

PARLIAMENT OF UGANDA

**Monday, 3 May 2021**

*Parliament met at 11.27 a.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 morning sitting. We want to thank God for the shower this morning. Although, it delayed our work, rain is good for our country.

I would like to congratulate the workers of Uganda who had their Labour Day celebrations on the 1st of May. I hope that by and by, their working conditions will improve. There are no matters of national concern. Let us just go to item three.

STATEMENTS BY MINISTERS ON:

I) THE LAYING OF THE HOST GOVERNMENT AGREEMENT, TARIFF AND TRANSPORTATION AGREEMENT AND SHAREHOLDERS AGREEMENT FOR THE EAST AFRICA CRUDE OIL PIPELINE

**THE SPEAKER:** Minister? Not here. Next item.

II) THE ESTABLISHMENT OF KADHIS’ COURTS AND AN ENABLING LAW AS ENVISAGED IN ARTICLE 129 OF THE 1995 CONSTITUTION OF THE REPUBLIC OF UGANDA

11.30

**THE DEPUTY ATTORNEY-GENERAL (Mr Jackson Kafuuzi):** Madam Speaker, this statement is made in response to the urgent question relating Kadhis’ Courts to the process of the establishment of Kadhis’ Courts and an enabling law, envisaged under Article 129 of the Constitution of the Republic of Uganda.

Kadhis’ Courts are provided for under Article 129(1) of the Constitution as follows:

(1) The judicial power of Uganda shall be exercised by Courts of Judicature, which shall consist of:

(d) Such subordinate courts as Parliament may by law establish, including Kadhis’ Courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by Parliament.

Originally, the provisions on Kadhis’ Courts were contained in the Domestic Relations Bill, which was intended to deal generally with matters of marriage and divorce, for all persons in Uganda.

The Muslim community raised concerns that the Domestic Relations Bill may not sufficiently address issues unique to the Muslim faith. As a result of the concerns of the Muslim faith, Cabinet, under Cabinet Minute 425, approved the proposal for the introduction of Kadhis’ Courts. Accordingly, the Domestic Relations Bill was split into the Marriage and Divorce Bill, 2003 and the Administration of Muslims Personal Property Bill.

Subsequently, in 2010, the Cabinet directed that the Administration of Muslims Personal Property Bill be renamed The Kadhis’ Courts Bill, in order to accord with the provisions of Article 129 of the Constitution and other considerations such as the need to only recognise elaborate judicial processes and procedures provided in the *Quran,* regarding key social issues such as marriage, divorce and inheritance, among others.

This, without attempting to rewrite the provisions in Kadhis’ Courts Bill, the Kadhis’ Courts Bill 2012 was drafted to give effects to the directives of the Cabinet.

Madam Speaker, the reason the Kadhis’ Courts Bill, 2012 has not been enacted is because of the on-going consultations on the content of the Kadhis’ Courts Bill. The most recent consultations were held on 25 November 2020 with the Muslim Centre for Justice and Law. The Marriage and Divorce Bill is also undergoing similar consultations.

As soon as there is consensus on the content of both Bills, the Bills shall be submitted to Cabinet for approval and reintroduction in court. I beg to submit.

**THE SPEAKER:** I do not know whether hon. Syda Bbumba is satisfied with the response.

11.34

**MS SYDA BBUMBA (NRM, Nakaseke North County, Nakaseke):** Thank you very much, Madam Speaker. I would like to thank the Deputy Attorney-General, for the information he has relayed to this House, this morning.

Much of the information was not known to the public. I do not know with whom they are consulting. Otherwise, members of Parliament are key stakeholders yet we have not been privy to this consultation. There are many other key stakeholders such as the Uganda Muslim Supreme Council at Old Kampala, the Uganda Supreme Muslim Council at Kibuli and the Supreme Council at Nakasero. I am perturbed that it has taken 12 years to conduct consultations.

During all this time, people are suffering; we have problems of inheritance. When we go to the Attorney-General - the way they handle the Muslim inheritance is against their faith and so, they end up in fights. There is a close friend of mine who has been trying to dissolve a marriage for 30 years but she has failed because of the absence of these courts.

In the past, we were told that the courts could not be established because we did not have qualified judges in these courts. To date, we have more than enough; I do not understand why these consultations are taking too long.

Madam Speaker, my prayer is for these consultations to be expedited so that people of the Muslim faith are not denied justice. All this time, we have been denied justice regarding our marriages, inheritance and other social issues.

It will not be fair for us to continue with this kind of situation. Can we have the Government expedite and also make all-inclusive consultations so that some of the stakeholders are not left out? I thank you very much.

**THE SPEAKER:** Thank you very much.

11.37

**MR ABDU LATIF SEBAGGALA (Independent, Kawempe Division North, Kampala):** Thank you very much, Madam Speaker. The framers of the 1995 Constitution realised the importance of having special courts to handle a section of people, and that is why Article 129 was introduced for Kadhis’ Courts.

It is now close to 20 years down the road and we are still talking about consultations. We had the Mohammedan Law, which was meant to cater for the interests of Muslims. This is because we, Moslems, know that whatever is talked about - be it marriage or inheritance - is an act of worship, which is guided by Islamic teachings and the Sunnas of Prophet Mohammed; May peace be upon him.

Madam Speaker, it really beats my understanding that the consultations that the minister has just talked about - I have just heard about them from him and hon. Syda also talked about it.

We know that we had a lot of consultations when we wanted to introduce the Muslim personal law and I think it was 10 years ago and at the time, the chairperson of the Law Reform Commission was the late Prof. Joseph Kakooza. We had a lot of engagement. My humble request is that the Government understands us.

The framers of the 1995 Constitution realised, after making various consultations, that Muslims should have what we call Kadhis’ Courts to address their pertinent issues.

The minister talked about the Muslim Centre for Justice and Law. There was no consultation made by the Muslim Centre for Justice and Law. They only wrote to the minister, who by then was hon. Kahinda Otafire, and there was a simple response.

Madam Speaker, there is an intended delay for these Kadhis’ Courts to be operational. I am requesting that these consultations be expedited and everybody be brought on board so that these Kadhis’ Courts can start functioning. We know that we have so many cases that can be ably handled and those qualified to do this are readily available.

Since Kadhis’ Courts have taken a very long time - since 1995 - Government should come out openly and ensure that Muslims, as far as Article 129 of the 1995 Constitution is concerned, have the Kadhis’ courts to handle Islamic related issues that cannot be handled by any other laws.

11.41

**Mr JOSEPH SSEWUNGU (DP, Kalungu County West, Kalungu):** Madam Speaker, I would like to thank the Attorney-General for attempting to answer a very difficult question and I would like to give him a score; that he is saving us from a number of issues. At least he is always here to address issues that deal with the law.

Madam Speaker, the clarification I would like to seek from him - I would like to know why issues dealing with the Muslim faith take long to be responded to. When we talk about Islamic banking, they are crying; now this is a constitutional matter which does not need any debate.

We have not got any commitment from the minister - justice delayed is justice denied. The moment you do not put in place these Kadhis’ Courts and the particular people who are supposed to run them, you are denying justice to that faith, their belief and the issues they want to handle in their court.

When you go to the Judiciary, the *big* Muslims who have been judges are kept there and are not given attention; they are backbenchers. They are not given the kind of power that is needed to run their offices as it is intended to be done.

Attorney-General, the best answer you would give here is a commitment - because this Parliament has never got a Bill. It is with you.

Otherwise, I will ask hon. Syda Bbumba, hon. Latif Sebaggala and others to give us what you have so that we bring a Private Member’s Bill. They will start fumbling; that is how we shall manage them but I still ask; why do you procrastinate on issues dealing with Muslims? I have Muslim relatives and I handle family issues with them. They have such problems and they need solutions.

The statement has not answered what the Member asked for and he has no assurance; they are just moving around, trying to engage in consultations. Muslims have structures right from the parish levels, just like the Catholics and Protestants have structures up to district leadership. So, where there is no consultation, who will you mislead giving this kind of information?

Attorney-General, thank you for the attempt and continue doing so. Maybe you will win that office in full gear so that we stop suffering from absenteeism of those people who are supposed to be here. Thank you.

1.45

**MS FRANCA AKELLO (FDC, Woman Representative, Agago):** Thank you, Madam Speaker. The Constitution of this country grants freedom of belonging to every Ugandan and so, the learned Attorney-General, is very much aware that the Muslims have a right to belong to Islam and they also have a right to get what they want in terms of how the country governs them or the laws that are required to govern them.

The honourable Attorney-General presented here that they are still consulting. I would like to know from the Attorney-General; you have consulted for over 12 years but you have not put before this House the list of stakeholders you have so far consulted. Hon. Syda Bbumba, one of the members of the Muslim community, expressed concern that the key stakeholders of Islam have not been consulted and even the supreme council.

Would you like to put a document on the Table of this House, to show commitment that the statement you have made here – and those consultations have been and are still going on? Therefore, to prove that your statement is true, I would like to request the minister to present a document before this House. It would be proof that for the 12 years, they have consulted the number of stakeholders on the list. Thank you.

**THE SPEAKER:** Honourable Members, we need to conclude.

**MR SEBAGGALA:** Madam Speaker, the minister is aware that the Kadhis Bill he is talking about - I am not sure whether it is a Bill because the processes for anything to be termed a Bill are well known. What he has is only providing for marriage and divorce without considering other matters like inheritance as situated in Article 129.

It is inadequate even before the consultation he is talking about. I would request that if the Government is really open and willing to ensure that Article 129 is operationalised, let these consultations be open and extended to every stakeholder so that we can tell the minister where we have some lacunas as far as the intended Bill is concerned.

That, therefore, will spice it up and ensure that we bring a Bill that can conform to what the framers of the 1995 Constitution envisioned, Madam Speaker.

**THE SPEAKER:** Thank you. So, Attorney-General, I think you can see that the Members are not satisfied. What the Government is doing is in breach of Article 29 of the Constitution, which provides as follows:

“*Protection of freedom of conscience, expression, movement, religion, assembly and association”*

Article 29(1)(c) provides as follows:

*“The freedom to practise any religion and manifest such practice, which shall include the right to belong to and participate in the practices of any religious body or organisation, in a manner consistent with the Constitution.”*

Your delay to establish the Kadhis’ Courts is a breach of Article 29 of the Constitution. No one is satisfied that you have actually consulted. So, can you give us a timeframe when the consultations will end?

**MR KAFUUZI:** Madam Speaker, under the operations of Government, today is the last day of Cabinet. It is not easy for me to give commitment because we are ending our term of office. However, I am very sure that Government is committed to seeing this through and that it should be a matter of concern. It will be urgently attended to in the next term of office. That is all I can say. I beg to submit.

**THE SPEAKER:** Honourable minister, can we just say that in your handover notes, you will include this issue as something really outstanding.

**MR KAFUUZI:** In the event that I have to handover, I will do so. *(Laughter)*

**THE SPEAKER:** No, you have to hand over this tenure of the last Government. Even if you are going to be the next minister, you hand over to yourself.

**MR KAFUUZI:** Most obliged.

**THE SPEAKER:** Thank you very much.

LAYING OF PAPERS

REPORTS OF THE AUDITOR-GENERAL ON THE FINANCIAL STATEMENTS FOR

THE YEAR ENDED 30TH JUNE 2020 FOR THE FOLLOWING ENTITIES

11.50

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to read all of them at ago and then lay them.

I beg to lay the following reports from the Auditor-General’s office for the year ended 30 June 2020:

1. The Parliamentary Commission
2. State House
3. The Ministry of Public Service
4. The Judiciary
5. The Uganda Police Force
6. The Ministry of East African Community Affairs
7. The National Citizenship and Immigration Control
8. The Markets and Agricultural Trade Improvement Project II (Matip 2), under ADB Loan No.2000130013632
9. The Agricultural Value Chain Development Programme
10. The Uganda Multi-Sectoral Food Security and Nutrition Project
11. The Dairy Development Authority
12. The Electoral Commission
13. The Amnesty Commission
14. The National Oil Palm Project (NOPP) IFAD Loan No.2000002292 and Grant No.2000002291
15. The National Agricultural Advisory Services (NAADs)
16. The Uganda Law Reform Commission.

Madam Speaker, I beg to lay.

**THE SPEAKER:** Thank you very much. Honourable members, the items on the Parliamentary Commission, the Dairy Development Authority, the Electoral Commission, the Amnesty Commission and the Uganda Law Reform Commission will be sent to the Public Accounts Committee (Commissions, Statutory Authorities and State Enterprises).

The remainder will be sent to the Public Accounts Committee (Central Government) for perusal and report back.

BILLS

SECOND READING

THE INCOME TAX (AMENDMENT) BILL, 2021

**THE SPEAKER:** Honourable members, I think we had asked the committee to harmonise. Minister of Finance, Planning and Economic Development, have you harmonised on these issues? Have you not?

11.52

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I have not physically met with hon. Migadde. However, through his agents, I have been told that it is okay on the idea that he suggested on the 30 per cent; we can concede and subject the expenses to verification by Uganda Revenue Authority. That is the position.

We have had a chat with the Members who had moved the minority report, including hon. Syda Bbumba, on that. We are willing to have that common ground, if they are okay with it so that we move forward.

**THE SPEAKER:** Hon. Syda Bbumba?

11.53

**MS SYDA BBUMBA (NRM, Nakaseke County North, Nakaseke):** Thank you, Madam Speaker. I am one of those who moved the majority report but after consultations, we conced ed and accepted the 30 per cent flat for those properties in private names and those in company names.

We realised that if you put up different rates, administration is going to be difficult. So, we accepted it, Madam Speaker.

**THE SPEAKER:** So, have you moved from 60 per cent to 70 per cent?

**MS BBUMBA:** Yes.

**THE SPEAKER:** Okay. Hon. Migadde?

11.54

**MR ROBERT MIGADDE (NRM, Buvuma Islands County, Buvuma):** Thank you, Madam Speaker. I actually did not know that Members who signed the minority report became my agents since then. I was the chief agent; so, I thought I was the right person.

However, I would have no problem with the 30 per cent, if we are doing away with the other tax to remove the issue of double taxation. There is the other tax of up to 12 per cent under the Local Governments (Rating) Act, which provides for 12 per cent relatable value.

Therefore, I would have no problem if we are doing away with the other percentage of 12 per cent - if the minister is comfortable with that. By talking about 30 per cent, that will be about 15 per cent of the gross yet you are talking about another 12 per cent; so, it takes you back to more than 20 per cent.

What does the minister have to say, as far as the other tax is concerned because the local government and URA are both targeting the same building and the same rent yet the whole tax is actually going to the same Government.

So, are we doing away with the other tax? If so, I have no problem.

**THE SPEAKER:** Honourable members, I am not sure whether the minister is ready for this. Can we handle the other Bill while you really look at this issue? How does it relate to the Local Governments (Rating) Act now; if you are going to tax them in the local Government and then tax the same building in the Income Tax Act?

**MR BAHATI:** Madam Speaker, I think I need to convince hon. Migadde that the issue in the current Bill is only handling the issue that you raised in the minority report.

The other things you are talking about are not part of the Bill at the moment. So, we cannot talk about the future when we are handling that. For now, there is no clause relating to that.

**MR MIGADDE:** Madam Speaker, the reason we proposed 25 per cent is because we knew that there is actually another tax burden under the Local Governments (Rating) Act. That is why we are talking about 25 per cent.

Now that the minister is looking for a win-win position –the President has come out to castigate some of these taxes. There is a letter the President wrote to hon. Tom Butime on 28 November 2019 and he said, *“I have been told that some district authorities have started efforts of collecting property taxes from rental houses in trading centres. Some are talking about 8 per cent or thereabout. I do not support this because people who pay rent in those areas are not many. If somebody just put up a rental building in that area, let those local authorities not rush to collect taxes. Let them wait.”*

Now that the President was also uncomfortable with the other tax, why doesn’t the minister accept that we do away with that tax so that we can have this one?

**THE SPEAKER:** For the minister to say we do away with that tax here when the matter is not yet before the House is a problem. Why don’t we –

**MR KAKOOZA:** Thank you, Madam Speaker. I think the best way, when we go to the Committee Stage, is the drafting in Section 22 they are talking about, which is on rental income. We can draft it in such a way that we make it consistent with the legislation. You can say, “Notwithstanding any other law or relevant law”. That is how it can be formulated so that it is catered for.

It could be a win-win situation to accommodate the President’s opinion, the minister’s thinking and what is happening. When we go to the Committee Stage, we can amend that section in the formulation.

**THE SPEAKER:** I think we should have the proposals early enough before we go to the Committee Stage.

**MR JAMES KAKOOZA:** Otherwise, if the minister is still interested in reducing the percentage we had proposed and he remains with the Local Government Rating Bill - honestly speaking, taxation is not speculation. In taxation, you provide evidence where you tax. Where you do not have any loss, you pay and where you have a loss, you do not pay. That is the principle.

The country, as you know, is facing the COVID-19 pandemic. Since some people are flouting the law and there is enhancement of URA to audit, we, the people who wrote the minority report, proposed the general principle of 25 per cent. We proposed that we make it a cap of 25 per cent gross. If somebody makes a loss, we tax it. Then, the 75 per cent is the allowable allowances.

If the minister, in his concept, is saying it is now 30 per cent, then the formulation of Section 22(c) will change and we should write, “Notwithstanding any other law”. It is because all this money goes to the Consolidated Fund. It will accommodate what the President is talking about and also what the minister wants to achieve. Thank you.

**MR BAHATI:** Madam Speaker, as you were trying to guide, what is before us is the Income Tax (Amendment) Bill. The point which they are raising is in the Local Government Rating Act. So, these are two separate laws.

As we have said, making changes here in another piece of legislation without the committee looking at it and consulting and doing all the necessary studies, can be problematic. Even from what we know, there is nothing like double taxation at the moment. We can never do that. If there is any double taxation, we correct it.

So, we think that this Act should be considered separately from the other Acts which are not before us.

**THE SPEAKER:** Honourable minister, what will the man in Kitgum who has been asked by the local government to pay the property rating tax do? Will he say, “I have paid this other tax and this law does not apply to me?”

Honourable members, we need to clearly come out on the implications of the Income Tax law on the Local Government Rating Act before we take a decision. It is really important.

**MR SSEWUNGU:** I want to inform the minister with information from a letter of the President. What is happening in our rural areas is that the district leadership or the town clerks just look for someone who built a house with doors similar to those of shops. Whether the owners of the building are sleeping in those houses or there is nobody in them, they will say they are shops and the owners are supposed to pay property tax. These houses in our places are being rented at Shs 10,000 per month and the town clerks want money out of that.

So, I pray that through the minority report written by hon. Migadde and his colleagues, we get a solution to this problem. Otherwise, what is happening in our places is not easy. What I did one time, I think in 2018, I took local government to Kyamulibwa Town Council where the people had this problem. They could not give a good solution because they were basing on the law of property tax.

**THE SPEAKER:** Honourable members, let us again defer this matter. I hope our technical people from the Ministry of Finance, Planning and Economic Development are here to sort out this issue properly before we go to the Committee Stage. We should, however, finish it today.

**MR BAHATI:** Within a few minutes, by the time we finish another Bill, we can get –

**THE SPEAKER:** The Income Tax (Amendment) Bill is deferred. Let us go to the next one.

BILLS

SECOND READING

THE TOBACCO CONTROL (AMENDMENT) BILL, 2021

12.03

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** I beg to move that the Tobacco Control (Amendment) Bill, 2021 be read the second time.

**THE SPEAKER:** Is the motion seconded? It is seconded. Honourable minister, justify the motion.

**MR BAHATI:** It is a simple Bill mainly to impose a tax on export of leaf tobacco. We have been having an issue where leaf tobacco has been exported without paying any tax. This particular amendment is to cater for that issue in our existing laws so that we can address it and also mobilise resources to support the budget. I beg to move.

**THE SPEAKER:** Thank you. I think the Committee on Finance, Planning and Economic Development has had an opportunity to look at the Bill. Can we get a report?

12.05

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Thank you, Madam Speaker. I stand here to give a report of the Committee on Finance, Planning and Economic Development on the Tobacco Control (Amendment) Bill, 2021.

The Tobacco Control (Amendment) Bill, 2021 was read for the first time on 01 April 2021 and referred to the Committee on Finance, Planning and Economic Development in accordance with Rule 128 of the Rules of Procedure of Parliament.

The object of the Bill is to amend the Tobacco Control Act, 2015 to impose an export levy on leaf tobacco.

To save time, with your indulgence, I will leave the methodology. It is as outlined.

**THE SPEAKER:** Members can read that. Go to the observations.

**MS AVUR:** Committee Observations: The committee observed that the Tobacco Control (Amendment) Bill, 2021 is proposing a levy on leaf tobacco at a rate of $0.8 per kilogramme, which is exported outside Uganda.

The objective of the proposal is to streamline the definition of unprocessed leaf tobacco under the Tobacco Control Act, 2015 to provide clarity on what constitutes unprocessed tobacco. This is because the previous definition of unprocessed tobacco was limited in scope, and therefore, ambiguous.

Firms such as British American Tobacco (BAT Uganda) have been exporting unprocessed tobacco leaf without payment of the export levy since 2015.

BAT Uganda closed their manufacturing operations in Uganda in favour of Kenya and announced that they would no longer be purchasing and growing tobacco in Uganda. They also indicated that they would mostly concentrate on the sale of cigarettes, leaving the leaf growing business to another company, Alliance One International.

The export of dry tobacco leaf attracts less value on the world market. This proposal, once approved, will enhance value addition where a kilogramme of processed tobacco costs almost five times that of unprocessed tobacco. This will in turn create employment for Ugandans, earn the country foreign exchange and ultimately economic development. This measure is expected to generate revenue of Shs 20 billion.

Recommendation

The committee recommends that the Tobacco Control (Amendment) Bill, 2021 be passed into law.

I beg to submit.

**The Speaker:** Honourable members, you have heard the report from the Committee on Finance, Planning and Economic Development. Are there any comments?

12.08

**Mr joseph ssewungu (DP, Kalungu County West, Kalungu):** Thank you, Madam Speaker and the chairperson of the committee. I would like to find out from the chairperson of the committee and the minister - BAT took away their business from here and established a factory in Kenya. Definitely, we are fighting cigarette smoking in this country. However, in Kenya and Tanzania, they make a lot of profits.

In Uganda, we still have people growing tobacco. The West Nile is one of those areas. Won’t this affect the export of this raw material? Yes, you are going to generate Shs 20 billion but what is the income for our people?

You might say that you are going to charge them – they already have factories. They have put factories in Tanzania and Kenya and are doing business. Here, we have a law against smoking and we are fighting it and anything to do with cigarettes.

Also, there are certain products you have left out about the plant, which have been mentioned. I do not know whether I can read them. The chairperson knows those they have left out yet they come from the same crop and can be exported without taxation.

Therefore, make us know; in case you charge this tax, won’t there be a problem with companies that have been buying raw tobacco from here? Our advantage is that the tobacco is taken unprocessed and we are saved from the sin of smoking, which is okay for us. However, once you tax it, what will come next?

Tell me about that and other products such as the sticks you have talked about. Thank you.

**Ms avur:** Madam Speaker, I would like to thank the Member for his concern. We deliberated in depth about the advantages and disadvantages of levying this tax. We consulted widely with different stakeholders, including the investors who are in this business and they find no problem with it. As a committee, we do not see it impacting negatively on export in any way. Thank you.

**The Speaker:** Honourable members, if there are no more comments, I put the question that the question be put.

*(Question put and agreed to.)*

**The Speaker:** I now put the question that “The Tobacco Control (Amendment) Bill, 2021” be read the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE TOBACCO CONTROL (AMENDMENT) BILL, 2021

Clause 1

**The Chairperson:** Honourable members, I put the question that clause 1 do stand part of the Bill.

*(Question put and agreed to.)*

Clause 2

**The Chairperson:** Honourable members, I put the question that clause 2 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 2, agreed to.*

The Title

**The Chairperson:** Honourable members, I put the question that the Title do stand part of the Bill.

*(Question put and agreed to.)*

*The title, agreed to.*

Motion for the house to resume

12.12

**The Minister of State for Finance, Planning and Economic Development (Planning) (Mr David Bahati):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**The Chairperson:** Honourable members, the question is that the House do resume and the Committee of the whole House do report thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding.)*

Report from the committee of the whole house

12.13

**The Minister of State for Finance, Planning and Economic Development (Planning) (Mr David Bahati):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Tobacco Control (Amendment) Bill, 2021” and passed it without amendments.

Motion for adoption of the report from the Committee of the Whole House

12.14

**The Minister of State for Finance, Planning and Economic Development (Planning) (Mr David Bahati):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**The Chairperson:** Honourable members, the question is that the report from the Committee of the whole House be adopted.

*(Question put and agreed to.)*

*Report adopted.*

BillS

Third Reading

The Tobacco Control (Amendment) Bill, 2021

12.14

**The Minister of State for Finance, Planning and Economic Development (Planning) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The Tobacco Control (Amendment) Bill, 2021” be read the third time and do pass.

**The Speaker:** Honourable members, I put the question that the Tobacco Control (Amendment) Bill, 2021 be read for the third time and do pass.

*(Question put and agreed to.)*

A bill for an Act entitled, “The Tobacco Control (Amendment) ACT, 2021”

**The Speaker:** Title settled and Bill passes.

BILLS

SECOND READING

THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL, 2021

12.15

**The Minister of State for Finance, Planning and Economic Development (Planning) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The Tax Appeals Tribunal (Amendment) Bill, 2021” be read the second time.

**The Speaker:** Is the motion seconded? Yes. Honourable minister, justify it.

**Mr bahati:** Madam Speaker, the object of this Bill is to amend the Tax Appeals Tribunal Act, Cap. 345 to provide for a right of appeal from decisions of the High Court to the Court of Appeal and the Supreme Court to help in terms of deciding on cases regarding taxation in a timely manner. I beg to move.

**The Speaker:** Thank you. Can our committee report?

12.16

**The Vice-Chairperson, Committee on Finance, Planning and Economic Development (Ms Jane Avur):** Thank you, Madam Speaker. I am here to present a report of the Committee on the Ministry of Finance, Planning and Economic Development on The Tax Tribunal (Amendment) Bill, 2021.

The Tax Appeals Tribunal (Amendment) Bill, 2021 was read for the first time on 01 April 2021 and referred to the Committee on Finance, Planning and Economic Development, in accordance with rule 128 of the Rules of Procedure of Parliament.

The object of the Bill is to amend the Tax Appeals Tribunal Act, Cap. 345 to provide for the right of appeal from decisions of the High Court to the Court of Appeal and the Supreme Court. With your indulgence, Madam Speaker, I request that I proceed to the committee recommendations and leave out the methodology.

Observations

The committee observed that:

Clause 2 proposes to amend Cap. 345 of the principle Act to provide for appeals to the Court of Appeal from decisions of the High Court and appeal to the Supreme Court from decisions of the Court of Appeal.

These provisions were previously contained in the Income Tax Act and Value Added Tax Act but were inadvertently repealed with the coming into force of the Tax Procedures Code Act and the same were never replaced.

It is noted that the proposed section 27(a)(2) and 28(b)(2) provides for an appeal to the Court of Appeal and subsequently to the Supreme Court on questions of law only.

