PARLIAMENT OF UGANDA

IN THE PARLIAMENT OF UGANDA

Official Report of the Proceedings of Parliament

FOURTH SESSION - 34TH SITTING - THIRD MEETING

Tuesday, 20 May 2025

Parliament met at 10.12 a.m. in Parliament House, Kampala.

PRAYERS

(The Speaker, Anita Among, in the Chair.)

The House was called to order.

COMMUNICATION FROM THE CHAIR

THE SPEAKER: Honourable members, I welcome you to this morning sitting. As you are aware, we are drawing to the close of the Fourth Session of the Eleventh Parliament. As such, we are duty-bound to conclude business, including all the Bills that are pending and lined up for consideration.

I urge committees to ensure that all the Bills are completed and passed before we go to the next session. Thank you.

LAYING OF PAPERS

THE 27TH UGANDA HUMAN RIGHTS COMMISSION ANNUAL REPORT ON THE STATE OF HUMAN RIGHTS AND FREEDOMS IN UGANDA, 2024

THE SPEAKER: Honourable members, Article 52(2) of the Constitution of the Republic of Uganda requires that the Uganda Human Rights Commission shall periodically publish reports on its findings and submit the annual reports to Parliament on the state of human rights and freedoms in the country.

Pursuant to Rule 32 of the Rules of Procedure of Parliament, I now invite the commissioner to table the report. Can we have the report first tabled, commissioner? Hon. Musasizi -

10.16

THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi): Madam Speaker, I beg to lay on the Table the 27th Annual Report of the State of Human Rights and Freedoms in Uganda, 2024.

THE SPEAKER: Thank you, Hon. Musasizi. Honourable members, pursuant to Rule 33(5) of the Rules of Procedure, the report is referred to the Committee on Human Rights for consideration. *(Hon. Ssemujju rose_)* Yes, procedure?

MR SSEMUJJU: Thank you very much, Madam Speaker. The procedural issue I am raising is that the atmosphere under which we transact business here must be free. When we were considering the so-called "Coffee Bill", we had military people raiding Parliament, beating up MPs, arresting others, switching off lights and locking up journalists in the conference centre in the basement.

This morning, I had mobilised the people of Kira to come here and witness today's proceedings because I am here on their behalf. However, I came here when the whole Parliament had been barricaded by policemen with guns, and I have also seen people who look like Special Forces

Command (SFC) officers in suits stationed somewhere.

The procedural issue I am asking is, I want to be assured, Madam Speaker, that you are not going to surrender us like last time, to be beaten by SFC.

THE SPEAKER: How did I surrender you?

MR SSEMUJJU: We are under you; we thought you would not allow that lights are switched off and unknown people –

THE SPEAKER: Hon. Ssemujju, you mean you have reduced me to that level of switching lights on and off?

MR SSEMUJJU: Madam Speaker, I thought you, as a Speaker –

THE SPEAKER: I will always protect my Members. Next item. *(Applause) (Hon. Ssenyonyi rose_)* Yes, Leader of the Opposition -

10.18

THE LEADER OF THE OPPOSITION (Mr Joel Ssenyonyi): Thank you, Madam Speaker. I would like you to guide. Last week, before you adjourned the House, I raised a critical matter regarding the Bills that are before us to process, which are on the Order Paper for second and third reading.

The complaint that I raised at the time was that we were hurrying through the process. I even tabled here notices by the Clerk to Parliament and the clerk to the committee, inviting, very hastily, stakeholders to come and give input to the UPDF (Amendment) Bill and of course, the Political Parties and Organisations (Amendment) Bill.

Most of the stakeholders that were invited received those communications at 8.00 a.m., requiring them to be present before the committee at 9.00 a.m. the Uganda Law Society received their letter at 11.50 a.m. and they were being required to appear at 12 noon, 10 minutes later, yet that was the only day available for submission of views, memoranda and so on and so forth.

When I raised this issue before you, Madam Speaker, you committed and said that I should not worry, the process is going to be given adequate time. After all, according to our rules, we have 45 days within which to process these Bills. That was your commitment, Madam Speaker. You said I should not worry; you are going to give adequate time to process these Bills.

Some of these stakeholders actually wrote back to the committee, requesting time on Monday, Tuesday and so on. However, as we went into the weekend, colleagues on the committees that were considering these Bills were at a hotel, considering the Bills and writing their reports, in other words, disregarding the views of the different stakeholders – *(Interjection)* - Madam Speaker, I do not know if you want to allow information on my procedural point.

THE SPEAKER: Can you finish your procedural point?

MR SSENYONYI: Even though I know he had a very critical issue to beef it up, like I was saying, it appears as if there was a machination to lock out the different stakeholders, yet you committed, Madam Speaker, that there was going to be adequate time. I said that we were going to follow your guidance which you gave here, but that did not happen.

I do not want to think that the Speaker lied to us, as the House, or could it be that the committee disregarded your ruling? This is because when you speak in that chair, you are giving guidance and a ruling. You said the committees are going to avail adequate time but the committees went into the weekend and began to write their report.

What happened, Madam Speaker? Did the committee disregard the guidance that you gave? I would request that you help us on that matter.

THE SPEAKER: Thank you. Honourable LOP, I forwarded the report to the committee and after that, they are supposed to report back and we give them 45 days. If the committee

finishes work in one day, who am I to say, "Why have you finished today?"

Secondly, when the work is done, I apply rule 26 and put this work on the Order Paper. I do not get involved in committee work; committee work is for the Whips – the Government Chief Whip, the Opposition Whip, Independent Whip and all those ones.

Prime Minister, maybe you could answer why you have hurried to bring your work to the House. Prime Minister -

10.23

THE PRIME MINISTER AND LEADER OF GOVERNMENT BUSINESS (Ms Robinah Nabbanja): Madam Speaker, I told you sometime back that I am one of the best-performing Prime Ministers – *(Laughter)* - so, if I can produce work in such a short time, I want the Leader of the Opposition to appreciate. That is what I can say.

THE SPEAKER: Yes, Leader of the Opposition (LOP) -

MR SSENYONYI: Madam Speaker, it is very possible, by the way, that the Prime Minister does not even know the contents of the committee report, but she was very quick to rise to defend –

THE SPEAKER: Honourable chairperson, there is –

MR SSENYONYI: Legal committee chairperson, Hon. Namuyangu, I am on a point of procedure. You are always absent; you do not even know the rules –

THE SPEAKER: Order! Honourable members, let us be calm. Let the LOP finish his statement.

MR SSENYONYI: Madam Speaker, I would like the Prime Minister to cease getting excited. Please do not get excited. This is the Parliament of rules, and you have been here for quite a bit of time. I do not know why, as Prime Minister, you do not read the rules –

THE SPEAKER: Honourable LOP, raise your issue.

MR SSENYONYI: I was raising it before the Prime Minister, who does not know the rules, rose to disorganise me –

THE SPEAKER: No, raise your issue.

MR SSENYONYI: Let me then raise it. Hopefully, the Prime Minister will be calm and quiet. As I was saying, before I was rudely interrupted by the Prime Minister, I had expected the committee chairperson to help us understand, because when you gave that guidance that there is going to be adequate time, I took that to be guidance for the committee. I do not know why they hurried and locked out –

THE SPEAKER: LOP, let us hear from the chairperson of the committee. Chairperson of the committee? Hon. Hassan, I am going to send you out; there is one House.

MR BAKA: Madam Speaker, a committee of Parliament has 45 days within which to process a Bill referred to it. That simply means that within 45 days, you should be able to present the work. If that work is presented within a week, you have not offended any rule. If the work is presented within a day, you should be thanked for being efficient and that is what we have done exactly. The Bill is ready, we considered it, and we are ready to report to the House.

THE SPEAKER: Next item.

MR SSENYONYI: Madam Speaker, this is very critical. I understand that a committee can process a Bill even in one hour, forget about one entire day, but that is in the event that there are no interested people, as stakeholders, to give input, because you see our law-passing process is supposed to be consultative –

THE SPEAKER: Can we look at that when we reach the Bill?

MR SSENYONYI: That is alright, let me finish this one, and then you will guide. The

reason I have insisted on this matter is because there were stakeholders who were saying we want to give our input, and you locked them out; that is the challenge. You can produce and process a Bill even in one hour –

THE SPEAKER: LOP, as of now, we do not even know which stakeholder was interacted with.

MR SSENYONYI: I am a stakeholder, Madam Speaker -

THE SPEAKER: What we need to do is to wait and hear which stakeholders they consulted.

MR SSENYONYI: Allow me to finish, and then you rule, Madam Speaker. I am a stakeholder. My political party, the National Unity Platform, received the invitation at 8.00 a.m. saying, come at 9.00 a.m. We wrote to the committee - and they received the letter – saying that this was on short-notice and there was no magic we could do and requested for Monday at 9.00 am.

THE SPEAKER: On which Bill is that?

MR SSENYONYI: The UPDF (Amendment) Bill -

THE SPEAKER: Let us start with the first Bill.

MR SSENYONYI: Allow me to finish, Madam Speaker.

THE SPEAKER: Yes, LOP.

MR SSENYONYI: The committee received our letter and they did not write back to us. As we were waiting to show up on Monday to present our views, over the weekend, we heard they were busy processing; writing a report. That is problematic because we are supposed to be a people-centred Parliament meaning that the laws we pass should be for the good of the people; those people should be consulted so that they have their input. By the way, you can end up disregarding the input of those stakeholders, but listen to them. You cannot disregard them and think it is okay. No, listen to them, and then you can disregard them but when you do not allow them to show up, you are violating our laws.

Finally, Madam Speaker, we seem to be creating and painting an atmosphere that, regardless of what the views that come through are, this Bill is *finito*. I saw, with sadness, the Government Chief Whip late in the night, speaking to the media. He said, "We have met and concluded that this Bill is going to be passed as is." That worried me because the Government Chief Whip, who is our colleague, knows that this Bill - the UPDF (Amendment) Bill - was brought to this House by the Government.

I thought that, as the Government Chief Whip, you would be interested in the Bills that you have brought –

THE SPEAKER: What is the procedural point you are raising?

MR SSENYONYI: I am raising it; I am building it. I had thought that as the Government Chief Whip, you would be interested in the input of different stakeholders into your Bill as Government, but when you bring a Bill and then you say, "We are going to pass it as is", regardless of any other input, or whether consultations have happened or not, that is problematic and it is outside the law.

Madam Speaker, my colleagues - and I want to appreciate them - made it through the night to put together a minority report but what you are saying is that that is disregarded –

THE SPEAKER: Where is the minority report?

MR SSENYONYI: Is it alright that we sit here and pretend that we are processing a Bill within the law; that we are capturing the views of all the other people, and yet not? Because we gave you the benefit of the doubt to say, "Okay, let us partake in this process", but you have abused that because you are saying that we do not care and at night, the Government

Chief Whip says, "Regardless, we are passing it as it is". Why did you invite people? Maybe that is why you did not even give them time.

Finally, I am very hard-pressed, together with my colleagues, to sit here and participate in a sham process. I am calling it a sham process because it is pretentious. When you bring a Bill, you should give it time for people to have their input. But you are saying that we do not need your input, and we are going to pass the Bill as is; that is why you did not rein in on the committee to give adequate time to the stakeholders. That means that this is pretentious and a sham for these two Bills; the UPDF (Amendment) Bill and the Political Parties (Amendment) Bill.

Madam Speaker, myself together with my colleagues are hard-pressed to participate in this sham process, so we shall leave you to participate in your sham process to process your Bill, pretending that you are getting the input of the people of Uganda and yet not. I will take my leave because I do not want to participate in this sham process. Thank you.

(Whereupon some members of the Opposition exited the Chamber.)

THE SPEAKER: Thank you, have a blessed day. Next item.

Honourable members, you recall that on Wednesday, 14 May 2025, Hon. Nakut Faith tabled a Private Members' Bill, the Political Parties (Amendment) Bill, 2025, for the first reading. *[Member: "Point of Procedure?"]* Yes, Hon. Jonah - Honourable members, can we have free sitting? Shadow minister for justice and constitutional affairs?

MR ODUR: Thank you, Madam Speaker. About -

THE SPEAKER: Honourable members, listen to Hon. Odur.

MR ODUR: About two weeks ago, the President issued an instrument of appointment of a Cabinet member in the name of Adonia Ayebare. Appointment of Cabinet members is provided for in the Constitution, and reference to a member of Cabinet is severally made in the Rules of Procedure of Parliament, on how Parliament interacts with members of the Cabinet.

The procedural matter I am raising is twofold; one is for the Leader of Government Business to brief this House. My expectation was that a member appointed to Cabinet would be forwarded to Parliament –

THE SPEAKER: Appointments Committee.

MR ODUR: Parliament's Appointments Committee to interact, approve or disapprove but also inquire into the actual arrangement of that nature of appointment.

The second procedural matter is that shortly after that appointment, there was information in the public domain, and I saw copies of letters, that Ambassador Adonia Ayebare was implicated. There are allegations touching his conduct as our ambassador in New York to the extent that he is being investigated by authorities outside the jurisdiction of Uganda. It touches a matter of public funds of an estimated $500,000 that was meant to benefit the Government of Uganda. Up to now, Parliament and the country have not received any explanation, justification or even the steps being taken.

Therefore, the procedural matter I am raising is twofold. One, to have a briefing on how Parliament can interact with such a kind of appointment in the Cabinet. Is he a half-Cabinet minister or quarter Cabinet minister? What kind of appointment is that? I do not see him here yet he is required to be here.

Two, regarding that particular allegation, which is very serious and soils the image of this country, what steps are being taken by the Government? In the alternative, Madam Speaker, I would then persuade you that, that matter be investigated by the relevant committee of this House so that the image of Uganda is not tarnished. I thank you.

THE SPEAKER: Thank you, Hon. Jonathan. Rt Hon. Prime Minister, I need a report on what Hon. Jonathan is raising – Hon. Balaam, leave Hon. Odur. *(Laughter)*

Hon. Jonathan, we will have the report in the next sitting on what you have raised; one, on the appointment and two, on the allegations. If the allegations are there, then we will have to forward them to our relevant committee for them to find out what is happening.

Honourable members, as I was telling you, there was an amendment Bill to the Political Parties and Organisations Act, 2005, brought by a private Member, Hon. Nakut Faith. Pursuant to the Rules of Procedure of Parliament, I will now invite the sponsor of the Bill to move a motion to that effect. Hon. Nakut -

10.36

MS FAITH NAKUT (NRM, Woman Representative, Napak): Madam Speaker, in accordance with Rule 136 of the Rules of Procedure of Parliament, I beg to move that the Bill entitled, "The Political Parties and Organisations (Amendment) Bill, 2025" be read for the second time.

THE SPEAKER: Seconded? It is seconded by Hon. Ogwang, Hon. Isiagi, Hon. Shartsi, and Minister Kasaija – the whole House except Hon. Odur. Would you love to speak to your motion?

MS NAKUT: Yes, Madam Speaker. It is true that on 14 May 2025, the Political Parties and Organisations (Amendment) Bill, 2025 was read for the first time and referred to the Committee on Legal and Parliamentary Affairs for scrutiny and report back under rules – *(Interruption)*

THE SPEAKER: Procedure?

MR ODUR: Madam Speaker, the Rules of Procedure of this Parliament, from which you have severally ruled and confirmed, states that the Frontbench on either side of the House are exclusively reserved for Members of the two alternative Governments.

The procedural matter I am raising is whether the Frontbench on this side, where I am seated uncomfortably – *(Laughter)* - being disturbed by Hon. Balaam and Hon. Ogwang – Wouldn't you remove and put them elsewhere?

THE SPEAKER: Honourable members, that seat is meant for the ministers on the alternative.

MR ODUR: Thank you.

THE SPEAKER: Hon. Okot Junior, you are not a minister. The acting Leader of the Opposition (LOP) has said that you are not a minister.

MR ODUR: Madam Speaker, let the record also capture that I am not here as the acting LOP. I am here as a Member of Parliament so I really pray that you prevail over that strictly.

THE SPEAKER: Hon. Nakut, can you continue?

MS NAKUT: Thank you, Madam Speaker. As I had said earlier, the Bill was referred to –

THE SPEAKER: Honourable members, we gazetted the two front benches for ministers in our Rules of Procedure.

MS NAKUT: Thank you, Madam Speaker. The ministers are protected. The Bill was sent to the Committee on Legal and Parliamentary Affairs for scrutiny and report back under Rule 135(1) and Rule 200 of the Rules of Procedure of Parliament.

The object of the Bill is to amend the Political Parties and Organisations Act, Cap. 178, to achieve the following three things:

i) To restrict Government funding and other public resources provided to political parties and political organisations that are represented in Parliament to only political parties and organisations that are members of the National Consultative Forum;
ii) To provide for the Inter-Party Organisation for Dialogue (IPOD) and the Forum for Non-represented Political Parties and

Political Organisations as organs of the National Consultative Forum; and

iii) To provide for the functions of the Inter-Party Organisation for Dialogue and for related matters.

Madam Speaker, the sectoral Committee on Legal and Parliamentary Affairs has told me that they have done their work. They have concluded consultations and are ready to report. I submit.

THE SPEAKER: Thank you, honourable private sponsor. However, our Rules of Procedure require that when the report is presented on the Floor, it is debated after three days. Yes, honourable member -

10.42

MR FOX ODOI-OYWELOWO (NRM, West Budama North East County, Tororo): Thank you, Madam Speaker. I rise to move a motion for the suspension of Rule 214(b) of the Rules of Procedure of this House. Pursuant to Rule 61(1)(d) and Rule 17 of the Rules of Procedure of this House, I beg to move a motion for the suspension of rule 214(14) (b) to waive the requirement in the rules that a committee report on a Bill shall be debated after the expiry of three days from the date the report was tabled.

Madam Speaker, my motion is premised on the fact that in your communication this morning, you indicated that we are at the tail end of this session and we still have a lot of business to cover. It is important that we provide time to cover all the business that is before the House as a commitment to our efficiency and delivery to the people of Uganda. I beg to move.

THE SPEAKER: Is that seconded? Seconded by Hon. Obua, Dr Chris Baryomunsi, Hon. Baka, Hon. Nakut, Hon. Ogwang, Hon. Teira, Hon. Bahati, Honourable Minister for Karamoja Affairs, Dr Aceng, Hon. Namuyangu, Hon. Musasizi, Hon. Ilukol, Hon. Wilson, Hon. Ababiku, Hon. Chemaswet, Hon. Sanon, Hon. Ruyonga, Hon. Ashaba, Hon. Fred, Maj. Alanyo, Col. Dr Nekesa and Hon. Ochwa. I put the question that rule 214- Yes, shadow -

10.44

MR JONATHAN ODUR (UPC, Erute County South, Lira): Madam Speaker, I am here to oppose that motion. When you look at that rule and interpret it correctly, which I invite you to read entirely and if it pleases you, I invite that rule to be read entirely to this House; it is a conditional rule.

It is contingent upon:

a) The report has been uploaded for at least three days. For that motion to be accepted in this House, the first condition is that the reports are laid or circulated on our electronic platforms three days before.
b) That the chairperson presents the report here after those three days.

I invite you to look and interrogate even the commas, the semicolons that are put there. In legislative drafting, it has a meaning. It cannot be ignored. Madam Speaker, do not to fall into the trap and be persuaded by that misdirected motion.

Do not to accept it because it will be breaching our rules and if it means suspending the House to have ourselves understand that rule, it does not take away anything. Please protect the integrity of this House and follow the rules because if you do not follow the rules, even your rulings now do not matter, nobody will be bound by it.

Therefore, if you do not follow the rules, there is nothing that will bind me to follow your rules or have the Order Paper. On that particular matter, that motion cannot stand unless the three days have expired and that report has been laid. That is my understanding and I suppose that is very correct.

THE SPEAKER: Honourable members, can we look at rule 17? Is it one of the entrenched rules? Yes, Attorney-General -

THE ATTORNEY GENERAL (Mr Kiryowa Kiwanuka): Madam Speaker, Rule 17 of the Rules or Procedure of this House allow this House to suspend any rule except Rules 5, 6,

10, 11, 12, 15(1), 25, 94, 99, 104, 113, 114, 115, 116, 117, 118, 124, 130, 131, 132, 133, 140, 149, and 205. Rule 214 is not one of those rules that this House cannot suspend. If it so pleases the House, the House is at liberty to act in accordance with the rules.

THE SPEAKER: Hon. Abdu –

MR KATUNTU: Thank you, Madam Speaker. I can read the rule. Rule (b) says, *"... only be debated after the expiry of at least three days from the day the report was laid on the Table by the Chairperson or Deputy Chairperson, or a Member designated by the committee or by the Speaker."*

First of all, there is no comma or semicolon in this rule. It only ends with a full stop. Therefore, there is nothing to interrogate about full stops and commas in the rule.

Secondly, when you suspend it, it means it does not exist. You are not bound by it. So, you cannot go to the commas of a suspended rule.

My honourable colleague should know that once you suspend, the rule does not apply. That is the essence of rule 17 and this is not one of those that are entrenched.

THE SPEAKER: Honourable members, I am not going to take a personal decision on this rule. I am going to consult the House by putting a question to that effect and it becomes a House issue not mine *(Hon. Odur rose_)* Let me first put the question then you reply. Okay?

MR ODUR: Madam Speaker, I would like to give this example. Rule 20, sittings of the House. A sitting of the House is duly constituted when it is presided over by the Speaker or Deputy Speaker. When you go to rule 17, suspension of rules, rule 20 is not there. Can I now move to suspend this sitting? Rules are not read in isolation, Madam Speaker.

The fact that a rule is not listed for suspension does not make it expressly. You must read the rules entirely. Rule 20 says, "Sitting of the House". Can I come here and then move that this sitting be suspended and you accept it because it is not there?

10.50

MR JACOB OBOTH (NRM, West Budama Central County, Tororo): Thank you, Madam Speaker. What Hon. Odur is giving as an example is not a difficult but a very impossible situation to imagine. First of all, the rule envisages that there will always be a sitting when there is a Deputy Speaker or Speaker. You cannot move a motion when - that is self-defeating.

THE SPEAKER: Actually, it does not have to be entrenched, because it is by implication.

MR OBOTH: It could not be one of the rules because it is not possible. Your imagination is too wild.

THE SPEAKER: Honourable members, I put the question that rule 214(14) (b) be suspended to waive the three days requirement prior to the debate of the committee report on the Bill, to enable the House to expeditiously consider the Political Parties and Organisations (Amendment) Bill, 2025.

(Question put and agreed to.)

REPORT OF THE COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON THE POLITICAL PARTIES AND ORGANISATIONS (AMENDMENT) BILL, 2025

THE SPEAKER: Honourable Chairperson, Committee on Legal and Parliamentary Affairs, can you please report?

10.52

THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Stephen Baka): Thank you, Madam Speaker. I come to present a report of the Committee on Legal and Parliamentary Affairs on the Political Parties and Organisations (Amendment) Bill, 2025.

I have also received two minority reports from two honourable members. Each of them is signed by one Honourable Member. The majority report has 15 signatures. Therefore, after my presentation, within the rules, the minority presenters will be coming to present their reports. I will commence to present the report.

Madam Speaker, on 14 May 2025, the Political Parties and Organisations (Amendment) Bill was read for the first time and referred to the Committee on Legal and Parliamentary Affairs for scrutiny and report back under Rules 135(1) and 200 of the Rules of Procedure of Parliament.

The object of the Bill is to amend the Political Parties and Organisations Act, Cap. 178, to:

(a) Restrict Government funding and other public resources provided to political parties and political organisations that are represented in Parliament to only political parties and organisations that are members of the National Consultative Forum;
(b) Provide for the Inter-Party Organisation for Dialogue (IPOD) and a forum for Non-represented political parties and organisations as organs of the National Consultative Forum;
(c) Provide for the functions of the Inter-Party Organisation for Dialogue and for related matters.

Madam Speaker, next is methodology. In the process, we held committee meetings with the mover of the Bill, the Hon. Yusuf Mutembuli, who represented Hon. Faith Nakut, and Mr Lawrence Sserwambala, Executive Director of the Inter-Party Organisation for Dialogue (IPOD).

We reviewed the following documents: The Constitution of the Republic of Uganda, the Political Parties and Organisations Act, and written submissions by the Attorney-General.

Madam Speaker, the next part is the regulation of political parties in Uganda.

Uganda returned to the multiparty political system in 2005. The country had been operating under a Movement system since 1996, but in 2005, Parliament passed a constitutional amendment allowing multiparty politics once again.

In order to regulate the formation, operation, and membership of political parties in Uganda, Parliament enacted the Political Parties and Organisations Act, Cap. 178. The Political Parties and Organisations Act contains, among others, provisions that foster tolerance, dialogue, and peaceful coexistence between and among different political parties, organisations, and their members and supporters.

These include section 20, which establishes the National Consultative Forum for Political Parties and Organisations, section 15, which imposes a duty on political parties to give information to the Electoral Commission, and section 17, which provides for the merger of political parties and organisations.

The Political Parties and Organisations Act further sets out a code of conduct for political parties and organisations with the objective to, among others, promote tolerance, peaceful coexistence, and democratic principles between and among different political parties, organisations and their members.

The code of conduct in paragraph 3(c), (f), and (h) of Schedule 4, obligates political parties and organisations to:

(i) Respect, uphold and promote democratic values and principles, performing inclusive participation of members of the political party and accountable representation in governance for the development of the country;
(ii) Establish and maintain effective lines of communication with the Electoral Commission, the National Consultative Forum and other registered political parties and organisations;
(iii) Respect, uphold and promote good governance, integrity, respect, tolerance,

peaceful coexistence, transparency and accountability.

Political parties and organisations represented in Parliament have supplemented measures subscribed in the Political Parties and Organisations Act for maintaining communication, dialogue, and cooperation between political parties and the organisations by creating the Inter-Party Organisation for Dialogue, an organisation aimed at promoting inter-party dialogue and operating as a means of dealing with political differences and conflicts between political parties.

IPOD was formed in 2009 as a loose coalition of political parties with representation in Parliament with support from the Netherlands Institute for Multiparty Democracy at the request of the Government of Uganda in a bid to support its nascent multiparty democracy following a return to multipartism in 2005.

At the time of its foundation, there were five political parties in Uganda, and the political parties are mentioned. Membership in IPOD is voluntary and the political parties are free to join or not. IPOD has two organs: The Summit, comprising the presidents and the secretaries-general of political parties represented in Parliament, and the Council, comprising representatives of political parties, including the secretary-general and three other senior members of the party, one of whom must be a woman. The council also has the Prime Minister, the Leader of the Opposition and the Opposition Whip.

The Political Parties and Organisations Act contains a mechanism for encouraging the growth of strong and independent political parties and organisations. One such mechanism is contained in Section 14 of the Political Parties and Organisations Act and obligates the Government to provide funding and other resources to political parties and political organisations represented in Parliament.

The funding is restricted to political parties and organisations represented in Parliament, provided in the following manner:

a) Registered political parties or organisations are funded by the Government under this Act in respect of elections and their normal day-to-day activities;

b) In respect of elections, the Government shall finance political parties and organisations on equal basis;

c) In respect of normal day-to-day activities, funding shall be based on the numerical strength of each political party or organisation in parliament.

General analysis, observation, findings, and recommendations of the committee

This part of the analysis examines the Bill and considers the provisions being amended, the proposed amendments made to the provisions, the effect of the amendments including the provisions, legality, effect and effectiveness in light of the other provisions of other laws and existing public policy, if any, court decisions and the mischief it intends to cure. The analysis is classified in thematic areas as the Bill proposes to amend.

Clause 1: Amendment of Section 14 of Cap. 178

Clause 1 of the Bill seeks to amend Section 14 of the Political Parties and Organisations Act to condition the receipt of funds and other resources provided by the Government to political parties and organisations represented in the Government.

Section 14 of the Political Parties and Organisations Act –

THE SPEAKER: Represented in Parliament.

MR BAKA: Represented in Parliament. Section 14 of the Political Parties and Organisations Act mandates the Government to provide funding and other public resources to political parties and political organisations represented in Parliament.

This funding is restricted to political parties and organisations in Parliament and is restricted to:

a) Registered political parties or organisations shall be funded by the Government under this Act in respect of elections and their normal day-to-day activities;
b) In respect of elections, the Government shall finance political parties on equal basis;
c) In respect of normal day-to-day activities, funding shall be based on the numerical strength of each political party or organisation.

The mover of the Bill informed the committee that the amendment is necessitated by the need to condition funding of political parties and organisations on their commitment to the principles of tolerance, dialogue, and peaceful coexistence as provided in Section 14, since funds are received by political parties without any obligations on their part.

The mover argued that in order to promote transparency, accountability and equitable access to public funding among political actors, adherence to these democratic principles should be a prerequisite for accessing government funding. This will ensure that funds are used responsibly and effectively and accessed by political parties that have agreed to align with democratic values.

The Attorney-General supported clause 1 of the Bill on the grounds that amendment will further operationalise Article 72(3) of the Constitution of the Republic of Uganda which empowers Parliament by law to regulate the financing and functioning of political organisations in addition to the funding principles already provided under Section 14 of the Political Parties and Organisations Act.

The committee has examined the proposal and Section 14 of the Political Parties and Organisations Act and observes that apart from the requirement to account, political parties have no other obligation imposed by law for receipt of the funds provided to them by the Government.

