

# MODULE 1: THE CONSTITUTION

## 1.0 INTRODUCTION

### 1.1 Background

The British system of administration was introduced when Uganda was declared a British Protectorate in 1894. The laws which came with the British system replaced some of the customary laws. Some of the customary laws continued to exist; even today they are still used to settle conflicts in the communities.

In 1961 the Constitution making process started as the British colonial administrators were preparing Uganda for independence. This process led to the coming into effect (promulgation) of the 1962 Constitution. Uganda became independent on 9<sup>th</sup> October 1962 and since then Uganda has had three different Constitutions i.e. 1966, 1967 and 1995.

### 1.2 Aim

The aim of this module is to:

- i. Enable you as a citizen to know, uphold and defend the Constitution and rule of law.
- ii. Guide you to respect the Constitution and demand for your human rights.
- iii. To enable you promote peace, knowledge and skills for efficient and effective service delivery.
- iv. Empower you to participate fully in the development of your community/country.

### 1.3 Objectives

By the time you go through this module, you should be able to:

- i. Define the word Constitution
- ii. Relate The Constitution and other laws
- iii. Explain the historical background of the Constitution
- iv. Relate the Constitution and service delivery.

- v. Relate the Constitution and good governance
- vi. Explain how the Constitution defines Uganda as a nation
- vii. Explain how the Constitution is amended

### Key Messages:

- The Constitution of Uganda is the supreme law of the land and must be respected by everybody.
- No one is above the Constitution.
- The Constitution is the foundation of the rule of law
- Uganda has had four Constitutions since independence.
- The 1995 Constitution was made after nationwide consultation.
- It is your duty and responsibility to demand for service delivery.
- As a citizen of Uganda participate actively in monitoring and ensuring the delivery of quality services.
- Government is made up of three branches which are independent of each other but interrelated.
- It is important to make use of and respect courts' decisions
- Good governance ensures participation by all citizens regardless of their gender and other differences.
- Respect national symbols in order to promote nation building.
- The national flag should not fly after 6:00PM.
- We should not use the national flag to wrap things neither to allow it to touch the ground.
- Whenever you are to sing the national anthem, sing all the three stanzas
- The power to interpret the Constitution is with the Constitutional Court
- **Although the Constitution is supreme, it can be amended.**

## 1.4 Specific Sub Topics

In this module the following sub topics will be covered:

- i. The Constitution and other laws;
- ii. The historical background of the Uganda Constitution;
- iii. The Constitution and service delivery;
- iv. The Constitution and branches of government;
- v. The Constitution and good governance;
- vi. The Constitution and Uganda as a nation;
- vii. Interpretation of the Constitution; and
- viii. Amending the Constitution.

## Sub Topic I

### 2.0 The Constitution and other laws

#### Key Message:

- *The Constitution of Uganda is the supreme law of the land and must be respected by everybody.*
- *No one is above the Constitution.*
- *The Constitution is the foundation of the rule of law*

### 2.1 Introduction

A Constitution is a set of basic laws and principles that govern the actions of an organization or a country. It further describes the rights and duties of members or citizens and how they are governed. There are other laws besides the Constitution and these are by-laws, customary laws, clan laws, company laws, and institutions' laws which are made in conformity with the Constitution.

---

*How are by-laws and other laws made in your community?*

---

### 2.2 The difference between the Constitution and other laws

The constitution differs from other laws as follows:

- The Constitution stands superior to all other laws, whereas other laws are made in conformity with the Constitution;
- The Constitution is made by all citizens through a consultative process while other laws are made by a group or institutions concerned;
- The Constitution guides all citizens while other laws may not apply to all citizens;
- While nobody is above the Constitution, some people are above some laws;
- Other laws are limited to particular objectives, districts or local areas while the Constitution is not limited to any particular objective or locality.
- The Constitution applies to all aspects of life of the people while other laws apply to the operation of a group/institution.

#### Activity 1

- Discuss some of the by-laws and regulations in your community.
- Why do you think it is important to have a Constitution?