To be consistent with legislations that deal with third appeals, the committee observes that appeals to the Supreme Court should be on questions of law and great public importance.

It was also noted that, sometimes, appeals may take a long time before they are disposed of, therefore, disadvantaging the investor and yet some business decisions are dependent on the outcome of the appeal. This calls for the need to provide for a timeframe within which an appeal may be disposed of, preferably 90 days from the date of filing the appeal.

Clause 3 proposes to substitute section 28 of the principle Act to state that where an application for review or appeal of a tax decision has been lodged with a reviewing body, the reviewing body may take an order saying or otherwise affecting the operation or implementation of the decision under review or appeal or a part of the decision, as the reviewing body considers appropriate for the purposes of securing the effectiveness of the proceeding and determination of the application for review or appeal

Recommendation

The committee recommends that the Tax Appeals Tribunal (Amendment) Bill, 2021 be passed into law subject to the proposed amendments.

I beg to submit.

**THE SPEAKER:** Honourable members, you have heard the report. Are there any comments? If there are none, I put the question that the question be put.

*(Question put and agreed to.)*

**THE SPEAKER:** I now put the question that “The Tax Appeals Tribunal (Amendment) Bill, 2021” be read for a second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL, 2021

Clause 1

**THE CHAIRPERSON:** Honourable members, I put the question that clause 1 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

12.26

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Thank you, Madam Chairperson. In clause 2, we have an amendment which reads as follows:

Amendment of Cap. 343(2)

Clause 2 is amended by inserting a new subsection (3) immediately after the proposed section 27(a)(2) as follows:

“3. The Court of Appeal shall inquire and determine the appeal expeditiously and shall declare its findings not later than 90 days from the date of filing the appeal.”

I beg to submit.

**THE CHAIRPERSON:** You have got other amendments.

**MS AVUR:** Yes, there are others; maybe the Members should wait for me to read all of them and then they can make their contributions.

“2. By substituting for the proposed section 27(b)(2) the following:

2) An appeal to the Supreme Court may be lodged with a certificate of the Court of Appeal that the matter raises questions of law of great public importance or if the Supreme Court, in its overall duty to see that justice is done, considers that the appeal should be heard.

3) By inserting a new subsection (3) immediately after the proposed section 27(b)(2) the following:

The Supreme Court shall inquire and determine the appeal expeditiously and shall declare its findings not later than 90 days from the date of filing the appeal.”

Justification

1. To provide timelines within which the appeals in both the Court of appeal and the Supreme Court should be disposed off.
2. To be consistent with the criteria set out in the Civil Procedure Act, Cap. 71 for third appeals.

Madam Chairperson, those are the amendments and I beg to submit.

**MR SSEWUNGU:** Thank you, Madam Chairperson. I will ask hon. Oboth to address my area of concern since he is better than me in this. We have gone to the Court of Appeal and given it three months to dispose of an appeal. Then, you are also giving the Supreme Court the same time; those are six months.

Madam Chairperson, these are traders that have brought their goods and want their matter to be disposed off as fast as possible because they must continue with business. Therefore, my discomfort is the time given to the two courts.

You have said that where there is public importance, it means that it should not only apply to the matters of law but in this case, they have held the goods. In case I go to the Tribunal and it fails, then I have to go to both the Court of Appeal and the Supreme Court. If they both fail, in this instance, someone will have goods in the bond for six months.

I do not know how this can be possible, Madam Chairperson. We should reduce the time for the Court of Appeal and see how it can be disposed off because this is business. They will have a multiplicity of cases in that form because of the law we are putting in place. Thank you, Madam Chairperson.

**MS AVUR:** Thank you, Madam Chairperson. The original proposal did not give a timeline but as a committee, we thought it wise to give a timeframe within which these appeals should be considered. That is the background of the 90 days.

**THE CHAIRPERSON:** No, it is not the question of the rationale. You have given the Court of Appeal and if somebody is dissatisfied after those 90 days, he will go to the Supreme Court, which has also been given 90 days. Therefore, he may have to wait for a decision for six months. That is the concern of the honourable member. Does that encourage business? He is worried about the timeframe.

**MR SSEWUNGU:** Madam Chairperson, if you go to the commercial court, you will see what takes place there. People are lining up with all these issues as if they are going for medical check-up. Business is not flourishing because the judges are few. We need to work on this because people are losing money. Their goods are depreciating and that is key. Isn’t hon. Bahati mindful of that?

**THE CHAIRPERSON:** What are you proposing; one or two months?

**MR SSEWUNGU:** I propose one month because this is business. You must consider the traders.

**MR BAHATI:** Madam Chairperson, as hon. Ssewungu said, in the absence of the Shadow Attorney-General, hon. Oboth is standing in for both of us. Therefore, he should be ready to advise.

However, the point made by hon. Ssewungu is very important. If we have given the Courts of Appeal three months, may be, if there is any complication – one month in the Supreme Court would suffice. This will help both the business people but also Government in terms of URA to dispose of these cases because when they take long in these courts, we really suffer in terms revenue collection.

Therefore, I would have no problem with one month at the Supreme Court level, and three months at the Courts of Appeal so that they are given time to go through it.

Hon. Oboth is here to –

**MR OBOTH:** Madam Chairperson, I think what hon. Ssewungu is coming up with – First, we must thank the committee for the innovation to put a timeframe. The factor affecting doing business in any country, is the delay to resolve conflicts. This is a special matter and applying the civil procedure rules, strictly to this, would only be to give the guidance.

I think that one month at the Supreme Court would be sufficient. Even at the Court of Appeal, it should be reduced to two months. At appeal level, you do not need new evidence. It is just assessing and evaluating. I think two months at the Court of Appeal and one month at Supreme Court would be fair and it would give hope to the litigants.

I seek the indulgence of the minister - who is also a businessman and this thing can apply to anybody doing business in this country; you want justice not to be delayed - to concede to this harmonisation.

**MR BAHATI:** Madam Chairperson, now that our acting Attorney-General in the House is comfortable with this, I concede and have no problem with the two months at the Court of Appeal and one month at the Supreme Court.

**THE CHAIRPERSON:** Okay, honourable members, in the first amendment, No. 90 is reduced to 60 days and the last amendment, No. 90 is reduced to 30 days.

I now put the question that clause 2 be amended variously as proposed.

*(Question put and agreed to.)*

*Clause 2, as amended, agreed to.*

*Clause 3, agreed to.*

The Title

**THE CHAIRPERSON:** I put the question that the title do stand part of the Bill.

*(Question put and agreed to.)*

*Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

12.30

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** Honourable members, the question is that the House do resume and the Committee of the whole House do report thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker, Ms Rebecca Kadaga, presiding.)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

12.31

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Tax Appeals Tribunal (Amendment) Bill, 2021 and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

12.31

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, I put the question that the report of the Committee of the Whole House be adopted.

*(Question put and agreed to.)*

*(Report adopted.)*

BILLS

THIRD READING

THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL, 2021

12.32

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The Tax Appeals Tribunal (Amendment) Bill, 2021” be read the third time and do pass.

**THE SPEAKER:** Honourable members, I put the question that the Tax Appeals Tribunal (Amendment) Bill, 2021 be read for the third time and do pass.

*(Question put and agreed to.)*

A BILL FOR ENACT ENTITLED, “THE TAX APPEALS TRIBUNAL (AMENDMENT) ACT, 2021”

**THE SPEAKER:** Title settled and Bill passes*.*

BILLS

SECOND READING

THE EXTERNAL TRADE (AMENDMENT) BILL, 2021

12.33

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The External Trade (Amendment) Bill, 2021” be read for the second time.

**THE SPEAKER:** Is the motion seconded? Okay, it is seconded. Can you justify?

**MR BAHATI:** Madam Speaker, this particular Bill, the External Trade (Amendment) Bill, 2021 is to amend the external trade Act Cap. 28 to 88 to impose an export levy on the wheat bran, cotton cake, maize bran or other by-products of the milling industry, to help Government raise revenue.

Also, as we do this, we are aware of our people who are dealing in these particular products and we have put it in such a way that we will not harm their businesses.

I beg to move.

**THE SPEAKER:** Thank you. If our committee has considered the Bill, can they report?

12.34

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms JANE AVUR):** Thank you, Madam Speaker. I present the report of the Committee on Finance, Planning and Economic Development on the External Trade (Amendment) Bill, 2021.

The External Trade (Amendment) Bill, 2021 was read for the first time on 01 April 2021 and referred to the Committee on Finance, Planning and Economic Development in accordance with rule 128 of the Rules of Procedure of Parliament.

The object of the Bill

The object of the Bill is to amend the external trade Act Cap. 88 to impose an export levy on wheat bran, cotton cake, maize bran or other by-products of the milling industry.

Again, with your indulgence, I will leave the methodology and go to the committee observations.

Observations

1. The committee observed that whereas the proposal to impose export levy on wheat bran, cotton cake, maize bran or any other by-products of the milling industry, at a rate of US$ 0.4 per kilogramme of wheat bran, cotton cake, maize bran or other by-products of the milling industries, was intended to encourage local value addition and production of animal feeds in Uganda, there is currently very insufficient local capacity for production of animal feeds.
2. There is not enough local demand for the brans. Therefore, imposing an export levy on brans would only serve to adversely impact the demand for the brans and would, therefore, be damaging to the local millers, who for now, depend on the regional market to dispose of their excess brans.
3. Whereas, the value of a kilogramme of export of wheat bran was at Shs 450 and that of maize bran was at Shs 300, the export levy is specific at $0.4 per kilogramme, irrespective of value of a unit of export.

In addition, the committee observed that a levy of $0.4 per kilogramme translates to four times the value of maize bran and six times the value of wheat bran. The imposition of the levy will make Uganda’s brans uncompetitive in the region and will result into Uganda’s brans being abandoned by the exporters yet Uganda does not have adequate local demand for the brands.

1. It is also notable that Uganda imports animal feeds majorly from outside the East African Community (EAC). In 2020, the total value of animal feeds imports was Shs 184 billion, of which the imports from the EAC specifically, Kenya only amounted to Shs 6.1 billion, which represents only 0.03 per cent of the total value of animal feed imports.

The imposition of the levy only serves to curtail trade amongst the East African Community partner states, *vis-a-vis* the rest of the world. The committee recommends that the External Trade (Amendment) Bill, 2021 be rejected. I beg to submit.

12.48

**MR JOSEPH SSEWUNGU (DP, Kalungu County West, Kalungu):** Thank you, Madam Speaker. I want to thank the chairperson of the committee and the Members. There is something I have not understood very well from this committee. What is prevailing in Uganda is that Kenyans are getting chicken bran from Kisenyi because Kenyans know that the bran mixtures in Uganda help chickens to lay good eggs.

One time I said here that we used to export eggs but because we opened up for Kenya to take our bran, they are now the ones selling eggs to us. I want to find out from the chairperson of the committee whether they have done any research on the consumption of wheat in Uganda because I see Ugandans have begun growing a lot of wheat and people like Mr Mandela have established a very big wheat factory somewhere along Masaka Road. Have you taken this into consideration?

Therefore, while I support the rejection of this, I would like to say that as you reject it, take keen interest in particular brands and do not allow of them. For example, the chicken feeds that are taken out of Uganda are making us lose money from countries like Kenya, to which Ugandans have been exporting trailers and trailers of eggs laid by chickens here because they eat well-mixed bran; these have been bringing in more money. So, give us specific considerations on these particular brans, especially wheat.

**THE SPEAKER:** Honourable member, first you were saying that you agree with the rejection and then you are justifying the tax?

**MR SSEWUNGU:** Madam Chairperson, you are right but there are areas that I have looked at; especially chicken bran but still –*(Interruption)*

12.40

**MR JAMES KAKOOZA:** Thank you, hon. Sewungu, for giving way. Madam Speaker, we rejected the export levy because when one is involved in business, there is a value chain process and when they put this levy, it affects the final product.

So, when you encourage exports and get foreign exchange, then you are encouraging those who are aligned to agro-processing because there is value addition there - maize, feeds and we are not in shortage of that. When you are not in shortage and you put a levy, it will make it difficult to export to Kenya.

Anybody involved in that value chain, which does not affect the final product - let us not tax it like we have done on tobacco. Otherwise, when you take tobacco raw materials the way BAT did it, when it is Uganda a supermarket for the final product.

This is what we are trying to avoid so that anybody involved in agro-processing should not be asked to pay this levy because all the final products are made from here. This is in the same spirit that we are trying to do this law and that is why the committee refused to levy that.

12.42

**MR DONOZIO KAHONDA (NRM, Ruhinda County, Mitooma):** Thank you, Madam Speaker. I have a small farm in Kyegegwa but it is hard to get bran in Kyegegwa. When we go to Mubende, we buy a kilogramme at Shs 600 and that of maize is Shs 400.

When you compare the two, you realise that most of the brans are exported especially to Kenya. So, I do not agree with my colleague who said that we have enough; no we do not. That is why at times we travel from Kyegegwa to Mubende and at times, to Kisenyi in Kampala yet still, we find when Kenyans have taken almost everything.

Madam Speaker, we need to protect our farmers and one of the ways of doing that is by putting a tax on these brands. Otherwise, there is no way we can say that we are fighting for our farmers when we just let go.

Recently, the Rwandese were buying maize from Kyegegwa, Kyenjojo, Kamwenge and the farmers who were producing maize and rice bran would not access that market because it had been taken over by the Rwandese and the Kenyans. I support the suggestion that we put a tax to protect our farmers to access it so they can have chickens to lay eggs, and other animals to give milk at a very affordable price. We cannot practise zero grazing now because the brans are very expensive, we cannot access them. Thank you.

**THE SPEAKER:** For the *Hansard* record, that was hon. Kahonda, not hon. Nsabimana. Please, correct your record.

12.45

**MR ROBERT MIGADDE (NRM, Buvuma Islands County, Buvuma):** Thank you, Madam Speaker. Just for purposes of information - and it is not true that the price of bran is high because of shortage – it is high because brans do not have so many close substitutes.

Unlike maize where you can choose to eat it as posho, you can choose to eat Matooke, potatoes and/or rice, when you are into animal farming, it is either maize bran, wheat bran and may be rice bran. However, we have to agree that charging a tax on this bran at the end of the day affects - if you do not want export of bran then the price of maize here will by all means either stagnate or be on a downward trend.

At the end of the day, the miller is supposed to breakeven. So, if bran is banned from export - we can only do that when we have a shortage. However, we are suffering with maize yet we have not heard of Kenya banning Ugandan maize bran. They are banning Ugandan maize.

Therefore, we should support value addition, if the ordinary farmer is to benefit. Otherwise, at the end of the day, the ordinary farmer here is not losing. I think hon. Kahonda is right, as a farmer but economically, he is misinterpreting it. Thank you.

**THE SPEAKER:** Minister, the proposal is to reject your Bill. What do you say? Do we still proceed or we leave it?

12.47

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, first of all, I want to thank hon. Kahonda for that strong argument. Thank you very much for supporting the Bill.

Unfortunately, after we had proposed it, we also analysed it, given the fact that we had also proposed other measures that the committee agreed on. With the new information we got, we found out that this can cause us problems in the East African region, when other countries start imposing the same. Otherwise, we agree with this position of the committee.

**THE SPEAKER:** Honourable members, I put the question that the question be put.

*(Question put and agreed to.)*

**THE SPEAKER:** I now put the question that the External Trade (Amendment) Bill be read for a second time.

*(Question put and negatived.)*

**THE SPEAKER:** Let us go to the next item.

BILLS

SECOND READING

THE FISH (AMENDMENT) BILL, 2021

12.49

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The Fish (Amendment) Bill, 2021” be read a second time.

**THE SPEAKER:** Is the Bill seconded? It is seconded. Honourable minister, justify.

**MR BAHATI:** Madam Speaker, it is a very short Bill. It focuses on imposing an export levy on fish maw. We have now discovered that fish maw, as an export to the Chinese and other countries, is of great value, which goes beyond $50 million, per annum.

We think that in the spirit of strengthening our tax revenue, we should impose a small rate on this export, through export levy. This is the purpose for this Bill. I beg to move.

**THE SPEAKER:** Honourable chairperson, present the report of the Committee on Finance, Planning and Economic Development?

12.50

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Thank you, Madam Speaker. I present the report of the Committee on Finance, Planning and Economic Development on the Fish (Amendment) Bill, 2021.

Introduction

The Fish (Amendment) Bill, 2021 was read for the first time on 1 April 2021 and referred to the Committee on Finance, Planning and Economic Development, in accordance with Rule 128 of the Parliamentary Rules of Procedure.

Objective of the Bill

The object of the Bill is to amend the Fish Act, Cap. 197 to impose an export levy on fish maw. Again, with your indulgence, I request to skip the methodology. Members can read it.

Observations

The committee observed that clause 2 proposes to amend the Fish Act by introducing a levy on fish maw exported outside the country, at a levy of Shs 70,000 per kilogramme to the Uganda Revenue Authority.

It was noted that the fish maw has been going for as low as 20 cents per kilogramme and yet selling so highly, most especially in the South-East Asia countries. Therefore, this proposal will ensure value addition and more revenue for the industry, although there is a need to streamline and regulate the fish industry.

By this, Madam Speaker, the committee felt that the amendment that is in the pipeline should be worked upon, as we consider this Bill.

Recommendations

1. The committee recommends and urges the Government to fast-track the Fisheries Bill, which is already before Parliament.
2. The committee recommends that the Government undertake analytical studies on the value of the fish maw internationally, with a view to increase the levy upwards.
3. The committee recommends that the Fish (Amendment) Bill, 2021 be passed into law, subject to the proposed amendments.

I beg to submit, Madam Speaker.

**THE SPEAKER:** Thank you very much. Honourable members, you have heard the report.

12.52

**MR ROBERT MIGADDE (NRM, Buvuma Islands County, Buvuma):** Thank you very much, Madam Speaker. I also want to thank the chairperson. It is true that initially, I had a minority report on this but we have harmonised with hon. Bahati. Instead of the proposed Shs 70,000 per kilogramme, we settled for 8 per cent.

The reason is that the fishing community pays a number of taxes yet, they are more of a cow that is available for milking all the time, with less input from the Government.

In future, we also want to see the Government providing the same incentives that they give others. For example, if agricultural machinery is exempted from taxes like VAT and other taxes-fishing inputs such as nets and boat engines are part of agricultural machinery and so, they should be tax-exempt, if at all we are to bring sanity on the lake.

Madam Speaker, I have no problem, if the proposed amendment is 8 per cent, as agreed. I have no problem with that. Therefore, I withdraw my minority report, if that is what is to be presented.

The other proposal is that the Government should also fast-track the signing of the protocol. Right now, fish maw is on the black market. You go through Hong Kong and smuggle it through China. There is only one exporter who has been licensed. All the others are not allowed to export and so, there is too much protectionism. At the end of the day, anytime that person wishes, the price of fish maw affects the price of fish. If the price of fish maw goes up, the price of fish also goes up.

Madam Speaker, remember the last time we were here on the Floor when the price of fish went down. The reason was that the price of fish maw had also gone down. Therefore, the Government should fast-track the signing of the protocol with China so that our people know, specifically, where they are taking this fish maw and we know the actual price.

You cannot find the right price. You cannot *Google* or do anything; it is simply speculation and we should remove it. I beg to submit.

**THE SPEAKER:** Thank you. I am surprised that we have a monopoly. I thought this economy was liberalised a long time ago.

12.56

**MR THEODORE SSEKIKUBO (NRM, Lwemiyaga County, Ssembabule):** Thank you very much, Madam Speaker. I beg to just add a few views and proposals to the amendment. The fish maw is different from the ordinary fish export. Secondly, this fish maw is gotten out of the Nile Perch species and not any other fish. So, it means this is a specialised export. Therefore, the tax being proposed is not affecting the fish industry across the board.

I interacted with some fish dealers and they told me that the locals are being stopped from participating in this business. The locals are not allowed to trade in the fish maw. It means that this is a trade which is restricted amidst a liberalised economy and liberalised export.

For that matter, I am questioning the rationale of arriving at the Shs 70,000 levy, yet ideally for the country to benefit, the tax should be attached to the percentages. We should even say 10 per cent; whichever value is fetched from abroad, we should put 10 per cent. This fish maw business is very lucrative now and it is the engine in the fishing export.

And for that, the committee chairperson said that there is need to undertake more research. It is very dangerous for this Parliament to come up with a policy. A tax is a policy and yet a policy is a choice of what to do or what not to do. We are in darkness.

Hon. Migadde has made it worse by saying that we are taxing a business that is by and large an underworld business of smuggled products. I would imagine Government should not conceive this price on the hoof. It should be well planned, well-grounded and we put percentages to. First of all, protect the Nile Perch species. Once we allow the mad fishing and catching of this species, it is likely going to negatively impact on the fish production in the country.

Also for purposes of getting more income, we should put a percentage. I would propose that we have a 10 per cent. So, whatever price it goes for, you just put 10 per cent. I think it is more reasonable than the arbitrary Shs 70,000. We put Shs 70,000 of what? However, once you have a percentage, then you know that once the prices go high, then we can adjust accordingly. That is the proposal.

I also would like to also support hon. Migadde that we formalise the bilateral agreements with China over this very lucrative business *–(Interruption)*

**MR SSEWUNGU:** I thank hon. Ssekikubo for giving way. He just celebrated Easter yesterday.

However, we need to know the circumstances under which one person is licenced to trade in this fish maw alone, in the whole country. These are the problems that are associated with the lake but unfortunately, the minister is not listening to this question and yet he has to answer it.

Under what circumstances is one person licenced to carry out the trading of this fish maw, alone? What about the interests of the people who go to the lake to catch Nile Perch and later on, the fish maw is taken away from them immediately? Who is that particular person?

That is what I would like to find out from the minister, hon. Ssekikubo. Thank you.

**MR SSEKIKUBO:** Madam Speaker, the minister may have better information but what I heard from the fish dealers was that as soon as the fishermen capture the Nile Perch, the fish maw is removed immediately and is taken. It is being enforced by the *–(Interruption)*

**MR DEOGRATIUS KIYINGI:** Thank you, hon. Ssekikubo. You happen to interact with some of these local exporters here but the fact is that the product that you are talking about is very valuable. Being that the value is very high, you find that our local people sometimes fail to raise that capital. They automatically get out of business. It is, however, not true that there is only one person or some few people who have been allowed to export the fish maw; that is not correct. That is the information I would like to give you.

**THE SPEAKER:** Can a fisherman from Nakasongola export the fish maw?

**MR MIGADDE:** Thank you, Madam Speaker. It is not only the fisherman from Nakasongola who cannot export the fish maw but even the one from Buvuma cannot export it. It is because the Ministry of Agriculture, Animal Industry and Fisheries entered into an agreement with only one company.

So, whoever is to sell the fish maw must sell it to that single supplier. That supplier is the one who determines the daily price. Today, you can come and he will say, “I am buying this at Shs 10,000”. Then the next day, once he sees that there is a bumper harvest, he says there is no market at all.

At the end of the day, no person is supposed to – there are so many people with licences to trade in fish maw, locally. However, every day, the fish maw is confiscated from them by the different forces. The reason is that they want all the fish to go to the factory - the other single person who is licenced and his accomplices can monitor better fish maw at the factory than in the community.

There is no factory that accepts fish without the fish maw. So, when you take fish without the fish maw, that is considered as fish that has been tampered with. *(Laughter)*

**THE SPEAKER:** Honourable members, I think our Committee on Agriculture, Animal Industry and Fisheries should take an interest in that monopoly so that we understand how it is operating and we liberate our people from oppression.

Hon. Ssekikubo, please close. I would like to invite hon. Lucy Akello.

**MR SSEKIKUBO:** I fully support that proposal and your guidance, Madam Speaker.

What is actually happening on the lake is that the fish maw is just confiscated. I am surprised that hon. Kiyingi was attempting to sanitise a bad thing that is happening in our country. The fishermen just look on as the fish maw is confiscated. I do not know what remains; whether it is fish or the carcase? They leave the carcase to you and the fish maw is taken forcefully. These fishermen look on helplessly.

In an era of the liberalised economy, how can the Minister of Finance, Planning and Economic Development wish to tax a sector when he knows we are under a liberalised economy but the profitable part is being monopolised? It is a preserve of a single company –*(Interjection)*– one person.

Even the fish law enforcement is the one that gives the police cover to confiscate people’s fish – *(Member rose\_)* – I will get information from the honourable member from Buliisa as I sit down.

**The Speaker:** Honourable members, let us deal with the tax for now.

**Ms bigirwa:** Madam Speaker, whereas I am in support of this amendment Bill, I request this House and the minister to ensure that there is protection of the ordinary fisherman on the lakes. Owing to the challenges fishermen and women are going through, it is very important for us to understand that there is need for them to know that there is an amount that has been fixed on this fish maw.

Otherwise, if we just leave it to the other person who is exporting, we are disadvantaging them and it does not augur well with the fishing industry. If we are looking forward to improving the fishing industry, it is very important for us to protect the ordinary fisherman in this area. I beg to submit.

1.07

**Ms lucy akello (FDC, Woman Representative, Amuru) (Zoom):** Thank you, Madam Speaker. About this levy, I think –

**The Speaker:** The sound is not clear.

**Ms lucy akello:** My only discomfort is that we do not have much information yet regarding this fish maw. When the committee talks of reviewing this whole thing so that maybe we have an upward levy, this should be done very quickly.

I am also not very comfortable with the Shs 70,000 but –

**The Speaker:** The sound has gone off again - Sorry, we have lost her.

**Ms lucy akello:** - then we are going to work with the percentage. Like hon. Theodore Ssekikubo talked about –

**The Speaker:** Can you try again to complete?

**Ms lucy akello:** I am very sorry, Madam Speaker. I am trying to use my *Wi-Fi* and I think somebody had called so the network went off.

I was saying that I am more comfortable with putting a percentage as opposed to a fixed amount like the Shs 70,000 the committee is suggesting. I tend to go with the price. I do not know whether what I have said is clearly understood.

**The Speaker:** Yes, it has been understood. Thank you.

1.09

**Mr john Baptist nambeshe (NRM, Manjiya County, Bududa):** Thank you, Madam Speaker. When I saw the proposal of Shs 70,000 per kilogramme, I was one of those who put their full weight behind the minister. Little did I know that this particular business has had an attractive – most attraction is to the rich dealers.

The ministry has also encouraged monopoly. We have to know that this will run the risk of depleting the fish stocks because Nile Perch is now going to be an endangered species.

The tax should have helped to protect and preserve the species and also our local fishermen but it is the complete opposite. Therefore, I concur with hon. Migadde that to protect our fishermen and also the fish stocks, it would be better to bring the percentage even as low as 5 per cent.

**The Speaker:** Honourable members, was this proposal regarding percentage taken to the committee? [Hon. Members: “Yes.”] - Okay.

1.12

**Mr deogratius kiyingi (DP, Bukomansimbi South County, Bukomansimbi):** Thank you, Madam Speaker. I thank the committee for their proposal. However, I think that instead of indicating a flat figure, we should at least introduce something similar to what is taxed on coffee.

We have got two per cent on the value of coffee export. The fact is that the prices always fluctuate; it does not mean that the price for the fish maw will always be constant. Therefore, it would be wise that we put a percentage on the value of the CIF on each and every amount that is exported instead of using a flat figure.

What we put should always be in consideration of what is on the ground because we can put a figure, which will be deterring on the local market.