The committee is also aware that political parties have an obligation to adhere and to promote tolerance, peaceful coexistence and democratic principles between and among different political parties, organisations and their members as provided in the Code of Conduct for Political Parties, specifically in paragraph 3(c), (f), and (h) of Schedule 4.

Where a political party does not adhere to the Code of Conduct, paragraph 16 of the Code of Conduct for Political Parties provides punishments which need to be enhanced for effectiveness in order to act as a deterrence.

The committee agrees that conditioning the receipt of these funds provided by the Government under section 14 will make political parties adhere to the requirements of the Political Parties and Organisations Act, induce behaviour change, and achieve more cohesion. Funding political parties should be conditional on their adherence to principles of tolerance, dialogue and peaceful coexistence for several important reasons, including:

a) Promoting stability and peace;
b) Encouraging responsible politics;
c) Upholding democratic values;
d) Preventing extremism and divisiveness; and
e) Accountability and good governance.

Overall, conditional funding helps to create a political environment conducive to democracy, stability and social harmony.

However, whereas the committee agrees with the principle for the amendment proposed in clause 1, the committee finds that using the phrase "National Consultative Forum" is confusing since National Consultative Forum is a forum of all political parties in Uganda, including those parties that do not receive funding from the Government.

The committee notes that since the intention of the Bill is to condition receipt of funds on the commitment of political parties and organisations represented in Parliament to the principles of tolerance, dialogue and peaceful

co-existence, using the phrase "National Consultative Forum", as proposed in clause 1, will extend the application of the provision to other political parties and organisations otherwise not represented in Parliament.

The committee is, therefore, of the considered opinion that clause 1 should be redrafted to require the Government to only provide funds or other public resources to a political party or organisation if the political party or organisation is a member of and participates in activities of IPOD.

Recommendation

The committee recommends that funding political parties should be conditional on the adherence of political parties and organisations to principles of tolerance, dialogue and peaceful coexistence, as proposed in clause 1.

The committee further recommends that the Government should only provide funds or other public resources to a political party or organisation if the political party or organisation is a member of and participates in activities of IPOD.

Clauses 2 and 3: Institutionalising IPOD

Clauses 2 and 3 of the Bill propose amendments to section 20 and an insertion of a new section 21 to institutionalise Inter-Party Organisation for Dialogue (IPOD). Clause 2 proposes to amend section 20 to include IPOD as an organ of the National Consultative Forum and section 2l proposes to provide the functions of IPOD.

The Bill, in clause 2, proposes to institutionalise IPOD as an organ of the National Consultative Forum. The National Consultative Forum, currently, is created under section 20 of the principal Act. The National Consultative Forum is a forum for all political parties in Uganda and has representation from all political parties and organisations. It has representation from the Attorney-General, the Chairperson of the Electoral Commission and the Secretary to the Electoral Commission. One of the functions of the National Consultative Forum is to enforce the code of conduct of political parties and resolve disputes of political parties and organisations.

The Bill now proposes to reconstitute the National Consultative Forum by creating two organs:

a) The organ for political parties and political organisations with representation in Parliament, which shall be known as the Inter-Party Organisation for Dialogue; and

b) The organ for political parties and political organisations without representation in Parliament, which shall be known as the Forum for Non-Represented Political Parties and Political Organisations.

According to the mover of the Bill, the proposal to institutionalise IPOD will ensure that political parties represented in Parliament have their own organ within the National Consultative forum, where they will discuss their unique issues pertaining to them. Furthermore, the mover argued that there will also be a forum for non-represented political parties and political organisations in which the non-registered parties also have their own organ to discuss issues pertaining to them.

The mover informed the committee that the current council of the National Consultative Forum will remain for purposes of enforcing the code and dealing with matters arising from the two organs.

In supporting the proposals contained in the Bill, the Attorney-General argued that clustering the political parties and organisations registered in Uganda under National Consultative Forum, based on the representation in Parliament and those that are not represented in Parliament, shall promote the spirit of tolerance, dialogue and peaceful co-existence since the clustered political parties and organisations share similar and unique challenges that can be resolved through dialogue among themselves in their respective organs.

The Attorney-General further reasoned that this approach shall promote transparency, accountability and adherence to multiparty political system principles provided for under Article 71 of the Constitution by the respective political parties and organisations.

The committee notes that the proposal to create an organ within the National Consultative Forum is intended to institutionalise Inter-Party Organisation for Dialogue as an organ of the National Consultative Form. The Inter-Party Organisation for Dialogue is a legal entity incorporated in 2021 with an aim of pursuing and promoting inclusive democracy and the fundamental principles of democracy, good governance, human rights, institutional strengthening of political parties to be trusted representatives of public interests, non-discrimination, promoting inter-party dialogue and cooperation as a means for dealing with political differences as well as managing conflict without resorting to undemocratic means.

The committee further notes that IPOD was formed in 2009 as a loose coalition of political parties with representation in Parliament, with support from the Netherlands Institute for Multiparty Democracy at the request of the Government of Uganda in a bid to support its nascent multiparty democracy – that programme is very clear.

The committee notes that the institutionalisation of IPOD as a statutory body represents a critical step in the evolution of Uganda's democratic governance and political maturity. At institutional level, IPOD will be moving into a direction that is fundamental to its work. Since its inception, IPOD has provided a unique platform where political parties, across ideological and partisan divides, can engage in structured, principled, and evidence-informed dialogue.

The committee notes that Uganda's political history is characterised by cycles of conflict, contested transitions and post-election tensions. IPOD has played a stabilising role during these periods by facilitating inter-party communication, managing disputes and encouraging tolerance. The committee notes that formalising IPOD's status through an Act of Parliament will:

a) Provide a permanent institutional home for political dialogue.
b) Reduce the reliance on informal or external mediators.
c) Strengthen early warning and conflict prevention mechanisms in the political sector.
d) Enhance political party accountability for non-violent and issue-based competition.

Recommendations

The committee recommends that IPOD should be institutionalised as proposed in clauses 2 and 3.

In conclusion, Madam Speaker, the committee recommends that the Bill be passed, subject to the proposed amendments attached hereto.

Madam Speaker, the report is duly signed by 14 members of the committee. Also attached are the minority report and minutes of the committee's meetings.

I beg to move, Madam Speaker. *(Applause)*

THE SPEAKER: Thank you, committee chairperson. Can we have the minority report? Where is the minority report?

MR BAKA: The minority report is signed by Hon. Jonathan Odur and Hon. Asuman Basalirwa.

THE SPEAKER: Thank you. Hon. Jona -

11.10

MR JONATHAN ODUR (UPC, Erute County South, Lira): Madam Speaker, this morning, I notified the chairman of the committee and submitted my minority report – three copies – to the Office of the Clerk and the chairman. They were supposed to return one copy to me, which they have not.

However, since I suspected sinister motives, I kept one copy in my coat – *(Laughter)* - that I will now proceed to read.

Madam Speaker, you may recall that –

THE SPEAKER: Hon. Odur, please, read your report. Can I have a copy?

MR ODUR: Madam Speaker, this minority report is presented pursuant to Rule 215 of the Rules of Procedure of this Parliament. It dissents from the majority's report of the Committee on Legal and Parliamentary Affairs on the Political Parties and Organisations (Amendment) Bill, 2025, moved, privately, by Hon. Faith Nakut, Woman Representative, Napak and seconded by Hon. Yusuf Mutembuli of Bunyole East and Hon. Ronald Afidra of Tororo County.

Dissent

The Bill is unconstitutional.

That is the first point of dissent, Madam Speaker. The Bill is unconstitutional. The minority observed that the Political Parties and Organisations (Amendment) Bill, 2025 contravenes the provisions of Article 93 of the Constitution of the Republic of Uganda and rule 130 -

THE SPEAKER: There is a procedural matter.

MR GAFABUSA: Thank you, Madam Speaker. This is a House of record. I just heard Hon. Odur mention an honourable member by the names of Afidra Ronald and is locating him in a constituency in Tororo. The Hon. Afidra I know of is from Madi-Okollo.

Wouldn't it be procedurally right, Madam Speaker, that this record is corrected for posterity?

THE SPEAKER: But was it also necessary to call a Member of Parliament? Let us present the minority report.

MR ODUR: Madam Speaker, part of the documents that have been submitted includes a memorandum submitted by the movers of the Bill. They appeared before the committee and in the opening paragraph, which I can read to you – signed by Hon. Yusuf Mutembuli in the presence of Hon. Afidra – Paragraph 2 says –

THE SPEAKER: Honourable, what he is saying is a correction of the constituency, not Tororo County. Tororo County is represented by Hon. Angura. Hon. Angura, you mean they have taken over your constituency?

MR ANGURA: Madam Speaker, for the record, Hon. Afidra is not a Member representing any constituency in Tororo and Tororo County to be specific. We have Tororo County North represented by Hon. Geofrey Ekanya, Tororo Municipality represented by Hon. Apollo Yeri and I represent Tororo South.

Therefore, we do not have him on record. Hon. Opendi represents the greater Tororo which is West Budama and Tororo County. Thank you very much.

THE SPEAKER: Thank you. Hon. Afidra is not from Tororo. The record should correct it.

MR ODUR: Madam Speaker, I take that correction of the record. All I was trying to do was to show the shabbiness of the movers in writing in their own memorandum to the committee that Hon. Afidra comes from Tororo. *(Laughter)* Now that the record has been corrected, I will proceed to highlight the report.

The first area of dissent, Madam Speaker, as I said, is that the Bill is unconstitutional. The minority observed that the Political Parties and Organisations (Amendment) Bill, 2025 contravenes the provisions of Article 93 of the Constitution of the Republic of Uganda and Rule 130(1)(b) and (c) of the Rules of Procedure of Parliament of Uganda.

Extracts from the statement of justification of the clauses of the Bill signed and presented to the committee by Hon. Yusuf Mutembuli,

MP, Bunyole East in paragraph 2 page 6 is reproduced as follows.

"The Bill in Clause 2 proposes to institutionalise Inter-Party Organisation for Dialogue (IPOD) as an organ of the consultative forum. The consultative forum is currently created under Section 20 of the Principal Act. The national consultative forum shall have two organs:

e) The organ – and I underline the word organ for emphasis – the organ for political parties and political organisations with representation in Parliament which shall be known as the Inter-Party Organisation for Dialogue; and

f) The organ – I highlight again – the organ for political parties and political organisations without representation in Parliament which shall be known as the Forum for Non-Represented Political Parties and Political Organisations.

This will ensure that political parties represented in Parliament have their own organ within the national consultative forum where they will discuss their unique issues pertaining to them. Likewise, there will also be a forum for non-represented political parties and political organisations in which the non-represented parties also have their own organ to discuss issues pertaining to them.

The current council of the national consultative forum will remain for the purpose of enforcing the code and dealing with matters arising from the two organs." End of quote.

Hon. Yusuf Mutembuli was accompanied to the committee by Mr Sserwambala Kabagabe Lawrence who signed his written submission as the Executive Director, Inter-Party Organisation for Dialogue (IPOD).

Madam Speaker, please pay attention to the following extracts from the written submission of Mr Sserwambala: *"Today, I respectfully submit that it is time to give IPOD the dignity, durability and legitimacy it deserves by making it a legal entity"* – I have underlined those words – *"by making it a legal entity under the laws of Uganda."* That is found in paragraph 5 on page 1.

He continues, *"I ask you, on behalf of IPOD and on behalf of all political parties represented in Parliament, to champion the legal institutionalising"* - I underlined that point of IPOD that is found in paragraph 4 page 2.

"I also wish to add that institutionalising IPOD is even more justified by paragraph 5 page 2 as a statutory body" – and I underlined the word statutory body. *"IPOD would be empowered to:*

i. Enforce rules of engagement and ethical codes of conduct among political parties.
ii. Institutionalise youth and women participation in political dialogue.
iii. Mandate the regular review of reforms including those on electoral laws, political finance and civic education."

He continues, *"Such a statutory recognition would also offer structured pathway of emerging political actors to engage with mainstream governance mechanisms, thereby expanding Uganda's democratic base."* That is in paragraph 2 on page 4 of Mr Sserwambala's presentation.

As a statutory body, IPOD would be better positioned to:

i. Monitor, evaluate and report on implementation of agreed upon reforms;
ii. Interface formally with the Electoral Commission, Parliament, and the Executive to track progress;
iii. Mobilise technical and financial resources with greater autonomy and transparency.

Currently IPOD's operations are donor funded and dependent on the voluntary participation of political parties.

He continues, *"Institutionalising IPOD will:*

i. *Provide it with the legal identity, defined government structure and budgetary allocations from the national treasury."* I will repeat, "Provide it with the legal identity, defined governance structure and budgetary allocation from the national treasury;

ii. *Provide continuity in leadership programming and stakeholder engagement.*

They continue, *"A statutory foundation would help IPOD transition from a project-based entity to a nationally-owned and constitutionally-anchored institution*." That is found in paragraph 2 on page 5. *"Let IPOD not just be an initiative but an institution."* This is in the concluding paragraph on page 6. End of quotation.

It is clear from the written submissions of the movers of the Bill and their one-man ally, Mr Sserwambala, that the Bill imposes a charge on the Consolidated Fund. Parliament is stopped from proceeding on any Bill or a motion for that Bill that imposes a statutory charge on the Consolidated Fund. This is in Article 93 of the Constitution and Rule 130(1) and (2) of the Rules of Procedure.

Findings

The minority finds that the Political Parties and Organisations (Amendment) Bill, 2025 privately moved by Hon. Faith Nakut Loru, Hon. Yusuf Mutembuli and Hon. Ronald Afidra Olema violates Article 93 of the Constitution of the Republic of Uganda, and therefore, it is unconstitutional.

The other dissent is the overthrow of the legal mandates of the other institutions. The minority observed that the Private Member's Bill, the "Political Parties and Organisations (Amendment) Bill, 2025", intends to overthrow the legal mandates of various institutions conferred by the Constitution and Acts of Parliament.

A patient analysis by the minority observed that Parliament, this institution, Electoral Commission, National Youth Council, National Women's Council, among others, will be relegated to be subordinate to Inter-Party Organisation of Dialogue (IPOD). The mandate to carry out legal reforms is an exclusive preserve of Parliament provided under Article 79. Nobody can make a law to reform issues of elections except this Parliament.

Two, the mandate to enforce rules of engagement and conduct among its political parties is the preserve of the Electoral Commission by law. The mandate to institutionalise women and youth in political spaces is a preserve of the Women and National Youth Councils.

The recent policy of the NRM Government, as told to us here in this Parliament by the Minister of Public Service, is that Ministries, Departments and Agencies (MDAs) are being rationalised for efficiency and effectiveness by eliminating duplication and wastefulness. This is my finding.

The minority finds that the Bill interferes with both the constitutional and statutory mandates of Parliament, Cabinet, Electoral Commission, National Youth Council, National Women's Council, and potentially amends, by infection, several Acts of Parliament that will likely plunge Government into conflicts and confusion.

It is further found that provisions of the Bill appear to contradict the Government policy on rationalisation, specifically on halting the creations of new bodies, organs, councils, secretariats, and others.

The third dissent is on lack of public participation and consultation with political parties. The minority observed that the movers of the Political Parties and Organisations (Amendment) Bill, 2025 did not consult the political parties represented in Parliament and those outside. In fact, the motion seeking leave of Parliament to move a Private Member's Bill was sought and granted to the movers of the Bill on 13 May 2025, at around 5.00 p.m.

The Order Paper listing the Bill for the first reading, which was the next day, 14 May 2025, was released on 13 May 2025, before the Bill

was even published and gazetted. The Bill was published on 14 May 2025, and introduced to the House on the same day. The Chairperson of the Committee on Legal and Parliamentary Affairs scheduled, and indeed the committee held meetings with the movers on 15 May 2025. Today, we are here to present the report with only the movers of the Bill submitting.

It is, therefore, suspicious that the regulator of the political parties, which is the Electoral Commission, the supervising ministry, Justice and Constitutional Affairs, and the political parties represented in Parliament, were never consulted by the movers nor the committee. No other stakeholder, including Members of Parliament, who had sought, albeit in futility, to move Private Member's Bills on reforms touching political parties and elections, were accorded an opportunity to submit before the committee.

The House may recall the vehement submission by the esteemed founding former first son of Uganda, Hon. Jimmy James Michael Akena Obote, MP, Lira City East, and Party President of the two-time party in Government - for those who do not remember, 1962 to 1971 and 1981 to 1985 - who is also a member and a former chairperson of the IPOD. In his submission on record of this House, Hon. Jimmy James Michael Akena labelled the Bill "diabolical".

The minority found it necessary to recast the dictionary meaning of the word "diabolical", as below. It means characteristic of a devil, or so evil as to be suggestive of a devil. The second dictionary definition is, "disgracefully bad and unpleasant". The minority invites the House to pay kind attention and consider the concerns of the party president of Uganda People's Congress (UPC) and also recall the concerns of Hon. Asuman Basalirwa, the party president of JEEMA, in as far as implementation of Section 14 of the Political Parties and Organisations Act, is concerned.

There is no doubt in my mind that the leaders of the political parties in IPOD, who are not Members of this House – I have listed them: Hon. Robert Kyagulanyi Ssentamu of the official opposition party, National Unity Platform (NUP), Hon. Patrick Amuriat Oboi of the Forum for Democratic Change (FDC) - "One Uganda, One People", Hon. Norbert Mao of the Democratic Party (DP) – "Truth and Justice", Mr Magara George William of the People's Progressive Party (PPP), if given the opportunity, would have equally opposed this Bill that has been moved without their views.

The minority also observes that the regulator of the political parties, which is the Electoral Commission, has powers to sanction political parties and organisations. The sanctions available to the Electoral Commission include deregistration, which is an equivalent to a death sentence to a political party and organisation.

The minority is of the considered view that the Electoral Commission has all the tools, should it be necessary, to deal with any political party which is found culpable. The minority did not receive any single evidence of complaint filed by the movers to the Electoral Commission, and further that the Electoral Commission failed to act on such imaginary violations. This is the finding of the minority.

The minority finds that the Bill is diabolical - you can recall those definitions - and miserably falls short of meeting the provisions of Article 8A of the Constitution, in as far as public participation in enactment of legislation is concerned.

It is further found that the speed at which the Political Parties and Organisations (Amendment) Bill, 2025, is being rushed is greatly disconnected with the urgency required and expected of Parliament, to solve the contemporary challenges facing Ugandans in the areas of creation of decent jobs, improvement in the health care services, provision of quality education, delivery of fair and speedy justice, among others.

The other dissenting point is the unreasonableness and irrationality of the Bill. The main justification of the Bill, stated by the movers, is to condition and obtain commitment of political parties and organisations to

principles of tolerance, dialogue and peaceful co-existence.

The justification is shallow, unreasonable and irrational. At registration, all political parties carefully choose their own principles embedded in their constitutions which guide them. These are registered with the Electoral Commission. In the absence of the express provisions in the constitution of political parties, the recourse is to the National Objectives and Direct Principles of the State Policies in Articles 29 and 69-76 of the Constitution of the Republic of Uganda.

The minority finds that the Political Parties and Organisations (Amendment) Bill, 2025 is frivolous, vexatious, unjustified, unreasonable, irrational, and irrationally falls shortly acute of the constitutional parameters set out in the National Objectives and Direct Principles of the State Policy.

Conclusion

The minority having found the following:

1. That the provisions of the Bill have the effect of imposing a charge on the Consolidated Fund contrary to Article 93 of the Constitution of the Republic of Uganda;
2. That the Bill interferes with both constitutional and statutory mandates of the Parliament, Cabinet, Electoral Commission, National Youth Council, National Women's Council, and potential amends, by infection, several Acts of Parliament.
3. The Bill contradicts the Government's policy of rationalisation on the creation of new expenditure centres, such as the two organs proposed in this Bill.
4. The Bill is diabolical and miserably falls short of meeting the provisions of Article 8A of the Constitution as far as participation in the enactment of legislation.
5. The Political Parties and Organisations (Amendment) Bill is frivolous, vexatious, unjustified, unreasonable and irrational.

Now, therefore, it is recommended to Parliament as follows:

1. No question be proposed upon the Political Parties and Organisations Bill.
2. Motions seeking leave to introduce private Members' Bills should be subjected to rigorous scrutiny by way of extensive debates on the justification for the peculiar circumstances to warrant the grant of leave. If I may add, the Government must first fail reasonably to provide a Bill to have a justification for private membership.
3. The Minister of Finance, Planning and Economic Development be cautioned to execute the mandate of the ministry diligently and avoid late-night escapades of issuing defective certificates of financial implication.
4. The Parliament avoids entangling and entertaining motions and Bills arising out of petty quarrels and disagreements between individuals and institutions.
5. Lastly, the Business Committee of Parliament should convene on a more regular basis to conduct business as provided in the Rules of Procedure.

Madam Speaker, before I conclude, when a point of law or procedure is raised in this House, it is my humble prayer that you make a ruling substantially. It cannot - A point of law or a preliminary objection cannot be put to a vote. That preserve is entirely for the presiding officer. The ruling must be on the record. You cannot say, because the points of law are raised - This is provided in our rules. I request that, where I have raised a point of law touching the Constitution or our Rules of Procedure, you give a formal ruling. It is now hereby reported by this person who signed the minority report.

Thank you very much, Madam Speaker.

THE SPEAKER: Thank you, Hon. Odur. Where is the other minority report?

In the absence of the minority report, Attorney-General, we need a response to the issues that are raised, since the Government was the one that gave the Certificate of Financial Implications.

11.33

THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka): Thank you, Madam Speaker. I have had the opportunity to read the certificate that was issued by the Ministry of Finance. The plain reading of the same is saying that while the expenses are expected to be used, the money is already in the budget. I understood that there was no imposition. The Government had already provided money. This Bill is simply reorganising what already exists. There is a National Consultative Forum for which money has been provided to run the affairs of the National Consultative Forum, and the Bill seeks to reorganise the National Consultative Forum.

THE SPEAKER: Does it have an effect on the money that we have always allocated to the political parties?

MR KIRYOWA KIWANUKA: No, Madam Speaker. Our understanding is that it does not have any other charge.

Madam Speaker, now on the issue of rationalisation, the National Consultative Forum consists of all the members of all the political parties registered in Uganda. The Inter-Party Organisation for Dialogue (IPOD), which was sought to be introduced, from my understanding, is only related to a subset of those.

All the political parties which are represented in the House are members of the National Consultative Forum. So, they are saying, we shall have a meeting of the 43 or whatever number you have, but we shall also have another meeting. Therefore, I do not think there is anything to do with rationalisation here.

I do not know the other issue about the ruling of the - Madam Speaker, we may run into a problem if we take the interpretation given by Hon. Odur. We always discuss matters of law in the House. The principal purpose for which we are here is legislation and at all points, we discuss matters of law. So, if the Speaker, every time we speak here on a point of law, must first rule, then I think that is a wrong interpretation. I have not seen that provision in the rules.

Madam Speaker, lastly, this was a minority report. There have been majority and minority reports so the Members should now be allowed to debate those reports and then make a decision on how to proceed.

I beg to submit.

THE SPEAKER: These reports are basically to form a debate on the next step. We can now open the debate on – Yes -

MR ODUR: Madam Speaker, I want to draw your attention to the wording.

THE SPEAKER: Honourable, just a minute. Honourable Attorney-General, the certificate, where it says it has a financial implication. Could you please make a clarification on that?

MR KIRYOWA KIWANUKA: Madam Speaker, the certificate says, *"This Bill has a financial implication which has been provided for in the budget of this institution"*. It is not an imposition of a charge. It is saying that, from my reading of this, whatever money you are going to use to do this is already there. It is not an imposition. They are not imposing a charge on the Consolidated Fund. They are just spending what has been provided.

THE SPEAKER: Okay.

MR ODUR: Madam Speaker, the records of my submissions are already with you, but I want to remind you that before we go to debate, you resolve this matter.

Rules regarding the settlement of financial matters. "*A question shall not be proposed upon a Bill, motion, an amendment Bill, or amendment to a motion which has not been introduced or moved by a minister. If, in the opinion of the Speaker, the object of the Bill, motion and Amendment Bill or amendment to the motion is to make provision for the following*:

(a) The imposition of taxation or alteration of taxation otherwise by reduction, not applicable to this.

(b) The imposition of a charge upon the Consolidated Fund or other public fund of Uganda or the alteration of any such otherwise by reduction.

(c) The payment issue…"

The point I am making is that your opinion as the Speaker -

THE SPEAKER: Hon. Odur -

MR ODUR: Let me finish. Your opinion as the Speaker is first required. If the Speaker rules as the presiding officer - because these records may form part of other proceedings. So you cannot, as the Speaker, just wish it away. What is your opinion on this point?

THE SPEAKER: Hon. Odur, this certificate was given by the Government. I have asked the Government to respond to the issue of whether it imposes a tax or has an effect on Article 93. The Government said, "It does not have an effect on Article 93". If the Government says it does not have and that is the legal advisor of the Government, then it does not. Yes, Finance -

11.40

THE MINISTER OF STATE FOR FINANCE, PLANNING AND ECONOMIC DEVELOPMENT (GENERAL DUTIES) (Mr Henry Musasizi): Madam Speaker, through my minister, I wish to state that the Certificate of Financial Implications which we issued does not create additional financing requirements by the Government. We have been providing a budget for political parties. This exists in the budget which we are running now and the budget which we passed on Thursday.

What this law requires is conditioning access to this money to certain rules and standards. Otherwise, the money that we have been providing will remain the same. This is why we said that this certificate will not impose new financing requirements. It will be financed within the already provided for budget.

THE SPEAKER: Does that mean it has no existing imposition of levy on 93?

MR ODUR: Madam Speaker, you will bear with me. If you listen carefully to the submission of the minister, he does not deny a charge on the Consolidated Fund. All he is saying is that there will not be an additional - The wordings of the Constitution and the rules do not include the word, "additional". They just say, "a charge".

THE SPEARER: Hon. Odur, we have been providing for money for political parties in this House and it goes to the political parties in the House. The law is now saying that we have parties in the House that do not subscribe to the Inter-Party Organisation for Dialogue (IPOD). Those parties that are in the House must first subscribe to IPOD to be able to get part of this money.

There is no additional money that is being added to political parties. The same amount is going to be distributed according to the numerical strength in the House.

However, the law is also saying that if you do not want to cooperate by being part of IPOD, then you do not qualify. Meaning that if you do not participate, the money that is going to be distributed to the other parties that are in the IPOD will be within and it increases on their money. *(Hon. Odur rose_)* Yes, Dr Chris. Let us first have Dr Chris.

11.43

THE MINISTER OF INFORMATION, COMMUNICATIONS TECHNOLOGY AND NATIONAL GUIDANCE (Dr Chris Baryomunsi): Thank you, Madam Speaker. Hon. Odur should not mislead the House. What Article 93 refers to is for a Private Member's Bill to introduce additional burden –

THE SPEAKER: A charge.

DR BARYOMUNSI: A charge or a tax, which is not applicable in this case. There is no new charge or tax being introduced by the Bill. He knows it but he is just taking Parliament for a ride. I invite him to cease fire and let the House debate these reports.

THE SPEAKER: Thank you. Hon. Akamba, Hon. Tony -

11.44

MR PAUL AKAMBA (NRM, Busiki County, Namutumba): Thank you, Madam Speaker. Article 93 of the Constitution is very clear and the current Bill does not, in any way, offend it. In summary, it prohibits Parliament from proceeding on a Bill or an Amendment, unless it is done on behalf of Government, which imposes a charge on any public fund.

The Political Parties Act, which is already in existence, created a charge on the public fund and that is not in doubt. What the Bill is asking is how this money should be spent. There is no single provision that says or proposes that there will be another charge made on the Constitutional Fund. In my opinion, the Bill is constitutional and it does not offend Article 93 in any way.

THE SPEAKER: Thank you. Let Hon. Odur wind up.

MR ODUR: Thank you, Madam Speaker. This is my last submission, and then it can be debated. I am submitting that without prejudice to the issues debated by the Rt Hon. Speaker, I request that, as per the rules, give your ruling, so that the House can proceed.

THE SPEAKER: I ruled that it does not have an effect on the Consolidated Fund; Article 93, as already stated by the legal adviser of Government and by the Minister of Finance. Honourable Members, physically, we are 148 members and virtually, we have 49 members, which takes us to 197. Yes, Hon. Bahati.

11.47

THE MINISTER OF STATE FOR TRADE, INDUSTRY AND COOPERATIVES (INDUSTRY) (Mr David Bahati): Madam Speaker, we would like to thank the committee and also appreciate the issues raised in the minority report. We have had a clarification that this Bill has no imposition of extra charges. From the report of the majority committee, we have also heard that the Bill is not diabolic but rather intended to organise the current situation of political parties. Having listened to both sides, I move that this House can move to another stage so that we proceed with the Bill. I beg to move.

THE SPEAKER: Seconded by the whole House, with the exception of Hon. Odur.

I put the question that the Political Parties and Organisations (Amendment) Bill, 2025, be read a second time.

(Question put and agreed to.)

BILLS
COMMITTEE STAGE

THE POLITICAL PARTIES AND ORGANISATIONS (AMENDMENT) BILL, 2025

MR AKENA: Procedure, Madam Chairperson.

