (Clause 1) captures any person whose activities are "directly or indirectly supervised, directed, controlled, financed, or subsidised by a foreigner." The word "indirectly" does the most damage: on a plain reading, this definition would capture a Ugandan lawyer retained by a foreign company, a doctor employed by an international NGO, a university lecturer receiving a foreign research grant, a journalist whose media outlet accepts foreign advertising, or an employee of a local company with a foreign

shareholder. There is no threshold of knowledge, no requirement of agency in any meaningful legal sense, and no de minimis exception. Indeed, by receiving grants and loans from foreign entities, the Government of Uganda itself would meet this definition.

33. **"Foreigner"** (Clause 1) includes, at sub-paragraph (b), "a Ugandan citizen residing outside Uganda," and at sub-paragraph (f), allows the Minister to declare "any person, institution or body" to be a foreigner by statutory instrument, without any criteria, without parliamentary approval, and without any right of prior challenge. The latter provision constitutes a complete delegation of the definition of a criminal offence to executive discretion, which is the most constitutionally serious form of the vagueness problem.

34. **"Disruptive activities"** (Clause 1) includes, at sub-paragraph (g), "disrupting or interfering with the lawful activities, business operations, peace or human rights of any person." This is almost impossibly wide: a labour strike disrupts business operations, a peaceful protest disrupts traffic, and a journalist's expose disrupts a company's business.

35. Beyond the definitional provisions, a number of the substantive offences are independently afflicted by vagueness. Clause 5(3) prohibits engaging in "any activity that promotes the interests of a foreigner against the interests of Uganda," but "interests of Uganda" is nowhere defined and no mechanism exists for a citizen to ascertain, in advance, what those interests are. Clause 8(3) prohibits "hindering, frustrating or disrupting the implementation of a Government policy," but "Government policy" is itself undefined and, by its nature, changes over time, making the prohibition a moving target. Clause 13, the "economic sabotage" offence, criminalises "publishing information or participating in any act or activity that weakens or damages the economic system or viability of the country," without requiring intent, without defining "economic viability" or "economic disruption," without addressing causation, and without imposing any de minimis threshold.

36. The interaction of multiple overlapping and vaguely defined offences compounds the problem. A single act, for example the publication of a report critical of government economic policy, could simultaneously fall within Clause 5(3) (promoting foreign interests), Clause 2(2)(g) (influencing the public to oppose government policy), Clause 8(3) (hindering implementation of government policy), and Clause 13 (economic sabotage), each carrying a twenty-year maximum sentence. The Constitutional Court in *Karamagi* condemned precisely this kind of prosecutorial discretion as unconstitutional.

(iii) Recommendation

37. We respectfully recommend that the Committees agree that the definitions in Clause 1 ("agent of a foreigner," "foreigner," and "disruptive activities") and the offence-creating provisions in Clauses 5(3), 8(3), and 13 likely to be found unconstitutional for vagueness, and that these provisions should therefore be dropped. The Constitutional Court has struck down provisions on vagueness grounds in *Karamagi*, *Ateenyi*, and *Onyango-Obbo*, and the Bill's definitions and offences are at least as vague, and in several instances considerably vaguer, than the provisions invalidated in those cases. The additional dimension of executive power to expand definitions by statutory instrument (Clauses 1(f) and 2(2)(i)) makes this ground particularly compelling.

E. Violation of the Right to Freedom of Expression (Article 29)

(i) The governing principle

38. Article 29(1)(a) of the Constitution guarantees every person the right to freedom of speech and expression, which includes freedom of the press and other media. This right is not freely limitable. Article 43 provides the only basis for limitation, and it sets a high bar: any limitation must be "acceptable and demonstrably justifiable in a free and democratic society" and must not go beyond what is necessary. Article 43(2) expressly provides that public interest shall not permit any limitation that is prejudicial to the fundamental rights and freedoms guaranteed by the Constitution.
39. The Constitutional Court in *Karamagi* articulated a three-step test for the validity of any limitation on expression: the restriction must be prescribed by law with sufficient precision; it must be necessary to achieve a legitimate purpose; and it must be demonstrably justified in a free and democratic society. In *Onyango-Obbo*, the Court emphasised that "even stricter standards of permissible statutory vagueness must be applied where freedom of expression is at issue."
40. At the international level, Article 19 of the ICCPR, to which Uganda is a party, permits restrictions on expression only if they are provided by law, necessary, and for the purpose of protecting specific enumerated interests. The UN Human Rights Committee's General Comment No. 34 makes clear that vague references to national security without particularised justification are insufficient, and that a law "may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution." Article 9 of the African Charter similarly requires that any restriction meet the standards of necessity, proportionality, and legality, including that the law be sufficiently clear and precise.