## Sub Topic II

### 3.0 The Historical Background of the Uganda Constitution

#### *Key Message:*

- Uganda has had four Constitutions since independence.
- The 1995 Constitution was made after nationwide consultation.

#### 3.1 Introduction

Uganda had both kingdoms and chiefdoms before and during the colonial period. The kings and chiefs had both cultural and legal powers. Different ethnic groups had their own traditional/customary laws which were not written. The customary laws were recognized as the major principles in administration and management of society.

Centralized kingdoms had kings while in non-kingdom areas the administration was in the hands of the clan heads, family heads, elders and councils. In centralized and non-centralized societies the leaders planned for development, settled disputes and conflicts that would occur in their respective communities.

The British system of administration was introduced when Uganda was declared a British Protectorate in 1894. The laws which came with the British system replaced some of the customary laws. Some of the customary laws continued to exist; even today they are still used to settle conflicts in the communities.

In 1961 the Constitution making process started as the British colonial administrators were preparing Uganda for independence. This process led to the coming into effect (promulgation) of the 1962 Constitution. Uganda became independent on 9th October 1962 and since then Uganda has had three different Constitutions i.e. 1966, 1967 and 1995.

The 1966 Constitution was passed by parliament without debate and as such it is sometimes referred to as the “pigeon hole” Constitution because the Prime Minister then, asked parliament to promulgate without reading it and asked MPs to collect their copies from pigeon hole after passing. It was later replaced in 1967 by a Constitution which abolished kingdoms chiefdoms and heads of districts.

*Explain the 1995 constitution making process***3.2 The 1995 Constitution**

In 1989, the process of making a new Constitution started. Government established the Uganda Constitution commission chaired by Benjamin Odoki (“The Odoki Commission”). The Odoki Commission collected people’s views before drafting the Constitution. The draft Constitution was debated for 18 months in the Constituent Assembly (CA) and finally promulgated on October 8th 1995.

**3.3 Chapters in the 1995 Constitution**

The 1995 constitution has 19 chapters which are arranged as follows:

<b>Chapter One</b>	– <b>The Constitution;</b>
<b>Chapter Two</b>	– <b>The Republic;</b>
<b>Chapter Three</b>	– <b>Citizenship;</b>
<b>Chapter Four</b>	– <b>Fundamental and Other Human Rights and Freedoms;</b>
<b>Chapter Five</b>	– <b>Representation of the People;</b>
<b>Chapter Six</b>	– <b>The Legislature;</b>
<b>Chapter Seven</b>	– <b>The Executive;</b>
<b>Chapter Eight</b>	– <b>The Judiciary;</b>
<b>Chapter Nine</b>	– <b>Finance;</b>
<b>Chapter Ten</b>	– <b>The Public Service;</b>
<b>Chapter Eleven</b>	– <b>Local Government;</b>
<b>Chapter Twelve</b>	– <b>Defense and National Security;</b>
<b>Chapter Thirteen</b>	– <b>Inspectorate of Government;</b>
<b>Chapter Fourteen</b>	– <b>Leadership Code of <b>Conduct</b>;</b>
<b>Chapter Fifteen</b>	– <b>Land and Environment;</b>
<b>Chapter Sixteen</b>	– <b>Institution of Traditional or Cultural Leaders;</b>
<b>Chapter Seventeen</b>	– <b>General and Miscellaneous;</b>
<b>Chapter Eighteen</b>	– <b>Amendment of the Constitution; and</b>
<b>Chapter Nineteen</b>	– <b>Transitional Provisions</b>

Having knowledge and understanding of these chapters makes you more informed on issues of the constitution and helps you to participate effectively in national development and good governance.

**Activity 2**

- Explain the historical background leading to the current constitution of Uganda

## Sub Topic III

### 4.0 The Constitution and Service Delivery

- It is your duty and responsibility to demand for service delivery.
- As a citizen of Uganda participate actively in monitoring and ensuring the delivery of quality services.

#### 4.1 Introduction

The Constitution of Uganda relates and talks about service delivery to the people. Service delivery is a responsibility of persons appointed or elected to public offices. It is your responsibility as a citizen to participate in the provision of services.