THE CHAIRPERSON: Yes -

MR AKENA: As a Member of the IPOD Summit, I find it extremely strange that I cannot even input on the goings-on of IPOD on record.

In every Parliament, we have debated a memorandum and there is a current memorandum that is standing for IPOD. The Chairperson of IPOD for the last four years has been the National Resistance Movement (NRM). If there is any breach, it is NRM who have failed to call a summit or even a council meeting.

Therefore, it is important that we deal with this actual issue because what are we correcting? What is the disease we are correcting? The NRM has been in the chair for four years and yet it is supposed to be six months. The provisions that are being brought now are in bad faith because in the last Parliament, under the chairmanship of Hon. Oboth Oboth, IPOD

brought it and I personally presented them to the same committee.

The increased funding that came in a supplementary of 2020 had IPOD in it. How was that money to be shared? At that time, political parties were sharing Shs 10 billion per annum. Under the IPOD arrangement, it was increased to Shs 35 billion with Shs 5 billion going as the 15 per cent, another Shs 5 billion for covering the other 15 per cent and then 70 per cent, the Shs 25 billion was on numerical strength.

At that time, the President acknowledged that NRM acted in bad faith by not allowing that amendment to pass, they acted unchristian. And now, we are going through a process to undermine everything. There is no dialogue here. If we are talking about dialogue as a political party and leader of a political party which held the first Summit in 2009 - The first summit was held in December 2018 under my chairmanship, and the principles which we are debating are what we agreed upon. It is under the Democratic Party that they put flesh on those principles –

THE CHAIRPERSON: What is the procedural matter?

MR AKENA: Honestly, Madam Speaker, are we proceeding well when we cannot discuss this issue? I have not been consulted, as a leader of the summit and as a political party, we have not been consulted. How is it that we are debating this issue? That is why I say it is diabolical. It is not done in the interest of the political players.

I speak for UPC. My brother, Hon. Asuman, is not part of this and I am thankful that Hon. Mao is not here to embarrass himself. This is wrong and we shall all be judged. Let us be honest – *(Member timed out.)*

THE SPEAKER: Honourable members, the Member raised her issue. You still have a gap, as members of IPOD, to go and ensure that you discuss this issue and maybe ask the President not to assent.

Clause 1

11.52

THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Stephen Baka): Madam Chairperson, the committee proposes an amendment to clause 1 of the Bill in the following terms; clause 1 of the Bill is amended by substituting for the proposed subsection (2) the following:

"(2) Notwithstanding subsection (1), the Government shall only provide funds or other public resources to a political party or organisation referred to in subsection (1) if the political party or organisation is a member of the Inter-Party Organisation for Dialogue and participates in activities of the Inter-Party Organisation for Dialogue."

The justification is for clarity, to require a political party and organisation to not only be a member of the Inter-Party Organisation for Dialogue, but also participate in the activities of the Inter-Party Organisation for Dialogue.

THE CHAIRPERSON: Private member?

MS NAKUT: Madam Chairperson, I concede.

THE CHAIRPERSON: Attorney-General?

MR KIRYOWA KIWANUKA: I do not have any objection.

THE CHAIRPERSON: I put the question that clause 1 be amended, as proposed.

(Question put and agreed to.)

Clause 1, as amended, agreed to.

Clause 2, agreed to.

Clause 3, agreed to.

The Title, agreed to.

MOTION FOR THE HOUSE TO RESUME

11.54

MS FAITH NAKUT (NRM, Woman Representative, Napak): Madam Chairperson, I move that the House do resume and the Committee of the whole House reports thereto.

THE CHAIRPERSON: I put the question that the House resumes 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

11.55

MS FAITH NAKUT (NRM, Woman Representative, Napak): Madam Speaker, the Committee of the whole House has considered the Bill entitled, "The Political Parties and Organisations (Amendment) Bill, 2025" and passed it with amendments to clause 1.

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

11.56

MS FAITH NAKUT (NRM, Woman Representative, Napak): Madam Speaker, I move that the House adopts the report of the Committee of the whole House.

THE SPEAKER: I put the question that the report of the Committee of the whole House be adopted by this House.

(Question put and agreed to.)

Report adopted.

BILLS
THIRD READING

THE POLITICAL PARTIES AND ORGANISATIONS (AMENDMENT) BILL, 2025

THE SPEAKER: Hon. Nakut - *(Hon. Odur rose_)* Yes?

MR ODUR: Thank you, Madam Speaker. I would like to raise the issue touching the Constitution and our rules on quorum. I can confirm the number of Members present. I request that you put on record the number of people attending online so that we can confirm that the 47 you mentioned is correct.

THE SPEAKER: Hon. Odur, I mentioned it; I do not know why you doubt what I am saying. I mentioned it and I still maintain what I mentioned. Hon. Nakut -

11.57

MS FAITH NAKUT (NRM, Woman Representative, Napak): Madam Speaker, I move a motion that the Bill entitled, "The Political Parties and Organisations (Amendment) Bill, 2025" be read the third time and do pass.

THE SPEAKER: I put the question that the Political Parties and Organisations (Amendment) Bill, 2025 be read the third time and do pass.

(Question put and agreed to.)

A BILL FOR AN ACT ENTITLED, "THE POLITICAL PARTIES AND ORGANISATIONS (AMENDMENT) BILL, 2025"

THE SPEAKER: Title settled and the Bill passed. *(Applause)* Next item.

BILLS
SECOND READING

THE UGANDA PEOPLE'S DEFENCE FORCES (AMENDMENT) BILL, 2025

THE SPEAKER: Honourable Members, you recall that on Tuesday, 13 May 2025, the Minister of Defence and Veteran Affairs tabled the Bill entitled, "The Uganda People's Defence Forces (Amendment) Bill, 2025", for the first reading.

The Bill was read for the first time and referred to the joint Committee on Defence and Internal Affairs and the Committee on Legal and Parliamentary Affairs, pursuant to Rule 200 of the Rules of Procedure. The joint committee is now ready to report. Pursuant to Rule 136(1) of the Rules of Procedure, I invite the Minister of Defence and Veteran Affairs to move a motion to that effect.

11.59
THE MINISTER OF DEFENCE AND VETERAN AFFAIRS (Mr Jacob Oboth): Madam Speaker, I beg to move that the Bill entitled, "The Uganda People's Defence Forces (Amendment) Bill, 2025" be read the second time.

THE SPEAKER: Is it seconded? It is seconded by Hon. Bahati, the Vice President; Hon. Jessica Alupo, the Prime Minister; Hon. Nabbanja, the Deputy Prime Minister, the minister in charge of Karamoja Affairs, Hon. Chris, Hon. Aceng, Hon. Namuyangu, Hon. Anifa, Hon. Musasizi, Hon. Mbadi, Hon. Rose Akello, the Youth MP; Hon. Fred, Hon. Minister; Gen. Muhoozi, the honourable Minister of Finance; Hon. Kasaija, Hon. Shartsi, Hon. Adoa, Gen. Elwelu, Hon. Okaasai, the honourable Government Chief Whip and the whole House, with the exception of Hon. Odur. *(Laughter)* It has to be on record.

Would you speak to your motion?

MR OBOTH: Madam Speaker, the record of this House has it that this Bill is actually intended to remedy the existing defects in the law. The last time this Parliament handled this Bill was 2005 and the Uganda People's Defence Forces Act, 2005 was enacted in 2005 to provide for the regulation of Uganda People's Defence Forces in accordance with Article 210 of the Constitution. It repealed –

THE SPEAKER: I meant Hon. Muhwezi, not Hon. Muhoozi – and Hon. Otafiire.

MR OBOTH: It repealed and replaced the Armed Forces Pensions Act, Cap. 295 and the Uganda People's Defence Forces Act, Cap. 307. Since 2005, the defence sector has undergone significant transformation, arising from both emerging threats and opportunities. Several of them were unforeseen and, therefore, not adequately addressed by the Uganda People's Defence Forces Act, Cap. 330.

The Act, for instance, did not provide for the provision of health care for the officers and management of militants. It also did not provide for the management of military veterans, management of pensions and conferring of service medals by the defence forces.

It is important to note that since 2005, the administrative structure of the Uganda People's Defence Forces has evolved. This, in turn, has led to the Special Forces Command and the Reserve Forces being elevated from divisions, under the land forces, to independent services. The amendments before you today have taken this into account.

Additionally, following the judgement of the Supreme Court, in the Constitutional Appeal No. 2 of 2021 (Attorney-General V. Hon. Michael Kabaziguruka), there is a need to align the provision of the Act with the Supreme Court's decision. This Bill, accordingly, gives effect to the orders and recommendations of the Supreme Court.

Madam Speaker, I believe that the justifications are embedded in the remedies proposed in the Bill:

1. To align the Act with the new Government policies and the command, control and other administrative structures of the defence forces;

2. To improve the welfare of the officers and militants of the defence forces, to address the glaring gaps in health care by providing health care for officers and militants;

3. To harmonise the management of military veterans;

4. To provide for the decentralisation of the pensions authority from the Ministry of Public Service to the Ministry of Defence and Veteran Affairs;

5. To enhance disability compensation to enable fair payment of compensation to officers and militants of the defence forces for injuries sustained while on duty and address the resulting challenges faced by officers and militants living with post-traumatic stress disorder;

6. To restructure and re-establish the courts martial in the defence forces in accordance with Article 129(1)(d) of the Constitution and prescribe their jurisdiction to provide for the membership and qualifications of presiding officers of the courts martial and the independence of the courts martial;

7. To provide for appeals from the courts martial;

8. To prescribe exceptional circumstances under which civilians may be tried by a court-martial;

9. To establish a military courts department which shall be responsible for the administration of justice within the defence forces and provide for its membership;

10. To establish a disciplinary unit within the defence forces, which shall be responsible for the discipline of the members of the military courts department; and

11. To prescribe the arms and ammunition which are the monopoly of the defence forces and classified stores of the defence forces.

Madam Speaker, this law is not about civilians being before court martial. This law is about civilians who voluntarily acquire arms or equipment for violence. This law is also about the civilians who voluntarily masquerade as militants. This law is about those who would commit an offence with the military or with the help of any military officer, to be tried as proposed.

I want to dispel the fear that this law is targeting 45 million Ugandans. That is a lie. This law is targeting those people who have a preoccupation in their minds to commit an offence against Ugandans. This law is to protect the vulnerable Ugandans against violent people who have firearms or who behave like military personnel. I beg to submit.

THE SPEAKER: Thank you, honourable minister. I now invite the committee chairperson to give us his report.

12.08

THE CHAIRPERSON, COMMITTEE ON DEFENCE AND INTERNAL AFFAIRS (Mr Wilson Kajwengye): Madam Speaker, I wish to lay on the Table the minutes and record of the processing of the Bill, as was referred to us. I beg to lay.

Madam Speaker, I will summarise.

On 13 May 2025, the Bill was referred to the committee and, according to rule 200, consolidated –

THE SPEAKER: *(Hon. Moses Okot rose_)* Yes?

MR MOSES OKOT: Madam Speaker, the chairperson of the committee intends to dissuade the House that there is no dissenting report. There is a dissenting report that was submitted to the chairperson of the committee, and rightfully so. He should have, probably, made us aware that it is there and almost signed by half of the committee –

THE SPEAKER: The chairperson will bring that. Just be patient; it will come. The

chairperson, after reading his report, will call for the dissenting views.

MR KAJWENGYE: Madam Speaker, just a few seconds ago, I was handed the minority report. I wish to lay the minority report. There was no intention whatsoever, but the fact is – *(Interjection)* - if there is a second one, you present –

THE SPEAKER: You proceed. Honourable members, stop smuggling minority reports into the House. The reports must be received, uploaded, and we handle them. Nobody will be denied the chance to present a minority report, but bring them in a formal way.

MR KAJWENGYE: Madam Speaker, I wish to present the report of the consolidated committees of defence and internal affairs and legal and parliamentary affairs.

This Bill addresses the policy principles and briefly it streamlines the composition of the defence forces and establishes a health care service for its members.

The Bill creates a medical board, defines service offences – *(Mr Olanya rose_)*

THE SPEAKER: Let him finish his report. Hansard, please capture all the reports. Hon. Wilson, go ahead.

(The reports are attached hereto.)

MR OLANYA: Thank you, Madam Speaker –

THE SPEAKER: Are you Hon. Wilson? What is it?

MR OLANYA: Madam Speaker, the procedural point I am raising is that I sit on the Committee on Defence and Internal Affairs. You gave the committee the task to look at the Bill and come up with a report.

When we were writing the report on Monday, before we reached halfway, the committee chairperson told honourable members that they were going to Entebbe to attend the caucus meeting. They would come back and we continue with the report. The committee chairperson did not come back and we did not continue with writing our report. *(Laughter)*

Is it procedurally right, Madam Speaker -

I do not know where the report came from; Let the committee chairperson clarify to Members because we did not complete writing our report on that day. We need to be very serious. It is very bad to keep on smuggling what is not agreeable by honourable members. Where did you get this report from, yet the committee did not complete it?

Madam Speaker, let us put the record right. In fact, we did not complete working on this report and we did not process it as members.

THE SPEAKER: Honourable member, where did you get your dissenting views for you to write a minority report? The minority report is signed by you. Committee chairperson, continue.

MR KAJWENGYE: Thank you, Madam Speaker. The Bill streamlines composition of defence forces, establishes the health care service of members, creates a medical board, and defines service offences, military courts and reserve force while restructuring the Courts Martial as per Article 129(1)(d) of the Constitution, the proposed qualifications of the chairperson of the courts martial to ensure independence and allow for appeals.

This Bill specifies circumstances under which civilians may be subject to military law and outlines the offences tried under courts martial. Additionally, this Bill establishes a military courts department and a disciplinary unit for enforcing discipline within the military court system. It prescribes defence forces exclusive arms and ammunition, manages veterans' affairs and repeals the Uganda Veterans Assistance Board Act, Cap 221 and related matters.

This Bill addresses the defects in the existing law. The Uganda People's Defence Forces (Amendment) Bill, 2025 amends the Uganda

People's Defence Forces (UPDF) Act, Cap 330. This Act, enacted in 2005, regulates the Uganda People's Defence Forces as provided under Article 210 of the Constitution, replacing the Armed Forces Pensions Act, Cap 295, and the Uganda People's Defence Act, Cap 307.

Notably, the defence sector has undergone significant transformation since 2005, driven by emerging threats and opportunities, many of which the Act does not adequately address. The Act did not include health care for the officers and militants, management of military veterans, pension's management, or service medals conferred by defence forces.

Since 2005, the UPDF administrative structure has changed significantly, with Special Forces Command and Reserve Force elevated to independent services. The Uganda People's Defence Forces (Amendment) Bill, 2025 reflects this evolution.

Additionally, the Bill seeks to align the Act with the Supreme Court decision in the Constitutional Appeal No.2 of 2021, which is the Attorney-General v. Hon. Michael Kabaziguruka.

What are the objects of this Bill? It seeks to:

i. Amend the UPDF Act, Cap 330, streamline the composition of the organs and structures of the defence forces;
ii. Establish the health care service for members of the defence forces;
iii. Establish a medical board;
iv. Provide for the definition of service offences, the courts martial, military court and reserve force;
v. Provide for the restructuring and establishment of the courts martial in the defence forces in accordance with Act 129(1) of the Constitution and prescribe for their jurisdiction.

This Bill provides for:

i) The membership and qualifications of the chairperson and the independence of the courts martial;
ii) Appeals from the court-martial;
iii) The exceptional circumstances under which civilians may be subject to military law and prescribe the offences for which civilians may be tried by the courts martial;
iv) The establishment of the military courts department within the defence forces;
v) The establishment of a disciplinary unit within the defence forces, which shall be responsible for the discipline of the members of the military courts department;
vi) Prescribes the arms and ammunition, which are a monopoly of the defence forces and classified stores of the defence forces;
vii) The management of the veterans' affairs; and
viii) Repeals the Uganda Veterans Assistance Board, Cap 221, and for related matters.

Madam Speaker, for the record, we consulted, as is demanded by the processing of the Bill. We met and held discussions - constructive ones - with stakeholders like the Minister of Defence and Veterans Affairs. We also met the Attorney-General. We held discussions with the Office of the Director of Public Prosecutions.

While processing this Bill, we also entertained private legal practitioners, in this case, Counsel Jude Byamukama. We also entertained and granted audience to Kampala Reduction in Force Veterans of the UPDF, who gave us enriching perspectives and testimonies.

We did document review.

We looked at the Succession Act, the Constitution of the Republic of Uganda, the Uganda People's Defence Forces Act, Cap. 330 and the Pension Act, Cap. 89. We also looked at the Uganda Veterans Assistance Board Act, Cap. 221 and the Human Rights Enforcement Act, Cap. 12.

The following are the salient observations on the Bill.

6.1. Military Justice and Legal Framework of the Courts Martial

The committee recognises that one of the objectives of the Bill is to implement the Supreme Court's declarations in Attorney-General v. Hon. Michael Kabaziguruka in Constitutional Appeal No. 2 of 2021 delivered on 30 January 2025.

The committee has reviewed the Bill's proposals on Military Justice and Courts Martial Framework. The findings reveal concerns about compliance with constitutional principles, judicial independence and administration of military justice.

6.1.1. The trial of civilians under military law

Clause 29 and clause 30 of the Bill address individuals under military law and the courts martialling of civilians. Clause 29 revises Section 119 of the Principal Act to clarify who falls under military law. The amended Section 117 stipulates that all Defence Forces members are governed by military law.

Meanwhile, Clause 30 introduces a new section, 117A, detailing additional individuals who may be governed by military law. This section specifies that persons not part of the Defence Forces may be subjected to military law under exceptional circumstances.

From the above, the provision indicates two categories of individuals under military law: a member of the Defence Forces and a civilian involved in activities outlined in section 117A.

The committee notes that amendments in clauses 29 and 30 of the Bill seek to bring the Principal Act into accordance with the court's ruling in Constitutional Appeal No.2 of 2021: AG v. Hon. Michael A. Kabaziguruka, which included several observations, recommendations and orders regarding individuals governed by military law.

Following consultations with various stakeholders on the Bill, the committee encountered diverse opinions on the Supreme Court's orders, effects and recommendations regarding civilians under military law. Some witnesses objected to trying civilians in military courts, arguing that the Supreme Court's interpretation prohibits such actions.

In contrast, other committee members and stakeholders including the learned Attorney-General and the Minister of Defence, contend that the Supreme Court did not fully ban civilian trials in military courts, suggesting instead that such trials could occur under exceptional circumstances.

The committee has examined this matter and concludes that the trial of civilians by military courts should occur only in exceptional circumstances, ensuring that a fair trial is guaranteed.

The committee acknowledges that military laws apply to officers and personnel within the defence forces, but they also address elements of national security. As a result, civilians can engage in actions that usually impact national security, which are typically reserved for those under military law. The reasoning for establishing offences in the UPDF Act that hold civilians criminally liable is to safeguard national security.

The committee reviewed the exceptional circumstances outlined in the Bill and determined that certain aspects require revision to align with the legality principle. Specifically, the committee identifies that paragraph (d), which allows trial of civilians in military courts for aiding and abetting individuals subject to military law in committing serious crimes such as murder, aggravated robbery, intent to murder, kidnapping, treason, misprision of treason, or cattle rustling needs adjustment since it fails to specify the elements of these offences. This omission compromises the legality principle defined in Article 28(12) of the Constitution. Furthermore, the committee observes that while civilians are penalised for aiding and abetting these crimes, the primary offenders face no penalties.

The committee supports the proposal for trying civilians in exceptional circumstances, provided that amendments to the UPDF Act ensure a fair trial. This requires changes to the military courts' structure to ensure that those presiding over these trials have legal training, and are appointed through a transparent process, and function independently of their superiors' influence.

The committee, therefore, recommends that Clauses 29 and 30 form part of the Bill, albeit with amendments as proposed.

6.1.2 Restructuring of the courts martial in alignment with the Constitution (Article 129(1)(d)

The proposed restructuring of military courts, as outlined in the Bill, aims to align the Unit Court Martial, Division Court Martial and General Court Martial (GCM) with the Constitution under Article 129(1)(d). It introduces provisions on qualifications, appointments, tenure, and jurisdiction for service offences. Additionally, the Bill establishes a Military Courts Department (MCD) to oversee justice administration within the defence forces.

However, the committee noted that the roles of the MCD are vague, leaving gaps in oversight and accountability. Intended to oversee military courts, the structure risks undermining judicial independence. The MCD includes the head of the General Court Martial as chairperson, along with military prosecutors, defence counsel and chairpersons of military courts. This overlap of judicial and prosecutorial roles is seen as a violation of natural justice principles. It threatens the right to a fair hearing by compromising the impartiality of the courts.

Additionally, a key concern arises from the provision allowing the Chief of Defence Forces (CDF), in consultation with the High Command, to assign an acting rank to the Head of the GCM when the accused has a higher rank. While intended to maintain order, this mechanism may introduce bureaucratic delays and allow manipulation of the justice process. For instance, the CDF could delay rank assignment, impeding the prosecution of senior officers. The temporary rank, with its associated privileges, may also incentivise judicial officers to prolong proceedings to retain benefits, hence compromising timely and impartial justice.

The committee, therefore, recommends that the proposals contained in the Bill regarding composition and structure of the military courts should be supported, albeit with amendment to engender fair trial provisions as proposed in the committee amendments.

6.1.3 Appointment of presiding officers and members of the courts martial

The committee notes that the Supreme Court emphasised that military courts, despite being specialised, exercise judicial power and must therefore uphold the same safeguards of independence and impartiality guaranteed under Article 129 of the Constitution.

THE SPEAKER: Is it Article 129 or 128?

MR KAJWENGYE: I beg your pardon - guaranteed under Article 128 of the Constitution. While the Bill amends qualifications by requiring legal training for presiding officers, the committee expressed significant concern over the appointment process. Currently, all members are appointed by the High Command from a list it generates in consultation with the Judicial Service Commission (JSC). This system grants the High Command broad powers to appoint members for specific trials, raising serious doubts about the members' independence and vulnerability to external influence. The idea of consulting the JSC does not explicitly define the role of the JSC in the process of appointment.

The committee argues that the JSC should be given a stronger role to vet presiding officers who wield judicial power. The committee contends that military Courts must be governed by the judicial oath and legal principles.

We, therefore, recommend that persons presiding over military courts should be

appointed by the Commander-in-Chief on the recommendation of the JSC from the list generated by the High Command.

6.2 Tenure of Service

The Bill allows a three-year renewable tenure for chairpersons of courts martial but is silent on the terms for other members. The committee noted that secure tenure is vital for judicial independence, safeguarding judicial officers from arbitrary removal or political pressure. A three-year term is inadequate, and unclear removal grounds for members create insecurity, risking impartiality.

Citing Justice Araph Ruhindi Ntengye & Another V. AG (Constitutional Petition No. 33 of 2016), which declared fixed-term contracts for justices unconstitutional, the committee advocates extending tenure to five years for all members and the defining grounds for removal to protect judicial independence.

The committee recommends that:

i) The term of all members be increased from three years to five years and is eligible for reappointment; and
ii) The term should apply to all members of the Court Martial and not limited to the Chairperson as proposed in the Bill.

Appeals from Decisions of the Court Martial

The Bill permits Unit Court Martial to the Division of Courts Martial to the General Court Martial and from the General Court Martial to the Court of Appeal, with the Supreme Court as the final appellate court.

The Attorney-General explained that since the High Court lacks appellate jurisdiction over capital offences, appeals for such cases must lay directly to the Court of Appeal. The committee agreed with this reasoning, but raised concerns about the practicability of requiring officers and soldiers in remote areas to travel to Kampala for the General Court Martial Appeals. This could be costly and could hinder access to justice.

Additionally, the right to appeal where the aggrieved party is dissatisfied with the Unit Court Martial's decision has only the right to appeal, while a Division Court Martial decision can be appealed to the Supreme Court, were viewed as unfair.

The Bill restricts appeals on legal matters, making decisions of the Chairperson of the Unit and the Division Court Martial final. The committee deems this untenable, as it prevents parties from challenging potentially erroneous legal decisions, risking miscarriages of justice.

The Bill's clauses on the appeal and enforcement of sentences, particularly regarding the death penalty, were also problematic. The phrase of notice of intention to appeal differs from a formal notice of appeal, creating ambiguity and risk that death sentences could be executed before appeals are determined, hence violating Article 22(1) of the Constitution. This article guarantees that no person shall be deprived of life except after a fair trial and confirmation by the highest appellate court.

Madam Speaker, we recommend the following:

i) Appeals from the Unit Court Martial should lay with the Division Court Martial;
ii) The decisions of a unit or Division Court Martial on matters of law and facts should be open to challenge;
iii) Appeals from decisions of the General Court-Martial should lay with the Court of Appeal as proposed in the Bill; and
iv) The proposed Section 227(2) should be deleted and Section 227(3) be aligned with the provisions of Article 22(1) of the Constitution.

Structural re-organisation of defence forces

The committee acknowledges the vital role of the Uganda People's Defence Forces (UPDF) in upholding national security and preserving and defending the sovereignty and territorial integrity of Uganda. In light of the evolving security threats and expanding military responsibilities, there is a critical need to realign the UPDF structure.

Structural reform is based on Uganda's legal framework, specifically Article 210 of the Constitution that empowers Parliament to make laws regulating the Uganda People's Defence Forces, and in particular, provide for the organs and structures of UPDF.

Section 2 of the UPDF Act, Cap. 330, provides for the mandate of Parliament to make laws to prescribe any services besides the land and air forces. At present, these two branches are central to the military operations of the UPDF, which also receives assistance from the reserve force during emergencies.

A significant advancement has been the emergence of a Special Forces Command (SFC), a specialised elite unit tasked with carrying out specialised missions or operations at the moment notice, very important persons protection, and reconnaissance. While it is not legally provided for as a distinct service, the SFC holds a crucial position in linking conventional and special operations, collaborating closely with both the land forces and air forces.

The committee notes that the Bill restructures the UPDF by creating new services, such as the SFC and the Reserve Force, to improve operational capacity and responsiveness. New organs such as the Joint Military Command and Service Command and Staff Committees are being established to enhance coordination, policy formulation, and strategic oversight. This reorganisation also includes renaming and redefining roles in the command structure for clarity, efficiency, and alignment with the current security needs.

The committee, therefore, recommends that the proposal to restructure the UPDF to formally integrate specialised units such as the SFC as a distinct service branch should be supported to institutionalise specialised capabilities, enhance inter-service coordination, and ensure compliance with the legal and oversight requirements.

On Veterans Affairs and Pension Reforms

The committee notes that the Bill proposes transferring the administrative and management of pension and gratuity from the Ministry of Public Service to the Ministry of Defence and Veterans Affairs, aiming to enhance service delivery and more effectively meet the needs of the military personnel.

A key aspect of this reform is the establishment of the Pensions Appeals Board to provide a formal mechanism for addressing grievances and disputes related to pension matters. Additionally, the repeal of the Uganda Veterans Assistance Board Act, Cap. 221 signifies a shift towards a more integrated and updated legal framework. These reforms also introduce comprehensive provisions for retirement benefits, gratuity, and pensions, including entitlements related to death in service and disability, ensuring improved welfare and dignity for the serving personnel and the veterans alike.

The Kampala Reduction in Force UPDF veterans informed the committee that although they voluntarily enlisted in the National Resistance Army struggle, which ultimately resulted in a change of the Government, they continued to serve in the NRA/UPDF until their discharge, which occurred without a proper and formal dismissal.

The committee notes that the UPDF has transformed since the 1990s, following significant military downsizing after achieving stability post internal conflict. This began demobilisation efforts and restructuring of the UPDF alongside pension reforms for veterans. The reduction in force affected thousands of personnel, especially older veterans and non-combatants, aimed at enhancing security and lowering public spending.

However, systemic issues in the pension system emerged as many veterans faced unclear entitlements, delays, and bureaucratic hurdles in obtaining their benefits. Scholars such as Obore (2006), highlight that while legislation aimed to guarantee pension rights, many veterans remain unrecognised due to inadequate documentation or unclear classifications. For example, informal service or voluntarism, not recognised as pensionable.

Thus, the committee believes that while the Bill will strengthen the pension and gratuity administration for the UPDF veterans, actual realisation of the rights remains uneven for the demobilised veterans.

Additionally, the Bill currently excludes individuals or militants who retired before its enactment, which lacks a commencement date. Its provisions have no retrospective effect and do not address retired officers and militants.

We, therefore, recommend as follows:

i) That decentralisation of the Pension Authority to the Ministry of Defence and Veteran Affairs as proposed in the Bill, should be adopted to enhance efficiency, transparency and responsiveness in addressing pension related issues for military personnel and veterans alike.

Welfare and health services.

The committee observes that the bill proposes establishing a healthcare service-

THE SPEAKER: There is a point of order.

MR ODUR: Madam Speaker, I am rising on a point of order. Earlier, you had ruled that the Frontbench be reserved. As it is now, several members appear to be part of my team but when I invite them to support me they shy away – *(Laughter)*

Is it order for them to continue defying the ruling that you made regarding the reservation of the front sit for the members?

THE SPEAKER: Hon. Wilson, continue.