In my view, we should put a percentage because the value is very high. Let us put a percentage of about two per cent, which is similar to that of coffee. Thank you.

1.14

**Mr Johnson ssenyonga (NRM, Mukono County South, Mukono):** Thank you, Madam Speaker. I thank the committee. Their recommendations are reasonable but sometimes we have a challenge when people –*(Interjection)–* yes, we want taxes and indeed, we have to support Government to have them but still we have to protect people.

When you look at the fishermen down there, very little has come out from Government to support them. When we hike the percentage, it will scare away many and indeed, we shall be supporting those who are already in the upper class.

According to the report, they are talking of 8 per cent. That is from hon. Migadde, which is still on the higher side. If we insist on 5 per cent, I am sure that all Ugandans will be comfortable and the tax will be easy to collect instead of having people hiding. The fishermen can find a way of going to Tanzania or Kenya and we end up losing the market.

However, if we come up with 5 per cent, I am sure it will be “balancing the boat” for both sides. Thank you.

1.15

**MR RICHARD OTHIENO (NRM, West Budama County North, Tororo):** Thank you, Madam Speaker. I would like to thank the committee and my colleagues that have already contributed. I specifically would like to address myself to the percentage or flat rate. I would like to support those that say we should tax on a percentage basis, since we are interested in looking for money to finance our budget.

However, we should also know that tax is a social tool. It will help us protect the fish species and ensure that the resource is protected so that we continue growing and exporting more.

I would like to put figures to some of these things: In 2017, we exported 488 tonnes of fish maw and in 2019, we exported 740 tonnes. We earned US $76.27 million. In 2020, we exported 347 tonnes and we got US$ 32.78 million. If we put a rate of 10 per cent, it means that in the previous financial year, we would have got US $76,000 million. Therefore, it would help us raise more revenue than if we say that we used a flat rate.

The other argument is that the Government needs to be fair. The reason the Government is taxing the fish maw is because, at the moment, it is mainly dominated by the local fishermen; the ordinary Ugandans. That is why you see that the Government is very vigilant in coming in actively to tax this fish maw.

We could also have generated more money from the fish export itself. Last year, in 2019, we exported fish worth US$ 99.7 million but what are we taxing? It is just 1 per cent where by the Government did not want to tax anything.

There are only 11 companies exporting fish and none of those is owned by a Ugandan. They are all foreigners. Therefore, you wonder why the Government is reluctant to tax businesses dominated by foreigners. For instance, you have got US$90 million but you are not taxing it; however, you are eager to tax only US$70 million because Ugandans are the major players.

Madam Speaker, I propose that for fairness – because tax is about fairness – we should tax Ugandans and the foreigners depleting our resources. Ugandans are not allowed to export; they are not allowed to go to the water to get the fish. When the factories export, they do not pay any taxes. As a country, we own the resources; so, what are we getting out of those that we own jointly? The foreigners are the ones benefitting.

Actually, in all the 11 companies, there is only one that has got a Ugandan name but I am not even sure whether that Ugandan name has not been used just for purposes of registration locally here. The other 10 are purely owned by foreigners. I am not going to mention them.

I support hon. Ssekikubo’s proposal. Let us raise the tax from 8 per cent to 10 per cent. After all, it does not affect the ordinary Ugandans. These are taxes on exports *–(Interruption)*

**MR OBOTH:** Thank you, hon. Othieno Okoth for giving way. The point he is making is very valid and I join others to pursue that; tagging a percentage.

However, I would like to share my fears with you. You have said that Ugandans will not be affected. You are taxing a monopolist and when you do that, he is going to lower the prices. When you tax him highly, he is going to lower the prices because he is the only player *–(Interjection)–* I am talking about politics but it sounds political from Lwemiyaga.

**MR OTHIENO:** Thank you, hon. Oboth, for that information. He actually has a point but as we speak, the Ugandans are already being exploited. Whether you raise this tax or not - if you lower it and not do anything - it will not save Ugandans from being exploited.

Our point here is that we should tax this resource and use it in conserving a natural resource that belongs to all of us, as Ugandans.

The other thing we must do, as a House, is to lift this monopoly. When the minister addressed the House on that issue, he said that he was going to come back. Maybe this House should direct the minister to come back and tell us how far he has gone in addressing that issue. Maybe it is high time he came back and informed the House what measures he has taken in allowing other players to come in.

We also have limited people exporting but even the other side, they are tying us to only one market. We should even open up the market so that many Ugandans can join the trade.

Madam Speaker, I beg to submit.

**THE SPEAKER:** I had already instructed the Committee on Agriculture to take up the monopoly issue and update us. I am reiterating the instructions.

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

*(Question put and agreed to.)*

**THE SPEAKER:** I put the question that the Fish (Amendment) Bill, 2021 be read for the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE FISH (AMENDMENT) BILL, 2021

1.24

Clause 1

**THE CHAIRPERSON:** Honourable members, I put the question that clause 1 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

1.25

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Madam Chairperson, before I give our committee’s view on the amendment, I would like to address my mind to what hon. Ssekikubo said earlier; whether studies were done.

At committee level, we asked the ministry if they had carried out some studies. Indeed, they had done something and they gave us that report but we still emphasised that more studies should be done in respect to this industry so that our fishermen, exporters and the economy benefits from this.

The amendment in clause 2 reads as follows:

Clause 2 is amended in the proposed section 30(a)(1) by substituting for the words “Shs 70,000 per kilogramme” the words “8 percent of the total value.”

Madam Chairperson, our justification is that it is better to go with percentages than figures specified as Shs 70,000 because we are told that fish maws are of different values and as prices fluctuate, this will not disturb the tax collector so much in the administration of this.

The justification is to reduce the proposed charge on fish maws to encourage compliance. I beg to submit.

**MR SSEKIKUBO:** Madam Chairperson, I just want to improve on the committee’s amendment. I have talked to the chairperson to concede on the 10 per cent. The 10 per cent has been well explained and it has gained consensus amongst Members. Without subjecting the committee’s proposal, probably the chairperson could concede at 10 per cent. It will help our fish industry and even the fish itself - the Nile perch. Our species shall be protected and we shall use this sector and resource sustainably. I beg to move.

**THE CHAIRPERSON:** Thank you.

**MR KAKOOZA:** Madam Chairperson, principally, why the committee suggested lowering the percentage is because when you create a monopoly in a business, you lift those people who can afford. What about your local people who are involved?

Two, the counterproductive measure – the aftermath, people will evade that tax and it will be very expensive for URA to collect. The best way is to reduce. You have turnover and when you get turnover, you will collect more revenue than hiking the percentage. That is why the Bill was saying 8 per cent and we said, no, let us lower the percentage so that everybody involved in that – because now we are leaving it to the rich to export and the local people who are involved will get nothing.

The only way is to reduce it so that everybody can afford and you get more revenue rather than hiking the percentage. A total of 8 per cent or 10 per cent translates to almost Shs 10 million before you even start a business.

**THE CHAIRPERSON:** Hon. Kakooza, you are a member of this committee. I do not know whether you are –

**MR JAMES KAKOOZA:** That is why I am supporting the committee position that we reduce that percentage so that even the local people can afford it.

**THE CHAIRPERSON:** The committee has proposed 8 per cent.

**MR OBOTH:** Madam Chairperson, we are doing side-line consultations. My interest is on percentage but we have to know the current price of a fish maw. I do not know whether we all know this; how many kilogrammes of fresh fish maw would make one dry kilogramme? When you talk about the range, it is Shs 150,000 to Shs 180,000. The committee proposed Shs 70,000 per kilogramme –

**THE CHAIRPERSON:** No, that was the minister.

**MR OBOTH:** The committee is proposing Shs 80,000. The sector players in this - We might think that when we go with the percentage, we would be safer. Of course because of inflation, it would not be prudent for us to legislate putting an amount. What was Shs 20,000 many years ago means nothing today. So honourable members, with help from the sector players, we should look at – I thought hon. Migadde, being a fisherman, would tell us the exact - We do not want to injure our local people.

The percentage that would be moderate for us – Isn’t it Shs 18,000 per kilogramme? I believe that the committee had the benefit to interact with the stakeholders before suggesting 8 per cent. I would be persuaded and I would like to persuade ourselves that we support the position of the committee at 8 per cent. Laws are not static; we will observe what is going on.

Hon. Ssekikubo who moved for 10 per cent is overwhelmingly now smiling and supporting 8 per cent as a harmonised position.

**THE CHAIRPERSON:** Okay, honourable members, again I need to repeat that when amendments come spontaneously, no one has had time to consider them. However, the committee at least had time to evaluate and came up with 8 per cent. Why don’t we go with that for this financial year? If it is not working well, we can review.

Honourable members, I put the question that clause 2 be amended as proposed.

*(Question put and agreed to.)*

*Clause 2, as amended, agreed to.*

*Clause 3, agreed to.*

*The Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

1.32

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** Honourable members, the question is that the House do resume and the Committee of the whole House reports thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker, Ms Rebecca Kadaga, presiding.)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

1.33

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, “The Fish (Amendment) Bill, 2021” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

1.34

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, the question is that the report of the Committee of the whole House be adopted.

*(Question put and agreed to*.*)*

*Report adopted.*

BILLS

THIRD READING

THE FISH (AMENDMENT) BILL, 2021

1.35

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled, “The Fish (Amendment) Bill, 2021” be read the third time and do pass.

**THE SPEAKER:** Honourable members, the question is that the Bill entitled, “The Fish (Amendment) Bill, 2021” be read for the third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “THE FISH (AMENDMENT) ACT, 2021”

**THE SPEAKER:** Title settled and Bill passes*.*

BILLS

SECOND READING

THE TRAFFIC AND ROAD SAFETY ACT (AMENDMENT) BILL, 2021

**MR BAHATI:** Madam Chairperson, I beg to move that the Bill entitled, “The Traffic and Road Safety Act (Amendment) Bill, 2021” be read the second time.

**THE SPEAKER:** It is seconded. Justify.

**MR BAHATI:** The object of this Bill is to amend the Traffic and Road Safety Act, Cap. 361 to:

Provide for a licence for possession of a motor vehicle, to introduce an annual licence fee for all motor vehicles, and to repeal the third schedule to the Act and section 1 and the first schedule to the Finance Act, 2006 to help Government raise revenue to finance the priorities of the NRM Government. This Bill was referred to the committee. I beg to move.

**THE SPEAKER:** Thank you minister. Can we invite your committee to report?

1.36

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Thank you, Madam Speaker. I present a report of the Committee on Finance, Planning and Economic Development on the Traffic and Road Safety Act (Amendment) Bill, 2021. The Bill was read for the first time on 01 April 2021 and referred to the Committee on Finance, Planning and Economic Development in accordance with rule 128 of the Parliamentary Rules of Procedure.

The object of the Bill is to amend the traffic and Roads Safety Act, Cap. 361 to provide for a licence for possession of a motor vehicle, to introduce an annual licence fee for all motor vehicles, to repeal the third schedule to the Act and to repeal section 1 and the first schedule to the finance Act, 2006.

Again, with your indulgence, I request that I skip the methodology and go straight to the committee observations.

The committee observed that (i) clause 2 proposes to amend Cap. 361 to require every person who owns or possesses a motor vehicle, trailer or engineering plant or uses it on a road to have the motor vehicle, trailer or engineering plant licenced under this Act.

Clause 2 further proposes to provide for annual fees to be paid by every person who owns or possesses a motor vehicle, trailer or engineering plant or uses it on a road on or before the 31st day of January of every year as may be prescribed by the minister, by regulations.

Whereas the proposal seeks to streamline car registration and ownership to weed out those that are illegitimate, it is noted that for every motor vehicle, trailer or engineering plant that is brought into the country, a tax is imposed. Hence, introduction of the proposed levy is bound to be tagged as double taxation.

Government had previously, in 2007, repealed the same tax and introduced it as tax on fuel. The proposal also has negative implications and imposes high costs of doing business especially on the tourism sector and on companies with large fleets, and causes difficulty in tax compliance and administration, often resulting in corruption tendencies.

Clause 3 proposes to repeal the third schedule of the principal Act. Clause 4 proposes to amend the Finance Act, 2006 by repealing section 1 and the first schedule.

The committee recommends that Government considers imposing indirect taxes in this sector as a means to collect revenue. This will ease on the tax administration given that the proposed amendment has various players, for instance the police, the Ministry of Works and Transport and the Uganda Revenue Authority.

The committee recommends that all the proposed amendments to the Traffic and Road Safety (Amendment) Bill, 2021 be rejected. I beg to submit.

**THE SPEAKER:** Thank you, Madam Chairperson. Honourable members, you have heard the report.

1.41

MR JONATHAN ODUR (UPC, **Erute County South, Lira):** Thank you, Madam Speaker. I would like to thank the committee for taking this firm position to reject the proposed very regressive tax regime. You will recall that the justification then for transferring the cost of road licence to fuel in 2007 was that it was breeding corruption, was difficult to collect and as a result, about Shs 800 was transferred.

For the first time, fuel prices went from under Shs 2,000 to nearly Shs 3,000 in Uganda. At the moment, it is not true that the vehicles that are moving on our roads are not paying licences.

In the passenger vehicles that are operating, they are already paying advance taxes and the licence per seat, which is Shs 20.000 depending on the sitting capacity of the vehicle. These taxes have overwhelmed the operators and it is making it very difficult for businesses to survivors.

Secondly, this same House had agreed that there would be annual vehicles inspections and this vehicle inspection has attached a fee of about Shs 100,000 for saloon cars and Shs 48,000 for the motorcycles. So, if we allow this tax to be levied, it means that to own a vehicle, you will have to pay nearly Shs 300,000 every year but even for passenger vehicles that are doing businesses, the cost would go higher.

I support the committee for taking this bold decision and we should amend their report that the minister should never come back to this House with such a very regressive tax.

1.42

**THE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, we had a very candid discussion about this measure with the committee and I want to thank the chairperson and members.

We all agreed that it is important that we first prepare properly to make sure that we have systems in place on how we are going to be assessing the road worthiness of the vehicles, put systems on if there is any tax to be collected in that area.

On how it is going to be collected, I want to amend the recommendation of the committee to say that after consultations with the minister, the committee agreed that this Bill should be stayed.

**THE SPEAKER:** You cannot stay a tax Bill, honourable member.

**MR BAHATI:** I concede with the committee, Madam Speaker.

**THE SPEAKER:** Okay, honourable members, since the minister has agreed not to proceed with this Bill, I put the question.

**MR SSEKIKUBO:** Thank You, Madam Speaker. Before we take a vote on this matter, I beg for clarification. We are still debating the tax bills and last Friday when we amended the fuel tax on this Floor - even before the budget is read in June - the following day, fuel pump prices had already been hiked.

I usually have my diesel car fuelled at Shs 3,350 but immediately we passed this proposal and that amendment here, it had been raised the following day by Shs 130 at pump prices.

I want to seek clarification from the minister; I thought these measures take effect after reading the Budget. How come that whatever we discuss here, the market immediately responds but nobody is stepping in to guide and rein in on these unscrupulous business persons around the country.

Madam Speaker, when we do our work here as Parliament, I thought Government would come out with guidance to the business community or whoever is involved, that these measures take effect by 16th June. However, it is as if we are already passing the Budget here.

I want to know which is which, honourable minister? Why is the outside market, consumers, users and the people we are supposed to legislate for running ahead of Government? Is Government in charge? Is anybody free to do as they wish?

I thought a country must have laws and policies in place, and then they are implemented by the other side but not the other way around. It is as if we are being led by the public and the market.

**THE SPEAKER:** Honourable members, let us first deal with this law. It is a legitimate question that the minister will answer. However, let me finish with this amendment.

I put the question that the question be put.

*(Question put and agreed to.)*

**THE SPEAKER:** I put the question that “The Traffic and Road Safety Act (Amendment) Bill, 2021” be read for a second time.

*(Question put and negatived.)*

**THE SPEAKER:** You can now answer the question, honourable minister.

1.47

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, the increase in the prices of fuel - which actually started somewhere in March – is not because of the speculation that we are going to put a levy of Shs 100. It has been because of the global increase in the price of oil.

So, it is something that is affecting not only Uganda but the entire world. Whether this was put here or not, it was still going to be increased but we think that it is temporary. Hopefully, in a few months, it will come down. The reason is the global increase in prices of fuel. Thank you.

**THE SPEAKER:** Honourable members, let us go to item 11 –*(Interjections)*– No, let us finish with this. I have an Order Paper; I know the Income Tax (Amendment) Bill is coming. Let me finish with the Mining (Amendment) Bill and then we go to the Income Tax (Amendment) and the other revenue Bills.

BILLS

SECOND READING

THE MINING (AMENDMENT) BILL, 2021

1.48

**THE STATE MINISTER OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Mining (Amendment) Bill, 2021 be read the seconded time.

**THE SPEAKER:** Is it seconded, honourable members? Yes, it is seconded. Justify.

**MR BAHATI:** Thank you very much, Madam Speaker. When we established the refinery of gold in Entebbe, we have seen overtime an increase in our gold export, in the excess of one billion dollars.

So, the purpose of this particular Bill is to impose a minimal export levy on unprocessed gold and unprocessed minerals, to be able to generate revenue to finance our Budget. I beg to move.

**THE SPEAKER:** Honourable chairperson of the Committee on Finance, Planning and Economic Development, present your report.

1.49

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Thank you, Madam Speaker. I present the report of the Committee on Finance, Planning and Economic Development on the Mining (Amendment) Bill, 2021.

Introduction

The Mining (Amendment) Bill, 2021 was read for the first time on 01 April 2021 and referred to the Committee on Finance, Planning and Economic Development, in accordance with rule 128 of the Parliamentary Rules of Procedure.

Object of the Bill

The object of the Bill is to amend the Mining Act, 2003 to impose an export levy on processed gold and unprocessed minerals. Again, with your indulgence, I beg to skip the methodology and go to committee observations.

The committee observed that:

1. Clause 2 proposes to amend section 116 of the Mining Act to provide for a levy on processed gold and a levy on unprocessed minerals, as follows:

“Section 116 (a) Levy on processed gold

1. There shall be charged a levy on processed gold at the rate of $200 per kilogramme, which is exported out of Uganda.
2. The levy referred to in sub-section (1) shall be paid by the exporter to the Uganda Revenue Authority, at the time when the processed gold is exported out of Uganda.”

“116(b) Levy on unprocessed minerals

1. There shall be charged a levy on unprocessed minerals, at the rate of 1 per cent of the value of the unprocessed minerals, which is exported out of Uganda.
2. The levy referred to in sub-section (1) shall be paid by the exporter to the Uganda Revenue Authority, at the time when the unprocessed minerals are exported out of Uganda.

This proposal is intended to increase the country’s benefits from the export of the minerals that have been imported into the country for processing, as well as locally sourced minerals.

Further, the committee noted that in order for the country to gain more revenue from the minerals sector, there is need to encourage value addition because the country is losing a lot of revenue through export of unprocessed minerals.

Further, Government should ensure that all gold is wholly processed in Uganda.

Recommendation

The committee recommends that the Mining (Amendment) Bill, 2021 be passed into law, subject to the proposed amendments.

I beg to submit, Madam Speaker.

**THE SPEAKER:** Thank you.

1.52

**MR DEOGRATIUS KIYINGI (DP, Bukomansimbi County South, Bukomansimbi):** Thank you very much, Madam Speaker. I want to thank the chairperson of the committee. We have just been discussing the issue of the percentage on fish maw export. I wonder why we again fix an amount on a valuable commodity like gold?

Madam Speaker, a kilo of gold is currently about five million shillings. When you impose $200, it means you are going to earn Shs 700,000, which is very little money. Why don’t you fix a percentage, the way you have done with fish maw, so that we can get more money?

I beg to submit.

**THE SPEAKER:** Thank you. Honourable chairperson?

**MS AVUR:** Madam Speaker, that consideration being suggested by the Member was made by the committee and it is going to come in the amendments. When we come to amendments, we have suggested it, in terms of percentages.

**THE SPEAKER:** Any other comments, Members? Hon. Kahonda and hon. Nyendwoha?

1.54

**MR DONOZIO KAHONDA (NRM, Ruhinda County, Mitooma):** Thank you very much, Madam Speaker. I want to thank the committee for considering this.

Madam Speaker, I think the levy on the exportation of unprocessed gold at 1 per cent is not fair. It is very little money yet we are in the process of widening our tax base.

Honourable minister, I think this is something we should look at. We also need to increase that percentage from one per cent to probably five per cent. We know and are aware that gold is also another lucrative business. When you look at the exportation –*(Interruption)*

**MS BBUMBA:** Thank you, Madam Speaker. I thank my colleague for giving way. I want to inform my colleague that Uganda is a highway for smuggled minerals. There are more minerals smuggled through Uganda than what is produced from it.

Therefore, when we fix a levy on the mineral exports, I think that levy should be high because some of the minerals do not originate here. People are using our country to smuggle Gold. We should, therefore, get the maximum out of it.

The export levy should be much higher than the one per cent, which is being proposed here. I propose five per cent.

**THE SPEAKER:** Please, conclude, hon. Kahonda.

**MR KAHONDA:** I thank my colleague because her submission justifies mine that the while ministry had proposed one per cent, the committee is proposing 2.5 per cent. We are also aware that the people who are licenced to carry out gold business especially those who are allowed to export and import – I am proposing a five per cent tax on this so that the country also gains some revenue. We should benefit from our raw materials as well as the business that hon. Bbumba referred to. I thank you.

1.56

**MS NORAH BIRIGWA (NRM, Woman Representative, Buliisa):** Thank you, Madam Speaker. I also take the opportunity to thank the committee for tabling this Bill. I, however, have this to say: that I want to believe that it is in the interest of this committee to make sure we discourage the issue of exporting unprocessed minerals from this country.

If that is the case, we need to also look at the issue of value change in this sector. This means that in the best interest of this country, and for the sector to grow, we need to increase the percentage that we charge on this. Five per cent is even little. May be, we put it at eight or 10 per cent. Thank you.

1.58

**MR RICHARD OTHIENO OKOTH (NRM, West Budama County North, Tororo):** Thank you, Madam Speaker. Straightaway, I want to agree with the Member of Parliament for Buliisa. Actually five per cent is just peanut; even 10 per cent. We should even be talking about 20 per cent.

When you look at the following figures, you realise that a Member of Parliament earns Shs 11,180,000 and pays a tax of Shs 3,375,000. If you put a kilogramme of gold, for instance, at $57,000, that is an equivalent of Shs 205 million. In terms of earning from one kilogramme of gold, the Gold exporter earns 18 times what a Member of Parliament earns.

If a Member of Parliament pays Shs 3,375,000 every month and you multiply that by 18, it means the equivalent tax this person should pay is Shs 60 million. However, we are talking about the person paying just Shs 2 million or Shs 5 million or Shs 10 million. A Member of Parliament here is paying an equivalent of Shs 60 million on the same base but for the gold exporter, you are saying that they should only pay one  or two per cent.

At five per cent, these people will be paying just Shs 10 million, which is very little money compared to what other Ugandans are paying.

Therefore, the principle of taxation is that you spread the hurt. Let the pain be the same. The way it pains a Member of Parliament to pay the tax should be the same way it pains the Gold exporter when it comes to exporting gold.

In that situation, I would say that we need to be fair to Ugandans and ensure we do not subject them to excessive pain in taxation. This pain should be spread equally to all taxpayers.

Otherwise, I am at pain to even accept 10 per cent. I would go for 20 per cent *–(Interjections)–* I have told you we should spread the pain equally. I have said this person earns 18 times what a Member of Parliament earns. The equivalent of the pain a Member of Parliament suffers is Shs 60 million and yet, they are now asking him to pay Shs 10 million if it is at five per cent. At less than five per cent, the person is paying just around Shs 3 million like a Member of Parliament yet that person earns Shs 205 million on every kilogramme of gold.

The principle of taxation should be applied in this case on a pro-rata basis. That is my submission.

2.01

**MR PENTAGON KAMUSIIME (NRM, Butemba County, Kyankwanzi):** Thank you, Madam Speaker. I am a member of the Committee on Physical Infrastructure and this morning, I found in my mailbox, a letter written by His Excellency, the President to the Minister of Works and Transport about gold mining and artisanal miners in Kisita. The President went on to say that those artisanal miners should be given at least six months to vacate that area so that we can pave way for the big mining companies.

As you are well aware, in the near future, the local people are not going to be involved in mining anymore because companies are going to take over. For Ugandans, especially the lower people, to benefit from this, it has to be only through tax.

Therefore, I am of the opinion that this percentage, if it is less, should be fixed at 20 per cent. Otherwise, we are going to have the gold but Ugandans will not benefit.

For the benefit of the institution of Parliament, I may even go and pick a copy of that letter so that I can lay it on the Table. We need to put the tax at a percentage that the common Ugandans will benefit from. I will go with 20 per cent or even more. I thank you.

2.03

**MS MARGARET RWABUSHAIJA (NRM, Workers Representative):** Thank you, Madam Speaker. I would like us to remember that when we talked about the fish maw, we increased the tax to eight per cent. Very few people know about it. I know that since time immemorial, the minerals are a selling commodity and the value cannot be doubted.

Therefore, I agree with the previous speakers that we can put it at 20 per cent rather than the eight per cent that we have given to the fish maw, which we are just learning about. The other one has been there since time immemorial. I thank you.

2.04

**MR PETER LOKII (NRM, Kotido Municipality, Kotido):** Thank you, Madam Speaker. As I sat, I kept on asking myself who these taxes are meant to benefit because the way the tax regimes are being set seems to be protecting the people who should be paying taxes.

There was a story of fish. I do not think a kilogramme in the fish story they were talking about here – I am a Karimojong. I do not know what they were talking about but that stuff they are referring to - I do not know how much a kilogramme costs. Yet, we are putting a levy of eight per cent.

We are talking about a valuable mineral; gold, which according to the market – I have just been looking at - a kilogramme of gold goes for about €47,000.

Even if the gold comes from Congo, South Sudan or wherever, as long as it has passed through Uganda, which is used as a vehicle to deliver it to the € 47,000 per kilogramme, it should be taxed. I totally agree with the Members’ proposal that this tax should be increased to 20 per cent. Otherwise, there is no other window that Ugandans will gain from.

We have just talked about the issue of the licence. You are putting a licence fee on everyone. Yet, when it comes to gold, you are protecting the few who are amassing a lot of wealth. Where is the point of equity in the rules of taxation?

Madam Speaker, I support that 20 per cent be levied. Thank you.

**THE SPEAKER:** Can I invite hon. Kamusiime. He has brought the letter from the President concerning the gold.

2.05

**MR PENTAGON KAMUSIIME (NRM, Butemba County, Kyankwanzi):** Thank you, Madam Speaker. I have a letter written by His Excellency the President to the Minister of Works and Transport, Gen. Edward Katumba Wamala. It was written on 22 February 2021.

The subject is: “Eviction of illegal miners from Kisita Mines.”