---

*What services do you receive in your community?*

---

#### 4.2 The relationship between the Constitution and service delivery

To discuss the relationship between the constitution and service delivery well, we look at the provisions in the National Objectives and Directive Principles of State Policy under general social and economic services:

##### (i) Provision XVIII: Educational Objectives

- The state shall promote free and compulsory education.
- The state shall provide every person equal opportunity to attain the highest education standards.
- It is also important to note that the Constitution empowers individuals, religious bodies and other non-governmental organizations to operate educational institutions such as schools if they comply with the policies on education and can maintain the desired national standards.

**(ii) Provision of Medical Services**

The state takes all practical measures for provision of basic medical services to all the citizens and entire population.

**(iii) Provision of Clean and Safe water**

The state takes all practical measures to promote good water use at all levels.

The Sixth Schedule of Article 189 specifically points out 29 functions and services which government is responsible for. Some services are provided directly by central or through local government.

Did you know that it is the responsibility of the government to construct roads, provide security, medical services among others?

You should also remember that government cannot provide all the public services effectively without your participation as a citizen. (Chapter 3 Article 17)

**Activity 3**

- How does the work you do provide service to the community?
- How do you participate in the services provided in your community?

## Sub Topic IV

### 5.0 The Constitution and Branches of Government

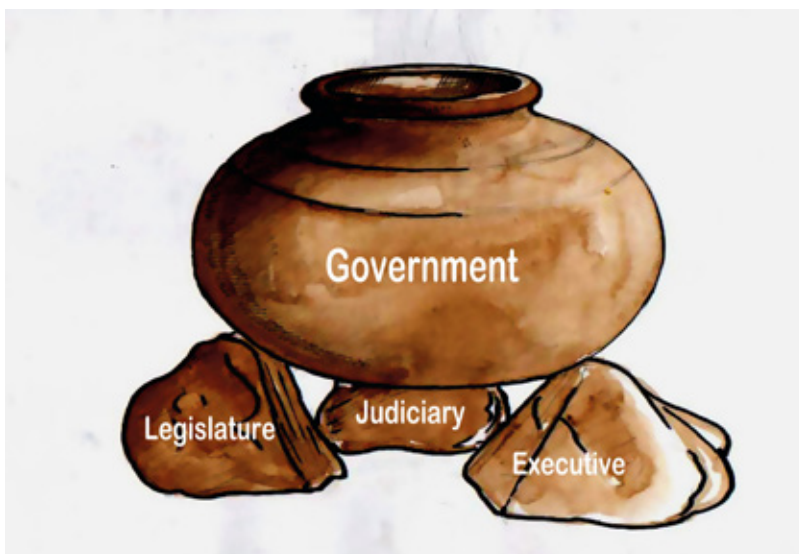
#### Key Message:

- Government is made up of three branches which are independent of each other but interrelated.
- It is important to make use of and respect courts' decisions

#### 5.1 Introduction

We need to know how a country is governed. In Uganda the Constitution provides for three branches of government. These branches are also known as organs or arms of government.

These are:





The Constitution defines the three branches of government with separate functions and powers which work independent of one another. Although their functions are interrelated, each branch is granted its own powers which no other branch can take over.

---

*Explain the relation between the three branches of government*

---

## 5.2 The legislature

This is the law making branch of government. It is composed of representatives (Members of parliament - MPs) elected by the people. In Uganda this branch is the Parliament. The speaker of Parliament is the head of the Legislature.

Details about the parliament are contained in **Chapter Six** of the Constitution.

**Article 79** specifies the functions of Parliament. *What is the role of your Member of Parliament?*

## 5.3 The Executive

This branch ensures that the laws passed by parliament are implemented. The Executive makes policies and suggests laws to parliament as well.

**Chapter Seven** of the Constitution provides details of the executive branch of government. According to **Article 99 (1)**, the executive authority of Uganda is vested in the president. He exercises his authority in accordance with the Constitution.