MR KAJWENGYE: Thank you. Madam Speaker, I am now addressing the committee's concerns and observations on welfare and health services. The committee observes that the Bill proposes establishing a health care service for the defence forces personnel. Creating a dedicated health care service for the military personnel -

THE SPEAKER: Honourable members, let us listen to the report.

MR KAJWENGYE: Creating a dedicated healthcare service for the military personnel introduces an extensive healthcare system, including routine medical care, medical care for the dependents of the officers and militants, rehabilitation services, and access to specialised treatments abroad when necessary.

Additionally, a defence forces medical board has been established to manage medical evacuations, conduct disability assessments and approve treatment for officers and militants.

These reforms are designed to ensure that all military personnel receive timely, effective and specialised health care during and after their service.

The committee opines that a dedicated health care service for the defence personnel separate from civilians addresses a unique nature of military service requiring specialised, timely and continuous medical support tailored to risks faced by the defence forces. Military personnel often need rapid access to trauma care, rehabilitation for service-related injuries and treatment for psychological conditions from combat or deployment.

The Defence Forces Medical Board will ensure medical evaluations, disability assessments and treatment decisions aligned with the military standards and readiness, which civilians' health care may not adequately address.

The joint committee, therefore, recommends:

1. Establishment and operationalisation of a dedicated health care service for the defence personnel, as opposed to the Bill, be fully supported and adequately resourced to ensure the delivery of specialised, timely, mission-specific medical care addressing the unique medical, psychological and rehabilitative needs of the military personnel.

Monopoly and security classifications

The Bill introduces measures to strengthen monopoly and security classification concerning crucial military assets of the Uganda People's Defence Forces (UPDF). It specifically outlines which arms and ammunition are solely under the control of defence forces, guaranteeing that these materials remain inaccessible to unauthorised parties.

Additionally, the identification and safeguarding of classified equipment and materials will now be regarded as sensitive to national security and will be strictly regulated according to military protocols. These reforms aim to bolster national security, prevent unauthorised access and uphold operational integrity by ensuring that only designated military officials oversee and protect these assets.

However, the committee observes that the classification and categorisation of materials under the exclusive control of the defence forces, particularly military uniforms, can have significant implications for civilian wear.

When clothing that closely resembles military colours, patterns, or designs are classified as military property, civilians wearing similar attire or clothing may face restrictions or even legal consequences. This is specifically in context where the resemblance is coincidental or fashion-based rather than intended to personate military personnel.

For instance, in the Bill, under clause 82, Schedule 7b, several uniforms for ceremonial wear, including ordinary black shoes, *kaunda* suits in coffee brown, blue and khaki have been categorised as exclusive wear for the defence forces. Yet, these are the very colours of clothing and black shoes seen as ordinary wear by the public.

Be as it may, the committee asserts that civilians wearing military-style attire and berets, even without official insignia, significantly risks military identity, public trust, and operational scrutiny. Such apparel can confuse the public, undermine military distinctiveness and grant an unearned authority to those not following military codes.

In operational emergency situations, the difficulty in distinguishing trained service members from similarly attired civilians may compromise coordination and increase risks, potentially damaging the armed forces' professional image.

Recommendations

i) We, therefore, recommend that schedule 7(b) should be amended to include a requirement for marking military stores with the logos and insignia of the UPDF, thereby distinguishing them from civilian items; and

ii) That a provision should be inserted to restrict the wearing of camouflage military-style uniforms and berets by individuals who are not part of the military.

Conclusion

We, therefore, recommend that the Bill be considered for the second reading, subject to the proposed amendments attached hereto and any other modifications the House may propose and approve. Madam Speaker, I beg to report.

THE SPEAKER: Thank you. As you were informed that we have a minority report from Hon. Okot Moses Junior. Please present your report, go to areas of dissent. Honourable Member from Abim, extend because you are disturbing Hon. Junior.

12.49

MR MOSES OKOT (FDC, Kioga County, Amolatar): Madam Speaker, I move to present the minority report, but prior to the presentation, I intend to make an opening statement. In arriving at this report, we, the members of the joint committees of Defence and Internal Affairs and Legal and Parliamentary Affairs, did in a higgledy-piggledy manner, haphazardly reached a position that would qualify the report that I am reading to be the majority report.

To justify the same, we had about 14 members signing this report out of the total number of members of these two committees.

THE SPEAKER: How many members signed the majority report? Let us get the difference between majority and minority.

MR KAJWENGYE: Madam Speaker, the majority report has been signed by a total number of 26 members.

THE SPEAKER: Then the minority signed by 14 members this side.

MR MOSES OKOT: *[Text expunged.]*

THE SPEAKER: There is a point of order.

DR BARYOMUNSI: Thank you very much, Madam Speaker. I rise on a point of order. This House is constituted of distinguished ladies and gentlemen representing this country, and we have been handling business since the beginning of this term.

Is it in order for my friend to say ... *(Text expunged.)*

THE SPEAKER: Thank you. The Members of this House reason with logic, and these are honourable Members of Parliament. Whenever there is a debate here, it is done with logic and reason. We cannot have the House belittled to that level.

Therefore, Junior, withdraw your statement.

MR MOSES OKOT: Rightfully so, Madam Speaker, I withdraw. *(Interruptions)*

THE SPEAKER: Honourable members, allow me to chair the House. Junior has withdrawn the statement, and it will be expunged from the *Hansard* because the Members that we have here are Members of logic and reason, and they are honourable Members of Parliament. Yes, Junior - *(Member rose)* You go and look for them *(Laughter)* Junior, continue.

MR MOSES OKOT: If the House may please, I will –

THE SPEAKER: Read your report.

MR MOSES OKOT: Madam Speaker, this is the statement of the minority Members of the joint committee comprising the Committee on Legal and Parliamentary Affairs, and the Committee on Defence and Internal Affairs, on the decision of the majority in respect to Uganda People's Defence Forces (Amendment) Bill 2025, herein referred to as the UPDF (Amendment) Bill.

This statement is made pursuant to Rules 214 and 215 of the Rules of Procedure of Parliament of Uganda. The UPDF (Amendment) Bill, 2025 was read for the first time on Tuesday, 13 May 2025, and in accordance with Rules 134 and 200 referred to the joint committee on Legal and Parliamentary Affairs and that of Defence for scrutiny.

The object of the Bill is to amend the Uganda People's Defence Forces Act, Cap 330, to majorly give effect to the decision of the Supreme Court in Constitutional Appeal No. 2 of 2021, Attorney-General v. Hon. Michael Kabaziguruka, among others – Pardon me, Members, I am born, raised and nurtured of a Luo descent, and there are certain syntaxes that may not appear –

THE SPEAKER: Go ahead. Hon. Kabaziguruka.

MR MOSES OKOT: The decision of the Supreme Court in Constitutional Appeal No.2 of 2021, Attorney-General v. Michael Kabaziguruka is well detailed and uploaded.

I am going straight to read the point of dissent, to allow Members probably – the point of dissent is on 3.0, and this is the substance of our submission.

Our dissent from the majority is guided by Article 9 of the 1995 Constitution of the Republic of Uganda and the Supreme Court judgement in Attorney-General v. Hon.

Michael Kabaziguruka, Constitutional Appeal No.2 of 2021, arising from Constitutional Petition No.45 of 2016, as the locus classicus case, in addition to other authorities.

The points of dissent are:

1. Contravention of the Constitution;
2. Illegality in military trial;
3. Offending the doctrine of separation of powers;
4. Lack of public participation;
5. Unconstitutional expansion of the military court's jurisdiction;
6. Constitutional limitation on Parliament's power;
7. Lack of independence and impartiality of the Courts Martial; and
8. Non-compliance with the judicial advisory order of the Supreme Court ruling.

Madam Speaker, on issues of contravention of the Constitution, Article 92 of the Constitution provides a restriction on retrospective legislation, thus: *"Parliament shall not pass any law to alter the decision or judgement of any court as between parties to a decision or judgement."*

The above provides a bar on legislative powers of Parliament in enacting any law that has the effect of overturning or altering the decision or the judgement of court.

Clause 30 of the Bill proposes to introduce a new section, that is, Section 117(a) in the UPDF Act, to provide for other persons who are subject to military law.

The provision requires that, *"A person other than a member of the defence force shall be subject to military law under the following exceptional circumstances –*

(a) Where a person voluntarily accompanies any unit or element of the Defence Forces which is in active service in any place;

(b) While serving in the Defence Forces under the engagement by which he or she has agreed to be subject to military law;

(c) Where the person is in unlawful possession of arms, ammunition, equipment, ordinarily being a monopoly of the Defence Forces, prescribed in Schedule 7A of this Act, or classified stores prescribed in Schedule 7B to this Act, commits an offence under any written law;

(d) Where the person aids or abets a person subject to military law in the commission of, or conspires with a person subject to military law to commit the following offences;

(i) Murder
(ii) Aggravated robbery
(iii) Kidnap with intent to murder
(iv) Treason
(v) Misprision of treason
(vi) Cattle rustling

(e) Where the person, without authority, is found in possession of or sells or wears a uniform of the Defence Forces, or

(f) where the person is found in unlawful possession of–

(i) arms, ammunition or equipment ordinarily being the monopoly of the Defence Forces, prescribed in Schedule 7A to this Act; or
(ii) classified stores as prescribed in Schedule 7B to this Act; or

(g) where the person is serving in the position of an officer or militant of any force raised and maintained outside Uganda and commanded by an officer of the Defence Forces."

The above clause is an attempt to re-enact Section 117 of the Uganda People's Defence Forces (UPDF) Act, which was struck down by the Supreme Court for offending articles 28(1), 44(c) and 128(1) of the Constitution. Such action is inimical to the rule of law and good governance, which are a cornerstone of democratic dispersion, and that of other civilised nations and communities across the globe.

It also constitutes an egregious attack on judicial independence, thereby contradicting Article 28(2) and (3) of the Constitution, which provides that no person or authority shall interfere with the courts or judicial officers in the exercise of judicial functions, and that all organs and agencies of State shall accord the courts such assistance as may be required, to ensure effectiveness of the courts. See Article 28(2) and (3) of the Constitution. This action amounts to contempt of the Supreme Court, which is criminal, a path that must be avoided by *[Text expunged.]* Parliament.

Madam Speaker, in a *locus classicus* case –

THE SPEAKER: Did you have to add "*[Text expunged.]* Parliament"? Nobody doubts that we are ... *[Text expunged.]*

MR MOSES OKOT: ... avoided by our Parliament – most obliged.

THE SPEAKER: Expunge the word ... *(Text expunged.)*

MR MOSES OKOT: In the locus classicus case of Liyange v. the Queen (1967), the Sri Lankan Parliament passed a retrospective law affecting the trial of individuals accused of an attempted coup. The Privy Council struck down the law on account that it sought to alter the course of a particular decision and effectively overturn the court's jurisdiction.

The Indian Supreme Court – in Indira Nehru Gandhi v. Raj Narain (1975) SC 2299, after an election was invalidated by the High Court, a constitutional amendment was passed to validate the election. The Supreme Court struck down the amendment, holding that Parliament cannot enact a legislation that overturns specific judicial decisions. Any legislation passed with the object of annulling the effect of a judicial decision has been held to be an encroachment on the judicial powers, and it is unconstitutional.

Madam Speaker, there were other authorities that were cited here to persuade the House. I urge Members to peruse while I go to deal with the second area of dissent.

The second area of dissent is the illegality in military trials. Madam Speaker, the question of illegality in military trials was heavily conversed by the Supreme Court in the case of Michael Kabaziguruka – in the above case. Owiny-Dollo, the Chief Justice, in his lead judgement, on pages 180 to 185, had this to say, Madam Speaker:

"There are also other vital reasons militating against trials of persons subject to military law for all offences. This court has previously held that there are certain offences that are not triable by the courts martial. This is so where a particular Act grants jurisdiction under it only to a specific court. It would, therefore, be wrong for Parliament to cause a conflict by conferring on courts martial jurisdiction to try such an offence. For instance, since terrorism can only be tried by the High Court, which is an ordinary or civil court –

THE SPEAKER: Hon. Okot Junior, the Chief Justice, Owiny-Dollo, had this to say – open quotes and then close the quotes. Somebody will imagine that it continues up to the end.

MR MOSES OKOT: Most obliged. If I may proceed from where I had stopped, Madam Speaker -

THE SPEAKER: For clarity, say what the Chief Justice said after saying "open quotes" and, after, say "close quotes".

MR MOSES OKOT: Madam Speaker, the Chief Justice, Owiny-Dollo, in his lead judgement, on pages 180 to 185, had this to say: *"There are also other vital reasons militating against trials of persons subject to military law for all offences. This court has previously held that there are certain offences that are not triable by the courts martial. This is so where a particular Act grants jurisdiction under it only to a specific court. It would, therefore, be wrong for Parliament to cause a conflict by conferring on courts martial jurisdiction to try such an offence. For instance, since terrorism can only be tried by the High Court, which is an ordinary or civil court, it would be contradictory to try it in the military court as*

well; and, also, it would be self-defeating for an offence similar to terrorism to be created under the UPDF Act, and then persons are tried under it."

I find that this holding by Justice Mulenga of the Supreme Court is still the correct position of the law that where jurisdiction is expressly excluded or where the Directorate of Public Prosecution (DPP's) consent is a prerequisite, the courts martial are not competent to handle that matter so excluded, irrespective of the provision to the contrary under the impugned sections 1, 117 and 117(1), (g) and (h) of the UPDF Act.

It amounts to duplication to grant jurisdiction to the courts martial over it, when owing to the gravity of these offences, Parliament conferred jurisdiction over them to ordinary courts.

The other issue for consideration is the danger possessed by concurrent jurisdiction, where the military courts could try a case that is also before an ordinary court. This would necessitate the establishment of a mechanism between the courts martial and the DPP to manage the cases, beyond mere provisions in the UPDF Act, that the jurisdiction of the courts martial does not take away that of the civil courts.

Concurrent trials in both military and ordinary courts for civil offences would also be prejudicial to an accused for a simple reason that it could lead to double jeopardy, as each court could potentially come up with a guilty verdict.

Additionally, as already noted, the General Court Martial and other military courts are subordinate courts. See, in the case of the Attorney-General v. Uganda Law Society, Constitutional Appeal No.1 of 2006. However, I do not agree with Justice Mulenga's finding, where he held that the General Court Martial is subordinate, but not lower than the High Court.

According to the Black's Law Dictionary, Bryan A. Garner, 8th Edition, subordinate means, placed in or belonging to a lower rank or class or position or subject to another authority or control. Assigning an ordinary meaning to the word "subordinate", all Court Martials as subordinate courts created under Article 129(1)(d) can only have jurisdiction that is lower than the High Court. Saying that it is subordinate but not lower than that of the High Court is contradictory and has the potential to create an absurdity, when it comes to hearing of capital offences.

If Parliament desires to grant them the jurisdiction to handle capital cases, then it would need to do so in line with the Constitution. I will return to this later in an advisory opinion to explore the options that could be undertaken by Parliament to achieve this effect constitutionally.

With this finding, "The hearing by all court martials of offences within the jurisdiction of the Court Martial is unconstitutional under Article 28(1), 44(c), 128(1) and 129(d)."

The general rule is that ordinary courts alone have jurisdiction to try civilians. The Supreme Court was unable to find any rational justifiable link between the need to maintain discipline in the army or maintenance of security of Ugandan borders and trials of civilians in the military court tribunals generally.

However, having held as above, the Chief Justice made the following orders:

(a) The provisions of 179(1) and (2), now 171(1) and (2) of the Uganda People's Defence Force Act -

THE SPEAKER: Is it 171 or 177 (1) and (2)?

MR MOSES OKOT: It is 179(1) and (2) and then 177(1) and (2) of the UPDF Act read together with 197 (2) and now 197(2), which grants subordinate military courts jurisdiction over capital offences contravenes Article 129(1)(d) and Article 126(1) of the Constitution, hence they are unconstitutional.

The provisions of Section 119(1)(i) and (g), now 117(1) and (g), is unconstitutional to the extent that it permits trials in court martials of

civilians who allegedly aided and abetted the commissions of service offences or ordinary criminal offences in which a person subject to military law is a principal offender.

Madam Speaker, I will skip (d). The minority report observes that the Supreme Court's decision had the following effects:

(i) The trial of civilians by court is only permissible in exceptional circumstances, and only after the State has concretely demonstrated to court by verifiable facts and by objective and serious reasons, need and justification for a recourse to a military court.

(ii) The minority observed that military courts can only have jurisdiction in relation to specific class or category of persons and specific offences, which ordinary courts are not in position to try.

(iii) The jurisdiction of the Court Martial can only extend to cases reserved for specialised courts such as the Anti-Corruption Court under the Anti-Corruption Act, International Crimes Division under the Anti-Terrorism Act.

(iv) Military courts cannot have jurisdiction over offences, which require the consent of the Director of Public Prosecution (DPP).

(v) Civilians cannot commit or be tried for service offences even when they abet or aid the commission of offences.

(vi) Where the civilian and military personnel have committed a crime, other than a service offence, both be tried in civil courts.

(vii) Parliament cannot duplicate offences prescribed in other Acts of Parliament to introduce them in the UPDF Act.

Honourable colleagues, Members of Parliament, the ratio from the above, with a sober appreciation of the provisions of Article 28 of the Constitution, leads to inevitable and incontrovertible conclusion that all persons militant, or otherwise facing criminal charges, have a right to appear before a competent, independent, fair, impartial court or a tribunal with a decision of the Supreme Court, the trial of persons with offences within the exclusive jurisdiction of the civil courts, particularly by the High Court.

Military courts are not competent to try such cases. It goes, therefore, without saying, that any trial will still be unconstitutional and will offend the principles of a fair trial. Accordingly, enacting the proposed legislation into law will be a legislation in vain.

Common themes among Justices of the Supreme Court was that the General Court Martial is a tribunal and should be kept as such.

Madam Speaker, let me conclude on this note: "*Court Martials should be specialised disciplinary tribunals with restrictive functions to handle disciplinary matters that are peculiar to and connected with discipline and regulations of the armed forces."* By Justice Catherine Bamugemereire, Justice of the Supreme Court, at page 41 of her judgement.

Honourable colleagues, since the second area of dissent has been appreciated, I will go to -

THE SPEAKER: Go to the third area of dissent.

MR MOSES OKOT: Madam Speaker, offending the doctrine of separation of powers: Modern democracies are typically organised around three branches of Government, with each playing a crucial and distinctive role. Adjudication in particular is a function and a preserve of the judicial branch of Government. Overriding or intrusion by any of the other two would inevitably offend the Constitution.

The judgement of the Supreme Court covers situations where the military, under the Uganda Peoples Defence Forces Act, may depart from this position but only in very exceptional circumstances that are consistent with

demonstrable justification. The Chief Justice, on pages 78 to 79, quoting R. Naluwairo in his work; *Improving the Administration of Justice by the Military in Africa: An appraisal of the jurisprudence of the African Commission on Human and Peoples' Rights (*2019), held that separation of powers helps to provide sufficient safeguards to ensure a fair hearing by instruments enunciating the law on independence and impartiality of the court martial. Such are cardinal and core to the administration of justice.

The minority are of the view that granting the military, through courts martial, the unlimited power to try persons with offences beyond disciplinary ones, would be a violation of the separation of powers doctrine beyond its functions envisaged under Article 209 of the Constitution.

Article 210 of the Constitution pursuant to which the UPDF Act was enacted, did not envisage the establishment of a military with a judicial function. Such an extension, therefore, can only be the handwork of an overzealous but mischievous stretch of imagination rooted, brewed and bred in imperfection by proposing an amendment which does not meet the test of legitimacy, and we invite Parliament to reject this Bill to this extent.

3.0 Impartiality and Independence of the Military Courts

Impartiality and independence are not decorative ideals. They are constitutional imperatives grounded in Article 28 of the Constitution (right to a fair hearing) and Article 128 of the Constitution (independence of the Judiciary). Military courts, as creatures of statutes and subordinate to constitutional principles, are bound by these standards.

Article 128(1) of the Constitution also imposes a requirement as to objective independence of the courts or tribunals exercising judicial power as a safeguard to a fair hearing. It states that: *"In the exercise of judicial power, the courts shall be independent and shall not be subject to the control or direction of any person or authority."*

The Bill, in clauses 35, 36, 38, and 45 provides for various amendments to the UPDF Act, specifically to provisions establishing the courts martial. It creates the following courts martial:

a) Unit Court Martial;
b) Division Court Martial;
c) General Court Martial;

The Bill removes the following courts and trial processes:

i) Commanding officer or officer commanding;
ii) Trial by superior authority;
iii) Court Martial Court of Appeal;
iv) Field Court Martial;
v) Summary trial.

Despite the aforementioned, the Bill did not respond to the orders and recommendations of *the Constitutional Appeal No.2 of 2021: Attorney-General Vs Hon. Michael A. Kabaziguruka* as far as independence and impartiality are concerned.

Madam Speaker, I am persuaded to take you further to our next point of dissent, appreciating that you have read what we are talking about, honourable colleagues. I have seen the labour you have had to listen to this submission because it is aided by legal gymnastics and quoting of cases, but please listen. *(Interruption)*

Recommendations

The minority find that the provisions of clause 30, specifically the proposed section 117A is unconstitutional, irregular and illegal in as far as:

a) It allows the trial of civilians by military courts in the circumstances that are not exceptional;
b) It extends the jurisdiction of military courts to the entire civilian population and to all offences which ordinary courts are in a position to try;

c) It extends military courts to cases reserved for specialised courts such as the High Court; and
d) It extends service offences to civilians.

The minority cautions Parliament that the Supreme Court directed that Parliament cannot duplicate offences prescribed in other Acts of Parliament and introduce them in the UPDF Act. We, therefore, recommend that the same be rejected.

4.0 Lack of Public Participation

The Constitution in Article 38(1) and (2) thereof reaffirms the right of every citizen to participate in the affairs of Government in accordance with the law. This includes engaging in peaceful activities to influence the policies of Government.

On Tuesday, the 13th of May, the Clerk to Parliament issued a notice inviting the public to submit their views to Parliament by or before 14 May 2025. It is clear that by the time of issuing the notice, the Bill had not been presented to Parliament; in the plenary, which started at 2.00 p.m.

The requirement for public participation is rooted and entrenched in our constitutional framework and must not be for cosmetic reasons. Various stakeholders were, therefore, locked out of the process due to this clearly cosmetic semblance.

In the view of the minority, this did not meet the required standard of public participation. Indeed, apart from the Attorney-General and the sponsoring minister, the committee interacted with only two other stakeholders, that is, the Director of Public Prosecutions (DPP) and Counsel Jude Byamukama. One would wonder why a matter of great national importance of this magnitude would only attract two external stakeholders. This is unprecedented in matters of this nature.

On this account, in addition to other reasons given, the minority report invites Parliament to reject the Bill to the extent proposed herein.

Conclusion

Madam Speaker, whereas reforms within the UPDF Act are necessary to address contemporary security challenges, such reforms must not compromise constitutional rights, judicial independence or civilian oversight.

We, the minority, persuade this Parliament to reconsider the provisions of the UPDF (Amendment) Bill, 2025 to ensure they align with the principles of democracy, the rule of law and respect of human rights.

Therefore, the minority unanimously are of the opinion that the General Court Martial and other courts do not have constitutional jurisdiction to try civilians or adjudicate non-disciplinary criminal offences, even if committed by members of the Uganda People's Defence Forces under Article 210 of the 1995 Constitution.

Parliament's power to legislate for military courts is strictly confined to matters of discipline and the removal of the UPDF. Honourable members, military courts are, therefore, internal discipline bodies, not general criminal courts and cannot override the constitutional mandate that all criminal justice, including fair trial rights under articles 28 and 44, lies exclusively with the courts of judicature.

Honourable members, this was jointly and severally the report by the minority. I beg to submit.

THE SPEAKER: Thank you so much. Honourable members, there are two minority reports, not so, chairperson?

MR KAJWENGYE: Madam Speaker, as is our procedure, I am only aware of one minority report whose copy I ably laid on the Table. I am not aware of the second one and it offends the Rules of Procedure.

MR OCHERO: Madam Speaker, according to the official information we have, the opposition is officially boycotting this sitting. I wonder

why my colleagues are masquerading here. *(Laughter)*

THE SPEAKER: Honourable members, the opposition is in the House. I see Hon. Okello, Hon. Okot, Hon. Olanya, Hon. Santa, Hon. Odur, who has ably presented a report and Hon. Namanya. Chairperson of the legal committee, did you get a report from him?

MR BAKA: I have just received a document; someone came and dumped it here. I was not informed on what it was, but I have just read and realised that it is the minority report of the Hon. Jonathan Odur.

MR ODOI-OYWELOWO: Thank you, Madam Speaker. I rise to move a motion –

THE SPEAKER: No, there is still an issue of the minority report of Hon. Odur, which the chairperson says was not given to him.

MR BARUGAHARA: Madam Speaker, since the NRM believes in democracy, we should allow Hon. Odur to present to the House.

DR BARYOMUNSI: Thank you very much, Madam Speaker. We make the rules ourselves as Parliament, and we must respect them. We must not allow anybody to abuse the provisions of our rules.

If the rules require that a Member dissenting must formally process his report and give it to the chairperson, let it be. Let us not allow abuse of our rules. Therefore, if he has not followed what the rules provide for, we should not listen to that report. *(Applause)*

THE SPEAKER: Honourable members, let us not be seen to be suffocating any Member. Let Hon. Odur come up and give us a summary of his report and areas of dissent. Let him do it.

1.36

MR JONATHAN ODUR (UPC, Erute County South, Lira): Thank you very much, Madam Speaker. For the record, this morning, I made a phone call to the chairman of the Committee on Legal and Parliamentary Affairs and told him that I have a minority and the chairman is here.

Secondly, when I reached Parliament, I again notified him on our platform and then filed this report with the clerk of our committee, who duly submitted it to the Clerk to Parliament. It has been duly stamped as received. So, the records should show that I am not smuggling; I am just complying with the rules.

Madam Speaker, before I read, I beg, with these two situations, for Members to bear with me. First of all, as Hon. Ochero rightly observed, my boss, the Leader of the Opposition, has led a walkout from this sitting and I am his shadow minister for justice and constitutional affairs. You can imagine the situation I am in; I may finish and get fired, so allow me to present this report here. *(Laughter)*

Secondly, in tense moments like this, you would beg that Members bear with me. During the ruling in the Supreme Court, many others and myself against the Attorney-General, when their Lordships had judged three against three, the last judgement was by the then Chief Justice, Bart Katureebe.

When he began to read, he informed us that his glasses and the eyes had a problem, and he needed to be rushed to South Africa immediately. I pray, when I am reading this report, my glasses will not fail me.

Having said that, Madam Speaker -

Introduction

This is a minority report in dissent of the majority report of the joint Committee on Legal and Parliamentary Affairs and the Committee on Defence and Internal Affairs on the Uganda People's Defence Forces (Amendment) Bill, 2025. This minority report is brought under Rule 215 of the Rules of Procedure of Parliament.

Areas of Dissent and Statement of Reasons for Dissent

The minority restricts the areas of dissent, majorly on; the policy and principles, defects in the existing law, remedies proposed in the Bill and specific provisions of the Uganda People's Defence Forces (Amendment) Bill, 2025 touching the Court Martial and related matters, including the schedules.

Approach

This minority report presents specific thematic areas of dissent, the reasons for the dissent and explanatory statements for the reasons of dissent. It is guided by the provisions of the 1995 Constitution of the Republic of Uganda, the applicable subsidiary legislations, and the lead judgement in the supreme case, Attorney-General v. Michael A. Kabaziguruka, Constitutional Appeal No.2 of 2021.

Therefore, each word, sentence, paragraph in this report has been carefully considered by the minority for justifying the dissent from the main report of the committee. The minority prays that time be allowed for this report to be presented to the House, both verbatim and Seriatim. Thank you.

Preliminary and substantive discussions on points of law.

In this report, the minority raises several points of law in both preliminary and substantive forms. The minority submits that meaningful debates and decisions of Parliament can only take place after the presiding officer has disposed of, by way of a formal ruling with reasons or the points of law raised.

The presiding officer should not be tempted to "sweep under the carpet", fail or casually dismiss these important issues of points of law raised by the minority. In short, the minority invites the full attention of the presiding officer during the presentation of this report and prays for the rulings to be delivered on record in a timely manner before debate ensues.

Breach of Rule 75 of the Rules of Procedure of Parliament on sub judice.

During the consideration of the Bill, the Uganda Law Society brought to the attention of the committee and Parliament an active Court case in the East African Court of Justice, whose court decisions are binding on Uganda as set out in the landmark precedent case of Among A. Anita v. Attorney-General of Uganda and another. Reference No. 6 of 2012. I produced the letter dated 14th May 2025, and it is addressed to the Clerk to Parliament and reads as follows;

"RE: THE UGANDA PEOPLE'S DEFENCE (AMENDMENT) BILL, 2025.

Greetings from the Council, management and staff of Uganda Law Society.