(ii) Application to the Bill

41. Multiple provisions of the Bill restrict constitutionally protected expression. The following are the most significant:
42. **Clause 2(2)(f)** applies the entire regulatory and criminal regime to anyone who "influences the development of the policy of Government." Policy advocacy is among the most classically protected forms of expression in any democratic society; it is the mechanism by which citizens participate in governance. Article 38 of the Constitution specifically provides that every Ugandan has the right to participate in the affairs of government, including by influencing policy. Making this right contingent on registration with a security body and ministerial approval of funding constitutes a prior restraint on expression.
43. **Clause 2(2)(g)** applies the Act to anyone who "influences the public to oppose the policy of Government." This is a direct and egregious attack on freedom of expression. Opposition to government policy is not merely protected expression; it is the very essence of political speech, which the Constitutional Court in *Onyango-Obbo* described as occupying the highest tier of constitutional protection. Parliamentary opposition, civic journalism, social media commentary, and peaceful protest all involve influencing the public to oppose government policy. This provision also conflicts directly with Article

38(2) of the Constitution, which guarantees every Ugandan the right to participate in peaceful activities to influence the policies of government.

44. **Clause 13** criminalises the publication of information that "weakens or damages the economic system or viability of the country." Because the actus reus is publication, this engages freedom of expression directly. The clause does not require that the publication be false, malicious, or intended to cause harm. The provision would capture honest journalism about economic conditions, academic research critical of fiscal policy, investor commentary, and civil society reporting on economic inequality. The ICCPR's General Comment 34 specifically states that "the penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression."

45. **Clause 14** imposes a mandatory registration requirement before any person may act as an "agent of a foreigner." Given the extraordinary breadth of that definition, this is in substance a prior licensing requirement for political speech. General Comment 34 of the ICCPR provides that "general State systems of registration or licensing of journalists are incompatible with" the freedom of expression guarantee.

46. **Clauses 7(4) and 8(3)** criminalise, respectively, "developing policy without Cabinet approval" and "hindering, frustrating or disrupting the implementation of Government policy," thereby prohibiting the publication of alternative policy proposals and public criticism of how government programmes are implemented.

(iii) Recommendation

47. We respectfully recommend that the Committees agree that Clauses 2(2)(f), 2(2)(g), 7(4), 8(3), 13, and 14 are likely to be found unconstitutional as violations of Article 29 (freedom of expression) and Article 38 (right to participate in government), and that these provisions should therefore be dropped. The Constitutional Court has already struck down speech-restricting provisions of comparable or lesser breadth in *Karamagi* and *Onyango-Obbo*. The Bill's provisions are more sweeping than those invalidated in either case. The absence of any intent requirement, the lack of any exemption for journalism, academic research, or humanitarian work, and the severity of the penalties (twenty years) all aggravate the incompatibility. The international law dimension, particularly the ICCPR and the African Charter, reinforces the domestic constitutional case.

F. Violation of the Non-Derogable Right to a Fair Hearing (Article 44(c))

(i) The governing principle

48. Article 44(c) of the Constitution provides that the right to a fair hearing cannot be derogated from under any circumstances, not even in a state of emergency. This is an absolute constitutional guarantee that no legislation may override.

(ii) Application to the Bill

49. Clause 20 empowers the Minister to suspend or revoke a certificate of registration at any time on broadly defined grounds, including that the holder is "no longer a fit and proper person" (undefined) or that the holder's activities "pose a security threat" (also undefined). The Bill provides no requirement for prior notice, no opportunity for the holder to be heard before revocation, and no show-cause procedure. This is a direct violation of the non-derogable right to a fair hearing, which the Constitution places beyond the reach of any legislation. By contrast, the existing NGO Act requires thirty days' notice before any adverse action, a safeguard the Bill removes entirely.

(iii) Recommendation

50. We respectfully recommend that the Committees agree that Clause 20 is likely to be found unconstitutional as a violation of the non-derogable right to a fair hearing under Article 44(c), and that this provision should therefore be dropped. Article 44(c) is an absolute guarantee. There is no scope for justification under Article 43 or otherwise. The absence of any pre-revocation hearing requirement is a straightforward and irremediable breach.