The executive is made up of the following:

1. The President;
2. The Vice President;
3. The Prime Minister;
4. The Cabinet and other ministers;
5. The Attorney General – Principal legal advisor of government; and
6. The Director of Public Prosecutions – administers justice on behalf of government.

**Article 111** of the Constitution provides for the Cabinet that consists

of the President, the Vice President, the Prime Minister and Ministers. The function of Cabinet is to make and implement government policies. All service delivery originates from the functions of the Executive.

It is important to know that the President cannot be tried in courts of law while still in office. He/she can only be taken to court only after he/she has ceased to be the President.

The President is the Head of State, Head of government, Commander in Chief of the Uganda Peoples' Defense Forces and the Fountain of Honour.

In terms of hierarchy and functioning, The President takes precedent over all persons in Uganda, followed by the Vice President, the Speaker of Parliament and the Chief Justice

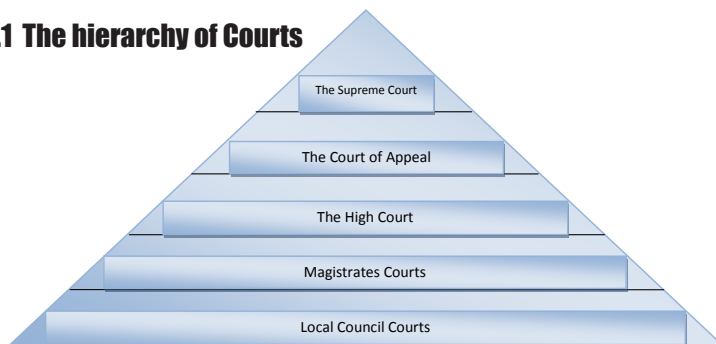
## 5.4 The Judiciary

The judiciary branch enforces the laws to provide justice to the people. It can declare any government action that violates the constitution illegal. Also the judiciary through the constitutional court has a duty to interpret the Constitution (**Article 137**).

The Judiciary is headed by the Chief Justice. Other Judicial officers include:

1. The Deputy Chief Justice;
2. Principal Judge;
3. Justices of the Supreme Court;
4. Justices of Appeal;
5. Judges of the High Court;
6. Magistrates; and
7. Local Council Courts.

### 5.4.1 The hierarchy of Courts



#### **Activity 4**

- Mention any Courts of law you know
- If there was a land dispute between you and your neighbor how would you settle it?

All courts have jurisdiction in both civil and criminal matters. The most important court in the country is the Supreme Court. It makes sure that the Constitution is followed. The courts have the power to decide if laws passed by parliament or actions of the president are in line with the Constitution.

It should be noted that the three branches of government work together in an integrated manner. Each branch also keeps watch of the other. This is the check and balance referred to in the separation of powers.

## Sub Topic V

### 6.0 The Constitution and Good Governance

#### Key messages:

- Good governance ensures participation by all citizens regardless of their gender and other differences.

#### 6.1 Introduction

The Constitution provides for governance under the democratic principles in the National Objective and Directive of State Policy. Governance is the process of managing public affairs, including the provision of services.

