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**Wednesday, 6 March 2019**

*Parliament met at 3.14 p.m. in Parliament House, Kampala*

PRAYERS

(*The Speaker, Ms Rebecca Kadaga, in the Chair)*

*The House was called to order.*

COMMUNICATION FROM THE CHAIR

**THE SPEAKER:** Honourable members, I welcome you to this afternoon’s sitting. I have a piece of good news for Parliament. Our Parliament radio has been received and it will be tested for one month. Those who have been giving Parliament a blackout will now be out of business because we shall have our radio. That is an achievement. *(Applause)* After the testing, we shall give you the Frequency Modulation (FM) so that you coordinate with your constituents to listen in.

Honourable members, I would also like to draw your attention to section 13(13) of the Public Finance Management Act, which states thus: “*The Minister responsible for a vote, ministry or the head responsible for a vote, shall by the 15th of March submit to Parliament the policy statements for the proceeding financial year for the ministries or the other votes, as the case may be.*” The policy statements should be accompanied by a certificate issued by the Minister of Finance, Planning and Economic Development, in consultation with the Equal Opportunities Commission, certifying that the budget is gender and equity responsive and specifying the measures taken to equalise opportunities for men, women, persons with disabilities and other groups.

Today is 6 March 2019, honourable members, members of the Cabinet, you have now been issued with a reminder. Therefore, please do the needful.

Thirdly, honourable members, a number of you have come to my office indicating that you have no offices. However, I am also aware that a number of you were allocated offices in other premises of Parliament across the road but have refused to occupy them with the hope of being allocated offices in the main Parliament building. The main building already has limited space; that is why we had to get premises across the road at Queen’s Chambers to solve this problem.

Therefore, the former chairpersons, former vice-chairpersons, especially of the equal opportunities and HIV/AIDS committees, please relinquish those institutional offices which you have. Members who were allocated offices in Queen’s Chambers and Development House, please take them up; all those are premises of Parliament. The whips should coordinate the movement of incoming and outgoing chairpersons to the available space. The Sergeant-at-Arms is instructed to effect the changes immediately.

Honourable members, there has been some outstanding work in relation to the issue of Kigorobya. I would like to now give the terms of reference for the select committee and also name the committee. These are the terms of reference for the select committee to inquire into the humanitarian crisis arising out of the eviction and displacement of over 300 families in Kyabisagazi Village, Kigorobya Subcounty, in Hoima District.

Honourable members, on 21 February 2019, hon. Songa of Ora County in Zombo raised an urgent matter of national importance regarding the eviction and displacement of over 300 families from land in the villages of Kyabisagazi, Kebi I, Kebi II, Hanga, Kapaapi, Lenju and Rwamutunga in Kigorobya Subcounty.

On 26 February 2019, the Ministry of Internal Affairs made a statement to the House responding to the above allegations as raised by hon. Songa. On 27 February 2019, the House resolved to establish a select committee to inquire into the humanitarian crisis arising out of that eviction. The select committee shall be guided by the following terms of reference:

1. To study all claims of ownership on the disputed land.

2. To investigate allegations relating to the identity and status of the persons evicted or displaced.

3. To examine the involvement and conduct of security forces in the evictions and displacements.

4. To identify the humanitarian crisis arising out of the evictions and displacement, and establish the current status of affairs.

5. To examine Government efforts and other mitigation measures to solve the crisis.

6. To make appropriate recommendations to Parliament within 45 days of this constitution.

This is the committee composition:

1. Hon. Gaster Mugoya Chairperson
2. Hon. Pamela Nasiyo Member
3. Hon. Ibrahim Kasozi Biribawa Member
4. Hon. Justine Khainza Member
5. Brig. Flavia Byekwaso Member
6. Hon. Santa Alum Member
7. Hon. Paul Akamba Member

We also have the issue of South Sudan. On 3 April 2018, Parliament resolved as follows: that Parliament approves the bilateral agreement signed between the Government of Uganda on the 22 December 2016 concerning payment of monies owed to Uganda-South Sudan traders by the Government of the Republic of South Sudan; that an addendum to the bilateral agreement be signed between Government of Uganda and the Republic of South Sudan to pay monies owed to the additional verified Uganda-South Sudan traders by the Republic of South Sudan as particularised in schedule A; that the joint verification exercise by the Government of the Republic of Uganda and South Sudan continues until all claims are conclusively handled. That was in 2018.

On 21 February 2019, hon. Simon Oyet rose to ask an urgent question to the Minister of Finance, Planning and Economic Development regarding the criteria and status of compensation of Uganda-South Sudan traders. In response to the above question, the minister, on 28 February 2019, informed the House that Government has effected payment of Shs 40 billion to 10 companies. However, the House was not satisfied with the minister’s response and resolved to constitute a select committee to inquire into this matter. The select committee shall be guided by the following terms of reference:

1. To lift the veil and verify the actual beneficiaries of the monies that were paid out following the bilateral agreement on payment of monies owed to Uganda-South Sudan traders by the Government of the Republic of South Sudan.

2. To examine the criteria of selection and methodology used by the Government to pay the beneficiaries.

3. To establish whether the payments were effected in accordance with the resolution of Parliament of 3 April 2018.

4. To establish the status of verification of all outstanding claims against the Government of the Republic of South Sudan by the Uganda-South Sudan traders.

5. To report to Parliament within 45 days.

Honourable members, we heard that part of this money had already been paid and when we were debating, we suggested that we need a very short period in which to handle this issue. Therefore, I would like to propose a fortnight and not 45 days for the committee to report back on this issue.

The composition of the committee is as follows:

1. Hon. Ann Marie Nankabirwa Chairperson
2. Hon. Stella Kiiza Member
3. Hon. Herbert Ariko Member
4. Hon. Henry Kibalya Member
5. Hon. Mathias Mpuuga Member
6. Hon. Kyomuhendo Mbabazi Member

We also have the issue of Apaa. Honourable members, during the proceedings of Wednesday, 23 January 2019, hon. Lucy Akello, Woman Representative Amuru, raised a question on the continued brutal and inhumane evictions of the residents of Apaa in Amuru District for the response of the Minister of Tourism, Wildlife and Antiquities. In response to the question, the minister on Tuesday, 5 February 2019 stated that -

a) There was a contested border between Amuru and Adjumani districts concerning the area generally referred to as Apaa.

b) The area in issue was demarcated and handed over to Adjumani District, resulting into the conflict that has degenerated into land encroachment and other forms of lawlessness.

c) In order to holistically resolve the conflicts relating to Apaa, the President has set up an interim constituted committee, led by the Prime Minister and it had to report to the President for decision.

d) In view of the above, the local leadership should promote harmony and refrain from inflammatory activities.

In the debate that ensued, Parliament was not satisfied by the minister’s answer and resolved to constitute a select committee of Parliament to inquire into the matters at hand. The following are the terms of reference that shall guide the committee:

1. To investigate the current state of affairs relating to the land conflict in Apaa community.

2. To determine the root cause of the current conflicts and internal displacements of persons.

3. Propose the way forward in finding a lasting solution to the said conflicts for the purposes of promoting harmonious co-existence of different ethnic groups

4. Report back to Parliament with recommendations within 45 days.

Below is the composition of the committee:

1. Hon. Agnes Ameede Chairperson
2. Hon. Ssenyonga Muyanja Member
3. Hon. Jackson Kafuuzi Member
4. Hon. Margaret Rwabushaija Member
5. Hon. Gershom Sizomu Member
6. Hon. Ssempala Kigozi Member

Honourable members, there were few matters of public concern.

3.25

**MR ANTHONY SSEMULI (NRM, Mubende Municipality):** Thank you, Madam Speaker. This is an issue of national importance to do with the land dispute again in Mubende Municipality. The dispute covers mainly three villages: Kambuye, Kansera and Kawumulwa villages.

The reason I am raising this issue is because this is the land where there were double transactions. The initial owner, a one Lubega Wagwa, sold the land to the late Kayiwa in 2000. That came about due to the fact that the area had a German foreign investor by the name of Newman. The tenants shifted to the area in 2000 and they enjoyed their rights for a period of 18 years. The late Kayiwa, who bought the land, passed on in 2013 and all of a sudden in 2017, we got a new person by the names of George Kaweesi, claiming ownership rights of the same land.

We, the local leaders, have been able to intervene. We noticed that so many legal procedures regulating land disputes, land rights and rights of landlords and tenants were absolutely abused. At that time, as the leaders we tried to come up with some measures which were again abrogated.

The land dispute in Kaweri –*(Member timed out.)*

**THE SPEAKER:** Honourable member, state your prayers. What do you want the House to do for you?

**MR SSEMULI:** My prayers are that Parliament-

1. Investigates the matter to ascertain who the true owner of this land is.

2. Ascertains why evictions have been taking place. This is because on the same land, we now have security agencies. They are 20 in number; they are torturing our people and they have damaged our crops. The affected households are more than 400. This is a serious matter. I was here last week and I raised the issue of land tribunals, which have been neglected.

Madam Speaker, this is also my prayer: Since you have already constituted a parliamentary committee to go and investigate the land disputes in Kigorobya, I am seeking your indulgence; it would be – *(Member timed out.)*

**THE SPEAKER:** Honourable member, you have a number of prayers; I would like to study whether they are within our ambit. I will give you a ruling tomorrow on where we shall send this issue. Thank you.

3.30

**MR JAMES KABERUKA (NRM, Kinkizi County West, Kanungu):** Thank you, Madam Speaker. I rise on an issue pertaining to the water tariffs from National Water and Sewerage Corporation.

The cost of water for the people of Uganda was subsidised, especially at public taps. However, what is happening upcountry is that every location has got its own tariff. That has caused some people to go back to using bad water, especially water from streams.

My prayer is that the minister presents to this Parliament the actual prices of water at public, private and institutional tap stands and others.

We have also found out that secondary schools, which appear to be community based, need to be under the community. Once an institution is Government aided and it has many people, I pray that it is regarded as having a public tap stand. There should also be sensitisation –

**THE SPEAKER:** Honourable member, you cannot configure the status of those taps, unless we have got an official answer from the minister as to what constitutes a public or private tap. I think you should talk about the cost. The Minister should tell us what constitutes a public or private-

**MR KABERUKA:** Yes. Madam Speaker, I also pray that they sensitise - *(Member timed out.)*

**THE SPEAKER:** The Minister for Water and Environment is not here but he is directed to come and address the House on the costs of the water supplied by National Water and Sewerage Corporation to public and private institutions and other taps. He should do this in a fortnight from now.

3.33

**MR DEOGRATIUS KIYINGI (DP, Bukomansimbi South County, Bukomansimbi):** Thank you, Madam Speaker. I rise on a point of national importance concerning my district and my constituency in particular.

Recently, we have been invaded by rabid dogs and this has caused the death of many people. In the last three months, we lost one of our chairpersons at a village called Kijjampiki in Kibinge Subcounty after a dog bite.

My prayer is that the Ministry of Agriculture, Animal Industry and Fisheries carries out mass vaccination of all dogs and cats to avoid the escalating problem. Also, the Ministry of Health should provide us with the anti-rabies vaccine, which is lacking both in the health centre IV facility and in Masaka Referral Hospital. This has caused us a problem because we are losing our people.

I kindly request that the Ministry of Local Government in liaison with all the other ministries concerned comes to our rescue by eliminating all the dogs in the district. Thank you, Madam Speaker.

3.35

**THE MINISTER OF STATE FOR HEALTH (PRIMARY HEALTH CARE) (Dr Joyce Moriku):** Thank you, Madam Speaker. I would like to thank the colleague who has raised this very important matter. It is so sad that we have lost a chairperson due to rabies.

Madam Speaker, the same issue was presented on this Floor and my ministry was in the process of making a statement about the same issue of dog bites and people dying of rabies. I would request that we bring this statement together with the other one in two weeks’ time. Thank you.

**THE SPEAKER:** Honourable members, the issue of rabid dogs will be addressed by the minister in a fortnight’s time.

**MS ATYANG:** Madam Speaker, I rise on a point of procedure. On 20 December 2018, I raised a matter of national importance concerning land grabbing and forceful eviction of over 180 families, totalling to about 1200 people, in Nadunget Subcounty, Moroto District. The grabbed land had been used for cultivation and animal grazing by these communities since time immemorial. Moroto District Local Government purports to be the landowner of over 221 acres, with a land title registered in June 2017, without the community’s knowledge at that time.