G. Violation of the Right to Privacy (Article 27)

(i) Application to the Bill

51. Article 27 of the Constitution protects the right to privacy, including the right of the person, home, and other property not to be subjected to interference. Clause 28 of the Bill grants inspectors appointed by the Minister the power to enter the premises of any registered agent of a foreigner "at any reasonable time," to request "any information that appears to him or her necessary," with no requirement for a judicial warrant, no prior notice, and no limitation on the scope of information that may be demanded. Refusal to comply carries imprisonment of up to seven years.
52. The registration process under Clauses 15 and 16 further requires disclosure of extraordinarily intrusive information, including the health status, financial records, and political activities of applicants, all of which constitutes "special personal data" under Section 9 of the Data Protection and Privacy Act, 2019, which may not be collected without explicit consent. No consent mechanism is provided. The public inspection provision in Clause 21(2), which makes financial declarations available to any member of the public on payment of a fee, constitutes unlawful disclosure under Section 35 of the Data Protection and Privacy Act.

(ii) Recommendation

53. We respectfully recommend that the Committees agree that Clauses 15, 16, 21(2), and 28 are likely to be found unconstitutional as violations of the right to privacy under Article 27, and that these provisions should therefore be dropped. The warrantless inspection power and the mandatory disclosure of sensitive personal data, combined with the absence of any data protection safeguards, present a strong case for violation of Article 27. The concurrent breach of the Data Protection and Privacy Act strengthens the argument.

H. Violation of the Right to Property (Article 26)

(i) Application to the Bill

54. Article 26 of the Constitution protects against compulsory deprivation of property and requires prior payment of fair and adequate compensation. Clauses 22(3) and 23(2) of the Bill provide for the forfeiture to the State of any money or other assistance received by a person or agent of a foreigner in contravention of the funding restrictions. Although the gazetted version now requires forfeiture to be ordered by the convicting court, no compensation mechanism is provided. Where forfeited funds have been deployed into business assets, this may constitute indirect expropriation, engaging both Article 26 and protections under the Investment Code Act and applicable bilateral investment treaties.

(ii) Recommendation

55. We respectfully recommend that the Committees agree that Clauses 22(3) and 23(2) are likely to be found unconstitutional insofar as they provide for forfeiture without compensation, and that these provisions should therefore be dropped. Forfeiture upon conviction is a recognised feature of criminal law, but the breadth of the underlying offences, which capture conduct that would not ordinarily be considered wrongful, combined with the absence of any compensation mechanism for lawfully deployed assets, creates a strong basis for constitutional challenge. If the underlying offences are struck down for vagueness, the forfeiture provisions necessarily fall with them.

I. Violation of the Right to Equality and Non-Discrimination (Article 21) and Citizenship Rights (Article 10)

(i) Application to the Bill

56. Article 10 of the Constitution provides that every person born of a Ugandan parent, wherever born or residing, is a citizen of Uganda. Article 21 guarantees equality before the law without distinction. Clause 1(b) of the Bill classifies "a Ugandan citizen residing outside Uganda" as a "foreigner." This treats a Ugandan citizen as legally equivalent to a foreign government or multinational corporation solely by reason of their place of residence, which is discriminatory on a ground that finds no permissible justification under Article 21(2).
57. The practical effect is that a Ugandan diaspora member sending money home to a relative, a church, or a community project becomes a "foreigner" under the Bill, and the recipient becomes an "agent of a foreigner." The Bill effectively treats millions of ordinary Ugandans as foreign threats. This provision directly contradicts the citizenship framework established by the Citizenship and Immigration Control Act.

(ii) Recommendation

58. We respectfully recommend that the Committees agree that Clause 1(b) is likely to be found unconstitutional as a violation of Article 10 (citizenship) and Article 21 (equality and non-discrimination), and that this provision should therefore be dropped. The inconsistency with Article 10 is plain and irreconcilable. No legitimate sovereign interest can justify stripping the protections of citizenship from nationals on the sole basis that they reside outside the country.

J. Separation of Powers, *Institutional Independence, and International* Obligations

(i) Concentration of ministerial power and delegation of criminal law-making

59. The Bill vests an extraordinary concentration of discretionary power in the Minister of Internal Affairs, who may: approve or refuse registration (Clauses 17-18); impose, vary, or substitute conditions at any time (Clause 17(2)); suspend or revoke registration without notice (Clause 20); approve or withhold approval for foreign funding (Clause 22); exempt government institutions from funding rules (Clause 24); and, most critically, declare "any person, institution or body" to be a "foreigner" (Clause 1(f)) or "any other activity" to be subject to the Act (Clause 2(2)(i)) by statutory instrument. The last two powers enable the Minister to expand the scope of criminal liability by executive fiat, without parliamentary oversight or prior judicial review, and are constitutionally incompatible with Articles 21 and 44.