In response to your invitation to meet the Joint Committee on Defence and Internal Affairs and Legal and Parliamentary Affairs for consideration of the above captioned Bill, for which we are grateful, this is to inform the joint committee as follows:

1. *The Uganda Law Society received your invitation letter today at 11.50 a.m., scheduling a meeting for 12.00 p.m. on the same day. With the greatest respect, the time frame is manifestly inadequate for a thorough consideration of the 150-page Bill and is incompatible with democratic accountability.*

2. *Be that as it may, the Uganda Law Society hereby brings to your attention Reference No.14 of 2025 Uganda Law Society v. the Attorney-General of the Republic of Uganda pending before the East African Court of Justice.*

Discussing the Bill's provision on military courts would inevitably breach the sub judice rule, contrary to Rule 75 of the Rules of Procedure of Parliament of Uganda, Statutory Instrument No.43 of 2025 and Article 38(2) of the treaty for establishment of the East African Community and potentially contravenes

Articles 2, 20(20.79(3), 92, 126(1), 128(3) and 287 of the Constitution of the Republic of Uganda.

3. *Given the pending litigation, we respectfully request the joint committee to urge the Government to pursue an amicable resolution of the dispute before engaging Parliament on the contested matters. The Uganda Law Society welcomes the opportunity of another invitation to discuss the rest of the Bill."*

It is signed by a one Asiimwe Anthony who is the Vice President of the Uganda Law Society. I do not know the reason why the President was not available to sign.

I now beg to lay on the Table the copy of the letter duly received by the office of the Clerk as well as a copy of the reference No.14 of 2025 (ULS v. AG of Uganda). This document is already part of the minutes laid by the committee. If it is not there, I have a copy that I can lay.

In the same vein, the minority also draws to the attention of the Rt Hon. Speaker of Parliament and Parliament, the constitutional Application No. 01 of 2025, Male Mabirizi K. Kiwanuka v. Attorney-General filed in the Supreme Court of Uganda on 14th April 2025 and the same has been duly served upon respondent who is present in this sitting.

The gist of the application is that the Supreme Court should determine whether the action of the respondent who is the Attorney-General, Government and Parliament, of proposing and consideration of the Uganda People's Defence Forces (Amendment) Bill, 2025, providing for trials of civilians in the court martial is contemptuous of the judgement of the Supreme Court of Uganda in Attorney-General V. Hon. Michael Kabaziguruka which I have fully cited.

The Constitutional Application No.01 of 2025 as referred filed in the Supreme Court has already been duly served. The respondent, the Attorney- General is present in this House and can confirm or deny the existence of this live case.

All that the minority is belabouring by this submission is to demonstrate by all standards that there is a live and active dispute not only before the East African Court of Justice but also Uganda's highest Supreme Court. It will be quite embarrassing for Parliament, an institution central to democracy and the rule of law, to carry on with consideration of the Uganda Peoples Defence Forces (Amendment) Bill, 2025, well aware of the Court cases that touch on the subject matter of the clauses in the Bill

Findings

The minority finds that Parliament in proceeding to consider the clauses of the UPDF (Amendment) Bill, 2025 touching the subject matter of trial of civilians in the Court Martial, undermines the core tenets of the rule of law and doctrine of mutual respect for separation of powers between the Executive, Legislature and Judiciary.

Retrospectivity of Legislation contrary to Article 92 of the Constitution of Uganda.

Article 92 of the Constitution of the Republic of Uganda on restriction on retrospective legislation states that; "Parliament shall not pass any law to alter the decision or judgement of any Court as between the parties to the decision or judgement."

Decisions or judgements of the Court are categorised into two; *in personam* and *in rem* to mean against a person and the world at large. In the considered opinion of the minority that the judgement in Constitutional Appeal No.2 of 2021, Attorney-General v. Michael K. Kabaziguruka is firmly binding on the movers of the Bill as well as Parliament.

In short, unless Parliament is deliberately and with utmost impunity dismissive of the judgement of the Supreme Court of Uganda, which was led by non-other than Hon. The Chief Justice of Uganda, Alfonse C. Owiny-

Dollo, together with his brother and sister Lordships of the Supreme Court; Hon. Lady Justice Catherine Bamugemereire, Hon. Justice Monica Kalyegira Mugenyi, Hon. Lady Justice Faith Mwondha, Hon. Lady Justice Elizabeth Musoke, Hon. Lady Justice Percy Night Tuhaise and Hon. Justice Mike J. Chibita who did an exemplary job - I invite Members who are still active, that when you get children, you can name them after these lordships. Those who cannot, when the technology-assisted reproductive law comes in force, you can produce using it and name them.

One of the best indicators of a progressive democracy is respect for the rule of law, which includes respect for judgements of courts. If this Parliament, in the full glare of right-thinking Ugandans and the entire world, proceeds to disobey the Supreme Court, then this day, date and year will go down as the official birthday of the dreaded military dictatorship in Uganda. We surely do not wish to be the midwives to deliver this baby at all.

Madam Speaker, let it also sink in our minds that at any one point soon in our lifetime, Uganda will have another President other than His Excellency Museveni. The next President, as per the law, shall be the commander-in-chief, boss of the court martial.

This House may have already noticed the following names, in no particular order of chances of being the President, being discussed in the public domain as potential future presidents, starting in 2026 and beyond;

i) Hon. Akena Jimmy James Michael Obote;
ii) Hon. Kyagulanyi Ssentamu Robert;
iii) Hon. Amuriat Patrick Oboi;
iv) Gen. Kainerugaba Muhoozi;
v) Gen. Mugisha Muntu;
vi) Hon. Norbert Mao;
vii) Rt Hon. Anita Annet Among; and
viii) Col (Rtd) Dr Kiiza Warren Besigye –

THE SPEAKER: Honourable member, I have never wished to be a president. Remove my name from that list. I am satisfied with what I have, and I am even getting out of politics. Do not put my name into this.

MR ODUR: Madam Speaker –

THE SPEAKER: No, my name is not for playing with. It is not for jokes – it is my name. Please, remove it.

MR ODUR: This is a one-member report signed by me. I can amend it. I want to withdraw. That is the point I want to make –

THE SPEAKER: Yes, withdraw. I am not a part of that.

MR ODUR: Although I had said that the names were in the public domain –

THE SPEAKER: Which public domain? I have my right.

MR ODUR: I beg to withdraw and amend this report by deleting the name, "Rt Hon. Anita Among Annet" from this report. I accordingly withdraw and apologise to you, Madam Speaker.

Please, I invite this House to carefully reflect on each one of them, their soberness, fidelity to the law, ideologies, actions, sentiments, service records and imagine what each one of them is capable of using such provisions in the Bill.

The findings

The minority finds that legislating on clauses of the Bill that touch on the decision of the Supreme Court, specifically enacting clauses to try civilians and soldiers who commit civilian crimes in the courts martial contravenes Article 92 of the Constitution of the Republic of Uganda in light of the case of the Attorney-General v. Michael K. Kabaziguruka, Constitutional Appeal No.2 of 2021.

The next point of dissent is the understanding of the judgement of the Supreme Court in that case. During the consideration of the Bill in the committee, an issue arose as to whether there was a lead judgement to inform the consideration of the Bill or all judgements of the quorum mattered. The learned Attorney-General informed the committee that the judgement of the Honourable Chief Justice

is the lead judgement whose final orders and recommendations guided the drafting of the Bill.

Whereas the minority considered the other judgements as equally important in as far as several rulings therein, the minority, for purposes of harmony, agreed with the Attorney-General to restrict discussions around the lead judgement of the honourable Chief Justice, Alphonse Owiny-Dollo who listed six specific issues that the Supreme Court was required to resolve. The issues are as follows:

1. Whether the courts martial are courts established under the Constitution or are mere tribunals;

2. Whether the courts martial can be or are independent and impartial within the meaning of Article 28 of the Constitution;

3. Whether civilians can legally be liable to face trial in the courts martial for disciplinary offences (herein called military, disciplinary or service offences) stipulated in Part VI of the Uganda People's Defence Forces (UPDF) Act;

4. Whether civilians can constitutionally or legally be tried in the courts martial for civil offences not comprised in Part VI of the UPDF Act, but are instead provided for in other legislation;

5. Whether it is constitutional for persons subject to military law to be tried in the courts martial for offences outside the UPDF Act (herein called civil offences); and

6. Whether it is constitutional for civilians to be tried by the courts martial as principals for offences under Sections 119(1)(h) of the UPDF Act, yet all those also exist in civilian offences.

Madam Speaker, the minority has found it necessary to briefly highlight the decision of the Supreme Court in each of the questions as this will be extremely important; first in refreshing the memory of the Members, then secondly and most importantly, guiding the Members to properly direct their minds during the debate on the principles and justification of the Bill.

On the first issue, whether courts martial are courts established under the Constitution or are mere tribunals. In answering this question, which answer was agreeable to the rest of the panel, the Chief Justice, Alphonse Owiny-Dollo, wrote on page 44, paragraph 15 as follows: *"I would, therefore, hold that the General Court Martial (GCM) is not merely a complementary court to civil courts. It is established as a court, which is, however, seized with specialised jurisdiction."*

The take-home from this answer is therefore twofold; one is that the Supreme Court recognised the existence of courts martial as a creature of law. Secondly, but most importantly, is its special status implying it is meant for specialised cases only.

I now quote the learned Attorney-General of Uganda in a letter, which I also beg to lay - I believe it is part of the documents laid - written on the 3 February 2025 addressed to the following; the honourable Minister of Defence and Veterans Affairs, the Chief of Defence Forces, the Chief of Joint Staff, and Director of Public Prosecutions; in paragraph 2 on page 2 and paragraph 9 on page 3 reproduced below:

"Section 197, now Section 195 of the UPDF Act, which establishes the General Court Martial, is duly established under the law as a competent court and is constitutional. Our understanding of the above declaration is that the General Court Martial is duly established under the law and its existence is consistent with the Constitution. However, it must be clothed with the following attributes;

a) Members of the General Court Martial must be persons with requisite legal qualifications;
b) The members of the General Court Martial should be independent of the command and have security of tenure;

c) *There should be adequate time and facilitation in the preparation of defence by an accused person as well as a right of an accused person to due process and an appeal in capital offences; and*

d) *The convening authority must lie with the General Court Martial, which guarantees institutional independence from the authority prosecuting the case."*

This is what the Attorney-General and it will help us when we come to clauses. The Attorney-General further writes:

"Sections 2, 179, 119(1)(h) and (g) now respectively, 1, 177, 10(x), 117(1)(h) and (g)of the UPDF Act are unconstitutional since they confer blanket jurisdiction on courts martial to try civilians. Our understanding of these declarations, 7, 8 and 9 by the court is that civilians cannot be tried by military courts." I quote from the Attorney-General.

The minority recognises the mandate of the office of the Attorney-General under Article 119(3) and (4) of the Constitution of the Republic of Uganda, to wit; "shall be the principal legal adviser of the Government, and to give legal advice and legal services to the Government on any subject".

It may be recalled, Madam Speaker, that in both the original Constitutional Petition No.45 of 2016, Hon. Michael A. Kabaziguruka v. AG in the Constitutional Court, and in the Constitutional Appeal No.2 of 2021, the AG v. Hon. Michael A. Kabaziguruka, the Attorney-General diligently and professionally offered legal services (representation) in court and lost all the arguments, except on the legality of existence/creation of the courts martial.

How then does the Executive, and even Parliament, expect the same learned Attorney-General to, again, go back to the Constitutional Court and Supreme Court to defend the same issues, which he argued and lost?

It must be very burdensome, tiresome, hopeless and frustrating to be a lawyer to the Government in such scenarios. Sympathies to the learned Attorney-General, Hon. Kiryowa Kiwanuka, and the team of learned friends in the Chambers of the Attorney-General, who prosecuted the case. Can they even dare face the same court, again, on the same issues already decided by the court?

Madam Speaker, on a lighter note, I must say that a former Attorney-General, Senior Counsel William Byaruhanga - I am reliably informed – asked to be excused from executing the role of Attorney-General. Another Deputy Attorney-General who was with us here, Hon. Mwesigwa Rukutana, immediately after he left this role, went and even had the energy to marry a new young wife.

Therefore, it is really burdensome to be an Attorney-General -

THE SPEAKER: Hon. Odur, you are going personal. Please! It has nothing - what is wrong with marrying a wife?

MR ODUR: I withdraw, Madam Speaker.

Finding

The minority, therefore, finds that there is no legal basis to provide for the trial of civilians in the military court as decided by the two highest courts of Uganda: the Constitutional Court and the Supreme Court. The minority further finds that there is no political, ideological, and security narration to justify enactment to provide for the trial of non-military offences in the courts martial and, therefore, is shallow, unreasonable and unconstitutional.

Courts martial, as found by the Supreme Court, are established legally, hence, there is no need to re-establish it. Courts martial, as found by the Supreme Court – and this is what I want Members to pay attention to – are already established legally, hence, there is no need to re-establish them.

The question of restructuring the courts martial is necessary, but, as shall be later pointed out, not possible through the provisions of the proposed Bill.

Subordination of the court martial

The Chief Justice, Alphonse C. Owiny-Dollo, in his judgement, found as quoted below:

"Additionally, as already noted, the General Court Martial and other military courts are all subordinate courts. See the case of AG v. Uganda Law Society (ULS) Constitutional Appeal No.1 of 2006. However, I do not agree with Mulenga, Justice of the Supreme Court's finding where he held that the General Court Martial is subordinate, but not lower than the High Court. According to Black's Law Dictionary, Brian A. Garner, Eighth Edition, "subordinate" means "placed in or belonging to a lower rank, class, or position" or "subject to another's authority or control".

"Assigning the ordinary English meaning to the word "subordinate", all courts martial are subordinate courts created under Article 129(1)(d) and can only have jurisdiction that is lower than the High Court's. Saying that it is subordinate, but not lower than the High Court, is contradictory and has potential to create an absurdity when it comes to the hearing of capital offences. If Parliament desires to grant them jurisdiction to handle capital offences, then it would need to do so in line with the Constitution."

The minority observes, Madam Speaker, that Article 129 of the Constitution of the Republic of Uganda provides for the courts of judicature, as stated in the judgement.

"Article 129
(1) The judicial power of Uganda shall be exercised by the courts of judicature, which shall consist of -
(a) The Supreme Court of Uganda;
(b) The Court of Appeal of Uganda;
(c) The High Court of Uganda; and
(d) such subordinate courts as Parliament may by law establish, including the Qadhis' courts for marriage, divorce, inheritance of property and guardianship, as may be prescribed by Parliament."

Article 139 of the Constitution is on the jurisdiction of the High Court, and states as follows;

(1) The High Court shall, subject to the provisions of this Constitution, have unlimited original jurisdiction in all matters and such appellate and other jurisdiction as may be conferred on it by this Constitution or other law.

In light of the judgement of the Supreme Court, Madam Speaker, any court created by Parliament is inherently subordinate to the High Court. Any court created by this Parliament, whether we go ahead and create or not, is inherently, by this provision of the Constitution, subordinate. We cannot create a court equal or higher.

For any court to be created with either the same or higher jurisdiction to the High Court's, it has to be directly created in the Constitution, under Article 129(1) and listed either in – you can reflect - clause 1(c) with the High Court – meaning at the same level – or immediately before clause 1(d), to exclude it from the subordination.

The minority also observes, further, that conferring unlimited jurisdiction on courts created under Article 129(d), which we are about to do, is equivalent to amending Article 139(1) of the Constitution to the extent of creating exceptions limiting the already unlimited original jurisdiction conferred by the Constitution on the High Court.

I can repeat that: the minority observes, further, that conferring unlimited original jurisdiction on courts created under Article 129(d), such as the courts martial, is equivalent to amending, by infection, Article 139(1) of the Constitution to the extent of creating exceptions limiting the already unlimited original jurisdiction conferred by the Constitution on the High Court.

Is it, therefore, allowed to amend the Constitution through an amendment of an Act of Parliament? The obvious answer is:

"No." The Constitution can only be amended in conformity with Chapter 18: Articles 259 to 263 of the Constitution of the Republic of Uganda.

The minority submits that the UPDF (Amendment) Bill, 2025, is not a Bill for an Act to amend the Constitution and, therefore, cannot attempt, by trickery or any other means, including fraud, to purport to amend Article 139 of the Constitution of the Republic of Uganda.

Madam Speaker, the advisory orders/ recommendations of the Supreme Court are stated in paragraph 10 on page 199, bullet (e) of the judgement of the Chief Justice Alphonse C. Owiny-Dollo, as follows:

(e) *Amend the Constitution* – and, pay attention. This is what the Chief Justice ordered or recommended. *Amend the Constitution to establish superior courts within the military court system under Article 129, and clothe those courts created by amendment of the Constitution with the requisite jurisdiction and guarantee of independence and impartiality to try specific military offences under existing laws, committed by military personnel.*

(f) *Provide in the UPDF Act for the High Court* – which is already created and in existence, *to sit as a Court Martial with the power to try all criminal capital offences within the High Court's jurisdiction and those unique to the military that attract a maximum of life and death sentences. Grant the Chief Justice powers to assign judges to the military courts. A select number of military personnel can therefore act as assessors. Appeals to the Court Martial Appeal Courts would follow the same format, with the Court of Appeals sitting aside. Magistrates' Courts would assume jurisdiction over all other offences of a subordinate Court."*

g) The Chief Justice says, *"Make provisions in the UPDF Act for trials of civilians in the military courts to be only under limited circumstances and only after the State concretely demonstrates to the Court, by verifiable facts and by objective and serious reasons, the need and justifications for recourse to the military courts. This must only apply where in relation to the specific class or category of persons and offences in question, ordinary courts are not in a position to undertake."*

This is the quote of the Chief Justice upon which this Bill has been brought. The understanding of the minority on these advisory orders, (e) to (f) and (g) above, is that they are premised on the fact that all trials of both civilians and military personnel who commit non-service or military offences must be before civilian courts.

In other words, the current civilian courts: the Magistrates Court, the High Court, the Court of Appeal and the Supreme Court are all competent by all standards required under Articles 28 and 44 of the Constitution of the Republic of Uganda to try any offence in the law books of Uganda.

A question was put to the Attorney-General on where his trust, confidence, and belief would lie in the delivery of justice on the offences proposed in the Bill, were those trials to take place premised on the same facts before either the civilian courts or the Court Martial. We have two sets of the same offences, which of the two courts would the Attorney-General trust? The learned Attorney-General answered that both courts can and would deliver justice.

The understanding of the minority on this answer is that the learned Attorney-General confirmed that civilian courts in existence right now are capable of conducting any trial of a criminal nature in Uganda without the need to waste time and resources on the Court Martial, which has an unconstitutional structure. The structure, not the Court Martial. The Court Martial is constitutional, but its structure is unconstitutional, incapable of delivering free, fair, and impartial justice to any accused person.

Madam Speaker, even if this answer is denied, the question to the Government and the mover of the Bill is - the NRM government, in power for 39 years, virtually recruited and appointed all the cadres: the investigators (police), the prosecutors, office of the DPP, the arbitrators, the judicial officers (if we check on the record of the current structure of police leadership and the rest, all of them have been recruited by this Government) – Are they justified to complain on the incompetence, the weakness in the judicial system?

The question is, the NRM government in power for 39 years and who recruited and appointed all the cadres in the justice system, the police, prosecutors and the arbitrators, the judicial officers, are they justified to complain on the incompetence, weakness in the civil courts to handle any case in Uganda?

If the minority was granted more time, Madam Speaker, it would have produced on record all cases of murder, aggravated robberies, terrorism proposed in the Bill against the accused person, including military personnel, which have been successfully prosecuted in the civilian courts.

By the time of writing this report, Madam Speaker, I had not known that yesterday the High Court convicted a former soldier, a militant, of an offence. That further demonstrates and strengthens my argument that, actually, the civilian courts right now can convict, try and convict murder, aggravated robbery, et cetera.

The minority invites the attention of Members, especially those familiar with court papers, to reflect on the proposal of the Chief Justice, which captures the spirit of the advisory orders by the Chief Justice as follows:

I have put a heading there just to illustrate when we come to the amendment. "All the headings of courts in Uganda would be written, the Republic of Uganda, in the High Court of Uganda, it could be in Kampala, for example, and in brackets, we put the provision for Court Martial/Military Division." That is what the learned Chief Justice had advised.

Finding

The minority finds that the proposals in the Uganda People's Defence Forces (Amendment) Bill 2025, purporting to recreate the Court Martial with unlimited original jurisdiction, are unconstitutional as they inadvertently amend Article 139 of the Constitution of Uganda without following the procedure of amendment provided under Chapter 18 of the same Constitution.

The minority further finds that it is administratively viable to provide for a specialised court within the civilian courts for the purpose of trial of criminal offences committed by military personnel.

The next point of dissent is limited or exceptional circumstances, as has been said. Madam Speaker, the minority recognises the discussion in the judgement on the limited circumstances of trials of civilians and or military persons in the Court Martial in Uganda. In the judgement, the minority understands that these circumstances appear to be strictly in reference to a situation where, and we can pay attention:

(1) The Constitution is not in force, similar to the military rule during Idi Amin's regime. That is the first condition for the trial of civilians in the military court. There must not be a constitution in force.

(2) Courts of law have no capacity to try the offences. For example, there are shortages of competent judicial officers; and

(3) Soldiers and civilians are on duty or deployed in a foreign land where there is no possibility of returning them for trial in Uganda, and there is no other court in that country to try the accused. We all know where our army, the UPDF, is deployed, so the Court Martial can try them there in case that country does not have a law or the situation of the war in that country. That is the understanding of the minority.

The scenario of Karamoja, which was presented in the committee as a success story of the Court Martial, was unjustified. It was claimed that judicial officers had feared being deployed in Karamoja to hear cases because of insecurity. These are the questions:

a) Were other courts in the neighbouring districts also unavailable to try those cases?

b) Didn't the same Government demonstrate to Ugandans that courts in Karamoja were fully functional when Col (Rtd) Dr Kiiza Besigye was flown to Moroto and charged in the civilian courts?

c) Who is mandated to ensure law and order in Uganda, and why not deal with the root causes of it all, which is the security of the judicial officers, rather than recourse to the Court Martial?

d) Were the trials free and fair in Karamoja (the presumption of innocence)? Were the charges read to them? Did they take a proper plea? Did they give evidence as per the Evidence Act? Was there a ruling on the *prima facie* case? Was there a defence? Were there convictions? Did they allow them to plead to mitigate? What was the sentencing guideline?

In the opinion of the minority, it is foolish to legislate and provide for unconstitutional situations, like providing for scenarios where the constitutional laws are not enforced. All I am saying is that the Parliament cannot sit and legislate for a situation where the Constitution is not; it would be foolish of us to do that. As such, to –

THE SPEAKER: At least, not everybody is foolish.

MR ODUR: No, I just said, it is. Madam Speaker, to make all Ugandans liable for trial in the military justice system, first, all Ugandans must be militants and officers. First, let us provide for a law for all Ugandans to become militants and officers with proper training in the aspect of militarism, with each one of the Ugandans being formally passed out by the Commander-in-Chief, and we are kept, all of us, as the Reserve Force.

The laws of Uganda can then be amended accordingly to provide a concrete basis for such an arrangement. The minority is saying that once all Ugandans are militants, then it is possible to provide for courts martial so that we are all trained and know we are soldiers.

Finding

The minority finds that there are no limited or exceptional circumstances existing in Uganda at the moment, as the constitutional framework and other legislations are in force, and they are adequate to deal with all criminal matters before the civilian courts.

The minority further finds that military disciplinary offences, as provided in Part VI of the principal Act, can be exclusively tried in the courts martial or other disciplinary mechanisms within the command structure of the Uganda People's Defence Forces(UPDF).

On issue No.2 on whether the courts martial can be or are independent and impartial within the meaning of Article 28(1) of the Constitution, the answer to this, which the other six learned Justices agreed to, some albeit with different discussions, is found in paragraph 20 on page 117 of the judgement of Honorable the Chief Justice Alfonse C. Owiny-Dollo, whose conclusion is reproduced below.

"Having regard to what I have discussed above on the issue in the light of the rights to a fair trial enshrined in our Constitution, I find that the safeguards for independence and impartiality of the military court system in Uganda and their procedures for trial do not guarantee a fair trial. It is evident that the General Court Martial lacks the independence and impartiality required under the Constitution for it to subject the respondent to a fair trial."

The observation of the minority is that the principles of the Bill and the provisions therein

fall short of the findings of the Supreme Court, as there are no procedures for trial.

When we go to the clauses, I will be asking questions for these procedures to be demonstrated to you. No safeguards for independence and impartiality of the proposed courts martial which can guarantee the fair trial envisaged by their lordship.

On issues 3 to 6, which are summarised here, as to whether civilians can be tried in the courts martial for any offence, and whether soldiers who commit civilian offences (murder, terrorism, aggravated robbery, cattle rustling, misprision of treason, kidnap with intent to murder) – the answer, Madam Speaker, to questions 3-6 is found on paragraph 10, pages 142 and 145 of the judgement of Honourable the Chief Justice Alfonse C. Owiny-Dollo, who wrote: *"The general rule is that ordinary courts alone have jurisdiction to try civilians. I am unable to find any rational or justifiable link between the need to maintain discipline in the army, or the maintenance of security of Ugandan borders, and the trial of civilians in the military tribunals generally. This position is bolstered further in the light of my finding that trials in the courts martial are devoid of independence, fairness, and impartiality in the conduct of proceedings therein, and the reasons given by the various commissions referred to that discouraged trial of civilians by military courts. The result of my finding is that a case where a civilian or any military personnel have committed a crime both should be tried in the civilian courts."*

When we go into the clauses, I will be seeking to see how this is provided for.

"*In conclusion*" - this is what the Chief Justice wrote - *"the provisions for the blanket trial of civilians in the military courts either as principles in Section 117(1)(h) or as accomplices in Section 117(1)(g) does not satisfy the limited or the exceptional requirements of Article 41 of the Constitution. They are unconstitutional"*.

Madam Speaker, the offences provided in the Bill (murder, aggravated robbery, kidnap with intent to murder, treason, misprision of treason and cattle rustling) have all been provided already in our law books (Penal Code Act).

The other offences in the different pieces of legislation including traffic offences, electoral, wildlife, and environmental offences, et cetera, that the Bill seeks to bring under the unlimited original jurisdiction of the courts martial, is irrational. Unless these offences have been assigned different definitions and ingredients, in which case Parliament will be legislating for a completely new offence. The minority finds no mischief at all in the proposal.

In Uganda, if I may elaborate, we have only one offence called murder. There is no first, second or third-degree murder. So, the point is the offence of murder is already provided for, unless the army wants us to provide for a different set. Take an example of the offence of murder under the Penal Code Act. All that is required is: one, that there is death of a person/human being; two, it is unlawfully caused by another person; and three, that the person causing death had malice or intention to kill.

Where is the exceptional circumstance in the above offence of murder to warrant a trial before a courts martial? Where is the exceptional circumstance in the trial of murder to warrant the movement from the civilian courts? That is the question I am asking. It is, therefore, very confusing in understanding what constitutes an offence of murder in a different way than what is provided for already in the Penal Code Act.

Madam Speaker, in 2020, at the height of the COVID-19 pandemic, the President wrote a letter accusing members of Parliament of attempted murder when the MPs sought to partake of the COVID-19 bonanza by smuggling Shs 10 billion, which was paid to each Member of Parliament at Shs 20 million, to isolate themselves from the COVID-19 in the lockdown. This points to the fact that there seemed to be an understanding by different people of what murder and attempted murder

means, and we must be careful to praise for that.

Finding

The provisions of the Bill on the courts martial law falls acutely short of the standards required for fair trials and impartiality envisaged under Article 128 of the Constitution of the Republic of Uganda and the judgement of Honourable the Chief Justice Alfonse C. Owiny-Dollo.

Conclusion and recommendation

The Uganda People's Defence Forces belong to all Ugandans. It is a people's army which must not deviate from the aspirations, trust and respect of the people of Uganda, which is well-documented in the report to the Constituent Assembly and those views, aspirations were reduced into the provisions of the Constitution of the Republic of Uganda.

The UPDF (Amendment) Bill, 2025 is an extremely important Bill in as far as;

1. Provision for the alignment of command, control and administration;
2. Welfare of the officers and the militants;
3. Management of the military veterans; and
4. Management of pensions, gratuities and compensations of disabilities.

The provisions for courts martial in the current substance and form as proposed in the Bill are not properly well thought out, they are misconstrued and are extremely dangerous for Uganda as it seeks to undermine the aspirations of Ugandans as expressed wholly in the Constitution of the Republic of Uganda.

Parliament should not allow it to be exploited into being accomplices in overthrowing the constitutional order of Uganda by creating a superior 4th Arm of Government - the courts martial, which will take over all criminal justice and leave the Judiciary with only civil cases.

The minority makes the following recommendations to Parliament on the Uganda People's Defence Forces (Amendment) Bill, 2025;

1. That Parliament restricts consideration and the passing of clauses to clauses 1 to 28, clauses 76 and 80 of the Bill which are touching the remedies (a), (b), (c), (d) and (e) – which I have already told you about, welfare and etc of the army.

2. Parliament severs, and refers all clauses 29 – 75, 77, 78, 81 and all the schedules thereto back to the Executive to comply with the Constitution of the Republic of Uganda and the judgement of the Supreme Court in Constitutional Appeal No.2 of 2021, the Attorney-General v. Michael A. Kabaziguruka*;* and the live reference cases which are right now before the East African Courts of Justice and the Supreme Court of Uganda.