Madam Speaker, these families have been left in a terrible state. They have no land to cultivate and yet it is now cultivation time. The district used the police to teargas and arrest members of the community who rejected eviction. These families were intimidated and forced to sign compensation agreements whose contents they did not understand and with a fee which was against their will. The money that was given to these people is not even enough to purchase a quarter of an acre of the land they lost.

Madam Speaker, although it is claimed that the land is to be taken for a cement factory, this development initiative should not worsen the wellbeing of the people; it has to improve their wellbeing right from the beginning.

**THE SPEAKER:** What do you want us to do?

**MS ATYANG:** My prayer is that the ministers responsible should intervene and investigate the matter to ensure that there is fair treatment of these community members.

Madam Speaker, I am pleased to inform you that you did a follow up by writing a letter to the Prime Minister who later forwarded the letter to the Minister of Karamoja Affairs. However, up to date, it seems that there is no step taken by the ministry. I beg to submit.

**THE SPEAKER:** Honourable minister, do you have anything to say about that issue?

3.38

**THE MINISTER FOR KARAMOJA AFFAIRS** (**Mr John Byabagambi):** Madam Speaker, it is true I received the communication from the Prime Minister in regard to the matter which she has raised. We have done our investigations and the report is ready. I can bring it in tomorrow or any other day - maybe on Tuesday.

**THE SPEAKER:** Okay. Honourable minister, bring that report. The situation is not very good in Moroto. We expect your answer on Tuesday.

3.39

**MR ALEX BURUNDO (NRM, Bulambuli County, Bulambuli):** Thank you, Madam Speaker. On 14 December 2017, I moved a motion here urging Government to put in place specific interventions for the districts that perform poorly during Primary Leaving Examinations (PLE). This motion attracted a serious debate. Over 45 Members contributed to the debate. I even remember our senior Member, hon. Cecilia Ogwal, participating.

Madam Speaker, this was in 2017, and you clearly guided that the Minister of Education and Sports should get concerned about those districts which were performing poorly and help them to cope by providing affirmative action. However, for the 2018 PLE results, the districts that have been performing poorly are still doing so. They include Namisindwa, Kween, Kapchorwa, Bukwo, Bududa, Yumbe, Nwoya etcetera. It is only Kamuli that escaped narrowly this time. *(Laughter)*

Madam Speaker, my prayers remain the same and they still stand. They were very simple. I requested that Government should put in place measures to uplift education standards in districts that consistently perform poorly in the national examinations. The second prayer was that the Parliament Committee on Education and Sports investigates the persistent underperformance of schools in the poorly performing districts of Uganda.

Madam Speaker, nobody has ever visited my district and I am eagerly waiting. Even my people are saying that when I talk, my words just stop on the Floor of Parliament. Madam Speaker, it is my humble prayer that I get an answer.

**THE SPEAKER:** I do not know whether the ministers of education and local government have something to say about the poor performance.

3.42

**THE MINISTER OF STATE FOR LOCAL GOVERNMENT (Ms Jenipher Namuyangu):** Madam Speaker, I would like to thank my colleague for raising the issue. This matter was taken up by the Office of the Prime Minister under the Delivery Unit headed by Prof. Suruma.

Twenty districts were selected from the east, and these were performing badly in education and health. They discovered that the cause of the poor performance included absenteeism by teachers, learners and other factors. A lot of improvement has been done after the local governments were engaged. As we talk, they have put in place a clocking system where the teachers must clock in and out. The learners have also improved attendance. We have been monitoring this as the Ministry of Local Government and there is a lot of improvement in these districts.

**THE SPEAKER:** Honourable members of Cabinet, when Members raise these issues, they what answers. Now you go there, sit quietly and do your work by yourselves and report to yourselves. Hon. Mungoma has never had feedback from you.

3.44

**THE MINISTER OF STATE FOR EDUCATION AND SPORTS (HIGHER EDUCATION)(Mr John Chrysostom Muyingo):** Thank you, Madam Speaker. First, I would like to confirm what my colleague has said, that the Office of the Prime Minister has taken this up. However, even our ministry has also taken up this matter.

Some of the things we have done so far include the recruitment of teachers. One of the problems that were identified was shortage of teachers in such areas. This year alone, we are recruiting over 3800 teachers and the process is ongoing. We are intensifying the inspection in these areas but of course not abandoning the others.

I submit, Madam Speaker.

**THE SPEAKER:** When are you going to finally come back and give us a report so that the House can debate your proposals?

**MS NAMUYANGU:** Madam Speaker, you can give us two weeks because the Ministry of Local Government has to liaise with the Office of the Prime Minister to get the details and make a presentation.

**THE SPEAKER:** I think it would be important. So, come back after a fortnight with your report so that the House can debate it.

Honourable members, I would like to welcome back hon. Zaake. He was away for some days. In the public gallery up there, we have local council chairpersons from Mityana Municipality who are here to watch our proceedings. However, hon. Zaake had an issue to raise on their behalf. You are welcome.

3.46

**MR FRANCIS ZAAKE (Independent, Mityana Municipality, Mityana):** Thank you, Madam Speaker, for this opportunity. I am here to present a matter of national importance concerning the people of Mityana Municipality, represented by the different local council chairpersons. The issue is about electricity.

The reason why this matter is urgent is because from the time Mityana District got a municipality, the people have been waiting for Government to connect them to electricity. However, this has not happened; it is pending. This has even prompted most of the conmen to go to Mityana and rob the people of their money. They pretend as if they are going to connect them to electricity and instead slash down their banana plantations.

One minister, hon. Abdul Nadduli, has also reached out to those people. The chairpersons have signed and written letters to him but this issue has still come up again; it is pending. I have also reached out to different offices and the ministry but I have not got any information from them. I followed up this matter till I got tired. Therefore, my prayers are as follows: I request the honourable Minister of Energy and Mineral Development *– (Member timed out.)*

**THE SPEAKER:** Honourable members, sometime back in 2016, I went to visit Mityana Municipality and one of the issues they raised was the lack of electricity. Therefore, I wrote to the Minister of Energy and Mineral Development and I do hope that you will respond because I have been told that people are being fleeced. Conmen come with forms and tell them that they are going to get power and then after, they disappear. They even go as far as bringing poles, which are taken away in the night.

I think the Ministry of Energy and Mineral Development should rescue our people. Let us ask the minister to come back to us in a fortnight and tell us what they are going to do about Mityana Municipality on supply of power. Thank you.

LAYING OF PAPERS

3.49

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING)** **(Mr David Bahati):** Madam Speaker, I beg to lay on the Table the Supplementary Schedule I, Financial Year 2018/2019. I seek your indulgence because we also have an addendum for the Supplementary Schedule I, Financial Year 2018/2019, which I beg to lay on the Table as well.

**THE SPEAKER:** What is that addendum about? Let the Committee on the Budget study this and give us feedback.

MOTION FOR ADOPTION OF THE REPORT OF THE COMMITTEE ON AGRICULTURE, ANIMAL INDUSTRY AND FISHERIES ON THE STATEMENT BY THE MINISTER OF DEFENCE AND VETERAN AFFAIRS ON THE OPERATIONS OF THE FISHERIES PROTECTION FORCE

3.50

**THE CHAIRPERSON, COMMITTEE ON AGRICULTURE, ANIMAL INDUSTRY AND FISHERIES (Ms Janet Okori-Moe):** Thank you, Madam Speaker. I beg to lay on the Table the report of the Committee on Agriculture, Animal Industry and Fisheries on the statement by the honourable Minister of Defence and Veteran Affairs on the operations of the Fisheries Protection Force. I beg to lay.

I beg to lay on the Table minutes of the investigations on the fisheries statement by the Committee on Agriculture, Animal Industry and Fisheries.

The Minister of Defence and Veteran Affairs presented a statement on the operations of the Fisheries Protection Force (FPF) on Tuesday, 25 September 2018. Consequently, the Rt Hon. Speaker referred the statement to the sectoral Committee on Agriculture, Animal Industry and Fisheries for consideration and report back to the House. The statement is attached as Annex 1.

Madam Speaker, the report is quite long, so I may not read word for word –

**THE SPEAKER:** Just give the highlights.

**MS OKORI-MOE:** Thank you very much, Madam Speaker.

The Ministry of Agriculture, Animal Industry and Fisheries oversees the fisheries subsector. The subsector contributes significantly to poverty reduction, food security and economic growth, as it is a source of livelihood to many Ugandans.

Enforcement of fisheries regulations has had challenges since the year 2000 when enforcement was done by fish guards. The National Fisheries Policy (2004) introduced Beach Management Units (BMUs) to assist the technical officers in grassroots fisheries management. The operations of the BMUs started well but later deteriorated, leading to a decline in fish stocks due to overfishing.

The continued decline of fish stocks, the limited capacity to regulate enforcement systems, the use of “authorised officer”, and the subsequent mushrooming of imposters led to a further decline in fish stocks. The decentralisation system also widened the gap between the centre and district local governments in as far as regulation of fisheries is concerned, even worsening the situation further. Effective regulation requires one chain of command and the absence of it brought more weaknesses in the sector. In 2014/2015, the Ministry of Agriculture, Animal Industry and Fisheries established the Agriculture Police but its operations were short lived and regulating services remained wanting.

Due to these challenges, 15 fish factories out of 21 closed, leading to reduced exports to prime markets, reduction in fishermen’s incomes and increased fishing pressure in search of more fish, including reduced fish for local and regional consumption. The six remaining factories kept operating below capacity.

In November 2015, in accordance with section 3 of the Fish Act, Cap 197, His Excellency the President formed the Fisheries Protection Force (FPF) to fill the 1aw enforcement gap that had hit the fisheries sector, hence the ongoing operations on the major lakes of Uganda.

In considering its work, the committee reviewed the statement on operations of the Fisheries Protection Force, which was presented by the Minister of Defence and Veteran Affairs. The committee also reviewed the Fish Act, Cap 197, and carried out a fact-finding field visit to the districts of Buvuma, Mayuge, Namayingo and Busia.

The committee also held meetings with the Minister of Defence and Veteran Affairs, the Minister of Agriculture, Animal Industry and Fisheries, the Association of Fishers and Lake Users of Uganda (AFALU), and Members of Parliament representing fishing communities.

The Committee Findings

The committee found out that the FPF is currently operating on Lake Victoria, Lake Edward, Lake George, Lake Kyoga, and on the fish trade routes and markets. Due to the operations, quantities of Nile Perch have been revived, especially in Lake Victoria, and foreign exploitation of Uganda’s water resources has also reduced. As a result of the operations, four fish factories of the 15 that had closed have started operations and two were scheduled to resume operations in October 2018, thus increasing the number of operating factories from six to 12.

The Ministry of Agriculture, Animal Industry and Fisheries has supported the operations both financially and in actual performance. Quarterly, the Ministry of Agriculture, Animal Industry and Fisheries allocates Shs 300 million to the Fish Protection Unit for their operations. The committee also noted that the quantity and size of fish in Uganda has improved since the deployment of the FPF on some of the water bodies.

Madam Speaker, allegation No. 1 and No. 5 came up on the Floor of Parliament and were the basis for which we did our investigations. This is what we found, especially on indiscriminate destruction of boats and selling mature fish and engines: It was said that when boats are confiscated, even with mature fish, the Uganda Peoples Defence Forces (UPDF) soldiers break the boats and sell off engines as well as the fish catch, and this is a very lucrative activity at the expense of citizens.

The committee found out that the FPF destroys people's boats even if they are short of the recommended size by one inch. People who are found with small fish, even if it is for home consumption, are sometimes mistreated and their boats destroyed.

The FPF also damage and destroy people’s property (boats); for example, the army barracks at Lubya Island, Lolwe Island and Bwondha Landing Site were constructed using remains from dismantled boats. Some of the boats that are clearly marked for sports, as is a cultural practice on the lakes, were also destroyed. Those are the boats which are used by the locals in their sports activities and also for crossing the waters.

Allegation 2: Ban On Smoked/Sun Dried and Salted Fish

The fishing community informed the committee that the FPF had abolished smoking of fish yet this has been one of the oldest methods used to preserve fish. Most people, who have been in the business of smoking and selling fish have been left without any means of earning a living.

Madam Speaker, allegation No. 3 - *(Interruption)*

**MR OLANYA:** Madam Speaker, the report the honourable member is reading is very important but it is not uploaded on our iPads.