60. The delegation problem is compounded by Clause 29(2), which permits regulations to prescribe penalties of up to seven years' imprisonment, with such regulations merely "laid before Parliament for information" (Clause 29(3)) rather than subject to affirmative approval. These are Henry VIII-style provisions that delegate criminal law-making authority to the executive without guiding principles. The structural parallels with Russia's Foreign Agents Act are notable: broad definitions, registration requirements, vague offence-creating provisions, and concentration of enforcement power in a single ministry. The European Court of Human Rights condemned that legislation in *Ecodefence and Others v. Russia* (2022) and *Kobaliya and Others v. Russia* (2024) as arbitrary, disproportionate, and bearing "the hallmarks of a totalitarian regime," persuasive authority before Uganda's Constitutional Court. 90 91

(ii) Undermining the Bank of Uganda (Article 162) and international financial obligations

61. Article 162 of the Constitution establishes the Bank of Uganda as an independent institution responsible for monetary policy, regulation of financial institutions, and management of the foreign exchange system. Clause 22 purports to vest in the Minister of Internal Affairs the power to approve or withhold approval for the receipt of foreign funds, directly conflicting with the Bank of Uganda's constitutional mandate and its functions under the Foreign Exchange Act, Cap. 162. The Bill routes monthly banking reports directly to

the Ministry, bypassing Uganda's sole primary banking regulator. This encroachment also engages Uganda's international obligations: the ministerial approval regime may restrict the free transfer of capital guaranteed under the EAC Common Market Protocol and COMESA, the Bill's definition of "foreigner" captures Ugandan citizens residing in EAC partner states, and the forfeiture provisions may engage fair and equitable treatment protections in bilateral investment treaties, potentially exposing Uganda to ICSID arbitration.

(iii) Conflict with the ICCPR, African Charter, and development cooperation agreements

62. The Bill conflicts with Article 19 of the ICCPR (freedom of expression), Article 22 (freedom of association), and Articles 9, 10, and 11 of the African Charter. The African Commission issued a press statement in January 2026 reaffirming that undue restrictions on expression in Uganda violate Article 9, and its Guidelines on Freedom of Association prohibit states from compelling associations to register as a precondition for existing and operating. Entities under bilateral development cooperation agreements are not exempted from the Bill; subjecting activities already authorised under binding international agreements to ministerial re-approval, with no prescribed timeline, no obligation to give reasons, and no conflict resolution mechanism, conflicts with the principle of *pacta sunt servanda* under Article 26 of the Vienna Convention on the Law of Treaties. 101 102

(iv) Recommendation

63. We respectfully recommend that the Committees agree that Clauses 1(f), 2(2)(i), 22, 24, 25, and 29(2) are likely to be found unconstitutional as violations of the separation of powers, the independence of the Bank of Uganda under Article 162, and Uganda's international treaty obligations, and that these provisions should therefore be dropped. The Bank of Uganda independence ground rests on the explicit constitutional guarantee in Article 162, and the delegation ground is reinforced by the absence of any parliamentary control mechanism. The international law grounds are supportive and reinforcing, and Ugandan courts have consistently had regard to the ICCPR, African Charter, and persuasive ECHR jurisprudence. The ECtHR decisions on Russia's Foreign Agents Act and the *pacta sunt servanda* ground provide additional weight. 104 105

K. Disproportionality of Penalties (Article 43)

(i) The governing principle

64. Article 43 of the Constitution provides that any limitation on fundamental rights must be "acceptable and demonstrably justifiable in a free and democratic society." The Constitutional Court in *Karamagi* held that the principle of proportionality requires that a law "must not be drafted too widely so as to net everyone including even the untargeted members of society" and that a law failing to meet this standard "is null and void."

(ii) Application to the Bill

65. The penalties regime is grossly disproportionate. Clauses 5, 6, 7, 8, 10, 11, 12, 13, and 26 all carry a maximum penalty of twenty years' imprisonment for individuals, the same maximum sentence available for many serious violent offences under the Penal Code Act. Imposing this penalty for offences such as "influencing the development of government policy," "interfering with the implementation of government policy," or "promoting foreign policy not adopted by Cabinet" is manifestly disproportionate.

66. The absence of any mens rea requirement for most offences compounds the disproportionality. The Bill does not require proof that the accused intended to harm Uganda's sovereignty or even knew that their conduct fell within the Act's prohibitions. Strict liability criminal offences carrying twenty-year sentences are constitutionally problematic under Article 28(3)(a), which presumes innocence.