3. That Parliament requires the Government to table before Parliament the UPDF Establishment, which is a regulation made under the UPDF Act for scrutiny, to test its conformity to the UPDF Act. The reason is because this entire Bill is premised on that document which we do not have – distributing power, command and what should happen.

Therefore, the recommendation is that Parliament requires, by whatever mechanisms available, the Government to table the UPDF Establishment, which is a statutory instrument, it is a regulation which is made, to come here. Even if it is not, but it can be enforced.

4. Parliament proposes to the Executive to provide all the necessary support to the justice chain actors, that is the Police, Office of the DPP and the Judiciary, so that they can expeditiously dispose of all criminal cases.

5. That Parliament proposes to Government to make special arrangements to facilitate the convening of special court sessions – could be High Court or Magistrate's Court, depending on the jurisdiction – for purposes

of disposing of all the cases ordered by the Supreme Court to be transferred from the court martial to the civilian courts, even if it requires a supplementary budget or something. The judges are there, the ODPP is there, the police are there; give them money so that they can dispose of these cases.

6. Parliament proposes to the Executive to respect the rights and freedoms of all Ugandans as enshrined in the Constitution, including rights to belong to political parties of their choices.

7. Recruit – if we are so inclined, if we think civilians could be tried, this is the proposal – recruit and train all Ugandans into the military, arm them with all the items that are a monopoly of the UPDF, and then introduce a law which would then allow every Ugandan to be tried in the court martial. There, we would have known the guidance on what you should do or not do in the army. This is so that when all Ugandans are soldiers and are in the army, you can then try them.

Without prejudice, Madam Speaker, to the recommendations proposed above, should Parliament insist on proceeding on the Bill, the minority shall propose amendments to clauses 29, 30, 31, 35, 38, 45, 57, 63, and schedules 7A and 7B.

It is trusted that this Parliament is appointed for the welfare of society and the just government of humanity, and we, the servants who are here assembled right now, are being looked upon with abundant favour to perform such an important trust of Ugandans. Do not betray that trust.

I beg to submit, Madam Speaker.

THE SPEAKER: Thank you, Hon. Odur. We have two minorities. Hon. Odur, first of all, Article 119(3) and (4) give the Attorney-General powers to be the legal advisor of the Government. Where you said I should be the one to answer all the legal requirements or legal questions, I have never been the legal advisor of the Government. I will now ask the legal advisor of the Government to respond to all the issues raised in the two minorities.

Secondly, on the issues – stop merry-making, Hon. Nandutu. On the issues of sub judice – I can only determine whether there is sub judice when I have been informed of an active civil criminal case, and that is provided for under Rule 75. I will not go on a fishing expedition to find out whether there is a case somewhere. That can only be answered by the learned Attorney-General. Over to you, learned Attorney-General.

MR ODUR: Madam Speaker, when I was presenting, I made reference to a live court case, and I informed the House that I thought it was part of the documents laid by the majority. Now, I just beg to lay –

THE SPEAKER: Please lay.

MR ODUR: I beg to lay the case reference No. 14 of 2025 in the East African Court of Justice, First Instance Division at Arusha, Uganda Law Society Applicant v. the Attorney-General of the Republic of Uganda, who is the respondent. It is duly stamped by the Ministry of Justice and Constitutional Affairs, Directorate of Civil Litigation.

I beg to lay on Table –

THE SPEAKER: You can lay it, but I have only gotten to know now that there is a case. Attorney-General, over to you.

MR ODUR: Thank you. I refer to the Constitutional Petition application of Male Mabirizi. It is also already in the Supreme Court and part of the record, and the Attorney-General acknowledged. I just wanted to set that on record.

THE SPEAKER: Attorney-General -

2.35

THE ATTORNEY-GENERAL (Mr Kiryowa Kiwanuka): Thank you very much, Madam Speaker. Hon. Odur has referred to two cases that are in the – one case in the East African

Court of Justice, and another one in the Supreme Court.

I have had the opportunity to read these two decisions, and I really wonder how someone can actually think it touches on this matter. This is because these matters in court, I wonder how we can even think it attaches to the matter before this Parliament.

The orders being sought in Male Mabirizi are to actually quash – the Uganda Law Society went to the East African Court of Justice to quash the decision of the Supreme Court. So, when you say that we are discussing an amendment, he is not even discussing whether or not you should amend or not amend; he is saying, just quash that decision. If we quash that decision of the Supreme Court, it cannot be a matter that is sub judice, because it will then not even affect the conversation we are having.

The second one, Madam Speaker, is a matter of contempt. Mr Male Mabirizi has taken a matter to the court, saying that by the Parliament carrying out this activity of amending the UPDF Act, it is in contempt of court.

Madam Speaker, you are damned if you do and damned if you do not, because the Supreme Court did order you to amend the law and bring it in compliance with the decisions of the Supreme Court. That is what we are doing here. Now, for someone to say that we should not do it because we shall be held in contempt – you will be held in contempt if you do not.

Therefore, the conversation we should be having here is whether what we are doing is in compliance with what the Supreme Court ordered. But to say that we should not do it, I think, that would be superfluous and I hope Hon. Odur agrees with me that we must handle this matter.

The conversation of what we need to do, what amounts to what is in compliance with the Supreme Court decision, will require us to look at those provisions that are being proposed by the Executive and then we can have a conversation as to whether they comply or they do not comply. But if you say that we should not look at them, then you will not even know whether they comply. Madam Speaker, that is my response to the question of sub judice.

Then there was a question on whether there was a lead judgement. Yes, I did write, under my hand, that there was a lead judgement, which was given by the Honourable Chief Justice, but at no point did I even intimate to any Member that they should read only that judgement.

When you are dealing with an appellate decision, especially where you have seven justices, you must read from all of them and determine what each one said on that point. You could have a lead judgement where the six judges do not agree on a particular point.

So, it is important that as we go through this - I have personally had the opportunity to read all the seven and I can see you have relied on one judgement but it is important for us to look at all the seven, so that we are clear as to what the court said.

The lead judgement must be supported by the majority of the other judges, on every point that you address. It is not to say that whatever the lead judgement says must be followed as the final judgement. What we have done is we have looked at all the judgements and tried to bring them into context.

Yes, it is true, Madam Speaker, that I did interpret the decision of the Supreme Court in the letter my learned friend, Hon. Odur, raised on the 3rd of February. And I did state that our understanding of the Declarations 7, 8 and 9 of the court, is that civilians could not be tried in the military courts.

The military courts that I was referring to are the ones that exist now. If this Parliament is pleased to amend the law and give the military courts the tenets that the court guided us, on independence, the oath, security of tenure and all those things that we discuss in the Parliament, then I do not think that it will be contrary to the Constitution because the tenets that are required under Article 128 and Article 28 would be complied with.

I have not read anywhere in the proposed amendment that the General Court Martial (GCM) is being given unlimited jurisdiction.

Actually, it is being given jurisdiction as set out in the law. When it says that, for example, you will have the authority to try offences under any written law, it is the High Court which has unlimited - but some of these offences are actually tried by Magistrates at Grade One. There are other offences that are tried by Chief Magistrates and others by the High Court.

When they say that the High Court has unlimited jurisdiction, it just simply means that the High Court can try even that which the Grade One can try but it does not mean that no one else should try those offences. Being subordinate is equal, the GCM does not have jurisdiction which is unlimited.

The jurisdiction of any court in this country is granted by Parliament – *(Interjections)* - let me finish so you can - jurisdiction is granted by Parliament. Even the jurisdiction of the High Court, ladies and gentlemen, is granted by Parliament under the Judicature Act and the Magistrates' Courts Act is the one that grants jurisdiction.

Remember, some time ago, we had started the process of amending the pecuniary jurisdiction of the Magistrates' Court. That must come to the Parliament. It is not in the Constitution. The Constitution said there will be these courts but the granting of jurisdiction is supposed to be by Parliament.

Yes, it is true, I was asked whether I would trust both courts, and yes, I did say I would trust both. What Hon. Odur forgot to answer is that even in our system, we like to go to the professionals in that space, first, then go to the generalised courts. We have the electricity disputes tribunals, the tax appeals tribunal, the industrial court; all those are specialised.

In this case, the matter we are dealing specially is military equipment. The person who is best professed with the mandate to deal with military equipment is the army. We are saying that when you deal with military equipment and stuff of military nature, deal with the army first, then come out to the courts, just like we do in other specialised spaces.

You said that the limited circumstances are where the Constitution is not in force. No, the Constitution actually told you to create subordinate courts, so we are doing it in accordance with the Constitution. Fortunately, we have both agreed that this was a matter that even the courts agreed is a constitutional matter.

You also pointed out something where the courts of law have no capacity to try offences, for example, the shortage of judicial officers. I will leave that to you, Members of Parliament, because I am sure every time we come here, you talk about the backlog and the fact that we need more judicial officers. That is a matter that you have to have at the back of your mind, whether we should bring more matters to the judiciary.

The issue here that we are dealing with- this law does not deal with providing jurisdiction of the GCM over all Ugandans. Therefore, it would not be necessary for you to get training and recruited into the army because the army is not asking for jurisdiction over all Ugandans. It is saying that only those who illegally possess killing instruments, which are ordinarily- and the issue here is ordinarily the preserve-

So, suppose you find yourself in a situation where you have an AK-47 gun, without a license. In that case, the Ministry of Defence and Veteran Affairs says that they may be more specialised in dealing with these people who have special skills in acquiring arms illegally.

The second one is where you work with the soldiers to commit an offence. If a civilian killed someone with a hammer, a *panga*, or boxed someone to death, you do not go to the court martial. They take you to the civilian courts.

However, if you used a gun or a bomb, then that is when - so it is not that the law is saying

all Ugandans must be taken to court martial. That needs to be very clear and that is why it is limited in its jurisdiction.

Madam Speaker, the procedures that are set out in the law - for example, the penal code sets out the offences but the law on the procedures in courts are; the Criminal Procedure Code and the Trial on Indictments Decree. If you ask me whether the procedure for trials in the court martial are in the Uganda Peoples' Defence Forces (UPDF) Act, I will say, no. However, there are procedures that are set out for the court martials.

Honourable colleagues, we must be clear that clauses 30 and 31 and the clauses that you talked about do not create offences. *(Interjections)* - No, let me finish. I will get the clarification after.

Clause 117A does not create offences; it grants jurisdiction. Murder is the same offence in the penal code, and for every Ugandan, murder is the same. There must be a death. However, you may ask, what is the exceptional circumstance here?

The exceptional circumstance here is that you have committed murder using a weapon that is ordinarily the preserve of the Defence Forces. *[Hon. Member rose_](Applause)* Let me finish. I am going to allow the clarification, just one second.

THE SPEAKER: Let him finish.

MR KIRYOWA KIWANUKA: The Ministry of Defence and Veteran Affairs will back me on the UPDF establishment. The UPDF establishment is not an instrument. It is a doctrinal document that is used by soldiers to determine how they relate to themselves. It is not a requirement of the UPDF Act.

Whether or not you should be able to get access to all the documents of UPDF, the Ministry of Defence and Veteran Affairs will tell you about that.

This is a tactical doctrinal document. How do we engage? How do we set ourselves up? The structure of the UPDF is set up in the law and that is what they are asking Parliament to address.

Madam Speaker, I would also like to address Honourable Colleagues on the issue of Article 92 because it was raised in the committee, and I have heard it several times here, especially in the first report. Article 92 says you should not have a law that has a retrospective effect, that would affect the benefits or the decision of a court that has made the decision.

Madam Speaker, the Supreme Court told us that the members of the Uganda People's Defence Forces (UPDF) court martial must be independent and impartial. They told us how they believe independence and impartiality should be set out.

Taking the oath, we put it in clause 45; legal qualifications in clauses 35, 36 and 38; manner of appointment is in clauses 36, 37 and 38; the term of office, the convening authorities in clause 45; the existence of guarantees of outside pressures is in clause 45. That is what the Bill has introduced. Now, it is for Members of Parliament to look at this and say, "Do they adequately cover the safeguards that are required of us?"

Further, the Bill proposes to introduce the military courts department, which is supposed to be separate and distinct from the command and control of the UPDF. That is the purpose of the Act.

On the issue of trials of civilians in the court martial, like I said before the committee, I personally did not find a provision in the decision of the court which said that "*Civilians cannot be tried in the court martial*". Yes, the honourable Member was correct that it would be wrong for us to do the same thing which the Supreme Court said we cannot do. You quoted the decisions of Sri Lanka and London; we have ours here, like the human rights, which dealt with the Public Order Management Act, 2013 (POMA). We are very alive to those principles. What I can say is that what we are doing here is not at all *in pari materia* with what the old provisions. If Members took time

off to look at the provisions and look at the differences between them, I am sure they will agree with me.

Madam Speaker, those are the questions that I found important and I have answered them.

THE SPEAKER: Thank you, Hon. Fox Odoi -

2.50.

MR FOX ODIO OYEWELOWO (NRM, West Budama North East County, Tororo): Thank you**,** Madam Speaker.

AWARE that the joint committee of Legal and Parliamentary Affairs and Defence and Internal Affairs this morning tabled a report on the consideration of the Uganda People's Defence Forces Amendment Bill, 2025;

RECOGNISING that Rule 61(1)(d) and Rule 17 of the Rules of Procedure of Parliament provide for a motion to suspend rules;

AWARE that Rule 214(14)(b) requires that a report of a committee can only be discussed three days after tabling;

RECOGNISING too that we have plenty of business to handle, and the Uganda People's Defence Forces Amendment Bill, 2025 is such a critical, urgent and important business of this House;

NOW, THEREFORE, permit me to move as I do hereby do that this House suspends Rule 214(14)(b). I beg to move.

THE SPEAKER: Seconded? Hon. Avur, Member from Namayingo *(Hon. Margret Okunga*), Hon. Baka, Hon. Musasizi, Elders, UPDF by the whole House with exception of Hon. Odur and Hon. Olanya.

Honourable Members, I put the question that Rule 214(14)(b) be suspended to waive the three days' requirement prior to the debating of the committee report on the Bill so as to enable the House to expeditiously consider the Uganda People's Defence Forces (Amendment) Bill, 2025.

(Question put and agreed to.)

THE SPEAKER: Hon. Oboth, can you give the clarification you are supposed to give? Is it not there? Okay, can we now- Yes?

2.52

THE MINISTER OF DEFENCE AND VETERAN AFFAIRS (Mr Jacob Oboth): The Attorney General made a very wonderful-

THE SPEAKER: Thank you. Hon. Olanya -

2.53

MR GILBERT OLANYA (FDC, Kilak South County, Amuru): Thank you, Madam Speaker. I would like the Attorney-General to clarify to Ugandans very clearly the following:

One, the Attorney-General needs to clarify on the exceptional circumstances whereby a civilian can be tried in the court martial and you have to tell us clearly the ingredients of the exceptional circumstances.

THE SPEAKER: Thank you.

MR OLANYA: Madam Speaker, number two-

THE SPEAKER: In the interest of time, we will give a minute.

MR OLANYA: Madam Speaker, allow me to clarify this because the second point is very important.

In the Bill, we talk of civilians putting on military attire. We would like the Attorney-General and the Government to clearly tell us how they define military attire.

THE SPEAKER: Hon. Gilbert, you need to refer to section 30 on those exceptional circumstances.

MR OLANYA: Thank you, Madam Speaker. Let the Government put it clearly that military attire must be properly designated and labelled as "UPDF."

THE SPEAKER: Thank you.

MR OLANYA: You cannot find somebody putting on a Kaunda suit and gumboots and start labelling that this is a military attire when it is not properly labelled as UPDF military attire.
Finally-

THE SPEAKER: Thank you. Hon. Chemaswet -

2.55
MR FADHIL ABDI CHEMASWET (NRM, Soi County, Kween): Thank you, Madam Speaker. Last night, I lost a constituent to a Karamojong cattle rustler who came with a gun and killed. On the 16th of May, a Pokot was arrested with a gun in the Greek River Sub-County in Soi.

There are two scenarios here; One, there was an engagement of the defence forces in the arrest of the criminal who had a gun in the Greek River Sub-County.

Two, there was a criminal who had recruited himself to the defence forces and, therefore, the criminal became a militant, subject to the military court martial.

In the question of Chepsikunya Town Council where a person died, a military officer who was commanding Chepsikunya barracks was again informed that the raiders had come. He rejected and said he is not going to intervene with the UPDF because that role belongs to the police force. What action would the defence forces take against their officer who refused to take action?

Of course, the court martial would be the best action for this.

THE SPEAKER: Thank you.

MR CHEMASWET: Madam Speaker, there is an issue to do with the military standards. It would be set by the minister through regulations. The standards that the Members are asking for are logistical in nature. It alters procurement and the pricing.

THE SPEAKER: Thank you, Hon. Ogwang -

2.58
THE MINISTER OF STATE FOR EDUCATION AND SPORTS (SPORTS) (Mr Peter Ogwang): Madam Speaker, first of all, I stand here to confirm that I support the majority report, which has been presented by the Chairperson, Committee on Defence and Internal Affairs.

Number two, with your permission, allow me to say the following – *(Hon. Nsereko rose_)* -

THE SPEAKER: Continue.

MR OGWANG: I need to be protected from Hon. Nsereko so that I can make my case.

THE SPEAKER: Hon. Nsereko, why don't you leave your colleague to finish and then you come? Hon. Ogwang, continue.

MR OGWANG: Madam Speaker, first of all, I address myself to matters regarding the Uganda People's Defence Forces (Amendment) Bill. I hope the country clearly understands what this amendment is all about. Why am I bringing this up? We seem to be tailoring the bigger picture of the Bill to one item of the court martial.

I want fellow countrymen and women to, first, understand the objective of this Bill. It will help us to improve the welfare of our defence forces, which, at all times, live to protect this country that we all cherish, whether we are in Parliament or not in Parliament.

However, allow me to address one issue with the minority report; I want to read it verbatim - and it pains. It is specifically from my brother, Hon. Jonathan Odur – *(Member timed out.)*

Madam Speaker, give me one minute. There is the scenario of Karamoja, which I want to quote from his minority view.

"The scenario of Karamoja, which was presented in the committee as a success story of court martial, was unjustified. It was claimed that judicial officers had feared to be

deployed to Karamoja to hear cases because of insecurity."

He asked the following questions – my brother, I am a victim. If we talk about Karamoja, I am a victim. If you talk about Karamoja, my mother was raped. If you talk about Karamoja, I lost my father. If you talk about Karamoja, I am still losing people up to now. What are you talking about? When we are here, friends, let us be sincere with ourselves.

Some of our people are not sleeping in their houses because of the *Karachunas,* who continue to make our people to suffer. Friends, this law – this court martial – has helped our people to begin going back to their homes. Friends, our people are now able to go back to their gardens to work because of the court martial.

Where were you at that time, when there was no court martial? Were we not in camps?

So, when we are here, friends - Hon. Jonathan Odur, our cows left. Where are our cows? Is it Museveni or the cattle rustlers who took our cows? Is it not Museveni who helped us, even by agreeing to compensate for our cows, which the cattle rustlers took?

Therefore, friends, when we are here — Madam Speaker — for you to come and insinuate that the court martial case is not a success in Karamoja is entirely unrealistic, un-nationalistic, and not befitting a leader of your stature, Hon. Odur.

THE SPEAKER: Thank you. Hon. Isiagi - Let us look at the people who have suffered, first.

3.02

MR PATRICK ISIAGI (NRM, Kachumbala County, Bukedea): Thank you – *(Hon. Nsereko rose_)* - Madam Speaker, protect me from my son here.

THE SPEAKER: The son to the chairman, first wait for the father to speak, and then you speak.

MR ISIAGI: If you can, allow me to finish. Madam Speaker, the matter we are deliberating on is a clear one, and the Attorney-General has clarified a number of issues. You know for us, in football, when you are passing and you get boys or girls playing football, with a good talent, we pick them and take them to football clubs. We do not take them to *malwa* groups, so that their talents are well developed and handled there.

So, in a situation where one is carrying a gun to harm others or terrorise others – berets which are for the military: what is the interest of that person? Do you have to waste time with that person? Take that person where he belongs. Take him to the court to which he belongs.

The issues of independence have been clarified here, in this Bill, which is good. In case there are going to be any gaps, we are still here. We shall come back and amend those gaps to make it better and better. Laws are built and made better over time.

Therefore, Madam Speaker, I now propose that we constitute ourselves into the Committee of the whole House and then debate the clauses - *(Interruption)* - Thank you.

THE SPEAKER: Seconded? *[Members rose_] [Mr Nsereko: "Madam Speaker…"]* Meddie, there is a motion. Let us dispose of the motion first. Let us - I will give you the opportunity – even when we are at committee stage, I will give you the opportunity – special consideration.
(Hon. Nsereko rose_) Yes, I am saying I am going to give you the opportunity. Why do you challenge my powers?

Honourable members, this has been seconded by Hon. Richard, the Prime Minister, Hon. Bahati – *(Hon. Nsereko rose_)* - Hon. Oboth, Hon. Ogwang, Hon. Namuyangu, Hon. Gume - by the whole House, with the exception of Hon. Odur and Hon. Gilbert.

You see, Hon. Otafiire came to my office this morning and asked for permission. He said he does not have a suit which fits him. So, I gave him permission. *(Laughter)*

Honourable member, I will allow you to seek clarification when it reaches there.

Honourable members, I put the question that the Uganda People's Defence Forces (Amendment) Bill, 2025, be read the second time.

(Question put and agreed to.)

BILLS
COMMITTEE STAGE

THE UGANDA PEOPLE'S DEFENCE FORCES (AMENDMENT) BILL, 2025

THE CHAIRPERSON: Honourable member, let Hon. Meddie ask for his clarification, and then we can proceed to clause one.

3.05
MR MUHAMMAD NSEREKO (Independent, Kampala Central Division, Kampala): Madam Chairperson -

THE CHAIRPERSON: Honourable members, I need all of you in the House. Hon. Ogwang, come back – Hon. Amero!

MR MUHAMMAD NSEREKO: Madam Chairperson, thank you very much for your indulgence in this matter. On the issue of separation of powers and on the issue of administration of justice, we ought to be cognisant of the fact that the investigator cannot be the prosecutor and judge in the same case. This is what I am putting across to a servant of justice - the honourable Attorney-General.

Secondly, he presents the point of exceptional circumstances in the offences, like that of murder. The Penal Code Act is very clear. Are we setting two standards? When asked, you said we are not setting two standards. It clearly states that any person, with malice aforethought, who takes the life of another, commits an offence or commits the offence of murder and is liable to punishment, as prescribed under the law in the Penal Code Act.

People would like to know what is exceptional in the description of that offence. This is because an offence not well prescribed under the law cannot be charged against someone; the offence must be clear.

When you talk about it being exceptional, can you redefine murder with exceptions? The ingredients must be clear, and the learned Attorney-General knows exactly what I am talking about. Maybe Hon. Baryomunsi is confused; you can clarify. I can see my senior brother –

THE CHAIRPERSON: Hon. Muhammad, this is under clause 30 and it will be clarified when we reach it. Please read clause 30.

MR MUHAMMAD NSEREKO: Madam Chairperson, I know the reason he is withdrawing from making that statement. Are we creating a new definition for murder and setting two different standards? Hon. Odur –

THE CHAIRPERSON: Can we handle that when we reach clause 30?

MR MUHAMMAD NSEREKO: Hon. Odur made that clear. Secondly, Madam Chairperson, what I have asked for is the issue of the investigator being the prosecutor and also administering justice. Does that answer the recommendations of the Supreme Court – *(Interruption)*

THE CHAIRPERSON: There is a point of order.

MR BAHATI: Madam Chairperson, we are debating an important issue to do with the security of the country. We have reached stage three; we are now at committee stage –

THE CHAIRPERSON: Hon. Muhammad, you are going to be the next President of this country; you need to have patience. You have to be a patient person, tolerant and listen to all voices.

MR BAHATI: Madam Chairperson, we are now at committee stage; we are moving clause by clause. Is he in order to do that?

Clause 1

THE CHAIRPERSON: Chairperson? Can we stand over clause 1, since it is interpretation?

Clause 2

3.11

THE CHAIRPERSON, COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS (Mr Stephen Baka): Madam Chairperson, we shared our roles with my deputy. He presented the report and I will be presenting the amendments.

In clause 2, the committee proposes an amendment in the proposed subsection (4) by substituting for paragraph (e), the following: "Any other service prescribed by Parliament."

The justification is that the duty to prescribe any other force is vested in Parliament, in accordance with Article 208(4) of the Constitution.

THE CHAIRPERSON: Are we prescribing or approving? Approving, not prescribing; we cannot prescribe. The prescription is operational. Attorney-General -

MR KIRYOWA KIWANUKA: Madam Chairperson, we propose that the provision be left as it stands in the Bill because the Bill says that the council shall prescribe but for it to be done, it has to have the approval of Parliament.

The way it is couched here is to say that Parliament can sit here and tell the UPDF that you are now organised this way from now onwards. That is operational. I beg to propose that the amendment be rejected.

THE CHAIRPERSON: Clause 2 stands part of the Bill. Yes, shadow minister -

MR ODUR: Madam Chairperson, I have two issues on clause 2, but I will first address the issue of the approval.

Even if it remains as it is, there is no problem. I think the methods of coming to Parliament for approval is what matters. My understanding is they come through a Bill and approval is granted, so, even if it remains as it is, I do not think it is an issue.

However, my amendment on clause 2, which I had put to the committee, is that of the forces prescribed here, one of them is given the word "command", which is the Special Forces Command. For uniformity, we either add the word "command" to the Land Forces Command, Air Forces Command, Special Forces Command and the Reserve Forces Command or we actually delete the word "command", so that the creation is that we have a land force, air force and special force, unless there is a justification.

Madam Chairperson, my reasoning is that as Parliament, we need to understand whether we are creating superiority. Even if the intention is to make the Special Forces Command superior, that is an administrative arrangement – the command – which Parliament does not have to go into. We cannot choose for them the command etc.

MR KIRYOWA KIWANUKA: Thank you, Madam Chairperson. This matter was actually raised in the committee and discussed with the UPDF after the committee. They said that they have a strategic purpose why they call it a command and they would like it to remain like this. That is where we need to differ on their advice because they are the experts in that space.

This is how they want the name, so the structure and character of those commands are as they are. It is just a name, and that is how they would like it.

THE CHAIRPERSON: Yes, minister -

MR OBOTH: Of all the forces, the Special Forces Command is both a force and a command, and we plead to this House to let it be as it is.

THE CHAIRPERSON: Honourable members, I put the question that clause 2 stands part of the Bill.

(Question put and agreed to.)

Clause 2, agreed to.

Clause 3, agreed to.

Clause 4, agreed to.

Clause 5, agreed to.

Clause 6, agreed to.

Clause 7

MR BAKA: We have dropped our amendment and propose the clause remains as it is.

THE CHAIRPERSON: The chairperson has dropped the amendment on clause 7.

MR ODUR: Madam Chairperson, clause 7 makes provision for the High Command. We had sought that subsection (1)(e), which seeks to include members of the High Command on 26 January 1986, whose names are set in schedule III of this Act, provided that the member has not been convicted for a criminal offence - We thought that the UPDF is now a people's army, so why are you personalising and tying it? Ugandans already moved from the 1986 scenario. That is why the whole army was even renamed "Uganda People's Defence Forces". Therefore, providing for specific names to put in the law –

We have also been practising here; I have never seen where we have inserted specific names in the law. We had proposed that the UPDF has now transitioned. At that time, Madam Chairperson, you could understand the importance of having those generals, but now we have trained very competent army officers who are young and refreshed. We had moved that we can do away with E and delete the members of the High Command as of 26 January 1986, to avoid personal –

THE CHAIRPERSON: Hon. Fox, then Hon. Katuntu.

MR FOX ODOI: Thank you, Madam Chairperson. I have three issues. Number one, the generals and we are talking about Gen. Salim Saleh and Gen. Matayo Kyaligonza in the UPDF Act and the High Command –

THE CHAIRPERSON: Gen. Otafiire - *(Laughter)*

MR FOX ODOI: In the High Command as a historical fact, we are not going to rewrite history. It is our duty to legislate, not to rewrite history.

Secondly, the Accountants Act that was passed by this Parliament has the names of accountants in it so this is not the first piece of legislation that has names of people in it. Hon. Odur ought to know that we have passed pieces of legislation where we have listed individuals.

Thirdly, which is the last one –

THE CHAIRPERSON: Honourable, the Pensions Act for Speakers names specifically the Speakers. I am also glad that my name has appeared there.

MR FOX ODOI: Thank you, Madam Chairperson. Lastly, this matter was conversed in the Committee on Legal and Parliamentary Affairs and the Committee on Defence and Internal Affairs, and we took a position as a majority. It is unfair for Hon. Odur to reopen a debate that he lost at the committee level.

THE CHAIRPERSON: Hon. Abdu -

MR KATUNTU: Thank you very much. Originally, it was I who raised the same objection, but later on, after interacting with the members of the UPDF, I changed my mind. Only to propose a slight amendment of the surviving members of the High Command as of the 26th, because as we talk now, the list includes deceased people, so we can say "surviving members" because we are providing for real membership, and that would include two generals.