I read it verbatim:

“*I have received a report from the Kisita mining area about the continued chaos in that area. Now, carefully listen to my directive.*

*Minerals are a property of all the 46 million Ugandans. They do not belong to individuals; not even the land owners of the area. Especially for gold, it has the characteristics of “Okukokooka” (peeling-off) and fragments (Obukunkumuka), then gets carried downstream by water. It is these “bukunkumuka” (peelings) that artisanal miners have been mining.*

*Some time ago, I told all concerned that these “bukunkumuka” must be coming from a rock that has gold. Could the artisanal miners, please, temporarily withdraw, from these areas so that more capable companies look for the rock that contains the gold so that then, we have an organised industry that benefits the whole country.*

*Nobody should be allowed to interfere with this. It is like bread. There is loaf but also the “bukunkumuka”. Why do we only spend all the time on “bukunkumuka” and never look for the loaf, from which the “bukunkumuka” come from? Nobody should be tolerated to interfere with the heritage of Ugandans.*

*All these artisanal miners have their homes, where they originate, if they are Ugandans. Let them go back so that we arrange the mining sector well. If they sold their “bibanja”, where they came from, that was their mistake. Damaging or “Kuzingamya” (stunting) Uganda’s mining industry cannot be a solution for people who mishandled their family wealth.*

*I am, therefore, in favour of giving these miners a period not exceeding six months, for all to vacate the mining area so that exploration takes place.”*

He signed it and gave copies to:

1. H.E the Vice President
2. Rt Hon. Prime Minister
3. The Attorney-General
4. Members of Parliament, and
5. Resident District Commissioners

Madam Speaker, may I take the honour to lay on the Table the said letter written by His Excellency the President. Thank you.

2.09

**MR JOHNSON SSENYONGA (NRM, Mukono County South, Mukono):** Thank you, Madam Speaker. I can see the chairperson is more interested in the lower percentage, after having heard from this letter. Even the 20 per cent is still on a lower side.

We have very many people who deal in gold mining. When you look at the price, they sell it, vis-à-vis the way they exploit our local ones – the local ones, like the letter has said are benefiting from *“bukunkumuka”*. This means leftovers. This is the only way the Government can get money, serve the country so that service delivery improves on the many demanding issues, which are pending.

When you look at our budget, there are very many items, which are unfunded priorities because we cannot balance it. If there is an opportunity like this - and we have heard from the “big man” that the big ones are coming. Therefore, this is the only opportunity we should charge them 25 per cent, if my colleagues can say, “aye.” *(Interjections)*

2.11

**MS JANE AVUR (NRM, Woman Representative, Pakwach):** Thank you, Madam Speaker. In principle, I agree to an increase. However, when you impose a tax, at the end of it, you expect the tax collector to collect. I see a situation, whereby if we jump to 20 per cent or more, we shall   indirectly encourage people who are in this business to avoid or evade this tax –*(Interjections)*– Madam Speaker, please, protect me.

**THE SPEAKER:** Allow the honourable member to make a point.

**MS AVUR:** For us to avoid that and be able to collect this tax - much as I agree that there should be an increase from five per cent to 20 per cent and having consulted the technical people, there might be a problem of collecting it.

I would, therefore, suggest that we –*(Interruption)*

**MR JAMES KAKOOZA:** Yes, I would like to supplement what you are talking about. For people who are involved in gold, it is an international business. You can search google and see. I want to give Members information so that they can evaluate what we want to pass here.

Today in Uganda, a kilogramme of gold is about Shs 203,686,252.91. The current market rate internationally –

**THE SPEAKER:** That is Shs 203 million, per kilogramme.

**MR KAKOOZA:** Yes. The current rate on the international market, which is determined by a dollar is about Shs 205,505,587.11. The difference is about Shs 3 million, for somebody who is involved in that business.

Imagine, you go for extraction or have bought it locally and added value but you are now charged 10 or 20 per cent. Will that business continue or collapse?

The profit you get is what the tax collector wants to gain - this is the rate and it is an international rate. You do not say there is nobody who will get to the international market to sell a kilogramme more than Shs 205 million –*(Interjections)*– where can you sell it? They keep gold because the value does not change but the dollar does.

This is why the Bill says that we are charging that tax of about $200-. In case you get Shs 2 or 3 million, we get Shs 700,000 from you. However, when you charge 10 per cent, you charge more than the profit of this person in the business and so, the business will collapse. You can Google and find out the rate of gold.

2.14

**MS SYDA BBUMBA (NRM, Nakaseke North County, Nakaseke):** Thank you very much, Madam Speaker. I would like to thank all the colleagues who have proposed different percentages, in order to make sure that Ugandans get maximum benefits from raw minerals.

Madam Speaker, Uganda is not an island. We are part of the community and all the borders in the community are porous. If they have been smuggling through Uganda and we put up very high tax rates, they will start smuggling through Kenya and other countries.

Therefore, I would like to propose to my colleagues that when we suggest the rates, we must be mindful of our competitors. Our main source for these smuggled minerals is Congo, which has got other borders. They smuggle it through other places; so let us be mindful of that. Anything above 10 per cent is on the high side. I support measures for improving tax revenue but anything beyond 10 per cent will be unreasonable.

2.16

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, it is important that as we make the final decision when we move into the Committee of the Whole House, we understand and put this issue into context. Before the refinery in Entebbe was put in place, we were importing gold in millions of dollars. After it was put in place, there was an attraction for gold for processing within the country. We are now exporting over $1 billion in gold.

As we think of taxation, we all want more revenue. The question is, at what rate should we put it? Once we put that rate, what effect will it have on the business?

That is why at the beginning, we had suggested that we should have a progressive rate - we set a rate and we move with it progressively. I think 20 per cent is on a higher side. It has not been studied properly to know whether it will shift the refinery to somewhere else and what effect it will have on the gold business in the country.

I would like to concur with the former minister of finance that we need to be cautious. As we move into the Committee of the Whole House, the technical people can look at a reasonable rate. We can agree to increase and we are very happy that Members, on this particular item, are moving towards increasing *–(Interruption)*

**MR JONATHAN ODUR:** Madam Speaker, the minister had proposed the rate of $200 per kilogram in the Bill. The gold profit margin ranges between Shs 2 to 3 million on the world market. If you charge $200, it means you are charging 35 per cent per kilogramme.

Would the minister be in order to come here and undermine his own proposal of 35 per cent? If you convert $200, it comes to 35 per cent. Is he in order to tell us that we are frustrating the business, when his own Bill proposed $200 per kilogram, which is equivalent to 35 per cent? That is, if you calculate on the profit margin.

**THE SPEAKER:** I had not calculated it.

**MR BAHATI:** We can calculate that rate but it is certainly not 35 per cent. However, Madam Speaker, I said that as we move towards the Committee of the whole House, we shall come up with some reasonable percentage and not undermine the effort; probably something similar to what we have put on the fish maw can work, other than the 20 per cent, which is on a higher side.

**THE SPEAKER:** Honourable members, we have moved from a situation where there was tax avoidance and tax evasion. We have now started capturing the taxpayers in this industry. I think we should move steadily and not frighten; let us progress. We have moved from zero and so, let us get somewhere and start climbing progressively.

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

*(Question put and agreed to.)*

**THE SPEAKER:** I put the question that the Mining (Amendment) Bill, 2021 be read for a second time.

*(Question put and agreed on.)*

BILLS

COMMITTEE STAGE

THE MINING (AMENDMENT) BILL, 2021

**THE CHAIRPERSON:** Honourable members, I put the question that Clause 1 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 1, agreed to.*

2.20

**THE VICE-CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Ms Jane Avur):** Thank you, Madam Chairperson. We have an amendment in Clause 2 of the Act of 2003.

Clause 2 is amended as follows:

1. In the proposed section 116(a)(1) by substituting for the words “$ 200 per kilogram” – not $ 2 million as someone had earlier stated, the words “five per cent of the value of a kilogramme”
2. In the proposed section 116(b) , by substituting for the words “one per cent” the committee is suggesting  “2.5”

Justification

Processed gold and unprocessed minerals are valuable exports that require to be mainstreamed as major Government revenue sources.

I beg to submit.

**MR KAHONDA:** Madam Chairperson, I thought the Chairperson had conceded on the “unprocessed gold.” I shared my view with her but it seems she had not agreed with me. We need to encourage value addition. If we put unprocessed gold at a lower rate, that means we are encouraging that business. I propose that for the processed gold, it should be at 5 per cent but the unprocessed one should be at 10 per cent. I thank you.

**MR JONATHAN ODUR:** Thank you, Madam Chairperson. I invite the House to reject the proposal from the committee because the original Bill had proposed $200, which is about Shs 700,000. The 5 per cent comes to less than Shs 100,000.

Rather than lowering it to 5 per cent, which, if charged on the profit margin, is just under Shs 100,000, we should go by the $200, unless the minister gives us clear revenue targets.

This Bill was supposed to raise some amount of money. If the committee is going to propose that and it is going to be less, then the minister should explain to us where else he is going to get the money from.

**MR JAMES KAKOOZA:** Madam Chairperson, the ministers and people making these tax policies have not followed up with your guidance, whenever we debate tax Bills. The ministers could have come with statistics and made a comparison of what they want to charge.

If you say that the current rate of a kilogram of gold on the international market is about Shs 205.6 million, then five per cent of that is about Shs 10 million in profits. However, the current gold rate today in Uganda is about Shs 203 million. The difference is about Shs 3 million. If you have statistics and are charging five per cent of the value, then, the money cannot be in the business. The only way is to estimate and say, if you are getting between Shs 2 to Shs 3 million, let me charge you and get away with Shs 700,000 or $200 at the current exchange rate.

That is why gold has been stable in the market for a long time and that is why people reserve gold in the market because it is stable and it does not change. That is why people prefer to keep gold and not to buy dollars - because this gold is sold in dollars and not in the local markets.

Today, you have seen the difference; the profit margin is about Shs 3 million. If you charge 5 per cent, how much am I going to get in that business? It becomes too much. Honourable minister of finance, always when we come and say, please, come with statistics and make your policies proper, it makes Parliament not to suffer. I prefer that what we had proposed in the budget, 5 per cent of Shs 3 million is not much; it is equivalent to about Shs 700,000 or Shs 800,000 because you target the profit margin and not the value of it.

Thank you, Madam Chairperson.

**THE CHAIRPERSON:** These are all committee members. Can we hear from others?

**MR OTHIENO:** Madam Chairperson, I think hon. Kakooza should help us here. The information he is giving is not accurate. He is giving an impression that the difference between the prices here in Uganda and somewhere in UK, there is a margin of Shs 3 million, which is not correct.

What we are saying, the international price of processed gold is actually on average of $ 57,000 per kilogramme. It does not matter whether that person selling is in Kampala here or in the UK - the price is the same. When he starts creating an impression that if you sell here, you go and again sell somewhere else and you get the difference of Shs 3 million, that is being diversionary and it is very unfortunate.

What we are saying is, if this gold is a property of the whole country and you are now kicking out all Ugandans and saying let only one person or two or three people - a cartel of a few individuals be the ones to charge – how will the rest of the 46 million Ugandans, which were referred to in that letter, going to benefit from this resource?

What I expected from hon. Kakooza and committee is to tell us the production cost. *(Interjections)* I know you do not have it here and I am okay. Your argument would have been stronger if you had come out and said in order to earn this Shs 205 million, at an exchange rate of Shs 3,600 on $ 57,000 that is when you get Shs 205 million.

What I would have expected you to make a stronger argument was if you had come up and said, look in the process of getting Shs 205 million, you spend this amount of money and this is where the margin comes in.

Madam Chairperson, the way things stand now, I would propose that we go with the 15 per cent on processed gold to benefit Ugandans and 10 per cent on unprocessed gold. This would benefit 41 per cent who have been kicked out in that letter. I beg to submit.

**THE CHAIRPERSON:** Honourable members, of course, we all want to raise money for the country but I think if we make proposals, which we have not tried - why don’t we agree to move steadily? Next year, we can amend the Mining Act to increase the taxes. Let us not choke the industry.

**MR JOHNSON MUYANJA:** Thank you, Madam Chairperson. The argument that the investors will not be breathing, all of us in businesses are not breathing. All over the world, we are paying taxes through the nose.

It will be very unfair for this House to sit here having known that many of our Ugandans are going to be out of that business and we continue babysitting those who are coming from outside Uganda to an extent of saying 5 per cent tax. If they are charged 10 per cent, that is reasonable such that even the locals can know that the outcome is going to add value to their country in service delivery. However, saying 5 per cent, the people who are dealing in that business - even if you see the few mafias in Kampala, they are billionaires; they are enjoying this free trade where they are charged “*bukunkumuka”* like His Excellency stated.

**THE CHAIRPERSON:** Honourable Minister, please, we need to move.

**MR BAHATI:** Madam Chairperson, as you have stated, it is important - and I think now we have put everybody in this business and we can now see them because of the setting up of the refinery. However, it is important that we do not choke the business.

As I said, we are importing millions of dollars worth of gold before the refinery. Currently, because of the refinery in place, we are exporting billions, providing jobs and other things. We are not an island, as hon. Bbumba said. If you over-tax the investor, they will go somewhere else. There is no guarantee that they will remain here.

I think the committee’s proposal of 5 per cent on the processed gold because we are sure of them, and we are encouraging them, in the beginning, it is okay. Where we can adjust, Madam Chairperson, would be on unprocessed gold because we want all these people who are dealing in gold to put in place systems and processes gold of value addition.

If we can increase that from maybe 2.5 per cent to 8 per cent on unprocessed gold, that would be fair and balance the equation.

**THE CHAIRPERSON:** Are you proposing that for the processed gold, we start with the 5 per cent and the unprocessed gold we raise to 8 per cent?

**MR BAHATI:** Yes. I know hon. Ssekikubo might be talking about – because we want to add value to all the unprocessed gold we have here. That is the point. We do not want people to smuggle, we want every mineral that –

**THE CHAIRPERSON:** It should be a deterrent.

**MR BAHATI:** Yes, it should be a deterrent.

**MR SSEKIKUBO:** Madam Chairperson, the perspective I wanted the honourable minister to take into consideration - when you talk about the unprocessed gold, you are talking about your Ugandans. Those ones, you say, they should be paying a high rate of 8 per cent. For the processed, those are known; it is only one plant at Entebbe and we know who are behind that plant.

To that extent, I propose that the unprocessed gold as a tax measure, comes to 5 per cent but for the processed gold can go to 10 per cent. To that extent, you will be doing equity to all instead of one entity, who are the processors at Entebbe, getting away with it.

Please, it is the only one entity and monopoly that is involved in processing of this gold. If you can mention only two processors, I would concede. However, if it remains one, better concede to that as well.

**MR BAHATI:** Madam Chairperson, according to the statistics we have, the cost per kilo of processed gold is now at $ 59,000, meaning that 5 per cent of that on every kilogramme of processed gold, you are paying close to $ 3,000

for every kilo of processed. If you are in that business, 3,000 out of every 60,000 is a reasonable amount of tax that you are paying.

I do not want to agree with hon. Ssekikubo that Ugandans are condemned to always have unprocessed produces - that we cannot organise ourselves and set up a refinery. That is what we are aspiring for and we must discourage unprocessed products and encourage more processed ones.

So, we can organise Ugandans and discourage them from dealing in unprocessed produce; that is why we are putting money in Uganda Development Bank so that they can access money and become industrialists.

The argument that Ugandans were condemned to never have a refinery as proposed by hon. Ssekikubo should be rejected. Thank you.

**MR KAHONDA:** Madam Chairperson, the whole issue is not about protecting Ugandans. Whether you are a Ugandan, a Congolese or Rwandese, the issue is value addition. That is why I am supporting the increase from Shs 2.5 to probably 10 per cent to encourage value addition so that we promote this industry.

**THE CHAIRPERSON:** Honourable members, I want to look at a practical example. I am a friend of the artisanal miners of Buhweju and when I met them, they told me that one of their plans is to go into processing. How would this tax affect them?

**MR MIGADDE:** Madam Speaker, I think the ministry did us a disservice. They should be clear. If you were proposing $200 - I assume the tax base is a profit, which is about Shs 3 million.

Our interest is to increase from $200 upward. When you propose 10 per cent of the profit margin, which is Shs 3 million, you are going downward.

Therefore, if the profit today according to what is on the stock is Shs 3 million, for you to get above the $200, then you must be at 35 per cent, not of the value but of the profit. If you go for 10 per cent, you are going far much below unless- honourable minister, are you taxing value?

Then 10 per cent of today’s value, which is Shs 2,005,000 per kilo, then 10 per cent is Shs 25 million. Where are you going to get it?

**THE SPEAKER:** What do you propose? Now you have left us in the air.

**MR MIGADDE:** If we are targeting $300, then probably, we should not go to per centages.

**THE CHAIRPERSON:** Do we need time to reflect on it? We stand over it for now while we think - because each side is attractive now. I do not know where to go.

**MR BAHATI:** Hon. Migadde, we had proposed that they will be charged a levy on processed gold at the rate of $200 per kilogramme, which is exported out of Uganda.

The committee has proposed 5 per cent and so $200 is less than the 5 per cent and that is why we have accepted the proposal of the committee, because now, the value of the gold exported per kilogramme is $59,000.

Five per cent of that goes to Shs 3,000 so that per centage fetches us higher money than the amount that we had proposed and that is why we accepted the proposal of the committee. The other figures of profit - I do not understand them, we are charging per kilogramme of gold exported.

**THE CHAIRPERSON:** Honourable minister, we are staying with the 5 per cent for the processed and the unprocessed?

**MR BAHATI:** 10 per cent is okay.

**THE CHAIRPERSON:** Okay. Honourable members, I put the question that clause 2 be amended as proposed.

*(Question put and agreed to.)*

*Clause 2, as amended, agreed to.*

*Title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

2.40

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** Honourable members, I put the question that the House do resume and the Committee of the whole House reports thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding\_)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.41

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati)**: Madam Speaker, I beg to report that the committee of the whole House has considered the Bill entitled, “The Mining (Amendment) Bill, 2021” and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.41

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, I put the question that the report of the Committee of the whole House be adopted.

*(Question put and agreed to.)*

BILLS

THIRD READING

THE MINING (AMENDMENT) BILL, 2021

2.41

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Bill entitled “The Mining (Amendment) Bill, 2021” be read the third time and do pass.

**THE SPEAKER:** Honourable members, I put the question that the Bill entitled, “The Mining (Amendment) Bill, 2021” be read for the third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “THE MINING (AMENDMENT) BILL, 2021.”

**THE SPEAKER:** Title settled and Bill passed. Honourable members, I know it is late but maybe we should first take up the Income Tax Bill and close the revenue Bills before we break. Go back to the Income Tax Amendment Bill.

BILLS

SECOND READING

THE INCOME TAX (AMENDMENT) BILL, 2021

**THE SPEAKER:** Can we ask the minister to report - because he had gone for consultations?

2.41

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati)**: Madam Speaker, after consultations with the technical team and members that moved a minority report, we are proposing that we consider the views by the hon. Migadde, by

1. moving that we amend clause 5, amendment of section 22 of the principal Act in subsection (i)c that in case of the rental income, 70 per cent of the rental income as expenditures and losses incurred by a person in production of income, subject to verification by URA.
2. To cater for the local Governments, inserting immediately after paragraph (f), the following:

“Subject to paragraph (c) of the local Government rates paid under section 3 of the Local Governments (Rating) Act, 2005.”

That will cater for the concerns raised by hon. Migadde and also the consensus that we had built about 70 per cent, as long as we subject this to a local Government. That was his proposal and that is what we have taken.

2.45

**MR JAMES KAKOOZA (Independent, Kabula County, Lyantonde):** Madam Speaker, I do not know why the minister does not want the drafting of the law. What is in the Income Tax is, if you want to exempt with any other relevant loans, you say, “Notwithstanding” because you are exempting.

If you say, “In case of rental income, notwithstanding other relevant laws, 70 per cent of the rental income as expenditure and losses incurred by a person in the production of such an income” - you do not need that Local Government Act. That is how they draft laws.

When you say, “insert a new clause”, that means you are still maintaining the local Government. Here, your intention is that you do not want to subject a gross. That should be the harmonisation but when you include the Local Government Act, you are still charging property tax and rental income on the same property.

Do away with one and remain with the others. That is correct drafting.

**MR BAHATI:** No, hon. Kakooza. This is a matter that the Speaker referred to the technical people and we have people who are involved in legislation. We have people who draft and they have captured the spirit of what hon. Migadde was saying; that once you tax at 70 per cent, you should not have double the rates. That is what they have captured; that is the spirit they have captured.

Our acting Attorney-General looked at it and he captured the spirit of hon. Migadde’s proposal.

2.46

**MR ROBERT MIGADDE (NRM, Buvuma Islands County, Buvuma):** Thank you, Madam Speaker. I thank the minister. He was frank and actually called me. He said, “Let us agree at 70 per cent allowable and we do away with –*(Interjections)*– That was his proposal a few minutes ago - the property tax.

I said, “No problem”. The way he is bringing it, he is now using other jargons to seem like he is maintaining it. For purposes of record, the minister should be clear.

Honourable minister, are we doing away with the property tax so that it is very clear. Even then, we can find a way of phrasing it.

**MR BAHATI:** Madam Speaker, you recall that hon. Migadde came to this House with a proposal. That is why the Speaker has always insisted that when you come to this House with a proposal, bringing it on the Floor of the House is problematic.

We are proposing that we go with the proposal, which he had come up with and leave out the issue of local Government rating. He seems not to understand what we are proposing, which actually is in line with what he wanted. However, we do not want to mix things up since we are handling it on the Floor of the House. We do not want to make any mistakes.

**MR MIGADDE:** Madam Speaker, for purposes of the record, I would like to thank the honourable minister for accepting our proposal of increasing the allowable deduction from 60 per cent - as he had proposed – to 75 per cent. This means that 25 per cent is the one which will be available for taxation, the other laws notwithstanding. Thank you very much.

**THE SPEAKER:** Is that the position now? Chairperson of the committee -

2.49

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Mr Henry Musasizi):** Thank you, Madam Speaker. I agree with the position the minister is taking. I also believe that hon. Migadde is comfortable with the idea of 75 per cent.

From the arguments hon. Migadde is making, it is as if he is trying to suggest that we amend the Local Governments Act using the Income Tax Bill. While scrutinising the Bill, this was not thought about.

I would like to appeal to the House that we refrain ourselves from introducing new things at this stage and also concede to the minority report that we take the 75 per cent.

**THE SPEAKER:** Honourable members, I put the question that the question be put.

*(Question put and agreed to.)*

**THE SPEAKER:** I now put the question that the Income Tax (Amendment) Bill be read for a second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE INCOME TAX (AMENDMENT) BILL, 2021

2.50

Clause 1

**THE CHAIRPERSON:** Honourable members, I put the question that clause 1 do stand part of the Bill.

*(Question put and agreed to.)*

*Clause 1 agreed to.*

Clause 2

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Mr Henry Musasizi):** Madam Chairperson, we propose to amend clause 2 as follows:

Clause 2 is amended by substituting for paragraph A, the following:

“(A) By substituting for the definition of ‘beneficial owner’, the following:

‘Beneficial owner’ means a natural person who has final ownership or control of another person or a natural person on whose behalf a transaction is conducted and includes a natural person who exercises absolute control over a legal person.”

The justification is to remove the ambiguity brought about by the distinction in the definition of reference to natural and legal person. I beg to move.

**THE CHAIRPERSON:** Members, I put the question that clause 2 be amended as proposed.

*(Question put and agreed to.)*

*Clause 2, as amended, agreed to.*

Clause 3

**MR MUSASIZI:** Madam Chairperson, we propose that clause 3 be deleted.

The justification is that the proposal is contrary to the accounting principles and is bound to present administrative difficulties since taxpayers shall have to develop policies for apportioning common expenses for each property. I submit.

**THE CHAIRPERSON:** Honourable Members, the question is that clause 3 be deleted.

*(Question put and agreed to.)*

*Clause 3, deleted.*

Clause 4

**MR MUSASIZI:** We propose that clause 4 be amended by deleting paragraph C.

The justification is that there is need to further study the various tax exemptions or incentives to be given to various investors, to achieve certainty and predictability in doing business. I submit.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 4 be amended as proposed.

*(Question put and agreed to.)*

*Clause 4, as amended, agreed to.*

Clause 5

**MR MUSASIZI:** We propose to amend Clause 5 as follows;

Section 22 of the principal Act is amended in subsection (1) by substituting for paragraph (c) the following;

In case of rental income, 75 per cent of the rental income as expenditures and losses incurred by a person in the production of such income, subject to verification by URA.

I beg to submit.

**THE CHAIRPERSON:** Thank you. Honourable members, we have already agreed on that one. I put the question that Clause 5 be amended as proposed.

*(Question put and agreed to.)*

*Clause 5, as amended, agreed to.*

*Clause 6, agreed to.*

*Clause 7, agreed to.*

*Clause 8, agreed to.*

*Clause 9, agreed to.*

*Clause 10, agreed to.*

*Clause 11, agreed to.*

Clause 12

**MR MUSASIZI:** Madam Chairperson, we propose that clause 12 be amended by adding a new subsection (4)(c) immediately after the proposed subsection (4)(b).

“Subsection 4(c)

Notwithstanding sub-section (4), a refund shall be paid by Commissioner to a taxpayer within a period of six months from the date on which the application by the taxpayer is received by the Commissioner.” I submit.

**THE CHAIRPERSON:** I put the question that Clause 12 be amended as proposed.

*(Question put and agreed to.)*

*Clause 12, as amended, agreed to.*

Clause 13

**MR MUSASIZI:** Madam Chairperson, we propose to delete clause 13.

The justification is that the provision gives the Commissioner wide discretion to decide on whom withholding tax may not apply. I submit.

**THE CHAIRPERSON:** Honourable members, I put the question that Clause 13 be deleted.

*(Question put and agreed to.)*

*Clause 13, deleted.*

*Clause 14, agreed to.*

*Clause 15, agreed to.*

*Clause 16, agreed to.*

*The title, agreed to.*

MOTION FOR THE HOUSE TO RESUME

3.57

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Chair, I beg to move a motion that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** Honourable members, the question is that the House do resume and the Committee of the whole House do report thereto.

*(Question put and agreed to.)*

*(The House resumed, the Speaker presiding.)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.58

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Income Tax (Amendment) Bill, 2021 and passed it with amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

2.59

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, I put the question that the report of the Committee of the whole House be adopted.

*(Question put and agreed to.)*

*Report adopted.*

BILLS

THIRD READING

THE INCOME TAX (AMENDMENT) BILL, 2021

2.59

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I beg to move that the Income Tax (Amendment) Bill, 2021 be read a third time and do pass.

**THE SPEAKER:** Honourable members, the question is that the Income Tax (Amendment) Bill, 2021 be read for a third time and do pass.

*(Question put and agreed to.)*

A BILL FOR AN ACT ENTITLED, “THE INCOME TAX (AMENDMENT) BILL, 2021”

**THE SPEAKER:** Title settled and Bill passed.

3.00

**THE CHAIRPERSON, COMMITTEE ON FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (Mr Henry Musasizi):** Madam Speaker, I beg to lay on Table the minutes of the committee meetings and also the copies of the original report. I beg to lay.

**THE SPEAKER:** Thank you, honourable chairperson and members on the Committee on Finance, Planning and Economic Development for finally handling the revenue generating legislation.

3.00

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Madam Speaker, I would like to take this opportunity to thank you and the Members for this patriotic duty of passing the tax measures. The measures that were proposed, if well implemented, will generate over Shs 600 billion, which will support our expenditures.