**THE SPEAKER:** Hon. Gilbert Olanya, I think your gadget is not working well. *(Laughter)*

**MS OKORI-MOE:** Thank you very much, Madam Speaker, for your protection. It was uploaded over two weeks ago.

Allegation 3: Killing Citizens

The committee was informed by the fishing communities that the FPF had killed people at various parts of the island. In Buvuma District at Namiti Island, for example, a one Capt. Joseph Ssebukera and J.B Lukwago beat one Manana to death and no post-mortem report was said to have been filed. In Namayingo District, two teenagers were killed during these same operations since they began on the island. A one Fredrick Omondi and Othieno lost their lives during these operations. When the committee interacted with the commander in charge of the operations, he only confirmed the death of Fredrick Omondi.

Allegation 4: Confiscating Motor Vehicles

In Busia District, for instance, the committee was informed that the FPF confiscate people's vehicles and have them parked for long. They complained that the force often launches road operations along the various roads and outside the district where they intercept vehicles carrying fish to the market.

The FPF retain trucks for quite a long time with no specific terms for release. The committee was informed that some vehicles have been retained in both Nakasongola and Masese for more than a year yet the owners have not been charged with any offence. By the time of the meeting, nine trucks were reported to be under the force's custody in various locations, some having been there for more than a year.

Allegation 5: Extending Brutality to Kenyan Technical Marine and Kenyan Fishermen

At Mpumalenge Landing Site, Sigulu Sub County Bukholi Island, the committee was informed by the community that Kenyan fishermen are not restricted from accessing the Ugandan side of the water despite the fact that they were not following Ugandan fishing regulations.

However, some of the fishermen from Sigulu Island informed the committee that owners of transport boats that ply the route between Sigulu and Port Victoria in Kenya are threatened and subjected to beating. Sometimes, the FPF order passengers and riders to get out of the boats and leave the boats to float on the water.

Allegation 6: Arbitrary Arrest and Detention without Due Process of the Law

In Namayingo and Busia, the committee was informed that merchandise owners were not allowed to witness the inspection of their fish. The officers carry out spot inspection or take the trucks to Masese for inspection without the owners. Due to this, people believe that some of the young fish are added in by the officers themselves with an intention of impounding the merchandise and victimising them.

Allegation 7: Torture and Extortion of People

Article 24 of the Constitution of the Republic of Uganda provides that no person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment.

In total disregard of the above provision, the committee was informed that the FPF handles fishermen in ways which are cruel, inhuman and degrading and this includes excessive beating of fishermen. The names of the people beaten are included in the report on page 13.

Findings on Additional Allegations

Interference of the Association of Fishers and Lake Users of Uganda (AFALU)

The committee was informed that the FPF work together with the AFALU yet these are also fishermen. The AFALU members use fishing nets and are better off compared to their counterparts, the ordinary fishermen. This has brought about unhealthy competition with the ordinary fishermen who use hooks for fishing.

The FPF is dominated by males; the community complained that there were no women among the FPF. Due to this, women are also punished by male FPF, which makes them feel very vulnerable.

Contradictory specification on the size of fishing nets

The committee was informed that whereas the Fisheries Act requires the use of a single fishing net of size 7, fishermen are still using size 6 to 6.5 inches. This is further used in double and triple formations. Despite this being unlawful, the people using the nets are protected by the UPDF who only target those using hooks.

Presence of Foreigners on the Lakes

The committee learnt that there are many foreigners operating on Ugandan water bodies. For example, there is a one Keith, a South African on Kiyindi landing site. He engages in electric fishing which is illegal and he uses generators. He is armed and cuts people's nets in the lake.

Closure of Landing Sites

In a meeting held with some MPs representing fishing communities, the committee was informed that the FPF close landing sites. Some landing sites have been closed because the FPF claim that there are very few people occupying them. However, there are no proper guidelines or procedures to this effect.

Therefore, because of this, people lost their property including houses. In Kalangala District, Butulume, Kikwiri, Kagoonya, Mukaka, Damba, Nalukadudde, Musisi landing sites have been closed.

In Mukono District, Koome Island, Lambi, Bukwaya and Cape Villa landing sites have been closed

It was noted that the law does not give the FPF or fisheries officers the authority to close landing sites. The people, therefore, wondered where they get the authority to close the landing sites.

Observations and Recommendations of the Committee

1) Excessive Use of Force by the FPF

The committee noted that although the FPF have done a commendable job of curbing illegal fishing, which has led to restoring fish stocks to Ugandan lakes, they sometimes use excessive force. Many allegations of torture and inhuman treatment leading to hospitalisation and death have been made against them.

The committee, therefore, recommends that:

1. The FPF should stop all kinds of brutality meted on the fishermen even when they are guilty. Humane ways should instead be used to handle these cases.
2. The FPF who are found guilty of torturing people should be punished and the victims should be compensated.

2) Amendment of the Fish Act

The committee observed that the Fish Act (Cap.197) of 01 April 1951 is currently the main legislation managing fisheries in Uganda. The Act is not in line with recent national and international changes in fisheries management. Besides, the Act is not clear; for example, it is silent on dealing in smoked fish and the sanctions are negligible.

The committee is aware that a new fisheries law is in the process of being enacted. The committee recommends that the Ministry of Agriculture, Animal Industry and Fisheries expedites the amendment of the current Fish Act.

3) Appointment of a Minister In Charge of the Fisheries Subsector

The committee noted that the fisheries sub sector lacks a substantive minister. The Cabinet minister is overwhelmed and cannot run the sub sector efficiently. This leaves a big gap and lack of proper supervision of the sector.

The committee recommends that a state minister in charge of the fisheries sub sector be appointed to enable the sector operate efficiently and effectively.

The committee was also informed that members of the Association of Fishers and Lake Users of Uganda (AFALU) were working together with and influencing the FPF to torture people and extort money from the fishermen.

The committee recommends that the Ministry of Agriculture, Animal Industry and Fisheries regulates the involvement of AFALU in the enforcement of legal fishing.

4) Equipping of the Fisheries Protection Force (FPF)

The committee observed that the FPF are not well facilitated and because of this, they get assistance from AFALU in form of funding and boats. The committee was concerned that poor facilitation of the officers has led some of them to engage in corrupt activities by extorting money from the fishermen and selling confiscated fish and engines.

The committee recommends that the Ministry of Defence and Veteran Affairs works together with the Ministry of Agriculture, Animal Industry and Fisheries to ensure that the FPF are well facilitated and are closely monitored to prevent them from engaging in corrupt tendencies.

The committee noted that most of the people living and working on Islands lack proper means of transport. There are very few ferries on the lakes, leading to many people to travel using small boats, which are not safe. Besides, FPF have banned small boats used for transport, leaving people without alternative means of transport. People also travel on water without lifejackets because they cannot afford lifejackets due to the high prices.

The committee recommends that Government provides free boats and fuel for transport, especially in areas where there are no ferries.

The committee recommends that Government waives off taxes on lifejackets to make them affordable and enforce that every person traveling on water must have a life jacket.

The committee further recommends that Government provides standby marine rescue boats that will come in handy, in case of an emergency. The Marine Unit should be equipped with rescue boats that should be spread to all lakes in the country.

In addition, the committee recommends that the Ministry of Works and Transport should strengthen the capacity of inspectors to ensure that they carry out daily inspection of all vessels operating on the waters.

5) Importation of Counterfeit Fishing Gear

The committee noted that although the law clearly specifies the right fishing gear to use, counterfeit or illegal fishing gear such as monofilament nets, are still readily available on the market. This puts fishermen in a situation of uncertainty since illegal materials are not supposed to be on the market.

The committee recommends that the Ministry of Agriculture, Animal Industry and Fisheries works together with the Uganda Revenue Authority and the Uganda National Bureau of Standards to ban all forms of importation of illegal fishing gear and removal of all illegal fishing gear from the market.

6) Lack of Enforcement on Some of the Lakes

The committee noted that there is no enforcement on some of Uganda's major water bodies or lakes such as Lake Albert. Due to this, foreigners have been fishing on these lakes at the expense of Ugandans. Illegal fishing has also been going on unabated and this has reduced the fish stocks in these lakes.

The committee, therefore, recommends that the Ministry of Defence and Veteran Affairs considers the challenges being faced on these lakes where there is lack of enforcement and deploys the FPF to regulate fishing.

7) Sensitisation of the Fishing Community

The committee noted that at the beginning of their operations, the FPF and fisheries officers sensitised the fishing community on illegal fishing. However, education and sensitisation of the people should be a continuous process to enable them to be conversant with the law and appreciate the disadvantages of engaging in illegal fishing.

The committee recommends that the Ministry of Agriculture, Animal Industry and Fisheries works together with Ministry of Defence and Veteran Affairs and the Ministry of Internal Affairs to continuously sensitise the fishing communities about illegal fishing and educate them about the law and the recommended fishing boats and gear.

8) Ban of Smoked Fish

The committee noted that the FPF had banned smoked fish in all their areas of operation yet smoking is one of the oldest methods of preserving fish in Uganda, especially in the villages.

The committee learnt from the Minister of Agriculture, Animal Industry and Fisheries that the ban on smoked fish of all types is not necessary, as it affects the livelihood of the fishing community. The honourable minister clarified that mature Nile Perch of 20 inches or 50 to 85 centimeters and Tilapia above 11 inches can be smoked.

The committee, therefore, recommends that the FPF should abide by the law, which allows smoking of the recommended size of fish.

9) Government Facilitation to the Fisheries Subsector

The fishing communities complained about absence of any intervention to assist those engaged in capture fisheries. Most of Government’s interventions are targeting those in aquaculture yet items used in the fishing industry are very costly.

The committee recommends that Government intervenes and gives support to capture fisheries in form of fishing gear.

10) Lack of Means of Communication

The members of Parliament from the fishing communities complained of lack of proper means of communication between the fishermen and the FPF yet sometimes fishermen have emergencies, which require the intervention of the army.

The committee recommended that the Ministry of Agriculture, Animal Industry and Fisheries works together with Ministry of Defence and Veteran Affairs to set up a toll free number to help the fishermen access the FPF easily.

11) Alternative Sources of Income

The committee noted that the operations have left some of the fishermen without any alternative source of income, especially after some of the landing sites have been closed. Besides, some of the fishermen have abandoned fishing because they cannot afford the recommended materials.

The committee recommends as follows:

1. Government provides alternative sources of income for the fishermen who have abandoned the fishing business and those whose landing sites have been closed. They can be assisted to engage in crop and livestock farming for example palm oil crops and livestock in form of piggery, poultry among others.
2. Government should develop a strategy to subsidise the cost of the approved kind of nets. This will facilitate fishing the right fish.
3. Government should engage in promotion of aquaculture.

The committee further noted that fishermen are not well organised, making it hard for them to access inputs, markets, share knowledge and experiences. This also makes it hard for them to be managed.

The committee recommends that the Ministry of Agriculture, Animal Industry and Fisheries organises fishermen into groups to help them access inputs, share knowledge and experiences about cage fish farming and access markets easily. The groups will also ease management of the fishermen.

Madam Speaker, the committee noted that some officers had served in one centre for long. When they over stay in one area, they become immune to people's problems and also get involved in local politics - *(Applause)*. They set up businesses and start families, which compromises their performance.

The committee recommends as follows:

1. There should be routine transfer of the enforcement officers from one zone to another to neutralise their immunity to people's complaints. The transfers should be on a rotational basis every six months.
2. The officers should be adequately trained to equip them with the requisite skills to manage the waters.
3. The Fish Protection Force (FPF) should work with the technical fisheries officers for proper coordination. The committee realised that sometimes, they work in isolation of the trained fisheries officers and that is why they get into conflict with communities.

It was also reported that the FPF allege that they can only report to His Excellency the President. The committee recommends that the reporting mechanism should be streamlined.

Madam Speaker, I beg to report. Thank you very much. *(Applause)*

**THE SPEAKER:** Thank you very much, honourable chairperson and the Committee of Agriculture, Animal Industry and Fisheries.

Before we proceed with the debate, I would like to welcome the Most Rev. Dr Odama, Archbishop of Gulu. He is in the Gallery. *(Applause)* He is here with –

1. Fr Martin Agwee
2. Fr Opio Thaddhaeus
3. Ms Alice Anena
4. Mr Okello Robert; and
5. Mr Louis Lamot.

They are here mainly to attend the Ash Wednesday prayers today but in the meantime, they are attending our proceedings. You are welcome.

We also have a number of schools up here; they have not given me their titles but they are schools around Kampala. They are here to engage with the Uganda Parliamentary Forum for Children. It is headed by hon. Benard Atiku. They are welcome. *(Applause)*

Honourable members, the report has been signed by the necessary minimum number. We can debate for one hour. Hon. Abbott, are you burning? Hon. Mwiru, on what rule do you rise?