MR TEIRA: Thank you, Madam Chairperson. It is true that this matter came for debate –

THE CHAIRPERSON: Honourable members, I put the question that clause 7 stands part of the Bill.

(Question put and agreed to.)

Clause 8, agreed to.

Clause 9, agreed to.

Clause 10, agreed to.

Clause 11, agreed to.

Clause 12, agreed to.

Clause 13, agreed to.

Clause 14, agreed to.

Clause 15, agreed to.

Clause 16, agreed to.

Clause 17, agreed to.

Clause 18, agreed to.

Clause 19

MR ODUR: Madam Chairperson, clause 19, under 70B and 70K, provides for the minister to make two regulations.

THE CHAIRPERSON: We are on pension and gratuity.

MR ODUR: Yes, and my point was that it is provided for some regulations to be made, which regulation has no input of Parliament. Under 19 - I can read because the Attorney-General was challenging that it is not there - under Service Pension and Gratuity, 70. I do not know whether we have the same Bill. "In accordance with this Act and regulations made under this Act" - so I want clarification on that particular one. I do not know if the Attorney-General has understood me.

We can marry them with clause 20, but we have not come - but my concern is both under clause 19, and then subsequently we will go to clause 20, and under 70A and 70B, there is provision for the minister to make regulations but there is nowhere provided for those regulations to find its way before Parliament.

THE CHAIRPERSON: What Hon. Odur is asking for is that when the regulations are made, whether they should be brought to Parliament or not. Is there a provision for that?

MR OBOTH: Your Excellency, I think when –

THE CHAIRPERSON: I am not Your Excellency. *(Laughter)*

MR OBOTH: I beg your pardon. Madam Chairperson, it is a common practice that if a proposal like the one that my good friend, Hon. Jonathan Odur, is making, yes, we can make the - you give us the powers to make the regulations, and we also lay before this Parliament for information.

THE CHAIRPERSON: Honourable minister, address yourself to section 252 of the Parent Act. I can give you, if you do not -252(2)(a).

MR OBOTH: Yes, Madam Chairperson, that is the power to amend schedules, and this specific –

THE CHAIRPERSON: No, it is on regulations.

THE CHAIRPERSON: Section 252(a).

MR OBOTH: The parent Act.

THE CHAIRPERSON: The parent Act -

MR OBOTH: Thank you. Madam Chairperson, you have drawn my attention to the provisions already taken care of, that it has to come here.

THE CHAIRPERSON: I put the question that clause 19 stands part of the Bill.

(Question put and agreed to.)

Clause 19, agreed to.

Clause 20

MR BAKA: Madam Chairperson, the committee proposes that clause 20 of the Bill is amended:
(a) In the proposed section 70D, by substituting for the proposed sub-section (1), the following -

"Where an officer or militant is dismissed from the defence forces without disgrace and the officer or militant has served for more than 10 years, the officer or militant shall be entitled to 30 per cent of his or her pensions or gratuity."

(b) In the proposed 70E, by deleting the words, "in consultation with the pensions authority."
(c) In the proposed 70J, in subsection (2)(d), by substituting for the word "wives", the word, "spouses."
(g) By substituting for the proposed section 70K, the following;

"The minister shall, within three months from the commencement of this Act, by statutory instrument, prescribe the manner in which pensions, gratuities and other terminal benefits provided under this Act shall be granted."

Justification:

i) This is to provide clarity for the payment of gratuity to the dependents of the officer or militant who dies in service;
ii) To entitle a militant or officer who is dismissed from the defence forces without disgrace to a pension and gratuity only if the officer or militant has served for at least 10 years or more;
iii) To remove the need to consult the pension authority since there are no other pensionable benefits expected; and
iv) To require the minister to issue regulations operationalising the payment of pension within three months of the commencement of this Act.

THE CHAIRPERSON: Hon. Omara, go back. Hon. Jonathan - Honourable members, when you look at "the High Command may, in consultation with the pension authority, if satisfied that the retiring officer or discharged militant has rendered invaluable and meritorious service to the defence forces and the country…" the pension authority is the permanent secretary (PS). Is that okay?

MR KIRYOWA KIWANUKA: Madam Chairperson, the amendment that is proposed by the committee on section 70D seems to create a cap. It seems to be saying - I do not know whether that is what the committee intended to say, that a person who has been discharged without disgrace cannot get a pension more than a maximum of 30 per cent, yet the provision here allows this person to be even given 100 per cent. Are we making it better or worse? Maybe we can say, "not less than 30 per cent."

This provision says that this person who has been discharged, say in public interest, can only get a maximum of 30 per cent. That was not the intention of the Executive.

MR AOGON: The constitution, as I am aware, does not allow somebody - if you have been getting a higher figure in terms of benefits, to be put to the lower rate. I do not know whether you agree with me.

THE CHAIRPERSON: They are not reducing but just adding because of merit.

MR AOGON: Madam Chairperson, they are talking about 30 per cent. If there is a provision, which talks about up to even 100 per cent as a possibility, it is an issue.

MR KIRYOWA KIWANUKA: No, I think you can actually lose your pension rights if you are fired. However, what we are saying here is that we do not have a specific disagreement with what the committee is proposing. The only thing we are saying is that instead of making a maximum of 30 per cent, can't we read where we have "not exceeding," and say, "not less than 30 per cent?"

MR BAKA: We concede, Madam Chairperson.

THE CHAIRPERSON: Do you concede that it remains the way it was?

MR KIRYOWA KIWANUKA: No, I want to redraft now with this concession.

"Where an officer or militant is dismissed from the defence forces without disgrace, the pensions authority may, if he/she thinks fit, grant pension gratuity or other gratuity or terminal benefits as the pensions authority thinks just and proper, not less than 30 per cent of the amount due for which the officer or militant would be eligible to."

We are saying that if he is released without disgrace, the minimum he can go with is 30 per cent.

MR KATUNTU: I do not know whether the learned Attorney-General is appreciating what you had intended. There are two categories of dismissal. There is one dismissed with disgrace. That one is not entitled to any pension. Then there is one dismissed but not with disgrace. What we wanted is to do a cut-off. I think we had discussed around 70 per cent, for him not to get full.

However, if you say not less than 30 per cent, that means you can even go up to 90 per cent, yet we wanted to cut off 30 per cent from an officer dismissed but not with disgrace. That was our intention. Mr Chairperson, isn't that so?

THE CHAIRPERSON: Honourable minister -

MR OBOTH: Madam Chairperson, being a serving officer is a hard thing. That is why only a few of us can be. *(Laughter)*

THE CHAIRPERSON: Who? That is why some of them only can, not you at least.

MR OBOTH: I was referring to Ugandans.

THE CHAIRPERSON: Okay.

MR OBOTH: A few of us – *(Interjection)*

THE CHAIRPERSON: There is a point of order from Hon. Fox.

MR FOX-ODOI: Madam Chairperson, I have some information. Hon. Oboth is not an officer. He is a man at the rank of a private.

MR OBOTH: Madam Chairperson, I am not even a private because a private is one who has undergone nine months of training. I am below a private.

This proposal by the Attorney-General was only an attempt to harmonise with the committee. The real goal of the framers, this proposal came with the consultation that you give the pension authority some degree of flexibility to determine. However, this House can say we set the mark. We can set the bare minimum or we go to the maximum.

We are open to the proposals, but in our view, we would have agreed with the Bill to remain as it is because it gives the flexibility according to the record of the officer. He could be more deserving.

THE CHAIRPERSON: Honourable members, is there any problem with this Bill remaining the way it is?

MR OCHERO: Yes, there is a big problem.

THE CHAIRPERSON: What is the problem? I hope you are not also expecting something.

MR OCHERO: Madam Speaker, we had a very lengthy debate in the committee concerning that particular provision. One can only be dismissed after causing a problem -

THE CHAIRPERSON: There is a point of order -

MR AOGON: Madam Chairperson, I hear some honourable colleagues shouting and telling me to sit down. No, this House operates by the rules -

THE CHAIRPERSON: What is your order?

MR AOGON: When you are in a committee that is processing a report, you are not entitled to debate; give us the opportunity.

THE CHAIRPERSON: We are at the committee. Honourable members, calm down. I put the question that clause 20 stands part of the Bill.

(Question put and agreed to.)

Clause 20, agreed to.

Clause 21, agreed to.

Clause 22

MR BAKA: Madam Chairperson, clause 22 of the Bill is about the amendment of section 86 of the principal Act and is amended in the proposed Section 86 by inserting immediately after the proposed section 2 the following: "Where an officer or militant is seconded outside the Defence Forces to an office for which pension is not paid, the period of service in the office shall be taken into account in computing the qualifying service for pension or gratuity".

The justification to entitle an officer or a militant who is deployed outside the defence forces to an office for which pension is not paid is to take into account the period of service in that office when computing the qualifying service for purposes of pension or gratuity.

MR KIRYOWA KIWANUKA: Thank you, Madam Chairperson. I am proposing to make further amendment to the proposal to read thus: "Where an officer or militant is seconded outside the defence forces to an office for which pension, gratuity or other retirement benefit is not paid, the period of service in the office shall be taken into account in computing the qualifying service for pension".

Justification

a) You may be seconded to another place where they contribute to the National Social Security Fund (NSSF), and you contribute to the NSSF, or you may be put in a place where you earn gratuity. So, to avoid receiving two pensions for the period where you served on secondment, and then when you come back to the defence forces, you also take another pension, we need to add that amendment.

b) To remove the ambiguity at the end.

Justification

The UPDF provides pension and that is what we are doing here. So, to say that the period will be computed in qualifying gratuity does not apply to qualifying pension. I beg to submit.

THE CHAIRPERSON: I put the question that clause 22 be amended as proposed by the committee and further amended by the Attorney-General.

(Question put and agreed to.)

Clause 22, as amended, agreed to.

Clause 23, agreed to.

Clause 24, agreed to.

Clause 25, agreed to.

Clause 26

MR BAKA: Clause 26 is an amendment of Section 92 of the principal Act of the Bill, it is amended in paragraph (c) in the proposed subsection (6a) by deleting the word "annually".

The justification is that this is to remove the restriction imposed on an officer or a militant to only four days' paternity leave in a year, since the ground upon which paternity leave is granted can occur more numerous times in a year.

THE CHAIRPERSON: Especially when you have so many spouses. Attorney-General-

MR KIRYOWA-KIWANUKA: I had originally objected because I did not anticipate it, but after receiving the explanation from the chairperson, I have no objection.

THE CHAIRPERSON: I put the question that clause 26 be amended as proposed.

(Question put and agreed to.)

Clause 26, as amended, agreed to.

Clause 27, agreed to.

Clause 28, agreed to.

Clause 29

MR BAKA: Madam Chairperson, clause 29 is an amendment of Section 117 of the principal Act of the Bill by deleting paragraph (c)

The justification is to remove a redundant provision.

MR KIRYOWA KIWANUKA: Madam Chairperson, this is not a redundant provision. The provision says, *"A person will be a militant if, subject to such exceptions, adaptations and modifications as the Defence Forces Council may by regulations prescribe a person who under any arrangement is attached to any service or force of the Defence Forces or seconded as an officer or a militant outside the Defence Forces."*

Madam Chairperson, there could be a situation where the defence forces say, attach me, who is not in any of these categories. I am not an employee, for example, if one is a lawyer and just attached to the Defence Forces to work with them on a particular assignment and they make regulations for that purpose. While they are under those regulations, they will be subject to military law.

Therefore, if you remove it, then you say I cannot be deployed there, which would be unfair and take away my opportunity. I propose that this provision remain as it is.

MR NSEREKO: Thank you, Madam Chairperson. I would like to strongly oppose and propose that this clause be deleted entirely because the ruling of the Supreme Court was clear that the operationalisation of this is unconstitutional. I would like to move that the entire clause be deleted.

THE CHAIRPERSON: First, read the clause before you say it should be deleted.

MR MUHAMMAD NSEREKO: The entire clause 29 reads thus: "Members of the Defence Forces subject to military law". I further re-echo that what we are talking about is subjecting people to the military court martial that was considered unconstitutional by the ruling of the Supreme Court. You can have your proposal but my proposal is that we delete it entirely.

Madam Chairperson, I move that we delete this entirely - (*Interjections)* - Hon. Otafiire is seconding me; I move that we delete the entire clause.

THE CHAIRPERSON: Hon. Muhammad, this is in relation to members of the defence forces to be subject to military law.

MR MUHAMMAD NSEREKO: Even that one, I move that we delete it entirely. And Hon. Otafiire wants to second me together with Hon. Odur.

THE CHAIRPERSON: Is it seconded? Seconded by Hon. Odur - *(Hon. Otafiire rose_),* come to the microphone.

MAJ. GEN. OTAFIIRE: Is it in order for my friend, Hon. Nsereko to tell lies that I second him when I am here, speaking, alive and well, and I am not seconding him? Is he in order? *(Laughter)*

THE CHAIRPERSON: Hon. Nsereko is not in order to impute that you are seconding. Yes, honourable Member.

MR ODUR: Madam Chairperson, as we pass this provision, it is better for Members to understand. The reason Hon. Nsereko has raised this matter is that the judgement of the Supreme Court had said that even militants or soldiers, when they commit certain offences, should be taken to the civilian courts.

Now, in the definition of the military law, here, we have used the word "military law", but the interpretation of military law is that offences under this Act, which are many, but also include murder, et cetera, and are now termed military law. The Court ruled that even when soldiers commit certain offences, those offences are still triable in civilian court.

When I was presenting the minority report, I made reference to a judgement that came out yesterday where there was murder committed by a member of the military. And still – *(Interjections)* - yes, in the definition here, deserters and even a person who has retired are still military officers. Therefore, that is why he was saying, "delete in the light of the judgement," which you can -

THE CHAIRPERSON: Honourable members, we must make a decision collectively on this matter, where he is saying that we must delete section 29. I put the question that section 29 be deleted.

(Question put and negatived.)

Clause 29, agreed to.

Clause 30

THE CHAIRPERSON: Yes, clause 30?

MR BAKA: Madam Chairperson, clause 30 is an insertion of Section 117 in the principal Act. Clause 30 of the Bill is amended in the proposed section 117A (1) as follows:

(a) By deleting paragraph c);

(b) By substituting for paragraph (d) the following: "(d) Where the person aids or abets a person subject to military law in the commission or conspires with a person subject to military law, to commit a service offence;"

(c) By inserting, immediately after the proposed subsection (10), the following:

"For purposes of subsection (1)(f)(ii), classified stores mean items prescribed in Schedule 7B to this Act and have a marking, logo, insignia, regalia, serial number, or anything that can identify the classified stores as belonging to the Defence Forces."

Justification

1) To comply with the decision of the Supreme Court in Constitutional Appeal No. 2 of 2021, Attorney-General v. Hon. Michael A. Kabaziguruka, wherein the Court found that the trial of civilians in the Court Martial is unconstitutional for vagueness and recommended that civilians can only be tried in exceptional circumstances.

2) Paragraph (c) is deleted since it is a repetition of paragraph (f)

3) To clearly define what amounts to classified stores.

THE CHAIRPERSON: Yes, Hon. Silas.

MR AOGON: Madam Chairperson, the committee has helped us to talk about the military stores, but at the same time, they needed to help us by creating a provision that bars the military from using civilian clothes while they are operating militarily. I say so because reading history, I read through a book which showed that the late Kiwanuka was picked up using a civilian car, first of all, UUU 171, I think, J, yes, that was on 21 September 1972. The people who came for him were in civilian clothes.

We have seen here increasingly that there are situations where strange people come in vehicles that are not well identified. They come with clothes that are not military. Shouldn't we, as Parliament, prescribe that the UPDF should

only and only arrest people when they are in military fatigue? I thought that was wise.

Secondly – *(Interjections)* - yes, Madam Speaker, I say this because this concerns all of us.

MR MUHAMMAD NSEREKO: Thank you, Madam Speaker. Of course, I would like to say what is good for the goose is, to the contrary, not good for the gander. What my colleague is talking about is apparent. People are picked up in civilian cars during operations by people who cannot be easily identified.

However, the committee has pointed out something worth noting, Madam Speaker. The issue of what should be considered as a military attire includes the logo of the military. Therefore, if someone wears a cap that is merely red without a logo and serial number of the production or collection batch of the military, then those people should not be subject to this law.

Then secondly, Madam Speaker, the Supreme Court was very clear on the matter of civilians, and let me make it clear. At times, people travel with military personnel who are performing certain duties, when it is not an official operation. These people may make errors or omissions when one is in their company. It is not necessarily that it is adduced that I am aiding and abetting the commission of this offence.

However, when people are rounded up, they are rounded up in a group. I would like to say, Madam Speaker, that we maintain the position of the Supreme Court ruling and make it clear that we reject the trial of civilians in military courts.

Therefore, I would like to move, Madam Speaker, that we reject this clause in its entirety and uphold the position that you have passed in the earlier clause that it is only military officers - and would like to recommit that those who are retired and are no longer serving officers – *(Interjection)* - there is no order; which order?

THE CHAIRPERSON: Thank you.

MR MUHAMMAD NSEREKO: We delete the clause in its entirety. I beg to move, Madam Chairperson.

THE CHAIRPERSON: Thank you. The committee says we delete part (c) of clause 30.

MR NSEREKO: Madam Chairperson, I propose deleting the trial of civilians in a military court. Why is - but Hon. Gen. Otafire –

THE CHAIRPERSON: Honourable members, I put the question that clause 30 be amended as proposed by the committee.

(Question put and agreed to.)

Clause 30, as amended, agreed to.

Clause 31, agreed to.

Clause 32, agreed to.

Clause 33, agreed to.

Clause 34, agreed to.

Clause 35

THE CHAIRPERSON: Yes, committee chairperson -

MR BAKA: Madam Chairperson, clause 35 is the amendment of Section 192 of the Principal Act. Clause 35 of the Bill is amended in the proposed section 192 as follows:

(a) by substituting for the proposed subsection (3) the following: "The chairperson of a unit court martial shall be appointed by the Commander-in-Chief in consultation with the Judicial Service Commission from a list of persons approved by the High Command;

(b) In the proposed subsection (9), by deleting the words "or any other written law."

(c) by substituting for the proposed subsection (10), the following - "(10): The Chairperson and other members of a unit court martial shall serve for five years and are eligible for reappointment."

(d) by deleting the proposed subsection (11).

(e) by substituting for the proposed subsection (12), the following - "(12) The decision of a unit court martial on matters of -
(a) law and procedure shall be determined by the chairperson; and
(b) facts shall be determined by the majority members."

(f) by deleting the proposed subsection (13).

(g) In the proposed subsection (14), by substituting for the words "General Court Martial" the words "Division Court Martial".

Justification

a) For clarity and better drafting.

b) Deletion of the words "other written law" is a consequential amendment, arising from the amendment of the definition of service offences under clause 1.

c) To provide for the reasonable tenure of office for the efficient discharge of justice.
d) To designate the Division Court Martial as the first court of appeal on the decisions of the Unit Court Martial, in order to bring services closer to the people.
e) The amendment to the proposed subsection (12) is to provide clarity on who is supposed to make the appropriate decisions in the court.
f) To comply with the decision of the Supreme Court.

Thank you.

THE CHAIRPERSON: When you look at the proposed subsection (3), the chairperson of a Unit Court Martial shall be appointed by the Commander-in-Chief, in a consultation with the Judicial Service Commission. Since he is at the level of a judge, don't you need to subject him to the approval of Parliament?

I put the question that clause 35 be amended as proposed –

MR ODUR: Madam Chairperson, clause 35 – and, I wish to refresh our memory on the decision of the court. One of the issues that was before the court was that members of the courts martial do not have the requisite legal qualifications. So, I want to bring to your attention this scenario.

It is proposed here that "there shall be a Unit Court Martial for each unit of the Defence Forces, which shall consist of any three of the following persons, including the Chairperson –

(a) A Chairperson – who shall be at that rank.

When you go down, it is only the chairperson who has the legal qualification. The other two do not have it. And, because they are three, the decision is by the majority.

So, the two non-lawyers are the ones deciding – and it takes us back to the issue annulled by court.

My proposal here is that if we want to implement the decision of the court, all the three panellists must be qualified legal persons. That is the correct interpretation. Otherwise, we are going round in circles. That is the first issue I want to raise.

THE CHAIRPERSON: Attorney-General, that is the amendment of clause 35(6) – to include the qualifications.

MR ODUR: The second one, under clause 35, for which I invite the attention of the House, is that the reason the decision of the court was that the court martial, as it is constituted, cannot deliver justice, relates also to how they are appointed –

THE CHAIRPERSON: Actually, you can amend subclause (2) to include the qualification for both the chairperson and the other two members.

MR ODUR: Yes! So, the court analysed and found out that a serving army officer is not immune because they will take two oaths: the judicial oath to deliver justice, but also the oath taken by soldiers to obey their next commander. Of these two, the court found that there would be a conflict.

If I am still an army officer, serving, I am under duty to execute the command of my superiors, including the command of the High Command, which is the appointing authority. So, if you – *(Mr Oboth rose_)* - you allow me to finish and then you clarify.

MR OBOTH: No, you are finishing wrongly. *(Laughter)*

THE CHAIRPERSON: Hon. Odur, it seems you do not finish - let him finish it for you. *(Laughter)* Yes!

MR OBOTH: Whereas we could be tempted to - I followed him very well. The only other thing is that, first of all, we have to admit that these officers are members of the Uganda People's Defence Forces (UPDF); they are soldiers. So, you cannot say that they can only take one oath. The temptation we have is to make this court martial operate like a civil court.

Let us try to resist that temptation. We have made huge compromises by having, in all the units, division and the general court martial, lawyers – people qualified to be advocates. That is the first time in the history of Uganda. So, this other part of saying they would be taking command from the High Command – when they take command, they would be taking it as soldiers, not as in matters relating to what they are adjudicating about.

So, I do not want you to take long to finish, and also finish wrongly. *(Laughter)*

THE CHAIRPERSON: Hon. Oboth, maybe you could also address clause 45 – proposed section 202(c) – on the independence of courts martial.

MR OBOTH: On the issue of independence, first, we are involving - we trust the Judicial Service Commission to help us vet. When we say "in consultation" – again, it is the first time that the military is involving a constitutional civilian body that vets all the judicial officers to vet and give us names.

Two, we have a department, which will be different from the normal command and control – that is, the Department of Administration of Justice in the military. That has never happened, and it is not a command structure. That is an administrative structure.

I want to plead with Hon. Odur and Hon. Ayatollah*,* the landlord, to take it in good faith that we have made serious baby steps to give effect to the Supreme Court's – if there was anybody to doubt, you would not have doubted the Attorney-General here, who has spent sleepless nights.

This is in good faith. Let us take it as it is, so that we can give effect – if we have any other problems, we shall come back to you.

THE CHAIRPERSON: Hon. Abdu - *[Mr Mapenduzi: "Order, Madam Chairperson."]* Order against whom?

MR MAPENDUNZI: Madam Speaker, some people have turned this place into an eating joint. *(Laughter)* Hon. Fox and Hon. Florence are busy sharing cakes in this place.

THE CHAIRPERSON: We are hungry. We have been here since 10.00 a.m.

MR KATUNTU: Thank you, Madam Chairperson. We need to look at page 58, Clause 202(c), independence of the Court Martial.

"The members of the Court Martial shall…" - and they emphasise after this - *"…in the performance of their judicial functions, be independent and impartial and shall not be subject to command*."

I think there is a distinction here. When they are performing their judicial functions under this Act, they are mandated to be independent and impartial.

The other command he is talking about does not relate to judicial functions. Judicial independence is entrenched within the Act. Therefore, I do not see any conflict. The other command is different from the judicial function under this particular law. I think Hon. Odur can just read both, and then we move on.

THE CHAIRPERSON: Attorney-General - Let us first hear from the Attorney-General.

MR KIRYOWA KIWANUKA: Yes, I think I am good with the proposed amendment by the committee.

THE CHAIRPERSON: What about the one of Hon. Odur on the qualifications of the other two members?

MR KIRYOWA KIWANUKA: On the qualification of the other two members, Hon. Odur, we thought about that, and – it is not new in our place here. I am sure you are familiar with the industrial court. The industrial court has one lawyer and two other people who are experts on labour issues.

These are experts in army affairs, so we are not picking people from the street.

However, here, the law has told them that the only a person – and the amendment has clarified it. The decision on matters of law will only be made by the chairperson who is a legal expert, but the decision on matters of fact can be done by the soldiers and I think it is perfectly fine.

THE CHAIRPERSON: Yes, Meddie - *(Hon. Odur rose_)*

MR ODUR: Madam Chairperson, with due respect to the submission of the learned Attorney-General, you are talking here about criminal law, criminal trial – the highest standard is needed before court. In the industrial court, tax appeals tribunal – these are civil matters, and the burden of proof is on the balance of probability. However, here you are talking about criminal –

THE CHAIRPERSON: And that is administrative –

MR ODUR: Yes, these are matters of life and death; somebody going to prison, somebody going to spend six months there and etc. If we want to align with the decision of the court, for example, we could have only provided for one judge, like a chief magistrate, and not brought these two who are not qualified. If we pass it like this, it will be easy for the court to still nullify it. How do I subject myself to a panel constituted of people who supposedly do not understand the law, who do not have qualifications? That is the issue, so you cannot compare.

THE CHAIRPERSON: Attorney-General, we have many lawyers in the army.

MR KIRYOWA KIWANUKA: Madam Chairperson, I think we are forgetting the purpose of this unit. We are talking about law, experts in law. What about the experts in the army business? What about experts in war? This is because the Unit Court Martial is not only dealing with matters –

THE CHAIRPERSON: Honourable Attorney-General, some soldiers are lawyers.

MR MUHAMMAD NSEREKO: Yes! Madam Chair, on the experts the learned Attorney-General is talking about, if he wants to invite an expert during a trial, you invite him as a witness to convince the one that is passing justice, that this person is the expert you have presented.

Which expert are you talking about, because you should be talking about an expert in law, not an expert in military affairs? During the trial, if any side wants to present an expert, they can seek leave of court to present an expert to support its case.

THE CHAIRPERSON: Honourable minister -

MR OBOTH: Hon. Muhammad is also a lawyer, and we practice criminal law in Uganda. We have assessors. Assessors are picked from the members of the public. Now, in this – that is the temptation I tried to say we should avoid. If we use the word "assessors" here, it would be like we are in a civil court.

Now, the political commissar has a specific duty. The administrative officer of the unit where this officer – must be there when they are trying his or her officer. That is why they are there but with one lawyer.

However, should it be the wisdom of this House that you want to remove them and replace them with the lawyers - we have enough lawyers, but they were playing very core critical administrative functions. They must give – in fact, not only that. There is an administrative officer of the unit, a political commissar of the unit, a regiment sergeant major – this is where I am not surprised when Hon. Nsereko is asking me to do what – that is the real difference.

I could have asked that question four years ago, before I got to know about what the military does. These people are different. They are not the same. Let us help them –

THE CHAIRPERSON: Honourable members –

MR MUHAMMAD NSEREKO: Madam Chair, the question I am putting to my senior learned counsel and honourable member is: Are you creating a jury here? The issue you are talking about is that you are presenting experts on the administration of justice under criminal law. However, as you have clearly stated, the chairperson is well equipped with the tools of law, meaning the following will be his advisors. Therefore, if someone is being presented to an impartial court –

THE CHAIRPERSON: The following will be picked from (b) the administrative officer of the unit -

MR MUHAMMAD NSEREKO: Exactly.

THE CHAIRPERSON: The political commissar of the unit

MR MUHAMMAD NSEREKO: Exactly.

THE CHAIRPERSON: The sergeant and then the junior officer.

MR MUHAMMAD NSEREKO: Madam Chairperson, our argument is: if they are experts, as the other side proposes, then let them come in as witnesses to support their case - *(Interjections)* - Yes, because this is a court. You are not setting different rules. Why is Gen. Jim Muhwezi agitated?

THE CHAIRPERSON: Honourable members, I put the question that Clause 35 be amended as proposed by the committee.

(Question put and agreed to.)

Clause 35, as amended, agreed to.

Clause 36

THE CHAIRPERSON: Committee chairperson -

MR BAKA: Madam Chairperson, clause 36 is an amendment of Section 193 of the principal Act. Clause 36 of the Bill is amended in the proposed Section 193 as follows:

(a) by substituting for proposed subsection (2) the following –
"(2) The chairperson of a Division Court Martial shall be a person qualified to be a judge of the High Court."

(b) by substituting for proposed subsection (3), the following:
"(3) The chairperson of a Division Court Martial shall be appointed by the Commander-in-Chief in consultation with the Judicial Service Commission from a list of persons approved by the High Command."

(c) By substituting the proposed subsection (4), the following –
"(4) The Chairperson and other members of a Division Court Martial shall serve for a term of five years and are eligible for reappointment."

(d) by deleting the proposed subsection (10).

(e) by deleting the proposed subsection (11).

(f) by substituting for the proposed subsection (12) the following -
"(12) The decisions of a Division Court Martial on matters of law and procedure shall be determined by the chairperson. Facts shall be determined by majority members."

(g) In the proposed subsection (13) by deleting the words "or under any written law" and by deleting the proposed subsection (14).