On the expenditure side, if we can also support the URA to recruit enough staff and more equipment, we think that we will be able to raise the Shs 21 trillion that we are looking for in the Financial Year 2021/2022 to implement the NRM manifesto. I thank you.

3.01

**MR JAMES KAKOOZA (NRM, Kabula County, Lyantonde):** First of all, I thank you. This has been your advice to the ministry of finance because you guide the House out of experience when you are presiding. The ministry of finance should make research and collect data for ease of any Members of Parliament to know what they are going to legislate on. When you do research and come out with data, it eases the work of Parliament. We have been requesting the ministry to do a research on every tax measure but they do not want to pay heed.

I think the next Parliament should take it seriously; that every proposed tax measure must be researched so that we avoid necessary delays from the House. It is really funny to bring three Bills to Parliament and they are rejected. It means you are not taking much interest in what you want to do.

Research eases work and harmonises a position. I do not want us to look as if we, Members of Parliament, do not want to pay taxes. When Bills are brought to us, we reject them. I think it is not a good coordination.

I, however, want to thank you because you have been around for some time, you do guide well. If the ministry of finance listens to your guidance, I do not think we shall have any more problems. Thank you.

**THE SPEAKER:** Thank you, hon. Kakooza and all the Members of the House. We need to take a break because we still have work on the Order Paper. House will reconvene at 4.30 p.m. House is suspended to 4.30 p.m.

*(The House was suspended at 3.03 p.m.)*

*(On resumption at 4.25 p.m., the Speaker, Presiding\_)*

BILLS

SECOND READING

THE SEXUAL OFFENCES BILL, 2019

4.25

**MS MONICAH AMODING (NRM, Woman Representative, Kumi):** Thank you, Madam Speaker. I beg to move that the Bill entitled, “The Sexual Offences Bill, 2019” be read for the second time.

**THE SPEAKER:** Is the motion seconded? *(Members rose\_)* It is seconded. Please, justify.

**MS AMODING:** Madam Speaker, this Bill has been before the House for quite some time. As it comes for the second reading, I would like to remind members that it seeks for an effectual – *(Interruption)*

**MR KAHONDA:** Thank you, Madam Speaker. Whereas we appreciate that this is a very important Bill that touches issues of women, men as well and children, we are now moving to its second reading. We do not have the Attorney-General, the Minister of Justice and Constitutional Affairs and neither do we have any of the ministers from the ministry of gender. I do not know whether we are proceeding well without any of them.

**THE SPEAKER:** Honourable members, the Order Paper was issued long time ago - All the Members of this House that we have to complete the business, which is on the Order Paper this week. Let us proceed.

**MS AMODING:** Thank you, Madam Speaker. The Sexual Offences Bill, 2019 as read out before the House, seeks to prevent sexual violence, to enhance punishment of sexual offenders, provide for the protection of victims during sexual offences trials as well as to provide for extra territorial application of the law and repeal some provisions of the Penal Code Act, Cap. 120 and for other related matters. I beg to move.

**THE SPEAKER:** If our committee has considered the Bill, we can have the report.

4.29

**THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Jacob Oboth):**  Madam Speaker, the committee has considered this Bill, “The Sexual Offences Bill, 2019”, which is a Private Member’s Bill sponsored by Uganda Women Parliamentary Association and introduced by its then chairperson, hon. Monicah Amoding. It was read for the first time on 24 November 2019 and referred to the committee for scrutiny as required by the Rules of Procedure of Parliament of Uganda.

I seek the indulgence of this House to report a few days later due to the commitments that this committee has had and several Bills processed.

This Bill is a resubmission of a Bill that was first introduced on the 14 April 2016 and referred to the Committee on Legal and Parliamentary Affairs for scrutiny and withdrawn from the House on the 24 February, 2019 in order to incorporate the amendments that were proposed by the mover during the debate in the House. That gives the justification for the delay.

The Bill seeks:

1. To enact a specific law on sexual offences for the effectual prevention of sexual violence;
2. To enhance punishment of sexual offenders;
3. To provide for the protection of victims during sexual offences trials;
4. To provide for extra territorial application of the law;
5. To repeal some provisions of the Penal Code Act, Cap. 120; and
6. For other related matters.

Madam Speaker, I seek you indulgence that I read the abridged summary of the report as the main report has been uploaded.

This Bill is prompted by the need to cure the defects in the existing legislation, especially the Penal Code Act, Cap. 120, which provisions are now outdated and the ingredients constituting the offences are narrow given the fact that they do not reflect the evolving trends in social attitudes, values and sexual practices.

You may agree that there is also need to outlaw new forms of sexual violence and exploitation that have emerged such as sex tourism, indecent communication and child marriages among others, which are currently not effectively dealt with under the current laws thereby posing a challenge while dealing with them

.

A specific law on sexual offences, therefore, becomes a necessity.

As a matter of methodology, the committee interacted – I would like to refer Members to the methodology used. I go straight away on the main body of the Bill.

Sexual Act

The Bill proposes to change and standardise the nomenclature used in sexual offences from carnal knowledge to sexual offences.

The Bill adopts the word “sexual act” in all offences under the Bill, which is defined as follows:

“Sexual act” means the:

a) Penetration of a person’s sexual organ and mouth or anus by a person’s or an animal’s sexual organ or object;

b) Contact or stimulation of a person’s sexual organ with another person’s or animal’s sexual or object; or

c) Insertion of a person’s or animal’s body part or any object into the sexual organ, anus or mouth of another person but does not include the penetration of person’s sexual organ, mouth or anus, contact or stimulation of a person’s sexual organ, or insertion of any object into the sexual organ, anus or mouth of another person done for sound health practices or proper medical procedure.

The penal code has been using the words “carnal knowledge” or “sexual act” interchangeably. The committee has reviewed the proposal to standardise the use of the word “sexual act” in all sexual offences and supports it.

The committee notes that the words “sexual act” are gender neutral meaning that the act constituting the offence can be committed by both sexes rather than the current situation where certain offences, which can be committed by both can only be committed by persons of male gender exclusively because of the use of the words, “carnal knowledge.”

In light of the above, the committee recommends that:

1. The words “sexual act” be used instead of “carnal knowledge.”
2. The definition of “sexual act” should only be limited to sexual organs since the rest of the provisions deals with acts that would constitute unnatural offences.

Rape and Aggravated Rape

Clauses 2 and 3 of the Bill deal with the offences of rape and aggravated rape. The Bill, in clause 2 creates the offence of rape and requires the offence to have been committed when a person performs a sexual act with another person –

(a) Without that other person's consent; or

(b) Is incapable of consenting to the sexual act.

The Bill further proposes that when a person obtains consent for a sexual act by means of threats, duress, undue influence, misrepresentation or intimidation of any kind, the consent is negated.

The Bill also proposes that a person who is asleep, unconscious, in an altered state of mind due to influence of medicine, drugs, alcohol or any substance that adversely affects his or her judgment or is mentally impaired, is incapable of consenting to a sexual act.

The Bill further proposes to prescribe a penalty of life imprisonment, if a person commits the offence of rape and eight years if he or she attempts to commit the offence of rape.

The Bill also proposes to create an offence of aggravated rape, where the rape is committed in the following circumstances –

(a) the sexual offender is infected with HIV or suffering from AIDS;

(b) the offender is a serial offender;

(c) the victim suffers disability;

(d) the act was committed by two or more persons;

(e) the act was committed in the presence of another person;

(f) the offender is a person in authority or a person in trust; or

(g) the victim is of advanced age.

The committee has examined the proposal and is agreeable to the amendment since it recognises that not every rape is the same since there are might be aggravated circumstances that aggravate the rape.

In light of the above, the committee recommends that clauses 2 and 3 be adopted albeit with the amendments to-

1. Provide, as one of the aggravating circumstances, the rape of a person with mental illness;
2. Provide as one of circumstances that may negate consent where the consent is obtained by force or by fear of bodily harm, or by means of false representations as to the nature of the act;
3. Define advanced age; and
4. To require a medical test to be carried out against a person who is charged with an offence to determine his or her health status, including a test for his or her HIV Status.

Unnatural Offences

Clause 11 of the Bill proposes to create the offence of unnatural offences to deal with situation where a person;

(a) Performs a sexual act with another person contrary to the order of nature; or

(b) Engages in a sexual act with an animal; commits an offence and is liable on conviction, to imprisonment for ten years.

The committee notes that this is an offence that is already prescribed under sections 145 and 146 of the Penal Code Act. Whereas the committee is agreeable to the inclusion of this offence in this Bill, it is of the considered opinion that the offence would not be effective since the major ingredients of the offence are not explained.

The committee, therefore, recommends that for completeness, clause 11 should stand part of the Bill albeit with the amendments that the ingredients of the offence are defined to include:

(i) The penetration of another person's anus with that other person's sexual organ or with any object; and

(ii) A ban on a sexual act between persons of the same gender.

Withdrawal of consent during sexual act

Clause 36 of the Bill proposes to allow a person, who had consented to a sexual act to withdraw that consent at any time before or during the performance of the sexual act.

The committee notes that in most cases, save for the offence of defilement, consent is a total defence to a charge. In most sexual offences, the act being punished is the act of engaging in a sexual act without the consent of the other person.

The Bill now proposes to introduce “post-penetration” consent which occurs in a situation where two people initially engage in consensual sexual intercourse but during intercourse, one person changes his or her mind and withdraws his or her consent to the sexual act.

Whereas the committee is agreeable to have the principle of post penetration consent in the laws of Uganda, it is concerned that the provision may pose practical and enforcement challenges. For instance, the provision is not clear as to how this will practically work. How will the other person know that the other person has withdrawn his or her consent?

The committee, therefore, recommends that clause 36 be deleted.

Madam Speaker, the Bill also makes proposals on the subject of false allegations, corroboration of evidence, decriminalisation of prostitution, indecent assault, sexual harassment, protection of detainees from sexual exploitation and sexual offenders’ registers.

The committee studied these proposals in detail and made recommendations thereto in our detailed report. I would like to refer members to that main report on theiriPads.

Madam Speaker, I beg to report and may I now lay a copy of the report and a record of the proceedings.

**THE SPEAKER:** Thank you very much, honourable chairperson and members of the Committee on Legal and Parliamentary Affairs. Honourable members, you have the main report on your iPads and we have also got an abridged version from the chairperson. Can we have your comments?

4.43

**MS PAMELA KAMUGO (NRM, Woman Representative, Budaka):** Thank you very much, Madam Speaker. I would like to thank the Chairperson of the Committee on Legal and Parliamentary Affairs for the report presented.

However, I have some concern in regard to clause 36. Whereas the committee recommended the withdrawal of consent, I would like us to maintain it for two reasons. A person should be given an opportunity or a right to withdraw consent just in case the two partners agree to go for the sexual act but something changes when they get there. For example, if they agree to have protected sex and then one of them denies it, one should have the chance to withdraw their consent.

A lady shared her experience with me that she agreed to a sexual act with someone and on reaching there, she did not know that her IUD family planning method had moved from its original place. When the man inserted “gear number one”, the woman felt a lot of pain and she requested for withdrawal. The spouse was very understanding and he agreed to it. The pain intensified till she was rushed to the hospital. On reaching there, a scan was done and it was indeed confirmed that the IUD had moved from its original.

Madam Speaker, on such grounds, it is my opinion that we maintain “withdrawal of consent” just in case somebody feels uncomfortable with it. It will also protect a person from contracting HIV/AIDS. I beg to submit.

4.64

**MR JOHNSON MUYANJA (NRM, Mukono County South, Mukono):** Thank you, Madam Speaker. I would like to thank the committee. Good enough, I participated in some of the workshops organised. However, the controversy was still on the consent.

When the two agree, they move to Ndeeba. After Ndeeba, they enter a hotel room. Even if nothing has taken place - in this generation, where you see many ladies and girls impose themselves on men *– (Interjections)* *Please*, allow me to contribute because I was given time. A lot can happen since there is no way a judge or magistrate will know that there was no consent.

There is also the issue of interest of money. Madam Speaker, there is a case of one businessman who was coming from Kireka. He was just trying to give the girl a lift. However, when he stopped around Banda, the girl came out and said “You used me the whole night, you have to pay me.” He was saved by one pub attendant, who saw the lady requesting for a lift. Had it not been that, that professor would have been in danger.

In this circumstance, we must make sure that the laws are not here to just excite a few. How can someone know that there was no agreement? Consent does not start from bed but it starts from the day you said we will move together and take our drinks together.

When it comes to protection of sex, you agree. These days, Ugandans are mature. They take time to go and know their HIV/AIDS status. Why can’t someone say *– (Interruption)*

**MS MUTONYI:** Thank you, Madam Speaker and my son-in-law, for giving way. I insist that the withdrawal of consent should be allowed because there are circumstances and we have talked to many women.

Recently, I saw on phoenix browser, where a woman was telling the court – it is something that I did not print but I will give you other examples. She wanted a divorce a day after the wedding, because the man’s manhood was impossible. *(Laughter)*

Do you want me to say that it was too big? The woman could not manage. She said: “I cannot manage, otherwise, I will die”. There are circumstances of that type. Madam Speaker, we have talked to very many women and they “I had to leave the man because that man was impossible. If I had stayed with him, I would have become…” – I do not want to use some words.

It is possible that some men are impossible. If you are meeting with a man for the first time - as women describe them, you may not have met him earlier but the moment a woman meets that type of man, it is intolerable. *(Laughter)*

Therefore, should we allow such to happen to women? It is possible; maybe not all of you men who are here but it is possible that a woman will find it impossible to go with a man because of his nature.

Thank you.

**MR JOHNSON MUYANJA:** Thank you, my mother-in-law, hon. Mutonyi. Madam Speaker, those are minor cases that can happen. When we are coming up with a law, we have to consider how many people are going to use it in disguise. Yet, at the end of the day, they rob men of their money and begin saying that “he forced me into sex.”

Indeed, it was a struggle when we were attending the workshop. Even in Luganda, we have a proverb and there are very many herbal medicines that can help when you have a man of that size. Maybe that cannot make us come up with a law that will force women to say “I withdrew my consent and the man never listened to me. Therefore, a case must be constituted.” I thank you.

4.51

**MS VIOLET AKURUT (NRM, Woman Representative, Katakwi):** Thank you, Madam Speaker. I would like to thank the mover of this Bill and the chairman of the committee for looking into this Bill in depth.

I rise on an issue, which is on the withdrawal of consent. I am with a view that this should not be withdrawn from the Bill. It is true, like hon. Muyanja has said that there are now herbs that can treat that. I think for you to wait until it is treated and maybe the size is reduced, it might never reduce. *(Laughter)*

These are realities. I know the challenge is about measurement. How would you measure withdrawal of consent? How would you evaluate and at what point? However, these things are happening. On that note, like someone had said you have already invested; you have bought beers for her, you have bought her food, you have paid the hotel and then in the middle, the person says “no, I cannot handle”. It actually happens.

You have never met this person and when you reach there, you say “no, I cannot”. You have seen it live and then you say, “I really cannot take it.” You can withdraw your consent at that point. I think this should be allowed in the Bill but we should not remove it because there are many circumstances that can lead a person to withdraw consent.

It is not only women who can withdraw consent but even men. She may have wanted to have sex and you do not want and say “no, I cannot have sex with you”. There are many situations that can make one to withdraw consent and examples have been given. Maybe, you had agreed that you would have protected sex and the person says “no, I want it live”. For the good of your own health, you do not want to have it unprotected. So, you can withdraw your consent.

The second is on the issues of health. We have had a situation, where mothers have just given birth and then, the husbands want to have sex with them. Maybe, it was a caesarean section at birth and she says, “no, I cannot have it”. That should be respected, Madam Speaker.

If we say we should not have it as a provision in the law, then, it can be misused, yet, we do not want our girls and our mothers especially - I know it can be other sides but the most vulnerable are actually women and girls.

Let the withdrawal of consent be maintained in the Bill. However, we need to indicate at what point one withdraws consent. We have cited examples on issues of health and maybe the size like we have said it. If the size is unbearable *–(Laughter)*– if it is huge, we are not sex machines or sex slaves, we all have feelings and if you know your body cannot contain that, then you should be allowed to withdraw your consent over that. I beg to submit.

4.55

**MS JANE PACUTO    (NRM, Woman Representative, Pakwach):** Thank you, Madam Speaker. I would like to thank the mover of this Bill and the committee for the report. I would like to differ with the committee on the issue of consent of withdrawal.

Hon. Akurut has partly mentioned - we should not debate as if it is for only takeaways but even in the situation of married people.

You have just given birth and within one week; on appearance, you somehow look like you have healed and look nice. You sympathise with your partner; probably the last month, because you were very heavy, you could not go into the act and here, he wants and you also have the feeling but you go into the act and realise that internally, you have not fully healed.

In that circumstance, you should be allowed to withdraw your consent. I also would like to implore the men here that withdrawal is not only for women. These days, I hear that ladies buy some hips and even the butts. So, in a physical appearance of a woman, you may be attracted and think, “When I go into business, things could be good.” However, when in the process of starting the act, you realise - sex has to be enjoyed and you realise that you are not enjoying. Why should you waste your energy all through? You should be able to withdraw your consent as a man, as well.

Therefore, I think we should leave the issue of consent to withdraw the Bill. I thank you.

**THE SPEAKER:** Thank you.

4.58

**MR JAMES KABERUKA (NRM, Kinkizi County West, Kanungu):** Thank you, Madam Speaker. This is a very difficult area but the good thing is that it is an area that is shared by all of us here. I remember in the Ninth Parliament, there was a Bill that you were processing; is it the “Divorce and Marriage Bill?” You sent Members of Parliament to go and consult. And I remember that that time I was a member of the district council.

Our Member of Parliament came to consult and women were asking questions; “You, who told you to come and legislate on our issues? These are our issues in the bed; Why are you coming to ask us this and that about it?” And remember how it ended up.

The claimants that they met women - how I wish these women had gone to consult with their fellow women. The other day, I was in a workshop. We were talking about how we can empower women and the main Speaker was a lady from the United Nations.

This Speaker said, “Now Parliament is not getting on to process the Bill-“I did not know that this was the Bill they were talking about. Some people are pushing for Bills but the implication of these Bills in breaking families also need to be thought about.

The withdrawal you are talking about - the consent is not made when you are there. It is made psychologically because sex is psychological. How are you going to enforce such a law?

Madam Speaker, I would wish that we stand on this and first consult, because this issue is very contentious and to say that you are going to withdraw - Withdrawal is okay but how are you going to enforce this? I seek the indulgence of my colleagues; women especially. When it is big, you wait, I will give you. I would like you to put yourselves in the shoes of these two people. First of all, if it is big - the way you agreed to come should be the way you agree to depart.

How are you going to put a law on “I must agree.” Are you going to put a law on agreeing and disagreeing? I am calling upon women to build on the other - the law where you went to consult and your fellow women trashed you. If this matter was also put in the public, you would see what the women would tell you. I beg to move.

**THE SPEAKER:** Honourable members, this issue can only become an issue where there is a dispute. If there is no dispute, no one is going to complain.

5.02

**MR ANTHONY AKOL (FDC, Kilak North County,** **Amuru):** Madam Speaker, I thank the committee for the work they have done and hon. Amoding for sponsoring this Bill. I got confused in the middle when the chairperson on the committee was talking about aggravated rape but I did not hear about aggravated defilement. However, he was also talking about defilement. Therefore, maybe, he will clarify on that when he comes.

When we are deliberating on this issue, we have to consider the culture of different people in Uganda. And also, we have to believe that we have different categories of women and men, in this country. There are those who are educated and those who are not educated.

The problem here is, how do you measure consent? When you go to my friends in Karamoja, a lady will not say yes. I have personally seen on the way boys struggle with girls to reach their home.

In my culture, a lady can say “no” when she is saying “yes”, and this is an issue that we have to deliver with understanding - that we have different levels of Ugandans; those that are educated and those that are not.

Therefore, the issue is simple. I would like us to leave the consent in the Bill but we must make sure that we specify. This specificity should come in, especially if there is a health complication, unprotected sex and may be on medical grounds. These issues will then be very clear.

Other than a situation where we are saying that we should look for consent. Consent is actually very difficult to measure. How are you going to measure it? May be, even after having sex and you finish successfully, the next day, somebody can say that they did not have consent.

Let us put it very clear so that we do not bring the complications of the different tribes in Uganda and their culture and at the same time, the different level of education in the country.

We should not use ourselves as the measuring stick. We should not use ourselves because we are educated and are at that level, so we can pass laws that fit our level and leave those who are at the local level. Thank you very much.

5.05

**MR JONATHAN ODUR (UPC, Erute County South, Lira):** Madam Speaker, thank you very much. Firstly, I would like to express my support for this Bill and I thank hon. Amoding for bringing it. I also thank the committee for processing this Bill and coming up with some good ideas on how we can make this law better.

I want to discuss the principles in the Bill. First of all, the Bill seeks to bring together all sexual offences under one law. Many of our people who are working under the office of the Directorate of Public Prosecutions had been also taking advantage of these scattered laws. So, where an offence has happened, they can choose to charge you under this or that law, depending on the severity.

Therefore, I think bringing all laws together under one Bill – and certainly an Act – will help. I thank hon. Amoding for that.

Secondly, there are new forms of sexual offences that have emerged and the Bill captures them very well; the sex tourism - people who take our children out of the country and abuse them there. I think Members of Parliament have experienced this. We receive calls from children who are brought and are being sexually abused but we cannot do anything. This Bill will help us deal with them.

Most importantly, there has been debate about prostitution - Or why women are the only ones being punished. I think this Bill has now made it possible that even males will now be prosecuted.

Although there has been a big debate about prostitution – whether one should be allowed to use their body the way they want – I think when we come to processing it, we can then review it a bit.

I have heard arguments that we use all our body parts to work. Journalists, for example, use their hands to write and earn from it. So, why should people limit other people from using their bodies to earn from it? *(Laughter)* That is the debate that will come; we will have to deal with it.

Madam Speaker, the third principle is about compensation. Many times, we see people who have been sexually abused and you feel sorry for them. However, the courts do not have any express provision to provide for this.

This Bill has made it possible for court – on application or even on its own volition – to provide for compensation. We think this can be deterrent enough, when people compensate and help to heal those who are injured.

Lastly, when it comes to issues of some provisions, we should also be careful. I agree with my colleagues about gestures. If every gesture is going to be punished, then society might break.

For example, as human beings, we like winking a lot. If somebody is going to report you for winking, it is going to be problematic. I think let us take care of the gestures that we are going to list here, so that we allow society some freedom.

Even just the ability to look at someone – even if you are a woman – If I look at you for long, you should actually be happy also that I am looking at you. *(Laughter)* However, if you are going to report everyone who looks or winks at you, we are going to have problems.

When we come to that specific provision, I would like us to be Ugandan. I would like us to be African in processing those provisions so that we do not destroy the fabric of our society.

Thank you, Madam Speaker.

**THE SPEAKER:** Thank you. Let us have hon. Atyang, then we shall have hon. Akello on Zoom, hon. Pentagon, hon. Mutonyi, the Leader of the Opposition and then we close with hon. Achia, hon. Kahonda and hon. Bahati.

5.09

**MS STELLA ATYANG (NRM, Woman Representative, Moroto):** Thank you, Madam Speaker. I start by thanking the team that came up with this Bill that will help us get rid of sexual offences.

This Bill will help us get rid of bad cultures; like my brother, hon. Akol said of some cultures in Karamoja, where women do not say, “No”. These are the cultures we have to get rid of. For example, in Karamoja, at a certain point, you are forced to marry a man who you have not chosen, simply because of the culture of the urge of marital rape, which is not good.

We are fighting against that. We want to get rid of that because at a certain point, it promotes sexually transmitted diseases and sometimes, women marry men not of their choice. I support the clause that supports consent in withdrawal for the reason that I have given.

The other one is that these brothers here and outside of this House should not think that this Bill is made with bias, not in their favour. It is two-way traffic. It is to guard both the men and women, including our sons and daughters.

I would like to bring a scenario, where a Ugandan woman went to Kenya to conduct sexual business. It was found that she is too tough in the act, making men vomit in one way. *(Laughter)* In that kind of scenario, you men are also affected; it is not only women. *(Laughter)* I do not know which kind of tactic but she was thrown out and deported to Uganda –*(Interjections)* Yes, she was deported back to Uganda.

In that kind of scenario, you should support withdrawal of consent during the sexual act. There are even cases where you actually consent, knowing that you are going to have normal sex but midway, you find that there are other types of sex activities, as stipulated in the Bill, which you do not like anal sex or oral sex.

During the course of this, you should be allowed to withdraw, if you are not comfortable with such types of sex.  Therefore, I support the clause that states withdrawal of consent during sex stays. Thank you.

**THE SPEAKER:** Thank you. Hon. Lucy Akello on Zoom, then we shall have hon. Pentagon Kamusiime, hon. Mutonyi, hon. Achia, hon. Kahonda and finally hon. Bahati.

5.12

**MS LUCY AKELLO (FDC, Woman Representative, Amuru):** Thank you, Madam Speaker. I hope you can hear me.

**THE SPEAKER:** Yes, we can hear you.

**MS LUCY AKELLO:** Thank you very much for giving me this opportunity. Allow me to also thank the committee – first of all – which has processed this Bill and come up with this report. Above all, I thank hon. Amoding for sponsoring this Bill.

This Bill is definitely going to help us answer a lot of questions, as alluded to by hon. Jonathan Odur. I want to talk about issues of culture that some of my colleagues have alluded to. I must say, in the strongest terms, that we can no longer afford to condone bad culture. Yes, we appreciate that our cultures are good but some of them are not good for us. A culture that is going to make a child to not go to school is not a good one. I thought I needed to start from that point.

The issue of withdrawal of consent has been discussed elaborately. Most people are looking at it only for the case of women. We are legislating not only for women but for our young children and especially the young girls.

Hon. Atyang talked about this briefly. I know medical grounds have been brought on board. However, I want to look at this withdrawal of consent, vis-à-vis what we would call “unnatural sex”, which is also elaborately taken care of in the Bill.

For example, you are a married woman and you have just given birth; some men would say, “you know the vagina walls are now loose; so, I would want a tighter part”. So, they would go for the anus.

That is where you become uncomfortable. There are some men who would want to run away from the law and say, “I don’t want to do it the natural way. I will do it in order to escape arrest or something of that sort”. I think at that point, you have the right to say, “No, I cannot continue with this” because according to you, this is unnatural.

Finally, I also would like to say that this Bill is definitely going to help us with these rampant cases of sexual offences against, not only women but also our children by ensuring that the perpetrators are punished. The issue of compensation is also included in the Bill, which is very good. I want to say this Bill has my full support. I also support the report. Thank you.

**THE SPEAKER:** Thank you. Can we have hon. Pentagon Kamusiime?

5.16

**MR PENTAGON KAMUSIIME (NRM, Butemba County, Kyankwanzi):** Thank you, Madam Speaker. I think we should have passed this Bill yesterday. There have been a lot of issues in communities. For example, we have a lot of cases of early child marriages. We have had a problem during this Coronavirus pandemic. In my constituency, we lost very many young girls to marriages simply because the parents and the other caregivers probably do not seem to feel the power of the law.

I think this kind of legislation will go a long way to addressing such issues. We have issues of defilement. We have a lot of pornographic content all over. There is also the spread of sexually transmitted infections.