**MR MWIRU:** Thank you very much, Madam Speaker. I would like to thank the chairperson for the report. However, I would like to seek your indulgence on the subject matter.

When the chairperson was presenting the report, she first alluded to the fact that section 2 of the Fish Act – although I think she meant section 3 – talks about the honoraryofficer; that by the President’s letter, it meant that the President’s letter overthrew the law under which we were proceeding.

I seeking your indulgence, Madam Speaker, whether it will not be proper for us to first dispose of the issue as to whether the President’s letter substituted the fisheries officer. Under the Act, the authorised officer is the Commissioner Fisheries and it is this commissioner who has the power to appoint anybody to conduct any activity on the lake.

Regulation 33 requires that any officer who is appointed by the Commissioner Fisheries must have identification. However, we are dealing with matters where human rights violations have been conducted; where people have been on the lake but are not identified. If the debate proceeds this way - the main issue for why this investigation was commissioned will disappear.

I seek your indulgence to guide on whether the President’s letter overthrew the legal regime in respect to this sector so that we proceed generally or otherwise. I can take the information from my colleague. Thank you –*(Interruption)*

**MS EGUNYU:** Thank you, my colleague, for giving way. I totally agree with his submission because most of the problems that we have been getting on the lakes and rivers in Uganda are due to these soldiers saying that they are answerable to only one person; - the President of Uganda.

That is why they were not cooperative to the political leaders and the technical people like the fisheries officers; so, I totally concur with your submission.

**THE SPEAKER:** I do not see the Minister of Agriculture, Animal Industry and Fisheries but I also don’t see the Attorney-General. Come down here. Why are you hiding there? *(Laughter)* I think let us establish the legal regime relating to this matter.

Honourable members, there is a preliminary issue raised about the legal regime in the fishing industry. Let us dispose of that before we debate. What is the law on this issue, hon Kibanzanga?

4.30

**THE MINISTER OF STATE FOR AGRICULTURE, ANIMAL INDUSTRY AND FISHERIES (AGRICULTURE) (Mr Christopher Kibanzanga):** Thank you very much, Madam Speaker. I would like to thank the chairperson of the committee for the good report. Thank you very much.

The issues raised by my good friend are serious issues. However, he is questioning the authority of the Commander-in-Chief –

**THE SPEAKER:** No, please -

**MR KIBANZANGA:** Listen to me.

**THE SPEAKER:** No, honourable minister, there is an Act of Parliament. We are asking which takes precedence. Is it the Act of Parliament or the letter of the President? That is what we want to know. *(Applause)*

**MR KIBANZANGA:** Madam Speaker, I did not get him well and therefore, I seek for pardon so that I can understand his question.

**THE SPEAKER:** Can hon. Mwiru state the position that we want to understand on the legal regime regulating the fishing industry in this country?

**MR MWIRU:** Thank you, Madam Speaker. I would like to thank my colleague for being honest that he did not understand what I raised.

The legal regime in Uganda is governed by the Fish Act and the regulations thereunder. The Fish Act under section 2 creates an authorised officer to mean the Chief Fisheries Officer or any officer under that officer. This means that any person having business on the water bodies must be appointed by the Chief Fisheries Officer and can only act under that person’s authority.

Under regulation 33, it requires any authorised officer to have a tag of identification on the water bodies. However, what we are actually dealing with is that the President ignored that legal regime, substituted the Chief Fisheries Officer, the Commissioner Fisheries, the District Fisheries Officers; he pushed them aside and appointed the army to operate on the water bodies.

As a result, whenever they were told that their operations are outside the law, they would tell us to go and ask the President as they are not acting under any law. That is why, under that spirit, I sought the indulgence of the Speaker as to whether this debate should go on without us knowing which legal regime is being applied as far as this is concerned.

Thank you, Madam Speaker.

**THE SPEAKER:** Are you now at home and okay?

**MR KIBANZANGA:** It is very clear. Madam Speaker, can we first understand the circumstances under which the Commander-in-Chief appointed soldiers to go and restore sanity on our water bodies? Can we understand those circumstances?

Madam Speaker, we had reached a point when civil authority was overthrown by mafias on the water bodies. There was total distraction on our water bodies. Our agricultural police *–(Interruption)*

**MR MWIRU:** Thank you, Madam Speaker. I am rising on a point of order. Article 2 of our Constitution is to the effect that the Constitution is the supreme law of the land and therefore, if any other law or custom is inconsistent to the extent of the inconsistency, that other law would be inconsistent.

If the Fish Act is a subsidiary law arising out of our Constitution, is the honourable minister in order to say that when they realised that the law was unpalatable or ineffective, they overthrew the Constitution and the President took over in total disregard of the law? Is he in order?

**THE SPEAKER:** Honourable minister, can you explain how you overthrew the law?

**MR KIBANZANGA:** We did not overthrow the law and the President did not overthrow the law. There was chaos on our water bodies and it became so difficult for the civil authority to operate on our water bodies.

I remember very well that we went to the chief executive *–(Interjection)–* people are asking who that is; the chief executive of this country. We said, “Sir, our –*(Interjections)*– Madam Speaker, I beg that we listen to each other and you challenge our stand in the most dignified manner –*(Interruption)*

**DR BARYOMUNSI:** Thank you very much, Madam Speaker. I am rising on a point of information. I would like to thank hon. Kibanzanga for giving way. The information I would like to provide to the House is that it is not true that the President overthrew the Act of Parliament because the commissioner has not been dismissed. The commissioner who gets powers from the law is still working and has not been stopped from doing his work.

However, Article 98(1) of the Constitution says, *“There shall be a President of Uganda who shall be the Head of State, Head of Government and Commander-in-Chief of the Uganda Peoples’ Defence Forces and the Fountain of Honour*.”

Article 99(1) says, “*The executive authority of Uganda is vested in the President…*” Therefore, when the President deploys UPDF officers to supplement the other officers, he is actually implementing the Constitution by exercising his executive authority. That is the information I wanted to give.

**THE SPEAKER:** Honourable members, did the President supplement or eject? Is the civil authority there?

**MR KIBALYA:** Thank you, Madam Speaker. We have heard the good ministers telling us where the absolute power lies. I would like the ministers to have it in mind that we are debating a report that resulted from the findings of a committee of Parliament that went to investigate something on the water bodies.

Hon. Mwiru raised an issue that we have the Fisheries Act but now we have soldiers on the water bodies who are acting on the orders of the Head of State. As we debate the report, are we using the right law - the Fish Act - or are we going to debate using the spirit of the Commander-in–Chief?

If we are debating knowing that soldiers have powers from the Commander-in-Chief and therefore, they are absolute and nothing can be said about them, it will be a given direction. If we are debating to put things right according to the law and the Act that was enacted by Parliament, then that is another direction.

That is why we would like the minister to tell us which one takes supreme precedence and which one we should respect. Which direction should we follow when we are debating?

**DR BARYOMUNSI:** Madam Speaker, I was still on the Floor and the information I would like to give to hon. Kibanzanga is that there is no contradiction at all because even the commissioner is exercising his duties on behalf of the President. Therefore, it would be improper for Parliament to say that the President cannot exercise this executive authority because he derives it from the Constitution itself.

**THE SPEAKER:** Honourable members, we are expected to make resolutions at the end of this debate. Therefore, we should clear on what we are going to say. This matter is important and we should be clear on the recommendations.

4.41

**THE MINISTER FOR KARAMOJA AFFAIRS (Mr John Byabagambi):** Madam Speaker, maybe you could also hear what the paralegals have to say. As a paralegal, and the way I understand things *– (Interjections)*– I am on the Floor -

**THE SPEAKER:** Let him speak, I will call you.

**MR BYABAGAMBI:** Madam Speaker, the President, in his wisdom as the chief executive of this country, saw a *lacuna* in the operations of the fisheries department *- (Interjections) –* wait. Why can’t you listen to me if I can listen to you? Things were not going in the right way. In other words, that department was inadequate to do its duties the way they were supposed to be done.

Therefore, as the chief executive of this country, he could not sit back and see things going wrong. He decided to supplement that department with military officers -

**THE SPEAKER:** Order. Let the minister finish. Order!

**MR SSEWUNGU:** Thank you, Madam Speaker. We have a big problem with ministers. When the President wants to send the army out of the country, he seeks authority from Parliament. This is constitutional.

Secondly, I was in Karamoja with the Committee on Education and Sports. The state of the schools there also desires the army to go and intervene. The honourable minister on the Floor is the Minister for Karamoja Affairs.

Madam Speaker, is the honourable minister in order to insist on an illegality, which can be sorted by the ministers. We can defer this debate to some other time so that they consult the Attorney-General to find out where the problem is instead of them coming here to tell us about the *lacuna* in the fishing system. Is he in order?

**THE SPEAKER:** Honourable members, if you listen to this debate, it is actually complicated because nowhere do I see the civil authority in the report. It seems their recommendations are about the force. Has the other law been repealed?

**MR BYABAGAMBI:** Madam Speaker, I was building my point. Could you help me to restrain the disruptions?

**THE SPEAKER:** Honourable members, order.

**MR BYABAGAMBI:** I am a member of the Cabinet and the President chairs the Cabinet. This issue came to the Cabinet and we found that they needed to be supplemented.

The President had a meeting with the commissioners and the Minister of Agriculture, Animal Industry and Fisheries. Therefore, all of them knew that –*(Interruption)*

**MR MACHO:** Madam Speaker, the Member of Parliament from Jinja, brought up an issue that concerns the law. We all believe and confirm that the Fountain of Honour of this country has powers. However, every leader of a country operates under the laws of that country.

So far, the three ministers who have submitted have not given us any quote of the law to overrule the law that hon. Mwiru quoted. Therefore, is the minister in order to continue massaging words that are not fit for the consumption of the people when the vehicles of the people of Busia have been in Nakasongola for this long time? Is the minister in order?

**THE SPEAKER:** Honourable members, he understands it a different way but we need to solve this matter. I would like hon. Namayanja to present before I read for you the Constitution.

4.46

**MS FLORENCE NAMAYANJA (DP, Bukoto County East, Masaka):** Thank you, Madam Speaker. We do not doubt the executive powers that the President has.

Article 99 of the Constitution of Uganda reads:

*“(1) The executive authority of Uganda is vested in the President and shall be exercised in accordance with this Constitution and the laws of Uganda.*

*(2) The President shall execute and maintain this Constitution and all the laws made under or continued in force by this Constitution.”*

I beg to submit.

**THE SPEAKER**: Honourable members, the question we need to answer is whether we are operating under the Fish Act or the executive order. That is what I would like us to agree upon. Where are we operating from?

4.48

**MR DAVID MUTEBI (NRM, Buikwe County South, Buikwe):** Madam Speaker, I thank you for the opportunity. By the time you guided that the committee should go and study the manner in which this operation was conducted, everything was going wrong and the law was not followed. We also appreciate that the law had its inadequacies and we have been asking Government to bring a draft to amend that Act so that it can be relevant and so that things do not go wrong.

The procedural issue that I would like to bring out is, we should not lose the spirit or purpose of this report. We would like to be guided by this report so that we make appropriate recommendations that can deal with the challenges that our people are facing.

However, the truth is that the Government side is simply refusing to accept that the operation has been conducted in a manner, which is not acceptable in the existing law.

Therefore, I think we should waive all those technicalities, consider this report and come up with recommendations, which will be the basis for this law to be amended expeditiously.

**THE SPEAKER:** Honourable members, that is why I said we would like to know - when we make the recommendations, are we doing so under the Fish Act or under the executive order? It cannot be both.

**MR MIGADDE:** Thank you, Madam Speaker. The questions we are asking are whether we are operating under the Fish Act and whether the civilian authority was overthrown.

On 10 December 2017, we had a meeting with His Excellency the President at Kisozi. He made it clear to us - the Members of Parliament from the fishing communities and the technical officers – that he did not trust us as far as protecting the lake was concerned.

We had another meeting on 15 February 2018 at State House. That meeting was also attended by the Director, Fisheries and the Minister of Agriculture, Animal Industry and Fisheries. When it came time to clarify on some issues on Fisheries, the President chose to call the former Director of Fisheries even though current Director was present. He made it clear that he studied Botany and was not comfortable with Fisheries issues.