---

*When did you last participate in electing your leader?*

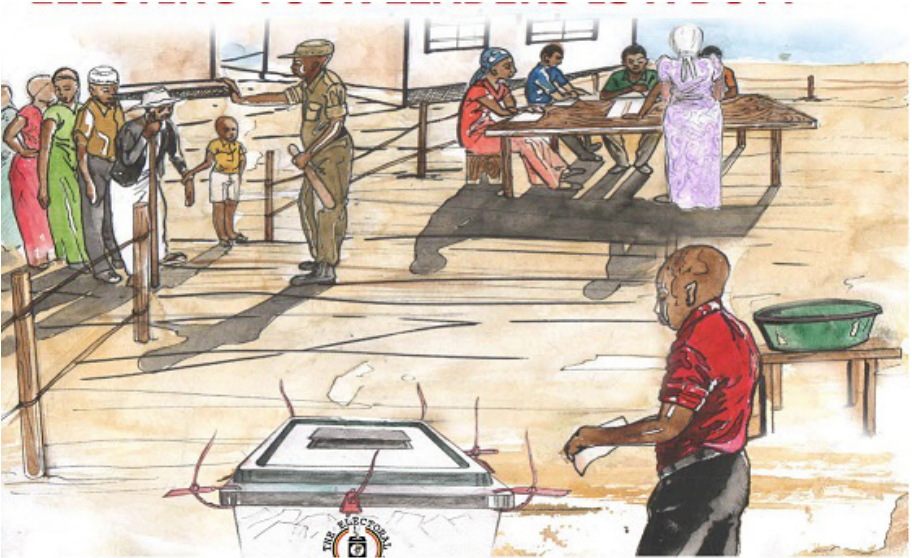
---

#### 6.2 Good Governance

Governance relates to decisions that define expectations, grant power, and verifies performance. Therefore Good governance describes how public institutions conduct public affairs and manage public resources in a transparent and accountable manner. It centers around the responsibility of governments and governing bodies to meet the needs of the masses as opposed to select groups in society. Good governance ensures participation by all citizens regardless of their gender and other differences.

Transparency is the basis of good governance and the first step in fighting corruption. It provides a universal rationale for the provision of good records management system, archives, and regulatory and finance management systems. Corruption undermines basic social values, threatens the rule of law and undermines trust of political institutions.

An example of how Good Governance describes the way public institutions conduct public affairs is contained in **Chapter Thirteen** of the Constitution which is on the Inspectorate of Government.



*Electing leaders is a duty; express your consent on who governs you through elections*

### Activity 5

- How can communities ensure that their leaders practice good governance?

**NB:** More on good governance is in the module on good governance and service delivery.

## Sub Topic VI

### 7.0 The Constitution and Uganda as a Nation

#### Key message:

- Respect national symbols in order to promote nation building.
- The national flag should not fly after 6:00PM.
- We should not use the national flag to wrap things neither to allow it to touch the ground.
- Whenever you are to sing the national anthem, sing all the three stanzas

#### 7.1 Introduction

In 1926 the final borders of Uganda were settled by the British Protectorate and this gave birth to what we call Uganda as a nation today. However, in 1962 Uganda became a sovereign state when it attained independence. **Chapter Two** of the Constitution talks about Uganda as a Republic with its boundaries and districts, official languages, symbols and seals and national interests. **Article 5** provides that Uganda is one sovereign state and a Republic.

---

*Describe how Uganda came to be a nation today*

---

#### 7.2 Uganda as a State and a Republic.

The other provisions in **Article 5** make reference to the under-mentioned:

- The boundary of Uganda is contained in the Second Schedule to The Constitution.  
*Any dispute regarding Uganda's boundaries should be discussed on the basis of what is contained in the Second schedule.*
- Uganda is one independent State and a Republic.
- Uganda consists of Kampala, the districts of Uganda and regional governments as provided in the schedules.
- Kampala is the capital city of Uganda. It is located in Buganda and governed by the central government through Kampala Capital City Authority.

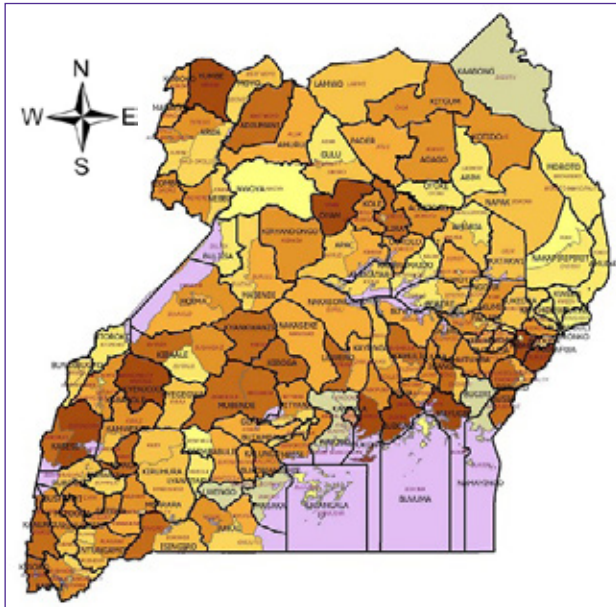
**Article 6:** English is the official language of Uganda and Swahili is the second official language

**Article 7:** Uganda has no state religion but there is freedom of worship.

**Article 8:** Provides for national symbols like the national flag, national coat of arms, public seal, national anthem and seals.