67. The penalties are also internally inconsistent and vastly exceed those for comparable offences under existing law. The Bill's maximum penalty is four times the maximum under the US Foreign Agents Registration Act, exceeds Australia's Foreign Influence Transparency Scheme, and is double the maximum under the Anti-Terrorism Act for terrorism financing. The Bill also imposes no requirement for DPP consent before prosecution, no High Court jurisdiction requirement, and no independent oversight mechanism, all safeguards present in existing legislation for offences of comparable gravity.

68. The fine structure is equally disproportionate: the maximum organisational fine of UGX 4 billion is 2,778 times higher than the maximum under the existing NGO Act.

(iii) Recommendation

69. We respectfully recommend that the Committees agree that the penalties in Clauses 5, 6, 7, 8, 10, 11, 12, 13, and 26 are likely to be found unconstitutional as grossly disproportionate and in violation of Article 43, and that these provisions should therefore be dropped. The Constitutional Court's proportionality jurisprudence in *Karamagi* and *Onyango-Obbo* provides a clear doctrinal foundation. The comparative analysis with existing Ugandan legislation demonstrates that the Bill's penalty structure is wholly anomalous and cannot be justified as necessary or proportionate.

L. Absence of Transitional Provisions

70. The Bill contains no transitional provisions whatsoever. There are a significant number of NGOs, civil society organisations, and individuals who would, on the Bill's definitions, qualify as agents of foreigners and are currently operating lawfully in Uganda. The Bill provides no grace period, no phased implementation timeline, and no guidance on what happens to organisations that apply for registration and are awaiting determination. All currently operating agents of foreigners would be in criminal breach from the moment the Act commences. Criminalising, from commencement day, conduct that is currently entirely lawful, without any opportunity for compliance, is constitutionally unjustifiable and engages the rule of law.

Recommendation

71. We respectfully recommend that the Committees agree that the Bill's absence of transitional provisions is likely to contribute to an administrative and compliance nightmare and support a finding of unconstitutionality.
72. This ground reinforces the vagueness and proportionality challenges and demonstrates the Bill's fundamental failure to afford affected persons any opportunity for compliance.

III. OVERALL ASSESSMENT

73. The Bill, as gazetted, is constitutionally vulnerable on multiple, serious, and reinforcing grounds. The strongest grounds for challenge are:

Ground	Assessment
Violation of Article 1: sovereignty of the people	Strong; likely to be found unconstitutional
Ministerial permission regime (Articles 29, 38, 26, 43)	Very strong; likely to be found unconstitutional
National Objectives and Directive Principles (Article 8A)	Supportive and reinforcing
Unconstitutional vagueness (Article 28, rule of law)	Very strong; likely to be found unconstitutional
Freedom of expression (Article 29)	Very strong; likely to be found unconstitutional
Non-derogable right to fair hearing (Article 44(c))	Very strong; likely to be found unconstitutional
Equality and citizenship (Articles 10 and 21)	Strong; likely to be found unconstitutional
Disproportionality of penalties (Article 43)	Strong; likely to be found unconstitutional
Separation of powers, Bank of Uganda independence (Article 162), and international obligations	Strongly arguable (domestic); supportive and reinforcing (international) 104
Right to privacy (Article 27)	Strongly arguable
Right to property (Article 26)	Arguable
Absence of transitional provisions	Arguable; supplementary

74. The cumulative effect of these deficiencies is a Bill that is, in our assessment, substantially unconstitutional. Its fundamental vice is not its stated purpose (the protection of sovereignty is a constitutionally legitimate objective) but the extraordinary breadth, vagueness, and disproportionality of the means by which it pursues that objective. As the Constitutional Court held in *Karamagi*, the Constitution demands that any limitation on fundamental rights be both necessary and proportionate. The Bill fails both requirements by a considerable margin.
75. A constitutional petition challenging the Bill, if enacted in its present form, would have strong prospects of success on multiple grounds, and such a petition could properly seek the invalidation of the Act in its entirety, or at minimum the invalidation of its principal offence-creating provisions, definitional provisions, and the ministerial powers of designation and delegation.
76. Uganda's sovereignty is real, important, and worth protecting. The Constitution already provides robust mechanisms for doing so. The Bill, as drafted, would protect neither sovereignty nor the rule of law.

Our Prayers:

77. That Honourble Members of Parliament reject this Bill in totality
78. That if there is need to regulate foreign interference beyond the current legal framework, a new bill similar to Foreign Agents Registration Act in the USA should be re-introduced with a narrower and focused scope of application and based on disclosure and transparency.

Signed by,

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