Therefore, these are clear examples –*(Member timed out.)*

**THE SPEAKER:** Honourable members, we need a solution on how to move.

**MR KIBANZANGA:** Thank you, Madam Speaker and honourable members for your frank and candid discussion.

Hon. Mwiru from Jinja has quoted the Fish Act while we have quoted the Constitution on this side. I propose that in the absence of the Attorney-General in the House, you give us time to go and make consultations with him on the relevant laws. Probably tomorrow or on the day of your choice, we shall come back and debate this report authoritatively.

I beg to move.

**THE SPEAKER**: Honourable members, the Attorney-General is directed to come to the House and explain the legal regime in the fishing industry to this country before we proceed with the report. He should come tomorrow.

MOTION FOR ADOPTION OF THE REPORT OF THE COMMITTEE ON PUBLIC SERVICE AND LOCAL GOVERNMENT ON THE STATUS OF FUNDING FOR SUB COUNTIES AND TOWN COUNCILS

4.54

**THE CHAIRPERSON, COMMITTEE ON PUBLIC SERVICE AND LOCAL GOVERNMENT (Mr Godfrey Onzima):** Madam Speaker, on 25 September 2018, hon. Moses Kahima Mugabe sought an explanation on the lack of funds for newly created sub counties and town councils in the Budget estimates contained in the Budget Call Circular for the Financial Year 20l9/2020. The matter was referred to the Committee on Public Service and Local Government. We interfaced with the relevant authorities and have come to report.

I have minutes of our interaction with the relevant people we interfaced with and a copy of the report. I beg to lay.

This matter was referred to the Committee on Public Service and Local Government in accordance with rule 53(1) of the Rules of Procedure of the Parliament. The committee scrutinised the matter and hereby reports.

Background

The creation of new sub counties and town councils is initiated by local governments and involves consultations of the relevant stakeholders. The requests are submitted to the Minister of Local Government for approval in accordance with section 7 of the Local Government Act, Cap 243.

Government created 108 town councils to commence operations on 1 July 2017 and 95 town councils to become effective on 1 July 2018. Government also created 204 sub counties that came into force in Financial Year 2018/2019 (refer to annex 1).

However, the operations of the newly created local government units have not been matched with the requisite budgetary resources.

Objective

The main objective of the committee's inquiry was to ascertain the status of funding to the newly created town councils and sub counties.

Methodology

The committee interfaced with the Ministry of Local Government and the Ministry of Finance, Planning and Economic Development.

The committee reviewed the following documents: the Constitution of the Republic of Uganda, 1995; the Local Government Act, Cap 243; and the Budget Call Circular Financial Year 20l9/2020.

Findings and observations

During the committee's interface with the political and administrative leadership of the aforementioned ministries, the following issues were noted:

1) The implementation of the decentralisation policy has, among things, resulted into growing interest and demand for new Government units, including sub counties and town councils.

2) Government created a total of 203 town councils and 196 sub counties, which have not received operational funds. However, during the Financial Year 2017/2018, a provision of Shs 2 billion in the Budget was made to cater for start-up activities for 35 town councils. In Financial Year 2018/2019, Government released Shs 2.5 billion to cater for start-up activities for 50 town councils.

However, the committee notes that some town councils received partial funding against what had been approved by Parliament (refer to annex ii)/.

3) Government had not provided operational funds by the Financial Year 2018/2019 to kick-start the operational activities for 203 town councils (refer to annex iii).

4) The Budget Call Circular for the Financial Year 20l9/2020 communicated to local governments only provided funds for town councils for seven newly created districts of Obongi, Kilak, Madi-Okollo, Rwampara, Kazo, Kitagwenda and Karenga, which will become operational on 1 July 2019.

5) The Ministers of Local Government and of Finance, Planning and Economic Development informed the committee that the issue was discussed by Cabinet during consideration of the Budget for Financial Year 2018/2019.

It was agreed that the matter of funding the newly created town councils and sub counties should be deferred so that the Government prioritises salary enhancement because of its implication on service delivery and its implementation should be in a phased manner, depending on the available resources.

However, the Minister of Finance, Planning and Economic Development undertook to include funds for approval during consideration of the National Budget Framework Paper 2019/2020 and this will be subject to parliamentary approval.

6) The funding requirements for operationalisation of the newly created 203 town councils and 196 sub counties is estimated by the Ministry of Local Government at Shs 108.5 billion and Shs 30.7 billion respectively. This excludes costs for public administration such as establishment of police posts, health and education facilities in line with the current Government policy.

Recommendations

1) The committee recommends that Government should provide Shs 139.2 billion for operation of all approved town councils and sub counties in Financial Year 2019/2020.

2) Government should review the policy of creation of new districts and other local Government administrative units in view of the constrained resource envelope.

I beg to report.

**THE SPEAKER:** Thank you very much, honourable members. That is a matter, which has been on the minds of many Members. It came from hon. Kafuuzi, hon. Nzoghu and a few other Members.(*Members rose\_)* Therefore, it is really a matter of concern but do we have to debate this or to endorse the report? Why don’t we adopt the report? The chairperson is saying that we want money for the town councils.

Honourable members, I put the question that the question be put.

*(Question put and agreed to.)*

*(Report adopted.)*

**THE SPEAKER:** Report adopted. Minister of Finance, Planning and Economic Development, give us our money.

MOTION FOR ADOPTION OF THE REPORT OF THE COMMITTEE ON NATIONAL ECONOMY ON THE PROPOSAL TO ISSUE PROMISSORY NOTES NOT EXCEEDING US $379.71 MILLION TO FINASI/ROKO CONSTRUCTION SPV LIMITED FOR THE FINANCING OF THE INTERNATIONAL SPECIALISED HOSPITAL OF UGANDA AT LUBOWA, WAKISO

5.03

**THE CHAIRPERSON, COMMITTEE ON NATIONAL ECONOMY (Ms Syda Bbumba):** Thank you very much, Madam Speaker. First of all, I would like to thank my colleagues, members of the Committee on National Economy, for the work they did when analysing the request, which was presented to us.

I now wish to proceed and present the report of the Committee on National Economy on the proposal to issue Promissory Notes not exceeding $379.71 million to FINASI/ROKO Construction Special Purpose Vehicle (SPV) Limited for the financing of the International Specialised Hospital of Uganda at Lubowa in Wakiso District.

Before I go further, I would like to lay on the Table the following documents, which we used in analysing the report:

1. The report of the Committee on National Economy on the proposal for Government to issue Promissory Notes not exceeding $379.71 million to FINASI/ROKO Construction SPV Limited for financing the design, construction and equipping of International Specialised Hospital of Uganda at Lubowa.

The report is signed by more than 60 per cent of the members;

1. The minutes of the meetings, which were held to consider the proposal
2. The brief to Parliament by the Ministry of Finance, Planning and Economic Development on the proposed financing
3. The report on Due Diligence of FINASI/ROKO Construction Limited
4. The Project Framework Agreement for the design, construction, financing and operation of two top quality hospital facilities in the Republic of Uganda
5. The Project Framework Agreement for the design, construction and financing of the proposed facilities
6. The Project Works Investment Agreement to finance the project
7. The Project Service Agreement for the management, operation and maintenance of the hospital
8. The Promissory Note Purchase Agreement between FINASI/ROKO Construction SPV as the seller and the African Export/Import Bank and Barclays Bank of Uganda
9. The Project Investment Proposal for the International Specialised Hospital
10. Submission to the Committee on National Economy by the Ministry of Lands, Housing and Urban Development on the ownership of the block
11. Maps with regard to Block 269 – the proposed site for the project
12. The statement of search for Block 269 Lubowa as of 28 February, 2019 and the Certificate of Title for the Project Site
13. The submission by Counsel Mulira and Company Advocates to the committee regarding the claim on the land; and
14. The letter from His Excellency, the President to the Speaker dated 25 February, 2019 emphasising the importance of the International Specialised Hospital of Uganda at Lubowa.

Introduction

The Committee on National Economy is provided with, under rule 175(1) and (2) of the Rules of Procedure of Parliament, the mandate to, among others things:

“175(1) *It shall be the function of the committee on National Economy to review, consider and scrutinise all matters relating to national economy generally, finance and any other matter referred to it by the House.*

1. *To examine and make recommendations to the House on all loan agreements required to be authorised or approved by the House under Article 159 of the Constitution*.”

On 12 February 2019, the Minister of State for Finance, Planning and Economic Development (Planning), hon. Bahati, tabled a proposal to issue Promissory Notes not exceeding $379.71 million to FINASI/ROKO Construction SPV Limited for financing the design, construction and equipping of the International Specialised Hospital of Uganda at Lubowa, Wakiso District.

For consideration, the proposal was premised on sections 23 and 36 of the Public Finance and Management Act, 2015 (as amended), which provide for multi-year expenditure commitments and authority to raise loans.

Section 23(1) of the Public Finance and Management Act, 2015 (as amended) states, *"A vote shall not enter into a contract, transaction, or agreement that binds the Government to a financial commitment for more than one financial year or which results in a contingent liability, except where the financial commitment or contingent liability is authorised by Parliament.”*

Section 36(1) of the Public Finance and Management Act, 2015 states that, *"Subject to the Constitution, the authority to raise money by loan and to issue guarantees for and on behalf of the Government shall vest solely in the minister and no other person, public corporation, state enterprise or local Government council shall, without the prior approval of the minister, raise any such loan, issue any guarantee, or take any other action which may in any way either directly or indirectly result in a liability being incurred by the Government.”*

The Rt hon. Speaker committed the request to issue Promissory Notes to the Committee on National Economy and we were given 20 days in which to scrutinise and come up with a report to this House. Madam Speaker, I am happy to report that we have done our job within the given time.

Background to the project

Due to life style changes, increased life expectancy and genetic factors, Non-Communicable Diseases (NCDs) in Uganda are increasingly becoming a major burden. Consequently, the fatality levels resulting from NCDs are rising significantly. Despite this trend, there is lack of both the requisite infrastructure and human resource for health required to offer the much needed highly specialised treatment and medical care to combat the burden of disease within the country. As a result, many Ugandans have been referred abroad to receive this treatment but at very high cost while others have succumbed to death.

According to the Auditor-General’s report (2016), a total of 51 patients are referred abroad for treatment on average every financial year. These are the few lucky ones because the majorities, who deserve this service, do not access this kind of facility. The 51 patients are those who are extremely lucky to be within the cycles where they can easily access the facility.

In an effort to reduce on medical referrals abroad, Government is investing in establishing centres of excellence like the Heart and Cancer institutes, rehabilitation and construction works to upgrade Mulago National Referral Hospital into a super-specialised facility, the pediatric hospital at Entebbe and the newly completed neonatal and Women's Hospital at Mulago. However, huge investment is still needed to have them functional.

At the moment, none of the hospitals in Uganda is internationally accredited. Absence of the much needed highly specialised medical care and treatment has not only contributed to foreign exchange hemorrhage but also to the high levels of mortality due to the high costs involved in seeking treatment abroad. Treatment abroad is not only the medical fee but also the other associated expenses like travel, accommodation and upkeep.

Consequently, in October 2014, Government approved a project to construct an International Specialised Hospital of Uganda, to be operated as a world class internationally accredited health facility. This facility is expected to provide highly specialised medical care for the common ailments currently being referred abroad at a very high cost. Government and FINASI/ROKO Construction SPV Limited negotiated and signed a number of agreements to have this facility established on the 32 hectare piece of land located at Lubowa.

Madam Speaker, a number of agreements were signed and the sequence was as follows:

1. In November 2014, the Project Framework Agreement was signed;
2. May 2015, the Project Works Investment Agreement was signed;
3. December 2015, the Project Services Agreement was signed; and
4. December 2018, the Direct Agreement was signed with the Project's Promissory Note Funders.

Upon obtaining accreditation from the Joint Commission International (JCI), one of the world’s leading non-profit patient safety organisations that certify world-c1ass healthcare facilities - it is envisaged that the hospital will attract patients both from Uganda and abroad, in particular neighboring countries. Already, there are many patients who are coming here to access the few facilities we have - in Nakasero Hospital, for example, a number of patients come from neighbouring countries. This is expected to minimise Government costs on overseas treatment as well as providing quicker and more accessible response to medical needs of Ugandans.

In addition, the realisation of the project will promote Uganda’s reputation internationally and provide a centre for health care training for Ugandans.