**Article 8A:** Provides for interests. And states the “Uganda shall be governed on principles of national interest, national objectives and directive principles of State policy.”

**Map of Uganda**



Current map of Uganda showing the all the districts

**Activity 6**

- Mention the symbols of your community, kingdom, clan or school.
- How do you show respect to your symbol?



### 7.3 The National Symbols

Uganda also has national symbols and seals provided for in **Article 8**. These symbols remind us of our nation's heritage. A heritage is way of life, a custom or a belief that has come from the past and continues today. The national symbols have special meaning to citizens of Uganda. We must always be proud of national symbols because they promote nationalism. In this way we promote positive attitudes when we care about our national identities.

#### 7.3.1 The Uganda National flag

The Uganda national flag has three colours – Black, Yellow and Red with a crested crane in the middle on a white background.



Black stands for the colour of the people of Uganda meaning African inheritance.

Yellow stands for abundant sunshine which is received in the country throughout the year.

Red stands for brotherhood meaning that all people all over the world have same blood.

The national flag is an important symbol of our nation. For instance, when Uganda team is going for international football matches or the common wealth games, our team is handed the national flag which is a symbol of our identity, unity and solidarity.

The national flag has to be respected, by not flying it after 6:00PM. We should not use it to wrap things neither allow it to touch the ground.

#### Activity 7

- Mention other occasions when we raise our national flag. Where have you ever seen the flag flown?

#### 7.3.2 The Uganda National Anthem

The national anthem is our national song which is sang at important occasions/celebrations at schools or in our community. When the anthem is being sang, people should stand straight, to attention or if they cannot stand, they raise up their right hand.



## THE UGANDA NATIONAL ANTHEM

Oh Uganda! May God uphold thee,  
We lay our future in thy hand.  
United, free,  
For liberty  
Together we'll always stand.

Oh Uganda! The land of freedom.  
Our love and labour we give,  
And with neighbours all  
At our country's call  
In peace and friendship we'll live.

Oh Uganda! The land that feeds us  
By sun and fertile soil grown.  
For our own dear land,  
We'll always stand:  
The Pearl of Africa's Crown.

### Activity 8

- Do you know the Uganda national anthem? Sing it together with your friends.
- What occasions have you ever attended when the anthem was sang?

### 7.3.3 The Coat of Arms

The coat of arms has important features and these are: the kob, the crested crane, the shield, the drum, the sun, the spears, the flowing water (River Nile) out of lake Victoria, coffee and cotton and the Uganda Motto (For God and My Country). Each of the features has a meaning. It summarizes some of the ideas and things which are considered important in our country.



### 7.3.4 The Uganda Currency



*Some currency notes and coins of Uganda*

The currency is one of the important symbols of a country. Uganda has The Uganda Shilling as a legal tender consisting of both notes and coins as currency.

### 7.3.5 The Public Seal

The public seal is in form of a stamp with a coat of arms. It is used to stamp official government documents such as passports, birth certificates among others.

#### Activity 9

- Discuss the features found on the coat of arms and mention the different ways that government uses the coat of arms.
- Discuss the features of the Uganda currency notes and coins.

## Sub Topic VII

### 8.0 Interpretation of the Constitution

#### Key message:

- The power to interpret the Constitution is with the Constitutional Court

### 8.1 Introduction

Interpretation of the Constitution is the function of the Constitution Court as provided for under **Article 137**. The Court of Appeal while sitting as Constitutional Court shall consist of five Judges. Whenever a dispute arises over the interpretation of the Constitution, the matter should be referred to the Constitutional Court for interpretation.

---

*What is the role of the Constitutional court?*

---

The Attorney General is the principal legal adviser of the Government (**Article 119**). However, if his advice on the interpretation of the Constitution is challenged, the matter is referred to the Constitutional Court.