I think by all means, we should make sure we pass this Bill into law so that we can put an end or try to reduce all injustices in the community.

About the consent, I would think that men would take pride in such a thing. I think it would work for us. You know, as men, we are generally natural. These days, however, women have friends who make for them a lot of stuff. A lady might camouflage under some material. By the time you reach the office of action, after probably freshening up, you realise that you are talking to a different individual. Maybe, there could be some things that are threatening you that there is something behind. Why not change your mind?

This is for both men and women. Consent is very important. What if I make up my mind – I believe majority of us are Christians. What if at that particular moment, I look deep down in my heart and say I should not do this?

What we have to look at is; if someone is pulling out of the original agreement, make sure you do not move with the articles of the agreement. If it goes to – for example, in the same Bill, we are talking about those who may want some gifts in order to be empowered to perform. If you had agreed on something, please, as you change consent; make sure you do not take the money.

We also have to think further. As we continue to lay ground for good performance, - when you are talking about this, it is a matter of national importance in its own right; practically, theoretically and socially.

I want us to look at an issue later concerning married women. If they are involved with married men; we do not have to criminalise men alone. As we look forward, we also need to look at them. Why do they entice men to have something to discuss with them?

I thank you, Madam Speaker. I call upon you to make sure we work on this Bill so that we help Ugandans. May God bless you.

5.20

**MR JOHN BAPTIST LOKII (NRM, Mathenike County, Moroto):** Thank you, Madam Speaker, for giving me the opportunity to add my voice to the Bill that we are scrutinising here today.

Mine is just a fear and I think I will gladly support this Bill if my fear, on behalf of fellow men, is addressed in this Bill.

We have cited a lot of examples in the Bill that would warrant one to change consent; ranging from artificial buttocks, increasing the amount of money as a gift and others.

If we do not include in the Bill a punishment for some ladies who would want to extort money from men, then the law will not help. We need to put in the law that if a lady, for example, tries to concoct a story, an example which hon. Muyanja cited – he said a lady was given a lift, and on reaching somewhere, she feigned harassment.

Such an instance needs a law that will protect men from such ladies who want money using dubious ways. In processing this Bill, we must put a deterrent punishment. The punishment must be explicit in the law, that if you are found to have forged a sexual harassment, then you will be liable. The penalty must be specified in this Bill. Thank you.

5.22

**MS ROSE MUTONYI (NRM, Bubulo County West, Manafwa):** Thank you, Madam Speaker. I got up because of what hon. Akol said about culture. We have some areas where our culture becomes archaic. We have issues like genital mutilation among some of the tribes here. Should we say they should continue because it is tradition, even when it is killing and hurting women?

I want to plead with the male Members of Parliament here not to be emotional about this law. It is not targeting the men for nothing. This could be your daughter or niece although when the police brought out the records of cases, out of 14,000 cases of defilement, 300 were defiled by suspects who are HIV positive and 120 girls, children moreover, were defiled by their biological fathers.

Madam Speaker, we should not be emotional. Let us support this law and know that it is for the good of our society, our relatives, although some are turning against their relatives and defiling them. It should be seen to protect society. Hon. Akol, let us support this law. *(Interruption)*

**MR AKOL:** Madam Speaker, when I stood here, I made it very clear that I support the Bill. I said that what is important is that we specify where the consent should be and make it clear - medical bill, unprotected sex among others because other consents are difficult to measure. That was my contribution.

Is it in order for hon. Mutonyi to say I do not support the Bill?

**THE SPEAKER:** No, you clearly supported the Bill.

**MS MUTONYI:** Madam Speaker, I am glad to hear that. There is also a problem of police and the courts. All Ugandans have to come up and sensitise our people in the villages so that they stop this business of asking for something when someone has defiled their children or raped their girls. It is now, “Give me a cow and take the girl” and they marry off these small girls.

Therefore, I think there is ignorance on the part of the *wanainchi* outside there. The police also take advantage and ask for money. When it goes to court - I have a police report here, which states that out of the 5,000 defilement arrests that were made, only 794 were prosecuted. What happened to the others? It is because of “*kitu kidogo”* and things do not move as they should. Thank you.

5.27

**MR SILAS AOGON (Independent, Kumi Municipality, Kumi):** Madam Speaker, those who are going to miss this debate will be missing it for sure. This is one of the best debates. I am happy it is on chilly afternoon.

Let me start from the issue of consent or no consent, withdraw or not to withdraw. Why do people withdraw? Those are some of the issues. First of all, we all must note that there is an implication. It is not just about withdrawing but the moment you do, there is an implication in accordance with this Bill. If a lady decides to say that I have withdrawn, in effect, she is saying, “You have raped me.” I hope I am clear. I hear somebody say, “Eh, eh” so what is the real thing?

Therefore, when we say that withdrawal is granted here, by implication, it means that the person who has been doing the act with you is now a rapist. *(Interjections)* If I am not telling you the right thing, you will come and challenge me on the microphone.

It is very dangerous for us to legislate in a manner that is not very clear about the intention of this Bill. This can be abused politically. If somebody is opposed to another politically, they can use a lady and say, “Go and trap this man. Mid way, just say you have withdrawn your consent.” As a politician, you are already gone. For that reason, I do not support this. If we do not delete this particular provision, I see it is not going anywhere now.

Secondly, it can be used for defamation. If a lady alleges that she was forced and has now withdrawn, that becomes rape. You, the person in the act, are already facing defamation.

Some people can also use this for monetary gain; as a means of getting money from people. “If you want to escape this, just finish with my mother. Give so and so money. Take Shs 50 million to so and so and I will not disclose what has happened.” Shall we be safe? Why are we confining men of Uganda to that level? Are the women serious about this? We are in it together. Why are you departing from us today? *(Laughter)*

There is another provision under clause 7(a) about one who makes direct or indirect gestures. It is very difficult for us to legislate against gestures. Even animals use them. If we are to say that we can never use a gesture, is there to be a love affair anywhere in Uganda? Are we not going to find all the men of Uganda in jail? Is there going to be any family? Families start from these little things; gestures, words, intimacy and then you forward your things and move. However, if we are going to say that we are not going to allow gestures, where are we going? This is not acceptable and should be deleted because it cannot work.

Under clause 7(c), they talk of unsolicited physical contact. Taxis in Uganda carry four people per row. If there is contact between a female and male, it is forced contact. What do we then do in this scenario?

**THE SPEAKER:** Hon. Aogon, if you are seated in a taxi, must you touch her goods? *(Laughter)*

**MR AOGON:** Madam Speaker, they are not talking about breasts here –

**THE SPEAKER:** That is what it is about.

**MR AOGON:** In this whole issue, they have not specified the areas unless we want to qualify it and say, “There must not be touching of breasts.” In this case, they are giving a blanket statement.

How safe are the men of Uganda? When you go to Namboole to watch a football game, at the time of exit, people are very congested. How do you know who is touching you, who is besides you or in front?

It is a very serious one. I would like to urge my sisters not to front this debate with emotion. It is like you are trying to put men in a cage. After passing this law, we shall find that as men, we shall not be able to express ourselves at all. What will happen to our world? Do not put us in a cage.

Allow the men to – By the way, in the Constitution, Article 29(a) guarantees us freedom of expression. Somebody is even saying we should not use gestures. What are you talking about?

The last one is clause 5(c) about those who expose or display their genitals. What if the person did it by accident? What if it was unknowingly done? How do we qualify this? Let us not give generalised provisions, which are difficult to handle.

I have been in a workshop where somebody sat in a very awkward manner but they did not know it. How do we handle such a thing? Will you take such a person to court? They did not know they were seated badly.

Therefore, I think somebody needs to be very concerned about the legislation we are handling here so that we do not make mistakes and mess up with this law. Otherwise, after this, the ladies will be the first to regret and cry because you will deny yourselves what belongs to you. Thank you.

5.34

**THE LEADER OF THE OPPOSITION (Ms Betty Aol):** Thank you, Madam Speaker. I would like to say that we are in the era of HIV/AIDS and so, we need to protect our people - not only the women but the men as well. If those days, the culture would allow for you to forcefully get a lady but these days, it is through consent because you might be HIV positive. If it is through consent, then, both parties have to agree.

I would like to give you an example of a bad cultural practice that we completely said “no” to. In the Acholi community, during my mother’s time, they would say that if a young girl went to school, she would become a prostitute but we did not agree with that.

Women have men around them. We do not want our boy children to be inconvenienced but we want the men to control and respect women. Who told you that the fight that happens a lot between men and women is about a woman not consenting and a man forcefully raping her? This usually results into a fight which is bad. We must learn to respect and control ourselves. This is what the Bill is coming to cure.

Hon. Aogon talked about gestures - look at a man who takes care of his daughter and starts enticing his young daughter that does not know anything and cannot speak for herself. He will then tell the daughter that he has to teach her everything. If you have not watched this or heard these kinds of testimonies - that is why we say that the biological parents sometimes abuse their children. When we have laws in place, that can be deterrent for those who do not control themselves.

Therefore, it is important that we have this law in place. The Bill came to this Parliament in 2019 and it should have passed a long time ago.

When I was in school, there was a song about Dr Okik, where the woman would say that she could not stand the size of the needle, which was too big. When he pushed it in, she pushed it out. He pushed it back and she pushed it out and said, “Dr Okik, it is terrible. I cannot stand the size of this needle.” It happens. The men also have their experiences. There is also the Karamojong culture where you have to run and get the woman forcefully. That should no longer be there.

We passed an Act here outlawing genital mutilation. It is about protecting our people; both men and women, both boys and girls. As a mother, I also would not want an old woman of my age going for my son. For instance, you send a child of about 18 years to school and then, a woman of over 40 or 50 years becomes a sugar mummy to this child. It is wrong.

This is to also help us to control ourselves. This is important. Let us all support and pass this Bill to make life better for all of us. Thank you.

5.40

**MR REMIGIO ACHIA (NRM, Pian County, Nabilatuk):** Thank you, Madam Speaker and honourable colleagues. It is always difficult to speak on a topic like this, when you, yourself, Madam Speaker, are the expert in terms of the promotion and fighting for the rights of women in this country.

Since I came to this Parliament 15 years ago, this is the first time I would have loved to say something in terms of the issues of men and women because I always feel shy, since I do not know if I am going to say the right or wrong thing. There are good things in this Bill but there are things, which go to the specifics and are not strategic. If you know the history of this Bill, you would know that it was sponsored by UN women and other sponsors. It came externally.

I have had chances to discuss with hon. Amoding, who is married to my brother in law. Sometimes, we have disagreed on the issues in this Bill. I thought my chairman hon. Oboth could help us remove some of these things but they are still hard. Some of these abuses happen between people who know each other. The people who do these bad things to the women or young boys are not strangers. The problem is within relatives, which means the solutions are sometimes not legal and are educational. For example, in the recent results published by the police, there are very many rape cases in Uganda. I was surprised that the highest number of those cases came from northern Uganda. I wondered why and thought it could have been because of the war and the psychological problems we went through in that part of the country.

I think we need to closely look at the Bill again. For those of us who do not specifically understand gender issues, we need to be helped to understand and take them slowly.

Madam Speaker, I know you have good intentions to process this Bill for our young girls and men in this country. At the same time, we cannot legislate to the specifics of everything and it is going to hurt our people. Some of us have come from societies where we cannot legislate for a national change overnight. What will I explain to the people I represent? I agree with the Leader of the Opposition that we should legislate against bad cultures like FGM, forced marriages and child marriages. However, there are certain things we cannot get into. We cannot change society through these laws. We outlawed defilement but it is still happening.

We need to wake up and help this country understand what we can legislate. The good thing is that we are bringing all the sexual laws together in one document but should we go that much? In the African culture, we have some things that we are comfortable with. Good marriages begin with a simple wink. I met my wife in high school and we agreed to respect each other. The reason these problems come up is because we do not respect each other. When there is no respect, then you get issues like rape in marriage. How can that be when you respect your partner?

Let us not be too specific in what we want to legislate.

Madam Speaker, I want to rely on you because I believe that you the person who has fought for the rights of women, and you are well schooled in this area. Help us to look at this Bill closely as we process it. There are certain parts of this Bill, which we are not comfortable with and it is even difficult to talk about them. How do I talk about withdrawing and with what? How do I explain even *– (Interruption)*

**MR KAHONDA:** Thank you very much, my brother. The information I wanted to give is like you have said, there are parts in this law that can be handled administratively at home; you do not need provisions in the Bill to handle them. Some of the matters can be handled administratively like he has pointed out so that we leave society to move.

**MR REMIGIO ACHIA:** Madam Speaker, as I conclude, I pray for your guidance in this Bill. There is discomfort in reading some of these sections and I find it hard to swallow. I cannot even go back to my constituency and explain it. At a specific point, we shall ask that this be really said, and we focus on the essentials and leave to the court’s discretion to process some of these cases and descriptions that are graphic and detailed in this Bill. It is really hard for a Christian country like this, to start processing and talking these things. I feel like even hiding when we are talking about some of them.

**THE SPEAKER:** Honourable members, everything here will depend on evidence and complaint please.

5.45

**MR DONONZIO KAHONDA (NRM, Ruhinda County, Mitooma):** Thank you very much, Madam Speaker. I want to thank Hon. Amoding, for coming up with this law, and also thank the committee for coming up with amendments and recommendations.

Madam Speaker, there was this lady who had consented to a certain gentleman who was a contractor at a certain fee; about Shs 1 million. However, during the act, people heard noise and the lady was crying, she could not handle. This man was arrested, taken to police but there was no evidence. The lady accepted that she had consented but at police, she could not justify that she had withdrawn the consent.

As an investigating officer, there are some questions you answer when you are investing certain cases. What happened, where, and at what time? Produce evidence. What happened? Yes, there was a sexual act. At what time? You cannot tell. Where? It is in the bedroom. Provide evidence? Who is going to witness? You are in the bedroom and you are only two people. Who is going to testify against the other?

Madam Speaker, let us not put investigating officers and judicial officers at risk in proving these cases. Some of these cases yes, we can pass them but you find when they reach court, they just let it go because there is no enough evidence. What are we going to use to substantiate the grounds for these offences?

This is where we need to be specific. For any case to be proved, it must be proved beyond reasonable doubt. How are we going to justify this? That you consented and reached the bedroom and then, the lady or gentleman withdraws the consent. How is it justified in courts of law?

The practicability and enforcement of this is going to remain a challenge.

Finally, once we pass this into law, then that means it will be a ground for divorce, which is going to put judicial officers and investigating officers on a very difficult situation to prove such cases.

Madam Speaker, I support the recommendation of the committee that this provision should be left out in the Bill. I thank you, Madam Speaker.

**THE SPEAKER:** Thank you. Honourable members, how does a court handle issues of conspiracy, where the judge was not there, the people are conspiring by themselves? These things are issues of evidence. If you cannot prove it then you lose.

5.49

**MR THOMAS TAYEBWA (NRM, Ruhinda North County, Mitooma):** Thank you, Madam Speaker. What I pick from Hon. Kahonda’s submission is that the burden of proof in criminal matters, is beyond reasonable doubt.

Therefore, if the burden of proof has such a very big yardstick, are we going to be able to prove it? Colleagues, in countries, where gender parity has been achieved, the men have played a critical role. In any society – I studied that in law and at my MBA level - men play a very critical role.

Again, Madam Speaker, we make laws that fit in society not society to fit in laws. We have to be very cautious. For example, I have seen here on clause 128 on indecent assault, where on clause 128(1) you say, “Any person who unlawfully and indecently assaults any woman or girl, commits a felony and is liable to imprisonment to 14 years with or without corporal punishment”. Can’t a man be indecently assaulted? Can’t I be indecently assaulted? Isn’t this discriminative?

The second point is on the issue of consent. Consent is given at the stage of take-off and all of us fly. Now, we are on a plane; we have taken off and we are at cruise speed and you say, stop. What do you want the pilot to do? To crash the plane? (Laughter) – Aren’t you causing trouble to stop in the middle of nowhere?

Madam Speaker, I think we should define at what level do we allow consent? We say consent at take-off. For any normal man if you really accept to enter my bedroom or hotel room, I am already charged and it is already agreed that you have consented. Then we reach in the middle and you say – some men take Viagra; those ones who survive on such medicine, and the moment you say, consent withdrawn, the man dies of heart attack. These are people who die and you do not even get clear post-mortem results as to why they are dying.

I am trying to talk about reality of what is happening in society. I really request that indeed, I support this law but we be very cautious to make a law that will fit in society not society to fit in the law. I thank you, Madam Speaker.

5.52

**MR STEPHEN MUKITALE (Independent, Buliisa County, Buliisa):** Thank you very much, Madam Speaker. I want to thank the committee for the recommendations. I hope you understand why eminent women in the situation room and the inter-religious council have been calling for dialogue.

Point one, is our values and ethics. As a male member of UWOPA and as a husband, a parent, and of course, an uncle, I really want us to support the law on condition that we do not end up with any law accelerating divorce; going beyond those who have already married some of them traditionally. The reason why I support laws, where I even know our religion, culture and families should have made things under normalcy is because we live in a world of continuum of extremes.

There are those who have been parented well; those who have *sengas* and *kojjas;* and those who are religious faithful and practice but there are also extremes to the extent that there are abominations, which have become new normal. Further, there are heterosexual, homosexuals, rapists, defilers and in the recent cases of children, who dropped out of school, bestiality has emerged yet it was an abomination in African culture. With a continuum of those extremes, you need some regulations to those extreme cases.

The good thing is that the law provides that there must be enough evidence for one to be criminalised. I, therefore, request the drafters of this law to separate the following: there are already existing laws, which criminalise some of these offences, and there is a Constitution, which protects some rights; should the law contain part of the regulations?

Some of the details could be in the regulations. And some of the detail is in the actual enforcement and that is where we bring in the police and the courts of law.

It would be wrong to draft a law, which is so detailed, that some of what should be in the regulations is also found in the same law as if there are no other existing laws.

I want us to pass this law though under some conditions: the drafting, the issue of avoiding the promotion of divorce because we are also with new cultures around us, where people living in the diaspora have seen contract marriages and they think that is fashionable to be brought here. Let us protect what is good for our culture. We must also agree that culture is not static; it evolves. And so, should accept some new changes and we should not allow infiltration of abominations in the name of the law by criminalising such.

Anyhow, as everybody has rightly said, this is a mutual agreement between two, it should therefore, be harnessed in such a way that one cannot hide in the law to compensate of their inabilities. Thank you.

5.56

**THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (PLANNING) (Mr David Bahati):** Thank you, Madam Speaker. I rise to support this important Bill and to thank Hon. Monicah Amoding and the Chairperson of the Legal and Parliamentary Affairs Committee and members for processing this long-awaited piece of legislation.

I rise in support of the Bill because when you read through, you realise that it will protect the values of our society that we have lived with for generations. It will protect the positive cultures that we inherited from our forefathers. It will also preserve the distance and dignity of the African society but above all, it is going to protect our children.

When you look at the provisions on child sex tourism and others, these are important clauses that we need to think through properly because they protect our children and grandchildren.

The purpose of any law is to bring harmony in society but not to cause conflict. There are some things that we need to add to this Bill - I have seen the report of the committee. There is the issue of promotion of some of these foreign concepts that we do not know like “child sex tourism”.

There are those foreign concepts that we must allow our society to first understand, go through this phase to educate them before we put them in the law. If we pass them the way they are, they can cause conflict instead of harmony.

Some of the things here need to be probably looked at differently because I have seen the issue of consent – ac actually, in my opinion, if you listen to what the chairperson of the committee said, you realise that it is already covered.

That was the wisdom of the committee it is already covered under rape because you define and qualify what “consent” means. But in the context of African marriage, this concept of “consent” can be foreign to us and therefore needs to be studied and we need to educate people to understand it properly. So that this important piece of legislation does not bring conflict but rather harmony and protects the distance and dignity of African cultures, the values of our society and the children of our country.

Therefore, Madam Speaker, at the committee stage, we need to look at the clauses that will bring conflict in our society. We would rather stay them and move on to pick the good things but on behalf of Government - now that I am alone here - we thank the sponsor of the Bill for this wonderful work and the committee for bringing this.

I want to urge colleagues to look at the positive aspects of this law and we pass it so that we protect our society. Thank you.

**THE SPEAKER:** Thank you. Honourable members, I put the question that the question be put.

*(Question put and agreed to.)*

**THE SPEAKER:** I now put the question that the Sexual Offences Bill, 2019 be read for the second time.

*(Question put and agreed to.)*

BILLS

COMMITTEE STAGE

THE SEXUAL OFFENCES BILL, 2019

6.01

Clause 2

**MR JACOB OBOTH:** Thank you, Madam Chair. I must thank colleagues for the interventions. We propose to amend clause 2 by substituting sub clause (2) with the following:

“For purposes of sub section (1)(a) consent of a person to the sexual act shall be irrelevant when the consent was obtained by-

(a) threats;

(b) force;

(c) fear of bodily harm;

(d) duress;

(e) undue influence;

(f) means of misrepresentation, as to the nature of the act; or

(g) intimidation of any kind.”

Madam Chairperson, (f) actually covers some of the fears that members mentioned here about whether it was supposed to be protected and you want to go unprotected, which other people called, “live”. There is nothing like “live” sex; it is either protected or unprotected.

(b) In sub clause (3)- Madam Chairperson, this is a very hard subject –*(Laughter)*- it can be equally distressing, as exciting.

(i) Substitute for “In this section” with “For the purpose of subsection (1) (b)”. That is the amendment there.

(ii) Substitute for paragraph (d), the following:

“(d) Suffering from a mental illness”.

The justification is:

1. For clarity.
2. To include other grounds that vitiate consent such as fear of bodily harm, misrepresentation as to the true nature of the sexual act.
3. To change the nomenclature used in paragraph (d) from “mental impairment”, which is a form of a disability, to “suffering from a mental illness” which is certifiable illness.

That is for clause 2. I beg to move.

**THE CHAIRPERSON:** Honourable members, the question is that clause 2, be amended, as proposed.

**MR AOGON:** Thank you very much, Madam Chairperson. I want the chairperson to help me understand, when he says, “The true nature of the sexual act”. I need you to explain that one. What did the committee intend to obtain from that? What is the spirit behind that?

**MR OBOTH:** Regarding true nature, you could deceive your partner that you are going to have normal –*(Interjections)*- You know normal. When you reach there, you opt for so many things or you say you are going to be protected but when you reach there, you say, “The rubber is not there”.

That is really changing from what was the true representation or nature of sexual act to something else. So, this has to afford protection to any of the victims –*(Interjection)*- You know what normal is, unless – It is true nature. Nature is about real presentation. When you make this bargain, you really know - and I know you, Hon. Silas Aogon, what you are talking about.

**MR AOGON:** Thank you, chairperson. Madam Chairperson, I have one problem. Isn’t it possible for the committee to qualify this true nature? You see, this is an act, where there are only two people. The next witness is the wall and door. There is nobody who is going to tell that indeed, this man did not come with rubber. The other one can simply make an allegation. How are we going to prove it?

I know we are saying that we must prove a matter beyond reasonable doubt. What are we going to do?

**THE CHAIRPERSON:** Hon. Aogon, I want you to imagine a situation, where a father calls his daughter of about 14 years and says “I have called you because you are sick and I want to give you medicine”.

**MR AOGON:** Madam Speaker–

**THE CHAIRPERSON:** Please! So, he has told the girl that, “You are sick and I have called you to give you medicine”. This child believes that she is sick, goes to the father and he has sex with her. That is concealing the true nature of what you want to do.

**MR AOGON:** Madam Chairperson, I understand you. That is why I was asking, isn’t it possible to pick out some of these and qualify this statement?

**THE CHAIRPERSON:** Honourable members, I put the question that clause 2, be amended, as proposed.

*(Question put and agreed to.)*

*Clause 2, as amended, agreed to.*

Clause 3

**MR OBOTH:** Clause 3 is on aggravated rape.

1. In sub-clause (1):
2. Substitute for paragraph (c), the following:

“(c) The victim is a person with disability or suffers a disability, as a result of the sexual act”.

1. Insert the following new paragraphs, immediately after paragraph (c) and renumber the provision accordingly.

“The victim is suffering from a mental illness or suffers a mental illness, as a result of the sexual act.”

“The offence is committed by a relative of the victim of the offence.”

1. Substitute for paragraph (f), the following:

“(f) Where the offender is a person in authority or person in position of trust.”

(b) Insert, immediately after sub-clause (1), the following:

“A person who is charged with an offence under this section shall undergo a medical examination, to determine his or her health status, including a test for his or her Human Immunodeficiency Virus (HIV) status.”

(c) In sub-clause (2), substitute for “not exceeding” with “for”.

The justification is:

1. To provide other circumstances aggravating the offence of rape.
2. To require a medical test to be carried out against a person who is charged with an offence, to determine his or her health status, including a test for his or her HIV status.
3. To define advanced age, to be 70 years as prescribed in the sentencing guidelines(This sentence be removed here since it is captured in the definition clause.)
4. For clarity and better drafting.

I beg to report.

**THE CHAIRPERSON:** Members, I put the question that clause 3 –*(Interjection)*- Yes, Hon. Tayebwa?

**MR TAYEBWA:** Thank you, Madam Chairperson. I think I will need the guidance of the females in the House.

Madam Chairperson, would carrying out only HIV testing be satisfactory enough? There is also something I have heard. The female legislators can maybe help me understand.

I am told that cervical cancer usually comes from having sexual activity with multiple partners. In such cases, how do you cover for them? I just want clarification on that and if possible, we can widen it beyond HIV.

**THE CHAIRPERSON:** Honourable chairperson, you need to correct your record. You said, “the age of 70” but from your report, it is 75. Amend it with 75, not 70.

**MR OBOTH:** Thank you very much, Madam Chairperson for the observation. We actually should not have the whole sentence because we have moved it to the definition. It should be without the defining advanced age because it is covered elsewhere.

To respond to Hon. Thomas Tayebwa, the matter here is to require a medical test to be carried out against a person who is charged with an offence to determine his or her health status including a test for – “Including” here means that is not the only. So, it can be various. You cannot start naming them here. To have the temptation to name them, you will fall short.

**MR AOGON:** Madam Chair, I need clarification from the chairperson of the committee. I would love to understand how you would trace mental illness that emanates from sexual act. If you say that you are going to trace the mental disorder or illness to the act, can I understand exactly whether that is really practicable?

**MR OBOTH:** Madam Chair, my brother needs to know that the experience of sexual act, to use the language of the Bill now, could be very distressing. You know, you really want to go deeper. The aftermath of that sexual act can be very dangerous. Not everyone enjoys it. Some could be living some serious thoughts like if it was not -

You see, the aggravated rape here – Aggravated is just beyond the normal rape. This is where the conditions are so unique that you do not need to – A normal person would not have to have a sexual act with the person.

Madam Chair, I would like you to take note of Hon. Aogon because he is enjoying this Bill. We may proceed. (*Laughter*)

**THE CHAIRPERSON:** Honourable members, I put the question that clause 3 be amended as proposed.

*(Question put and agreed to.)*

*Clause 3, as amended, agreed to.*

Clause 4

**MR OBOTH:** Administering substance with intent to commit a sexual act. Clause 4 of the Bill is amended by inserting:

1. The word, “knowingly” before the word, “person” in the first line.
2. The words, “or to enable any other person perform a sexual act with that person” immediately before the word, “commit”.