Madam Speaker, on methodology, we had meetings with the Ministry of Finance, Planning and Economic Development –

**THE SPEAKER:** That one the Members can read.

**MS BBUMBA:** Thank you, Madam Speaker. We went through 28 documents and the project is already described. It is a 264 bed hospital. Phase I will cover the 264 bed hospital and phase II will expand into a medical facility of up to 500 beds capacity though right now, we are looking at the first phase. The project is within the planning framework as confirmed by the National Planning Authority.

The terms that were negotiated right from inception of the project in 2014 to date are covered in paragraph 4.2. The estimated cost is covered under paragraph 4.4.1 and the cost will be liable plus a few points, which results into an interest rate of 6.49 at which the Ministry of Finance, Planning and Economic Development fixed it. The project cost is broken down under table 4.4.2 and the project operation costs are also covered under table 4.4.3.

On construction costs, the project agreements revealed that the company is responsible for sourcing for the finances. These finances will be against the Promissory Notes, which Government will issue on the completion of milestones.

Government has committed itself to earmark all current expenditures presently incurred on medical treatment abroad towards the redemption of costs related to the promissory notes issued as and when they mature, with effect from 2020/2021.

The financing operation costs shall be borne by the Ministry of Health. To avoid penalties, the committee strongly felt that the money which goes into this account for purposes of supporting the promissory notes should be ring-fenced to avoid it being diverted to other needy areas.

Under paragraph 4.5.3, in line with the Project Services Agreement (PSA), the company under the instruction of the Ministry of Finance, Planning and Economic Development, shal1 open a hospital revenues account where all patient revenues generated by the hospital sha11 be deposited. This account will be operated by the Ministry of Finance, Planning and Economic Development.

Under project agreements, there are quite a number, which I have already referred to. On the Project Works Investment Agreement - this is like a new model of financing in the country. We had financing using promissory notes in the previous governments but because the World Bank came in to salvage our debt, they recommended against them. That is the reason we have not been using them; they were used for quite a long time in this country. This is going to be what we call finance, design, build, operate and transfer project.

According to the Project Works Investment Agreement, the hospital shall consist of a specialised cancer facility and a specialised medical facility and at completion, shall offer to its patients a number of specialised medical services covered under paragraph 5.2, bullet 3.

Project works remuneration

In consideration of the works, it is further stated that the Project Works Investment Agreement will be of $ 345,200,000 the aggregate of the construction cost and the financing cost.

In September 2018, Government approved a new project works remuneration amount of $ 379,710,000. The interest rate, instead of being on floating, was fixed at 6.49. In table 4, the project financing plan is given.

Lenders direct agreement

It is noted in sub-clause 26.2 of the Project Works Investment Agreement that as a condition to achievement of the construction effective date, the Ministry of Health and the Ministry of Finance, Planning and Economic Development shall, upon request by the consortium, enter into the Lenders Direct Agreement with the finance parties, that is, African Export-lmport Bank and Barclays Bank of Uganda.

Achievement of first milestone

The achievement of the first milestone was supposed to be end of last month and I am told it was achieved.

Project services agreement

For the purpose of the operations and facilities management of the hospital, Government of Uganda entered into a project services agreement with the international specialised hospital to undertake the operations and facilities management of the hospital for a period of eight years from the date of completion of the construction of the hospital. The same applies to management service remuneration.

Hospital Revenue Account

According to sub clause 10.2 of the Project Services Agreement, the patient revenues generated by the hospital shall be paid into a revenue collection account, which shall be opened by the hospital under instructions of Ministry of Finance, Planning and Economic Development. The hospital revenues account shall be operated by the Ministry of Finance, Planning and Economic Development and the proceeds from that account sha11 be paid to the Uganda Government Consolidated Fund.

From paragraph 5.4.4 up to paragraph 5.4.6 refer to events of default and how they are handled.

The Budgetary Implication of the Project

The Ministry of Health, which will be the owner of the hospital, will pay the SPV through its annual budget, during the eight years of operations and annual fee to cover the provided services.

Madam Speaker, table 5 gives the requirements for the promissory notes redemption and other costs. Table 6 provides the Ministry of Health Mid Term Expenditure Framework budget allocations.

I wish to move to paragraph 6.3 on organ transplants. Government will use its best endeavours to introduce a legislation to allow organ transplants in Uganda within two years of the date from the date of the agreement. Right now, we do not have this legislation in place and it is badly needed.

If you look at the profitability through the return on investment, economic analysis indicates that the project is economically viable with the calculated return on investment that will accrue to Government estimated at 30 per cent. Under normal finance terms, this is a reasonable return.

The issue of land ownership was a hot one in the committee and in the public. In establishing the ownership of Block 269, Lubowa, the proposed land for construction of the hospital, the committee interacted with the Minister of Lands, Housing and Urban Development, Mr Peter M. Muliira, a Partner in Muliira & Company Advocates and Prince Joseph Kiggala and others.

The committee established as follows:

1. History of Prince Ssuna's allotment of land in Buganda Kingdom under the Uganda Agreement 1900. The history of ownership of mutual courts is covered under paragraph 7.2 (b) and the history of the ownership of the land is covered under paragraph (c).

Madam Speaker, I now wish to move to the acquisition of land at Lweza, which is the site of the project. This is under sub-paragraph (e).

Plot 101 Lubowa Estate was sub-divided out of the Freehold Volume 82, Folio 1, by Uganda Company (Holdings) Limited resulting in the creation of Freehold Register Volume 321 and others.

On 17 September 1998, the Uganda Company (Holdings) Limited transferred Plot 101 Lubowa Estate comprised in Freehold Register Volume 321 Folio 6 to Joint Clinical Research Centre Limited, which is a Government owned entity.

Plot No.2772 Busiro Block 269 of 30.3140 Hectares Lubowa Estate was sub-divided from Freehold Register Volume 32 1, Folio 6 to create Freehold Register WAK3941 1 Folio 18, which was then transferred by Joint Clinical Research Centre Limited to Uganda Land Commission holding it for Ministry of Health on 16 March 2O18.

Findings on the Claim of Beneficiaries of Yusufu Suna Kiwewa

The late Yusufu Suna Kiwewa Omulangira became the original allotee of eight square miles of land in Buganda Kingdom under allotment No. 4142, part of which contained two square miles of land comprised in Mailo Register Kyadondo, Block 265, Bunamwaya.

The key findings were as follows:

Allotment No.4142 did not include the two pieces of land described as Nakukuba and Mutungo, Kyadondo Block 269, initially approximated to be 843.6 acres originally held under Crown Grants. The said allotment did not also include the land described at Lweza, Lubowa and Naziba, Kyadondo Block 269, initially approximated to be 708.8 Acres held under Grant No.8843 and Freehold Register Volume 2 Folio 16, which measured approximately 993.15 Acres. The Late Yusufu Suna Kiwewa Omulangira did not include any of the two pieces of land situated at Lubowa when he made his will in 1944.

Statement of the land search by Ministry of Lands, Housing and Urban Development as at 28 February 2019.

The committee requested for a search on Block 269 Lubowa, which was carried out and submitted as follows:

Title: Freehold register Volume WAK3941, Folio 18 land at Lubowa Kyadondo: Block/Road 269 Plot No.2772: area measuring approximately 30.3140 Hectares; and registered proprietor was Uganda Land Commission (Ministry Of Health) and there were no encumbrances. Therefore, there is no encumbrance or claim on that land as it was claimed by a prince and his council.

Committee Observations

The project contributes to the NDP II Health Sector Objective of enhancing health sector competitiveness in the region through establishing centres of excellence in heart, cancer, renal care domains and highly specialised diagnostic services and health care.

The provision of such super-specialised medical services is critical for a healthy and productive population. However, to deliver the intended benefits to Ugandans, there is need to strengthen the health sector referral system as well as improve the functionality of the health service delivery systems across the country to aid early diagnosis and attendant medical care provision.

We all agree that medical services in the country are wanting and so, they need to be strengthened. Otherwise, if they are not strengthened, even referrals to these hospitals will not be done. Therefore, I would like to urge the Minister of Finance, Planning and Economic Development to budget appropriately for this.

There is no doubt, the implementation of the project has potential of increasing the availability of specialised medical services in the country and to promote medical tourism through referrals from neighboring countries. However, there is need to fast-track the implementation of the National Health Insurance to guarantee accessibility of the facility by making it affordable to Ugandans when completed.

Madam Speaker, as you are all aware, India and Turkey are some of the countries, which are benefiting a lot from medical tourism. This will help us to save on forex hemorrhage and bring more forex exchange.

Government has already defaulted on the requirement to issue to final signed promissory notes for the first approved certified of completed milestone on 5th December. This is a serious concern and Government needs to move quickly because it may give rise to penalties.

The signing of this agreement occurred without prior approval of Parliament, against the provisions of the law. This was based on the 5th December 2018 opinion of the Attorney-General, which stated that no Parliamentary approval was required for issuance of promissory notes. However, the signing of this agreement prior to Parliamentary approval has not deterred Government from seeking the mandatory approval, especially after receiving a letter from the Attorney-General, dated on 21 December that reversed his earlier opinion.

Madam Speaker, this is a very serious matter. If they are bringing finished work for us to stamp, that negates our role and so, Government should take up this matter seriously.

Ownership of Block 269, Lubowa

Based on the findings of the committee with regard to the ownership of the site land, the committee notes that the most recent statement of search indicates that the land in question is owned by Uganda Land Commission, on behalf of Ministry of Health and it has no encumbrances. The Ministry of Lands, Housing and Urban Development submitted a Certificate of Title to the committee to that effect.

The committee considered two claims submitted to it to the effect that the land in question belongs to the Late Yusufu Suna Kiwewa Omulangira; one by Mr Peter Muliira of Muliira & Company Advocates and the other by Prince Joseph Kiggala and Ms Victoria Semwanga, the administrators of the estate. None of these claimants submitted proved ownership of the said land. On the contrary, the Ministry of Lands, Housing and Urban Development submitted documents to the committee detailing the eight square miles of land in Buganda Kingdom, as per Allotment No.4142, to the Late Yusufu Suna Kiweewa Omulangira.

In 1994, the Omulangira made a will, which the Ministry of Lands, Housing and Urban Development accessed, in which he itemised several pieces of land, which he bequeathed to his successors. The Will did not make mention of the land at Lubowa as belonging to the said estate.

Budgetary implications

The committee noted that the Ministry of Health, which will be the owner of the hospital, will pay the SPV Limited through its annual budget during the eight years of operations and an annual fee to cover the provided services and repay the initial investment.

Government Supervision of the Project

The committee noted that in fulfillment of sub clause 17.1.6 of the Project Works Investment Agreement, the Ministry of Health, on 28th November, appointed Eng. Wakabi to act as the Owner's Engineer to the hospital, for a period of six months. Eng. Wakabi had resigned from Public Service and is under investigation. His Excellency, the President had, in a letter dated 4th September 2018, directed the Minister of Health, that given the importance of this project and in order to avoid delays and ensure that the project continues as earlier anticipated, she should al1ow Eng. Wakabi to continue working for the period of six months, as the process of appointing a new engineer was being finalised. This was on the request of FINASI.

Madam Speaker, it was wrong for the project contractor or implementer to recommend who should be the project owner's supervisor. This is clearly a conflict of interest and will most likely expose Uganda to losses or risks. We had problems with dams where the owner’s engineers were not doing their job well.

Project Implementation Delays

The committee noted that the preparation and appraisal of this project has taken a very long time. The project was conceived in 2O13 and launched in 2017. The project site land title to the Ministry of Health was obtained on 1 June 2018 and negotiations with project financiers initially commenced with CITI Bank, and subsequently, with African Export-Import Bank and Barclays Bank of Uganda Limited, were concluded on 4th December, 2018. The risk of delays in preparation and appraisal of this project and other risks associated with the implementation delays could further put the project at risk of failure to be implemented on time.

Committee recommendations

In light of this project, Government should put in place mechanisms to ensure that on-going programmes such as rehabilitation and equipping of lower level health facilities, general hospitals, regional referral hospitals as well as national referral hospitals complements the existing specialised facilities, such as the Uganda Heart Institute, Uganda Cancer Institute and Mulago Super-specialised Hospital among others. There should be linkages and no competition about the health facilities but they should complement each other.

In addition, Government should ensure they are internationally accredited to widen the super-specialised service scope, as a means of lowering service costs. This requires additional investment. We would like to urge Government to make those additional investments to upgrade many of these facilities, especially Mulago and other regional referral hospitals.

The design of the hospital must include a special wing, with subsidised costs for Ugandans that cannot afford the cost in the international set up.