#### Activity 10

- Mention cases which have been referred to the Constitutional court for interpretation.

## Sub Topic VIII

### 9.0 Amending the Constitution

#### Key message:

- Although the Constitution is supreme, it can be amended.

#### 9.1 Introduction

A Constitution may be amended by adding a new provision and/or removing or making changes on an existing provision. The changes in the provision may be as a result of new needs of a society and/or conflict in legal interpretations of different Articles. However, the amendment cannot be done by one person. The people should be consulted and involved through a referendum, District Councils and Parliament.

---

*Under what circumstances can the constitution be amended?*

---

#### 9.2 Procedures of amending the constitution

**Chapter Eighteen** of the Constitution provides for the procedure of amending the Constitution. It can only be amended by an Act of Parliament.

These include:

1. Approval by the people through a referendum on contentious issues. The idea of a referendum is to involve the people if there is need for amendment, examples of provisions that may require a referendum; Change of political system, Institution of traditional or cultural leaders and independence of the Judiciary
2. Approval by the District Councils, for example;
  - Power of parliament over imposition and collection of taxes,
  - Functions of the central government and district councils, and
  - Financial autonomy of urban councils from district councils.
3. Amendment initiated by members of parliament

The parliament can only pass the amendments of the Constitution with the support of 2/3 of the members of parliament at the second and third reading.

### 9.3 Amendments made since 1995

Since it came into force, the Constitution has been amended three times by:

1. The **Constitutional Amendment Act No. 13** of 2000 and which was declared unconstitutional and therefore null and void by the Supreme Court.
2. The **Constitutional Amendment Act No. 11** of 2005, the objectives of which were:
  - to distinguish Kampala as a capital of Uganda and to provide for its administration;
  - provide for Swahili as a second official national language;
  - provide for the Leader of Opposition;
  - to remove the limits on the tenure of the President;
  - to create the offices of Prime Minister and Deputy Attorney General;
  - to provide for the creation of special courts to handle corruption cases;
  - to establish the Leadership Code Tribunal; and
  - to provide for the control of minerals;
3. The **Constitutional Amendment Act No. 21** of 2005, the objectives of which were:
  - provide for Kampala as the capital city of Uganda;
  - provide for the new districts of Uganda;
  - to provide that subject to the existence of regional governments the system of local government in Uganda shall be based on districts;
  - provide for the creation of regional governments as the highest political authority in the region with political, legislative, executive administrative and cultural functions and to provide for the composition and functions of regional governments;
  - provide for grants for districts not forming regional governments;
  - replace the Fifth Schedule to provide for details relating to regional governments; and
  - to amend Article 189 to recognize the functions and services of regional governments

### Activity 11

- Explain the process of amending the Constitution

## 10.0 Summary

The Constitution of Uganda is the supreme law of the land. All other laws and regulations that govern society must be in conformity with it. If a law is not in line with the Constitution, it is null and void (not binding).

It provides the legal framework of governance and management of the country. The 1995 Constitution was made after wide consultations with all the citizens in Uganda. It captures very well the wishes and aspirations of Ugandans.

The history of the Constitution in Uganda has had many challenges which have affected the quick development of the country and general well-being and welfare of the people.

It is the duty of all the people to uphold, respect and defend the Constitution.

## Glossary

**Allegiance:** commitment and loyalty to a state.

**Citizen:** a person who has the legal right to belong to a particular country.

**Constitution:** supreme law of the land.

**Country:** means an area of land that has its own government.

**Democracy:** a system of government in which all the people in a country can vote to elect their representatives.

**Detention:** the state of being kept in a place especially in prison.

**Judiciary:** the branch of government responsible for interpreting the laws and administering justice.

**Law:** is a rule or system of rules that governs the actions of people in a community or country.

**Referendum (referenda in plural):** a process whereby people vote in order to make a decision about a particular subject.

**Sovereignty:** the complete power to govern a country.

**State religion:** a religion promoted, taught and used by a government to the exclusion of other religions.

**State:** the government of a country.