Justification

1. To require knowledge of the act constituting the offence.
2. To punish a person who administers or causes to be administered a substance to another person, in order to enable another person to perform a sexual act with the person.

**MR AOGON:** Madam Chair, my chairperson of the committee is saying I am enjoying the Bill. I am not enjoying the Bill. He is the one enjoying the Bill.

You see, when they talk of “administering a substance” that causes a person to behave in a certain way. My point of clarification is, if two people have gone to drink, and I know that beer, for instance, can make somebody to think in a different way, I would love to find out whether such can also be construed as “administering substance” of that nature. It is because beer has the capacity to turn somebody’s behaviour around. Can I get some clarity on that?

**MR OBOTH:** Madam Chair, the law is not looking at your generosity, but the intention why you are administering the substance. The law is looking at punishing you for having the intention of giving that person alcohol or some substance that can distort the mind to take advantage of that person. Therefore, it cannot be only alcohol. You know it can be several other substances.

**THE CHAIRPRESON:** Actually, supposing you administered a soda with a sleeping drug to somebody with the intent that that person sleeps and then you can do –

**MR AOGON:** Madam Chair, I understand you. I think that one is a different case. Once someone administers a substance into what somebody is supposed to consume, that is a different matter.

**THE CHAIRPERSON:** That is why the clause is saying “knowingly” because you put the sleeping drug in the soda so that the person can sleep.

**MR AOGON:** I agree with you, Chair.

**THE CHAIRPERSON:** I put the question that clause 4 be amended as proposed.

(*Question put and agreed to.*)

*Clause 4, as amended, agreed to.*

Clause 5

**MR OBOTH:** We substituted the following:

“Sexual assault:

1. A person who intentionally and without consent touches or comes into direct or indirect contact with the sexual organ, breast, buttocks or thighs of any person with-
2. any part of his or her body;
3. any part of the body of another person;
4. any object including any part of the body of an animal,

commits an offence and is liable, upon conviction, to imprisonment for three years.

1. It is immaterial to a charge of sexual assault to prove that the child consented to the act constituting a sexual assault.
2. A person who commits the offence of sexual assault in the presence of a person’s spouse, family member or child, commits an offence and is liable, upon conviction, to imprisonment for seven years.”

Justification

1. It is to differentiate between a sexual act and an indecent assault, which had been put in the same provision and yet these are two distinct offences.
2. It is for completeness to make irrelevant the consent of a child to a charge of sexual assault on a child.

Madam Chair, we also need to immediately after that –

**THE CHAIRPERSON:** Let us finish with the amendment first. Honourable members, I put the question that clause 5 –

**MR AKOL:** Madam Chair, maybe I need the chairperson of the committee to help me understand where the animal is coming in there. I thought the law we are making is for human beings. So, I got a bit confused when the issue of animals came up. Thank you.

**MR AOGON:** So that you answer at ago, I still have a problem with the issue of “contact”. There are many situations where people have come into contact unintentionally. I would love the chairperson to explain how we can – Is there a way of categorising so that we try to protect people in a certain way? There are unavoidable contacts. We have described situations here, for example, congestion and stampede. How do you avoid? There are certain situations that demand that for you to remain standing, you must be in contact with your neighbour.

**MR TAYEBWA:** Madam Chair, I really sympathise with the chairperson here. It is because this law is a tight one. If, for example, we were fighting over other issues, and we are really exchanging punches, and then in the process, I undress you and now you turn around and say that I exposed your private parts and report a case against me. How do you handle such a situation? For example, during the process of our fighting, if there is a video and one says, “You intentionally undressed me,” as if our fight was aiming at certain parts. They may claim sexual assault.

**The Chairperson:** Honourable member, have you actually read the provision? It states that: “The person who intentionally and without consent, touches or comes into direct or indirect contact with the sexual organ; the breasts, buttocks, thighs of any person…”

**Mr tayebwa:** Madam Chairperson, in most of the fights they expose buttocks.

**The Chairperson:** It is not about fighting. That is different.

**Mr tayebwa:** And you have no consent when fighting.

**The Chairperson:** No, wrestling is different. *(Laughter)*

**Mr oboth:** Madam Chairperson, Hon. Tayebwa’s concerns are all covered under the law. Fighting in public is - indecent assault is about the touching of areas; the indecent exposure for whatever reasons - if not on medical grounds, you expose another.

This is unisex. I do not want us to put it in our minds that it is for only ladies. If anything, men also suffer this because a woman can strip you. You have been seeing some videos where a woman strips the husband and you see everything. Which one carries a more severe punishment?

I think most of these are covered. If you allow, we shall bring the new insertion to cover some of the areas that are not in that clause.

**Mr aogon:** In that particular area where I am concerned, include the word, “deliberately”. When somebody is deliberate about something, you can be able to tell.

**The Chairperson:** There is a word “intentionally” in the first sentence.

**Mr aogon:** Okay, Madam Chairperson. That covers my concern.

**The Chairperson:** Honourable members, I put the question that clause 5 be amended as proposed.

*(Question put and agreed to.)*

*Clause 5, as amended, agreed to.*

**Mr oboth:** Before clause 6, we propose to insert new clauses immediately after clause 5.

Insert the following clause immediately after clause 5:

“Indecent assault

(1) A person who, with intent to insult the modesty of another person utters any word, makes any sound or gesture or exhibits any object, intending that such word or sound is to be heard, or that such gesture or object is to be seen by any other person commits an offence and is liable on conviction to imprisonment for a period not exceeding one year.

(2) It is immaterial to a charge of indecent sexual assault on a child to prove that the child consented to the act constituting a sexual assault.

(3) A person who commits the offence of indecent assault in the presence of a person’s spouse, family member or child commits an offence and is liable upon conviction to imprisonment for three years.”

Another one is:

“Indecent exposure

(1) A person who unlawfully intrudes on the privacy of a person by-

(a) exposing or displaying that person’s sexual organ, breasts, buttocks or thighs to any other person; or

(b) exposing or displaying his or her sexual organ, breasts, buttocks or thighs to that person or any other person, commits an offence and is liable on conviction to imprisonment for three years.

(2) It is immaterial to a charge of indecent exposure on a child to prove that the child consented to the act constituting an indecent exposure.

(3) A person who commits the offence of indecent exposure in the presence of a person’s spouse, family member or child commits an offence and is liable upon conviction to imprisonment for five years.”

Justification

Consequential amendment arising from the amendment of clause 5, by dividing the provision into three distinct offences of sexual assault, indecent assault or indecent exposure.

**The Chairperson:** Honourable members, I put the question that a new clause be introduced as proposed –

**Mr aogon:** My concern is on the issue of sounds. For instance in Teso, as boys we would sit around and when it is time to go home, a boy can whistle to indicate that we should go. If there is a girl seated by, she may say, “He made some kind of sound towards me.” How do you read into this sound?

In my opinion, if there is anything that we need to delete, it is that. You can maintain the rest but that of sounds is vague. You cannot qualify it and it is difficult to sense what it meant. For instance, if I honked the car’s horn for you to move out of way, one would say, “He was honking at me.” What do we do?

Madam Chairperson, let us delete that particular one of sounds.

**Mr oboth:** Madam Chairperson, because of the uniqueness and lack of uniformity on what constitutes indecent – of course a sound may not be a problem in Teso when you whistle but it is not the only sound envisaged here.

I do not want to say what I saw in the Ninth Parliament but Madam Chairperson, you were in the chair; maybe I am beginning to say it. During the debate on oil, Hon. Hillary Onek was exiting and made some signs –*(Interjections)*– even signs. I am just giving you an example because signs are not universal just like the sounds.

If Hon. Cecilia Ogwal is here, I do not know whether she remembers but it was funny. She raised a point of order and you ruled quite well.

On the issue of sounds, that is whistling. How about spoken sound? Sound is not restricted to – *(Interruption)*

**Ms amoding:** Madam Chairperson, I would like to implore members. I think that even the punishment for this particular issue is very small as provided by the committee. I heard the chairperson talk about a year; I think it is commensurate with the offence that we are trying to create.

However, these particular things vary according to different cultures. Whereas you may have whistling in Teso, it can be another sound in other places. Women experience this in different ways in many places. I know that you know this but let us not be closed in not to legislate on this particular issue. It is the most common thing in society right now; either they whistle to you, touch you or exhibit a certain object towards you, which is actually a sexual innuendo. In this case, someone is trying to communicate a sexual intention. I pray we do not delete this particular issue. Let us deal with a more useful small punishment.

**THE CHAIRPERSON:** Of course, the victim will have to prove that it was a sexual sound. Okay, I put the question that a new clause be introduced as proposed.

*(Question put and agreed to.)*

*New clause, agreed to.*

Clause 6

**MR OBOTH:** Clause 6 is indecent communication.

In sub clause (1)-

(a) Delete the words "without the consent of that other person" and

(b) Substitute for the words "three hundred currency points or imprisonment for seven years" with the words "five hundred currency points or imprisonment for ten years"

Justification

1. To harmonise the provision with the provisions of Section 13 of the Anti-pornography Act.
2. To revise the penalty upwards.

**The Chairperson:** Honourable members, I put the question that clause 6 be amended as proposed.

*(Question put and agreed to.)*

*Clause 6, as amended, agreed to.*

Clause 7

**MR OBOTH:** For clause 7, there is substituting the following-

"7. Sexual harassment

(1) A person who-

(a) makes direct or indirect sexual advances or requests whether verbal or written to;

(b) displays sexually suggestive pictures, objects, written materials or sexually suggestive gestures to;

(c) engages in unwelcome touching, patting, pinching or any other unsolicited physical contact with; or

(d) makes sexually oriented comments, jokes, obscene expressions or offensive flirtations to;

an employee, prospecting employee, student, patient or other person under his or her trust or authority as a pre-condition for the grant of employment, spiritual healing, access to any service or preferential treatment in employment, promotion recommendation, academic progress, healing or other favour, commits an offence and is liable on conviction, to a fine not exceeding two thousand currency points or to imprisonment not exceeding ten years or both.

(2) It is immaterial to a charge under subsection (1) that-

(a) the victim consented to sexual harassment;

(b) the victim of the sexual harassment welcomed the sexual harassment; or

(c) such conduct did not have detrimental effect on victim of the offence.

(3) Where-

(a) the victim of the offence is a child, the convicted person shall, instead of the punishment prescribed in subsection (1), be liab1e to imprisonment for eighteen years; or

(b) the perpetuator of the offence is a public officer, such public officer shall in addition to the penalty in subsection (1), be removed from office.”

Justification

1. For clarity
2. To require that it is immaterial that the person consented to the sexual harassment or that the sexual harassment was welcome or did not have a detrimental effect.
3. For completeness to require persons who commit the offence of sexual harassment while public officers to vacate their offices in addition to the penalty prescribed in the section. The examples are many here.

**MR PETER LOKII:** Madam Chairperson, I have listened and asked myself what provision we have provided for in terms of taking care of people with disabilities. I see deaf people communicating using signs and symbols. How are we taking care of them in this particular Bill?

**MR AOGON:** Madam Chairperson, I have a concern. In the previous clause that we handled, I wanted a penalty of 10 years or 500 currency points or both. However, in this one, we are talking of 10 years and 2000 currency points. Where is the consistency? I thought that where we are putting 10 years, whenever we refer to the monetary punishment, it should be the same. Why are we prescribing 500 in the other clause and 2000 in this one, for the same number of years?

I need clarification from the chairperson in regard to the issue of direct or indirect sexual advances just to find out whether you have taken care of the concerns of the married people? I hope I got it right. For instance, if we are talking about a couple and somebody is making indirect and direct sexual advances, are you going to regulate them? I hope I understood it well so let me get clarity from you. Thank you.

**MR BAHATI:** Madam Chairperson, the chairperson of the committee is introducing something to do with sexual harassment and he has brought the issue of spiritual healing; meaning if you go to a church or a mosque and somebody is praying for you – that is what I understood – it can be interpreted as sexual healing.

We should focus on the things that we know are bad. If we want to extend this to churches and mosques in prayer, it could cause more conflict than bring harmony. Can he clarify –

**THE CHAIRPERSON:** Where has he provided for church healing?

**MR BAHATI:** I heard him talk about spiritual healing. I think he needs to clarify what it means to us and what context he is talking about. Thank you.

**MR OBOTH:** Madam Chairperson, to begin with, clause 7(a), (b), (c), (d) also addresses Hon. Silas Aogon’s query where the circumstances are elaborated. For example, a prospective employee where I want to give you a job to be my PA but I have to find out whether – there are also students; marks for sex, a patient in a hospital or anywhere such as a traditional healer or any person where his or her trust or authority is preconditioned for the grant of employment and spiritual healing.

In regard to spiritual healing, there is a specific church in Nairobi where they say that the blessings enter through the breasts and the pastor has to hold the breasts firmly and we all know what follows. We are human beings and this law is legislation for the human being. We are trying to regulate our conduct either in private or in public but the circumstances are, you are an authority; you are a pastor, reverend, priest or sheikh. You are praying for somebody for healing and the person submits to you and then you take advantage of that person. That is purely what we are talking about but we are not talking against spiritual healing, no. Like in employment, you are promising jobs and then you do the unthinkable. People who are looking for jobs are vulnerable. We all know stories about that. I think that is the aspect of this clause 7.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 7 be amended as proposed.

*(Question put and agreed to.)*

*Clause 7, as amended, agreed to.*

**MR OBOTH:** Madam Chairperson, on the currency points, I think we are going to harmonise that and it must be the same. We thank you for that.

**MS OGWAL:** Madam Chairperson, I just wanted the chair of the committee to clarify - If you talk about spiritual healing, some churches or healers touching wrong places, are we applying it both ways because it is not only women who are vulnerable? We have also seen some women who dress unthinkably and walk into an office. I believe the person occupying that office is also a human being. Will that law apply either way? We should not be biased. We do not want men to think that we are being overzealous about this law. It must apply on both sides.

Under what circumstances would I hold a woman responsible for either skimpily dressing and presenting herself to the office, or exposing her breasts when coming to the office and bending to hand over a file to me? Are you going to make sure that it works both ways?

**MR OBOTH:** Madam Chairperson, Hon. Cecilia is right about that. Skimpy dressing, indecent dressing, and exposure of bodies is all under the Anti-Pornography Act and this new law that we are talking about makes reference to section 13 in other aspects of the Anti-Pornography Act. You are right and love everyone. It is well covered.

Clause 8

**MR OBOTH:** Detention with sexual intent. In clause 8, substitute the following:

“(i) A person who detains another person with the intention of performing a sexual act with the person commits an offence and is liable on conviction to imprisonment not exceeding seven years.

(ii) In this section, a person shall be deemed to have detained another person, where that person-

1. compels, induces, restrains or prevents other person by any means from leaving the premise, vehicle, vessel or any other place;
2. with the intent to compel or induce the other person to remain in or upon the premises, vehicle, vessel or any other place, does any act which prevents that person from leaving such premises, vehicle, vessel or place; or
3. with the intent to compel or induce the other person to remain in or upon the premises, vehicle, vessel or any other place, that person withholds from the other person any clothing, apparel or other property belonging to the other person detained.

(iii) The consent of a person in detention to a sexual act, shall not be a defence to a charge under sub section (i).”

Justification

1. For clarity and better drafting.
2. To expand the provision to include detention of a person for purposes of enabling another person to perform a sexual act with that person (somebody working for another person).
3. To clearly require that the consent of a person detained is not a defence to a charge under this section.
4. To remove the requirement for unlawfulness in the offence since there is no detention with intent to commit a sexual act that is lawful. In addition, to prescribe what amounts to unlawful detention.
5. To make consent of a person to a sexual act immaterial to a charge of detention with sexual intent.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 8 be amended as proposed.

**MR AOGON:** I want to believe that these provisions are brought in good faith. Madam Chairperson, my concern is, we are prescribing imprisonment of seven years without prescribing monetary punishment. Why should we tie the hands of the presiding officer? I thought it would be good legislative and drafting practices for us to give the presiding officer discretion by way of giving either monetary or imprisonment terms or both so that we give them leeway to judge. Otherwise, we will be tying their hands. I want to suggest so.

**THE CHAIRPERSON:** Is this a felony or a misdemeanour?

**MR OBOTH:** I think we forgot to harmonise what Hon. Aogon has noted. We have to give discretion on imprisonment but also payment of a fine or both. I request that our draftsperson will synchronise with the drafting –

**THE CHAIRPERSON:** The currency points will be harmonised with the sentence?

**MR OBOTH:** Yes, that is right.

**THE CHAIRPERSON:** Okay. Honourable members, I put the question that clause 8 be amended as proposed.

*(Question put and agreed to.)*

*Clause 8, as amended, agreed to.*

Clause 9

**MR OBOTH:** Clause 9 is amended by:

1. Inserting immediately after the word “facility” the words “or inmate in a detention facility”.
2. Renumbering the current provision as sub clause (1) and insert the following new sub clauses immediately after sub clause (1).

“(2) For avoidance of doubt, the consent of the person in custody to the sexual act shall not be a defence to a charge under sub section (1).

(3) In this section, a detention facility includes a prison, police station or any other place gazetted or ordinarily used to lawfully detain people.”

Justification

1. For completeness to include an inmate in the provision.
2. To clearly require that the consent of a person detained is not a defence to a charge under this section.
3. To define place of detention.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 9 be amended as proposed.

*(Question put and agreed to.)*

*Clause 9, as amended, agreed to.*

Clause 10

**MR OBOTH:** Clause 10 is amended:

1. By substituting for sub clause (1) the following:

“(1) A person who for gain for himself or herself or another person-

a) causes, encourages, induces, entices or incites another person to be sexually exploited; or

b) controls any of the activities of another person to the effect that that person is sexually exploited,

commits an offence and is liable on conviction to imprisonment for a term not exceeding 15 years.”

(b) By inserting immediately after sub clause(2) the following: “Where the victim of the offence is a child, the person charged with the offence of sexual exploitation shall on conviction be liable to imprisonment for life.”

In addition, the consent of a victim to the sexual exploitation shall not be a defence to a charge under sub section (1).

Justification

1. For clarity and better drafting.
2. To introduce a higher penalty where the victim of the offence is a child.
3. To make immaterial the consent of the victim of the offence of sexual exploitation.

**MR AOGON:** This particular provision contains a very harsh punishment and therefore I would demand for proper examples from the chairperson. At least give one, two or three strong examples so that we understand exactly what you are talking about.

Here we are talking about 15 years imprisonment, life imprisonment. I think we cannot allow this provision to just go without us giving it due attention.

**MR OBOTH:** Madam Chairperson, a person who for gain for himself or herself or another person causes, encourages, induces, entices or incites another person to be sexually exploited the examples are many.

We have seen what is happening; currently, there are people who are trading in picking house girls from wherever, they say you come to get a job you do to know the job.

When you come, they say every day you have to bath and go to some place and wait. Give examples of people who go out of the country. I do not have particular personal example that I know of but it can be varied.

I know Hon. Silas Aogon knows sexual exploitation; taking advantage of others for reasons that you are going to get benefit from it, and then you give out the rights of that person to benefit you and is sexually exploited.

**THE CHAIRPERSON:** Okay, honourable members, I put the question that clause 10 be amended as proposed.

*(Question put and agreed to.)*

*Clause 10, as amended, agreed to.*

Clause 11

**MR OBOTH:** For clause 11, they substituted the following: “Unnatural offences.

1. A person who –(a) performs a sexual act with another person contrary to the order of nature; or (b) engages in a sexual act with an animal,

commits an offence and is liable on conviction to imprisonment for two years.

1. For purposes of this section - (a) a person shall be taken to have performed the sexual act with another person contrary to the order of nature if that person- (i)penetrates another person’s anus with his or her sexual organ –“ I hope Hon. Silas will not ask me what is that.

“(ii) allows another person to penetrate his or her anus with that other person’s sexual organ;

(iii) penetrates or allows another person to penetrate his or that other person’s sexual organ or anus with another object;

(iv) performs a sexual act with a person of the same gender or does any of the acts prohibited in sub-paragraphs 1,2 and 3 with a person for the same gender.

(b) A person shall be taken to have engaged in a sexual act with an animal if that person penetrates an animal’s sexual organ or anus with his or her sexual organ - and that is talking about the men only.

(3) A person who attempts to commit the offence of unnatural offence commits a felony and is liable on conviction to imprisonment for five years.”

Justification

1. To define what amounts to sexual unnatural offences.
2. I is a consequential amendment arising from the removal of words like “mouth and anus” from the definition of the word “sexual act.”

**MR AOGON:** Maybe we need to agree that whenever we find that monetary penalties have not been prescribed, we include them for consistence. I feel it is very important that we allow for that discretionary judgment.

**THE CHAIRPERSON:** But some of these are felonies.

**MR OBOTH:** This is 10 years not two years, where one commits an unnatural offence in (1)(b), is liable on conviction to imprisonment for “10 years” not “two” years.

The issue of sentencing is a matter that is well settled; the sentencing guidelines and all aspects must be synchronised and harmonised before the sentence.

**MS OGWAL:** Madam Chairperson, we are talking about prohibition of sexual harassment but what the chairperson is reading now is like sexual harassment is penetration- organs which are natural outside the natural practice- goes beyond harassment.

**THE CHAIRPERSON:** No, we have finished with the sexual harassment. We are in a different section.

**MS OGWAL:** This is coming in here because I thought it would be specific if we are now coming with the prohibition of unnatural sex like homosexuality, we should come with it direct.

However, if we cover it under harassment, somebody will say no. I did it the wrong way but I was not sexually harassed.

**THE CHAIRPERSON:** We are on clause 11 that is an independent section.

**MR MAKMOT:** Madam Chairperson, I think there is need for clarification as to whether we are not being so much overzealous or obsessed with protecting the anus more than the mouth when we are talking against the order of nature. If we look at what the mouth is compared to that, why are we removing the mouth?

**THE CHAIRPERSON:** Honourable member, aren’t you a member of that committee?

**MR MAKMOT:** Other than that, I think that -I am a sorry, it might probably take us back but when we talked about “inducement”, I know that the understanding of the committee is, an inducement that impairs judgment. However, when you look at the little definition of “inducement” it is persuading somebody-

**THE CHAIRPERSON:** Honourable member, we have finished that one, we are doing something else and you are a member of the committee. You cannot start making news here.

Honourable members, I put the question that clause 11 be amended as proposed.

*Question put and agreed to.)*

**MR OSEKU:** Madam Chairperson, I want to put this to the chairperson of the committee on whether he has heard of these sexual acts like, “sadism” and “masochism”.

In “sadism” somebody derives sexual gratification from inflicting pain on the other party or humiliating that party. “Masochism” is the reverse. There are those who cannot get sexual gratification, unless pain is inflicted upon them or they are humiliated.

This seemed foreign but, Madam Chairperson, we have been seeing these things, especially happening with the girls who are being trafficked. Some of those people, especially foreigners, live here and employ these house helps.

**THE CHAIRPERSON:** Honourable members, those are new issues which are being brought today. They were not taken to the committee for discussion. Please, I think we can later amend but not now.

**MR OSEKU:** In my view, I thought that we could just take consideration of them and perhaps, strengthen this offence by including this act.

**THE CHAIRPERSON:** Honourable members, do not introduce new matters. The committee has not had time to look at them. They are important but let us look at them for purposes of amendment.

**MS MUTONYI:** Madam Chairperson, I just have this comment. When one engages in a sexual act with an animal - I do not know what we can say about it - the owner of the animal always wants compensation. I do not know where we can put that one.

He cannot just have a sexual act with his animal. Even if the court charges him with the crime, the owner of the animal will always want a fine or compensation.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 11 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 11, as amended, agreed to.*

New clause

**MR OBOTH:** Madam Chairperson, we need to insert a new clause, immediately after clause 11.

The new clause would read:

“Brothels

A person who keeps a house, a room or place of any kind, for purposes of prostitution, commits an offence and is liable to imprisonment for seven years.”

“Prohibition of prostitution

Any person who practises or engages in prostitution commits an offence and is liable to imprisonment for two years.” I think all of this will be harmonised.

“Prohibition of sexual act with a prostitute

A person who engages in a sexual act with a prostitute commits an offence and is liable, on conviction, to imprisonment for two years.”

The justification:

1. To prohibit prostitution, the operation of brothels and engaging in a sexual act with a prostitute and - finally on that –
2. To continue the criminalisation of prostitution.

**THE CHAIRPERSON:** Honourable members, I put the question that the new clause be -

**MR AOGON:** My chairperson over there, you know that this law has to be under our scrutiny; you cannot just have it go through like that - no.

Madam Chairperson, if - for instance - We know that we have hotels. Most of these things - when you are talking about prostitution - happen in hotels. How will the hotelier, the person running the hotel, get to know that this one is a prostitute?

Somebody has come with their person and you think these are maybe marrieds. What are you going to do in this case? So, I think that there has to be some clarity on that.

Otherwise, you are going to imprison all the owners of hotels, including here in Kampala.

**THE CHAIRPERSON:** Honourable members, the provision is about brothels, not hotels. It is a brothel; a room used for purposes of prostitution.

Honourable members, I put the question that a new clause be introduced, as proposed.

*Question put and agreed to.*

*New clause, agreed to.*

*Clause 12, agreed to.*

*Clause 13, agreed to.*

Clause 14

**MR OBOTH:** Clause 14:

1. In sub-clause (1):

(i) Substitute for paragraph (d), the following:

“(d) Offender is a parent, guardian, foster parent or a person in authority over the child;”

(ii) Substitute for the words “imprisonment for life”, the words “suffer death”.

(b) Insert, immediately alter sub-section (2), the following:

“(3) Where a person is charged with the offence under this section, that person shall undergo a medical examination as to his or her Human Immuno Deficiency Virus (HIV) status.”

(4) For purposes of sub-section (1), a “relative” means a person related to the child by blood or marriage, including where the relationship arises from adoption, fostering, guardianship or any other parental responsibility over a chi1d.”

The justification:

1. To revise the penalty upwards from imprisonment for life to death sentence, as prescribed in section 129 of the Penal Code Act for the offence of aggravated defilement.
2. To define relative of a child.
3. To expand the provision to include parent, guardian, foster parent and other relations of a child.
4. To require a person charged with aggravated defilement to undergo an HIV test, as required in section 129 of the Penal Code Act.

**THE CHAIRPERSON:**  Honourable members, I put the question that clause 14 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 14, as amended, agreed.*

*Clause 15, agreed to.*

*Clause 16, agreed to.*

*Clause 17, agreed to.*

*Clause 18, agreed to.*

*Clause 19, agreed to.*

*Clause 20, agreed to.*

*Clause 21, agreed to.*

Clause 22

**MR OBOTH:** Madam Chairperson, clause 22(1) of the Bill is amended in paragraph (b), by substituting for the words “purports to marry”, the word “marries”.

The justification is for clarity, to criminalise the contracting of a marriage by any person, with a child.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 22 be amended, as proposed.

*(Question put and agreed to.)*

*Clause 22, as amended, agreed to.*

Clause 23

**MR OBOTH:** Clause 23; payment of compensation and this addresses the concerns of Hon. Mutonyi.

For clause 23, there is substituted the following:

“23. Payment of damages

(1) Where a person is convicted of an offence under this Act, court may, in addition to any sentence imposed under this Act, order the convicted person to pay damages to the victim of the offence.