The justification is:

i) The requirement for the chairperson to be a person qualified to be appointed as a judge of the High Court is intended to make the chairperson skilled and experienced in law, since he or she will be presiding over a court that has jurisdiction over capital offences, other than offences that carry a maximum sentence of death;

ii) To comply with the decisions of the Supreme Court in Constitutional Appeal No.2 of 2021;

iii) For clarity and better drafting;

iv) The deletion of the word "other than written law" is a consequential amendment arising from the amendment of the definition of service offences under clause 1; and

v) To provide for the reasonable tenure of office for the efficient discharge of justice.

MR KIRYOWA KIWANUKA: I have no objection.

MR MUHAMMAD NSEREKO: Thank you very much. Madam Chairperson, the issue of elevation of this to a High Court judge - remember High Court judges or an equivalent, are not only subject to the recommendation by the Judicial Service Commission, but also the Parliament of Uganda.

THE CHAIRPERSON: Where is that? The Chairperson of the Division Court?

MR MUHAMMAD NSEREKO: The Parliament of Uganda, being an equivalent. The Chairperson –

THE CHAIRPERSON: Just a minute, the Chairperson of the Division Court Martial shall be an advocate of the High Court. You are saying –

MR MUHAMMAD NSEREKO: The amendment was saying something else. What we are proposing, Madam Chairperson, is that this continues to defy the orders of the Supreme Court, and we propose to move that the whole clause be deleted. I move a motion that the clause be deleted, and Hon. Odur is seconding. Even Hon. Otafiire. *(Laughter)*

MR ODUR: Madam Chairperson, I have two issues here. The first is the same as the concerns I raised, about having two members on the panel, which under clause 8, says: *"A panel constituted under subsection (7), shall hear and conclude the trial for which it was constituted."* It means that two non-legal persons, as found already by the court, will still sit there to determine a criminal matter.

The second issue that is important for us to reflect on here, Madam Chairperson, is that the court, in arriving at a decision to declare the court martial impartial, looked at the issue of the security of tenure of the persons making this decision. The moment you say "re-appointed", you have already compromised my ability to deliver. I will deliver justice, at the back of my mind knowing that after three or five years, somebody else will have control to appoint me; it interferes.

What the Supreme Court recommended is that the appointment of all the judicial officers under the provisions of the court martial should be at the same level as their counterparts who are in the civilian authority. That will ensure that if I am appointed a judge in the court martial for that entire period until my retirement, I do not have to worry about the reappointment, and the subject.

My submission is that, as it is here, it does not address the concerns that were raised. These judicial officers here should be appointed in a manner that guarantees their security of tenure.

THE CHAIRPERSON: Do you want them to be permanent until retirement?

MR ODUR: That is what the Supreme Court said, not me. That was the finding of the Supreme Court; that if you appoint someone on a probationary, temporary, subject to something else, they cannot dispense justice. The impartiality and fairness required of them are clouded by their worry to be reappointed. It is them to address it, but if they do not wish to address it –

MR OBOTH: Thank you. Madam Chairperson, that is a very brilliant proposal, but to the contrary, the army operates differently. A private may retire at the age of 40. Their retirement is tagged to the ranks. Going by that proposal, it would be very difficult to give effect to that, because if you are a colonel retiring at the age of 55 or something, you have to go.

We agree to the improvement made by the committee, moving from three years to five years, and then making it open. The committee proposes the renewal without any condition. That makes us comfortable.

THE CHAIRPERSON: It is not a fixed term. I put the question that clause 36 be amended as proposed.

(Question put and agreed to.)

Clause 36, as amended, agreed to.

Clause 37, agreed to.

Clause 38

MR BAKA: Madam Chairperson, clause 38 is on the amendment of section 195 of the principal Act. Clause 38 of the Bill is amended in the following section, in the proposed section 195 -

a) by substituting for the proposed subsection (2), the following -

"(2) The members of the General Court Martial shall be appointed by the Commander-in-Chief, acting on the advice of the Judicial Service Commission from a list of persons approved by the High Command."

b) In the proposed subsection (4), by substituting the word, "three" with the word "five."

c) by deleting the proposed subsection (5).

d) in the proposed subsection (6) -
(i) in paragraph (a), by deleting the words "and under any other written law."
(ii) in paragraph (b), by deleting the words "Unit Court Martial, and."

e) by deleting the proposed subsection (10).

f) And by deleting the proposed subsection (11).

Justification

a) To comply with the decision of the Supreme Court on the Constitutional Appeal No.2 of 2021;

b) For clarity and better drafting;

c) The deletion of the word "any other written law" is a consequential amendment arising from the amendment of the definition of service offences under clause 1; and

d) To provide for the reasonable tenure of office for the efficient discharge of justice.

THE CHAIRPERSON: Yes, Hon. Yusuf Mutembuli.

MR MUTEMBULI: Madam Chairperson, I have a proposal that we amend clause 38(14), by substituting the Court of Appeal with the High Court. They are saying "a person aggrieved by the decision of the General Court Martial may appeal to the Court of Appeal."

The justification is that the General Court Martial is a subordinate court, and any decision of the General Court Martial must be appealable to the High Court, not the Court of Appeal.

THE CHAIRPERSON: He is a member of the committee? Attorney-General -

MR KIRYOWA KIWANUKA: Madam Chairperson, I have a problem with the amendment of clause 38(6), particularly the removal of the phrase "any other written law".

Madam Chairperson, this law should not be clouded by only discussing the issue of civilians. If a soldier rapes a person in the barracks, for example – let us start with the barracks - if you remove "any other written law", that means the court martial cannot try that soldier. Likewise, if a soldier came out, and shot people in the bar, the courts martial cannot try that person.

We propose that the courts martial should try all offences committed by persons subject to military law. The limitations proposed by the Committee in clauses 35(9), 36(13) and 38(6) are situations where the courts martial have to deal with civilians. With the civilians, you have a limitation. However, for soldiers, if they commit an offence, they should first be tried by the courts martial, then appeal to the Court of Appeal, and then move on to the Supreme Court. I move that clauses 35(9), 36(13) and 38(6) be maintained as provided in the Bill.

THE CHAIRPERSON: Honourable members, let us first deal with the proposal by the Attorney-General in relation to clauses 35(9) and 36(13). I now put the question that clauses 35(9) and 36(13) be maintained as proposed by the Attorney-General.

(Question put and agreed to.)

THE CHAIRPERSON: Can you now address us on Article 134(2)?

MR KIRYOWA KIWANUKA: Article 134(2). The Court of Appeal shall consist of the Deputy Chief Justice, six Justices of Appeal, and appeals shall arrive at the Court of Appeal from such decisions of the High Court as may be prescribed.

THE CHAIRPERSON: Is the Court martial -

MR KIRYOWA KIWANUKA: No, but this does not say that.

THE CHAIRPERSON: That was what Hon. Mutembuli asked. That is where his question came from.

MR KIRYOWA KIWANUKA: How can we appeal to the Court of Appeal?

THE CHAIRPERSON: Yes -

MR KIRYOWA KIWANUKA: That was why I kept explaining that this was jurisdiction. There is nowhere in this Constitution a provision that says that this Parliament cannot grant appellate jurisdiction to the Court of Appeal.

THE CHAIRPERSON: Hon. Katuntu?

MR KATUNTU: It is true we have not addressed our mind to this, but I beseech the Attorney-General to do it, because when you look at 134(2), you notice that it says, "*An appeal shall lie to the court of appeal from such decisions of the high court as may be prescribed by the law".*

It looks like the appeals are allowed, and you know an appeal is a creature of the statute.

The appeals allowed under the Constitution to the Court of Appeal are only from the decision of the High Court. *(Interjection)* No, maybe this is not about democracy. This is about constitutional interpretation. I think we need

to look at it because the constitution does not seem to give another way of approaching the Court of Appeal, except for the decision of the High Court. When you look at 134 (2). *(A Member rose_)*

THE CHAIRPERSON: Just hold on.

MR KATUNTU: Madam Chairperson, can I propose we stand over this particular matter and we just do a little bit of consultation among ourselves.

THE CHAIRPERSON: Honourable Chair -

MR BAKA: Senior, Hon. Katuntu, we need to also, as you think about it, since you have asked for time, must the jurisdiction be only conferred by the Constitution and not an Act of Parliament? Think about it - *(Interjection)* - this is not for the majority -

THE CHAIRPERSON: It is a supreme law - Clause 39 - we are standing over clauses 38 and 39. I put the question that Clause 39 stands part of the Bill.

(Question put and agreed to.)

Clause 39, agreed to.

THE CHAIRPERSON: Can you people sort out the issue of 38? Yes -

MR ODUR: Madam Chairperson, the clause we stood over, I thought would allow us to raise all the issues so that the reconciliation becomes easier.

THE CHAIRPERSON: No, I will send you for reconciliation with them.

MR ODUR: No, the whole House also needs to understand.

THE CHAIRPERSON: You first agree. The Attorney General, Hon. Oboth, Hon. Katuntu and Hon. Odur reconcile on that.

MR ODUR: Madam chair, allow me to put on record. In the proposal here, the chairman of the General Court Martial is proposed to be a person qualified to be at the level of a judge of the High Court. But then, when you go down in one of the clauses, it is stated that when that chairman is not available, is indisposed, the most senior member of the panel of the court martial should -

THE CHAIRPERSON: Who is not a lawyer?

MR ODUR: No, could even be a lawyer, but not qualified. That was the issue I wanted to raise. Therefore, when the chairman, who is qualified, is not available, you still allow this court to go and sit with the one who is not qualified to be at the level of the High Court. I thought I should first put that on record.

THE CHAIRPERSON: That was okay. Let that be reconciled.

MR ODUR: Madam Chairperson, I already told you, when I was submitting to the minority, that the court already interpreted that if you are creating any other court under article 129(1)(d), that court is inherently subordinate to the High Court. It was the finding of their Lordships, which is clear. So, if it is already stated that we are creating this court under Article 129(d), then it means we are creating a subordinate court.

The Supreme Court already ruled that that subordinate court can report or the decision should go to the High Court, which is in support of what Hon. Yusuf raised. I thought it should also be captured so that when we are reconciling, the House has understood that.

THE CHAIRPERSON: Thank you.

Clause 40

I put the question that Clause 40 stands part of the Bill.

(Question put and agreed to.)

Clause 41, agreed to.

Clause 42, agreed to.

Clause 43, agreed to.

Clause 44, agreed to.

Clause 45

THE CHAIRPERSON: Chair?

MR BAKA: Madam Chairperson, clause 45 is on the establishment of the Military Courts Department in the principal Act.

Clause 45 of the Bill is amended by:
(a) Substituting for proposed section 202(b) the following:

The Directorate of Military Prosecutions

(1) There is established a Directorate of Military Prosecutions of the Defence Forces, which shall be headed by a Director of Prosecutions appointed by the Commander-in-Chief.

(2) A person shall not be appointed a Director of military prosecutions unless the person is:
(a) A serving member of the defence forces, not below the rank of a colonel; and
(b) Qualified to be appointed a judge of the High Court.

(3) A person appointed as the director of military prosecution shall:
(a) Have the power to direct the investigation of any information or allegation of criminal conduct for purposes of prosecution;
(b) Institute criminal proceedings in a court martial against any person subject to military law;
(c) Have the power to discontinue, at any stage before judgement is delivered, any criminal proceedings preferred under this Act; and
(d) Prosecute appeals from decisions of court martial to civilian courts.

(4) The Commander-in-Chief shall, in consultation with the High Command, appoint persons qualified to practice law as military prosecutors.

Justification

i) To provide for the Directorate that will prosecute cases under court martial; and
ii) To comply with the decision of the Supreme Court in Constitutional Appeal No.2 of 2021.

THE CHAIRPERSON: Attorney-General -

MR OBOTH: We have no problem with that proposal.

THE CHAIRPERSON: I put the question that Clause 45 be amended as proposed.

(Question put and agreed to.)

Clause 45, as amended, agreed to.

Clause 46, agreed to.

Clause 47, agreed to.

Clause 48, agreed to.

Clause 49, agreed to

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Clause 50, agreed to.

Clause 51, agreed to.

Clause 52, agreed to.

Clause 53, agreed to.

Clause 54, agreed to.

Clause 55, agreed to.

Clause 56, agreed to.

Clause 57

THE CHAIRPERSON: Committee chairperson -

MR BAKA: Madam Chairperson, clause 57 of the Principal Act is amended by substituting for the proposed Section 22(5) the following:

Grounds of appeal: a party to proceedings of courts martial, who is dissatisfied with the decision of the courts martial, shall have the right to appeal to an appellate court on any matter of law, fact, or mixed law and fact.

The justification is that this is for clarity to provide grounds of appeal.

THE CHAIRPERSON: Hon. Minister -

MR OBOTH: We concede.

THE CHAIRPERSON: One, is to have the power to appeal. What we stood over is about which court, but there must be a right to appeal. I put the question that Clause 57 be amended as proposed.

(Question put and agreed to.)

Clause 57, as amended, agreed to.

Clause 57 as amended

MR ODUR: Madam Chairperson, on clause 57, it is proposed, and I am reading under 225(3), thus: "*Where a sentence of death is imposed by the General Court Martial, the sentence shall not be executed until the expiration of the time within which the notice of intention to appeal against conviction may be given; and if notice of intention to appeal is duly given, the sentence shall not be executed until the appeal has been determined."*

That implies that the sentence can be executed if you have not lodged the notice of intention to appeal. There may be so many reasons why a convict is unable to put in the notice of appeal and we are talking about the death sentence here.

My objection to this is to tie the execution of the death sentence to just a mere notice; that if I fail to put in the notice, therefore, I have waived. What happens if I am not able to maybe access a lawyer, or I have not been able to - because you may have also convicts who are not maybe highly educated, and so, they are not able to - lawyers need money to be instructed. There are so many things about it. Talking about the highest sentence that somebody can serve by their blood and you just tie it to inability to give a notice of appeal is unfair and I pray that in the reconciliation this becomes one of the matters.

MR OBOTH: We would love to benefit from your experience in the ordinary criminal proceedings.

THE CHAIRPERSON: If you are not satisfied with the ruling, what happens?

MR OBOTH: When you have been handed the highest sentence, what happens, Sir?

THE CHAIRPERSON: You have a right of appeal; it is a given.

MR OBOTH: Isn't it the same thing we are trying to do? Do you want us to reinvent the wheel where there is one existing?

MR ODUR: Madam Chairperson, somewhere in the provision of the Bill that I cannot easily refer to, it is provided that that sentence cannot be effected until confirmed by the Supreme Court, only that, how to get to the Supreme Court, is the issue. Supposing I have not, who -

THE CHAIRPERSON: The approach to get to the Supreme Court is the same way you get to the Supreme Court in the civil court, it is through the appellant process. You should, therefore, be able to appeal once you are not satisfied with the ruling.

MR ODUR: Even if it is not understood, I have raised it. *(Hon. Aogon rose_)*

Clause 57, as amended.

THE CHAIRPERSON: I put the question that clause 57, as amended, stands part of the Bill.

(Question put and agreed to.)

Clause 57, as amended, agreed to.

Clause 58, agreed to.

Clause 59, agreed to.

Clause 60

MR BAKA: Madam Chairperson, clause 60 touches the - let me read it although it touches on what is -

THE CHAIRPERSON: It is basically on the numbering.

MR BAKA: Clause 60 about the amendment of Section 22(9) of the principal Act, and it says that it is amended in the proposed principal section 22(9) by:

a. Numbering the current provision as subsection one
b. Inserting, immediately after subsection one, the following:

For purposes of subsection one, appellant means:

a) In the case of a decision of a Unit Court Martial, the Division Court Martial;
b) In the case of a decision of a Division Court Martial, the General Court Martial;
c) In the case of a decision of the General Court Martial, the Court of Appeal; and
d) In the case of a decision of a Court of Appeal, the Supreme Court.

The justification is to provide for the prescription of the right of appeal.

THE CHAIRPERSON: We are standing over this because it is in relation to clause 38. Not so, committee Chairperson?

MR MUHAMMAD NSEREKO: Madam Chairperson, in the same spirit, as we stand over this, the country and all of us should make ourselves alive to the fact the question to be put and which procedure shall be followed in conducting trials in the court martial? I am saying this because that is what entails bail applications, et cetera. This is because under the magistrates –

THE CHAIRPERSON: I thought, that is operational.

MR MUHAMMAD NSEREKO: It is operational but it must be prescribed.

THE CHAIRPERSON: What would come in the regulations?

MR MUHAMMAD NSEREKO: The procedure, how do I apply for bail? For example, in matters of murder –

THE CHAIRPERSON: What would come in the procedures?

MR MUHAMMAD NSEREKO: Just a second, in matters of murder and aggravated robbery, in civilian courts; whereas mention and committal are done by the magistrate's court, it is tried by the High Court, and so is bail. It is not subsidiary legislation, because this is already an act being –

THE CHAIRPERSON: Okay, let the minister handle that.

MR MUHAMMAD NSEREKO: We are talking about bail here. It is not subsidiary. Talking about the entire trial process, not the entire trial procedure, but critical matters in administration of justice, Hon. Dr Baryomunsi.

MR OBOTH: Going by his proposal, I wonder what the volume of our laws would be.

Clause 61

THE CHAIRPERSON: I put the question that clause 61 stands part of the Bill.

(Question put and agreed to.)

Clause 61, agreed to.

Clause 62, agreed to.

Clause 63, agreed to.

Clause 64, agreed to.

Clause 65, agreed to.

New Clause

MR BAKA: Madam Chairperson, we propose to insert a new clause, immediately after clause 65, with the following provision:

The Bill is amended by inserting, immediately after clause 65, the following: "Insertion of Section 235(a) in the Principal Act."

The principal Act is amended by inserting immediately after Section 235, the following:

235(a) Execution of a sentence to death

Where a sentence to death is imposed by the General Court Martial, the sentence shall not be executed until the conviction and sentence have been confirmed by the Supreme Court.

The justification is to align with the provision of Article 22 of the Constitution.

THE CHAIRPERSON: Minister -

MR OBOTH: We concede.

THE CHAIRPERSON: I put the question that the proposed new clause stands as part of the Bill.

(Question put and agreed to.)

Clause 66, agreed to.

Clause 67, agreed to.

Clause 68, agreed to.

Clause 69, agreed to.

Clause 70, agreed to.

Clause 71, agreed to.

Clause 72, agreed to.

Clause 73, agreed to.

Clause 74, agreed to.

Clause 75, agreed to.

Clause 76, agreed to.

Clause 77, agreed to.

Clause 78, agreed to.

Clause 79, agreed to.

Clause 80, agreed to.

Clause 81, agreed to.

Clause 82

MR ODUR: Madam Chairperson, clause 82 seeks to amend schedules 7A and 7B. Schedule 7A seems to be clear – what a pistol, AK-47s, and Uzi guns, etc., are.

When it comes to Schedule 7B on classified stores, if it pleases you, I would propose that these uniforms be physically brought and shown to this Parliament or even laid – *(Interjections)* - let me finish. The Members can vote.

THE CHAIRPERSON: Honourable members, he is suggesting that they bring the uniforms and guns.

MR ODUR: I said Schedule 7A about arms and ammunition is clear and can be distinguished. But when it comes to Schedule 7B, where colours are involved, what may appear to be – *(Interjections)* - I was simply suggesting because the pictures, as they are here, are the work of a printer. We are not sure that if you sent the same picture to two different printers, the same thing might become something else.

THE CHAIRPERSON: Honourable minister, you have heard what Hon. Odur is saying. Won't you arrest us for possessing military stores?

MR OBOTH: Madam Chairperson, I would like to thank Hon. Odur for allowing me to

clarify. For historical reasons, we have UPDF officers here, and with your permission, they are wearing what would be called "Kaunda". With your permission, let them stand up for illustration. That is the Kaunda suit we are talking about.

Honestly, for all purposes of clarity, you are putting on that kind of Kaunda suit and you are going either – I have understood the concern of Hon. Odur. If there is need, we shall bring all the categories of uniforms here.

THE CHAIRPERSON: Honourable minister, it does not cost you much to bring them for us, so that we see after this, including the shoes.

MR OBOTH: I will do so, Madam Chairperson.

THE CHAIRPERSON: I put the question that clause 82 stands part of the Bill.

(Question put and agreed to.)

Clause 82, agreed to.

Clause 83, agreed to.

Clause 84, agreed to.

MR MUHAMMAD NSEREKO: Madam Chairperson, I am seeking clarity for purposes of us understanding the matter of military uniform. I would like all of us to guide the public because this is for the public to clearly understand, not only ourselves.

We have restricted ourselves to this attire that only has logos, not generally Kaunda suits like the one similar to what Gen. Otafiire is wearing. If that one has no official logo and pip, therefore, it does not qualify.

For clarity, Gen. Otafiire should also stand up – *(Laughter)* - because they might declare that as military stores. If it pleases you, we can lay him on the Table so that – *(Laughter)*

MAJ. GEN. (RTD) OTAFIIRE: Madam Speaker, I am not even a member of the reserve anymore. I retired from the army and the active volunteer reserve. I am not wearing a uniform; I cannot even carry pips. Does that satisfy you, Hon. Nsereko? *(Laughter)*

THE CHAIRPERSON: Honourable members, this issue was sorted out under clause 30.

DR BARYOMUNSI: Thank you very much, Madam Chairperson. This issue was clearly defined and we also undertake to display these uniforms on UBC TV and other televisions, for the public to appreciate what kind of uniforms we are speaking about. We shall display everything on TV for the wider public to understand what we have passed.

MR ODUR: Madam Chairperson, the last input I would like to propose, under the cross references, is that we add three pieces of legislation. Since we have talked about trials generally, I was proposing that we cross-reference with the Trial on Indictments Act, the Criminal Procedure Code Act, the Evidence Act and lastly, the Magistrates Courts Act, because throughout the Bill, we have things touching the trial, etc. Let us add them as cross references to this law.

THE CHAIRPERSON: Attorney-General, is that okay with you on cross-referencing?

MR KIRYOWA KIWANUKA: Yes, Madam Chairperson, we do not have any problem with cross-referencing. For purposes of us being clear, there are regulations under Statutory Instrument No.21, which provides for the procedure and Statutory Instrument No.307-71, which provides for the procedure and is saved by the Interpretation Act. I do not see a problem with cross referencing.

THE CHAIRPERSON: That is okay. Clause 1?

Clause 1

MR BAKA: Madam Chairperson, clause 1 is about the amendment of Section 1 of the Uganda People's Defence Forces Act, Cap. 330.

Clause 1 of the Bill is amended –

(a) In paragraph (f), by substituting for the definition of "military court", the following– "Military court" means the courts martial;"

(b) by inserting the following definitions appropriately – "Ministers of State" mean the other Ministers appointed by the President under Article 114 of the Constitution to assist the Minister;

(c) In paragraph (o), by substituting for the definition of "service offence", the following: "Service offence" means an offence under this Act and includes the offence of murder, aggravated robbery, kidnapping with intent to murder, treason, misprision of treason, or cattle rustling as provided for under the Penal Code Act, committed by a person subject to military law."

Justification

a) To harmonise the definition of the phrase "military court" and the "courts martial" since, currently, the term has a similar definition;

b) To define the phrase "Ministers of State" since the phrase is used in clause 14 without definition. The phrase is incapable of exact meaning in the manner in which it is used. The terminology used to refer to "Ministers of State" is prescribed in Article 114 of the Constitution; and

c) To define "service offence" in a manner that restricts it only to persons who are subject to officers and militants who commit offences under this Act and other specified offences created under the Penal Code Act.

THE CHAIRPERSON: Honourable minister - basically on definition.

MR OBOTH: We concede.

THE CHAIRPERSON: I put the question that clause 1 be amended as proposed.

(Question put and agreed to.)

Clause 1, as amended, agreed to.

Clause 38

THE CHAIRPERSON: Clause 38 was stood over.

MR KIRYOWA KIWANUKA: Thank you, Madam Chairperson. We have addressed our minds to the provisions of Article 134 (2), as raised by the Member, which says: *"(2) An appeal shall lie to the Court of Appeal from such decisions of the High Court as may be prescribed by law."*

That is for the court - even this Constitution, again, is giving the jurisdiction to the court to determine the jurisdiction of the courts that they set up, and, if you read it together with Article 129(3), it says: *"(3) Subject to the provisions of this Constitution, Parliament may make provision for the jurisdiction and procedure of the courts"*.

Therefore, if this Parliament is so pleased, it could actually grant the jurisdiction for an appeal to come from the General Court Martial to the Court of Appeal – my interpretation.

MR MUHAMMAD NSEREKO: Madam Chairperson, I have another interpretation of this matter. The High Court has unlimited jurisdiction over these matters. In this case, the General Court Martial is subordinate to the High Court. Looking at what the Constitution says, it would not be prudent for lawmakers to skip the hierarchy of courts from the Court Martial and put it at the same level of the High Court. That will be the creation of a new structure in the court system of Uganda.

Therefore, if you want even to seem to be trying to create a new justice system that creates a good system of appeal, it would be better and wise that matters that have been adjudicated in the Court Martial be rightly appealed upon in

the first court of instance of appeal to be the High Court, and the procedure can follow – to the Court of Appeal and the Supreme Court.

At least Gen. Otafiire will not object to that one. *(Hon. Oboth rose_)* Why do you object to everything?

MR OBOTH: Madam Chairperson –

THE CHAIRPERSON: Hon. Nsereko, leave Gen. Otafiire. Why are you provoking Gen. Otafiire all the time? Are they friends? Okay.

MR OBOTH: Madam Chairperson, the argument by Hon. Katuntu, Hon. Nsereko and the Attorney-General will bring out the whole aspect of trying to give effect to the Supreme Court's ruling or decision that we need qualified people. In this same Parliament, a few minutes ago, we said the General Court Martial should have three, one qualified to be a judge of the High Court.

It is a question of professionalism - you subject a decision of three highly qualified lawyers, who could be in the High Court, to one. However, if it is the decision of this House, we would go - this House can make anything, but we want to reconcile with the practicability of having three lawyers who are highly qualified, who have handled murder, rape – these capital offences – and handled it quite well, and even handled on appellate jurisdiction, to go to the High Court.

I do not want to say that we are in a stalemate, but this is a matter that, from day one, the Attorney-General guided, and we have had a deep sense of discussion on this matter. I think the House has to make a decision. Now that they quoted the Constitution, when they quote the Constitution, I cannot quote anything else.

THE CHAIRPERSON: Hon. Fox -

MR FOX ODOI: It is a trite law that only the Court of Appeal has original appellate jurisdiction, and the thinking at the committee was that the High Court does not have original appellate jurisdiction; it has unlimited original jurisdiction, but no appellate jurisdiction. That is the reason we had provided that appeals from the General Court Martial should go to a court that has original appellate jurisdiction; the Court of Appeal.

MR OBOTH: Madam Chairperson, Hon. Fox has really helped me – you know, he is my uncle. When you have a brilliant uncle, you have to feel proud of him.

THE CHAIRPERSON: Thank you. Honourable members, I put the question that clause 38 be amended as proposed.

(Question put and agreed to.)

Clause 38, as amended, agreed to.

Clause 60

THE CHAIRPERSON: I put the question that clause 60 be amended as proposed.

(Question put and agreed to.)

Clause 60, as amended, agreed to.

The Title, agreed to.

MOTION FOR THE HOUSE TO RESUME

5.05

THE MINISTER OF DEFENCE AND VETERAN AFFAIRS (Mr Jacob Oboth): Madam Chairperson, I beg to move that the House do resume and the Committee of the whole House reports thereto.

THE CHAIRPERSON: I put the question that the House resumes 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

5.06

THE MINISTER OF DEFENCE AND VETERAN AFFAIRS (Mr Jacob Oboth): Madam Speaker, I beg to report that the Committee of the whole House has considered the Bill entitled, "The Uganda People's Defence Forces (Amendment) Bill, 2025" and passed it with amendments.

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

5.06

THE MINISTER OF DEFENCE AND VETERAN AFFAIRS (Mr Jacob Oboth): Madam Speaker, I beg to move thato the report from the Committee of the whole House be adopted.

THE SPEAKER: I put the question that the Report from the Committee of the whole House be adopted by this House.

(Question put and agreed to.)

Report adopted.

BILLS
THIRD READING

THE UGANDA PEOPLE'S DEFENCE FORCES (AMENDMENT) BILL, 2025

MR MUHAMMAD NSEREKO: Procedure, Madam Speaker.

5.07

THE MINISTER OF DEFENCE AND VETERAN AFFAIRS (Mr Jacob Oboth): Madam Speaker, I beg to move that the Bill entitled –

MR MUHAMMAD NSEREKO: Wait! There is a motion. We want to debate your motion. Why don't you want us to debate your good motion?

MR OBOTH: Madam Speaker, I beg to move that the Bill entitled, "The Uganda People's Defence Forces (Amendment) Bill, 2025" be read for the third time and do pass.

THE SPEAKER: I put the question that the Uganda People's Defence Forces (Amendment) Bill, 2025 be read for the third time and do pass.

(Question put and agreed to.)

THE UGANDA PEOPLE'S DEFENCE FORCES (AMENDMENT) ACT, 2025

MR MUHAMMAD NSEREKO: Madam Speaker, point of order against Hon. Kasaija.

THE SPEAKER: Title settled and the Bill passes.

The House is adjourned sine die.

(The House rose at 5.07 p.m. and adjourned sine die.)