The Attorney-General's Office, following the original advice given but which was reversed within a space of one month, be cautioned to be more careful and thorough, when giving advice to Government to avoid or minimise losses to Government, arising out of inconsistencies.

Government should in future strictly adhere to the provisions of the law that require prior authorisation of Government –*(Interjections)*– Madam Speaker, may I be allowed to complete the presentation?

**THE SPEAKER:** Order. Allow the chairperson to present the report.

**MS BBUMBA:** Government should, in future, strictly adhere to the provisions of the law that require prior authorisation of Government for financing commitments for more than one financial year or which results into contingent liability. They should follow the law. They should bring their request to Parliament in time and wait until they get approval of this House before proceeding to sign the agreement, as they did in this case.

The authority of Parliament cannot be sought after Government has already signed or executed agreements that bind Government to a financial commitment for more than one financial year or which results into a contingency liability.

On the land ownership, based on the history of the ownership of the land at Lubowa, the evidence is the certificates presented and the land search by the Ministry of Finance, Planning and Economic Development, which indicated that the land belongs to Government and has no encumbrance.

The committee, therefore, recommends that the construction of the international specialised hospital of Uganda should commence as soon as possible to avoid other penalties that Government will be paying by failing to issue promissory notes within the stipulated time.

On the budgetary implication, the committee recommends that the Ministry of Health should ensure timely integration of the budgetary appropriations required for payment in the Project Works Investment Agreement, the Lender's Direct Agreement and any other auxiliary or connected agreement - to which the Government of Uganda is a party - that will fall due in the relevant year.

On Government supervision of the project, the committee strongly recommends as follows:

1. The employment contract of Eng. Francis Wakabi as the owner's engineer should be terminated with immediate effect;
2. The Ministry of Health should request the Ministry of Works and Transport to assign two internationally accredited senior engineers at the rank of principal to the project. This group should comprise a civil engineer and an electro-mechanical engineer;
3. The Ministry of Health should assign an internationally accredited bio-medical engineer to this project;
4. The three engineers mentioned above should constitute a team of owner's engineers that will represent Government to supervise the project in the interim as Ministry of Health recruits its own engineers in the established infrastructure department; and
5. Government should make appropriate transitional arrangements not to delay the project.

On project implementation delays, the committee recommends that Government intensifies –*(Interjections)*– Madam Speaker, can I, please, be protected?

**THE SPEAKER:** Order, Members. Allow the chairperson to read the report.

**MS BBUMBA:** On the project implementation delays, the committee recommends that Government intensifies efforts of timely preparation and appraisal of public investment projects by improving their quality and readiness. We have made consistent observations of the quality of some of the projects Government brings here for scrutiny. This will go a long way in fast tracking and addressing the glaring challenges constraining Uganda's development agenda.

In conclusion, subject to the observations and recommendations herein, the committee recommends that the House approves the proposal for Government to issue promissory notes not exceeding $379.71 million to FINASI/ROKO Construction SPV Limited for the financing of the design, construction and equipping of the International Specialised Hospital of Uganda at Lubowa.

This report has been signed by more than 65 per cent of the Members. I beg to submit. Thank you.

**THE SPEAKER:** Honourable members, I understand there is a minority report. Honourable chairperson -

**MS BBUMBA:** Madam Speaker, I am sorry I had not referred to the minority report. There is a minority report attached, which was signed by three people but one of the signatures did not look like an original signature, so, I do not know. That will be proven. Thank you, Madam Speaker.

**THE SPEAKER:** Present the minority report.

5.48

**MS BETTY NAMBOOZE BAKIREKE (DP, MUKONO MUNICIPALITY, MUKONO):** Thank you, Madam Speaker. I, on behalf of hon. William Nzoghu of Busongora North, hon. Bernard Atiku and hon. Nambooze, I beg for your indulgence.

On 12 February 2019, the Minister of Finance, Planning and Economic Development tabled a proposal, seeking for the authority of Parliament to cause Government to issue promissory notes not exceeding $379.71 million to FINASI/ROKO Construction SPV Limited for financing the design, construction and equipping of the International Specialised Hospital of Uganda at Lubowa, Wakiso District.

The proposal was accordingly referred to the Committee on National Economy for consideration. The minister sought to cover in sections 23 and 36 of the Public Finance Management Act, 2015 as amended.

It is believed that if approved, the facility will manage complex cases or Non-Communicable Diseases such as cancer, kidney transplants, heart and brain surgery and other conditions requiring specialised treatment not available in Uganda. It is also expected that the country will save up to $73 million, which Government incurs annually in referral cases abroad.

In accordance with rule 202 of our Rules of Procedure, we, together with the named colleagues, moved to write this minority report after dissenting with colleagues on the Committee of National Economy.

Much as we are not opposed to the project of that nature, we harbour serious concerns in the motive, manner and discrepancies observed when we were going through this motion. We, therefore, contend that if approved in its current form as the committee report implies, the project is more of a liability to this country than is envisaged.

Points of dissent from the main report are as listed below. I will go directly to the main body.

Legality

Article 159(2) of the Constitution of Uganda provides for Government's mandate to guarantee loans for public institutions. Equally, the Public Finance and Accountability Act, 2003 also authorises Government to guarantee loans for state enterprises and local governments in the interest of the public.

According to Article 159(4) of the Constitution and Section l3 (l), (2) and (3) of the Budget Act, 200l, Government is, in turn, tasked to provide accountability on loan guarantees and grants to individual companies and statutory corporations. Important, however, is that all this is subject to the authorisation of Parliament.

This carries a high degree of risk in that in the event of default in payment by the borrower, Government, as a guarantor undertakes to repay the outstanding loan balance using money from the Consolidated Fund as stipulated under Section 28 of the Budget Act. This is in addition to the fact that resources from the Consolidated Fund, which would otherwise have been used for public investments ore diverted. There is also a high likelihood of financial loss of tax payers' money should the borrower default or fail to pay back the loan.

Incredulously, FINASI/ROKO SPV Limited issued and delivered a notice on the 30 January, 2019 to the Ministry of Finance, Planning and Economic Development in respect to the project agreements executed on the 4 December 2018. Equally incomprehensible is that a penalty fee of $750,000 increasing on a daily basis is being incurred even before the project takes off. The likely event of failure will lead to the termination of the projects agreements, loss of government monies and cause serious damage to Uganda’s reputation among international circles.

Madam Speaker, in this particular case, Uganda is to guarantee a loan and then the same country will be paying the investor at the very completion of each phase construction. Therefore, this particular deal is so confusing and we would like Parliament to be clarified on that.

As for the guarantee in question, an unprecedented urgency is presented in the proposal to Parliament. It is quite suspicious for a process that started in 2014 only to emerge as an emergency in 2019.

The procedure and compliance with the enabling law has all been flouted and already raises questions. The request to issue Promissory Notes is due to the illegal contractual obligations that had hitherto been signed between Government of Uganda and a private company FINASI/ROKO SPV Limited without due parliamentary approval.

As Parliament, we must be seen to adhere to the highest standard of legality and constitutionalism short of which we will be legislating in vain. It is, therefore, the considered view of the authors of this minority report that, Parliament should not be drawn into the unsolicited rush to approve Promissory Notes; rather parliamentary approval processes should be respected and adhered to.

Priority

Unlike public sector institutions, Government's control in private sector operations is limited since the latter is chiefly motivated by profit maximisation. This renders private sector initiatives costly and subject to abuse as has been witnessed in the cases that involved Phoenix Logistics and Apparel Tri-Star Uganda Limited which this Parliament has full knowledge of. This calls for extra caution in assuming loan obligations in respect of private sector entity.

There has been marked effort by Government in the provision of specialised health services in Uganda. This has seen the upgrading and expansion of health facilities some of which are now complete or near completion. Among these projects are the on-going renovations of Mulago Institute of Mulago Complex and the expansion of the Heart Institute Mulago with $54.9 million loan from the Islamic Development Bank.

This is in addition to the women and paediatric hospitals at Mulago and Entebbe respectively. It is noteworthy that they are all aimed at providing similar specialised health services as that being proposed by ISHU Lubowa facility, among them treatment, research, training and prevention.

Why should a private investor such as FINASI/ROKO SPV Limited be given precedence in accessing guarantees when less risky institutions can be revamped or upgraded to offer such services?

Autonomous and national referral hospitals like the Uganda Heart and Uganda Cancer institutes and other tertiary care units should be facilitated in the development of specialised hospital core functions.

Procurement standards in the choice of FINASI/ROKO SPV investor

Questions have arisen as to the compliance to procurement policies in determining the FINASI/ROKO SPV Limited as the preferred investor for the ISHU Lubowa facility. There is no reference to an open bidding or competitive process from which they were evaluated for the job of hand. Neither was there a Public Private Partnership arrangement towards the project.

There is instead a deliberate move to circumvent due legal, institutional and policy provisions. It is also indicated on page 40 of the Project Framework Agreement, where No.24.9 indicates that nothing in this Project Framework Agreement shall be deemed to constitute a partnership between the parties, an indication that the type of agreement that Government entered into with FINASI was neither a loan request nor a guarantee.

Parliament is privy to precedents where Government has continued to award contracts to incompetent and resource-constrained companies with dire ramifications despite protest from stakeholders. There is a risk of awarding contracts beyond the capacity of an investor of choice who gets overwhelmed by the volume of work.

A background assessment would have revealed that FINASI/ROKO SPV Limited is wanting for a project of the magnitude proposed. A quick Google search about this company shows that it deals in Italian furniture. The only thing it has which is near hospitals is selling of hospital beds. This matter is against the presidential directive.

According to the Ministry of Finance, Planning and Economic Development, an investor who owns FINASI, a good ally of Government, mode a proposal to His Excellency, the President in February 2013 to build and manage specialised healthcare at Entebbe Grade A and the Uganda Cancer Institute.

Acting on this, the President directed the Ministry of Health and Ministry of Finance, Planning and Economic Development to negotiate the project and the contractor financing to which there is no clear evidence that payments should be mode through issuance of Promissory Notes. Rather the President suggested – and Madam Speaker, I would like this to be emphasised *-* in his letter, a Public Private Partnership arrangement and indicated that the company should not get any financial guarantee as they had initially sought. This was the presidential directive.

This arrangement is therefore against paragraphs 2 and 3 of the President’s directive in a letter dated 23 April, 20l4 to the then Minister of Finance, Planning and Economic Development, hon. Maria Kiwanuka.

Inconsistency in the cost of financing the international specialised hospital

According to documents submitted by the Ministry of Finance, Planning and Economic Development, the total project cost breakdown is $249.9m with no tax payment component. However, the financing for which Government of Uganda is seeking parliamentary approval is $379.7l million thus an increment of $129.83 million, which is 52 per cent of the original estimated cost.

In the direct agreement between the Government and FINASI/ROKO SPV Limited, which was entered into on 04 December 2018, the agreed cost for the project was $366.88 million. How does then the amount of $l29.83 million of the original estimated cost rise? Why is there a difference in amounts?

The investor seems assured of making a profit over the eight-year horizon involving construction and operating the ISHU Lubowa facility. What happens to the other Government/ taxpayer’s guarantee in the instance of low yields or even disasters? Who takes the contingent liability on having this health facility in place?

In addition, the Government has committed itself to give the investor $73 million per year for a period of six years. The Promissory Note financing modality gives the private investor in this ISHU Lubowa facility 100 per cent funding and guarantees to safeguard them from any losses whatsoever.

Payment for completion of project works through the Escrow Account vs. issuance of Promissory Notes

In the Project Agreement, on page 19, Section l0.1, an Escrow Account would be opened and maintained at and by the Bank of Uganda to give comfort to the timeliness of payment between the company and Government.

However, Section 5.1 of the Amended Direct Agreement between Government and FINASI/ROKO SPV on the other hand clearly indicates that there is no need for an Escrow Account for payment of completed works and henceforth it is no longer a requirement for payment by Government to the company. All references to the same and the obligations of the Government of Uganda with respect to the same under the Project Works Investment Agreement are no longer applicable.

There is no evidence whatsoever, for the decision regarding the undesirability of the Escrow Account thus causing suspicion that money is meant for individual private deals at the expense of the Ugandan taxpayers. This is also in total contradiction with the minister's idea of multi-year commitments till the loan is paid off for a period of six years offer, which revenues generated by the facility would be deposited into the Consolidated Fund annually.