(2) The damages ordered by the court under this section shall be a civil debt.

(3) The victim of an offence under this Act shall have priority over any person or authority in recovering any debt, arising from an order of court, made against a person convicted of an offence under this Act.

(4) The failure by the prosecution or any other person to apply for damages shall not be a bar to a grant of damages by the court, save that where court does not order for payment of damages, the person presiding over the trial shal1 give reasons for that decision.

(5) For purposes of this section, a ‘victim of a sexual offence’ means a person against whom an offence is committed, under this Act.”

The justification is to limit the provision to the award of damages only and not compensation, since damages are only granted to atone the actual wrong suffered to the wrong suffered, provide for the making of other orders, instead of providing for compensation, which entitles many other matters such as restitution that may not be applicable in the substance of this case.

Secondly, to enhance the effectiveness of the provision to require a court to award damages even when the same is not specifically requested, and if it does not, to give reason for the same.

Finally on this, it is for clarity; to define “victim” referred to in the provision.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 23 be amended as proposed.

*(Question put and agreed to.)*

*Clause 23, as amended, agreed to.*

*Clause 24, agreed to.*

*Clause 25, agreed to.*

*Clause 26, agreed to.*

Clause 27

**MR OBOTH:** Uncorroborated evidence of a victim

We propose that clause 27 be redrafted as follows:

“Uncorroborated evidence of a victim

1. Court may require the corroboration of evidence tendered in proof of an offence under this Act; and
2. Notwithstanding sub-section (1), a person may be convicted of an offence under this Act based solely on the testimony of the victim of a sexual offence or a single witness provided that the victim of the offence or the witness, as the case may be, is truthful and reliable. “

Justification

It is to afford court the discretion to require the corroboration of evidence of a victim of a sexual offence rather than as currently proposed in clause 27 that proposes to prohibit the corroboration of the evidence of a victim of a sexual offence, yet corroboration is essential because it supports the testimony of the complainant and tends to connect the accused person to the commission of crime.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 27 be amended as proposed.

(*Question put and agreed to.*)

*Clause 27, as amended, agreed to.*

*Clause 28, agreed to.*

*Clause 29, agreed to.*

Clause 30

**MR OBOTH:** Clause 30 of the Bill is amended by renumbering the current provision as sub-section (1) and inserting, immediately after it, the following:

“(2) Without limiting the general effect of sub-section (1), the register shall contain the following information:

1. The sex offender’s name and date of birth;
2. The sex offender’s national identification number;
3. The sex offender’s address;
4. The offence for which the sex offender was convicted of;
5. A sample of the offender’s fingerprint and any other unique identifying features;
6. The photograph of the sex offender;
7. Any other information that the minister may prescribe by regulations.

(3) A person registered on the sex offenders’ register shall, within seven days of changes in any of the registered information on the sex offenders, notify in writing, the national identification and the registration authority.

(4) The national identification and registration authority shall, upon of receipt of the notification in sub-section (3), update the register or do any other act as it deems fit.

(5) A person who contravenes sub-section (3) commits an offence and is liable, on conviction, to imprisonment for a period not exceeding three years.”

Justification

1. To prescribe the matters that must be registered on the register.
2. For completeness to impose an obligation on a person registered on the register to inform the authority of any changes to the register.
3. To prescribe an offence for non-compliance.

**THE CHAIRPERSON:** Honourable members, the question is that clause 30 be –

**MR SSEKIKUBO:** Thank you, Madam Chairperson. I am getting perturbed by this clause. To have a sex offender’s particulars and offence put in a register is a unique thing. Murderers’ names have not been recorded into any register. Embezzlers’ names have not been registered. Even for terrorists - we do not have this innovation called register.

There are many Ugandans out there without national IDs. Now you are enforcing a duty on National Identification Registration Authority (NIRA) to somehow come up with this kind of register.

Lastly, we know that there is an appellate process from the High Court to the Court of Appeal and to the Supreme Court.

I propose that instead of this register, if one has served the sentence - a sentence is meant for the offender to reform – you cannot subject such a person to double jeopardy by putting a tag on them when they are reformed. The essence of serving the jail term is for the offender to reform and be reintegrated back into the society. That is the basis for the Uganda Prisons Services.

Now when we put a permanent tag, it is subjecting the offender – they do not even state the offences. Even an offender of indecent assault is put in the register when the murderers and terrorists are walking as freemen and freewomen on our streets.

I think this is a hurried provision. I would really like to call on the chairperson of the committee to reconsider those proposed provisions based on those facts and the reasons I have stated; the essence of double jeopardy, the stigma and even the applicability of this knowing that many people do not hold national IDs for them to have particulars with NIRA.

With that, I propose that we delete that clause until further study, harmonisation and preparation is done. By doing this, you are changing the status of the justice, law and order sector. You are doing away with the reformatory stages. As a result, I do not think this is the best legislation for the country. I will take the information.

**MR KAHONDA:** Thank you, Hon. Ssekikubo, for giving way. Madam Chair, on the issue of creating the national register for the offenders, I have some experience to share. While I was in Kirinya, there was a white man who was a convict of defilement. Assuming that he falls under this category, when he does not have a national ID or Ugandan passport, which details would you register against his name?

Secondly, once somebody is convicted, he or she still has room for appeal. At appeal level, someone can be acquitted yet at that you will have already tagged him or her on a national register. How would you address that?

Madam Chairperson, I support Hon. Ssekikubo’s proposal that this provision should be left out in the Bill. Thank you.

**MR TAYEBWA:** Madam Chairperson, this is a practice all over the world. There is nothing to be protected about being a rapist or defiler. What is very important is that only convicted people are on that list. The moment you appeal and win it, you are removed from the list. Otherwise, the list is not cast in stone.

Therefore, I support this so that we can know the dangerous characters. People know that it is a very dangerous trade to deal in rape. If you are going to look for a job somewhere, you should be shunned because you might rape fellow employees. I support and urge members to support it too.

**THE CHAIRPERSON:** Honourable members, I do not know about the local situation but we do have international paedophiles in the world. You go to the Philippines and assault children but when you are about to be arrested, you leave for Brazil and assault again. You eventually end up in Africa with the same thing. No one can trace you. This is what you are saying.

**MR MAKMOT:** Madam Chairperson, I agree that it is very common practice to have a register in other jurisdictions. I think it is a welcome idea. However, we could qualify this. It is a welcome and radical approach but probably, we could limit it to minors and repeat offenders, instead of generalising the register to any sort of sexual offences. That would be a bit intrusive. We can take a step at a time.

Definitely, we need these offenders of minors to be in line. For repeat offenders, one would have been convicted at least once. In that case, if we could qualify it that way, it would be a starting point. Otherwise in my view, if you are going to work in a nursery school and you have assaulted children before; why should you be there? These people need to be known but I guess it has to be balanced. Thank you.

**MS OGWAL:** Madam Chairperson, it is a welcome idea. Maybe people are not aware that sexual offences are becoming very common that we have to start from somewhere to restrain the community.

Registration would be one of the restraint mechanisms in our society. If you rape a child, the next time, you are going to rape an old woman or a fellow man. Therefore, you are already a criminal mentally. As such, you must be registered. That will be one way of restraining men who rape their house girls, daughters and even their wives. They have to be registered.

Madam Chairperson, this is one of the best ways of dealing with the rampant sexual offences. Thank you.

**MR AOGON:** Madam Chairperson, I have critically listened to the minds that have submitted. However, I have an issue and I would like to agree with Hon. Ssekikubo on this issue of tagging people. Imagine if we reached to the extent of saying that everyone must test for HIV/AIDS. If we find you positive, we must give you a tag that shows that you are positive. Now, what will it feel like?

Secondly, we know very well that in courts of law, when lawyers are representing their clients, they quote precedents. Courts hold records of whoever has gone through the court system. Therefore, I do not want to see such a thing happen here that we are going to register whoever has been found doing this. What about if the person repented?

The Bible says that whatever we bind on earth is also bound in heaven. You may put somebody in the register permanently yet he has repented and God is about to forgive the person and have a lee-way to heaven; why do you continue to bind the person by putting them in the register?

**THE CHAIRPERSON:** Let us hear from chairperson of the committee.

**MR OBOTH:** Madam Chairperson, I think the quotation of the Bible is very applicable that even what is registered, here will be registered in heaven. If we are afraid of the register, we should know that even without our knowledge, there is one in heaven.

I think the issue of the register has already passed. What we are in here is the content under clause 30. Going against it should have been clause 28 and 29. Here, we are talking about the content. World over, this is the practice. Continuous name and shame restore some decency.

Tomorrow, it might be your daughter, sister, or mother. This is a call. It can be myself but I should be able to face the law –*(Interjections)*– Madam Chairperson, I am being intimidated by my very good friend, in whose Government I have pledged to work with, when he comes into power. *(Laughter)*

Basically, what we are doing here is radical but it is a very progressive move that would send a very strong signal. You talk about murder but I can tell you that these sexual offences are murders in one way or another.

Hon. Silas Aogon, it is not an offence to have HIV/AIDS. Why should we continue with that stigma?

**THE CHAIRPERSON:** Honourable members, I put the question that clause 30, be amended, as proposed.

*(Question put and agreed to.)*

*Clause 30, as amended, agreed to.*

*Clause 31, agreed to.*

*Clause 32, agreed to.*

*Clause 33, agreed to.*

New clause

**MR OBOTH:** We move to insert the following immediately after clause 33:

“Requirement to report presence

1. Notwithstanding anything to the contrary, a person registered on the sex offender's register shall upon arrival in a district, where he or she is not ordinarily resident, give notification of his or her presence to the local authorities in the area.

2) A person who contravenes any provision of this section commits an offence and is liable on conviction to imprisonment for five years.”

Justification

To require a person who is registered on a sex offender’s register to notify the local authorities in a district he or she arrives in whenever he or she leaves the district where he or she is resident.

This is to say, give an alert. Even the lepers at that time used to have a bell. So, here – “I am here” – *(Laughter)*

**MR TAYEBWA:** Madam Chairperson, whether members agree or not, we are trying to make the price of committing these offences very high. I do not know what you lose if you know you are a sex offender, and you report to the authorities in the village. You could say that you repented, and you are now a good person who will not cause any danger to the community. If not, it is very important - because if you do not do that, the moment we see you, it becomes the duty of the whole community. Anytime they see you with someone’s daughter or you coming close, they could raise an alarm and say, the rapist is about to strike again. I think we have to do it and ensure that these people are seriously dealt with. I can never have any mercy for a convicted rapist.

**THE CHAIRPERSON:** Honourable members, I put the question that a new clause be introduced as proposed.

*(Question put and agreed to.)*

*New clause, agreed to.*

**MR AOGON:** Madam Chairperson, when we talk about a district; districts operate up to 5.00 p.m. Even the Constitution asks for a fair hearing; I think we are becoming a bit unconstitutional. I think it would be better if you said “a police station,” because I know that police stations operate throughout the 24 hours. What do you mean by “a district” in the interpretation clause?

**THE CHAIRPERSON:** We shall get there.

**MR OAGON:** We need fairness when we are legislating. Let us make it practical.

**THE CHAIRPERSON:** We are going to look at the interpretation as we close. I put the question that a new clause be introduced as proposed.

*(Question put and agreed to.)*

*New clause, agreed to.*

**THE CHAIRPERSON:** Honourable chairperson, you have got two clauses of 33. We have passed one and there is another one appearing here.

**MR OBOTH:** My apologies. This should have been after clause 32. I pray that the final draft comes with the corrected version. It was an error in reporting here. We could go to clause 33.

**THE CHAIRPERSON:** Could the other one have been a new clause after 32?

**MR OBOTH:** Yes.

**THE CHAIRPERSON:** Okay. The drafts people will correct that because we have already passed it. It is not clause 33 but clause 32. Let us now go to clause 33.

**MR OBOTH:** Clause 33 is disclosure of sexual offence record.

Clause 33 is amended in subsection (2) by inserting the word "not", immediately after the word "does."

Justification

To correct a drafting mistake.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 33 be amended as proposed.

*(Question put and agreed to.)*

*Clause 33, as amended, agreed to.*

Clause 34

**MR OBOTH:** Clause 34 is amended by deleting sub clause (3).

Justification

Subclause (3) is redundant since a person may be guilty of an offence of false allegation under this clause, notwithstanding that the person against whom the allegations were made was acquitted by court.

**THE CHAIRPERSON:** Honourable members, the question is that clause 34 be amended as proposed.

*(Question put and agreed to.)*

*Clause 34, as amended, agreed to.*

Clause 35

**MR OBOTH:** Clause 35 is attempts to commit sexual offence.

We propose to substitute for "seven" the word "one".

Justification

To reduce the penalty imposed for attempts in offences where the Act does not prescribe a specific offence of attempt, since, in some cases, the penalty prescribed for the offence may be higher than the penalty for an attempt, thereby creating an absurdity.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 35 be amended as proposed.

*(Question put and agreed to.)*

*Clause 35, as amended, agreed to.*

Clause 36

**MR OBOTH:** Madam Chairperson, we propose to delete clause 36.

Justification

1. The provision is redundant since it is already catered for in the offence of rape, wherein, the offence is committed when a person does a sexual act, with a person without that other person's consent.
2. The provision is impractical since it did not specify the nature of withdrawal, or/and when it is effective.

Madam Chairperson, in further giving information, our research team in the committee looked around for benchmarking on desk, and we found out that this withdrawal of consent; before or during sex – when it is before, it is still rape. During the sexual act – we only found that in the United States of America. There are two case laws in the State of Maryland and one in California. The one in California was a decision of 2003 and Maryland was in 2008.

Even where activism is quite rampant, there is nowhere else in the world where such a law for withdrawal; during the sexual act, exists. This covers everybody; whether you are married or not.

There are elites, who have gone to school like Hon. Bahati, Hon. Tayebwa, the Rt Hon. Speaker and Hon. Cecilia Ogwal; they know what this withdrawal can mean. In the villages *–(Interjection)–* no, I am just giving an example. For example, Hon. Ssekikubo is an educated man and has been a Member of Parliament for 20 years, so he may know what this constitutes.

Legislating on the minute details of the bedroom and what is happening there – of course, there are extreme cases where somebody is sick, or your wife has just given birth; when we take away the issue of consent, it is rape. Do we want to see families going to court that their husbands raped them? The law does not restrict where this will be applicable.

Therefore, I would implore members to find this justification just. A member said that the law is for the harmony of the society. Implementing this law – if we had no cameras here, there are some specific examples we would give, and the future readers of the *Hansard* would think we were not very serious, if we gave all the practical and impractical experiences.

Madam Chairperson, I pray that members find these justifications just to delete them. With time, we can re-introduce this. Even in America, of all the States, only two States *–(Interruption)*

**MS OGWAL:** I would like to give the Chairperson an example as to why female members would want this maintained. To justify consent when it is between a wife and a husband. It is easy to define. This is because - if I know that my husband was caught with some prostitute and the matter has probably, reached the local council chairperson. I know that the prostitute is sick and the man is claiming that I am his wife and therefore, I must consent and he wants to force me into an act. Whatever he does thereafter, is rape because it is force.

As a person, I have rejected because I know he is bringing home a disease. Yes, we are wife and husband but there is a reason why I will not consent. I think *–(Interjection)–* No, listen. First of all, I am a woman. Secondly, I am a mother. Thirdly, I am a grandmother. Therefore, when I am talking to you, just listen and accept. *(Laughter)*

**THE CHAIRPERSON:** I do not know; maybe, it is the way it was written because it is saying “consent during sexual act”. It is complicated.

**MR BAHATI:** Madam Chairperson, I think the formulation as she said is very complicated, especially in our context of marriage. I think it will bring more conflicts than harmony to our society and then spoil this good and important piece of legislation. That is the information I wanted to give my mum to know that there is some current information that you need to listen to.

**MR AOGON:** Madam Chairperson, just to stand with the committee chair. Indeed, I have known you as a very bright Chair and today, you have confirmed it. This has been the testing piece for the Committee on Legal and Parliamentary Affairs. If you had decided to the contrary, then we would have doubted your capabilities today.

The fact that you have lined up with us properly, that is where we want to be. Let it be deleted in good faith, and I am with the committee. Once somebody says they have withdrawn consent, you have already gone to rape, and rape has a very heavy penalty tagged onto it.

I want to agree with your brilliance. Let us proceed and delete it. I thank you, Chairperson.

**THE CHAIRPERSON:** Does the mover want to say something?

**MS AMODING:** Madam Chairperson, my members are here and the chairperson of UWOPA is also here. She moved the proposal earlier on, during the debate that we maintain this particular issue.

This particular proposal is very close to the hearts of many women. I think in the interest of having a win-win position, we have got a good one, which we have passed in clause 33. Maybe, we can let this one go and get the Bill passed since the Committee on Legal and Parliamentary Affairs had considered it variously and have a good report. I concede.

**THE CHAIRPERSON:** Honourable members, if you look at the formulation, it really becomes complicated. It says “consent during sexual act”. You know, people are already in action, it is *– (Laughter)*

Okay, I put the question that clause 36 be deleted.

*(Question put and agreed to.)*

*Clause 36, deleted.*

Clause 37

**MR OBOTH:** We also propose that clause 37 be deleted.

The justification is that the provisions are redundant since they are well known criminal principles.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 37 be deleted.

*(Question put and agreed to.)*

*Clause 37, deleted.*

Clause 38

**MR OBOTH:** We move that clause 38 be deleted. The justification is that the provisions are redundant since they are well-known criminal principles.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 38 be deleted.

*(Question put and agreed to.)*

*Clause 38, deleted.*

Clause 39

**MR OBOTH:** We substitute for clause 39 the following: “Conspiracy to defeat justice and interfere with witnesses

i) A person who does any act to obstruct, prevent, pervert, or defeat the cause of justice commits an offence and is liable on conviction to imprisonment for a term not exceeding five years.

ii) In this section, a person shall be taken to have obstructed, prevented, perverted, or defeated the cause of justice if that person-

1. subjects the victim of the offence or any other person to intimidation, harassment, fear, distress or harm as a means of preventing the-
2. reporting of an offense under this Act;
3. victim or any other person from participating in the prosecution of an offence under this Act;

b) dissuades, hinders or prevents a person from reporting the commission of an offence under this Act;

c) dissuades, hinders or prevents lawfully bound to appear and give evidence as a witness from appearing or from giving evidence.

Justification

1. To create an offence against a person who perverts the cause of justice and interferes with the witness or victim of an offence.
2. The proposal in clause 39 to allow court grant a harassment order against such a person is impractical; is not deterrent to prevent such conduct. I beg to move.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 39 be amended as proposed.

*(Question put and agreed to.)*

*Clause 39, as amended, agreed to.*

Clause 40

**MR OBOTH:** Extra territorial application. For clause 40, there is substitution for the following:

“Extra territorial jurisdiction

1. This Act shall apply to offences committed outside Uganda, where-
2. a person who, while being a citizen of, or permanently residing in Uganda, commits an act outside Uganda, which act would constitute an offence had it been committed in Uganda;
3. the victim of the offence was a citizen of Uganda at the time of commission of the offence;
4. the offence was committed partly inside and partially outside Uganda;
5. the offence is committed against the stateless person who has his or her habitual residence in Uganda; or
6. a substantial proportion of the effects of the offence have occurred or taken place within the territory of Uganda.

ii) Notwithstanding subsection (i):

1. No proceedings shall be instituted under this section without the written consent of the Attorney-General.
2. If the consent of the Attorney-General is received, under (a), proceedings maybe instituted in any appropriate court and such court shall have jurisdiction to try the matter as if the offence or the offences had been committed within its jurisdiction.
3. A person shall not be tried for an offence under this section, if that person has been acquitted or convicted of the same offence in another country.

iii) A case under this Act shall be tried where-

1. the offence was committed;
2. any witness or elements occurred;
3. the victim of the offence resided at the time of the commission of the offence.

iv) Notwithstanding subsection (iii), where the offence is committed outside Uganda, the case shall be tried as may be determined by the Director of Public Prosecutions.”

Justification

For completeness and better drafting.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 40 be amended as proposed.

*(Question put and agreed to.)*

*Clause 40, as amended, agreed to.*

*Clause 41, agreed to.*

*Clause 42, agreed to.*

*Clause 43, agreed to.*

*Clause 44, agreed to.*

*Clause 45, agreed to.*

*Clause 46, agreed to.*

*The schedule, agreed to.*

Clause 1

**THE CHAIRPERSON:** Are there any changes to the interpretation?

**MR OBOTH:** Yes, Madam chairperson. Clause 1 is amended –

1. Insert immediately before the definition of the word “attempt” the following, “advanced age” which means 75 years and above.
2. Substitute for the definition of “sexual act” the following: “’Sexual act’ means the penetration however slight of a person’s sexual organ by another person’s sexual organ.”

1. By substituting for the definition of sexual exploitation the following: “’Sexual exploitation’ means the obtaining of financial or other benefits through the involvement of another person in prostitution, pornographic acts or the production of pornographic material or the use of a person in sexual intercourse or other unlawful sexual conduct.”
2. In the definition of person in trust substitute the phrase “person in trust” with the “person in position of trust.”
3. By substituting for the definition of the word “prostitute” the following: “’prostitute’ means a person –

(a) who holds himself or herself out as available for sexual act or sexual gratification for monetary or other gain; or

(b) who engages in a sexual act or sexual gratification for monetary or other gain.”

Justification

1. To limit the definition of sexual act to only penetration of a person’s sexual organ with another person’s organ since the rest of the provision deals with acts that would constitute unnatural offences.
2. To align the definition of sexual exploitation with offence as created in clause 10.
3. In addition, in the definition of the word “prostitution”, to remove the words that require a person to have regularly offered him or herself for sex before he or she commits an offence.
4. To expand the definition of the word “prostitute” to include persons who have engaged in sexual conduct for money or other monetary gain.
5. To define “advanced age” in accordance with the Constitution, sentencing guidelines for courts of judicature, practice directives, 2013.

**THE CHAIRPERSON:** Honourable members, I put the question that clause 1 be amended as proposed.

*(Question put and agreed to.)*

*Clause 1, as amended, agreed to.*

*The Title agreed to.*

MOTION FOR THE HOUSE TO RESUME

7.55

**MS MONICAH AMODING (NRM, Woman Representative,** **Kumi):** Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

**THE CHAIRPERSON:** Honourable members, the question is that the House do resume and the Committee of the whole House reports thereto.

*(Question put and agreed to.)*

*(The House resumed and the Speaker presiding\_)*

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

7.56

**MS MONICAH AMODING (NRM, Woman Representative, Kumi):** Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled; “The Sexual Offences Bill, 2019” and has passed it with various amendments.

MOTION FOR ADOPTION OF THE REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

7.57

**MS MONICAH AMODING (NRM, Woman Representative, Kumi):** Madam Speaker, I beg to move that the report from the Committee of the whole House be adopted.

**THE SPEAKER:** Honourable members, I put the question that the report of the Committee of the whole House be adopted.

*(Question out and agreed to.)*

*Report adopted*

BILLS

THIRD READING

THE SEXUAL OFFENCES BILL, 2019

7.58

**MS MONICAH AMODING (NRM, Woman Representative, Kumi):** Madam Speaker, I beg to move that the Bill entitled; “The Sexual Offences Bill, 2019” be read a third time and do pass.

**THE SPEAKER:** Honourable members, the question is that the Bill entitled, “The Sexual Offences Bill, 2019” be read for the third time and do pass.

*(Question put and agreed to.)*

A Bill for an Act entitled, “The Sexual offences Act, 2021”

**THE SPEAKER:** Title settled and the Bill passes. *(Applause)*

**MS AMODING:** Thank you, Madam Speaker. I take this opportunity right now to thank you so much. I am short of words; I am very excited that you have considered and allowed us the opportunity to come before this House this evening and also you have passed this Bill.

Indeed, it is a gift to the women’s movement as we wind up the Tenth Parliament. On behalf of the women out there, the women in this House, I thank you, as a fellow woman you have not disappointed us.

When we started the Tenth Parliament, we put before you four Bills and out of the four we have got three, which means we have scored 80 out of 100 per cent of the Bills that the women’s constituency wanted from the Tenth Parliament.

Honourable members, you have been so good and kind to Uganda Women’s Parliamentary Association (UWOPA). I pray that as we leave in this Tenth Parliament, in the next Parliament you give us more when we come back. Thank you for sitting up to this time to see to it that this Bill comes to pass.

I want to thank the committee; the chairperson and your team; you are a blessing. I pray that those who have stayed in this committee will expedite many other Bills.

Your committee chairperson and the legal team is special, the secretariat. You have very gifted people in that team and also the clerks of this Parliament. As evidenced in how the Bill has been passed with limited deletions. Even if we lost on consent, we know that everything else is good in the Bill and we can assure and promise you that Uganda is not going to stay the same. Prosecution of these matters is going to improve, thank you, so much for staying this long, God bless you.

8.00

**MR JACOB OBOTH (Independent, West Budama County South, Tororo):** Madam Speaker, if I may rise to thank you, this is unprecedented, this is a law that is going to redefine sexual conduct in this country Uganda. I must congratulate ourselves, the Tenth Parliament.

This piece of legislation, strange as it may sound in other clauses is not for the woman it is a Bill to regulate the sexual conduct of Ugandans.

Any Christian, any Muslim would be happy that there is something that is taken nearly from the *Bible* and the *Quran* that is now legislated upon.

I want to thank the members of the Legal and Parliamentary Affairs Committee. All the gender-related Bills that were referred to our committee, we have legislated on all of them.

Not only that, these members were thinking that, there should be no Bill that is left before us including the “Prevention and Prohibition of Human Sacrifice”, which was referred before us recently. We concluded in a matter of three weeks and we shall seek for your time so that we can conclude it.

Madam Speaker, we have a wonderful team: Mr John Tamale, Mr Max Komakech, Edward Ngobye and David Sserunjogi and others. They are wonderful people who have endured with us. *(Applause)*

The Committee on Legal and Parliamentary Affairs is a committee that is composed of very wonderful men and women. Sometimes our sessions are described by lengthy arguments but later on, we come to agree.

I want to thank each one of you and the members who have endured here. You have enriched our debate, you have educated us, you have contributed a block in building this country towards the right direction.

Congratulations to the people of Uganda, congratulations, UWOPA. *(Applause)*

**THE SPEAKER:** Honourable members, I want to take this opportunity to thank all of you very much. We have had a long day. We have enacted many laws today. I really want to thank you. *[Member rose]* No, I have another delegation waiting for me, please.

**MR SSEKIKUBO:** Madam Speaker, we cannot go without mention of your resilience –*(Applause)* – From 10.00 a.m. and it is now 8.00 p.m. without any fatigue. You are still going strong, Madam Speaker.

On behalf of members, you have exhibited exemplary stamina –*(Applause)*– and please, carry on with that work. We thank you very much.

**THE SPEAKER:** Thank you very much, honourable members, the Clerk and your team. I know we have inconvenienced especially the Muslims by ending very late but thank you very much. This is the work we were assigned to do by the people of Uganda. Let us continue.

House is adjourned to tomorrow at 10 o’clock in the morning. Thank you.

*(The House rose at 8.05 p.m. and adjourned until Tuesday, 4 May, 2021 at 10.00 a.m.)*