Project monitoring component

Any normal project is destined for monitoring and evaluation activities before effective decisions are undertaken. However, a look at the amended ISHU Direct Agreement No.5.3 of (ii) (B, C&D), it provides for payment of works done by the company and thus issuance of Milestone Completion Certificate together with the report prepared by the company to the technical advisor; the Minister of Finance, Planning and Economic Development for the purposes of enabling the Government of Uganda authorised signatories and thus payments.

A much more detailed work plan for supervision and monitoring of project acclivities before issuance of the Promissory Notes as evidence for complete work should have been clearly provided to avoid payments of huge sums of monies for works that have not been critically supervised and monitored; a practice, which is very common with most Ugandan projects.

There is no evidence whatsoever, that the technical staff in the ministries of Health, and Finance, Planning and Economic Development benchmarked on some accomplished hospital project works, which have been previously undertaken by FINASI/ROKO SPV company elsewhere as best practice requires for quality assurance to guarantee them as the favourable candidates for the construction of the ISHU facility project.

Ownership of the project land

The attention of Mr Peter Mulira, the lawyer to the rightful owner of the land on which the ISHU facility project is to be located, has been drawn to the proceedings of the committee.

According to cadastral records of the Department of Surveys at Entebbe, Block 269, formerly MRV 82 Folios, l, 2 and 3, was registered in the names of Prince Yusuf Ssuuna Kiweewa on 06 June 1906 pursuant to the Final Certificate Number 18570. The land has since then been the subject of several transactions over the years till l982 when Mitchell Cotts fraudulently had the title transferred in their names.

The title deed presented to Parliament by the Permanent Secretary, Ministry of Health is for plot l0l, which originates from a fraudulent title issued in l983 but backdated to 1969. It is a freehold title over *Mailo* land, which is not allowable under the law.

An application for Letters of Administration in respect to the estate of the late Ssuuna has already been lodged and claim will be made to the ownership of the said land. Now that the said land is the subject of dispute and its legal status is still unresolved, we risk litigation and might be forced to forfeit the investment thereon altogether.

Budgetary implication and consequent absence of the note of purchase document

The project lacks the Note Purchase Document that details the terms of the financing, which thus makes it an uphill task to calculate the total financial implication of the project to the Government much as the direct agreement makes reference to terms in the Note Purchase Agreement, which the Ministry of Finance, Planning and Economic Development has not availed.

Lack of clarity on the operation of the facility alongside other existing specialised facilities in the country

The ministries of Health and Finance, Planning and Economic Development have not clarified on how the facility will function alongside the existing specialised facilities like the Uganda Heart Institute, Uganda Cancer Institute and the super-specialised hospital at Mulago and whether there is a possibility of the said facilities being accredited internationally.

Recommendations

1. Government should source for funds to rehabilitate and equip the regional referral hospitals in the four regions of the country (Eastern, Central, Northern and Western).

 The specific focus should be on Jinja, Mbale and Moroto hospitals for Eastern Uganda; Gulu and Arua hospitals for Northern Uganda while Mulago, Entebbe and Masaka hospitals for Central Uganda as well as Buhinga, Mbarara and Kabale for Western Uganda instead of guaranteeing a private company.

1. There is need to rethink the Promissory Note financing modality, which gives the private investor in this project 100 per cent funding and guarantees to safeguard them from any loss whatsoever.

 This is also similar to the case where between 2002 and 2006, Government through the African Development Bank guaranteed loans worth $l0 million to Tri-Star Apparel, a private company under AGOA, where Ugandans lost their money. Parliament should, basing on this experience, conduct more serious scrutiny than what has been done.

1. The Attorney-General should be held responsible for failing to properly and legally guide Government on this project. It should be noted that the Attorney-General gave two contradicting legal opinions to Government on the said project. At first, his legal opinion was that the Government did not require the approval of Parliament. He came back and advised that this time they needed approval of Parliament.
2. Government should deliberately sponsor a sizeable number of medical professionals for specialised courses abroad to prepare a competent manpower that will handle the complicated health-related cases in future.

Madam Speaker, when you look at the details of the documents submitted to us, this investor has listed training of medical personnel as some of the things we must fund before his project commences.

Mulago and its constituent entities should be supported to build capacity for the requisite staffing and equipped to obtain international accreditation. Besides, since Mulago devolves to a number of specialty units and referral centres across the country, they can be upgraded and committed to provide the specialties being targeted under the Lubowa project to avoid duplication of services and build competence.

Priority should be given to funding and aiding the establishment of autonomous facilities like the Uganda Heart Institute and Uganda Cancer Institute to manage various complicated conditions.

Partly due to underfunding, the facility remains underutilised after the installation of a multi-billion operation theatre with the capacity to facilitate 1,000 surgeries per year.

If the project is critical to the current healthcare situation in the country, then a thorough feasibility study should be done with a view to Government implementing the project on its own without recourse to a third party who in this case is even a liability - an investor who comes empty-handed.

In conclusion, the Ministry of Health has previously, on the Floor of Parliament, indicated that Mbarara Regional Referral Hospital alone requires only $30 million for the upgrade of the hospital infrastructure.

This strategy and approach, in our considered view, is far cheaper and cost-effective in terms of infrastructure accessibility and usability by the wider public as compared to the cost of one private facility which will cost approximately Shs 1.4 trillion.

The ISHU-Lubowa Project is, from the very onset, a suspicious project which Parliament should run away from or risk being used to sanction an illegality and a liability to the country. It is all marred by ambiguities, irregularities and it has been done with less feasibility study.

If Government is destined to acquire the facility after eight years, why then guarantee the private company that is profit-motivated other than provision of health services for all (the rich and the poor).

Notably, Government has not done due diligence on FINASI/ROKO SPV Limited in regard to their capacity, and suitability in undertaking the implementation of this crucial project. We are therefore constrained and not able to recommend that Government guarantee this incredible liability.

I beg to move, Madam Speaker.

This report is by hon. Nzoghu (Busongora North); hon. Benard Atiku (Ayivu County) and hon. Betty Bakireke Nambooze (Mukono, Municipality). This is the signed copy of the minority report.

Madam Speaker, I beg for your indulgence to allow my honourable colleague hon. Nzoghu to lay the documents we have attached to this report.

**THE SPEAKER:** No. you lay them. We do not operate like that. You are the mover; so lay the documents.

**MS NAMBOOZE:** Madam Speaker, I beg to lay the report on the due diligence of FINASI LLC that was drawn in August 2014.

**THE SPEAKER:** The rules are clear; you have presented the minority report and so you do it all.

**MS NAMBOOZE:** Madam Speaker, you remember I had begged your office to recognise my disability and health problem. *(Laughter)*

Madam Speaker, I beg to lay a breakdown of the cost of this project which shows that it needs $249.9 million whereas the application now before us is for $379.71 million.

Madam Speaker, I beg to lay a letter from Mulira and Company Advocates dated 29 January 2013 in relation to the estate of the late Yusuf Ssuuna Kiweewa.

Madam Speaker, I beg to lay a letter dated 23 February 2013 signed by the then Minister of Health, hon. Christine JD Ondoa in relation to construction and equipping of the Entebbe specialised hospital and specialised cancer centre at Uganda Cancer Institute.

Madam Speaker, I beg to lay the 4 September 2014 letter written to the Minister of Health from H.E. the President of Uganda where the President directs for the formalisation of this matter before us.

I beg to lay a letter dated 23 February 2013 written to the honourable Minister of Finance signed by the Minister of Health, which shows that a firm presented a proposal to borrow on commercial terms from commercial banks under Government guarantee for the construction, equipping and management of the following hospitals: Entebbe, specialised cancer centre at Uganda Cancer Institute, regional hospitals like Abim, Busolwe and Kitagata.

Madam Speaker, I beg to lay a letter from H.E. the President dated 23 April 2014 written to the then Minister of Finance.

As I lay it, I would like to draw the attention of Parliament to the presidential directive, in particular the paragraph that reads*: “The private people who will build the hospital will not get a financial Government guarantee as they wanted.* *Instead, we agreed that we* *guarantee them the handling of all patients we have been paying for abroad per annum.”*

That was the presidential directive. I beg to lay.

I beg to lay a letter from Mulira and Company Advocates in relation to Block 265 Lubowa and it deals with Lubowa Hospital. I would like to particularly draw Parliament’s attention to the paragraph that reads, *“The title deed presented to Parliament by the Permanent Secretary, Ministry of Health is for Plot 101, which originates from a fraudulent title issued in 1983 but backdated to 1969.”*

I beg to lay a letter written on 9 May 2014 to the District Staff Supervisor, Wakiso District Local Government signed by Jasper Kakooza for the Permanent Secretary. It is related to the title deed for Busiro Block 366–377 marked Pin 25 land at Nakigalala, Wakiso measuring approximately 278.60 acres.

I also beg to lay a blueprint copy of land whose appropriator is Omulangira Ssuuna Kiweewa, which is going to house this project.

I also beg to lay a letter to the chairperson, parliamentary Committee on National Economy in relation to Block 269 Lubowa signed by Prince Joseph Kiggala, the Administrator of the Estate of the late Ssuuna.

With that, Madam Speaker, I beg to reiterate our recommendation that this Parliament finds merit in the minority report and save this country. I beg to move.

**THE SPEAKER:** Okay. Honourable members, the reports have been presented and they are lengthy. Are members ready to debate them because they have divergent positions?

**MS NAMUYANGU**: Madam Speaker, some colleagues, especially from the Catholic faith, are supposed to go for Mass. Therefore, I propose that we postpone this debate to Tuesday next week.

**THE SPEAKER:** Tomorrow.

**MR SSEMUJJU:** Thank you, Madam Speaker. We have attentively listened to the two reports that have been presented and we have opted to begin the debate. I do not know why Government would be interested in moving a motion and then not interested in Parliament considering it. I do not know what they are hiding. Why didn’t you make the same proposal for the presentation? Now that it has been presented, let us debate it. What do you fear? This is your motion. It has been presented and now you are saying that you are not ready. Why didn’t you ask the Speaker not to put it on the Order Paper?

**THE SPEAKER:** No. I was the one who asked whether you are ready.

**MR SSEMUJJU:** Madam, we are ready to start the debate.

**MS NAKIWALA:** Madam Speaker, you have constantly rightly guided against non-discrimination. As we talk now, Bishop Odama has just arrived to lead us into the Mass, which is the beginning of lent. We request for your indulgence to be able to attend Mass and then we can continue the debate tomorrow, not Tuesday. I submit.

**MR WALUSWAKA:** Thank you, Madam Speaker. This report has been read by the chairperson and the minority report has also been presented. As the person representing the people of Butaleja, I am ready to debate. However, if the minister sees it fit for us to debate it tomorrow, we can come and do so but we are ready to debate now.

Madam Speaker, if it is in your wise ruling that we debate the motion today, then I will start the debate. Nevertheless, I even do not see quorum here. If there is quorum, I beg we continue to the debate and if it is not there, we postpone it to tomorrow. This is because there is a lot of money that we want to commit to this project. Thank you.

**MR BAHATI:** Madam Speaker, I would like to respond because this question was asked by you. The minister *– (Hon. Nzoghu rose\_)*

**THE SPEAKER:** Hon. Nzoghu, what is it? Please take your seat and allow the minister to speak.

**MR BAHATI:** Thank you, hon. Nzoghu, for respecting the Speaker. Hon. Namuyangu raised an issue and said there are Members of the Catholic faith who have Mass right now. I would like to respond to the issue of hon. Ssemujju; there is nothing we are hiding. We are ready to debate and support this project but given the information we have heard about the Mass, if it is in your wisdom, we can debate it tomorrow.

**THE SPEAKER:** Honourable members, there is always a problem when we have our big people here from the church. Sometimes I have to run from here to join the service. Minister, what do you say?

**DR MORIKU:** Thank you, Madam Speaker, for giving me this opportunity because this is the sector that the hospital is actually going to be. The fact is that at the beginning of your communication, you introduced the Archbishop, who has travelled all the way from Gulu, and many of us, the Catholics, have mobilised to attend this Ash Wednesday; more importantly, to mobilise for the Uganda Martyrs celebration which is on the 3rd of June hosted by the Archdiocese of Gulu. Therefore, I implore you, under your guidance, that we could have this debate possibly tomorrow. I thank you.

**THE SPEAKER:** Take your seats! Honourable members, do you want to silence me? I invite you to go and read these reports and we debate them tomorrow. But I am also going to Bundibugyo –*(Interjection)* No,you will go in the night.

*(The House rose at 6.32 p.m. and adjourned until Thursday, 7 March 2019 at 2.00 p.m.)*